



**Wednesday, 21 February 2007**

**Insider Participation in Control Transactions – Panel Publishes Draft Guidance Note and Issues Paper for Comment**

The Takeovers Panel has today released for public comment a draft Guidance Note and Issues Paper in relation to when the Panel may consider unacceptable circumstances exist where there is insider participation in control transactions.

When the Panel commenced its consideration of the issues in November 2006, it was primarily motivated to do so against the background of private equity takeover bids both in Australia and overseas. However, following its initial work, the Panel considered that framing the draft Guidance Note in terms of private equity issues would be too narrow. The Panel considers that the issues of insider participation apply more widely than simply to private equity bids, and indeed to other buy-outs, and therefore has formulated the draft Guidance Note in terms of participation by insiders, regardless of the nature of the bidder.

The draft Guidance Note and Issues Paper are intended to be read together. The Issues Paper sets out the policy issues on which the Panel is considering providing guidance in the draft Guidance Note and the policy issues on which the Panel does not currently intend to provide guidance. The Panel invites comment on the policy issues which are currently addressed in the draft Guidance Note as well as any policy issues not currently addressed in the draft Guidance Note.

The Panel will consider the responses to the Issues Paper and draft Guidance Note and will determine whether it would be appropriate to publish a final Guidance Note, either in a form similar to the draft Guidance Note or in an amended form.

**Timing**

The Issues Paper and draft Guidance Note are available on the Panel's website on the [Consultation page](#). The Panel is seeking comments on the draft Guidance Note by **Friday 6 April 2007**.

**Sub-committee members**

The Director of the Panel, Mr Nigel Morris, noted the Panel's gratitude to the members of the sub-committee who had contributed to the development of the draft Guidance Note and Issues Paper. The Panel's sub-committees include both Panel members and members of the corporate community. Mr Morris said that the Panel very much appreciated the sub-committee members who give their time generously,

and their organisations who support them<sup>1</sup>, to assist the Panel in producing better quality documents.

### **External Members**

David Jones	CHAMP Private Equity and Chairman of AVCAL
Andrew Sisson	Balanced Equity Management Pty Ltd
Laurie Cox	Director of Macquarie Bank Ltd and Smorgon Steel Group, Chairman of Transurban Ltd, Murdoch Children's Research Institute and SMS Management & Technology Ltd

### **Panel Members**

Elizabeth Alexander AM	Blake Dawson Waldron
Guy Alexander	Allens Arthur Robinson
Hamish Douglass	Magellan Financial Group
John Fast	BHP Billiton Ltd
John Keeves	Johnson Winter & Slattery
Simon Mordant	Caliburn Partnership

### **Responses**

It is the Panel's policy to publish or otherwise make available all responses to formal consultation, unless respondents indicate that they do not consent. It is also the Panel's policy to publish a "Consultation Response" document after the consultation period setting out the main comments that the Panel has received and the reasons why the Panel has taken up, or not taken up, the comments or suggestions received.

Comments should be addressed to the Panel's Director, Mr Nigel Morris at the address below, or to the Panel's Counsel, Mr Bruce Dyer at the same address.

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<sup>1</sup> Sub-committee members contribute in their personal capacities and the draft Guidance Note and Issues Paper, while being formal documents of the Panel, do not, and should not be taken to represent the views of the firms with whom individual sub-committee members are associated.