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Thursday, 10 July 2008

**GoldLink IncomePlus Limited 02 - Panel Receives Application**

The Takeovers Panel has received an application from GoldLink IncomePlus Limited in relation its affairs. GoldLink is the subject of a proportional off-market takeover bid by Emerald Capital Limited of \$0.23 per share.

The application relates to a share sale agreement between Emerald and Challenger Managed Investments Limited, which was entered into prior to the date of the takeover offer. Pursuant to the share sale agreement, Emerald acquired a relevant interest in 16,127,843 GoldLink shares at \$0.21 per share. The agreement provided for an increase in the purchase price to \$0.26 or \$0.235 per share, where certain conditions were satisfied prior to 15 October 2008 or 15 December 2008 respectively. However, in the event of a takeover, the agreement capped any increase in the purchase price so that it did not exceed the consideration under the takeover bid.

In response to GoldLink's concerns, Emerald amended the terms of the share sale agreement so that the purchase price could only be increased to \$0.23 per share (being the price offered under Emerald's takeover bid).

GoldLink submits that the conduct of Emerald constitutes unacceptable circumstances on the basis that:

1. Emerald agreed to acquire GoldLink shares for up to \$0.26 per share in the four months prior to its takeover bid, but failed to:
  - (a) disclose this in its bidder's statement and
  - (b) offer the same consideration under the bid, or otherwise undertake to increase the consideration payable, where the increased consideration becomes payables under the share sale agreement, as originally executed and
2. the amendments to the share sale agreement were designed to avoid the operation of the minimum bid price rule in s621(3).

GoldLink seeks an interim order that Emerald provide it with:

1. copies of all agreements, arrangements and understandings relating to the share sale agreement
2. an explanation of the circumstances leading up to the variation of the share sale agreement and

3. a statement regarding whether Challenger was aware of the circumstances when it agreed to the variation of the share sale agreement.

GoldLink seeks a final order that Emerald be required to disclose in its bidder's statement:

1. full details of the share sale agreement and the changes to the agreement, including the circumstances leading to those changes and
2. a statement to the effect that the consideration under the takeover bid will be increased in accordance with the terms of the share sale agreement, as originally executed.

A sitting Panel has not been appointed at this stage and no decision has been made whether to conduct proceedings. The Panel makes no comment on the merits of the application.

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