Friday, 9 January 2009

GoldLink IncomePlus Limited 04 – Panel Receives Application

The Panel has received an application from Emerald Capital Limited in relation to the affairs of GoldLink IncomePlus Limited. Emerald has made a 45% proportional takeover offer for GoldLink.

The application alleges that unacceptable circumstances exist in relation to the actions of certain GoldLink shareholders who are alleged to have either split their existing shareholdings into small parcels or acquired their holdings in numerous small parcels to take advantage of the requirement in s618(2) of the *Corporations Act*. That subsection requires Emerald as bidder to purchase all of a person's shares in GoldLink if, after accepting Emerald's offer, that person is left with an unmarketable parcel of GoldLink shares.

Emerald submits that this will have the effect of certain shareholders being able to sell their entire shareholding under the bid when Emerald only offered to acquire 45% of that shareholding. Emerald submits that this is inconsistent with the underlying purpose of s618(2) as it would mean that any proportional bid could effectively operate as a full takeover bid. Emerald also submits that this undermines the underlying principles of takeovers provisions.

Emerald seeks an interim order that it is not required to process any acceptance from a party that it alleges has engaged in the above conduct until after the Panel has determined the application.

Emerald seeks final orders that it be entitled to aggregate the holdings of GoldLink shareholders who have engaged in the above conduct and only process acceptances from those shareholders in respect of 45% of the aggregated shareholding.

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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