



Australian Government

Takeovers Panel

MEDIA RELEASE

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Blue Energy Limited - Panel Receives Application

The Panel has received an application from Blue Energy Limited in relation to its affairs.

On 8 July 2008, Australia and New Zealand Banking Group Limited lodged an initial substantial holder notice in relation to shares in Blue Energy. The substantial holder notice disclosed that ANZ had the power "to control the disposal of the shares as a result of the appointment by it of receivers and managers in respect of the shares under a fixed and floating charge given by Primebroker Securities Limited in favour of ANZ dated 12 February 2008".

ANZ has a relevant interest in 20.07% of the shares in Blue Energy. The receiver for Primebroker has written to the Chairman of Blue Energy about corporate governance issues concerning two of Blue Energy's directors and suggesting that if these directors do not resign, he will request a shareholders' meeting to remove those directors and the Chairman.

Blue Energy submits, among other things, that unacceptable circumstances exist because ANZ and the receiver for Primebroker acquired a relevant interest in greater than 20% of the voting shares in Blue Energy, in circumstances where the original holder of that interest (Primebroker) had not disclosed its interest to the market.

The applicant alleges that ASIC revoked an instrument giving relief to Primebroker from the takeovers prohibition and the substantial holding provisions, in relation to shares which were the subject of "securities finance transactions". The revocation was effective from 2 July 2008.

Blue Energy seeks interim orders, including an order restraining the receiver and the ANZ from requisitioning a meeting or voting any Blue Energy shares they have a relevant interest in without consent of the Panel. Blue Energy seeks final orders, including orders restraining voting of Blue Energy shares and selling down ANZ and

the receiver's interest in Blue Energy to less than 5% of the issued capital of Blue Energy within 12 months.¹

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

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¹ The orders sought are similar to the undertaking given in BioProspect Limited 01 [2008] ATP 8