



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP20/54

Tuesday, 8 September 2020

Keybridge Capital Limited 04, 05 & 06 – Variation of Orders

On the application of WAM Active Limited, the Panel has varied the Panel's orders in *Keybridge Capital Limited 04, 05 & 06* (see [TP20/24](#)). These orders were previously affirmed by the Panel in *Keybridge Capital Limited 08R, 09R & 10R* (see [TP20/34](#)). Relevantly, the orders give persons who accepted into WAM Active's off-market takeover bid for Keybridge,¹ and who had their acceptances processed, a reversal right.

WAM Active sought a variation of the orders to establish a clear process to enable it to give effect to the reversal requests it receives.

The Panel has varied the orders to clarify the process that must be followed to give effect to the reversal right granted under the orders. The variation does not otherwise change the substance of the orders.

The variation to the orders is set out in Annexure A.

The sitting Panel was Michael Borsky QC, Christian Johnston and Denise McComish (sitting President). The Panel does not propose to publish reasons in relation to the variation.

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¹ Announced on 13 December 2019



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ANNEXURE A

CORPORATIONS ACT SECTION 657D VARIATION OF ORDERS

KEYBRIDGE CAPITAL LIMITED 04, 05 & 06 VARIATION

Pursuant to section 657D(3) of the *Corporations Act 2001* (Cth)

THE PANEL ORDERS

The final orders made on 9 April 2020, which were affirmed by the review Panel in *Keybridge Capital Limited 08R, 09R & 10R* on 20 May 2020, are varied by:

1. Substituting the following for Order 3:

“Unless a Court makes orders or a declaration inconsistent with this Order, from and including the date of these orders WAM Active must comply with Order 5B if it receives a request from any Processed Shareholder (or a request from a Processed Shareholder’s agent or attorney) to reverse the transaction by which WAM Active acquired any Processed Shares from that Processed Shareholder.

For the avoidance of doubt, this Order applies in relation to all reversal requests received by WAM Active prior to the Variation Date but which have not been actioned.”

2. Including new Orders 5A through 5C inclusive as follows:

“5A.

- (a) WAM Active must:

- (i) as soon as practicable, and in any event within 3 business days of the Variation Date, provide to the Variation Panel and Keybridge an election form for Processed Shareholders to exercise the reversal right granted under Order 3 and
- (ii) make any changes to the election form if requested by the Variation Panel.

- (b) Once the Panel has confirmed it has no comments on the election form, or no further comments, that document is the Election Form, and WAM Active must provide a copy to Keybridge as soon as practicable after the Panel has provided this confirmation.
- 5B. Subject to Order 5C, if WAM Active receives a request from any Processed Shareholder (or a request from a Processed Shareholder's agent or attorney) to exercise the reversal right granted under Order 3:
- (a) WAM Active must as soon as practicable notify Keybridge of the request (including details of the Processed Shareholder's name and address and the number of Processed Shares concerned) and
 - (b) if:
 - (i) the request is made by a Catalano Entity in connection with the Catalano Offer, subject to receiving the consideration repayable in respect of the relevant Processed Shares (in cleared funds), WAM Active must as soon as practicable:
 - (A) authorise Keybridge's share registry to reverse the acceptance or acceptances the subject of the request and
 - (B) notify Keybridge that the registry has been so authorised
 - (ii) a Processed Shareholder uses a Withdrawal/ Acceptance Form to exercise the reversal right granted under Order 3 and accept into WAM Active's Offer, WAM Active must as soon as practicable:
 - (A) authorise Keybridge's share registry to reverse the acceptance and transfer the relevant Processed Shares to Wilson Asset Management (International) Pty Limited as nominee for the Processed Shareholder and
 - (B) notify Keybridge that the registry has been so authorised, or
 - (iii) the request is made in any other case, WAM Active must as soon as practicable provide the person that made the request with an Election Form and the means by which it can be returned (such as a pre-paid envelope) and, subject to WAM Active receiving a returned Election Form and the Processed Shareholder's payment obligations (as stated on the Election Form) being satisfied, WAM Active must as soon as practicable:
 - (A) authorise Keybridge's share registry to reverse the acceptance and

(B) notify Keybridge that the registry has been so authorised.

5C. If WAM Active notifies Keybridge in accordance with:

(a) Order 5B(b)(i)(B) or Order 5B(b)(iii)(B), Keybridge must:

- (i) as soon as practicable, take all necessary steps to procure the Processed Shareholder's Processed Shares are registered in the Processed Shareholder's name (or the name of their nominee) and
- (ii) as soon as practicable but in any event no later than 3 business days after the date of WAM Active's notice, confirm to WAM Active that the relevant Processed Shares have been registered in the Processed Shareholder's name (or the name of their nominee) or

(b) Order 5(b)B(ii)(B), Keybridge must:

- (i) as soon as practicable, take all necessary steps to procure the Processed Shareholder's Processed Shares are registered in the name of Wilson Asset Management (International) Pty Limited (as nominee for the Processed Shareholder) and
- (ii) as soon as practicable but in any event no later than 3 business days after the date of WAM Active's notice, confirm to WAM Active that the relevant Processed Shares have been registered in the name of Wilson Asset Management (International) Pty Limited (as nominee for the Processed Shareholder)."

3. Including the following in Order 13:

Catalano Entity	Catalano Super Investments Pty Ltd as trustee for the Catalano Superannuation Fund or Antstef Pty Ltd as trustee for the Antstef Trust
Catalano Offer	The offer dated 9 July 2020 and made by the Catalano Entities in respect of each Processed Shareholder's Processed Shares
Election Form	Has the meaning given in Order 5A
Variation Date	8 September 2020
Variation Panel	The Panel as constituted for the purposes of considering the order variation request made by WAM Active dated 11 August 2020

**Withdrawal/Acceptance
Form**

Has the meaning given in WAM Active's
replacement bidder's statement dated 6 July
2020

WAM Active's Offer

WAM Active's offer for Keybridge shares
dated 21 July 2020

**Tania Mattei
Counsel
with authority of Denise McComish
President of the sitting Panel
Dated 8 September 2020**