



Australian Government

Takeovers Panel

MEDIA RELEASE

No: TP21/29

Monday, 25 October 2021

PM Capital Asian Opportunities Fund Limited 02 – Panel Receives Application

The Panel has received an application from PM Capital Global Opportunities Fund Limited in relation to the affairs of PM Capital Asian Opportunities Fund Limited.

Details of the application, as submitted by the applicant, are below.

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.

Details

PM Capital Asian Opportunities Fund Limited (**PAF**) is currently party to a scheme implementation deed under which PM Capital Global Opportunities Fund Limited (**PGF**) will acquire all of PAF's shares which it does not already own by way of scheme of arrangement, with PAF shareholders offered PGF shares as consideration.

PAF is also subject to an off-market takeover bid by WAM Capital Limited (**WAM**), with PAF shareholders to receive 1 WAM share for every 1.99 PAF shares (or, in the event that the break fee payable under the scheme is removed, WAM's intention is to increase its offer to 1 WAM share for every 1.975 PAF shares).

WAM lodged its bidder's statement on 14 October 2021.

PGF submits, among other things, that:

- there are a number of disclosure deficiencies in the bidder's statement
- the conditions of the offer are either or both uncertain in their operation or are "hair-trigger" conditions that effectively provide WAM with an option to proceed with its offer and
- the power of attorney provision in the bidder's statement (which allows WAM to vote acceptances into its offer against the scheme while the offer remains subject to conditions) is unacceptable in circumstances where WAM can defeat the scheme with proxies covering only a small percentage of total PAF shares

and then effectively has an option to decide to proceed with its offer (given the high likelihood of the conditions to the offer being breached).

PGF seeks an interim order to restrain the dispatch of WAM's bidder's statement.

PGF seeks final orders including that WAM provide a replacement bidder's statement to correct the alleged deficiencies (including to amend the power of attorney provision so that it does not operate while the offer remains conditional).

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