



Wednesday, 24 December 2008

**Bisalloy Steel Group Limited -
Declaration of Unacceptable Circumstances and Orders**

The Panel has made a declaration of unacceptable circumstances (Annexure A) and final orders¹ (Annexure B) in relation to an application dated 15 December 2008 by Balron Nominees Pty Ltd in relation to the affairs of Bisalloy Steel Group Limited.

Bisalloy is conducting a 4 for 5 renounceable rights issue to raise approximately \$20.9 million. The issue price under the rights issue is 25c, which was a discount of 7.4% to the closing price of Bisalloy shares at 1 December 2008. This discount has eroded during the offer period of the rights issue.

The rights issue is fully underwritten by ABN AMRO Morgans Corporate Limited and fully sub-underwritten by Anchorage BSG Pty Limited. Anchorage BSG is a wholly owned subsidiary of the Anchorage Capital Partners 1 Fund, which is managed by Anchorage Capital Partners Pty Ltd. The Chairman of Bisalloy, Mr Phillip Cave, who currently has a 3.6% interest in Bisalloy also has a 40% interest in Anchorage Capital Partners Pty Ltd and a 10% interest in the Anchorage Capital Partners 1 Fund. Mr Cave is also a director of Anchorage Capital Partners Pty Ltd. The rights issue prospectus discloses that if Anchorage BSG's and Mr Cave's interests are taken together, their voting power in Bisalloy could increase to 48% if there is a 100% shortfall under the offer.

Anchorage BSG submitted to the Panel that it was not prepared to sub-underwrite the rights issue on the basis that it would sub-underwrite only 50% of the shortfall and that it was attracted to the sub-underwriting because of the prospect that it would give it some influence in the affairs of Bisalloy.

The Panel considers that the independent directors of Bisalloy did not take all reasonable steps to minimise the potential control impact of the rights issue on the company, in particular, by not offering an opportunity to participate in the sub-underwriting to other major shareholders, Balron and Investors Mutual. This together with the omission of information in the prospectus relating to the intentions of Anchorage BSG gave rise to unacceptable circumstances.

The Panel did not consider it against the public interest to make the declaration, and in making it had regard to the matters in s657A(3).

¹ Dated 23 December 2008 and varied on 24 December 2008 in relation to points of clarification.

Orders

The Panel has made orders to the effect that:

1. Other major shareholders of Bisalloy (Balron and Investors Mutual Limited) have the ability to obtain in equal proportion to Anchorage BSG any shares under the sub-underwriting arrangements that would otherwise take Anchorage BSG's and Mr Cave's combined voting power in Bisalloy to over 20%.
2. Anchorage BSG and Balron (if Balron decides to participate in any shortfall) must inform Bisalloy of their intentions in relation to Bisalloy.
3. Bisalloy lodge a supplementary prospectus disclosing, among other things, the intentions of Anchorage BSG and Balron.

The orders do not affect the underwriting arrangements as between Bisalloy and ABN AMRO Morgans or the sub-underwriting arrangements as between ABN AMRO Morgans and Anchorage BSG.

The sitting Panel for the proceedings was Guy Alexander (sitting President), Marian Micalizzi and Mike Roche.

The Panel will publish its reasons for its decision on its website at www.takeovers.gov.au in due course.

Allan Bulman
Director, Takeovers Panel
Level 47, 80 Collins Street
Melbourne, VIC 3000
Ph: +61 3 9655 3597
allan.bulman@takeovers.gov.au



Annexure A

Corporations Act Section 657A

Declaration of Unacceptable Circumstances

In the matter of Bisalloy Steel Group Limited

WHEREAS

1. Bisalloy Steel Group Limited (**Bisalloy**) has a 4:5 rights issue underway under a prospectus dated 2 December 2008. Mr. Phillip Cave is chairman of Bisalloy and has voting power in approximately 3.6% of the Bisalloy shares
2. The rights issue is renounceable and was priced at a small discount to the then market price. The market price for Bisalloy shares has decreased, reducing the discount
3. The rights issue is fully underwritten by ABN AMRO Morgans Corporate Limited. It is fully sub-underwritten by Anchorage BSG Pty Limited (**Anchorage BSG**), for a fee of 1.5%. Anchorage BSG is owned by Anchorage Capital Partners 1 Fund, which is managed by Anchorage Capital Partners Pty Limited. Mr Cave is a director, and has an interest in approximately 40%, of the shares in Anchorage Capital Partners Pty Limited. Mr Cave has an interest of approximately 10% in Anchorage Capital Partners 1 Fund
4. Anchorage BSG was not prepared to sub-underwrite the rights issue on the basis that it would sub-underwrite only 50% of the shortfall and entered the sub-underwriting because of the prospect that it would give it some influence in the affairs of Bisalloy
5. Under the rights issue Anchorage BSG could obtain voting power of up to 44.4% in Bisalloy if no other shareholders exercised their rights. Including Mr Cave's interest, the potential voting power increases to approximately 48%
6. All reasonable steps to minimise the potential control impact of the rights issue on Bisalloy were not taken, and in particular, no other major shareholder was offered an opportunity to participate in sub-underwriting arrangements for the rights issue
7. In addition, the rights issue prospectus does not adequately disclose the intentions of Anchorage BSG should it be required to take up shortfall shares
8. It appears to the Panel that the circumstances are unacceptable:
 - (a) having regard to the effect that the Panel is satisfied that the circumstances are having, or are likely to have, on the control or potential control of Bisalloy and/or

- (b) having regard to the purposes of Chapter 6 set out in section 602 of the Corporations Act 2001 (Cth) (the **Act**)
- 9. The Panel considers that it is not against the public interest to make a declaration of unacceptable circumstances. It has had regard to the matters in section 657A(3) of the Act

DECLARATION

Under section 657A of the Act, the Panel declares that the circumstances above constitute unacceptable circumstances in relation to the affairs of Bisalloy.

Alan Shaw
Counsel
with authority of Guy Alexander
President of the Sitting Panel
Dated 23 December 2008



Annexure B

Corporations Act Section 657D Orders

In the matter of Bisalloy Steel Group Limited

PURSUANT TO

1. A declaration of unacceptable circumstances in relation to the affairs of Bisalloy Steel Group Limited (**Bisalloy**) on 23 December 2008
2. Section 657D of the Corporations Act 2001 (Cth) (the **Act**)

THE PANEL ORDERS

1. Each of ABN AMRO Morgans Corporate Limited and Anchorage BSG Pty Ltd (**Anchorage BSG**) not rely on any right they may have to terminate the Underwriting Agreement or Sub-Underwriting Agreement as a consequence of the application to the Panel in this matter and these orders.
2. Until completion of these orders, Anchorage BSG not deal with any Excess Shortfall Shares issued to it otherwise than in accordance with these orders.
3. As soon as possible after the date of these orders, Anchorage BSG ask Balron Nominees Pty Ltd (**Balron**) and Investors Mutual Limited (**Investors Mutual**) to indicate the percentage of Excess Shortfall Shares it wants such that:
 - 3.1. Balron and Investors Mutual have 24 hours from receipt of the request to indicate to Anchorage BSG what percentage of the Excess Shortfall Shares it wants
 - 3.2. If an indication is for up to 1/3, it would be fulfilled (subject to rounding) and
 - 3.3. If an indication is for more than 1/3, it will be fulfilled taking into account each indication for more than 1/3 and so that as nearly as practicable Anchorage BSG and that party share equally (subject to rounding), provided that the party cannot take more shares than in its indication.
4. Immediately after the number of the Excess Shortfall Shares is known to Anchorage BSG, it advise Balron or Investors Mutual (as applicable) of the number of Excess Shortfall Shares that party may acquire under these orders.
5. If Balron or Investors Mutual, by 6pm on the business day after receipt of the notification, provides Anchorage BSG with a bank cheque in the amount of the total subscription price less 1.5% for all of the notified Excess Shortfall Shares,

Anchorage BSG provide Balron or Investors Mutual (as applicable) the number of Excess Shortfall Shares.

6. Any relevant interest in the Excess Shortfall Shares acquired in accordance with these orders is, if not exempt under section 611, exempt from the prohibition in section 606 of the Act.
7. As soon as possible after the date of these orders, Anchorage BSG disclose to Bisalloy:
 - 7.1. any intentions it or Anchorage Capital Partners Pty Ltd have formed with respect to Bisalloy as a consequence of Anchorage BSG's potential maximum shareholding in Bisalloy following the Rights Issue or
 - 7.2. if no intentions are formed, detail of the influence Anchorage BSG or Anchorage Capital Partners Pty Ltd expects to exert in relation to Bisalloy.
8. As soon as possible after the date of these orders, if Balron intends to indicate to Anchorage BSG a percentage of the Excess Shortfall Shares it wants, it disclose to Bisalloy any intentions it has formed with respect to Bisalloy as a consequence of the potential maximum shareholding it may hold following the Rights Issue.
9. Bisalloy must prepare, and lodge with ASIC and ASX, a supplementary prospectus which includes:
 - 9.1. disclosure of these orders and their effect and
 - 9.2. the disclosures provided under paragraphs 7 and 8.

INTERPRETATION

Excess Shortfall Shares means the number of shares in Bisalloy allocated or to be allocated under the Sub-Underwriting Agreement, that take or would take the relevant voting power in Bisalloy beyond 20%. The relevant voting power in this definition is calculated by aggregating:

- (a) the voting power of Anchorage BSG in Bisalloy and
- (b) the voting power of Mr Phillip Cave in Bisalloy.

Rights Issue means the issue of rights to subscribe for new shares in Bisalloy pursuant to the prospectus issued by Bisalloy on 2 December 2008.

Sub-Underwriting Agreement means the sub-underwriting agreement in relation to the Rights Issue dated on or about 2 December 2008.

Underwriting Agreement means the underwriting agreement in relation to the Rights Issue dated on or about 2 December 2008.

Alan Shaw
Counsel
with authority of Guy Alexander
President of the Sitting Panel
Dated 23 December 2008