



8 January 2019

Ms Sarah Smith
Company Secretary
Hardey Resources Limited
Level 1, 1 Altona Street
WEST PERTH WA 6005

By email: ss@miradorcorporate.com

Dear Ms Smith

HARDEY RESOURCES LIMITED (“HDY”): Proposed removal from the Official List

ASX Limited (“ASX”) refers to the following:

1. The trading halt requested by HDY on 6 September 2018 pending a response to queries from ASX. HDY’s securities have not resumed trading on ASX since then.
2. The suspension of HDY’s securities from quotation on ASX on 24 September 2018 pursuant to Listing Rule 17.3 pending a response to queries from ASX.
3. ASX’s query letter dated 14 September 2018 (“1st Query”) and HDY’s response dated 26 September 2018, both of which were lodged on MAP and released at 2:36 pm AEST on 26 September 2018.
4. ASX’s query letter dated 4 October 2018 (“2nd Query”) and HDY’s response dated 12 October 2018, both of which were lodged on MAP and released at 2:02 pm AEDT on 12 October 2018.
5. ASX’s query letter dated 15 October 2018 (“3rd Query”) and HDY’s response dated 24 October 2018, both of which were lodged on MAP and released at 2:11 pm AEDT on 24 October 2018.
6. ASX’s letter entitled “Requirement for remedial action” dated 29 November 2018 (“4th Query”) which was lodged on MAP and released at 8:02 pm AEDT on 29 November 2018 and HDY’s response dated 20 December 2018 which was lodged on MAP and released at 9:53 am AEDT on 21 December 2018.
7. The following additional materials provided by HDY in its response to the 4th Query but not released on MAP:
 - (a) a letter from Adam Blumenthal to HDY dated 19 December 2018;
 - (b) a letter from Horatio Street Pty Limited to HDY dated 19 December 2018;
 - (c) a letter from Everblu to HDY dated 19 December 2018; and
 - (d) an unsigned letter dated 19 December 2018 to HDY that does not identify the individual authors but purports to come from “the vendors in the transactions whereby Nelly Vanadium ... and Vanadium Mining ... were sold to [HDY]” (“Vendor Group”).

The substance of these four letters was summarised by HDY in its response to the 4th Query.

ASX notes that the letters in paragraphs (a), (c) and (d) above state that they were prepared in response to a letter from HDY dated 17 December 2018, in effect, requesting their assistance in responding to the 4th Query. While the letter in paragraph (b) above does not include the same statement, ASX infers

For personal use only

from the date of the letter that it too was prepared in response to a request from HDY at or around the same time as the requests made to the parties in (a), (c) and (d) above. ASX would observe that if those dates are to be believed, the request from HDY would appear to have come very late in the piece, nearly three weeks after ASX's 4th Query (29 November 2018) and only three days ahead of the deadline ASX imposed for a response (20 December 2018). Given the gravity of the issues that needed to be addressed, HDY's request appears to have been turned around in remarkably quick time (two days) by the authors of the letters referred to in (a) – (d) above and HDY's response to ASX's 4th Query, which references the letters in (a) – (d) above, prepared in even quicker time (one day). This suggests to ASX a degree of "coordination" in the production of these letters.

Unless otherwise defined in this letter, capitalised terms in this letter have the same meaning as is given to them in the 1st, 2nd, 3rd and 4th Queries.

In the 4th Query, ASX asked HDY: *"to prepare and release to the market a statement ... acceptable to ASX, giving a detailed and candid account of the events surrounding the amendment of the acquisition agreements for Nelly Vanadium and Vanadium Mining, the Off-Market Transfers, the On-Market Disposals and the Additional Disposals, including the reasons why the parties involved engaged in those transactions and the financial benefits that the parties involved received as a result of those transactions."*

ASX warned that: *"If HDY does not do so by the end of Thursday 20 December 2018, ASX will remove HDY from the official list before the commencement of trading on Friday 21 December 2018."*

HDY's response to the 4th Query was delivered to ASX at 7:47 pm AEDT on 20 December 2018. HDY made no attempt ahead of this deadline to discuss the acceptability of the response with ASX, nor did it provide a draft for ASX to confirm whether or not it was acceptable to ASX.

ASX has subsequently carefully reviewed HDY's response to the 4th Query. For the reasons set out below ASX does not regard HDY's response to the 4th Query as appropriately detailed and candid and therefore does not find it acceptable. As ASX foreshadowed in the 4th Query, ASX therefore intends to remove HDY from the ASX official list. The removal will occur before the commencement of trading on Friday 11 January 2019.

ASX's reasons for reaching this determination are set out below.

The directors of HDY

In ASX's opinion, the directors of HDY were less than candid in responding to the 1st, 2nd and 3rd Queries. In this regard ASX would point to the following inconsistencies in HDY's responses to those queries and the materials provided in response to the 4th Query:

A. ASX asked in question 10 of the 1st Query:

"Was HDY or any member of the Board of HDY aware of a relationship between the Additional Parties and the associates of EverBlu referred to in paragraph 9? If so when and what did they know?"

HDY answered:

"Prior to entering into the Acquisition Agreements, the HDY Board was aware that the controllers of the Additional Parties and the Principals of Everblu were known to each other socially and had prior business dealings. However, the nature and extent of these prior relationships was and is not known in any specific detail to the HDY Board.

In addition, in relation to the Acquisition Agreements themselves, HDY was aware of a commercial relationship between the Additional Parties and the Principals on 24 July 2018 when a meeting took place between a representative of the Additional Parties and Mr Robin Armstrong (a director of HDY). At this time, it was disclosed to Mr Armstrong that both the Additional Parties and parties related to Everblu were likely to be participating in both

transactions. However, HDY was not aware of the specific commercial terms between the Additional Parties and the parties that ASX describes as associates of Everblu, nor did it enquire because ... the transaction terms did not change when the variations were signed to include the Additional Parties." [Emphasis added]

This response was less than candid. It now appears from the materials in HDY's response to the 4th Query that Terence Clee, the chairman of directors of HDY, was specifically informed by Adam Blumenthal "in or around the last week of July 2018" that Adam Blumenthal "would be receiving a portion of the vendors' consideration and that Thomas Young would be involved."

Given this and what was admitted in HDY's response to the 2nd Query as to HDY's knowledge of the connection between Thomas Young, Aceglow Holdings Pty Ltd ("Aceglow") and Energy Capital Partners Pty Ltd ("ECP"), it would have been apparent to the HDY board when the variations to the Acquisition Agreements were executed on 20 August 2018 that approximately 52.55% of the Consideration Shares and the Consideration Options for the acquisition of Nelly Vanadium, and 64.60% (or 61.37% based on a total of 550 million Consideration Shares and 550 million Consideration Options) of the Consideration Shares and the Consideration Options for the acquisition of Vanadium Mining, were being issued to the Additional Parties for the benefit of Adam Blumenthal or his nominees, rather than to the Vendor Group.

B. ASX asked at question 4.3 of the 3rd Query:

"Does the statement that HDY had no specific details of the involvement of Everblu and its associates in the transactions also extend to Mr Clee?"

HDY answered:

"Yes."

This response was less than candid. It now appears from the materials in HDY's response to the 4th Query that Terence Clee was informed by Adam Blumenthal in April 2018 that Adam Blumenthal had introduced the Vendor Group to HDY and that, as a result, Everblu would be unable to act for HDY in respect of the Nelly Vanadium and Vanadium Mining acquisitions.

Adam Blumenthal says that he "assumed" from this conversation that Terence Clee was aware that he would be compensated by the Vendor Group for his services because "that was standard business practice for referrals". While HDY does not confirm or deny this assumption, it does seem a reasonable assumption to make in the context of such a conversation, particularly when it was apparently accompanied by a statement to the effect that Everblu would be unable to act for HDY as a consequence.

As mentioned above, Terence Clee was further informed by Adam Blumenthal "in or around the last week of July 2018" that Adam Blumenthal "would be receiving a portion of the vendors' consideration and that Thomas Young would be involved."

C. ASX asked at questions 12.2, 12.4, 12.5, 12.6 and 12.7 of the 2nd Query:

"How did [the meeting on 24 July 2018 between Thomas Young and Mr Robin Armstrong] come about?"

"What was discussed that [sic] the meeting?"

"What was the commercial relationship between the Additional Parties and Everblu revealed at the meeting?"

“Did [Thomas Young] convey any information to Mr Armstrong about the connection between the Additional Parties and the Vendors of Nelly Vanadium and Vanadium Mining? If so, what was that information?”

“Did [Thomas Young] convey any information to Mr Armstrong about the connection between the Additional Parties and the associates of EverBlu referred to in question 9 of the Query Letter? If so, what was that information?”

HDY answered respectively:

“Mr Armstrong was in Perth on a number of business matters not related to the Nelly Vanadium and Vanadium Mining acquisitions. As Mr Young is based in Perth, Mr Armstrong and Mr Young met to discuss the Company’s Burraga Project and the state of the market generally.”

“As mentioned in the response to question 12.2 above, the main matters discussed at the meeting were the Company’s Burraga Project and the state of the market generally.”

*“The Nelly Vanadium and Vanadium Mining acquisitions were not the subject of the discussions at the meeting between Mr Armstrong and Mr Young. **However, in the course of the conversation, Mr Young mentioned to Mr Armstrong that Mr Young was considering some involvement with the Nelly Vanadium and Vanadium Mining vendors and that Mr Young may seek some assistance from Everblu. However, no further details about the nature of the assistance Mr Young was considering was ever provided to, or discussed with, Mr Armstrong at that meeting or with the Company thereafter.**” [Emphasis added]*

“Please see the response to question 12.5 above. No details or further information were conveyed to Mr Armstrong.”

“No.”

These statements must now be questioned, given the date of the meeting and the conversation between Terence Clee and Adam Blumenthal referred to in A above “in or around the last week of July 2018” in which Adam Blumenthal advised that he “would be receiving a portion of the vendors’ consideration and that Thomas Young would be involved.”

D. ASX asked at question 4.1 of the 3rd Query:

“ASX notes that HDY did not specifically answer question 11 of the 2nd Query letter and so ASX asks again, did Everblu ever disclose to HDY the conflict created by the involvement of its associates in the off market transactions referred to in paragraphs 9 and 10 of the 2nd Query Letter? If so, what did it disclose?”

HDY answered:

“Firstly, HDY would like to reiterate again that it does not consider there to be any conflict with the participation of Everblu or its associates in the relevant transactions because Everblu did not advise HDY on the transactions.

*Notwithstanding this, in response to question 4.1, HDY confirms that following Mr Armstrong’s meeting with Mr Young, Mr Armstrong and Mr Clee discussed a variety of topics. One of the topics was **Everblu having an interest in the transactions. Everblu also confirmed that it was to receive a portion of the consideration shares from Energy Capital Partners, the quantum of which was yet to be finalised with Energy Capital Partners.** HDY saw no relevance in asking how Everblu would choose to divide its interest as that was a commercial matter for Everblu. [Emphasis added]*

Considering Everblu is not a related party of the Company, the Company had no concern with Everblu and its associates potentially receiving some of the consideration shares.”

Having asked at question 4.4 of the 3rd Query:

“If Mr Clee did not have any specific details of the involvement of Everblu and its associates in the transactions, why did he approach a Sydney-based commercial barrister for advice about potential conflicts?”

ASX then asked at question 4.6 of the 3rd Query:

“What were the potential conflicts on which Mr Clee sought advice from the Sydney-based commercial barrister?”

HDY answered:

*“Mr Clee sought advice on **Everblu’s involvement in the transactions** given its existing mandate.” [Emphasis added]*

These responses were less than candid. The references in the responses to “Everblu” having an interest or involvement in the transactions and receiving a portion of the consideration securities should have been to the “Everblu Associates” or to Adam Blumenthal. While this may be explicable as just looseness in language in the response (noting that Adam Blumenthal is the executive chairman and controlling shareholder of Everblu and so, in a sense, he can be regarded as Everblu), if that was the sense in which HDY was using the reference to Everblu in the passages quoted above, then HDY should have answered that Everblu (through Adam Blumenthal) disclosed the potential conflict in April 2018 when he specifically told Mr Clee that Everblu would be unable to act for HDY in respect of the Nelly Vanadium and Vanadium Mining acquisitions due to his personal involvement in introducing the vendors of those assets to HDY.

Adam Blumenthal

Based on information provided by Adam Blumenthal, HDY’s response to the 4th Query states in section 4(b):

“In or around April 2018, [an advisor acting for the vendors] discussed with Adam Blumenthal whether he could help find a buyer for two vanadium assets. ...

Adam Blumenthal discussed with [the advisor acting for the vendors] what consideration would be paid to him by the vendors if he could identify an appropriate buyer of the vanadium assets and a deal subsequently concluded. Adam Blumenthal and the vendors discussed a range of 30 to 60 per cent of the vendors’ consideration. However, the type and amount of the consideration was to be decided as the sale progressed.

Adam Blumenthal identified the Company as a potential acquirer of the vanadium assets and referred [the advisor acting for the vendors] to the Company on the basis that Adam Blumenthal would receive part of the vendors’ consideration if a deal was concluded.

Later in April 2018, Terence Clee informed Adam Blumenthal that [the advisor acting for the vendors] had approached the Company in respect of the purchase of the vanadium assets. Adam Blumenthal informed Terence Clee that he had referred the vanadium assets to the Company and that he would be compensated by the vendors. Adam Blumenthal presumed that Terence Clee would therefore have been aware that Adam Blumenthal was obtaining some financial benefit given that was standard business practice for referrals. Adam Blumenthal also informed Terence Clee that EverBlu would be unable to act for the Company in respect of the Acquisitions as a result.

Around mid-July 2018 in anticipation of the deal progressing, Adam Blumenthal asked Thomas Young to be involved in the deal given that he was based in Perth, he was a corporate adviser and he had

For personal use only

extensive expertise in the mining and resources sector. Adam Blumenthal also discussed Thomas Young's entities being involved to maintain commercial confidentiality and flexibly [sic] in respect of the vendors and who the ultimate beneficiaries of Adam Blumenthal's portion of the consideration may be. ...

Aceglow and ECP were parties to the agreement. It was practically more efficient to have one party to the sale agreement and one recipient to receive the securities rather than numerous parties and recipients. At that stage, Adam Blumenthal had not yet determined the amount that each ultimate beneficiary would receive. Having Aceglow and ECP as parties to the agreement provided commercial confidentiality and flexibility in respect of the vendors and the ultimate beneficiaries. It was never Adam Blumenthal's intention to conceal his involvement in the transaction from the Company or ASX."

The statements in the last two paragraphs quoted above do not withstand close scrutiny.

There was plainly no need for "commercial confidentiality" vis-à-vis the Vendor Group as they were fully aware that the agreed amount of Consideration Shares and Consideration Options were effectively being passed across to Adam Blumenthal or his nominees as an introduction fee and that Aceglow and ECP were being used as intermediaries to achieve that purpose. Nor was there any need for "commercial confidentiality" vis-à-vis HDY or its board, as Adam Blumenthal had already informed Terence Clee "in or around the last week of July 2018" that he "would be receiving a portion of the vendors' consideration and that Thomas Young would be involved."

Adam Blumenthal says he involved Thomas Young because "he was based in Perth, he was a corporate adviser and he had extensive expertise in the mining and resources sector". However, the service provided by Thomas Young, through his entities Aceglow and ECP, was simply to sign the Acquisition Agreements, receive an allotment of a portion of the Consideration Shares and Consideration Options, and transfer them off-market to Adam Blumenthal or his nominees. Based on the information provided, no corporate advice or other expertise was involved.

Based on the information provided, ASX considers it more likely than not that the transactions were structured in this way to disguise the fact that the Everblu Associates were the true beneficiaries of the issue of the Consideration Shares and the Consideration Options to the Additional Parties. And as a matter of fact, the involvement of the Everblu Associates was concealed in this way from ASX and the HDY shareholders.

Further, in light of what has now been revealed in HDY's response to the 4th Query, ASX considers that the directors of HDY facilitated Adam Blumenthal to conceal the involvement of the Everblu Associates by agreeing to enter into the variations to the Acquisition Agreements without making any disclosure to ASX or HDY's shareholders of their involvement in the transactions.

ASX would reiterate that what was revealed in HDY's response to the 4th Query as to the knowledge of the HDY directors about the connection between Adam Blumenthal and Thomas Young and what was admitted in HDY's response to the 2nd Query as to HDY's knowledge of the connection between Thomas Young, Aceglow and ECP, it would have been apparent to the HDY board when the variations to the Acquisition Agreements were executed on 20 August 2018 that approximately 52.55% of the Consideration Shares and the Consideration Options for the acquisition of Nelly Vanadium, and 64.60% of the Consideration Shares and the Consideration Options for the acquisition of Vanadium Mining, were being issued to the Additional Parties for the benefit of Adam Blumenthal or his nominees, rather than to the Vendor Group.

The Vendor Group

Based on information provided by the Vendor Group, HDY's response to the 4th Query states in section 4(d):

"The Vendors comprise a consortium of independent professionals with various complementary skill-sets (including technical, financial and strategic), whose business model is to acquire prospective mineral projects for on-sale to publicly-listed resources entities, generally for consideration which includes securities in those entities. They have a history of working together opportunistically through

the commodity cycle (including in terms of focussing on commodities and projects for which market sentiment is likely to be favourable at a particular time).

Having identified that vanadium was an exciting commodity with attractive forward fundamentals (which propelled the vanadium pentoxide price from US\$2.50 in late 2015 to a recent peak of circa US\$34 in November 2018), the Vendors acquired various vanadium assets through their entities NVPL and VanMin (which were established by them for that purpose).

In April 2018, the Vendors had discussions with Mr Adam Blumenthal, in his personal capacity, in relation to the possibility of him providing facilitation and introduction services whereby he would identify suitable publicly-listed vehicles with an interest in acquiring vanadium projects. They were aware of Mr Blumenthal as he had been successful in structuring or being involved in a number of transactions involving junior resources companies and there had been various media coverage highlighting that success.

Mr Blumenthal advised the Vendors that he charged a success fee of between 30-60% of overall transaction value for providing his services. Although expensive, the Vendors elected to proceed on the basis of Mr Blumenthal's recent successes and because they would not be liable to pay anything unless and until a transaction that they were happy to conclude was finalised. The specific details of Mr Blumenthal's fee were to be agreed once the basis of any intended transaction had been determined.

On 3 and 18 July 2018, Hardey and the Vendors entered into binding heads of agreement documents (HOAs) for the acquisition of NVPL and VanMin, respectively. The consideration for those acquisitions was in each case shares and options in Hardey. The Vendors entered into the HOAs in the knowledge that Mr Blumenthal would need to be paid a fee amounting to a percentage of the consideration received by them.

Variations to the HOAs were subsequently proposed in August 2018, in which the matter of Mr Blumenthal's fee was specifically dealt with by the apportionment of the overall transaction consideration as between the Vendors (on the one hand) and certain entities proposed by Mr Blumenthal – Energy Capital Partners Pty Ltd and Aceglow Holdings Pty Ltd – on the other. As the Vendors were still satisfied commercially with the value of the consideration they were to receive under the acquisitions, they executed the variation documents on 20 August 2018.”

Adam Blumenthal claims to have discussed a 30 – 60% fee with an adviser acting for the Vendor Group, in April 2018.

The Vendor claims to have elected to proceed on that basis because “*they would not be liable to pay anything unless and until a transaction that they were happy to conclude was finalised.*”

Yet a transaction was finalised in July 2018, when the Vendor Group entered into the Original Nelly Vanadium Agreement and the Original Vanadium Mining Agreement, without Adam Blumenthal's fee having been agreed.

No explanation has been proffered as to why experienced investors would sign binding heads of agreement in July 2018 committing themselves to a transaction, knowing that they had yet to agree to a fee that had the prospect of reducing the consideration they would receive for the transaction by between 30% and 60%.

As it transpires, the introduction fee ultimately agreed between Adam Blumenthal and the Vendor Group was 52.55% of the Consideration Shares and the Consideration Options for the acquisition of Nelly Vanadium and 64.60% of the Consideration Shares and the Consideration Options for the acquisition of Vanadium Mining.

ASX infers that the Vendor Group must have been of the view that the price HDY agreed to pay for the Nelly Vanadium and Vanadium Mining acquisitions was very favourable from their perspective. They were

prepared to give away 52.55% and 64.60% of the deal value to Adam Blumenthal for a mere introduction. The likely corollary is that the deal was not such a good deal for HDY and its shareholders.

The introduction fee

Adam Blumenthal's representation to the Vendor Group that he charged a success fee of between 30-60% for his services is extraordinary. The implication that this is his "standard fee" for a mere introduction makes the fees that Everblu itself charges to its corporate clients for the full array of its advisory services pale into insignificance.

The enormity of the fee charged by Adam Blumenthal to the Vendor Group for his services (52.55% for the Nelly Vanadium acquisition and 64.60% for the Vanadium Mining acquisition) suggests to ASX that there was likely more to his involvement in those transactions than a mere introduction. The HDY response to the 4th Query is deficient in not explaining what it was that Adam Blumenthal provided that could possibly justify such an extraordinary fee.

Impact on HDY's listing rule 7.1 resolutions

On 25 July 2018 HDY issued a notice of general meeting to approve the issue of securities in relation to the Nelly Vanadium and Vanadium Mining acquisitions under listing rule 7.1 ("Notice"). The Notice states:

*"On 3 July 2018, the Company announced that it had entered into a binding heads of agreement with the shareholders of Nelly Vanadium (**NV Vendors**), pursuant to which it would have an exclusive 40-day option (**Option Period**) to acquire 100% of the issued capital in Nelly Vanadium (**NV Acquisition Agreement**).*

*Upon the exercise of the option, **the Company will issue to the NV Vendors the Consideration Shares and Consideration Options** set out below. The Company will also pay a 3% net smelter return royalty to the founding shareholders of Nelly Vanadium. [Emphasis added] ...*

*On 19 July 2018, the Company announced that it had entered into a binding heads of agreement with the shareholders of Vanadium Mining (**VM Vendors**), pursuant to which it would have an exclusive 40-day option (**Option Period**) to acquire 100% of the issued capital in Vanadium Mining (**VM Acquisition Agreement**).*

*Upon the exercise of the option, **the Company will issue to the VM Vendors the Consideration Shares and Consideration Options** set out below. The Company will also pay a 3% net smelter return royalty to the VM Vendors." [Emphasis added]*

It now appears from the materials in HDY's response to the 4th Query that at the time the Notice was issued, Terence Clee and Robin Armstrong were both aware, at the very least, that a portion of the Consideration Shares and the Consideration Options was in some way passing from the Vendor Group to the Everblu Associates and that Thomas Young would be involved in achieving this.

Further, at the time the two resolutions were put to shareholders at the meeting on 24 August 2018, the variations to the Acquisition Agreements had been executed and it would have been apparent to the directors of HDY that approximately 52.55% of the Consideration Shares and the Consideration Options for the acquisition of Nelly Vanadium, and 64.60% of the Consideration Shares and the Consideration Options for the acquisition of Vanadium Mining, were being issued to the Additional Parties for the benefit of Adam Blumenthal or his nominees, rather than to the NV Vendors and the VM Vendors.

Listing rule 7.3.4 requires the notice of meeting proposing a resolution under rule 7.1 to disclose "the names of the persons to whom the entity will issue the securities (if known)".

Listing rule 14.6 provides that an approval of security holders is not effective for the purposes of the listing rules unless the notice of meeting includes everything the relevant rule requires it to include.

Aceglow and ECP were not vendors of shares in Nelly Vanadium or Vanadium Mining. It appears from the information that ASX has reviewed that they were nominees used to allow Adam Blumenthal and his nominees to receive 52.55% of the Consideration Shares and the Consideration Options for the acquisition of Nelly Vanadium, and 64.60% of the Consideration Shares and the Consideration Options for the acquisition of Vanadium Mining as a “referral fee”.

The reference in the Notice to the shares being issued to the “NV Vendors” and the “VM Vendors”, at the very least, were rendered misleading by the amendments to the Acquisition Agreements and the inclusion of Aceglow and ECP as recipients of the Consideration Shares and the Consideration Options. Arguably, they resulted in a failure by HDY to comply with listing rule 7.3.4, which, under listing rule 14.6, rendered the resolutions under listing rule 7.1 invalid for the purposes of the listing rules and, consequently, meant the issue of the Consideration Shares and the Consideration Options to Aceglow, ECP and the Vendor Group constituted a breach by HDY of listing rule 7.1.

Remedial action

ASX has given careful consideration to the submissions made by HDY about remedial action in its response to the 4th Query.

ASX notes HDY’s statement that it is “willing to work with ASX and all other parties to the Acquisitions and Off-Market Transfers to implement a recommended course of action or solution as ASX sees fit to comprehensively address the concerns raised by ASX”, and that it has offered to appoint additional independent directors, undertake a corporate governance review and to engage an independent valuer to assess the value of the Acquisitions and to examine the price HDY paid for these assets. ASX further notes that the board has expressed confidence that the independent valuer will find that HDY in fact paid below market for these assets.

The fact is that the Nelly Vanadium and Vanadium Mining Acquisitions, the Off-Market Transfers, the On-Market Disposals and the Additional Disposals have all been completed and it is now very difficult to “unscramble the egg”.

While ASX could now require HDY to pass fresh resolutions under listing rule 7.1 to approve the issue of the Consideration Shares and Consideration Options to cure the potential defects mentioned above and would likely have applied listing rule 10.1 to the acquisition of the Nelly Vanadium and Vanadium Mining assets and listing rule 10.11 to the issue of the Consideration Shares and Consideration Options to ECP and Aceglow had it had been informed in advance of the substantial involvement of the Everblu Associates in those transactions, it is extremely difficult and of questionable worth for ASX to do that now. For one thing, ASX suspects that HDY’s shareholders would feel a degree of compulsion to support resolutions under those rules, given the dim prospects that HDY would likely have if the resolutions did not pass and the transactions had to be reversed.

ASX has also carefully considered whether it can and should simply give a direction under listing rule 18.8 that all of the relevant transactions be reversed. However, ASX is not in a position to determine whether this would be a good or a bad outcome for HDY and its shareholders and therefore is reluctant to do so.

In all of the circumstances, ASX has concluded, having regard to the nature of the conduct that has occurred here and the actors involved, that the appropriate action for ASX to take is to remove HDY from the official list.

Termination of ASX listing

Listing rule 17.12 provides:

“ASX may at any time remove an entity from the official list if, in ASX’s opinion, any of the following applies.

- *The entity is unable or unwilling to comply with, or breaks, a listing rule.*

-
- *The entity has no quoted securities.*
 - *It is appropriate for some other reason.”*

Having regard to the matters mentioned above, ASX considers it appropriate that HDY should be removed from the official list pursuant to listing rule 17.12 with effect on and from the commencement of trading on Friday 11 January 2019.

ASX expects HDY to make an immediate announcement to the market attaching a copy of this letter. If it does not do so, ASX will release a copy itself.

Please Wade Baggott if you have any queries or wish to discuss any aspects of this letter.

Yours sincerely,

[sent electronically without signature]

James Rowe
State Manager, Listings Compliance

For personal use only