
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended 31 March 2011

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of event requiring this shell company report

For the transition period from to

Commission file number 1-15240

JAMES HARDIE INDUSTRIES SE

(Exact name of Registrant as specified in its charter)

N/A

(Translation of Registrant's name into English)

Ireland

(Jurisdiction of incorporation or organization)

Europa House, Second Floor
Harcourt Center
Harcourt Street, Dublin 2, Ireland
(Address of principal executive offices)

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Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class:

Name of each exchange on which registered:

Common stock, represented by CHESS Units of Foreign Securities

New York Stock Exchange*

CHESS Units of Foreign Securities

New York Stock Exchange*

American Depositary Shares, each representing five units of CHESS Units of Foreign Securities

New York Stock Exchange

* Listed, not for trading, but only in connection with the registered American Depositary Shares, pursuant to the requirements of the Securities and Exchange Commission

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None.

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None.

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report 436,386,587 shares of common stock at 31 March 2011.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes No

Note — Checking the box will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See the definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP

International Financial Reporting Standards as issued
by the International Accounting Standards Board

Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow:

Item 17 Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

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SECTION 1.

INTRODUCTION

In this annual report, unless the context otherwise indicates, James Hardie Industries SE, a “Societas Europaea,” or a European company incorporated and existing under the laws of Ireland, is referred to as JHI SE. JHI SE together with its direct and indirect wholly owned subsidiaries as of the time relevant to the applicable reference, are collectively referred to as the James Hardie Group. JHI SE and its current direct and indirect wholly owned subsidiaries are collectively referred to as “we,” “us,” “our,” “JHI SE and its wholly owned subsidiaries,” “James Hardie” or the “Company.”

The term “fiscal year” refers to our fiscal year ended 31 March of such year; the term “dollars,” “US\$” or “\$” refers to US dollars; the term “A\$” refers to Australian dollars; and the term “NZ\$” refers to New Zealand dollars. Unless otherwise stated, all amounts in A\$ have been converted into US\$ at the 31 March 2011 exchange rate of A\$0.9676 to US\$1.0000.

On 2 June 2010, our shareholders approved Stage 2 of a two-stage proposal to transform James Hardie Industries SE to an Irish SE by changing our registered corporate domicile from The Netherlands to Ireland. Following this vote, on 17 June 2010, we changed our registered corporate domicile to Ireland and are now subject to Irish law in addition to the Council of the European Union’s Regulation on the Statute for a European Company (SE Regulations). In addition, we continue to operate under the regulatory requirements of numerous jurisdictions and organisations, including the ASX, ASIC, the NYSE, the United States Securities and Exchange Commission, the Irish Takeovers Panel and various other rulemaking bodies. We became an Irish tax resident on 29 June 2010.

As a company incorporated under the laws of Ireland, we have listed our securities for trading on the Australian Securities Exchange, or ASX, through the use of the Clearing House Electronic Subregister System, or CHESS, via CHESS Units of Foreign Securities, or CUFS. CUFS are a form of depositary security that represent a beneficial ownership interest in the securities of a non-Australian corporation. Each of our CUFS represents the beneficial ownership of one share of common stock of JHI SE, the legal ownership of which is held by CHESS Depository Nominees Pty Ltd. The CUFS are listed and traded on the ASX under the symbol “JHX.”

We have also listed our securities for trading on the New York Stock Exchange, or NYSE. We sponsor a program, whereby beneficial ownership of five CUFS is represented by one American Depositary Share, or ADS, which is issued by The Bank of New York Mellon. These ADSs trade on the NYSE in the form of American Depositary Receipts, or ADRs, under the symbol “JHX.” Unless the context indicates otherwise, when we refer to ADSs, we are referring to ADRs or ADSs and when we refer to our common stock we are referring to the shares of our common stock that are represented by CUFS.

Glossary of abbreviations and terms

Non-financial Terms

ABS	Australian Bureau of Statistics
ADR	American Depositary Receipt
ADS	American Depositary Share
AFFA	Amended and Restated Final Funding Agreement, as amended from time to time
AGM	Annual General Meeting
AICF	Asbestos Injuries Compensation Fund
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CHESS	Clearing House Electronic Subregister System
CUFS	CHESS Units of Foreign Securities
FDRs	Freely Distributable Reserves
GIC	General Interest Charge
GMT	Group Management Team
IRS	United States Internal Revenue Service
KPMG Actuarial	KPMG Actuarial Pty Limited
LIBOR	London Interbank Offered Rate
NAHB	National Association of Home Builders
NBSK	Northern Bleached Softwood Kraft, the Company’s benchmark grade of pulp
NSW	New South Wales
NYSE	New York Stock Exchange
RSU	Restricted Stock Unit
SCI	Special Commission Inquiry
SEC	United States Securities and Exchange Commission

Former James Hardie Companies — Consists of Amaca Pty Ltd, Amaba Pty Ltd and ABN 60 Pty Ltd.

Sales Volume

mmsf — million square feet, where a square foot is defined as a standard square foot of 5/16” thickness.

msf — thousand square feet, where a square foot is defined as a standard square foot of 5/16” thickness.

Forward-Looking Statements

This annual report contains forward-looking statements. We may from time to time make forward-looking statements in our periodic reports filed with or furnished to the SEC, on Forms 20-F and 6-K, in our annual reports to shareholders, in offering circulars, invitation memoranda and prospectuses, in media releases and other written materials and in oral statements made by our officers, directors or employees to analysts, institutional investors, existing and potential lenders, representatives of the media and others. Statements that are not historical facts are forward-looking statements and such forward-looking statements are statements made pursuant to the Safe Harbor Provisions of the Private Securities Litigation Reform Act of 1995.

Examples of forward-looking statements include:

- statements about our future performance;
- projections of our results of operations or financial condition;
- statements regarding our plans, objectives or goals, including those relating to strategies, initiatives, competition, acquisitions, dispositions and/or our products;
- expectations concerning the costs associated with the suspension or closure of operations at any of our plants and future plans with respect to any such plants;
- expectations that our credit facilities will be extended or renewed;
- expectations concerning dividend payments and share buy-back;
- statements concerning our corporate and tax domiciles and potential changes to them, including potential tax charges;
- statements regarding tax liabilities and related audits, reviews and proceedings;
- statements as to the possible consequences of proceedings brought against us and certain of our former directors and officers by the Australian Securities and Investments Commission (which we refer to as “ASIC”);
- expectations about the timing and amount of contributions to the Asbestos Injuries Compensation Fund (which we refer to as “AICF”), a special purpose fund for the compensation of proven Australian asbestos-related personal injury and death claims;
- expectations concerning indemnification obligations;
- statements about product or environmental liabilities; and
- statements about economic conditions, such as economic or housing recovery, the levels of new home construction, unemployment levels, changes or stability in housing values, the availability of mortgages and other financing, mortgage and other interest rates, housing affordability and supply, the levels of foreclosures and home resales, currency exchange rates and consumer confidence.

Words such as “believe,” “anticipate,” “plan,” “expect,” “intend,” “target,” “estimate,” “project,” “predict,” “forecast,” “guideline,” “aim,” “will,” “should,” “likely,” “continue” and similar expressions are intended to identify forward-looking statements but are not the exclusive means of identifying such statements. Readers are cautioned not to place undue reliance on these forward-looking statements and all such forward-looking statements are qualified in their entirety by reference to the following cautionary statements.

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Forward-looking statements are based on our current expectations, estimates and assumptions and because forward-looking statements address future results, events and conditions, they, by their very nature, involve inherent risks and uncertainties, many of which are unforeseeable and beyond our control. Such known and unknown risks, uncertainties and other factors may cause our actual results, performance or other achievements to differ materially from the anticipated results, performance or achievements expressed, projected or implied by these forward-looking statements. These factors, some of which are discussed under "Risk Factors" in Section 3, include, but are not limited to: all matters relating to or arising out of the prior manufacture of products that contained asbestos by current and former James Hardie subsidiaries; required contributions to the AICF, any shortfall in the AICF and the effect of currency exchange rate movements on the amount recorded in our financial statements as an asbestos liability; governmental loan facility to the AICF; compliance with and changes in tax laws and treatments; competition and product pricing in the markets in which we operate; the consequences of product failures or defects; exposure to environmental, asbestos or other legal proceedings; general economic and market conditions; the supply and cost of raw materials; possible increases in competition and the potential that competitors could copy our products; reliance on a small number of customers; a customer's inability to pay; compliance with and changes in environmental and health and safety laws; risks of conducting business internationally; compliance with and changes in laws and regulations; the effect of the transfer of our corporate domicile from The Netherlands to Ireland to become an Irish SE including employee relations, changes in corporate governance and potential tax benefits; currency exchange risks; dependence on customer preference and the concentration of our customer base on large format retail customers, distributors and dealers; dependence on residential and commercial construction markets; the effect of adverse changes in climate or weather patterns; possible inability to renew credit facilities on terms favourable to us, or at all; acquisition or sale of businesses and business segments; changes in our key management personnel; inherent limitations on internal controls; use of accounting estimates; and all other risks identified in our reports filed with Australian, Irish and US securities agencies and exchanges (as appropriate). We caution you that the foregoing list of factors is not exhaustive and that other risks and uncertainties may cause actual results to differ materially from those in forward-looking statements. Forward-looking statements speak only as of the date they are made and are statements of our current expectations concerning future results, events and conditions.

SELECTED FINANCIAL DATA

We have included in this annual report the audited consolidated financial statements of the Company, consisting of our consolidated balance sheets as of 31 March 2011 and 31 March 2010, and our consolidated statements of operations, changes in shareholders' deficit and cash flows for the years ended 31 March 2011, 2010 and 2009, together with the related notes thereto. The consolidated financial statements included in this annual report have been prepared in accordance with accounting principles generally accepted in the United States of America, or "US GAAP."

The selected consolidated financial information summarised below for the five most recent fiscal years has been derived in part from the Company's financial statements. You should read the selected consolidated financial information in conjunction with the Company's financial statements and related notes contained in Section 2, "Consolidated Financial Statements" and with the information provided in Section 2, "Management's Discussion and Analysis." Historic financial data is not necessarily indicative of our future results and you should not unduly rely on it.

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	Fiscal Year ended 31 March				
	2011	2010	2009	2008	2007
	(In millions of US dollars except sales price per unit and per share data)				
Consolidated Statements of Operations Data:					
Net Sales					
USA and Europe Fibre Cement (1)	\$ 814.0	\$ 828.1	\$ 929.3	\$ 1,170.5	\$ 1,291.2
Asia Pacific Fibre Cement (2)	353.0	296.5	273.3	298.3	251.7
Total net sales	<u>\$ 1,167.0</u>	<u>\$ 1,124.6</u>	<u>\$ 1,202.6</u>	<u>\$ 1,468.8</u>	<u>\$ 1,542.9</u>
Operating income (loss) (3)	\$ 104.7	\$ (21.0)	\$ 173.6	\$ (36.6)	\$ (86.6)
Interest expense	(9.0)	(7.7)	(11.2)	(11.1)	(12.0)
Interest income	4.6	3.7	8.2	12.2	5.5
Other (expense) income (4)	(3.7)	6.3	(14.8)	—	—
Income (loss) from operations before income taxes	96.6	(18.7)	155.8	(35.5)	(93.1)
Income tax (expense) benefit	(443.6)	(66.2)	(19.5)	(36.1)	243.9
(Loss) income from operations	<u>\$ (347.0)</u>	<u>\$ (84.9)</u>	<u>\$ 136.3</u>	<u>\$ (71.6)</u>	<u>\$ 150.8</u>
Net (loss) income	<u>\$ (347.0)</u>	<u>\$ (84.9)</u>	<u>\$ 136.3</u>	<u>\$ (71.6)</u>	<u>\$ 151.7</u>
(Loss) income from operations per common share — basic	\$ (0.80)	\$ (0.20)	\$ 0.32	\$ (0.16)	\$ 0.32
Net (loss) income per common share — basic	\$ (0.80)	\$ (0.20)	\$ 0.32	\$ (0.16)	\$ 0.33
(Loss) income from operations per common share — diluted	\$ (0.80)	\$ (0.20)	\$ 0.31	\$ (0.16)	\$ 0.32
Net (loss) income per common share — diluted	\$ (0.80)	\$ (0.20)	\$ 0.31	\$ (0.16)	\$ 0.33
Dividends paid per share	\$ —	\$ —	\$ 0.08	\$ 0.27	\$ 0.09
Weighted average number of common shares outstanding					
Basic	435.6	433.1	432.3	455.0	464.6
Diluted	435.6	433.1	434.5	455.0	464.4
Consolidated Cash Flow Information:					
Cash flows provided by (used in) operating activities	\$ 147.2	\$ 183.1	\$ (45.2)	\$ 319.3	\$ (67.1)
Cash flows used in investing activities	\$ (49.6)	\$ (50.5)	\$ (26.1)	\$ (38.5)	\$ (92.6)
Cash flows (used in) provided by financing activities	\$ (89.7)	\$ (159.0)	\$ 25.0	\$ (254.4)	\$ (136.4)
Other Data:					
Depreciation and amortisation	\$ 62.9	\$ 61.7	\$ 56.4	\$ 56.5	\$ 50.7
Adjusted EBITDA (5)	\$ 167.6	\$ 40.7	\$ 230.0	\$ 19.9	\$ (35.9)
Capital expenditures	\$ 50.3	\$ 50.5	\$ 26.1	\$ 38.5	\$ 92.1
Volume (million square feet)					
USA and Europe Fibre Cement (1)	1,248.0	1,303.7	1,526.6	1,951.2	2,216.2
Asia Pacific Fibre Cement (2)	407.8	389.6	390.6	398.2	390.8
Average sales price per unit (per thousand square feet)					
USA and Europe Fibre Cement (1)	US \$652	US \$635	US \$609	US \$600	US \$583
Asia Pacific Fibre Cement (2)	A \$916	A \$894	A \$879	A \$862	A \$842
Consolidated Balance Sheet Data:					
Net current assets (6)	\$ 135.6	\$ 50.4	\$ 137.7	\$ 183.7	\$ 259.0
Total assets	\$ 1,960.6	\$ 2,178.8	\$ 1,891.7	\$ 2,179.9	\$ 2,128.1
Total debt	\$ 59.0	\$ 154.0	\$ 324.0	\$ 264.5	\$ 188.0
Common stock	\$ 222.5	\$ 221.1	\$ 219.2	\$ 219.7	\$ 251.8
Shareholders' (deficit) equity	\$ (454.5)	\$ (117.9)	\$ (108.7)	\$ (202.6)	\$ 258.7

- (1) On 1 April 2008, the Company realigned its operating segments by combining the previously reported segments of USA Fibre Cement and Other into one operating segment, USA and Europe Fibre Cement. USA and Europe Fibre Cement manufactures fibre cement interior linings, exterior siding and related accessory products in the United States which are sold in the United States, Canada and Europe.
- The segment also includes fibre reinforced concrete pipes manufactured and sold in the United States (through May 2008). Our Plant City, Florida Hardie Pipe Plant was closed and the business ceased operations in May 2008.
- (2) Asia Pacific Fibre Cement includes all fibre cement manufactured in Australia, New Zealand and the Philippines and sold in Australia, New Zealand, Asia, the Middle East (Israel, Kuwait, Qatar and United Arab Emirates) and various Pacific Islands.
- (3) Operating income (loss) includes the following asbestos adjustments, AICF SG&A expenses, ASIC related recoveries (expenses), SCI and other related expenses, and impairment charges:

	Fiscal Years Ended 31 March				
	2011	2010	2009 (Millions of US dollars)	2008	2007
(Unfavourable) favourable asbestos adjustments	\$ (85.8)	\$ (224.2)	\$ 17.4	\$ (240.1)	\$ (405.5)
AICF SG&A expenses	(2.2)	(2.1)	(0.7)	(4.0)	—
ASIC related recoveries (expenses)	8.7	(3.4)	(14.0)	(5.5)	—
SCI and other related expenses	—	—	—	—	(13.6)
Impairment charges	—	—	—	(71.0)	—

For additional information on the asbestos adjustments, AICF SG&A expenses and ASIC related recoveries (expenses), see Section 2, “Management’s Discussion and Analysis” and Notes 11 and 13 to our consolidated financial statements in Section 2.

- (4) Other expense in fiscal year 2011 primarily includes an unrealised loss resulting from a change in the fair value of interest rate swap contracts. Other income in fiscal year 2010 primarily includes a realised gain arising from the sale of restricted short-term investments held by the AICF. Other expense in fiscal year 2009 consists of an other-than-temporary impairment charge related to restricted short-term investments held by the AICF of US\$14.8 million. For additional information see Section 2, “Management’s Discussion and Analysis — Results of Operations.”
- (5) Adjusted EBITDA represents income from operations before interest income, interest expense, income taxes, other non-operating expense (income), described in footnote four above, cumulative effect of change in accounting principle, and depreciation and amortisation charges. The following table presents a reconciliation of Adjusted EBITDA to net cash provided by (used in) operating activities, as this is the most directly comparable GAAP financial measure to Adjusted EBITDA for each of the periods indicated. Items comprising “Net cash provided by (used in) operating activities,” “Adjustments to reconcile net (loss) income to net cash provided by (used in) operating activities” and “Change in operating assets and liabilities, net” for fiscal years ended 31 March 2011, 2010 and 2009 are set forth on the Consolidated Statements of Cash Flows on page 78.

	Fiscal Years Ended 31 March				
	2011	2010	2009 (Millions of US dollars)	2008	2007
Net cash provided by (used in) operating activities	\$ 147.2	\$ 183.1	\$ (45.2)	\$ 319.3	\$ (67.1)
Adjustments to reconcile net (loss) income to net cash provided by (used in) operating activities	(136.8)	(312.0)	(3.5)	(318.9)	4.5
Change in operating assets and liabilities, net	(357.4)	44.0	185.0	(72.0)	214.3
Net (loss) income	(347.0)	(84.9)	136.3	(71.6)	151.7
Cumulative effect of change in accounting principle	—	—	—	—	(0.9)
Income tax expense (benefit)	443.6	66.2	19.5	36.1	(243.9)
Interest expense	9.0	7.7	11.2	11.1	12.0
Interest income	(4.6)	(3.7)	(8.2)	(12.2)	(5.5)
Other expense (income)	3.7	(6.3)	14.8	—	—
Depreciation and amortisation	62.9	61.7	56.4	56.5	50.7
Adjusted EBITDA	<u>\$ 167.6</u>	<u>\$ 40.7</u>	<u>\$ 230.0</u>	<u>\$ 19.9</u>	<u>\$ (35.9)</u>

Adjusted EBITDA is not a measure of financial performance under US GAAP and should not be considered an alternative to, or more meaningful than, income from operations, net income or net cash provided by (used in) operating activities as defined by US GAAP or as a measure of our profitability or liquidity. Not all companies calculate Adjusted EBITDA in the same manner as we have and, accordingly, Adjusted EBITDA may not be comparable with other companies. We have included information concerning Adjusted EBITDA because we believe that this data is commonly used by investors to evaluate the ability of a company’s earnings from its core business operations to satisfy its debt, capital expenditure and working capital requirements. To permit evaluation of this data on a consistent basis from period to period, Adjusted EBITDA has been adjusted for non-cash charges, as well as non-operating income and expense items.

- (6) Total current assets less total current liabilities.

INFORMATION ON THE COMPANY

History and Development of the Company

The Company was established in 1888 as an import business. In 1951, the Company became publicly owned as a listed company on the Australian Stock Exchange. In the following years, the Company built up a diverse portfolio of building and industrial products businesses including a wide range of asbestos-based products. In the mid-1980s, we pioneered the development of asbestos-free fibre cement technology and began designing and manufacturing a wide range of fibre cement building products that made use of the benefits that came from the products' durability, versatility and strength. Using the technical and manufacturing expertise developed in Australia, we expanded our operations, in particular to the United States, to become a specialised manufacturer of a wide range of fibre cement building materials.

Our legal name was changed to James Hardie Industries N.V. from RCI Netherlands Holdings B.V. in July 2001 when our legal form was converted from a "besloten vennootschap met beperkte aansprakelijkheid" (which we refer to as a B.V.), to a "naamloze vennootschap" (which we refer to as "N.V."), or a public limited liability company whose stock, unlike a private limited liability company, may be transferred without executing a notarial deed if such company is listed on a recognised stock exchange. In February 2001, the shareholders of James Hardie Industries Limited (which we refer to as "JHIL") agreed to exchange their shares for shares in James Hardie Industries N.V., which retained its primary listing on the ASX. In February 2010, our legal name was changed to James Hardie Industries SE when our legal form was converted from a Dutch N.V. to a Dutch Societas Europaea (which we refer to as "SE") in connection with implementing Stage 1 of a two-stage re-domicile proposal (together, the "Re-domicile") to change our registered corporate domicile from The Netherlands to Ireland. As a Dutch SE, we became subject to the Council of the European Union's Regulation on the Statute for a European Company (SE Regulations). On 17 June 2010, we implemented Stage 2 of the Re-domicile and changed our registered corporate domicile to Ireland and became an Irish tax resident on 29 June 2010.

We conduct our operations under legislation in various jurisdictions. As an Irish SE, we are subject to Irish law in addition to the SE Regulation, European Union Council Regulations and relevant European Union Directives. Prior to completing Stage 2 of the Re-domicile, we were also subject to the jurisdiction of the Dutch authority Financial Markets and the Dutch Corporate Governance Code. In addition, we operate under the regulatory requirements of numerous jurisdictions and organisations, including the ASX, ASIC, the NYSE, the US SEC, the Irish Takeover Panel and various other rulemaking bodies.

Our corporate domicile is located in Ireland. The address of our registered office in Ireland is Europa House, Second Floor, Harcourt Centre, Harcourt Street, Dublin 2, Ireland. The telephone number there is +353 1411 6924. Our agent in the United States is CT Corporation. Its office is located at 3 Winners Circle, 3rd Floor, Albany, New York 12205.

Corporate Restructuring

On 2 July 1998, James Hardie Industries Ltd (which we refer to as "JHIL" and now known as ABN 60 Pty Ltd, which we refer to as "ABN 60"), was then a public company organised under the laws of Australia and listed on the ASX. At that time, JHIL announced a plan of reorganisation and capital restructuring (which we refer to as the 1998 Reorganisation) to address the structural imbalance and resulting operational, financial and commercial issues resulting from increasing significance and growth opportunities of our US operations and the location of corporate management and our shareholder base in Australia.

In February 2001, ABN 60, or JHIL, established the Medical Research and Compensation Foundation (which we refer to as the "Foundation") by gifting A\$3.0 million (US\$1.7 million based on the 31 March 2001 exchange rate of A\$1.7989 to US\$1.0000) in cash and transferring ownership of Amaca Pty Ltd (which we refer to as "Amaca") and Amaba Pty Ltd (which we refer to as "Amaba") to the Foundation.

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On 19 October 2001, we completed a plan of reorganisation and capital restructuring (which we refer to as the 2001 Reorganisation). This restructuring was done to provide us with a more efficient financial structure in light of potential global expansion, to allow us to use our stock for acquisitions if necessary and to increase overall returns to our shareholders. The 2001 Reorganisation consisted of the issuance of shares of JHI NV common stock represented by CUFS to substantially all ABN 60 shareholders in exchange for their shares of ABN 60 common stock pursuant to an approved Australian scheme of arrangement and the listing of the shares of JHI NV represented by CUFS on the ASX and the listing of ADSs, representing CUFS, which in turn represent shares of JHI NV, on the NYSE. As a result of the share exchange, ABN 60 shareholders ceased to hold any direct interest in ABN 60 and instead became the holders of interests in JHI NV common shares, receiving substantially their same proportional ownership interests in JHI NV as they had in ABN 60 before exchanging their shares.

In addition, as a result of the exchange, ABN 60 became a direct subsidiary of JHI NV. Following the 2001 Reorganisation, JHI NV controlled the same assets and liabilities as ABN 60 controlled immediately prior to the 2001 Reorganisation.

During fiscal year 2003, ABN 60 transferred control of all of its non-operating subsidiaries to RCI Holdings Pty Ltd, a wholly owned subsidiary of JHI NV, to distinguish between the operating group of companies and non-operating subsidiaries.

Following the consolidation of the operating assets of the James Hardie Group under JHI NV in fiscal year 2003, the principal activity of ABN 60 was paying amounts in accordance with the Deed of Covenant and Indemnity. At that time, the cash position of the Company had improved significantly as a result of the sale of the Company's gypsum business in the United States and the impending sale of a gypsum mine in Nevada. On 31 March 2003, following a thorough review to determine that the funds available to ABN 60 would be sufficient to meet the claims of all creditors, the shares in ABN 60 were transferred to the ABN 60 Foundation. ABN 60 Foundation was established to be the sole shareholder of ABN 60. ABN 60 was managed by independent directors and operated entirely independently of the Company.

In August 2008, following proceedings commenced by the Commissioner of Taxation, the Federal Court of Australia made orders providing for the reinstatement of James Hardie Australia Finance Pty Ltd (which we refer to as JHAF), and the appointment of a liquidator. JHAF is currently a subsidiary of James Hardie International Holdings SE (which we refer to as JHIHSE) within the James Hardie group. JHAF was deregistered in August 2005 following a member's voluntary winding up. In December 2008, following our settlement with the ATO, the Federal Court of Australia made orders terminating the liquidation of JHAF. Accordingly, the liquidator was removed and JHAF is now under our full control as a wholly owned subsidiary of JHIHSE.

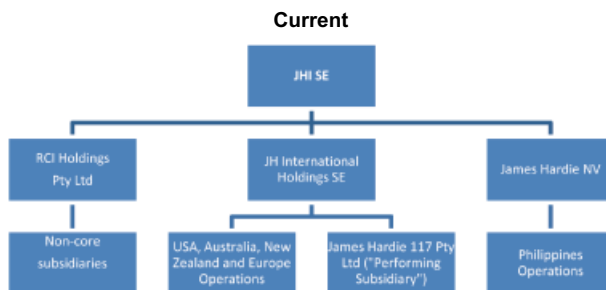
In August 2009, JHI NV shareholders approved Stage 1 of the Re-domicile to move our corporate domicile from The Netherlands to Ireland. Following this vote, in February 2010, the Company transformed from a Dutch N.V. to a Dutch SE registered in The Netherlands and, accordingly, the legal name of the Company was changed to James Hardie Industries SE. On 2 June 2010, our shareholders approved Stage 2 of the Re-domicile. Following this vote, on 17 June 2010, we changed our registered corporate domicile to Ireland.

On 17 May 2011, we announced that we had commenced an internal reorganisation involving the simplification of our corporate structure, including some of the arrangements which were previously part of our Netherlands domicile. This internal reorganisation is being made to facilitate the ability to access and distribute surplus cash flows and earnings of our operating subsidiaries more efficiently, including for the purpose of making periodic contributions to AICF. As part of this restructure, the Company incurred a tax charge of US\$32.6 million on undistributed earnings of its US subsidiaries, which is included in the fiscal year 2011 results of operations, as it intends to remit US earnings as part of the internal reorganisation.

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This charge will not impact the contribution to AICF in July 2011, although it is expected to reduce the contribution to AICF in July 2012 by up to approximately US\$11.4 million.

The following is a simplified diagram of our current corporate structure:



Consolidation of the AICF

In February 2007, our shareholders approved the AFFA entered into on 21 November 2006 to provide long-term funding to the AICF. JHI SE owns 100% of James Hardie 117 Pty Ltd (the "Performing Subsidiary") that funds the AICF subject to the provisions of the AFFA. We appoint three of the AICF directors and the NSW Government appoints two of the AICF directors.

Under the terms of the AFFA, the Performing Subsidiary has an obligation to make payments to the AICF on an annual basis, depending on our net operating cash flow. The amounts of these annual payments are dependent on several factors, including our free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of the AICF and the annual cash flow cap. JHI SE guarantees the Performing Subsidiary's obligation. As a result, for purposes of US GAAP, we consider us to be the primary beneficiary of the AICF.

Our interest in the AICF is considered variable because the potential impact on us will vary based upon the annual actuarial assessments obtained by the AICF with respect to asbestos-related personal injury claims against certain former companies of the James Hardie Group, including ABN 60, Amaca and Amaba (which we refer to collectively as the "Former James Hardie Companies").

Although we have no legal ownership in the AICF, we consolidate the AICF due to our pecuniary and contractual interests in the AICF as a result of the funding arrangements outlined in the AFFA. Our consolidation of the AICF resulted in a separate recognition of the asbestos liability and certain other items including the related Australian income tax benefit. Among other items, we recorded a deferred tax asset for the anticipated tax benefit related to asbestos liabilities and a corresponding increase in the asbestos liability. We believe the Performing Subsidiary is able to claim a tax deduction for contributions to the asbestos fund. Since fiscal year 2007, we have classified the expense related to the increase of the asbestos liability as asbestos adjustments and we have classified the benefit related to the recording of the related deferred tax asset as an income tax benefit (expense) on our consolidated statements of operations. See Note 2 to our consolidated financial statements in Section 2.

Business Overview**General Overview of our Business**

Based on net sales, we believe we are the largest manufacturer of fibre cement products and systems for internal and external building construction applications in the United States, Australia, New Zealand, and the Philippines. We market our fibre cement products and systems under various Hardie brand names and other brand names such as Artisan® Lap and Artisan™ Accent Trim by James Hardie, and Cemplank® siding (we also formerly marketed siding under the brand name Sentry™ siding). We believe that, in certain applications, our fibre cement products and systems provide a combination of distinctive performance, design and cost advantages when compared to other fibre cement products and alternative products and systems that use solid wood, engineered wood, vinyl, brick, stucco or gypsum wallboard. The sale of fibre cement products in the United States accounted for 68%, 72% and 77% of our total net sales in fiscal years 2011, 2010 and 2009, respectively.

Our fibre cement products are used in a number of markets, including new residential construction (single and multi-family housing), manufactured housing (mobile and pre-fabricated homes), repair and remodeling and a variety of commercial and industrial applications (stores, warehouses, offices, hotels, motels, schools, libraries, museums, dormitories, hospitals, detention facilities, religious buildings and gymnasiums). We manufacture numerous types of fibre cement products with a variety of patterned profiles and surface finishes for a range of applications, including external siding and soffit lining, internal linings, facades, fencing and floor and tile underlayments.

In contrast to some other building materials, fibre cement provides durability attributes, such as strong resistance to moisture, fire, impact and termites, requires relatively little maintenance and can be used as a substrate to create a wide variety of architectural effects with textured and colored finishes.

The breakdown of our net sales by operating segment for each of our last three fiscal years is as follows:

	Fiscal Year Ended 31 March		
	2011	2010	2009
	(Millions of US dollars)		
USA and Europe Fibre Cement	\$ 814.0	\$ 828.1	\$ 929.3
Asia Pacific Fibre Cement	353.0	296.5	273.3
Total	<u>\$ 1,167.0</u>	<u>\$ 1,124.6</u>	<u>\$ 1,202.6</u>

Industry Overview**US Housing Industry and Fibre Cement Industry**

In the United States, fibre cement is principally used in the residential building industry. Such usage fluctuates based on the level of new home construction and the repair and remodeling of existing homes. The level of activity is generally a function of interest rates and the availability of finance to homeowners to purchase a new home or make improvements to their existing homes, inflation, unemployment levels, demographic trends, gross domestic product growth and consumer confidence. Demand for building products is also affected by residential housing starts and existing home sales, the age and size of the housing stock and overall home improvement expenditures. According to the US Census Bureau, annual domestic housing starts decreased from approximately 905 thousand in calendar year 2008 to approximately 587 thousand in calendar year 2010.

In the United States, the largest application for fibre cement products is in the external siding industry. Siding is a component of every building and it usually occupies more square footage than any other building component, such as windows and doors. Selection of siding material is based on installed cost, durability, aesthetic appeal, strength, weather resistance, maintenance requirements and cost, insulating properties and other features. Different regions of the United States show a decided preference among siding materials according to economic conditions, weather, materials availability and local taste. The

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principal siding materials are vinyl, stucco, fibre cement, solid wood, and brick. Vinyl has the largest share of the siding market.

International Fibre Cement Industry

In Australia and New Zealand, fibre cement building products are used in both the residential and commercial building industries with applications in external siding, internal walls, ceilings, floors, soffits and fences. The residential building industry represents the principal market for fibre cement products. We believe the level of activity in this industry is generally a function of interest rates, inflation, unemployment levels, demographic trends, gross domestic product growth and consumer confidence. Demand for fibre cement building products is also affected by the level of new housing starts and renovation activity.

Fibre cement products have, across a range of product applications, gained broader acceptance in Australia and New Zealand than in the United States, primarily due to earlier introduction in Australia and New Zealand.

Australia

According to the Australian Bureau of Statistics (which we refer to as the ABS) total dwelling commencements in Australia increased from 138,520 in calendar year 2009 to 167,160 in calendar year 2010 with detached houses increasing from 100,820 in calendar year 2009 to 106,335 in calendar year 2010. Renovation activity, as measured in local currency expenditures by the ABS has increased from calendar year 2008 to calendar year 2010 for a total increase over this period of approximately 2.6%. The Housing Industry Association of Australia expects new housing construction and renovation activity to soften over the short-to-medium term.

Former subsidiaries of ABN 60 developed fibre cement in Australia as a replacement for asbestos cement in the early 1980s. Asbestos sheet production ceased in the early 1980s and asbestos pipe production ceased in 1987. Competition has intensified over the past decade in Australia. In addition to competition from solid wood, engineered wood, wallboard, masonry and brick, two Australian competitors have established fibre cement manufacturing facilities in Australia and fibre cement imports are also growing.

New Zealand

According to Statistics New Zealand, new dwellings consents in New Zealand decreased from approximately 15,381 for the year ended March 2010 to 14,611 for the year ended March 2011. Residential renovation activity in New Zealand has decreased from year ended March 2009 to the year ended March 2011 for a total decrease over this period of approximately 6.2%. InfoMetrics New Zealand believes new housing construction and renovation activity are expected to remain weak through calendar year 2011, with consents slightly down from 2010.

Competition continues to intensify in New Zealand as fibre cement imports have become more cost competitive and overseas manufacturers struggling with the global recession look for additional markets to their existing ones.

Philippines

In the Philippines and other Asian and Middle East (Israel, Kuwait, Qatar and the United Arab Emirates) markets, fibre cement building products are used in both the residential and commercial building industries with applications in ceilings, internal walls, external siding, external facades and soffits. The residential building industry represents the principal market for fibre cement products. In general, fibre cement products have, across a range of product applications, gained broader acceptance in these regions over the last decade. In the Philippines, additional imported fibre cement products have entered the market. However, in some of the developing markets, gypsum usage has increased and penetrated into fibre cement applications. Fibre cement and asbestos cement production facilities are located throughout Asia and exporting between countries is common practice. We believe that fibre cement has good long-term growth potential because of the benefits of light-weight and framed construction over traditional masonry

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construction. In addition, we believe the opportunity to replace wood-based products, such as plywood, with more durable fibre cement will be attractive to some consumers in some of these markets.

Europe

In Europe, fibre cement building products are used in both residential and commercial building industries with applications in external siding, internal walls, floors, soffits and roofing. We compete in most segments except roofing and promote the use of fibre cement products against traditional masonry, gypsum based products and wood based products. Since we commenced selling our products in Europe in fiscal year 2004, we have continued to work to grow demand for our products by building awareness among distributors, builders and contractors. Management believes that the growth outlook for fibre cement in Europe is favourable in light of stricter insulation requirements driving demand for advanced cladding systems and better building practices increasing the use of fibre cement in interior applications.

Products

We manufacture fibre cement products in the United States, Australia, New Zealand and the Philippines. In fiscal year 2004, we commenced our European fibre cement business by distributing our fibre cement products in the United Kingdom and France. We also manufacture fibre cement pipes in Australia and previously manufactured fibre cement pipes in the United States. In May 2008, we ceased operation of our pipe business in the United States. Our total product offering is aimed at the building and construction markets, including new residential construction, manufactured housing, repair and remodeling and a variety of commercial and industrial building applications.

We offer a wide range of fibre cement products for both exterior and interior applications. In the United States and elsewhere, our products are typically sold as planks or flat sheets with a variety of patterned profiles and finishes. Planks are used for external siding while flat sheets are used for internal and external wall linings and floor and tile underlayments. Outside the United States, we also manufacture fibre cement products for use in other applications such as building facades, lattice, fencing, decorative columns, flooring, soffit lining and ceiling applications, some of which have not yet been introduced into the United States.

We developed a proprietary technology platform that enables us to produce thicker yet lighter-weight fibre cement products that are generally lighter and easier to handle than traditional building products. The first application of this technology has been our HardieTrim® board. HardieTrim board is a fibre cement trim product that is used on the exterior of residential and commercial construction to replace traditional wood and engineered wood trim. HardieTrim board was launched in fiscal year 1999, with the introduction of HardieTrim HLD board.

We believe that our products provide certain performance, design and cost advantages. The principal fibre cement attributes in exterior applications is durability and low maintenance, particularly when compared to competing wood and wood-based products, while offering comparable aesthetics. Our fibre cement products exhibit superior resistance to the damaging effects of moisture, fire, impact and termites compared to wood and wood-based products, which we believe has enabled us to gain a competitive advantage over competing products. Vinyl siding products generally have better durability characteristics than wood-based products, but typically cannot duplicate the superior aesthetics of fibre cement and lack the characteristics necessary for effectively accepting paint applications.

Our fibre cement products provide strength and the ability to imprint simulated patterns that closely resemble patterns and profiles of traditional materials such as wood and stucco. The surface properties provide a superior paint-holding finish to wood and engineered wood products such that the periods between necessary maintenance and repainting are longer. Compared to masonry construction, fibre cement is lightweight, physically flexible and can be cut using readily available tools. This makes fibre cement suitable for lightweight construction across a range of architectural styles. Fibre cement is well suited to both timber and steel-framed construction.

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In our interior product range, our ceramic tile underlayment products provide superior handling and installation characteristics compared to fibreglass mesh cement boards. Compared to wood and wood-based products, our products provide the same general advantages that apply to external applications. In addition, our fibre cement products exhibit less movement in response to exposure to moisture than many alternative competing products, providing a more consistent and durable substrate on which to install tiles. In internal lining applications where exposure to moisture and impact damage are significant concerns, our products provide superior moisture resistance and impact resistance than traditional gypsum wet area wallboard and other competing products.

In the United States, the following new products were released over the last five years:

- During fiscal year 2008, we introduced Artisan® Lap siding, Artisan™ Accent Trim and HardieWrap® weather barrier.
- During fiscal year 2009, we introduced two new siding profiles, HardieSoffit® Beaded Porch Panel and HardieShingle® Shingle Plank.
- During fiscal year 2010, we introduced HardieZone® System siding products.
- During fiscal year 2011, we introduced new HardieShingle® siding, HardieTrim® NT3™ Boards, two new lap siding products, Artisan™ Accent Trim and HardieBacker® ProGrid™ cement board.

In Australia and New Zealand, new products released over the past five years include Axon® cladding, Scyon™ Stria™ siding, Secura™ Interior Flooring, Secura™ Exterior Flooring and Horizon Lining; in Australia only, new products include: Matrix™ cladding and Axent™ trim; and in New Zealand only, new products include: ShingleSide panel and CLD Cavity Battens and Rigid Air Barrier.

In the Philippines, new products released over the past five years include Hardisenepa™ Fascia Board, Hardiplank® Siding, Hardifloor™ Systems and Hardipattern™ Boards.

Seasonality

Our earnings are seasonal and typically follow activity levels in the building and construction industry. In the United States, the calendar quarters ending in December and March generally reflect reduced levels of building activity depending on weather conditions. In Australia and New Zealand, the calendar quarter ending in March is usually affected by a slowdown due to summer holidays. In the Philippines, construction activity diminishes during the wet season from June through September and during the last half of December due to the slowdown in business activity over the holiday period. Also, general industry patterns can be affected by weather, economic conditions, industrial disputes and other factors. See Section 3, "Additional Information for Shareholders — Risk Factors."

Raw Materials

The principal raw materials used in the manufacture of fibre cement are cellulose fibre (wood-based pulp), silica (sand), portland cement and water. Pulp has historically demonstrated more price sensitivity than other raw materials that we use in our manufacturing process. In fiscal year 2011, the average Northern Bleached Softwood Kraft (which we refer to as NBSK) pulp price was US\$978 per ton, an increase of 30% compared to fiscal year 2010. Input costs are expected to remain high with NBSK pulp prices forecast to remain at or above US\$1,000 per ton.

Cellulose Fibre. Reliable access to specialised, consistent quality, low cost pulp is critical to the production of fibre cement building materials. Cellulose fibre is sourced from New Zealand, the United States, Canada, and South America (Chile) and is processed to our specifications. It is further processed using our proprietary technology to provide the reinforcing material in the cement matrix of fibre cement. We have developed a high level of internal expertise in the production and use of wood-based pulps. This expertise is shared with pulp producers, which have access to appropriate raw wood stocks, in order to formulate superior reinforcing pulps. The resulting pulp formulas are typically proprietary and are the

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subject of confidentiality agreements between the pulp producers and us. Moreover, we have obtained patents in the United States and in certain other countries covering certain unique aspects of our pulping formulas and processes that we believe cannot adequately be protected through confidentiality agreements. However, we cannot assure you that our intellectual property and other proprietary information will be protected in all cases. See Section 3, "Additional Information for Shareholders — Risk Factors." We have entered into contracts that discount pulp prices in relation to various pulp indices over a longer-term and purchase our pulp from several qualified suppliers in an attempt to mitigate price increases and supply interruptions.

Silica. High purity silica is sourced locally by the various production plants. In the majority of locations, we use silica sand as a silica source. In certain other locations, however, we process quartz rock and beneficiate silica sand to ensure the quality and consistency of this key raw material.

Cement. Cement is acquired in bulk from local suppliers and is supplied on a just-in-time basis to our manufacturing facilities. The silos at each fibre cement plant hold between one and three days of our cement requirements. We continue to evaluate options on agreements with suppliers for the purchase of cement that could fix our cement prices over longer periods of time.

Water. We use local water supplies and seek to process all wastewater to comply with environmental requirements.

Sales, Marketing and Distribution

The principal markets for our fibre cement products are the United States, Australia, New Zealand, the Philippines, Canada, and in parts of Europe, including the United Kingdom and France. In addition, we sell fibre cement products in many other countries, including Belgium, China, Denmark, Germany, Hong Kong, India, Indonesia, Ireland, Malta, Mexico, the Middle East (Israel, Kuwait, Qatar and the United Arab Emirates), The Netherlands, Norway, various Pacific Islands, South Africa, South Korea, Spain, Sri Lanka, Switzerland, Taiwan, Turkey and Vietnam. Our brand name, customer education in comparative product advantages, differentiated product range and customer service, including technical advice and assistance, provide the basis for our marketing strategy. We offer our customers support through a specialised fibre cement sales force and customer service infrastructure in the United States, Australia, New Zealand, the Philippines and Europe (which is based out of The Netherlands). Customer service support for Europe is based out of The Netherlands. The customer service infrastructure includes inbound customer service support coordinated nationally in each country (customer service support for Canada is based out of the United States), and is complemented by outbound telemarketing capability. Within each regional market, we provide sales and marketing support to building products dealers and lumber yards and also provide support directly to the customers of these distribution channels, principally homebuilders and building contractors.

In the United States, we sell fibre cement products for new residential construction predominantly to distributors, which then sell these products to dealers or lumber yards. This two-step distribution process is supplemented with direct sales to dealers as a means of accelerating product penetration and sales. Repair and remodel products in the United States are typically sold through the large home center retailers and specialist distributors. Our top four US customers accounted for approximately 56% of our total USA and Europe Fibre Cement gross sales in fiscal year 2011. In Australia and New Zealand, both new construction and repair and remodel products are generally sold directly to distributor/hardware stores and lumber yards rather than through the two-step distribution process, which is generally used in the United States. In the Philippines, a network of thousands of small to medium size dealer outlets sells our fibre cement products to consumers, builders and real estate developers, although in recent years, do-it-yourself type stores have just started to enter the Philippines market. Physical distribution of product in each country is primarily by road or sea transport, except in the United States where transportation is primarily by road and, to a lesser extent, by rail.

We maintain dedicated regional sales management teams in our major sales territories. As of 31 May 2011, the sales teams (including telemarketing staff) consisted of approximately 267 people in the United States and Canada, 62 people in Australia, 21 people in New Zealand, 28 people in the Philippines, and

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24 people in Europe. We also employ one person based in Hong Kong who functions as a regional export salesperson, and who covers markets such as South Korea, Hong Kong, Macau, China and the Middle East (Israel, Kuwait, Qatar and the United Arab Emirates). Our national sales managers and national account managers, together with the regional sales managers and sales representatives, maintain relationships with national and other major accounts. Our sales force includes skilled trades people who provide on-site technical advice and assistance. In some cases, sales forces manage specific product categories. For example, in the United States, there are individuals who may specialise in siding products or interior products, although recent reorganisations have integrated many of these individuals into collaborative teams. Some interior products sales representatives provide in-store merchandising support for home center retailers. We also use trade and consumer advertising and public relations campaigns to generate demand for our products. These campaigns usually explain the differentiating attributes of our fibre cement products and the suitability of our fibre cement products and systems for specific applications.

Despite the fact that distributors and dealers are generally our direct customers, we also aim to increase primary demand for our products by marketing our products directly to homeowners, architects and builders. We encourage them to specify and install James Hardie® products because of the quality and craftsmanship of our products. This “pull through” strategy, in turn, assists us in expanding sales for our distribution network as distributors benefit from the increasing demand for our products.

Geographic expansion of our fibre cement business has occurred in markets where framed construction is prevalent for residential applications or where there are opportunities to change building practices from masonry to framed construction. Expansion is also possible where there are direct substitution opportunities irrespective of the methods of construction. Our entry into the Philippines is an example of the ability to substitute fibre cement for an alternative product (in this case plywood). With the exception of our current major markets, as well as Japan and certain rural areas in Asia, Scandinavia, and Eastern Europe, most markets in the world principally utilise masonry construction for external walls in residential construction. Accordingly, further geographic expansion depends substantially on our ability to provide alternative construction solutions and for those solutions to be accepted in those markets.

Because fibre cement products were relatively new to the Philippines, the launch of our fibre cement products in the Philippines in fiscal year 1999 was accompanied by strategies to address the particular needs of local customers and the building trade. For example, we established a carpenter training and accreditation program whereby Filipino carpenters who are unfamiliar with our products are taught installation techniques. We have also put greater emphasis on building our relationships with new home developers and builders in order to educate the market on the benefits of our products in this particular sector.

Fibre cement products manufactured in Australia, New Zealand and the Philippines are exported to a number of markets in Asia, the Pacific, and the Middle East (Israel, Kuwait, Qatar and the United Arab Emirates) by sea transport. A regional sales management team managed out of the Philippines is responsible for coordinating export sales into Asia and the Middle East (Israel, United Arab Emirates, Kuwait, and Qatar). A regional sales coordinator based in New Zealand is responsible for export sales to the Pacific Region.

Dependence on Trade Secrets and Research and Development

We pioneered the successful development of cellulose reinforced fibre cement and, since the 1980s, have progressively introduced products developed as a result of our proprietary product formulation and process technology. The introduction of differentiated products is one of the core components of our global business strategy. This product differentiation strategy is supported by our significant investment in research and development activities.

The following table sets forth our research and development expenditures for the three preceding fiscal years:

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
Research and Development Expenditures (1)	\$ 31.2	\$ 30.4	\$ 28.3
Research and Development Expenditures as a percentage of total net sales	2.7%	2.7%	2.4%

- (1) Included within research and development expenditures for fiscal years 2011, 2010 and 2009 is US\$3.2 million, US\$3.3 million and US\$4.5 million, respectively, classified as selling, general and administrative expenses.

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Our current patent portfolio is based mainly on fibre cement compositions, associated manufacturing processes and the resulting products. Our non-patented technical intellectual property consists primarily of our operating and manufacturing know-how, which is maintained as trade secret information. We have increased our abilities to effectively create, manage and utilise our intellectual property and have implemented a strategy that increasingly uses patenting, licensing, trade secret protection and joint development to protect and increase our market share. However, we cannot assure you that our intellectual property and other proprietary information will be protected in all cases. In addition, if our research and development efforts fail to generate new, innovative products or processes, our overall profit margins may decrease and demand for our products may fall.

In addition, the Company has a variety of patents and licenses; industrial, commercial and financial contracts; and manufacturing processes. While the Company is dependent on the competitive advantage that these items provide as a whole, the Company is not dependent on any one of them individually and does not consider any one of them individually to be material. We do not materially rely on intellectual property licensed from any outside third parties. See Section 3, "Additional Information for Shareholders — Risk Factors."

Governmental Regulation

As noted above, on 17 June 2010 we moved our corporate domicile to Ireland and are now subject to Irish law in addition to the SE Regulations. In addition, we continue to operate under the regulatory requirements of numerous jurisdictions and organizations, including the ASX, ASIC, the NYSE, the SEC, the Irish Takeovers Panel and various other rulemaking bodies. See Section 3, "Additional Information for Shareholders — Memorandum and Articles of Association" for information regarding Irish company law and regulations to which we are subject.

Environmental Regulation

Our operations and properties are subject to extensive federal, state and local and foreign environmental protection and health and safety laws, regulations and ordinances. These environmental laws, among other matters, govern activities and operations that may have adverse environmental effects, such as discharges to air, soil and water, and establish standards for the handling of hazardous and toxic substances and the handling and disposal of solid and hazardous wastes. In the United States, these environmental laws include, but are not limited to:

- the Resource Conservation and Recovery Act;
- the Comprehensive Environmental Response, Compensation and Liability Act;
- the Clean Air Act;
- the Occupational Safety and Health Act;
- the Mine Safety and Health Act;
- the Emergency Planning and Community Right to Know Act;
- the Clean Water Act;
- the Safe Drinking Water Act;
- the Surface Mining Control and Reclamation Act;
- the Toxic Substances Control Act;
- the National Environmental Policy Act; and
- the Endangered Species Act,

as well as analogous state, regional and local regulations. Other countries also have statutory schemes relating to the protection of the environment.

Some environmental laws provide that a current or previous owner or operator of real property may be liable for the costs of removal or remediation of environmental contamination on, under, or in that property or other impacted properties. In addition, persons who arrange, or are deemed to have arranged, for the disposal or treatment of hazardous substances may also be liable for the costs of removal or remediation of environmental contamination at the disposal or treatment site, regardless of whether the affected site is owned or operated by such person. Environmental laws often impose liability whether or not the owner, operator or arranger knew of, or was responsible for, the presence of such environmental contamination. Also, third parties may make claims against owners or operators of properties for personal injuries, property damage and/or for clean-up associated with releases of hazardous or toxic substances pursuant to applicable environmental laws and common law tort theories, including strict liability.

Environmental compliance costs in the future will depend, in part, on continued oversight of operations, expansion of operations and manufacturing activities, regulatory developments and future requirements that cannot presently be predicted.

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Organisational Structure

JHI SE is incorporated and domiciled in Ireland.

The table below sets forth our significant subsidiaries, all of which are wholly-owned by JHI SE, either directly or indirectly, as of 31 May 2011.

<u>Name of Company</u>	<u>Jurisdiction of Establishment</u>
James Hardie 117 Pty Ltd.	Australia
James Hardie Aust Holdings Pty Ltd.	Australia
James Hardie Austgroup Pty Ltd.	Australia
James Hardie Australia Management Pty Ltd.	Australia
James Hardie Australia Pty Ltd.	Australia
James Hardie Building Products Inc.	United States
James Hardie Europe B.V.	Netherlands
James Hardie Holdings Limited	Ireland
James Hardie International Finance Limited	Ireland
James Hardie International Holdings SE.	Ireland
James Hardie N.V.	Netherlands
James Hardie New Zealand Limited	New Zealand
James Hardie Philippines Inc.	Philippines
James Hardie Research (Holdings) Pty Ltd.	Australia
James Hardie Research Pty Ltd.	Australia
James Hardie Technology Limited	Bermuda
James Hardie U.S. Investments Sierra LLC	United States
N.V. Technology Holdings, A Limited Partnership	Australia
RCI Pty Ltd.	Australia

Property, Plants and Equipment

We estimate that our manufacturing plants are among the largest and lowest cost fibre cement manufacturing plants in the United States. We believe that the location of our plants positions us near attractive markets in the United States while minimising our transportation costs for product distribution and raw material sourcing.

Our manufacturing plants use significant amounts of water which, after internal recycling and reuse, are eventually discharged to publicly owned treatment works (with the exception of our Blandon, Pennsylvania and Summerville, South Carolina facilities, which maintain closed loop systems, at which production was suspended at November 2007 and November 2008, respectively). The discharge of process water is monitored by us, as well as by regulators. In addition, we are subject to regulations that govern the air quality and emissions from our plants. In the past, from time to time, we have received notices of discharges in excess of our water and air permit limits. In each case, we have addressed the concerns raised in those notices, including the payment of any associated minor fines and capital expenditures associated with preventing future discharges in excess of permitted levels.

Plants and Process

Fibre Cement Building Products

We manufacture fibre cement building products in the United States and Asia Pacific. Annual design capacity is based on management's historical experience with our production process and is calculated assuming continuous operation, 24 hours per day, seven days per week, producing 5/16" medium density product at a targeted operating speed. Annual design capacity is not necessarily reflective of our actual capacity utilisation rates for our fibre cement plants by region. Annual capacity utilisation is affected by factors such as demand, product mix, batch size, plant availability and production speeds and is usually less than annual design capacity. We manufacture products of varying thicknesses and density.

We currently have an annual design capacity of 3,390 mmsf and 520 mmsf in the United States and Asia Pacific, respectively, for our fibre cement building products. Fiscal year 2011 capacity utilisation, based on this annual design capacity, for our fibre cement building products plants was an average of 43% and 75% in the United States and Asia Pacific, respectively. As indicated above, annual design capacity is based on management's estimates. No accepted industry standard exists for the calculation of our fibre cement manufacturing facility design and utilisation capacities.

Fibre Reinforced Concrete Pipes

We manufacture fibre reinforced concrete pipes in Australia. Our current annual design capacity for our fibre reinforced concrete pipes plant is 50 thousand tons.

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Plant Locations

The location of each of our fibre cement plants is set forth below:

Fibre Cement Building Products

United States — Plants Operating

Cleburne, Texas
Peru, Illinois
Plant City, Florida
Pulaski, Virginia
Reno, Nevada
Tacoma, Washington
Waxahachie, Texas

United States — Plants Suspended

Blandon, Pennsylvania (1)
Fontana, California (2)
Summerville, South Carolina (2)

Asia Pacific

Australia

Sydney, New South Wales
Brisbane, Queensland (Carole Park) (3)

New Zealand

Auckland

The Philippines

Manila

Fibre Reinforced Concrete Pipes

Brisbane, Queensland (Meeandah) (3)

-
- (1) We suspended production at our Blandon, Pennsylvania plant in November 2007.
 - (2) We suspended production at our Fontana, California and Summerville, South Carolina plants in December 2008 and November 2008, respectively.
 - (3) There are two manufacturing plants in Brisbane. Carole Park produces only flat sheets and Meeandah produces only pipes and columns.

While the same basic process is used to manufacture fibre cement products at each facility, plants are designed to produce the appropriate mix of products to meet each geographic market's specific, projected needs. The facilities were constructed and are operated so production can be efficiently adjusted in response to increased consumer demand by increasing production capacity utilisation, enhancing the economies of scale or adding additional lines to existing facilities, or making corresponding reductions in production capacity in response to weaker demand.

Except for the Waxahachie, Texas facility, we own all of our fibre cement manufacturing facilities located in the United States. The lease for the Waxahachie, Texas facility expires on 31 March 2020, at which time we have an option to purchase the facility.

Our three Australian fibre cement manufacturing facilities are not owned by us. One of the leases expires on 23 March 2016, with an option to renew the lease for two further terms of 10 years expiring in March 2036. The other two leases expire on 23 March 2019, and contain options to renew for two further terms of 10 years expiring in March 2039. There is no purchase option available under our leases related to our Australian sites. Our one New Zealand fibre cement manufacturing facility is not owned by us. The lease for our New Zealand facility expires on 22 March 2016, at which time we have an option to renew the lease for two further terms of 10 years expiring in March 2036. There is no purchase option available under our lease related to our New Zealand facility.

We own 40% of the land on which our Philippines fibre cement plant is located, and 100% of the Philippines plant itself.

Mines

We lease silica quartz mine sites in Tacoma, Washington; and Reno, Nevada. The lease for our quartz mine in Tacoma, Washington expires in February 2014 (with options to renew). The lease for our silica quartz mine site in Reno, Nevada expires in January 2014 (with options to purchase).

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Capital Expenditures

The following table sets forth our capital expenditures for each year in the three-year period ended 31 March 2011.

	Fiscal Years Ended 31 March		
	2011	2010	2009
	(Millions of US dollars)		
USA and Europe Fibre Cement (1)	\$ 39.5	\$ 40.6	\$ 20.0
Asia Pacific Fibre Cement	9.9	6.7	4.9
Research and Development and Corporate	0.9	3.2	1.2
Total Capital Expenditures	<u>\$ 50.3</u>	<u>\$ 50.5</u>	<u>\$ 26.1</u>

(1) The segment includes fibre reinforced concrete pipes manufactured and sold in the United States at our Plant City, Florida Hardie Pipe Plant, which was closed and ceased operations in May 2008.

The Company did not have any material divestitures in the fiscal years ended 31 March 2011, 2010 and 2009.

The significant capital expenditure projects over the past three fiscal years in our USA and Europe Fibre Cement business include:

- commencement of a new finishing capability on an existing product line in fiscal year 2009. As of 31 March 2011, we have incurred US\$22.9 million related to this project;
- commencement of an upgrade to our supply chain management IT systems. As of 31 March 2011, we have incurred US\$4.1 million related to this project;
- expenditures related to a new ColorPlus line at our Cleburne plant. As of 31 March 2011, we have incurred US\$5.6 million related to this project; and
- addition of 12 foot XLD Trim capability at our Peru, Illinois plant for US\$3.6 million in fiscal year 2011.

We currently expect to spend approximately US\$80 million to US\$105 million in fiscal year 2012 for capital expenditures, including facility upgrades and expansions, equipment to enhance environmental compliance, and the implementation of new fibre cement technologies. We expect to fund our capital expenditures through a combination of internal cash and funds from our credit facilities.

Competitive pressures and market developments could require further increases in capital expenditures. Our financing for these capital expenditures is expected to come from cash from our future operations and from external debt to the extent that cash from operations does not cover our capital expenditures. However, if we are unable to extend our credit facilities, or are unable to renew our credit facilities on terms that are substantially similar to the ones we presently have, we may experience liquidity issues and may have to reduce our levels of planned capital expenditures to conserve cash for future cash flow requirements.

SECTION 2

GROUP MANAGEMENT TEAM

Our management is overseen by a Group Management Team, whose members cover the key areas of fibre cement research and development, production, manufacturing, sales, human resources, investor relations, finance and legal.

Members of the GMT in fiscal year 2011 were:

Louis Gries BSc, MBA

Chief Executive Officer

Age 57

Louis Gries joined James Hardie as Manager of the Fontana fibre cement plant in California in February 1991 and was appointed President of James Hardie Building Products, Inc in December 1993. Mr Gries became Executive Vice President Operations in January 2003, responsible for operations, sales and marketing in our businesses in the Americas, Asia Pacific and Europe.

He was appointed Interim CEO in October 2004 and became CEO in February 2005. Mr Gries was elected to the Company's Managing Board by CUFS holders at the 2005 Annual General Meeting (AGM) and continued as Chairman of the Managing Board until it was dissolved in June 2010.

Before he joined James Hardie, Mr Gries worked for 13 years for USG Corp, in a variety of roles in research, plant quality and production, product and plant management.

He has a Bachelor of Science in Mathematics from the University of Illinois, USA and an MBA from California State University, Long Beach, California, USA.

Russell Chenu BCom, MBA

Chief Financial Officer

Age 61

Russell Chenu joined James Hardie as Interim CFO in October 2004 and was appointed CFO in February 2005. He was elected to the Company's Managing Board by CUFS holders at the 2005 AGM, re-elected in 2008 and continued as a member of the Managing Board until it was dissolved in June 2010.

Mr Chenu is an experienced corporate and finance executive who has held senior finance and management positions with a number of Australian publicly-listed companies. In a number of these senior roles, he has been engaged in significant strategic business planning and business change, including several turnarounds, new market expansions and management leadership initiatives.

Mr Chenu has a Bachelor of Commerce from the University of Melbourne and an MBA from Macquarie Graduate School of Management, Australia.

Robert Cox BA, MA, JD

Chief Legal Officer

Age 57

Robert Cox commenced as James Hardie's General Counsel in January 2008. He joined the Company's Managing Board as Executive Director and as Company Secretary effective 7 May 2008. He was elected in 2008 and continued as a member of the Managing Board until it was dissolved in June 2010 and as Company Secretary until 29 June 2010. He was appointed Chief Legal Officer on 13 June 2011.

Before joining James Hardie, Mr Cox was Vice President, Deputy General Counsel and Assistant Secretary with PepsiCo Inc. During his five years with PepsiCo, Mr Cox was responsible for corporate governance and Sarbanes-Oxley/New York Stock Exchange compliance, and managed the corporate law group and the office of Corporate Secretary for the Board of Directors.

His experience also includes 10 years as a partner of the international law firm Bingham McCutchen LLP, at their offices in Asia and California, where he led the business and transactions practice group in corporate governance, corporate securities, mergers and acquisitions, financial services, real estate, tax and strategic technology transactions.

Mr Cox has a Juris Doctorate from the University of California, Berkeley, California; a Master of Arts from the John Hopkins School of Advanced International Studies in Washington, DC, specialising in International Economics, European Studies and American Foreign Policy; and a Bachelor of Arts from Wesleyan University in Connecticut.

Mark Fisher BSc, MBA

Executive General Manager – International

Age 40

Mark Fisher joined James Hardie in 1993 as a Production Engineer. Since then, he has worked for the Company as Finishing Manager, Production Manager and Product Manager at various locations; Sales and Marketing Manager; and as General Manager of our Europe Fibre Cement business. Mr Fisher was appointed Vice President – Specialty Products in November 2004, then Vice President – Research & Development in December 2005. In February 2008, his role was expanded to cover Engineering & Process Development.

In January 2010, he was appointed Executive General Manager – International, responsible for research and development, engineering, manufacturing logistics and product management, as well as the Company's non-US businesses.

Mr Fisher has a Bachelor of Science in Mechanical Engineering and an MBA from University of Southern California.

Sean O'Sullivan BA, MBA

Vice President – Investor & Media Relations

Age 46

Sean O'Sullivan joined James Hardie as Vice President – Investor & Media Relations in December 2008. For the eight years prior to joining James Hardie, Mr O'Sullivan was Head of Investor Relations at St. George Bank, where he established and led the investor relations function.



Mr O'Sullivan's background includes thirteen years as a fund manager for GIO Asset Management, responsible for domestic and global investments. During this period, he spent time on secondment with McKinsey and Co, completing a major study into the Australian financial services industry. Mr O'Sullivan's final position at GIO was General Manager of Diversified Investments where his responsibilities included determining the asset allocation for over A\$10 billion in funds under management. After leaving the GIO, Mr O'Sullivan worked for Westpac Banking Corporation in funds management sales.

He has a Bachelor of Arts in Economics from Sydney University and an MBA from Macquarie Graduate School of Management.

Nigel Rigby

Executive General Manager – USA

Age 44

Nigel Rigby joined James Hardie in 1998 as a Planning Manager for our New Zealand business and has held a number of sales, marketing and product and business development roles with the Company. In November 2004, Mr Rigby was appointed Vice President – Emerging Markets and in 2006 he was named Vice President – General Manager Northern Division. In November 2008, he became Vice President – General Manager of the Company's newly-formed US Eastern Division, responsible for the former Northern and Southern Division markets and plants.

In January 2010, he was appointed Executive General Manager – USA, responsible for the US business.

Before joining us, Mr Rigby held various management positions at Fletcher Challenge, a New Zealand based company involved in energy, pulp and paper, forestry and building materials.

None of the persons above has any familial relationship with each other or with the Board of Directors listed below. In addition, none of the individuals listed above is party to any arrangement or understanding with a major shareholder, customer, supplier or other entity, pursuant to which any of the above was selected as a member of senior management.

BOARD OF DIRECTORS

James Hardie's directors have widespread experience, spanning general management, finance, law and accounting. Each director also brings valuable international experience that assists with James Hardie's growth.

Michael Hammes BS, MBA

Age 69

Michael Hammes was elected as an independent Non-Executive Director of James Hardie in February 2007. He was appointed Chairman of the Board in January 2008 and is a member of the Audit Committee, the Remuneration Committee and the Nominating and Governance Committee. Mr Hammes was also a member of the Re-domicile Due Diligence Committee.

Experience: Mr Hammes has extensive commercial experience at a senior executive level. He has held a number of executive positions in the medical products, hardware and home improvement, and automobile sectors, including CEO and Chairman of Sunrise Medical, Inc (2000-2007), Chairman and CEO of Guide Corporation (1998-2000), Chairman and CEO of Coleman Company, Inc (1993-1997), Vice Chairman of Black & Decker Corporation (1992-1993) and various senior executive roles with Chrysler Corporation (1986-1990) and Ford Motor Company (1979-1986).

Directorships of listed companies in the past five years: Current – Lead Director of Navistar International Corporation (since 1996) and DynaVox Mayer-Johnson (listed in April 2010).

Other: Resident of the United States.

Last elected: August 2009

Donald McGauchie AO

Age 61

Donald McGauchie joined James Hardie as an independent Non-Executive Director in August 2003 and was appointed Acting Deputy Chairman in February 2007 and Deputy Chairman in April 2007. He is a member of the Board, Chairman of the Nominating and Governance Committee and a member of the Remuneration Committee.

Experience: Mr McGauchie has wide commercial experience within the food processing, commodity trading, finance and telecommunication sectors. He also has extensive public policy experience, having previously held several high-level advisory positions to the Australian Government.

Directorships of listed companies in the past five years: Current – Chairman (since August 2010) and Director (since May 2010) of Australian Agricultural Company Limited; Chairman (since July 2010) and Director (since 2003) of Nufarm Limited; Director of GrainCorp Limited (since 2009). Former – Chairman of Telstra Corporation Limited (2004-2009).

Other: Chairman Australian Wool Testing Authority (since 2005) and Director since 1999; Former Director of The Reserve Bank of Australia (2001-2011); resident of Australia.

Last elected: August 2010

Brian Anderson BS, MBA, CPA

Age 61

Brian Anderson was appointed as an independent Non-Executive Director of James Hardie in December 2006. He is a member of the Board, Chairman of the Audit Committee and a member of the Remuneration Committee. Mr Anderson was also Chairman of the Re-domicile Due Diligence Committee.

Experience: Mr Anderson has extensive financial and business experience at both executive and board levels. He has held a variety of senior positions, with thirteen years at Baxter International, Inc, including Corporate Vice President of Finance, Senior Vice President and Chief Financial Officer (1997-2004) and, more recently, Executive Vice President and Chief Financial Officer of OfficeMax, Inc (2004-2005). Earlier in his career, Mr Anderson was an Audit Partner of Deloitte & Touche LLP (1986-1991).

Directorships of listed companies in the past five years: Current – Chairman (since April 2010) and Director (since 2005) of A.M. Castle & Co.; Director of Pulte Homes Corporation (since September 2005); Director (since 1999) and Lead Director (since April 2011) of W.W. Grainger, Inc.

Other: Resident of the United States.

Last elected: August 2009

David Dilger CBE, BA, FCA

Age 54

David Dilger was appointed as an independent Non-Executive Director of James Hardie in September 2009. He is a member of the Board, the Audit Committee and the Remuneration Committee.

Experience: Mr Dilger has substantial experience in multinational manufacturing operations and a strong finance background. He has held a number of senior executive positions, including CEO of Greencore Group plc (1995-2008), CEO of Food Industries plc (1988-1991) and CFO of Woodchester Investments (1984-1988).

Directorships of listed companies in the past five years: Non-executive director of The Bank of Ireland plc (2003-2009) serving as Senior Independent Director (2007-2009).

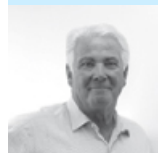
Other: Former Chairman of Dublin Airport Authority plc (2009-2011); resident of Ireland.

Last elected: August 2010

David Harrison BA, MBA, CMA

Age 64

David Harrison was appointed as an independent Non-Executive Director of James Hardie in May 2008. He is a member of the Board, Chairman of the Remuneration Committee and a member of the Audit Committee.



Michael Hammes



Donald McGauchie



Brian Anderson



David Dilger



David Harrison

Experience: Mr Harrison is an experienced company director with a finance background, having served in corporate finance roles, international operations and information technology during 22 years with Borg Warner/General Electric Co. His previous experience includes ten years at Pentair, Inc., as Executive Vice President and Chief Financial Officer (1994-1996 and 2000-2007) and Vice President and Chief Financial Officer roles at Scotts, Inc. and Coltec Industries, Inc. (1996-2000).

Directorships of listed companies in the past five years: Director National Oilwell Varco (since 2003); Director Navistar International Corporation (since 2007).

Other: Resident of the United States.

Last elected: August 2010

James Osborne BA Hons, LLB

Age 62

James Osborne was appointed as an independent Non-Executive Director of James Hardie in March 2009. He is a member of the Board and the Nominating and Governance Committee. Mr Osborne was also a member of the Re-domicile Due Diligence Committee.

Experience: Mr Osborne is an experienced company director with a strong legal background and a considerable knowledge of international businesses operating in North America and Europe. His career includes 35 years with the leading Irish law firm, A&L Goodbody, including as managing partner (1982-1994) and opening the firm's New York office in 1979. Mr Osborne contributed to the listing of Ryanair in London, New York and Dublin and has served on its Board since 1996.

Directorships of listed companies in the past five years: Current – Director, Ryanair Holdings plc (since 1996); Former – Chairman, Newcourt Group plc (2004-2009).

Other: Chairman, Eason & Son Ltd (since August 2010), Chairman, Centric Health (since March 2011); resident of Ireland.

Last elected: August 2009

Rudy van der Meer M.Ch.Eng

Age 66

Rudy van der Meer was elected as an independent Non-Executive Director of James Hardie in February 2007. He is a member of the Board and the Nominating and Governance Committee.

Experience: Mr van der Meer is an experienced former executive, with considerable knowledge of international business and the building and construction sector. During his 32-year association with Akzo Nobel N.V., he held a number of senior positions including CEO – Coatings (2000-2005), CEO – Chemicals (1993-2000), and member of the five person Executive Board (1993-2005).

Directorships of listed companies in the past five years: Current – Chairman of the Supervisory Board of Imtech N.V. (since 2005); Director LyondellBasell Industries NV (since August 2010); Former – Member of the Supervisory Board of Hagemeyer N.V. (2006-2008).

Other: Chairman of the Board of Energie Beheer Nederland B.V. (since 2006); Chairman of the Supervisory Board of Univé-VGZ-IZA-Trias (UVIT) Health Insurance (since May 2011); resident of The Netherlands.

Last elected: August 2009

Our CEO, Louis Gries, is an Executive Director on the company's Board. Mr Gries' biographical details appear in the Group Management Team section.

None of the persons above has any familial relationship with each other or with the Group Management Team. In addition, none of the individuals listed above is party to any arrangement or understanding with a major shareholder, customer, supplier or other entity, pursuant to which any of the above was selected as a director.



James Osborne



Rudy van der Meer

MANAGEMENT'S DISCUSSION AND ANALYSIS

The following discussion of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and Notes to consolidated financial statements in this annual report.

OVERVIEW

We intend this discussion to provide information that will assist in understanding our 31 March 2011 consolidated financial statements, the changes in significant items in those consolidated financial statements from year to year, and the primary reasons for those changes and the factors and trends which are anticipated to have a material effect on our financial condition and results of operations in future periods. This discussion includes information about our critical accounting estimates and how these estimates affect our consolidated financial statements, and information about the consolidated financial results of each business segment to provide a better understanding of how each segment and its results affect our financial condition and results of operations as a whole.

Our consolidated financial statements are prepared in accordance with US GAAP. Our discussion in this section includes several non-GAAP measures to provide additional information concerning our performance. We believe that these non-GAAP measures enhance an investor's overall understanding of our financial performance by being more reflective of our core operational activities and to be more comparable with our financial results over various periods. In addition, we use non-GAAP financial measures internally for strategic decision making, forecasting future results and evaluating current performance. Non-GAAP financial measures include:

- Operating income excluding asbestos and ASIC expenses
- Effective tax rate excluding asbestos and tax adjustments
- Net income excluding asbestos, ASIC expenses and tax adjustments

We have reconciled these non-GAAP financial measures to the most directly comparable US GAAP financial measure for fiscal years 2011 and 2010 in the "Definitions" section below at the end of our "Results of Operations" discussion. These non-GAAP financial measures are not prepared in accordance with US GAAP; therefore, the information is not necessarily comparable to other companies' financial information and should be considered as a supplement to, not a substitute for, or superior to, the corresponding measures calculated in accordance with US GAAP.

Our pre-tax results for fiscal years 2011 and 2010 were affected by unfavourable asbestos adjustments of US\$85.8 million and US\$224.2 million, respectively; Asbestos Injuries Compensation Fund (which we refer to as AICF) SG&A expenses of US\$2.2 million and US\$2.1 million, respectively; and ASIC related (recoveries) expenses of US\$(8.7) million and US\$3.4 million, respectively. Information regarding our asbestos-related matters and ASIC matters can be found in this discussion and Notes 11 and 13 in our consolidated financial statements.

The Company and the Building Product Markets

Based on net sales, we believe we are the largest manufacturer of fibre cement products and systems for internal and external building construction applications in the United States, Australia, New Zealand, and the Philippines. Our current primary geographic markets include the United States, Australia, New Zealand, the Philippines, Europe and Canada. Through significant research and development expenditure, we develop key product and production process technologies that we patent or hold as trade secrets. We believe that these technologies give us a competitive advantage.

Our fibre cement products are used in a number of markets, including new residential construction (single and multi-family housing), manufactured housing (mobile and pre-fabricated homes), repair and remodeling and a variety of commercial and industrial applications (stores, warehouses, offices, hotels, motels, schools, libraries, museums, dormitories, hospitals, detention facilities, religious buildings and gymnasiums). We manufacture numerous types of fibre cement products with a variety of patterned profiles and surface finishes for a range of applications, including external siding and soffit lining, internal linings, facades, fencing and floor and tile underlayments.

Our products are primarily sold in the residential housing markets. Residential construction levels fluctuate based on new home construction activity and the repair and renovation of existing homes. These levels of activity are affected by many factors, including home mortgage interest rates, the availability of financing to homeowners to purchase a new home or make improvements to their existing homes, inflation rates, unemployment levels, existing home sales, the average age and the size of housing inventory, consumer home repair and renovation spending, gross domestic product growth and consumer confidence levels. A number of these factors continued to be generally unfavourable during fiscal year 2011, resulting in weaker residential construction activity, particularly in the United States and New Zealand.

Our earnings are seasonal and typically follow activity levels in the building and construction industry. In the United States, the calendar quarters ending December and March reflect reduced levels of building activity depending on weather conditions. In Australia and New Zealand, the calendar quarter ending March is usually affected by a slowdown due to summer holidays. In the Philippines, construction activity diminishes during the wet season from June to September and during the last half of December due to a slowdown in business activity over the holiday period. Also, general industry patterns can be affected by weather, economic conditions, industrial disputes and other factors.

Fiscal Year 2011 Key Results

Total net sales increased 4% to US\$1,167.0 million in fiscal year 2011. We recorded an operating income of US\$104.7 million in fiscal year 2011 compared to an operating loss of US\$21.0 million in fiscal year 2010. The operating income (loss) in fiscal years 2011 and 2010 was adversely affected by unfavourable asbestos adjustments of US\$85.8 million and US\$224.2 million, respectively. Operating profit excluding asbestos and ASIC expenses decreased 12% to US\$184.0 million in fiscal year 2011 from US\$208.7 million in fiscal year 2010.

Net income excluding asbestos, ASIC expenses and tax adjustments decreased 12% to US\$116.7 million in fiscal year 2011 from US\$133.0 million in fiscal year 2010. Including asbestos, ASIC expenses and tax adjustments, net income moved from a loss of US\$84.9 million to a loss of US\$347.0 million. In fiscal year 2011, tax adjustments include a charge of US\$345.2 million related to the dismissal of RCI Pty Ltd's (which we refer to as RCI) appeal of the 1999 disputed amended tax assessment, which did not result in a cash outflow for the year ended 31 March 2011. Also included in tax adjustments for fiscal year 2011 was a charge of US\$32.6 million related to our corporate structure simplification announced on 17 May 2011.

Our largest market is North America. During fiscal year 2011, USA and Europe Fibre Cement net sales contributed approximately 70% of total net sales, and its operating income was the primary contributor to the total Company results. Net sales for our USA and Europe Fibre Cement business

decreased 2% due to lower sales volume, partially offset by a higher average net sales price.

Operating income for our USA and Europe Fibre Cement segment decreased 23% in fiscal year 2011 from fiscal year 2010 primarily due to an increase in input costs (primarily pulp and freight), lower sales volume, unfavourable cost absorption driven by lower production volume and higher labour cost per unit manufactured, and unfavourable manufacturing performance, partially offset by a higher average net sales price and a reduction in SG&A expense.

During fiscal year 2011, Asia Pacific net sales contributed approximately 30% of total net sales. Net sales increased 19% due to favourable currency exchange rates movements in the Asia Pacific business' currencies compared to the US dollar and an increase in sales volume and average net sales price.

We do not believe that general inflation has had a significant impact on our results of operations for the fiscal years ended 31 March 2011, 2010 and 2009.

CRITICAL ACCOUNTING ESTIMATES

The accounting policies affecting our financial condition and results of operations are more fully described in Note 2 to our consolidated financial statements. Certain of our accounting policies require the application of judgment by management in selecting appropriate assumptions for calculating financial estimates, which inherently contain some degree of uncertainty. Management bases its estimates on historical experience and other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the reported carrying value of assets and liabilities and the reported amounts of revenues and expenses that may not be readily apparent from other sources. Actual results may differ from these estimates under different assumptions and conditions. We consider the following policies to be the most critical in understanding the judgments that are involved in preparing our consolidated financial statements and the uncertainties that could impact our results of operations, financial condition and cash flows.

Accounting for Contingencies

We account for loss contingencies arising from contingent obligations when the obligations are probable and the amounts are reasonably estimable. As facts concerning contingencies become known, we reassess our situation and make appropriate adjustments to the consolidated financial statements.

Accounting for the AFFA

Prior to 31 March 2007, our consolidated financial statements included an asbestos provision based on the Original Final Funding Agreement governing our anticipated future payments to the AICF as announced on 1 December 2005 (which we refer to as the Original FFA).

In February 2007, the AFFA was approved to provide long-term funding to the AICF, a special purpose fund that provides compensation for Australian asbestos-related personal injury and death claims for which certain former subsidiaries of the James Hardie Group, including ABN 60, Amaca and Amaba are found liable.

The amount of the asbestos liability reflects the terms of the AFFA, which has been calculated by reference to (but is not exclusively based upon) the most recent actuarial estimate of projected future cash flows prepared by KPMG Actuarial. Based on their assumptions, KPMG Actuarial arrived at a range of possible total cash flows and proposed a central estimate which is intended to reflect an expected outcome. The Company views the central estimate as the best estimate for recording the asbestos liability in the Company's financial statements. The asbestos liability includes these cash flows as undiscounted and uninflated, on the basis that it is inappropriate to discount or inflate future cash flows when the timing and amounts of such cash flows is not fixed or readily determinable.

The asbestos liability also includes an allowance for the future operating costs of the AICF.

In estimating the potential financial exposure, KPMG Actuarial has made a number of assumptions. These include an estimate of the total number of claims by disease type which are reasonably estimated to be asserted through 2071, the typical average cost of a claim settlement (which is sensitive to, among other factors, the industry in which the plaintiff claims exposure, the alleged disease type and the jurisdiction in which the action is being brought), the legal costs incurred in the litigation of such claims, the proportion of claims for which liability is repudiated, the rate of receipt of claims, the settlement strategy in dealing with outstanding claims, the timing of settlements of future claims and the long-term rate of inflation of claim awards and legal costs.

Due to inherent uncertainties in the legal and medical environment, the number and timing of future claim notifications and settlements, the recoverability of claims against insurance contracts, and estimates of future trends in average claim awards, as well as the extent to which the above-named entities will contribute to the overall settlements, the actual amount of liability could differ materially from that which is currently projected and could result in significant debits or credits to the consolidated balance sheet and statement of operations.

An updated actuarial assessment is performed as of 31 March each year. Any changes in the estimate will be reflected as a charge or credit to the consolidated statements of operations for the year then ended. Material adverse changes to the actuarial estimate would have an adverse effect on our business, results of operations and financial condition.

Sales Rebates and Discounts

We record estimated reductions to sales for customer rebates and discounts including volume, promotional, cash and other rebates and discounts. Rebates and discounts are recorded based on management's best estimate when products are sold. The estimates are based on historical experience for similar programs and products. Management reviews these rebates and discounts on an ongoing basis and the related accruals are adjusted, if necessary, as additional information becomes available.

Accounts Receivable

We evaluate the collectability of accounts receivable on an ongoing basis based on historical bad debts, customer credit-worthiness, current economic trends and changes in our customer payment activity. An allowance for doubtful accounts is provided for known and estimated bad debts. Although credit losses have historically been within our expectations, we cannot guarantee that we will continue to experience the same credit loss rates that we have in the past. Because our accounts receivable are concentrated in a relatively small number of customers, a significant change in the liquidity or financial position of any of these customers could impact their ability to make payments and result in the need for additional allowances which would decrease our net sales.

Inventory

Inventories are recorded at the lower of cost or market. In order to determine market, management regularly reviews inventory quantities on hand and evaluates significant items to determine whether they are excess, slow-moving or obsolete. The estimated value of excess, slow-moving and obsolete inventory is recorded as a reduction to inventory and an expense in cost of sales in the period it is identified. This estimate requires

MANAGEMENT'S DISCUSSION AND ANALYSIS

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management to make judgments about the future demand for inventory, and is therefore at risk to change from period to period. If our estimate for the future demand for inventory is greater than actual demand and we fail to reduce manufacturing output accordingly, we could be required to record additional inventory reserves, which would have a negative impact on our gross profit.

Accrued Warranty Reserve

We have offered, and continue to offer, various warranties on our products, including a 30-year limited warranty on certain of our fibre cement siding products in the United States. Because our fibre cement products have only been used in North America since the early 1990s, there is a risk that these products will not perform in accordance with our expectations over an extended period of time. A typical warranty program requires that we replace defective products within a specified time period from the date of sale. We record an estimate for future warranty-related costs based on an analysis by us, which includes the historical relationship of warranty costs to installed product. Based on this analysis and other factors, we adjust the amount of our warranty provisions as necessary. Although our warranty costs have historically been within calculated estimates, if our experience is significantly different from our estimates, it could result in the need for additional reserves.

Accounting for Income Tax

We recognise deferred tax assets and deferred tax liabilities for the expected tax consequences of temporary differences between the tax bases of assets and liabilities and their reported amounts using enacted tax rates in effect for the year in which we expect the differences to reverse. We record a valuation allowance to reduce the deferred tax assets to the amount that we are more likely than not to realise. We must assess whether, and to what extent, we can recover our deferred tax assets. If full or partial recovery is unlikely, we must increase our income tax expense by recording a valuation allowance against the portion of deferred tax assets that we cannot recover. We believe that we will recover all of the deferred tax assets recorded (net of valuation allowance) on our consolidated balance sheet at 31 March 2011. However, if facts later indicate that we will be unable to recover all or a portion of our net deferred tax assets, our income tax expense would increase in the period in which we determine that recovery is unlikely.

We evaluate our uncertain tax positions in accordance with the guidance for accounting for uncertainty in income taxes. We believe that our reserve for uncertain tax positions, including related interest, is adequate. Due to our size and the nature of our business, we are subject to ongoing reviews by taxing jurisdictions on various tax matters, including challenges to various positions we assert on our income tax returns. The amounts ultimately paid upon resolution of these matters could be materially different from the amounts previously included in our income tax expense and therefore could have a material impact on our tax provision, net income and cash flows. Positions taken by an entity in its income tax returns must satisfy a more-likely-than-not recognition threshold, assuming that the positions will be examined by taxing authorities with full knowledge of all relevant information, in order for the positions to be recognised in the consolidated financial statements. Each quarter we evaluate the income tax positions taken, or expected to be taken, to determine whether these positions meet the more-likely-than-not threshold. We are required to make subjective judgments and assumptions regarding our income tax exposures and must consider a variety of factors, including the current tax statutes and the current status of audits performed by tax authorities in each tax jurisdiction. To the extent an uncertain tax position is resolved for an amount that varies from the recorded estimated liability, our income tax expense in a given financial statement period could be materially affected.

RESULTS OF OPERATIONS

Year Ended 31 March 2011 Compared to Year Ended 31 March 2010

The following table shows our selected financial and operating data for continuing operations for fiscal years 2011 and 2010, expressed in millions of US dollars, unless otherwise stated.

	Fiscal Years Ended 31 March		Favourable (Unfavourable) Change
	2011	2010	
Net sales:			
USA and Europe Fibre Cement	\$ 814.0	\$ 828.1	(2)%
Asia Pacific Fibre Cement	353.0	296.5	19
Total net sales	1,167.0	1,124.6	4
Cost of goods sold	(775.1)	(708.5)	(9)
Gross profit	391.9	416.1	(6)
Selling, general and administrative expenses	(173.4)	(185.8)	7
Research and development expenses	(28.0)	(27.1)	(3)
Asbestos adjustments	(85.8)	(224.2)	62
Operating income (loss)	104.7	(21.0)	–
Net interest expense	(4.4)	(4.0)	(10)
Other (expense) income	(3.7)	6.3	–
Income (loss) before income taxes	96.6	(18.7)	–
Income tax expense	(443.6)	(66.2)	–
Net loss	\$ (347.0)	\$ (84.9)	–
Volume (mmsf):			
USA and Europe Fibre Cement	1,248.0	1,303.7	(4)
Asia Pacific Fibre Cement	407.8	389.6	5
Average net sale price per unit (per msf):			
USA and Europe Fibre Cement	US\$ 652	US\$ 635	3
Asia Pacific Fibre Cement	A\$ 916	A\$ 894	2%

Total Net Sales. Total net sales increased 4% from US\$1,124.6 million in fiscal year 2010 to US\$1,167.0 million in fiscal year 2011. Net sales in fiscal year 2011 was favourably impacted by an increase in the average net sales price and an appreciation of the Asia Pacific currencies against the US dollar.

USA and Europe Fibre Cement Net Sales. Net sales decreased 2% from US\$828.1 million in fiscal year 2010 to US\$814.0 million in fiscal year 2011 due to lower sales volume, partially offset by a higher average net sales price.

Sales volume decreased 4% from 1,303.7 million square feet in fiscal year 2010 to 1,248.0 million square feet in fiscal year 2011, primarily due to weaker demand for our products in the US caused by the prolonged weakness in housing construction activity. The average net sales price increased 3% from US\$635 per thousand square feet in fiscal year 2010 to US\$652 per thousand square feet in fiscal year 2011 as a result of a price increase and a favourable shift in product mix.

USA and Europe Fibre Cement fiscal year 2011 operating income was 23% below prior year due to an increase in input costs (primarily pulp and freight), lower sales volume, unfavourable cost absorption driven by lower production volume and higher labour cost per unit manufactured, and unfavourable manufacturing performance, partially offset by a higher average net sales price and a reduction in SG&A expenses. USA and Europe Fibre Cement operating income was favourably impacted by the European business, which delivered a strong result as both sales volume and average net sales price increased in fiscal year 2011 compared to fiscal year 2010.

According to the US Census Bureau, single family housing starts, which are a key driver of our performance, were 446,400 in fiscal year 2011, 7.3% below fiscal year 2010.

For fiscal year 2011, the average Northern Bleached Softwood Kraft (NBSK) pulp price was US\$978 per ton, up 30.4% compared to US\$750 per ton for fiscal year 2010. Input costs are expected to remain high with NBSK pulp prices forecast to remain at or above US\$1,000 per ton. In April 2011, the average NBSK pulp price rose to US\$1,020 per ton from US\$990 per ton in March 2011.

Similarly, freight costs in the US were higher for fiscal year 2011 compared to fiscal year 2010 with the majority of the increase impacting the fourth quarter result. Freight costs rose due to higher truck rates

MANAGEMENT'S DISCUSSION AND ANALYSIS

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attributed to flatbed truck supply constraints (as the broader US economy recovers), higher fuel costs and product mix shifts.

Notwithstanding improved affordability, increasing levels of household formation and falling inventories of new and existing houses for sale, a recovery in the sector continues to be inhibited by a combination of factors such as relatively low levels of consumer confidence, limited access to credit for prospective home buyers, falling housing values and the continued supply of foreclosed properties.

Asia Pacific Fibre Cement Net Sales. Net sales increased 19% from US\$296.5 million in fiscal year 2010 to US\$353.0 million in fiscal year 2011. The higher value of the Asia Pacific business' currencies against the US dollar accounted for 12% of this increase. The underlying Australian dollar business results accounted for the remaining 7% increase, as both sales volume and average net sales price increased.

Asia Pacific Fibre Cement sales volume was up 5% in fiscal year 2011 compared to fiscal year 2010 as a strong sales effort across the region and particularly in Australia delivered improved results. When combined with the sustained growth in primary demand for fibre cement and market share gains, these factors helped to offset a moderation in market conditions in the second half of fiscal year 2011.

In Australia, increases in mortgage interest rates, along with wet weather along the eastern seaboard and the end of the government social housing construction initiative, had a dampening effect upon the Australian residential housing construction market in the fourth quarter. According to the Australian Bureau of Statistics (ABS), total dwellings approved increased 3% compared to fiscal year 2010, with detached houses down 10%.

In Australia, the Scyontm branded product range continued to build momentum over the course of fiscal year 2011. In New Zealand, the business faced continued challenges as business and consumer confidence fell during fiscal year 2011 and subsequently the construction of residential houses fell to historically low levels. The business has also had to contend with increased competition from imported products. In the Philippines, sales volume decreased slightly in fiscal year 2011 compared to fiscal year 2010. Improved sales of differentiated products and relatively strong underlying market conditions during fiscal year 2011 were partially offset by a mechanical failure during the second quarter.

Gross Profit. Gross profit decreased 6% from US\$416.1 million in fiscal year 2010 to US\$391.9 million in fiscal year 2011. The gross profit margin decreased 3.4 percentage points from 37.0% in fiscal year 2010 to 33.6% in fiscal year 2011.

USA and Europe Fibre Cement gross profit decreased 16% compared to fiscal year 2010, of which 9% was due to an increase in input costs (primarily pulp and freight), 6% due to lower sales volume and 6% due to unfavourable cost absorption and higher labour cost per unit manufactured driven primarily by lower production volume, partially offset by a 5% benefit from an increase in average net sales price. The gross profit margin of the USA and Europe Fibre Cement business decreased by 5.6 percentage points.

Asia Pacific Fibre Cement gross profit increased 30% compared to fiscal year 2010, of which 13% resulted from favourable currency exchange rate movements in the Asia Pacific business' currencies compared to the US dollar. In Australian dollars, gross profit increased 17%, of which 9% was due to an increase in average net sales price, 5% due to higher sales volume, 4% due to improved manufacturing performance and 3% due to lower fixed unit cost of manufacturing as fixed costs were spread over higher production volume, partially offset by a 3% detriment due to increased pulp costs and 1% detriment due to a mechanical failure in the Philippines facility that occurred during the second quarter of fiscal year 2011. The gross profit margin of the Asia Pacific Fibre Cement business increased by 2.8 percentage points.

Selling, General and Administrative (SG&A) Expenses. SG&A expenses decreased 7%, from US\$185.8 million in fiscal year 2010 to US\$173.4 million in fiscal year 2011. The decrease was primarily due to recoveries from third parties of US\$10.3 million related to the costs of bringing and defending appeals for certain of the ten former officers and directors involved in the ASIC proceedings, partially offset by higher SG&A expenses in the Asia Pacific Fibre Cement segment. As a percentage of sales, SG&A expenses declined 1.6 percentage points to 14.9%. Further information on general corporate costs is included below.

ASIC Proceedings

For the year ended 31 March 2011, we incurred legal costs related to the ASIC proceedings of US\$1.6 million. Our cumulative net costs in relation to the ASIC proceedings from their commencement in February 2007 to 31 March 2011 have totalled US\$14.4 million.

During the second quarter of fiscal year 2011, we entered into agreements with third parties and subsequently received payment for US\$10.3 million related to the costs of the ASIC proceedings for certain of the ten former officers and directors. This resulted in a net benefit of US\$8.7 million in fiscal year 2011, compared to an expense of US\$3.4 million in fiscal year 2010. ASIC recoveries are included as a component of SG&A expense for the year ended 31 March 2011.

See Note 13 to our consolidated financial statements for further information on the ASIC Proceedings.

Research and Development Expenses. Research and development expenses include costs associated with "core" research projects that are designed to benefit all business units. These costs are recorded in the Research and Development segment rather than being attributed to individual business units. These costs were 8% higher for fiscal year 2011 at US\$16.9 million compared to fiscal year 2010.

Other research and development costs associated with commercialisation projects in business units are included in the business unit segment results. In total, these costs were 3% lower for the fiscal year 2011 at US\$11.1 million compared to fiscal year 2010.

Asbestos Adjustments. The Company's asbestos adjustments are derived from an estimate of future Australian asbestos-related liabilities in accordance with the Amended and Restated Final Funding Agreement (AFFA) that was signed with the New South Wales (NSW) Government in November 2006 and approved by the Company's security holders in February 2007.

The discounted central estimate of the asbestos liability has decreased from A\$1.537 billion at 31 March 2010 to A\$1.478 billion at 31 March 2011. The reduction in the discounted central estimate of A\$59 million is primarily due to a reduction in the projected future number of claims to be reported for a number of disease types.

The asbestos-related assets and liabilities are denominated in Australian dollars. Therefore the reported value of these asbestos-related assets and liabilities in our Consolidated Balance Sheets in US dollars is subject to adjustment, with a corresponding effect on our Consolidated Statement of Operations, depending on the closing exchange rate between the two currencies at the balance sheet date.

For fiscal year 2011, the Australian dollar appreciated against the US dollar by 13%, compared to a 33% appreciation in fiscal year 2010.

The Company receives an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2011. The asbestos adjustments for the fiscal years ended 31 March 2011 and 2010 are as follows:

(Millions of US dollars)	Fiscal Years Ended 31 March	
	2011	2010
Change in estimates	\$ 21.5	\$ (3.3)
Effect of foreign exchange movements	(107.3)	(220.9)
Asbestos adjustments	\$ (85.8)	\$ (224.2)

Claims Data

The number of new claims filed in fiscal year 2011 of 494 is lower than new claims of 535 reported for fiscal year 2010, and below actuarial expectations for the fiscal year 2011.

The number of settled claims in fiscal year 2011 of 459 is lower than claims settled of 540 for the fiscal year 2010.

The average claim settlement of A\$204,000 for fiscal year 2011 is A\$13,000 higher than fiscal year 2010 but below the actuarial expectations for fiscal year 2011.

Asbestos claims paid of A\$100.6 million for fiscal year 2011 were lower than the actuarial expectation of A\$117.0 million. The lower-than-expected expenditure was due to lower settlement activity and lower-than-expected claim settlement sizes.

All figures provided in this Claims Data section are gross of insurance and other recoveries. See Note 11 to our consolidated financial statements for further information on asbestos adjustments.

Operating Income (Loss). Operating income moved from a loss of US\$21.0 million in fiscal year 2010 to income of US\$104.7 million in fiscal year 2011. Fiscal year 2011 operating income includes net unfavourable asbestos adjustments of US\$85.8 million, AICF SG&A expenses of US\$2.2 million and a net benefit related to the ASIC proceedings of US\$8.7 million. In fiscal year 2010, operating loss included net unfavourable asbestos adjustments of US\$224.2 million, AICF SG&A expense of US\$2.1 million and ASIC expenses of US\$3.4 million.

USA and Europe Fibre Cement operating income fell 23% from US\$208.5 million in fiscal year 2010 to US\$160.3 million in fiscal year 2011. The decrease was primarily due to an increase in input costs (primarily pulp and freight), lower sales volume, unfavourable cost absorption driven by lower production volume and higher labour cost per unit manufactured, and unfavourable manufacturing performance, partially offset by a higher average net sales price and a reduction in SG&A expenses. The USA and Europe Fibre Cement operating income margin was 5.5 percentage points lower at 19.7%.

Asia Pacific Fibre Cement operating income increased 35% from US\$58.7 million in fiscal year 2010 to US\$79.4 million in fiscal year 2011, of which 13% was attributed to appreciation of the Asia Pacific business' currencies compared to the US dollar. In Australian dollars, Asia Pacific Fibre Cement operating income increased 22% primarily due to an increase in average net sales price, higher sales volume, lower fixed unit cost of manufacturing as fixed costs were spread over higher production volume and improved manufacturing performance, partially offset by higher input costs (primarily pulp) and a mechanical failure in the Philippines facility that temporarily halted production during the second quarter of fiscal year 2011. The Asia Pacific Fibre Cement operating income margin was 2.7 percentage points higher at 22.5%.

General Corporate Costs. General corporate costs decreased 37% from US\$42.9 million in fiscal year 2010 to US\$26.9 million in fiscal year 2011. General corporate costs in fiscal year 2011 have been materially impacted by US\$10.3 million recovered from third parties in respect of prior period ASIC expenses.

ASIC expenses moved from an expense of US\$3.4 million in fiscal year 2010 to a benefit of US\$8.7 million in fiscal year 2011.

General corporate costs excluding ASIC expenses and domicile change related costs for fiscal year 2011 increased from US\$30.4 million in fiscal year 2010 to US\$33.8 million in fiscal year 2011 primarily due to a US\$7.6 million non-recurring write-back of a legal provision recognised in fiscal year 2010.

Net Interest Expense. Net interest expense increased from US\$4.0 million in fiscal year 2010 to US\$4.4 million in fiscal year 2011. Net interest expense in fiscal year 2011 includes a realised loss of US\$3.9 million on interest rate swaps and interest and borrowing costs relating to our external credit facilities of US\$5.0 million, partially offset by AICF interest income of US\$4.3 million. Net interest expense for fiscal year 2010 includes a realised loss on interest rate swaps of US\$2.5 million and interest and borrowing costs relating to our external credit facilities of US\$2.2 million, partially offset by AICF interest income of US\$3.3 million.

Other (expense) income. Other expense moved from income of US\$6.3 million in fiscal year 2010 to an expense of US\$3.7 million in fiscal year 2011. This movement is primarily due to an unrealised loss resulting from a change in the fair value of interest rate swap contracts of US\$3.8 million in fiscal year 2011, compared to an unrealised loss of US\$0.4 million in fiscal year 2010. In addition, a realised gain of US\$6.7 million was recognised in fiscal year 2010, which resulted from the sale of restricted short-term investments held by AICF that did not recur in fiscal year 2011.

Income tax. Income tax expense increased from US\$66.2 million in fiscal year 2010 to US\$443.6 million in fiscal year 2011, as further explained below. Our effective tax rate on earnings excluding asbestos and tax adjustments was 31.1% in fiscal year 2011, compared to 34.4% in fiscal year 2010. The change in effective tax rate excluding asbestos and tax adjustments compared to fiscal year 2010 is attributable to changes in the geographic mix of earnings and expenses, and reductions in non-tax deductible expenses.

We recorded unfavourable tax adjustments of US\$380.7 million in fiscal year 2011 compared to favourable tax adjustments of US\$2.9 million in fiscal year 2010. The tax adjustments in fiscal year 2011 reflect a US\$32.6 million tax charge arising from our corporate structure simplification and a non-cash expense of US\$345.2 million following the dismissal of RCI's appeal of the 1999 disputed amended tax assessment.

RCI strongly disputes the amended assessment and is pursuing an appeal of the Federal Court's judgment. RCI's appeal was heard from 16 May 2011 to 18 May 2011 before the Full Court of the Federal Court of Australia. Judgment has been reserved.

With effect from 1 September 2010, we have expensed payments of GIC to the ATO until RCI ultimately prevails on the matter or the remaining outstanding balance of the amended assessment is paid. See Note 14 to our consolidated financial statements for further information on the ATO Amended Assessment.

MANAGEMENT'S DISCUSSION AND ANALYSIS

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Net Loss. Net loss for fiscal year 2011 was US\$347.0 million, compared to US\$84.9 million for fiscal year 2010. Net income excluding asbestos, ASIC expenses and tax adjustments decreased 12% from US\$133.0 million in fiscal year 2010 to US\$116.7 million in fiscal year 2011.

Year Ended 31 March 2010 Compared to Year Ended 31 March 2009

The following table shows our selected financial and operating data for continuing operations for fiscal years 2010 and 2009, expressed in millions of US dollars, unless otherwise stated.

	Fiscal Years Ended 31 March		Favourable (Unfavourable) Change
	2010	2009	
Net sales:			
USA and Europe Fibre Cement	\$ 828.1	\$ 929.3	(11)%
Asia Pacific Fibre Cement	296.5	273.3	9
Total net sales	1,124.6	1,202.6	(6)
Cost of goods sold	(708.5)	(813.8)	13
Gross profit	416.1	388.8	7
Selling, general and administrative expenses	(185.8)	(208.8)	11
Research and development expenses	(27.1)	(23.8)	(14)
Asbestos adjustments	(224.2)	17.4	–
Operating (loss) income	(21.0)	173.6	–
Net interest expense	(4.0)	(3.0)	(33)
Other income (expense)	6.3	(14.8)	–
(Loss) income before income taxes	(18.7)	155.8	–
Income tax expense	(66.2)	(19.5)	–
Net (loss) income	\$ (84.9)	\$ 136.3	–
Volume (mmsf):			
USA and Europe Fibre Cement	1,303.7	1,526.6	(15)
Asia Pacific Fibre Cement	389.6	390.6	–
Average net sale price per unit (per msf):			
USA and Europe Fibre Cement	US\$ 635	US\$ 609	4
Asia Pacific Fibre Cement	A\$ 894	A\$ 879	2%

Total Net Sales. Total net sales decreased 6% from US\$1,202.6 million in fiscal year 2009 to US\$1,124.6 million in fiscal year 2010 reflecting the ongoing decline in US housing activity.

USA and Europe Fibre Cement Net Sales. Net sales decreased 11% from US\$929.3 million in fiscal year 2009 to US\$828.1 million in fiscal year 2010 due to lower sales volume, partially offset by a higher average net sales price.

Sales volume decreased 15% from 1,526.6 million square feet in fiscal year 2009 to 1,303.7 million square feet in fiscal year 2010, primarily due to weaker demand for our products in the United States as a result of the downturn in activity in the US housing construction and renovations market amid overall weak economic conditions. Although housing affordability has improved, the reduced availability of mortgage credit for prospective home buyers, the large inventory of homes for sale and relatively low consumer confidence continued to negatively affect demand.

The average net sales price increased 4% from US\$609 per msf in fiscal year 2009 to US\$635 per msf in fiscal year 2010 as a result of a price increase early in fiscal year 2010 and a favourable shift in product mix.

According to the US Census Bureau, annualised seasonally-adjusted single family housing starts in March 2010 were 531,000, still significantly below the January 2006 peak of 1.823 million annualised starts.

For the full year ended 31 March 2010, the NBSK pulp price was US\$761 per ton, 7% down compared to US\$814 per ton for the prior year; however during the course of the year, key raw material and energy costs increased. The average pulp price in the fourth quarter was 24% higher than in the fourth quarter of fiscal year 2009, and 9% higher than in the third quarter of fiscal year 2010 as a result of continued strong demand, especially from China, and the effects on supply of the Chilean earthquake in February 2010.

Although production capacity has been re-commissioned as the NBSK pulp price index has risen, the price of pulp is expected to remain high in the immediate to medium term. In April 2010, the average NBSK pulp price rose to US\$939 per ton.

Similarly, freight costs were lower for fiscal year 2010, compared to fiscal year 2009. However, freight costs rose in the fourth quarter of fiscal year 2010, compared to the third quarter of fiscal year 2010 and the fourth

quarter of fiscal year 2009, in response to significantly higher diesel prices amid emerging signs of a recovery in the United States economy.

Over the full year, the ColorPlus® product range continued to increase its penetration rate.

The Company's strategy remains unchanged, with the focus continuing to be on primary demand growth, product mix shift and zero to landfill.

Asia Pacific Fibre Cement Net Sales. Net sales from Asia Pacific Fibre Cement increased 9% from US\$273.3 million in fiscal year 2009 to US\$296.5 million in fiscal year 2010. The higher value of the Asia Pacific business' currencies against the US dollar accounted for 7% of the increase, while the remaining 2% of the increase was due to the underlying Australian dollar business results. In Australian dollars, net sales increased 2% due to an increase in average net sales price.

ABS reported a 16% increase in housing approvals in fiscal year 2010 compared to the fiscal year 2009.

Asia Pacific sales volume was stable as increasing volume in Australia and the Philippines was offset by an 11% decrease in New Zealand volume, due to a weaker domestic market in fiscal year 2010, compared to fiscal year 2009.

In Australia, the Scyontm branded product range continued to build momentum over the course of the fiscal year. In New Zealand, sales of differentiated products also grew in fiscal year 2010. Similarly, in the Philippines, sales of differentiated products, primarily thicker board, increased over the full year.

Appreciating local currencies resulted in a 5% decrease in raw material costs measured in Australian dollar terms for the Asia Pacific business compared to fiscal year 2009. The vast majority of this saving relates to pulp which is traded in US dollars.

Gross Profit. Gross profit increased 7% from US\$388.8 million in fiscal year 2009 to US\$416.1 million in fiscal year 2010. The gross profit margin increased 4.7 percentage points from 32.3% in fiscal year 2009 to 37.0% in fiscal year 2010.

USA and Europe Fibre Cement gross profit increased 5% in fiscal year 2010 compared to fiscal year 2009. Gross profit benefited 11% as a result of higher average net sales price and 12% from a reduction of input costs, primarily pulp, energy and freight and lower warranty expenses. The benefits were partially offset by a 19% detriment due to lower sales volume and a resulting increase in the fixed unit cost of manufacturing, as fixed costs were spread over a lower production volume. The gross profit margin of the USA and Europe Fibre Cement business increased by 5.9 percentage points.

Asia Pacific Fibre Cement gross profit increased 16% in fiscal year 2010 compared to fiscal year 2009. The higher value of Asia Pacific business' currencies against the US dollar accounted for 8% of the increase. In Australian dollars, Asia Pacific Fibre Cement gross profit benefited 6% as a result of a favourable price movement, including product mix shift. In addition, gross profit benefited 5% from reduced manufacturing costs and decreased raw material input costs as appreciating local currencies more than offset increasing costs of raw materials that are traded in US dollars. These benefits were offset by higher warranty expenses. The gross profit margin of the Asia Pacific Fibre Cement business increased by 1.9 percentage points.

Selling, General and Administrative (SG&A) Expenses. SG&A expenses decreased 11% from US\$208.8 million in fiscal year 2009 to US\$185.8 million in fiscal year 2010. The decrease was primarily due to a favourable US\$7.6 million adjustment to a legal provision following settlement of a contractual warranty and lower general corporate costs, partially offset by higher SG&A spending in the USA and Europe Fibre Cement and Asia Pacific Fibre Cement segments. As a percentage of sales, SG&A expenses declined 0.9 of a percentage point to 16.5% in fiscal year 2010. For fiscal year 2010, SG&A expenses included non-claims handling related operating expenses of the AICF of US\$2.1 million.

ASIC Proceedings

For the year ended 31 March 2010, we incurred legal costs related to the ASIC proceedings and appeals, noted as ASIC expenses, of US\$3.4 million. These costs were substantially lower compared to fiscal year 2009, when we incurred ASIC expenses of US\$14.0 million. ASIC expenses are included in SG&A expenses.

Our net costs in relation to the ASIC proceedings from their commencement in February 2007 and the appeals to 31 March 2010 total US\$23.1 million.

See Note 13 to our consolidated financial statements for more information.

Chile Litigation

On 31 December 2009, we entered into a settlement agreement with El Volcan resolving all outstanding issues between us relating to the sale of FC Volcan to El Volcan in July 2005. Under the settlement agreement, we will have no further obligation to defend or indemnify El Volcan in the antitrust proceedings commenced by Cementa or Quimel.

El Volcan will now be responsible for its own defense of the antitrust proceedings, including payment of any final judgments rendered on appeal. El Volcan will also be required to defend and indemnify us against any future claims by third parties related to the management or business of FC Volcan, including any future antitrust allegations. The terms and conditions of the settlement remain confidential. All amounts we owed under the terms of the settlement were paid in full on 31 December 2009. As a result, the amount of the provision in excess of the settlement amount was reversed, resulting in a gain of US\$7.6 million included in general corporate costs for the year ended 31 March 2010.

We denied and continue to deny the allegations of predatory pricing in Chile.

Research and Development Expenses. Research and development expenses include costs associated with "core" research projects that are designed to benefit all business units. These costs are recorded in the Research and Development segment rather than being attributed to individual business units. These costs were 9% higher for fiscal year 2010 at US\$15.7 million.

Other research and development costs associated with commercialisation projects in business units are included in the business unit segment results. In total, these costs were 24% higher for fiscal year 2010 at US\$11.4 million compared to fiscal year 2009.

Asbestos Adjustments. The asbestos adjustments are derived from an estimate of future Australian asbestos-related liabilities in accordance with the AFFA that was signed with the NSW Government in November 2006 and approved by our security holders in February 2007.

The discounted central estimate of the asbestos liability has decreased from A\$1.782 billion at 31 March 2009 to A\$1.537 billion at 31 March 2010. The reduction in the discounted central estimate of A\$245 million is primarily due to increases in yields on Government Bonds, which are used for discounting the future cash flows; and a reduction in the

MANAGEMENT'S DISCUSSION AND ANALYSIS

(CONTINUED)

projected future number of claims to be reported for a number of disease types.

The asbestos-related assets and liabilities are denominated in Australian dollars. Therefore the reported value of these asbestos-related assets and liabilities in our consolidated balance sheets in US dollars is subject to adjustment, with a corresponding effect on our consolidated statement of operations, depending on the closing exchange rate between the two currencies at the balance sheet date.

For fiscal year 2010, the Australian dollar appreciated against the US dollar by 33%, compared to a 25% depreciation in fiscal year 2009. We receive an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2010. The asbestos adjustments for the fiscal years ended 31 March 2011 and 2010 are as follows:

(Millions of US dollars)	Fiscal Years Ended 31 March	
	2010	2009
Change in estimates	\$ (3.3)	\$ (162.3)
Effect of foreign exchange movements	(220.9)	179.7
Asbestos adjustments	\$ (224.2)	\$ 17.4

Claims Data

The number of new claims filed in fiscal year 2010 of 535 is lower than new claims of 607 reported for fiscal year 2009 and also slightly below actuarial expectations for fiscal year 2010.

The number of claims settled of 540 for fiscal year 2010 is lower than claims settled of 596 for fiscal year 2009.

The average claim settlement of A\$191,000 for fiscal year 2010 is in line with fiscal year 2009 and slightly below the actuarial expectations for fiscal year 2010.

Asbestos claims paid of A\$103.2 million for fiscal year 2010 were lower than the actuarial expectation of A\$114.2 million for fiscal year 2010.

As of 31 March 2010, the AICF had cash and investment assets of A\$63.1 million (US\$57.8 million). We will make a contribution of approximately US\$63.7 million to the AICF on 1 July 2010. This amount represents 35% of the Company's free cash flow for fiscal year 2010, as defined by the AFFA.

All figures provided in this claims data section are gross of insurance and other recoveries. See Note 11 to our consolidated financial statements for further information on asbestos adjustments.

Operating Income (Loss). Operating income moved from US\$173.6 million in fiscal year 2009 to a loss of US\$21.0 million for fiscal year 2010. The loss for fiscal year 2010 includes net unfavourable asbestos adjustments of US\$224.2 million (due primarily to the appreciation of the Australian dollar against the US dollar during the period), AICF SG&A expenses of US\$2.1 million and ASIC expenses of US\$3.4 million.

In fiscal year 2009, operating income included net favourable asbestos adjustments of US\$17.4 million (attributable to depreciation of the Australian dollar against the US dollar during the period, partially offset by a change in the actuarial estimate), AICF SG&A expenses of US\$0.7 million and ASIC expenses of US\$14.0 million.

Excluding asbestos and ASIC expenses, operating income increased from US\$170.9 million in fiscal year 2009 to US\$208.7 million in fiscal year 2010.

USA and Europe Fibre Cement operating income increased by 5% from US\$199.3 million in fiscal year 2009 to US\$208.5 million in fiscal year 2010. The improvement was driven by lower material input costs (primarily pulp, energy and freight), higher average net sales price and improved plant performance which contributed to lower average unit manufacturing costs. These benefits were partially offset by lower sales volume and a resulting increase in the fixed unit cost of manufacturing as fixed costs were spread over significantly lower production volume. The USA and Europe Fibre Cement operating income margin was 3.8 percentage points higher at 25.2%.

Asia Pacific Fibre Cement operating income increased 25% from US\$47.1 million in fiscal year 2009 to US\$58.7 million in fiscal year 2010. Favourable currency exchange rate movements in the Asia Pacific business' currencies compared to the US dollar accounted for 11% of this increase. In Australian dollars, Asia Pacific Fibre Cement operating profit for the full year increased 14% due to strong primary demand growth offsetting weakened local markets, an increase in average net sales price, and favourable product mix shift, together with lower raw materials costs and reduced manufacturing costs. These benefits were partially offset by an increase in warranty expenses. The operating profit margin was 2.6 percentage points higher at 19.8%.

General Corporate Costs. General corporate costs decreased US\$27.7 million from US\$70.6 million in fiscal year 2009 to US\$42.9 million in fiscal year 2010. We incurred costs associated with our Re-domicile of US\$9.1 million in fiscal year 2010, compared to US\$10.3 million in fiscal year 2009. ASIC expenses decreased from US\$14.0 million in fiscal year 2009 to US\$3.4 million in fiscal year 2010.

General corporate costs excluding ASIC expenses and domicile change related costs for fiscal year 2010 decreased from US\$46.3 million in fiscal year 2009 to US\$30.4 million in fiscal year 2010. The reduction was due to a US\$7.6 million reversal of a legal provision and reductions in other general corporate costs.

Net Interest Expense. Net interest expense increased from US\$3.0 million in fiscal year 2009 to US\$4.0 million in fiscal year 2010. Net interest expense for fiscal year 2010 included AICF interest income of US\$3.3 million and a realised loss of US\$2.5 million on interest rate swap contracts. Net interest expense for the fiscal year 2009 included AICF interest income of US\$6.4 million and nil related to interest rate swap contracts.

Other Income (Expense). Other income moved from an expense of US\$14.8 million in fiscal year 2009 to income of US\$6.3 million in fiscal year 2010. The turnaround resulted from an other-than-temporary impairment charge of US\$14.8 million recognised at 31 March 2009 on restricted short-term investments held by the AICF. Other income for the full year also benefited from a US\$6.7 million (A\$7.9 million) realised gain arising from the sale of restricted short-term investments held by the AICF, partially offset by an unrealised loss of US\$0.4 million resulting from movements in the fair value of interest rate swap contracts.

Income Tax. Income tax expense increased from US\$19.5 million in fiscal year 2009 to US\$66.2 million in fiscal year 2010. Our effective tax rate on earnings excluding asbestos and tax adjustments was 34.4% in fiscal year 2010, compared to 41.4% for fiscal year 2009. The change in effective tax rate excluding asbestos and tax adjustments is attributable to changes in the geographic mix of earnings and expenses, reductions in non-tax deductible expenses and the reversal of a non-taxable legal provision in operating profit.

We recorded favourable tax adjustments of US\$2.9 million in fiscal year 2010 compared to unfavourable tax adjustments of US\$7.2 million in fiscal year 2009. The tax adjustments in fiscal years 2010 and 2009 relate to uncertain tax positions.

Net Income (Loss). Net loss moved from income of US\$136.3 million in fiscal year 2009 to a loss of US\$84.9 million in fiscal year 2010. Net income excluding asbestos, ASIC expenses and tax adjustments increased from US\$100.5 million in fiscal year 2009 to US\$133.0 million in fiscal year 2010.

Fiscal year 2010 includes a legal provision reversal of US\$7.6 million. See Note 13 to our consolidated financial statements for further information on the legal provision reversal.

DEFINITIONS

Financial Measures – Australian equivalent terminology

Operating income and Operating income margin – is equivalent to EBIT and EBIT margin

Income before income taxes – is equivalent to operating profit

Net income – is equivalent to net operating profit

Non-GAAP Financial Information Derived from GAAP Measures

The following tables set forth the reconciliation of our non-GAAP financial measures included in our discussion above to the most directly comparable GAAP financial measure. These non-GAAP financial measures are not prepared in accordance with US GAAP; therefore, the information is not necessarily comparable to other companies' financial information and should be considered as a supplement to, not a substitute for, or superior to, the corresponding measures calculated in accordance with US GAAP.

Operating income excluding asbestos and ASIC expenses – operating income excluding asbestos and ASIC expenses is not measures of financial performance under US GAAP and should not be considered to be more meaningful than operating income. We have included these financial measures to provide investors with an alternative method for assessing our operating results in a manner that is focussed on the performance of our ongoing operations and provide useful information regarding our financial condition and results of operations. We use these non-US GAAP measures for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
USA and Europe Fibre Cement	\$ 160.3	\$ 208.5	\$ 199.3
Asia Pacific Fibre Cement	79.4	58.7	47.1
Research and Development	(20.1)	(19.0)	(18.9)
General Corporate:			
General corporate costs	(26.9)	(42.9)	(70.6)
Asbestos adjustments	(85.8)	(224.2)	17.4
AICF SG&A expenses	(2.2)	(2.1)	(0.7)
Total operating income (loss)	\$ 104.7	\$ (21.0)	\$ 173.6
Excluding:			
Asbestos:			
Asbestos adjustments	85.8	224.2	(17.4)
AICF SG&A expenses	2.2	2.1	0.7
ASIC related (recoveries) expenses	(8.7)	3.4	14.0
Operating income excluding asbestos and ASIC expenses	\$ 184.0	\$ 208.7	\$ 170.9

MANAGEMENT'S DISCUSSION AND ANALYSIS

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Effective tax rate excluding asbestos and tax adjustments – Effective tax rate excluding asbestos and tax adjustments is not a measure of financial performance under US GAAP and should not be considered to be more meaningful than effective tax rate. We have included this financial measure to provide investors with an alternative method for assessing our operating results in a manner that is focussed on the performance of our ongoing operations. We use this non-US GAAP measure for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
Income (loss) before income taxes	\$ 96.6	\$ (18.7)	\$ 155.8
Excluding:			
Asbestos:			
Asbestos adjustments	85.8	224.2	(17.4)
AICF SG&A expenses	2.2	2.1	0.7
AICF interest income	(4.3)	(3.3)	(6.4)
(Gain) impairment on AICF investments	–	(6.7)	14.8
Income before income taxes excluding asbestos and ASIC expenses	\$ 180.3	\$ 197.6	\$ 147.5
Income tax expense	\$ (443.6)	\$ (66.2)	\$ (19.5)
Excluding:			
Tax expense (benefit) related to asbestos adjustments	6.9	1.1	(48.7)
Tax adjustments ¹	380.7	(2.9)	7.2
Income tax expense excluding tax effect of asbestos adjustments and tax adjustments	\$ (56.0)	\$ (68.0)	\$ (61.0)
Effective tax rate	(459.2)%	354.0%	12.5%
Effective tax rate excluding asbestos and tax adjustments	31.1%	34.4%	41.4%

Net income excluding asbestos, ASIC expenses and tax adjustments – Net income excluding asbestos, ASIC expenses and tax adjustments is not a measure of financial performance under US GAAP and should not be considered to be more meaningful than net income. We have included this financial measure to provide investors with an alternative method for assessing our operating results in a manner that is focussed on the performance of our ongoing operations. We use this non-US GAAP measure for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
Net (loss) income	\$ (347.0)	\$ (84.9)	\$ 136.3
Excluding:			
Asbestos adjustments	85.8	224.2	(17.4)
AICF SG&A expenses	2.2	2.1	0.7
AICF interest income	(4.3)	(3.3)	(6.4)
(Gain) impairment on AICF investments	–	(6.7)	14.8
Tax expense (benefit) related to asbestos	6.9	1.1	(48.7)
ASIC related (recoveries) expenses	(7.6)	3.4	14.0
Tax adjustments ¹	380.7	(2.9)	7.2
Net income excluding asbestos, ASIC expenses and tax adjustments	\$ 116.7	\$ 133.0	\$ 100.5

¹ Fiscal year 2011 includes a charge of US\$345.2 million related to the dismissal of RCI's appeal of the 1999 disputed amended tax assessment and a charge of US\$32.6 million arising from our corporate structure simplification announced on 17 May 2011.

Impact of Recent Accounting Pronouncements

In January 2010, the FASB issued ASU No. 2010-06, which requires new fair value disclosures pertaining to significant transfers in and out of Level 1 and Level 2 fair value measurements and the reasons for the transfers and activity. For Level 3 fair value measurements, purchases, sales, issuances and settlements must be reported on a gross basis. Further, additional disclosures are required by class of assets or liabilities, as well as inputs used to measure fair value and valuation techniques. ASU No. 2010-06 is effective for interim and annual reporting periods beginning after 15 December 2009, except for the disclosures about purchases, sales, issuances and settlements on a gross basis, which is effective for fiscal years beginning after 15 December 2010. The adoption of the effective portions of this ASU did not result in a material impact on our consolidated financial position, results of

operations or cash flows. We do not anticipate that the adoption of the remaining portions of this ASU will result in a material impact to our reported consolidated financial position, results of operations or cash flows.

In April 2010, the FASB issued ASU No. 2010-13, which provides additional guidance concerning the classification of an employee share-based payment award with an exercise price denominated in the currency of a market in which the underlying equity security trades. This update clarifies that an employee share-based payment award with an exercise price denominated in the currency of a market in which a substantial portion of the entity's equity securities trades should not be considered to contain a condition that is not a market, performance or service condition. Therefore, an entity would not classify such an award as a liability if it otherwise qualifies as equity. The amendments included in this update do not expand the recurring disclosure requirements already in effect. The amendments in this update are effective for fiscal years and interim periods beginning on or after 15 December 2010. The adoption of this ASU did not result in a material impact on our reported consolidated financial position, results of operations or cash flows.

Liquidity and Capital Resources

Our treasury policy regarding our liquidity management, foreign exchange risk management, interest rate risk management and cash management is administered by our treasury department and is centralised in Ireland. This policy is reviewed annually and is designed to ensure that we have sufficient liquidity to support our business activities and meet future business requirements in the countries in which we operate. Counterparty limits are managed by our treasury department and based upon the counterparty credit rating; total exposure to any one counterparty is limited to specified amounts that are approved annually by the Chief Financial Officer.

We have historically met our working capital needs and capital expenditure requirements through a combination of cash flow from operations, credit facilities and other borrowings, proceeds from the sale of property, plant and equipment and proceeds from the redemption of investments. Seasonal fluctuations in working capital generally have not had a significant impact on our short-term or long-term liquidity. We anticipate that we will have sufficient funds to meet our planned working capital and other cash requirements for the next 12 months based on our existing cash balances and anticipated operating cash flows arising during the year. We anticipate that any additional cash requirements will be met from unutilised committed credit facilities and anticipated future net operating cash flow.

At 31 March 2011 we had net debt of US\$40.4 million, a decrease of US\$94.4 million from net debt of US\$134.8 million at 31 March 2010.

Excluding restricted cash, we had cash and cash equivalents of US\$18.6 million as of 31 March 2011. At that date, we also had credit facilities totaling US\$320.0 million, of which US\$59.0 million was drawn. The credit facilities are all uncollateralised and consist of the following:

Description	Effective Interest Rate	At 31 March 2011	
		Total Facility	Principal Drawn
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until September 2012	–	\$ 50.0	\$ –
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until December 2012	–	130.0	–
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until February 2013	1.02%	90.0	59.0
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until February 2014	–	50.0	–
Total		\$ 320.0	\$ 59.0

The weighted average interest rate on the Company's total debt was 1.02% and 0.92% at 31 March 2011 and 2010, respectively, and the weighted average term of all debt facilities is 1.9 years at 31 March 2011.

On 16 June 2010, US\$161.7 million of our term facilities matured, which included US\$95.0 million of term facilities that were outstanding at 31 March 2010. We did not refinance these facilities. Accordingly, amounts outstanding under these facilities were repaid by using longer-term facilities.

We replaced term facilities in the amount of US\$45.0 million that matured in February 2011 with new term facilities totalling US\$100.0 million. These facilities became available to us in February 2011. US\$50.0 million of these facilities mature in September 2012 and US\$50.0 million of these facilities mature in February 2014. At 31 March 2011, no amounts were outstanding under these new term facilities.

We draw on and repay amounts available under our term facilities throughout the financial year. During fiscal year 2011, we drew down US\$460.0 million and repaid US\$555.0 million of our term facilities. The weighted average remaining term of the total credit facilities of US\$320.0 million at 31 March 2011 was 1.9 years.

ATO – 1999 Disputed Amended Assessment

In March 2006, RCI received an amended assessment from the ATO in respect of RCI's income tax return for the year ended 31 March 1999.

On 30 May 2007, the ATO issued a Notice of Decision disallowing our objection to the amended assessment (which we refer to as the Objection Decision). On 11 July 2007, we filed an application appealing the Objection Decision with the Federal Court of Australia. The matter was heard before the Federal Court in September 2009. On 1 September 2010, the Federal Court dismissed RCI's appeal.

Prior to the Federal Court's decision on RCI's appeal, we believed it was more-likely-than-not that the tax position reported in RCI's tax return for the 1999 financial year would be upheld on appeal. As a result, until 31 August 2010, we treated the payment of 50% of the amended assessment, GIC and interest accrued on amounts paid to the ATO with respect to the amended assessment as a deposit on our consolidated balance sheet.

As a result of the Federal Court's decision, we re-assessed our tax position with respect to the amended assessment and concluded that the 'more-likely-than-not' recognition threshold as prescribed by US GAAP was

MANAGEMENT'S DISCUSSION AND ANALYSIS

(CONTINUED)

no longer met. Accordingly, effective 1 September 2010, we removed the deposit with the ATO from our consolidated balance sheet and recognised an expense of US\$345.2 million (A\$388.0 million) on our consolidated statement of operations for the fiscal year ended 31 March 2011, which did not result in a cash outflow for the year ended 31 March 2011. In addition, we recognised an uncertain tax position of US\$190.4 million (A\$184.3 million) on our consolidated balance sheet relating to the unpaid portion of the amended assessment.

RCI strongly disputes the amended assessment and is pursuing an appeal of the Federal Court's judgment. RCI's appeal was heard from 16 May 2011 to 18 May 2011 before the Full Court of the Federal Court of Australia. Judgment has been reserved.

With effect from 1 September 2010, we expense payments of GIC to the ATO until RCI ultimately prevails on the matter or the remaining outstanding balance of the amended assessment is paid.

ASIC Proceedings

On 17 December 2010, the New South Wales Court of Appeal dismissed our appeal against Justice Gzell's judgment and ASIC's cross appeals against the appellants. On 6 May 2011, the Court of Appeal rendered judgment in the exoneration, penalty and cost matter for certain former officers.

The Company was ordered to pay a portion of the costs incurred by ASIC for each of the first instance proceedings and appeal. The amount of such costs are required to pay is contingent on a number of factors, which include, without limitation, whether such costs are deemed to be valid and reasonable legal costs relating to each of the first instance and appeal proceedings and whether such costs are properly allocated and directly attributable to each of the first instance proceedings and appeal proceedings.

In light of the uncertainty surrounding the amount of such costs, we have not recorded any provision for such costs at 31 March 2011. Losses and expenses arising from the ASIC proceedings could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

See Note 13 to our consolidated financial statements for further information on the ASIC Proceedings.

If we are unable to extend our credit facilities, or are unable to renew our credit facilities on terms that are substantially similar to the ones we presently have, we may experience liquidity issues and may have to reduce our levels of planned capital expenditures, suspend dividend payments and/or share buy-back programs, or take other measures to conserve cash in order to meet our future cash flow requirements.

As of 31 March 2011, our management believes that we were in compliance with all restrictive covenants contained in our credit facility agreements. Under the most restrictive of these covenants, we (i) are required to maintain certain ratios of indebtedness to equity which do not exceed certain maximums, excluding assets, liabilities and other balance sheet items of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited; (ii) must maintain a minimum level of net worth, excluding assets, liabilities and other balance sheet items of the AICF; for these purposes "net worth" means the sum of the par value (or value stated in the books of the James Hardie Group) of the capital stock (but excluding treasury stock and capital stock subscribed or unissued) of the James Hardie Group, the paid in capital and retained earnings of the James Hardie Group and the aggregate amount of provisions made by the James Hardie Group for asbestos related liabilities, in each case, as such amounts would be shown in the consolidated balance sheet of the James Hardie Group if Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited were not accounted for as subsidiaries of the Company; (iii) must meet or exceed a minimum ratio of earnings before interest and taxes to net interest charges, excluding all income, expense and other profit and loss statement impacts of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited; and (iv) must ensure that no more than 35% of Free Cash Flow (as defined in the AFFA) in any given Financial Year is contributed to the AICF on the payment dates under the AFFA in the next following Financial Year. The limit does not apply to payments of interest to the AICF. Such limits are consistent with the contractual liabilities of the Performing Subsidiary and us under the AFFA.

Cash Flow – Year Ended 31 March 2011 compared to Year ended 31 March 2010

Net operating cash flow declined US\$35.9 million from US\$183.1 million in fiscal year 2010 to US\$147.2 million in fiscal year 2011. Net operating cash flow in fiscal year 2011 included a contribution of US\$63.7 million to AICF on 1 July 2010, compared with nil in fiscal year 2010.

Excluding the contribution to AICF, net operating cash flow was US\$210.9 million for the full year, up by 15% on US\$183.1 million in the prior year. The increase in net operating cash flow was primarily due to reductions in trade receivables during the year ended 31 March 2011, partially offset by a decline in earnings from operations relative to the prior year and a payment of US\$18.6 million for taxes on re-domicile from The Netherlands to Ireland.

Historically, we have generated cash from operations before accounting for unusual or discrete large cash outflows. Therefore, in periods when we do not incur any unusual or discrete large cash outflows, we expect that net operating cash flow will be the primary source of liquidity to fund business activities. In periods where cash flows from operations are insufficient to fund all business activities, we expect to rely more significantly on available credit facilities and other sources of working capital.

Net cash used in investing activities decreased from US\$50.5 million in fiscal year 2010 to US\$49.6 million in fiscal year 2011 as capital expenditures decreased slightly from the prior year.

Net cash used in financing activities decreased from US\$159.0 million to US\$89.7 million primarily due to the repayment of our 364-day facilities of US\$93.3 million in fiscal year 2010, partially offset by a reduction in our outstanding term facilities of US\$95.0 million during fiscal year 2011 compared to reduction of US\$76.7 million during fiscal year 2010.

Capital Requirements and Resources

Our capital requirements consist of expansion, renovation and maintenance of our production facilities and construction of new facilities. Our working capital requirements, consisting primarily of inventory and accounts receivable and payable, fluctuate seasonally during months of the year when overall construction and renovation activity volumes increase.

During the fiscal year ended 31 March 2011, we met our capital expenditure requirements through a combination of internal cash and funds from our credit facilities. We currently expect to spend approximately US\$80 million to US\$105 million in fiscal year 2012 for capital expenditures, including facility upgrades and expansions and equipment to enhance environmental compliance.

We anticipate that our cash flows from operations, net of estimated payments under the AFFA, will be sufficient to fund our planned capital

expenditure and working capital requirements in the short-term. If we do not generate sufficient cash from operations to fund our planned capital expenditures and working capital requirements, we believe the cash and cash equivalents of US\$18.6 million at 31 March 2011 and the cash that we anticipate will be available to us under credit facilities, will be sufficient to meet any cash shortfalls during at least the next 12 months.

Subject to the terms and conditions of the AFFA, we are required to fund the AICF on an annual basis, depending on our net operating cash flow. The initial funding payment of A\$184.3 million (US\$145.0 million at the time of payment) was made to the AICF in February 2007 and annual payments will be made each July, unless quarterly payments are elected by the Company. The amounts of these annual payments are dependent on several factors, including our free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of the AICF and the annual cash flow cap. Further contributions of A\$118.0 million (US\$110.0 million) (including interest payments) and A\$72.8 million (US\$63.7 million) were made in fiscal years 2009 and 2011, respectively. Under the terms of the AFFA, we were not required to make a contribution to the AICF in fiscal years 2008 and 2010. We expect to make a contribution to the AICF in fiscal year 2012 of approximately US\$51.5 million. Our obligation to make future contributions to the AICF continues to be linked under the terms of the AFFA to our long-term financial success, especially our ability to generate net operating cash flow.

No dividends were paid to shareholders in fiscal years 2011 and 2010. On 17 May 2011, we announced the adoption of a capital management policy to distribute between 20% to 30% of profits after tax (excluding asbestos adjustments, which are substantially of a non-cash nature in the short-term) in the form of ordinary dividends and to conduct a more active approach to capital management which is likely to see us buying back or issuing shares as our capital needs dictate, subject to the Board's review and declaration. We expect to resume paying dividends starting with an interim dividend to be paid following the November 2011 announcement of our second quarter results. There is expected to be a further dividend following the May 2012 announcement of our fiscal year 2012 year end results. In accordance with this policy, we also announced that we will be seeking to acquire up to 5% of our issued capital via an on-market share buyback during the next twelve months. The effect of this policy, in addition to our ongoing obligation to make contributions to the AICF, is that we expect to be distributing a significant portion of our operating surplus each year in the form of ordinary dividends and share buy-backs. In circumstances where we determine that share buy-backs are not attractive, special dividends may be considered as an alternative.

To facilitate the ability to access and distribute surplus cash flows and earnings of our operating subsidiaries more efficiently (including for the purpose of making periodic contributions to the AICF), we have commenced an internal reorganisation involving simplification of our corporate structure including some of the arrangements which were previously part of our Netherlands domicile. As part of this restructure, we incurred a tax charge of approximately US\$32.6 million in fiscal year 2011, which will be paid in fiscal year 2012. This charge will not impact our contribution to the AICF in fiscal year 2012, although it is likely to reduce the contribution to the AICF in fiscal year 2013 by up to US\$11.4 million in accordance with the terms of the AFFA.

We expect to rely primarily on increased market penetration of our products and increased profitability from a more favourable product mix to generate cash to fund our long-term growth. Historically, our products have been well-accepted by the market and our product mix has changed towards higher-priced, differentiated products that generate higher margins than that of less differentiated products.

We have historically reinvested a portion of the cash generated from our operations to fund additional capital expenditures, including research and development activities, which we believe have facilitated greater market penetration and increased profitability. Our ability to meet our long-term liquidity needs, including our long-term growth plan, is dependent on the continuation of this trend and other factors discussed here.

We believe our business is affected by general economic conditions, such as level of employment, consumer income, the availability of financing and interest rates in the United States and in other countries because these factors affect housing affordability and the level of housing values. Over the past several years, the ongoing sub-prime mortgage fallout, rising unemployment, increased foreclosures, high current inventory of unsold homes, tighter credit and volatile equity markets have materially adversely impacted our business. We expect that business derived from current US forecasts of new housing starts and renovation and remodel expenditures will result in our operations generating cash flow sufficient to fund the majority of our planned capital expenditures. It is possible that a deeper than expected decline in new housing starts in the United States or in other countries in which we manufacture and sell our products would negatively impact our growth and our current levels of revenue and profitability and therefore decrease our liquidity and ability to generate sufficient cash from operations to meet our capital requirements.

Pulp and cement are primary ingredients in our fibre cement formulation, which have been subject to price volatility, affecting our working capital requirements. In fiscal year 2011, the average NBSK pulp price was US\$978 per ton, an increase of 30% compared to fiscal year 2010. Based on information we receive from RISI, a leading provider of information for the global pulp and paper industry, and other sources, pulp prices are predicted to remain at or above US\$1,000 per ton. To minimise additional working capital requirements caused by rising pulp prices, we have entered into various contracts that discount pulp prices in relation to pulp indices and purchase our pulp from several qualified suppliers in an attempt to mitigate price increases and supply interruptions.

Freight costs in the US increased in fiscal year 2011 and are expected to rise over the short to medium term reflecting supply constraints for trucks, as the broader economy improves and the cost of fuel remains high.

The collective impact of the foregoing factors, and other factors, including those identified in "Forward-Looking Statements" may materially adversely affect our ability to generate sufficient cash flows from operations to meet our short and longer-term capital requirements. We believe that we will be able to fund any cash shortfalls for at least the next 12 months with cash that we anticipate will be available under our credit facilities and that we will be able to maintain sufficient cash available under those facilities. Additionally, we may decide that it is necessary to suspend planned dividend payments and/or share buy-backs, scale back or postpone our expansion plans and/or take other measures to conserve cash to maintain sufficient capital resources over the short and longer-term.

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Capital Expenditures

Our total capital expenditures for fiscal years 2011, 2010 and 2009 were US\$50.3 million, US\$50.5 million and US\$26.1 million, respectively.

Significant capital expenditures in fiscal years 2011 and 2010 included expenditures related to a new finishing capability on an existing product line. Significant capital expenditures in fiscal year 2011 also included the addition of 12 foot XLD Trim capability at our Peru, Illinois plant, the commencement of an upgrade to the US business' supply chain management IT systems and the commencement of a new ColorPlus line at our Cleburne, Texas plant.

Contractual Obligations

The following table summarises our contractual obligations at 31 March 2011:

(Millions of US dollars)	Total	Payments Due During Fiscal Year Ending 31 March			
		2012	2013 to 2014	2015 to 2016	Beyond 5 Years
Asbestos Liability ¹	\$ 1,698.1	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Long-Term Debt	59.0	–	59.0	–	–
Estimated interest payments on Long-Term Debt ²	14.5	4.8	7.3	1.8	0.6
Operating Leases	103.8	18.0	32.1	29.1	24.6
Purchase Obligations ³	0.6	0.6	–	–	–
Total	\$ 1,876.0	\$ 23.4	\$ 98.4	\$ 30.9	\$ 25.2

¹ The amount of the asbestos liability reflects the terms of the AFFA, which has been calculated by reference to (but is not exclusively based upon) the most recent actuarial estimate of the projected future asbestos-related cash flows prepared by KPMG Actuarial. The asbestos liability also includes an allowance for the future claims-handling costs of the AICF. The table above does not include a break down of payments due each year as such amounts are not reasonably estimable. See Note 11 to our consolidated financial statements for further information regarding our future obligations under the AFFA.

² Interest amounts are estimates based on gross debt remaining unchanged from the 31 March 2011 balance and interest rates remaining consistent with the rates at 31 March 2011. Interest paid includes interest in relation to our debt facilities, as well as the net amount paid relating to interest rate swap agreements. The interest on our debt facilities is variable based on a market rate and includes margins agreed to with the various lending banks. The interest on our interest rate swaps is set at a fixed rate. There are several variables that can affect the amount of interest we may pay in future years, including: (i) new debt facilities with rates or margins different from historical rates; (ii) expiration of existing debt facilities resulting in a change in the average interest rate; (iii) fluctuations in the market interest rate; (iv) new interest rate swap agreements; and (v) expiration of existing interest rate swap agreements. We have not included estimated interest payments subsequent to fiscal year ending 31 March 2017 as such amounts are not reasonably estimable.

³ Purchase Obligations are defined as agreements to purchase goods or services that are enforceable and legally-binding on us and that specify all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transactions.

The table above excludes the unpaid portion of the ATO amended assessment of US\$190.4 million as we are unable to reasonably estimate the timing of settlement. See Note 14 to our consolidated financial statements.

See Notes 9 and 13 to our consolidated financial statements for further information regarding long-term debt and operating leases, respectively.

OFF-BALANCE SHEET ARRANGEMENTS

As of 31 March 2011 and 2010, we did not have any material off-balance sheet arrangements.

RESEARCH AND DEVELOPMENT

For fiscal years 2011, 2010 and 2009, our expenses for research and development were US\$28.0 million, US\$27.1 million and US\$23.8 million, respectively.

We view research and development as key to sustaining our existing market leadership position and expect to continue to allocate significant funding to this endeavor. Through our investment in process technology, we aim to keep reducing our capital and operating costs, and find new ways to make existing and new products.

OUTLOOK

Housing starts in the US continue to be weak as factors such as relatively high levels of unemployment, low levels of consumer confidence, restricted access to credit and the supply of foreclosed homes continue to constrain demand in the housing market, affected in particular by the lack of stability in house values that have continued to fall.

Input costs are also expected to remain high with NBSK pulp index prices forecast to remain at or above US\$1,000 per ton. Freight costs in the US are expected to rise reflecting supply constraints for trucks, as the broader economy improves, and the higher cost of fuel.

Activity in the US residential housing sector is expected to remain relatively flat in both the construction and the repair and remodel segments for our 2012 financial year.

In the Asia Pacific region, increases in mortgage interest rates in Australia have continued to dampen activity in the sector, although the market is expected to remain relatively robust. In the Philippines, domestic demand continues to provide a strong operating environment. In New Zealand, housing activity is likely to remain subdued as housing construction reaches historic lows in response to weak consumer and business confidence.

Changes in the asbestos liability to reflect changes in foreign exchange rates or updates of the actuarial estimate, ASIC proceeding matters, income tax related issues and other matters referred to in "Forward Looking Statements," may have a material impact on our consolidated financial statements.

REMUNERATION REPORT

This remuneration report explains James Hardie's approach to remuneration, and has been adopted by the Board on the recommendation of the Remuneration Committee.

Irish law does not require the company to produce a remuneration report or to submit it to shareholders. Similarly, the company is not required under the ASX Corporate Governance Council Principles and Recommendations or section 300A of the Australian Corporations Act to submit a remuneration report to shareholders for a non-binding vote.

However, taking into consideration the company's large Australian shareholder base, James Hardie has voluntarily produced a remuneration report for non-binding shareholder approval for some years and currently intends to continue to do so. This report provides information similar to that provided by Australian listed companies in their remuneration reports on the company's remuneration practices in fiscal year 2011 and also voluntarily includes an outline of the company's proposed remuneration framework for fiscal year 2012.

During fiscal year 2011 the Remuneration Committee retained Towers Watson (in the United States) and Guerdon Associates (in Australia) as its independent advisers, and the company retained Hewitt Associates as its external remuneration advisor.

1. APPROACH TO CEO AND SENIOR EXECUTIVE REMUNERATION

1.1 Objectives

James Hardie's remuneration philosophy is to provide competitive remuneration, compared with US companies, that emphasises operational excellence and shareholder value creation through incentives which link executive remuneration with the interests of shareholders and attract, motivate and retain high-performing executives.

The company's executive remuneration framework is based on a pay-for-performance policy that differentiates remuneration amounts based on an evaluation of performance by the business and the individual.

1.2 Policy

Compensation is managed to align remuneration received with performance achieved relative to peers.

Remuneration packages for senior executives comprise fixed pay and benefits (which we refer to as "Fixed Remuneration") and variable performance pay (which we refer to as "Variable Remuneration"), based on both short-term incentives (which we refer to as "STI") and long-term incentives (which we refer to as "LTI").

The company's policy is for fixed pay and benefits for senior executives to be positioned at the market median and total target direct remuneration (comprising salary and target STI and LTI) to be positioned at the market 75th percentile if stretch target performance goals are met.

Performance hurdles for target STI and LTI payments are set in the expectation that the company will deliver profitability and growth results in the top quartile of its listed US building products peer group companies. If these performance hurdles are not met, the amount payable under the STI and LTI components will be less.

1.3 Setting Remuneration Packages

Individual remuneration packages for the CEO and senior executives are evaluated by the Remuneration Committee annually to make sure that they continue to achieve the company's objectives and are competitive with developments in the market. The Remuneration Committee commissions a review from its independent US compensation advisor of the remuneration positioning for the CEO and senior executives relative to their US peers.

The Board makes the final decisions concerning the remuneration (base salary, employment contract terms, 'Scorecard' rating, and STI and LTI target, maximum and actual grants) of the CEO and CFO. The CEO makes recommendations to the Board and Remuneration Committee regarding the remuneration of senior executives other than himself. The Remuneration Committee then makes the final decisions concerning the remuneration of the remaining senior executives, for review by the Board.

Remuneration decisions are based on the company's remuneration framework, which is reviewed by the Remuneration Committee and approved by the Board each fiscal year. Senior executive remuneration takes into account the individual's competencies, skills and performance, the specific roles and responsibilities of the relevant position, advice received by the Remuneration Committee from external independent compensation advisers, and other practices specific to the markets in which the company operates and countries in which the executive is based or was based prior to any relocation.

Each year the Remuneration Committee reviews and approves a list of peer group companies which it uses for comparative purposes in setting remuneration for the CEO, CFO and the company's senior executives. As the company's main business and most of its senior executives are in the US, the peer group used by the company comprises US listed companies exposed to the US housing market. The same peer group is used to determine relative performance for that year's LTI equity grants.

1.4 Senior Executives

The company's senior executives in fiscal year 2011 were:

- Louis Gries, Chief Executive Officer¹
- Russell Chenu, Chief Financial Officer²
- Robert Cox, Chief Legal Officer³
- Mark Fisher, Executive General Manager – International
- Nigel Rigby, Executive General Manager – USA

¹ From 1 April 2010 to 17 June 2010 Louis Gries was also Chairman of the Managing Board. The Managing Board was dissolved on 17 June 2010 following completion of JHI SE's re-domicile to Ireland.

² From 1 April 2010 to 17 June 2010 Russell Chenu was also a member of the Managing Board.

³ From 1 April 2010 to 17 June 2010 Robert Cox was also a member of the Managing Board. From 1 April 2010 until 13 June 2011 Robert Cox was General Counsel of JHISE.

REMUNERATION REPORT

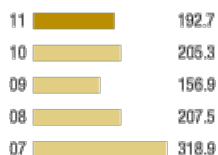
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2. FISCAL 2011 COMPANY PERFORMANCE AND LINK WITH REMUNERATION POLICY

2.1 Actual Performance

James Hardie's five year EBIT in US\$ terms (excluding asbestos) and five-year A\$ Total Return (including dividends and capital returns) mapped against changes in US housing starts are shown in the graphs below:

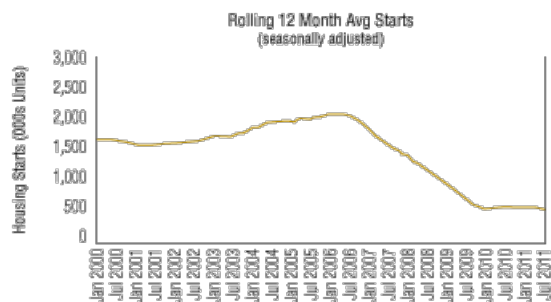
Five Year EBIT (ex reported adjustments) growth (Millions of US dollars)



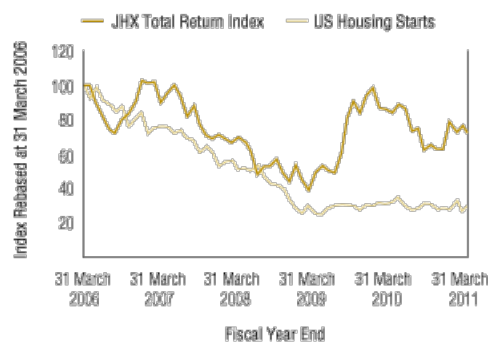
2.2 Market Conditions and Company Performance

A significant proportion of the remuneration for senior executives is Variable Remuneration, which is at risk. The company's remuneration arrangements aim to ensure a link between the performance of the company and bonuses paid and equity awarded.

Operating conditions in the US residential housing market continued to be challenging in fiscal year 2011. A combination of relatively high levels of unemployment, low levels of consumer confidence, restricted access to credit and the supply of foreclosed homes continued to dampen demand. US single family housing starts (as reported by the US Census Bureau) for the year ended 31 March 2011 were 446,400 units, down 7.3% from 481,000 units in the prior financial year and down 74% from the financial year ended 31 March 2006 peak of 1.73 million units. Repair and remodel activity also continued to decline during fiscal year 2011.



JHX Total Return Index vs US Housing starts



Graph compiled by Mercer (Australia) Pty Ltd using publicly available data
Note: Mercer (Australia) Pty Ltd provides no opinion on the veracity of the data

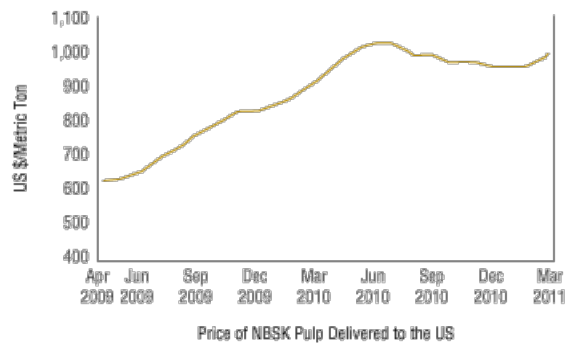
In the face of the significant decline in the US housing market since March 2006, the company's USA and Europe Fibre Cement business continued to perform strongly in fiscal year 2011, with revenue down 2% and sales volume down 4% from fiscal year 2010. As new housing starts have continued to decline, the company has benefited from the strategic decision to commit additional resources to increase its share of the repair and remodel market in recent years.

The Asia Pacific region (comprising Australia, New Zealand and The Philippines business units) experienced mixed market conditions, with Australian dwelling approvals increasing 3%, New Zealand dwelling approvals declining 5% and The Philippines experiencing strong domestic demand. Despite these operating conditions, Asia Pacific recorded strong results with revenue up 7% (in Australian dollars).

These solid results compared to the market, particularly considering the difficult market conditions, were achieved mainly through:

- the company's primary demand growth strategies in each of our businesses, to achieve further market penetration at the expense of alternative materials, driving stronger volume; and
- its continued success in introducing higher margin, differentiated products, driving stronger revenue.

The company's EBIT in fiscal year 2011 was also heavily impacted by raw material costs, in particular higher pulp prices and freight costs, which increased substantially in fiscal year 2011.



2.3 Performance Against Scorecard Objective

The Board and Remuneration Committee reviewed the company's and management's performance under the Scorecard, which reflects a number of medium term strategic objectives for the company, and the following results were achieved:

Objective	Starting Point
US Primary Demand Growth (PDG)	PDG for the last three fiscal years is as follows: FY 11 -3.8% FY 10 6.1% FY 09 3.0%
US Product Mix Shift	This has focused primarily on ColorPlus penetration. FY11 results are commercial in confidence but exceeded the results in FY10 and FY09.
US Zero To Landfill (ZTL)	In the past three years the company has continued to make significant progress in reducing the amount of waste materials sent to landfill.
Safety	The incident rate (IR) and severity rate (SR) over the last three fiscal years were as follows: IR SR FY 11 1.7 19 FY 10 1.7 37 FY 09 4.7 54
Strategic Positioning	The Company continues to be highly dependent on the US fibre cement business.
Legacy Issues	The re-domicile project was completed in mid-2010. The ASIC proceedings and tax issues are at appeals stage and the loan facility for the AICF was concluded. The company's contribution to the AICF in July 2011 is US\$51.5 million.
Managing During the Economic Crisis	At the end of FY11, total credit facilities were US\$320 million and net debt was US\$40 million. In May 2011, the company announced a capital management policy to pay dividends of between 20% and 30% of NPAT and a 5% on-market buy-back.
Talent Management/ Development	The company has a strong management team which has delivered superior results over the past three years.

2.4 Performance Linkage with Remuneration Policy

The Executive Incentive Plan for fiscal year 2011 was based on a 'Payout Matrix' which required management to achieve both sales above market (which we refer to as "Growth Measure") and strong earnings (which we refer to as "Return Measure"). Although the Payout Matrix excluded legacy costs and included an inherent indexing of the Growth Measure for new housing starts, it did not include allowances for:

- substantial increases (or decreases) in the US repair and remodel market; and
- substantial increases (or decreases) in input costs.

A combination of a substantial decrease in the repair and remodel market, substantial increases in input costs, together with other factors, resulted in the US Fibre Cement business earning a nil payment under its Payout Matrix for fiscal year 2011.

The Board and Remuneration Committee reviewed the reasons for this result and concluded that the Payout Matrix, which was indexed to new housing starts, did not account for substantial variations beyond management control such as changes to input costs (for example increases in the cost of pulp and freight) or changes in the repair and remodel market. Taking these factors into account, the Board and Remuneration Committee concluded that management had performed well in fiscal year 2011, despite a very challenging industry dynamic, particularly compared to its peer group companies. Therefore, the Board and Remuneration Committee exercised discretion to recognize management's response to these factors, and determined that such performance merited an adjustment to the calculation that otherwise would have applied with a strict application of the Payout Matrix.

Following a review of the operation of the Executive Incentive Program, the Board and Remuneration Committee determined that:

- the US business receive a payment of 16.7% of its maximum STI under the Executive Incentive Plan, with a follow-on impact on the result for the corporate component of the plan;
- no adjustment be made to the Asia Pacific result; and
- the 2012 Payout Matrix should be indexed for changes in the US repair and remodel market and pulp costs.

The Board and Remuneration Committee consider this was an appropriate response because:

- the Board carried out a similar review of bonus payments in fiscal year 2010 when the external factors would have had the result of increasing bonus payments (although no adjustment was determined in that year);
-

REMUNERATION REPORT

(CONTINUED)

- by indexing the most significant swing factors to the Payout Matrix results, management will not be penalized (or benefit) from significant events outside of its control;
- a significant proportion of the potential payment for US participants in the Executive Incentive Plan has been forfeited;
- a significant proportion of the potential payment under the separate LTI transferred to STI because of long-term uncertainty was also forfeited;
- the company's performance compared to its US peer group based on a range of ratios confirmed that management has performed well in fiscal year 2011; and
- the Board had foreshadowed in the 2010 Remuneration Report that it reserved the ability to adjust the payout under the Executive Incentive Plan in limited circumstances.

The percentage of each senior executive's STI granted and forfeited in respect of fiscal year 2011 is set out below. Although the Board considers that management performed well during fiscal year 2011, all senior executives received substantially lower STI in fiscal year 2011 compared to fiscal year 2010.

The Board believes that the remuneration paid to senior executives in fiscal year 2011 appropriately reflects management's level of performance during the year. The Board and Remuneration Committee continue to believe that the structure of the remuneration framework, including the changes discussed above are appropriate to focus management on dealing with the continuing difficult US housing industry conditions and provide appropriate alignment between senior executives and shareholders.

2.5 Variable Remuneration Paid in Fiscal Year 2011

Details of the percentage of the maximum Variable Remuneration awarded to or forfeited by senior executives for performance in fiscal year 2011 compared to fiscal year 2010 are set out below.

	Cash STI ¹		Hybrid RSUs ²	
	Awarded %	Forfeited %	Awarded %	Forfeited %
<i>Louis Gries</i>				
Fiscal Year 2011	31	69	8	92
Fiscal Year 2010	100	0	100	0
<i>Russell Chenu</i>				
Fiscal Year 2011	100	0	8	92
Fiscal Year 2010	100	0	100	0
<i>Robert Cox³</i>				
Fiscal Year 2011	—	—	—	—
Fiscal Year 2010	92	8	100	0
<i>Mark Fisher</i>				
Fiscal Year 2011	34	66	8	92
Fiscal Year 2010	100	0	100	0
<i>Nigel Rigby</i>				
Fiscal Year 2011	28	72	8	92
Fiscal Year 2010	100	0	100	0

- ¹ **Awarded** = % of fiscal year 2011 Cash STI maximum actually paid. **Forfeited** = % of fiscal year 2011 STI maximum foregone. These amounts were paid in cash under the Executive Incentive Program and IP Plan or as an additional one-off discretionary bonus. These amounts do not include the Hybrid RSUs granted following the transfer of LTI to STI. The cash payments for fiscal year 2011 were paid to senior executives in June 2011.
- ² **Awarded** = % of fiscal year 2011 Hybrid RSUs (transfer from LTI to STI) maximum which actually granted. **Forfeited** = % of fiscal year 2011 Hybrid RSUs (transfer from LTI to STI) which was foregone. The value earned for performance in fiscal year 2011 was granted in the form of Hybrid RSUs in June 2011. Hybrid RSUs will vest in June 2013 and convert to shares, subject to each senior executive's performance rating against the Scorecard.
- ³ Was not eligible for a bonus under the Executive Incentive Plan in fiscal year 2011 and not granted any Hybrid RSUs in respect of fiscal year 2011. The bonus payments set out in the table in section 5.1 represent accruals only.

The tables do not include Relative TSR RSUs and Scorecard LTI granted for performance in fiscal year 2011 because they are granted on a dollar value determined by the Remuneration Committee and would only be forfeited during fiscal year 2011 in limited circumstances, all of which involve the employee ceasing employment.

3. DESCRIPTION OF REMUNERATION ARRANGEMENTS IN FISCAL YEAR 2011

3.1 Overview of Variable Remuneration in Fiscal Year 2011

Senior executives are eligible to participate in one or more incentive plans which provide for Variable Remuneration. Eligibility for inclusion in an incentive plan does not guarantee participation in any future year. Variable Remuneration is at risk and consists of STIs and LTIs earned by meeting or exceeding specified performance goals. The company's Variable Remuneration incentive plans for senior executives in fiscal year 2011 are set out below:

Duration	Plan Name	Amount	Form Incentive Paid
Short-term (1-3 years)	Individual Performance Plan (IP Plan) ¹	20% of STI Target ⁴	Cash
	Executive Incentive Plan ²	80% of STI Target ⁴	Cash
		40% of LTI Target ⁵	RSUs ⁶ vesting and converting into shares in 2 years subject to the Scorecard (Hybrid RSUs ⁷)
Long-term (3-5 years)	Long Term Incentive Plan (LTIP) ³	30% of LTI Target	RSUs vesting and converting into shares in 3-5 years subject to relative TSR ⁸ performance hurdles (Relative TSR RSUs)
		30% of LTI Target	Cash in 3 years based on share price performance and subject to the Scorecard (Scorecard LTI)

¹ See section 3.3.1(a) of this report

² See section 3.3.1(b) of this report

³ See section 3.3.2 of this report

⁴ See section 3.3.1 of this report

⁵ See section 4.3.2 of this report

⁶ RSUs refer to restricted stock units.

⁷ Previously referred to as Executive Incentive Program RSUs.

⁸ TSR refers to Total Shareholder Return.

3.2 Scorecard

Both the STI and LTI incentives for senior executives include an element of a 'Scorecard' rating to ensure continued focus on financial, strategic, business, customer and people components, each of which are important contributors to long-term creation of shareholder value. The Scorecard contains a number of key objectives, and the measures the Board expects to see achieved in relation to these objectives. Individual senior executives may receive different ratings depending on their contribution to achieving the Scorecard objectives.

Although most of the objectives in the Scorecard have quantitative targets, the company has not allocated a specific weighting to any and the final Scorecard assessment will involve an element of judgment by the Board. The Board may also give different ratings when assessing Scorecard performance for the Hybrid RSUs and Scorecard LTI. The Board monitors progress against the Scorecard annually.

The Scorecard can only be applied by the Board to exercise negative discretion (ie to reduce the amount of Hybrid RSUs and Scorecard LTI which will ultimately vest). It cannot be applied to enhance the maximum reward that can be received.

REMUNERATION REPORT

(CONTINUED)

The Scorecard objectives for fiscal year 2011 were unchanged from fiscal year 2010. The reasons the Board considered these objectives were appropriate, are set out below.

Objective	Reasons
Primary Demand Growth	A key strategy for the company is to maximise its market share growth/retention of the exterior cladding market for new housing starts and for repair and remodel segments, which it does by growing fibre cement's share of the exterior siding market and by maintaining the company's share of the fibre cement category.
Product Mix Shift	The company aims to maintain its leadership position across the fibre cement category of the exterior siding market by developing new products/marketing/manufacturing approaches that will result in an improved mix of our products and gross margins.
Zero To Landfill	This measure is a primary contributor to the company's environmental goals. Improving material yield will reduce manufacturing costs. In addition, achieving important environmental, social and governance (ESG) goals reduces risk.
Safety	Safety of company employees is an essential ESG measure.
Legacy Issues	Resolution of these issues is a fundamental component of the company's ESG goals, paving the way to lower risk and more certainty for all stakeholders.
Strategic Positioning	Developing and, as appropriate, implementing, alternative strategic actions for sustainable growth beyond the company's traditional markets will create shareholder value through increased profits and diversification for lower risk.
Managing During the Downturn	With the US building materials industry continuing to experience a downturn unprecedented in the past 60 years, managing the company through this time so it can emerge at the end of this period in as strong or stronger competitive position in the overall industry is crucial.
Talent Management/ Development	Management development and capability is important to the company's future growth.

Further details of the Scorecard for fiscal year 2011, including the method of measurement, historical performance against the proposed measures and the Board's expectations, were set out in the 2010 AGM Notice of Meeting. Details of the Scorecard for fiscal year 2012 are set out on page 50 of this report.

The Board will provide an explanation of the final assessment of performance under the above Scorecard at the conclusion of fiscal year 2013.

3.3 Details of Variable Remuneration Components in Fiscal Year 2011

3.3.1 Short-Term Incentives

The STI target for senior executives, other than the CFO, was allocated 80% towards corporate goals (under the Executive Incentive Plan) and 20% towards individual goals (under the Individual Performance Plan).

The STI target for senior executives was determined as a percentage of base salary, which in fiscal year 2011 was:

Position	STI Target as percentage of base salary
Chief Executive Officer	125%
Chief Financial Officer	33%
Other senior executives	60-65%

Given the continuing lack of stability in the US housing market, for fiscal year 2011 the Board also determined that 40% of each senior executive's LTI target should be transferred to the Executive Incentive Plan. Although this component of a senior executive's Variable Remuneration is received in three years time, it is treated as an STI since the maximum amount which can be paid is determined at the end of the first year based on the company's performance in fiscal year 2011, and then subject to the negative discretion exercisable by the Board under the Scorecard in a further two years.

(a) Individual Performance Plan – Cash

20% of the STI target for senior executives (other than the CFO) was allocated to the IP Plan and payable in cash. The maximum payout for the IP Plan was capped at 150% of the target.

Senior executives who participated in the IP Plan were assessed by the Board and Remuneration Committee on their individual performance against specific objectives approved by the Board and Remuneration Committee. Rewards were based on each senior executive's performance rating at the end of the fiscal year.

Board's Assessment of the IP Plan

The IP Plan links financial rewards to senior executives achieving specific individual objectives that have benefited the company and contributed to shareholder value which are not directly captured by the corporate component of the Executive Incentive Plan.

(b) Executive Incentive Plan – Cash

80% of the STI target for senior executives (other than the CFO) was allocated to the Executive Incentive Plan and payable in cash. The maximum payout for the Executive Incentive Plan was capped at 300% of the target.

In fiscal year 2011, the Board replaced the previous EBIT-based performance target with a 'Payout Matrix' based on earnings and sales growth. A separate 'Payout Matrix' was approved for each business unit. Employees below senior executive level and US senior executives were eligible for cash bonuses depending on the Payout Matrix result for their business unit. The remaining senior executives were eligible for cash bonuses depending on a combined Payout Matrix result for the company.

The purpose of the new Payout Matrix performance hurdle was to ensure that as management increased its top line growth focus, it did not do so at the expense of short to medium-term returns. The Executive Incentive Plan for fiscal year 2011 was designed to encourage senior executives to effectively balance growth and returns. To achieve strong rewards,

management was required to generate both strong earnings and sales growth substantially above market. Higher returns on one measure at the expense of the other measure could result in lower, or nil, reward.

The Payout Matrix approved by the Board for fiscal year 2011 inherently included indexing for new housing starts but did not include indexing for the US repair and remodel market or input prices, in particular pulp. Other factors such as legacy costs and exchange rate movements were also excluded.

The Board reserved for itself discretion to change the payout under the Payout Matrix if growth relative to market was below expectations and the Board determined that the reason for such performance was outside management’s control or as a result of a management decision endorsed by the Board given an assessment of market circumstances at the time. For the reasons described above in section 2.4, the Board determined that the payout under the US Payout Matrix should be 50% of STI target (and 16.7% of maximum STI), which also impacted the corporate Payout Matrix. No discretion was applied to the Asia Pacific Payout Matrix.

The company does not disclose the Return Measure and Growth Measure targets, but achieving a target payment for fiscal year 2011 (without indexing for the US repair and remodel market and pulp prices) would have required performance in excess of the average of the performance for the previous three years on each measure.

Board Assessment of Executive Incentive Plan

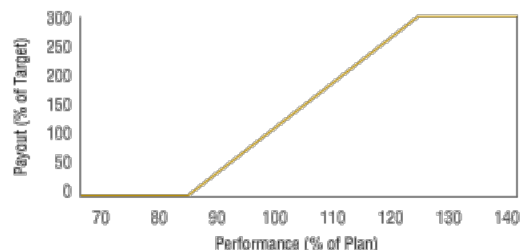
The Board believes that the Payout Matrix incentive methodology remains valid. The Board recognized that by indexing for new housing starts alone, the fiscal year 2011 Payout Matrix did not take into account substantial variations in input costs and the US repair and remodel markets. After a review of the changes between fiscal year 2010 and 2011, the Board revised the Payout Matrix to also take into account changes in the cost of pulp and changes in the repair and remodel market which differed substantially during the year from expectations at the start of fiscal year 2011. The Board believes that the revised Payout Matrix under the Executive Incentive Plan is appropriate because it:

- provides management with an incentive towards achieving the overall corporate goals;
- balances growth with returns;
- recognises the need to flexibly respond to strategic opportunities depending on our markets’ ability to recover from the currently prevailing uncertain economic environment; and
- incorporates indexing for factors beyond management’s control in the Board’s assessment of management’s performance

(c) Executive Incentive Plan – Hybrid RSUs

40% of the LTI target for senior executives was allocated to the Executive Incentive Plan and payable in Hybrid RSUs (formerly referred to as Executive Incentive Program RSUs). The maximum initial grant of Hybrid RSUs is 300% of the target.

The number of Hybrid RSUs granted is based on the company’s performance against corporate level EBIT performance targets approved by the Board. The targets for fiscal year 2011 were derived from the cash Executive Incentive Plan ‘Payout Matrix’ for fiscal year 2011 and a payout at target required an improvement on performance for fiscal year 2010, indexed to housing starts. The EBIT performance hurdle was:



Before the Hybrid RSUs granted in June 2011 vest in June 2013 and convert to shares, the Board will assess each senior executive’s contribution to the long-term objectives set out in the Scorecard and give them a rating between 0 and 100. Depending on this rating, between 0% and 100% of the senior executive’s Hybrid RSUs will vest and convert to shares. In effect, the Scorecard applies a “holdback and forfeiture” principle to ensure short-term results in fiscal year 2011 are not obtained at the expense of long-term sustainability.

Calculation of the Hybrid RSUs at the end of fiscal year 2011 is described below:



1 Amount of LTI received as Hybrid RSU’s in the absence of long-term quantitative measures.

Worked Example

Based on the CEO’s LTI target quantum of US\$2,800,000 in fiscal year 2011, James Hardie’s performance of 91% of the EBIT performance hurdle, resulting in a payment of 25% of target for fiscal year 2011, and assuming a Scorecard rating of 75 out of 100 in June 2013 the CEO would receive:

- 40% x US\$2,800,000 x 25% = US\$280,800 to be settled in Hybrid RSUs in June 2011. At the actual value of US\$6.12865/share, this is equivalent to 45,687 Hybrid RSUs.

REMUNERATION REPORT

(CONTINUED)

At the conclusion of the additional two-year performance period in June 2013, a number of Hybrid RSUs are forfeited, based on the CEO's assumed rating under the Scorecard for this example:

- 45,687 RSUs x 75% = 34,265 shares received

The retention of the 40% transfer of target LTI to STI reflects the Board's continued concerns about the lack of stability in the US housing market as well as emphasising continued profitability as the company seeks to attain its primary demand growth objectives.

Board Assessment

The Board believes that Hybrid RSUs and the Scorecard are an appropriate incentive vehicle in the current market because they:

- provide an incentive to ensure that the growth focus underlying the primary demand growth objective is not achieved at the expense of short and medium-term shareholder returns;
- align management with shareholders because the reward vehicle is based on share price;
- focus on long-term results over the three year performance period;
- focus management on sustainable long-term value creation;
- recognise that quantifying a specific long-term financial outcome requirement is not yet possible in the current market;
- avoid a mechanistic formula with outcomes based on market movements rather than management action; and
- allow the collective judgment of the independent directors to "forfeit" some or all of the potential value based on a number of long-term objectives identified by the Board as being able to affect longer-term outcomes in uncertain economic times.

3.3.2 Long-Term Incentives

The remaining 60% of the LTI target for senior executives was allocated as grants of RSUs based on the company's total shareholder return (which we refer to as "Relative TSR RSUs") relative to its peers, plus grants of cash-settled awards based on the company's stock price performance and the Scorecard (which we refer to as "Scorecard LTI"). The maximum payout under both of these programs was capped at 300% of the target.

(a) Relative TSR RSUs

30% of the LTI target for senior executives in fiscal year 2011 was allocated as grants of Relative TSR RSUs in September 2010.

The peer group for the Relative TSR RSUs is the same peer group of companies exposed to the US housing market which the company uses for compensation benchmarking purposes. The Board and Remuneration Committee believe that US companies form a more appropriate peer group than ASX listed companies as they are exposed to the same macro factors in the US housing market as the company faces. The names of the companies comprising the peer group for each grant of Relative TSR RSUs are set out in section 7 of this Remuneration Report.

The company's relative TSR performance will be measured against the peer group over a 3 to 5 year period from grant date, with testing after the third year, and then every six months until the end of year 5, based on the following schedule:

Performance against Peer Group	% of Relative TSR RSUs vested
<50th Percentile	0%
50th Percentile	33%
51st – 74th Percentile	Sliding Scale
≥75th Percentile	100%

Board's Assessment of the Relative TSR RSU Component of Long Term Incentive Plan

The Board considered whether re-testing is appropriate for Relative TSR RSUs, given some investors prefer a single test for relative performance measures. The Board concluded that re-testing is appropriate in the company's circumstances because the company's share price is subject to substantial short-term fluctuations relating to public comment and disclosures on a number of legacy issues facing the company, including asbestos-related matters, and believes that senior executives should be given the same opportunity as shareholders, who may elect to delay disposing of their equity interests when affected by short-term factors. Further volatility may also be experienced in the aftermath of the global financial crisis. In addition, this approach extends the motivational potential of the Relative TSR RSUs from three to five years, so is more effective from a cost-benefit perspective.

(b) Scorecard LTI

30% of the LTI target for senior executives in fiscal year 2011 was allocated as grants of Scorecard LTI awards in June 2010.

Scorecard LTI is a cash-settled award with the final payout based on the company's share price performance over the three years from the grant date and the senior executive's Scorecard rating.

At the start of the three-year performance period, the company will calculate the number of shares the senior executives could have acquired if they received a maximum payout on the Scorecard LTI on that date. At the end of the three-year performance period, the Board will assess each of the senior executive's contribution to the long-term objectives set out in the Scorecard to give them a rating of between 0 and 100. Depending on this rating, between 0% and 100% of the senior executive's awards will vest in June 2013. Each senior executive will receive a cash payment based on the company's share price at the end of the period multiplied by the number of shares they could have acquired at the start of the performance period, adjusted downward in accord with their Scorecard rating.

Board Assessment of Scorecard LTI

The Board introduced Scorecard LTI because it considered that a reward that focused on longer-term strategic and operational goals was essential, given that specific longer-term financial objectives cannot be readily determined in the current uncertain housing market. Ensuring that the reward's value is tied to share price provides alignment with shareholder outcomes. Moreover, payment in cash allows flexibility to apply the reward across different countries, while providing executives with liquidity to pay tax or other material commitments at a time that coincides with vesting of shares (via the RSU programs) such that they are less likely to wish to sell their shares.

(c) Long-Term Incentives Below Senior Executive Level

In fiscal year 2011, selected employees other than senior executives received equity-based long-term incentives in the form of RSUs under the 2001 JHI SE Equity Incentive Plan (which we refer to as the "2001 Plan"). Participation in such a plan helps align the interests of employees with shareholders. Award levels are determined based on the Remuneration Committee's review of local market standards and the individual's responsibility, performance and potential to enhance shareholder value. Unlike the RSUs granted to senior executives, these RSUs generally vest at the rate of 25% on the 1st anniversary of the grant, 25% on the 2nd anniversary date and 50% on the 3rd anniversary date. The term of the 2001 Plan expires in September 2011 and shareholders will be asked at the 2011 AGM to extend it for a further 10 years.

Board's Assessment of 2001 Plan

The majority of participants in the 2001 Plan are US employees. Senior executives named in this report did not receive RSUs under the 2001 Plan in fiscal year 2011. The RSUs granted to other employees under the 2001 Plan follow normal and customary US grant guidelines and market practice and have no performance hurdles. The Board is satisfied that this practice is necessary to attract and retain US employees and is particularly effective in the current environment for the better management of the company's cash flow.

3.4 Details of Fixed Remuneration in Fiscal Year 2011

Fixed remuneration comprises base salaries, non-cash benefits, participation in a defined contribution retirement plan and superannuation contributions.

3.4.1 Base Salaries

James Hardie provides base salaries to attract and retain senior executives who are critical to the company's long-term success. The base salary provides a guaranteed level of income that recognises the market value of the position and internal equities between roles, and the individual's capability, experience and performance. Base pay for senior executives is positioned around the market median for positions of similar responsibility. Base salaries are reviewed by the Remuneration Committee each year, although increases are not automatic.

Following a review of senior executive compensation at the start of fiscal year 2011, the Board determined that only one of the company's senior executives would receive a base salary increase in fiscal year 2011, although two of the senior executives received base salary increases during fiscal year 2010 following an increase in their job responsibilities.

3.4.2 Non-Cash Benefits

James Hardie's executives may receive non-cash benefits such as a cost of living allowance, medical and life insurance benefits, car allowances, membership of executive wellness programs, long service leave and tax services to prepare their income tax returns if they are required to lodge returns in multiple countries.

3.4.3 Retirement Plan/Superannuation

In every country in which it operates, the company offers employees access to pension, superannuation or individual retirement savings plans consistent with the laws of the respective country.

3.5 Relative Weightings of Fixed and Variable Remuneration in 2011

The substantial reduction in Variable Remuneration paid to senior executives in fiscal year 2011 compared to fiscal year 2010 is reflected in the reduced percentage of their total compensation received as Variable Remuneration in the table below. The amounts below are based on the actual remuneration received for performance in fiscal year 2011:

	Fixed Remuneration ¹		Variable Remuneration				Total Variable %
	Salary, Non-cash Benefits, Superannuation, 401(k) etc %	Cash Incentive ²	Hybrid (RSUs) ³ %	Scorecard LTI ⁴ %	Relative TSR RSUs ⁵ %		
<i>Louis Gries</i>							
Fiscal Year 2011	20	12	4	32	32	80	
Fiscal Year 2010	18	21	25	18	18	82	
<i>Russell Chenu</i>							
Fiscal Year 2011	55	13	2	15	15	45	
Fiscal Year 2010	46	10	18	13	13	54	
<i>Robert Cox⁶</i>							
Fiscal Year 2011	100	0	0	0	0	0	
Fiscal Year 2010	26	19	23	15	15	74	
<i>Mark Fisher</i>							
Fiscal Year 2011	36	17	3	22	22	64	
Fiscal Year 2010	25	23	21	16	16	75	
<i>Nigel Rigby</i>							
Fiscal Year 2011	36	17	3	22	22	64	
Fiscal Year 2010	24	24	21	16	16	76	

¹ See section 3.4 of this report.

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- 2 See section 3.3.1 of this report. This includes short-term cash incentive paid under the IP Plan and Executive Incentive Plan or as an additional one-off discretionary bonus in June 2011 for performance in fiscal year 2011.
- 3 See sections 3.3.1(c) and 3.3.2(a) of this report. This includes long-term incentive paid under the Long Term Incentive Plan with Relative TSR RSUs granted in September 2010 and Hybrid RSUs (formerly Executive Incentive Plan RSUs) granted May 2011 for performance in fiscal year 2011. This amount includes the actual value of grant received in respect of fiscal year 2011 rather than the value used for accounting purposes.
- 4 See section 3.3.2(b) of this report. This includes awards of Scorecard LTI under the Long Term Incentive Plan granted in June 2010.
- 5 See section 3.3.2(a) of this report. This includes grants of Relative TSR RSUs under the Long Term Incentive Plan granted in September 2010.
- 6 Was not eligible for a bonus under the Executive Incentive Plan in fiscal year 2011 and did not receive a grant of Hybrid RSUs, Scorecard LTI or Relative TSR RSUs in respect of fiscal year 2011.

3.6 Variable Remuneration Payable in Future Years

Details of the accounting cost of the Variable Remuneration for fiscal year 2011 that may be paid to senior executives over future years are set out below. The minimum amount payable is nil in all cases. The maximum amount payable will depend on the share price at time of vesting, and is therefore not possible to determine.

The table below is based on the fair value of the RSUs and Scorecard LTI according to US GAAP accounting standards.

(US dollars)	Scorecard LTI ¹			Hybrid RSUs ²			Relative TSR RSUs ³		
	2012	2013	2014	2012	2013	2014	2012	2013	2014
Louis Gries	760,977	932,069	932,069	114,503	140,248	26,128	466,550	866,788	397,870
Russell Chenu	85,917	105,234	105,234	14,313	17,531	3,266	58,319	108,349	49,734
Robert Cox	–	–	–	–	–	–	–	–	–
Mark Fisher	85,917	105,234	105,234	13,291	16,279	3,033	54,153	100,610	46,181
Nigel Rigby	98,191	120,267	120,267	14,313	17,531	3,266	58,319	108,349	49,734

- 1 Represents annual accounting cost for Scorecard LTI granted in June 2011 for performance in fiscal year 2011. The fair value of each award is adjusted for changes in JHI SE's share price at each balance sheet date until the Scorecard is applied at the conclusion of fiscal year 2012, at which time the final value of the Scorecard LTI is based on the company's share price and the senior executive's Scorecard rating at the time of vesting.
- 2 Represents annual accounting cost for the Hybrid RSUs granted in June 2011 for performance in fiscal year 2011. The fair value of each RSU is adjusted for changes in JHI SE's share price at each balance sheet date until the Scorecard is applied in June 2013.
- 3 Represents annual accounting cost for the Relative TSR RSUs granted in September 2010 with fair market value estimated using the Monte Carlo option-pricing method.

4. REMUNERATION FOR FISCAL YEAR 2012

4.1 Overview of Remuneration for Fiscal Year 2012

Following their review of the existing remuneration framework, the Remuneration Committee and Board resolved to continue with the remuneration framework of the last three years in fiscal year 2012.

In particular, the Board and Remuneration Committee has determined that the continuing challenging market conditions mean that a transfer of 40% of senior executives' LTI target to STI is warranted in order to ensure appropriate management focus on the company's short term results.

Subject to a number of adjustments described below, the STI and LTI incentive plans and the amount of a senior executive's STI and LTI target allocated to those plans will continue in fiscal year 2012.

4.2 Summary of Changes to Compensation for Fiscal Year 2012

The principal changes to the company's compensation programs in fiscal year 2012 are:

- expanding the 'Zero-to-Landfill' Scorecard objective to a broader 'Manufacturing Efficiency Reset' objective;
- indexing performance targets for the cash Executive Incentive Plan Payout Matrix for changes in the US repair and remodel market and pulp prices;
- indexing performance targets for the Hybrid RSUs for changes in pulp prices;
- giving the Remuneration Committee broader flexibility to reward senior executives under the IP Plan, subject to the existing cap of 150% of target; and
- increasing the CEO's target LTI by US\$300,000 to US\$3,100,000.

The reasons for these changes are set out in further detail below.

4.3 Details of Variable Remuneration Components in

Fiscal Year 2012

4.3.1 Scorecard

The Board uses the Scorecard to set strategic objectives for which performance can only be assessed over a period of time. The company has made significant progress in each of the past three years reducing the amount of materials sent to landfill. In fiscal year 2012, the 'Zero-to-Landfill' objective will be expanded to a broader 'Manufacturing Efficiency Reset' objective which will be a multi-year initiative building (and continuing) the waste reduction objectives of 'Zero-to-Landfill' but also focusing on increasing machine efficiencies and product capabilities. Among other matters, this will support more energy efficient manufacturing.

4.3.2 FY2012 Short Term Incentive

For fiscal year 2012, the Board will continue to transfer 40% of each senior executive's LTI target to the STI target. This component will be received in Hybrid RSUs based on the company's performance in fiscal year 2012, which are then subject to negative discretion exercisable by the Board under the Scorecard in a further two years.

(a) Individual Performance Plan

20% of the STI target for senior executives (other than the CFO) will continue to be allocated to the IP Plan, to be paid in cash. There will be no change to the 150% maximum payout.

The existing IP Plan for senior executives has five levels of performance rating, each resulting in the payment of a certain percentage of the senior executive's STI target (up to a maximum of 150%). Whilst this rating system is effective and will be retained for most employees, the Board believes that a more flexible system is appropriate for senior executives. For fiscal year 2012, senior executives will still be assessed by the Board and Remuneration Committee on their individual performance against specific objectives, but the final amount payable under the IP Plan will be a discretionary payment determined by the Board and Remuneration Committee.

No other changes in the operation of the IP Plan are planned for fiscal year 2012.

(b) Executive Incentive Plan – Cash

80% of the STI target for senior executives (other than the CFO) will continue to be allocated to the Executive Incentive Plan. The maximum payout is 300% of target.

The existing 'Payout Matrix' will continue to be used in fiscal year 2012, although the matrix will incorporate indexing for changes in new housing starts, the US repair and remodel market and pulp prices. Other factors such as legacy costs and exchange rate movements will also be excluded.

The Board has approved a Payout Matrix for each business unit. Each Payout Matrix includes a range of Return Measure and Growth Measure targets. The actual amount earned will be determined by the actual earnings and sales growth results for each business unit, and the corporate result will be based on the combined results of all of the business units. Strong returns on one measure at the expense of the other measure may result in lower, or nil, reward.

All senior executives, including the CEO, will have a goal based on the corporate result.

The Board will have discretion to change the payout under the Payout Matrix if growth relative to market is below expectations and the Board determines that the reason for such performance is outside management's control or as a result of a management decision endorsed by the Board given an assessment of market circumstances at the time.

No other changes in the operation of the Executive Incentive Plan are planned for fiscal year 2012.

The Board believes that the Executive Incentive Program and Payout Matrix are appropriate for the reasons set out in sections 2.4 and 3.3.1(b) of this Remuneration report.

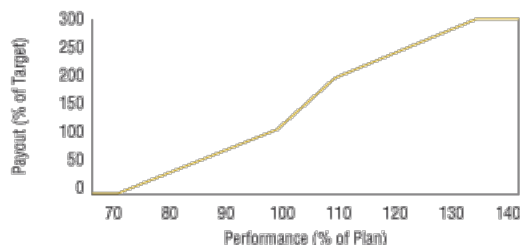
(c) LTI Transferred to STI – Hybrid RSUs

The company intends to continue to transfer 40% of LTI target for senior executives to an STI target, with an award based on fiscal year 2012 performance payable in two-year deferred Hybrid RSUs subject to the Scorecard, and vesting and converting to shares in June 2014. The maximum payout will remain at 300% of target.

The retention of the 40% transfer of target LTI to STI reflects the Board's continued concerns about the lack of stability in the US housing market as well as emphasising continued profitability as the company seeks to attain its primary demand growth objectives. The EBIT performance targets for the Hybrid RSUs are based on historical results. Achievement of a target payout in Hybrid RSUs will require improvement on the average performance for fiscal years 2009 to 2011, indexed to housing starts and pulp prices.

The Hybrid RSUs will then be subject to negative discretion of the Board based on the Scorecard in June 2014 (ie the number of Hybrid RSUs which are to vest and convert to shares may be reduced, depending on the rating received under the Scorecard). The Scorecard for the Hybrid RSUs will be the same as in fiscal year 2011, except that the 'Zero-to-Landfill' objective will be expanded to a broader 'Manufacturing Efficiency Reset' objective.

All senior executives, including the CEO, will have the same corporate level EBIT goal. The EBIT achievement will have the following potential payout slope:



Before the Hybrid RSUs vest and convert to shares, the Board will assess each senior executive's contribution to the long-term objectives set out in the Scorecard and provide each of them with a rating of between 0 and 100. Depending on this rating, between 0% and 100% of the senior executive's Hybrid RSUs will vest. In effect, the Scorecard applies a "holdback and forfeiture" principle to ensure short-term results in fiscal year 2012 are not obtained at the expense of long-term sustainability.

All other elements of the Hybrid RSUs in fiscal year 2012 will be the same as in fiscal year 2011.

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Calculation of the Hybrid RSUs in June 2012 and June 2014 is described below:



¹ Amount of LTI target received as Hybrid RSUs in the absence of long-term quantitative financial measures

The Board believes that the Hybrid RSUs are appropriate for the reasons set out in section 3.3.1(c) of this Remuneration report.

4.3.2 Long-Term Incentive

In previous remuneration reports the Board has stated that the CEO's LTI target remains below target levels compared to US peers and that further adjustments will be required to bring the LTI target in line with the Board's policy. For fiscal year 2012, the CEO's LTI target will increase by \$300,000 to \$3,100,000.

(a) Relative TSR RSUs

It is currently intended that there will be no changes in the operation of Relative TSR RSUs or in the peer group of companies for fiscal year 2012.

The Board considered whether re-testing continued to be appropriate for Relative TSR RSUs, and determined that it is, given short-term price fluctuations in the price of the company's shares.

The maximum that can be received will remain at 300% of the LTI target allocated to Relative TSR RSUs.

(b) Scorecard LTI

Other than replacing the 'Zero-to-Landfill' objective with the 'Manufacturing Efficiency Reset' objective, it is currently intended that there will be no changes to the operation of Scorecard LTI for fiscal year 2012.

The maximum that can be received will remain at 300% of the LTI target allocated to Scorecard LTI.

Further details of the Relative TSR RSUs and Hybrid RSUs for fiscal year 2012 will be set out in the 2011 AGM Notice of Meeting.

4.4 Fixed Remuneration

No significant changes to Fixed Remuneration are planned for fiscal year 2012.

5. REMUNERATION TABLES FOR SENIOR EXECUTIVES

5.1 Total Remuneration for Senior Executives for the Years Ended 31 March 2011 and 31 March 2010

Details of the remuneration of the senior executives in fiscal year 2011 and 2010 are set out below:

(US dollars)			Primary	Post-employment	Equity	Other	
Name	Base Pay	Bonuses ¹	Noncash Benefits ²	Superannuation and 401(k) Benefits	Equity Awards ³	Relocation Allowances, Expatriate Benefits, and Other Non-recurring	Total
<i>L. Gries</i>							
Fiscal Year 2011	\$ 944,137	\$ 948,342	\$ 50,948	\$ 17,072	\$ 5,075,476	\$ 599,8064	\$ 7,635,781
Fiscal Year 2010	936,860	1,688,832	471,208	12,999	3,744,250	174,510	7,028,659
<i>R. Chenu</i>							
Fiscal Year 2011	828,3345	255,494	85,570	78,812	867,564	132,740	2,248,514
Fiscal Year 2010	738,463	320,148	83,728	66,462	607,122	185,971	2,001,894
<i>R. Cox⁶</i>							
Fiscal Year 2011	436,206	397,801	33,613	19,037	1,224,965	38,143	2,149,765
Fiscal Year 2010	450,000	245,699	74,721	14,700	606,351	156,807	1,548,278
<i>M. Fisher</i>							
Fiscal Year 2011	438,596	200,803	28,401	15,986	755,725	–	1,439,511
Fiscal Year 2010	384,169	382,303	33,098	12,842	536,472	–	1,348,884
<i>N. Rigby</i>							
Fiscal Year 2011	472,663	204,204	24,413	–	765,132	–	1,466,412
Fiscal Year 2010	397,558	406,711	24,228	–	536,472	–	1,364,969
Total Compensation for Senior Executives							
Fiscal Year 2011	3,119,936	2,006,644	222,945	130,907	8,688,862	770,689	14,939,983
Fiscal Year 2010	2,907,050	3,043,693	686,983	107,003	6,030,667	517,288	13,292,684

¹ Bonuses in respect of each fiscal year are paid in June of the following fiscal year. The amounts in fiscal years 2011 and 2010 include all incentive amounts accrued in respect of each fiscal year, pursuant to the terms of the applicable plans and any additional one-off discretionary bonuses paid. In addition, since the amount reported each year is an estimated accrual, fiscal year 2010's bonus amounts include any adjustments to the 2009 bonus amounts previously reported to the extent necessary to reflect the actual bonus paid. Senior executives were paid fiscal year 2010 bonuses in performance shares. Refer to section 3 of this remuneration report for a summary of the terms of our Variable Remuneration plans.

² Includes the aggregate amount of all noncash benefits received by the executive in the year indicated. Examples of noncash benefits that may be received by executives include medical and life insurance benefits, car allowances, membership in executive wellness programs, long service leave, and tax services.

³ Includes grants of Scorecard LTI awards, Relative TSR and Hybrid RSUs. Relative TSR RSUs are valued using the Monte Carlo simulation method. Hybrid RSUs and Scorecard LTI awards are valued based on JHI SE's share price at each balance date. The fair value of equity awards granted are included in compensation during the period in which the equity awards vest.

⁴ Includes a one-off non-cash charge to recognise gross up and tax paid on fiscal year 2010's bonus during secondment to The Netherlands.

⁵ R Chenu's base salary is paid in A\$ and a significant amount of this increase is as a result of changes in the A\$:US\$ exchange rate.

⁶ A number of R Cox's RSUs and Scorecard LTI were forfeited during fiscal year 2011. Under US GAAP accounting standards the company was required to record a non-cash cost in relation to the forfeiture.

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5.2 Equity Holdings for the Years Ended 31 March 2011 and 2010

(a) Options

Name	Grant Date	Exercise Price per right (A\$)	Holding at 1 April 2010	Granted	Total Value at Grant ¹ (US\$)	Vested	Exercised	Value at Exercise per right ² (US\$)	Lapsed	Value at Lapse per right ³ (US\$)	Holding at 31 March 2011	Weighted Average Fair Value per right ⁴
Senior Executives												
Louis Gries	3-Dec-026	\$ 6.4490	325,000	325,000	\$ 210,633	325,000	-	-	-	-	325,000	\$ 0.6481
	5-Dec-035	\$ 7.0500	325,000	325,000	\$ 338,975	325,000	-	-	-	-	325,000	\$ 1.0430
	22-Nov-056	\$ 8.5300	1,000,000	1,000,000	\$ 2,152,500	-	-	-	1,000,000	-	-	\$ 2.1525
	21-Nov-067	\$ 8.4000	415,000	415,000	\$ 888,100	415,000	-	-	-	-	415,000	\$ 2.1400
	21-Nov-067	\$ 8.4000	381,000	381,000	\$ 1,131,570	381,000	-	-	-	-	381,000	\$ 2.9700
	29-Aug-077	\$ 7.8300	445,000	445,000	\$ 965,650	445,000	-	-	-	-	445,000	\$ 2.1700
	29-Aug-077	\$ 7.8300	437,000	437,000	\$ 1,302,260	437,000	-	-	-	-	437,000	\$ 2.9800
Russell Chenu	22-Feb-055	\$ 6.3000	93,000	93,000	\$ 107,973	93,000	-	-	-	-	93,000	\$ 1.1610
	22-Nov-056	\$ 8.5300	90,000	90,000	\$ 193,725	-	-	-	90,000	-	-	\$ 2.1525
	21-Nov-067	\$ 8.4000	65,000	65,000	\$ 139,100	65,000	-	-	-	-	65,000	\$ 2.1400
	21-Nov-067	\$ 8.4000	60,000	60,000	\$ 178,200	36,000	-	-	-	-	60,000	\$ 2.9700
	29-Aug-077	\$ 7.8300	68,000	68,000	\$ 130,200	68,000	-	-	-	-	68,000	\$ 2.1700
	29-Aug-077	\$ 7.8300	66,000	66,000	\$ 178,800	36,960	-	-	-	-	66,000	\$ 2.9800
Robert Cox	-	-	-	-	-	-	-	-	-	-	-	-
Mark Fisher	17-Dec-01	\$ 5.0586	68,283	68,283	\$ 28,904	68,283	68,283	1,7114	-	-	-	\$ 0.4233
	3-Dec-02	\$ 6.4490	74,000	74,000	\$ 47,959	74,000	-	-	-	-	74,000	\$ 0.6481
	5-Dec-03	\$ 7.0500	132,000	132,000	\$ 137,676	132,000	-	-	-	-	132,000	\$ 1.0430
	14-Dec-04	\$ 5.9900	180,000	180,000	\$ 183,276	180,000	-	-	-	-	180,000	\$ 1.0182
	1-Dec-05	\$ 8.9000	190,000	190,000	\$ 386,137	190,000	-	-	-	-	190,000	\$ 2.0323
	21-Nov-06	\$ 8.4000	158,500	158,500	\$ 291,069	158,500	-	-	-	-	158,500	\$ 1.8364
	10-Dec-07	\$ 6.3800	277,778	277,778	\$ 275,064	277,778	-	-	-	-	277,778	\$ 0.9903
Nigel Rigby	17-Dec-01	\$ 5.0586	20,003	20,003	\$ 8,467	20,003	-	-	-	-	20,003	\$ 0.4233
	3-Dec-02	\$ 6.4490	27,000	27,000	\$ 17,499	27,000	-	-	-	-	27,000	\$ 0.6481
	5-Dec-03	\$ 7.0500	33,000	33,000	\$ 34,419	33,000	-	-	-	-	33,000	\$ 1.0430
	14-Dec-04	\$ 5.9900	180,000	180,000	\$ 183,276	180,000	-	-	-	-	180,000	\$ 1.0182
	1-Dec-05	\$ 8.9000	190,000	190,000	\$ 386,137	190,000	-	-	-	-	190,000	\$ 2.0323
	21-Nov-06	\$ 8.4000	158,500	158,500	\$ 291,069	158,500	-	-	-	-	158,500	\$ 1.8364
	10-Dec-07	\$ 6.3800	277,778	277,778	\$ 275,084	277,778	-	-	-	-	277,778	\$ 0.9903

(b) RSUs

Name	Grant Date	Holding at 1 April 2010	Granted	Total Value at Grant (US\$)	Vested	Lapsed	Holding at 31 March 2011	Weighted Average Fair Value per unit
Senior Executives								
Louis Gries	15-Sep-08 ⁸	201,324	201,324	\$ 746,107	201,324	–	–	\$ 3,7060
	15-Sep-08 ⁹	558,708	558,708	\$ 1,592,318	–	–	558,708	\$ 2,8500
	29-May-09	487,446	487,446	\$ 2,100,892	–	–	487,446	\$ 3,3650
	15-Sep-09 ⁹	234,900	234,900	\$ 1,653,696	–	–	234,900	\$ 5,0100
	11-Dec-09 ⁹	81,746	81,746	\$ 670,317	–	–	81,746	\$ 6,9100
	07-Jun-10 ¹¹	–	360,267	\$ 2,604,730	–	–	360,267	\$ 5,9477
	15-Sep-10 ⁹	–	577,255	\$ 3,428,895	–	–	577,255	\$ 4,4965
Russell Chenu	15-Sep-08 ⁹	108,637	108,637	\$ 309,615	–	–	108,637	\$ 2,8500
	29-May-09	94,781	94,781	\$ 408,506	–	–	94,781	\$ 3,3650
	15-Sep-09 ⁹	45,675	45,675	\$ 321,552	–	–	45,675	\$ 5,0100
	11-Dec-09 ⁹	15,895	15,895	\$ 130,339	–	–	15,895	\$ 6,9100
	07-Jun-10 ¹¹	–	70,052	\$ 506,476	–	–	70,052	\$ 5,9477
	15-Sep-10 ⁹	–	72,157	\$ 428,613	–	–	72,157	\$ 4,4965
Robert Cox	15-Sep-08 ⁹	155,196	155,196	\$ 442,309	–	62,504	92,692	\$ 2,8500
	29-May-09	135,402	135,402	\$ 583,583	–	61,580	73,822	\$ 3,3650
	15-Sep-09 ⁹	65,250	65,250	\$ 459,360	–	65,250	–	\$ 5,0100
	11-Dec-09 ⁹	22,707	22,707	\$ 186,197	–	22,707	–	\$ 6,9100
	07-Jun-10 ¹¹	–	100,074	\$ 723,535	–	96,788	3,286	\$ 5,9477
Mark Fisher	17-Jun-08 ¹⁰	36,066	36,066	\$ 144,625	–	–	36,066	\$ 4,0100
	17-Dec-08 ⁹	116,948	116,948	\$ 268,980	–	–	116,948	\$ 2,3000
	29-May-09	77,548	77,548	\$ 334,232	–	–	77,548	\$ 3,3650
	15-Sep-09 ⁹	39,150	39,150	\$ 275,616	–	–	39,150	\$ 5,0100
	11-Dec-09 ⁹	13,624	13,624	\$ 111,717	–	–	13,624	\$ 6,9100
	07-Jun-10 ¹¹	–	60,044	\$ 434,118	–	–	60,044	\$ 5,9477
	15-Sep-10 ⁹	–	67,003	\$ 397,998	–	–	67,003	\$ 4,4965
Nigel Rigby	17-Jun-08 ¹⁰	36,066	36,066	\$ 44,625	–	–	36,066	\$ 4,0100
	17-Dec-08 ⁹	116,948	116,948	\$ 268,980	–	–	116,948	\$ 2,3000
	29-May-09	77,548	77,548	\$ 334,232	–	–	77,548	\$ 3,3650
	15-Sep-09 ⁹	39,150	39,150	\$ 275,616	–	–	39,150	\$ 5,0100
	11-Dec-09 ⁹	13,624	13,624	\$ 111,716	–	–	13,624	\$ 6,9100
	07-Jun-10 ¹¹	–	60,044	\$ 434,118	–	–	60,044	\$ 5,9477
	15-Sep-10 ⁹	–	72,157	\$ 428,613	–	–	72,157	\$ 4,4965

¹ Total Value at Grant = Weighted Average Fair Value per right multiplied by number of rights granted.

² Value at Exercise/right = Value Market Value of a share of the company's stock at Exercise less the Exercise price per right.

³ Value at Lapse/right = Fair Market Value of a share of the company's stock at Lapse less the Exercise price per right.

⁴ Weighted Average Fair Value per right is estimated on the date of grant using the Black-Scholes option-pricing model or Monte Carlo option pricing method, depending on the plan the options were issued under.

⁵ Options granted under 2001 JHI SE Equity Incentive Plan. See section 7, page 58 for summary of key terms of options granted.

⁶ Options granted under 2005 Managing Board Transitional Stock Option Plan. See section 7, page 60 for summary of key terms of options granted.

⁷ Options granted under James Hardie Industries Long-Term Incentive Plan 2006 (LTIP). See section 7, pages 59-60 for summary of key terms of options granted.

⁸ Deferred Bonus RSUs granted under Deferred Bonus Program and LTIP. See section 7, page 61 for key terms of Deferred Bonus RSUs.

⁹ Relative TSR RSUs granted under LTIP. See section 7, page 59 for key terms of Relative TSR RSUs.

¹⁰ Deferred Bonus RSUs granted under Deferred Bonus Program and 2001 JHI SE Equity Incentive Plan.

¹¹ Hybrid RSUs (formerly Executive Incentive Plan RSUs) granted under LTIP. See Section 7, Page 60 for key terms of Hybrid RSUs.

REMUNERATION REPORT

(CONTINUED)

(c) Scorecard LTI

Name	Grant Date	Holding at 1 April 2010	Granted	Vested	Lapsed	Holding at 31 March 2011
Senior Executives						
Louis Gries	21-Jun-09	483,294	483,294	–	–	483,294
	29-Jun-10	–	442,424	–	–	442,424
Russell Chenu	21-Jun-09	93,974	93,974	–	–	93,974
	29-Jun-10	–	55,303	–	–	55,303
Robert Cox	21-Jun-09	134,248	134,248	–	88,315	45,933
	29-Jun-10	–	–	–	–	–
Mark Fisher	21-Jun-09	80,549	80,549	–	–	80,549
	29-Jun-10	–	51,353	–	–	51,353
Nigel Rigby	21-Jun-09	80,549	80,549	–	–	80,549
	29-Jun-10	–	55,303	–	–	55,303

5.3 Senior Executive's Relevant Interests in JHISE

Changes in senior executives' relevant interests in JHI SE securities between 1 April 2010 and 31 March 2011 are set out below:

	CUFS at 1 April 2010	CUFS at 31 March 2011	Options at 1 April 2010	Options at 31 March 2011	RSUs at 1 April 2010	RSUs at 31 March 2011
Louis Gries	259,875	298,543	3,328,000	2,328,000	1,564,124	2,300,322
Russell Chenu	35,000	55,990	442,000	352,000	264,988	407,197
Robert Cox	–	48,621	–	–	378,555	169,800
Mark Fisher	29,519	96,519	1,080,561	1,012,278	283,336	410,383
Nigel Rigby	–	73,792	886,281	886,281	283,336	415,537

5.4 Stock Ownership Guidelines

The Remuneration Committee believes that senior executives should hold James Hardie stock to further align their interests with those of the company's shareholders. The company has adopted stock ownership guidelines for senior executives which require them to accumulate the following holdings in the company over a period of five years from 1 April 2009:

Position	Multiple of base salary
Chief Executive Officer	3x
Chief Financial Officer and General Counsel	1.5x
Other senior executives	1x

Until the guideline has been achieved, a senior executive is required to retain at least 75% of shares obtained under the company's long-term equity incentive plans, by exercising of options or vesting of the RSUs (net of taxes and other costs).

The CEO and two other senior executives held the number of shares required to comply with the stock ownership guidelines during fiscal year 2011. However, even after the stock ownership guidelines have been achieved, senior executives are required to retain at least 25% of shares issued under the company's long-term equity incentive plans as a result of exercise of options or vesting of RSUs (net of taxes and other costs).

Details of the company's policy regarding employees hedging James Hardie shares or grants under various equity incentive plans are set out on page 68 of the Corporate Governance Report within this annual report.

5.5 Loans

The company did not grant loans to senior executives during fiscal year 2011. There are no loans outstanding to senior executives.

REMUNERATION REPORT

(CONTINUED)

6. EMPLOYMENT CONTRACTS

Remuneration and other terms of employment for the CEO, CFO and General Counsel and certain other senior executives are formalised in employment contracts. The main elements of these contracts are set out below.

6.1 CEO's Employment Contract

Details of the terms of the CEO's employment contract are as follows:

Components	Details
Length of contract	Indefinite. The CEO is an 'at-will' employee.
Base salary	US\$950,000 for fiscal year 2011 and 2012. Salary reviewed annually by the Board and there will be no base salary increase for fiscal year 2012.
Short-term incentive	Annual STI target is 125% of annual base salary for fiscal year 2011 and 2012. The quantum of STI target is reviewed annually by the Board in May. The Remuneration Committee recommends the company's and CEO's performance objectives, and the performance against these objectives, to the Board for approval. The CEO's short-term incentive is calculated under the Executive Incentive Plan and the IP Plan.
Long-term incentive	On the approval of shareholders, stock options or other equity incentive will be granted each year. The recommended number of options or other form of equity to be granted will be appropriate for this level of executive in the US. For fiscal year 2012, the LTI target will be US\$3.1 million.
Defined Contribution Plan	The CEO may participate in the US 401(k) defined contribution plan up to the annual US Internal Revenue Service (IRS) limit. The company will match the CEO's contributions into the plan up to the annual IRS limit.
Resignation	The CEO may cease employment with the company by providing written notice. If the CEO retires with the approval of the Board then his unvested RSUs and awards will not be forfeited and will be held until the next test date.
Termination by James Hardie	The company may terminate the CEO's employment for cause or not for cause. If the company terminates the CEO's employment, not for cause, or the CEO terminates his employment "for good reason" the company will pay the following: (a) amount equivalent to 1.5 times the CEO's annual base salary at the time of termination; and (b) amount equivalent to 1.5 times the CEO's average STI actually paid in up to the previous three fiscal years as CEO; and (c) continuation of health and medical benefits at the company's expense for the duration of the consulting agreement referenced below; and
Post-termination Consulting	The company will request the CEO, and the CEO will agree, to consult to the company upon termination for a minimum of two years, as long as the CEO maintains the Company's non-compete and confidentiality agreements and executes a release of claims following the effective date of termination. Under the consulting agreement, the CEO will receive the annual base salary and annual target incentive in exchange for this consulting and non-compete. Under the terms of equity incentive grants made to the CEO under the LTIP, the CEO's outstanding options will not expire during any post-termination consulting period. In addition, in the event of an agreed separation or agreed retirement, his unvested restricted stock units and awards will not be automatically forfeited. This arrangement is a standard arrangement for US executives and the Board considers that it is an appropriate restraint for Mr Gries given his intimate involvement in developing the company's fibre cement business in the United States over the past 20 years.

6.2 CFO's Employment Contract

Details of the CFO's employment contract are as follows:

Components	Details
Length of contract	Fixed period concluding 5 October 2012.
Base salary	A\$900,279 for fiscal year 2011. Salary reviewed annually by the Board in May.
Short-term incentive	Annual STI target is 33% of annual base salary as set out in the CFO's employment contract, based on personal goals. The CFO does not participate in the Executive Incentive Program for his short-term incentive.
Long-term incentive	The CFO will receive stock options or other long-term equity with performance hurdles each year. The value of equity to be granted will be equivalent to at least US\$350,000.
Superannuation	The CFO is entitled to superannuation contributions equal to 9% of his base salary. The contribution to the CFO's superannuation fund will be the maximum contribution currently allowed by law (A\$50,000), with the balance paid to the CFO.
Resignation or Termination	The company or CFO may cease the CFO's employment with the company by providing three months' notice in writing.
Redundancy or diminution of role	If the position of CFO is determined to be redundant or subject to a material diminution in status, duties or responsibility, the company or the CFO may terminate the CFO's employment. The company will pay the CFO a severance payment equal to the greater of 12 months' pay or the remaining proportion of the term of the contract.

REMUNERATION REPORT

(CONTINUED)

6.3 Benefits contained in contracts for CEO, CFO and General Counsel

In fiscal year 2011, and until we moved our corporate domicile to Ireland, the CEO, CFO and General Counsel were on international assignment in The Netherlands. During the time of their international assignment, the employment contracts for the CEO, CFO and General Counsel also specified the benefits listed below. The CFO continues to receive these benefits during the term of his assignment in the US:

International Assignment	Additional benefits due to international assignment: housing allowance, expatriate Goods and Services allowance, moving and storage.
Other	<p>Tax Equalisation: The company covers the extra personal tax burden imposed by residency in The Netherlands.</p> <p>Tax Advice: The company will pay the costs of filing income tax returns in The Netherlands.</p> <p>Health, Welfare and Vacation Benefits: Eligible to receive all health, welfare and vacation benefits offered to all US employees, or similar benefits. The CEO was also eligible to participate in the company's Executive Health and Wellness program.</p> <p>Business Expenses: Entitled to receive reimbursement for all reasonable and necessary travel and other business expenses incurred or paid for in connection with the performance of their services under their employment agreements.</p> <p>Automobile: The company will either purchase or lease an automobile for business and personal use, or, in the alternative, they will be entitled to an automobile equivalent to the level of vehicle they could receive in the US.</p>

6.4 Other senior executives' employment contracts

Details of employment contracts for senior executives are as follows:

Components	Details
Length of contract	Indefinite.
Base salary	Base salary is subject to Remuneration Committee approval and reviewed annually in May.
Short-term incentive	An annual STI target is set at a percentage of the senior executive's salary. The STI target is between 60% and 65% and reviewed annually.
Long-term incentive	Upon the approval of the Board, awards of Scorecard LTI awards and grants of Relative TSR and Hybrid RSUs may be made under the LTIP plan.
Defined Contribution Plan	US senior executives may participate in the US 401(k) defined contribution plan up to the annual IRS limit. The company will match the senior executive's contributions into the plan up to the annual IRS limit.
Resignation	The senior executive may cease employment with the company by providing 30 days' written notice.
Termination by James Hardie	The company may terminate the senior executive's employment for cause or not for cause. Other than the post-termination consulting arrangement discussed below for a termination without cause or a resignation for good reason, no other termination payments are payable, except as required under the terms of the applicable STI or LTI plans.
Post-termination Consulting	Depending on the senior executive's individual contract, and the reasons for termination, the company may request the senior executive, and the senior executive will agree, to consult to the company for two years upon termination, as long as they sign and comply with 1) a consulting agreement, which will require them to maintain non-compete and confidentiality obligations to the company, and 2) a release of claims in a form acceptable to the company. In exchange for the consulting agreement, the company shall pay the senior executive's annual base salary as of the termination date for each year of consulting.
Other	<p>Health, Welfare and Vacation Benefits: Eligible to receive all health, welfare and vacation benefits offered to all US employees and also eligible to participate in the company's Executive Health and Wellness program.</p> <p>Business Expenses: The senior executives are entitled to receive reimbursement for all reasonable and necessary travel and other business expenses incurred or paid in connection with the performance of services under their employment.</p> <p>Automobile: The company will either lease an automobile for business and personal use by the senior executive, or, in the alternative, the executive will be entitled to an automobile lease allowance not to exceed US\$750 per month.</p>

7. KEY TERMS OF EQUITY GRANTS

7.1 Outstanding Equity Grants

2001 JHI SE Equity Incentive Plan (Options)	Annual option grants made in December 2001, 2002, 2003, 2004 and 2005, November 2007 and December 2007. Off-cycle grants made to new employees in March 2007.
Offered to	General management, not Managing Board directors ¹ (all awards were granted while JHI SE was domiciled in The Netherlands).
Vesting schedule	25% of options vest on the 1st anniversary of the grant, 25% vest on the 2nd anniversary date and 50% vest on the 3rd anniversary date.
Expiration date	10th anniversary of each grant.

2001 JHI SE Equity Incentive Plan (RSUs)	Annual grants made in December 2008, 2009 and 2010. RSUs replaced options as the company's grant vehicle in 2008.
Offered to	Senior employees other than senior executives.
Vesting schedule	25% of RSUs vest on the 1st anniversary of the grant, 25% vest on the 2nd anniversary date and 50% vest on the 3rd anniversary date.
Expiration date	RSUs convert to shares on vesting on a one-for-one basis.
James Hardie Industries Long Term Incentive Plan 2006 (LTIP) Option Grants	Options granted on 21 November 2006 and 29 August 2007. Grants were divided into two tranches: Return on Capital Employed (which we refer to as "ROCE") and TSR.
Offered to	Managing Board directors.
Performance period	Three years to five years from the grant date.
Retesting	Yes, for the TSR tranche only, on the last Business Day of each six-month period following the 3 rd Anniversary and before the 5th Anniversary.
Exercise period	Until ten years from the grant date.
Performance condition	<p><i>For the ROCE tranche:</i></p> <p>ROCE performance against the following global peer group of building materials companies in US, Europe and Australia specialising in building materials: Boral Limited, Valspar Corporation, Hanson plc, Rinker Group Limited (2006 grant only), Weyerhaeuser, Lafarge SA, CSR Limited, Cemex SA de CV, Nichiha Corp, Fletcher Building Limited, Martin Marietta Materials Inc, Saint Gobain, Eagle Materials Inc, Texas Industries, Wienerberger AG, Louisiana-Pacific Corporation, Florida Rock Industries Inc, CRH plc, USG Corporation, Vulcan Materials Co and The Siam Cement Plc.</p> <p><i>For the TSR tranche:</i></p> <p>TSR performance against a peer group of comparable companies in the S&P/ASX 100 at the time of grant excluding financial institutions, insurance companies, property trusts, oil and gas producers and mining companies, and adjusted to account for additions and deletions to S&P/ASX 100 during the relevant period.</p>
Vesting criteria	<p><i>For the ROCE tranche:</i></p> <ul style="list-style-type: none"> - 0% vesting if ROCE below 60th percentile of peer group. - 50% vesting if ROCE at 60th percentile of peer group. - Between the 60th and 85th percentiles, vesting on a straight line basis. - 100% vesting if ROCE is at 85th percentile of peer group. <p><i>For the TSR tranche:</i></p> <ul style="list-style-type: none"> - 0% vesting if TSR below 50th percentile of peer group. - 50% vesting if TSR at 50th percentile of peer group. - Between 50th and 75th percentiles, vesting on a straight line basis. - 100% vesting if TSR is at 75th percentile of peer group.
Vesting to date	To date, the 2006 and 2007 grant ROCE tranche options vested 100%, the 2006 TSR tranche options have vested 60% and the 2007 TSR tranche options have vested 56%. No options have been exercised.
James Hardie Industries Long Term Incentive Plan 2006 (Relative TSR RSUs) (RSUs)	Relative TSR RSUs granted September and December 2008 and 2009 and September 2010.
Offered to	Senior executives and Managing Board directors (1).
Performance period	Three years to five years from the grant date.
Retesting	Yes, on the last Business Day of each six month period following three years from grant date and before five years from grant date.
Exercise period	Until five years from the grant date.
¹ The Managing Board was dissolved on 17 June 2011 following completion of JHISE's re-domicile to Ireland.	

REMUNERATION REPORT

(CONTINUED)

Performance condition	TSR performance hurdle compared to the following peer group of companies: Acuity Brands, Inc., Eagle Materials, Inc, Headwaters, Inc, Lennox International, Inc, Louisiana-Pacific Corp., Martin Marietta Materials, Inc, Masco Corporation, MDU Resources Group, Inc, Mueller Water Products, Inc, NCI Building Systems, Inc, Owens Corning, Quanex Building Products Corp., Sherwin Williams, Simpson Manufacturing Co., Texas Industries, Inc, Trex, USG, Valmont Industries, Valspar Corporation, Vulcan Materials and Watsco, Inc. For 2010 onwards, the TSR performance hurdle peer group companies also include American Woodmark Corp, Apogee Enterprises, Inc, Armstrong World Enterprises, Inc, Fortune Brands, Inc, Interface, Inc, Mohawk Industries, Inc and PGT Inc.
Vesting criteria	<ul style="list-style-type: none"> – 0% vesting if TSR below 50th percentile of peer group. – 33% vesting if TSR at 50th percentile of peer group. – Between 50th and 75th percentile, vesting is on a straight line basis. – 100% vesting if TSR is at 75th percentile of peer group.
RSU exercise price	Not applicable.
Expiration date	RSUs convert to shares on vesting on a one-for-one basis.
James Hardie Industries Long Term Incentive Plan 2006 (Hybrid RSUs) (Previously referred to as Executive Incentive RSUs)	Hybrid RSUs granted June 2010 and 2011.
Offered to	Senior executives and Managing Board directors.
Option Exercise Price	Nil.
Vesting schedule (2010 grant only)	A proportion will vest on the 2nd anniversary of the grant depending on each senior executive's Scorecard rating between 0 and 100.
Expiration date	RSUs convert to shares on vesting on a one-for-one basis.
James Hardie Industries Long Term Incentive Plan 2006 Scorecard LTI (Cash Awards)	Cash-settled Awards granted June 2009, 2010 and 2011
Offered to	Senior executives.
Option Exercise Price	Nil.
Performance period	Three years from the grant date.
Payment schedule	A cash payment based on the company's share price at the end of the performance period multiplied by the number of shares that could have been acquired at the start of the performance period and the senior executive's Scorecard rating. A proportion of the payment will be payable on the 3 rd anniversary of the grant depending on each senior executive's Scorecard rating between 0 and 100.
Expiration date	Three years from the grant date.
7.2 Equity grants which vested or lapsed in fiscal year 2011	
2005 Managing Board Transitional Stock Option Plan (MBTSOP) (Options)	Options granted on 22 November 2005.
Offered to	Managing Board directors.
Performance period	22 November 2005 to 22 November 2008.
Retesting	Yes, on the last Business Day of each six-month period following the 3 rd anniversary and before the 5th anniversary.
Exercise period	Not applicable, as all options have lapsed.
Performance condition Vesting criteria	<p>TSR compared to a peer group of companies in the S&P/ASX 200 Index on the grant date excluding the companies in the 200 Financials and 200 A-REIT GICS sector indices.</p> <ul style="list-style-type: none"> – 0% vesting if TSR below 50th percentile of peer group. – 50% vesting if TSR at 50th percentile of peer group. – Between 50th and 75th percentiles, vesting on a straight line basis. – 100% vesting if TSR is at least 75th percentile of peer group.
Vested/Lapsed	Lapsed with no options vesting.

2001 JHI SE Equity Incentive Plan Deferred Bonus Program (RSUs)	One-off grant of RSUs to senior executives made 17 June 2008.
	Grant to CEO made 15 September 2008 under James Hardie Industries Long Term Incentive Plan 2006.
Offered to	Senior executives.
RSU exercise price	Nil.
Vesting schedule	100% vest on the 2nd anniversary of the grant.
Expiration date	The RSUs vested and converted into shares granted on a one-for-one basis.
James Hardie Industries Long Term Incentive Plan 2006 Hybrid RSUs (RSUs)	Hybrid RSUs granted June 2009.
Offered to	Senior executives and Managing Board directors (1).
Option Exercise Price	Nil.
Vesting schedule (2009 grant only)	100% vest on the 2nd anniversary of the grant.
Expiration date	The RSUs vested and converted into shares granted on a one-for-one basis.

Further details of equity incentive plans that expired during fiscal year 2011 are provided in Note 16 to the consolidated financial statements starting on page 99 of this annual report.

8. REMUNERATION FOR NON-EXECUTIVE DIRECTORS

Fees paid to non-executive directors are determined by the Board, with the advice of the Remuneration Committee's independent external remuneration advisers, within the maximum total amount approved by shareholders from time to time. The current aggregate fee pool of US\$1,500,000 was approved by shareholders in 2006.

Additional Board fees are not paid to executive Board directors.

8.1 Remuneration Structure

Non-executive directors are paid a base fee for service on the Board. Additional fees are paid to the person occupying the positions of Chairman, Deputy Chairman and Board Committee Chairman and to members of the Due Diligence Committee (discussed below). All directors' fees are paid in cash.

During fiscal year 2011, the Remuneration Committee reviewed non-executive directors' fees, using market data and taking into consideration the level of fees paid to chairmen and directors of companies with similar size, complexity of operations and responsibilities, and workload requirements. As a result of the review, the Remuneration Committee recommended increasing non-executive director fees, excluding fees paid to Committee Chairs, by 5% effective 1 April 2011.

The fees paid in fiscal year 2011, and payable in fiscal year 2012 are:

(US \$) Role	Fiscal year 2011	Fiscal year 2012
Chairman	\$ 315,000	\$ 330,750
Deputy Chairman	\$ 183,750	\$ 192,938
Board member	\$ 136,500	\$ 143,325
Audit Committee Chairman	\$ 20,000	\$ 20,000
Remuneration or Nominating and Governance Committee Chairman	\$ 10,000	\$ 10,000

During fiscal year 2009, the Board formed the Due Diligence Committee, comprised of representatives from the Board and management. This committee was formed to assist the Board with reviewing and considering alternative proposals to move the company's domicile.

Non-executive directors who attended meetings of the Due Diligence Committee received fees of US\$1,500 per meeting, and the Chairman received fees of \$3,000 per meeting, in addition to their base fee. The Due Diligence Committee met three times in fiscal year 2011 as part of the completion of the Company's Re-domicile.

As the focus of the Board is on the long-term direction and well-being of James Hardie, there is no direct link between non-executive directors' remuneration and the short-term results of the company.

8.2 Board Accumulation Policy

Non-executive directors are expected to accumulate a minimum of 1.5 times (and two times for the Chairman) their total base remuneration (excluding Board Committee fees) in JHI SE shares (either personally, in the name of their spouse, or through a personal superannuation or pension plan) over a reasonable time following their appointment. The Remuneration Committee monitors non-executive directors' progress against this policy on a periodic basis.

8.3 Supervisory Board Share Plan

Under the Supervisory Board Share Plan 2006 (which we refer to as the "SBSP"), non-executive directors could elect to receive some of their annual fees in JHI SE shares. The complexity of the four different jurisdictions in which the company's individual directors are resident means that it is easier for most directors to directly acquire shares to meet the Board Accumulation Policy. As a result, the SBSP has been discontinued.

8.4 Director Retirement Benefits

The company does not provide any benefits for our non-executive Board directors upon termination of employment.

REMUNERATION REPORT

(CONTINUED)

8.5 Total Remuneration for Non-Executive Directors for the Years Ended 31 March 2011 and 31 March 2010

The table below sets out the remuneration for those directors who served on the Board during the fiscal years ended 31 March 2011 and 31 March 2010:

(US dollars)	Primary	Equity		
Name	Directors' Fees ¹	JHI SE Stock ²	Other Benefits ³	Total
<i>M. Hammes</i>				
Fiscal Year 2011	\$ 316,500	\$ –	\$ 6,065	\$ 322,565
Fiscal Year 2010	221,000	85,000	10,641	316,641
<i>D. McGauchie</i>				
Fiscal Year 2011	193,750	–	1,659	195,409
Fiscal Year 2010	185,000	–	2,428	187,428
<i>B. Anderson</i>				
Fiscal Year 2011	159,500	–	1,005	160,505
Fiscal Year 2010	155,000	10,000	8,290	173,290
<i>D. Dilger⁴</i>				
Fiscal Year 2011	154,019	–	2,431	156,450
Fiscal Year 2010	75,000	–	1,784	76,784
<i>D. Harrison</i>				
Fiscal Year 2011	146,500	–	1,456	147,956
Fiscal Year 2010	130,000	10,000	10,000	150,000
<i>J. Osborne</i>				
Fiscal Year 2011	138,000	–	2,483	140,483
Fiscal Year 2010	127,500	10,000	990	138,490
<i>R. van der Meer</i>				
Fiscal Year 2011	136,500	–	1,264	137,764
Fiscal Year 2010	120,000	10,000	–	130,000
Total Compensation for Non-Executive Directors				
Fiscal Year 2011	\$ 1,244,769	\$ –	\$ 16,363	\$1,261,132
Fiscal Year 2010	1,013,500	125,000	34,133	1,172,633

¹ Amount includes base, Chairman, Deputy Chairman, Committee Chairman and Due Diligence Committee attendance fees.

² The Supervisory Board Share Plan (SBSP) was discontinued for fiscal year 2011. For fiscal year 2010, the actual amount spent by each Board member was determined after deducting applicable Dutch taxes from this amount. The number of JHI SE shares acquired was determined by dividing the amount of participation in the SBSP by the market purchase price. Refer to section 8.3 for further details about the SBSP.

³ Other Benefits includes the cost of non-executive directors' fiscal compliance in The Netherlands and other costs connected with Board-related events.

⁴ Mr. Dilger was appointed as a director effective September 2, 2009. The amounts for fiscal year 2011 include \$17,519 fees paid for service on a number of the Company's subsidiary boards, as approved by the Board.

8.6 Non-Executive Directors' Interests in JHISE

Changes in non-executive directors' relevant interests in JHI SE securities between 1 April 2010 and 31 March 2011 are set out below:

	Number of Shares/CUFS At 1 April 2010	On market Purchases	Number of Shares/CUFS at 31 March 2011
Michael Hammes	32,847 ¹	–	32,847
Donald McGauchie	25,372 ²	–	25,372
Brian Anderson	7,635	–	7,635
David Dilger	25,000 ³	–	25,000
David Harrison	12,384 ⁴	–	12,384
James Osborne	2,551	–	2,551
Rudy van der Meer	17,290	–	17,290

¹ 9,000 shares/CUFS held as ADRs.

² 6,000 shares held for the McGauchie Superannuation Fund.

³ 25,000 shares held for the David Dilger Approved Retirement Fund for which Mr Dilger is a beneficiary.

⁴ 10,000 shares held as ADRs.

CORPORATE GOVERNANCE

These Corporate Governance Principles describe the corporate governance arrangements that have been followed by James Hardie from the commencement of the fiscal year 2011 and contain an overview of our corporate governance framework, developed and approved by the Nominating and Governance Committee and, on its recommendation, adopted by the Board in June 2011.

On 17 June 2010, we completed Stage 2 of a proposal to move our corporate domicile from The Netherlands to Ireland, and as a result James Hardie Industries SE moved its corporate seat to Ireland (which we refer to as the "Re-domicile").

Where applicable, these Corporate Governance Principles indicate the changes in the Company's governance arrangements as a result of implementing the Re-domicile. References to the Board are references to the Supervisory Board prior to completion of the Re-domicile, and to the single Board following completion of the Re-domicile.

These Corporate Governance Principles, as well as our Articles of Association, Board and Board Committee charters and key company policies, as updated from time to time, are available from the Investor Relations area of our website (www.jameshardie.com) or by requesting a printed copy from the Company Secretary at the Company's head office at 2nd Floor, Europa House, Harcourt Centre, Harcourt Street, Dublin 2, Ireland.

CORPORATE GOVERNANCE AT JAMES HARDIE

OVERVIEW

James Hardie operates under the regulatory requirements of numerous jurisdictions and organisations, including the ASX, ASIC, the NYSE, the US SEC, the Irish Takeover Panel and various other rulemaking bodies.

In addition, prior to completing Stage 2 of the Re-domicile, we were also subject to the jurisdiction of the Dutch Authority Financial Markets and the Dutch Corporate Governance Code.

James Hardie's corporate governance framework is reviewed regularly and updated as appropriate to reflect what we believe is in our and our stakeholders' interests, changes in law and current best practices.

Our corporate governance framework incorporates processes and policies designed to provide the Board with appropriate assurance about the operations and governance of the Company and thereby protect shareholder value. Further details of these processes and policies are set out in this report.

BOARD STRUCTURE

The responsibilities of our Board and Board Committees are formalised in our Articles of Association and our Board Committee charters, respectively. The Board has also reserved certain matters to itself.

Number of Boards

Since completion of Stage 2 of the Re-domicile, the Company has had a single Board.

However, prior to the completion of the Re-domicile, James Hardie had a two-tiered board structure, consisting of a Supervisory Board and a Managing Board.

Single Board

The Board comprises seven non-executive directors and the CEO. The Board must have no less than three and not more than twelve directors, as determined by the Board.

Board directors may be elected by our shareholders at general meetings or by the Board if there is a vacancy. The Board and our shareholders have the right to nominate candidates for the Board. Board directors may be dismissed by our shareholders at a general meeting.

Irish law provides that the Board is responsible for the management and operation of James Hardie. The Board can, and has, delegated authority to the CEO to manage the corporation within specified authority levels. The Board has also reserved certain matters to itself, including:

- appointing, removing and assessing the performance and remuneration of the CEO and CFO;
- succession planning for the Board and senior management and defining the Company's management structure and responsibilities;
- approving the overall strategy for the Company, including the business plan and annual operating and capital expenditure budgets;
- convening and monitoring the operation of shareholder meetings and approving matters to be submitted to shareholders for their consideration;
- approving annual and periodic reports, results announcements and related media releases, and notices of shareholder meetings;
- approving the dividend policy and interim dividends and making recommendations to shareholders regarding the annual dividend;
- reviewing the authority levels of the CEO and management;
- approving the remuneration framework for the Company;
- overseeing corporate governance matters for the Company;
- approving corporate-level Company policies;
- considering management's recommendations on various matters which are above the authority levels delegated to the CEO or management; and
- any other matter which the Board considers ought to be approved by the Board.

The full list of those matters reserved to the Board are formalised in our Board reserved powers charter, which is available on our website (www.jameshardie.com, select Investor Relations, Corporate Governance, then Board Powers).

In discharging its duties, the Board aims to take into account the interests of James Hardie, its enterprise (including the interests of its employees), shareholders, other stakeholders and other parties involved in or with James Hardie.

SUPERVISORY BOARD

The Supervisory Board was in existence until 17 June 2010, when it was replaced by the single Board. It comprised only non-executive directors, with at least two members or a higher number as determined by the Supervisory Board.

The Supervisory Board supervised and provided advice to the Managing Board, and was responsible for, amongst other matters:

- nominating Managing Board directors for election by shareholders;
- appointing and removing the CEO and the Chairman of the Managing Board;

- approving Managing Board decisions relating to specified matters or above agreed thresholds;
 - approving the strategic plan and annual budget proposed by the Managing Board;
-

CORPORATE GOVERNANCE

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- approving the annual financial accounts;
- supervising the policy and actions of the Managing Board;
- supervising the general course of affairs of James Hardie and the business it operates;
- approving issues of new shares;
- approving declaration of dividends;
- approving any share buy-back programs and cancelling the shares bought back;
- approving any significant changes in the identity or nature of the Company;
- approving the strategy set by the Managing Board;
- monitoring Company performance; and
- maintaining effective external disclosure policies and procedures.

MANAGING BOARD

The Managing Board was in existence until 17 June 2010, when it ceased to exist and the CEO joined the single Board. It comprised only executive directors, with at least two members or such higher number as determined by the Supervisory Board.

The Managing Board was accountable to the Supervisory Board and to the shareholders for the day-to-day management of the Company, including:

- administering the Company's general affairs, operations and finance;
- preparing a strategic plan and budget setting out operational and financial objectives, implementation strategy and parameters for the Company for the next three years, for approval by the Supervisory Board;
- ensuring the implementation of the Company's strategic plan;
- preparing quarterly and annual accounts, management reports and media releases;
- monitoring the Company's compliance with all relevant legislation and regulations and managing the risks associated with the Company's activities;
- reporting and discussing the Company's internal risk management and control systems with the Supervisory Board and the Audit Committee; and
- representing, entering into and performing agreements on behalf of the Company.

OPERATION OF THE BOARD

BOARD MEETINGS

The Board meets at least four times a year or whenever the Chairman or three or more members have requested a meeting.

Meetings are generally held at the Company's offices in Ireland (and in The Netherlands prior to completion of the Re-domicile). At each physical meeting, the Board meets in executive session without management present for at least part of the meeting. The Board may also delegate some of its powers to a sub-committee of the Board or pass resolutions by written consent.

The number of Board and Board Committee meetings held, and each director's attendance during the fiscal year, is set out below:

Name	Board		Audit		Remuneration		Nominating & Governance		Managing Board	
	H	A	H	A	H	A	H	A	H	A
Hammes	7	7	8	8	6	6	5	5	–	–
Anderson	7	7	8	8	6	6	–	–	–	–
Dilger	7	7	8	8	3	3	–	–	–	–
Harrison	7	7	8	8	6	6	–	–	–	–
McGauchie	7	7	–	–	6	6	5	5	–	–
Osborne	7	7	–	–	–	–	5	5	–	–
Van der Meer	7	7	–	–	–	–	5	5	–	–
Gries	7	7	–	–	–	–	–	–	4	4
Chenu	–	–	–	–	–	–	–	–	4	4
Cox	–	–	–	–	–	–	–	–	4	4

H = Number of meetings held during the time the Director held office or was a member of the Committee during the fiscal year.

A = Number of meetings attended during the time the Director held office or was a member of the Committee during the fiscal year. Non-Committee members also attend Committee meetings from time to time; these attendances are not shown.

DIRECTOR QUALIFICATIONS

Directors have skills, qualifications, experience and expertise which assist the Board to fulfill its responsibilities and assist the Company to create shareholder value. The skills, qualifications, experience and relevant expertise of each director, and his or her term of appointment, are summarised above in the Board of Directors biography section and also appear in the Investor Relations area of our website (www.jameshardie.com).

Directors must be able to devote a sufficient amount of time to prepare for, and effectively participate in, Board and Board Committee meetings.

The Nominating and Governance Committee reviews the other commitments of Board members each year.

SUCCESSION PLANNING

The Board, together with the Nominating and Governance Committee, has developed, and periodically reviews with the CEO, management succession plans, policies and procedures for our CEO and other senior executives.

The Board and Nominating and Governance Committee have also spent significant time over the past years considering the appropriate composition of the Board.

During the year, the Board and Nominating and Governance Committee considered the desired profile of the Board, including the right number, mix of skills, qualifications, experience, expertise, diversity and geographic location of its directors, to maximise the effectiveness of the Board.

RETIREMENT AND TENURE POLICY

The Company does not have a retirement and tenure policy. The length of tenure of individual Board directors is considered as part of the Board's decision-making process when considering whether a director should be recommended by the Board for re-election.

BOARD EVALUATION

The Nominating and Governance Committee supervises the director evaluation process and makes recommendations to the Board. During fiscal year 2011, a purpose-designed survey was used by directors to self-assess the operation of the Board and each Board Committee, and the results were reviewed and discussed by the Nominating and Governance Committee and the Board.

The Chairman discussed with each Board director, and the Deputy Chairman discussed with the Chairman, his performance and contribution to the effectiveness of the Board. The Nominating and Governance Committee and the Board discuss annually the performance of the CEO and the CEO's direct reports, and the Chairman provides that feedback to the CEO. The CEO uses the feedback as part of an annual review of his direct reports.

DIRECTOR RE-ELECTION

The Board's overriding desire is to maximise its effectiveness by appointing the best candidates for vacancies and closely reviewing the performance of directors subject to re-election.

No director (other than the CEO) shall hold office for a continuous period of more than three years, or past the end of the third Annual General Meeting (AGM) following his or her appointment, whichever is longer, without submitting him or herself for re-election. A person appointed to the Board must submit him or herself for re-election at the next AGM.

Directors are not automatically nominated for re-election at the end of their term. Nomination for re-election is based on their individual performance and the Company's needs. The Nominating and Governance Committee and the Board discuss in detail the performance of each director due to stand for re-election at the next AGM before deciding whether to recommend their re-election.

Because the Company is a European SE company, the CEO is required to stand for re-election every six years as long as he remains as the CEO. The Company believes this policy is appropriate (having regard to Australian practice under the rules of the ASX) as it supports the continuity of management performance.

INDEPENDENCE

The Company requires the majority of directors on the Board and Board Committees, as well as the Chairman of the Board and Board Committees, to be independent, unless a greater number is required to be independent under the rules and regulations of the ASX, the NYSE or any other applicable regulatory body.

Each year the Board, together with the Nominating and Governance Committee, assesses each Board director and his or her responses to a lengthy questionnaire on matters relevant to his or her independence according to the rules and regulations of Irish law, the NYSE and SEC as well as the Corporate Governance Council Principles and Recommendations published by the ASX Corporate Governance Council (the Principles and Recommendations). Following this assessment, the Board has determined that each Board director is independent.

All directors are expected to bring their independent views and judgment to the Board and Board Committees and must declare any potential or actual conflicts of interest. The Board has not set materiality thresholds for assessing independence and considers all relationships on a case-by-case basis, considering the accounting standards' approach to materiality and the rules and regulations of the applicable exchange or regulatory body.

The Board considered the following specific matters prior to determining that each director was independent:

- Brian Anderson is a director of Pulte Homes, a home builder in the United States. Pulte Homes does not buy any James Hardie products directly from the Company, although it does buy a small amount of James Hardie products through the Company's customers and receives a rebate from James Hardie in respect of those purchases;
- Rudy van der Meer was until 1 January 2011 a member of the Supervisory Board of ING Bank Nederland N.V. and ING Verzekeringen (Insurance) Nederland N.V. Entities in the ING Group provide financial services to the Company. In each case those entities were providing these services to the Company prior to Mr van der Meer becoming a Board director; and
- David Dilger is a director of a number of James Hardie's subsidiaries and receives directors' fees for such service approved by the Board of James Hardie Industries SE.

Any transactions mentioned above were conducted on an arms-length basis and in accordance with normal terms and conditions and were not material to any of the companies listed above or to James Hardie. Each of these relationships, other than Mr Dilger's service as a director of a number of James Hardie's subsidiaries, existed and was disclosed before the person in question became a Board director. It is not considered that these directors had any influence over these transactions.

INDUCTION

The Company has an induction program for new directors, which was reviewed and updated during the fiscal year. The program includes an overview of the Company's governance arrangements and directors' duties in Ireland, the United States and Australia, plant and market tours to impart relevant industry knowledge, briefings on the Company's risk management and control framework, financial results and key risks and issues, and meeting other Board directors, the CEO and members of management. New directors are provided with comprehensive orientation materials including relevant corporate documents and policies.

CORPORATE GOVERNANCE

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BOARD CONTINUING DEVELOPMENT

The Company operates within a complex industry, geographical and regulatory framework. The Company regularly schedules time at physical Board meetings to develop the Board's understanding of the Company's operations and regulatory environment, including updates on topical developments from management and external experts. An annual plant and market tour forms an important part of the Board's continuing development.

LETTER OF APPOINTMENT

Each incoming Board director receives a letter of appointment setting out the key terms and conditions of his or her appointment and the Company's expectations of them in that role. We do not provide any benefits for our Board non-executive directors upon termination of employment.

CHAIRMAN

The Board appoints one of its members as the Chairman. The Chairman must be an independent, non-executive director. The Chairman appoints the Deputy Chairman. The Chairman co-ordinates the Board's duties and responsibilities and acts as the main contact with the CEO.

The Chairman:

- provides leadership to the Board;
- chairs Board and shareholder meetings;
- facilitates Board discussion;
- monitors, evaluates and assesses the performance of the Company's Board and Board Committees; and
- is a member of and attends meetings of all Board Committees.

The Chairman may not also be the Chairman of the Audit Committee. The current Chairman is Mr Hammes and the current Deputy Chairman is Mr McGauchie.

REMUNERATION

A detailed description of the Company's remuneration policies for directors and executives, and the link to performance, is set out in the Remuneration Report above.

INDEMNIFICATION

The Company's Articles of Association provide for indemnification of any person who is (or keep indemnified any person who was) a Board director, the company secretary, or an employee or any other person deemed by the Board to be an agent of the Company, who suffers any loss as a result of any action in discharge of their duties, provided they acted in good faith in carrying out their duties. This indemnification will generally not be available if the person seeking indemnification acted with gross negligence or willful misconduct in performing their duties.

The Company and some of its subsidiaries have provided Deeds of Access, Insurance and Indemnity to Board directors and senior executives who are officers or directors of the Company or its subsidiaries.

EVALUATION OF MANAGEMENT

At least once a year, the CEO, the Remuneration Committee and the Board review the performance of each member of the Group Management Team against agreed performance measures. The CEO uses this feedback to assist in the annual review of members of the Group Management Team. This process was followed during the fiscal year.

INFORMATION FOR THE BOARD

Board directors receive timely and necessary information to allow them to fulfill their duties, including access to senior executives if required. The Nominating and Governance Committee periodically reviews the format, timeliness and content of information provided to the Board.

In discharging their duties, Board directors are provided with direct access to senior executives and outside advisors and auditors. The Board, Board Committees and individual directors may all seek independent professional advice at the Company's expense for the proper performance of their duties.

The Board has regular discussions with the CEO regarding the Company's strategy and performance, including two sessions each year where Board members formally review the Company's strategy and progress. The Board and each Board Committee have also scheduled an annual calendar of topics to be covered to assist them to properly discharge all of their responsibilities.

Board directors receive a copy of all Board Committee papers for physical meetings and may attend any Board Committee meeting, whether or not they are members of the Board Committee. Board directors also receive the minutes which record each Board Committee's deliberations and findings, as well as oral reports from each Board Committee Chairman.

DELEGATION TO THE CEO

The Board has delegated to the CEO the power to manage the business of the Company to achieve the mission statements and corporate goals approved by the Board from time to time. This delegation is subject to a specified monetary cap for a range of matters, above which Board approval is required.

BOARD COMMITTEES

The Board Committees are generally committees of the Board and comprise the Audit Committee, the Nominating and Governance Committee and the Remuneration Committee. The Board Committee charters are available from the Investor Relations area of our website (www.jameshardie.com). The Board may also delegate some of its powers or specific decisions to ad hoc committees from time to time.

Each Board Committee meets at least quarterly and has scheduled an annual calendar of meeting and discussion topics to assist it to properly discharge all of its responsibilities.

AUDIT COMMITTEE

The Audit Committee oversees the adequacy and effectiveness of the Company's accounting and financial policies and controls. The key aspects of the terms of reference followed by our Audit Committee are set out in this report. The Audit Committee meets at least quarterly in a separate executive session with the external auditor and internal auditor, respectively.

Currently, the members of the Audit Committee are Mr Anderson (Chairman), Mr Dilger, Mr Hammes and Mr Harrison.

All members of the Audit Committee must be financially literate and must have sufficient business, industry and financial expertise to act effectively as members of the Audit Committee. At least one member of the Audit Committee shall be an "audit committee financial expert" as determined by the Nominating and Governance Committee and the Board in accordance with the SEC rules. These may be the same person. The Nominating and Governance Committee and the Board have determined

that Mr Anderson, Mr Harrison and Mr Dilger are “audit committee financial experts.”

The Audit Committee provides advice and assistance to the Board in fulfilling its responsibilities and, amongst other matters:

- overseeing the Company’s financial reporting process and reports on the results of its activities to the Board;
- reviewing with management and the external auditor the Company’s annual and quarterly financial statements and reports to shareholders;
- discussing earnings releases as well as information and earnings guidance provided to analysts;
- reviewing and assessing the Company’s risk management policies and procedures;
- having general oversight of the appointment and provision of all external audit services to the Company, the remuneration paid to the external auditor, and the performance of the Company’s internal audit function;
- reviewing the adequacy and effectiveness of the Company’s internal compliance and control procedures;
- reviewing the Company’s compliance with legal and regulatory requirements; and
- establishing procedures for complaints regarding accounting, internal accounting controls and auditing matters, including any complaints from whistleblowers.

Conflicts of Interest

The Audit Committee oversees the Company’s Code of Business Conduct and Ethics policy and other business-related conflict of interest issues as they arise.

Reporting

The Audit Committee will inform the Board of any general issues that arise with respect to the quality or integrity of the Company’s financial statements, the Company’s compliance with legal or regulatory requirements, the Company’s risk management systems, the performance and independence of the external auditor, or the performance of the internal audit function.

NOMINATING AND GOVERNANCE COMMITTEE

The Nominating and Governance Committee is responsible for:

- identifying and recommending to the Board individuals qualified to become Board directors;
- overseeing the evaluation of the Board and senior management;
- assessing the independence of each Board director;
- reviewing the conduct of the AGM; and
- performing a leadership role in shaping the Company’s corporate governance policies.

The current members of the Nominating and Governance Committee are Mr McGauchie (Chairman), Mr Hammes, Mr Osborne and Mr van der Meer.

REMUNERATION COMMITTEE

The Remuneration Committee oversees the Company’s overall remuneration structure, policies and programs; assesses whether the Company’s remuneration structure establishes appropriate incentives for management and employees; and approves any significant changes in the Company’s remuneration structure, policies and programs. It also:

- administers and makes recommendations on the Company’s incentive compensation and equity-based remuneration plans;
- reviews the remuneration of Board directors;
- reviews the remuneration framework for the Company;
- makes recommendations to the Board on the Company’s recruitment, retention and termination policies and procedures for senior management.

Members of the Remuneration Committee must qualify as “non-employee directors” for purposes of Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the Exchange Act), and “outside directors” for purposes of Section 162(m) of the US Internal Revenue Code.

Further details on the role of the Remuneration Committee are disclosed in the Remuneration Report above.

The current members of the Remuneration Committee are Mr Harrison (Chairman), Mr Anderson, Mr Dilger, Mr Hammes and Mr McGauchie.

POLICIES AND PROCESSES

As noted at the start of this report, we have a number of policies that address key aspects of our corporate governance. These include:

- Code of Business Conduct and Ethics;
- Ethics Hotline;
- Continuous Disclosure and Market Communication; and
- Insider Trading.

Copies of all these policies are available in the Investor Relations area of our website (www.jameshardie.com).

CODE OF BUSINESS CONDUCT AND ETHICS

We seek to maintain high standards of integrity and we are committed to ensuring that James Hardie conducts its business in accordance with high standards of ethical behaviour. We require our employees to comply with the spirit and the letter of all laws and other statutory requirements governing the conduct of James Hardie’s activities in each country in which we operate. Our Code of Business Conduct and Ethics applies to all of our employees and directors. The Code of Business Conduct and Ethics covers many aspects of Company policy that govern compliance with legal and other responsibilities to stakeholders. All directors and Company employees worldwide are reminded annually of the existence of the Code and asked to confirm that they have read it. The Audit Committee reviewed and revised the Code of Business Conduct and Ethics policy during the fiscal year.

We have not granted any waivers from the provisions of our Code of Business Conduct and Ethics during fiscal year 2011.

COMPLAINTS/ETHICS HOTLINE

CORPORATE GOVERNANCE

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questions regarding violations of the policy. James Hardie has a telephone Ethics Hotline operated by an independent external provider which allows employees to report anonymously any concerns. All Company employees worldwide are reminded annually of the existence of the Ethics Hotline.

All complaints, whether to the Ethics Hotline or otherwise, are initially reported directly to the General Counsel and Director of Internal Audit (except in cases where the complaint refers to one of them). The most serious complaints are referred immediately to the Chairmen of the Audit Committee and Board. Less serious complaints are reported to the Audit Committee on a quarterly basis.

Interested parties who have a concern about James Hardie's conduct, including accounting, internal accounting controls or audit matters, may communicate directly with the Company's Chairman (or Presiding Director for NYSE purposes), Deputy Chairman, Board directors as a group, the Chairman of the Audit Committee or Audit Committee members. These communications may be confidential or anonymous, and may be submitted in writing to the Company Secretary at the Company's head office at 2nd Floor, Europa House, Harcourt Centre, Harcourt Street, Dublin 2, Ireland or submitted by phone at Telephone +353 (0)1 411 6924. All concerns will be forwarded to the appropriate Board directors for their review and will be simultaneously reviewed and addressed by our General Counsel in the same way that other concerns are addressed. Our Code of Business Conduct and Ethics policy, which is described above, prohibits any employee from retaliating or taking any adverse action against anyone for raising or helping to resolve a concern about integrity.

CONTINUOUS DISCLOSURE AND MARKET COMMUNICATION

We strive to comply with all relevant disclosure laws and listing rules in Australia (ASX and ASIC) and the United States (SEC and NYSE).

Our Continuous Disclosure and Market Communication Policy aims to ensure timely communications so that investors can readily:

- understand James Hardie's strategy and assess the quality of its management;
- examine James Hardie's financial position and the strength of its growth prospects; and
- receive any news or information that might reasonably be expected to materially affect the price or market for James Hardie securities.

The CEO is responsible for ensuring the Company complies with our continuous disclosure obligations. A Disclosure Committee comprised of the CEO, CFO, General Counsel and the Vice President – Investor and Media Relations is responsible for all decisions regarding our market disclosure obligations outside of the Company's normal financial reporting calendar. For our quarterly and annual results releases, the CEO and CFO are supported by the Financial Statements Disclosure Committee, which provides assurance regarding our compliance with reporting processes and controls. The CEO, CFO and General Counsel discuss with the Audit Committee any issues arising out of meetings of the Financial Statements Disclosure Committee that affect the quarterly and annual results releases before they are approved by the Board. The Audit Committee reviewed the Company's disclosure practices under the Continuous Disclosure and Market Communication policy and revised the policy during the fiscal year.

SHARE TRADING

All Company employees and directors are subject to our Insider Trading Policy. Company employees and directors may only buy or sell the Company's securities within four weeks beginning two days after the announcement of quarterly or full year results, or another period designated by the Board for this purpose, provided they are not in possession of material non-public price sensitive information. There are additional restrictions on trading for designated senior employees and directors, including a requirement that they receive prior clearance from the Company's compliance officer before trading or pledging their shares by taking out a margin loan over them, and a general prohibition on hedging or selling any shares or options for shortswing profit. Company employees who are not designated employees may hedge vested options or shares, provided they notify the Company. There is a general prohibition on hedging unvested shares, options or RSUs.

The Board recognises that it is the individual responsibility of each James Hardie director and employee to ensure he or she complies with the spirit and the letter of insider trading laws and that notification to the compliance officer in no way implies approval of any transaction.

The Audit Committee reviewed the Company's share trading approval practices under the Insider Trading policy and revised the policy during the fiscal year.

RISK MANAGEMENT

OVERALL RESPONSIBILITY

The Audit Committee and the Board reviewed our risk management processes during the fiscal year.

The Audit Committee has oversight of the Company's risk management policies, procedures and controls. The Audit Committee reviews, monitors and discusses these matters with the CEO, CFO, General Counsel and Director of Internal Audit. The Audit Committee, CEO, CFO and General Counsel report periodically to the Board on the Company's risk management policies, processes and controls.

The Audit Committee is supported in its oversight role by the policies put in place by management to oversee and manage material business risks, as well as the roles played by the Corporate, US and Asia Pacific Risk Management Committees, as described below, and internal and external audit functions. The internal and external audit functions are separate from and independent of each other and each has a direct reporting line to the Audit Committee.

At a management level, the GMT (comprising in fiscal year 2011 the CEO, CFO, General Counsel, Executive General Manager USA, Executive General Manager International and the Vice President of Investor and Media Relations) is the primary management forum for risk assessment and management within the Company.

OBJECTIVE

The Company considers that a sound framework of risk management policies, procedures and controls produces a system of risk oversight, risk management and internal control that is fundamental to good corporate governance and creation of shareholder value. The objective of the Company's risk management policies, procedures and controls is to ensure that:

- our risk management systems are effective;
- our principal strategic, operational and financial risks are identified;
- effective systems are in place to monitor and manage risks; and

CORPORATE GOVERNANCE

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- reporting systems, internal controls and arrangements for monitoring compliance with laws and regulations are adequate.

Risk management does not involve avoiding all risks. The Company's risk management policies seek to strike a balance between ensuring that the Company continues to generate financial returns and simultaneously manages risks appropriately by setting appropriate strategies and objectives.

POLICIES FOR MANAGEMENT OF MATERIAL BUSINESS RISKS

Management has put in place a number of key policies, processes and independent controls to provide assurance as to the integrity of our systems of internal control and risk management. In addition to the measures described elsewhere in this report, the more significant policies, processes or controls adopted by the Company for oversight and management of material business risks are:

- quarterly meetings of the corporate, US and Asia Pacific Risk Management Committees to assess the key strategic, operations, reporting and compliance risks facing the Company, the level of risk and the processes implemented to manage each of these key risks over the upcoming twelve months;
- quarterly reporting to the GMT, Audit Committee, and annual reporting to the Board, of the Risk Management Committees' assessment regarding the key strategic, operations, reporting and compliance risks facing the Company;
- a program for the Audit Committee to review in detail each year all items identified by the Risk Management Committees as high level risks;
- meetings of the Financial Statements Disclosure Committee to review all quarterly and annual results;
- a planning process involving the preparation of three-year strategic plans and a rolling twelve month forecast;
- annual budgeting and monthly reporting to monitor performance;
- an internal audit department with a reporting line direct to the Chairman of the Audit Committee;
- regular monitoring of the Company's liquidity and status of finance facilities;
- maintaining an appropriate insurance program;
- maintaining policies and procedures in relation to treasury operations, including the use of financial derivatives;
- issuing and revising standards and procedures in relation to environmental and health and safety matters;
- implementing and maintaining training programs in relation to legal issues such as trade practices/antitrust, trade secrecy, and intellectual property protection;
- issuing procedures requiring significant capital and recurring expenditure to be approved at the appropriate levels; and
- documenting detailed accounting policies, procedures and guidance for the group in a single group finance manual.

A summary of these policies, processes and controls is available in the Investor Relations area of our website (www.jameshardie.com).

During the fiscal year, the Audit Committee and, through it, the Board received a number of reports on the operation and effectiveness of the policies, processes and controls described in this section. This included a review of the Company's current compliance programs and disclosure controls and processes, how they compare with best practices and the steps proposed by management to continue cultivating the Company's risk management culture.

RISK MANAGEMENT COMMITTEE

During the fiscal year, the Risk Management Committee was divided into three separate committees, one for Corporate, one for the US business and one for the non-US business, to allow each committee to focus on individual risks in greater detail. Each Committee comprises a cross-functional group of employees and reviews and monitors the risks facing the Company in their area of responsibility. The Risk Committees are coordinated by the Director of Internal Audit and report on a quarterly basis to the GMT. The Risk Committees also provide quarterly reports to the Audit Committee on the procedures in place for identifying, monitoring, managing and reporting on the principal strategic, operational, financial and legal risks facing the Company.

INTERNAL AUDIT

The Director of Internal Audit heads the internal audit department. The Internal Audit charter sets out the independence of the internal audit department, its scope of work, responsibilities and audit plan. The internal audit department's workplan is approved annually by the Audit Committee. The Director of Internal Audit reports to the Chairman of the Audit Committee and meets quarterly with the Audit Committee and Board in executive sessions.

EXTERNAL AUDIT

The external auditor reviews each quarterly and half-year consolidated financial statements and audits the full year consolidated financial statements. The external auditor attends each meeting of the Audit Committee, including an executive session where only members of the Audit Committee and Board directors are present. The Audit Committee has approved policies to ensure that all non-audit services performed by the external auditor, including the amount of fees payable for those services, receive prior approval. The Audit Committee also reviews the remuneration paid to the external auditor and makes recommendations to the Board regarding the maximum compensation to be paid to the external auditor.

The Audit Committee reviews and approves management representations made to the external auditor as part of the audit of the full year results.

FINANCIAL STATEMENTS DISCLOSURE COMMITTEE

The Financial Statements Disclosure Committee is a management committee comprising senior finance, accounting, compliance, legal, tax, treasury and investor relations executives in the Company, which meets with the CEO, CFO and General Counsel prior to the Board's consideration of any quarterly or annual results. The Financial Statements Disclosure Committee is a forum for the CEO, CFO and General Counsel to discuss, and, on the basis of those discussions, report to the Audit Committee, about a range of risk management procedures, policies and controls, covering the draft results materials, business unit financial performance and the current status of legal, tax, treasury, accounting, compliance, internal audit, complaints and disclosure control matters.

CEO AND CFO CERTIFICATION OF FINANCIAL REPORTS

Under SEC rules and the Company's internal control arrangements, our CEO and CFO provide certain certifications with respect to our full year financial statements, disclosure controls and procedures and internal controls over financial reporting. These certifications are more comprehensive and detailed than those required under the Australian Corporations Act and are considered appropriate given that the Company's financial reports are prepared in accordance with US GAAP.

The Board in turn receives quarterly assurance from the Financial Statements Disclosure Committee relating to the Company's disclosure controls and procedures and internal controls over financial reporting. This assurance is supported by written quarterly and annual sub-certifications from the General Managers and Chief Financial Officers of each business unit, the Director Treasury and the Corporate Controller and the annual certifications from the Group Management Team.

INTERNAL CONTROLS AND SOX 404

Each fiscal year, the members of the GMT, and key members of the Company's business and corporate functions, complete an internal control certificate that seeks to confirm that adequate internal controls are in place and are operating effectively, and evaluate any failings and weaknesses.

MANAGEMENT'S ANNUAL REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES**

We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) as of the end of the period covered by this report. In designing and evaluating our disclosure controls and procedures, our management recognises that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives and are subject to certain limitations, including the exercise of judgment by individuals, the difficulty in identifying unlikely future events, and the difficulty in eliminating misconduct completely. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, our disclosure controls and procedures were effective at a reasonable assurance level as of 31 March 2011, to ensure the information required to be disclosed in the reports that we file or submit under the Exchange Act were recorded, processed, summarised and reported within the time periods specified in the rules and forms of the SEC and that such information was accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, to allow for timely decisions regarding required disclosures.

MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) of the Exchange Act. Because of its inherent limitations, internal control over financial reporting may not prevent or detect all misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We assessed the effectiveness of our internal control over financial reporting as of 31 March 2011. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control – Integrated Framework*. Based on our assessment using those criteria, we concluded that our internal control over financial reporting was effective as of 31 March 2011.

The effectiveness of our internal control over financial reporting as of 31 March 2011 has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report below.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

There were no changes in our internal controls over financial reporting that occurred during the period covered by this annual report on Form 20-F that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

CORPORATE GOVERNANCE

(CONTINUED)

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of James Hardie Industries SE:

We have audited James Hardie Industries SE's internal control over financial reporting as of 31 March 2011, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). James Hardie Industries SE's management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, James Hardie Industries SE maintained, in all material respects, effective internal control over financial reporting as of 31 March 2011 based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of James Hardie Industries SE as of 31 March 2011 and 2010, and the related consolidated statements of operations, changes in shareholders' deficit, and cash flows for each of the three years in the period ended 31 March 2011, and our report dated 19 May 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Orange County, California
19 May 2011

LIMITATIONS OF CONTROL SYSTEMS

Our management does not expect that our internal risk management and control systems will prevent or detect all error and all fraud. No matter how well it is designed and operated, a control system can provide only reasonable, not absolute, assurance that the control system's objectives will be met.

The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected.

These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls' effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

SHAREHOLDERS' PARTICIPATION

LISTING INFORMATION

James Hardie securities trade as CUF5 on the ASX and as ADSs (which reference American Depositary Shares) on the NYSE.

ANNUAL GENERAL MEETING (AGM)

The 2010 AGM was held in Ireland and simultaneously broadcast to a meeting in Sydney. Shareholders in both locations were able to participate in the meeting, including voting and asking questions.

Each shareholder (other than an ADS holder) has the right to:

- attend the AGM either in person or by proxy;
- speak at the AGM; and
- exercise voting rights, including at the AGM subject to their instructions on the Voting Instruction Form.

While ADS holders cannot vote directly, ADS holders can direct the voting of their underlying shares through the ADS depository.

The external auditor attends the AGM and is available to answer questions.

COMMUNICATION

We are committed to communicating effectively with our shareholders through a program that includes:

- making management briefings and presentations accessible via a live webcast and/or teleconference following the release of quarterly and annual results;
- audio webcasts of other management briefings and webcasts of the annual shareholder meeting;
- a comprehensive Investor Relations website that displays all Company announcements and notices (promptly after they have been cleared by the ASX), major management and investor road show presentations;
- site visits and briefings on strategy for investment analysts;
- an email alert service to advise shareholders and other interested parties of announcements and other events; and
- equality of access for shareholders and investment analysts to briefings, presentations and meetings and equality of media access to the Company, on a reasonable basis.

INVESTOR WEBSITE

We have a dedicated section on corporate governance as part of the Investor Relations area of our website (www.jameshardie.com). Information on this section of the website is progressively updated and expanded to ensure it presents the most up-to-date information on our corporate governance structure. Except where stated, the contents of the website are not incorporated into this annual report.

COMPLIANCE WITH CORPORATE GOVERNANCE REQUIREMENTS

ASX PRINCIPLES AND RECOMMENDATIONS

Listed Australian companies are encouraged to comply with the Principles and Recommendations. Except where otherwise stated, the Company has complied with the Principles and Recommendations for the entire period described in this annual report.

For the benefit of Australian holders, the Investor Relations area of our website (www.jameshardie.com) contains more detail about the ways in which we comply with the Principles and Recommendations.

The Board has discussed the revisions to the Principles and Recommendations, which apply to financial years commencing 1 January 2011. Although we note that companies with a balance date of 30 June 2010 have been encouraged to adopt the policy in advance as part of their 2011 annual reports, James Hardie, which has a balance date of 31 March, will report against the new requirements as part of its 2012 annual report.

NYSE CORPORATE GOVERNANCE RULES

In accordance with the NYSE corporate governance standards, listed companies that are foreign private issuers (which includes James Hardie) are permitted to follow home-country practice in lieu of the provisions of the corporate governance rules contained in Section 303A of the Listed Company Manual, except that foreign private issuers are required to comply with Section 303A.06, Section 303A.11 and Section 303A.12(b) and (c), each of which is discussed below.

Section 303A.06 requires that all listed companies have an Audit Committee that satisfies the requirements of Rule 10A-3 under the Exchange Act.

Section 303A.11 provides that listed foreign private issuers must disclose any significant ways in which their corporate governance practices differ from those followed by US companies under the NYSE listing standards.

Section 303A.12(b) provides that each listed company's CEO must promptly notify the NYSE in writing after any executive officer of the listed company becomes aware of any material non-compliance with any applicable provisions of Section 303A. Section 303A.12(c) provides that

each listed company must submit an executed written affirmation annually to the NYSE about its compliance with the NYSE's corporate governance listing standards and an interim written affirmation to the NYSE as and when required by the interim written affirmation form specified by the NYSE.

James Hardie presently complies with the mandatory NYSE listing standards and many of the non-compulsory standards including, for example, the requirement that a majority of our directors meet the independence requirements of the NYSE. In accordance with Section 303A.11, we disclose in this report, and in our annual report on Form 20-F that is filed with the SEC, any significant ways in which our corporate governance practices differ from those followed by US companies under the NYSE listing standards.

Two ways in which our corporate governance practices differ significantly from those followed by US domestic companies under NYSE listing standards should be noted:

- In the US, an audit committee of a public company is required to be directly responsible for appointing the company's independent registered public accounting firm. Under Irish law, the independent registered public accounting firm is appointed by the shareholders where there is a new appointment, otherwise the appointment is deemed to continue unless the firm retires, is asked to retire or is unable to perform their duties; and
- NYSE rules require each issuer to have an audit committee, a compensation committee (equivalent to a remuneration committee) and a nominating committee composed entirely of independent directors. As a foreign private issuer, we do not have to comply with this requirement. In our case, the Board Committee charters reflect Australian and Irish practices, in that we have a majority of independent directors on these committees, unless a higher number is mandatory. Notwithstanding this difference, our Board has determined that all of the current members of our Audit Committee, Remuneration Committee and Nominating and Governance Committee presently qualify as independent in accordance with the rules and regulations of the SEC and the NYSE.

TAKEOVER RULES AND CONTROL OVER THE COMPANY

James Hardie is subject to Irish takeover laws. The Irish Takeover Rules are built on several General Principles which are set out below. Also, the takeover threshold is set at 30%, meaning that a person (or persons acting in concert) who acquire more than 30% of voting rights must make a mandatory cash bid for all of the shares in the Company:

- All holders of the securities of an offeree of the same class must be afforded equivalent treatment; moreover, if a person acquires control of a company, the other holders of securities must be protected.
 - The holders of the securities of an offeree must have sufficient time and information to enable them to reach a properly informed decision on the offer; where it advises the holders of securities, the board of the offeree must give its views on the effects of implementation of the offer on employment, considerations of employment and the locations of the offeree's places of business.
 - The board of an offeree must act in the interest of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the offer.
 - False markets must not be created in the securities of the offeree, of the offeror or of any other company concerned by the offer in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted.
 - An offeror must announce an offer only after ensuring that he or she can pay in full any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration.
 - An offeree must not be hindered in the conduct of its affairs for longer than is reasonable by any offer for its securities.
 - A substantial acquisition of securities (whether such acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.
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CONSOLIDATED FINANCIAL STATEMENTS

JAMES HARDIE INDUSTRIES SE

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

THE BOARD OF DIRECTORS AND SHAREHOLDERS OF JAMES HARDIE INDUSTRIES SE

We have audited the accompanying consolidated balance sheets of James Hardie Industries SE (formerly "James Hardie Industries N.V. and Subsidiaries") as of 31 March 2011 and 2010, and the related consolidated statements of operations, changes in shareholders' deficit, and cash flows for each of the three years in the period ended 31 March 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of James Hardie Industries SE at 31 March 2011 and 2010, and the consolidated results of its operations and its cash flows for each of the three years in the period ended 31 March 2011 in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), James Hardie Industries SE's internal control over financial reporting as of 31 March 2011, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated 19 May 2011 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Orange County, California
19 May 2011

CONSOLIDATED BALANCE SHEETS

JAMES HARDIE INDUSTRIES SE

	(Millions of US dollars)	
	31 March	
	2011	2010
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 18.6	\$ 19.2
Restricted cash and cash equivalents	0.8	0.6
Restricted cash and cash equivalents – Asbestos	56.1	44.5
Restricted short-term investments – Asbestos	5.8	13.3
Accounts and other receivables, net of allowance for doubtful accounts of \$2.7 million and \$2.3 million as of 31 March 2011 and 31 March 2010, respectively	138.1	155.0
Inventories	161.5	149.1
Prepaid expenses and other current assets	31.6	25.6
Insurance receivable – Asbestos	13.7	16.7
Workers' compensation – Asbestos	0.3	0.1
Deferred income taxes	21.1	24.0
Deferred income taxes – Asbestos	10.5	16.4
Total current assets	458.1	464.5
Restricted cash and cash equivalents	4.5	4.7
Property, plant and equipment, net	707.7	710.6
Insurance receivable – Asbestos	188.6	185.1
Workers' compensation – Asbestos	90.4	98.8
Deferred income taxes	27.3	3.2
Deferred income taxes – Asbestos	451.4	420.0
Deposit with Australian Taxation Office	–	247.2
Other assets	32.6	44.7
Total assets	\$ 1,960.6	\$ 2,178.8
LIABILITIES AND SHAREHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 106.4	\$ 100.9
Current portion of long-term debt	–	95.0
Accrued payroll and employee benefits	40.9	42.1
Accrued product warranties	6.1	6.7
Income taxes payable	3.9	34.9
Asbestos liability	111.1	106.7
Workers' compensation – Asbestos	0.3	0.1
Other liabilities	53.8	27.7
Total current liabilities	322.5	414.1
Long-term debt	59.0	59.0
Deferred income taxes	108.1	113.5
Accrued product warranties	20.1	18.2
Asbestos liability	1,587.0	1,512.5
Workers' compensation – Asbestos	90.4	98.8
Australian Taxation Office – amended assessment	190.4	–
Other liabilities	37.6	80.6
Total liabilities	2,415.1	2,296.7
Commitments and contingencies (Note 13)		
Shareholders' deficit:		
Common stock, Euro 0.59 par value, 2.0 billion shares authorised; 436,386,587 shares issued at 31 March 2011 and 434,524,879 shares issued at 31 March 2010	222.5	221.1
Additional paid-in capital	52.5	39.5
Accumulated deficit	(784.7)	(437.7)
Accumulated other comprehensive income	55.2	59.2
Total shareholders' deficit	(454.5)	(117.9)
Total liabilities and shareholders' deficit	\$ 1,960.6	\$ 2,178.8

The accompanying notes are an integral part of these consolidated financial statements

CONSOLIDATED STATEMENTS OF OPERATIONS

JAMES HARDIE INDUSTRIES SE

(Millions of US dollars, except per share data)	Years Ended 31 March		
	2011	2010	2009
Net sales	\$ 1,167.0	\$ 1,124.6	\$ 1,202.6
Cost of goods sold	(775.1)	(708.5)	(813.8)
Gross profit	391.9	416.1	388.8
Selling, general and administrative expenses	(173.4)	(185.8)	(208.8)
Research and development expenses	(28.0)	(27.1)	(23.8)
Asbestos adjustments	(85.8)	(224.2)	17.4
Operating income (loss)	104.7	(21.0)	173.6
Interest expense	(9.0)	(7.7)	(11.2)
Interest income	4.6	3.7	8.2
Other (expense) income	(3.7)	6.3	(14.8)
Income (loss) before income taxes	96.6	(18.7)	155.8
Income tax expense	(443.6)	(66.2)	(19.5)
Net (loss) income	\$ (347.0)	\$ (84.9)	\$ 136.3
Net (loss) income per share – basic	\$ (0.80)	\$ (0.20)	\$ 0.32
Net (loss) income per share – diluted	\$ (0.80)	\$ (0.20)	\$ 0.31
Weighted average common shares outstanding (Millions):			
Basic	435.6	433.1	432.3
Diluted	435.6	433.1	434.5

The accompanying notes are an integral part of these consolidated financial statements

CONSOLIDATED STATEMENTS OF CASH FLOWS

JAMES HARDIE INDUSTRIES SE

(Millions of US dollars)	Years Ended 31 March		
	2011	2010	2009
Cash Flows From Operating Activities			
Net (loss) income	\$ (347.0)	\$ (84.9)	\$ 136.3
Adjustments to reconcile net (loss) income to net cash provided by (used in) operating activities:			
Depreciation and amortisation	62.9	61.7	56.4
Deferred income taxes	(21.9)	19.2	(58.2)
Pension cost	1.3	0.1	0.7
Stock-based compensation	9.1	7.7	7.2
Asbestos adjustments	85.8	224.2	(17.4)
Tax benefit from stock options exercised	(0.4)	(0.9)	–
Other-than-temporary impairment on investments	–	–	14.8
Changes in operating assets and liabilities:			
Restricted cash and cash equivalents	63.3	14.9	69.0
Restricted short-term investments	9.7	54.4	–
Payment to the AICF	(63.7)	–	(110.0)
Accounts and other receivables	24.9	(30.1)	6.6
Inventories	(8.1)	(12.2)	40.3
Prepaid expenses and other assets	6.3	(48.1)	5.7
Insurance receivable – Asbestos	22.9	14.4	16.5
Accounts payable and accrued liabilities	(7.7)	35.4	(11.4)
Asbestos liability	(97.8)	(91.0)	(91.1)
Deposit with Australian Taxation Office	254.3	(29.3)	(9.9)
ATO settlement payment	–	–	(101.6)
Australian Taxation Office – amended assessment	190.4	–	–
Other accrued liabilities	(37.1)	47.6	0.9
Net cash provided by (used in) operating activities	\$ 147.2	\$ 183.1	\$ (45.2)
Cash Flows From Investing Activities			
Purchases of property, plant and equipment	\$ (50.3)	\$ (50.5)	\$ (26.1)
Proceeds from sale of property, plant and equipment	0.7	–	–
Net cash used in investing activities	\$ (49.6)	\$ (50.5)	\$ (26.1)
Cash Flows From Financing Activities			
Proceeds from short-term borrowings	\$ –	\$ –	\$ 128.8
Repayments of short-term borrowings	–	(93.3)	(125.5)
Proceeds from long-term borrowings	460.0	274.0	431.6
Repayments of long-term borrowings	(555.0)	(350.7)	(375.4)
Proceeds from issuance of shares	4.9	10.1	0.1
Tax benefit from stock options exercised	0.4	0.9	–
Dividends paid	–	–	(34.6)
Net cash (used in) provided by financing activities	\$ (89.7)	\$ (159.0)	\$ 25.0
Effects of exchange rate changes on cash	\$ (8.5)	\$ 3.2	\$ 53.3
Net (decrease) increase in cash and cash equivalents	(0.6)	(23.2)	7.0
Cash and cash equivalents at beginning of period	19.2	42.4	35.4
Cash and cash equivalents at end of period	\$ 18.6	\$ 19.2	\$ 42.4
Components of Cash and Cash Equivalents			
Cash at bank and on hand	\$ 9.5	\$ 13.1	\$ 8.9
Short-term deposits	9.1	6.1	33.5
Cash and cash equivalents at end of period	\$ 18.6	\$ 19.2	\$ 42.4
Supplemental Disclosure of Cash Flow Activities			
Cash paid during the year for interest, net of amounts capitalised	\$ 9.1	\$ 7.4	\$ 7.8
Cash paid during the year for income taxes, net	\$ 38.7	\$ 48.5	\$ 23.2

The accompanying notes are an integral part of these consolidated financial statements

CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' DEFICIT

JAMES HARDIE INDUSTRIES SE

(Millions of US dollars)	Common Stock	Additional Paid-in Capital	Accumulated Deficit	Treasury Stock	Accumulated Other Comprehensive Income	Total
Balances as of 31 March 2008	\$ 219.7	\$ 19.3	\$ (454.5)	\$ (4.0)	\$ 16.9	\$ (202.6)
Comprehensive income:						
Net income	–	–	136.3	–	–	136.3
Pension and post-retirement benefit adjustments	–	–	–	–	0.7	0.7
Unrealised gain on investments	–	–	–	–	4.4	4.4
Foreign currency translation loss	–	–	–	–	(19.8)	(19.8)
Other comprehensive loss	–	–	–	–	(14.7)	(14.7)
Total comprehensive income						121.6
Stock-based compensation	–	7.2	–	–	–	7.2
Tax benefit from stock options exercised	–	(0.4)	–	–	–	(0.4)
Equity awards exercised	–	0.1	–	–	–	0.1
Dividends paid	–	–	(34.6)	–	–	(34.6)
Treasury stock retired	(0.5)	(3.5)	–	4.0	–	–
Balances as of 31 March 2009	\$ 219.2	\$ 22.7	\$ (352.8)	\$ –	\$ 2.2	\$ (108.7)
Comprehensive income:						
Net loss	–	–	(84.9)	–	–	(84.9)
Pension and post-retirement benefit adjustments	–	–	–	–	(0.2)	(0.2)
Unrealised gain on investments	–	–	–	–	1.2	1.2
Foreign currency translation gain	–	–	–	–	56.0	56.0
Other comprehensive income	–	–	–	–	57.0	57.0
Total comprehensive loss						(27.9)
Stock-based compensation	–	7.7	–	–	–	7.7
Tax benefit from stock options exercised	–	0.9	–	–	–	0.9
Equity awards exercised	1.9	8.2	–	–	–	10.1
Balances as of 31 March 2010	\$ 221.1	\$ 39.5	\$ (437.7)	\$ –	\$ 59.2	\$ (117.9)
Comprehensive income:						
Net loss	–	–	(347.0)	–	–	(347.0)
Pension and post-retirement benefit adjustments	–	–	–	–	1.3	1.3
Unrealised gain on investments	–	–	–	–	1.3	1.3
Foreign currency translation loss	–	–	–	–	(6.6)	(6.6)
Other comprehensive loss	–	–	–	–	(4.0)	(4.0)
Total comprehensive loss						(351.0)
Stock-based compensation	0.7	8.4	–	–	–	9.1
Tax benefit from stock options exercised	–	0.4	–	–	–	0.4
Equity awards exercised/released	0.7	4.2	–	–	–	4.9
Balances as of 31 March 2011	\$ 222.5	\$ 52.5	\$ (784.7)	\$ –	\$ 55.2	\$ (454.5)

The accompanying notes are an integral part of these consolidated financial statements

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

JAMES HARDIE INDUSTRIES SE

1. BACKGROUND AND BASIS OF PRESENTATION

Nature of Operations

The Company manufactures and sells fibre cement building products for interior and exterior building construction applications primarily in the United States, Australia, New Zealand, the Philippines and Europe.

Background

On 21 August 2009, James Hardie Industries N.V. ("JHI NV") shareholders approved a plan to transform the Company into a Societas Europaea ("SE") and, subsequently, change its domicile from The Netherlands to Ireland. On 19 February 2010, the Company was transformed from a Dutch "NV" company to a Dutch "SE" company, and on 17 June 2010, the Company changed its registered corporate domicile from The Netherlands to Ireland and, in so doing, became an Irish "SE" company. The Company became an Irish tax resident on 29 June 2010 and operates under the name of James Hardie Industries SE ("JHI SE").

Basis of Presentation

The consolidated financial statements represent the financial position, results of operations and cash flows of JHI SE and its wholly-owned subsidiaries and special purpose entity, collectively referred to as either the "Company" or "James Hardie" and "JHI SE", together with its subsidiaries as of the time relevant to the applicable reference, the "James Hardie Group," unless the context indicates otherwise.

Upon shareholder approval of the Amended and Restated Final Funding Agreement (as amended from time to time, the "AFFA") on 7 February 2007, the Asbestos Injuries Compensation Fund (the "AICF") was deemed a special purpose entity and, as such, it was consolidated with the results for JHI SE. See Note 2 and Note 11 for additional information.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reclassifications

Certain prior year balances have been reclassified to conform to the current year presentation. The reclassifications do not impact shareholders' deficit.

Accounting Principles

The consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("US GAAP"). The US dollar is used as the reporting currency. All subsidiaries and qualifying special purpose entities are consolidated and all significant intercompany transactions and balances are eliminated.

Use of Estimates

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Foreign Currency Translation

All assets and liabilities are translated into US dollars at current exchange rates while revenues and expenses are translated at average exchange rates in effect for the period. The effects of foreign currency translation adjustments are included directly in other comprehensive income in shareholders' equity. Gains and losses arising from foreign currency transactions are recognised in income currently.

Restricted Cash and Cash Equivalents

Restricted cash and cash equivalents relate to amounts subject to letters of credit with insurance companies which restrict the cash from use for general corporate purposes.

Inventories

Inventories are valued at the lower of cost or market. Cost is generally determined under the first-in, first-out method, except that the cost of raw materials and supplies is determined using actual or average costs. Cost includes the costs of materials, labour and applied factory overhead. On a regular basis, the Company evaluates its inventory balances for excess quantities and obsolescence by analysing demand, inventory on hand, sales levels and other information. Based on these evaluations, inventory costs are written down, if necessary.

Property, Plant and Equipment

Property, plant and equipment are stated at cost. Property, plant and equipment of businesses acquired are recorded at their estimated fair value at the date of acquisition. Depreciation of property, plant and equipment is computed using the straight-line method over the following estimated useful lives:

	Years
Buildings	40
Building improvements	5 to 10
Manufacturing machinery	20
General equipment	5 to 10
Computer equipment, software, and software development	3 to 7
Office furniture and equipment	3 to 10

Impairment of Long-Lived Assets

Long-lived assets, such as property, plant and equipment, and purchased intangibles subject to amortisation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of the asset exceeds its estimated future cash flows, an impairment charge is recognised by the amount by which the carrying amount of the asset exceeds the fair value of the assets.

Environmental Remediation and Compliance Expenditures

Environmental remediation and Compliance expenditures that relate to current operations are expensed or capitalised, as appropriate. Expenditures that relate to an existing condition caused by past operations, and which do not contribute to current or future revenue generation, are expensed. Liabilities are recorded when environmental assessments and/or remedial efforts are probable and the costs can be reasonably estimated. Estimated liabilities are not discounted to present value. Generally, the timing of these accruals coincides with completion of a feasibility study or the Company's commitment to a formal plan of action.

Revenue Recognition

The Company recognises revenue when the risks and obligations of ownership have been transferred to the customer, which generally occurs at the time of delivery to the customer. The Company records estimated reductions in sales for customer rebates and discounts including volume, promotional, cash and other discounts. Rebates and discounts are recorded based on management's best estimate when products are sold. The estimates are based on historical experience for similar programs and



products. Management reviews these rebates and discounts on an ongoing basis and the related accruals are adjusted, if necessary, as additional information becomes available.

Depreciation and Amortisation

The Company records depreciation and amortisation under both cost of goods sold and selling, general and administrative expenses, depending on the asset's business use. All depreciation and amortisation related to plant building, machinery and equipment is recorded in cost of goods sold.

Advertising

The Company expenses the production costs of advertising the first time the advertising takes place. Advertising expense was US\$7.9 million, US\$9.1 million and US\$9.9 million during the years ended 31 March 2011, 2010 and 2009, respectively.

Accrued Product Warranties

An accrual for estimated future warranty costs is recorded based on an analysis by the Company, which includes the historical relationship of warranty costs to installed product.

Income Taxes

The Company accounts for income taxes under the asset and liability method. Under this method, deferred income taxes are recognised by applying enacted statutory rates applicable to future years to differences between the tax bases and financial reporting amounts of existing assets and liabilities. The effect on deferred taxes of a change in tax rates is recognised in income in the period that includes the enactment date. A valuation allowance is provided when it is more likely than not that all or some portion of deferred tax assets will not be realised. Interest and penalties related to uncertain tax positions are recognised in income tax expense.

Financial Instruments

The Company calculates the fair value of financial instruments and includes this additional information in the notes to the consolidated financial statements when the fair value is different from the carrying value of those financial instruments. When the fair value reasonably approximates the carrying value, no additional disclosure is made. The estimated fair value amounts have been determined by the Company using available market information and appropriate valuation methodologies. However, considerable judgment is required in interpreting market data to develop the estimates of fair value. Accordingly, the estimates presented herein are not necessarily indicative of the amounts that the Company could realise in a current market exchange. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated fair value amounts.

Periodically, interest rate swaps, commodity swaps and forward exchange contracts are used to manage market risks and reduce exposure resulting from fluctuations in interest rates, commodity prices and foreign currency exchange rates. Where such contracts are designated as, and are effective as, a hedge, changes in the fair value of derivative instruments designated as cash flow hedges are deferred and recorded in other comprehensive income. These deferred gains or losses are recognised in income when the transactions being hedged are recognised. The ineffective portion of these hedges is recognised in income currently. Changes in the fair value of derivative instruments designated as fair value hedges are recognised in income, as are changes in the fair value of the hedged item. Changes in the fair value of derivative instruments that are not designated as hedges for accounting purposes are recognised in income. The Company does not use derivatives for trading purposes.

Stock-based Compensation

The Company recognised stock-based compensation expense (included in selling, general and administrative expense) of US\$11.3 million, US\$9.3 million and US\$7.2 million for the years ended 31 March 2011, 2010 and 2009, respectively. Included in stock-based compensation expense for the years ended 31 March 2011, 2010 and 2009 is an expense of US\$2.2 million, US\$1.6 million and nil, respectively, related to liability-classified awards.

Earnings Per Share

The Company discloses basic and diluted earnings per share ("EPS"). Basic EPS is calculated using net income divided by the weighted average number of common shares outstanding during the period. Diluted EPS is similar to basic EPS except that the weighted average number of common shares outstanding is increased to include the number of additional common shares calculated using the Treasury Method that would have been outstanding if the dilutive potential common shares, such as options, had been issued.

Accordingly, basic and dilutive common shares outstanding used in determining net (loss) income per share are as follows:

(Millions of shares)	Years Ended 31 March		
	2011	2010	2009
Basic common shares outstanding	435.6	433.1	432.3
Dilutive effect of stock awards	–	–	2.2
Diluted common shares outstanding	435.6	433.1	434.5

(US dollars)	2011	2010	2009
Net (loss) income per share – basic	\$ (0.80)	\$ (0.20)	\$ 0.32
Net (loss) income per share – diluted	\$ (0.80)	\$ (0.20)	\$ 0.31

Potential common shares of 13.8 million, 13.7 million and 19.0 million for the years ended 31 March 2011, 2010 and 2009, respectively, have been excluded from the calculation of diluted common shares outstanding because the effect of their inclusion would be anti-dilutive.

Unless they are anti-dilutive, restricted stock units ("RSUs") which vest solely based on continued employment are considered to be outstanding as of their issuance date for purposes of computing diluted EPS and are included in the calculation of diluted EPS using the Treasury Method. Once these RSUs vest, they are included in the basic EPS calculation on a weighted-average basis.

RSUs which vest based on performance or market conditions are considered contingent shares. At each reporting date prior to the end of the contingency period, the Company determines the number of contingently issuable shares to include in the diluted EPS, as the number of shares that would be issuable under the terms of the RSU arrangement, if the end of the reporting period were the end of the contingency period. Once these RSUs vest, they are included in the basic EPS calculation on a weighted-average basis.

Asbestos

At 31 March 2006, the Company recorded an asbestos provision based on the estimated economic impact of the Original Final Funding Agreement ("Original FFA") entered into on 1 December 2005. The amount of the net asbestos provision of US\$715.6 million was based on

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JAMES HARDIE INDUSTRIES SE

the terms of the Original FFA, which included an actuarial estimate prepared by KPMG Actuaries as of 31 March 2006 of the projected future cash outflows, undiscounted and uninflated, and the anticipated tax deduction arising from Australian legislation which came into force on 6 April 2006. The amount represented the net economic impact that the Company was prepared to assume as a result of its voluntary funding of the asbestos liability which was under negotiation with various parties.

In February 2007, the shareholders approved the AFFA entered into on 21 November 2006 to provide long-term funding to AICF, a special purpose fund that provides compensation for Australian-related personal injuries for which certain former subsidiary companies of James Hardie in Australia (being Amaca Pty Ltd ("Amaca"), Amaba Pty Ltd ("Amaba") and ABN 60 Pty Limited ("ABN 60") (collectively, the "Former James Hardie Companies")) are found liable.

Amaca and Amaba separated from the James Hardie Group in February 2001. ABN 60 separated from the James Hardie Group in March 2003. Upon shareholder approval of the AFFA in February 2007, shares in the Former James Hardie Companies were transferred to the AICF. The AICF manages Australian asbestos-related personal injury claims made against the Former James Hardie Companies and makes compensation payments in respect of those proven claims.

AICF

In February 2007, the shareholders approved a proposal pursuant to which the Company provides long-term funding to the AICF. The Company owns 100% of James Hardie 117 Pty Ltd (the "Performing Subsidiary") that funds the AICF subject to the provisions of the AFFA. The Company appoints three of the AICF directors and the NSW Government appoints two of the AICF directors.

Under the terms of the AFFA, the Performing Subsidiary has an obligation to make payments to the AICF on an annual basis, depending on the Company's net operating cash flow. The amounts of these annual payments are dependent on several factors, including the Company's free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of the AICF and the annual cash flow cap. JHI SE guarantees the Performing Subsidiary's obligation. As a result, the Company considers it to be the primary beneficiary of the AICF.

The Company's interest in the AICF is considered variable because the potential impact on the Company will vary based upon the annual actuarial assessments obtained by the AICF with respect to asbestos-related personal injury claims against the Former James Hardie Companies.

Although the Company has no legal ownership in the AICF, for financial reporting purposes, the Company consolidates the AICF due to its pecuniary and contractual interests in the AICF as a result of the funding arrangements outlined in the AFFA. The Company's consolidation of the AICF resulted in a separate recognition of the asbestos liability and certain other items including the related Australian income tax benefit. Among other items, the Company recorded a deferred tax asset for the anticipated tax benefit related to asbestos liabilities and a corresponding increase in the asbestos liability. As stated in "Deferred Income Taxes" below, the Performing Subsidiary is able to claim a tax deduction for contributions to the asbestos fund. Since fiscal year 2007, the Company has classified the expense related to the increase of the asbestos liability as asbestos adjustments and the Company has classified the benefit related to the recording of the related deferred tax asset as an income tax benefit (expense) on its consolidated statements of operations.

For the year ended 31 March 2011, the Company did not provide financial or other support to the AICF that it was not previously contractually required to provide. Future funding of the AICF by the Company continues to be linked under the terms of the AFFA to the Company's long-term financial success, specifically the Company's ability to generate net operating cash flow.

The AICF has operating costs that are claims related and non-claims related. Claims related costs incurred by the AICF are treated as reductions in the accrued asbestos liability balances previously reflected in the consolidated balance sheets. Non-claims related operating costs incurred by the AICF are expensed as incurred in the line item *Selling, general and administrative expenses* in the consolidated statements of operations. The AICF earns interest on its cash and cash equivalents and on its short-term investments; these amounts are included in the line item *Interest income* in the consolidated statements of operations.

See Asbestos-Related Assets and Liabilities below and Note 11 for further details on the related assets and liabilities recorded in the Company's consolidated balance sheet under the terms of the AFFA.

Asbestos-Related Assets and Liabilities

The Company has recorded on its consolidated balance sheets certain assets and liabilities under the terms of the AFFA. These items are Australian dollar-denominated and are subject to translation into US dollars at each reporting date. These assets and liabilities are referred to by the Company as *Asbestos-Related Assets and Liabilities* and include:

Asbestos Liability

The amount of the asbestos liability reflects the terms of the AFFA, which has been calculated by reference to (but is not exclusively based upon) the most recent actuarial estimate of projected future cash flows prepared by KPMG Actuarial. Based on their assumptions, they arrived at a range of possible total cash flows and proposed a central estimate which is intended to reflect an expected outcome. The Company views the central estimate as the basis for recording the asbestos liability in the Company's financial statements, which under US GAAP, it considers the best estimate. The asbestos liability includes these cash flows as undiscounted and uninflated on the basis that it is inappropriate to discount or inflate future cash flows when the timing and amounts of such cash flows are not fixed or readily determinable.

Adjustments in the asbestos liability due to changes in the actuarial estimate of projected future cash flows and changes in the estimate of future operating costs of the AICF are reflected in the consolidated statements of operations during the period in which they occur. Claims paid by the AICF and claims-handling costs incurred by the AICF are treated as reductions in the accrued balances previously reflected in the consolidated balance sheets.

Insurance Receivable

There are various insurance policies and insurance companies with exposure to the asbestos claims. The insurance receivable determined by KPMG Actuarial reflects the recoveries expected from all such policies based on the expected pattern of claims against such policies less an allowance for credit risk based on credit agency ratings. The insurance receivable generally includes these cash flows as undiscounted and uninflated on the basis that it is inappropriate to discount or inflate future cash flows when the timing and amounts of such cash flows are not fixed or readily determinable. The Company records insurance receivables that are deemed probable of being realised.

Included in insurance receivable is US\$10.8 million recorded on a discounted basis because the timing of the recoveries has been agreed with the insurer.

Adjustments in insurance receivable due to changes in the actuarial estimate, or changes in the Company's assessment of recoverability are reflected in the consolidated statements of operations during the period in which they occur. Insurance recoveries are treated as a reduction in the insurance receivable balance.

Workers' Compensation

Workers' compensation claims are claims made by former employees of the Former James Hardie Companies. Such past, current and future reported claims were insured with various insurance companies and the various Australian State-based workers' compensation schemes (collectively "workers' compensation schemes or policies"). An estimate of the liability related to workers' compensation claims is prepared by KPMG Actuarial as part of the annual actuarial assessment. This estimate contains two components, amounts that will be met by a workers' compensation scheme or policy, and amounts that will be met by the Former James Hardie Companies.

The portion of the estimate that is expected to be met by the Former James Hardie Companies is included as part of the *Asbestos Liability*. Adjustments to this estimate are reflected in the consolidated statements of operations during the period in which they occur.

The portion of the estimate that is expected to be met by the workers' compensation schemes or policies of the Former James Hardie Companies is recorded by the Company as a workers' compensation liability. Since these amounts are expected to be paid by the workers' compensation schemes or policies, the Company records an equivalent workers' compensation receivable.

Adjustments to the workers' compensation liability result in an equal adjustment in the workers' compensation receivable recorded by the Company and have no effect on the consolidated statements of operations.

Asbestos-Related Research and Education Contributions

The Company agreed to fund asbestos-related research and education initiatives for a period of 10 years, beginning in fiscal year 2007. The liabilities related to these agreements are included in "Other Liabilities" on the consolidated balance sheets.

Restricted Cash and Cash Equivalents

Cash and cash equivalents of the AICF are reflected as restricted assets, as the use of these assets is restricted to the settlement of asbestos claims and payment of the operating costs of the AICF. The Company classifies these amounts as a current asset on the face of the consolidated balance sheet since they are highly liquid.

Restricted Short-Term Investments

Short-term investments consist of highly liquid investments held in the custody of major financial institutions. All short-term investments are classified as available for sale and are recorded at market value using the specific identification method. Unrealised gains and losses on the market value of these investments are included as a separate component of accumulated other comprehensive income. Realised gains and losses on short-term investments are recognised in *Other Income* on the consolidated statement of operations.

AICF – Other Assets and Liabilities

Other assets and liabilities of the AICF, including fixed assets, trade receivables and payables are included on the consolidated balance sheets under the appropriate captions and their use is restricted to the operations of the AICF.

Deferred Income Taxes

The Performing Subsidiary is able to claim a tax deduction for its contributions to the AICF over a five-year period from the date of contribution. Consequently, a deferred tax asset has been recognised equivalent to the anticipated tax benefit over the life of the AFFA. The current portion of the deferred tax asset represents Australian tax benefits that will be available to the Company during the subsequent twelve months.

Adjustments are made to the deferred income tax asset as adjustments to the asbestos-related assets and liabilities are recorded.

Foreign Currency Translation

The asbestos-related assets and liabilities are denominated in Australian dollars and thus the reported values of these asbestos-related assets and liabilities in the Company's consolidated balance sheets in US dollars are subject to adjustment depending on the closing exchange rate between the two currencies at the balance sheet date. The effect of foreign exchange rate movements between these currencies is included in *Asbestos Adjustments* in the consolidated statements of operations.

Recent Accounting Pronouncements

In January 2010, the FASB issued ASU No. 2010-06, which requires new fair value disclosures pertaining to significant transfers in and out of Level 1 and Level 2 fair value measurements and the reasons for the transfers and activity. For Level 3 fair value measurements, purchases, sales, issuances and settlements must be reported on a gross basis. Further, additional disclosures are required by class of assets or liabilities, as well as inputs used to measure fair value and valuation techniques. ASU No. 2010-06 is effective for interim and annual reporting periods beginning after 15 December 2009, except for the disclosures about purchases, sales, issuances and settlements on a gross basis, which is effective for fiscal years beginning after 15 December 2010. The adoption of the effective portions of this ASU did not result in a material impact on the Company's consolidated financial position, results of operations or cash flows. The Company does not anticipate that the adoption of the remaining portions of this ASU will result in a material impact to its reported consolidated financial position, results of operations or cash flows.

In April 2010, the FASB issued ASU No. 2010-13, which provides additional guidance concerning the classification of an employee share-based payment award with an exercise price denominated in the currency of a market in which the underlying equity security trades. This update clarifies that an employee share-based payment award with an exercise price denominated in the currency of a market in which a substantial portion of the entity's equity securities trades should not be considered to contain a condition that is not a market, performance or service condition. Therefore, an entity would not classify such an award as a liability if it otherwise qualifies as equity. The amendments included in this update do not expand the recurring disclosure requirements already in effect. The amendments in this update are effective for fiscal years and interim periods beginning on or after 15 December 2010. The adoption of this ASU did not result in a material impact on the Company's reported consolidated financial position, results of operations or cash flows.

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JAMES HARDIE INDUSTRIES SE

3. CASH AND CASH EQUIVALENTS

Cash and cash equivalents include amounts on deposit in banks and cash invested temporarily in various highly liquid financial instruments with original maturities of three months or less when acquired.

Cash and cash equivalents consist of the following components:

(Millions of US dollars)	31 March	
	2011	2010
Cash at bank and on hand	\$ 9.5	\$ 13.1
Short-term deposits	9.1	6.1
Total cash and cash equivalents	\$ 18.6	\$ 19.2

4. RESTRICTED CASH

Included in restricted cash and cash equivalents is US\$5.3 million related to an insurance policy at 31 March 2011 and 2010, which restricts the cash from use for general corporate purposes.

5. ACCOUNTS AND OTHER RECEIVABLES

Accounts and other receivables consist of the following components:

(Millions of US dollars)	31 March	
	2011	2010
Trade receivables	\$ 118.3	\$ 122.8
Other receivables and advances	22.5	34.5
Allowance for doubtful accounts	(2.7)	(2.3)
Total accounts and other receivables	\$ 138.1	\$ 155.0

The collectability of accounts receivable, consisting mainly of trade receivables, is reviewed on an ongoing basis. An allowance for doubtful accounts is provided for known and estimated bad debts by analysing specific customer accounts and assessing the risk of uncollectability based on insolvency, disputes or other collection issues.

The following are changes in the allowance for doubtful accounts:

(Millions of US dollars)	31 March	
	2011	2010
Balance at beginning of period	\$ 2.3	\$ 1.4
Charged to expense	0.4	0.9
Balance at end of period	\$ 2.7	\$ 2.3

6. INVENTORIES

Inventories consist of the following components:

(Millions of US dollars)	31 March	
	2011	2010
Finished goods	\$ 104.5	\$ 99.8
Work-in-process	5.9	4.8
Raw materials and supplies	57.3	52.0
Provision for obsolete finished goods and raw materials	(6.2)	(7.5)
Total inventories	\$ 161.5	\$ 149.1

7. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consist of the following components:

(Millions of US dollars)	Land	Buildings	Machinery and Equipment	Construction In Progress ¹	Total
Balance at 31 March 2009:					
Cost	18.0	201.6	826.2	51.6	1,097.4
Accumulated depreciation	–	(47.3)	(349.3)	–	(396.6)
Net book value	\$ 18.0	\$ 154.3	\$ 476.9	\$ 51.6	\$ 700.8
Changes in net book value:					
Capital expenditures	0.1	3.6	30.0	16.8	50.5
Depreciation	–	(9.7)	(52.0)	–	(61.7)
Other movements	–	–	20.7	(20.7)	–
Foreign currency translation adjustments	–	–	21.0	–	21.0
Total changes	0.1	(6.1)	19.7	(3.9)	9.8
Balance at 31 March 2010:					
Cost	\$ 18.1	\$ 205.2	\$ 897.9	\$ 47.7	\$ 1,168.9
Accumulated depreciation	–	(57.0)	(401.3)	–	(458.3)
Net book value	18.1	148.2	496.6	47.7	710.6
Changes in net book value:					
Capital expenditures	0.2	4.4	58.9	(13.2)	50.3
Retirements and sales	–	–	(0.7)	–	(0.7)
Depreciation	–	(9.5)	(53.4)	–	(62.9)
Foreign currency translation adjustments	–	–	10.4	–	10.4
Total changes	0.2	(5.1)	15.2	(13.2)	(2.9)
Balance at 31 March 2011:					
Cost	18.3	209.6	966.5	34.5	1,228.9
Accumulated depreciation	–	(66.5)	(454.7)	–	(521.2)
Net book value	\$ 18.3	\$ 143.1	\$ 511.8	\$ 34.5	\$ 707.7

¹ Construction in progress consists of plant expansions and upgrades.

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Depreciation expense for the year ended 31 March 2011 was US\$62.9 million. Included in property, plant and equipment are restricted assets of the AICF with a net book value of US\$2.4 million and US\$2.3 million as of 31 March 2011 and 2010.

8. ACCOUNTS PAYABLE AND ACCRUED LIABILITIES

Accounts payable and accrued liabilities consist of the following components:

(Millions of US dollars)	31 March	
	2011	2010
Trade creditors	\$ 57.7	\$ 71.3
Other creditors and accruals	48.7	29.6
Total accounts payable and accrued liabilities	\$ 106.4	\$ 100.9

9. LONG-TERM DEBT

At 31 March 2011, the Company's credit facilities consisted of:

Description (US\$ millions)	Effective Interest Rate	Total Facility	Principal Drawn
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until September 2012	–	\$ 50.0	\$ –
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until December 2012	–	130.0	–
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until February 2013	1.02%	90.0	59.0
Term facilities, can be drawn in US\$, variable interest rates based on LIBOR plus margin, can be repaid and redrawn until February 2014	–	50.0	–
Total		\$ 320.0	\$ 59.0

The weighted average fixed interest rate on the Company's interest rate swap contracts is set forth in Note 12. The weighted average interest rate on the Company's total debt was 1.02% and 0.92% at 31 March 2011 and 2010, respectively, and the weighted average term of all debt facilities is 1.9 years at 31 March 2011.

On 16 June 2010, US\$161.7 million of the Company's term facilities matured, which included US\$95.0 million of term facilities that were outstanding at 31 March 2010. The Company did not refinance these facilities. Accordingly, amounts outstanding under these facilities were repaid by using longer-term facilities.

The Company replaced term facilities in the amount of US\$45.0 million that matured in February 2011 with new term facilities totaling US\$100.0 million. These facilities became available to the Company in February 2011. US\$50.0 million of these facilities mature in September 2012 and US\$50.0 million of these facilities mature in February 2014. At 31 March 2011, no amounts were outstanding under these new term facilities.

For all facilities, the interest rate is calculated two business days prior to the commencement of each draw-down period based on the US\$ London Interbank Offered Rate ("LIBOR") plus the margins of individual lenders and is payable at the end of each draw-down period. At 31 March 2011, there was US\$59.0 million drawn under the combined facilities and US\$261.0 million was unutilised and available.

At 31 March 2011, the Company was in compliance with all restrictive debt covenants contained in its credit facility agreements. Under the most restrictive of these covenants, the Company (i) is required to maintain certain ratios of indebtedness to equity which do not exceed certain maximums, excluding assets, liabilities and other balance sheet items of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited, (ii) must maintain a minimum level of net worth, excluding assets, liabilities and other balance sheet items of the AICF; for these purposes "net worth" means the sum of the par value (or value stated in the books of the James Hardie Group) of the capital stock (but excluding treasury stock and capital stock subscribed or unissued) of the James Hardie Group, the paid in capital and retained earnings of the James Hardie Group and the aggregate amount of provisions made by the James Hardie Group for asbestos related liabilities, in each case, as such amounts would be shown in the consolidated balance sheet of the James Hardie Group if Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited were not accounted for as subsidiaries of the Company, (iii) must meet or exceed a minimum ratio of earnings before interest and taxes to net interest charges, excluding all income, expense and other profit and loss statement impacts of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited, and (iv) must ensure that no more than 35% of Free Cash Flow (as defined in the AFFA) in any given Financial Year is contributed to the AICF on the payment dates under the AFFA in the next following Financial Year. The limit does not apply to payments of interest to the AICF. Such limits are consistent with the contractual liabilities of the Performing Subsidiary and the Company under the AFFA.

10. PRODUCT WARRANTIES

The Company offers various warranties on its products, including a 30-year limited warranty on certain of its fibre cement siding products in the United States. A typical warranty program requires the Company to replace defective products within a specified time period from the date of sale. The Company records an estimate for future warranty related costs based on a trend analysis of actual historical warranty costs as they relate to sales. Based on this analysis and other factors, the adequacy of the Company's warranty provisions is adjusted as necessary. While the Company's warranty costs have historically been within its calculated estimates, it is possible that future warranty costs could differ from those estimates.

Additionally, the Company includes in its accrual for product warranties amounts for a Class Action Settlement Agreement (the "Settlement Agreement") related to its previous roofing products, which are no longer manufactured in the United States. On 14 February 2002, the Company signed the Settlement Agreement for all product, warranty and property related liability claims associated with these previously manufactured roofing products. These products were removed from the marketplace between 1995 and 1998 in areas where there had been any alleged problems. The total amount included in the product warranty provision relating to the Settlement Agreement is US\$0.9 million and US\$1.2 million as of 31 March 2011 and 2010, respectively.

The following are the changes in the product warranty provision:

(Millions of US dollars)	Years Ended 31 March		
	2011	2010	2009
Balance at beginning of period	\$ 24.9	\$ 24.9	17.7
Accruals for product warranties	9.1	8.1	14.6
Settlements made in cash or in kind	(7.8)	(8.4)	(7.1)
Foreign currency translation adjustments	–	0.3	(0.3)
Balance at end of period	\$ 26.2	\$ 24.9	\$ 24.9

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11. ASBESTOS

The AFFA was approved by shareholders in February 2007 to provide long-term funding to the AICF. The accounting policies utilised by the Company to account for the AFFA are described in Note 2.

Asbestos Adjustments

The asbestos adjustments included in the consolidated statements of operations comprise the following:

(Millions of US dollars)	Years Ended 31 March		
	2011	2010	2009
Change in estimates:			
Change in actuarial estimate – asbestos liability	\$ 9.8	\$ (3.8)	\$ (180.9)
Change in actuarial estimate – insurance receivable	(0.5)	1.9	19.8
Change in estimate – AICF claims-handling costs	12.2	(1.4)	(1.2)
Subtotal – Change in estimates	21.5	(3.3)	(162.3)
(Loss) gain on foreign currency exchange	(107.3)	(220.9)	179.7
Total Asbestos Adjustments	\$ (85.8)	\$ (224.2)	\$ 17.4

Asbestos-Related Assets and Liabilities

Under the terms of the AFFA, the Company has included on its consolidated balance sheets certain asbestos-related assets and liabilities. These amounts are detailed in the table below, and the net total of these asbestos-related assets and liabilities is referred to by the Company as the “Net AFFA Liability.”

(Millions of US dollars)	31 March	
	2011	2010
Asbestos liability – current	\$ (111.1)	\$ (106.7)
Asbestos liability – non-current	(1,587.0)	(1,512.5)
Asbestos liability – Total	(1,698.1)	(1,619.2)
Insurance receivable – current	13.7	16.7
Insurance receivable – non-current	188.6	185.1
Insurance receivable – Total	202.3	201.8
Workers’ compensation asset – current	0.3	0.1
Workers’ compensation asset – non-current	90.4	98.8
Workers’ compensation liability – current	(0.3)	(0.1)
Workers’ compensation liability – non-current	(90.4)	(98.8)
Workers’ compensation – Total	–	–
Deferred income taxes – current	10.5	16.4
Deferred income taxes – non-current	451.4	420.0
Deferred income taxes – Total	461.9	436.4
Income tax payable	18.6	16.5
Other net liabilities	(1.3)	(1.7)
Net Amended FFA liability	(1,016.6)	(966.2)
Restricted cash and cash equivalents and restricted short-term investment assets of the AICF	61.9	57.8
Unfunded Net Amended FFA liability	\$ (954.7)	\$ (908.4)

On 1 July 2010, the Company contributed US\$63.7 million to the AICF in accordance with the terms of the AFFA.

Asbestos Liability

The amount of the asbestos liability reflects the terms of the AFFA, which has been calculated by reference to (but is not exclusively based upon) the most recent actuarial estimate of the projected future asbestos-related cash flows prepared by KPMG Actuarial. The asbestos liability also includes an allowance

for the future claims-handling costs of the AICF. The Company receives an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2011.

The changes in the asbestos liability for the year ended 31 March 2011 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Asbestos liability – 31 March 2010	(1,768.0)	1.0919	(1,619.2)
Asbestos claims paid ¹	100.6	1.0584	95.0
AICF claims-handling costs incurred ¹	3.0	1.0584	2.8
Change in actuarial estimate ²	9.5	0.9676	9.8
Change in estimate of AICF claims-handling costs ²	11.8	0.9676	12.2
Loss on foreign currency exchange			(198.7)
Asbestos liability – 31 March 2011	(1,643.1)	0.9676	(1,698.1)

Insurance Receivable – Asbestos

The changes in the insurance receivable for the year ended 31 March 2011 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Insurance receivable – 31 March 2010	220.3	1.0919	201.8
Insurance recoveries ¹	(24.1)	1.0584	(22.9)
Change in actuarial estimate ²	(0.5)	0.9676	(0.5)
Gain on foreign currency exchange			23.9
Insurance receivable – 31 March 2011	195.7	0.9676	202.3

Deferred Income Taxes – Asbestos

The changes in the deferred income taxes – asbestos for the year ended 31 March 2011 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Deferred tax assets – 31 March 2010	476.5	1.0919	436.4
Amounts offset against income tax payable ¹	(22.3)	1.0584	(21.1)
AICF earnings ¹	(7.3)	1.0584	(6.9)
Gain on foreign currency exchange			53.5
Deferred tax assets – 31 March 2011	446.9	0.9676	461.9

¹ The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.

² The spot exchange rate at 31 March 2011 is used to convert the Australian dollar amount to US dollars as the adjustment to the estimate was made on that date.

Income Taxes Payable

A portion of the deferred income tax asset is applied against the Company's income tax payable. At 31 March 2011 and 2010, this amount was US\$21.1 million and US\$15.3 million, respectively. During the year ended 31 March 2011, there was a US\$2.1 million unfavourable effect of foreign currency exchange.

Other Net Liabilities

Other net liabilities include a provision for asbestos-related education and medical research contributions of US\$2.5 million and US\$2.6 million at 31 March 2011 and 2010, respectively. Also included in other net liabilities are the other assets and liabilities of the AICF including trade receivables, prepayments, fixed assets, trade payables and accruals.

These other assets and liabilities of the AICF were a net asset of US\$1.3 million and US\$0.9 million at 31 March 2011 and 2010, respectively. During the year ended 31 March 2011, there was a US\$0.1 million net favourable effect of foreign currency exchange on these other assets and liabilities.

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Restricted Cash and Short-term Investments of the AICF

Cash and cash equivalents and short-term investments of the AICF are reflected as restricted assets as these assets are restricted for use in the settlement of asbestos claims and payment of the operating costs of the AICF.

At 31 March 2011, the Company revalued the AICF's short-term investments available-for-sale resulting in a positive mark-to-market fair value adjustment of US\$1.3 million. This appreciation in the value of the investments was recorded as an unrealised gain in *Other Comprehensive Income*.

The changes in the restricted cash and short-term investments of the AICF for the year ended 31 March 2011 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Restricted cash and cash equivalents and restricted short-term investments – 31 March 2010	63.1	1.0919	57.8
Asbestos claims paid ¹	(100.6)	1.0584	(95.0)
Payments received in accordance with AFFA ²	72.8	1.1430	63.7
AICF operating costs paid – claims-handling ¹	(2.9)	1.0584	(2.8)
AICF operating costs paid – non claims-handling ¹	(2.3)	1.0584	(2.2)
Insurance recoveries ¹	24.1	1.0584	22.9
Interest and investment income ¹	4.5	1.0584	4.3
Unrealised gain on investments ¹	1.4	1.0584	1.3
Other ¹	(0.2)	1.0584	(0.1)
Gain on foreign currency exchange			12.0
Restricted cash and cash equivalents and restricted short-term investments – 31 March 2011	59.9	0.9676	61.9

¹ The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.

² The spot exchange rate on the date of payment is used to convert the Australian dollar amount to US dollars.

Actuarial Study; Claims Estimate

The AICF commissioned an updated actuarial study of potential asbestos-related liabilities as of 31 March 2011. Based on KPMG Actuarial's assumptions, KPMG Actuarial arrived at a range of possible total cash flows and proposed a central estimate which is intended to reflect an expected outcome. The Company views the central estimate as the basis for recording the asbestos liability in the Company's financial statements, which under US GAAP, it considers the best estimate. Based on the results of these studies, it is estimated that the discounted (but inflated) value of the central estimate for claims against the Former James Hardie Companies was approximately A\$1.5 billion (US\$1.5 billion). The undiscounted (but inflated) value of the central estimate of the asbestos-related liabilities of Amaca and Amaba as determined by KPMG Actuarial was approximately A\$2.7 billion (US\$2.8 billion). Actual liabilities of those companies for such claims could vary, perhaps materially, from the central estimate described above. The asbestos liability includes projected future cash flows as undiscounted and uninflated on the basis that it is inappropriate to discount or inflate future cash flows when the timing and amounts of such cash flows is not fixed or readily determinable.

The asbestos liability has been revised to reflect the most recent actuarial estimate prepared by KPMG Actuarial as of 31 March 2011 and to adjust for payments made to claimants during the year then ended.

In estimating the potential financial exposure, KPMG Actuarial made assumptions related to the total number of claims which were reasonably estimated to be asserted through 2074, the typical cost of settlement (which is sensitive to, among other factors, the industry in which a plaintiff claims exposure, the alleged disease type and the jurisdiction in which the action is brought), the legal costs incurred in the litigation of such claims, the rate of receipt of claims, the settlement strategy in dealing with outstanding claims and the timing of settlements.

Due to inherent uncertainties in the legal and medical environment, the number and timing of future claim notifications and settlements, the recoverability of claims against insurance contracts, and estimates of future trends in average claim awards, as well as the extent to which the above named entities will contribute to the overall settlements, the actual amount of liability could differ materially from that which is currently projected.

The potential range of costs as estimated by KPMG Actuarial is affected by a number of variables such as nil settlement rates (where no settlement is payable by the Former James Hardie Companies because the claim settlement is borne by other asbestos defendants (other than the former James Hardie subsidiaries) which are held liable), peak year of claims, past history of claims numbers, average settlement rates, past history of Australian asbestos-related medical injuries, current number of claims, average defence and plaintiff legal costs, base wage inflation and superimposed inflation. The potential range of losses disclosed includes both asserted and unasserted claims. While no assurances can be provided, the Company believes that it is likely to be able to partially recover losses from various insurance carriers. As of 31 March 2011, KPMG Actuarial's undiscounted (but inflated) central estimate of asbestos-related liabilities was A\$2.7 billion (US\$2.8 billion). This undiscounted (but inflated) central estimate is net of expected insurance recoveries of A\$388.1 million (US\$401.1 million) after making a general credit risk allowance for insurance carriers for A\$58.6 million (US\$60.6 million) and an allowance for A\$56.3 million (US\$58.2 million) of "by claim" or subrogation recoveries from other third parties. The Company has not netted the insurance receivable against the asbestos liability on its consolidated balance sheets.

A sensitivity analysis has been performed to determine how the actuarial estimates would change if certain assumptions (i.e., the rate of inflation and superimposed inflation, the average costs of claims and legal fees, and the projected numbers of claims) were different from the assumptions used to determine the central estimates. This analysis shows that the discounted (but inflated) central estimates could be in a range of A\$1.0 billion (US\$1.0 billion) to A\$2.3 billion (US\$2.4 billion). The undiscounted (but inflated) estimates could be in a range of A\$1.7 billion (US\$1.8 billion) to A\$4.6 billion (US\$4.8 billion) as of 31 March 2011. The actual cost of the liabilities could be outside of that range depending on the results of actual experience relative to the assumptions made. One of the critical assumptions is the estimated peak year of mesothelioma disease claims which is targeted for 2010/2011. Potential variation in this estimate has an impact much greater than the other sensitivities. If the peak year occurs five years later, in 2015/2016, the discounted central estimate could increase by approximately 50%.

Claims Data

The AICF provides compensation payments for Australian asbestos-related personal injury claims against the Former James Hardie Companies. The claims data in this section are reflective of these Australian asbestos-related personal injury claims against the Former James Hardie Companies.

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The following table shows the activity related to the numbers of open claims, new claims and closed claims during each of the past five years and the average settlement per settled claim and case closed:

	2011	For the Years Ended 31 March			
		2010	2009	2008	2007
Number of open claims at beginning of period	529	534	523	490	564
Number of new claims	494	535	607	552	463
Number of closed claims	459	540	596	519	537
Number of open claims at end of period	564	529	534	523	490
Average settlement amount per settled claim	A\$ 204,366	A\$ 190,627	A\$ 190,638	A\$ 147,349	A\$ 166,164
Average settlement amount per case closed	A\$ 173,199	A\$ 171,917	A\$ 168,248	A\$ 126,340	A\$ 128,723
Average settlement amount per settled claim	US\$ 193,090	US\$ 162,250	US\$ 151,300	US\$ 128,096	US\$ 127,163
Average settlement amount per case closed	US\$ 163,642	US\$ 146,325	US\$ 133,530	US\$ 109,832	US\$ 98,510

Under the terms of the AFFA, the Company has obtained rights of access to actuarial information produced for the AICF by the actuary appointed by the AICF (the "Approved Actuary"). The Company's future disclosures with respect to claims statistics are subject to it obtaining such information from the Approved Actuary. The Company has had no general right (and has not obtained any right under the AFFA) to audit or otherwise require independent verification of such information or the methodologies to be adopted by the Approved Actuary. As such, the Company will need to rely on the accuracy and completeness of the information and analysis of the Approved Actuary when making future disclosures with respect to claims statistics.

AICF – NSW Government Secured Loan Facility

On 9 December 2010, the AICF, Amaca, Amaba and ABN 60 (together, the "Obligors") entered into a secured standby loan facility and related agreements (the "Facility") with The State of New South Wales, Australia ("NSW") whereby the AICF may borrow, subject to certain conditions, up to an aggregate amount of A\$320.0 million (US\$330.7 million, based on the exchange rate at 31 March 2011).

The amount available to be drawn depends on the value of the insurance policies benefiting the Obligors and may be adjusted upward or downward, subject to a ceiling of A\$320.0 million. At 31 March 2011, the discounted value of insurance policies was A\$177.3 million (US\$183.2 million, based on the exchange rate at 31 March 2011).

In accordance with the terms of the Facility, drawings under the Facility may only be used by the AICF to fund the payment of asbestos claims and certain operating and legal costs of the Obligors. The amount available to be drawn is subject to periodic review by NSW. The Facility is available to be drawn up to the tenth anniversary of signing and must be repaid on or by 1 November 2030.

Interest accrues daily on amounts outstanding. Interest is calculated based on a 365-day year and is payable monthly. The AICF may, at its discretion, elect to capitalise interest payable on amounts outstanding under the Facility on the date interest becomes due and payable. In addition, if the AICF does not pay interest on a due date, it is taken to have elected to capitalise the interest.

NSW will borrow up to 50% of the amount made available under the Facility from the Commonwealth of Australia ("Commonwealth").

To the extent that NSW's source of funding the Facility is from the Commonwealth, the interest rate on the Facility is calculated by reference to the cost of NSW's borrowings from the Commonwealth for that purpose, being calculated with reference to the Commonwealth Treasury fixed coupon bond rate for a period determined as appropriate by the Commonwealth.

In summary, to the extent that NSW's source of funding is not from the Commonwealth, the interest rate on drawings under the Facility is calculated as (i) during the period to (but excluding) 1 May 2020, a yield percent per annum calculated at the time of the first drawdown of the Facility by reference to the NSW Treasury Corporation's 6% 1/05/2020 Benchmark Bonds, (ii) during the period after 1 May 2020, a yield percent per annum calculated by reference to NSW Treasury Corporation bonds on issue at that time and maturing in 2030, or (iii) in any case, if the relevant bonds are not on issue, a yield percent per annum in respect of such other source of funding for the Facility determined by the NSW Government in good faith to be used to replace those bonds, including any guarantee fee payable to the Commonwealth in respect of the bonds (where the bonds are guaranteed by the Commonwealth) or other source of funding.

Under the Facility, Amaca, Amaba and ABN 60 each guarantee the payment of amounts owed by the AICF and the AICF's performance of its obligations under the Facility. Each Obligor has granted a security interest in certain property including cash accounts, proceeds from insurance claims, payments remitted by the Company to the AICF and contractual rights under certain documents including the AFFA. Each Obligor may not deal with the secured property until all amounts outstanding under the Facility are paid, except as permitted under the terms of the security interest.

Under the terms of the Facility, each Obligor must, upon receipt of proceeds from insurance claims and payments remitted by the Company under the AFFA, apply all of such proceeds in repayment of amounts owing under the Facility. NSW may, at its sole discretion, waive or postpone (in such manner and for such period as it determines) the requirement for the Obligors to apply proceeds of insurance claims and payments remitted by the Company to repay amounts owed under the Facility to ensure the AICF has sufficient liquidity to meet its future cash flow needs.

The Obligors are subject to certain operating covenants under the Facility and the terms of the security interest, including, without limitation, (i) positive covenants relating to providing corporate reporting documents, providing particular notifications and complying with the terms of the AFFA, and (ii) negative covenants restricting them from voiding, canceling, settling, or adversely affecting existing insurance policies, disposing of assets and granting security to secure any other financial indebtedness, other than in accordance with the terms and conditions of the Facility.

Upon an event of default, NSW may cancel the commitment and declare all amounts outstanding as immediately due and payable. The events of default include, without limitation, failure to pay or repay amounts due in accordance with the Facility, breach of covenants, misrepresentation, cross default by an obligor and an adverse judgment (other than a personal asbestos or Marlew claim) against an Obligor.

The term of the Facility expires on 1 November 2030. At that time, all amounts outstanding under the Facility become due and payable. As of 19 May 2011, all substantive conditions precedent to drawdown of the facility have been satisfied with only procedural matters remaining. There are no amounts outstanding under the Facility. Further, from the time of signing through 19 May 2011, there have not been any drawings on the Facility by the Obligors.

Any drawings, repayments, or payments of accrued interest under the Facility by the AICF do not impact the Company's net operating cash flow, as defined in the AFFA, on which annual contributions remitted by the Company to the AICF are based. James Hardie Industries SE and its wholly-owned subsidiaries are not a party to, guarantor of, or security provider in respect of the Facility.

12. FAIR VALUE MEASUREMENTS

Assets and liabilities of the Company that are carried at fair value are classified in one of the following three categories:

Level 1 Quoted market prices in active markets for identical assets and liabilities that the Company has the ability to access at the measurement date;

Level 2 Observable market-based inputs or unobservable inputs that are corroborated by market data for the asset or liability at the measurement date;

Level 3 Unobservable inputs that are not corroborated by market data used when there is minimal market activity for the asset or liability at the measurement date.

Fair value measurements of assets and liabilities are assigned a level within the fair value hierarchy based on the lowest level of any input that is significant to the fair value measurement in its entirety.

The Company's financial instruments consist primarily of cash and cash equivalents, restricted cash and cash equivalents, restricted short-term

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investments, trade receivables, trade payables, debt and interest rate swaps.

Cash and cash equivalents, Restricted cash and cash equivalents, Trade receivables and Trade payables – These items are recorded in the financial statements at historical cost. The historical cost basis for these amounts is estimated to approximate their respective fair values due to the short maturity of these instruments.

Restricted short-term investments – Restricted short-term investments are recorded in the financial statements at fair value. The fair value of restricted short-term investments is based on quoted market prices. Changes in fair value are recorded as other comprehensive income and included as a component in shareholders' deficit. Restricted short-term investments are held and managed by the AICF and are reported at their fair value. At 31 March 2009, the Company determined that these investments were other-than-temporarily impaired due to the economic environment, the length of time the fair value of the assets were less than cost and the extent of the discount of the fair value compared to the cost of the assets. Accordingly, for the year ended 31 March 2009, the Company recognised an other-than-temporary impairment charge on these investments of US\$14.8 million within *Other Expense*. The Company recorded an unrealised gain on these restricted short-term investments of US\$1.3 million for the year ended 31 March 2011. This unrealised gain is included as a separate component of accumulated other comprehensive income.

Debt – Debt is generally recorded in the financial statements at historical cost. The carrying value of debt provided under the Company's credit facilities approximates fair value since the interest rates charged under these credit facilities are tied directly to market rates and fluctuate as market rates change.

Interest Rate Swaps – Interest rate swaps are recorded in the financial statements at fair value. Changes in fair value are recorded in the statement of operations in *Other Income*. At 31 March 2011, the Company had interest rate swap contracts with a total notional principal of US\$200.0 million. For all of these interest rate swap contracts, the Company has agreed to pay fixed interest rates while receiving a floating interest rate. The purpose of holding these interest rate swap contracts is to protect against upward movements in US\$ LIBOR and the associated interest the Company pays on its external credit facilities.

The fair value of interest rate swap contracts is calculated based on the fixed rate, notional principal, settlement date and present value of the future cash inflows and outflows based on the terms of the agreement and the future floating interest rates as determined by a future interest rate yield curve. The model used to value the interest rate swap contracts is based upon well recognised financial principles, and interest rate yield curves can be validated through readily observable data by external sources. Although readily observable data is used in the valuations, different valuation methodologies could have an effect on the estimated fair value. Accordingly, the interest rate swap contracts are categorised as Level 2.

At 31 March 2011, the weighted average fixed interest rate of these contracts is 2.4% and the weighted average remaining life is 2.6 years. These contracts have a fair value of US\$6.1 million, which is included in *Accounts Payable*. For the year ended 31 March 2011, the Company included in *Other Income* an unrealised loss on interest rate swaps of US\$3.8 million. Included in *Interest Expense* is a realised loss on settlements of interest rate swap contracts of US\$3.9 million for the year ended 31 March 2011.

The following table sets forth by level within the fair value hierarchy, the Company's financial assets and liabilities that were accounted for at fair value on a recurring basis at 31 March 2011 according to the valuation techniques the Company used to determine their fair values.

(Millions of US Dollars)	Fair Value at 31 March 2011	Fair Value Measurements Using Inputs Considered as		
		Level 1	Level 2	Level 3
Assets				
Cash and cash equivalents	\$ 18.6	\$ 18.6	\$ –	\$ –
Restricted cash and cash equivalents	61.4	61.4	–	–
Restricted short-term investments	5.8	5.8	–	–
Total Assets	\$ 85.8	\$ 85.8	\$ –	\$ –
Liabilities				
Interest rate swap contracts included in Accounts Payable	6.1	–	6.1	–
Total Liabilities	\$ 6.1	\$ –	\$ 6.1	\$ –

13. COMMITMENT AND CONTINGENCIES

The Company is involved from time to time in various legal proceedings and administrative actions incidental or related to the normal conduct of its business, including litigation concerning its products. Although it is impossible to predict the outcome of any pending legal proceeding, management believes that such proceedings and actions should not, except as it relates to asbestos, the Australian Securities and Investments Commission ("ASIC") proceedings, the matters described in the Environmental and Legal section below, the amended assessment from the Australian Taxation Office ("ATO") and income taxes as described in these financial statements, individually or in the aggregate, have a material adverse effect on its consolidated financial position, results of operations or cash flows.

ASIC Proceedings

In February 2007, the Australian Securities and Investments Commission ("ASIC") commenced civil proceedings in the Supreme Court of New South Wales against the Company, ABN 60 and ten then-present or former officers and directors of the James Hardie Group. While the subject matter of the allegations varied between individual defendants, the allegations against the Company were confined to alleged contraventions of provisions of the Australian Corporations Act/Law relating to continuous disclosure and engaging in misleading or deceptive conduct in respect of a security.

The Company defended each of the allegations made by ASIC and the orders sought against it in the proceedings, as did the former directors and officers of the Company.

The proceedings commenced on 29 September 2008 before his Honour Justice Gzell. On 23 April 2009, Justice Gzell issued judgment against the Company and the ten former officers and directors of the Company.

All defendants other than two lodged appeals against Justice Gzell's judgments, and ASIC responded by lodging cross appeals against the appellants. The appeals lodged by the former directors and officers were heard in April 2010 and the appeal lodged by the Company was heard in May 2010.

On 30 September 2010, the Company entered into agreements with third parties and subsequently received payment for US\$10.3 million relating to the costs of the ASIC proceedings for certain former officers. These recoveries are reflected as a reduction to selling, general and administrative expenses for the year ended 31 March 2011. The Company notes that other recoveries may be available resulting from repayments by third parties, including former directors and officers, in accordance with the terms of their indemnities.

On 17 December 2010, the New South Wales Court of Appeal dismissed the Company's appeal against Justice Gzell's judgment and ASIC's cross appeal and ordered that the Company pay 90% of the costs incurred by ASIC in respect of the Company's appeal. The Court of Appeal also allowed the appeals brought by the non-executive directors, dismissed ASIC's related cross-appeals, and ordered ASIC to pay the non-executive directors costs of the proceedings and the appeals. The Court of Appeal allowed the appeals and cross appeals in respect of certain former officers in part and reserved certain matters for further submissions. On 6 May 2011, the Court of Appeal rendered judgment in the exoneration, penalty and cost matter for certain former officers in which it varied certain orders made at first instance and ordered that there be no order as to the costs of the appeals of the certain former officers and ASIC's related cross-appeals.

The amount of the costs the Company may be required to pay to ASIC following the Court of Appeal judgments is contingent on a number of factors, which include, without limitation, whether such costs (including the costs orders in ASIC's favour against us in the first instance hearing, which orders were not disturbed by the Court of Appeal) are reasonable having regard to the issues pursued in the case by ASIC against us, the associated legal work undertaken specifically in respect of those issues (as distinct from the legal costs of a previous claim and related order against us that was withdrawn by ASIC in September 2008 just prior to the commencement of the first instance trial, the legal costs incurred by ASIC in connection with similar or overlapping claims against other parties in the first instance or appeal proceedings and the successful interlocutory appeal by the Company against ASIC during the course of the first instance hearing), the number of legal practitioners involved in such legal work and their applicable fee rates.

In light of the uncertainty surrounding the amount of such costs, the Company has not recorded any provision for these costs at 31 March 2011.

ASIC subsequently filed applications for special leave to appeal to the High Court appealing from the Court of Appeals judgment in favour of the former directors' appeals and a former officer. Certain former officers have also filed special leave applications to the High Court. The Company did not file application for special leave to the High Court. The High Court granted ASIC's applications for special leave on 13 May 2011. The High Court also granted the special leave applications for one of the former officers, and the other former officer withdrew his application.

As with the first instance proceedings, the Company will pay a portion of the costs of bringing and defending appeals, with the remaining costs being met by third parties, including former directors and executives, in accordance with the terms of their applicable indemnities. Losses and expenses arising from the ASIC proceedings could have a material adverse effect on our financial position, liquidity, results of operations and cash flows. It is our policy to expense legal costs as incurred.

Environmental and Legal

The operations of the Company, like those of other companies engaged in similar businesses, are subject to a number of laws and regulations on air and water quality, waste handling and disposal. The Company's policy is to accrue for environmental costs when it is determined that it is probable that an obligation exists and the amount can be reasonably estimated.

In addition, the Company is involved from time to time in various legal proceedings and administrative actions concerning the Company's operations and products, including putative class action lawsuits. With respect to asserted claims, the Company believes it has made adequate provision on its consolidated balance sheet as of 31 March 2011 for asserted claims that are reasonably estimable. Although it is reasonably possible that the Company could experience an unexpected increase in the cost of asserted claims and may be subject to new asserted claims in the future, the Company is unable to estimate an amount or range of loss in relation to such matters. Management is of the opinion that, based on information presently known, the liability for such matters should not have a material adverse effect on either the Company's consolidated financial position, results of operations or cash flows.

Operating Leases

As the lessee, the Company principally enters into property, building and equipment leases. The following are future minimum lease payments for non-cancellable operating leases having a remaining term in excess of one year at 31 March 2011:

Years ending 31 March		(Millions of US dollars):
2012	\$	18.0
2013		16.5
2014		15.6
2015		15.1
2016		14.0
Thereafter		24.6
Total	\$	103.8

Rental expense amounted to US\$15.3 million, US\$13.2 million and US\$14.5 million for the years ended 31 March 2011, 2010 and 2009, respectively.

Capital Commitments

Commitments for the acquisition of plant and equipment and other purchase obligations contracted for but not recognised as liabilities and generally payable within one year, were US\$0.6 million at 31 March 2011.

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14. AUSTRALIAN TAXATION OFFICE – AMENDED ASSESSMENT

In March 2006, RCI Pty Ltd (“RCI”), a wholly-owned subsidiary of the Company, received an amended assessment from the Australian Taxation Office (“ATO”) with respect to RCI’s income tax return for the year ended 31 March 1999. The amended assessment related to the amount of net capital gains arising as a result of an internal corporate restructure carried out in 1998 and was issued pursuant to the discretion granted to the Commissioner of Taxation under Part IVA of the Income Tax Assessment Act 1936. The amended assessment issued to RCI was for a total of A\$412.0 million. However, after subsequent remissions of general interest charges (“GIC”) by the ATO the total was changed to A\$368.0 million, comprising primary tax after allowable credits, penalties, and GIC.

During fiscal year 2007 RCI agreed with the ATO that in accordance with the ATO Receivable Policy, RCI would pay 50% of the total amended assessment being A\$184.0 million (US\$152.5 million), and provide a guarantee from James Hardie Industries SE (formerly James Hardie Industries N.V.) in favour of the ATO for the remaining unpaid 50% of the amended assessment, pending outcome of the appeal of the amended assessment. RCI also agreed to pay GIC accruing on the unpaid balance of the amended assessment in arrears on a quarterly basis.

The ATO conceded that RCI has a reasonably arguable position that the amount of net capital gains arising as a result of the corporate restructure carried out in 1998 was reported correctly in the fiscal year 1999 tax return and that Part IVA does not apply.

On 30 May 2007, the ATO issued a Notice of Decision disallowing RCI’s objection to the amended assessment (“Objection Decision”). On 11 July 2007, RCI filed an application appealing the Objection Decision and the matter was heard before the Federal Court of Australia in September 2009.

On 1 September 2010, the Federal Court of Australia dismissed RCI’s appeal.

Prior to the Federal Court’s decision on RCI’s appeal, the Company believed it was more-likely-than-not that the tax position reported in RCI’s tax return for the 1999 fiscal year would be upheld on appeal. As a result, until 31 August 2010, the Company treated the payment of 50% of the amended assessment, GIC and interest accrued on amounts paid to the ATO with respect to the amended assessment as a deposit on its consolidated balance sheet.

As a result of the Federal Court’s decision, the Company re-assessed its tax position with respect to the amended assessment and concluded that the ‘more-likely-than-not’ recognition threshold as prescribed by US GAAP was no longer met. Accordingly, with effect from 1 September 2010, the Company removed the deposit with the ATO from its consolidated balance sheet and recognised an expense of US\$345.2 million (A\$388.0 million) on its consolidated statement of operations, which did not result in a cash outflow for the year ended 31 March 2011. In addition, the Company recognised an uncertain tax position of US\$190.4 million (A\$184.3 million) on its consolidated balance sheet relating to the unpaid portion of the amended assessment.

RCI strongly disputes the amended assessment and is pursuing an appeal of the Federal Court’s judgment. RCI’s appeal was heard from 16 May 2011 to 18 May 2011 before the Full Court of the Federal Court of Australia. Judgment has been reserved.

With effect from 1 September 2010, the Company has expensed payments of GIC to the ATO as incurred. The Company will continue to expense GIC as incurred until RCI ultimately prevails on the matter or the remaining outstanding balance of the amended assessment is paid.

The ATO was awarded costs in connection with RCI’s appeal of the objection decision to the Federal Court of Australia. The Company has made a provision for such costs within other non-current liabilities on the Company’s consolidated balance sheet at 31 March 2011.

15. INCOME TAXES

Income tax expense includes income taxes currently payable and those deferred because of temporary differences between the financial statement and tax bases of assets and liabilities. Income tax (expense) benefit consists of the following components:

(Millions of US dollars)	Years Ended 31 March		
	2011	2010	2009
Income (loss) from operations before income taxes:			
Domestic ¹	\$ 66.5	\$ 12.8	\$ 24.6
Foreign	30.1	(31.5)	131.2
Total income (loss) before income taxes	\$ 96.6	\$ (18.7)	\$ 155.8
Income tax (expense) benefit:			
Current:			
Domestic ¹	\$ (15.6)	\$ 0.6	\$ (0.1)
Foreign	(447.4)	(137.7)	37.4
Current income tax (expense) benefit	(463.0)	(137.1)	37.3
Deferred:			
Domestic ¹	(22.2)	(0.9)	(0.1)
Foreign	41.6	71.8	(56.7)
Deferred income tax benefit (expense)	19.4	70.9	(56.8)
Total income tax expense	\$ (443.6)	\$ (66.2)	\$ (19.5)

¹ Since JHI SE became an Irish parent holding company during fiscal year 2011, domestic represents both Ireland and The Netherlands for fiscal year 2011. For fiscal years 2010 and 2009, domestic represents The Netherlands.

Income tax (expense) benefit computed at the statutory rates represents taxes on income applicable to all jurisdictions in which the Company conducts business, calculated at the statutory income tax rate in each jurisdiction multiplied by the pre-tax income attributable to that jurisdiction.

Income tax (expense) benefit is reconciled to the tax at the statutory rates as follows:

(Millions of US dollars)	Years Ended 31 March		
	2011	2010	2009
Income tax (expense) benefit at statutory tax rates	\$ (18.3)	\$8.3	\$(47.0)
US state income taxes, net of the federal benefit	(1.7)	(3.7)	(2.9)
Asbestos – effect of foreign exchange	(31.7)	(66.4)	51.2
Benefit from Dutch financial risk reserve regime	–	3.2	1.8
Expenses not deductible	(4.0)	(3.7)	(7.8)
Non-assessable items	–	2.0	1.6
Income (losses) not available for carryforward	0.7	(0.6)	(4.1)
Repatriation of foreign earnings	(32.6)	–	–
Change in reserves	(0.2)	(2.2)	(13.4)
Amortisation of intangibles	(5.9)	–	–
Taxes on foreign income	(2.0)	(1.6)	(2.7)
State amended returns and audit	–	(2.2)	3.0
Tax assessment in dispute	(349.1)	–	–
Other permanent items	1.2	0.7	0.8
Total income tax expense	\$ (443.6)	\$ (66.2)	\$ (19.5)
Effective tax rate	-459.2%	354.0%	12.5%

Deferred tax balances consist of the following components:

(Millions of US dollars)	31 March	
	2011	2010
Deferred tax assets:		
Asbestos liability	\$ 461.9	\$ 436.6
Other provisions and accruals	35.7	37.4
Net operating loss carryforwards	32.5	9.9
Capital loss carryforwards	34.3	30.4
Prepayments	–	2.8
Other	–	0.2
Total deferred tax assets	564.4	517.3
Valuation allowance	(43.1)	(39.2)
Total deferred tax assets, net of valuation allowance	521.3	478.1
Deferred tax liabilities:		
Depreciable and amortisable assets	(114.9)	(115.7)
Accrued interest income	–	(12.0)
Foreign currency movements	–	(0.3)
Unremitted earnings	(32.6)	–
Other	(4.2)	–
Total deferred tax liabilities	(151.7)	(128.0)
Net deferred tax assets	\$ 369.6	\$ 350.1

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The Company establishes a valuation allowance against a deferred tax asset if it is more likely than not that some portion or all of the deferred tax asset will not be realised. The Company has established a valuation allowance pertaining to all of its Australian and European capital loss carry-forwards. The valuation allowance increased by US\$3.9 million during fiscal year 2011 due to foreign currency movements.

At 31 March 2011, the Company had Australian and Irish tax loss carry-forwards of approximately US\$47.1 million and US\$23.6 million, respectively, that will never expire. The Company has a US tax loss carry-forward of US\$18.7 million that will expire in 2031.

At 31 March 2011, the Company had US\$114.3 million in Australian capital loss carry-forwards which will never expire. At 31 March 2011, the Company had a 100% valuation allowance against the Australian capital loss carry-forwards.

At 31 March 2011, the Company had European tax loss carry-forwards of approximately US\$33.3 million that are available to offset future taxable income, of which US\$24.0 million will never expire. Carry-forwards of US\$9.4 million will expire in fiscal years 2014 through 2019. At 31 March 2011, the Company had a 100% valuation allowance against the European tax loss carry-forwards.

In determining the need for and the amount of a valuation allowance in respect of the Company's asbestos related deferred tax asset, management reviewed the relevant empirical evidence, including the current and past core earnings of the Australian business and forecast earnings of the Australian business considering current trends. Although realisation of the deferred tax asset will occur over the life of the AFFA, which extends beyond the forecast period for the Australian business, Australia provides an unlimited carry-forward period for tax losses. Based upon managements' review, the Company believes that it is more likely than not that the Company will realise its asbestos related deferred tax asset and that no valuation allowance is necessary as of 31 March 2011. In the future, based on review of the empirical evidence by management at that time, if management determines that realisation of its asbestos related deferred tax asset is not more likely than not, the Company may need to provide a valuation allowance to reduce the carrying value of the asbestos related deferred tax asset to its realisable value.

At 31 March 2011, the undistributed earnings of non-Irish subsidiaries approximated US\$930.5 million. Subsequent to 31 March 2011, the Company adopted a plan to reorganise its subsidiary holding company structure. As a result, the Company has recognised deferred taxes of US\$32.6 million on undistributed earnings of its US subsidiaries, as it intends to remit US earnings as part of the Company's plan. At 31 March 2011, the undistributed earnings of US subsidiaries approximated US\$651.4 million. Except as noted above, the Company intends to indefinitely reinvest its undistributed earnings of other non-Irish subsidiaries and has not provided for taxes that would be payable upon remittance of those earnings. The amount of the potential deferred tax liability related to undistributed earnings is impracticable to determine at this time.

The Company is subject to ongoing reviews by taxing jurisdictions on various tax matters, including challenges to various positions the Company asserts on its income tax returns. The Company accrues for tax contingencies based upon its best estimate of the taxes ultimately expected to be paid, which it updates over time as more information becomes available. Such amounts are included in taxes payable or other non-current liabilities, as appropriate. If the Company ultimately determines that payment of these amounts is unnecessary, the Company reverses the liability and recognises a tax benefit during the period in which the Company determines that the liability is no longer necessary. The Company records additional tax expense in the period in which it determines that the recorded tax liability is less than the ultimate assessment it expects.

In fiscal years 2011, 2010 and 2009, the Company recorded an income tax expense of nil, US\$2.2 million, and an income tax benefit of US\$3.0 million, respectively, as a result of the finalisation of certain tax audits (whereby certain matters were settled), the expiration of the statute of limitations related to certain tax positions and adjustments to income tax balances based on the filing of amended income tax returns, which give rise to the benefit recorded by the Company.

The Company or its subsidiaries files income tax returns in various jurisdictions including the United States, The Netherlands, Australia, the Philippines and Ireland. The Company is no longer subject to US federal examinations by US Internal Revenue Service ("IRS") for tax years prior to tax year 2008. The Company is no longer subject to examinations by The Netherlands tax authority, for tax years prior to tax year 2005. The Company is no longer subject to Australian federal examinations by the Australian Taxation Office ("ATO") for tax years prior to tax year 2007.

In connection with the Company's re-domicile from The Netherlands to Ireland, the Company became an Irish tax resident on 29 June 2010. While the Company was domiciled in The Netherlands, the Company derived significant tax benefits under the US-Netherlands tax treaty. The treaty was amended during fiscal year 2005 and became effective for the Company on 1 February 2006. The amended treaty provided, among other things, requirements that the Company must meet for the Company to qualify for treaty benefits and its effective income tax rate. During fiscal year 2006, the Company made changes to its organisational and operational structure to satisfy the requirements of the amended treaty and believes that it was in compliance and qualified for treaty benefits while the Company was domiciled in The Netherlands. However, if during a subsequent tax audit or related process, the Internal Revenue Service ("IRS") determines that these changes did not meet the requirements, the Company may not qualify for treaty benefits and its effective income tax rate could significantly increase beginning in the fiscal year that such determination is made, and it could be liable for taxes owed for calendar year 2008 and subsequent periods in which the Company was domiciled in The Netherlands.

The Company believes that it is more likely than not that it was in compliance and should qualify for treaty benefits for calendar year 2008 and subsequent periods in which the Company was domiciled in The Netherlands. Therefore, the Company believes that the requirements for recording a liability have not been met and therefore it has not recorded any liability at 31 March 2011.

ATO Settlement

As announced on 12 December 2008, the Company and the ATO reached an agreement that finalised tax audits being conducted by the ATO on the Company's Australian income tax returns for the years ended 31 March 2002 and 31 March 2004 through 31 March 2006 and settled all outstanding issues arising from these tax audits. With the exception of the assessment in respect of RCI for the 1999 financial year, the settlement concluded ATO audit activities for all years prior to the year ended 31 March 2007.

The agreed settlement, made without concessions or admissions of liability by either the Company or the ATO, required the Company to pay an amount of US\$101.6 million (A\$153.0 million) in December 2008.

Dutch Exit Tax

In connection with implementing Stage 1 of the Company's proposal to re-domicile its corporate seat from The Netherlands to Ireland, the Company incurred a tax liability that arose from: (i) a capital gain on the transfer of its intellectual property from The Netherlands to a newly-formed James Hardie entity and (ii) the exit from the Dutch Financial Risk Reserve regime.

The Dutch Tax Authority (the "DTA") reviewed the Company's assessed fair value of the intellectual property as performed by a third party valuation firm. Based on the DTA's review, the Company incurred a capital gain and Dutch tax liability, which has been deferred and included in non-current *Other Assets*, net of amortisation, on the Company's consolidated balance sheet as of 31 March 2011 and is being amortised on a straight-line basis over the remaining useful life of the intellectual property.

Unrecognised Tax Benefits

A reconciliation of the beginning and ending amount of unrecognised tax benefits and interest and penalties are as follows:

(US\$ millions)		Unrecognised tax benefits		Interest and Penalties
Balance at 1 April 2008	\$	61.9	\$	47.0
Additions for tax positions of the current year		1.7		–
Additions (deletions) for tax positions of prior year		37.3		(14.3)
Settlements paid during the current period		(72.0)		(39.6)
Foreign currency translation adjustment		(16.6)		(9.1)
Balance at 31 March 2009	\$	12.3	\$	(16.0)
Additions for tax positions of the current year		1.2		–
Additions (deletions) for tax positions of prior year		4.4		(4.1)
Other reductions for the tax positions of prior periods		(10.2)		(0.6)
Foreign currency translation adjustment		–		(6.2)
Balance at 31 March 2010	\$	7.7	\$	(26.9)
Additions for tax positions of the current year		0.1		–
Additions for tax positions of prior year		153.3		195.8
Other reductions for the tax positions of prior periods		(0.4)		(0.2)
Foreign currency translation adjustment		24.8		27.6
Balance at 31 March 2011	\$	185.5	\$	196.3

As of 31 March 2011, the total amount of unrecognised tax benefits and the total amount of interest and penalties accrued related to unrecognised tax benefits that, if recognised, would affect the effective tax rate is US\$185.5 million and US\$196.3 million, respectively.

The Company recognises penalties and interest accrued related to unrecognised tax benefits in income tax expense. During the year ended 31 March 2011 and 2010, the total amount of interest and penalties recognised in tax expense was an expense of US\$195.6 million and a benefit of US\$4.7 million, respectively.

Except for the liability associated with the ATO amended assessment as disclosed in Note 14, the liabilities associated with uncertain tax benefits are included in other non-current liabilities on the Company's consolidated balance sheet.

A number of years may lapse before an uncertain tax position is audited and ultimately settled. It is difficult to predict the ultimate outcome or the timing of resolution for uncertain tax positions. It is reasonably possible that the amount of unrecognised tax benefits could significantly increase or decrease within the next twelve months. These changes could result from the settlement of ongoing litigation, the completion of ongoing examinations, the expiration of the statute of limitations, or other circumstances. At this time, an estimate of the range of the reasonably possible change cannot be made.

16. STOCK-BASED COMPENSATION

At 31 March 2011, the Company had the following equity award plans: the Executive Share Purchase Plan; the JHI SE 2001 Equity Incentive Plan and the Long-Term Incentive Plan 2006 as amended in 2008.

Compensation expense arising from equity-based award grants as estimated using pricing models was US\$9.1 million, US\$7.7 million and US\$7.2 million for the years ended 31 March 2011, 2010 and 2009, respectively. As of 31 March 2011, the unrecorded deferred stock-based compensation related to equity awards was US\$9.8 million after estimated forfeitures and will be recognised over an estimated weighted average amortisation period of 2.5 years.

JHI SE 2001 Equity Incentive Plan

Under the JHI SE 2001 Equity Incentive Plan (the "2001 Equity Incentive Plan"), the Company can grant equity awards in the form of nonqualified stock options, performance awards, restricted stock grants, stock appreciation rights, dividend equivalent rights, phantom stock or other stock-based benefits such as restricted stock units. The 2001 Equity Incentive Plan was approved by the Company's shareholders and the Joint Board subject to implementation of the consummation of the 2001 Reorganisation. The Company is authorised to issue 45,077,100 shares under the 2001 Equity Incentive Plan.

Under the 2001 Equity Incentive Plan, grants have been made at fair market value to management and other employees of the Company. Each option confers the right to subscribe for one ordinary share in the capital of JHI SE. The options may be exercised as follows: 25% after the first year; 25% after the second year; and 50% after the third year. All unexercised options expire 10 years from the date of issue or 90 days after the employee ceases to be employed by the Company.

As set out in the plan rules, the exercise prices and the number of shares available on exercise may be adjusted on the occurrence of certain events, including new issues, share splits, rights issues and capital reconstructions.

Under the 2001 Equity Incentive Plan, the Company granted 348,426 and 278,569 restricted stock units to its employees in the years ended 31 March 2011 and 2010, respectively. These restricted shares may not be sold, transferred, assigned, pledged or otherwise encumbered so long as such shares remain restricted. The Company determines the conditions or restrictions of any restricted stock awards, which may include requirements of continued employment, individual performance or the Company's financial performance or other criteria. At 31 March 2011, there were 854,409 restricted stock units outstanding under this plan.

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Long-Term Incentive Plan

At the 2006 Annual General Meeting, the Company's shareholders approved the establishment of a Long-Term Incentive Plan ("LTIP") to provide incentives to certain members of senior management ("Executives"). The shareholders also approved, in accordance with certain LTIP rules, the issue of options in the Company to Executives of the Company. At the Company's 2008 Annual General Meeting, the shareholders amended the LTIP to also allow restricted stock units to be granted under the LTIP.

In November 2006 and August 2007, 1,132,000 and 1,016,000 options were granted to Executives, respectively, under the LTIP. The vesting of these equity awards are subject to 'performance hurdles' as outlined in the LTIP rules. Unexercised options expire 10 years from the date of issue unless an Executive ceases employment with the Company.

The Company granted the following restricted stock units under the LTIP:

Grant Date	Restricted Stock Units Granted
15 September 2008	1,023,865
17 December 2008	545,757
29 May 2009	1,066,595
15 September 2009	522,000
11 December 2009	181,656
7 June 2010	807,457
15 September 2010	951,194
	5,098,524

These restricted stock units may not be sold, transferred, assigned, pledged or otherwise encumbered so long as such shares remain restricted. The Company determines the conditions or restrictions of any restricted stock awards, which may include requirements of continued employment, individual performance or the Company's financial performance or other criteria. Restricted stock units expire on exercise, vesting or as set out in the LTIP rules.

At 31 March 2011, there were 1,937,000 options and 4,257,686 restricted stock units outstanding under this plan.

Stock Options

The Company estimates the fair value of each stock option on the date of grant using either the Black-Scholes option-pricing model or a binomial lattice model that incorporates a Monte Carlo Simulation (the "Monte Carlo method"). The Company's stock based-compensation expense is the estimated fair value of options granted over the periods in which the stock options vest. There were no stock options granted during the years ended 31 March 2011, 2010 and 2009.

The following table summarises the Company's stock options available for grant and the activity in the Company's outstanding options during the noted period:

	Shares Available for Grant	Outstanding Options Number	Weighted Average Exercise Price (A\$)
Balance at 31 March 2009	23,747,833	18,272,928	7.28
Exercised		(2,058,275)	5.51
Forfeited		(1,770,215)	7.97
Forfeitures available for re-grant	1,540,215		
Balance at 31 March 2010	25,288,048	14,444,438	7.44
Exercised		(530,984)	5.19
Forfeited		(2,558,159)	8.10
Forfeitures available for re-grant	1,468,159		
Balance at 31 March 2011	26,756,207	11,355,295	7.40

The total intrinsic value of stock options exercised was A\$0.6 million, A\$4.7 million and nil for the years ended 31 March 2011, 2010 and 2009, respectively.

Windfall tax benefits realised in the United States from stock options exercised and included in cash flows from financing activities in the consolidated statements of cash flows were US\$0.4 million, US\$0.9 million and nil for the years ended 31 March 2011, 2010 and 2009, respectively.

The following table summarises outstanding and exercisable options under both the 2001 Equity Incentive Plan and the LTIP as of 31 March 2011:

Exercise Price (A\$)	Options Outstanding			Options Exercisable			
	Number	Weighted Average Remaining Life (in Years)	Weighted Average Exercise Price (A\$)	Aggregate Intrinsic Value	Number	Weighted Average Exercise Price (A\$)	Aggregate Intrinsic Value (A\$)
5.06	100,673	0.7	5.06	104,700	100,673	5.06	104,700
5.99	1,321,250	3.7	5.99	145,337	1,321,250	5.99	145,337
6.30	93,000	3.9	6.30	–	93,000	6.30	–
6.38	2,250,317	6.7	6.38	–	2,250,317	6.38	–
6.45	723,500	1.7	6.45	–	723,500	6.45	–
7.05	1,534,250	2.7	7.05	–	1,534,250	7.05	–
7.83	1,016,000	6.4	7.83	–	794,680	7.83	–
8.40	2,402,205	5.7	8.40	–	2,225,805	8.40	–
8.90	1,899,100	4.7	8.90	–	1,899,100	8.90	–
9.50	15,000	4.9	9.50	–	15,000	9.50	–
Total	11,355,295	4.8	7.40	250,037	10,957,575	7.38	250,037

The aggregate intrinsic value in the preceding table represents the total pre-tax intrinsic value based on stock options with an exercise price less than the Company's closing stock price of A\$6.10 as of 31 March 2011, which would have been received by the option holders had those option holders exercised their options as of that date.

Restricted Stock

The Company estimates the fair value of restricted stock units on the date of grant and recognises this estimated fair value as compensation expense over the periods in which the restricted stock vests.

The following table summarises the Company's restricted stock activity during the noted period:

	Shares	Weighted Average Fair Value at Grant Date (A\$)
Non-vested at 31 March 2009	2,991,061	3.95
Granted	2,048,820	5.38
Vested	(208,884)	3.85
Forfeited	(94,276)	4.32
Non-vested at 31 March 2010	4,736,721	4.57
Granted	2,107,077	5.85
Vested	(970,793)	4.94
Forfeited	(760,910)	5.15
Non-vested at 31 March 2011	5,112,095	4.94

Restricted Stock – service vesting

The Company granted restricted stock units with a service vesting condition to employees as follows:

Grant Date	Equity Award Plan	Restricted Stock Units Granted
17 June 2008	2001 Equity Incentive Plan	698,440
15 September 2008	Long-Term Incentive Plan	201,324
17 December 2008	2001 Equity Incentive Plan	992,271
29 May 2009	Long-Term Incentive Plan	1,066,595
7 December 2009	2001 Equity Incentive Plan	278,569
7 December 2010	2001 Equity Incentive Plan	348,426
		3,585,625

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The fair value of each restricted stock unit (service vesting) is equal to the market value of the Company's common stock on the date of grant, adjusted for the fair value of dividends as the restricted stock holder is not entitled to dividends over the vesting period.

Restricted Stock – performance vesting

The Company issued 807,457 restricted stock units with a performance vesting condition under the LTIP to senior executives of the Company for the year ended 31 March 2011. The vesting of the restricted stock units is deferred for two years and the amount of restricted stock units that will vest at that time is dependent on the scorecard rating of the award recipient. The scorecard reflects a number of key qualitative and quantitative performance objectives and the outcomes the Board expects to see achieved at the end of the vesting period.

When the scorecard is applied at the conclusion of fiscal year 2012, the award recipients may receive all, some, or none of their awards. The scorecard can only be applied by the Board to exercise discretion at the percentage of restricted stock units that will vest. The scorecard may not be applied to enhance the maximum award that was originally granted to the award recipient.

The fair value of each restricted stock unit (performance vesting) is adjusted for changes in JHI SE's common stock price at each balance sheet date until the scorecard is applied at the conclusion of fiscal year 2012.

Restricted Stock – market condition

Under the terms of the LTIP, the Company granted 951,194 and 703,656 restricted stock units (market condition) to members of the Company's Managing Board and senior managers during the years ended 31 March 2011 and 2010, respectively. The vesting of these restricted stock units is subject to a market condition as outlined in the LTIP rules.

The fair value of each of these restricted stock units (market condition) granted under the LTIP is estimated using a binomial lattice model that incorporates a Monte Carlo Simulation (the "Monte Carlo method").

The following table includes the assumptions used for restricted stock grants (market condition) valued during the years ended 31 March 2011 and 2010:

Date of grant	15 Sep 2010	11 Dec 2009	15 Sep 2009
Expected volatility	50.6%	49.9%	42.1%
Risk free interest rate	1.5%	2.1%	2.5%
Expected life in years	3.0	3.0	3.0
JHX stock price at grant date (A\$)	5.94	8.20	7.04
Number of restricted stock units	951,194	181,656	522,000

Scorecard LTI – Cash Settled Units

Under the terms of the LTIP, the Company granted awards equivalent to 821,459 and 1,089,265 Scorecard LTI units during the years ended 31 March 2011 and 2010, respectively, that provide recipients a cash incentive based on JHI SE's common stock price on the vesting date. The vesting of awards is measured on individual performance conditions based on certain performance measures. Compensation expense recognised for awards are based on the fair market value of JHI SE's common stock on the date of grant and recorded as a liability. The liability is adjusted for subsequent changes in JHI SE's common stock price at each balance sheet date.

Cash Settled Units

The Company granted 450 and 35,741 cash settled units (service vesting) to employees during the years ended 31 March 2011 and 2010, respectively, under the 2001 Equity Incentive Plan. Compensation expense recognised for awards are based on the fair market value of JHI SE's common stock on the date of grant and recorded as a liability. The liability is adjusted for subsequent changes in JHI SE's common stock price at each balance sheet date.

The total compensation cost related to liability classified awards for the years ended 31 March 2011 and 2010 was US\$2.2 million and US\$1.6 million, respectively.

17. OPERATING SEGMENT INFORMATION AND CONCENTRATIONS OF RISK

The Company has reported its operating segment information in the format that the operating segment information is available to and evaluated by the Company's management team. USA and Europe Fibre Cement manufactures fibre cement interior linings, exterior siding products and related accessories in the United States; these products are sold in the United States, Canada and Europe. Asia Pacific Fibre Cement includes all fibre cement manufactured in Australia, New Zealand and the Philippines and sold in Australia, New Zealand, Asia, the Middle East (Israel, Kuwait, Qatar and United Arab Emirates), and various Pacific Islands. Research and Development represents the cost incurred by the research and development centres.

The Company's operating segments are strategic operating units that are managed separately due to their different products and/or geographical location. On 1 April 2008, the Company realigned its operating segments by combining the previously reported segments of USA Fibre Cement and Other into one operating segment, USA and Europe Fibre Cement. On 22 May 2008, the Company ceased operation of its pipe business in the United States.

Operating Segments

The following are the Company's operating segments and geographical information:

(Millions of US dollars)	Net Sales to Customers ¹ Years Ended 31 March		
	2011	2010	2009
USA & Europe Fibre Cement	\$ 814.0	\$ 828.1	\$ 929.3
Asia Pacific Fibre Cement	353.0	296.5	273.3
Worldwide total	\$ 1,167.0	\$ 1,124.6	\$ 1,202.6

(Millions of US dollars)	Income (Loss) Before Income Taxes Years Ended 31 March		
	2011	2010	2009
USA & Europe Fibre Cement ²	\$ 160.3	\$ 208.5	\$ 199.3
Asia Pacific Fibre Cement ²	79.4	58.7	47.1
Research and Development ²	(20.1)	(19.0)	(18.9)
Segments total	219.6	248.2	227.5
General Corporate ³	(114.9)	(269.2)	(53.9)
Total operating income (loss)	104.7	(21.0)	173.6
Net interest expense ⁴	(4.4)	(4.0)	(3.0)
Other (expense) income	(3.7)	6.3	(14.8)
Worldwide total	\$ 96.6	\$ (18.7)	\$ 155.8

(Millions of US dollars)	Total Identifiable Assets 31 March	
	2011	2010
USA & Europe Fibre Cement	\$ 752.0	\$ 780.8
Asia Pacific Fibre Cement	235.0	216.9
Research and Development	14.4	14.2
Segments total	1,001.4	1,011.9
General Corporate ^{5,6}	959.2	1,166.9
Worldwide total	\$ 1,960.6	\$ 2,178.8

(Millions of US dollars)	Net Sales to Customers ¹ Years Ended 31 March		
	2011	2010	2009
USA	\$ 789.2	\$ 808.9	\$ 912.2
Australia	266.4	214.3	193.2
New Zealand	52.9	50.6	50.0
Other Countries	58.5	50.8	47.2
Worldwide total	\$ 1,167.0	\$ 1,124.6	\$ 1,202.6

(Millions of US dollars)	Total Identifiable Assets 31 March	
	2011	2010
USA	\$ 752.1	\$ 783.6
Australia	155.5	131.6
New Zealand	45.8	49.8
Other Countries	48.0	46.9
Segments total	1,001.4	1,011.9
General Corporate ^{5,6}	959.2	1,166.9
Worldwide total	\$ 1,960.6	\$ 2,178.8

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(CONTINUED)

JAMES HARDIE INDUSTRIES SE

- 1 Export sales and inter-segmental sales are not significant.
- 2 Research and development costs of US\$9.7 million, US\$10.4 million and US\$8.0 million in fiscal years 2011, 2010 and 2009, respectively, were expensed in the USA and Europe Fibre Cement segment. Research and development costs of US\$1.4 million, US\$1.0 million and US\$1.2 million in fiscal years 2011, 2010 and 2009, respectively, were expensed in the Asia Pacific Fibre Cement segment. Research and development costs of US\$16.9 million, US\$15.7 million and US\$14.4 million in fiscal years 2011, 2010 and 2009, respectively, were expensed in the Research and Development segment. The Research and Development segment also included selling, general and administrative expenses of US\$3.2 million, US\$3.3 million and US\$4.5 million in fiscal years 2011, 2010 and 2009, respectively.
Research and development expenditures are expensed as incurred and in total amounted to US\$28.0 million, US\$27.1 million and US\$23.8 million for the years ended 31 March 2011, 2010 and 2009, respectively.
- 3 The principal components of General Corporate are officer and employee compensation and related benefits, professional and legal fees, administrative costs, and rental expense net of rental income on the Company's corporate offices. Included in General Corporate for the year ended 31 March 2011 are unfavourable asbestos adjustments of US\$85.8 million, AICF SG&A expenses of US\$2.2 million and a net benefit of US\$8.7 million related to the ASIC proceedings. Included in General Corporate for the year ended 31 March 2010 are unfavourable asbestos adjustments of US\$224.2 million, AICF SG&A expenses of US\$2.1 million and ASIC expenses of US\$3.4 million. Included in General Corporate for the year ended 31 March 2009 are favourable asbestos adjustments of US\$17.4 million, AICF SG&A expenses of US\$0.7 million and ASIC expenses of US\$14.0 million.
- 4 The Company does not report net interest expense for each operating segment as operating segments are not held directly accountable for interest expense. Included in net interest (expense) income is AICF interest income of US\$4.3 million, US\$3.3 million and US\$6.4 million in fiscal years 2011, 2010 and 2009, respectively. See Note 11.
- 5 The Company does not report deferred tax assets and liabilities for each operating segment as operating segments are not held directly accountable for deferred income taxes. All deferred income taxes are included in General Corporate.
- 6 Asbestos-related assets at 31 March 2011 and 2010 are US\$819.7 million and US\$797.7 million, respectively, and are included in the General Corporate segment.

Concentrations of Risk

The distribution channels for the Company's fibre cement products are concentrated. If the Company were to lose one or more of its major customers, there can be no assurance that the Company will be able to find a replacement. Therefore, the loss of one or more customers could have a material adverse effect on the Company's consolidated financial position, results of operations and cash flows.

The Company has two major customers that individually account for over 10% of the Company's net sales in one or all of the past three fiscal years.

These two customers' accounts receivable represented 20% and 29% of the Company's trade accounts receivable at 31 March 2011 and 2010, respectively. The following are gross sales generated by these two customers, which are all from the USA and Europe Fibre Cement segment:

(Millions of US dollars)	2011	Years Ended 31 March				
		2010		2009		
		%	%		%	
Customer A	\$ 208.9	17.9	\$ 224.4	20.0	\$ 277.1	23.0
Customer B	134.0	11.5	144.5	12.8	149.6	12.4
	\$ 342.9		\$ 368.9		\$ 426.7	

Approximately 32% of the Company's fiscal year 2011 net sales were derived from outside the United States. Consequently, changes in the value of foreign currencies could significantly affect the consolidated financial position, results of operations and cash flows of the Company's non-US operations on translation into US dollars.

18. ACCUMULATED OTHER COMPREHENSIVE INCOME

Accumulated other comprehensive income consists of the following components:

(Millions of US dollars)	2011	31 March	
		2011	2010
Pension and post-retirement benefit adjustments	\$ (0.3)	\$ (1.6)	
Unrealised gain on restricted short-term investments	2.5	1.2	
Foreign currency translation adjustments	53.0	59.6	
Total accumulated other comprehensive income	\$ 55.2	\$ 59.2	

REMUNERATION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

(UNAUDITED, NOT FORMING PART OF THE CONSOLIDATED FINANCIAL STATEMENTS)

Fees paid to our independent registered public accounting firm for services provided for fiscal years 2011, 2010 and 2009 were as follows:

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
Audit Fees ¹	\$ 2.7	\$ 2.7	\$ 2.4
Audit-Related Fees ²	0.3	–	–

¹ Audit Fees include the aggregate fees for professional services rendered by our independent registered public accounting firm. Professional services include the audit of our annual financial statements and services that are normally provided in connection with statutory and regulatory filings.

² Audit-Related Fees include the aggregate fees billed for assurance and related services rendered by our independent registered public accounting firm. Our independent registered public accounting firm did not engage any temporary employees to conduct any portion of the audit of our consolidated financial statements for the fiscal years ended 31 March 2011, 2010 and 2009.

Audit Committee Pre-Approval Policies and Procedures

In accordance with our Audit Committee's policy and the requirements of the law, all services provided by our independent registered public accounting firm are pre-approved annually by the Audit Committee. Pre-approval includes a list of specific audit and non-audit services in the following categories: audit services, audit-related services, tax services and other services. Any additional services that we may ask our independent registered public accounting firm to perform will be set forth in a separate document requesting Audit Committee approval in advance of the service being performed.

All of the services pre-approved by the Audit Committee are permissible under the SEC's auditor independence rules. To avoid potential conflicts of interest, the law prohibits a publicly traded company from obtaining certain non-audit services from its independent registered public accounting firm. We obtain these services from other service providers as needed.

SELECTED QUARTERLY FINANCIAL DATA

(UNAUDITED, NOT FORMING PART OF THE CONSOLIDATED FINANCIAL STATEMENTS)

The information furnished in the selected quarterly financial data for the years ended 31 March 2011 and 2010 is unaudited but includes all adjustments which, in the opinion of management, are necessary for a fair statement of the financial results of the respective interim periods. Such adjustments are of a normal recurring nature. Interim financial statements are by necessity somewhat tentative; judgments are used to estimate interim amounts for items that are normally determinable only on an annual basis

(Millions of US dollars, except per share data)	Fiscal Years Ended 31 March 2011				Fiscal Years Ended 31 March 2010			
	By Quarter				By Quarter			
	First	Second	Third	Fourth	First	Second	Third	Fourth
Net sales	\$ 318.4	\$ 287.6	\$ 272.6	\$ 288.4	\$ 284.5	\$ 304.2	\$ 261.0	\$ 274.9
Cost of goods sold	(201.6)	(194.2)	(187.8)	(191.5)	(174.1)	(186.6)	(164.3)	(183.5)
Gross profit	116.8	93.4	84.8	96.9	110.4	117.6	96.7	91.4
Operating income (loss)	127.0	(56.2)	(16.9)	50.8	(57.1)	(0.8)	25.1	11.8
Interest expense	(1.8)	(2.2)	(2.0)	(3.0)	(1.5)	(1.5)	(1.8)	(2.9)
Interest income	0.7	1.3	0.7	1.9	0.8	1.1	1.0	0.8
Other (expense) income	(4.4)	(2.9)	2.7	0.9	4.8	(1.0)	2.2	0.3
Income (loss) before income taxes	121.5	(60.0)	(15.5)	50.6	(53.0)	(2.2)	26.5	10.0
Income tax expense ¹	(16.6)	(363.7)	(10.9)	(52.4)	(24.9)	(17.4)	(11.6)	(12.3)
Net income (loss)	\$ 104.9	\$ (423.7)	\$ (26.4)	\$ (1.8)	\$ (77.9)	\$ (19.6)	\$ 14.9	\$ (2.3)
Net income (loss) per share – basic	\$ 0.24	\$ (0.97)	\$ (0.06)	\$ (0.04)	\$ (0.18)	\$ (0.05)	\$ 0.03	\$ 0.01
Net income (loss) per share – diluted	\$ 0.24	\$ (0.97)	\$ (0.06)	\$ (0.04)	\$ (0.18)	\$ (0.05)	\$ 0.03	\$ 0.01

¹ Includes non-cash charge of US\$345.2 million recognised in the second quarter of the fiscal year ended 31 March 2011 related to the dismissal of RCI's appeal of the 1999 disputed amended tax assessment. Amount also includes a charge of US\$32.6 million recognised in the fourth quarter of the fiscal year ended 31 March 2011 related to our corporate structure simplification, as announced on 17 May 2011, which will be paid during the fiscal year ended 31 March 2012.

SECTION 3

ADDITIONAL INFORMATION FOR SHAREHOLDERS

RISK FACTORS

Our business, operations and financial condition are subject to various risks and uncertainties. We have described below significant factors that may adversely affect our business, operations, financial performance and condition or industry. You should be aware that the occurrence of any of the events described in the following risk factors, elsewhere in or incorporated by reference into this report, and other events that we have not predicted or assessed, could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

ASBESTOS RELATED RISKS

Our wholly owned Australian subsidiary, James Hardie 117 Pty Ltd (which we refer to as the Performing Subsidiary), is required to make payments to a special purpose fund that provides compensation for Australian asbestos-related personal injury and death claims for which certain former companies of the James Hardie Group are found liable. These payments may affect our ability to grow the Company.

On 21 November 2006, JHI SE (formerly JHI NV), the Asbestos Injuries Compensation Fund (which we refer to as the "AICF"), the Government of the State of New South Wales, Australia (which we refer to as the NSW Government) and the Performing Subsidiary entered into an amended and restated Final Funding Agreement (which we refer to as the AFFA) to provide long-term funding to the AICF, a special purpose fund that provides compensation for Australian asbestos-related personal injury and death claims for which certain former companies of the James Hardie Group, including ABN 60 Pty Limited (which we refer to as ABN 60), Amaca Pty Ltd (which we refer to as Amaca) and Amaba Pty Ltd (which we refer to as Amaba) (collectively, the Former James Hardie Companies) are found liable.

We have recorded an asbestos liability of US\$1.7 billion in our consolidated financial statements as of 31 March 2011, based on the AFFA governing our anticipated future payments to the AICF. The initial funding payment of A\$184.3 million (US\$145.0 million at the time of payment) was made to the AICF in February 2007 and annual payments will be made each July, subject to the terms of the AFFA. The amounts of these annual payments are dependent on several factors, including our free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of the AICF and the annual cash flow cap. Further contributions of A\$118.0 million (US\$110.0 million) (including interest payments) and A\$72.8 million (US\$63.7 million) were made in fiscal years 2009 and 2011, respectively. Under the terms of the AFFA, we were not required to make a contribution to the AICF in fiscal years 2008 and 2010. We expect to make a contribution to the AICF in fiscal year 2012 of approximately US\$51.5 million. Our obligation to make future contributions to the AICF continues to be linked under the terms of the AFFA to our long-term financial success, especially our ability to generate net operating cash flow.

As a result of our obligation to make payments under the AFFA, our funds available for capital expenditures (either with respect to our existing business or new business opportunities), repayments of debt, payments of dividends or other distributions have been, and will be, reduced by the amounts paid to the AICF, and consequently, our financial position, liquidity, results of operations and cash flows have been, and will be, reduced or materially adversely affected. Our obligation to make these payments could also affect or restrict our ability to access equity or debt capital markets.

Potential escalation in proven claims made against, and associated costs of, the AICF could increase our annual funding payments required to be made under the AFFA, which may cause us to have to increase our asbestos liability in the future.

The amount of our asbestos liability is based, in part, on actuarially determined, anticipated (estimated), future annual funding payments to be made to the AICF on an undiscounted and uninflated basis. Future annual payments to the AICF are based on updated actuarial assessments that are to be performed as of 31 March of each year to determine expected asbestos-related personal injury and death claims to be funded under the AFFA for the financial year in which the payment is made and the next two financial years. Estimates of actuarial liabilities are based on many assumptions, which may not prove to be correct, and which are subject to considerable uncertainty, since the ultimate number and cost of claims are subject to the outcome of events that have not yet occurred, including social, legal and medical developments as well as future economic conditions.

If future proven claims are more numerous, the liabilities arising from them are larger than that currently estimated by the AICF's actuary (currently KPMG Actuarial Pty Limited, which we refer to as KPMG Actuarial) or if the AICF investments decline in value, it is possible that pursuant to the terms of the AFFA, we will be required to pay higher annual funding payments to the AICF than currently anticipated and on which our asbestos liability is based. If this occurs, we may be required to increase our asbestos liability which would be reflected as a charge in our consolidated statements of operations at that date. Any such changes to actuarial estimates which require us to increase our asbestos liability could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Even though the AFFA has been implemented, we may be subject to potential additional liabilities (including claims for compensation or property remediation outside the arrangements reflected in the AFFA) because certain current and former companies of the James Hardie Group previously manufactured products that contained asbestos.

Up to 1987, two former subsidiaries of ABN 60, Amaca and Amaba, which are now owned and controlled by the AICF, manufactured products in Australia that contained asbestos. In addition, prior to 1937, ABN 60, which is also now owned and controlled by the AICF, manufactured products in Australia that contained asbestos. ABN 60 also held shares in companies that manufactured asbestos-containing products in Indonesia and Malaysia, and held minority shareholdings in companies that conducted asbestos-mining operations based in Canada and Southern Africa. Former ABN 60 subsidiaries also exported asbestos-containing products to various countries. The AICF is designed to provide compensation only for certain claims and to meet certain related expenses and liabilities, and legislation in New South Wales, Australia in connection with the AFFA seeks to defer all other claims against the Former James Hardie Companies. The funds contributed to the AICF will not be available to meet any asbestos-related claims made outside Australia, or claims made arising from exposure to asbestos occurring outside Australia, or any claim for pure property loss or pure economic loss or remediation of property. In these circumstances, it is possible that persons with such excluded claims may seek to pursue those claims directly against us. Defending any such litigation could be costly and time consuming, and consequently, our financial position, liquidity, results of operations and cash flows could be materially adversely affected.

Prior to 1988, a New Zealand subsidiary in the James Hardie Group manufactured products in New Zealand that contained asbestos. In New Zealand, asbestos-related disease compensation claims are managed by the state-run Accident Compensation Corporation (which we refer to as the ACC). Our New Zealand subsidiary that manufactured products that contained asbestos contributed financially to the ACC fund as required by law via payment of an annual levy while it carried on business. All decisions relating to the amount and allocation of payments to claimants in New Zealand are made by the ACC in accordance with New Zealand law. The Injury Prevention, Rehabilitation and Compensation Act 2001 (NZ) bars compensatory damages for claims that are covered by the legislation which may be made against the ACC fund. However, we may be subject to potential liability if any of these claims are found not to be covered by

the legislation and are later brought against us, and consequently, our financial position, liquidity, results of operations and cash flows could be materially adversely affected.

Because our revenues are primarily derived from sales in US dollars and the actuarially assessed asbestos liability is recorded in Australian dollars and payments pursuant to the AFFA are made in Australian dollars, we may experience unpredictable volatility in our reported results due to changes in the US dollar (and other currencies from which we derive our sales) compared to the Australian dollar.

Payments pursuant to the AFFA are required to be made to the AICF in Australian dollars. In addition, annual payments to the AICF are calculated based on various estimates that are denominated in Australian dollars. To the extent that our future obligations exceed our Australian dollar cash flows, and we do not hedge this foreign exchange exposure, we will need to convert US dollars or other foreign currency into Australian dollars in order to meet our obligations pursuant to the AFFA. As a result, any unfavourable fluctuations in the US dollar (the majority of our revenues is derived from sales in US dollars) or other currencies against the Australian Dollar could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

In addition, because our results of operations are reported in US dollars and the asbestos liability is based on estimated payments denominated in Australian dollars, fluctuations in the exchange rate will cause unpredictable volatility in our reported results for the foreseeable future. For example, during fiscal years 2011 and 2010, we recorded an unfavourable impact of US\$107.3 million and US\$220.9 million, respectively, due to fluctuations in the US dollar compared to the Australian dollar. Any unfavourable fluctuation in US dollar and the other currencies from which we derive our sales compared to the Australian dollar could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

The AFFA imposes certain non-monetary obligations.

Under the AFFA, we are also subject to certain non-monetary obligations that could prove onerous or otherwise materially adversely affect our ability to undertake proposed transactions or pay dividends. For example, the AFFA contains certain restrictions that generally prohibit us from undertaking transactions that would materially adversely affect the relative priority of the AICF as a creditor, or that would materially impair our legal or financial capacity and that of the Performing Subsidiary, in each case such that we and the Performing Subsidiary would cease to be likely to be able to meet the funding obligations that would have arisen under the AFFA had the relevant transaction not occurred. Those restrictions apply to dividends and other distributions, reorganisations of, or dealings in, share capital which create or vest rights in such capital in third parties, or non-arm's length transactions. While the AFFA contains certain exemptions from such restrictions (including, for example, exemptions for arm's length dealings; transactions in the ordinary course of business; certain issuances of equity securities or bonds; and certain transactions provided certain financial ratios are met and certain amounts of dividends), implementing such restrictions could materially adversely affect our ability to enter into transactions that might otherwise be favourable to us and could materially adversely affect our financial position, liquidity, results of operations and cash flows.

The AFFA does not eliminate the risk of adverse action being taken against us.

There is a possibility that, despite certain covenants agreed to by the NSW Government in the AFFA, adverse action could be directed against us by one or more of the NSW Government, the government of the Commonwealth of Australia (which we refer to as the Australian Commonwealth Government), governments of the other states or territories of Australia or any other governments, unions or union representative groups, or asbestos disease groups with respect to the asbestos liabilities of the Former James Hardie Companies or other current and former companies of the James Hardie Group. Any such adverse action could materially adversely affect our financial position, liquidity, results of operations and cash flows.

The complexity and long-term nature of the AFFA and related legislation and agreements may result in litigation as to their interpretation.

Certain legislation, the AFFA and related agreements, which govern the implementation and performance of the AFFA are complex and have been negotiated over the course of extended periods between various parties. There is a risk that, over the term of the AFFA, some or all parties may become involved in disputes as to the interpretation of such legislation, the AFFA or related agreements. We cannot guarantee that no party will commence litigation seeking remedies with respect to such a dispute, nor can we guarantee that a court will not order other remedies which may materially adversely affect us.

There is no certainty that the NSW Government loan facility to the AICF will remain in place for the entire term of the facility.

Drawings under the NSW Government loan facility to the AICF, as described in Note 11, are subject to satisfaction of certain specified conditions precedent and the NSW Government (as lender) has the right to cancel the loan facility, require repayment of money advanced and enforce security granted to support the loan in the various circumstances prescribed in the loan facility agreement and related security documentation. There are also certain positive covenants given by, and restrictions on the activities of, the AICF and Former James Hardie Companies which apply during the term of the loan. A breach of any of these covenants or restrictions may also lead to cancellation of the facility, early repayment of the loan and/or enforcement of the security. As such, there can be no certainty that the loan facility will remain in place for its intended term.

If the loan facility does not remain in place for its intended term, the AICF may experience a short-term funding shortfall. A short-term funding shortfall for the AICF could subject us to negative publicity. Such negative publicity could materially adversely affect our financial position, liquidity, results of operations and cash flows, employee morale and the market prices of our publicly traded securities.

We may have insufficient Australian taxable income to utilise tax deductions.

We may not have sufficient Australian taxable income in future years to utilise the tax deductions resulting from the funding payments under the AFFA to AICF. Further, if as a result of making such funding payments we incur tax losses, we may not be able to fully utilise such tax losses in future years of income. Any inability to utilise such deductions or losses could materially adversely affect our financial position, liquidity, results of operations and cash flows.

Certain AFFA tax conditions may not be satisfied.

Despite the ATO rulings for the expected life of the AFFA, it is possible that new (and adverse) tax legislation could be enacted in the future. It is also possible that the facts and circumstances relevant to operation of the ATO rulings could change over the life of the AFFA. We may elect to terminate the AFFA if certain tax conditions are not satisfied for more than 12 months. However, we do not have a right to terminate the AFFA if, among other things, the tax conditions are not satisfied as a result of the actions of a member of the James Hardie Group.

Under certain circumstances, we may still have an obligation to make annual funding payments on an adjusted basis if the tax conditions remain unsatisfied for more than 12 months. If the tax conditions are not satisfied in a manner which does not permit us to terminate the AFFA, our financial position, liquidity, results of operations and cash flows may be materially adversely affected. The extent of this adverse effect will be determined by the nature of the tax condition which is not satisfied.

IRISH DOMICILE RELATED RISKS

In connection with transforming the Company to an Irish SE, we and certain of our subsidiaries entered into an employee involvement agreement setting out the terms of future employee involvement in JHI SE. There is a risk that our entry into the employee involvement agreement may result in a material change to our governance or adversely affect our decision making process.

Under the SE Regulation and other relevant legislation, formation of an SE through merger requires companies to enter into negotiations with a special negotiating body (which we refer to as the SNB), made up of employee representatives in the European Economic Area (which we refer to as the EEA) member states. As a result of the SNB process, we and certain of our subsidiaries have entered into an agreement on the involvement of employees governing the provision of information to and consultation with our European employees. The agreement generally provides that the management of JHI SE and certain of our subsidiaries will provide information to our European employees regarding certain matters both annually and as such matters may arise. The agreement also provides that we will, subject to certain conditions, provide additional information and engage in a dialogue and exchange of views with those European employees who express an interest in these communications in a manner and with a content that allows those employees to express an opinion so that their opinion may be taken into account in our decision-making process. We also have agreed that we will convene a meeting with non-EEA member state employees to discuss information related to certain matters.

While we do not expect that the employee involvement agreement will result in a material change to our governance or the way James Hardie runs its business, we have not operated under this type of agreement before and there can be no assurance that it will not affect our governance or decision making process. In addition, an adverse change in our governance or decision making process as a result of the employee involvement agreement could for a period of time affect our results of operations or the market price of our publicly traded securities.

The actual benefits that we realise as an Irish SE could be materially different from our current expectations.

The Re-domicile was designed to enable us to reorganise the Company in a manner that would, among other things, allow key senior managers with global responsibilities to spend more time with management at our local operations and in our markets and provide more certainty to JHI SE regarding its future tax obligations. In addition, the transformation was partly for the purpose of increasing our future flexibility by becoming subject to Irish law. However, there can be no assurance that the ability of our key senior managers with global responsibilities to spend more time with local operations and in our markets will result in an improvement to our results of operations, that the tax laws applicable to our operations will not adversely change in the future, that Irish law will not become more restrictive or otherwise disadvantageous or that changes to our governance structure and board composition will not adversely affect us. A variety of other factors that are partially or entirely beyond our control could cause the actual benefits that we realise as an Irish SE to be materially different from what we currently expect.

Tax benefits are available under the US-Netherlands Income Tax Treaty to US and Dutch taxpayers that qualify for those benefits. In spite of a favourable settlement with the Appeals Division of the Internal Revenue Service (which we refer to as the IRS) for calendar years 2006 and 2007, our eligibility for continuing benefits under the US-Netherlands Tax Treaty is still undetermined for 2008 to 2010.

On 28 December 2004, the United States and The Netherlands amended the US-Netherlands Income Tax Treaty (prior to amendment, the "Original US-NL Treaty"; post amendment, the "New US-NL Treaty"). We believe that, based on the transitional rules set forth in the New US-NL Treaty, the Original US-NL Treaty applied to us and to our Dutch and US subsidiaries until 31 January 2006. We believe that, under the limitation on benefits (which we refer to as the LOB) provision of the Original US-NL Treaty, no US withholding tax applied to interest or royalties that our US subsidiaries paid to our Dutch finance subsidiary. The LOB provision of the Original US-NL Treaty had various conditions of eligibility for reduced US withholding tax rates and other treaty benefits, all of which we satisfied. If, however, we do not qualify for benefits under the New US-NL Treaty, those interest and royalty payments would be subject to a 30% US withholding tax.

Companies eligible for benefits under the New US-NL Treaty qualify for a zero percent US withholding tax rate not only on interest and royalties but also, in certain circumstances, on dividends. However, the LOB provision of the New US-NL Treaty has a number of new, more restrictive eligibility requirements for eliminating or reducing US withholding taxes and for other treaty benefits. We changed our organisational and operational structure as of 1 January 2006 to satisfy the requirements of the LOB provision of the New US-NL Treaty and believe we are eligible for the benefits of the New US-NL Treaty commencing 1 February 2006 until 29 June 2010, at which time we became an Irish tax resident and eligible for benefits under the US-Ireland Income Tax Treaty (the "US-Ireland Treaty").

In spite of a favourable settlement with the Appeals Division of the IRS for calendar years 2006 and 2007, our eligibility for continuing benefits under the New US-NL Treaty is still undetermined for 2008 and subsequent periods to 29 June 2010 (at which time we became an Irish tax resident and eligible for benefits under the US-Ireland Treaty) because such eligibility is determined on an annual basis. If during a subsequent tax audit or related process, the IRS determines that we are not eligible for continuing benefits under the New US-NL Treaty, we may not qualify for treaty benefits. As a result, our effective tax rate could significantly increase beginning in the fiscal year that such determination is made and we could be liable for taxes owed for calendar year 2008 and subsequent periods to 29 June 2010, which could materially adversely affect our financial position, liquidity, results of operations and cash flows.

Tax benefits are available under the U.S.-Ireland Income Tax Treaty to US and Irish taxpayers that qualify for those benefits. Our eligibility for benefits under the US-Ireland Tax Treaty is determined on an annual basis and we could be audited by the IRS for this issue. If during a subsequent tax audit or related process, the IRS determines that we are not eligible for benefits under the US-Ireland Treaty, we may not qualify for treaty benefits. As a result, our effective tax rate could significantly increase and we could be subject to a 30% US withholding tax rate on payments of interest, royalties and dividends from our US subsidiaries to our Irish resident subsidiaries.

In October 2009 we transferred our intellectual property and our treasury and finance operations to Irish resident subsidiaries. We believe that interest and royalties paid by our US subsidiaries to these Irish resident subsidiaries qualify for treaty benefits in the form of reduced withholding tax under the US-Ireland Income Tax Treaty (which we refer to as the U.S.-Ireland Treaty). For the period between the incorporation of these subsidiaries until the date that we became a tax resident in Ireland, under provisions of the US-Ireland Treaty, our Irish subsidiaries qualified for treaty benefits under the “derivative benefits” clause so long as we were also eligible for treaty benefits under the amended US-NL Income Tax Treaty.

We believe that, under the LOB provision of the US-Ireland Treaty, no US withholding tax applies to interest or royalties that our US subsidiaries paid to our Irish resident subsidiaries. The LOB provision has various conditions of eligibility for reduced US withholding tax rates and other treaty benefits, all of which we believe are satisfied. If, however, we do not qualify for benefits under the US-Ireland Treaty, those interest and royalty payments would be subject to a 30% US withholding tax.

With effect from 29 June 2010 forward (i.e., the date upon which we became an Irish tax resident), we believe that, under the US-Ireland Treaty, a 5% US withholding tax applies to dividends paid by our US subsidiaries to our Irish resident subsidiaries. The LOB provision of the US-Ireland Treaty has various conditions of eligibility for reduced US withholding tax rates and other treaty benefits, all of which we believe we have satisfied. If, however, we do not qualify for benefits under the US-Ireland Treaty, dividend payments by our US subsidiaries would be subject to a 30% US withholding rate.

Our eligibility for benefits under the US-Ireland Tax Treaty is determined on an annual basis and we could be audited by the IRS for this issue. If during a subsequent tax audit or related process, the IRS determines that we are not eligible for benefits under the US-Ireland Treaty, we may not qualify for treaty benefits. As a result, our effective tax rate could significantly increase beginning in the fiscal year that such determination is made and we could be liable for taxes owing for calendar year 2010 and subsequent periods, which could materially adversely affect our financial position, liquidity, results of operations and cash flows.

Irish law contains provisions that could delay or prevent a change of control that may otherwise be beneficial to you.

Irish law contains several provisions that could have the effect of delaying or preventing a change of control of our ownership. The Irish Takeover Rules generally prohibit the acquisition of shares of our common stock if, because of an acquisition of a relevant interest (including interests held in the form of shares of our common stock, CUFs or ADSs) in such shares, the voting rights of the shares in which a person (or persons acting in concert) holds relevant interests increases (i) from 30% or below to over 30% or (ii) from a starting point that is above 30% and below 50%. However, this prohibition is subject to exceptions, including acquisitions that result from acceptances under a mandatory takeover bid made in compliance with the Irish Takeover Rules. Although the Irish Takeover Rules may help to ensure that no person acquires voting control of us without making an offer to all shareholders, they may also have the effect of delaying or preventing a change of control that may otherwise be beneficial to you.

Our ability to pay dividends and conduct share buy-backs is dependent on Irish law and may be limited in the future if we are not able to maintain sufficient levels of Freely Distributable Reserves (which we refer to as FDRs).

Under Irish corporate law, an Irish company is able to pay dividends and/or conduct a buy-back of shares up to the amount of its FDRs which are determined under applicable accounting practices generally accepted in Ireland (which we refer to as Irish GAAP). We believe that our current corporate structure has allowed us to maintain sufficient levels of FDRs to continue paying dividends in accordance with our publicly disclosed dividend policy, which is updated from time to time, and to conduct share buy-backs as announced in May 2011. However, transactions or events could cause a reduction in our FDRs, resulting in our inability to pay dividends on our securities or to conduct share buy-backs, which could have a material adverse impact on the market value of the securities that you have invested in.

TAXATION RELATED RISKS

Our effective income tax rate could increase and materially adversely affect our business.

We operate in multiple jurisdictions and pay tax on our income according to the tax laws of these jurisdictions. Various factors, some of which are beyond our control, determine our effective tax rate. The primary drivers of our effective tax rate are the tax rates of the jurisdictions in which we operate, the level and geographic mix of pre-tax earnings, intra-group royalties, interest rates and the level of debt which give rise to interest expense on external debt and intra-group debt, extraordinary and non-core items, and the value of adjustments for timing differences and permanent differences, including the non-deductibility of certain expenses, all of which are subject to change and which could result in a material increase in our effective tax rate. Such changes to our effective tax rate could materially adversely affect our financial position, liquidity, results of operations and cash flows.

Exposure to additional tax liabilities due to audits could materially adversely affect our business.

Due to our size and the nature of our business, we are subject to ongoing reviews by authorities in taxing jurisdictions on various tax matters, including challenges to various positions we assert on our income tax and withholding tax returns. We accrue for tax contingencies based upon our best estimate of the taxes ultimately expected to be paid, which we update over time as more information becomes available. Such amounts are included in taxes payable or other non-current liabilities, as appropriate. We record additional tax expense in the period in which we determine that the recorded tax liability is less than the ultimate assessment we expect. The amounts ultimately paid on resolution of reviews by taxing jurisdictions could be materially different from the amounts included in taxes payable or other non-current liabilities and result in additional tax expense which could materially adversely affect our financial position, liquidity, results of operations and cash flows.

Our wholly-owned subsidiary, RCI Pty Ltd (which we refer to as RCI) may lose its appeal of a Federal Court judgment upholding an assessment by the ATO.

In March 2006, RCI received an amended assessment from the ATO in respect of RCI's income tax return for the year ended 31 March 1999. On 30 May 2007, the ATO issued a Notice of Decision disallowing the Company's objection to the amended assessment (which we refer to as the Objection Decision). On 11 July 2007, we filed an application appealing the Objection Decision with the Federal Court of Australia. The matter was heard before the Federal Court in September 2009 and on 1 September 2010, the Federal Court dismissed RCI's appeal.

Prior to the Federal Court's decision on RCI's appeal, we believed it was more-likely-than-not that the tax position reported in RCI's tax return for the 1999 fiscal year would be upheld on appeal. As a result, until 31 August 2010, we treated the payment of 50% of the amended assessment, general interest charges (which we refer to as GIC) and interest accrued on amounts paid to the ATO with respect to the amended assessment as a deposit on our consolidated balance sheet.

As a result of the Federal Court's decision, we re-assessed our tax position with respect to the amended assessment and concluded that the 'more-likely-than-not' recognition threshold as prescribed by US GAAP was no longer met. Accordingly, with effect from 1 September 2010, we removed the deposit with the ATO from our consolidated balance sheet and recognised a non-cash expense of US\$345.2 million (A\$388.0 million) on our consolidated statement of operations for the year ended 31 March 2011. In addition, we recognised an uncertain tax position of US\$190.4 million (A\$184.3 million) on our consolidated balance sheet relating to the unpaid portion of the amended assessment.

RCI strongly disputes the amended assessment and is pursuing an appeal of the Federal Court's judgment. RCI's appeal was heard from 16 May 2011 to 18 May 2011 before the Full Federal Court of

Australia. Judgment has been reserved. If RCI is ultimately unsuccessful in appealing the amended assessment, RCI will be required to pay the unpaid portion of the amended assessment. As a result, our financial position, liquidity, results of operations and cash flows would be materially and adversely affected.

The ATO was awarded costs in connection with RCI's appeal of the Objection Decision. The Company has recorded a reserve for such costs within Other Non-Current Liabilities on the Company's consolidated balance sheet at 31 March 2011. Amounts paid to the ATO could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

OTHER RISKS

Our business is dependent on the residential and commercial construction markets.

Demand for our products depends in large part on the residential construction markets and, to a lesser extent, on commercial construction markets. The level of activity in residential construction markets depends on new housing starts and residential remodeling projects, which are a function of many factors outside our control, including general economic conditions, the availability of financing, mortgage and other interest rates, inflation, unemployment, the inventory of unsold homes, the level of foreclosures, home resale rates, housing affordability, demographic trends, gross domestic product growth and consumer confidence in each of the countries and regions in which we operate.

Any further slowdown in the markets we serve could result in decreased demand for our products and cause us to experience decreased sales and operating income. In addition, further deterioration or continued weaknesses in general economic conditions, such as higher interest rates, continued high levels of unemployment, continued restrictive lending practices and increased number of foreclosures could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Substantial and increasing competition in the building products industry could materially adversely affect our business.

Competition in the building products industry is based largely on price, quality, performance and service. Our fibre cement products compete with products manufactured from natural and engineered wood, vinyl, stucco, masonry, gypsum and other materials as well as fibre cement products offered by other manufacturers. Some of our competitors may have greater product diversity and greater financial and other resources than we do and, among other factors, may be less affected by reductions in margins resulting from price competition.

Increased competition in any of the markets in which we compete would likely cause pricing pressures in those markets. Any of these factors could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

We rely on only a few customers to buy our fibre cement products and the loss of any major customer could materially adversely affect our business.

Our largest four customers in the US represented approximately 56% of our total USA and Europe Fibre Cement gross sales in fiscal year 2011. Our largest customer in Australia accounted for approximately 12% of our total gross sales in Asia Pacific Fibre Cement in fiscal year 2011. We generally do not have long-term contracts with our large customers. Accordingly, if we were to lose one or more of these customers because our competitors were able to offer customers more favourable pricing terms or for any other reason, we may not be able to replace customers in a timely manner or on reasonable terms. The loss of one or more of our large customers could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Regulatory action and continued scrutiny may have an adverse effect on our business.

Our compliance with laws and regulations can be subject to future government review and interpretation. If we fail to comply with applicable laws and regulations, we could be subject to fines, penalties, or other legal liability. Also, should these laws and regulations be amended or expanded, or should new laws and regulations be enacted, we could incur additional compliance costs or restrictions on our ability to manufacture our products and operate our business. Furthermore, our failure to comply with such laws and regulations could result in additional costs, fees or reporting requirements as well as significant regulatory action including fines, penalties and legal defense costs, and could subject us to negative publicity. Such actions could have a material adverse effect on our financial position, results of operations and cash flows.

Our transformation to an Irish SE in June 2010 could also result in increased negative publicity related to the Company. There continues to be negative publicity regarding, and criticism of, companies that conduct substantial business in the US but are domiciled in foreign countries. We cannot assure you that we will not be subject to similar criticism. We previously have been the subject of significant negative publicity in connection with the events that were considered by the SCI and the ASIC proceedings in Australia, which we believe has in the past contributed to declines in the price of our publicly traded securities.

We believe that any such adverse action or negative publicity could materially adversely affect our financial position, liquidity, results of operations and cash flows, employee morale and the market prices of our publicly traded securities.

Uncertainty exists surrounding the amount of losses and expense arising from the ASIC proceedings.

On 17 December 2010, the New South Wales Court of Appeal dismissed our appeal against Justice Gzell's judgment and ASIC's cross appeals against the appellants and ordered that we pay 90% of the costs incurred by ASIC in connection with our appeal.

The amount of costs we may be required to pay to ASIC in respect of the first instance and appeal proceedings is contingent on a number of factors, which include, without limitation, what costs are properly allocated and attributable to the issues pursued by ASIC against us and what costs could be deemed to be valid and reasonable taking into account the number of legal practitioners involved and their applicable fees rates.

In light of the uncertainty surrounding the amount of such costs, we have not recorded any provision for these costs at 31 March 2011. Losses and expenses arising from the ASIC proceedings could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

ASIC subsequently filed applications for special leave to the High Court appealing the Court of Appeals judgment in favour of the former directors' appeals. Certain former officers have also filed special leave applications to the High Court. The High Court granted ASIC's application for special leave on 13 May 2011. The High Court granted the special leave applications for one of the former executives, and the other former executive withdrew his application.

As with the first instance proceedings, we will pay a portion of the costs of bringing and defending appeals, with the remaining costs being met by third parties, including former directors and executives, in accordance with the terms of their applicable indemnities. It is our policy to expense legal costs as incurred. In fiscal years 2011, 2010 and 2009, we had net (recoveries)/expense of US\$(8.7) million, US\$3.4 million and US\$14.0 million, respectively, related to the ASIC proceedings and appeals. Fiscal year 2011 includes recoveries from third parties of US\$10.3 million related to the costs of the ASIC proceedings for certain of the ten former officers and directors. Our net costs in relation to the ASIC proceedings and appeals from February 2007 to 31 March 2011 totaled US\$14.4 million.

Because we have significant operations outside of the United States and report our earnings in US dollars, unfavourable fluctuations in currency values and exchange rates could have a material adverse effect on our business.

Because our reporting currency is the US dollar, our non-US operations face the additional risk of fluctuating currency values and exchange rates. Such operations may also face hard currency shortages and controls on currency exchange. Approximately 32%, 28% and 24% of our net sales in fiscal years 2011, 2010 and 2009, respectively, were derived from sales outside the United States. Consequently, changes in the value of foreign currencies (principally Australian dollars, New Zealand dollars, Philippine pesos, Euros, U.K. pounds and Canadian dollars) could materially affect our business, results of operations and financial condition. We generally attempt to mitigate foreign exchange risk by entering into contracts that require payment in local currency, hedging transactional risk, where appropriate, and having non-US operations borrow in local currencies. Although, we may enter into such financial instruments from time to time to manage our foreign exchange risks, we did not have any material forward exchange contracts outstanding as of 31 March 2011. There can be no assurance that we will be successful in these mitigation strategies, or that fluctuations in foreign currencies and other foreign exchange risks will not have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

If damages resulting from product defects exceed our insurance coverage, paying these damages could result in a material adverse effect on our business.

The actual or alleged existence of defects in any of our products could subject us to significant product liability claims, including potential putative class action claims. Although we do not have replacement insurance coverage for damage to, or defects in, our products, we do have product liability insurance coverage for consequential damages that may arise from the use of our products. Although we believe this coverage is adequate and currently intend to maintain this coverage in the future, we cannot assure you that this coverage will be sufficient to cover all future product liability claims or that this coverage will be available at reasonable rates in the future. The successful assertion of one or more claims against us that exceed our insurance coverage could require us to incur significant expenses to pay these damages. These additional expenses could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Warranty claims relating to our products and exceeding our warranty reserves could have a material adverse effect on our business.

We have offered, and continue to offer, various warranties on our products, including a 30-year limited warranty for certain of our fibre cement siding products in the United States. In total, as of 31 March 2011, we have accrued US\$26.2 million for such warranties within "Accrued product warranties" on our consolidated balance sheets and have disclosed the movements in our consolidated warranty reserves within Note 10 to our consolidated financial statements in Section 2. Although we maintain reserves for warranty-related claims and legal proceedings that we believe are adequate, we cannot assure you that warranty expense levels or the results of any warranty-related legal proceedings will not exceed our reserves. If our warranty reserves are significantly exceeded, the costs associated with such warranties could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

We may incur significant costs, including capital expenditures, in the future in complying with applicable environmental and health and safety laws and regulations.

In all the jurisdictions in which we operate, we are subject to environmental, health and safety laws and regulations governing, among other matters, our operations, including the air, soil, and water quality of our plants, and the use, handling, storage, disposal and remediation of hazardous substances currently or formerly used by us or any of our affiliates. Under these laws and regulations, we may be held jointly and severally responsible for the remediation of any hazardous substance contamination at our or our

predecessors' past or present facilities and at third-party waste disposal sites. We may also be held liable for any claims, penalties or fines arising out of human exposure to hazardous substances or other environmental damage, including damage to natural resources, and our failure to comply with air, water, waste, and other environmental regulations.

In addition, many of our products contain crystalline silica, which can be released in a respirable form in connection with manufacturing practices and handling or use. The inhalation of respirable crystalline silica at high and prolonged exposure levels is known or suspected to be associated with silicosis and has been the subject of extensive tort litigation. We may face future costs of engineering and compliance to meet new standards relating to crystalline silica if standards are heightened. In addition, there is a risk that claims for silica-related health effects could be made against us. We cannot assure you that we will have adequate resources, including adequate insurance coverage, to satisfy any future silica-related health effect claims. In addition, our sales could decrease if silica-related health effect claims are made against us and as a result, potential users of our products may decide not to use our products. Any such claims may have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

The costs of complying with environmental and health and safety laws relating to our operations or the liabilities arising from past or future releases of, or exposure to, hazardous substances, greenhouse gases, or product liability matters, or our failure to comply with air, water, waste, and other than existing environmental regulations may result in us making future expenditures that could have a material adverse effect on our financial position, liquidity, results of operations and cash flows. Such regulations and laws may increase the cost of energy or other products necessary to our operation, thereby increasing our operating costs. In addition, we cannot make any assurances that the laws currently in place that directly or indirectly relate to environmental liability will not change. If, for example, applicable laws or judicial interpretations related to successor liability or "piercing the corporate veil" were to change, it could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

We may experience adverse fluctuations in the supply and cost of raw materials and energy supply necessary to our business which could have a material adverse effect on our business.

Cellulose fibre (wood-based pulp), silica, cement and water are the principal raw materials used in the production of fibre cement, and the availability and cost of such raw materials are critical to our operations. Our fibre cement business periodically experiences fluctuations in the supply and costs of raw materials, and some of our supply markets are concentrated. In fiscal year 2011, the average Northern Bleached Softwood Kraft (which we refer to as NBSK) pulp price was US\$978 per ton, an increase of 30% compared to fiscal year 2010. NBSK pulp prices are forecasted to remain at or above US\$1,000 per ton.

Freight costs in the US were also higher in fiscal year 2011 compared to the prior year. Freight costs are expected to rise reflecting supply constraints for trucks, as the broader economy improves and the cost of fuel remains high.

Price fluctuations or material delays may occur in the future due to lack of raw materials, suppliers, or supply chain disruptions. The loss or deterioration of our relationship with a major supplier, an increase in demand by third parties for a particular supplier's products or materials, delays in obtaining materials, or significant increases in fuel and energy costs could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Demand for our products is subject to changes in consumer preference.

The continued development of builder and consumer preference for our fibre cement products over competitive products is critical to sustaining and expanding demand for our products. Therefore, the failure to maintain and increase builder and consumer acceptance of our fibre cement products could have a material adverse effect on our growth strategy, as well as our financial position, liquidity, results of operations and cash flows.

Our ability to sell our products into certain markets is influenced by building codes and ordinances in effect in the related localities and states and may limit our ability to compete effectively in certain markets and our ability to increase or maintain our current market share for our products.

Most states and localities in the markets in which we sell our products maintain building codes and ordinances that determine the requisite qualities of materials that may be used to construct homes and buildings for which our products are intended. Our products may not qualify under building codes and ordinances in certain markets, prohibiting our customers from using our products in those markets. This may limit our ability to sell our products into certain markets. In addition, ordinances and codes may change over time which may, from the time they are implemented, prospectively limit or prevent the use of our products in those markets, causing us to lose market share for our products. Although we keep up-to-date on the current and proposed building codes and ordinances of the markets in which we sell or plan to sell our products and, when appropriate, seek to become involved in the ordinance and code setting process, our efforts may be ineffective, which would have a material adverse effect on our financial condition, liquidity, results of operations and cash flows.

Our financial performance could be impacted by a customer's inability to pay amounts owed.

Our financial performance is dependent on our customers within the building products industry. Our customers' businesses have been impacted by the current economic environment, disruptions to the capital and credit markets and decreased demand for their products and services. If any of our largest customers or a substantial number of smaller customers are adversely affected by these conditions, if we become aware of information related to the credit worthiness of a major customer, or if future actual default rates on receivables in general differ from those currently anticipated, we may have to adjust the reserves for uncollectible receivables, which could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Our reliance on third party distribution channels could impact our business.

We offer our products directly and through a variety of third party distributors and dealers. Changes in the financial or business condition of these distributors and dealers could subject the Company to losses and affect its ability to bring our products to market and could have a material adverse effect on our business, financial position, liquidity, results of operations and cash flows.

Changes in, or failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which we conduct our business could result in, among other consequences, the loss of our assets in such jurisdiction, the elimination of certain rights that are critical to the operation of our business in such jurisdiction, a decrease in revenues or the imposition of additional taxes or other costs.

Because we own assets, manufacture and sell our products internationally, our activities are subject to political, economic, legal and other uncertainties, including:

- changing political and economic conditions;
- changing laws and policies;
- the general hazards associated with the assertion of sovereign rights over certain areas in which we conduct our business; and
- laws limiting or conditioning the right and ability of subsidiaries and joint ventures to pay dividends or remit earnings to affiliated companies.

Although we seek to take applicable laws, regulations and conditions into account in structuring our business on a global basis, changes in, or our failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which we conduct our business could result in, among other

consequences, the loss of our assets in such jurisdiction, the elimination of certain rights that are critical to the operation of our business in such jurisdiction, a decrease in revenues or the imposition of additional taxes. Therefore, any change in laws, regulations, policies or conditions of a jurisdiction could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

Because our intellectual property and other proprietary information may become publicly available, we are subject to the risk that competitors could copy our products or processes.

Our success depends, in part, on the proprietary nature of our technology, including non-patentable intellectual property such as our process technology. To the extent that a competitor is able to reproduce or otherwise capitalise on our technology, it may be difficult, expensive or impossible for us to obtain adequate legal or equitable relief. Also, the laws of some foreign countries may not protect our intellectual property to the same extent as do the laws of the United States. In addition to patent protection of intellectual property rights, we consider elements of our product designs and processes to be proprietary and confidential and/or trade secrets. To safeguard our confidential information, we rely on employee, consultant and vendor non-disclosure agreements and contractual provisions and a system of internal and technical safeguards to protect our proprietary information. However, any of our registered or unregistered intellectual property rights may be challenged or exploited by others in the industry, which could materially adversely affect our financial position, liquidity, results of operations, cash flows and competitive position.

Severe weather, natural disasters and climate conditions could have an adverse effect on our overall business.

Our plants and other facilities are located in places that could be affected by natural disasters, such as hurricanes, typhoons, cyclones, earthquakes, floods, tornados and other natural disasters. Natural disasters and widespread adverse climate changes that directly impact our plants or other facilities could materially adversely affect our manufacturing or other operations and, thereby, harm our overall financial position, liquidity, results of operations and cash flows.

In the manufacture of our products, we rely on a continuous and uninterrupted supply of electric power, water and, in some cases, natural gas, as well as the availability of water, waste and emissions discharge facilities. Any future shortages or discharge curtailments, of a material nature, could significantly disrupt our operations and increase our expenses. We currently do not have backup generators on our sites with the capability of maintaining all of a site's full operational power needs and we do not have alternate sources of power in the event of a sustained blackout. While our insurance includes coverage for certain "business interruption" losses (i.e., lost profits) and for certain "service interruption" losses, such as an accident at our supplier's facility, any losses in excess of the insurance policy's coverage limits or any losses not covered by the terms of the insurance policy could have a material adverse effect on our financial condition. If blackouts interrupt our power supply, we would be temporarily unable to continue operations at the affected facilities. Any future material and sustained interruptions in our ability to continue operations at our facilities could damage our reputation, harm our ability to retain existing customers or obtain new customers and could result in lost revenue, any of which could have a material adverse effect on our financial position, liquidity, results of operations and cash flows.

In the future, we may be unable to renew our credit facilities on their current terms or terms that are customary for other companies in our industry or who have similar credit ratings, or be able to obtain any alternative or additional financing arrangements.

In the future, we may not be able to renew credit facilities on substantially similar terms, or at all; we may have to pay additional fees and expenses that we might not have to pay under current circumstances; and we may have to agree to terms that could increase the cost of our debt facilities. If we are unable to renew our credit facilities on terms which are not materially less favourable than the terms currently available to us or obtain alternative or additional financing arrangements, we may experience liquidity issues and will have to reduce our levels of planned capital expenditures, suspend dividend payments and/or share buy-

back programs or take other measures to conserve cash in order to meet our future cash flow requirements.

Ineffective internal controls over financial reporting could impact our business and operating results.

Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls, or fraud. Even effective internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. If we fail to maintain the adequacy of internal controls, our business and operating results could be harmed and we could fail to meet our financial reporting obligations.

Our use of accounting estimates involves judgment and could impact our financial results.

Our most critical accounting estimates are described in Note 2 to our consolidated financial statements in Section 2. In addition, as discussed in Note 10, "Product Warranties" and Note 13, "Contingencies and Commitments" to our consolidated financial statements in Section 2, we make certain estimates including decisions related to legal proceedings and warranty reserves. Because by definition these estimates and assumptions involve the use of judgment, actual financial results may differ.

We may acquire or divest businesses from time to time, and this may materially adversely affect our results of operations and financial condition and may significantly change the nature of the company in which you have invested.

In the past, we have divested business segments. In the future, we may acquire other businesses or sell some or all of our assets or business segments. Any significant acquisition or sale may materially adversely affect our results of operations and financial condition and could change the overall profile of our business. As a result, the value of our shares may decrease in response to any such acquisition or sale and, upon any such acquisition or sale, our shares may represent an investment in a company with significantly different assets and prospects from the Company when you made your initial investment in us.

We are dependent upon our key management personnel for our future success.

Our success is greatly influenced by our ability to attract and retain qualified executives with experience in our market and industry. Our ability to retain executive officers and key management personnel is important to the implementation of our strategy. We could potentially lose the services of any of our senior management personnel due to a variety of factors that could include, without limitation, death, incapacity, personal issues, retirement, resignation, or competing employers. We may fail to attract and retain qualified key management personnel required to continue to operate our business successfully. The unexpected loss of senior management, coupled with our failure to recruit qualified successors, could have a material adverse effect on our business and the trading price of our common stock.

COMMITMENT TO PROVIDE FUNDING ON A LONG-TERM BASIS IN RESPECT OF ASBESTOS-RELATED LIABILITIES OF FORMER SUBSIDIARIES

The AFFA to provide long-term funding to the AICF was approved by shareholders in February 2007. The accounting policies utilized by us to account for the AFFA are described in Note 2 to our consolidated financial statements in Section 2.

Asbestos Adjustments

The asbestos adjustments included in the consolidated statements of operations comprise the following:

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2011	2010	2009
Change in estimates:			
Change in actuarial estimate — asbestos liability	\$ 9.8	\$ (3.8)	\$ (180.9)
Change in actuarial estimate — insurance receivable	(0.5)	1.9	19.8
Change in estimate — AICF claims handling costs	12.2	(1.4)	(1.2)
Subtotal — Change in estimates	21.5	(3.3)	(162.3)
(Loss) gain on foreign currency exchange	(107.3)	(220.9)	179.7
Total Asbestos Adjustments	\$ (85.8)	\$ (224.2)	\$ 17.4

[Table of Contents](#)**Asbestos-Related Assets and Liabilities**

Under the terms of the AFFA, we have included on our consolidated balance sheets certain asbestos-related assets and liabilities. These amounts are detailed in the table below, and the net total of these asbestos-related assets and liabilities is commonly referred to by us as the "Net AFFA Liability."

(Millions of US dollars)	31 March	
	2011	2010
Asbestos liability — current	\$ (111.1)	\$ (106.7)
Asbestos liability — non-current	(1,587.0)	(1,512.5)
Asbestos liability — Total	(1,698.1)	(1,619.2)
Insurance receivable — current	13.7	16.7
Insurance receivable — non-current	188.6	185.1
Insurance receivable — Total	202.3	201.8
Workers' compensation asset — current	0.3	0.1
Workers' compensation asset — non-current	90.4	98.8
Workers' compensation liability — current	(0.3)	(0.1)
Workers' compensation liability — non-current	(90.4)	(98.8)
Workers' compensation — Total	—	—
Deferred income taxes — current	10.5	16.4
Deferred income taxes — non-current	451.4	420.0
Deferred income taxes — Total	461.9	436.4
Income tax payable	18.6	16.5
Other net liabilities	(1.3)	(1.7)
Net AFFA liability	(1,016.6)	(966.2)
Restricted cash and cash equivalents and restricted short-term investment assets of the AICF	61.9	57.8
Unfunded Net AFFA liability	\$ (954.7)	\$ (908.4)

Asbestos Liability

The amount of the asbestos liability reflects the terms of the AFFA, which has been calculated by reference to (but is not exclusively based upon) the most recent actuarial estimate of the projected future asbestos-related cash flows prepared by KPMG Actuarial. The asbestos liability also includes an allowance for the future claims-handling costs of the AICF. We receive an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2011.

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The changes in the asbestos liability for the year ended 31 March 2011 are detailed in the table below:

	<u>AS</u> <u>Millions</u>	<u>AS to</u> <u>US\$ rate</u>	<u>US\$</u> <u>Millions</u>
Asbestos liability — 31 March 2010	A\$ (1,768.0)	1.0919	\$ (1,619.2)
Asbestos claims paid (1)	100.6	1.0584	95.0
AICF claims-handling costs incurred (1)	3.0	1.0584	2.8
Change in actuarial estimate (2)	9.5	0.9676	9.8
Change in estimate of AICF claims-handling costs (2)	11.8	0.9676	12.2
Loss on foreign currency exchange			(198.7)
Asbestos liability — 31 March 2011	<u>A\$ (1,643.1)</u>	0.9676	<u>\$ (1,698.1)</u>

(1) The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.

(2) The spot exchange rate at 31 March 2011 is used to convert the Australian dollar amount to US dollars as the adjustment to the estimate was made on that date.

Insurance Receivable — Asbestos

The changes in the insurance receivable for the year ended 31 March 2011 are detailed in the table below:

	<u>AS</u> <u>Millions</u>	<u>AS to</u> <u>US\$ rate</u>	<u>US\$</u> <u>Millions</u>
Insurance receivable — 31 March 2010	A\$ 220.3	1.0919	\$ 201.8
Insurance recoveries (1)	(24.1)	1.0584	(22.9)
Change in actuarial estimate (2)	(0.5)	0.9676	(0.5)
Gain on foreign currency exchange			23.9
Insurance receivable — 31 March 2011	<u>A\$ 195.7</u>	0.9676	<u>\$ 202.3</u>

(1) The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.

(2) The spot exchange rate at 31 March 2011 is used to convert the Australian dollar amount to US dollars as the adjustment to the estimate was made on that date.

Deferred Income Taxes — Asbestos

The changes in the deferred income taxes — asbestos for the year ended 31 March 2011 are detailed in the table below:

	<u>AS</u> <u>Millions</u>	<u>AS to US\$</u> <u>rate</u>	<u>US\$</u> <u>Millions</u>
Deferred tax assets — 31 March 2010	A\$ 476.5	1.0919	\$ 436.4
Amounts offset against income tax payable (1)	(22.3)	1.0584	(21.1)
AICF earnings (1)	(7.3)	1.0584	(6.9)
Gain on foreign currency exchange			53.5
Deferred tax assets — 31 March 2011	<u>A\$ 446.9</u>	0.9676	<u>\$ 461.9</u>

(1) The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.

Income Taxes Payable

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A portion of the deferred income tax asset is applied against our income tax payable. At 31 March 2011 and 2010, this amount was US\$21.1 million and US\$15.3 million, respectively. During the year ended 31 March 2011, there was a US\$2.1 million favourable effect of foreign currency exchange.

Other Net Liabilities

Other net liabilities include a provision for asbestos-related education and medical research contributions of US\$2.5 million and \$2.6 million at 31 March 2011 and 2010, respectively. Also included in other net liabilities are the other assets and liabilities of the AICF including trade receivables, prepayments, fixed assets, trade payables and accruals.

These other assets and liabilities of the AICF were a net asset of US\$1.3 million and US\$0.9 million at 31 March 2011 and 2010, respectively. During the year ended 31 March 2011, there was a US\$0.1 million net favourable effect of foreign currency exchange on the other net liabilities.

Restricted Cash and Short-term Investments of the AICF

Cash and cash equivalents and short-term investments of the AICF are reflected as restricted assets as these assets are restricted for use in the settlement of asbestos claims and payment of the operating costs of the AICF.

At 31 March 2011, we revalued the AICF's remaining short-term investments available-for-sale resulting in a positive mark-to-market fair value adjustment of US\$1.3 million. This appreciation in the value of the investments was recorded as an unrealised gain in *Other Comprehensive Income*.

The changes in the restricted cash and short-term investments of the AICF for the year ended 31 March 2011 are detailed in the table below:

	<u>AS</u> <u>Millions</u>	<u>AS to US\$</u> <u>rate</u>	<u>US\$</u> <u>Millions</u>
Restricted cash and cash equivalents and restricted short-term investments — 31 March 2010	A\$ 63.1	1.0919	\$ 57.8
Asbestos claims paid (1)	(100.6)	1.0584	(95.0)
Payments received in accordance with AFFA (2)	72.8	1.1430	63.7
AICF operating costs paid — claims handling (1)	(2.9)	1.0584	(2.8)
AICF operating costs paid — non-claims handling (1)	(2.3)	1.0584	(2.2)
Insurance recoveries (1)	24.1	1.0584	22.9
Interest and investment income (1)	4.5	1.0584	4.3
Unrealised gain on investments (1)	1.4	1.0584	1.3
Other (1)	(0.2)	1.0584	(0.1)
Gain on foreign currency exchange			12.0
Restricted cash and cash equivalents and restricted short-term investments — 31 March 2011	<u>A\$ 59.9</u>	0.9676	<u>\$ 61.9</u>

- (1) The average exchange rate for the period is used to convert the Australian dollar amount to US dollars based on the assumption that these transactions occurred evenly throughout the period.
- (2) The spot exchange rate on the date of payment is used to convert the Australian dollar amount to US dollars.

Actuarial Study; Claims Estimate

The AICF commissioned an updated actuarial study of potential asbestos-related liabilities as of 31 March 2011. Based on KPMG Actuarial's assumptions, KPMG Actuarial arrived at a range of possible total cash flows and proposed a central estimate which is intended to reflect an expected outcome. We view the

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central estimate as the basis for recording the asbestos liability in our financial statements, which under US GAAP, we consider the best estimate. Based on the results of these studies, it is estimated that the discounted (but inflated) value of the central estimate for claims against the Former James Hardie Companies was approximately A\$1.5 billion (US\$1.5 billion). The undiscounted (but inflated) value of the central estimate of the asbestos-related liabilities of Amaca and Amaba as determined by KPMG Actuarial was approximately A\$2.7 billion (US\$2.8 billion). Actual liabilities of those companies for such claims could vary, perhaps materially, from the central estimate described above. The asbestos liability includes projected future cash flows as undiscounted and uninflated on the basis that it is inappropriate to discount or inflate future cash flows when the timing and amounts of such cash flows are not fixed or readily determinable.

The asbestos liability has been revised to reflect the most recent actuarial estimate prepared by KPMG Actuarial as of 31 March 2011 and to adjust for payments made to claimants during the year then ended.

In estimating the potential financial exposure, KPMG Actuarial made assumptions related to the total number of claims which were reasonably estimated to be asserted through 2074, the typical cost of settlement (which is sensitive to, among other factors, the industry in which a plaintiff claims exposure, the alleged disease type and the jurisdiction in which the action is brought), the legal costs incurred in the litigation of such claims, the rate of receipt of claims, the settlement strategy in dealing with outstanding claims and the timing of settlements.

Due to inherent uncertainties in the legal and medical environment, the number and timing of future claim notifications and settlements, the recoverability of claims against insurance contracts, and estimates of future trends in average claim awards, as well as the extent to which the above named entities will contribute to the overall settlements, the actual amount of liability could differ materially from that which is currently projected.

The potential range of costs as estimated by KPMG Actuarial is affected by a number of variables such as nil settlement rates (where no settlement is payable by the Former James Hardie Companies because the claim settlement is borne by other asbestos defendants (other than the former James Hardie subsidiaries) which are held liable), peak year of claims, past history of claims numbers, average settlement rates, past history of Australian asbestos-related medical injuries, current number of claims, average defense and plaintiff legal costs, base wage inflation and superimposed inflation. The potential range of losses disclosed includes both asserted and unasserted claims. While no assurances can be provided, we believe that we are likely to be able to partially recover losses from various insurance carriers. As of 31 March 2011, KPMG Actuarial's undiscounted central estimate of asbestos-related liabilities was A\$2.7 billion (US\$2.8 billion). This undiscounted (but inflated) central estimate is net of expected insurance recoveries of A\$388.1 million (US\$401.1 million) after making a general credit risk allowance for insurance carriers for A\$58.6 million (US\$60.6 million) and an allowance for A\$56.3 million (US\$58.2 million) of "by claim" or subrogation recoveries from other third parties. We have not netted the insurance receivable against the asbestos liability on our consolidated balance sheets.

A sensitivity analysis has been performed to determine how the actuarial estimates would change if certain assumptions (i.e., the rate of inflation and superimposed inflation, the average costs of claims and legal fees, and the projected numbers of claims) were different from the assumptions used to determine the central estimates. This analysis shows that the discounted (but inflated) central estimates could be in a range of A\$1.0 billion (US\$1.0 billion) to A\$2.3 billion (US\$2.4 billion). The undiscounted, but inflated, estimates could be in the range of A\$1.7 billion (US\$1.8 billion) to A\$4.6 billion (US\$4.8 billion), as of 31 March 2011. The actual cost of the liabilities could be outside of that range depending on the results of actual experience relative to the assumptions made. One of the critical assumptions of the analysis is the estimated peak year of mesothelioma disease claims which is targeted for 2010/2011. Potential variation in this estimate has an impact much greater than the other sensitivities. If the peak year occurs five years later, in 2015/2016, the discounted central estimate could increase by approximately 50%.

Claims Data

The AICF provides compensation payments for Australian asbestos-related personal injury claims against the Former James Hardie Companies. The claims data in this section are only reflective of these Australian asbestos-related personal injury claims against the Former James Hardie Companies.

The following table shows the activity related to the numbers of open claims, new claims and closed claims during each of the past five years and the average settlement per settled claim and case closed:

	Years Ended 31 March				
	2011	2010	2009	2008	2007
Number of open claims at beginning of period	529	534	523	490	564
Number of new claims	494	535	607	552	463
Number of closed claims	459	540	596	519	537
Number of open claims at end of period	564	529	534	523	490
Average settlement amount per settled claim	A\$ 204,366	A\$ 190,627	A\$ 190,638	A\$ 147,349	A\$ 166,164
Average settlement amount per settled claim	US\$ 193,090	US\$ 162,250	US\$ 151,300	US\$ 128,096	US\$ 127,163
Average settlement amount per case closed	A\$ 173,199	A\$ 171,917	A\$ 168,248	A\$ 126,340	A\$ 128,723
Average settlement amount per case closed	US\$ 163,642	US\$ 146,325	US\$ 133,530	US\$ 109,832	US\$ 98,510

Under the terms of the AFFA, we have obtained rights of access to actuarial information produced for the AICF by the actuary appointed by the AICF (which we refer to as the Approved Actuary). Our future disclosures with respect to claims statistics are subject to us obtaining such information from the Approved Actuary. We have had no general right (and have not obtained any right under the AFFA) to audit or otherwise require independent verification of such information or the methodologies to be adopted by the Approved Actuary. As such, we will need to rely on the accuracy and completeness of the information and analysis of the Approved Actuary when making future disclosures with respect to claims statistics.

AICF — NSW Government Secured Loan Facility

On 9 December 2010, the AICF, Amaca, Amaba and ABN 60 (together, the "Obligors") entered into a secured standby loan facility and related agreements (the "Facility") with The State of New South Wales, Australia ("NSW") whereby the AICF may borrow, subject to certain conditions, up to an aggregate amount of A\$320.0 million (US\$330.7 million, based on the exchange rate at 31 March 2011).

The amount available to be drawn depends on the value of the insurance policies benefiting the Obligors and may be adjusted upward or downward, subject to a ceiling of A\$320.0 million. At 31 March 2011, the discounted value of insurance policies was A\$177.3 million (US\$183.2 million, based on the exchange rate at 31 March 2011).

In accordance with the terms of the Facility, drawings under the Facility may only be used by the AICF to fund the payment of asbestos claims and certain operating and legal costs of the Obligors. The amount available to be drawn is subject to periodic review by NSW. The Facility is available to be drawn up to the tenth anniversary of signing and must be repaid on or by 1 November 2030.

Interest accrues daily on amounts outstanding. Interest is calculated based on a 365-day year and is payable monthly. The AICF may, at its discretion, elect to capitalise interest payable on amounts

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outstanding under the Facility on the date interest becomes due and payable. In addition, if the AICF does not pay interest on a due date, it is taken to have elected to capitalise the interest.

NSW will borrow up to 50% of the amount made available under the Facility from the Commonwealth of Australia ("Commonwealth").

To the extent that NSW's source of funding the Facility is from the Commonwealth, the interest rate on the Facility is calculated by reference to the cost of NSW's borrowings from the Commonwealth for that purpose, being calculated with reference to the Commonwealth Treasury fixed coupon bond rate for a period determined as appropriate by the Commonwealth.

In summary, to the extent that NSW's source of funding is not from the Commonwealth, the interest rate on drawings under the Facility is calculated as (i) during the period to (but excluding) 1 May 2020, a yield percent per annum calculated at the time of the first drawdown of the Facility by reference to the NSW Treasury Corporation's 6% 1/05/2020 Benchmark Bonds, (ii) during the period after 1 May 2020, a yield percent per annum calculated by reference to NSW Treasury Corporation bonds on issue at that time and maturing in 2030, or (iii) in any case, if the relevant bonds are not on issue, a yield percent per annum in respect of such other source of funding for the Facility determined by the NSW Government in good faith to be used to replace those bonds, including any guarantee fee payable to the Commonwealth in respect of the bonds (where the bonds are guaranteed by the Commonwealth) or other source of funding.

Under the Facility, Amaca, Amaba and ABN 60 each guarantee the payment of amounts owed by the AICF and the AICF's performance of its obligations under the Facility. Each Obligor has granted a security interest in certain property including cash accounts, proceeds from insurance claims, payments remitted by the Company to the AICF and contractual rights under certain documents including the AFFA. Each Obligor may not deal with the secured property until all amounts outstanding under the Facility are paid, except as permitted under the terms of the security interest.

Under the terms of the Facility, each Obligor must, upon receipt of proceeds from insurance claims and payments remitted by the Company under the AFFA, apply all of such proceeds in repayment of amounts owing under the Facility. NSW may, at its sole discretion, waive or postpone (in such manner and for such period as it determines) the requirement for the Obligors to apply proceeds of insurance claims and payments remitted by the Company to repay amounts owed under the Facility to ensure the AICF has sufficient liquidity to meet its future cash flow needs.

The Obligors are subject to certain operating covenants under the Facility and the terms of the security interest, including, without limitation, (i) positive covenants relating to providing corporate reporting documents, providing particular notifications and complying with the terms of the AFFA, and (ii) negative covenants restricting them from voiding, canceling, settling, or adversely affecting existing insurance policies, disposing of assets and granting security to secure any other financial indebtedness, other than in accordance with the terms and conditions of the Facility.

Upon an event of default, NSW may cancel the commitment and declare all amounts outstanding as immediately due and payable. The events of default include, without limitation, failure to pay or repay amounts due in accordance with the Facility, breach of covenants, misrepresentation, cross default by an obligor and an adverse judgment (other than a personal asbestos or Marlew claim) against an Obligor.

The term of the Facility expires on 1 November 2030. At that time, all amounts outstanding under the Facility become due and payable. As of 19 May 2011, all substantive conditions precedent to drawdown of the facility have been satisfied with only procedural matters remaining. There are no amounts outstanding under the Facility. Further, from the time of signing through 19 May 2011, there have not been any drawings on the Facility by the AICF.

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Any drawings, repayments, or payments of accrued interest under the Facility by the AICF do not impact the Company's net operating cash flow, as defined in the AFFA, on which annual contributions remitted by the Company to the AICF are based. James Hardie Industries SE and its wholly-owned subsidiaries are not a party to, guarantor of, or security provider in respect of the Facility. See "Risk Factors" for additional information concerning the AFFA.

LEGAL PROCEEDINGS

The Company is involved from time to time in various legal proceedings and administrative actions incidental or related to the normal conduct of its business, including litigation concerning its products. Although it is impossible to predict the outcome of any pending legal proceeding, the Company believes that such proceedings and actions should not, except as it relates to asbestos, the ASIC proceedings, the matters described in the Product Warranty and Environmental and Legal sections below, the amended assessment from the ATO and income taxes, individually or in the aggregate, have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows. See also "Risk Factors."

ASIC Proceedings

In February 2007, ASIC commenced civil proceedings in the Supreme Court of New South Wales against us, ABN 60 and ten then-present or former officers and directors of the James Hardie Group. While the subject matter of the allegations varied between individual defendants, the allegations against us were confined to alleged contraventions of provisions of the Australian Corporations Act/Law relating to continuous disclosure and engaging in misleading or deceptive conduct in respect of a security. We defended each of the allegations made by ASIC and the orders sought against it in the proceedings, as did the former directors and officers of the Company.

The proceedings commenced on 29 September 2008 before Justice Gzell. On 23 April 2009, Justice Gzell issued judgment against the Company and the ten former officers and directors of the Company.

All defendants other than two lodged appeals against Justice Gzell's judgments, and ASIC responded by lodging cross appeals against the appellants. The appeals lodged by the former directors and officers were heard in April 2010 and the appeal lodged by us was heard in May 2010.

On 30 September 2010, we entered into agreements with third parties and subsequently received payment for US\$10.3 million relating to the costs of the ASIC proceedings for certain former officers. These recoveries are reflected as a reduction to selling, general and administrative expenses for the year ended 31 March 2011. We note that other recoveries may be available resulting from repayments by third parties, including former directors and officers, in accordance with the terms of their indemnities.

On 17 December 2010, the New South Wales Court of Appeal dismissed the Company's appeal against Justice Gzell's judgment and ASIC's cross appeal and ordered that the Company pay 90% of the costs incurred by ASIC in respect of the Company's appeal. The Court of Appeal also allowed the appeals brought by the non-executive directors, dismissed ASIC's related cross-appeals, and ordered ASIC to pay the non-executive directors costs of the proceedings and the appeals. The Court of Appeal allowed the appeals and cross appeals in respect of certain former officers in part and reserved certain matters for further submissions. On 6 May 2011, the Court of Appeal rendered judgment in the exoneration, penalty and cost matter for certain former officers in which it varied certain orders made at first instance and ordered that there be no order as to the costs of the appeals of the certain former officers and ASIC's related cross-appeals.

The amount of the costs we may be required to pay to ASIC following the Court of Appeal judgments is contingent on a number of factors, which include, without limitation, whether such costs (including the costs orders in ASIC's favour against us in the first instance hearing, which orders were not disturbed by the Court of Appeal) are reasonable having regard to the issues pursued in the case by ASIC against us, the associated legal work undertaken specifically in respect of those issues (as distinct from the legal costs of a previous claim and related order against us that was withdrawn by ASIC in September 2008 just prior

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to the commencement of the first instance trial, the legal costs incurred by ASIC in connection with similar or overlapping claims against other parties in the first instance or appeal proceedings and the successful interlocutory appeal by the Company against ASIC during the course of the first instance hearing), the number of legal practitioners involved in such legal work and their applicable fee rates.

In light of the uncertainty surrounding the amount of such costs, we have not recorded any provision for these costs at 31 March 2011.

ASIC subsequently filed applications for special leave appeal to the High Court appealing from the Court of Appeals judgment in favour of the former directors' appeals and a former officer. Certain former officers also filed special leave applications in the High Court. The Company did not file an application for special leave to the High Court. The High Court granted ASIC's applications for special leave on 13 May 2011. The High Court also granted the special leave applications for one of the former officers, and the other former officer withdrew his application.

As with the first instance proceedings, we will pay a portion of the costs of bringing and defending appeals, with the remaining costs being met by third parties, including former directors and executives, in accordance with the terms of their applicable indemnities. Losses and expenses arising from the ASIC proceedings could have a material adverse effect on our financial position, liquidity, results of operations and cash flows. It is our policy to expense legal costs as incurred.

For further information, see Section 3, "Additional Information for Shareholders — Risk Factors" and Note 13 to our consolidated financial statements in Section 2.

Tax Contingencies

Due to our size and the nature of our business, we are subject to ongoing reviews by taxing jurisdictions on various tax matters, including challenges to various positions we assert on our income tax returns. We accrue for tax contingencies based upon our best estimate of the taxes ultimately expected to be paid, which we update over time as more information becomes available. Such amounts are included in taxes payable or other non-current liabilities, as appropriate. If we ultimately determine that payment of these amounts is unnecessary, we reverse the liability and recognise a tax benefit during the period in which we determine that the liability is no longer necessary. We record additional tax expense in the period in which we determine that the recorded tax liability is less than the ultimate assessment we expect.

In fiscal years 2011, 2010 and 2009, we recorded an income tax expense of nil, an income tax expense of US\$2.2 million and an income tax benefit of US\$3.0 million, respectively, as a result of the finalisation of certain tax audits (whereby certain matters were settled), the expiration of the statute of limitations related to certain tax positions and adjustments to income tax balances based on the filing of amended income tax returns, which give rise to the benefit recorded by us.

We or one of our subsidiaries file income tax returns in various jurisdictions, including the United States, The Netherlands, Australia, New Zealand, the Philippines and Ireland. We are no longer subject to US federal examinations by the IRS for tax years prior to tax year 2008. We are no longer subject to examinations by The Netherlands tax authority, for tax years prior to tax year 2005. We are no longer subject to Australian federal examinations by the ATO for tax years prior to tax year 2007.

In connection with our re-domicile from The Netherlands to Ireland, we became an Irish tax resident on 29 June 2010. While we were domiciled in The Netherlands, we derived significant tax benefits under the US-Netherlands tax treaty. The treaty was amended during fiscal year 2005 and became effective for us on 1 February 2006. The amended treaty provided, among other things, requirements that we must meet for us to qualify for treaty benefits and its effective income tax rate. During fiscal year 2006, we made changes to our organisational and operational structure to satisfy the requirements of the amended treaty and believe that we were in compliance and qualified for treaty benefits while we were domiciled in The Netherlands. However, if during a subsequent tax audit or related process, the IRS determines that these

changes did not meet the requirements, we may not qualify for treaty benefits and our effective income tax rate could significantly increase beginning in the fiscal year that such determination is made, and we could be liable for taxes owed for calendar year 2008 and subsequent periods in which we were domiciled in The Netherlands.

We believe that it is more likely than not that we were in compliance and should qualify for treaty benefits for calendar year 2008 and subsequent periods in which we were domiciled in The Netherlands. Therefore, we believe that the requirements for recording a liability have not been met and therefore we have not recorded any liability at 31 March 2011.

Amended Australian Taxation Office Assessment

In March 2006, RCI Pty Ltd (which we refer to as "RCI"), a wholly-owned subsidiary of the Company, received an amended assessment from the ATO with respect to RCI's income tax return for the year ended 31 March 1999. The amended assessment related to the amount of net capital gains arising as a result of an internal corporate restructure carried out in 1998 and was issued pursuant to the discretion granted to the Commissioner of Taxation under Part IVA of the Income Tax Assessment Act 1936. The amended assessment issued to RCI was for a total of A\$412.0 million. However, after subsequent remissions of GIC by the ATO the total was changed to A\$368.0 million, comprising primary tax after allowable credits, penalties, and GIC.

During fiscal year 2007 RCI agreed with the ATO that in accordance with the ATO Receivable Policy, RCI would pay 50% of the total amended assessment being A\$184.0 million (US\$152.5 million), and provide a guarantee from James Hardie Industries SE (formerly James Hardie Industries N.V.) in favour of the ATO for the remaining unpaid 50% of the amended assessment, pending outcome of the appeal of the amended assessment. RCI also agreed to pay GIC accruing on the unpaid balance of the amended assessment in arrears on a quarterly basis.

The ATO conceded that RCI has a reasonably arguable position that the amount of net capital gains arising as a result of the corporate restructure carried out in 1998 was reported correctly in the fiscal year 1999 tax return and that Part IVA does not apply.

On 30 May 2007, the ATO issued a Notice of Decision disallowing RCI's objection to the amended assessment (which we refer to as the "Objection Decision"). On 11 July 2007, RCI filed an application appealing the Objection Decision and the matter was heard before the Federal Court of Australia in September 2009.

On 1 September 2010, the Federal Court of Australia dismissed RCI's appeal.

Prior to the Federal Court's decision on RCI's appeal, we believed it was more-likely-than-not that the tax position reported in RCI's tax return for the 1999 fiscal year would be upheld on appeal. As a result, until 31 August 2010, we treated the payment of 50% of the amended assessment, GIC and interest accrued on amounts paid to the ATO with respect to the amended assessment as a deposit on our consolidated balance sheet.

As a result of the Federal Court's decision, we re-assessed its tax position with respect to the amended assessment and concluded that the 'more-likely-than-not' recognition threshold as prescribed by US GAAP was no longer met. Accordingly, with effect from 1 September 2010, we removed the deposit with the ATO from our consolidated balance sheet and recognised an expense of US\$345.2 million (A\$388.0 million) on our consolidated statement of operations, which did not result in a cash outflow for the year ended 31 March 2011. In addition, we recognised an uncertain tax position of US\$190.4 million (A\$184.3 million) on our consolidated balance sheet relating to the unpaid portion of the amended assessment.

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RCI strongly disputes the amended assessment and is pursuing an appeal of the Federal Court's judgment. RCI's appeal was heard from 16 May 2011 to 18 May 2011 before the Full Court of the Federal Court of Australia. Judgment has been reserved.

With effect from 1 September 2010, the Company has expensed payments of GIC to the ATO as incurred. The Company will continue to expense GIC as incurred until RCI ultimately prevails on the matter or the remaining outstanding balance of the amended assessment is paid.

The ATO was awarded costs in connection with RCI's appeal of the objection decision to the Federal Court of Australia. The Company has made a provision for such costs within other non-current liabilities on the Company's consolidated balance sheet at 31 March 2011.

For further information, see "Risk Factors" and "Management's Discussion and Analysis — Liquidity and Capital Resources" and Note 14 to our consolidated financial statements in Section 2.

ATO Settlement

As announced on 12 December 2008, we and the ATO reached an agreement that finalised tax audits being conducted by the ATO on our Australian income tax returns for the years ended 31 March 2002 and 31 March 2004 through 31 March 2006 and settled all outstanding issues arising from these tax audits.

With the exception of the assessment in respect of RCI for the 1999 financial year, the settlement concluded ATO audit activities for all years prior to the year ended 31 March 2007. The agreed settlement, made without concessions or admissions of liability by either us or the ATO, required us to pay an amount of US\$101.6 million (A\$153.0 million) in December 2008.

Product Warranty

On 30 March 2011, one of the Company's US subsidiaries was named as a defendant in a lawsuit pending in federal district court relating to product allegedly manufactured by the subsidiary. The lawsuit seeks unspecified damages on behalf of an individual homeowner.

The individual plaintiff seeks to bring the lawsuit on behalf of a purported but unidentified class of homeowners. Based on available information and circumstances presently known, the Company believes that the outcome of the proceedings with respect to the individual plaintiff will not have a material adverse effect on the Company's financial condition, results of operations or cash flows. In addition, although the outcome of the individual plaintiff's request for class action status is uncertain, the Company believes it has meritorious defenses to the lawsuit, and the subsidiary intends to vigorously defend the action.

Environmental and Legal

The operations of the Company, like those of other companies engaged in similar businesses, are subject to a number of laws and regulations on air and water quality, waste handling and disposal. Our policy is to accrue for environmental costs when it is determined that it is probable that an obligation exists and the amount can be reasonably estimated.

In addition, we are involved from time to time in various legal proceedings and administrative actions concerning our operations and products, including putative class action lawsuits. With respect to asserted claims, the Company believes it has made adequate provision on its consolidated balance sheet as of 31 March 2011 for asserted claims that are reasonably estimable. Although it is reasonably possible that we could experience an unexpected increase in the cost of asserted claims and may be subject to new asserted claims in the future, we are unable to estimate an amount or range of loss in relation to such matters. Management is of the opinion that based on information presently known, the liability for such

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matters should not have a material adverse effect on either the Company's consolidated financial position, results of operations or cash flows.

EMPLOYEES

During each of the last three fiscal years, we employed the following average number of people:

	Fiscal Years Ended 31 March		
	2011	2010	2009
Fibre Cement United States and Canada	1,586	1,464	1,566
Fibre Cement Australia	416	389	397
Fibre Cement New Zealand	142	152	178
Fibre Cement Philippines	151	154	163
Pipes (United States and Australia)	59	60	90
Fibre Cement Europe	43	44	46
Research & Development, including Technology	107	106	109
General Corporate	36	41	48
Total Employees	2,540	2,410	2,597

Our Plant City, Florida Hardie Pipe Plant was closed and the business ceased operations in May 2008. As of the end of 31 March 2011, of the 2,540 average number of people employed, approximately 390 employees were members of labour unions (approximately 290 employees in Australia and 100 employees in New Zealand. Under Australian law, we cannot keep records of union members. The number quoted is the number of people who work in our factories that have union participation and therefore may be represented by a union). Our management believes that we have a satisfactory relationship with these unions and its members and there are currently no ongoing labour disputes. We currently have no employees who are members of a union in the United States.

SHARE OWNERSHIP

As of 31 May 2011, the number of shares of our common stock beneficially owned by each person listed in Section 2, "Remuneration Report."

Name	Number of Shares Beneficially Owned	Percent of Class (1)
Current Directors and Executive Officers		
Michael Hammes (2)	32,847	*
Donald McGauchie (3)	20,372	*
Brian Anderson	7,635	*
David Harrison	12,384	*
James Osborne	2,551	*
Rudy van der Meer	17,290	*
David Dilger (4)	25,000	*
Louis Gries	2,562,244	*
Russell Chenu	406,556	*
Robert Cox	84,178	*
Mark Fisher	1,121,505	*
Nigel Rigby	1,011,604	*

* Indicates that the individual beneficially owns less than 1% of our shares of common stock.

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- (1) Based on 437,311,611 shares of common stock outstanding at 31 May 2011 (all of which are subject to CUFS).
- (2) As of 31 May 2011, 27,847 shares were held in the name of Mr and Mrs Hammes.
- (3) As of 31 May 2011 6,000 shares were held for the McGauchie Superannuation Fund for which Mr McGauchie is a trustee.
- (4) As of 31 May 2011, 25,000 shares were held for the David Dilger Approved Retirement Fund for which Mr Dilger is a beneficiary.

None of the shares held by any of the directors or executive officers has any special voting rights. Beneficial ownership of shares includes shares issuable upon exercise of options which are exercisable within 60 days of 31 May 2011.

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Option Ownership

The number of shares of our common stock that each person listed in Section 2, “Remuneration Report — Remuneration Table for Senior Executives,” have an option to purchase as of 31 May 2011 was:

Name	Number of Shares Underlying Options Owned	Exercise Price	Expiration Date
Current Executive Officers			
Louis Gries	325,000 (1)	A\$6.4490/share	December 2012
	325,000 (2)	A\$7.05/share	December 2013
	381,000 (3)	A\$8.40/share	November 2016
	415,000 (3)	A\$8.40/share	November 2016
	437,000 (3)	A\$7.83/share	August 2017
	445,000 (3)	A\$7.83/share	August 2017
Russell Chenu	93,000 (4)	A\$6.30/share	February 2015
	60,000 (3)	A\$8.40/share	November 2016
	65,000 (3)	A\$8.40/share	November 2016
	66,000 (3)	A\$7.83/share	August 2017
	68,000 (3)	A\$7.83/share	August 2017
Robert Cox	—		
Mark Fisher	74,000 (1)	A\$6.4490/share	December 2012
	132,000 (2)	A\$7.05/share	December 2013
	180,000 (6)	A\$5.99/share	December 2014
	190,000 (7)	A\$8.90/share	December 2015
	158,500 (8)	A\$8.40/share	November 2016
	277,778 (9)	A\$6.38/share	December 2017
Nigel Rigby	20,003 (5)	A\$5.0586/share	December 2011
	27,000 (1)	A\$6.449/share	December 2012
	33,000 (2)	A\$7.05/share	December 2013
	180,000 (6)	A\$5.99/share	December 2014
	190,000 (7)	A\$8.90/share	December 2015
	158,500 (8)	A\$8.40/share	November 2016
	277,778 (9)	A\$6.38/share	December 2017

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- (1) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2005.
 - (2) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2006.
 - (3) Granted under the Long Term Incentive Plan. Option vesting is subject to ‘performance hurdles’ as outlined in the plan rules.
 - (4) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in February 2008.
 - (5) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2004.
 - (6) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2007.
 - (7) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2008.
 - (8) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in November 2009.

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(9) Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable in December 2010.

Restricted Stock Unit Ownership

The number of shares of our common stock that each person listed in Section 2, "Remuneration Report — Remuneration Table for Senior Executives," held as restricted stock units as of 31 May 2011 was:

Name	Number of Restricted Stock Units Owned	Unvested
Current Executive Officers		
Louis Gries	558,708 (1)	558,708
	234,900 (2)	234,900
	81,746 (3)	81,746
	360,267 (5)	360,267
	577,255 (6)	577,255
Russell Chenu	108,637 (1)	108,637
	45,675 (2)	45,675
	15,895 (3)	15,895
	70,052 (5)	70,052
	72,157 (6)	72,157
Robert Cox	92,692 (1)	92,692
	3,286 (2)	3,286
Mark Fisher	116,948 (4)	116,948
	39,150 (2)	39,150
	13,624 (3)	13,624
	60,044 (5)	60,044
	67,003 (6)	67,003
Nigel Rigby	116,948 (4)	116,948
	39,150 (2)	39,150
	13,624 (3)	13,624
	60,044 (5)	60,044
	72,157 (6)	72,157

- (1) Granted under the Long Term Incentive Plan on 15 September 2008. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.
- (2) Granted under the Long Term Incentive Plan on 15 September 2009. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.
- (3) Granted under the Long Term Incentive Plan on 11 December 2009. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.
- (4) Granted under the Long Term Incentive Plan on 17 December 2008. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.
- (5) Granted under the Long Term Incentive Plan on 7 June 2010. Restricted stock units vesting are subject to 'performance hurdles' as outlined in the plan rules and vest, subject to the application of the Scorecard, in one instalment on 7 June 2012.

(6) Granted under the Long Term Incentive Plan on 15 September 2010. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.

Stock-Based Compensation

At 31 March 2011, we had the following equity award plans: the Executive Share Purchase Plan (which we refer to as the Plan); the JHI SE 2001 Equity Incentive Plan and the Long-Term Incentive Plan 2006 as amended in 2008 (which we refer to as LTIP). Following completion of the Re-domicile on 17 June 2010, each of these plans (except for the Executive Share Purchase Plan, which is no longer operational), ceased to be governed by Dutch law and became governed by Irish law. The plans were also amended to reflect the fact that Irish SE will have a single board of directors, including changing the names of the plans as appropriate to reflect the single board.

Executive Share Purchase Plan

Prior to July 1998, JHIL issued stock under the Plan. Under the terms of the Plan, eligible executives purchased JHIL shares at their market price when issued. Executives funded purchases of JHIL shares with non-recourse, interest-free loans provided by JHIL and collateralised by the shares. In such cases, the amount of indebtedness is reduced by any amounts payable by JHIL in respect of such shares, including dividends and capital returns. These loans are generally repayable within two years after termination of an executive's employment. Variable plan accounting has been applied to the Executive Share Purchase Plan shares granted prior to 1 April 1995 and fair value accounting has been applied to shares granted after 31 March 1995. The Company recorded no compensation expense during the years ended 31 March 2011, 2010 and 2009. No shares were issued under this plan during years ended 31 March 2011, 2010 and 2009.

Managing Board Transitional Stock Option Plan

On 22 November 2005, we granted options to purchase 1,320,000 shares of our common stock at an exercise price per share equal to A\$8.53 to the Managing Board directors under the Managing Board Transitional Stock Option Plan. During fiscal year 2011, the plan and all remaining options issued under the plan lapsed. At 31 March 2011, there were nil options outstanding under this plan and no further equity awards will be granted under this plan.

JHI SE 2001 Equity Incentive Plan

Under our 2001 Equity Incentive Plan, our employees, including employees of our subsidiaries and officers who are employees, but not including any member of our Board, are eligible to receive awards in the form of nonqualified stock options, performance awards, restricted stock grants, stock appreciation rights, dividend equivalent rights, phantom stock or other stock-based benefits such as restricted stock units. The 2001 Equity Incentive Plan is intended to promote our long-term financial interests by encouraging our management and other persons to acquire an ownership position in us, to align their interests with those of our shareholders and to encourage and reward their performance. The 2001 Equity Incentive Plan was approved by our shareholders and Joint Board subject to implementation of the consummation of our 2001 Reorganisation. The 2001 Equity Incentive Plan has a 10 year life and will expire in September 2011 if it is not extended. Shareholders will be asked to extend the life of the 2001 Equity Incentive Plan by a further 10 years at the 2011 AGM.

An aggregate of 45,077,100 shares of common stock have been made available for issuance under the 2001 Equity Incentive Plan, provided that such number (and any awards granted) is subject to adjustment in the event of a stock split, stock dividend or other changes in our common stock or capital structure or our restructuring. Our ADSs evidenced by ADRs and our common stock in the form of CUFS will be equivalent to and interchangeable with our common stock for all purposes of the 2001 Equity Incentive Plan, provided that ADSs will be proportionately adjusted to account for the ratio of CUFS in relation to ADSs.

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The following number of options to purchase shares of our common stock issued under this plan were as follows:

<u>Share Grant Date</u>	<u>Number of Options Granted</u>	<u>Options Outstanding as of 31 May 2011</u>
December 2001	4,248,417	100,673
December 2002	4,037,000	723,500
December 2003	6,179,583	1,534,250
December 2004	5,391,100	1,321,250
February 2005	273,000	93,000
December 2005	5,224,100	1,882,000
March 2006	40,200	15,000
November 2006	3,499,490	1,481,255
March 2007	330,900	17,100
December 2007	5,031,310	2,250,317
Total outstanding		9,418,345

The following number of restricted stock units issued under this plan were as follows:

<u>Share Grant Date</u>	<u>Number of Restricted Stock Units Granted</u>	<u>Restricted Stock Units vested as of 31 May 2011</u>
June 2008	698,440	533,091
December 2008	992,271	408,326
December 2009	278,569	60,988
December 2010	348,426	—
Total	2,317,706	1,002,405

Our Remuneration Committee administers the 2001 Equity Incentive Plan. Subject to the provisions of the 2001 Equity Incentive Plan, our Remuneration Committee or its delegate is authorised to determine who may participate in the 2001 Equity Incentive Plan, the number and types of awards made to each participant and the terms, conditions and limitations applicable to each award. In addition, our Remuneration Committee will have the exclusive power to interpret the 2001 Equity Incentive Plan and to adopt such rules and regulations as it deems necessary or appropriate for purposes of administering the 2001 Equity Incentive Plan. Subject to certain limitations, our Remuneration Committee will be authorised to amend, modify or terminate the 2001 Equity Incentive Plan to meet any changes in legal requirements or for any other purpose permitted by law.

The purchase or exercise price of any award granted under the 2001 Equity Incentive Plan may be paid in cash or other consideration at the discretion of our Remuneration Committee. Our Remuneration Committee, in its discretion and as allowed by applicable laws, may allow cashless exercises of awards or may permit us to assist in the exercise of options.

Stock Options. Under the 2001 Equity Incentive Plan, our Remuneration Committee or its delegate is authorised to award nonqualified options to purchase shares of common stock as additional employment compensation. Options are exercisable over such periods as may be determined by our Remuneration Committee, but no stock option may be exercised after 10 years from the date of grant. Options may be exercisable in installments and upon such other terms as determined by our Remuneration Committee. Options are evidenced by notices of option grants authorised by our Remuneration Committee. No option is transferable other than by will or by the laws of descent and distribution or pursuant to certain domestic relations orders.

Performance Awards. Our Remuneration Committee or its delegate, in its discretion, may award performance awards to an eligible person contingent on the attainment of criteria specified by our Remuneration Committee. Performance awards are paid in the form of cash, shares of common stock or a combination of both. Our

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Remuneration Committee determines the total number of performance shares subject to an award, and the terms and the time at which the performance shares will be issued.

Restricted Stock Awards. Our Remuneration Committee or its delegate may award restricted shares of common stock, which are subject to forfeiture under such conditions and for such periods of time as our Remuneration Committee may determine. Restricted shares may not be sold, transferred, assigned, pledged or otherwise encumbered so long as such shares remain restricted. Our Remuneration Committee determines the conditions or restrictions of any restricted stock awards, which may include requirements of continued employment, individual performance or our financial performance or other criteria.

Stock Appreciation Rights. Remuneration Committee or its delegate also may award stock appreciation rights either in tandem with an option or alone. Stock appreciation rights granted in tandem with a stock option may be granted at the same time as the stock option or at a later time. A stock appreciation right entitles the participant to receive from us an amount payable in cash, in shares of common stock or in a combination of cash and common stock, equal to the positive difference between the fair market value of a share of common stock on the date of exercise and the grant price, or such lesser amount as our Remuneration Committee may determine.

Dividend Equivalent Rights. Dividend equivalent rights, defined as a right to receive payment with respect to all or some portion of the cash dividends that are or would be payable with respect to shares of common stock, may be awarded in tandem with stock options, stock appreciation rights or other awards under the 2001 Equity Incentive Plan. Our Remuneration Committee determines the terms and conditions of these rights. The rights may be paid in cash, shares of common stock or other awards.

Restricted Stock Units. Restricted stock units are unfunded and unsecured contractual entitlements for shares to be issued in the future and may be subject to time vesting or performance hurdles prior to vesting. On vesting, restricted stock units convert into shares. We granted 348,426, 278,569 and 1,690,711 restricted stock units under the 2001 Equity Incentive Plan in the years ended 31 March 2011, 2010 and 2009, respectively. As of 31 March 2011, there were 854,409 restricted stock units outstanding under this plan.

Scorecard LTI Units. We granted 450, 35,741 and nil cash settled Scorecard LTI units to employees in fiscal year 2011, 2010 and 2009, respectively. Compensation expense recognised for awards are based on the fair market value of JHI SE's common stock on the date of grant and recorded as a liability. The liability is adjusted for subsequent changes in JHI SE's common stock price at each balance sheet date. Vesting of cash settled Scorecard LTI units is subject to a service condition.

Other Stock-Based Benefits. Our Remuneration Committee may award other benefits that, by their terms, might involve the issuance or sale of our common stock or other securities, or involve a benefit that is measured by the value, appreciation, dividend yield or other features attributable to a specified number of shares of our common stock or other securities, including but not limited to stock payments, stock bonuses and stock sales.

Effect of Change in Control. The 2001 Equity Incentive Plan provides for the automatic acceleration of certain benefits and the termination of the plan under certain circumstances in the event of a "change in control." A change in control will be deemed to have occurred if either (1) any person or group acquires beneficial ownership equivalent to 30% of our voting securities, (2) individuals who are members of our Board as of the effective date of the 2001 Equity Incentive Plan, or individuals who became members of our Board after the effective date of the 2001 Equity Incentive Plan whose election or nomination for election was approved by at least a majority of such individuals (or, in the case of directors nominated by a person, entity or group with 20% of our voting securities, by two-thirds of such individuals) cease to constitute being at least a majority of the members of our Board, or (3) there occurs the consummation of certain mergers (other than a merger that results in existing voting securities continuing to represent more than 5% of the voting power of the merged entity or a

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recapitalisation or reincorporation that does not result in a material change in the beneficial ownership of the voting securities of the Company), the sale of substantially all of our assets or our complete liquidation or dissolution.

Long-Term Incentive Plan

At our 2006 AGM, our shareholders approved the establishment of the LTIP to provide incentives to members of the Managing Board and to certain members of its management or executives. The shareholders also approved, in accordance with certain LTIP rules, the issue of certain options or other rights over, or interest in, shares, the issue and/or transfer of shares under them, and the grant of cash awards to members of our Managing Board and executives. At our 2008 AGM, our shareholders amended the LTIP to also allow restricted stock units to be granted under the LTIP.

In November 2006 and August 2007, 1,132,000 and 1,016,000 options, respectively, were granted to Executives under the LTIP. The vesting of these equity awards are subject to 'performance hurdles' as outlined in the LTIP rules. Unexercised options expire 10 years from the date of issue unless an Executive ceases employment with the Company.

The Company granted the following restricted stock units to certain members of our management under the LTIP:

Grant Date	Number of Restricted Stock Units Granted
September 2008	1,023,865
December 2008	545,757
May 2009	1,066,595
September 2009	522,000
December 2009	181,656
June 2010	807,457
September 2010	951,194
Total	5,098,524

As of 31 May, 2011, there were 1,937,000 options and 4,257,686 restricted stock units outstanding under this plan.

Under the terms of the LTIP, 821,459 and 1,089,265 Scorecard LTI units were granted during the years ended 31 March 2011 and 2010, respectively that provide recipients a cash incentive based on JHI SE's common stock price on the vesting date. The vesting of awards is measured on individual performance conditions based on certain performance measures. Compensation expense recognised for awards are based on the fair market value of JHI SE's common stock on the date of grant and recorded as a liability. The liability is adjusted for subsequent changes in JHI SE's common stock price at each balance sheet date.

Effect of Change in Control, Takeover by Certain Organisations or Liquidation . The LTIP provides for plan participants' early exercise of certain benefits or early payout under the plan in the event of a "change in control," takeover by certain organisations or liquidation. For options, a "change in control" is deemed to have occurred if pursuant to a takeover bid or otherwise, any person together with their associates acquire shares, which when aggregated with shares already acquired by such person and their associates, comprise more than 30% of our issued shares. For restricted stock units, a "change of control" is deemed to occur if (1) a takeover bid is made to acquire all of the shares of the Company and it is recommended by the Board or becomes unconditional, (2) a transaction is announced which would result in one person owning all the issued shares in the Company, (3) a person owns or controls sufficient shares to enable them to influence the composition of the Board, or (4) a similar transaction occurs which the Board determines to be a control event. On a change of control, the

Board can determine that all or some restricted stock units have vested on any conditions it determines. Any remaining restricted stock units lapse.

Other Compensation

Deferred Bonus Program

After carefully assessing the senior executives' response to and performance in the extreme market conditions facing the entire housing industry in the United States, the Board concluded that executives' performance was of such a standard that in this instance, an exceptional discretionary bonus was justified, and implemented the Deferred Bonus Program in June 2008.

Payments under this plan comprised of a cash payment equal to one third of the total value (short-term incentive) and a grant of two year vesting restricted stock units equal to two thirds of the value (long-term incentive) in June 2008. The total value of cash and restricted stock units under the Deferred Bonus Program was 75% of the short-term incentive target in fiscal year 2008, which therefore included an amount equal to 75% of the bonus bank the senior executive had accumulated for the Company's good performance in fiscal years 2006 and 2007.

The restricted stock units granted in respect of the Deferred Bonus Program vest and convert into shares on a one-for-one basis in two years if the senior executive has maintained a satisfactory level of performance during this period, subject to exceptions based on the reasons for the recipient's departure and other specified corporate events.

The Chief Executive Officer was also a participant in this program and received a grant of restricted stock units in September 2008.

These restricted stock units vested during fiscal year 2011. Accordingly, there are no restricted stock units outstanding under this program at 31 May 2011.

Executive Incentive Plan and Individual Performance Plan

The Company maintains two variable pay plans:

- an Individual Performance Plan (which we refer to as the IP Plan), and
- an Executive Incentive Plan (which we refer to as EIP).

The IP Plan is based on the individual's performance on certain mutually agreed upon personal objectives.

In fiscal year 2010, the EIP contained a corporate component which rewarded management based on performance against predetermined Earnings Before Interest and Taxes (which we refer to as EBIT) goals which are adopted at the start of each fiscal year. Participating employees will have different EBIT and individual goals, depending on their function and location. The Board has the authority and discretion to approve payments under this plan to the Chief Executive Officer and Chief Financial Officer, the Remuneration Committee has the authority and discretion to approve or delegate payments due under this plan to the CEO's direct reports, and the CEO has the authority and discretion to approve or delegate payments due under this plan to other Company employees for any given fiscal year.

Fiscal year 2010 bonuses were paid in cash for all employees other than the Chief Executive Officer or his direct reports, who were granted shares in lieu of cash bonuses. Fiscal year 2011 bonuses under the EIP and IP plan were paid in cash as per the plan.

401(k) Plan

We sponsor a US defined contribution plan, the James Hardie Retirement and Profit Sharing Plan, for our employees in the United States and a defined benefit pension plan, the James Hardie Australia Superannuation Plan, for our employees in Australia. The US defined contribution plan is a tax-qualified retirement and savings plan (which we refer to as the 401(k) Plan) covering all US employees, subject to certain eligibility requirements. Participating employees may elect to reduce their current annual compensation by up to US\$16,500 in calendar year 2011 and have the amount of such reduction contributed to the 401(k) Plan, with a maximum eligible compensation limit of US\$245,000. In addition, we match employee contributions dollar for dollar up to a maximum of the first 6% of an employee's eligible compensation.

James Hardie Australia Superannuation Plan

The James Hardie Australia Superannuation Plan is funded based on statutory requirements in Australia and is based primarily on the contributions and income derived thereon held by the plan on behalf of the member, and to a lesser degree, on the participants' eligible compensation and years of credited service. Under Australian law, employees do not have to belong to their employer's superannuation fund.

MAJOR SHAREHOLDERS AND RELATED PARTY TRANSACTIONS

Major Shareholders

As of 31 May 2011, all issued and outstanding shares of our common stock were listed on the ASX in the form of CHESS Units of Foreign Securities, or CUFS. CUFS represent beneficial ownership of our shares. CHESS Depository Nominees Pty Ltd is the registered owner of the shares represented by CUFS. Each of our CUFS represents one share of our common stock.

To our knowledge, the following table identifies those shareholders who beneficially owned 5% or more of our shares based on the holdings reported by the shareholder in its last shareholder notice filed with the ASX and their percentage of shares outstanding based on the number of shares outstanding as of 31 May 2011 which was 437,311,611 shares.

Shareholder	Shares Beneficially Owned	Percentage of Shares Outstanding
Commonwealth Bank of Australia (1)	49,692,187	11.36%
Schroder Investment Management Australia Limited (2)	43,527,584	9.95%
FMR LLC and FIL Limited (3)	33,874,177	7.75%
National Australia Bank Limited Group (4)	28,198,184	6.45%
Baillie Gifford & Co (5)	26,907,513	6.15%
Ausbil Dexia Limited (6)	24,980,920	5.71%
Lazard Asset Management Pacific Co (7)	24,162,172	5.53%

- (1) Commonwealth Bank of Australia became a major shareholder on 12 November 2009, with a holding of 21,820,423 shares of our issued capital and, through subsequent purchases, increased its holdings of our issued capital to 49,692,187 shares on 18 March 2011 in the last notice received.
- (2) Schroder Investment Management Australia Limited became a major shareholder on 28 January 2004, with a holding of 25,485,997 shares of our issued share capital and, through subsequent purchases and sales, Schroder Investment Management Australia Limited increased its holding to 43,527,584 shares on 25 November 2010 in the last notice received.

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- (3) FMR LLC and FIL Limited became a major shareholder on 23 July 2009, with a holding of 34,119,335 shares of our issued share capital and through subsequent sales and purchases, FMR LLC and FIL Limited increased its holding to 33,874,177 shares of our issued share capital on 27 January 2011 in the last notice received.
- (4) National Australia Bank Limited Group became a major shareholder on 25 May 2004, with 23,060,940 shares of our issued share capital and increased its holding to 28,198,184 shares of our issued share capital on 16 June 2004 in the last notice received.
- (5) Baillie Gifford & Co and its affiliated companies became a major shareholder on 24 December 2007, with a holding of 24,577,253 shares of our issued share capital. On 26 June 2009, their holdings increased to over 5% of our issued share capital but their substantial holding status again ceased when their holdings of our issued share capital fell below 5% on 29 June 2009. On 12 November 2009, Baillie Gifford & Co became a major shareholder again and has increased its holding to 26,907,513 shares of our issued share capital on 24 September 2010 in the last notice received.
- (6) Ausbil Dexia Limited became a major shareholder on 12 January 2011 with 24,980,920 shares of our issued capital in the last notice received.
- (7) Lazard Asset Management Pacific Co became a major shareholder on 1 April 2004, with a holding of 24,505,916 shares of our issued share capital and, through subsequent purchases and sales, Lazard Asset Management Pacific Co ceased to be a major shareholder on 3 May 2010. On 29 April 2011, Lazard Asset Management Pacific Co became a substantial shareholder again with a holding of 24,162,172 shares of our issued share capital in the last notice received.

Concord Capital (which as of August 2010 became part of Invesco Australian Ltd) became a major shareholder on 18 June 2004, with 24,499,832 shares of our issued share capital. Their substantial holding status ceased on 6 August 2004 when their holdings in our issued share capital fell below 5%. On 20 August 2004, their holdings increased to over 5% of our issued share capital but their substantial holding status again ceased when their holding fell below 5% on 8 April 2005. On 26 October 2007, Concord Capital became a substantial shareholder again but their substantial holding status again ceased when their holding fell below 5% on 3 June 2010. On 18 June 2010, Concord Capital became a substantial shareholder again but their substantial holding status again ceased when their holding fell below 5% on 16 December 2010.

Each of the above shareholders has the same voting rights as all other holders of our common stock. To our knowledge, except for the major shareholders described above, we are not directly or indirectly owned or controlled by another corporation, by a foreign government or by any other natural or legal persons severally or jointly.

Other Security Ownership Information

As of 31 May 2011, 0.61% of the outstanding shares of our common stock was held by 78 CUFs holders with registered addresses in the United States. In addition, as of 31 May 2011, 0.58% of our outstanding shares was represented by ADSs held by 5 holders, all of whom have registered addresses in the United States. A total of 1.19% of our outstanding capital stock was registered to 83 US holders as of 31 May 2011.

Related Party Transactions

Payments Made to Directors and Director Related Entities of JHI SE during the Year

Brian Anderson is a director of Pulte Homes, a home builder in the United States. Pulte Homes does not buy any James Hardie products directly from the Company, although it does buy a small amount of James Hardie products through the Company's customers and receives a rebate from James Hardie in respect of those purchases.

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Rudy van der Meer was until 1 January 2011 a member of the Supervisory Board of ING Bank Nederland N.V. and ING Verzekeringen (Insurance) Nederland N.V. Entities in the ING Group provide financial services to the Company. In each case those entities were providing these services to the Company prior to Mr van der Meer becoming a Board director.

David Dilger is a director of a number of James Hardie's subsidiaries and receives directors' fees for such service approved by the Board of James Hardie Industries SE.

Any transactions mentioned above were conducted on an arms-length basis and in accordance with normal terms and conditions and were not material to any of the companies listed above or to James Hardie. Each of these relationships, other than Mr Dilger's service as a director of a number of James Hardie's subsidiaries, existed and was disclosed before the person in question became a Board director. It is not considered that these directors had any influence over these transactions.

LISTING DETAILS

Price History

The high and low trading prices of JHI SE CUFS on the ASX are as follows:

Period	High (A\$)	Low (A\$)
Fiscal year ended:		
31 March 2011	8.05	5.05
31 March 2010	8.86	3.73
31 March 2009	7.04	2.89
31 March 2008	9.65	5.34
31 March 2007	10.24	6.31
Fiscal quarter ended:		
31 March 2011	6.88	5.67
31 December 2010	7.12	5.26
30 September 2010	6.90	5.05
30 June 2010	8.05	6.11
31 March 2010	8.86	7.07
31 December 2009	8.59	6.73
30 September 2009	7.95	3.73
30 June 2009	5.15	3.86
Month ended:		
31 May 2011	6.03	5.20
30 April 2011	6.37	5.72
31 March 2011	6.65	5.67
28 February 2011	6.86	6.15
31 January 2011	6.88	6.15
31 December 2010	7.12	5.30

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The high and low trading prices of JHI SE ADSs on the NYSE are as follows:

<u>Period</u>	<u>High</u> <u>(US\$)</u>	<u>Low</u> <u>(US\$)</u>
Fiscal year ended:		
31 March 2011	36.96	22.01
31 March 2010	41.22	14.50
31 March 2009	31.55	9.38
31 March 2008	40.50	23.00
31 March 2007	41.70	24.20
Fiscal quarter ended:		
31 March 2011	35.55	28.63
31 December 2010	35.50	25.10
30 September 2010	30.40	22.01
30 June 2010	36.96	25.84
31 March 2010	41.22	31.90
31 December 2009	39.91	30.67
30 September 2009	34.50	14.50
30 June 2009	18.99	14.95
Month ended:		
31 May 2011	32.14	27.57
30 April 2011	33.34	29.83
31 March 2011	33.03	28.63
28 February 2011	33.93	31.38
31 January 2011	35.55	29.97
31 December 2010	35.50	26.32

Trading Markets

Our securities are listed and quoted on the following stock exchanges:

Common Stock (in the form of CUFS)
ADSs

Australian Securities Exchange
New York Stock Exchange

We cannot predict the prices at which our shares and ADSs will trade or the volume of trading for such securities, nor can we assure you that these securities will continue to meet the applicable listing requirements of these exchanges.

Trading on the Australian Securities Exchange

The ASX is headquartered in Sydney, Australia, with branches located in each Australian state capital. Our CUFS trade on the ASX under the symbol "JHX." The ASX is a publicly listed company with trading being undertaken by brokers licensed under the Corporations Act. Trading principally takes place between the hours of 10:00 a.m. and 4:00 p.m. on each weekday (excluding Australian public holidays). Settlement of trades in uncertificated securities listed on the ASX is generally effected electronically on the third business day following the trade. This is undertaken through CHESS, which is the clearing and settlement system operated by the ASX.

Trading on the New York Stock Exchange

In the United States, five JHI SE CUFS equal one JHI SE ADS. Our ADSs trade on the New York Stock Exchange under the symbol "JHX." Trading principally takes place between the hours of 9:30 a.m. and 4:00 p.m. Eastern Time on each weekday (excluding US public holidays). All inquiries and correspondence regarding ADSs should be directed to The Bank of New York Mellon, depositary for our ADSs, at 101 Barclay Street, 22W, New York, NY 10286. To speak directly to a Bank of New York Mellon

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representative, please call 1-888-BNY-ADRS (1-888-269-2377) if you are calling from within the United States. If you are calling from outside the US, please call 201-680-6825. You may also send an e-mail inquiry to shrrelations@bnymellon.com or visit the website at www.bnymellon.com/shareowner.

MEMORANDUM AND ARTICLES OF ASSOCIATION

General

We were originally incorporated in 1998 as a private company with limited liability, or B.V. On 24 July 2001, we changed our name to James Hardie Industries N.V. and our legal form into that of a N.V., a public limited liability company under Dutch law. On 19 February 2010, we changed our name to James Hardie Industries SE and our legal form into that of a SE, being a Dutch SE company. On 17 June 2010, Stage 2 of the Re-domicile was implemented and we became an Irish SE company incorporated and existing under the laws of Ireland and we became an Irish tax resident on 29 June 2010.

Our corporate domicile is in Ireland and our office is located at Europa House, Second Floor, Harcourt Center, Harcourt Street, Dublin 2, Ireland. We are registered at the Companies Registration Office of the Department of Enterprise Trade and Innovation in Dublin, Ireland under number 485719.

Key Provisions of our Articles of Association

Purpose of the Company

Our main object, which is stated in our Memorandum of Association, is to:

“carry on the businesses of manufacturer, distributor, wholesaler, retailer, service provider, investor, designer, trader and any other business (except the issuing of policies of insurance) which may seem to the SE’s board of directors capable of being conveniently carried on in connection with these objects or calculated directly or indirectly to enhance the value of or render more profitable any of the SE’s property.”

The Memorandum of Association also states that we will have the power to carry on the business of a holding company and co-ordinate the administration, finances and activities of any subsidiary companies or associated companies.

We also have the usual powers of an Irish public limited company. These include the power to borrow, to charge assets, to grant guarantees and indemnities, to incorporate new companies and to acquire existing companies.

Provisions of our Articles of Association Related to Directors

General and borrowing powers: Our Articles of Association grant the directors a general power to manage the Company. The directors will have the power to exercise all of the powers of the Company that have not been otherwise expressly reserved to the shareholders by Irish company law or our articles of association. In addition, the directors also will be granted certain specific powers by our articles of association, including:

- the power to delegate their powers to the chief executive officer, any director, any person or persons employed by us or any of our subsidiaries or to a committee of the Board;
- the power to appoint attorneys to act on our behalf;

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- the power to borrow money on our behalf and to mortgage or charge our undertaking, property, assets, and uncalled capital as security for such borrowings; and
- the power to do anything that is necessary or desirable for us to participate in any computerised, electronic or other system for the facilitation of the transfer of CUFS or the operation of our registers that may be owned, operated or sponsored by the ASX.

Our Articles of Association expressly list some, but not all, of the duties of directors.

Under Irish law, directors have a common law fiduciary duty to act in the best interest of Irish SE and to exercise good faith and due care and skill. Directors also have statutory duties that mainly relate to administrative obligations.

Power to vote on compensation: The maximum aggregate remuneration of the non-executive directors is US\$1,500,000 and can be changed from time to time by an ordinary resolution.

Executive directors may be paid such extra remuneration by way of salary, commission or otherwise as the Board may from time to time determine. Arrangements for remuneration in the form of shares or CUFS for directors requires shareholder approval pursuant to an ordinary resolution.

There is no requirement for our shareholders to approve the remuneration policy. The Company currently intends to continue voluntarily producing a remuneration report.

These provisions are subject to the relevant listing rules of the ASX regarding director remuneration.

Age Limit for Retirement or Non-Retirement: Our Articles of Association do not include any provisions regarding the mandatory retirement age of a director.

Number of shares for Director's qualification: No director will require a share qualification in order to act as a director.

Issuance of Shares; Preemptive Rights

We have been registered with one class of shares; however, the articles of association will allow for any share to be issued with such rights or restrictions as the shareholders may by ordinary resolution determine.

Shareholders may authorise us (acting through its directors) by special resolution to issue shares in whatever manner on the basis that they will be subsequently redeemed. Once issued, we may cancel redeemed shares or alternatively hold them as treasury shares (which subsequently will be reissued or cancelled).

The Board has the power (a) to issue shares up to a maximum of our authorised share capital and (b) to limit or exclude statutory pre-emptive rights in respect of such issue for cash consideration, for a period of up to five years in each case, subject to renewal, by a special resolution of shareholders (which requires the approval of holders of 75% of shares present in person or by proxy and voting at the relevant general meeting) in the case of disapplication of statutory pre-emptive rights, and an ordinary resolution (which requires the approval of holders of a majority of shares present in person or by proxy and voting at the relevant general meeting) in the case of authorising the board to issue shares).

Our Articles of Association grant these authorisations to the board, which will expire (unless renewed) on 2 June 2015.

These authorisations are subject to the listing rules of the ASX and NYSE in relation to the issue of new equity securities, which require:

- in the case of the ASX, shareholder approval for the issue of equity securities which exceed 15% of the number of equity securities on issue (as determined in accordance with the ASX listing rules and subject to the various exemptions set out therein); and
- in the case of the NYSE, shareholder approval for the issuance of shares that have or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance of such shares (subject to certain exceptions).

If the Board is at any time not designated as the authorised body for such powers, the shareholders acting by ordinary resolution have the power to issue shares, but only upon the proposal of the Board.

As an Irish company that has listed securities in Australia and the United States, we are subject to applicable legislation regarding insider trading. Generally, Australian law prohibits persons from trading on the basis of information which is not generally available and which, if it were generally available, a reasonable person would expect to have a material effect on the price or value of securities. Similarly, in the United States, persons are prohibited from trading on the basis of material, non-public information. We have adopted an internal code on insider trading consistent with Australian and US laws and regulations.

Repurchase of Shares and Reduction of Capital

Irish law permits us to redeem our shares (provided such shares are redeemable) at any time whether on or off market without shareholder approval. Accordingly, our Articles of Association provide that, when we agree to acquire any shares (unless we elect to treat the acquisition as a purchase), it shall be a term of such contract that the relevant shares become redeemable on the entry into of that contract and that completion of that contract shall constitute redemption of the relevant shares. This means that we may acquire our own shares.

In addition, Irish company law permits an Irish company and its subsidiaries to make market purchases of the shares of the Irish company on a recognised stock exchange if shareholders of the company have granted the company and/or its subsidiaries a general authority by ordinary resolution to do so. Currently, the Irish Stock Exchange, the New York Stock Exchange, NASDAQ and the London Stock Exchange are the recognised stock exchanges for this purpose.

As the ASX is not currently a recognised stock exchange for the purposes of Irish law, on- and off-market purchases of our shares (by way of trading CUFS) will only be available to us through their redemption in accordance with the redemption mechanism in our Articles of Association, outlined above, provided we do not treat such acquisition as a purchase.

A redemption or repurchase of shares may only be funded out of freely distributable reserves or out of the proceeds of a fresh issue of shares for that purpose.

Under Irish company law, the board may determine whether shares that we have repurchased or redeemed will either be held in treasury or cancelled. However, under Irish company law, the nominal value of treasury shares held by us may not, at any one time, exceed 10% of the nominal value of our issued share capital.

Unless otherwise required by Irish SE's articles of association or Irish law, no business other than the appointment of a chairman may be transacted at any general meeting unless at least 5% of Irish SE's issued share capital is present or represented.

Shareholders Meetings and Voting Rights

Our annual general meetings will generally be held in Ireland unless shareholder approval, pursuant to an ordinary resolution, is granted at the preceding annual general meeting to hold the following general meeting outside of Ireland. There is no requirement that extraordinary general meetings be held in Ireland. Following our first annual general meeting, we must hold an annual general meeting in each calendar year and within six months after the financial year end and we shall announce the date of each such annual general meetings no less than 35 business days before such meeting is due to be held. All business that is transacted at an annual general meeting shall be deemed to be special business, except: (1) the declaration of a dividend; (2) the consideration of the accounts, balance sheets and reports of the directors and auditors; (3) the election of directors in the place of those retiring (whether by rotation or otherwise); (4) the fixing of the remuneration of the directors (if required); and (5) the fixing of the remuneration of the auditors.

We shall announce the date of an extraordinary general meeting no less than 35 business days before such meeting is due to be held save in exceptional circumstances where the board resolves otherwise. An extraordinary general meeting may be convened by (1) the directors or (2) pursuant to Irish company law, by one or more persons who alone or together hold 10% of our issued share capital. An extraordinary general meeting must be convened within 21 calendar days after a request has been made of us by a shareholder (who holds 10% or more of our issued share capital), and the extraordinary general meeting must be held no later than two months after such a request has been made by a shareholder.

One or more persons who alone or together hold at least 10% of our issued share capital may request that the Board call an extraordinary general meeting. In addition, such holders may also request that the Board place a matter on the agenda of any general meeting so long as any such request shall be received by us at least 30 business days before the general meeting to which it relates, at such postal or e-mail address as specified by us for that purpose in the announcement of the general meeting. Such request must be accompanied by stated grounds justifying its inclusion, or a draft resolution, together not to exceed 1,000 words. Such a request will be declined by our Board where: (i) the request is contrary to the Memorandum or Articles of Association, Irish law or the ASX Listing Rules, or (ii) the time limits specified in the Articles of Association have not been complied with.

The quorum for general meetings and for meetings of a separate class of shareholders in Irish SE is one or more persons who alone or jointly hold at least 5% of Irish SE's issued share capital or, in the case of a separate class meeting, 5% of the issued share capital of that class. These same quorum requirements also apply to all adjourned meetings.

Holders of CUFS and ADSs do not appear on our share register as legal holders of shares. Accordingly, the ability to call an extraordinary general meeting only may be exercised, in the case of holders of CUFS, by providing instructions to the CUFS depository or by converting their CUFS to shares, and, in the case of holders of ADSs, by converting their ADSs to CUFS and thereafter providing instructions to the CUFS depository or converting their CUFS to shares.

All shares issued have the right to one vote for each share held on every matter submitted to a vote of the shareholders. CUFS holders are entitled to attend and to speak at our shareholder meetings and can vote at our shareholder meetings:

- by instructing CHES Depository Nominees Pty Limited (who we refer to as "CDN"), as legal owner of our shares represented by CUFS, how to vote the shares represented by the holder's CUFS;
- by directing CDN to appoint itself (or another person) as the Nominated Proxy pursuant to a voting instruction form provided by the Company; or

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- by converting the holder's CUFs into our shares and voting the shares at the meeting, which must be undertaken prior to the meeting. However, in order to sell their shares on the ASX thereafter, it will be first necessary to convert them back to CUFs.

ADR holders will not be entitled to attend our general meetings of shareholders, but can vote by giving an instruction to The Bank of New York Mellon, as the ADS depository on how to instruct CDN to vote at a meeting.

Irish law and our Articles of Association currently do not impose any limitations on the rights of persons who are not residents of Ireland to hold or vote shares, solely as a result of such non-resident status.

Annual Report

Our fiscal year runs from 1 April through 31 March. Irish law requires that our annual accounts must be laid before the shareholders at the AGM within nine months of the balance sheet date and that copies of our financial statements must be sent to the shareholders 21 days before the AGM. Our consolidated annual accounts will be prepared under Generally Accepted Accounting Principles applicable in the US (which we refer to as US GAAP). We will prepare consolidated annual accounts under "modified" US GAAP, which is US GAAP to the extent that it is not inconsistent with Irish company law. We will also prepare standalone annual entity accounts under Generally Accepted Accounting Principles applicable in Ireland (which we refer to as Irish GAAP) and lay those accounts before a general meeting of shareholders.

The annual accounts will also include report of an independent accountant.

Indemnification

Our Articles of Association provide that our current and former directors, company secretary, employees and persons who may be deemed by our board to be our agent are indemnified by us for costs, losses and expenses arising out of such person's exercise of their duties to us. However, under Irish company law, this indemnity only binds us to indemnify a current or former director or company secretary where judgment is given in any civil or criminal action in favour of such director or company secretary, or where a court grants relief because the director or company secretary acted honestly and reasonably and ought fairly to be excused. The articles of association apply the same restrictions to employees and persons deemed by our board to be our agent who are not current or former directors or company secretary.

We have also entered into deeds of access, insurance and indemnity with our directors, company secretary and certain senior employees.

Dividends

Dividends and distributions of assets to shareholders may be declared (a) in the case of dividends, by the board or (b) upon the recommendation of the board, by an ordinary resolution of shareholders, provided that with respect to dividends or distributions declared pursuant to subsection (b) above, the dividends or distributions may not exceed the amount recommended by the board.

Dividends and distributions may only be made in so far as (a) we have sufficient freely distributable reserves and (b) our net assets are in excess of the aggregate of called up share capital plus undistributable reserves and the distribution does not reduce our net assets below such aggregate.

If directors so resolve, any dividend that has remained unclaimed for twelve years from the date of its declaration shall be forfeited and cease to remain owing by us. The payment by directors of any unclaimed dividend or other moneys payable in respect of a share into a separate account shall not constitute us a trustee in respect thereof.

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Our board also determines the record dates at which time registered holders of our shares, including the CHESSE Depository Nominee issuing CUFSS to the ADS depository, will be entitled to dividends and sets the payment dates. Dividends are declared payable to our shareholders in US dollars. The ADS Depository (Bank of New York Mellon) receives dividends in US dollars directly from JHI SE on each CUFSS dividend payment date and will distribute any dividend to holders of ADSs in US dollars pursuant to the terms of the deposit agreement. Other CUFSS holders registered at a dividend record date are paid their dividend on each CUFSS dividend payment date in the equivalent amount of Australian dollars, as determined by the prevailing exchange rate shortly after the CUFSS dividend record date.

Amendment of Articles of Association

Our Articles of Association may be amended by our shareholders by resolution approved by 75% of the votes cast at a general meeting of shareholders at which at least 5% of our issued share capital is present or represented.

Liquidation Rights

In the event of our liquidation, and after we have paid all debts and liquidation expenses, the excess of any assets shall be distributed among our shareholders in proportion to the capital at the commencement of the winding up paid up or credited as paid up on such shares held by our shareholders. As a holding company, our sole material assets will be the capital stock of its subsidiaries.

Limitations on Right to Hold Common Stock

The Irish Takeover Rules regulate takeover and merger transactions, however effected, by which control of a target incorporated in Ireland may be obtained or consolidated. Control means a holding or aggregate holding of shares carrying 30% or more of the voting rights of a company, irrespective of whether the holding or holdings give de facto control.

The Irish Takeover Rules are statute based. The Irish Takeover Panel is the body that regulates all transactions subject to the Irish Takeover Rules.

Rule 9 of the Irish Takeover Rules states that, except with the consent of the Irish Takeover Panel, when:

- any person acquires, whether by a series of transactions over a period of time or not, shares or other securities which (taken together with shares or other securities held or acquired by persons acting in concert) carry 30% or more of the voting rights of a company; or
- any person, who together with persons acting in concert, holds not less than 30% of the voting rights and such person or any person acting in concert with them acquires, in any period of twelve months, additional shares or other securities of more than 0.05% of the total voting rights of the company,

such person must extend offers to the holders of any class of equity securities (whether voting or non-voting) and to holders of any class of transferable voting capital in respect of all such equity securities and transferable voting capital.

A single holder (that is, a holder excluding any parties acting in concert with the holder) holding more than 50% of the voting rights of a company is not subject to Rule 9.

The Irish Takeover Rules also contain rules called "Substantial Acquisition Rules" which restrict the speed with which a person may increase their holding of shares and rights over shares to an aggregate of between 15% and 30% of the voting rights of a company. These rules also require accelerated disclosure of acquisitions of shares or rights over shares relating to such holdings.

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The Irish Takeover Rules are built on the following general principles that apply to any transaction regulated by such rules:

- all holders of the securities of an offeree of the same class must be afforded equivalent treatment; moreover, if a person acquires control of a company, the other holders of securities must be protected;
- the holders of the securities of an offeree must have sufficient time and information to enable them to reach a properly informed decision on the offer; where it advises the holders of securities, the board of the offeree must give its views on the effects of implementation of the offer on employment, conditions of employment and the locations of the offeree's places of business;
- the board of an offeree must act in the interests of the company as a whole and must not deny the holders of securities the opportunity to decide on the merits of the offer;
- false markets must not be created in the securities of the offeree, of the offeror or of any other company concerned by the offer in such a way that the rise or fall of the prices of the securities becomes artificial and the normal functioning of the markets is distorted;
- an offeror must announce an offer only after ensuring that he or she can fulfill in full any cash consideration, if such is offered, and after taking all reasonable measures to secure the implementation of any other type of consideration;
- an offeree must not be hindered in the conduct of its affairs for longer than is reasonable by an offer for its securities; and
- a substantial acquisition of securities (whether such acquisition is to be effected by one transaction or a series of transactions) shall take place only at an acceptable speed and shall be subject to adequate and timely disclosure.

The prohibition does not apply to holdings by the CUFS depository, CDN, of our shares as custodian for the CUFS holders but will apply to CDN where another person acquires or holds a relevant interest in breach of the provisions. If a person acquires or holds a relevant interest in breach of the prohibition, we have several powers available to it under our Articles of Association. These include powers to require the disposal of our common stock, disregard the exercise of votes and suspend dividend rights. These powers will only extend to that number of shares of common stock which are acquired or held in breach of the prohibition.

Although these provisions of our Articles of Association may help to ensure that no person may acquire voting control of us without making an offer to all shareholders, these provisions may also have the effect of delaying or preventing a change in control of the Company.

Disclosure of Holdings

Under Irish law, a person must notify us in writing within five business days of an acquisition or disposition of shares in Irish SE where:

- such person's interest was below 5% of our issued share capital prior to such acquisition and equals or exceeds 5% after such acquisition;
- such person's interest was equal to or above 5% of our issued share capital before an acquisition or disposition and increases or decreases through an integer of a percentage as a result of such acquisition or disposition (e.g., from 5.8% to 6.3% or from 8.2% to 7.9%); and

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- where such person's interest was equal to or above 5% of our issued share capital before a disposition and falls below 5% as a result of such disposition.

In addition, under Irish law, we can, if we have reasonable cause to believe that a person or company has an interest in our shares, require such person or company to confirm that belief (or as the case may be) to indicate whether or not it is the case and to provide certain information in relation to such holdings, including details of his or her interest in our shares and the interests (if any) of all persons having a beneficial interest in the shares. To the extent any such information is made available to us, Irish law requires that we make such information available to any person upon such person's request.

Failure of a shareholder to disclose its interests in our shares as described above will result in no right or interest of any kind in respect of that person's shares being enforceable, whether directly or indirectly by action or legal proceeding. If a person fails to respond to us when we make a request for information in the manner described above, we may apply to the High Court of Ireland for an order stating that: (a) any transfer of such shares will be void; (b) such shares will have no voting rights; (c) no further shares will be issued in right of those shares or pursuant to any offer made to the holder thereof; and (d) such shares will not be entitled to any payment from us. Such restrictions, whether imposed for a failure to disclose a notifiable interest or for a failure to respond to a request for information, may only be lifted by an order of the High Court of Ireland.

Shareholders are also subject to beneficial ownership reporting disclosure requirements under US securities laws, including the filing of beneficial ownership reports on Schedules 13D and 13G with the SEC. The SEC's rules require all persons who beneficially own more than 5% of a class of securities registered with the SEC to file either a Schedule 13D or 13G. This filing requirement applies to all holders of our shares of common stock, ADSs or CUFS because our securities have been registered with the SEC. The number of shares of common stock underlying ADSs and CUFS is used to determine whether a person beneficially owns more than 5% of the class of securities. This beneficial ownership-reporting requirement applies whether or not the holders are US residents. The decision of whether to file a Schedule 13D or a Schedule 13G will depend primarily on the nature of the beneficial owner and the circumstances surrounding the person's beneficial ownership. A copy of the rules and regulations relating to the reporting of beneficial ownership with the SEC, as well as Schedules 13D and 13G, are available on the SEC's website at www.sec.gov.

MATERIAL MODIFICATIONS TO THE RIGHTS OF SECURITY HOLDERS AND USE OF PROCEEDS

In connection with implementation of Stage 2 of our Re-domicile on 17 June 2010, we adopted articles of association consistent with Irish company law and SE regulations resulting in substantial changes to the rights of security holders. The information required by this section is incorporated by reference to "Memorandum and Articles of Association —Key Provisions of our Articles of Association.

MATERIAL CONTRACTS

In addition to the other contracts that are described in this annual report, including without limitation the AFFA and certain other related agreements described in "Commitment to Provide Funding on a Long-Term Basis in Respect of Asbestos-Related Liabilities of Former Subsidiaries," our stock option plans and certain material employment contracts described under Section 2, "Remuneration Report," and any material contracts that have been entered into in the ordinary course of business, the following are the contracts we consider to be material to us. All contracts described below have been filed as exhibits to this annual report and are hereby incorporated by reference, and the summary below is qualified in its entirety by reference to the full texts of such contracts.

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US Dollar Cash Advance Facilities. At 31 March 2011, our credit facilities were drawn to US\$59.0 million, which matures in February 2013. For all facilities, interest is calculated two business days prior to the commencement of each draw-down period based on LIBOR, plus the margins of individual lenders, and is payable at the end of each draw-down period. At 31 March, 2011, there was US\$59.0 million drawn under the combined facilities and US\$261.0 million was available.

As of 31 March 2011, we were in compliance with all restrictive covenants contained in our credit facility agreements. Under the most restrictive of these covenants, we (i) are required to maintain certain ratios of indebtedness to equity which do not exceed certain maximums, excluding assets, liabilities and other balance sheet items of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited, (ii) must maintain a minimum level of net worth, excluding assets, liabilities and other balance sheet items of the AICF; for these purposes "net worth" means the sum of the par value (or value stated in the books of the James Hardie Group) of the capital stock (but excluding treasury stock and capital stock subscribed or unissued) of the James Hardie Group, the paid in capital and retained earnings of the James Hardie Group and the aggregate amount of provisions made by the James Hardie Group for asbestos related liabilities, in each case, as such amounts would be shown in the consolidated balance sheet of the James Hardie Group if Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited were not accounted for as subsidiaries of the Company, (iii) must meet or exceed a minimum ratio of earnings before interest and taxes to net interest charges, excluding all income, expense and other profit and loss statement impacts of the AICF, Amaba, Amaca, ABN 60 and Marlew Mining Pty Limited and (iv) must ensure that no more than 35% of Free Cash Flow (as defined in the AFFA) in any given Financial Year is contributed to the AICF on the payment dates under the Amended Final Funding Agreement in the next following Financial Year. The limit does not apply to payments of interest to the AICF. Such limits are consistent with the contractual liabilities of the Performing Subsidiary and the Company under the AFFA.

Gypsum Indemnity. We sold our gypsum wallboard manufacturing facilities in April 2002. Under the terms of the sale agreement with the buyer, BPB US Holdings, Inc., we agreed to customary indemnification obligations which generally have expired. However, pursuant to the sale agreement, we agreed to indemnify the buyer for any future liabilities arising from asbestos-related injuries to persons or property arising from our former gypsum business. Although we are not aware of any asbestos-related claims arising from the gypsum business nor circumstances that would give rise to such claims, our obligation under the sale agreement to indemnify the buyer for liabilities arising from asbestos-related injuries arises only if such claims exceed US\$5 million in the aggregate, is limited to US\$250 million in the aggregate and will continue for 30 years after the closing date of our gypsum business.

Pursuant to the terms of our agreement to sell our gypsum business, we also retained responsibility for any losses incurred by the buyer resulting from environmental conditions at the Duwamish River in the State of Washington so long as notice of a claim is given within 10 years of closing. Our indemnification obligations in this regard are subject to a US\$34.5 million limitation. The Seattle gypsum facility had previously been included on the "Confirmed and Suspected Contaminate Sites Report" released in 1987 due to the presence of metals in the groundwater. Because we believe the metals found emanated from an offsite source, we do not believe we are liable for, and have not been requested to conduct, any investigation or remediation relating to the metals in the groundwater.

EXCHANGE CONTROLS

The European Commission has imposed financial sanctions on a number of countries throughout the world that are suspected of being involved in activities such as terrorism or repression of its citizens. Ireland has given effect to these sanctions through the implementation of regulations and statutory instruments. We do not have any subsidiaries located in countries with imposed financial sanctions by the European Commission. In addition, we do not conduct business or other revenue-generating activities in these countries.

Except for restrictions contained in the regulations or statutory instruments referred to above, there are no legislative or other legal provisions currently in force in Ireland or arising under our Articles of Association

restricting the import or export of capital, including the availability of cash and cash equivalents for use by JHI SE and its wholly owned subsidiaries, or remittances to our security holders not resident in Ireland. In addition, except for restrictions contained in the regulations or statutory instruments referred to above, cash dividends payable in US dollars on our common stock may be officially transferred from Ireland and converted into any other convertible currency.

There are no limitations, either by Irish law or in our Articles of Association, on the right of non-residents of Ireland to hold or vote our common stock.

TAXATION

The following summarises the material US, Dutch and Irish tax consequences of an investment in shares of our common stock. This summary does not address every aspect of taxation relevant to a particular investor subject to special treatment under any applicable law and is not intended to apply in all respects to all categories of investors. In addition, except for the matters discussed under “Dutch Taxation,” and “Irish Taxation”, this summary does not consider the effect of other foreign tax laws or any state, local or other tax laws that may apply to an investment in shares of our common stock. This summary assumes that we will conduct our business in the manner described in this annual report. Changes in our organisational structure or the manner in which we conduct our business may invalidate all or parts of this summary. The laws on which this summary is based could change, perhaps with retroactive effect, and any law changes could invalidate all or parts of this summary. We will not update this summary for any law changes after the date of this annual report.

This discussion does not bind either the US, Irish, or Dutch tax authorities or the courts of those jurisdictions. We have not sought a ruling nor will we seek a ruling of the US, Irish, or Dutch tax authorities about matters in this summary. We cannot assure you that those tax authorities will concur with the views in this summary concerning the tax consequences of the purchase, ownership or disposition of our common stock or that any reviewing judicial body in the United States, The Netherlands or Ireland would likewise concur.

PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISERS REGARDING THE PARTICULAR TAX CONSEQUENCES OF THEIR ACQUIRING, OWNING AND DISPOSING OF SHARES OF OUR COMMON STOCK, INCLUDING THE EFFECT OF ANY FOREIGN, STATE OR LOCAL TAXES.

United States Taxation

The following is a summary of the material US federal income tax consequences generally applicable to “US Shareholders” (as defined below) who invest in shares of our common stock and hold the shares as capital assets. For purposes of this summary, a “US Shareholder” means a beneficial owner of our common stock that is: (1) a citizen or individual resident of the United States (as defined for US federal income tax purposes); (2) a corporation created or organised in or under the law of the United States or any of its political subdivisions; (3) an estate whose income is subject to US federal income taxation regardless of its source or (4) a trust if (i) a court in the United States can exercise primary supervision over the administration of the trust, and one or more United States persons can control all of the substantial decisions of the trust, or (ii) the trust was in existence on 20 August 1996 and properly elected to continue to be treated as a United States person. If a partnership (including for this purpose any entity treated as a partnership for US federal tax purposes) is a beneficial owner of a share of our common stock, the US federal tax treatment of a partner in the partnership generally will depend on the status of the partner and the activities of the partnership. A holder of our common stock that is a partnership and partners in that partnership should consult their own tax advisers regarding the US federal income tax consequences of holding and disposing of those shares.

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This summary does not comprehensively describe all possible tax issues that could influence a current or prospective US Shareholder's decision to buy or sell shares of our common stock. In particular, this summary does not discuss: (1) the tax treatment of special classes of US Shareholders, like financial institutions, life insurance companies, tax exempt organisations, tax-qualified employer plans and other tax-qualified or qualified accounts, investors liable for the alternative minimum tax, dealers in securities, shareholders who hold shares of our common stock as part of a hedge, straddle or other risk reduction arrangement, or shareholders whose functional currency is not the US dollar; (2) the tax treatment of US Shareholders who own (directly or indirectly by attribution through certain related parties) 10% or more of our voting stock; and (3) the application of other US federal taxes, like the US federal estate tax. The summary is based on the Internal Revenue Code, applicable US Department of Treasury regulations, judicial decisions and administrative rulings and practice, all as of the date of this annual report.

Treatment of ADSs. For US federal income tax purposes, a holder of an ADS is considered the owner of the shares of stock represented by the ADS. Accordingly, except as otherwise noted, references in this summary to ownership of shares of our common stock includes ownership of the shares of our common stock underlying the corresponding ADSs.

Taxation of Distributions. Subject to the passive foreign investment company rules discussed below, the tax treatment of a distribution on shares of our common stock held by a US Shareholder depends on whether the distribution is from our current or accumulated earnings and profits (as determined under US federal income tax principles). To the extent a distribution is from our current or accumulated earnings and profits, a US Shareholder will include the amount of the distribution in gross income as a dividend. To the extent a distribution exceeds our current and accumulated earnings and profits, a US Shareholder will treat the excess first as a non-taxable return of capital to the extent of the US Shareholder's tax basis in those shares and thereafter as capital gain. See the discussion of "Capital Gain Rates" below. Notwithstanding the foregoing described treatment, we do not intend to maintain calculations of our current and accumulated earnings and profits. Dividends received on shares of our common stock will not qualify for the inter-corporate dividends received deduction.

Distributions to US Shareholders that are treated as dividends may be subject to a reduced rate of tax under US tax laws. For taxable years beginning after 31 December 2002, "qualified dividend income" is subject to a maximum tax rate of 15%. "Qualified dividend income" includes dividends received from a "qualified foreign corporation." A "qualified foreign corporation" includes (1) a foreign corporation that is eligible for the benefits of a comprehensive income tax treaty with the United States that contains an exchange of information program and (2) a foreign corporation that pays dividends with respect to shares of its stock that are readily tradable on an established securities market in the United States. We believe that we are, and will continue to be, a "qualified foreign corporation" and that dividends we pay with respect to our shares will qualify as "qualified dividend income." To be eligible for the 15% tax rate, a US Shareholder must hold our shares un-hedged for a minimum holding period (generally, 61 days during the 121-day period beginning on the date that is 60 days before the ex-dividend date of the distribution). Although we believe we presently are, and will continue to be, a "qualified foreign corporation," we cannot guarantee that we will so qualify. For example, we will not constitute a "qualified foreign corporation" if we are classified as a "passive foreign investment company" (discussed below) in either the taxable year of the distribution or the preceding taxable year.

Distributions to US Shareholders that are treated as dividends are generally considered income from sources outside the United States and, for purposes of computing the limitations on foreign tax credits that apply separately to specific categories of income, foreign source "passive category" income or, in the case of certain holders, "general category" income. However, if United States persons own, directly or indirectly, 50% or more of our shares of common stock, then a portion of the dividends (based on the portion of our earnings and profits that is from US sources) may be treated as sourced within the United States. This 50% ownership rule could potentially limit a US Shareholder's ability to use foreign tax credits against the shareholder's US tax liability. In addition, special rules will apply to determine a US Shareholder's foreign

tax credit limitation if a dividend distributed with respect to our shares constitutes “qualified dividend income” (as described above). See the discussion of “Credit of Foreign Taxes Withheld” below.

The amount of any distribution we make on shares of our common stock in foreign currency generally will equal the fair market value in US dollars of that foreign currency on the date a US Shareholder receives it. A US Shareholder will have a tax basis in the foreign currency equal to its US dollar value on the date of receipt and will recognise ordinary US source gain or loss when it sells or exchanges the foreign currency. US Shareholders who are individuals will not recognise gain upon selling or exchanging foreign currency if the gain does not exceed US\$200 in a taxable year and the sale or exchange constitutes a “personal transaction” under the Code. The amount of any distribution we make with respect to shares of our common stock in property other than money will equal the fair market value of that property on the date of distribution.

Credit of Foreign Taxes Withheld. Under certain conditions, including a requirement to hold shares of our common stock un-hedged for a certain period, and subject to limitations, a US Shareholder may claim a credit against the US Shareholder’s federal income tax liability for the foreign tax owed and withheld or paid with respect to distributions on our shares. Alternatively, a US Shareholder may deduct the amount of withheld foreign taxes, but only for a year for which the US Shareholder elects to deduct all foreign income taxes. Complex rules determine how and when the foreign tax credit applies, and US Shareholders should consult their tax advisers to determine whether and to what extent they may claim foreign tax credits.

Sale or Other Disposition of Shares. Subject to the passive foreign investment company rules discussed below, a US Shareholder will recognise capital gain or loss on the sale or other taxable disposition of shares of our common stock, equal to the difference between the US Shareholder’s adjusted tax basis in the shares sold or disposed of and the amount realised on the sale or disposition. Individual US Shareholders may benefit from lower marginal tax rates on capital gains recognised on shares sold, depending on the US Shareholder’s holding period for the shares. See the discussion of “Capital Gain Rates” below. Capital losses that do not offset capital gains are subject to limitations on deductibility. The gain or loss from the sale or other disposition of shares of our common stock generally will be treated as income from sources within the United States for foreign tax credit purposes, unless the US Shareholder is a US citizen residing outside the United States and certain other conditions are met.

Capital Gain Rates. For individual US Shareholders, the tax rates applicable to capital gain and ordinary income may vary substantially. For calendar year 2010, the highest marginal income tax rate that could apply to the ordinary income of an individual US Shareholder (disregarding the effect of limitations on deductions) was 35%. In contrast, a maximum rate of 15% applied to any net capital gain of an individual US Shareholder if that gain was attributable to the sale or exchange of capital assets held more than one year. Gain attributable to the sale or exchange of capital assets held one year or less is short-term capital gain, taxable at the same rates as ordinary income. In addition, a maximum rate of 15% applies to “qualified dividend income” (as described above).

Passive Foreign Investment Company Status. Special US federal income tax rules apply to US Shareholders owning capital stock of a PFIC. A foreign corporation will be a PFIC for any taxable year in which 75% or more of its gross income is passive income or in which 50% or more of the average value of its assets is “passive assets” (generally assets that generate passive income or assets held for the production of passive income). For these purposes, passive income excludes certain interest, dividends or royalties from related parties.

If we were a PFIC, each US Shareholder would likely face increased tax liabilities upon the sale or other disposition of shares of our common stock or upon receipt of “excess distributions,” unless the US Shareholder elects (1) to be taxed currently on its pro rata portion of our income, regardless of whether the income was distributed in the form of dividends or otherwise (provided we furnish certain information to our shareholders), or (2) to mark its shares to market by accounting for any difference between the shares’ fair market value and adjusted basis at the end of the taxable year by either an inclusion in income or a deduction from income (provided our ADSs, CUFS or common shares satisfy a test for being regularly

traded on a qualified exchange or other market). Because of the manner in which we operate our business, we are not, nor do we expect to become, a PFIC.

Controlled Foreign Corporation Status. If more than 50% of either the voting power of all classes of our voting stock or the total value of our stock is owned, directly or indirectly, by citizens or residents of the United States, United States domestic partnerships and corporations or estates or trusts other than foreign estates or trusts, each of which owns 10% or more of the total combined voting power of all classes of our stock entitled to vote, which we refer to as 10-Percent Shareholders, we could be treated as a CFC, under the Code. This classification would, among other consequences, require 10-Percent Shareholders to include in their gross income their pro rata shares of our "Subpart F income" (as specifically defined by the Code) and our earnings invested in US property (as specifically defined by the Code).

In addition, gain from the sale or exchange of our common shares by a United States person who is or was a 10-Percent Shareholder at any time during the five-year period ending with the sale or exchange is treated as dividend income to the extent of the earnings and profits attributable to the stock sold or exchanged. Under certain circumstances, a corporate shareholder that directly owns 10% or more of our voting shares may be entitled to an indirect foreign tax credit for income taxes we paid in connection with amounts so characterised as dividends under the Code.

If we were classified as both a PFIC and a CFC, generally we would not be treated as a PFIC with respect to 10-Percent Shareholders. We believe that we are not and will not become a CFC.

US Federal Income Tax Provisions Applicable to Non-United States Holders. A Non-US Holder means a beneficial owner of our common stock that is (1) a nonresident alien as to the United States for US federal income tax purposes; (2) a corporation created or organised in or under the law of a country, or any of its political subdivisions, other than the United States; or (3) an estate or trust that is not a US Shareholder. A Non-US Shareholder generally will not be subject to US federal income taxes, including US withholding taxes, on any dividends paid on our shares or on any gain realised on a sale, exchange or other disposition of the shares unless the dividends or gain is effectively connected with the conduct by the Non-US Shareholder of trade or business in the United States (and is attributable to a permanent establishment or fixed base the Non-US Shareholder maintains in the United States if an applicable income tax treaty so requires as a condition for the Non-US Shareholder to be subject to US taxation on a net income basis on income related to the common stock). A corporate Non-US Shareholder under certain circumstances may also be subject to an additional "branch profits tax" on that type of income, the rate of which may be reduced pursuant to an applicable income tax treaty. In addition, gain recognised on a sale, exchange or other disposition of our shares by a Non-US Shareholder who is an individual generally will be subject to US federal income taxes if the Non-US Shareholder is present in the United States for 183 days or more in the taxable year in which the sale, exchange or other disposition occurs and certain other conditions are met.

US Information Reporting and Backup Withholding. Dividend payments on shares of our common stock and proceeds from the sale, exchange or redemption of shares of our common stock may be subject to information reporting to the Internal Revenue Service and possible US backup withholding at a current rate of 28%. Backup withholding will not apply to a shareholder who furnishes a correct taxpayer identification number or certificate of foreign status and makes any other required certification or who is otherwise exempt from backup withholding. United States persons who are required to establish their exempt status generally must provide that certification on a properly completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification). Non-US Shareholders generally will not be subject to US information reporting or backup withholding. However, Non-US Shareholders may be required to provide certification of non-US status in connection with payments received in the United States or through certain US related financial intermediaries.

Backup withholding is not an additional tax. Amounts withheld as backup withholding may be credited against a shareholder's US federal income tax liability, and a shareholder may obtain a refund of any

excess amounts withheld under the backup withholding rules by filing the appropriate claim for refund with the Internal Revenue Service and furnishing any required information.

Dutch Taxation

As from 1 April 2010 through 28 June 2010 we believe we should be considered to be a Dutch tax resident. However, with effect from 29 June 2010 forward, we believe we should be considered to be an Irish tax resident, as explained below under the Irish Taxation section, and should no longer be considered to be a Dutch tax resident under the Netherlands/Ireland double tax treaty from the date that the Irish tax authorities treat us as an Irish resident company under the treaty. In this regard, for the period covering 1 April 2010 through 28 June 2010, the following summary of the material Dutch tax consequences is generally applicable to an investment in shares of our common stock by a beneficial owner who is neither a tax resident nor a deemed tax resident of The Netherlands. This summary does not comprehensively describe all possible tax issues that could influence a prospective shareholder's decision to acquire shares of our common stock. For example, this summary omits from discussion Netherlands' gift, estate and inheritance taxes. The summary is based on the Dutch tax legislation, published case law and other applicable regulations as at the date of this annual report, any of which may change possibly with retroactive effect.

Treatment of ADSs. In general, for Dutch tax purposes, an owner of depositary receipts is considered the owner of the shares of stock represented by depositary receipts. Accordingly, except as otherwise noted, references in this section of the annual report to ownership of shares of our common stock includes ownership of the shares underlying the corresponding ADSs.

Dutch Dividend Withholding Tax. As from 1 January 2007, The Netherlands has unilaterally reduced its dividend withholding tax rate to 15% irrespective of whether the recipient is entitled to the benefits of a tax treaty concluded with The Netherlands. The term "dividends" for this purpose includes, but is not limited to:

- (1) direct or indirect distributions in cash or in kind, deemed or constructive distributions, and repayments of additional paid-in capital not recognised as such for The Netherlands dividend withholding tax purposes;
- (2) liquidation proceeds, proceeds of redemption of shares of common stock or, generally, except if a certain specific exemption applies, consideration paid by us for the repurchase of shares of common stock in excess of the average paid-in capital recognised for The Netherlands dividend withholding tax purposes;
- (3) the par value of shares of common stock issued to a holder of shares of common stock or an increase of the par value of shares of common stock, as the case may be, to the extent that no contribution to capital, recognised for The Netherlands dividend withholding tax purposes, was made or will be made; and
- (4) the partial repayment of paid-in capital, recognised for Netherlands dividend withholding tax purposes, if and to the extent that there are net profits, *overtuivere winst*, for dividend withholding tax purposes, unless the general meeting of our shareholders has previously resolved to make such repayment and provided that the par value of the shares of common stock concerned has been reduced by a corresponding amount by changing our Articles of Association. As a result of contributions in kind (i.e., in shares) to our paid-in capital made prior to the listing of our common shares, a portion of such paid-in capital may not be recognised for Dutch dividend withholding tax purposes.

If a double taxation convention is in effect between The Netherlands and the country of residence of a non-resident shareholder and depending on the terms of that double taxation convention, such non-resident

shareholder may be eligible for a full or partial exemption resulting in a lower dividend withholding tax rate than 15%.

For example, under the US-NL Treaty, certain US corporate shareholders owning directly at least 10% of our voting power are eligible for a reduction to 5% with respect to dividends that we pay, unless the shares of common stock held by such residents form part of the business property of a business carried on through a permanent establishment in The Netherlands. The same exception applies if the beneficial owner of the shares, being a citizen or resident of the United States, performs independent personal services from a fixed base situated in The Netherlands and the holding of the shares of common stock in respect of which the dividends are paid pertains to such fixed base in The Netherlands. The US-NL Treaty fully exempts from tax dividends we pay to exempt pension organisations and exempt organisations, as defined under the treaty. A shareholder of our common stock, other than an individual, will be ineligible for the benefits of the US-NL Treaty unless the shareholder satisfies certain tests under the limitation on benefits provisions of Article 26 of the US-NL Treaty. To prevent so-called dividend stripping, The Netherlands law generally denies the treaty benefit of a reduced dividend withholding tax rate for any dividend paid to a recipient who is not the "beneficial owner" of the dividend.

A qualified exempt pension organisation may obtain a full exemption from the dividend withholding tax if, before the payment of the dividend, the organisation gives us in duplicate a signed Form IB 96 USA, along with the requisite banker's affidavit as described above, and includes IRS Form 6166 for the relevant year or a valid qualification certification issued by the competent Dutch tax office and complies with certain other requirements. Other qualifying exempt organisations are ineligible for relief from withholding at source but may claim a refund of the tax withheld by filing a Form IB 95 USA and complying with certain other formalities.

Holders of shares of our common stock through a depository will initially receive dividends subject to a withholding tax rate of 15%. Upon timely receipt of required documents concerning a holder's eligibility for the reduced rate under the US-NL Treaty, dependent on the status of the holder, the dividend-disbursing agent (via any nominee) will pay an amount equal to 10% of the dividend to the holder.

Dutch Taxes on Income and Capital Gains. A shareholder of shares of our common stock will not be subject to any Dutch taxes in respect of dividends distributed by us or capital gains realised on the disposition of shares of our common stock (other than the dividend withholding tax described above), provided that:

- (1) such shareholder is neither tax resident nor deemed to be tax resident in The Netherlands, nor has elected to be subject to the rules of the Dutch Income Tax Act 2001 that apply to residents of The Netherlands;
- (2) such shareholder does not have a business or an interest in a business that is, in whole or in part, carried on through a permanent establishment or a permanent representative in The Netherlands and to which business or part of a business, as the case may be, the shares of common stock are attributable;
- (3) such shareholder does not perform independent personal services in The Netherlands giving rise to a fixed base in The Netherlands to which the shares of common stock are attributable; and
- (4) the shares of common stock owned by such shareholder do not form part of a substantial interest or a deemed substantial interest, as defined below, in our share capital or, if such shares of common stock do form part of such an interest, they form part of the assets of a business other than a Dutch business.

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Generally, a shareholder of our common stock will have a substantial interest in our shares only if the shareholder, the spouse of the shareholder, certain other relatives (including foster children), or certain persons in the household of the shareholder, alone or together, whether directly or indirectly, own or possess certain rights (e.g., the right of usufruct) in, shares of our stock representing 5% or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of shares), or rights to acquire the shares, whether or not already issued, that represent at any time 5% or more of the total issued and outstanding capital (or the issued and outstanding capital of any class of shares) or the ownership of certain profit participating certificates that relate to 5% or more of the annual profit and/or to 5% or more of the liquidation proceeds. Shareholders of our common stock who do not hold a substantial interest themselves will also be subject to the "substantial interest" regime if their spouse and/or certain other relatives hold a substantial interest. A deemed substantial interest is present if a substantial interest or part of a substantial interest has been disposed of, or is deemed to have been disposed of, without recognition of a gain.

If a shareholder has a substantial interest in the shares of our common stock and is resident of a country with which The Netherlands has concluded a convention to avoid double taxation, such shareholder may, depending on the terms of such double taxation convention, be eligible for an exemption from Dutch tax on capital gains realised upon the disposition or deemed disposition of shares of our common stock, or to a full or partial exemption from Netherlands income tax on dividends we pay.

Under the US-NL Treaty, capital gains realised by a shareholder that has a substantial interest in the shares of our common stock and is a resident of the United States (as defined in the US-NL Treaty) upon the disposition of shares of our common stock, are, with certain exceptions, generally exempt from Dutch tax.

As indicated above, a shareholder of shares of our common stock, other than an individual, will be ineligible for the benefits of the US-NL Treaty if such shareholder does not satisfy the limitation on benefits provisions under Article 26 of the US-NL Treaty.

Other Taxes and Duties. No other Dutch registration tax, transfer tax, stamp duty or any similar documentary tax or duty will be payable by our investors in respect of or in connection with the subscription, issue, placement, allotment or transfer of shares of our common stock.

Irish Taxation

As discussed above, with effect from 29 June 2010 forward, we believe we should be considered to be an Irish tax resident and should no longer be considered to be a Dutch tax resident under the Netherlands/Ireland double tax treaty from the date that the Irish tax authorities treat us as an Irish resident company under the treaty. Accordingly, we believe that the Irish tax implications set out below are relevant for shareholders who invest in shares of our common stock and hold the shares as capital assets.

The following is a summary of the material Irish tax consequences generally applicable to shareholders who invest in shares of our common stock, who are neither tax resident, nor ordinarily resident in, Ireland. This summary does not contain a detailed description of all of the Irish tax consequences for all shareholders, which depend on that shareholder's particular circumstances, and should not be a substitute for advice from an appropriate professional adviser in relation to all of the possible tax issues that could influence a prospective shareholder's decision to acquire shares of our common stock. This summary is based on Irish tax legislation, relevant Irish case law, other Irish Revenue guidance and published opinions and administrative pronouncements of the Irish tax authorities, income tax treaties to which Ireland is a party, and such other authorities as we have considered relevant, all as in effect and available as at the date of this annual report, any of which may change possibly with retroactive effect.

Treatment of ADSs. In general, for Irish tax purposes, an owner of depositary receipts is considered the owner of the shares of stock represented by depositary receipts. Accordingly, except as otherwise noted,

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references in this section of the annual report to ownership of shares of our common stock includes ownership of the shares underlying the corresponding ADSs.

Irish Dividend Withholding Tax. Distributions made by us to non-Irish resident shareholders will, subject to certain exceptions, be subject to Irish dividend withholding tax at the standard rate of income tax (which is currently 20%) unless you are a shareholder who falls within one of the categories of exempt shareholders referred to below. Where dividend withholding tax applies, we will be responsible for withholding the dividend withholding tax at source. For dividend withholding tax purposes, a dividend includes any distribution made by us to our shareholders, including cash dividends, non-cash dividends and additional shares taken in lieu of a cash dividend.

Dividend withholding tax is not payable where an exemption applies provided that we have received all necessary documentation required by the relevant legislation from our shareholders prior to payment of the dividend.

Certain of our non-Irish tax resident shareholders (both individual and corporate) are entitled to an exemption from dividend withholding tax. In particular, a non-Irish tax resident shareholder is not subject to dividend withholding tax on dividends received from us where the shareholder is:

- an individual shareholder resident for tax purposes in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty, and the individual is neither resident nor ordinarily resident in Ireland;
- a corporate shareholder not resident for tax purposes in Ireland nor ultimately controlled, directly or indirectly, by persons so resident and which is resident for tax purposes in either a member state of the EU (apart from Ireland) or a country with which Ireland has a double tax treaty;
- a corporate shareholder that is not resident for tax purposes in Ireland and which is ultimately controlled, directly or indirectly, by persons resident in either a member state of the EU (apart from Ireland) or in a country with which Ireland has a double tax treaty;
- a corporate shareholder that is not resident for tax purposes in Ireland and whose principal class of shares (or those of its 75% parent) is substantially and regularly traded on a recognised stock exchange in either a member state of the EU (including Ireland where the company trades only on the Irish stock exchange) or in a country with which Ireland has a double tax treaty or on an exchange approved by the Irish Minister for Finance; or
- a corporate shareholder that is not resident for tax purposes in Ireland and is wholly-owned, directly or indirectly, by two or more companies the principal class of shares of each of which is substantially and regularly traded on a recognised stock exchange in either a member state of the EU (including Ireland where the company trades only on the Irish stock exchange) or in a country with which Ireland has a double tax treaty or on an exchange approved by the Irish Minister for Finance,

and provided that, in all cases noted above, the shareholder has made the appropriate non-resident declaration to us prior to payment of the dividend.

Where our shareholders hold ADSs, they may not be required to submit an appropriate declaration in order to receive dividends without deduction of Irish dividend withholding tax provided their registered address is in the US.

Non-resident shareholders who are entitled to an exemption, as outlined above, and held their shares on 23 June 2009, will generally be able to receive dividends without any dividend withholding tax (and without the need to complete the aforementioned non-resident declaration forms) for a period of one year from 29 June 2010. Shareholders who acquired their shares after 23 June 2009 will not be entitled to this one year grace period and will be subject to the non-resident declaration procedures described below.

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After this one year period, shareholders must complete and send to us a non-resident declaration form in order to avoid Irish dividend withholding tax. If the appropriate declaration is not made, these shareholders will be liable for Irish dividend withholding tax of 20% on dividends paid by us and may not be entitled to offset this tax. In this case, it would be necessary for shareholders to apply for a refund of the withholding tax directly from the Irish Revenue authorities.

Shareholders that do not fulfil the documentation requirements or otherwise do not qualify for one of the withholding tax exemptions outlined above may be able to claim treaty benefits under a double taxation convention. In this regard, where a double taxation convention is in effect between Ireland and the country of residence of a non-resident shareholder, depending on the terms of that double taxation convention, such a non-resident shareholder may be eligible for a full or partial exemption resulting in a lower dividend withholding tax rate than 20%.

For example, under the US-Ireland Treaty, certain US corporate shareholders owning directly at least 10% of our voting power, are eligible for a reduction in withholding tax to 5% with respect to dividends that we pay, unless the shares of common stock held by such residents form part of the business property of a business carried on through a permanent establishment in Ireland. The same exception applies if the beneficial owner of the shares, being a citizen or resident of the United States, performs independent personal services from a fixed base situated in Ireland and the holding of the shares of common stock in respect of which the dividends are paid pertains to such fixed base in Ireland. A shareholder of our common stock, other than an individual, will be ineligible for the benefits of the US-Irish Treaty unless the shareholder satisfies certain tests under the LOB provisions of Article 23 of the US-Ireland Treaty. To prevent so-called dividend stripping, Irish law generally denies the treaty benefit of a reduced dividend withholding tax rate for any dividend paid to a recipient who is not the "beneficial owner" of the dividend.

Irish Taxes on Income and Capital Gains. Shareholders who are neither tax resident of, nor ordinarily resident in, Ireland should not be subject to any Irish taxes in respect of dividends distributed by us (other than the dividend withholding tax described above) or capital gains realised on the disposition of shares of our common stock unless such shares are used, held or acquired for the purposes of a trade, profession or vocation carried on in Ireland through a branch or an agency. An individual who is temporarily a non-resident of Ireland at the time of the disposal may, under anti-avoidance legislation, still be liable to Irish taxation on any chargeable gains realised (subject to the availability of exemptions or reliefs).

Capital Acquisitions Tax. Irish capital acquisitions tax (which we refer to as CAT) applies to gifts and inheritances. Subject to certain tax-free thresholds (which are determined by the relationship between the donor and successor or donee), gifts and inheritances are liable to tax at 25%. Gifts and inheritances passing between spouses are exempt from CAT.

Where a gift or inheritance is taken under a disposition made on or after 1 December 1999, it will be within the charge of CAT:

- to the extent that the property of which the gift or inheritance consists is situated in Ireland at the date of the gift or inheritance;
- where the person making the gift or inheritance is or was resident or ordinarily resident in Ireland at the date of the disposition under which the gift or inheritance is taken;
- in the case of an appointment from a discretionary trust where the person who settled the assets on trust was resident or ordinarily resident in Ireland (i) at the date he made the settlement, or (ii) at the date of the appointment of the property from the trust or, (iii) if the appointment occurs after his death, at the date of his death; or
- where the person receiving the gift or inheritance is resident or ordinarily resident in Ireland at the date of the gift or inheritance.

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A non-Irish domiciled individual will not be regarded as resident or ordinarily resident in Ireland for CAT purposes on a particular date unless they are resident or ordinarily resident in Ireland on that date and have been resident in Ireland for the 5 consecutive tax years immediately preceding the year of assessment in which the date falls.

A gift or inheritance of our common stock will be within the charge of CAT, notwithstanding that the person from whom or by whom the gift or inheritance is received is domiciled or resident outside Ireland.

The Estate Tax Convention between Ireland and the United States generally provides for CAT paid on inheritances in Ireland to be credited against US federal estate tax payable in the United States and for tax paid in the United States to be credited against tax payable in Ireland, based on priority rules set forth in the Estate Tax Convention. The Estate Tax Convention does not apply to CAT paid on gifts. Irish domestic legislation also provides for a general relief from double taxation in respect of gifts and inheritances.

Irish Stamp Duty. Any electronic transfers of shares through the CHESSE or the ADR system will be treated as exempt from stamp duty in Ireland. If a shareholder undertakes an off-market transaction involving a transfer of the underlying shares, this will be subject to Irish stamp duty at a rate of 1% of market value or consideration paid, whichever is greater and will not be able to be registered until duly stamped. An off-market transfer of CUFS will also, where evidenced in writing, be subject to the 1% Irish stamp duty. In addition a conversion of shares into CUFS or ADSs or a conversion of CUFS or ADSs into underlying shares will be liable to 1% Irish stamp duty where the conversion is on a sale or in contemplation of a sale. In each case, payment of this stamp duty will be the responsibility of the person receiving the transfer.

Documents Available for Review

We are subject to the reporting requirements of the Exchange Act applicable to "foreign private issuers" and in accordance therewith file reports, including annual reports, and other information with the US Securities and Exchange Commission (SEC). Such reports and other information have been filed electronically with the SEC since 4 November 2002. The SEC maintains a site on the Internet, at www.sec.gov, which contains reports and other information regarding issuers that file electronically with the SEC. In addition, such reports may be obtained, upon written request, from our company secretary at our Corporate Headquarters in Ireland or our Investor Relations department in Australia. Such reports and other information filed with the SEC prior to November 2002 may be inspected and copied at prescribed rates at the public reference facilities maintained by the SEC at 100 F Street N.E., Washington, D.C. 20549, or obtained by written request to our company secretary. Although, as a foreign private issuer, we are exempt from the rules under the Exchange Act prescribing the furnishing and content of proxy statements and annual reports to shareholders and the quarterly reporting requirements of the Exchange Act, we:

- furnish our shareholders with annual reports containing consolidated financial statements examined by an independent registered public accounting firm; and
- furnish quarterly reports for the first three quarters of each fiscal year containing unaudited consolidated financial information in filings with the SEC under Form 6-K.

QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Cash and cash equivalents include amounts on deposit in banks and cash invested temporarily in various highly liquid financial instruments with original maturities of three month or less when acquired.

We have operations in foreign countries and, as a result, are exposed to foreign currency exchange rate risk inherent in purchases, sales, assets and liabilities denominated in currencies other than the US dollar.

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We also are exposed to interest rate risk associated with our long-term debt and to changes in prices of commodities we use in production.

Periodically, interest rate swaps, commodity swaps and forward exchange contracts are used to manage market risks and reduce exposure resulting from fluctuations in interest rates, commodity prices and foreign currency exchange rates. Our policy is to enter into derivative instruments solely to mitigate risks in our business and not for trading or speculative purposes.

Foreign Currency Exchange Rate Risk

We have significant operations outside of the United States and, as a result, are exposed to changes in exchange rates which affect our financial position, results of operations and cash flow. In addition, payments to the AICF are required to be made in Australian dollars which, because the majority of our revenues is produced in US dollars, exposes us to risks associated with fluctuations in the US dollar/Australian dollar exchange rate. See "Risk Factors."

For our fiscal year ended 31 March 2011, the following currencies comprised the following percentages of our net sales, expenses and liabilities:

	US\$	A\$	NZ\$	Other (1)
Net sales	67.6%	22.8%	4.5%	5.1%
Expenses (2)	61.5%	29.7%	3.9%	4.9%
Liabilities (excluding borrowings) (2)	11.7%	86.5%	1.4%	0.4%

For our fiscal year ended 31 March 2010, the following currencies comprised the following percentages of our net sales, cost of goods sold, expenses and liabilities:

	US\$	A\$	NZ\$	Other (1)
Net sales	71.9%	19.1%	4.5%	4.5%
Expenses (2)	55.9%	36.5%	3.7%	3.9%
Liabilities (excluding borrowings) (2)	44.2%	54.4%	0.6%	0.8%

(1) Comprised of Philippine Pesos and Euros.

(2) Liabilities include A\$ denominated asbestos liability, which was initially recorded in the fourth quarter of fiscal year 2006. Expenses include cost of goods sold, selling general and administrative expenses, research and development expenses and adjustments to the liability. See "Risk Factors," "Commitment to Provide Funding on a Long-Term Basis in Respect of Asbestos-Related Liabilities of Former Subsidiaries," and Note 11 of our consolidated financial statements in Section 2 for further information regarding the asbestos liability.

We purchase raw materials and fixed assets and sell some finished product for amounts denominated in currencies other than the functional currency of the business in which the related transaction is generated. In order to protect against foreign exchange rate movements, we may enter into forward exchange contracts timed to mature when settlement of the underlying transaction is due to occur. As of 31 March 2011, there were no material contracts outstanding.

Funding Under the AFFA

The A\$ to US\$ assets and liabilities rate moved unfavourably for us from 1.0919 as of 31 March 2010 to 0.9676 as of 31 March 2011, a 13% movement, resulting in a US\$85.8 million unfavourable impact, net of changes in actuarial estimates, on our fiscal year 2011 net income. Assuming that our unfunded net AFFA liability in Australian dollars remains unchanged at A\$923.8 million and that we do not hedge this foreign exchange exposure, a 10% favourable or unfavourable movement in the A\$ to US\$ exchange rate (at the

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31 March 2011 exchange rate of 0.9676) would have approximately a US\$86.8 million and US\$106.1 million favourable and unfavourable impact, respectively, on our net income.

For fiscal year 2010, assuming that our unfunded net AFFA liability in Australian dollars remained unchanged at A\$991.9 million and that we did not hedge this foreign exchange exposure, a 10% favourable or unfavourable movement in the A\$ to US\$ exchange rate (at the 31 March 2010 exchange rate of 1.0919) would have had approximately an US\$82.5 million and US\$101.0 million favourable and unfavourable impact, respectively, on our net income.

Interest Rate Risk

We have market risk from changes in interest rates, primarily related to our borrowings. As of 31 March 2011 and 2010, all of our borrowings were variable rate. From time to time, we may enter into interest rate swap contracts in an effort to mitigate interest rate risk. As of 31 March 2011, we had interest rate swap contracts with a total notional principal of US\$200.0 million and a fair value of US\$6.1 million, which are included in Accounts Payable. For all of these interest rate swap contracts, we have agreed to pay fixed interest rates while receiving the floating interest rate. These contracts were entered into to protect against upward movements in LIBOR and the associated interest the Company pays on its external debt.

An assumed 10 basis point move in the interest rates applicable to our borrowings (a 10 percent move against our weighted-average floating rate interest rates as of 31 March 2011) would have had a 0.1% change on our fiscal year 2011 income before income taxes.

For fiscal year 2010, an assumed 9 basis point move in the interest rates applicable to our borrowings (a 10 percent move against our weighted-average floating rate interest rates as of 31 March 2010) would have had a 0.8% change on our fiscal year 2010 income before income taxes.

Commodity Price Risk

We are exposed to changes in prices of commodities used in our operations, primarily associated with energy, fuel and raw materials such as pulp and cement. Pulp has historically demonstrated more price sensitivity than other raw materials that we use in our manufacturing process. We expect that pulp prices will rise and that energy, fuel and cement prices will also fluctuate in the near future. To minimise the additional working capital requirements caused by rising prices related to these commodities, we have entered into various contracts that discount pulp prices in relation to pulp indices and purchase our pulp from several qualified suppliers in an attempt to mitigate price increases and supply interruptions. However, if such commodity prices do not continue to rise, our cost of sales may be negatively impacted due to fixed pricing over the longer-term.

We have assessed the market risk for pulp and believe that, a US\$109 per metric ton movement in market pulp prices, which represents approximately 10% of the average NBSK average pulp price for the year ended 31 March 2011, would have had approximately a 1.3% change in our cost of sales in fiscal year 2011. We have also assessed the market risk for cement and believe that, a US\$9 per metric ton price movement in cement prices, which represents approximately 10% of the market cement price at 31 March 2011, would have had approximately a 0.5% change in cost of sales in fiscal year 2011.

For fiscal year 2010, we had assessed the market risk for pulp and believe that, a US\$100 per metric ton movement in market pulp prices, which represented approximately 10% of the market pulp price at 31 March 2010, would have had approximately a 1.6% change in our cost of sales in fiscal year 2010. We also assessed the market risk for cement and believe that, a US\$9 per metric ton price movement in cement prices, which represents approximately 10% of the market cement price at 31 March 2010, would have had approximately a 0.6% change in cost of sales in fiscal year 2010.

AMERICAN DEPOSITARY SHARES

We have listed our securities for trading on the NYSE. We sponsor a program whereby beneficial ownership of five CUFS is represented by one ADS, which is issued by The Bank of New York Mellon. These ADSs trade on the NYSE in the form of ADRs under the symbol "JHX." Trading principally takes place between the hours of 9:30 a.m. and 4:00 p.m. Eastern Time on each weekday (excluding US public holidays).

The following is a summary of the fee provisions of our deposit agreement with The Bank of New York Mellon. For more complete information regarding ADRs, the entire deposit agreement should be read. The deposit agreement, as amended, has been filed as an exhibit to this annual report as Exhibit 2.1.

Persons depositing or withdrawing share or ADS holders must pay:

Taxes and other governmental charges

For:

As necessary

Registration or transfer fees

Transfer and registration of shares on our share register to or from the name of the depository or its agent when you deposit or withdraw shares

Any charges incurred by the depository or its agents for servicing the deposited securities

As necessary

Expenses of the depository

Converting foreign currency to US dollars

\$5.00 (or less) per 100 ADSs (or portion of 100 ADSs)

Execution and delivery of ADSs, including issuances resulting from a distribution of shares, rights, or other property

\$0.02 (or less) per ADS (or portion thereof)

Cash distributions and depository services

If any tax or other governmental charge becomes payable with respect to any security on deposit, such tax or other governmental charge is payable by the ADS holder to the Depository. The Depository may refuse to effect any transfer or withdrawal of a deposited security until such payment is made. The Depository may withhold any dividends or other distributions or may sell for the account of the ADS holder any part or all of the deposited securities, and may apply such dividends, other distributions, or proceeds of any such sale in payment of such tax or other governmental charge and the ADS holder will remain liable for any deficiency.

All inquiries and correspondence regarding ADSs should be directed to The Bank of New York Mellon, depository for our ADSs, at 101 Barclay Street, 22W, New York, NY 10286. To speak directly to a Bank of New York Mellon representative, please call 1-888-BNY-ADRS (1-888-269-2377) if you are calling from within the United States. If you are calling from outside the US, please call 201-680-6825. You may also send an e-mail inquiry to shrrelations@bnymellon.com or visit the website at www.bnymellon.com/shareowner.

EXHIBITS

Documents filed as exhibits to this annual report:

Exhibit Number	Description of Exhibits
1.1	Articles of Association dated 17 June 2010 of James Hardie Industries SE, a European Company registered in Ireland (13)

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Exhibit Number	Description of Exhibits
2.1	Deposit Agreement dated as of 24 September 2001, as amended and restated as of 19 February 2010 and as further amended on 17 June 2010, between James Hardie Industries SE and The Bank of New York Mellon, as depositary (15)
2.2	Amended and Restated Common Terms Deed Poll dated 6 October 2009 among James Hardie International Finance B.V., James Hardie Building Products, Inc., James Hardie International Finance Limited and James Hardie Industries N.V. (15)
2.3	Amended and Restated Common Terms Deed Poll dated 21 December 2009 among James Hardie International Finance Limited, James Hardie Building Products, Inc. and James Hardie Industries N.V. (15)
2.4	Form of 3 Year Term (Bullet) Facility Agreement dated 21 February 2008 among James Hardie International Finance B.V., James Hardie Building Products, Inc. and Financier (6)
2.5	Form of 5 Year Term (Bullet) Facility Agreement dated 21 February 2008 among James Hardie International Finance B.V., James Hardie Building Products, Inc. and Financier (6)
2.6	Form of Guarantee Deed between James Hardie Industries N.V. and Financier (2)
2.7	Form of Lender Deeds of Confirmation dated 23 June 2009 between James Hardie International Finance B.V., James Hardie Building Products, Inc., James Hardie Industries N.V. and Financier (7)
2.8	Form of Novation Deed dated 9 October 2009 between James Hardie International Finance Limited, James Hardie International Finance B.V., James Hardie Building Products, Inc., James Hardie Industries N.V. and Financier (14)
2.9	AET Guarantee Trust Deed dated 19 December 2006 between James Hardie Industries N.V. and AET Structured Finance Services Pty Limited (14)
2.10	Amending Deed to the AET Guarantee Trust Deed dated 6 October 2009 between James Hardie Industries N.V. and AET Structured Finance Services Pty Limited (15)
2.11	Performing Subsidiary Undertaking and Guarantee Trust Deed dated 19 December 2006 between James Hardie 117 Pty Limited and AET Structured Finance Services Pty Limited (14)
2.12	Amending Deed to the Performing Subsidiary Undertaking and Guarantee Trust Deed dated 6 October 2009 between James Hardie 117 Pty Limited and AET Structured Finance Services Pty Limited (15)
2.13	Form of Term Facility Agreement between James Hardie International Finance Limited and Financier (9)
2.14	Form of Term (Bullet) Facility Agreement [entered into between James Hardie International Finance Limited, James Hardie Building Products, Inc and Financier; James Hardie International Finance Limited and Financier]
4.1	Amended and Restated James Hardie Industries SE 2001 Equity Incentive Plan (10)
4.2	Executive Incentive Plan 2009 (7)
4.3	Amended and Restated James Hardie Industries SE Long Term Incentive Plan 2006 (12)

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Exhibit Number	Description of Exhibits
4.4	Form of Joint and Several Indemnity Agreement among James Hardie N.V., James Hardie (USA) Inc. and certain former executive officers and Managing Board directors thereto (2)
4.5	Form of Joint and Several Indemnity Agreement among James Hardie Industries N.V., James Hardie Inc. and certain former Supervisory Board and Managing Board directors thereto (2)
4.6	Form of Deed of Access, Insurance and Indemnity between James Hardie Industries N.V. and Supervisory Board directors and Managing Board directors (6)
4.7	Form of Indemnity Agreement between James Hardie Building Products, Inc. and Supervisory Board directors, Managing Board directors and certain executive officers (6)
4.8	Form of Irish law-governed Deed of Access, Insurance and Indemnity between James Hardie Industries SE, a European Company registered in Ireland, and its directors, company secretary and certain senior employees (7)
4.9	Lease between Brookfield Multiplex Carole Park Landowner Pty Limited (f/k/a Multiplex Carole Park Landowner Pty Limited), James Hardie Australia Pty Limited and James Hardie Industries N.V. dated 18 October 2007 re Cobalt & Silica Street, Carole Park, Queensland, Australia (7)
4.10	Variation of Lease dated 23 March 2004, among Brookfield Multiplex Rosehill Landowner Pty Ltd (f/k/a Multiplex Rosehill Landowner Pty Ltd) as successor in interest to Amaca Pty Limited (f/k/a/ James Hardie & Coy Pty Limited), James Hardie Australia Pty Limited and James Hardie Industries N.V. re premises at the corner of Colquhoun & Devon Streets, Rosehill, New South Wales, Australia (1)
4.11	Lease dated 3 April 2009, between Welshpool Landowner Pty and James Hardie Australia Pty Limited re premises at Rutland Avenue, Welshpool, Western Australia, Australia (7)
4.12	Lease Amendment dated 23 March 2004, among Brookfield Multiplex Meeandah Landowner Pty Ltd (f/k/a Multiplex Meeandah Landowner Pty Ltd) as successor in interest to Amaca Pty Limited (f/k/a James Hardie & Coy Pty Limited), James Hardie Australia Pty Limited and James Hardie Industries N.V. re premises at 46 Randle Road, Meeandah, Queensland, Australia (1)
4.13	Lease Agreement dated 23 March 2004 among Location Group Limited as successor in interest to Studorp Limited, James Hardie New Zealand Limited and James Hardie Industries N.V. re premises at the corner of O'Rorke and Station Roads, Penrose, Auckland, New Zealand (1)
4.14	Lease Agreement dated 23 March 2004 among Location Group Limited as successor in interest to Studorp Limited, James Hardie New Zealand Limited and James Hardie Industries N.V. re premises at 44-74 O'Rorke Road, Penrose, Auckland, New Zealand (1)
4.15	Ownership transfer related to corner of O'Rorke and Station Roads, Penrose, Auckland, New Zealand and 44-74 O'Rorke Road, Penrose, Auckland, New Zealand effective 30 June 2005 (3)
4.16	Industrial Building Lease Agreement, effective 6 October 2000, between James Hardie Building Products, Inc. and Fortra Fibre-Cement L.L.C., re premises at Waxahachie, Ellis County, Texas (2)
4.17	Asset Purchase Agreement by and between James Hardie Building Products, Inc. and Cemplank, Inc. dated as of 12 December 2001 (2)
4.18	Amended and Restated Stock Purchase Agreement dated 12 March 2002, between BPB US Holdings, Inc. and James Hardie Inc. (2)
4.19	Amended and Restated Final Funding Agreement dated 21 November 2006 (4)
4.20	AFFA Amendment dated 6 August 2007 (6)
4.21	AFFA Amendment dated 8 November 2007 (6)
4.22	AFFA Amendment dated 11 June 2008 (6)
4.23	Address for Service of Notice on Trustee dated 13 June 2008 (6)

Exhibit Number	Description of Exhibits
4.24	AFFA Amendment dated 17 July 2008 (7)
4.25	Deed to amend the AFFA and facilitate the Authorised Loan Facility dated 9 December 2010 between James Hardie Industries SE, James Hardie 117 Pty Limited, The State of New South Wales and Asbestos Injuries Compensation Fund Limited in its capacity as trustee of each of the Compensation Funds
4.26	Asbestos Injuries Compensation Fund Amended and Restated Trust Deed by and between James Hardie Industries N.V. and Asbestos Injuries Compensation Fund Limited dated 14 December 2006 (5)
4.27	Deed Poll dated 11 June 2008 — amendment of the Asbestos Injuries Compensation Fund Amended and Restated Trust Deed (6)
4.28	Deed of Release by and among James Hardie Industries N.V., Australian Council of Trade Unions, Unions New South Wales, and Bernard Douglas Banton dated 21 December 2005 (3)
4.29	Amending Agreement (Parent Guarantee) dated 23 June 2009 by and among Asbestos Injuries Compensation Fund Limited, The State of New South Wales, and James Hardie Industries N.V. (15)
4.30	Deed of Release by and between James Hardie Industries N.V. and The State of New South Wales dated 22 June 2006 (3)
4.31	Second Irrevocable Power of Attorney by and between Asbestos Injuries Compensation Fund Limited and The State of New South Wales dated 14 December 2006 (5)
4.32	Deed of Accession by and among Asbestos Injuries Compensation Fund Limited, James Hardie Industries N.V., James Hardie 117 Pty Limited, and The State of New South Wales dated 14 December 2006 (5)
4.33	Intercreditor Deed dated 19 December 2006 between The State of New South Wales, James Hardie Industries N.V., Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (14)
4.34	Letter agreement dated 21 March 2007 amending Intercreditor Deed between The State of New South Wales, James Hardie Industries N.V., Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (14)
4.35	Amending Deed (Intercreditor Deed) dated 23 June 2009 between The State of New South Wales, James Hardie Industries N.V., Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (15)
4.36	Performing Subsidiary Intercreditor Deed dated 19 December 2006 between The State of New South Wales, James Hardie 117 Pty Limited, Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (14)
4.37	Letter agreement dated 21 March 2007 amending Performing Subsidiary Intercreditor Deed between The State of New South Wales, James Hardie 117 Pty Limited, Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (14)
4.38	Amending Deed (Performing Subsidiary Intercreditor Deed) dated 23 June 2009 between The State of New South Wales, James Hardie 117 Pty Limited, Asbestos Injuries Compensation Fund Limited and AET Structured Finance Services Pty Limited (15)
4.39	Deed of Confirmation dated 23 June 2009 between James Hardie Industries N.V., James Hardie 117 Pty Limited, The State of New South Wales and Asbestos Injuries Compensation Fund Limited in its capacity as trustee of the Asbestos Injuries Compensation Fund (8)
4.40	AICF facility agreement dated 9 December 2010 between Asbestos Injuries Compensation Fund Limited, ABN 60 Pty Limited, Amaca Pty Ltd, Amaba Pty Ltd and The State of New South Wales

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Exhibit Number	Description of Exhibits
4.41	Fixed and floating charge dated 9 December 2010 between Asbestos Injuries Compensation Fund Limited, ABN 60 Pty Limited, Amaca Pty Ltd, Amaba Pty Ltd and The State of New South Wales
4.42	Agreement on the Involvement of Employees dated 10 February 2010 between James Hardie Industries N.V., JH CBM plc, James Hardie International Holdings N.V., JHIHCBM and the Special Negotiating Bodies (9)
8.1	List of significant subsidiaries of James Hardie Industries SE
12.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
12.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
13.1	Certification of the Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
15.1	Consent of Ernst & Young LLP, independent registered public accounting firm
15.2	Consent of KPMG Actuarial Pty Limited
99.1	Excerpts of the ASX Settlement Operating Rules (formerly called the ASTC Settlement Rules) as of 31 May 2011
99.2	Subdivision B, Division 3 of Part 7.2 of the Corporations Act 2001 as of 31 May 2011
99.3	ASIC Class Order 02/311, dated 11 March 2002 (2)
99.4	ASIC Modification, dated 7 March 2002 (2)
99.5	ASIC Class Order 04/166, dated 26 February 2004 (3)
101INS	Instance Document
101SCH	Schema Document
101CAL	Calculation Linkbase Document
101LAB	Label Linkbase Document
101PRE	Presentation Linkbase Document
101DEF	Definition Linkbase Document

-
- (1) Previously filed as an exhibit to our Annual Report on Form 20-F dated 22 November 2004 and incorporated herein by reference.
 - (2) Previously filed as an exhibit to our Annual Report on Form 20-F dated 7 July 2005 and incorporated herein by reference.
 - (3) Previously filed as an exhibit to our Annual Report on Form 20-F dated 29 September 2006 and incorporated herein by reference.
 - (4) Previously filed as an exhibit to our Current Report on Form 6-K dated 5 January 2007 and incorporated herein by reference.
 - (5) Previously filed as an exhibit to our Annual Report on Form 20-F dated 6 July 2007 and incorporated herein by reference.
 - (6) Previously filed as an exhibit to our Annual Report on Form 20-F dated 8 July 2008 and incorporated herein by reference.
 - (7) Previously filed as an exhibit to our Form F-4 dated 23 June 2009 and incorporated herein by reference.

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- (8) Previously filed as an exhibit to our Amendment No. 2 to Form F-4 dated 10 July 2009 and incorporated herein by reference.
- (9) Previously filed as an exhibit to our Post Effective Amendment No. 1 to Form F-4 dated 19 February 2010 and incorporated herein by reference.
- (10) Previously filed as an exhibit to our Post Effective Amendment No. 2 to Form S-8 (Registration No. 333-14036) dated 17 June 2010 and incorporated herein by reference.
- (11) Previously filed as an exhibit to our Post Effective Amendment No. 2 to Form S-8 (Registration No. 333-153446) dated 17 June 2010 and incorporated herein by reference.
- (12) Previously filed as an exhibit to our Post Effective Amendment No. 2 to Form S-8 (Registration No. 333-161482) dated 17 June 2010 and incorporated herein by reference.
- (13) Previously filed as an exhibit to our Current Report on Form 6-K dated 18 June 2010 and incorporated herein by reference.
- (14) Previously filed as an exhibit to our Post Effective Amendment No. 2 to Form F-4 dated 17 June 2010 and incorporated herein by reference.
- (15) Previously filed as an exhibit to our Annual Report on Form 20-F dated 30 June 2010 and incorporate herein by reference.

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorised the undersigned to sign this annual report on its behalf.

JAMES HARDIE INDUSTRIES SE

By: _____
/s/ Louis Gries
Louis Gries
Chief Executive Officer

Date: 29 June 2011

MALLESONS STEPHEN JAQUES

James Hardie — Bullet Facility Agreement

Dated [•] February 2011

[James Hardie International Finance Limited (“**JHIFL/Borrower**”) and “**Obligors’ Agent**”]

James Hardie Building Products, Inc. (“**JHBP**”)

[•] (“**Financier**”)]

[James Hardie International Finance Limited (“**JHIFL/Borrower**”) “**Obligors’ Agent**”]

[•] (“**Financier**”)]

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James Hardie — Bullet Facility Agreement

Details

Interpretation — Definitions are in clause 1.

Parties [JHIFL / Borrower], [JHBP], Obligor's Agent and Financier, each as described below.

[JHIFL / Borrower] and Obligor's Agent	Name	James Hardie International Finance Limited
---	------	---

[Corporate seat]	[Ireland]
------------------	-----------

Registered Number	471702
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Address	Europa House Second Floor Harcourt Centre Harcourt Street Dublin 2 Ireland
---------	---

Fax	+ 353 1 479 1128
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Attention	Treasurer
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[JHBP]	Name	James Hardie Building Products, Inc.
	Incorporated in Address	Nevada Suite 100 26300 La Alameda Mission Viejo CA 92691 United States of America

Fax	+1 949 348 4534
-----	-----------------

Attention	Company Secretary]
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Financier	Name	[•]
------------------	------	-----

[ACN / Registered number]	[•]
---------------------------	-----

Address	[•]
---------	-----

Fax	[•]
-----	-----

Attention	[•]
-----------	-----

Facility	Description	Revolving US\$ [cash advance / line of credit] facility.
	Facility Limit	US\$[•]
	Maturity Date	[•]
	Currency	US\$
	Interest Rate	For an Interest Period, means LIBOR plus the Margin.
	Margin	[•]%
	Interest Periods	Subject to clause 4.2 (“Selection of Interest Period”), [•]weeks, or [•]months, or such other period as agreed between a Borrower and Financier.
	Purpose	For general corporate purposes of the Group, including, without limitation: <ul style="list-style-type: none"> • to fund the Group’s working capital requirements; • to refinance existing Financial Indebtedness and pay related transaction costs; • [to fund acquisitions;] • to fund or reimburse against capital expenditure costs and payments to the Fund by any Group member; and/or • to fund distributions or other capital payments (if any).
Fees (also see clause 8)	[•]Fee	[•]% of the Facility Limit, payable on the terms set out in clause 8.1 (“[•] Fee”).
	[•]Commitment Fee	[•]% per annum of the applicable Margin calculated on the daily balance of the Undrawn Facility Limit. It accrues and is payable on the terms set out in clause 8.2 (“[•]Commitment Fee”).
Date of agreement	See Signing page	

James Hardie — Bullet Facility Agreement

General terms

1 Definitions

1.1 Definitions

Amount Owing means the total of all amounts which are then due for payment, or which will or may become due for payment, in connection with any Financing Document (including transactions in connection with them) to the Financier.

Availability Period means the period commencing on the date of this agreement and ending on the Maturity Date or, if earlier, the date on which the Facility Limit is cancelled in full.

Borrower means [the Borrower so described in the Details / each of JHIFL and JHBP individually but not jointly].

Common Terms Deed Poll means the deed poll entitled “James Hardie — Common Terms Deed Poll” [entered into by the Borrower and the Guarantor] as amended and restated on [or about] 21 December 2009.

Default Rate means the applicable Interest Rate at the time plus [•] % per annum. For the purpose of this definition, [such interest / the Interest] accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 360 days as if the overdue amount is a cash advance with Interest Periods of 30 days (or another period chosen from time to time by the Financier) with the first Interest Period starting on and including the due date.

Details means the section of this agreement headed “Details”.

Drawdown Date means the Business Day on which a drawdown of the Facility is or is to be made but does not include a rollover of a Drawing on the last day of an Interest Period.

Drawdown Notice means a completed notice in writing, substantially in the form of, and containing the information and representations and warranties set out in, schedule 1 (“Drawdown Notice”) and signed by an Authorised Officer of the [Borrower / Obligors’ Agent].

Drawing means the outstanding principal amount of a drawdown made under the Facility.

Existing Facility means [•].

Facility means the facility made available under this agreement.

Facility Limit means the amount set out as such in the Details, as reduced by the total of all cancellations under this agreement.

Fee Payment Date means each 31 March, 30 June, 30 September and 31 December after the date of this agreement.

Financier means the person so described in the Details.

Financing Document means each of:

- (a) this agreement;
- (b) the Common Terms Deed Poll;
- (c) the Guarantee and Subordination Documents;
- (d) each Drawdown Notice;
- (e) each Selection Notice;
- (f) any other document which the [Borrower / Obligors' Agent] and the Financier agree to be a Financing Document; and
- (g) any document entered into for the purpose of amending or novating any of the above.

Interest Payment Date means, in respect of an Interest Period, the last day of that Interest Period.

Interest Period means each period selected in accordance with clause 4.2 ("Selection of Interest Period").

Interest Rate means, subject to clause 4.6 ("Market disruption"), the interest rate set out in the Details.

LIBOR means, in relation to any Drawing:

- (a) the applicable British Bankers' Association Interest Settlement Rate for US\$ and the relevant period displayed on the appropriate page of the Reuters screen (but if the agreed page is replaced or service ceases to be available, the Financier may specify another page or service displaying the appropriate rate after consultation with the [Borrower / Obligors' Agent]) ("**Screen Rate**"); or
- (b) (if no Screen Rate is available for US\$ and the Interest Period of that Drawing) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Financier at its request quoted by the principal London offices of at least three leading international banks chosen by the Financier in consultation with the [Borrower / Obligors' Agent] to other leading banks in the London interbank market,

as of 11:00am (London time) on the day two Business Days before the first day of an Interest Period for which the interest rate is to be determined for the

Offering of deposits in US\$ and for a period comparable to the Interest Period for that Drawing.

Margin means on any day, the margin set out in the Details.

Market Disruption Event means:

- (a) at or about noon on the day two Business Days before the first day of an Interest Period for which the interest rate is to be determined, by reason of circumstances affecting the London interbank market for US\$, the “LIBOR” component of the Interest Rate cannot be determined; or
- (b) before close of business in London on the day two Business Days before the first day of an Interest Period for which the interest rate is to be determined, the Financier determines that the cost to it of obtaining matching deposits in the London interbank market would be in excess of LIBOR.

Maturity Date means the maturity date for the Facility as set out in the Details, but if that is not a Business Day, then the preceding Business Day.

[Prepayment Notice] means a completed notice in writing, substantially in the form of, and containing the information and representations and warranties set out in, schedule 4 (“Prepayment Notice”) and signed by an Authorised Officer of the Obligors’ Agent.]

[Repayment Notice] means a completed notice in writing, substantially in the form of, and containing the information and representations and warranties set out in, schedule 3 (“Repayment Notice”) and signed by an Authorised Officer of the Obligors’ Agent.]

Selection Notice means a notice under clause 4.2(b) (“Selection of Interest Period”), to be substantially in the form of schedule 2 (“Selection Notice”).

Undrawn Facility Limit means the Facility Limit less the aggregate of all Drawings outstanding.

1.2 Interaction with the Common Terms Deed Poll

- (a) [The / Each] Borrower acknowledges that:
 - (i) the Financier is a Creditor; and
 - (ii) this agreement is a Facility Agreement,
for the purposes of the Common Terms Deed Poll.
- (b) On execution of this agreement, the provisions of the Common Terms Deed Poll (subject to paragraph (d) below) are incorporated into this agreement to the intent and effect that any such provision for the benefit of a Creditor or a Borrower (as defined in the Common Terms Deed Poll) may be enforced by the Financier or a Borrower to the

same extent as if the Financier was a party to the Common Terms Deed Poll.

- (c) A term which has a defined meaning (including by reference to another document) in the Common Terms Deed Poll has the same meaning when used in this agreement unless it is expressly defined in this agreement, in which case the meaning in this agreement prevails.
- (d) Where a conflict arises between a provision of the Common Terms Deed Poll and this agreement, the Common Terms Deed Poll will prevail unless the provision in this agreement includes words substantially to the effect of “Despite the terms of the Common Terms Deed Poll”, in which case the relevant provision of this agreement prevails.

1.3 [Additional Undertaking]

[In addition to the reports and information required to be provided under clause 9.6 of the Common Terms Deed Poll, the Guarantor shall deliver to the Financier, at the same time at which each financial statement or report is delivered pursuant to clause 9.6(a) of the Common Terms Deed Poll, summary information in relation to the quantum and type of Finance Money Debt (as defined in the Intercreditor Deed) of the Group (excluding the Excluded Entities) including:

- (a) the name of each relevant Creditor;
- (b) the amount of the commitment under the relevant Facility; and
- (c) the maturity date of the relevant Facility.]

2 The Facility and Facility Limit

2.1 Financier to fund

[Subject to clause 2.3, the / The] Financier agrees to provide to the [relevant] Borrower the financial accommodation requested by the Obligors’ Agent under this agreement.

2.2 Maximum accommodation

The financial accommodation to be provided under this agreement must not exceed the Facility Limit.

2.3 [Source of funding]

[If the Borrower is JHBP or another entity resident in the United States of America, the Financier agrees to provide any financial accommodation under clause 2.1 to such Borrower through a branch of the Financier located in the United States of America or, where this is not possible, from a branch of the Financier located in the United Kingdom.]

3 Using the Facility

3.1 Drawing down

The Borrower[s] need not use the Facility. However, if a Borrower wants to use the Facility, it may do so by one or more drawdowns.

3.2 Requesting a drawdown

- (a) If [the / a] Borrower wants a drawdown, the Obligors' Agent must provide a written Drawdown Notice to the Financier by 11:00am (**[•]** time) at least 2 Business Days prior to the requested Drawdown Date (or such later time as the Financier may agree).
- (b) The minimum amount of a Drawing is the lesser of:
 - (i) US\$[•]; and
 - (ii) the Undrawn Facility Limit.
- (c) [Unless the Drawing is for the Undrawn Facility Limit, the Drawing must be in an integral multiple of US\$[•].]

3.3 Effect of a Drawdown Notice

A Drawdown Notice is effective when the Financier actually receives it in legible form. An effective Drawdown Notice is irrevocable.

3.4 Conditions to first drawdown

[The / Each] Borrower agrees not to request the first drawdown, and a Financier is not obliged to provide the first drawdown, unless:

- (a) all the conditions precedent listed in clause 3 ("Conditions precedent") of the Common Terms Deed Poll have been either satisfied or waived in accordance with that agreement; and
- (b) a completed Facility Nomination Letter nominating this agreement as a Facility Agreement has been received by the Financier.

3.5 Conditions to all drawdowns

In addition to the conditions precedent in clause 3 ("Conditions precedent") of the Common Terms Deed Poll, the Financier need not provide any financial accommodation on a Drawdown Date unless it is satisfied that:

- (a) the Drawdown Date is a Business Day during the Availability Period for the Facility;
- (b) the amount of the Drawing equals or exceeds the minimum drawdown amount set out in clause 3.2(b) ("Requesting a drawdown");
- (c) after the Drawing has been made, the sum of all outstanding Drawings will not exceed the Facility Limit;

- (d) the Financier has received a Drawdown Notice in respect of the requested drawdown in accordance with clause 3.2 (“Requesting a drawdown”); and
- (e) the proposed Drawing is for one or more of the purposes set out in the Details.

3.6 Benefit of conditions

Each condition to a drawdown is for the sole benefit of the Financier and may only be waived by the Financier.

3.7 Currency and timing of drawdowns

The Financier agrees to make each drawdown available to the account specified in the relevant Drawdown Notice in immediately available US\$ funds by 2:00pm ([f] time / local time in [•]) on the relevant Drawdown Date.

3.8 Cancellation of certain facilities

Upon satisfaction of the conditions precedent in clause 3.4, the Existing Facility will be automatically cancelled.

3.9 [Further conditions to first and second drawdowns]

[Notwithstanding anything else contained in this agreement, the Financier agrees that the first two drawdowns under the Facility will:

- (a) be in an amount that is equal to the corresponding drawdown under the Existing Facility; and
- (b) have an Interest Period that ends on the same day as the interest period for the corresponding drawdown under the Existing Facility.]

4 Interest

4.1 Interest charges

[The / Each] Borrower must pay interest on each Drawing [it makes] for each of its Interest Periods at the applicable Interest Rate. Interest:

- (a) accrues daily from and including the first day of an Interest Period to but excluding the last day of the Interest Period; and
- (b) is payable in arrears on [each relevant Interest Payment Date / the last day of each calendar month]; and
- (c) is calculated on actual days elapsed and a year of 360 days.

4.2 Selection of Interest Period

An Interest Period for a Drawing is:

- (a) for the first Interest Period, the period specified in the Drawdown Notice for that Drawing; and
- (b) for each subsequent Interest Period, a period notified in a Selection Notice given by the [Borrower / Obligors' Agent] to the Financier on the Business Day before the last day of the current Interest Period. However, in each case, the specified period must be one that is set out in the Details. If the Obligors' Agent does not give correct notice, the subsequent Interest Period is the same length as the Interest Period which immediately precedes it (or it is the period until the Maturity Date, if that is shorter than the preceding Interest Period).

4.3 When Interest Periods begin and end

- (a) An Interest Period for a Drawing begins:
 - (i) for the first Interest Period, on its Drawdown Date; and
 - (ii) for each subsequent Interest Period, on the day when the preceding Interest Period for the Drawing ends.
- (b) An Interest Period which would otherwise end on a day which is not a Business Day ends on the next Business Day (unless that day falls in the following month, in which case the Interest Period ends on the previous Business Day). However, an Interest Period which would otherwise end after the Maturity Date ends on the Maturity Date.
- (c) If an Interest Period of one or a number of months commences on a date in a month for which there is no corresponding date in the month in which the Interest Period is to end, it will end on the last Business Day of the latter month.

4.4 Limit on Interest Periods

In selecting Interest Periods under clause 4.2 ("Selection of Interest Period"), the Obligors' Agent must ensure that there are no more than 5 different Interest Periods at any one time.

4.5 Notification of interest

Interest on a Drawing is payable in immediately available funds.

The Financier will notify the Obligors' Agent of the interest rates determined under this agreement as soon as they are ascertained. Failure to do so will not affect the obligations of a Borrower in any way.

4.6 Market disruption

If a Market Disruption Event occurs in relation to a Drawing for any Interest Period, then the Interest Rate on that Drawing for the Interest Period shall be the rate per annum which is the sum of:

- (a) the Margin; and
- (b) the rate notified by the Financier as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to the Financier of funding its participation in that Drawing from whatever source it may reasonably select.

4.7 Alternative basis of interest or funding

- (a) If a Market Disruption Event occurs and the Financier or [the / a] Borrower so requires, the Financier and the [Borrower / Obligors' Agent] shall enter into negotiations (for a period of not more than thirty days) with a view to agreeing a substitute basis for determining the rate of interest.
- (b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of the Financier and the [Borrower / Obligors' Agent], be binding on each of them [and the Borrowers].

5 Repaying and prepaying

5.1 Repayment

- (a) [The / Each] Borrower agrees to repay the total of the Drawings [drawn by it] and all interest and other amounts (including default interest) which have accrued or which are otherwise payable (but unpaid) in respect of this agreement on the Maturity Date.
- (b) [The Obligors' Agent must provide a written Repayment Notice to the Financier by 11:00am ([•] time) at least 2 Business Days prior to the Maturity Date (or such later time as the Financier may agree), but failure to do so is without prejudice to the obligations of the Borrowers under clause 5.1(a) above.]

5.2 Prepayment

[The / Each] Borrower may prepay all or part of a Drawing [drawn by it] as follows:

- (a) if only part of a Drawing is prepaid, it must be at least US\$[•] and a whole multiple of US\$[•], or such lesser amount as may be agreed by the Financier (at its discretion) from time to time; and
- (b) the Borrower must also pay all accrued (but unpaid) interest on that Drawing; and
- (c) the Obligors' Agent [notify the proposed prepayment in writing / must provide a written Prepayment Notice] to the Financier at least 10 Business Days prior to the date of the requested prepayment (as at close of business [•] time) (once given, a notice of prepayment is irrevocable and the Borrower is obliged to prepay in accordance with the notice).

If the prepayment is made on an Interest Payment Date for the Drawing to be prepaid, no Break Costs are payable. However, if the Borrower prepays on a day other than the Interest Payment Date for the Drawing to be prepaid and the Financier incurs any Break Costs as a result of such prepayment, then the Borrower will be liable for Break Costs (if any) under clause 12 (“Costs and indemnities”) of the Common Terms Deed Poll.

5.3 Prepayment and the Facility Limit

The Facility Limit is not reduced by amounts prepaid under clause 5.2 (“Prepayment”).

6 Payments

6.1 Payment by direction

If the Financier directs a Borrower to pay a particular party or in a particular manner, the Borrower is taken to have satisfied its obligation to the Financier by paying in accordance with the direction.

6.2 Amount Owing

Subject to the provisions of any Financing Document, each Borrower agrees to repay the Amount Owing on the Maturity Date under this agreement.

6.3 Application of payments — pre-default

Prior to an Event of Default, the Financier will apply amounts paid by [the / each] Borrower in accordance with the terms of the Financing Documents.

6.4 Application of payments — post-default

If an Event of Default subsists, the Financier may apply amounts paid by [the / each] Borrower towards satisfaction of the Borrower’s obligations under the Financing Documents in the manner it sees fit, unless the Financing Documents expressly provide otherwise. This appropriation overrides any purported appropriation by the Borrower or any other person.

7 Cancellation

The [Borrower / Obligors’ Agent] may cancel the Undrawn Facility Limit in whole or in part at any time during the Availability Period by notifying the Financier in writing at least 2 Business Days prior to the date the cancellation is to take effect. A partial cancellation must be at least US\$[*], unless the Financier agrees otherwise. Once given, the notice is irrevocable. The Facility Limit is reduced by the amount of any cancellation.

The Facility Limit is automatically cancelled at 5:30pm ([*] time) on the last day of the Availability Period.

8 Fees

8.1 [•] Fee

The [Borrower / Obligors' Agent] agrees to pay on execution of this agreement, an [•] Fee as set out in the Details.

8.2 [•] Commitment Fee

The [Borrower / Obligors' Agent] agrees to pay in arrears on each Fee Payment Date, on any cancellation date described below and on the Maturity Date, the accrued but [•] Commitment Fee as set out in the Details.

If the [Borrower / Obligors' Agent] cancels any of the Undrawn Facility Limit, it also agrees to pay on the cancellation date, the [•] Commitment Fee in respect of the cancelled amount from (but excluding) the last Fee Payment Date up to and including the cancellation date.

The [•] Commitment Fee is calculated on actual days elapsed using a 360 day year.

9 Interest on overdue amounts

This clause applies despite the provisions of the Common Terms Deed Poll.

9.1 Obligation to pay

If [the / a] Borrower does not pay any amount under or in respect of this agreement (including an amount of interest payable under this clause 9.1) on the due date for payment, the Borrower must pay interest on that amount at the Default Rate. The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 360 days.

[The / A] Borrower must pay interest under this clause to the Financier on demand from the Financier on the last Business Day of each calendar month.

9.2 Compounding

Interest payable under clause 9.1 ("Obligation to pay") which is not paid when due for payment may be added to the overdue amount by the Financier on the last Business Day of each calendar month. Interest is payable on the increased overdue amount at the Default Rate in the manner set out in clause 9.1 ("Obligation to pay").

9.3 Interest following judgment

If a liability becomes merged in a judgment, the [relevant] Borrower must pay interest on the amount of that liability as an independent obligation. This interest:

- (a) accrues daily from (and including) the date the liability becomes due for payment both before and after the judgment up to (but excluding) the date the liability is paid; and

(b) is calculated at the judgment rate or the Default Rate (whichever is higher).

The [relevant] Borrower must pay interest under this clause to the Financier on demand from the Financier.

10 Money Laundering

[The / Each] Borrower agrees that the Financier may delay, block, or refuse to make any payment if the Financier believes on reasonable grounds that making that payment will breach any law in Australia or any other country where such payment is to be made, and the Financier will incur no liability to the Borrower if it does so.

[The / Each] Borrower must provide all information to the Financier that the Financier reasonably requires to comply with any law in Australia or any other country. [The / Each] Borrower agrees the Financier may disclose information which it provides to the Financier where required by any law in Australia or any other country.

Unless [the / a] Borrower has disclosed that it is acting in a trustee capacity or on behalf of another party, [the / that] Borrower warrants that it is acting on its own behalf in applying for and using any of the Financier's products or services.

[The / Each] Borrower declares and undertakes to the Financier that the payment of monies by the Financier in accordance with any written instructions given by the Borrower will not breach any law in Australia or any other country where such money is to be paid.

11 Governing law [and jurisdiction]

This agreement is governed by the law in force in New South Wales and [the / each] Borrower submits to the non-exclusive jurisdiction of the courts of that place.

EXECUTED as an agreement.



[•]

To: [•]

Attention: [•]

Fax: [•]

[Insert date]

Drawdown Notice — James Hardie — Bullet Facility Agreement dated 1 February 2011 between James Hardie International Finance Limited. ([a] “Borrower” and “Obligors’ Agent”), James Hardie Building Products, Inc. (a “Borrower”) and [•] (“Financier”) (“Facility Agreement”)

Under clause 3.2 (“Requesting a drawdown”) of the Facility Agreement, the Obligors’ Agent gives notice as follows:

[The Borrower / *Borrower name*] wants to borrow under the Facility.

- The requested Drawdown Date is [•].²
- The amount of the proposed drawdown is US\$[•].
- The requested first Interest Period is [•].
- The proposed drawdown is to be paid to:

Account number: [•]

Account Name: [•]

Bank: [•]

Branch: [•]

Branch identifying number (Fedwire, BSB, etc):[•]

Representations and Warranties

[The Borrower / *Borrower name*] represents and warrants that:

[for the first Drawdown only]: the representations and warranties in clause 8 (“Representations and warranties”) of the Common Terms Deed Poll are correct and not misleading on the date of this notice and that each will be correct and not misleading on the Drawdown Date.

[for any subsequent Drawdown]: those representations and warranties listed in clause 3.2(a) (“Conditions to subsequent drawdowns”) of the Common Terms Deed Poll as required to be true on the date of each drawdown notice, are correct and not

misleading on the date of this notice and that each will be correct and not misleading on the Drawdown Date.

No Event of Default or Potential Event of Default subsists at the date of this notice or will result from the provision of the requested utilisation.

Clause 1 (“Definitions”) of the Facility Agreement applies to this notice as if it was fully set out in this notice.

[Yours faithfully]

[Name of person] being
an Authorised Officer of
James Hardie International Finance Limited
as Obligors’ Agent [(with corporate seat in Ireland)]

Instructions for completion

- 1 All items must be completed.
- 2 Must be a Business Day within the Availability Period.

ã Mallesons Stephen Jaques 10616910_8

James Hardie — Bullet Facility Agreement 21 June 2011

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James Hardie — Bullet Facility Agreement

Schedule 2 — Selection Notice (clause 4.2)



[•]

To: [•]
Attention: [•]
Fax: [•]

[Insert date]

Selection Notice — James Hardie — Bullet Facility Agreement dated [•] February 2011 between James Hardie International Finance Limited ([a] “Borrower” and “Obligors’ Agent”), James Hardie Building Products, Inc. (a “Borrower”) and [•] (“Financier”) (“Facility Agreement”)

Terms defined in the Facility Agreement have the same meaning when used in this notice.

This is an irrevocable notice under clause 4.2 (“Selection of Interest Period”) of the Facility Agreement.

Under clause 4.2 (“Selection of Interest Period”) of the Facility Agreement, the Obligors’ Agent gives notice as follows:

The current Interest Period [in respect of the Drawing drawn by *Borrower name*] is due to end on [•].

The Interest Period following the current Interest Period is to be a period of [•]¹.

[Yours faithfully]

[Name of person] being
an Authorised Officer of
James Hardie International Finance Limited
as Obligors’ Agent [(with corporate seat in Ireland)]

Instructions for completion

1 To be an Interest Period set out in the Details

James Hardie — Bullet Facility Agreement

[Schedule 3 — Repayment Notice (clause 5.1)]



[•]

To: [•]

Attention: [•]

Fax: [•]

[Insert date]

Repayment Notice — James Hardie — Bullet Facility Agreement dated [•] February 2011 between [James Hardie International Finance Limited (a “Borrower” and “Obligors’ Agent”), James Hardie Building Products, Inc. (a “Borrower”) and [•] (“Financier”) (“Facility Agreement”); James Hardie International Finance Limited (a “Borrower” and “Obligors’ Agent”) and [•] (“Financier”) (“Facility Agreement”)];

Terms defined in the Facility Agreement have the same meaning when used in this notice and where not otherwise defined in this notice.

Under clause 5.1 (“Repayment”) of the Facility Agreement, the Obligors’ Agent gives notice as follows:

[The Borrower / *Borrower name*], wants to repay under the Facility Agreement in accordance with clause 5.1 (“Repayment”) of the Facility Agreement.

- Repayment date: [•]
- The amount of the repayment: US\$[•]
- Principal maturing: US\$[•]
- This repayment will not trigger any Break Costs under clause 5.2 of the Facility Agreement.

Yours faithfully

[Name of person] being
an Authorised Officer of
James Hardie International Finance Limited
as Obligors' Agent [(with corporate seat in Ireland)]

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James Hardie — Bullet Facility Agreement 21 June 2011

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James Hardie — Bullet Facility Agreement

[Schedule 4 — Prepayment Notice (clause 5.2)]



[•]

To: [•]

Attention: [•]

Fax: [•]

[Insert date]

Prepayment Notice — James Hardie — Bullet Facility Agreement dated [•] February 2011 between James Hardie International Finance Limited ([a] “Borrower” and “Obligors’ Agent”), James Hardie Building Products, Inc. (a “Borrower”) and [•] (“Financier”) (“Facility Agreement”); James Hardie International Finance Limited ([a] “Borrower” and “Obligors’ Agent”) and [•] (“Financier”) (“Facility Agreement”)

Terms defined in the Facility Agreement have the same meaning when used in this notice and where not otherwise defined in this notice.

Under clause 5.2 (“Prepayment”) of the Facility Agreement, the Obligors’ Agent gives notice as follows:

[The Borrower / *Borrower name*], wants to prepay under the Facility Agreement in accordance with clause 5.2 (“Prepayment”) of the Facility Agreement.

- Prepayment date: [•]
- The amount of the prepayment (including any accrued but unpaid interest): US\$[•]
- This repayment [will/will not] not trigger any Break Costs under clause 5.2 of the Facility Agreement.

Yours faithfully

[Name of person] being
an Authorised Officer of
James Hardie International Finance Limited
as Obligors' Agent [(with corporate seat in Ireland)]

Ó Malleons Stephen Jaques 10616910_8

James Hardie — Bullet Facility Agreement 21 June 2011

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James Hardie — Bullet Facility Agreement

Signing page

DATED: [*] February 2011

[JHIFL / Borrower] [and Obligor's Agent]

SIGNED by _____)

and _____)

as attorneys for **JAMES HARDIE**)

INTERNATIONAL FINANCE LIMITED under)

power of attorney dated _____)

in the presence of: _____)

Signature of witness)

Name of witness (block letters))

[JHBP]

[SIGNED by _____)

and _____)

as Authorised Representatives of)

JAMES HARDIE BUILDING PRODUCTS, INC.)

in the presence of: _____)

Signature of witness))

Name of witness (block letters))

By executing this agreement each attorney states that the attorney has received no notice of revocation of the power of attorney

[By executing this agreement each Authorised Representative states that the Authorised Representative has received no notice of revocation of his or her authority to execute this agreement]

Financier

SIGNED by)

as [•] for [•])

in the presence of:)

Signature of witness)

Name of witness (block letters))

Ó Malleçons Stephen Jaques 10616910_8

By executing this agreement the
[•]states that the [•] has received no
notice of revocation of [•]

CONFORMED COPY
(EXCLUDING ATTACHMENT)

Deed to amend the AFFA and facilitate the Authorised Loan Facility

James Hardie Industries SE
James Hardie 117 Pty Limited
The State of New South Wales
Asbestos Injuries Compensation Fund Limited in its capacity as trustee of each of the
Compensation Funds

Gilbert + Tobin

2 Park Street
Sydney NSW 2000
Australia

GPO Box 3810
Sydney NSW 2001

T +61 2 9263 4000
F +61 2 9263 4111

DX 10348 SSE

www.gtlaw.com.au

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	Gilbert + Tobin	
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Date: 9 December 2010

Parties

- 1 **James Hardie Industries SE (formerly known as James Hardie Industries N.V.) ARBN 097 829 895, a limited liability company incorporated in the Republic of Ireland** of Europa House, 2nd floor Harcourt Centre, Harcourt Street, Dublin 2, Ireland (**JHISE**)
- 2 **James Hardie 117 Pty Limited (formerly known as LGTDD Pty Limited) ABN 30 116 110 948** of Level 3, 22 Pitt Street, Sydney in the State of New South Wales (**JH117**)
- 3 **The State of New South Wales** c/- The Department of Premier and Cabinet, Level 39, Governor Macquarie Tower, 1 Farrer Place, Sydney in the State of New South Wales (**NSW Government**)
- 4 **Asbestos Injuries Compensation Fund Limited ACN 117 363 461 in its capacity as trustee of each of the Compensation Funds** established under the Amended and Restated Trust Deed Dated 14 December 2006 between it as trustee and JHISE as settlor, of Level 7, 233 Castlereagh Street, Sydney in the State of New South Wales (**Trustee**)

Background

- A JHISE, JH117, the NSW Government and the Trustee are parties to the AFFA.
- B The AFFA sets out, among other things, the basis on which JH117 is required to make funding contributions to the Trustee.
- C Under the terms of the AFFA, JH117 has not been required to make any contribution to the Trustee for the Financial Year 2009-2010.
- D In the absence of alternative funding arrangements, it appears likely that the Trustee will, in the short term, cease to be able to pay in full all Proven Claims and other Payable Liabilities in accordance with the terms of the AFFA.
- E The NSW Government, the Trustee (as trustee of the Charitable Fund) and each Liable Entity propose to enter into the Facility Agreement under which the NSW Government (with the support of the Government of The Commonwealth of Australia) will agree to provide financial accommodation to the Trustee to assist the Trustee in paying when due Proven Claims and other Payable Liabilities.
- F The NSW Government introduced, and the Parliament of New South Wales has passed, the Transaction Legislation Amendments in order to authorise entry into and the performance of obligations under the Facility Agreement and the Security Documentation by the Trustee and the Liable Entities.
- G For the purposes of implementing the Facility Agreement and the Security Documentation and for related purposes, the parties enter into this deed to amend the AFFA.

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary; and
- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this deed.

2 AFFA amendments

2.1 Consideration

Each party enters into and assumes obligations under this deed in consideration for each other party entering into and assuming obligations under this deed and for other valuable consideration.

2.2 AFFA

The AFFA is varied as set out in Schedule 2 on and from the date on which the ATO Confirmations are taken to have been obtained in accordance with clause 4.3(a).

2.3 No prejudice to Deed of Confirmation

Each party acknowledges and agrees that nothing in this deed affects the rights and obligations of any party under clause 2 or 3 of the Deed of Confirmation.

3 Transaction Legislation Amendments and Authorised Loan Facility

3.1 Transaction Legislation Amendments

Each of JHISE and JH117 acknowledges that:

- (a) the Transaction Legislation Amendments validly amend the Transaction Legislation for the purposes of clause 3.3(a)(ii) of the AFFA; and
- (b) nothing in the Transaction Legislation Amendments releases JHISE or any other member of the JHISE Group from any obligation imposed on it by the AFFA (as amended by this deed), the Related Agreements, the Transaction Legislation (as amended by the Transaction Legislation Amendments) or the Release Legislation.

4 Tax confirmations

4.1 Confirmation of rulings

The parties agree that JHRH (as provisional head company of the JHRH Multiple Entry Consolidated Group) and the Trustee (for itself, as trustee of the Charitable Fund and as trustee of the Discretionary Fund and for the Liable Entities) will, and JHISE undertakes to procure that JHRH does, as a result of the Transaction Legislation Amendments and the matters contemplated by this deed (including the Authorised Loan Facility), apply to the ATO:

- (a) for rulings (which reaffirm the conclusions and opinions reached by the ATO in the existing Rulings) (as reaffirmed in accordance with the Deed of Confirmation) and address the additional requirements referred to in Schedule 11 to the AFFA (as amended by this deed) to replace the existing Rulings (as reaffirmed in accordance with the Deed of Confirmation); and
- (b) for confirmation that the Accepted Tax Conditions will remain unchanged in all material respects,

(together, “**ATO Confirmations**”). The ATO Confirmations, if obtained, will constitute a renewed or substituted ruling as contemplated by the definition of the term “Ruling” in clause 1.1 of the AFFA (as amended by this deed).

4.2 Reasonable assistance and information

- (a) The NSW Government agrees to provide any information or assistance reasonably requested by JHISE or the Trustee in relation to the applications for the ATO Confirmations.
- (b) JHISE and the Trustee will keep all parties informed of progress in relation to applying for, and obtaining, the ATO Confirmations and within 2 Business Days of a request from another party provide copies of correspondence with the ATO, together with any explanation that may reasonably be required.

4.3 Notification upon receipt of ATO Confirmations

- (a) The ATO Confirmations will be taken to have been obtained if PricewaterhouseCoopers, acting for JHISE and the Trustee, confirm to JHISE and the Trustee and NSW Tax Advisor, acting for the NSW Government, confirms to the NSW Government, that in their respective opinions the form of the ATO Confirmations satisfy the requirements of clause 4.1.
- (b) JHISE and the Trustee each agree to procure that PricewaterhouseCoopers provides its opinion within 5 Business Days after the ATO has advised them of its determination in respect of the matters the subject of the application for the ATO Confirmations and to notify the other parties as to whether or not PricewaterhouseCoopers has given the confirmation contemplated by clause 4.3(a) within those 5 Business Days.
- (c) JHISE and the Trustee must procure that PricewaterhouseCoopers provides copies of the ATO Confirmations to both the NSW Government and NSW Tax Advisor within 1 Business Day after receipt of the ATO Confirmations.
- (d) The NSW Government agrees to procure that NSW Tax Advisor provides its opinion within 5 Business Days after receipt by the NSW Government of the notification referred to in clause 4.3(b) and to notify the other parties as to whether

or not NSWG Tax Advisor has given the confirmation contemplated by clause 4.3(a) within those 5 Business Days.

- (e) The provision of the confirmations by PricewaterhouseCoopers and NSWG Tax Advisor contemplated by clause 4.3 (a) shall, as between the parties, constitute conclusive evidence that the ATO Confirmations have been obtained.

5 General

5.1 Counterparts

This deed may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

5.2 Costs, expenses and duties

Except as expressly provided in this deed, each party must pay its own costs and expenses of negotiating, preparing and executing this deed and any other instrument executed under this deed.

5.3 Governing law

This deed is governed by the laws of New South Wales.

5.4 Jurisdiction

Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales.

5.5 Further assurances

Except as expressly provided in this deed, each party must, at its own expense, do all things reasonably necessary to give full effect to this deed and the matters contemplated by it.

5.6 Notices

- (a) A notice or other communication under this deed is only effective if it is in writing, signed by or on behalf of the party giving it and it is received in full and legible form at the addressee's address or fax number. It is regarded as received at the time and on the day it is actually received, but if it is received on a day that is not a Business Day or after 5.00 pm on a Business Day it is regarded as received at 9.00 am on the following Business Day.
- (b) For the purposes of this clause, a party's address and fax number are those set out in the AFFA, unless the party has notified a changed address or fax number, in which case the notice, consent, approval or other communication must be to that address or number.

5.7 Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this deed is not affected.

5.8 Variation

No variation of this deed is effective unless made in writing and signed by each party.

5.9 Waiver

- (a) No waiver of a right or remedy under this deed is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) A single or partial exercise of a right or remedy under this deed does not prevent a further exercise of that or of any other right or remedy.
- (c) Failure to exercise or delay in exercising a right or remedy under this deed does not operate as a waiver or prevent further exercise of that or of any other right or remedy.

Schedule 1 — Dictionary

1 Dictionary

In this deed:

Accepted Tax Condition the meaning given to it in the AFFA.

AFFA means the document entitled “Amended & Restated Final Funding Agreement in respect of the provision of long term funding for compensation arrangements for certain victims of Asbestos-related diseases in Australia” dated 21 November 2006 between JHISE, JH117, the NSW Government and the Trustee, as amended by amending deeds dated 6 August 2007, 8 November 2007, 11 June 2008 and 17 July 2008 between those parties and by the Deed of Confirmation.

ATO means the Australian Taxation Office.

ATO Confirmations means the rulings and confirmations referred to in clause 4.1.

Authorised Loan Facility means the loan facility provided under the Facility Agreement and secured under the Security Documentation.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney, New South Wales.

Charitable Fund has the meaning given to it in the AFFA.

Compensation Funds has the meaning given to it in the AFFA.

Corporations Act means *Corporations Act 2001* (Cth).

Deed of Confirmation means the Deed of Confirmation dated 24 June 2009 between JHISE, JH117, the NSW Government and the Trustee.

Discretionary Fund has the meaning given to it in the AFFA.

Facility Agreement means the document entitled AICF Facility Agreement dated on or about the date of this deed between the NSW Government, the Trustee (as trustee of the Charitable Fund) and each Liabile Entity.

Financial Year has the meaning given to it in the AFFA.

JHISE Group has the meaning given to “JHINV Group” in the AFFA.

JHRH means James Hardie Research (Holdings) Pty Limited ABN 51 082 944 821.

Liabile Entity has the meaning given to it in the AFFA.

Multiple Entry Consolidated Group has the meaning given to it in the *Income Tax Assessment Act 1997* (Cth).

NSWG Tax Advisor means Gilbert + Tobin or such other tax adviser as the NSW Government may appoint.

Payable Liabilities has the meaning given to it in the AFFA.

Proven Claims has the meaning given to it in the AFFA.

Related Agreements has the meaning given to it in the AFFA.

Release Legislation has the meaning given to it in the AFFA.

Ruling has the meaning given to it in the AFFA.

Security Documentation means the document entitled Fixed and Floating Charge dated on or about the date of this deed between the NSW Government, the Trustee (as trustee of the Charitable Fund) and each Liabile Entity.

Transaction Legislation has the meaning given to it in the AFFA.

Transaction Legislation Amendments means the *James Hardie Former Subsidiaries (Winding Up and Administration) Amendment Act 2009* attached at Attachment A.

2 Interpretation

In this deed the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words ‘such as’, ‘including’, ‘particularly’ and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a rule of an applicable Financial Market and is a reference to that law as amended, consolidated or replaced;

- (viii) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
- (ix) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and severally;
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (i) in determining the time of day, where relevant to this deed, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located; and
- (j) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 — AFFA Amendments

The AFFA is amended as follows:

(a) Clause 1.1 is amended by

(i) the insertion in alphabetical order of the following new defined terms:

“**Authorised Loan Facility** means a loan facility provided under a Facility Agreement and secured under Security Documentation.”

“**Facility Agreement** means a loan facility agreement between the NSW Government, the Trustee and the Liable Entities authorised under the Transaction Legislation.”

“**Initial Facility Agreement** means the Facility Agreement entitled “AICF Facility Agreement” between the Trustee (in its capacity as trustee of the Charitable Fund), the Liable Entities and the NSW Government and dated [*DATE*] 2010.”

“**Security Documentation** means security documentation authorised under the Transaction Legislation under which the Trustee (in its capacity as trustee of the Charitable Fund) and the Liable Entities grant interests in, or other entitlements to, assets (or proceeds of asset realisations) as security for or in connection with a loan facility provided under a Facility Agreement.”

(ii) the insertion of the following words at the end of the definition of “Amending Bill”:

“, and the James Hardie Former Subsidiaries (Winding up and Administration) Amendment Bill 2009 (NSW)”.

(iii) the insertion of the following words at the end of the definition of “Operating Expenses”:

“and also excludes, for the avoidance of doubt, any principal repayable and any interest (whether or not capitalised) or other amounts payable under or in connection with an Authorised Loan Facility”.

(iv) the insertion of a new paragraph (h) into the definition of “Payable Liability” as follows:

(h) “any amount payable in connection with an Authorised Loan Facility, including without limitation any principal repayable, any interest payable (whether or not capitalised) and any other amounts payable by the Trustee or any Liable Entity under or in connection with an Authorised Loan Facility”.

the deletion of the word “and” after paragraph (f) and the insertion of the word “and” after paragraph (g).

(v) the insertion into the definition of “Ruling” of the words “or Schedule 11” after the words “clause 2.2(b)(i)”.

(vi) the insertion at the end of the definition of “Tax Requirements” of the words “and Schedule 11”.

- (vii) the deletion of the word “and” in the first line of the definition of “SPF Funded Liabilities” and the insertion after the reference to paragraph (e) in the first line of that definition of “,” and after the reference to paragraph (g) in the first line of that definition of the words “and (h)”.
- (b) Subclause 9.4(a) is amended by the deletion of the word “and” after paragraph (a)(ii) and the insertion after paragraph (a)(iii) of the word “and” and the insertion of a new paragraph (iv) after the existing paragraph (iii) as follows:
 - (iv) “plus an amount equal to the sum of all loan principal outstanding under an Authorised Loan Facility, all accrued interest (whether or not capitalised) under an Authorised Loan Facility and all other amounts payable under or in connection with an Authorised Loan Facility as at the end of the Prior Financial Year.”.
- (c) Subclause 9.10(b)(i) is amended by the insertion of the following words after the words “relevant accounting standards” in the last line of that subclause:

“but excluding, for the avoidance of doubt, the proceeds of any financial accommodation provided under an Authorised Loan Facility and any undrawn financial accommodation under an Authorised Loan Facility”,

and subclause 9.10(b)(ii) is amended by the insertion of the following words after the words “Trustee and Liable Entities” in the first line of that subclause:

“(excluding any principal repayable under or interest (whether or not capitalised) or other amounts payable under or in connection with an Authorised Loan Facility)”.
- (d) Clause 9.15 is amended by the insertion of a new subclause (d) after the existing subclause (c) as follows:
 - (d) “For the avoidance of doubt, nothing in this clause 9.15 operates to prevent or limit the making of payments in connection with an Authorised Loan Facility including without limitation:
 - (i) repayment of any part of the principal payable under an Authorised Loan Facility;
 - (ii) payment of any interest (whether or not capitalised) payable under an Authorised Loan Facility; and
 - (iii) payment of any other amounts that are payable under or in connection with an Authorised Loan Facility.”.
- (e) The text of clause 18.1 is deleted and replaced with the following:

“Subject to the terms of the Trust Deed, the Trustee may borrow funds in the event that there is a shortfall or a prospective shortfall of funds being available to it by way of Funding Payments, and may repay such borrowed funds and pay any interest (whether or not capitalised) or other amounts payable in respect of or in connection with such borrowed funds.”.
- (f) Clause 18.2 is amended by the deletion of the word “The” at the beginning of the clause, and the insertion of the following words:

“Except as provided in a Facility Agreement, the”.
- (g) A new clause 18.3 and clause 18.4 is inserted as follows:

“18.3 Repayment of amounts under an Authorised Loan Facility

The Parties agree that no later than 1 week after JHINV announces its third quarter financial results in each Financial Year, they will meet to discuss the amount of the Annual Payment that is then anticipated to be made on the next Payment Date and its impact on the ability of the Trustee to meet the anticipated Payable Liabilities for the Financial Year in which that Payment Date falls.

Note in relation to clause 18.3

The intention of any meeting convened in accordance with clause 18.3 is for the Parties to consider any funding needs of the Trustee including the Trustee’s capacity to repay amounts under any Authorised Loan Facility.

18.4 Facility Agreements and amendments

- (a) The NSW Government agrees with JHINV that it will not enter into any Facility Agreement or Security Documentation without the prior written consent of JHINV (such consent not to be unreasonably withheld or delayed). JHINV acknowledges that it has consented to the form of the Initial Facility Agreement and the Security Documentation entered into in connection with the Initial Facility Agreement.
 - (b) The NSW Government agrees with JHINV that it will not amend any Facility Agreement or Security Documentation without the prior written consent of JHINV (such consent not to be unreasonably withheld or delayed).”
- (h) A new Schedule 11 is inserted as follows:

“Schedule 11

For the purposes of this schedule:

Advance means an Advance as defined in the Initial Facility Agreement.

Lender means the Lender as defined in the Initial Facility Agreement.

The Tax Requirements to be satisfied throughout the term of the Initial Facility Agreement and addressed in private binding rulings are:

- (a) the proceeds of any Advance received by the Trustee of the Charitable Fund under the Initial Facility Agreement will not form part of the assessable income of the Liable Entities, the Trustee of the Charitable Fund or the Trustee of the Discretionary Fund as ordinary or statutory income;
- (b) any transfer of interests in, or other entitlements to, assets (or proceeds from asset realisations) by the Liable Entities under Security Documentation in connection with Advances provided under the Initial Facility Agreement will not result in assessable income of the Liable Entities or the Trustee of the Charitable Fund or the Trustee of the Discretionary Fund as ordinary or statutory income;
- (c) if a Liable Entity is required, under the Initial Facility Agreement to make a payment to the Lender, the amount of the payment will not form part of the assessable income of the Trustee of the Charitable Fund or the Trustee of the Discretionary Fund as either ordinary or statutory income;

- (d) if the Trustee of the Charitable Fund pays an amount to a Liable Entity to settle the rights of indemnity and/or rights of subrogation of that Liable Entity that arise as a consequence of the Liable Entity making a payment to the Lender under the Initial Facility Agreement, no amount will be included in the assessable income of the Liable Entity as ordinary or statutory income;
- (e) if a Liable Entity releases the Trustee of the Charitable Fund from its obligations to that Liable Entity that arise as a consequence of:
 - a. the Liable Entities transferring interests in, or other entitlements to, assets (or proceeds from asset realisations) as security for or in connection with an Advance provided under the Initial Facility Agreement; or
 - b. the Liable Entities making a payment for or in connection with those security arrangements, including any payments made by the Liable Entities under the Initial Facility Agreement,no amount will form part of the assessable income of the Trustee of the Charitable Fund or the Trustee of the Discretionary Fund as ordinary or statutory income;
- (f) Division 230 of the Income Tax Assessment Act 1997 will not apply to the Trustee of the Charitable Fund, the Trustee of the Discretionary Fund or the Liable Entities to alter the conclusions reached in (a) to (e) above;
- (g) Part IVA of the Income Tax Assessment Act 1936 will not apply with respect to any or all payments or transactions contemplated by the Initial Facility Agreement; and
- (h) for the purposes of A New Tax System (Goods and Services Tax) Act 1999 the transaction flows that occur under the Initial Facility Agreement and Security Documentation in connection with Advances provided under the Initial Facility Agreement do not represent or comprise consideration for a taxable supply made by or to the Trustee or the Liable Entities.”

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED
by The Honourable **John Hatzistergos**
MLC Attorney General of New South
Wales for **THE STATE OF NEW**
SOUTH WALES in the presence of:

/s/ L Sanderson
Signature of witness

LEIGH RAE SANDERSON

/s/ Leigh Rae Sanderson
Name of witness (block letters)

EXECUTED by **ASBESTOS INJURIES**
COMPENSATION FUND LIMITED in
accordance with section 127(1) of the
Corporations Act 2001 (Cwlth) by
authority of its directors:

/s/ J Marchione
Signature of director

JOANNE MARCHIONE
Name of director (block letters)

Gilbert + Tobin

/s/ J Hatzistergos
Signature

Attorney General of New South Wales

/s/ D Booth
Signature of company secretary*

DALLAS BOOTH
Name of company secretary* (block letters)

EXECUTED by)
)
as an authorised signatory for, and)
SEALED AND DELIVERED as a deed by,)
JAMES HARDIE INDUSTRIES S.E. in the)
presence of:)
)
/s/ M Kavanagh)
Signature of witness)
)
MARGARET KAVANAGH)
Name of witness (block letters))
)
)
)
)
)
)
)
)
)
)
)
)
)

/s/ James Osborne)
By executing this deed the signatory)
states that the signatory has received)
no notice of revocation of the authority)
under which the signatory signs this)
deed)
Director)
Position)
)
/s/ Marcin Firek)
By executing this deed the signatory)
states that the signatory has received)
no notice of revocation of the authority)
under which the signatory signs this)
deed)
Secretary)
Position)
)

EXECUTED by **JAMES HARDIE 117**)
PTY LIMITED in accordance with)
section 127(1) of the Corporations Act)
2001 (Cwlth) by authority of its)
directors:)
)
/s/ B Potts)
Signature of director)
)
BRUCE J W POTTS)
Name of director (block letters))
)
Gilbert + Tobin)

/s/ G M Jarvi)
Signature of company secretary*)
)
GUY M JARVI)
Name of company secretary* (block letters))

**Attachment A —
Transaction Legislation Amendment**

Gilbert + Tobin

Attachment A

CONFORMED COPY



LAWYERS

AICF facility agreement

Asbestos Injuries Compensation Fund Limited

ACN 117 363 461 in its capacity as trustee of the Charitable Fund established under a trust deed dated 7 April 2006 (as amended and restated) between it as trustee and James Hardie Industries SE as settlor

ABN 60 Pty Limited (under NSW administered winding up)

ACN 000 009 263

Amaca Pty Ltd (under NSW administered winding up)

ACN 000 035 512

Amaba Pty Ltd (under NSW administered winding up)

ACN 000 387 342

The State of New South Wales

Gilbert + Tobin

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Date: 9 December 2010

Parties

- 1 **Asbestos Injuries Compensation Fund Limited** ACN 117 363 461 (**AICF**) in its capacity as trustee of the Charitable Fund established under a trust deed dated 7 April 2006 (as amended and restated) between it as trustee and James Hardie Industries SE as settlor, of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Borrower**)
- 2 **ABN 60 Pty Limited** (under NSW administered winding up) ACN 000 009 263, of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**ABN 60**)
- 3 **Amaca Pty Ltd** (under NSW administered winding up) ACN 000 035 512, of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Amaca**)
- 4 **Amaba Pty Ltd** (under NSW administered winding up) ACN 000 387 342, of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Amaba**)
- 5 **The State of New South Wales**, of c/- The NSW Treasury, Level 27, Governor Macquarie Tower, 1 Farrer Place, Sydney, New South Wales (**Lender**)

Recitals

- 1 Each Obligor has requested that the Lender provide financial accommodation to the Borrower to assist the Borrower in paying when due, among other things, Personal Asbestos Claims and Marlew Claims.
- 2 The Lender has agreed to do so subject to the terms of this document.
- 3 The Commonwealth of Australia has provided, or is to provide, funding to the Lender in a principal amount equal to half of the Commitment (as at the date of this document) to assist the Lender in making the Facility available to the Borrower.

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary;
- (b) which is defined in the AFFA, but is not defined in the Dictionary, has the meaning given to it in the AFFA;
- (c) which is defined in the Corporations Act, but is not defined in the Dictionary or the AFFA, has the meaning given to it in the Corporations Act; and
- (d) which is defined in the GST Law, but is not defined in the Dictionary, the AFFA or the Corporations Act, has the meaning given to it in the GST Law.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this document.

2 The facility

2.1 Amount

Subject to the terms of this document, the Lender agrees to make available to the Borrower during the Availability Period, a cash advance facility to draw Advances up to a total amount not exceeding the Commitment.

2.2 Purpose

The Borrower must use an Advance only for an Approved Purpose.

2.3 Availability

The Undrawn Commitment is cancelled at 5.00 pm on the last day of the Availability Period.

2.4 Quarterly and ad-hoc drawdowns

Subject to the terms of this document and the satisfaction or waiver of all applicable conditions precedent, the parties currently intend that:

- (a) in relation to the First Period, one Advance (if and as necessary) be made after the date the AFFA Amending Deed has come into force in accordance with clause 2.2 of that deed in the amount of the Shortfall Amount (if any) for the First Period; and
- (b) in relation to each of the 9 Periods following the First Period, up to four Advances (if and as necessary) be made with the first such Advance to be made on or about the Review Date that is the first day of that Period and each subsequent Advance to be made on or about the date that is 3 months after that Review Date, each Advance to be in the amount of 25% (or such other percentage agreed by the parties) of the Shortfall Amount (if any) for that Period; and
- (c) additional Advances may be made during the Availability Period on an ad hoc basis as and when necessary in an amount based on the actual shortfall (if any) of the cash amount available to the Obligors on a consolidated basis for the relevant Period (being a Period during the Availability Period and, for the avoidance of doubt, after taking into account any Advance made in respect of that Period) in order to meet the Approved Purpose in that Period.

2.5 Discretionary uplift

The Lender may, in consultation with the Borrower, increase the amount of any Advance above the amount contemplated by clause 2.4 by an amount **Uplift Amount**) acceptable to the Lender in order to reduce the likelihood of the need to make ad hoc Advances as contemplated by clause 2.4(c). The Lender is not obliged to do so.

3 Conditions precedent

3.1 AFFA Amending Deed Condition

The Lender must not make the Facility available or provide any Advance unless the AFFA Amending Deed has come into force in accordance with clause 2.2 of that deed.

3.2 Conditions

The Lender is not obliged to make the Facility available unless the Lender is satisfied that the following conditions precedent are fulfilled or waived by the Lender:

- (a) **Conditions precedent certificate:** the Lender receives a certificate in the form of Schedule 2 for each Obligor which:
 - (i) provides the details and annexures required by Schedule 2; and
 - (ii) is dated no more than 5 days before the proposed first Drawdown Date;
- (b) **Transaction Documents:** the Lender receives originals of each Transaction Document, duly executed by all parties to them other than the Lender and, where applicable, in registrable form together with all executed documents necessary to register them;
- (c) **other amendments:** the Lender receives evidence that such amendments to the Transaction Legislation, each Trust Deed and any other relevant act, regulation, law, policy, trust deed, constitution or document (other than the AFFA under the AFFA Amending Deed) as are required by the Lender in connection with the Facility have been agreed and, where required, have been documented and have commenced (including that the *James Hardie Former Subsidiaries (Winding Up and Administration) Amendment Act 2009* (NSW) has commenced);
- (d) **legal opinions:** the Lender receives a legal opinion from Baker & McKenzie in relation to each Obligor and their obligations under the Transaction Documents and such other legal opinions as the Lender may reasonably require;
- (e) **Registration:** the Borrower provides evidence to the Lender that registration has been completed (or will be completed promptly after the Facility is made available) to ensure that each Transaction Document is valid, binding and enforceable except to the extent limited by equitable principles, statutes of limitation and applicable laws affecting creditors' rights generally; and
- (f) **other documents:** each Obligor gives the Lender any other document or information which the Lender reasonably requires.

3.3 Conditions for each Advance

The Lender is not obliged to provide an Advance unless the Lender is satisfied that the following conditions precedent are fulfilled or waived by the Lender:

- (a) **Drawdown Notice:** the Borrower gives the Lender a Drawdown Notice for that Advance which satisfies clause 3.4;
- (b) **Annual Actuarial Report:** the Lender has received a copy of the most recent Annual Actuarial Report prepared in accordance with and as required by the AFFA including all forecast:
 - (i) Personal Asbestos Claims;
 - (ii) Marlew Claims; and
 - (iii) recoveries under the Insurance Policies;
- (c) **Accounts:** the Lender has received a copy of the Accounts of each Obligor (other than the Borrower) and the consolidated Accounts for the Compensation Funds

and their Controlled Entities on a consolidated basis for the most recent Financial Year ended prior to the proposed Drawdown Date for that Advance for which such Accounts have been prepared;

- (d) **operating budget:** the Lender has received a copy of the consolidated operating budget for the Obligors for the Financial Year that includes the proposed Drawdown Date for that Advance, including details of all anticipated costs, expenses, liabilities and receipts of, and of the cash and other funds available to, the Obligors;
- (e) **Annual Payment:** the Lender has received details of the Annual Payment determined immediately preceding the proposed Drawdown Date for that Advance or, if that Advance is to be made on a Review Date, the Annual Payment determined on that Review Date or on a date as otherwise agreed between the parties;
- (f) **evidence as to Shortfall Amount:** subject to clause 3.5, the Lender has received evidence of the liabilities falling within the Approved Purpose of the Facility which are likely to become due and payable in the Period to which that Advance relates and the funds projected to be available to the Obligors on a consolidated basis in that Period to meet those liabilities, in the form of a schedule of calculations, certified by two directors of the Borrower or a director and the chief executive officer of the Borrower, setting out the Shortfall Amount (if any) for that Period and the way in which it has been calculated;
- (g) **no breach:** as at the date the Drawdown Notice is given and as at the proposed Drawdown Date:
 - (i) no Default has occurred which has not been remedied or waived; and
 - (ii) all Warranties made by an Obligor under a Transaction Document are true and correct and not misleading with reference to the facts and circumstances current at that time;
- (h) **Approved Actuary certification:** either:
 - (i) the Borrower delivers to the Lender signed confirmation from the Approved Actuary, or other evidence satisfactory to the Lender (acting reasonably), that the net present value of forecast recoveries from insurance policies stated in the Annual Actuarial Report (as taken into account in determining the Discounted Central Estimate) does not take into account any insurance policy that is not an Insurance Policy; or
 - (ii) if that net present value was calculated taking into account any insurance policies other than the Insurance Policies, the Borrower delivers to the Lender a certification from the Approved Actuary of the net present value of forecast recoveries from the Insurance Policies only (as taken into account in determining the Discounted Central Estimate); and
- (i) **other documents:** each Obligor gives the Lender any other document or information which the Lender reasonably requires.

3.4 Requirements of Drawdown Notice

A Drawdown Notice:

- (a) **written:** must be in legible writing in the form of Schedule 3 and must specify the matters set out in that Schedule;

- (b) **signed:** must be signed by 2 directors or a director and company secretary of the Borrower;
- (c) **amount:** must specify the amount of the Advance, which:
 - (i) must not exceed the Undrawn Commitment; and
 - (ii) must not exceed the sum of:
 - (A) the relevant Shortfall Amount or, in the case of an Advance contemplated by clause 2.4(b), 25% (or such other percentage agreed by the parties, where the aggregate percentage for all such Advances in any Period must not exceed 100%) of the relevant Shortfall Amount; and
 - (B) the Uplift Amount (if any);
- (d) **Drawdown Date:** must specify the Drawdown Date, which must be a Business Day during the Availability Period;
- (e) **Warranty:** must contain those warranties as set out in the form of Drawdown Notice in Schedule 3;
- (f) **receipt:** must be received by the Lender no later than 11.00 am on the Business Day that is 15 Business Days before the proposed Drawdown Date or a later time agreed in writing by the Lender; and
- (g) **irrevocable:** once given is irrevocable.

3.5 Form for calculation of Shortfall Amount

The Borrower may at any time submit to the Lender for the Lender's approval a form for the schedule of calculations referred to in clause 3.3(f) for the calculation of the Shortfall Amount for any Period. A form so agreed by the Lender shall be the form which the Borrower shall use for the purposes of clause 3.3(f) until another form (if any) is agreed by the Borrower and the Lender.

4 Interest

4.1 Interest

- (a) Subject to clause 4.1(d), the Borrower must pay to the Lender interest on each Advance:
 - (i) at the rate determined under clause 4.1(b) for each Interest Period for that Advance; and
 - (ii) in arrears on each Interest Payment Date for that Advance.
- (b) The rate of interest for each Interest Period in respect of an Advance is the rate of interest per annum determined by the Lender to be the Base Rate for that Advance and Interest Period.
- (c) Interest:
 - (i) accrues on a daily basis, including the first day but excluding the last day of the relevant Interest Period; and

(ii) is calculated on the basis of a 365 day year.

- (d) For the avoidance of doubt the Borrower may elect to defer the timing of any payment under clause 4.1(a)(ii) at any time and from time to time either in whole or in part by electing to capitalise the relevant amount of interest on its due date under clause 4.3.

4.2 Interest Periods

- (a) The first Interest Period for an Advance commences on its Drawdown Date and ends one month later;
- (b) each subsequent Interest Period for an Advance starts on the last day of the preceding Interest Period for that Advance and ends one month later;
- (c) an Interest Period which would otherwise end on a day which is not a Business Day instead ends on the following Business Day or on the immediately preceding Business Day if the Business Day is in another calendar month;
- (d) an Interest Period commencing on a date in a month where there is no corresponding date in the following month in which it would otherwise end, ends on the last Business Day of the later month; and
- (e) an Interest Period which would otherwise end after the Final Repayment Date instead ends on the Final Repayment Date.

4.3 Capitalisation

Interest that is not paid when due on any Interest Payment Date as a result of the Borrower electing to capitalise interest under clause 4.1(d) is to be capitalised on the relevant Interest Payment Date and so is added to the principal amount of the relevant Advance on and from that date. If interest is not paid by the Borrower on any Interest Payment Date the Borrower shall be taken to have elected to capitalise all interest due on that Interest Payment Date without the need for any notice to be delivered by the Borrower to the Lender.

5 Repayment, prepayment and cancellation

5.1 Repayment and prepayment

- (a) Subject to clause 5.1(c), the Obligors must, in each Period in which there is an Amount Outstanding, immediately upon receipt (or by direction to the payee in lieu of receipt) apply 100% of Available Proceeds in that Period (or, if less, the amount required at that time to repay the Amount Outstanding in full) in repayment of the Amount Outstanding, the intention of the parties being that the Amount Outstanding should be repaid in full as soon as possible.
- (b) On demand the Borrower must pay to each Liable Entity all amounts paid by the Liable Entity under clause 5.1(a) and indemnifies the Liable Entity against any loss, cost, liability or expense sustained or incurred as a direct or indirect consequence of any payment by the Liable Entity to the Lender under clause 5.1(a).
- (c) The Lender may, in its discretion, waive or postpone (in such manner and for such period as the Lender determines) the requirements of clause 5.1(a) at any time and from time to time either in whole or in part in order to ensure that the Obligors have sufficient funds available to them from time to time for them to be able to meet their operating expenses and liabilities that fall within the Approved Purpose. The Lender is not obliged to do so.

- (d) The Borrower may prepay all or part of the Amount Outstanding at any time and from time to time without penalty.
- (e) Subject to the terms of this document (including clauses 3.3 and 3.4), the Borrower may, during the Availability Period borrow or reborrow, as a new Advance, an amount of an Advance (including capitalised interest) which it has repaid or prepaid under this document, if it is necessary in order to ensure that the Obligors have sufficient funds available to them for them to be able to meet their operating expenses and liabilities that fall within the Approved Purpose.
- (f) The Commitment shall not be reduced solely as a result of a full or partial repayment or prepayment of an Advance.
- (g) Without limiting its other payment obligations under the Transaction Documents, the Borrower must fully and finally repay to the Lender the Amount Outstanding on or before the Final Repayment Date.

5.2 Commitment

- (a) On each Review Date the Commitment shall be determined in accordance with this clause 5.2.
- (b) On each Review Date:
 - (i) if the Valuation at the Review Date is greater than the Commitment at that date, the Commitment shall become the lesser of:
 - (A) the Initial Commitment;
 - (B) the Commitment as reduced by the Borrower under clause 5.2(c); and
 - (C) the amount of the Valuation at the Review Date less any capitalised interest outstanding under this document at that date;
 - (ii) if the Valuation at the Review Date is the same as the Commitment at that date, the Commitment shall not change; and
 - (iii) if the Valuation at the Review Date is less than the Commitment at that date, the Commitment shall become the amount of the Valuation at the Review Date.
- (c) On giving to the Lender at least 5 Business Days' notice, the Borrower may cancel all or part of the Undrawn Commitment at any time when:
 - (i) there are no debts or monetary obligations actually or contingently owing under a Transaction Document at that time; and
 - (ii) the board of directors of the Borrower is of the view that it appears reasonably likely that there will be sufficient funds available to it for all then present and future Payable Liabilities of the Liable Entities during the Availability Period to be paid in full as and when they fall due for payment, taking into account that cancellation in the Undrawn Commitment.

That notice and that cancellation in the Undrawn Commitment shall be irrevocable.

If the whole of the Commitment is cancelled in accordance with this clause 5.2(c), this document shall immediately terminate subject to its terms and the Lender undertakes, subject to the terms of the Security, to discharge the Security

(including by providing a deed of release and appropriate ASIC forms in such form as the Obligors are entitled to require) and return any documents of title which the Lender holds to the Secured Property in accordance with clause 3 of the Security dated on or about the date of this document and equivalent provision in any other Security.

6 Payments

6.1 Payments by Obligor

A payment by an Obligor to the Lender under a Transaction Document must be made:

- (a) no later than 11.00 am on the due date for payment;
 - (b) in Cleared Funds or bank cheque in Dollars; and
 - (c) to the account specified by the Lender,
- or in another manner which the Lender notifies the Obligor.

6.2 Amounts Payable on Demand

An amount payable under a Transaction Document is payable on demand by the Lender if it is not payable on a specified date.

6.3 Gross payments

Subject to clause 6.4, an Obligor must pay amounts which are payable by it under a Transaction Document unconditionally and in full without:

- (a) set-off or counterclaim; or
- (b) deduction or withholding for Tax or another reason, unless the deduction or withholding is required by applicable law.

6.4 Withholdings and Deductions

If an Obligor or another person is required to make a deduction or withholding from a payment to the Lender, the Obligor:

- (a) indemnifies the Lender against the amount of that deduction or withholding;
- (b) must pay more so that the Lender receives for its own benefit the full amount which it would have received if no deductions or withholdings had been required; and
- (c) must pay the full amount of the deduction or withholding to the appropriate Governmental Agency under applicable law, and deliver the original receipts to the Lender.

6.5 Allocation of Receipts

The Lender may allocate payments made by or on account of the Borrower toward any principal, interest or other money owing under a Transaction Document as it considers appropriate.

7 Tax

7.1 Tax

- (a) Subject to clause 7.1(c), the Borrower must pay any Tax which is payable in respect of a Transaction Document (including in respect of the execution, delivery, performance, release, discharge, amendment or enforcement of a Transaction Document).
- (b) The Borrower must pay any fine, penalty or other cost in respect of a failure to pay any Tax described in clause 7.1(a) except to the extent that the fine, penalty or other cost is caused by the Lender's failure to lodge money received from the Borrower within 10 Business Days before the due date for lodgement.
- (c) If the Lender transfers, assigns, novates, sub-participates or otherwise deals with its rights under this document, the Borrower's liability under clauses 6.4 or 7.1(a) shall be that which it would have been had the transfer, assignment, novation or other dealing not taken place.
- (d) The Borrower indemnifies the Lender against any amount payable under clause 7.1(a) or 7.1(b).

7.2 GST

- (a) If GST is or will be imposed on a supply made under or in connection with a Transaction Document by the Lender, the Lender may, to the extent that the consideration otherwise provided for that supply is not stated to include an amount in respect of GST on the supply:
 - (i) increase the consideration otherwise provided for that supply under the Transaction Document by the amount of that GST; or
 - (ii) otherwise recover from the recipient of the supply the amount of that GST.
- (b) The Lender must issue a Tax Invoice to the recipient of the supply no later than 10 Business Days after payment to the Lender of the GST inclusive consideration for that supply.
- (c) Where under any Transaction Document an Obligor is required to reimburse or indemnify the Lender for an amount, the Obligor will pay the relevant amount (including any sum in respect of GST) less any Input Tax Credit the Lender is entitled to claim in respect of that amount.

8 Expenses

8.1 Expenses

- (a) Each party is to meet its own costs, charges and expenses which relate to:
 - (i) negotiating, preparing, signing and registering the Transaction Documents;
 - (ii) arranging the Facility; or
 - (iii) making an inspection, variation, attendance or calculation or giving an approval, consent or waiver under a Transaction Document.

- (b) The Borrower must pay or reimburse all of the reasonable costs, charges and expenses of the Lender, its officers, agents, employees and consultants, which relate to:
 - (i) any breach of a Transaction Document by an Obligor;
 - (ii) enforcing a Transaction Document or preserving a right under a Transaction Document or releasing or discharging a Transaction Document.
- (c) Amounts under clause 8.1(b) include legal fees and disbursements and the fees of any actuaries, accountants or other professional advisers or consultants engaged by the Lender for those purposes.

9 Representations and warranties

- (a) Each Obligor represents and warrants to the Lender that each of the Warranties is true:
 - (i) as at the date of this document;
 - (ii) on the Drawdown Date for each Advance; and
 - (iii) on each Interest Payment Date,with reference to the circumstances existing at those dates.
- (b) Each Obligor acknowledges that the Lender has entered into this document and each other Transaction Document in reliance on the Warranties.
- (c) Each Warranty must be construed independently and is not limited by reference to another Warranty.
- (d) Each Obligor acknowledges that it has not entered into this document or any Transaction Document in reliance on any representation, warranty, promise or statement made by the Lender or another person on behalf of the Lender.

10 Undertakings

10.1 Performance under Transaction Documents

Each Obligor must comply with its obligations under the Transaction Documents in full and on time.

10.2 General positive undertakings

Each Obligor must:

- (a) **corporate reporting:** give to the Lender:
 - (i) in the case of an Obligor other than the Borrower copies of its audited Accounts for each Financial Year as soon as they are available and, in any event, within 120 days of the end of each Financial Year;
 - (ii) in the case of the Borrower copies of the audited consolidated Accounts for the Compensation Funds and their Controlled Entities for each Financial

- Year as soon as they are available and, in any event, within 120 days of the end of each Financial Year; and
- (iii) any additional financial information or other information the Lender may reasonably request promptly on request;
 - (b) **books and records:** ensure that its books and records are prepared and kept properly in accordance with Accounting Standards;
 - (c) **inspection:** allow the Lender and its professional advisers to inspect at reasonable times:
 - (i) its books and records and to take copies of those books and records; and
 - (ii) any property used or owned by it,to determine whether it is complying with the Transaction Documents;
 - (d) **co-operate:** co-operate fully with the Lender and its professional advisers conducting an inspection under clause 10.2(c), including giving full access to its premises and employees;
 - (e) **notice to Lender:** promptly inform the Lender, and provide all relevant information required by the Lender:
 - (i) if a Default occurs;
 - (ii) if proceedings are commenced against it (other than in relation to a Personal Asbestos Claim or Marlew Claim);
 - (iii) if an event occurs which could render void or voidable or otherwise adversely affect an Insurance Policy or if an Insurance Policy is cancelled; or
 - (iv) of any trust where it has been, or will be, appointed trustee, or where it has, or will hold, property as a trustee, provided that notification has not been provided previously.
 - (f) **certificate:** if the Lender requests, give the Lender a certificate signed by 2 directors or a director and company secretary of the Borrower stating that there are no matters to be notified to the Lender under clause 10.2(e);
 - (g) **maintain existence:** maintain its corporate existence and conduct its business properly and efficiently;
 - (h) **comply with laws:** comply with all laws (including the Transaction Legislation) binding on it and guidelines, directions, requests or requirements of a Government Agency (including directions given by the Borrower under the Transaction Legislation) binding on it;
 - (i) **comply with AFFA:** in the case of the Borrower, comply with its obligations under the AFFA;
 - (j) **Commitment:** ensure that at no time does the Loan (excluding capitalised interest) exceed the Commitment; and
 - (k) **Approved Actuary:** in the circumstances referred to in clause 3.3(h) and in the definition of “Valuation” where a certificate is required from the Approved Actuary,

use its best endeavours to ensure the Approved Actuary provides the relevant certificate as soon as possible each time it is required.

10.3 General negative undertakings

Unless the Lender otherwise agrees in writing, each Obligor must not:

- (a) **merge:** merge or consolidate with another entity or take steps to dissolve, administer, liquidate or wind-up (other than pursuant to the Transaction Legislation);
- (b) **re-organise capital:** buy or redeem its issued shares, reduce its capital, issue shares or distribute assets or other capital to its shareholders;
- (c) **dividends:** declare or pay a dividend or fix a time for payment of a dividend or otherwise distribute income to its shareholders;
- (d) **acquire property:** buy, start or operate a business or buy, lease or use any asset other than as contemplated by the AFFA or the Transaction Legislation;
- (e) **dispose of assets:** dispose of or deal with an asset except in the ordinary course of its ordinary business, whether by a single transaction or by a number of transactions;
- (f) **book debts:** dispose of an interest in a book debt or permit a set-off or combination of accounts other than by operation of law;
- (g) **security interests:** create, permit or allow to exist a Security Interest over an asset other than a Permitted Security Interest;
- (h) **financial indebtedness:** incur any Financial Indebtedness other than under the Transaction Documents or in the ordinary course of its ordinary business;
- (i) **amendments:** amend its constituent documents, any trust deed in relation to which it acts as trustee or the AFFA without the Lender's prior written consent;
- (j) **Guarantees:** give a Guarantee other than in favour of the Lender;
- (k) **financial accommodation:** provide financial accommodation to any person (other than another Obligor).

10.4 Trust undertakings

If an Obligor enters into this document as trustee of a Trust the Obligor must ensure that, except with the Lender's prior written consent:

- (a) **no variation:** the Trust Deed is not varied or revoked;
- (b) **no resettlement:** there is no resettlement, setting aside or transfer to any other trust, settlement or person or blending or mixing of the Trust's property (other than as expressly permitted by the AFFA or the Transaction Legislation);
- (c) **no new trustee:** no other person is appointed trustee of the Trust;
- (d) **vesting date:** the latest date on which the Trust's property must be distributed is not altered and the vesting date is not determined;

- (e) **restriction and limitations:** there is no restriction or limitation on or derogation from its right of subrogation or indemnity (whether or not arising under the Trust Deed);
- (f) **priority of lien:** its lien over the Trust's property has priority over the rights of the beneficiaries or the unitholders of the Trust (if any);
- (g) **compliance:** it complies with its trustee obligations under the Trust Deed and at law;
- (h) **no retirement:** it does not do anything which would cause or enable its removal, nor retire, as trustee of the Trust;
- (i) **no distribution of capital:** it does not make any distribution (except as expressly permitted by the AFFA or the Transaction Legislation) or vesting of the Trust's capital;
- (j) **exercise of indemnity:** it exercises its right of indemnity from the Trust's property and the beneficiaries or unitholders of the Trust (if any) so as to discharge its obligations under or in connection with the Transaction Documents;
- (k) **maintain accounts:** it prepares and maintains proper and adequate books of account in connection with the Trust's property;
- (l) **provide information:** it gives to the Lender promptly any information that the Lender requests from time to time in relation to the Trust; and
- (m) **no Encumbrances:** it does not create, permit or allow to exist a Security Interest over the Trust's property (except a Permitted Security Interest).

10.5 Undertakings relating to Insurance Policies

- (a) **positive undertakings:**
 - (i) Each Obligor shall when requested from time to time by the Lender, provide the Lender with such information as the Lender requests (and if required by the Lender seek the relevant information from the insurers under Insurance Policies) concerning the Insurance Policies, including the ability of the Obligors or the Lender to have:
 - (A) Insurance Policies noted with the interest of the Lender, with the Lender as an additional insured or with the Lender as loss payee; or
 - (B) other irrevocable payment directions put in place so that proceeds of Insurance Policies can be paid direct to the Lender.
 - (ii) Each Obligor shall promptly comply with any request of the Lender to effect, or assist the Lender in effecting, any of the matters set out in subparagraphs (i)(A) and (i)(B) above if the Lender at any time considers that effecting such matters is appropriate for its security.
- (b) **negative undertakings:** Unless the Lender otherwise agrees in writing, each Obligor must not, subject to clause 10.5(c):
 - (i) do or permit anything which may render void or voidable or otherwise adversely affect any Insurance Policy; or
 - (ii) cancel, vary settle or commute any Insurance Policy.

(c) permitted dealings:

- (i) Despite any other provision of the Transaction Documents an Obligor may, without the consent of the Lender:
 - (A) commute, or agree to the commutation of, any Insurance Policy as part of a court approved scheme of arrangement for the relevant insurer;
 - (B) commute, or agree to the commutation of, any Insurance Policy where the amount of the liability of the relevant insurer under the relevant Insurance Policy that is commuted does not exceed \$10 million, provided that the total amount of all liabilities so commuted under subparagraph (A) or this subparagraph (B), together with the total amount of all claims settled or compromised under subparagraph (C), in each case in any Financial Year, does not exceed the lesser of (1) \$50 million and (2) 50% of the Undrawn Commitment at the time of the relevant commutation, or agreement to do so; and
 - (C) settle or compromise any claim under an Insurance Policy in the ordinary course of its business where the amount of the relevant claim that is settled or compromised does not exceed \$10 million provided that the total amount of all claims so settled or compromised together with all liabilities commuted under subparagraph (A) or subparagraph (B), in each case in any Financial Year, does not exceed lesser of (1) \$50 million and (2) 50% of the Undrawn Commitment at the time of the relevant settlement or compromise or agreement to do so.
- (ii) The Borrower shall provide written notice to the Lender of any commutation, settlement or compromise made, or agreed to be made, in respect of any Insurance Policy as soon as practicable after it is made, or it is agreed to be made.

11 Events of default

11.1 Effect

If an Event of Default occurs and subsists the Lender may by written notice to the Borrower do either or both of the following:

- (a) cancel the Commitment; or
- (b) declare that the Amount Outstanding is immediately due and payable in which case it shall be so, and the Borrower shall immediately pay the Amount Outstanding in full.

11.2 Events of Default

It is an Event of Default if, at any time:

- (a) **failure to pay:** an Obligor fails to pay or repay an amount due under a Transaction Document within two Business Days after the due date;
- (b) **non-remediable failure:** an Obligor fails to comply with another term expressed or implied in a Transaction Document and that failure is not remediable, in the opinion of the Lender acting in good faith;

- (c) **remediable failure:** the Lender considers that the failure described in clause 11.2(b) is remediable, but the Obligors do not remedy the failure within 10 Business Days of the earlier of the date of the Lender's request to one or more of the Obligors to remedy the same and the date when any Obligor becomes aware of its occurrence;
- (d) **Authorisations:** an Obligor fails to obtain an Authorisation necessary to enable it to comply with its obligations under the AFFA or a Transaction Document or that Authorisation ceases to be fully effective, and if this is remediable, the relevant Obligor does not obtain the relevant Authorisation or replacement Authorisation within 10 Business Days of the earlier of the date of the Lender's request to the Obligor to do so and the date when any Obligor becomes aware of its occurrence;
- (e) **misrepresentation:** a warranty, representation or statement by an Obligor is or becomes false, misleading or incorrect in a material respect when made or regarded as made by it under a Transaction Document or under a document required by a Transaction Document, and if the circumstances giving rise to this are remediable, the relevant Obligor fails to remedy the same within 10 Business Days of the earlier of the date of the Lender's request to one or more of the Obligors to remedy the same and the date when any Obligor becomes aware of its occurrence;
- (f) **acceleration of payments:** an Obligor does anything which causes or enables:
 - (i) a payment under a Transaction Document to be accelerated (other than a voluntary prepayment); or
 - (ii) a Transaction Document to be enforced, terminated or rescinded;
- (g) **cross default:** Financial Indebtedness of an Obligor other than under a Transaction Document exceeding an amount of \$10,000:
 - (i) is due and payable or is capable of being declared due and payable before the due date for payment; or
 - (ii) is not paid when due or at the end of a period of grace which may apply, including, but not limited to, money payable under a Guarantee;
- (h) **Security Interest:** a Security Interest is enforceable against an asset of an Obligor;
- (i) **Guarantee:** a Guarantee is enforceable against an Obligor in an amount exceeding an amount of \$10,000;
- (j) **judgment:** a judgment is obtained against:
 - (i) the Borrower; or
 - (ii) a Guarantorother than, in each case, in relation to a Personal Asbestos Claim or a Marlew Claim;
- (k) **insolvency event:** an Insolvency Event occurs;
- (l) **vitiation of Transaction Documents or AFFA:**

- (i) all or part of a provision of a Transaction Document or the AFFA is or becomes illegal, void, voidable, unenforceable or otherwise of limited force or effect;
 - (ii) a person becomes entitled to terminate, rescind or avoid all or any material part or material provision of a Transaction Document or the AFFA;
 - (iii) because of the operation of clause 6.4(a) of the AFFA, JHISE and the Performing Subsidiary cease (including temporarily) to be obliged to make payments under the AFFA;
 - (iv) a person other than the Lender alleges or claims that an event as described in clause 11.2(1)(i) or 11.2(1)(iii) has occurred or that it is entitled as described in clause 11.2(1)(ii); or
 - (v) the execution, delivery or performance of a Transaction Document by an Obligor, or of the AFFA by a party to it other than the Lender, breaches a law or Authorisation;
- (m) **breach of Transaction Legislation:** any person other than the State of New South Wales breaches a provision of the Transaction Legislation;
- (n) **change in control:** except where and to the extent that the Lender has given its prior written consent, there is a direct or indirect change in control of an Obligor having regard to legal or beneficial ownership of shares, voting rights, rights to receive income or capital or rights to appoint directors (for the avoidance of doubt this does not apply in relation to such a change of control of James Hardie Industries SE provided that such change of control does not constitute a breach of the AFFA or the Transaction Legislation);
- (o) **breach of AFFA:** a party to the AFFA other than the State of New South Wales breaches any provision of the AFFA;
- (p) **legal challenge:** any person challenges the legality, validity or enforceability of the Transaction Legislation (including the *James Hardie Former Subsidiaries (Winding Up and Administration) Amendment Act 2009* (NSW)) or the AFFA (other than such a challenge that is frivolous or vexatious (in the opinion of the Lender acting in good faith after consultation with the Borrower) or that is withdrawn or dismissed within 10 Business Days);
- (q) **Trust events of default:** if, without the consent of the Lender, any of the following occurs in respect of a Trust:
- (i) the relevant Obligor ceases to be, or ceases to be the only, trustee of the Trust;
 - (ii) an application is commenced or an order is made in any court for the removal of the relevant Obligor as the trustee of the Trust, for any property of the Trust to be administered by or under the control of the court or for accounts to be taken in relation to the Trust;
 - (iii) the Trust's capital is distributed (except as expressly permitted by the AFFA or the Transaction Legislation); or
 - (iv) the relevant Obligor exercises any of its powers under the Trust Deed with the effect of prejudicing the Lender's rights or its security under a Transaction Document.

12 Guarantee

12.1 Guarantee

Each Guarantor jointly and severally and unconditionally and irrevocably guarantees to the Lender:

- (a) the payment to the Lender of the Amount Outstanding; and
- (b) the performance by the Borrower of its obligations under this document.

12.2 Payment

- (a) If the Amount Outstanding is not paid when due, each Guarantor must immediately on demand pay to the Lender the Amount Outstanding in the same manner and currency as the Amount Outstanding is required to be paid.
- (b) A demand under clause 12.2(a) may be made at any time and from time to time.

12.3 Securities for other money

The Lender may apply any amounts received by it or recovered under any:

- (a) Security; or
- (b) other document or agreement,

which is a security for any of the Amount Outstanding and any other money in the manner it determines, subject to any express provision of the Transaction Documents.

12.4 Amount of Amount Outstanding

- (a) This clause 12 applies to any amount which forms part of the Amount Outstanding from time to time.
- (b) The obligations of each Guarantor under this clause 12 extend to any increase in the Amount Outstanding as a result of:
 - (i) any amendment, supplement, renewal or replacement of this document or any other Transaction Document; or
 - (ii) the occurrence of any other thing.
- (c) Clause 12.4(b):
 - (i) applies regardless of whether any Guarantor is aware of or consented to or is given notice of any amendment, supplement, renewal or replacement of any agreement to which an Obligor and the Lender is a party or the occurrence of any other thing; and
 - (ii) does not limit the obligations of any Guarantor under this clause 12.

12.5 Avoidance of payments

- (a) If any payment, conveyance, transfer or other transaction relating to or affecting the Amount Outstanding is:

- (i) void, voidable or unenforceable in whole or in part; or
- (ii) claimed to be void, voidable or unenforceable and that claim is upheld, conceded or compromised in whole or in part, the liability of each Guarantor under this clause 12 and any Power is the same as if:
- (iii) that payment, conveyance, transfer or transaction (or the void, voidable or unenforceable part of it); and
- (iv) any release, settlement or discharge made in reliance on any thing referred to in clause 12.5(a)(iii),

had not been made and each Guarantor must immediately take all action and sign all documents necessary or required by the Lender to restore to the Lender the benefit of this clause 12 and any Security Interest held by the Lender immediately before the payment, conveyance, transfer or transaction.

- (b) Clause 12.5(a) applies whether or not the Lender knew, or ought to have known, of anything referred to in clause 12.5(a).

12.6 No obligation to marshal

The Lender is not required to marshal or to enforce or apply under or appropriate, recover or exercise:

- (a) any Security Interest, Guarantee or Security or other document or agreement held, at any time, by or on behalf of the Lender; or
- (b) any money or asset which the Lender, at any time, holds or is entitled to receive.

12.7 Non-exercise of Guarantors' rights

A Guarantor must not exercise any rights it may have inconsistent with this clause 12.

12.8 Principal and independent obligation

- (a) This clause 12 is:
 - (i) a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation; and
 - (ii) independent of and not in substitution for or affected by any other Security which the Lender may hold in respect of the Amount Outstanding or any obligations of the Borrower or any other person.
- (b) This clause 12 is enforceable against a Guarantor:
 - (i) without first having recourse to any Security;
 - (ii) whether or not the Lender has made demand on the Borrower (other than any demand specifically required to be given, or notice required to be issued, to a Guarantor under clause 12.2 or any other provision of a Transaction Document);
 - (iii) whether or not the Lender has given notice to the Borrower or any other person in respect of any thing;

- (iv) whether or not the Lender has taken any steps against the Borrower or any other person;
- (v) whether or not any Amount Outstanding is then due and payable; and
- (vi) despite the occurrence of any event described in clause 12.10.

12.9 Suspense account

- (a) The Lender may apply to the credit of an interest bearing suspense account any:
 - (i) amounts received under this clause 12;
 - (ii) dividends, distributions or other amounts received in respect of the Amount Outstanding in any liquidation; and
 - (iii) other amounts received from a Guarantor, the Borrower or any other person in respect of the Amount Outstanding.
- (b) The Lender may retain the amounts in the suspense account for as long as it determines and is not obliged to apply them in or towards satisfaction of the Amount Outstanding.

12.10 Unconditional nature of obligations

- (a) This clause 12 and the obligations of each Guarantor under this document are absolute, binding and unconditional in all circumstances, and are not released or discharged or otherwise affected by anything which but for this provision might have that effect, including:
 - (i) the grant to the Borrower or any other person of any time, waiver, covenant not to sue or other indulgence;
 - (ii) the release (including a release as part of any novation) or discharge of the Borrower or any other person;
 - (iii) the cessation of the obligations, in whole or in part, of the Borrower or any other person under any Transaction Document or any other document or agreement;
 - (iv) the liquidation of the Borrower or any other person;
 - (v) any arrangement, composition or compromise entered into by the Lender, the Borrower or any other person;
 - (vi) any Transaction Document or any other document or agreement being in whole or in part illegal, void, voidable, avoided, unenforceable or otherwise of limited force or effect;
 - (vii) any extinguishment, failure, loss, release, discharge, abandonment, impairment, compounding, composition or compromise, in whole or in part of any Transaction Document or any other document or agreement;
 - (viii) any Security being given to the Lender by the Borrower or any other person;
 - (ix) any alteration, amendment, variation, supplement, renewal or replacement of any Transaction Document or any other document or agreement;

- (x) any moratorium or other suspension of any Power;
- (xi) the Lender, a Receiver or Attorney exercising or enforcing, delaying or refraining from exercising or enforcing, or being not entitled or unable to exercise or enforce any Power;
- (xii) the Lender obtaining a judgment against the Borrower or any other person for the payment of any of the Amount Outstanding;
- (xiii) any transaction, agreement or arrangement that may take place with the Lender, the Borrower or any other person;
- (xiv) any payment to the Lender, a Receiver or Attorney, including any payment which at the payment date or at any time after the payment date is in whole or in part illegal, void, voidable, avoided or unenforceable;
- (xv) any failure to give effective notice to the Borrower or any other person of any default under any Transaction Document or any other document or agreement;
- (xvi) any legal limitation, disability or incapacity of the Borrower or of any other person;
- (xvii) any breach of any Transaction Document or any other document or agreement;
- (xviii) the acceptance of the repudiation of, or termination of, any Transaction Document or any other document or agreement;
- (xix) any Amount Outstanding being irrecoverable for any reason;
- (xx) any disclaimer by the Borrower or any other person of any Transaction Document or any other document or agreement;
- (xxi) any assignment, novation, assumption or transfer of, or other dealing with, any Powers or any other rights or obligations under any Transaction Document or any other document or agreement;
- (xxii) any prejudice (including material prejudice) to any person as a result of any thing done or omitted by the Lender, the Borrower or any other person;
- (xxiii) any prejudice (including material prejudice) to any person as a result of the Lender, a Receiver, Attorney or any other person selling or realising any property the subject of a Security at less than the best price;
- (xxiv) any prejudice (including material prejudice) to any person as a result of any failure or neglect by the Lender, a Receiver, Attorney or any other person to recover the Amount Outstanding from the Borrower or by the realisation of any property the subject of a Security;
- (xxv) any prejudice (including material prejudice) to any person as a result of any other thing;
- (xxvi) the receipt by the Lender of any dividend, distribution or other payment in respect of any liquidation;

(xxvii) the failure of any other Guarantor or any other person who is intended to become a co-surety or co-indemnifier of that Guarantor to execute this document or any other document; or

(xxviii) any other act, omission, matter or thing whether negligent or not.

(b) Clause 12.10(a) applies irrespective of:

(i) the consent or knowledge or lack of consent or knowledge, of the Lender, the Borrower or any other person of any event described in clause 12.10(a); or

(ii) any rule of law or equity to the contrary.

12.11 No competition

(a) Until the Amount Outstanding has been fully and finally paid and this clause 12 has been finally discharged, a Guarantor is not entitled to:

(i) be subrogated to the Lender;

(ii) claim or receive the benefit of any Security Interest, Guarantee or other document or agreement of which the Lender has the benefit;

(iii) claim or receive the benefit of any moneys held by the Lender;

(iv) claim or receive the benefit or any Power;

(v) either directly or indirectly prove in, claim or receive the benefit of any distribution, dividend or payment arising out of or relating to the liquidation of the Borrower, except in accordance with clause 12.11(b);

(vi) make a claim or exercise or enforce any right, power or remedy (including under a Security Interest or Guarantee or by way of contribution) against the Borrower;

(vii) accept, procure the grant of or allow to exist any Security Interest in favour of a Guarantor from the Borrower;

(viii) exercise or attempt to exercise any right of set-off against, or realise any Security Interest taken from, the Borrower; or

(ix) raise any defence or counterclaim in reduction or discharge of its obligations under this clause 12.

(b) If required by the Lender, a Guarantor must prove in any liquidation of the Borrower for all money owed to the Guarantor.

(c) All money recovered by a Guarantor from any liquidation or under any Security Interest or Guarantee from the Borrower must be received and held in trust by the Guarantor for the Lender to the extent of the unsatisfied liability of the Guarantor under this clause 12.

(d) A Guarantor must not do or seek, attempt or purport to do anything referred to in clause 12.11(a).

12.12 Continuing guarantee

This clause 12 is a continuing obligation of each Guarantor, despite:

- (a) any settlement of account; or
 - (b) the occurrence of any other thing,
- and remains in full force and effect until:
- (c) all the Amount Outstanding has been finally paid in full and the Commitment has been cancelled in full; and
 - (d) this clause 12 has been finally discharged.

12.13 Variation

This clause 12 extends to cover the Transaction Documents as amended, varied or replaced, whether with or without the consent of any one or more of the Guarantors, including any increase in the limit or maximum principal amount available under a Transaction Document.

13 Indemnities

13.1 General indemnity

The Borrower unconditionally and irrevocably indemnifies the Lender against any claim, loss, liability, cost or expense which the Lender pays or is liable for, arising directly or indirectly from:

- (a) the occurrence of any Default;
- (b) the Lender exercising its Powers consequent upon or arising out of the occurrence of any Default;
- (c) the non-exercise, attempted exercise, exercise or delay in the exercise of any Power;
- (d) any act or omission of an Obligor or any of its employees or agents;
- (e) the ownership of any Secured Property by an Obligor or any of its employees or agents;
- (f) any workers' compensation claim by any employee of an Obligor;
- (g) any insurance policy in respect of any Secured Property;
- (h) any compulsory acquisition or statutory or judicial divestiture of any Secured Property; and
- (i) any other thing in respect of a Security or any Secured Property.

13.2 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in a Transaction Document is a continuing obligation despite a settlement of account or the occurrence of any other thing, and remains

fully effective until all money owing, contingently or otherwise, under an indemnity has been finally paid in full.

- (b) Each indemnity contained in this document:
 - (i) is an additional, separate and independent obligation and no one indemnity limits the generality of another indemnity; and
 - (ii) survives the termination of this document.

13.3 Payment

It is not necessary for the Lender to incur an expense or make a payment before enforcing a right of indemnity under this document.

14 General

14.1 Notices

- (a) A notice or other communication given under this document including, but not limited to, a request, demand, consent or approval, to or by a party to this document:
 - (i) must be in legible writing and in English;
 - (ii) must be addressed to the addressee at the address or facsimile number set out below or to any other address or facsimile number a party notifies to the other under this clause:
 - (A) if to the Lender:

Name: The NSW Treasury
Attention: Director Crown Asset and Liability Management
Address: Level 27, Governor Macquarie Tower, Farrer Place,
Sydney, NSW 2000

Facsimile: +61 2 9228 3210

With copies, if the NSW Government has appointed a Director or any Directors, to each such Director as notified to the Borrower from time to time by such Director;
 - (B) if to an Obligor:

Address: Level 7, 233 Castlereagh Street,
Sydney, NSW 2000
Attention: Chief Executive Officer
Facsimile: +612 9277 6699;
 - (iii) must be signed by an Authorised Officer; and
 - (iv) is deemed to be received by the addressee in accordance with clause 14.1(b).
- (b) Without limiting any other means by which a party may be able to prove that a notice has been received by another party, a notice is deemed to be received:

- (i) if sent by hand, when delivered to the addressee;
- (ii) if by post, 3 Business Days from and including the date of postage; or
- (iii) if by facsimile transmission, on receipt by the sender of an acknowledgment or transmission report generated by the machine from which the facsimile was sent,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time) it is deemed to be received at 9.00 am on the following Business Day.

- (c) A facsimile transmission is regarded as legible unless the addressee telephones the sender within 2 hours after the transmission is received or regarded as received under clause 14.1(b)(iii) and informs the sender that it is not legible.

14.2 Governing law

The laws of New South Wales govern this document.

14.3 Jurisdiction

Each party irrevocably and unconditionally:

- (a) submits to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeals from those courts;
- (b) waives any:
 - (i) claim or objection based on absence of jurisdiction or inconvenient forum; or
 - (ii) immunity in relation to this document in any jurisdiction for any reason; and
- (c) agrees that a document required to be served in proceedings about this document may be served:
 - (i) under clause 14.1; or
 - (ii) in any other way permitted by law.

14.4 Invalidity

- (a) If a provision of this document or a right or remedy of a party under this document is invalid or unenforceable in a particular jurisdiction:
 - (i) it is read down or severed in that jurisdiction only to the extent of the invalidity or unenforceability; and
 - (ii) it does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions in any jurisdiction.
- (b) This clause is not limited by any other provision of this document in relation to severability, prohibition or enforceability.

14.5 Amendments and Waivers

- (a) This document may be amended only by a written document signed by the parties.

- (b) A waiver of a provision of this document or a right or remedy arising under this document, including this clause, must be in writing and signed by the party granting the waiver.
- (c) A single or partial exercise of a right does not preclude a further exercise of that right or the exercise of another right.
- (d) Failure by a party to exercise a right or delay in exercising that right does not prevent its exercise or operate as a waiver.
- (e) A waiver is only effective in the specific instance and for the specific purpose for which it is given.

14.6 Cumulative rights

The rights and remedies of a party under this document do not exclude any other right or remedy provided by law.

14.7 Non-merger

No provision of this document merges on termination of this document, including the Warranties.

14.8 Further assurances

Each party must do all things necessary to give full effect to this document and the transactions contemplated by this document.

14.9 Supersedes previous agreements

This document supersedes all previous agreements about its subject matter.

14.10 Assignment

- (a) Subject to clause 14.10(b), no party can assign or otherwise transfer a Power, duty or obligation under this document or another Transaction Document.
- (b) The Lender may assign or otherwise transfer a Power, duty or obligation under a Transaction Document to a NSW Government Agency, or grant a participation or sub-participation in the benefit of a Transaction Document, without the consent of any Obligor.
- (c) A transfer under clause 14.10(b) which includes the transfer of obligations shall be effected by a substitution document which in the reasonable opinion of the Lender is in form and substance in accordance with normal lending practice and each Obligor authorises the Lender to execute that substitution document on its behalf provided that before the execution the Lender discloses to the Obligors the identity of the proposed transferee and delivers to the Obligors an executed counterpart of that document promptly after execution.
- (d) The Lender may disclose to a potential assignee, transferee, participant or sub-participant any information about the Obligors or the Transaction Documents as the Lender considers appropriate.

14.11 Consents

- (a) The Lender may give its consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless a Transaction Document provides otherwise.
- (b) The Lender may form an opinion or hold a considered view under a Transaction Document in its absolute discretion unless a Transaction Document provides otherwise.

14.12 Counterparts

This document may be signed in any number of counterparts and all those counterparts together make one instrument.

14.13 Authorisations

For the avoidance of doubt, nothing in the Transaction Documents shall require or shall be regarded as requiring the Lender to grant, renew, make, vary, amend, cancel or suspend any Authorisation or law.

15 Limitation of liability

15.1 Capacity

AICF enters into this document in its capacity as trustee of the Charitable Fund and in no other capacity. Subject to clause 15.4, each of the parties to this document acknowledges that the obligations, and any representations and warranties, of AICF under this document are incurred or given by AICF to the other parties in its capacity as trustee of the Charitable Fund.

15.2 Limitation of liability

- (a) Subject to clause 15.4, AICF is not liable to pay or satisfy any of its obligations under this document except out of the assets of the Charitable Fund out of which it is entitled to be indemnified as trustee. Subject to clause 15.4, any other party to this document may enforce its rights against AICF arising from non-performance of any obligation of AICF under this document only to the extent of AICF's right of indemnity out of the assets of the Charitable Fund.
- (b) Subject to clause 15.4, if another party to this document does not recover all moneys owing to it arising from the non-performance of any obligation of AICF under this document by enforcing the rights referred to in clause 15.2(a), that party may not seek to recover the shortfall by:
 - (i) bringing proceedings against AICF in its personal capacity;
 - (ii) applying to have AICF wound up or proving in the winding up of AICF; or
 - (iii) seeking to set off against the Borrower the relevant amount.

15.3 Waiver of rights

Subject to clause 15.4, each party to this document (other than AICF) waives its rights against and releases AICF from any personal liability whatsoever, in respect of any loss or damage:

- (a) which it may suffer as a result of any breach or non performance by AICF of any of its obligations under this document; and
- (b) which cannot be paid or satisfied out of the assets of the Charitable Fund.

15.4 Qualifications to limit

The limitations in clauses 15.1 to 15.3 do not apply to the extent that AICF's right to be indemnified out of the assets of the Charitable Fund is reduced due to any fraud, negligence or breach of trust by AICF. In the event that AICF's right of indemnity is so reduced, AICF will be liable both:

- (a) in its capacity as trustee of the Charitable Fund; and
- (b) in its personal capacity but then only to the extent of the total amount, if any, by which AICF's right to be indemnified out of the assets of the Charitable Fund has been reduced by reason of the fraud, negligence or breach of trust by AICF.

15.5 Right of indemnity out of assets of the Charitable Fund

This clause 15 is not intended to limit any rights which AICF has to be indemnified out of the assets of the Charitable Fund.

Schedule 1 — Dictionary

1 Dictionary

In this document:

Accounting Standards means:

- (a) the accounting standards approved under the Corporations Act and the requirements of that law about the preparation and content of accounts; and
- (b) generally accepted and consistently applied principles and practices in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Accounts means, for a particular period and person:

- (a) the profit and loss account for that period for that person; and
- (b) the balance sheet as at the end of that period for that person,

together with any statements, reports and notes attached to them or intended to be read with them.

Advance means the principal amount advanced or to be advanced by the Lender to the Borrower in accordance with a Drawdown Notice, or the amount of the Advance that remains outstanding at any time (as applicable). For the avoidance of doubt, it includes any amount added to an Advance, or any amount added to an Advance that remains outstanding, (as applicable) pursuant to clause 4.3.

AFFA means the Amended and Restated Final Funding Agreement dated 21 November 2006 between the Borrower, James Hardie Industries SE, James Hardie 117 Pty Limited and the State of New South Wales (as amended by the AFFA Amending Deed and otherwise as amended from time to time).

AFFA Amending Deed means the deed entitled “Deed to amend the AFFA and facilitate the Authorised Loan Facility” dated on or about the date of this document between the parties to the AFFA.

Amount Outstanding means, at any time, all debts and monetary obligations of the Borrower to the Lender or for its account under a Transaction Document at the relevant time whether:

- (a) owed actually, contingently or prospectively;
- (b) owed as principal, agent, trustee, beneficiary, partner or in any other capacity;
- (c) owed as principal debtor or as surety;
- (d) the Borrower is liable alone or jointly or jointly and severally with another person;
- (e) owed to the Lender or its account as an original obligation or as a result of an assignment, transfer or other dealing, with or without the Borrower’s consent;
- (f) the obligation is owed or secured before or after the date of:

- (i) this document; or
- (ii) an assignment of this document or any other Transaction Document.

Annual Payment has the meaning given in the AFFA.

Approved Purpose means payment of those liabilities described in paragraphs (a), (b), (c), (e) and (g) of the definition of “Payable Liability” in the AFFA.

Attorney means an attorney appointed under a Transaction Document.

Authorisation includes:

- (a) a consent, registration, filing, agreement, notice of non-objection, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Government Agency; and
- (b) in relation to anything which a Government Agency may prohibit or restrict within a specific period, the expiry of that period without intervention or action.

Authorised Officer means:

- (a) in relation to an Obligor, a director or company secretary of the Obligor; or
- (b) in relation to the Lender, any person who holds the position (or is acting in the position) of Director Crown Asset and Liability Management or Deputy Secretary Budget and Financial Management Directorate, or any other person notified to the Borrower by the Lender in writing as being an “Authorised Officer” for the purpose of the Transaction Documents.

Availability Period means the period starting on the date of this document and ending on the earlier to occur of:

- (a) the tenth anniversary of the date of this document; and
- (b) the date when the Commitment is cancelled in full.

Available Proceeds means, for a Period, the amounts available to the Obligors on a consolidated basis in that Period to meet liabilities falling within the Approved Purpose payable in that Period (including the proceeds of any Insurance Policy or any claim under any Insurance Policy and each Annual Payment) except to the extent that any such proceeds of any Insurance Policy or any claim under any Insurance Policy have been included in the schedule of calculations of the Shortfall Amount for that Period delivered to and approved by the Lender under clause 3.3(f) as funds available to the Obligors during that Period.

Base Rate means, for an Advance for an Interest Period, the rate certified by the Lender to be its cost of funds for the Advance for the Interest Period calculated with reference to:

- (a) to the extent that the Lender’s source of funding for the Advance for an Interest Period is from the Commonwealth of Australia, the cost of the Lender’s borrowings from the Commonwealth of Australia for the purpose of funding the Advance, being calculated with reference to the Commonwealth Treasury fixed coupon bond rate for a period determined as appropriate by the Commonwealth of Australia; and
- (b) to the extent that the Lender’s source of funding for the Advance for an Interest Period is not from the Commonwealth of Australia :

- (i) during the period from (and including) the first Drawdown Date to (but excluding) 1 May 2020:
 - (A) to the extent that the Advance falls within the first \$160,000,000 of Advances made from such a funding source, the rate calculated as at the first Drawdown Date as a yield per cent per annum and published on the official website of New South Wales Treasury Corporation as “Y-Day Close” for that date, in respect of New South Wales Treasury Corporation’s 6% 1/05/2020 Benchmark Bonds; and
 - (B) to the extent that the Advance falls outside the first \$160,000,000 of Advances made from such a funding source, the rate calculated as at the date determined by the Lender as the relevant date as a yield per cent per annum and published on the official website of New South Wales Treasury Corporation as “Y-Day Close” for that date, in respect of New South Wales Treasury Corporation’s 6% 1/05/2020 Benchmark Bonds (or, if those Bonds are no longer on issue, such other source of funding for the Facility determined by the Lender in good faith to be used to replace those Bonds); and
- (ii) during the period from (and including) 1 May 2020 (**2020 Date**) until the Amount Outstanding has been paid or repaid in full:
 - (A) to the extent that the Advance is an amount other than interest capitalised on or after the 2020 Date, the rate calculated as at that date as; and
 - (B) to the extent that the Advance is an amount that is interest capitalised on a date (**Capitalisation Date**) on or after the 2020 Date, the rate calculated as at the Capitalisation Date for that amount as,

a yield per cent per annum and published on the official website of New South Wales Treasury Corporation as “Y-Day Close” for the 2020 Date or the relevant Capitalisation Date (as the case may be) in respect of New South Wales Treasury Corporation Bonds on issue at that date and maturing in 2030 and if more than one series of such Bonds are then on issue, such series maturing on such date in 2030 and carrying such coupon rate as nominated by the Lender (or, if there are no such Bonds maturing in 2030 on issue on 1 May 2020, such other source of funding for the Facility determined by the Lender in good faith).

Under this paragraph (b):

- (A) for the avoidance of doubt, the Lender’s source of funding for any part of an Advance which comprises capitalised interest is not from the Commonwealth of Australia;
- (B) the Lender’s cost of funds for an Advance for an Interest Period shall include any Commonwealth Government Guarantee fee payable in respect of any relevant Bonds or other source of funding; and
- (C) if for any reason for a particular day the “Y-Day Close” yield rate for any relevant Bonds is not so displayed or the basis on which that rate is so displayed is changed and in the opinion of the Lender it ceases to reflect the Lender’s cost of funds to the same extent as at the date of this document, then the Base Rate will be the rate determined by the Lender to be its cost of funds for the Advance for the Interest Period.

Bill means a bill of exchange as defined in the *Bills of Exchange Act 1909* (Cth).

Business Day means a day on which banks are open for business excluding Saturdays, Sundays or public holidays in Sydney.

Charitable Fund has the meaning given in the AFFA.

Cleared Funds means money that is immediately available to, and freely transferable by, the recipient.

Commitment means the maximum amount agreed to be provided by the Lender under the Facility, being the Initial Commitment as reduced or cancelled or increased in accordance with this document.

Corporations Act means *Corporations Act 2001* (Cth).

Default means an Event of Default or a Potential Event of Default.

Dollars, \$ or A\$ means the lawful currency of the Commonwealth of Australia.

Drawdown Date means the date on which an Advance is made, or is to be made, to the Borrower under this document.

Drawdown Notice means a notice given under clause 3 in the form of Schedule 3.

Event of Default means an event listed in clause 11.2.

Facility means the cash advance facility provided under clause 2.

Final Repayment Date means 1 November 2030.

Financial Indebtedness means any debt or other monetary liability in respect of moneys borrowed or raised or any financial accommodation including under or in respect of any:

- (a) Bill, bond, debenture, note or similar instrument;
- (b) acceptance, endorsement or discounting arrangement;
- (c) Guarantee;
- (d) finance or capital Lease;
- (e) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service;
- (f) obligation to deliver goods or provide services paid for in advance by any financier;
- (g) agreement for the payment of capital or premium on the redemption of any preference shares; or
- (h) swap, option, forward or other hedge or derivative agreement or arrangement of any kind relating to interest rates, exchange rates, commodities, indices or assets (and, when calculating the liability in connection with any such derivative transaction, only the marked to market value is taken into account unless the derivative transaction has been terminated or closed-out, in which case the liability is the termination amount or close out amount for the derivative transaction);

and irrespective of whether the debt or liability:

- (i) is present or future;
- (ii) is actual, prospective, contingent or otherwise;
- (iii) is at any time ascertained or unascertained;
- (iv) is owed or incurred alone or severally or jointly or both with any other person; or
- (v) comprises any combination of the above.

Financial Year has the meaning given in the AFFA.

First Period has the meaning given in the definition of Period.

GST means goods and services tax under the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999*.

Government Agency means a government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

Guarantee means a guarantee, indemnity, letter of credit, letter of comfort or other assurance or assumption of responsibility given at any time for a debt or liability of another person or the solvency or financial condition of that person.

Guarantor means each of:

- (a) ABN 60;
- (b) Amaca; and
- (c) Amaba.

Initial Commitment means \$320,000,000.

Insolvency Event means the occurrence of any one or more of the following events in relation to an Obligor, other than any such event that occurs pursuant to the Transaction Legislation:

- (a) an application is made to a court for an order that it be wound up, declared bankrupt or that a provisional liquidator or receiver or receiver and manager be appointed, and the application is not withdrawn, struck out or dismissed within 14 days of it being made;
- (b) a liquidator or provisional liquidator is appointed;
- (c) an administrator or a Controller is appointed to any of its assets;
- (d) it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors;
- (e) it proposes a winding-up or dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;

- (f) other than in respect of a Guarantor, it is insolvent as disclosed in its accounts, or otherwise states that it is insolvent, or it is presumed to be insolvent under an applicable law;
- (g) it becomes an Insolvent under Administration or action is taken which could result in that event;
- (h) it is taken to have failed to comply with a statutory demand as a result of section 459F(1) of the Corporations Act;
- (i) a notice is issued under sections 601AA or 601AB of the Corporations Act;
- (j) a writ of execution is levied against it or its property;
- (k) it ceases to carry on business or threatens to do so; or
- (l) anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the above clauses of this definition.

Insurance Policy means an insurance policy details of which are set out in Schedule 5.

Interest Payment Date means, in relation to an Advance, the last day of an Interest Period.

Interest Period means, in relation to an Advance, an interest period determined for that Advance under clause 4.2.

Lease means a lease, charter, hire purchase, hiring agreement or any other agreement under which any property is or may be used or operated by a person other than the owner.

Loan means, at any time, the total of all outstanding Advances at that time.

Loss means any loss, liability, damage, claim, and all related costs, expenses outgoings or payments (including any and all legal fees and costs of investigation, litigation, settlement, judgment, appeal, interest and penalties).

Marlew Claims has the meaning given in the AFFA.

NSW Government Agency means a governmental, semi-governmental, administrative or fiscal body, department, commission, authority, tribunal, agency or entity owned or controlled by the State of New South Wales.

Obligor means each of the Borrower and each Guarantor.

Period means each period during the life of the Facility from and including a Review Date to but excluding the immediately following Review Date except that:

- (a) in the case of the first Period during the life of the Facility, it shall be the period from the first Drawdown Date to but excluding the immediately following Review Date (**First Period**); and
- (b) in the case of the last Period during the life of the Facility, it shall be the period from the last Review Date during the life of the Facility to and including the date on which the Amount Outstanding is finally repaid in full.

Permitted Security Interest means:

- (a) a Security Interest arising by operation of law in the ordinary course of business securing money owing for goods or services which is not yet due and payable; or
- (b) a Security Interest in favour of the Lender;
- (c) a Security Interest created with the prior written consent of the Lender; or
- (d) a lien held by an Obligor over the property of the Trust of which that Obligor is the trustee in respect of that Obligor's right to be indemnified out of the property of the relevant Trust.

Personal Asbestos Claims has the meaning given in the AFFA.

Potential Event of Default means any thing which would become an Event of Default on the giving of notice (whether or not notice is actually given), the expiry of time, the satisfaction or non-satisfaction of any condition, or any combination of the above.

Power means a power, right, authority, discretion or remedy which is conferred on the Lender or a Receiver or Attorney:

- (a) by a Transaction Document; or
- (b) by law in relation to a Transaction Document.

Receiver means a receiver or receiver and manager appointed under a Transaction Document and if more than one, then each of them, and also any servant, agent or delegate of any of them.

Review Date means each "Payment Date" under and as defined in the AFFA.

Secured Property means the property subject to a Security.

Security means:

- (a) the fixed and floating charge dated on or about the date of this document; and
- (b) each other Guarantee, Security Interest or other document or agreement entered into by any person to secure the Amount Outstanding.

Security Interest means a right, interest, power or arrangement in relation to an asset which provides security for the payment or satisfaction of a debt, obligation or liability including without limitation under a bill of sale, mortgage, charge, lien, pledge, trust, power, deposit, hypothecation or arrangement for retention of title, and includes an agreement to grant or create any of those things.

Shortfall Amount means, for a Period, the amount calculated near the commencement of that Period by the Borrower (and approved by the Lender acting reasonably) to be the amount by which, on a consolidated basis, the cash funds projected to be available to the Obligors in that Period will fall short of 110% of the projected aggregate amount of both their ongoing operating expenses and expected payments of Personal Asbestos Claims and Marlew Claims in that Period. For the avoidance of doubt, if for a Period there is no such projected cash shortfall or if there is a projected cash surplus, the Shortfall Amount for that Period shall be nil.

Tax means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature, including, without limitation, stamp and transaction duty or any goods and services tax, (including GST), value added tax or consumption tax, which is imposed or collected by a Government Agency, except where the context requires otherwise. This includes, but is

not limited to, any interest, fine, penalty, charge, fee or other amount imposed in addition to those amounts.

Transaction Document means:

- (a) this document;
- (b) a Security;
- (c) any document that amends, varies or is given or entered into under or in relation to a Transaction Document; or
- (d) any document which the parties agree in writing to be a Transaction Document for the purpose of this definition.

Transaction Legislation has the meaning given in the AFFA.

Trust means, in respect of an Obligor, any trust (whether or not disclosed to the Lender) in respect of which the Obligor enters into a Transaction Document as trustee.

Trust Deed means, in respect of a Trust and the relevant Obligor trustee, any document establishing or evidencing the Trust and includes, in respect of the Charitable Fund, the “Trust Deed” under and as defined in the AFFA.

Undrawn Commitment means, at any time, the Commitment less:

- (a) the Loan; and
- (b) any amounts included in the schedule of calculations for the Shortfall Amount delivered to and approved by the Lender under clause 3.3(f) in respect of the Period current at that time as representing proceeds of any Insurance Policy or any claim under any Insurance Policy projected to be available to the Obligors on a consolidated basis during that Period.

Uplift Amount is defined in clause 2.5.

Valuation means, in respect of a Review Date, the net present value of forecast recoveries from the Insurance Policies current on the Review Date (as taken into account in determining the Discounted Central Estimate) as stated in the most recent Annual Actuarial Report (or as confirmed or certified (as the case may be) by the Approved Actuary in the manner contemplated by clause 3.3(h)) or, if the Lender so determines, a higher amount determined by the Lender after consultation with the Borrower..

Warranties means the warranties set out in Schedule 4.

2 Interpretation

In this document the following rules of interpretation apply unless the contrary intention appears.

- (a) headings are for convenience only and do not affect the interpretation of this document;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;

- (d) where a word or phrase is given a particular meaning, other capitalised parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as nor are intended to be interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including but not limited to a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this document;
 - (vi) this document includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement other than this document includes an undertaking, or legally enforceable arrangement or understanding whether or not in writing; and
 - (ix) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and severally;
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the preceding Business Day;
- (i) in determining the time of day where relevant to this document, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this document, the time of day in the place where the party required to perform an obligation is located; and
- (j) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it.

**Schedule 2 —
Condition precedent certificate**

To: The State of New South Wales (**Lender**)

This Condition Precedent Certificate is given on *[insert date]* under clause 3 of the AICF Facility Agreement (**Facility Agreement**) dated *[insert date]* 2010 between the Lender and Asbestos Injuries Compensation Fund Limited ACN 117 363 461 in its capacity as trustee of the Charitable Fund established under a trust deed dated 7 April 2006 (as amended and restated) between it as trustee and James Hardie Industries SE as settlor and others.

A term defined in the Facility Agreement has the same meaning in this condition precedent certificate.

I *[insert name]* am a *[director/company secretary]* of *[insert name of Obligor]* (**Company**). I certify as follows:

Attached to this Certificate are true, complete and up to date copies of each of the following:

- (a) the certificate of *[incorporation/registration]* and constitution of the Company (marked “A”);
- (b) an extract of minutes (marked “B”) of a duly convened meeting of the directors of the Company:
 - (i) approving execution of each Transaction Document to which it is a party *[and the granting of the powers of attorney referred to in clause 1.1(c) below]*; and
 - (ii) acknowledging that each Transaction Document to which it is a party is in the best interests, for the corporate benefit and for a proper purpose of the Company and is for a proper purpose of and to further the purposes of any trust (and the beneficiaries of that trust, as applicable) of which it acts as trustee (if applicable),
 - (iii) which minutes are fully effective and have not been varied or revoked;
- (c) [a signed power of attorney (marked “C”) under which the Company validly signs the Transaction Documents to which it is a party, which power of attorney is fully effective and has not been varied or revoked;]
- (d) if a trustee, all of the documents (marked “D”) which constitute the terms of the trusts of which the Company is trustee.

Signed

Director/Company Secretary

Schedule 3 — Drawdown notice

To *[insert name of Lender]*

Dear Sirs

AICF Facility Agreement dated *[insert date]* 2010 (**Facility Agreement**)

The Borrower gives notice that it intends to drawdown an Advance on *[insert date]*. Terms defined in the Facility Agreement have the same meaning in this notice.

Amount of Advance: The amount of the Advance is \$*[insert amount]*.

Drawdown Date: The proposed Drawdown Date is *[insert date]*.

Proceeds of Drawing: Please pay the proceeds of drawing to the SPF's (as defined in the Transaction Legislation) bank account *[insert details]*.

Interest Periods: Subject to clause 4.2 of the Facility Agreement, the first Interest Period will be one month ending on *[insert date]*.

Representations and Warranties: The Borrower represents and warrants that:

- (a) the proceeds of the Advance will only be used for an Approved Purpose;
- (b) each Warranty remains correct, repeated with reference to the facts and circumstances existing at the date of this notice; and
- (c) no Event of Default has occurred which remains unremedied or which has not been waived in writing, or will occur as a result of the drawdown.

Signed for and on behalf of []
in accordance with section 127 of
the *Corporations Act 2001* (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Gilbert + Tobin

Schedule 3 | page | 38

Schedule 4 — Warranties

- (a) **incorporation or registration:** It is a corporation with limited liability and it is incorporated or taken to be incorporated or registered and validly existing under the Corporations Act.
- (b) **authority:** It has taken all necessary action to authorise the signing, delivery and performance of the Transaction Documents and the documents required under them in accordance with their respective terms.
- (c) **power:** It has power to enter into the Transaction Documents and perform its obligations under them and can do so without the consent of any other person.
- (d) **binding:** The Transaction Documents to which it is a party constitute its legal, valid and binding obligations enforceable against it in accordance with their terms subject to any registration if required and except to the extent limited by equitable principles, statutes of limitation and applicable laws affecting creditors' rights generally.
- (e) **permitted transactions:** The execution of the Transaction Documents and the performance by it of its obligations or the exercise of its rights under the Transaction Documents does not:
 - (i) contravene its constitution;
 - (ii) contravene a law or Authorisation;
 - (iii) contravene an agreement or obligation binding on it or applicable to its assets, revenues or business;
 - (iv) exceed any limits on its powers or the powers of its directors;
 - (v) result in the creation of a Security Interest over its assets, revenues or business other than in favour of the Lender;
 - (vi) result in the acceleration or cancellation of an agreement or obligation relating to indebtedness;
 - (vii) involve an act, matter or thing which constitutes an event of default or prepayment, cancellation or similar event under an agreement or obligation about indebtedness, or which would constitute an event of that kind with the giving of notice, passing of time or the fulfilment of any other condition.
- (f) **no Security Interest:** No Security Interest exists over any of its assets, revenues or business other than a Permitted Security Interest.
- (g) **compliance:** It has complied with the Transaction Legislation, the AFFA (in the case of the Borrower) and the Trust Deed (in the case of the Borrower) and with all other applicable laws.
- (h) **registration:** It is not necessary that a Transaction Document or another document be filed or registered with a Government Agency to ensure:
 - (i) that the Transaction Documents are valid, enforceable or admissible in evidence in a relevant jurisdiction; or

- (ii) that each Transaction Document which is a Security Interest has the priority intended on the face of the document,
- (iii) other than the registration of each Security with ASIC;
- (i) **no litigation:** There is no litigation, arbitration, administrative procedure or other dispute resolution procedure taking place, pending or threatened against it or any of its assets which would prevent it from carrying on all of its business or a substantial part of its business if it was successful (except, in the case of a Guarantor, for any litigation, arbitration, administrative procedure or other dispute resolution procedure in relation to a Personal Asbestos Claim or a Marlew Claim).
- (j) **accounts:** any Accounts delivered to the Lender under this document:
 - (i) were prepared in accordance with Accounting Standards; and
 - (ii) in the case of the Accounts of each Obligor (other than the Borrower), show a true and fair view of its financial position as at the end of the financial period to which they relate and the results of its operations for that period; and
 - (iii) in the case of the consolidated Accounts for the Compensation Funds and their Controlled Entities, show a true and fair view of the financial position of the Compensation Funds and their Controlled Entities as at the end of the financial period to which they relate and the results of their operations for that period.
- (b) **information accurate:** All the information which it has given to the Lender is, on the date it was given, true in all material respects and is, on the date on which it was given, not by omission or otherwise, misleading in a material respect.
- (c) **not a trustee:** It is not a trustee of any trust (other than as previously disclosed to the Lender by the Obligors in writing).
- (d) **completeness:** There is no fact known to it which materially adversely affects its assets or financial condition which it has not disclosed in writing to the Lender.
- (e) **no immunity:** Subject to any contrary provision of the Transaction Legislation, it does not, and its assets do not, enjoy immunity from any suit or execution.
- (f) **Taxes:** It has complied with all laws relating to Tax in all applicable jurisdictions and it has paid all Taxes due and payable by it.
- (g) **(trust warranties)** if it is trustee of a Trust, then other than as expressly permitted by the AFFA or the Transaction Legislation:
 - (i) a true and complete copy of the Trust Deed has been provided to the Lender and discloses all the terms of the Trust which have not been revoked or varied in any way;
 - (ii) the Trust Deed has been duly executed and duly stamped in accordance with the laws of each State and Territory of Australia;
 - (iii) the Trust Deed and its constituent documents give it power:
 - (A) to carry on all of the business activities now conducted by it; and

- (B) to enter into and comply with its obligations under, and to carry on the transactions contemplated by, the Transaction Documents to which it is a party;
- (iv) all necessary resolutions have been duly passed and all consents have been obtained and all other procedural matters have been attended to as required by the Trust Deed, any other document or any law for the entry into, observance and performance by it of its obligations under the Transaction Documents to which it is a party;
 - (v) each of its obligations under the Transaction Documents to which it is a party constitutes a binding obligation and is completely and lawfully enforceable against its and the Trust's property in accordance with its terms subject to laws and defences affecting creditors' rights generally and the availability of equitable remedies;
 - (vi) it is the only trustee of the Trust;
 - (vii) no property of the Trust has been re-settled, set aside or transferred to any other trust or settlement;
 - (viii) the Trust has not been terminated, nor has the date or any event for the vesting of the Trust's property occurred;
 - (ix) no determination has been made to distribute the Trust's property (except as expressly permitted by the AFFA or the Transaction Legislation);
 - (x) there is no conflict of interest on the Obligor's part in entering into the Transaction Documents to which it is a party and complying with its obligations under them;
 - (xi) it has an unrestricted right to be fully indemnified out of the Trust's property in respect of any losses or liabilities incurred by it under or in connection with the Transaction Documents to which it is a party and the Trust's property is sufficient to satisfy that right of indemnity;
 - (xii) it has complied with its obligations in connection with the Trust and, to its knowledge after due enquiry, no one has alleged that it has not so complied;
 - (xiii) the Lender's rights under the Transaction Documents rank in priority to the rights of the beneficiaries or unitholders of the Trust (if any);
 - (xiv) the Trust Deed complies with all applicable laws in all material respects; and
 - (xv) the execution of the Transaction Documents and the compliance by the Obligor with its obligations under it are for a proper purpose of and to further the purposes of the Trust.

Execution page

Executed as an agreement.

Signed by **Asbestos Injuries Compensation Fund Limited** by:

/s/ J Marchione

Signature of director

JOANNE MARCHIONE

Name of director (print)

Signed for **ABN 60 Pty Limited** under power of attorney in the presence of:

/s/ H D Nguyen

Signature of witness

HAI DANG NGUYEN

Name of witness (print)

Signed by **Amaca Pty Ltd** by:

/s/ J Marchione

Signature of director

JOANNE MARCHIONE

Name of director (print)

Gilbert + Tobin

/s/ D Booth

Signature of secretary

DALLAS BOOTH

Name of secretary (print)

/s/ D Booth

Signature of attorney

DALLAS BOOTH

Name of attorney (print)

/s/ D Booth

Signature of secretary

DALLAS BOOTH

Name of secretary (print)

CONFORMED COPY



Fixed and floating charge

Asbestos Injuries Compensation Fund Limited

ACN 117 363 461

in its capacity as trustee of the Charitable Fund established under a trust deed dated 7 April 2006 (as amended and restated) between it as trustee and James Hardie Industries SE as settlor

ABN 60 Pty Limited (under NSW administered winding up)

ACN 000 009 263

Amaca Pty Ltd (under NSW administered winding up)

ACN 000 035 512

Amaba Pty Ltd (under NSW administered winding up)

ACN 000 387 342

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Date: 9 December 2010

Parties

- 1 **Asbestos Injuries Compensation Fund Limited** ACN 117 363 461 (**AICF**) in its capacity as trustee of the Charitable Fund established under a trust deed dated 7 April 2006 (as amended and restated) between it as trustee and James Hardie Industries SE as settlor, of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Borrower**);
- 2 **ABN 60 Pty Limited** (under NSW administered winding up) ACN 000 009 263 of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**ABN 60**);
- 3 **Amaca Pty Ltd** (under NSW administered winding up) ACN 000 035 512 of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Amaca**);
- 4 **Amaba Pty Ltd** (under NSW administered winding up) ACN 000 387 342 of Level 7, 233 Castlereagh Street, Sydney, New South Wales (**Amaba**);
(each of the Borrower, ABN 60, Amaca and Amaba separately referred to as the **Chargor**); and
- 5 **The State of New South Wales** of c/- The NSW Treasury, Level 27, Governor Macquarie Tower, 1 Farrer Place, Sydney, New South Wales (**Chargee**).

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary;
- (b) which is defined in, or for the purposes of, the Facility Agreement, but is not defined in the Dictionary, has the meaning given to it in the Facility Agreement;
- (c) which is defined in the Corporations Act, but is not defined in the Dictionary or the Facility Agreement, has the meaning given to it in the Corporations Act; and
- (d) which is defined in the GST Law, but is not defined in the Dictionary, the Facility Agreement or the Corporations Act, has the meaning given to it in the GST Law.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this deed.

2 Charge

2.1 Charge

The Chargor charges all of its present and future right, title and interest in the Secured Property to the Chargee as security for the due and punctual payment of the Secured Money.

2.2 Priority

The Charge takes priority over all other Security Interests of the Chargor, subject to the Permitted Security Interests.

2.3 Consideration

The Chargor enters into this Deed for valuable consideration from the Chargee, and acknowledges receipt of that consideration including the Chargee's agreement to enter into the Facility Agreement at the request of the Chargor.

2.4 Fixed charge

The Charge is a fixed charge over all the Chargor's present and future interests in all of the Secured Property of the Chargor, subject to clause 2.5.

2.5 Floating charge

- (a) The Chargor must deal with the proceeds from Insurances, from any Advances, from any Annual Payment and from any Book Debt in accordance with clauses 2.6(a) and 2.12.
- (b) Subject to this clause 2.5, if despite clause 2.4 the Charge is in accordance with law not fixed over any of the Secured Property, the Charge is a floating charge over all the Secured Property which is not subject to a fixed charge under clause 2.4.
- (c) Subject to clause 2.12, the Chargor may deal with any Secured Property for the time being subject to a floating charge only in the ordinary course of the Chargor's ordinary business and in accordance with the Transaction Legislation, the Transaction Documents and the AFFA (as applicable).
- (d) If the Charge crystallises in accordance with clause 2.8 on any part of the Secured Property, the Chargor may not deal with that part of the Secured Property except by a Controller appointed under this deed.

2.6 Dealing with proceeds — Bank Accounts

- (a) The Chargor must deposit in its Bank Accounts any proceeds it receives from Insurances, from any Advances, from any Annual Payment or from any Book Debt in accordance with the requirements of the Transaction Legislation, the Transaction Documents and the AFFA (as applicable) and may deal with those proceeds only in the ordinary course of the Chargor's ordinary business and in accordance with the Transaction Legislation, the Transaction Documents and the AFFA (as applicable).
- (b) At any time an Event of Default subsists and the Chargee so requires:
 - (i) Authorised Officers of the Chargee shall be the only signatories to the Bank Accounts of the Chargor; and
 - (ii) no withdrawals may be made from the Bank Accounts without the approval of the Chargee.
- (c) The Chargor shall ensure that the terms and conditions of the Bank Accounts:
 - (i) comply with the requirements under paragraph (b); and
 - (ii) provide that the Chargee shall receive monthly copies of the bank statements showing a record of the transactions for the account.

- (d) The Chargor shall give notices and directions to the Account Bank necessary or requested by the Chargee to ensure paragraphs (b) and (c) are complied with, including forwarding a form of notice of charge as set out in Schedule 2 to the Account Bank and forwarding the acknowledgment of that form of notice by the Account Bank to the Chargee.
- (e) Failure by the Chargee to require the Chargor to comply with this clause will not constitute a waiver.
- (f) Without prejudice to paragraph (e), if for any reason the Chargee waives or is taken to have waived the requirements of this clause, the Charge will still operate as a fixed charge in respect of the Bank Accounts.

2.7 Proceeds and Book Debts

- (a) **Event of Default:** Notwithstanding and in addition to the Chargee's rights under clause 2.6, the Chargor must, if the Chargee requires by notice in writing while an Event of Default subsists, ensure that the Bank Accounts operate on terms that:
 - (i) nominated Authorised Officers of the Chargee are signatories to the Bank Accounts;
 - (ii) no withdrawals can be made from the Bank Accounts unless one of those Authorised Officers authorises the withdrawal by signature; and
 - (iii) at any time the Chargee (without giving any notice under any law or otherwise) may, subject to the Transaction Legislation, operate the Bank Accounts by the signature of only one of those Authorised Officers and give notice to the Account Bank that this right has arisen.
- (b) **Assurances:** The Chargor must give all notices and directions and sign all necessary documents which the Chargee requests to ensure paragraph (a) is complied with.
- (c) **Fixed Charge continues:** If the Chargee or an Attorney or Receiver waives a Power under this clause 2.7, the fixed charge created by this deed over the relevant Book Debt, Insurance or other relevant asset continues to operate as a fixed charge.
- (d) **Collection of Book Debts by Chargee:** The Chargee may notify the Chargor at any time on or after the time the Chargee gives a notice under paragraph (a) that:
 - (i) the Chargor is prohibited from collecting the Chargor's Book Debts; and
 - (ii) the Chargee intends to collect the Chargor's Book Debts.

If a notice is given under this paragraph, then the Chargor agrees to:

- (iii) the Chargee collecting the Book Debts and notifying debtors of the Chargee's interest in the Book Debts;
- (iv) the Chargee preparing and dispatching invoices in connection with the Book Debts, whether or not an invoice has been prepared previously or dispatched in respect of a Book Debt; and

(v) use its best endeavours in assisting the Chargee to collect the Book Debts.

(e) **Waivers:** Paragraph (c) is subject to clauses 14.23 (**Variation**) and 14.24 (**Waiver**)

2.8 Crystallisation

The floating charge created in clauses 2.1 and 2.5 automatically and immediately crystallises and becomes fixed:

- (a) **automatic crystallisation:** on all of the Secured Property which is not already subject to a fixed charge, without any notice, if:
- (i) **demand to pay Secured Money:** the Chargee makes a demand of the Chargor to pay the Secured Money in exercise of a right under a Transaction Document or the Charge is enforced in any other way;
 - (ii) **Insolvency Event:** an Insolvency Event occurs in relation to the Chargor or another Security Provider;
 - (iii) **breach negative pledge:** the Chargor breaches clause 5.3;
 - (iv) **unpaid Taxes:** the Commissioner of Taxation signs a notice relating to the Chargor for unpaid Tax or anything else occurs which could create a Security Interest in favour of a Government Agency over the Secured Property;
- (b) **crystallisation by notice:** on all Secured Property which is not already subject to a fixed charge if the Chargee gives a notice in writing to the Chargor at any time if the Chargee reasonably considers it is necessary to do so to protect its rights under this deed or for so long as an Event of Default subsists;
- (c) **Book Debts:** on the proceeds of any Book Debt or other debt or other money now or in the future payable to the Chargor (to the extent that the proceeds are not secured by way of fixed charge under clause 2.4), when notice of crystallisation is given to the Chargor by the Chargee either generally, or in relation to specific proceeds or other money; or
- (d) **crystallisation without notice:** on a particular asset forming part of the Secured Property and not already subject to a fixed charge, without any notice, if:
- (i) the Chargor deals with that asset in breach of a Transaction Document or the Transaction Legislation or the AFFA, or attempts to do so; or
 - (ii) a Security Interest, other than this Charge, over that asset becomes enforceable or a person enforces or attempts to enforce a Security Interest over that asset or any floating Security Interest over that asset crystallises or otherwise becomes a fixed Security Interest (other than the exercise by AICF of its right to be indemnified out of the assets of the Charitable Fund in a manner which is not inconsistent with the AFFA, the Transaction Legislation or the Transaction Documents);
 - (iii) when any step is taken to issue, levy or enforce any distress, attachment, execution or other process against or upon that asset;
 - (iv) when a notice which affects that asset is issued, signed or given under Subdivision 260-A of Schedule 1 of the Taxation Administration Act 1953 (Cth) by, or on behalf of, the Commissioner of Taxation or the Deputy Commissioner of Taxation, or under any similar legislation; or

- (v) when any thing occurs which may result in any amounts, including Tax or moneys owing to employees, ranking ahead of the floating charge with respect to that asset; and
- (e) on a particular asset forming part of the Secured Property and not already subject to a fixed charge if the Chargee gives a notice in writing to the Chargor in relation to that asset while an Event of Default is subsisting.

2.9 De-crystallisation

- (a) If the floating charge over an asset has become fixed under clause 2.8, the Chargee may release the asset from that fixed charge by notice in writing to the Chargor.
- (b) If the Chargee gives a notice under paragraph (a), the asset is again subject to a floating charge under clause 2.1 and 2.5, and subject to the further operation of clause 2.8 and this clause 2.9 any number of times.

2.10 Prospective liability

- (a) The parties acknowledge that the maximum amount of the prospective liability secured by this deed for the purposes of establishing priority under section 282(3) of the Corporations Act, is \$A1,000,000,000.
- (b) Paragraph (a) does not affect or limit the actual amount of Secured Money secured by the Charge.

2.11 Increase in prospective liability

From time to time, the Chargee may lodge a notice under s 268(2) of the Corporations Act on behalf of the Chargor specifying an increase in the maximum prospective liability secured by this deed. From the date of lodgement the sum specified in clause 2.10 (**Prospective liability**) will be taken to be varied to the sum specified in the notice.

2.12 Dealing with proceeds of Book Debts

The Chargor may deal with the proceeds of any Book Debt in the ordinary course of its ordinary business in accordance with the Transaction Legislation, the Transaction Documents and the AFFA (as applicable) where:

- (a) the Book Debt arose in the ordinary course of business;
- (b) the proceeds do not arise from the disposal of, or grant of an interest in, an asset the subject of the fixed charge under clause 2.4;
- (c) the proceeds are received while no Event of Default is subsisting or before the floating charge crystallises in respect of all of the Secured Property and before anything described in clause 2.8 occurs with respect to the Book Debts or those proceeds; and
- (d) the proceeds are received before the Chargee notifies the Chargor that it is prohibited from collecting the Book Debts in accordance with clause 2.7(d).

2.13 Adverse effect on operations

The parties acknowledge that, if at any time the Borrower forms the view that the operation of clause 2.6, 2.7, 2.8, 2.9 or 2.12 adversely affects the ability of the Obligors to conduct operations as contemplated by the AFFA or the Transaction Legislation, the parties will meet to discuss those concerns.

3 Release of the charge

3.1 Release of Charge

- (a) The Chargee is not obliged to discharge the Charge unless the Chargee is satisfied that:
 - (i) the Secured Money has been paid in full;
 - (ii) the Chargor and each other Security Provider has complied with its obligations under each Transaction Document, the Transaction Legislation and the AFFA;
 - (iii) there is no reasonable possibility that money received or recovered to satisfy Secured Money must be repaid or refunded under any law, including a law about preferences, bankruptcy, insolvency, Winding Up or the protection of creditors; and
 - (iv) no further Secured Money will be owed by the Chargor or any Security Provider to the Chargee within a reasonable time after the date on which the Chargor requests the Chargee to discharge the Charge.
- (b) The parties intend that paragraphs (a)(iii) or (a)(iv) (or both) be severed from paragraph (a) if it is (or they are) void or unenforceable under applicable law. This paragraph (b) does not exclude the general law of severance.

3.2 Partial release of Charge

- (a) The Chargee may release a part of the Secured Property from the Charge at any time.
- (b) A release under paragraph (a) does not adversely affect:
 - (i) the Charge over other Secured Property; or
 - (ii) a Transaction Document.

3.3 Reinstatement of Charge

- (a) The Chargor must do or cause to be done anything the Chargee requires the Chargor to do to reinstate the Charge, if anyone claims that money applied to satisfy Secured Money has to be repaid or refunded under any law after the Charge has been discharged.
- (b) A law referred to in paragraph (a) includes a law about preferences, bankruptcy, insolvency, Winding Up or the protection of creditors.
- (c) The Chargee may require the Chargor to sign documents under paragraph (a) and may do so as the Chargor's attorney if the Chargor does not do so.
- (d) If a claim referred to in paragraph (a) is upheld or admitted, the Chargee is entitled to the same Powers against the Chargor and the Secured Property as it would have had if the relevant money had not been applied to satisfy Secured Money, and the Charge had never been discharged.

(e) This clause 3.3 survives discharge of the Charge.

3.4 Release of Title Documents

The Chargee may retain any Title Documents delivered under this deed until the Charge is finally discharged under this clause 3.4.

3.5 Continuing security

This deed is a continuing security despite a settlement of account or any other matter or thing until a final discharge is given to the Chargor.

4 Representations and warranties

4.1 Representations and warranties

- (a) The Chargor represents and warrants to the Chargee that each of the representations and warranties of the Chargor in each Transaction Document are, or will be, true and correct in all respects when made or regarded as having been made.
- (b) Each representation and warranty must be construed independently and is not limited by reference to another one.

4.2 Survival of representations and warranties

The representations and warranties given in this clause 4 survive the execution of this deed.

4.3 Reliance

The Chargor acknowledges that:

- (a) it has not entered into this deed or another Transaction Document in reliance on a representation, warranty or promise made by the Chargee or another person on behalf of the Chargee; and
- (b) the Chargee has entered into this deed in reliance on the representations and warranties given in this clause 4.

5 Undertakings of the Chargor

5.1 Performance under Transaction Documents

- (a) The Chargor must comply with its obligations under the Transaction Documents in full and on time.
- (b) Without limiting paragraph (a), the Chargor must pay the Secured Money in accordance with the Transaction Documents or, if the Transaction Documents do not prescribe the time for or manner of its payment, on demand or as required by the Chargee and in Cleared Funds.
- (c) The Chargor must ensure that no Event of Default occurs.

5.2 Undertakings about the Secured Property

Unless permitted under a Transaction Document or the Chargee otherwise consents in writing, the Chargor must:

- (a) **title:** remedy any defect in its title to any part of the Secured Property;
- (b) **legal proceedings:** take or defend legal proceedings or other action which the Chargee thinks advisable to protect or recover Secured Property;
- (c) **not prejudice:** not do, fail to do or permit to occur, anything which adversely affects a Power of the Chargee under this deed, or which may result in any Secured Property being:
 - (i) surrendered, forfeited, exchanged, cancelled or adversely affected in any manner; or
 - (ii) reduced in value;
- (d) **pay Taxes:** pay all Taxes and outgoings relating to the Secured Property when due, whether or not the Chargee has taken possession of Secured Property, and give the Chargee copies of the receipts if required by the Chargee;
- (e) **damage:** promptly notify the Chargee of any event which affects or might affect the rights of the Chargee under this deed;
- (f) **access:** provide to the Chargee, an Attorney or Receiver or their professional advisers full access to the Secured Property and all premises and employees of the Chargor at reasonable times to inspect Secured Property or exercise a Power of the Chargee;
- (g) **inventory:** on demand by the Chargee, provide to the Chargee a complete inventory of the Secured Property including all details (including the value and location) of each item of the Secured Property; and
- (h) **Title Documents:** on demand by the Chargee, deposit with the Chargee all Title Documents for Secured Property over which the Charge is at the time of the demand a fixed charge.

5.3 Negative pledge

- (a) Subject to clauses 2.5(c), 2.6 and clause 2.12, and except as permitted under a Transaction Document, the Chargor must not do any of the following things without first getting the written consent of the Chargee:
 - (i) deal with any of the Secured Property, sell it or otherwise dispose of it or part with possession of it;
 - (ii) create a Security Interest or allow a Security Interest to subsist over any of the Secured Property, or allow that or agree to it, other than a Permitted Security Interest;
 - (iii) attempt to do anything listed in paragraph (i) or (ii);
 - (iv) cause the operating procedures of the Bank Accounts of the Chargor under clause 2.6 to be varied, repudiated, rescinded, terminated or rendered void, voidable or unenforceable;

- (v) abandon, settle, compromise, discontinue or become non-suited in respect of any proceedings against any person (other than the Chargee) in respect of any right of the Chargor in respect of the Secured Property (other than in the ordinary course of its ordinary business); or
- (vi) waive any of its rights or release any person from its obligations in respect of the Secured Property.
- (b) Where, by law, the Chargee may not restrict the creation of any Security Interest over an asset ranking after the Charge, paragraph (a) will not restrict that creation, but the Chargor shall ensure that before that Security Interest is created the holder of that Security Interest enters into a deed of priority in form and substance specified by the Chargee.

5.4 Registration and protection of security

The Chargor must ensure that this deed and each Security is registered and filed in all registers in all jurisdictions in which it must be registered and filed to ensure that it is fully effective and enforceable and has priority as a first ranking charge, subject to any priority agreed to in writing by the Chargee.

5.5 Term of undertakings

Each of the Chargor's undertakings in this clause 5 continues in full force and effect from the date of this deed until the Charge in respect of all the Secured Property is discharged under clause 3.

6 Events of default

6.1 Consequences of an Event of Default

- (a) The Charge and each Security are immediately enforceable if an Event of Default subsists without the need for any demand or notice to be given to the Chargor or any other person.
- (b) Whilst an Event of Default is subsisting, the Secured Money is immediately due and payable by the Chargor without the need for any demand or notice to be given to the Chargor or any other person other than a notice expressly required by a Transaction Document.
- (c) The Chargee may enforce this Charge before it enforces other rights or remedies:
 - (i) against any other person; or
 - (ii) under another document, such as another Security.
- (d) If the Chargee has more than one Security, it may enforce them in any order it chooses.
- (e) The right of the Chargor to deal, for any purpose, with the Secured Property, other than by or through an Attorney or a Receiver appointed under this deed, immediately ceases on the crystallisation of the Charge in respect of the Secured Property.
- (f) The right of the Chargor to deal, for any purpose, with an asset which forms part of the Secured Property, other than by or through an Attorney or a Receiver

appointed under this deed, immediately ceases on the crystallisation of the Charge of the Chargor in respect of that asset.

6.2 Assistance in realisation

After the Charge has become enforceable, the Chargor must take all action required by the Chargee, an Attorney or a Receiver for the purpose of assisting them to realise the Secured Property and exercise any Power including:

- (a) signing all transfers, conveyances, assignments and assurances of any of the Secured Property;
- (b) doing anything necessary or desirable for the above purpose under the law of the place where Secured Property is situated; and
- (c) giving all notices, orders, directions and consents which the Chargee or an Attorney or a Receiver thinks expedient.

6.3 Title documents

If the Charge is enforced by the Chargee, the Chargee, an Attorney or a Receiver is entitled:

- (a) to deal with the Title Documents as if it was the absolute and unencumbered owner of the Secured Property to which the Title Documents relate; and
- (b) in exercising a power of sale, to deliver a Title Document to a purchaser of the Secured Property.

6.4 Completion of blank securities

- (a) At any time after the Charge has become enforceable, the Chargee, an Attorney or a Receiver may complete any instrument which is signed in blank by or on behalf of the Chargor and deposited with the Chargee as security under this deed or any other Security.
- (b) An instrument referred to in paragraph (a) may be completed in favour of the Chargee, an appointee of the Chargee or a purchaser.

7 Powers on default

7.1 Chargee's powers

If an Event of Default subsists, the Chargee, an Attorney or a Receiver has the power to do all acts and things and exercise all Powers that the Chargor could do or exercise in relation to the Secured Property, including the Power to do any of the following:

- (a) **manage, possession or control:** manage, enter into possession or assume control of Secured Property;
- (b) **receive rents:** receive income and profits of the Secured Property;
- (c) **sale:** sell or agree to sell Secured Property to any person on terms the Chargee thinks fit and irrespective of:
 - (i) whether or not the Chargee has taken possession;

- (ii) whether by auction, private treaty or tender;
- (iii) whether for cash or on deferred purchase terms or a combination of those and whether or not deferred purchase terms provide for the charging of interest or the giving of security;
- (iv) whether in one lot or in parcels;
- (v) whether or not it is sold with other property by the Chargee or another person;
- (vi) whether with or without special provisions including provisions about title and payment of purchase price;
- (d) **grant options to purchase:** grant to any person an option to purchase any of the Secured Property on terms that the Chargee thinks fit;
- (e) **acquire assets:** acquire assets including any interest in any property, in the name or on behalf of the Chargor, which on acquisition forms part of the Secured Property;
- (f) **carry on business:** carry on any business of the Chargor forming part of the Secured Property;
- (g) **borrowings and security:**
 - (i) advance money for the account of the Chargor;
 - (ii) raise or borrow money in its name or in the name of the Chargor or on the Chargor's behalf, from a person approved by the Chargee;
 - (iii) secure money advanced under paragraph (i) or raised or borrowed under paragraph (ii) by a Security Interest over Secured Property whether ranking in priority to, equal with or after this deed or any Transaction Document;
- (h) **maintain or improve Secured Property:** do anything to protect or improve any of the Secured Property;
- (i) **income and bank accounts:** operate any bank account forming part of the Secured Property;
- (j) **access to Secured Property:** have access to the Secured Property, the premises at which the business of the Chargor is conducted and any of the administrative services of the Chargor's business;
- (k) **insure Secured Property:** insure Secured Property;
- (l) **compromise:** make or accept a compromise or arrangement;
- (m) **exchange Secured Property:** exchange with any person any of the Secured Property for any other property, whether or not of equal value;
- (n) **employ:** employ or engage any person on terms that the Chargee thinks fit for the purpose of exercising a Power of the Chargee under this deed;
- (o) **delegate:** delegate to any person any Power of the Chargee on terms that the Chargee thinks fit;

- (p) **perform or enforce documents:** carry out and enforce, or refrain from carrying out or enforcing contracts entered into or held by the Chargor in relation to the Secured Property in the exercise of a Power of the Chargee under this deed;
- (q) **receipts:** give effective receipts for all money and other assets which may come into the hands of the Chargee;
- (r) **take proceedings:** commence, conduct, defend, discontinue, settle or compromise any proceedings including proceedings about insurance of the Secured Property;
- (s) **insolvency proceedings:** make any debtor bankrupt, wind-up any company, corporation or other entity and do all things in relation to any bankruptcy or Winding Up which the Chargee thinks necessary or desirable including, but not limited to, attending and voting at creditors' meetings and appointing proxies for those meetings;
- (t) **sign documents:** sign and deliver documents on behalf of the Chargor under seal or under hand;
- (u) **vote:** exercise any voting rights or powers in respect of any part of the Secured Property; and
- (v) **incidental power:** do anything necessary or incidental to the exercise of any Power of the Chargee.

7.2 Chargee may enter Secured Property

The Chargee may, on reasonable notice and at reasonable times (or, if an Event of Default subsists, at any time) enter land and buildings owned or occupied by the Chargor, any place where the Secured Property is located, the Chargor's places of business or its registered office to:

- (a) inspect the Secured Property;
- (b) find out whether the Chargor is complying with this Charge;
- (c) carry out the Chargee's rights under this Charge; or
- (d) inspect and copy records relating to the Chargor or the Secured Property.

The Chargor must assist the Chargee in entering any relevant premises, including by obtaining any necessary consent.

7.3 Right to rectify

The Chargee may do anything which the Chargor should have done under this Charge but which the Chargor either has not done, or in the Chargee's opinion, has not done properly. If the Chargee does so, the Chargor agrees to pay the Chargee's costs, charges and expenses on demand.

7.4 Nature of Chargee's powers

- (a) The Powers of the Chargee, an Attorney or a Receiver must be construed independently and no one Power limits the generality of another Power.
- (b) A dealing under a Power of the Chargee, an Attorney or a Receiver is on the terms and conditions the Chargee, Attorney or Receiver thinks fit.

- (c) The Powers of the Chargee, an Attorney or a Receiver listed in clause 7.1 are in addition to Powers conferred by law, and the Powers conferred on the Chargee, an Attorney or a Receiver by law are excluded or varied only so far as they are inconsistent with the express terms of this deed.

7.5 Not mortgagee in possession

- (a) If the Chargee, an Attorney or a Receiver takes possession of any Secured Property, none of the Chargee, Attorney or Receiver is liable as a mortgagee in possession.
- (b) The Chargee, an Attorney or a Receiver does not become a mortgagee in possession because it enters the Secured Property under clause 7.2 or exercises its rights under clause 7.3.

7.6 Give up possession

The Chargee, an Attorney or a Receiver may give up possession of the Secured Property or any part of it at any time and may discontinue a receivership.

7.7 Exclusion of liability

Neither the Chargee, an Attorney or a Receiver is responsible for losses of any kind which may occur in relation to the exercise or attempted exercise or non-exercise of a Power of the Chargee, an Attorney or Receiver, including negligence or default by any person.

7.8 Protection of third parties

- (a) A person dealing with the Chargee, an Attorney or a Receiver in connection with the exercise of any of the Chargee's Powers:
 - (i) is not bound to enquire whether an Event of Default has occurred, if the appointment of a Receiver is duly made, or otherwise as to the propriety or regularity of dealings with any of them; and
 - (ii) is not affected by express notice that a dealing or an exercise of a Power is or was unnecessary or improper.
- (b) A dealing or an exercise of a Power is taken to be valid and effective despite an irregularity or impropriety described in paragraph (a).

7.9 Disposal final

The Chargor agrees that if the Chargee, an Attorney or a Receiver sells or otherwise disposes of the Secured Property:

- (a) the Chargor must not challenge the acquirer's right to acquire the Secured Property (including on the ground that the Chargee, the Attorney or the Receiver were not entitled to dispose of the Secured Property or that the Chargor did not receive notice of the intended disposal) and the Chargor must not seek to reclaim that property; and
- (b) the person who acquires the Secured Property need not check whether the Chargee, the Attorney or the Receiver has a right to dispose of the Secured Property or whether the Chargee, the Attorney or the Receiver exercise that right properly.

7.10 No notice required unless mandatory

Neither the Chargee nor any Attorney or Receiver need give the Chargor any notice or demand or allow time to elapse before exercising a right under this Charge or conferred by law (including a right to sell) unless the notice, demand or lapse of time is required by law and cannot be excluded.

7.11 Mandatory notice period

If the law requires that a period of notice must be given or a lapse of time must occur or be permitted before a right under this deed or conferred by law may be exercised, then:

- (a) when a period of notice or lapse of time is mandatory, that period of notice must be given or that lapse of time must occur or be permitted by the Chargee, an Attorney or a Receiver; or
- (b) when the law provides that a period of notice or lapse of time may be stipulated or fixed by this Charge, then one day is stipulated and fixed as that period of notice or lapse of time including, if applicable, as the period of notice or lapse of time during which:
 - (i) an Event of Default must continue before a notice is given or requirement otherwise made for payment of the Secured Money or the observance of other obligations under this Charge; and
 - (ii) a notice or request for payment of the Secured Money or the observance of other obligations under this Charge must remain not complied with before the Chargee, an Attorney or a Receiver may exercise Powers.

8 Appointment of receiver

8.1 Appointment

- (a) If an Event of Default subsists, the Chargee may appoint in writing one or more persons to be a receiver or receiver and manager of the Secured Property or part of it.
- (b) The Chargee may appoint different receivers and managers for different parts of the Secured Property.
- (c) The Chargee may appoint a receiver or receiver and manager under paragraph (a) on terms that the Chargee thinks fit:
 - (i) whether or not the Chargee has taken possession of the Secured Property; and
 - (ii) even if an order has been made or a resolution passed to wind-up the Chargor.
- (d) The Chargee may, by notice in writing, remove a Receiver and may appoint a replacement for a Receiver who is removed or who retires or dies.
- (e) The Chargee may fix the remuneration of the Receiver at an amount or rate of commission agreed between the Chargee and the Receiver or a rate determined by the Chargee, in the absence of an agreement.

(f) If the Chargee appoints two or more persons under paragraph (a), the Chargee may appoint them jointly or severally or jointly and severally.

8.2 Agent of Chargor

(a) A Receiver is the agent of the Chargor unless and until:

- (i) the Chargee notifies the Chargor and the Receiver in writing that it requires that the Receiver act as the agent of the Chargee; or
- (ii) an order is made or a resolution is passed to wind-up the Chargor, except to the extent that approval is given under section 420C(1) of the Corporations Act.

(b) If, for any reason, a Receiver ceases to be the agent of the Chargor, the Receiver immediately becomes the Agent of the Chargee.

(c) While the Receiver is the agent of the Chargor, the Chargor alone is responsible for the acts and defaults of the Receiver and for the Receiver's remuneration, costs, charges and expenses. However, in exercising a Power of the Chargee, the Receiver has the authority of both the Chargor and the Chargee.

8.3 Powers of Receiver

(a) A Receiver may do any act, matter or thing and exercise any Power that may be done or exercised by the Chargee in relation to the Secured Property.

(b) The power conferred on a Receiver under paragraph (a) is in addition to any Power conferred on the Receiver by law, but is subject to any specific limitations placed on a Receiver by the terms of the appointment of that Receiver.

9 Power of attorney

9.1 Appointment of attorney

The Chargor irrevocably appoints the Chargee, a Receiver and their respective Authorised Officers, severally its attorney (**Attorney**) to:

- (a) after an Event of Default has occurred and while it subsists, perform the obligations of the Chargor under the Transaction Documents;
- (b) after an Event of Default has occurred and while it subsists, do everything the Attorney considers necessary or desirable to assist the Chargee or a Receiver to give full effect to a Power under a Transaction Document, including signing and lodging proofs of debt or similar claims in legal proceedings;
- (c) appoint, substitute and otherwise revoke or delegate its rights, including this right of delegation; and
- (d) after an Event of Default has occurred and while it subsists, do everything that the Chargor may lawfully authorise an agent to do in respect of the Secured Property.

9.2 Ratification

The Chargor must ratify anything which an Attorney does in exercising its rights as the Chargor's attorney under clause 9.1, whether or not the exercise of the right constitutes a conflict of interest or duty.

10 Receipt and application of money

10.1 Order of application

- (a) The Chargee, an Attorney or a Receiver appointed by the Chargee may appropriate and apply money which it receives or recovers toward any amount in any order it may determine in its absolute discretion.
- (b) If no determination under paragraph (a) is made, the Chargee or Attorney or Receiver must apply money received or recovered in the following manner and order:
 - (i) first, in payment of all amounts which, to the extent required by law, have priority over the payments specified in the remaining paragraphs of this clause;
 - (ii) second, in payment of all costs, charges and expenses incurred or payable by the Chargee, an Attorney or a Receiver in connection with the exercise or attempted exercise of a Power under a Transaction Document;
 - (iii) third, in payment of the Receiver's remuneration;
 - (iv) fourth, in payment of any Security Interests of which the Chargee has notice having priority over the Charge in order of their priority and to the extent of their priority;
 - (v) fifth, in payment of the Secured Money;
 - (vi) sixth, in payment of any other Security Interests in respect of the Secured Property of which the Chargee has notice and which are due and payable in accordance with their terms, in the order of their priority; and
 - (vii) seventh, in payment of the surplus, if any, to Chargor in accordance with Clause 10.4.

10.2 Money actually received

In applying any money towards satisfaction of the Secured Money the Chargor is to be credited only with that money actually received by the Chargee, an Attorney or a Receiver in Cleared Funds. The credit dates from the time of actual receipt.

10.3 Amounts contingently due

If money available for distribution to the Chargee relates to that part of the Secured Money which is contingently due to the Chargee:

- (a) the Chargee, an Attorney or a Receiver may place that money in a short-term interest bearing deposit account:
 - (i) with any person selected by the Chargee, including the Chargee or a Government Agency;
 - (ii) on terms approved by the Chargee;
 - (iii) until that part of the Secured Money becomes actually due and payable or otherwise ceases to be contingently due; and

(b) at that time the amount actually owing may be paid to the Chargee and the balance distributed in accordance with clause 10.1.

10.4 Surplus money

- (a) If, at any time after satisfaction of the Secured Money, the Chargee holds surplus money payable to the Chargor, that money:
 - (i) does not carry interest; and
 - (ii) may be placed to the credit of an account in the name of the Chargor with a Bank.
- (b) The Chargee, an Attorney or a Receiver (as the case may be) have no further liability for money dealt with in accordance with paragraph (a).

10.5 Receipts by the Chargee

The receipt by an Authorised Officer of the Chargee, an Attorney or a Receiver for money or another asset payable to the Chargee or received by or for the account of the Chargee under a Transaction Document exonerates the paying person from all liability to enquire about:

- (a) how that money or asset is applied;
- (b) whether the Secured Money is due or payable; or
- (c) the priority or regularity of the appointment of an Attorney or a Receiver.

10.6 Notice of a subsequent Security Interest

- (a) If the Chargee receives actual or constructive notice of a subsequent Security Interest other than a Permitted Security Interest in respect of the Secured Property, the Chargee:
 - (i) may open a new account in the name of the Chargor in its books or with a bank; or
 - (ii) is deemed to have opened a new account in the name of the Chargor in its books, on the date it received or was deemed to have received notice of the subsequent Security Interest.
- (b) From the date on which that new account is opened or deemed to be opened:
 - (i) all payments made by the Chargor to the Chargee; and
 - (ii) all financial accommodation and advances by the Chargee to the Chargor, are or are deemed to be credited and debited, as the case may be, to the new account.
- (c) The payments by the Chargor under clause 10.6(b) must be applied:
 - (i) first, in reduction of the debit balance, if any, in the new account; and

- (ii) next, if there is no debit balance in the new account, in reduction of the Secured Money which has not been debited or deemed to have been debited to the new account.

10.7 Conversion of currencies on application

In making an application under clause 10.1, the Chargee, an Attorney or a Receiver may itself or through its bankers purchase one currency with another, whether or not through an intermediate currency, whether spot or forward, in the manner and amounts and at the times it thinks fit.

11 Payments

11.1 Payments by Chargor

A payment by the Chargor to the Chargee under a Transaction Document must be made:

- (a) no later than 11.00 am on the due date for payment;
- (b) in Cleared Funds or bank cheque in Dollars; and
- (c) to the account specified by the Chargee,
or in another manner which the Chargee notifies the Chargor.

11.2 Amounts payable on demand

An amount payable under a Transaction Document is payable on demand by the Chargee if it is not payable on a specified date.

11.3 Gross payments

Subject to clause 11.4, the Chargor must pay amounts which are payable by it under a Transaction Document unconditionally and in full without:

- (a) set-off or counter claim; or
- (b) deduction or withholding for Tax or another reason, unless the deduction or withholding is required by applicable law.

11.4 Withholdings and deductions

If the Chargor or another person is required to make a deduction or withholding from a payment to the Chargee, the Chargor:

- (a) indemnifies the Chargee against the amount of that deduction or withholding;
- (b) must pay more so that the Chargee receives for its own benefit the full amount which it would have received if no deductions or withholdings had been required; and
- (c) must pay the full amount of the deduction or withholding to the appropriate Governmental Agency under applicable law, and deliver the original receipts to the Chargee.

12 Indemnities

12.1 General indemnity

The Chargor unconditionally and irrevocably indemnifies the Chargee, an Attorney or a Receiver, and their respective employees, officers and agents, against any claim, loss, liability, cost or expense which the Chargee pays or is liable for, arising directly or indirectly from:

- (a) an Event of Default or the exercise by the Chargee of a Power arising from an Event of Default;
- (b) a failure by the Chargor to make a payment or perform an obligation under a Transaction Document; or
- (c) the Secured Property or the use of the Secured Property by any person.

12.2 Currency indemnity

The Chargor indemnifies the Chargee on demand against any deficiency which arises at any time and for any reason (including as a result of a judgment or order) where:

- (a) the Chargee receives or recovers an amount in one currency (the **Payment Currency**) in respect of an amount denominated under a Transaction Document in another currency (the **Due Currency**); and
- (b) the amount actually received or recovered by the Chargee in accordance with its normal practice when it converts the Payment Currency into the Due Currency is less than the relevant amount of the Due Currency.

12.3 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in this deed is a continuing obligation despite a settlement of account or the occurrence of any other thing, and remains fully effective until all money owing, contingently or otherwise, under an indemnity has been paid in full.
- (b) Each indemnity contained in this deed:
 - (i) is an additional, separate and independent obligation and no one indemnity limits the generality of another indemnity; and
 - (ii) survives the termination of this deed.

12.4 Payment

It is not necessary for the Chargee to incur an expense or make a payment before enforcing a right of indemnity under this deed.

13 Preservation of rights

13.1 No merger of security

- (a) No Security or Transaction Document merges, discharges, postpones or otherwise adversely affects the Chargee's Powers under this deed.

- (b) Nothing in this deed merges, discharges, postpones or otherwise adversely affects any Security in favour of the Chargee at any time or any of the Chargee's Powers against any person at any time.
- (c) If a judgment or order is made in favour of the Chargee against the Chargor about the Secured Money, the Chargee holds the judgment collaterally with the Transaction Documents as security for the payment of the Secured Money, and no Transaction Document merges in the judgment or order.

13.2 Moratorium legislation

To the extent permitted by law, a provision of a law is excluded if it does or may, at any time, directly or indirectly:

- (a) lessen or otherwise vary an obligation of the Chargor under this deed or another Transaction Document; or
- (b) delay, curtail or otherwise prevent or adversely affect the exercise by the Chargee of any of its Powers under a Transaction Document.

13.3 Principal obligations

The Charge and each Security is:

- (a) a principal obligation and is not ancillary or collateral to any other Security Interest or other obligation however created other than another Transaction Document; and
- (b) independent of any other Security Interest or other obligation which the Chargee may hold at any time for the Secured Money.

13.4 No obligation to marshal

The Chargee is not required before it enforces the Charge or any other Security, to do any of the following things unless it thinks fit:

- (a) give notice of this deed to any person or allow any period of time to expire, to the extent not prohibited by law;
- (b) enforce payment of or appropriate Secured Money or other money or assets which it at any time holds or is entitled to receive;
- (c) marshal, enforce, realise or otherwise resort to any other Security; or
- (d) take steps or proceedings for any purpose.

13.5 Set-off

- (a) While an Event of Default subsists, the Chargee may set-off the credit balance of any account of the Chargor with the Chargee and apply it against any part of the Secured Money, without notice to the Chargor or any other person irrespective of:
 - (i) whether the account is subject to notice;
 - (ii) whether the account is matured; or
 - (iii) the currency of the account.

- (b) If the currency of the Chargor's account is not Australian Dollars, the Chargee may buy Australian Dollars with that other currency in accordance with its usual procedures.
- (c) The right of set-off contained in this clause is in addition to any general or banker's lien, right of set-off, right to combine accounts or other right to which it may be entitled.

13.6 Certificate

A certificate signed by an Authorised Officer of the Chargee stating an amount or rate or any other matter under a Transaction Document is, in the absence of manifest error, conclusive and binding on the Chargor.

13.7 Increase in financial accommodation

The Chargee may, at any time, increase the financial accommodation provided under any Transaction Document or otherwise provide further financial accommodation.

14 General

14.1 Confidential information

The Chargee, an Attorney or a Receiver may, for the purpose of exercising any Power under a Transaction Document, disclose to any person any documents, records or information relating to the Chargor, the Secured Property or the Chargor's business or affairs, whether or not confidential and whether or not the disclosure is in breach of a law or of a duty owed to the Chargor.

14.2 Performance by Chargee of the Chargor's obligations

If the Chargor fails to perform an obligation in a Transaction Document, the Chargee may do all things which the Chargee considers necessary or desirable to make good or attempt to make good that failure without adversely affecting a Power of the Chargee.

14.3 Chargor to bear cost

Any thing which must be done by the Chargor under this deed, whether or not at the request of the Chargee, is to be done at the cost of the Chargor unless otherwise provided.

14.4 Legal advice

The Chargor acknowledges that it has received legal advice about this deed.

14.5 Consent and Opinions of Chargee

- (a) The Chargee may give its consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless a Transaction Document provides otherwise.
- (b) The Chargee may form an opinion or hold a considered view under a Transaction Document in its absolute discretion, including any Authorised Officer of the Chargee.
- (c) The Chargee may give reasons for a matter described in paragraph (a) or (b) but is not obliged to do so.

14.6 Authority to fill in blanks

The Chargor agrees that the Chargee may fill in any blanks in this Charge or a document connected with it (such as Corporations Act forms or transfers for the Secured Property).

14.7 Supply of information

If the Chargee requests, the Chargor agrees to supply the Chargee with any information about or documents affecting:

- (a) the Secured Property;
- (b) this Charge; or
- (c) the Chargor's financial affairs or business.

14.8 Prompt performance

If this Charge specifies when the Chargor agrees to perform an obligation, the Chargor agrees to perform it by the time specified. The Chargor agrees to perform all other obligations promptly.

14.9 Discretion in exercising rights

The Chargee, an Attorney or a Receiver may exercise a right or remedy or give or refuse its consent in any way they consider appropriate (including by imposing conditions), unless this charge expressly states otherwise.

14.10 Partial exercising of rights

If the Chargee, an Attorney or a Receiver do not exercise a right or remedy fully or at a given time, the Chargee, Attorney or Receiver may still exercise it later.

14.11 Conflict of interest

The Chargee's and any Attorney's or Receiver's Powers under this deed may be exercised even if this involves a conflict of duty or the Chargee, Attorney or Receiver has a personal interest in their exercise.

14.12 Chargee or Receiver in possession

If the Chargee, an Attorney or a Receiver exercises any Power under this Charge or at law to enter or take possession of the Secured Property, it:

- (a) has a complete and unfettered discretion as to how the Secured Property is managed; and
- (b) is liable to account only for amounts actually received by it.

14.13 Other encumbrances or judgments

This Charge does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any Security or other right or remedy to which the Chargee is entitled; or
- (b) a judgment which the Chargee obtains against the Chargor in connection with the Secured Money.

The Chargee may still exercise its Powers under this Charge as well as under the judgment or other Security.

14.14 Continuing security

This Charge is a continuing security despite any intervening payment, settlement or other thing until the Chargee releases the Secured Property from this Charge.

14.15 Rights and obligations are unaffected

To the extent permitted by law, Powers given to the Chargee or any Attorney or Receiver under this Charge and the Chargor's liabilities under it are not affected by anything which might otherwise affect them at law.

14.16 Further assurances

The Chargor must, at its own expense and whenever requested by the Chargee, promptly do or cause to be done anything which the Chargee considers necessary or desirable to:

- (a) bind the Chargor and any other person intended to be bound under this Charge; or
- (b) to provide more effective security over the Secured Property for payment of the Secured Money; or
- (c) perfect or give full effect to a Transaction Document or any transaction contemplated by it; or
- (d) more fully secure the Powers of the Chargee under a Transaction Document or to enable the Chargee to exercise those Powers,

including obtaining consents, signing and delivering documents, producing receipts, getting documents completed and signed, and doing anything required under the *Personal Property Securities Act 2009 (Cth)* to ensure that this deed continues to be effective as intended when this Charge was executed.

14.17 Counterparts

This deed may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

14.18 Cumulative rights

Except as expressly provided in this deed, the rights of a party under this deed are in addition to and do not exclude or limit any other rights or remedies provided by law.

14.19 Governing law

This deed is governed by the laws of New South Wales.

14.20 Jurisdiction

Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales.

14.21 Notices

Clause 14.1 of the Facility Agreement applies to this document as if set out in full, subject to necessary changes.

14.22 Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this deed is not affected.

14.23 Variation

No variation of this deed is effective unless made in writing and signed by each party.

14.24 Waiver

- (a) No waiver of a right or remedy under this deed is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) A single or partial exercise of a right or remedy under this deed does not prevent a further exercise of that or of any other right or remedy.
- (c) Failure to exercise or delay in exercising a right or remedy under this deed does not operate as a waiver or prevent further exercise of that or of any other right or remedy.

15 Third party provisions

15.1 Independent obligations

The Charge of the Chargor is enforceable against the Chargor:

- (a) without first having recourse to any other Security;
- (b) whether or not the Chargee or any other person has:
 - (i) made demand upon any Security Provider (other than the Chargor);
 - (ii) given notice to any Security Provider (other than the Chargor) or any other person in respect of any thing; or
 - (iii) taken any other steps against any Security Provider (other than the Chargor) or any other person;
- (c) whether or not any Secured Money is due; and
- (d) despite the occurrence of any event described in clause 15.2.

15.2 Unconditional nature of obligations

- (a) The Charge of the Chargor and the obligations of the Chargor under the Transaction Documents are absolute, binding and unconditional in all circumstances.

- (b) The Charge of the Chargor, and the obligations of the Chargor under the Transaction Documents are not released or discharged or otherwise affected by anything which but for this provision might have that effect, including:
- (i) the grant to any Security Provider or any other person of any time, waiver, covenant not to sue or other indulgence;
 - (ii) the release (including a release as part of any novation) or discharge of any Security Provider or any other person;
 - (iii) the cessation of the obligations, in whole or in part, of any Security Provider or any other person under a Transaction Document or another document or agreement;
 - (iv) the liquidation of any Security Provider or any other person;
 - (v) an arrangement, composition or compromise entered into by the Chargee, any Security Provider or any other person;
 - (vi) a Transaction Document or another document or agreement being in whole or in part illegal, void, voidable, avoided, unenforceable or otherwise of limited force or effect;
 - (vii) an extinguishment, failure, loss, release, discharge, abandonment, impairment, compounding, composition or compromise, in whole or in part of a Transaction Document or another document or agreement;
 - (viii) any Security being given to the Chargee by any Security Provider or any other person;
 - (ix) any alteration, amendment, variation, supplement, renewal or replacement of a Transaction Document or another document or agreement;
 - (x) any moratorium or other suspension of a Power;
 - (xi) the Chargee, a Receiver or an Attorney exercising or enforcing, delaying or refraining from exercising or enforcing, or not being entitled or unable to exercise or enforce a Power;
 - (xii) the Chargee obtaining a judgment against any Security Provider or any other person for the payment of any of the Secured Money;
 - (xiii) any transaction, agreement or arrangement that may take place with the Chargee, any Security Provider or any other person;
 - (xiv) any payment to the Chargee, a Receiver or an Attorney, including any payment which at the payment date or at any time after the payment date is, in whole or in part, illegal, void, voidable, avoided or unenforceable;
 - (xv) any failure to give effective notice to any Security Provider or any other person of a default under a Transaction Document or another document or agreement;
 - (xvi) any legal limitation, disability or incapacity of any Security Provider or of any other person;
 - (xvii) any breach of a Transaction Document or another document or agreement;

- (xviii) the acceptance of the repudiation of, or termination of, a Transaction Document or another document or agreement;
 - (xix) any Secured Money being irrecoverable for any reason;
 - (xx) any disclaimer by any Security Provider or any other person of a Transaction Document or another document or agreement;
 - (xxi) any assignment, novation, assumption or transfer of, or other dealing with, any Powers or any other rights or obligations under a Transaction Document or another document or agreement;
 - (xxii) the opening of a new account of any Security Provider with the Chargee or a transaction on or relating to the new account;
 - (xxiii) any prejudice (including material prejudice) to a person as a result of any thing done, or omitted by the Chargee, any Security Provider or any other person;
 - (xxiv) any prejudice (including material prejudice) to a person as a result of the Chargee, a Receiver, an Attorney or any other person selling or realising any property the subject of Security at less than the best price;
 - (xxv) any prejudice (including material prejudice) to a person as a result of a failure or neglect by the Chargee, a Receiver, an Attorney or any other person to recover the Secured Money from the Chargor or any Security Provider or by the realisation of any property the subject of a Security;
 - (xxvi) any prejudice (including material prejudice) to any person as a result of any other thing;
 - (xxvii) the receipt by the Chargee of a dividend, distribution or other payment in respect of a liquidation;
 - (xxviii) the failure of any other Security Provider or any other person to execute any Transaction Document or any other document; or
 - (xxix) any other act, omission, matter or thing whatsoever whether negligent or not.
- (c) Clauses 15.2(a) and 15.2(b) apply irrespective of:
- (i) the consent or knowledge or lack of consent or knowledge, of the Chargee, any Security Provider or any other person of any event described in clause 15.2(b); or
 - (ii) any rule of law or equity to the contrary.

15.3 No competition

- (a) Until the Secured Money have been fully paid and the Charge of the Chargor has been finally discharged under clause 3, the Chargor is not entitled to:
- (i) be subrogated or exercise any right of subrogation to the Chargee or another Security Provider under a Transaction Document or other document or agreement or to any other creditor (or former creditor) of the Chargor or another Security Provider under any document or agreement;

- (ii) claim or receive the benefit of any Security Interest, Guarantee, Security (including any Transaction Document) or other document or agreement of which the Chargee or another Security Provider or any other creditor (or former creditor) of the Chargor or another Security Provider has the benefit;
 - (iii) claim or receive the benefit, whether in respect of debt or other amount arising out of a Transaction Document or another document or agreement, of any moneys held by the Chargee;
 - (iv) claim or receive the benefit of any Power;
 - (v) either directly or indirectly prove in, claim or receive the benefit of, whether in respect of debt or other amount arising out of a Transaction Document or another document or agreement, any distribution, dividend or payment arising out of or relating to the Winding Up of any Security Provider, except in accordance with clause 15.3(b);
 - (vi) make a claim or exercise or enforce a right, power or remedy (including under a Security Interest or Guarantee or by way of contribution) against any Security Provider liable to pay the Secured Money;
 - (vii) accept, procure the grant of, or allow to exist any Security Interest in favour of the Chargor from any Security Provider liable to pay the Secured Money;
 - (viii) exercise or attempt to exercise any right of set off against, nor realise any Security Interest taken from, any Security Provider liable to pay the Secured Money; or
 - (ix) raise any defence or counterclaim in reduction or discharge of its obligations under the Transaction Documents.
- (b) If required by the Chargee, the Chargor must prove in any Winding Up of any Security Provider or other person for all moneys owed to the Chargor.
 - (c) All moneys recovered by the Chargor from any Winding Up or under a Security Interest from any Security Provider or other person must be received and be held by the Chargor for the Chargee to the extent of the unsatisfied liability of the Chargor under the Transaction Documents.
 - (d) The Chargor must not do or seek, attempt or purport to do any thing referred to in clause 15.3(a), and waives its right to do any of those things until the Secured Money have been fully paid and the Charge of the Chargor has been finally discharged under clause 3.

15.4 Suspense account

- (a) The Chargee may apply to the credit of an interest bearing suspense account:
 - (i) any amounts received under this deed;
 - (ii) any dividends, distributions or other amounts received in respect of the Secured Money in any Winding Up; and
 - (iii) any other amounts received from the Chargor or another Security Provider or any other person in respect of the Secured Money.

- (b) The Chargee may retain the amounts in the suspense account for as long as it determines and is not obliged to apply them in or towards satisfaction of the Secured Money and may appropriate them at the discretion of the Chargee.

15.5 Variation

Without limiting the above provisions, this deed and any Security covers the Secured Money as varied from time to time including as a result of:

- (a) any new Transaction Document or any amendment to any Transaction Document; or
- (b) the provision of further accommodation to another Security Provider,
and whether or not with the consent of or notice to the Chargor.

15.6 Indemnity

If any Secured Money (including moneys which would have been Secured Money if they were recoverable) is not recoverable from the Chargor or another Security Provider for any reason, including any legal limitation, disability or incapacity affecting the Chargor or another Security Provider or an obligation in any Transaction Document being or becoming unenforceable, void or illegal and whether or not:

- (a) any transaction relating to the Secured Money was void or illegal or has been subsequently avoided; or
- (b) any matter or fact relating to that transaction was or ought to have been within the knowledge of the Chargee,
the Chargor indemnifies the Chargee in respect of that money and must pay that money to the Chargee.

16 Limitation of liability

16.1 Capacity

AICF enters into this deed in its capacity as trustee of the Charitable Fund and in no other capacity. Subject to clause 16.4, each of the parties to this deed acknowledges that the obligations, and any representations and warranties, of AICF under this deed are incurred or given by AICF to the other parties in its capacity as trustee of the Charitable Fund.

16.2 Limitation of liability

- (a) Subject to clause 16.4, AICF is not liable to pay or satisfy any of its obligations under this deed except out of the assets of the Charitable Fund out of which it is entitled to be indemnified as trustee. Subject to clause 16.4, any other party to this deed may enforce its rights against AICF arising from non-performance of any obligation of AICF under this deed only to the extent of AICF's right of indemnity out of the assets of the Charitable Fund.
- (b) Subject to clause 16.4, if another party to this deed does not recover all moneys owing to it arising from the non-performance of any obligation of AICF under this deed by enforcing the rights referred to in clause 16.2(a), that party may not seek to recover the shortfall by:
 - (i) bringing proceedings against AICF in its personal capacity;

- (ii) applying to have AICF wound up or proving in the winding up of AICF; or
- (iii) seeking to set off against the Borrower the relevant amount.

16.3 Waiver of rights

Subject to clause 16.4, each party to this deed (other than AICF) waives its rights against and releases AICF from any personal liability whatsoever, in respect of any loss or damage:

- (a) which it may suffer as a result of any breach or non performance by AICF of any of its obligations under this deed; and
- (b) which cannot be paid or satisfied out of the assets of the Charitable Fund.

16.4 Qualifications to limit

The limitations in clauses 16.1 to 16.3 do not apply to the extent that AICF's right to be indemnified out of the assets of the Charitable Fund is reduced due to any fraud, negligence or breach of trust by AICF. In the event that AICF's right of indemnity is so reduced, AICF will be liable both:

- (a) in its capacity as trustee of the Charitable Fund; and
- (b) in its personal capacity but then only to the extent of the total amount, if any, by which AICF's right to be indemnified out of the assets of the Charitable Fund has been reduced by reason of the fraud, negligence or breach of trust by AICF.

16.5 Right of indemnity out of assets of the Charitable Fund

This clause 16 is not intended to limit any rights which AICF has to be indemnified out of the assets of the Charitable Fund.

Schedule 1 — Dictionary

1 Dictionary

In this deed:

Account Bank means, in respect of a Bank Account, Australia and New Zealand Banking Group Limited, or any other bank which from time to time holds the Bank Account.

Attorney means an attorney appointed under this deed.

Authorised Officer means:

- (a) in relation to the Chargor, a director or company secretary of the Chargor;
- (b) in relation to a Receiver, a partner, director or secretary of the Receiver and each employee of the Receiver whose title includes “Manager” or a person acting in that capacity; or
- (c) in relation to the Chargee, any person who holds the position (or is acting in the position) of Director Crown Asset and Liability Management or Deputy Secretary Budget and Financial Management Directorate, or any other person notified to the Chargor by the Chargee in writing as being an “Authorised Officer” for the purpose of the Transaction Documents.

Bank Account means each of the following:

- (a) in relation to the Borrower, BSB 012-010, Account No. 8378 69904;
- (b) in relation to ABN 60, BSB 012-010, Account No. 8378 70147;
- (c) in relation to Amaca, BSB 012-010, Account No. 8378 70059; and
- (d) in relation to Amaba, BSB 012-010, Account No. 8378 70091.

Book Debts means, in respect of the Chargor, all book debts or other debts of the Chargor included in paragraphs (a) to (e) (inclusive) of the definition of “Secured Property”.

Charge means the security created by the Chargor under this deed.

Chargor means each Chargor, and, where the context allows, all of them.

Event of Default means an event specified in clause 11.2 of the Facility Agreement

Excluded Property means any interest of the Chargor in an Insurance Policy to the extent only that the creation of the Charge over the relevant interest would entitle the relevant insurer to lawfully terminate the relevant Insurance Policy or lawfully refuse to make any payment to the Chargor under the relevant Insurance Policy but, for the avoidance of doubt, does not include any proceeds of an Insurance Policy.

Facility Agreement means the document entitled “AICF Facility Agreement” dated on or about the date of this deed between the parties to this deed.

Insurance means at any time, each policy of insurance included in the Secured Property that the Chargor enters or has entered into or is required to enter into, including each Insurance Policy.

Insurance Policy has the meaning given in the Facility Agreement.

Power means a power, right, authority, discretion or remedy which is conferred on the Chargee or a Receiver or Attorney:

- (a) by this deed or any Security; or
- (b) by law in relation to this deed or any Security.

Receiver means a receiver or receiver and manager appointed under this deed.

Secured Money means, in relation to the Chargor, all money which the Chargor (whether alone or not) or any other Security Provider (whether alone or not) is or at any time may become actually or contingently liable to pay to or for the account of the Chargee (whether alone or not) for any reason whatever under or in connection with a Transaction Document.

It includes money by way of principal, interest, fees, costs, Financial Indebtedness, Guarantee, indemnity, charges, duties or expenses or payment of liquidated or unliquidated damages under or in connection with a Transaction Document or as a result of a breach of or default under or in connection with, a Transaction Document.

It also includes amounts due for payment or which will or may become due for payment or which remain unpaid to the Chargee in its capacity as an assignee because it has taken an assignment of a Transaction Document or this deed itself, and whether or not:

- (a) the Chargor or another Security Provider was aware of the assignment or consented to it; or
- (b) the assigned obligation was secured before the assignment; or
- (c) the assignment takes place before, at the same time as, or after this deed is executed.

Where the Chargor or another Security Provider would have been liable but for its Winding Up, it will be taken still to be liable.

Secured Property means, in relation to the Chargor, all of the Chargor's right, title and interest (whether present or future, actual or contingent) in, to, under and in connection with:

- (a) the Insurance Policies (including the proceeds of those policies and the right to receive those proceeds);
- (b) each Bank Account of the Chargor and any other bank account of the Chargor into which the proceeds of the Insurance Policies, the Annual Payments and any Advances (as the case may be) are, or are to be, paid (including the right to make withdrawals or transfers and the proceeds of either);
- (c) each Transaction Document (including the proceeds of any Advance made to the Chargor);
- (d) the AFFA (including the proceeds of each Annual Payment paid to the Chargor); and

(c) any right of the Chargor against, including a right to receive any payment from, another Security Provider, including any Book Debt of the Chargor and its proceeds but excluding any Excluded Property.

Security means each Guarantee, Security Interest or other document or agreement entered into by any person to secure Secured Money.

Security Provider means a person who grants a Security (and for the avoidance of doubt, in relation to the Chargor, includes another Chargor).

Title Document means any original, duplicate or counterpart certificate or document of title including any real property certificate of title or any share certificate and, in respect of an Insurance Policy, an original counterpart of the Insurance Policy executed by each party to it and each original annual certificate of currency in respect of it.

Winding Up includes receivership, compromise, arrangement, amalgamation, administration, reconstruction, liquidation, dissolution, assignment for the benefit of creditors, bankruptcy or death.

2 Interpretation

In this deed the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other capitalised parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words ‘such as’, ‘including’, ‘particularly’ and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;
 - (vi) this deed includes all schedules and attachments to it;

- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
- (viii) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
- (ix) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and severally;
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the preceding Business Day;
- (i) in determining the time of day, where relevant to this deed, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located; and
- (j) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 — Form of Notice of Charge of Bank Account

To: *[Account Bank]*
[Address]

We, [] ABN [] (the **Chargor**), refer to our bank account with you in your branch at *[*]* and numbered *[*]* (the **Bank Account**).

WE NOTIFY YOU AS FOLLOWS:

- (a) By a Deed entitled “Fixed and Floating Charge” dated *[*]* 20 *[**]* (the Charge) made between us as one of the Chargors and the State of New South Wales (the **Chargee**), we have charged in favour of the Chargee all our right and interest in the Bank Account.
- (b) Subject to paragraph (d) below, we have agreed with the Chargee that we may make certain agreed withdrawals or transfers from the Bank Account in the ordinary course of our ordinary business.
- (c) We require you to send monthly copies of the bank statements showing a record of transactions in relation to the Bank Account to the Chargee.
- (d) Notwithstanding paragraph (b) above, we have further agreed with the Chargee that, in certain circumstances, the Chargee may give you a notice (an **Enforcement Notice**) which states that the Bank Account may be operated only by the Chargee including providing its own substitute signatories for the Bank Account. If you receive such an Enforcement Notice from the Chargee, you are instructed by us to act in accordance with such notice without reference to us until notified otherwise by the Chargee and you need not enquire whether the Chargee is in fact entitled to give such a notice.
- (e) You are irrevocably authorised and directed on receipt of an Enforcement Notice from the Chargee to pay to the Chargee or as it may direct any sums which may become due to us in respect of the Bank Account.
- (f) The instructions contained in this notice cannot be revoked or varied by us except with written consent to that effect from the Chargee.

DATED 20 *[**]*

On behalf of
[]

Director

Name: _____

Gilbert + Tobin

Director

Name: _____

THE TERMS of the notice set out above are confirmed by the Chargee.

On behalf of
The State of New South Wales

To: The State of New South Wales

WE ACKNOWLEDGE receipt of the Notice of Charge and agree to be bound by its terms, and consent to the Charge.

We confirm we have received no other notice of any assignment, charge or other dealing with the Bank Account, and waive all rights of set-off, combination of account or other equity in relation to the Bank Account in respect of any existing or future obligations.

DATED 20[**]

Authorised Signatory on behalf of

[Account Bank]

Gilbert + Tobin

Execution page

Executed as a deed

Signed by **Asbestos Injuries
Compensation Fund Limited** by:

/s/ J Marchione
Signature of director

JOANNE MARCHIONE
Name of director (print)

Signed for **ABN 60 Pty Limited** under power
of attorney in the presence of:

/s/ H D Nguyen
Signature of witness

HAI DANG NGUYEN
Name of witness (print)

Signed by **Amaca Pty Ltd** by:

/s/ J Marchione
Signature of director

JOANNE MARCHIONE
Name of director (print)

Gilbert + Tobin

/s/ D Booth
Signature of secretary

DALLAS BOOTH
Name of secretary (print)

/s/ D Booth
Signature of attorney

DALLAS BOOTH
Name of attorney (print)

/s/ D Booth
Signature of secretary

DALLAS BOOTH
Name of secretary (print)

Signed by **Amaba Pty Ltd** by:

/s/ J Marchione
Signature of director

JOANNE MARCHIONE
Name of director (print)

SIGNED by The Honourable **Eric Michael**)
Roozendaal MLC, Treasurer of New South)
Wales for the **STATE OF NEW SOUTH WALES**)
in the presence of:)

/s/ L Sanderson
Signature of witness)

LEIGH RAE SANDERSON
Name of witness (block letters))

/s/ D Booth
Signature of secretary

DALLAS BOOTH
Name of secretary (print)

/s/ E Roozendaal
Signature)

Treasurer of New South Wales)

LIST OF SIGNIFICANT SUBSIDIARIES

The table below sets forth our significant subsidiaries as of 31 March 2011, all of which are 100% owned by James Hardie Industries SE, either directly or indirectly.

Name of Company	Jurisdiction of Establishment
James Hardie 117 Pty Ltd.	Australia
James Hardie Aust Holdings Pty Ltd.	Australia
James Hardie Austgroup Pty Ltd.	Australia
James Hardie Australia Management Pty Ltd.	Australia
James Hardie Australia Pty Ltd.	Australia
James Hardie Building Products Inc.	United States
James Hardie Europe B.V.	Netherlands
James Hardie Holdings Limited	Ireland
James Hardie International Finance Limited	Ireland
James Hardie International Holdings SE	Ireland
James Hardie N.V.	Netherlands
James Hardie New Zealand Limited	New Zealand
James Hardie Philippines Inc.	Philippines
James Hardie Research (Holdings) Pty Ltd.	Australia
James Hardie Research Pty Ltd	Australia
James Hardie Technology Limited	Bermuda
James Hardie U.S. Investments Sierra LLC	United States
N.V. Technology Holdings, A Limited Partnership	Australia
RCI Pty Ltd.	Australia

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Louis Gries, certify that:

1. I have reviewed this annual report on Form 20-F of James Hardie Industries SE;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of and for the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: 29 June 2011

/s/ Louis Gries

Louis Gries
Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Russell Chenu, certify that:

1. I have reviewed this annual report on Form 20-F of James Hardie Industries SE;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of and for the periods presented in this report;
4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and
5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: 29 June 2011

/s/ Russell Chenu
Russell Chenu
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002***

Each of the undersigned hereby certifies, in his capacity as an officer of James Hardie Industries SE (the "Company"), for purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of his knowledge:

- the Annual Report on Form 20-F for the fiscal year ended 31 March 2011 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- the information contained in such report fairly presents, in all material respects, the financial condition and results of operation of the Company.

Dated: 29 June 2011

/s/ Louis Gries

Louis Gries
Chief Executive Officer

/s/ Russell Chenu

Russell Chenu
Chief Financial Officer

* The foregoing certification is being furnished as an exhibit pursuant to the rules of Form 20-F and Section 906 of the Sarbanes-Oxley Act of 2002 and, accordingly, is not being filed with the Securities and Exchange Commission as part of the Form 20-F and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Form 20-F, irrespective of any general incorporation language contained in such filing).

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-8 No. 333-14036) pertaining to the Amended and Restated James Hardie Industries SE 2001 Equity Incentive Plan;
- (2) Registration Statement (Form S-8 No. 333-153446) pertaining to the Amended and Restated James Hardie Industries SE Managing Board Transitional Stock Option Plan 2005 and the Amended and Restated James Hardie Industries SE Supervisory Board Share Plan 2006;
- (3) Registration Statement (Form S-8 No. 333-161482) pertaining to the Amended and Restated James Hardie Industries SE Long Term Incentive Plan 2006;

of our reports dated May 19, 2011, with respect to the consolidated financial statements of James Hardie Industries SE and the effectiveness of internal control over financial reporting of James Hardie Industries SE included in this Annual Report (Form 20-F) of James Hardie Industries SE for the year ended March 31, 2011.

/s/ Ernst & Young LLP

Orange County, California
June 29, 2011

Consent of KPMG Actuarial Pty Ltd (“KPMG Actuarial”) in relation to Form 20-F filing

We hereby consent to your references to KPMG Actuarial Pty Ltd (“KPMG Actuarial”) and to our actuarial valuation report effective as of 31 March 2011, dated 19 May 2011 (the “Report”), and to make use of, or quote, information and analyses contained within that Report for the purpose of James Hardie Industries SE’s (“JHI SE”) Annual Report on Form 20-F for fiscal year ended 31 March 2011.

In addition, we hereby consent to your references to past actuarial valuations performed by KPMG Actuarial (formerly KPMG Actuaries Pty Ltd) for the purpose of JHI SE’s (formerly JHI NV’s) Annual Report on Form 20-F for the fiscal year ended 31 March 2011.

Your attention is drawn to the Important Note at the beginning of the Executive Summary of the Report.

/s/ Neil Donlevy

Neil Donlevy MA FIA FIAA

Executive

KPMG Actuarial Pty Ltd

Fellow of the Institute of Actuaries (London)

Fellow of the Institute of Actuaries of Australia

Sydney, Australia

29 June 2011

Excerpts of the ASX Settlement Operating Rules as of 31 May, 2011
See <http://www.asxgroup.com.au/asx-settlement-operating-rules-guidance-notes-and-waivers.htm> for up-to-date rules

1.2 APPLICATION AND EFFECT OF THESE RULES

1.2.1 Operating Rules of ASX Settlement

These Rules are the operating rules of the Settlement Facility for the purposes of the Corporations Act. These Rules should be read in conjunction with:

- (a) the Procedures;
- (b) the ASX Enforcement and Appeals Rulebook; and
- (c) the Corporations Act.

To the extent of any inconsistency between these Rules and the Procedures, these Rules will prevail.

Introduced 11/03/04 Amended 31/3/08, 01/08/10

1.2.2 Binding effect of Rules

These Rules are binding on Issuers, Participants and ASX Settlement in the manner set out in:

- (a) section 822B of the Corporations Act; and
- (b) Rules 1.2.3 and 1.2.4.

Introduced 11/03/04 Origin SCH 1.5.1

1.2.3 Covenants to observe Rules

These Rules (other than a Warranty and Indemnity Provision) have the effect of a contract under seal between ASX Settlement and all Facility Users under which:

- (a) each Facility User covenants with ASX Settlement and each other Facility User to observe the Rules and to perform the obligations which the Rules purport to impose on the Facility User, in the manner provided by the Rules; and
- (b) subject to Rules 3.6.11 to 3.6.18 inclusive, ASX Settlement covenants with each Facility User to observe the Rules and to perform the obligations which the Rules purport to impose on ASX Settlement, in the manner provided by the Rules.

These Rules have the effect of a contract under seal between all RTGS Payments Providers for the time being admitted to participate in that capacity, ASX Settlement and all Facility Users.

Introduced 11/03/04 Origin SCH 1.5.2, 1.5.7

1.2.4 Effect of warranty and indemnity provisions

The Issuer Warranties and Indemnities have the effect of a contract under seal between the Issuer, ASX Settlement and every Participant.

The Participant Warranties and Indemnities have the effect of a contract under seal between the Participant, ASX Settlement, every Issuer and every other Participant.

The ASX Settlement Indemnity has the effect of a contract under seal between ASX Settlement and each Issuer.

Introduced 11/03/04 Origin SCH 1.5.4, 1.5.5, 1.5.6

1.2.5 ASX Enforcement and Appeals Rulebook

The ASX Enforcement and Appeals Rulebook form part of these Rules where relevant for the purposes of the Corporations Act.

Introduced 31/3/08 Amended 01/08/10

1.3 STATE OF EMERGENCY RULES

1.3.1 Action if a State of Emergency exists

If ASX Settlement determines that a State of Emergency exists ASX Settlement may take or authorise any action it considers necessary for the purpose of dealing with the State of Emergency, including:

- (a) making State of Emergency Rules (that may be inconsistent with these Rules) for the protection of the interests of ASX Settlement and Facility Users;
- (b) suspending provision of any ASX Settlement facilities and services to one or more persons;
- (c) taking, or refraining from taking, or directing a Participant to take or refrain from taking, any action which ASX Settlement considers is appropriate;
- (d) taking any action in the name of and at the expense of a Participant; or
- (e) other action that is inconsistent with these Rules (other than Rule 1.3).

In the event of conflict between the State of Emergency Rules and these Rules, the State of Emergency Rules will prevail.

Introduced 11/03/04 Origin SCH 1.6.1, 1.6.3

1.3.2 Effect of a State of Emergency

No person bound by the Rules is liable for failure to comply with a Rule (other than a Warranty an Indemnity Provision or a State of Emergency Rule) if, and to the extent to which, compliance has been delayed, interfered with, curtailed or prevented by a State of Emergency.

Introduced 11/03/04 Origin SCH 1.5.3

1.3.3 Period for State of Emergency Rules

ASX Settlement may specify the period during which any State of Emergency Rules remain in force, but the period must not exceed 30 Business Days. If ASX Settlement does not specify a period during which any State of Emergency Rules remain in force, the State of Emergency Rules remain in force for 30 Business Days.

Introduced 11/03/04 Origin SCH 1.6.2

1.3.4 Notice to Issuers and Participants

ASX Settlement must promptly notify Issuers and Participants of the making of any State of Emergency Rules.

Introduced 11/03/04 Origin SCH 1.6.4

1.3.5 Facility User must inform ASX Settlement of potential State of Emergency

A Facility User that becomes aware of any event or condition that may lead to a State of Emergency must immediately inform ASX Settlement.

Introduced 11/03/04 Origin SCH 1.6.5

1.3.6 No Liability of ASX Settlement

Without limiting any other liability provisions in these Rules none of ASX Settlement, its officers, employees, agents or contractors are liable to a Facility User or any other person for:

- (a) any failure or delay in performance in whole or in part of the obligations of ASX Settlement under the Rules or any contract, if that failure or delay is caused directly or indirectly by a State of Emergency which entitles ASX Settlement to act under this Rule 1.3; or
- (b) any loss, liability, damage, cost or expense arising in any way (including, without limitation, by negligence) from the bona fide exercise of any power, right or discretion conferred upon ASX Settlement by this Rule 1.3.

Introduced 11/03/04

1.4 SETTLEMENT PROCEDURES

1.4.1 ASX Settlement may approve Procedures

ASX Settlement may from time to time approve written Procedures relating to the operations of ASX Settlement and the Settlement Facility, the conduct of Facility Users and the structure and operation of electronic communications between ASX Settlement and Facility Users.

Introduced 11/03/04 Origin SCH 1.8.1

1.4.2 Procedures are not part of the Rules

The Procedures do not form part of these Rules. However, if a Rule requires a person to comply with any part of the Procedures, failure by the person to comply with that part of the Procedures is a contravention of the Rule.

Introduced 11/03/04 Origin SCH 1.8.2, 1.8.3

1.4.3 Changes to Procedures

ASX Settlement may approve changes to the Procedures from time to time and must give such notice as is reasonable in the circumstances to Facility Users of any changes to the Procedures before those changes take effect.

Introduced 11/03/04 Origin SCH 1.8.7, 1.8.4

Section 2 DEFINITIONS AND INTERPRETATION

This Section contains the definitions and sets out a number of general principles by which these Rules are to be interpreted.

2.1 GENERAL PRINCIPLES OF INTERPRETATION

In these Rules, unless the context otherwise requires:

- (a) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any regulation or statutory instrument issued under, that legislation or legislative provision;
- (b) a reference to the operating rules of an Approved Clearing Facility, the operating rules of an Approved Market Operator, the Listing Rules, the ASX Enforcement and Appeals Rulebook, these Rules, the Procedures or the Fees and Charges Schedule is a reference to the operating rules, the Procedures or the Schedule as modified or amended from time to time;
- (c) the singular includes the plural and vice-versa;
- (d) a reference to person, body, corporation, trust, partnership, unincorporated body, firm, association, authority or government includes any of them;
- (e) a word denoting any gender includes all genders;
- (f) if a word or expression is given a particular meaning, another part of speech or grammatical form of that word or expression has a corresponding meaning;
- (g) a reference to power includes a reference to authority and discretion;
- (h) a reference to a Rule (eg Rule 2.4) includes a reference to all sub-Rules included under that Rule (eg Rule 2.5.4);
- (i) a reference to a Section (eg **Section 2**) includes a reference to all Rules and sub-Rules within that Section;
- (j) a reference to any Rule or Procedure is a reference to that Rule or Procedure as amended from time to time;
- (k) a reference to time is to the time in Sydney, Australia;
- (l) a reference to currency is a reference to Australian currency;
- (m) a reference to writing includes typing, printing, lithography, photography, telex, facsimile or any other mode of representing or reproducing words in a visible form;

- (n) where there is a reference to the power of ASX Settlement to make, demand or impose a requirement there is a corresponding obligation of the relevant Participant to comply with that demand or requirement in all respects; and
 - (o) a reference to ASX Settlement notifying or giving notice to a Participant or vice-versa is a reference to notifying or giving notice in accordance with Rule 1.10.
- Introduced 11/03/04 Origin SCH 21.1 Amended 01/08/10

2.2 WORDS AND EXPRESSIONS DEFINED IN THE CORPORATIONS ACT

2.2.1 Words and expressions defined have the same meaning in these Rules

Words and expressions defined in the Constitutions or the Corporations Act will unless otherwise defined or specified in these Rules, or the contrary intention appears, have the same meaning in these Rules.

Introduced 11/03/04 Origin SCH 21.1.2 Amended 04/04/05

2.3 HEADINGS AND INTRODUCTORY OVERVIEW

2.3.1 Headings and introductory overview for convenience of reference only

In these Rules, headings and the introductory overview at the beginning of each Section are for convenience of reference only and do not affect interpretation of the Rules or the Procedures.

Introduced 11/03/04 Origin SCH 21.2.1

2.4 CONDUCT, ACTS AND OMISSIONS

2.4.1 References to conduct or doing any act or thing

In these Rules:

- (a) a reference to conduct or engaging in conduct includes a reference to doing, refusing to do or omitting to do, any act, including the making of, or the giving effect to a provision of, an agreement; and
- (b) unless the contrary intention appears, a reference to doing, refusing or omitting to do any act or thing includes a reference to causing, permitting or authorising:
 - (i) the act or thing to be done; or
 - (ii) the refusal or omission to occur.

Introduced 11/03/04 Origin SCH 21.3.1, 21.3.5

2.4.2 Conduct by officers, employees, agents and Third Party Providers

In these Rules, conduct engaged in on behalf of a person:

- (a) by an officer, employee, Third Party Provider or other agent of the person, and whether or not within the scope of the actual or apparent authority of the officer, employee, Third Party Provider or other agent; or
- (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an officer, employee, Third Party Provider or other agent of the person, and whether or not the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer, employee, Third Party Provider or other agent,

is deemed to have been engaged in also by the person.

Introduced 11/03/04 Origin SCH 21.3.2 Amended 31/03/08

2.4.3 State of mind of a person

If for the purposes of these Rules in respect of conduct engaged in by a person, it is necessary to establish the state of mind of the person, it is sufficient to show that an officer, employee, Third Party Provider or other agent of the person, being an officer, employee, Third Party Provider or other agent by whom the conduct was engaged in and whether or not the conduct was within the scope of the actual or apparent authority of that officer, employee, Third Party Provider or other agent, had that state of mind.

In this Rule 2.4.3, a reference to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or purpose of the person and the person's reasons for the person's intention, opinion, belief or purpose.

Introduced 11/03/04 Origin SCH 21.3.3, 21.3.4 Amended 31/03/08

2.5 REGARD TO BE HAD TO PURPOSE OR OBJECT OF RULES

2.5.1 Construction to promote purpose of Rules

In the interpretation of a Rule, a construction that would promote the purpose or object underlying the Rules (whether that purpose or object is expressly stated in the Rules or not) is to be preferred to a construction that would not promote that purpose or object.

Introduced 11/03/04 Origin SCH 21.4.1

2.6 EXAMPLES AND NOTES

2.6.1 Use of examples and notes

If these Rules include an example of, or a note about, the operation of a Rule:

- (a) the example or note is not to be taken to be exhaustive; and
- (b) if the example or note is inconsistent with the Rule, the Rule prevails.

Introduced 11/03/04 Origin SCH 21.5.1

2.7 CHANGE OF NAME

2.7.1 Reference to a body or office under a former name

If:

- (a) the name of a body is changed in accordance with the law (whether or not the body is incorporated); or
- (b) the name of an office is changed by law, then a reference in these Rules to the body or office under any former name, except in relation to matters that occurred before the change took effect, is taken as a reference to the body or office under the new name.

Introduced 11/03/04 Origin SCH 21.6

2.7.2 References to Australian Stock Exchange Limited

All references to 'Australian Stock Exchange Limited' in the Rules, Procedures, appendices, schedules, guidance notes, circulars, notices, bulletins, explanatory memoranda and other communications issued or made by ASX Settlement under the Rules are as and from 5 December 2006 taken to be references to 'ASX Limited'.

Introduced 20/07/07

2.7.3 Change of name of Rules

As from the Effective Time (as defined in Rule 12.23), there Rules (formerly known as the ASTC Settlement Rules) have been renamed the ASX Settlement Operating Rules.

Introduced 01/08/10

2.8 EFFECT OF AMENDMENT TO RULES AND PROCEDURES

2.8.1 Where amendments to Rules and Procedures are made

Unless expressly stated otherwise, where a Rule or Procedure is:

- (a) amended;
 - (b) deleted; or
 - (c) lapses or otherwise ceases to have effect,
- that circumstance does not:

- (d) revive anything not in force or existing at the time at which that circumstance takes effect;
- (e) affect the previous operations of that Rule or Procedure or anything done under that Rule or Procedure;
- (f) affect any right, privilege, obligation or liability acquired, accrued or incurred under that Rule or Procedure;
- (g) affect any penalty, forfeiture, suspension, expulsion or other enforcement action taken or incurred in respect of any contravention of that Rule or Procedure; or
- (h) affect any investigation, proceeding, enforcement process, appeal process or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, suspension, expulsion or enforcement action,

and any such investigation, proceeding, enforcement process, appeal process or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, suspension, expulsion or other enforcement action may be imposed as if the circumstance had not taken effect.

Introduced 11/03/04 Origin OCH 19.2.5 Amended 01/08/10

2.9 RULES IN FORCE AT TIME OF CONTRAVENTION

2.9.1 Determining a contravention of the Rules

Unless expressly stated otherwise, in determining whether the act or omission of a party constitutes a contravention of the Rules, the matter will be determined with regard to the Rules in force at the time of the relevant act or omission.

Introduced 11/03/04 Origin OCH 19.2.6 Amended 10/06/04

2.10 SPECIFIC DEFINITIONS FOR THE PURPOSE OF THE CORPORATIONS ACT AND OTHER LEGISLATION

2.10.1 ASTC Regulated Transfers

For the purposes of the definition of “ASTC-regulated transfer” in Regulation 1.0.02 of the Corporations Regulations, any Transfer or purported Transfer of Approved Financial Products, whether or not effected in accordance with the Rules, is an ASTC-regulated transfer. A reference to an ‘SCH regulated transfer’ in any legislation or regulation means an ASTC-regulated transfer. Any ASTC-regulated transfer is, for the purposes of the Corporations Regulations, to be taken, and always to have been, a proper ASTC transfer.

Introduced 11/03/04 Origin SCH 21.9.1

2.10.2 CHES Subregister

For the purposes of the definition of “ASX Settlement subregister” in Regulation 7.11.01 of the Corporations Regulations, a CHES Subregister is an ASX Settlement subregister.

Introduced 11/03/04

2.10.3 References to SCH

Where legislation refers to “SCH” or “Securities Clearing House”, references in these Rules to ASX Settlement are taken to be references to “SCH” or “Securities Clearing House” for the purposes only of that legislation.

Introduced 11/03/04

2.11 ENTERING AND DEDUCTING FINANCIAL PRODUCTS FROM HOLDINGS

2.11.1 References to entering or deducting Financial Products

In these Rules, a reference to entering a number of Financial Products into a Holding is a reference to:

- (a) if the Holding does not exist at the time of the entry, establishing the Holding with a Holding Balance equal to that number of Financial Products; or
- (b) if the Holding already exists at the time of the entry, adding that number of Financial Products to the Holding Balance of the Holding.

In these Rules, a reference to deducting a number of Financial Products from a Holding is a reference to:

- (c) if the Holding Balance of the Holding is equal to that number, removing the Holding from the register; and
- (d) if the Holding Balance of the Holding is greater than that number, subtracting that number of Financial Products from the Holding Balance.

Introduced 11/03/04 Origin SCH 21.11

2.12 MEANING OF RESERVATION AND RELEASE OF FINANCIAL PRODUCTS FOR SUBPOSITION PURPOSES

2.12.1 Reservation in a Subposition

For the purposes of these Rules, a number of Financial Products in a CHES Holding are reserved in a Subposition if:

- (a) the Subposition is created over that number of Financial Products; or

(b) an existing reservation in a Subposition of Financial Products in that Holding is increased by that number of Financial Products.

Introduced 11/03/04 Origin SCH 21.12.1

2.12.2 Release from a Subposition

For the purposes of these Rules, a number of Financial Products in a CHES Holding are released from a Subposition if:

- (a) the Subposition over that number of Financial Products is removed; or
- (b) where the total number of Financial Products in the Holding that are reserved in the Subposition exceeds the number of Financial Products specified to be released, the Subposition reservation is reduced by that specified number of Financial Products.

Introduced 11/03/04 Origin SCH 21.12.2

2.13 DEFINITIONS

2.13.1 Definitions used in the Rules

In these Rules, unless the context otherwise requires:

“**ABN**” stands for Australian Business Number and means a person’s number as shown in the Australian Business Register.

“**Acceptance Form**” means a document that enables a person to communicate to an Issuer an election in relation to a Corporate Action, including (without limitation):

- (a) an entitlement & acceptance form;
- (b) a provisional letter of allotment; and
- (c) an application form (whether or not attached to a prospectus).

“**Account Participant**” means a Participant admitted to participate in the Settlement Facility under Rule 4.5.

“**Accountant**” means a member of the Australian Society of Certified Practising Accountants, the Institute of Chartered Accountants in Australia or other body approved by ASX Settlement.

“**Accrued Batch Instruction**” means a Batch Instruction generated by ASX Settlement to effect a distribution of Financial Products arising from a Corporate Action.

“**Accrued DvP Batch Instruction**” means an Accrued Batch Instruction with a Settlement Amount that is scheduled to settle in DvP Batch Settlement.

“Accrued RTGS Instruction” mean an RTGS Instruction generated by ASX Settlement to effect a distribution of Financial Products arising from a Corporate Action.

“Accumulation Account” means a Holder Record maintained by a Settlement Participant for the purpose of facilitating settlement of transactions in Approved Financial Products with non-Participant clients.

“Accumulation Holding” means a Holding of Financial Products for which the Holder Record is an Accumulation Account.

“Admission Form” means an admission form, as specified by ASX Settlement from time to time, for use by a Participant seeking to become a Participant in the Settlement Facility.

“AIC” stands for Access Identification Code and means a unique code allocated by ASX Settlement under Rule 16.14.

“AIF” stands for Automated Information Facility and means the service so designated that is offered by the Reserve Bank of Australia in connection with RITS/RTGS.

“AIS” means ASX International Services Pty Limited (ABN 62 089 068 913).

“Allocation Component” means, without limitation, in respect of an Offer:

- (a) a Firm Allocation Component;
- (b) a book-build; or
- (c) a placement.

“Allocation Interest” means a journal entry on a CHESS or Issuer operated record:

- (a) representing an Approved Financial Product applied for, or to be applied for, under an Offer; and
- (b) by which the Issuer calculates the number of Approved Financial Products to be issued or disposed under Rule 15.27.

Amended 10/06/04

“Alternative Settlement Facility” means a CS Facility which, in the opinion of ASX Settlement, has:

- (a) adequate rules or procedures relating to the operation of the facility, including effective risk management procedures;
- (b) adequate arrangements for supervision and regulation of the facility; and
- (c) sufficient resources to conduct the facility and perform its supervisory and regulatory functions.

Introduced 18/12/06

“**Appeal**” means an appeal in accordance with the provisions of the ASX Enforcement and Appeals Rulebook.

Amended 31/03/08 Amended 01/08/10

“**Appeal Tribunal**” means the tribunal convened in accordance with the ASX Enforcement and Appeals Rulebook

Introduced 01/08/10

“**Applications Close Date**” means the date by which a person must submit an Acceptance Form to an Issuer if the person wishes to subscribe for new or additional Financial Products.

“**Approved Agent**” means a person who has such qualifications for the purposes of Section 12 as ASX Settlement determines.

Amended 18/12/06 23/10/09

“**Approved Clearing Facility**” means a CS Facility approved by ASX Settlement as an Approved Clearing Facility and specified in the Procedures.

“**Approved Clearing House**” means a settlement and deposit system for the safe custody, delivery and payment of Principal Financial Products or Participating International Financial Products, approved by ASX Settlement for the purposes of establishing a Segregated Account.

“**Approved Financial Products**” means a Financial Product approved by ASX Settlement in accordance with Section 8 or Section 13.

Amended 06/06/05

“**Approved Market Operator**” means a Market Operator approved by ASX Settlement as an Approved Market Operator and specified in the Procedures.

“**ASX Settlement Indemnity**” means the indemnity in Rule 3.6.7.

“**ASTC Regulated Transfer**” means any Transfer or purported Transfer of Approved Financial Products.

“**ASX**” means ASX Limited (ABN 98 008 624 691).

Amended 20/07/07

“**ASX Clear**” means ASX Clear Pty. Limited (ABN 48 001 314 503)

Amended 01/08/10

“**ASX Group**” means ASX and its subsidiaries and controlled entities.

“ASX Settlement” means ASX Settlement Pty Ltd (ABN 49 008 504 532)

Amended 01/08/10

“ASX World Link Agreement” means the agreement between AIS and a Settlement Participant which is a Market Participant for participation in the ASX World Link Service as displayed on the ASX World Link Website from time to time.

“ASX World Link Service” has the same definition as that set out in the ASX World Link Agreement.

“ASX World Link Website” means in relation to the ASX World Link Service the information (whether data, text, images, speech or otherwise) concerning the ASX World Link Service displayed from time to time by AIS or a Related Body Corporate of ASX on the internet at the URL: <https://www.asxonline.com>, or at any other additional or replacement URL notified by AIS to Participants from time to time, as that information is varied from time to time.

“Australian ADI” has the meaning it has in the Corporations Act.

Introduced 09/05/05

“Australian ADI Account” means an account held with an Australian ADI.

Introduced 09/05/05

“Authorised Copy” in relation to documents specified under Section 6 of these Rules, means a true and complete copy of the document in a form authorised by ASX Settlement.

“Authorised Person” means any person who has actual authority of the Facility User to cause Messages to be Transmitted by that Facility User.

“Available Credit” in Section 11, has the meaning given in Rule 11.20.3.

“Available Financial Products” means Financial Products that are:

- (a) not in a Locked Holding;
- (b) in the case of Financial Products in an Issuer Sponsored Holding, not reserved under the Listing Rules for the benefit of an Offeror in relation to a takeover scheme;
- (c) in the case of Financial Products in a CHES Holding, not reserved in a Subposition.

“Bank” means the person that operates the clearing facility for inter-bank payments on behalf of ASX Settlement and may, where permitted by the Reserve Bank of Australia, include ASX

Settlement and for the purposes of the Standard Payments Provider Deed is known as the CHESB Bank.

“Bankruptcy” means:

- (a) in the case of a body corporate, where:
 - (i) an administrator of the body corporate is appointed under section 436A, 436B or 436C of the Corporations Act;
 - (ii) the body corporate commences to be wound up or ceases to carry on a business;
 - (iii) a receiver, or a receiver and manager, of property of the body corporate is appointed, whether by a court or otherwise; or
 - (iv) the body corporate enters into a compromise or arrangement with its creditors or a class of them; or
- (b) in the case of a natural person, where:
 - (i) a creditor’s petition or a debtor’s petition is presented under Division 2 or 3, as the case may be, of Part IV of the Bankruptcy Act 1966 against the person, the partnership in which the person is a partner, or two or more joint debtors who include the person;
 - (ii) the person’s property becomes subject to control under Division 2 of Part X of the Bankruptcy Act 1966;
 - (iii) the person executes a deed of assignment or deed of arrangement under Part X of the Bankruptcy Act 1966;
 - (iv) the person’s creditors accept a composition under Part X of the Bankruptcy Act 1966; or
 - (v) the person’s creditors accept a debt agreement proposal under Part IX of the Bankruptcy Act 1996,

and, where a reference is made to a Division or Part of the Bankruptcy Act 1966, that reference includes a reference to the provisions of a law of an external territory, or a country other than Australia or an external territory, that correspond to that Division or Part.

“Batch Instruction” means an instruction to ASX Settlement to effect:

- (a) a Settlement Transfer in Batch Settlement and, if the instruction is for value, payment in DvP Batch Settlement; or
- (b) in respect of a Payment Batch Instruction, payment in Batch Settlement,

and includes:

- (a) a CCP Net Batch Instruction;
- (b) a CCP Gross Batch Instruction;
- (c) a CCP Derivatives Payment Batch Instruction;
- (d) a Dual Entry Batch Instruction;
- (e) a Dual Entry Payment Batch Instruction;
- (f) a Single Entry Batch Instruction; and
- (g) a Direct Batch Instruction.

“Batch Settlement” means the process by which transactions are settled in the Settlement Facility in accordance with Section 10 whether or not in DvP Batch Settlement.

“Borrower” has the meaning given to it in the definition of Securities Lending Arrangement.

Introduced 02/11/09

“Business Day” means a day other than:

- (a) a Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and
- (b) any other day which ASX Settlement notifies Facility Users is not a Business Day.

Amended 10/06/04

“Business Hours” means the hours between Start of Day and End of Day.

“Cash Sub-record” means a CHES record:

- (a) ancillary to a Participant’s Net Position Record; and
- (b) tagged with an RTGS Account Identifier,

that tracks amounts to be debited or credited, on settlement of an RTGS Instruction, to the account of the Participant linked to that RTGS Account Identifier.

“CCP” means ASX Clear and any other person nominated by ASX Settlement and approved by the Commission when operating as a central counterparty to a transaction novated in accordance with the operating rules of an Approved Clearing Facility.

“CCP Batch Instruction” means either a CCP Gross Batch Instruction or a CCP Net Batch Instruction.

“CCP Derivatives Payment Batch Instruction” means an Instruction notified by CCP to ASX Settlement for settlement in relation to a derivatives payment in Batch Settlement on each Business Day;

“CCP Gross Batch Instruction” means a Batch Instruction (excluding a Dual Entry Payment Batch Instruction) to give effect to a transaction that has been novated to CCP but that has not been netted in accordance with the operating rules of the Approved Clearing Facility.

“CCP Gross RTGS Instruction” means an RTGS Instruction to give effect to a transaction that has been novated to CCP but that has not been netted in accordance with the operating rules of the Approved Clearing Facility.

“CCP Net Batch Instruction” means a Batch Instruction (excluding a Dual Entry Payment Batch Instruction) to give effect to a transaction that has been novated to CCP and netted in accordance with the operating rules of the Approved Clearing Facility.

“CDI” stands for CHESSE Depository Interest and means a unit of beneficial ownership in a Principal Financial Product, registered in the name of the Depository Nominee, and includes:

- (a) CUFS; and
- (b) DIs.

“CDI Register” means a register of CDI Holdings maintained by a Principal Issuer under the Rules, consisting of:

- (a) an Issuer-Sponsored Subregister of Holders of CDIs and a CHESSE Subregister of Holders of CDIs; or
- (b) with the consent of ASX Settlement, a CHESSE Subregister of Holders of CDI.

Note: ASX Settlement may consent to a CDI Register consisting of a CHESSE Subregister only, where the relevant offer is limited to institutional Holders.

“Certificate” means any document issued to a Holder of Principal Financial Products or Participating International Financial Products as evidence of that Holder’s title to those Principal Financial Products or Participating International Financial Products, for example, a share certificate, an option certificate, debenture or warrant.

Amended 06/60/05

“Certificate Number” means a reference number allocated by an Issuer in respect of, and printed on, a Certificate.

“Certificated Holding” means a Holding of Principal Financial Products on the Principal Register.

Introduced 06/06/05

“Change of Registration Details” means information altering Registration Details in the electronic records of ASX Settlement.

“CHESS” stands for the Clearing House Electronic Subregister System operated by:

- (a) ASX Clear for the purpose of clearing Cash Market Transactions and Cash CCP Transactions; and
- (b) ASX Settlement for the purpose of settling transactions in Approved Financial Products, Transferring Financial Products and registering Transfers.

“CHESS Holding” means a Holding of Financial Products on the CHESS Subregister.

“CHESS Provision” means:

- (a) a provision of these Rules; or
- (b) a provision of Chapter 7 of the Corporations Act which is material to the operation of CHESS.

“CHESS Renounceable Rights Subregister” means the Subregister administered by ASX Settlement that records Holdings of rights.

“CHESS Software” means all systems and applications programs relevant to the operation of CHESS including (without limitation) all of the computer software maintained and used by ASX Settlement for the purposes of CHESS (other than software used by a Facility User to communicate with CHESS).

“CHESS Subregister” means:

- (a) that part of an Issuer’s register;
- (b) that part of a Foreign Issuer’s CDI Register, for a class of the Issuer’s Approved Financial Products; or
- (c) the FDI Register for a class of Participating International Financial Products,

that is administered by ASX Settlement.

Amended 06/06/05

“CHESS to Certificated” means a Transfer or Conversion of Principal Financial Products from a CHESS Holding to a certificated register administered by the Principal Issuer.

“CHESS to CHESS” means a Transfer of Financial Products from one CHESS Holding to another CHESS Holding.

“CHESS to Issuer Sponsored” means a Transfer or Conversion of Financial Products from a CHESS Holding to an Issuer Sponsored Holding.

“Clearing Account” means a Settlement Account or an Accumulation Account.

“Clearing Holding” means a Settlement Holding or an Accumulation Holding.

“Clearing Participant” means a person admitted as a participant in an Approved Clearing Facility under the operating rules of that facility.

“Commencement Date” in relation to a class of an Issuer’s Financial Products, means the date on which Financial Products in that class become Approved Financial Products.

Amended 06/06/06

“Commission” means the Australian Securities and Investments Commission.

“Communication” means an electronic communication within CHESS which may affect the balance of a CHESS Holding.

“Complete Corporate Action Record” means a record of information relating to a Corporate Action that includes all relevant dates.

“Confirmed FOR Indicator” means, when specified in a Message transmitted by a Participant, that the Participant is seeking to effect a Transfer or Conversion as a Foreign to Foreign Allocation.

Note: the indicator to be set in such instances is “OR”

“Confirmed FOR Financial Products” means the lesser of either:

- (a) the number of FOR Financial Products in a Holding whose Residency Indicator is recorded by ASX Settlement as “F”, calculated as the current Holding Balance of FOR Financial Products; or
- (b) the number of FOR Financial Products in a Holding whose Residency Indicator is recorded as “ F”, at Start of Day, adjusted by:
 - (i) those Financial Products transferred into the Holding pursuant to a Foreign to Foreign Allocation during that Business Day; and
 - (ii) any Conversions of those Financial Products into or out of the Holding; and
 - (iii) those Holding Adjustments initiated by an Issuer pursuant to Rule 5.12.4; less

(iv) that number of Financial Products transferred out of the Holding pursuant to a Foreign to Foreign Allocation during that Business Day.

“Contravention Notice” means a Notice given by ASX Settlement to a Facility User under Section 12.

“Controlling Participant” in relation to a CHESS Holding, means the Participant that has the capacity in CHESS to either:

- (a) Transfer or Convert Financial Products from the Holding; or
- (b) transfer in terms of Rule 13.19.2; or
- (c) Transmute FDIs from the Holding.

“Conversion” means a movement of Financial Products from a Holding on one Subregister to a Holding on another Subregister without any change in legal ownership.

“Convertible Form” means when the Participant has received all the necessary documentation such that:

- (a) the registry is satisfied that the Registration Details for the Certificates, SRN or other form of Source Holding match the Registration Details for the Target Holding; and
- (b) the Participant is able to initiate the Conversion message.

“Corporate Action” means:

- (a) action taken by an Issuer of Financial Products for the purpose of giving an Entitlement to Holders of a class of the Issuer’s Financial Products;
- (b) action taken by a Principal Issuer for the purpose of giving an Entitlement in respect of Principal Financial Products held by a Depository Nominee to Holders of CDIs; and
- (c) in relation to Section 13 action taken by an issuer of Participating International Financial Products for the purposes of giving an Entitlement in respect to Participating International Financial Products, held by a Depository Nominee.

“CS Facility” means a CS facility licensed as such under the Corporations Act or a Foreign Clearing House.

“CUFS” stands for CHESS Units of Foreign Securities and means a unit of beneficial ownership in a Financial Product of a Foreign Issuer, registered in the name of the Depository Nominee.

Amended 10/06/04

“Cum Entitlement” in relation to a Transfer or a Conversion, means a Transfer or Conversion of Parent Financial Products together with the Entitlement to a Corporate Action.

“Cum Entitlement Balance” means, in respect of a Corporate Action, the number of Parent Financial Products to be used by the Issuer to calculate the Entitlement of a Holder or a former Holder of Parent Financial Products.

“Cum Processing” means processing of Cum Entitlement Transfers and Conversions by deducting Financial Products from or entering Financial Products into the Cum Entitlement Balance for a Holding.

“Current Valuation” means the current market valuation of Financial Products, being the last sale price for the Financial Products at the close of business on the previous Business Day, or if a higher offer price or lower bid price exists at that time, that price.

“Custodial Purposes” for the purposes of Rule 6.3.4 means in relation to Financial Products in a Clearing Holding, any purpose other than the purpose of facilitating:

- (a) the execution of outstanding orders; or
- (b) the clearing and settlement of outstanding transactions.

“Debit Cap” in relation to a Net Position Record for an RTGS Participant, means a facility within the Feeder System that, if activated, enables the Participant’s Net Position Record to go into debit up to the Debit Limit, at any time when the relevant RTGS Payments Provider is deemed to have made the election set out in Rule 11.9.2.

“Debit Cap Compliant” in Section 11, has the meaning given in Rule 11.20.2.

“Debit Cap Status” means at any time the status of a Debit Cap as authorised at that time by the RTGS Payments Provider for the relevant RTGS Participant, being either:

- (a) active; or
- (b) null (inactive).

“Debit Limit” in relation to a Debit Cap at any time, means the dollar amount:

- (a) most recently notified in accordance with Rules 11.9.1(c) and 11.9.3(c); and
- (b) recorded by ASX Settlement against the Net Position Record to which that Debit Cap applies.

“Delivery Obligation” in relation to an RTGS Instruction, means an obligation on the part of one party to deliver certain Financial Products to the other on settlement.

“Demand Report” means a Message Transmitted by ASX Settlement to a Facility User to provide information about

CHESS Holdings or CHESS Subregister movements in accordance with parameters specified by the Facility User.

“Demand Transfer” means a Transfer other than a Settlement Transfer.

“Demand Transfer Settlement” means settlement of a Batch Instruction is effected by the counterparties by Demand Transfer

“Depository Nominee” means the person appointed under these Rules, being either:

- (a) CHESS Depository Nominees Pty Ltd (as long as it remains admitted to participate in CHESS under Rule 4.3.1); or
- (b) a person admitted as a General Settlement Participant under Rule 4.3.1, whose function is to hold Title or Other Interest to Principal Financial Products or Participating International Financial Products.

“Derivatives” means derivatives entered into on a market in a derivatives instrument that is operated by an Approved Market Operator.

“Derivatives Cover” means Financial Products lodged with, or otherwise made available to, an Approved Clearing Facility as security for deposits or margins payable in relation to Derivatives transactions.

“Despatch” in relation to Financial Products to be entered into a CHESS Holding pursuant to a Corporate Action, means Transmit a Message to enter the Financial Products into the Holding.

“Despatch Date” means the date by which an Issuer is required to have despatched Certificates (or in the case of rights, entitlement and acceptance forms in relation to those rights) or to have entered Financial Products (including rights) into Holders’ uncertificated Holdings in accordance with Listing Rules or otherwise as determined by the relevant Approved Market Operator and notified from time to time.

“DI” stands for Depository Interest and means a unit of beneficial ownership in a Financial Product which is not a Financial Product of a Foreign Issuer, registered in the name of the Depository Nominee.

“DI Issuer” means an Issuer of Financial Products quoted on ASX, a condition of the issue being that the Financial Products are held by investors in Australia in the form of DIs.

“Direct Batch Instruction” means a Batch Instruction under which the obligations are effected by the counterparties directly.

“Direct Holding” means a CHESS Holding where the Holder is:

- (a) the Controlling Participant; or

- (b) if the Controlling Participant is an incorporated entity, a Related Body Corporate of that Participant; or
- (c) if the Controlling Participant is a partnership, a nominee company provided all of its issued capital is owned by the partners.

“Disciplinary Register” means the register maintained by ASX Settlement under Rule 12.6.1.

“Divestment” means action taken by an Issuer to require or effect the disposal of Financial Products.

“Dual Entry Batch Instruction” means a Batch Instruction that results from Matched Dual Entry Settlement Messages.

“Dual Entry Batch Message” means a Message that complies with Rule 10.9.2.

“Dual Entry Demand Message” means a Message that complies with Rule 9.5.1.

“Dual Entry Demand Transfer” means a Demand Transfer of Financial Products that gives effect to a Dual Entry Demand Message.

“Dual Entry Payment Batch Instruction” means a Batch Instruction that results from Matched Dual Entry Payment Batch Messages.

“Dual Entry Payment Batch Message” means a Message that complies with Rule 10.9.2.

“Dual Entry RTGS Instruction” means an RTGS Instruction that results from Matched Dual Entry RTGS Messages.

“Dual Entry RTGS Message” means an RTGS Message that relates to a DvP RTGS Transaction.

“Dual Entry Switch to Batch Settlement Message” in relation to a Dual Entry RTGS Instruction, means a Message that, in accordance with the requirements of the EIS, requests that an RTGS Instruction be removed from Real Time Gross Settlement and included in Batch Settlement under Section 10.

“Dual Entry Switch to RTGS Message” means a Message that, in accordance with the requirements of the EIS, requests that a Batch Instruction be removed from DvP Batch Settlement and included in Real Time Gross Settlement under Section 11.

“DvP Batch Instruction” means a Batch Instruction to be settled in DvP Batch Settlement.

“DvP Batch Settlement” means a component of Batch Settlement in which irrevocable payment is made through the funds transfer procedures or alternative payment arrangements specified in Rule 10.7.1 or 10.7.2 in exchange for the irrevocable Transfer of Financial Products.

“DvP Declaration” means the time when all the registered payment instructions in the CHESSE Payments Provider User Group are simultaneously effected for the purposes of Batch Settlement.

“DvP Instruction” means:

- (a) a DvP Batch Instruction; or
- (b) a DvP RTGS Instruction.

“DvP Notification” means the notification of DvP Declaration to be given by ASX Settlement to a Payments Provider under the Standard Client Bank Deed.

“DvP Real Time Gross Settlement” means a component of Real Time Gross Settlement in CHESSE in which the Payment Obligation and the Delivery Obligation identified in a DvP RTGS Instruction are irrevocably and simultaneously settled in accordance with Rule 11.25.

“DvP RTGS” stands for DvP Real Time Gross Settlement.

“DvP RTGS Instruction” means an RTGS Instruction that identifies a Payment Obligation and a Delivery Obligation.

“DvP Settlement” means:

- (a) DvP Batch Settlement; or
- (b) DvP Real Time Gross Settlement.

“Effective Date” means the date referred to in a Participant Change Notice on which the novation of a Client Agreement is deemed to have occurred.

“EIS” stands for External Interface Specification, and means a document, made by ASX Settlement, that provides detailed information about protocols, message formats and security features for communications between Facility Users and ASX Settlement.

“Election Date” means the date by which a person must instruct an Issuer if the person wishes to convert or exercise Financial Products in accordance with the terms of a Corporate Action.

“Email Details” means, in respect of a Holding, the email address and Email Purpose of the Holder

Introduced 02/11/09

“Email Purpose” means, in respect of an email address specified in relation to a Holding, the categories of communications, as specified in the Procedures, that the Holder has indicated a preference to receive by delivery to that email address.

Introduced 02/11/09

“Employee” includes a director, partner, employee, officer, consultant, agent, representative, advisor or an independent contractor who acts for or by arrangement with a Participant or Issuer in the conduct of its business.

“End of Day” means on any Trading Day, 7:00pm Sydney time or such other time as ASX Settlement may from time to time determine.

“End of Day Processing Phase” means on any Trading Day, the time period after End of Day during which various scheduled processing and system administration tasks are completed (for example, financial products maintenance, corporate action processing, archiving and system backup).

“Entitlement” means a security benefit as defined in Regulation 7.5.01 of the Corporations Regulations and includes (without limitation):

- (a) rights;
- (b) bonus issues;
- (c) dividend, interest and trust distribution payments;
- (d) priority issues;
- (e) offers under an equal access scheme; and
- (f) in relation to Participating International Financial Products means any equivalent or similar benefit (however described) provided or offered by the issuer of the Participating International Financial Products.

“Entitlement Date” in relation to Section 13 means, a date specified by the Depository Nominee as the date by reference to which the Depository Nominee will identify the persons entitled to the benefit of a Corporate Action.

“ETF Application” means the application required by an Issuer to enable new ETF Financial Products to be created and despatched to a subscriber.

“ETF Financial Products” has the same meaning as ETF Securities under the operating rules of ASX.

Amended 15/09/08, 01/08/10

“Event of Non-Compliance” means an event for which Notice must be given under Rule 12.18.

“Ex Date” means the date on which the relevant Approved Market Operator changes the basis of quotation for a class of Parent Financial Products to signify that trading in that class no longer carries the entitlement.

“Ex Entitlement” in relation to a Transfer or a Conversion, means a Transfer or Conversion of Parent Financial Products without the Entitlement to a Corporate Action.

“Ex Period” means the Period from Start of Day on the Ex Date to End of Day on the Record Date in respect of a Corporate Action.

“Excess Financial Products” means:

- (a) those FOR Financial Products determined by an Issuer that cause the Foreign Ownership Percentage Level to be exceeded; or
- (b) with the exception of a Foreign to Foreign Allocation, those FOR Financial Products determined by an Issuer, where the Issuer is authorised to do so under its constitution or governing legislation, to have been transferred into a Holding with a Residency Indicator of “F”, on the day when the Foreign Ownership Percentage Level Foreign Holder Percentage Level is exceeded.

“Excluded Class of Financial Products” means a class of Financial Products declared by ASX Settlement from time to time as a class of Financial Products that is not eligible for processing in CHESS.

“Excluded Cash Sub-record” means a Cash Sub-record so designated by an RTGS Participant for the purposes of Rule 11.20.

“Exemption Code” means a numeric code in the form approved by the Australian Taxation Office for the purpose of TFN exemption reporting.

“Facility User” means:

- (a) a Participant; or
- (b) an Issuer of Approved Financial Products; or
- (c) a market licensee which is provided with a Transfer Service under Rule 4.1A.

Amended 22/01/10

“Fail” means the removal under the Rules of the whole or part of an Instruction from Batch Settlement or Real Time Gross Settlement, on a Business Day.

“Failed Settlement Shortfall” means, in relation to a Holding and a class of Financial Products, a deficiency in the number of Financial Products of the class in the Holding relative to the total number of Financial Products of the class due to be delivered from the Holding on a Business Day pursuant to one or more Rescheduled Batch Instructions, where the deficiency is a number greater than zero, calculated using the following formula:

FSS := D-H

FSS is the Failed Settlement Shortfall

D is the total number of Financial Products of the relevant class projected to be delivered from the Holding pursuant to one or more Rescheduled Batch Instructions

H is the total number of Financial Products of the relevant class in the Holding

Introduced 30/03/09

“**FDI**” stands for Foreign Depository Interest and which comprises a beneficial interest or Other Interest in a Participating International Financial Product held by a Depository Nominee.

“**FDI Register**” means the record of Holders of FDIs containing the information required by Rule 13.19.4.

“**FDI Transaction**” means a transaction where on transfer of clear funds the Depository Nominee records or removes FDIs in the FDI Register, as the case requires.

“**Feeder System**” in relation to CHES, means collectively the systems and procedures to effect Real Time Gross Settlement utilising an electronic interface to RITS/RTGS and, when appropriate, the AIF.

“**Feeder System Queue**” means the facility within the Feeder System to:

- (a) test RTGS Instructions within CHES in the manner contemplated by Rules 11.18, 11.19 and 11.20; and
- (b) hold and allow ASX Settlement to monitor unsettled RTGS Instructions during the RTGS Settling Phase.

“**Fees and Charges Schedule**” means the Fees and Charges Schedule made by ASX Settlement under Rule 1.6.

“**Financial Products**” means:

- (a) Division 4 financial products as defined in Regulation 7.11.03 of the Corporations Regulations; or
- (b) For the purposes of Rule 8.3.2, financial products issued under an employee incentive scheme and company issued options.

“**Financial Products Code**” means the code that is assigned to a class of Approved Financial Products by an Approved Market Operator.

“**Financial Products Shortfall**” means (the number that is greater than zero, where the number is calculated by the total number of Financial Products of a class projected to be delivered

from a Holding in Scheduled Settlement on a Business Day) less the sum of the number of Financial Products of that class in that Holding at Settlement Cut-Off on that Business Day and of the total number of Financial Products of that class projected to be received into that Holding in Scheduled Settlement on that Business Day where:

$SS = D - (H + R)$ and:

SS is the Financial Products Shortfall

D is the total number of Financial Products of a class projected to be delivered from the Holding

H is the number of Financial Products of a class in the Holding

R is the total number of Financial Products of a class projected to be received into the Holding.

“Financial Products Transformation” means either:

- (a) an adjustment to the Holding Balance of a CHES Holding initiated by the Issuer because Financial Products in the Holding have:
 - (i) been absorbed into an existing class of Financial Products (for example, Financial Products that do not rank for a Dividend to Financial Products that do); or
 - (ii) been assigned a new Financial Product Code (for example, because of a Reconstruction); or
- (b) in respect of Allocation Interests, an adjustment to a Holding of Allocation Interests initiated by the Issuer in order to despatch Approved Financial Products under Rule 15.27.

“Firm Allocation Component” means that part of an Offer which is reserved for clients of a Participant under an agreement between the Issuer and a Participant.

“FOR Financial Products” means a class of Approved Financial Products included in Schedule 1, pursuant to Rule 5.18.2.

“Foreign Clearing House” means a person which:

- (a) has its principal place of business in a country other than Australia;
- (b) is authorised to provide clearing and settlement services in the country in which it has its principal place of business; and
- (c) is subject to prudential and/or other regulatory supervision in the country in which it has its principal place of business by a regulatory authority that has entered into an information sharing arrangement dealing with market matters with the Commission.

“Foreign Confirmed Holding Net Movement Report” means a report that:

- (a) for the specified period; and
- (b) in respect of each CHESS Holding containing Confirmed FOR Financial Products in the specified sets out a summary on a daily basis of:
- (c) total units added to the Holding pursuant to Foreign to Foreign Allocations;
- (d) total units deducted from the Holding pursuant to Foreign to Foreign Allocations;
- (e) total units added to the Holding of Confirmed FOR Financial Products as a result of registry authorised transactions;
- (f) total units deducted from the Holding of Confirmed FOR Financial Products as a result of registry authorised transactions; and
- (g) the end of day closing balance for the Holding.

“Foreign Issuer” means an Issuer whose place of incorporation does not recognise CHESS as a system that can transfer and register legal Title to Financial Products.

“Foreign Ownership Percentage Level” means the aggregate limit of foreign ownership, pursuant to the constitution or governing legislation of an Issuer whose Financial Products are included in Schedule 1.

“Foreign Person” means, where specified pursuant to Rule 8.7.2, that the Holder has notified the Controlling Participant that the beneficial owner of the Financial Products in the Holding, for the purposes of legislation or under the constitution of an Issuer whose Financial Products are included in Schedule 1:

- (a) is a foreign person;
- (b) is an associate of a foreign person; or
- (c) has a beneficial interest in the Financial Products, part of that beneficial interest vesting in a Foreign Person, other than persons, associates or interests which the legislation or constitution ignores or excludes for the purposes of aggregate foreign ownership restrictions.

Note: a Residency Indicator of “F” denotes a Foreign Person

“Foreign Register” means a register of an Issuer that is located outside Australia.

“Foreign Financial Products” means financial products issued or made available by a Foreign Issuer.

“Foreign to Foreign Allocation” means a Transfer or Conversion of Confirmed FOR Financial Products, including a Transfer pursuant to a transaction effected in accordance with the operating rules of an Approved Market Operator, where the Residency Indicator of both the Source and Target Holdings is “F”, thus resulting in a Holding of Confirmed FOR Financial Products.

Amended 18/12/06

“Full Download” in relation to the CHESSE Subregister for a class of an Issuer’s Financial Products, means a Demand Report Transmitted to the Issuer of:

- (a) the HINs of all Holders on the Subregister; and
- (b) the Holding Balances of all Holdings; and/or
- (c) the Cum Entitlement Balances for all Holdings or former Holdings.

“General Settlement Participant” means a Participant admitted to participate in the Settlement Facility under Rule 4.3 but does not include a Recognised Market Operator under Rule 4.3.13.

“Held Balance” means the number of Financial Products that remain in a Certificated Holding after a Transfer by a Participant of only some of the Financial Products represented by a Certificate or Marked Transfer.

“Held Balance Reference Number” means the number allocated by an Issuer to identify a Held Balance.

“HIN” stands for Holder Identification Number and means a number used to:

- (a) identify a Holder of Financial Products on the CHESSE Subregister; and
- (b) link the Holding details maintained on the CHESSE Subregister with the Holder’s Registration Details.

“Holder” means:

- (a) a person registered as the legal owner of Financial Products in a Holding;
- (b) a person who is recorded as holding CDIs on the CDI Register;
- (c) a person who is recorded on a record of Allocation Interests; or
- (d) a person who is recorded as holding FDIs on the FDI Register.

“Holder Record” means the Registration Details, the HIN and the Holder Type as recorded by ASX Settlement in CHESSE for the purpose of operating one or more CHESSE Holdings.

“Holder Record Lock” means a facility that prevents Financial Products from being deducted from any current Holding to which the relevant Holder Record applies, pursuant to a Transfer or Conversion.

“Holder Type” means a code used to indicate the capacity in which a Participant:

- (a) establishes a Holder Record;
- (b) controls a CHESSE Holding, (for example, Direct, Participant Sponsored or Clearing Account).

“Holding” means:

- (a) a number of Financial Products of an Issuer held by a Holder on the Issuer’s register;
- (b) a number of CDIs held by a Holder on the CDI Register;
- (c) a number of Allocation Interests recorded in respect of a Holder; or
- (d) a number of FDIs recorded as held by a Holder on an FDI Register.

“Holding Adjustment” means a movement of Financial Products to or from a CHESSE Holding that is initiated by an Issuer Transmitting a Message to ASX Settlement to:

- (a) give effect to a Corporate Action or Reconstruction in relation to a class of the Issuer’s Financial Products;
- (b) establish a CHESSE Holding pursuant to a new issue of Approved Financial Products;
- (c) move Financial Products from a CHESSE Holding for the purpose of Divestment or forfeiture; or
- (d) move Financial Products to or from a CHESSE Holding in such other circumstances as:
 - (i) are permitted by these Rules; or
 - (ii) may be agreed between ASX Settlement and the Issuer.

“Holding Balance” means the number of Financial Products in a Holding.

“Holding Lock” means, in relation to a Holding on either the CHESSE Subregister or an Issuer Operated Subregister, a facility that prevents Financial Products from being deducted from, or entered into, a Holding pursuant to a Transfer or Conversion.

“Holding Net Movement Report” means a report that:

- (a) for the specified period; and
- (b) in respect of each CHESS Holding of Financial Products in the specified class that has undergone a Holding Balance change during the specified period,
- (c) sets out, a summary on a daily basis of:
 - (i) total units added to the Holding;
 - (ii) total units deducted from the Holding;
 - (iii) total units added to the Holding as a result of registry authorised transactions;
 - (iv) total units deducted from the Holding as a result of registry authorised transactions; and
 - (v) the End of Day closing balance for the Holding.

“Incapacity Law” means a law relating to the administration of the estates of persons who, through mental or physical incapacity, are incapable of managing their affairs.

“Industry Group” means one of the following groups:

- (a) Participants or senior officers of Participants; or
- (b) senior officers of Issuers or of Issuers’ Third Party Providers.

“Instruction” means a Batch Instruction or an RTGS Instruction.

“Issuer” means a person who issues or makes available or proposes to issue or make available, Approved Financial Products and includes (without limitation):

- (a) a listed company or company whose Financial Products are quoted by a market licensee or by a financial market or type of financial market exempted under section 791C of the Corporations Act;
- (b) a warrant issuer;
- (c) the responsible entity of a managed investment scheme;
- (d) a Foreign Issuer.

“Issuer Operated Subregister” means an Issuer Sponsored Subregister.

“Issuer Sponsored Holding” means a Holding of Financial Products on the Issuer Sponsored Subregister.

“Issuer Sponsored Subregister” means:

- (a) that part of an Issuer's register that records uncertificated Holdings of Financial Products in accordance with Listing Rule 8.2; or
- (b) that part of a CDI Register, that is administered by the Issuer (and not ASX Settlement).

"Issuer Sponsored to CHES" means a Transfer or Conversion of Financial Products from an Issuer Sponsored Holding to a CHES Holding.

"Issuer Warranties and Indemnities" means warranties and indemnities given by an Issuer under these Rules.

"Last Corporate Action Event Date" means in the case of an Entitlement under a Corporate Action that involves:

- (a) the issue of Financial Products only, the Despatch Date;
- (b) the payment of money only, the due date of payment; or
- (c) a combination of the issue of Financial Products and the payment of money, the later of the Despatch Date and the due date of payment,

where, before the date when the Issuer must have completed its obligation to pay money or issue Financial Products is unknown or unclear the Last Corporate Action Event Date will be a date ASX Settlement reasonably determines is appropriate in the circumstances and notifies the Issuer and each Participant.

"Lender" has the meaning given to it in the definition of Securities Lending Arrangement.

Introduced 02/11/09

"Listing Rules" means the Listing Rules of an Approved Market Operator.

"Locked" in relation to a Holding, means subject to a Holding Lock or a Holder Record Lock.

"MAC" stands for Message Authentication Code, and means a code appended to a Message by ASX Settlement or a Facility User for the purpose of enabling the recipient of the Message to confirm the identity of the Facility User Transmitting the Message.

"Marked Transfer" means a Registrable Transfer Document that has been marked by the Issuer or a marking body.

"Market Operator" means:

- (a) ASX; or
- (b) in the Rules made from time to time pursuant to arrangements entered into under section 798C of the Corporations Act, in

relation to quoted financial products issued by ASX, “the Commission”; or

(c) in relation to:

(i) a class of financial products quoted, or to be quoted by; or

(ii) a participant of a market licensee under the Corporations Act other than ASX,

that market licensee; or

(d) the operator of a financial market or type of financial market exempted under section 791C of the Corporations Act.

“Market Participant” means a participant of an Approved Market Operator.

“Marketable Parcel” means in relation to a Financial Product, the number determined by an Approved Market Operator to be a marketable parcel.

Introduced 18/12/06

“Marking Number” means the unique reference number allocated to a Marked Transfer by the Issuer or a marking body.

Introduced 06/06/05

“Match and Matched” in relation to Messages Transmitted to ASX Settlement by a Participant, means that the Message contains, or under the Rules may be taken to contain, the same details for message fields that require mandatory matching.

“Matched Messages” means:

(a) in relation to Dual Entry RTGS Messages, Messages that are Matched under Rule 11.13.3;

(b) in relation to Dual Entry Batch Messages, Messages that are Matched under Rule 9.5.2 or 10.9.3;

(c) in relation to Dual Entry Switch to Batch Settlement Messages, Messages that are Matched under Rule 11.12.3;

(d) in relation to Dual Entry Switch to RTGS Messages, Messages that are Matched under Rule 10.6.1 or 10.11.8; and

(e) in relation to Dual Entry Payment Batch Messages, Messages that are Matched under Rule 10.8.3,

and in any other case means Valid Messages that are Matched.

“Maximum Percentage” means 10% or such other percentage prescribed by ASX Settlement.

“Maximum Value” means \$350,000 or such other amount prescribed by ASX Settlement.

“Message” means an electronic message of a kind specified in the EIS for use in CHES.

“Net Position Record” in relation to an RTGS Participant, means a facility established within CHES through which ASX Settlement tracks and records the outcome of RTGS Instructions due for settlement on any RTGS Business Day, that relate to a particular Payment Facility of that Participant.

“Net Position Record Status” means at any time the status of a Net Position Record as authorised at that time by the RTGS Payments Provider that maintains the Payment Facility to which that Net Position Record is linked, being either:

- (a) active; or
- (b) inactive.

“Nominee Company” means a body corporate controlled and operated by a Participant admitted under Rule 4.3.1 that carries on the business of holding Financial Products as a trustee or nominee.

“Non Participant Related Body Corporate” means, in respect of an entity, a Related Body Corporate of the entity which is not a Participant.

Introduced 14/12/09

“Notice” has a meaning given by Rule 1.10.

“Notice of Death” means a death certificate or any other formal document that is acceptable by ASX Settlement as evidence of a Holder’s death.

“Off Market Transaction” means a transaction in Approved Financial Products that is not an On Market Transaction.

“Offer” means:

- (a) an offer for subscription or an invitation to subscribe for Financial Products, under which an Issuer must issue; or
- (b) an offer under which an Issuer must dispose of,

Approved Financial Products to successful applicants.

“Offer Accepted Subposition” means a Subposition for the reservation of Financial Products in a CHES Holding which are the subject of an acceptance under a takeover bid.

“Old Corporations Act” means the Corporations Act as in force immediately before 11 March 2002.

“On Market Transaction” means a transaction in Approved Financial Products in relation to which one of the following conditions is satisfied:

- (a) the transaction was entered into in the ordinary course of trading on an Approved Market Operator’s market; or
- (b) the transaction is, under the operating rules of an Approved Market Operator, described, or to be described, as ‘special’ when it is reported to the Approved Market Operator; or
- (c) in relation to a transaction between a Participant and a Participant who is not a Market Participant, a confirmation is issued in relation to a transaction under paragraph (a) or (b); or
- (d) in relation to a transaction between two Participants that are not Market Participants, the transaction is entered into solely for the purpose of facilitating settlement of a transaction of a kind referred to in paragraph (a) or (b).

Amended 10/06/04

“Originating Message” means a Message Transmitted to ASX Settlement by the Controlling Participant for a CHESSE Holding which (as a consequence of that Message being processed) results in ASX Settlement or a Facility User Transmitting another Message (whether or not that consequential Message also results from the processing of any intervening Message).

“Other Interest” means any right or interest whether legal or equitable in the Participating International Financial Product and includes an option to acquire a right or interest in the Participating International Financial Product.

“Parent Batch Instruction” means a Batch Instruction that gives rise to an Accrued Batch Instruction as a result of a Corporate Action.

“Parent DvP Batch Instruction” means a Parent Batch Instruction with a Settlement Amount scheduled to settle in DvP Batch Settlement.

“Parent DvP RTGS Instruction” means a Parent RTGS Instruction with a Settlement Amount scheduled to settle in DvP Real Time Gross Settlement.

“Parent Financial Products” means a class of Approved Financial Products to which an Entitlement to cash or Financial Products attaches that, during an Ex Period, may be Transferred with or without the Entitlement.

“Parent Participant” means:

- (a) in relation to a group of Participants within paragraph (a) of the definition of Participant Group, any Participant within that group that is notified to ASX Settlement by all the Participants within that group; or

(b) in relation to a group of Participants within paragraph (b) of the definition of Participant Group, the Settlement Participant that is notified to ASX Settlement by all the Participants within that group.

Amended 18/12/06

“Parent RTGS Instruction” means an RTGS Instruction that gives rise to an Accrued RTGS Instruction as a result of a Corporate Action.

“Participant” means an Account Participant, a Specialist Settlement Participant, or a General Settlement Participant.

“Participant Bidder” means a Participant entitled or authorised (whether as the bidder or on behalf of the bidder) to receive acceptances of bids made under a takeover bid in accordance with these Rules.

“Participant Change Notice” means the Notice sent to a Participant Sponsored Holder which complies with the requirements of Rule 7.1.10(a)

Amended 04/04/05

“Participant Group” means:

- (a) a group of Participants that are related bodies corporate within the meaning of section 50 of the Corporations Act; or
- (b) a Settlement Participant which has a written agreement with one or more Account Participants and each of those Account Participants with whom it has a written agreement.

Amended 18/12/06

“Participant Managed” in relation to the attributes of a Net Position Record, means any of the matters set out in Rule 11.9.11.

“Participant Sponsored Holder” means a person that has a current Sponsorship Agreement with a Participant as required or permitted under these Rules.

“Participant Sponsored Holding” means a CHES Holding of a Participant Sponsored Holder.

“Participant Warranties and Indemnities” means warranties and indemnities given by a Participant under these Rules.

“Participation Requirements” means matters set out in Section 4 in relation to which ASX Settlement must be satisfied in order for a person to be admitted to participate in CHES in any capacity.

“Participating International Financial Products” mean financial products:

- (a) traded on a market other than in Australia; and

(b) declared by ASX Settlement under Rule 13.15 from time to time to be available for settlement by means of FDIs.

Note: financial products in this definition are not restricted by jurisdictional limits in the Corporations Act.

Amended 06/06/05

“Party” in relation to a Proceeding or Appeal, means:

- (a) the Facility User to whom a Contravention Notice was given in the Proceeding; or,
 - (b) ASX Settlement or the Facility User to or by whom an Appeal Notice was given in the Appeal,
- as the case requires.

“Payment Batch Instruction” means:

- (a) a CCP Derivatives Payment Batch Instruction; or
- (b) a Dual Entry Payment Batch Instruction.

“Payment Facility” means a Facility operated for a Participant at a Payments Provider for the purposes of paying and receiving payments in Batch Settlement.

“Payment Obligation” in relation to an RTGS Instruction means an obligation on the part of one party to pay a cash amount to the other on settlement.

“Payment Shortfall” for a Payment Facility, means:

- (a) if the Participant’s net obligation to make payment is not authorised, the amount of the net obligation for which authorisation is sought; or
- (b) if the Participant’s net obligation to make payment is not authorised, the difference between the amount of the net obligation to make the payment that has already been authorised by the Payments Provider and the amount of the net obligation to make a payment for which further authorisation is sought from the Payments Provider.

“Payment Systems and Netting Act” means the Payment Systems and Netting Act 1998 (Cth).

“Payments Provider” means a person that:

- (a) operates an exchange settlement account with the Reserve Bank of Australia in its own name;
- (b) has the operational capacity to:
 - (i) authorise and make payments on behalf of Participants;

- (ii) make payments to Participants; and
 - (iii) register entries in the Payments Provider User Group for the purpose of discharging its net obligation to make payment to the Bank or its net entitlement to receive payment from the Bank in accordance with the Standard Payments Provider Deed;
- (c) meets the technical and performance requirements prescribed by ASX Settlement to ensure that the person does not affect the integrity or orderly operation of CHES; and
- (d) is a person who facilitates Batch Settlement by approving or making payments in accordance with the terms and conditions of the relevant Standard Payment Providers Deed.

“Payments Provider Managed” in relation to the attributes of a Net Position Record, means any of the matters set out in Rule 11.9.3(a) to (f).

“Payments Provider User Group” means the subsystem within the interbank payments system, operated by the Reserve Bank of Australia, established to enable financial institutions to satisfy payment obligations of CHES Participants on behalf of CHES Participants.

“PID” stands for participant identifier and means a UIC allocated by ASX Settlement to a Participant that is:

- (a) used as the identification code of the Participant that controls a Holding on the CHES Subregister; and
- (b) included in a Message header to identify the source and/or destination of CHES Data Messages.

“Pre-Cash Settlement Period” means, for the purposes of Regulation 7.5.44 of the Corporations Regulations 15 Business Days.

“Pre-commencement Testing” means testing at the direction of ASX Settlement to establish whether a Facility User meets the Technical and Performance Requirements.

“Prescribed Percentage” means 50% or such other percentage determined by ASX Settlement.

“Prescribed Person” means the person from time to time notified as such by ASX Settlement to Participants and RTGS Payments Providers.

“Principal” in relation to a body, means each of:

- (a) any parent body of the body;
- (b) each Director or person in the position of a Director;

(c) where the body consists of two or more partners or trustees, each principal (within the meaning of paragraphs (a) and (b)) of each of those partners or trustees.

“Principal Financial Products” means Financial Products issued or made available by a Principal Issuer.

“Principal Issuer” means:

- (a) a Foreign Issuer; or
- (b) a DI Issuer.

“Principal Register” means the register of those Holdings of Principal Financial Products maintained by a Principal Issuer in Australia under these Rules.

“Procedures” means any document, electronic file or other information (recorded by any mode of representing words or reproducing words) approved by ASX Settlement and given where applicable to Participants, Issuers and third party service providers in accordance with Rule 1.4 and, without limitation, includes any EIS and the ASX Settlement Procedures as amended from time to time.

Amended 18/12/06

“Proceeding” means proceedings taken under Section 12 by ASX Settlement against a Facility User and commenced by a Contravention Notice.

“Publish a Notice” means to publish a Notice in at least one national newspaper and at least one state or territory based newspaper in each state and territory.

“Real Time Gross Settlement” means the processing and settling of payment and delivery obligations in real time and on a gross, not net, basis, the fundamental characteristic of which is that the payment and delivery components of a transaction become irrevocable at the time of settlement and, in relation to CHES, is effected in accordance with systems and procedures contained in Section 11.

“Reciprocal Arrangement” means any agreement or arrangement between ASX Settlement and any governmental agency or regulatory authority (including, without limitation, a market, clearing house or clearing and settlement facility), in Australia or elsewhere, whose functions include the regulation of trading in, or clearing and settlement of, financial products (in Australia or elsewhere) which provides for the disclosure of information between ASX Settlement and the other party in relation to dealings in, or clearing and settlement of, financial products (in Australia or elsewhere).

“Recognised Market Operator” means a Market Operator admitted as a Participant under Rule 4.3.1 and which is recognised under Rule 4.3.13.

“Recognised Physical Access Point” means:

- (a) in the case of a Facility User, the physical location of an application system that the Facility User employs to operate an interface with CHES; or
- (b) in the case of ASX Settlement, the physical location of the application system that operates CHES.

“Reconstruction” means an alteration to the issued capital of an Issuer, which affects the number, or nature, of Financial Products held by a Holder and includes (without limitation) a reorganisation or a merger.

“Record Date” means 5:00pm (or, in the case of a ASX Settlement-Regulated Transfer, a later time permitted by the Rules) on the date specified by an Issuer as the date by reference to which the Issuer will establish Cum Entitlement Balances for the purpose of identifying the persons entitled to the benefit of a Corporate Action.

“Recorded” in relation to an RTGS Instruction, means that its details have been stored in CHES in accordance with Rule 11.15.

“Records” means books, computer software, information processing equipment and any other item on which information is stored or recorded in any manner.

“Registrable Transfer Document” means any document that an Issuer is entitled to accept as a valid instrument of transfer or a Transfer Request Document.

“Registration Details” means the name, address, Email Details (if any) and Residency Indicator of a Holder.

Amended 02/11/09

“Related Body Corporate” has the meaning set out in Section 50 of the Corporations Act.

“Related Party” means each entity in the ASX Group.

“Remove” means to move a Holding between a Principal Register and a CHES or an Issuer Operated Subregister without a change of legal ownership.

“Renounceable Rights Record” means the record maintained by an Issuer of Holders of renounceable rights not held on the CHES Rights Subregister.

“Report” means a Standing Report or a Demand Report.

“Reporting Point” means a particular point during a Business Day when information is stored by CHES for the purposes of reporting data to Facility Users; Acceptable values comprise:

- (a) end of Settlement Processing Phase;

(b) Trade Instruction Cut-Off;

(c) End of Day.

“Rescheduled Batch Instruction” means a Batch Instruction which has been Failed (in whole or part) under Rule 10.11.2 and rescheduled for settlement under Rule 10.11.7 on three consecutive Business Days. It does not include a Batch Instruction which is Failed under Rule 10.11.3 as a consequence of the Failure of another Batch Instruction.

Introduced 03/03/09

“Reserve” in Section 11 in relation to Financial Products, has the meaning given in Rule 11.19.1(d).

“Reserved Processing Period” means the End of Day Processing Phase.

“Residency Indicator” means a code used to indicate the status of the ultimate beneficial owner or owners of FOR Financial Products in a Holding on the CHES Subregister or an Issuer Operated Subregister, for the purposes of settling transactions in FOR Financial Products. (i.e. “D” for Domestic, “F” for Foreign Person, and in the case of Holdings of Financial Products where beneficial ownership is both domestic and foreign, “M” for Mixed).

“Restricted Financial Products” means Financial Products that are subject to a restriction agreement under Listing Rule 9.1.

“Restriction” in relation to the participation of a Participant, means any limitation on the entitlement of the Participant to send a Message or a class of Messages to ASX Settlement.

“Rights Period” means the period from Start of Day on the date that rights trading begins on an Approved Market Operator to End of Day on the date that application money to take up those rights must be paid to the Issuer.

“RITS” means the Reserve Bank Information and Transfer System.

“RITS Postsettlement Advice” means a settlement confirmation, elected to be received by an RTGS Payments Provider, that is generated by RITS/RTGS and sent through the AIF to that RTGS Payments Provider.

“RITS Presettlement Advice” means an advice, elected to be received by an RTGS Payments Provider to enable it to make a credit decision in connection with the performance of a Payment Obligation, that is generated by RITS/RTGS and sent through the AIF to that RTGS Payments Provider.

“RITS/RTGS” means RITS, as operated by the Reserve Bank of Australia for Real Time Gross Settlement.

“RITS Regulations” means the regulations and conditions of operation that govern RITS as published from time to time by the Reserve Bank of Australia.

“Routine Reporting” means electronic reporting that is generated automatically by CHES as transactions are processed.

“RTGS” stands for Real Time Gross Settlement.

“RTGS Account Identifier” means a numeric identifier (that may, but need not, be an account number) agreed between an RTGS Participant and an RTGS Payments Provider to uniquely identify the Participant’s account that is to be debited, or credited, with the amount of any Payment Obligation, on settlement of an RTGS Instruction in accordance with Rule 11.25.

“RTGS Accredited” in relation to a Participant, has the meaning set out in Rule 11.5.2.

“RTGS Business Day” means a Settlement Day within the meaning of the RITS Regulations, or any other day declared by the Reserve Bank as a day on which RITS/RTGS will operate that is notified by ASX Settlement to Participants.

“RTGS Contingency Report” means a report of the settlement status of CHES-related funds transfer requests sent to RITS/RTGS that is provided to ASX Settlement by the Reserve Bank of Australia in manner and form as agreed between them.

“RTGS Cut-Off” means on any RTGS Business Day, 4.30pm Sydney time or such other time as ASX Settlement may from time to time determine.

“RTGS Delivery Shortfall” in relation to Financial Products of a particular class in a Holding at any time on the RTGS Settlement Date for a particular RTGS Instruction, means that the sum of:

- (a) the number of Financial Products of that class required to be delivered from that Holding in Real Time Gross Settlement under that RTGS Instruction on that day;
- (b) the number of Financial Products of that class Reserved against that Holding in relation to RTGS Instructions at that time in the RTGS Settling Phase, and
- (c) prior to ASX Settlement recording under Rule 10.12.1(f)(ii) a movement of Financial Products of that class against that Holding to effect DvP Net Settlement on that day, the number of Financial Products of that class that ASX Settlement has determined at Settlement Cut-off will be so recorded as a movement against that holding at DvP Notification on that day,

is greater than:

- (d) the total number of Available Financial Products at that time in the Holding.

“RTGS Eligible” in relation to Financial Products, has the meaning set out in Rule 11.1.1.

“RTGS End of Day” means on any RTGS Business Day, 5.00pm Sydney time or such other time as ASX Settlement may from time to time determine.

“RTGS Instruction” means an instruction to ASX Settlement to settle an RTGS Transaction in Real Time Gross Settlement through the CHESSE Feeder System, and includes a DvP RTGS Instruction, a CCP Gross RTGS Instruction and a Dual Entry RTGS Instruction.

“RTGS Instruction Cut-off” on any RTGS Business Day means 4.25pm Sydney time or such other time as ASX Settlement may from time to time determine.

“RTGS Mandatory” in relation to an RTGS Transaction, has the meaning set out in Rule 11.3.1.

“RTGS Message” means a Message that, in accordance with the requirements of the EIS, instructs ASX Settlement to settle an RTGS Transaction in Real Time Gross Settlement.

“RTGS Participant” means a Participant:

- (a) that satisfies the criteria for participation in Real Time Gross Settlement set out in Rule 11.5; and
- (b) for which a Net Position Record has been established under the Rules that records the Net Position Record Status as active.

“RTGS Participation Requirements” in relation to a Participant, means any technical and performance requirements notified by ASX Settlement to the Participant to ensure that it is capable of operating in Real Time Gross Settlement.

“RTGS Payments Provider” means a Payments Provider that:

- (a) satisfies the criteria for participation in Real Time Gross Settlement in CHESSE set out in Rule 11.6.1; and
- (b) has been admitted to participate in Real Time Gross Settlement in CHESSE in that capacity.

“RTGS Pre-commencement Testing” means testing at the direction of ASX Settlement to establish whether a prospective RTGS Participant meets the RTGS Participation Requirements.

“RTGS Settlement Date” means the RTGS Business Day specified, or taken to be specified, in an “RTGS Instruction as the date on which the counterparties intend that RTGS Instruction to settle in Real Time Gross Settlement.

“RTGS Settlement Report” means a report required to be made available by ASX Settlement to an RTGS Payments Provider in accordance with Rule 11.30.

“RTGS Settling Phase” in relation to an RTGS Instruction, means the time period that commences in accordance with Rule 11.22.1 and ends when all components of that RTGS Instruction have been settled in CHES in accordance with Rule 11.25.

“Rules” means the operating rules of the Settlement Facility in accordance with Rule 1.2 including the appendices, schedules and any State of Emergency Rules.

“Scheduled Time” means the time within or by which a requirement under these Rules must be complied with as specified in Appendix 1 to these Rules.

“Section” means a section of these Rules.

“Securities Borrowed Position” means, at any time in respect of a Securities Lending Participant and a class of Approved Financial Products, the aggregate number of Financial Products of the class that the Participant or any of its Non Participant Related Bodies Corporate has borrowed from one or more Lenders under Securities Lending Arrangements to which the Participant or any of its Non Participant Related Bodies Corporate is a party and that the Participant or Non Participant Related Body Corporate has not returned to the Lender or Lenders, or entities nominated by them, at that time. Financial Products which are:

- (a) borrowed by and entity from a Related Body Corporate; or
 - (b) included in the Securities Borrowed Position of another Securities Lending Participant in respect of that class of Financial Products at that time,
- are to be disregarded.

Introduced 14/12/09

“Securities Committed Position” means, at any time in respect of a Securities Lending Participant and a class of Approved Financial Products, the aggregate of:

- (a) the Participant’s Securities On Loan Position in respect of the class of Financial Products at that time; and
- (b) the aggregate number of Financial Products of the class held by the Participant or any of its Non Participant Related Bodies Corporate which are available at that time for loan to other parties, whether or not subject to any conditions, under Securities Lending Arrangements to which the Participant or any of its Non Participant Related Bodies Corporate is or may become a party as Lender. Financial products which are:
 - (i) included in the Participant’s Securities Borrowed Position in respect of that class of Financial Products at that time;

- (ii) included in the Securities Committed Position of another Securities Lending Participant in respect of that class of Financial Products at that time; or
- (iii) held by the Participant or any of its Non Participant Related Bodies Corporate as a result of or for the purpose of trading by the entity on its own behalf, are to be disregarded.

Introduced 14/12/09

“Securities Lending Arrangement” means an arrangement under which:

- (a) an entity (the Lender) agrees that it will:
 - (i) deliver Financial Products to another entity (the Borrower) or to an entity nominated by the Borrower; and
 - (ii) vest title in those Financial Products in the entity to which they are delivered; and
- (b) the Borrower agrees that it will, after the Lender does the things mentioned in paragraph (a):
 - (i) deliver the Financial Products (or equivalent Financial Products) to the Lender or to an entity nominated by the Lender; and
 - (ii) vest title in those Financial Products (or equivalent Financial Products) in the entity to which they are delivered.

Introduced 02/11/09

“Securities Lending Participant” means a Participant that engages in or intends in the future to engage in, or has a Non Participant Related Body Corporate that engages in or intends in the future to engage in, one or more Securities Lending Transactions, irrespective of the value or frequency of the transactions.

Introduced 02/11/09

“Securities Lending Transaction” means a transaction in Approved Financial Products entered into under a Securities Lending Arrangement.

Introduced 02/11/09

“Securities On Loan Position” means, at any time in respect of a Securities Lending Participant and a class of Approved Financial Products, the aggregate number of Financial Products of the class that the Participant or any of its Non Participant

Related Bodies Corporate has lent to one or more Borrowers under Securities Lending Arrangements to which the Participant or any of its Non Participant Related Bodies Corporate is a party, and that have not been returned to the Participant, or Non Participant Related Body Corporate, or entities nominated by them, at that time. Financial Products which are:

- (a) lent by an entity to a Related Body Corporate; or
 - (b) included in the Securities On Loan Position of another Securities Lending Participant in respect of that class of Financial Products at that time,
- are to be disregarded.

Introduced 14/12/09

“Security Key” means an electronic code that is:

- (a) generated by ASX Settlement; and
- (b) used to ensure secure communications between ASX Settlement and Facility Users.

“SEGC” means Securities Exchanges Guarantee Corporation Ltd (ABN 19 008 626 793).

“Segregated Account” means an account maintained in accordance with these Rules with an Approved Clearing House which contains Principal Financial Products or Participating International Financial Products held solely on behalf of the Depository Nominee.

“Settlement Account” means a Holder Record maintained in CHESS by a Participant for the purpose of facilitating settlement of transactions in Approved Financial Products with other Participants.

“Settlement Adjustment” means an adjustment to the Settlement Amount of a DvP Batch Instruction or a DvP RTGS Instruction.

“Settlement Agent” means a General Settlement Participant that is has a Settlement Agreement with a Clearing Participant.

“Settlement Agreement” means an agreement between a General Settlement Participant and a Clearing Participant under which the General Settlement Participant agrees to act as Settlement Agent for the Clearing Participant.

“Settlement Amount” means the consideration for an Instruction.

“Settlement Amount Tolerance” means \$1.00 or such other amount that ASX Settlement prescribes.

“Settlement Bond” means a bond issued to ASX Settlement at the request of a Participant in accordance with Rule 4.9.1.

“Settlement Cut-off” means, on any Business Day, 10.30 am Sydney time or such other time as ASX Settlement may from time to time determine.

“Settlement Date” means the Business Day on which an Instruction is scheduled to settle.

“Settlement Facility” means the facility provided by ASX Settlement as described in Rules 1.1.1 and 1.1.2.

“Settlement Holding” means a Holding of Financial Products for which the Holder Record is a Settlement Account.

“Settlement Participant” means:

(a) a Participant that has been admitted to participate in the Settlement Facility as a General Settlement Participant; or

(b) a person that has been admitted to participate in the Settlement Facility as a Specialist Settlement Participant.

“Settlement Processing Phase” in relation to DvP Net Settlement, means, on any Business Day, the time period commencing after Settlement Cut-off during which Settlement Transfers are processed by ASX Settlement against CHES Holdings.

“Settlement Transfer” means a Transfer of Financial Products that gives effect to an Instruction.

“Single Entry Batch Message” means a Message that complies with Rule 10.9.11.

“Single Entry Batch Instruction” means a Batch Instruction that gives effect to a Single Entry Batch Message.

“Single Entry Demand Message” means a Message that complies with Rule 9.4.1 or Rule 9.13.1.

Amended 10/05/04

“Single Entry Transfer Request” means a Demand Transfer of Financial Products that gives effect to a Single Entry Demand Message.

Introduced 10/05/04

“Source Holding” means the Holding from which Financial Products will be deducted in giving effect to a Transfer, Conversion, Corporate Action or other transaction.

“Specialist Settlement Participant” means a Participant admitted under Rule 4.4.

“Sponsoring Participant” means a Participant that establishes and maintains a Participant Sponsored Holding.

“Sponsorship Agreement” means a written agreement between the Sponsoring Participant and another person, signed by both parties, as required under Section 7 of these Rules.

“Sponsorship Bond” means a bond issued to ASX Settlement at the request of a Participant in accordance with Rule 4.9.3.

“SRN” stands for Security holder Reference Number and means a number allocated by an Issuer to identify a Holder on an Issuer Operated Subregister.

“Standard Acceptance Form” means a standard entitlement and acceptance form in respect of renounceable rights as specified by ASX Settlement from time to time.

“Standard Client Bank Deed” means a standard deed executed by ASX Settlement and a bank.

“Standard Conversion Form” means a standard form, as specified by ASX Settlement from time to time, for the conversion of convertible Financial Products.

“Standard Exercise Form” means a standard form of notice of exercise, as specified by ASX Settlement from time to time, for options and other Financial Products that carry exercisable rights.

“Standard Payments Provider Deed” means a standard deed executed by ASX Settlement and a Payments Provider and includes a Standard Client Bank Deed.

“Standing Buy Account Identifier” means an RTGS Account Identifier that is notified to ASX Settlement under Rule 11.9.11 or Rule 11.9.15 for the purposes of an RTGS Instruction where the Participant will, on settlement, be the payer of the Payment Obligation identified in that RTGS Instruction.

“Standing HIN” means a HIN that is notified to ASX Settlement under Rule 6.4.2.

“Standing Instructions” means a Holder’s instructions to an Issuer in relation to matters relevant to Holdings, including (without limitation) TFN notification, Residency Indicator, direct credit of dividends or interest payments, annual report elections and elections in respect of shareholders’ dividend plans.

“Standing Report” means one of a series of Messages periodically Transmitted by ASX Settlement to a Facility User, each of which provides information about CHESSE Holdings or CHESSE Subregister movements in accordance with parameters specified by the Facility User.

“Standing Sell Account Identifier” means an RTGS Sell Account Identifier that is notified to ASX Settlement under Rule 11.9.11 or Rule 11.9.15 for the purposes of an RTGS Instruction where the Participant will, on settlement, be the payee of the Payment Obligation identified in that RTGS Instruction.

“Standing Settlement HIN” means a HIN notified to ASX Settlement under Rule 6.4.2.

“Start of Day” means, on any Trading Day, 8.00 am Sydney time or such other time as ASX Settlement may from time to time determine.

“State of Emergency” means any of the following:

- (a) fire, power failure or restriction, communication breakdown, accident, flood, embargo, boycott, labour dispute, unavailability of data processing or any other computer system or facility, act of God; or
- (b) act of war (whether declared or undeclared) or an outbreak or escalation of hostilities in any region of the world which in the opinion of ASX Settlement prevents or significantly hinders the operation of the Settlement Facility; or
- (c) an act of terrorism; or
- (d) other event which, in the opinion of ASX Settlement, prevents or significantly hinders the operations of the Settlement Facility.

“State of Emergency Rules” means any Rules made by ASX Settlement under Rule 1.3.

“Subposition” means a facility in CHESSE by which in accordance with Rule 14.1.3:

- (a) activity in relation to Financial Products held in a CHESSE Holding may be restricted; and
- (b) access to those Financial Products for limited purposes may be given to a Participant other than the Controlling Participant.

“Subregister” means:

- (a) in the case of Financial Products other than CDIs, a CHESSE Subregister or an Issuer Operated Subregister; or
- (b) in the case of CDIs, a CDI Register.

“Surveillance Report” means a report generated by CHESSE that identifies changes to:

- (a) Batch Instructions notified to ASX Settlement by an Approved Market Operator under Rule 10.9.1; and
- (b) Batch Instructions that result from Matched Dual Entry Batch Messages,
- (c) to assist ASX Settlement in monitoring compliance with these Rules.

“Switch to Batch Settlement Message” means a Message that, in accordance with the requirements of the EIS, requests that an RTGS Instruction be removed from Real Time Gross Settlement in CHES and settled in Batch Settlement.

“Takeover Consideration Code” means a unique code allocated by an Approved Market Operator in respect of each alternate form of consideration offered under a takeover.

“Takeover Transfer” means a Transfer of Financial Products from a CHES Holding pursuant to acceptance of an offer for the Financial Products made under a takeover scheme.

“Takeover Transferee Holding” means a CHES Holding to which Financial Products are to be Transferred pursuant to acceptances of offers made under a takeover bid.

“Target Holding” means the Holding into which Financial Products will be entered in giving effect to a Transfer, Conversion, Corporate Action or other transaction.

“Target Transaction Identifier” means a reference number identifying a transaction which is the target of another transaction.

Introduced 09/05/05

“Tax” means any present or future tax, levy, impost, duty, charge, fee, deduction, or withholding of whatever nature, levied, collected, assessed or imposed by any government or semi-government authority and any amount imposed in respect of any of the above.

“Technical and Performance Requirements” means the requirements on Facility Users set out in Section 16.

“Terms and Conditions for FDI Controlling Participants” means those terms and conditions between AIS, CDN and the Controlling Participant of FDIs from time to time displayed on the ASX World Link Website.

“TFN” stands for Tax File Number and means a numeric code allocated by the Australian Taxation Office for taxation purposes.

“Third Party Provider” means a person that:

- (a) operates an interface with CHES;
- (b) performs any obligations of a Facility User under these Rules; or
- (c) uses facilities provided by ASX Settlement,

on behalf of a Facility User.

“Title” in relation to Financial Products, means:

- (a) legal title where the Financial Products can be owned at law, and
- (b) equitable or beneficial title where the Financial Products can be owned only in equity.

“Total Security Balance Report” means a report that sets out the aggregate of all Holding Balances held on the CHESSE Subregister for a class of Financial Products as at a specified point in time.

“Trade Date” means the date on which an agreement or arrangement for the purchase or sale of Financial Products was executed.

“Trade Instruction Cut-Off” means, on any Business Day, 10.30am Sydney Time or such other time as ASX Settlement may from time to time determine.

“Trading Day” means a day other than:

- (a) a Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and
- (b) any other day that ASX Settlement may declare and publish is not a trading day.

“Trading Participant” has the same meaning as in the operating rules of ASX

Introduced 23/10/09 Amended 01/08/10

“Transaction Identifier” means a reference number identifying a Message Transmitted through CHESSE.

Amended 09/05/05

“Transaction Statement” means a transaction statement for an Issuer Sponsored Holding as referred to in Listing Rules 8.5, 8.6 and 8.7.

“Transfer” means a transfer of Financial Products, or for the purposes of Section 15, a transfer of Allocation Interests:

- (a) from a CHESSE Holding to any other Holding; or
- (b) from any Holding to a CHESSE Holding.

“Transfer Request Document” means a document supplied by a Settlement Participant which is not a Market Participant to an Issuer that entitles the Issuer to authorise a Transfer of Financial Products from an Issuer Sponsored Holding to a CHESSE Holding.

“Transfer Service” means a service provided to a market licensee for the holding, transfer and settlement of Approved Financial Products that are listed on the market of that licensee, in accordance with Rule 4.1A

Introduced 22/01/10

“Transfer Service Agreement” means a transfer service agreement in the form made available by ASX Settlement from time to time.

Introduced 22/01/10

“Transfer Service Requirements” means the matters set out in Rule 4.1A in relation to which ASX Settlement must be satisfied in order for a market licensee to be provided with a Transfer Service.

Introduced 22/01/10

“Transition Period” means the period from 11 March 2002 to 10 March 2004 or such later date as determined by the Commission.

“Transmit” means cause a Message to be made available for collection in the Message collection facility provided in CHES for Messages passing between ASX Settlement and Facility Users.

Note: Rule 16.17 specifies when a Facility User or ASX Settlement is taken to have Transmitted a Message.

“Transmute” means to cause:

- (a) Principal Financial Products to be converted into CDIs, or CDIs to be converted into Principal Financial Products; or
 - (b) Participating International Financial Products to be converted into FDIs, or FDIs to be converted into Participating International Financial Products;
- under these Rules, without any change in beneficial ownership.

“Transmutation Ratio” means the ratio which identifies the number or fraction of CDIs into which a Principal Financial Product may be converted, and the number or fraction of Principal Financial Products into which a CDI may be converted.

“Tribunal” means the Disciplinary Tribunal or the Appeal Tribunal, as applicable.

Amended 01/08/10

“Trustee Company” means a trustee company within the meaning of State or Territory Trustee Companies legislation or a Public Trustee of a State or Territory.

“UIC” stands for User Identification Code and means a unique numeric code allocated by ASX Settlement to ASX Settlement and each Facility User for the purpose of identifying the source and destination of Messages and which may be:

- (a) the UIC of an Issuer;

- (b) a PID; or
- (c) such other numeric code allocated by ASX Settlement.

“Valid” in relation to a Message, means a Message that:

- (a) identifies the source of the Message in the Message header by specifying a current source UIC that is compatible with the specified AIC;
- (b) correctly identifies the destination of the Message in the Message header by specifying the current UIC for the targeted Message recipient;
- (c) is formatted in accordance with and contains all the mandatory data requirements specified in the EIS;
- (d) has been properly authenticated, (determined by reference to the MAC); and
- (e) meets CHES encryption requirements specified in the EIS.

“Warranty and Indemnity Provision” means a provision of:

- (a) the Participant Warranties and Indemnities;
- (b) the Issuer Warranties and Indemnities; or
- (c) the ASX Settlement Indemnity.

“Withdrawal Instructions” means written or oral instructions from a Participant Sponsored Holder to the Controlling Participant for the withdrawal of Financial Products from a Participant Sponsored Holding and includes instructions:

- (a) for the Conversion of Financial Products in a Participant Sponsored Holding to any other mode of Holding;
- (b) to initiate a change of sponsorship for the Financial Products;
- (c) to endorse or initiate an off market transfer of Financial Products; or
- (d) to accept a takeover offer for the Financial Products on behalf of the Participant Sponsored Holder;
- (e) to accept a takeover offer for the Securities on behalf of the Participant Sponsored Holder.

Introduced 11/03/04 Origin SCH 21.13

SECTION 8 HOLDING FINANCIAL PRODUCTS IN THE SETTLEMENT FACILITY

In order to participate in the Settlement Facility, an Issuer's Financial Products must be Approved by ASX Settlement under these Rules. This Section sets out the requirements which Financial Products must satisfy in order to be Approved, including the Technical and Performance Requirements which an Issuer must satisfy and also contains provisions in relation to:

- (a) suspension and revocation of Approval;
- (b) establishing and dealing with Holdings of Financial Products and CHESS Subregisters; and
- (c) other provisions affecting Holdings (such as confidentiality, Holding Locks, reporting, recording details, Corporate Actions and correction of errors).

8.6 CHESS SUBREGISTERS

8.6.1 Status of CHESS Subregister

ASX Settlement must administer, as agent of an Issuer in accordance with these Rules, a CHESS Subregister for each class of the Issuer's Approved Financial Products to which the following provisions apply:

- (a) subject to paragraph (b), the CHESS Subregister for a class of an Issuer's Approved Financial Products forms part of the Issuer's principal register for that class of Financial Products; and
- (b) if an Issuer's principal register for a class of Approved Financial Products is located outside Australia, the CHESS Subregister forms part of the Issuer's principal Australian register, notwithstanding the fact that the Australian register is a branch register and forms a part of the Issuer's principal register outside Australia.

Introduced 11/03/04 Origin SCH 5.1

8.6.2 Information recorded and maintained on a CHESS Subregister

ASX Settlement must record and maintain on a CHESS Subregister for a class of Approved Financial Products:

- (a) the Registration Details and HIN of each person with a CHESS Holding of Financial Products in that class; and
- (b) in relation to each such person, the number of Financial Products held.

Introduced 11/03/04 Origin SCH 5.2.1

8.6.3 HIN not to be taken to be included in a register

Except to the extent required by these Rules or the law, an Issuer must not include a HIN in a register for the purpose of:

- (a) the register being open for inspection; or
- (b) furnishing a copy of the register or any part of the register.

Introduced 11/03/04 Origin SCH 5.2.2

8.6.4 Notice of location of stored information

As soon as a class of an Issuer's Financial Products are Approved, the Issuer must:

- (a) give notice to the Commission in accordance with Section 1301(1) of the Corporations Act specifying (subject to Rule 8.6.5) the registered office of ASX Settlement as the situation of the place of storage of the information maintained by ASX Settlement on a CHESSE Sub-register;
- (b) give a copy of that notice to ASX Settlement; and
- (c) give a copy of that notice to the exempt or special stock market or exempt financial market where the Issuer's Financial Products are quoted.

Introduced 11/03/04 Origin SCH 5.2.3, 5.2.4

8.6.5 Change of location of stored information

If the situation of the place of storage in relation to information maintained by ASX Settlement on a CHESSE Subregister changes:

- (a) ASX Settlement must promptly give Notice to the Issuer of the new place of storage; and
- (b) the Issuer must give notice to the Commission of the new place of storage in accordance with Section 1301(4) of the Corporations Act.

Introduced 11/03/04 Origin SCH 5.2.5

8.6.6 Classes of Holdings on a CHESSE Subregister

Holdings that may be maintained on a CHESSE Subregister are:

- (a) Holdings that are controlled by a Participant; or
- (b) such other Holdings as are determined by ASX Settlement, from time to time.

Introduced 11/03/04 Origin SCH 5.3.1

8.7 ESTABLISHING A HOLDER RECORD

8.7.1 Restrictions on establishing a Holder Record

A Participant must not Transmit a Message to establish a Holder Record in relation to a person under Rule 8.7.2 unless:

- (a) the person is a Related Body Corporate of the Participant; or
- (b) the Participant holds a current Sponsorship Agreement executed by the Participant and the person.

Introduced 11/03/04 Origin SCH 5.4.1A

8.7.2 Establishing a Holder Record

If a Participant Transmits a Valid Message to ASX Settlement requesting ASX Settlement to establish a Holder Record that includes the matters specified in the Procedures, ASX Settlement must:

- (a) establish a Holder Record on CHESSE for that person;
- (b) allocate a HIN to that Holder; and
- (c) if the Holder Record has been established for a Participant Sponsored Holder, promptly send a Notice in relation to that Holder Record to that Participant Sponsored Holder.

If the Holder Record is in relation to a person that is a Participant Sponsored Holder, the Participant must, in the absence of any specific alternative written authority from that other person specify as the current Registration Details in the Message, the name and address and, if applicable, Email details for the person as recorded in the Sponsorship Agreement.

Introduced 11/03/04 Origin SCH 5.4.1, 5.4.1B Amended 02/11/09

8.7.3 Holder Record for Holding of FOR Financial Products

A Participant must determine whether the Residency Indicator of a Holder Record is applicable to any new Holding of FOR Financial Products, and if it is not applicable to the new Holding of FOR Financial Products and there is no existing Holder Record with the appropriate Residency Indicator, the Participant must:

- (a) establish a separate Holder Record for that new Holding with the appropriate Residency Indicator; and
- (b) transfer that Holding to that Holder Record.

Note: Because of differing definitions of "Foreign Person" under the governing legislation or constitution of different Issuers with aggregate foreign ownership restrictions, a Holder's status (for the purposes of settling transactions in FOR Financial Products) may differ between Issuers.

Where these circumstances apply, Holders must have two distinct Holder Records in CHESSE; one with a Residency Indicator of "F" and another with a Residency Indicator of "D". Holdings of

particular Financial Products must then be linked to the appropriate Holder Record.

Introduced 11/03/04 Origin SCH 5.4.3

8.7.4 Indemnity by Participant where Holder Record established incorrectly

If, under Rule 8.7.2, a Participant has Transmitted a Valid Message requesting ASX Settlement to establish a Holder Record and that Message specifies the Holder Type as Participant Sponsored Holder or specifies a Residency Indicator and any of the following apply:

- (a) the Participant is not authorised to establish the Holder Record;
- (b) the Participant has provided incorrect details in the Message; or
- (c) the Participant has provided an incorrect Residency Indicator in the Message,
subject to Rule 8.7.5 the Participant indemnifies:
- (d) ASX Settlement from and against all losses, damages, costs and expenses which ASX Settlement may suffer or incur by reason of that unauthorised request or that Transmission of incorrect Holder Record details or an incorrect Residency Indicator; and
- (e) if a Holding is established using incorrect Holder Record details or an incorrect Residency Indicator, the Issuer from and against all losses, damages, costs and expenses which the Issuer may suffer or incur by reason of that Holding being established.

Introduced 11/03/04 Origin SCH 5.4.4, 5.4.5

8.7.5 Limitation on Participant indemnity

A Participant is not liable to indemnify ASX Settlement or an Issuer under Rule 8.7.4 if the Participant has provided details which are consistent with the directions of the relevant Holder for the purposes of holding FOR Financial Products and the Participant had no reason to believe that those directions were incorrect.

Introduced 11/03/04 Origin SCH 5.4.6

8.8 ESTABLISHING A CHESS HOLDING

8.8.1 A CHESS Holding may be established

If a Holder Record for a person has been established and a HIN allocated and a Message specifying that HIN to identify the Target Holding is Transmitted in any of the following circumstances:

- (a) a Participant Transmits a Valid Originating Message that initiates a Demand Transfer or Conversion;
- (b) ASX Settlement Transmits a Valid Originating Message that initiates a Settlement Transfer; or
- (c) an Issuer Transmits a Valid Message to initiate a Holding Adjustment or a Financial Products Transformation,

a CHES Holding may be established by entering the Financial Products specified in the Message into the Target Holding and, if a new CHES Holding is established ASX Settlement must notify the Issuer:

- (d) that a new Holding has been established; and
- (e) of the Holder Record details.

Introduced 11/03/04 Origin SCH 5.5

8.9 REPORTING TO PARTICIPANT SPONSORED HOLDERS IN RESPECT OF DESPATCHED FINANCIAL PRODUCTS

8.9.1 Issuer to send Holder a Notice

If:

- (a) an Issuer makes available forms of application for an Offer of Approved Financial Products; and
- (b) an Approved Market Operator gives that Issuer approval for quotation of those Financial Products,

the Issuer must, within 5 Business Days of receiving notification from ASX Settlement that a new CHES Holding has been established under Rule 5.3.2, and provided the Registration Details specified in the notification from ASX Settlement match the Registration Details specified in the application for the person to whom the Financial Products have been allocated, send to the Holder of that Holding a Notice that sets out:

- (c) the HIN;
- (d) the Registration Details; and
- (e) the Holding Balance,

for the CHES Holding as specified in the notification from ASX Settlement.

Introduced 11/03/04 Origin SCH 5.4B

8.10 RESTRICTION ON CHES HOLDINGS

8.10.1 Restrictions on number of joint holders

Unless permitted under an Issuer's constitution, a Participant must not establish a CHESS Holding that would be held jointly by more than 3 persons.

Introduced 11/03/04 Origin SCH 5.6.1

8.10.2 Prohibition on Holdings of Less than a Marketable Parcel

A Participant must not initiate a Transfer of Financial Products if, by giving effect to that Transfer, a new CHESS or Issuer Sponsored Holding of less than a Marketable Parcel will be established unless:

- (a) the Holding of less than a Marketable Parcel is expressly permitted under an Issuer's constitution; or
- (b) the Transfer establishes a new Settlement Holding or Accumulation Holding.

Introduced 11/03/04 Origin SCH 5.7 Amended 18/12/06

8.10.3 Equitable Interests

Unless required by these Rules or the law, ASX Settlement need not record on the CHESS Subregister, and is not required to recognise:

- (a) any equitable, contingent, future or partial interest in any Financial Product; or
- (b) any other right in respect of a Financial Product, except an absolute right of legal ownership in the registered Holder.

Introduced 11/03/04 Origin SCH 5.8

8.11 CONFIDENTIALITY

8.11.1 No disclosure except in certain circumstances

Unless required by these Rules or the law, or with the express consent of the Holder, or of the duly appointed attorney, agent or legal personal representative of that Holder, neither an Issuer nor a Participant may mail (either in writing or electronically), release, publish, disseminate or disclose:

- (a) the HIN of a CHESS Holding;
- (b) the PID of the Controlling Participant of a CHESS Holding; or
- (c) the SRN for the Holder of an Issuer Sponsored Holding, other than to:
 - (d) the Holder of that Holding;

- (e) the Holder's duly appointed attorney, agent or legal personal representative;
- (f) if the Holding is a CHESS Holding, the Controlling Participant for that Holding; or
- (g) ASX Settlement.

Introduced 11/03/04 Origin SCH 5.9.1 Amended 23/10/09

8.11.2 Request for information by a Participant

For the purpose of Rule 8.11.1(e), if a Participant provides a request to an Issuer in acceptable form or a written request to another Participant for:

- (a) details of the SRN of a Holding on the Issuer Sponsored Subregister;
- (b) the Holding Balance of a Holding on the Issuer Sponsored Subregister;
- (c) the HIN of a CHESS Holder; or
- (d) the PID of the Controlling Participant of the CHESS Holding,

the requesting Participant:

- (e) is taken to have warranted to the Issuer or the other Participant that it is the duly appointed agent of the Holder for the purposes of obtaining the details requested;
- (f) indemnifies the Issuer or the other Participant in respect of any loss which the Issuer or the other Participant may suffer as a result of the requesting Participant not being authorised to request the information provided; and
- (g) is, in the case of a request to the Issuer, taken to have acknowledged that:
 - (i) the details provided by the Issuer represent information currently available to the Issuer at the time of response and excludes unregistered transactions; and
 - (ii) the Issuer will not be liable for any loss incurred by the Holder or the Participant as a result of reliance on the details provided, in the absence of information not available to the Issuer at the time of providing those details.

Note: A Participant may request SRN and Issuer Sponsored Holding Balance details from an Issuer via CHESS message where the Participant is permitted to establish and maintain Sponsored Holdings under Rule 6.3 and has provided ASX Settlement with a Sponsorship Bond of \$500,000, refer Rule 6.7.

Introduced 11/03/04 Origin SCH 5.9.2, 5.9.3 Amended 04/04/05

8.11.3 Disclosure of information regarding Financial Products

Subject to Rule 8.11.4, or unless otherwise required by these Rules or the law, ASX Settlement must not disclose any information regarding Financial Products in a CHES Holding other than to:

- (a) the Holder of that Holding;
- (b) the Controlling Participant for that Holding;
- (c) the Issuer of the Financial Products; or
- (d) if Rule 14.13 applies in relation to a takeover bid any of the following:
 - (i) the bidder;
 - (ii) the CHES Bidder; or
 - (iii) any agent that the bidder or the CHES Bidder engages to prepare and distribute offer documentation or process takeover acceptances.

Introduced 11/03/04 Origin SCH 5.9.4

8.11.4 Circumstances where ASX Settlement may disclose information

ASX Settlement may disclose information regarding Financial Products in a CHES Holding, including information in relation to deductions from or transfers to a CHES Holding, any relevant Source or Target Holdings and Holder Record details, to:

- (a) the Commission;
- (b) the Reserve Bank of Australia;
- (c) an Approved Market Operator;
- (d) an Approved Clearing Facility;
- (e) the home regulator of a Foreign Clearing House; or
- (f) SEGC

where that body, in the proper exercise of its powers and in order to assist it in the performance of its regulatory functions (or in the case of SEGC, its regulatory or other functions), requests that ASX Settlement provide the information to it.

Without limiting the above, ASX Settlement may disclose to the Reserve Bank of Australia any confidential information of a Facility User that is supplied to ASX Settlement in connection with the Real Time Gross Settlement of a transaction and that is required, in accordance with interface specifications, to be included by ASX Settlement in any message sent to the Reserve Bank of Australia across the Feeder System interface with RITS/RTGS.

Introduced 11/03/04 Origin SCH 5.9.6

8.11.5 Copyright information supplied to ASX Settlement

To the extent that a Participant or an Issuer has copyright in the information supplied to ASX Settlement under these Rules, then, subject to Rule 8.11.1 or 8.11.2, the Participant or the Issuer, as the case requires, grants ASX Settlement a license to reproduce that information to the extent deemed necessary by ASX Settlement.

Introduced 11/03/04 Origin SCH 5.9.5

8.11.6 Request by Participant for PID

If a Participant provides a request to ASX Settlement for the PID of the Controlling Participant in relation to a particular HIN ASX Settlement may disclose:

- (a) the PID of the Controlling Participant;
- (b) the status of the Controlling Participant; and
- (c) the status of the HIN.

The requesting Participant:

- (d) is taken to have warranted to ASX Settlement and the Controlling Participant that it is the duly appointed agent of the Holder for the purposes of obtaining the details requested; and
- (e) indemnifies ASX Settlement or any other Participant in respect of any loss which ASX Settlement or the other Participant may suffer as a result of the requesting Participant not being authorised to request the information provided.

Introduced 09/05/05

8.12 REGISTRATION DATE

8.12.1 The date to be recorded for registration purposes

If a Transfer is not a CHESSTO CHESSTransfer, the date to be recorded as the date Financial Products are entered into a Target Holding for registration purposes is:

- (a) if the Source Holding is a CHESST Holding, the date, as evidenced by the CHESST processing timestamp, that ASX Settlement Transmits to the Issuer the Message to Transfer the Financial Products; or
- (b) if the Source Holding is an Issuer Sponsored Holding, the date the Issuer Transmits to ASX Settlement the Message authorising the Transfer of the Financial Products.

Introduced 11/03/04 Origin SCH 5.10

8.13 CHESS SUBREGISTER TO REMAIN OPEN ON EACH BUSINESS DAY

8.13.1 ASX Settlement to keep CHESS Subregister open and must process Messages

On any Business Day, ASX Settlement:

- (a) unless otherwise provided in these Rules, must not close a CHESS Subregister; and
- (b) must process Messages in accordance with these Rules.

Introduced 11/03/04 Origin SCH 5.11

8.14 CLOSURE OF A CHESS SUBREGISTER

8.14.1 Closure of a CHESS Subregister — other than where Financial Products lapse, expire, mature etc.

Unless Rule 8.14.2 applies, if:

- (a) ASX Settlement revokes Approval of a class of an Issuer's Financial Products under Rule 8.4.1(e) or 8.5.4; or
- (b) Approval of a class of an Issuer's Financial Products ceases under Rule 8.4.8,

ASX Settlement and the Issuer must take such steps as may be necessary to effect the orderly closure of any affected CHESS Subregister, including without limitation:

- (c) ASX Settlement giving such Notice as is reasonably practicable to the Issuer and each Participant of:
 - (i) the date of closure of the CHESS Subregister; and
 - (ii) the last day on which ASX Settlement will process Messages or classes of Messages Transmitted by the Issuer or Participants;
- (d) the Issuer using its best endeavours to ensure that all outstanding processing that affects CHESS Holdings in that class is completed prior to the date of closure of the CHESS Subregister;
- (e) ASX Settlement, on the date of closure of the CHESS Subregister:
 - (i) removing all Holdings on that Subregister to an Issuer Sponsored Subregister; and
 - (ii) giving Notice to the Issuer that the CHESS Subregister has been closed;
- (f) ASX Settlement sending a Holding statement in accordance with Rule 8.18.6 to each Participant Sponsored Holder of

Financial Products on the CHESSE Subregister advising that the Holding has been Converted to an Issuer Operated Subregister; and

- (g) on the day of such closure or on any subsequent Business Day ASX Settlement may archive that CHESSE Subregister provided that on the archiving day it must notify the Issuer and Participants confirming the archival of that Subregister.

Introduced 11/03/04 Origin SCH 5.12.1, 5.12.2

8.14.2 Closure of a CHESSE Subregister — where Financial Products lapse, expire, mature etc.

If a class of Approved Financial Products ceases to be quoted because the Financial Products have lapsed, expired, matured or have been redeemed, paid up or Reconstructed, subject to Rules 8.14.3 and 14.21.4, ASX Settlement may archive the CHESSE Subregister for that class of Financial Products:

- (a) in the case of the class of Approved Financial Products being warrants eligible to be traded under the operating rules of an Approved Market Operator not less than 10 Business Days after the date on which the cessation occurred;
 - (b) in the case of any other class of Approved Financial Products not less than 20 Business Days after the date on which the cessation occurred; and
- if ASX Settlement archives a CHESSE Subregister under this Rule 8.14.2, ASX Settlement must:
- (c) subject to Rule 8.14.3, reject all Messages Transmitted by the Issuer or Participants that affect a CHESSE Holding on that Subregister; and
 - (d) notify the Issuer, and each Participant confirming the archival of that Subregister.

Introduced 11/03/04 Origin SCH 5.13.1, 5.13.2 Amended 10/06/04

8.14.3 Report facilities to be provided by ASX Settlement

ASX Settlement must provide Report facilities to the Issuer and Participants for a period of not less than 10 Business Days for warrants eligible to be traded under the operating rules of an Approved Market Operator and not less than 20 Business Days in the case of any other class of Approved Financial Products following the cessation of a CHESSE Subregister under Rule 8.14.2.

Introduced 11/03/04 Origin SCH 5.13.3 Amended 10/06/04

13.1 APPLICATION OF CDI RULES

13.1.1 Effect of Rules 13.1 to 13.13

Rules 13.1 to 13.13 only apply to, and have effect in relation to, CDIs issued in respect of a class of Principal Financial Products.

The Rules, to the extent that they are not inconsistent with Rules 13.1 to 13.13, have full force and effect in relation to CDIs other than as specifically modified by the provisions of these Rules 13.1 to 13.13.

Introduced 11/03/04 Origin SCH 3A.1.1, 3A.1.2 Amended 06/06/05

13.2 PREREQUISITES FOR SETTLEMENT OF INSTRUCTIONS IN PRINCIPAL FINANCIAL PRODUCTS

13.2.1 Approval of person as Principal Issuer

A person who has applied for:

- (a) a class of Principal Financial Products; or
- (b) CDIs issued over a class of Principal Financial Products,

to be quoted on the market of an Approved Market Operator may apply to ASX Settlement in the form prescribed in the Procedures to:

- (c) act as Principal Issuer in relation to CDIs issued or to be issued in respect of those Principal Financial Products; and
- (d) to have those CDIs approved.

Introduced 11/03/04 Origin SCH 3A.2.1 Amended 10/06/04, 06/06/05

13.2.2 Appointment of Depository Nominee and issue of CDIs

If ASX Settlement determines to accept an application under rule 13.2.1, the Principal Issuer must:

- (a) appoint a Depository Nominee for the purpose of complying with these Rules;
- (b) give Notice to ASX Settlement of:
 - (i) the identity of the Depository Nominee appointed by the Principal Issuer; and
 - (ii) the Transmutation Ratio for the Principal Financial Products;
- (c) make arrangements satisfactory to ASX Settlement to enable the Principal Issuer to comply with the requirements of Rules 13.4.3 and 13.5; and
- (d) make arrangements satisfactory to ASX Settlement to issue CDIs or make them available in respect of that class of Principal Financial Products to each person who has:
 - (i) an entitlement to those CDIs or Principal Financial Products; and
 - (ii) where applicable, not elected to take a document of Title to those Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.2.2 Amended 06/06/05

13.2.3 Vesting arrangements for Principal Financial Products

If Rule 13.2.2 applies, the Principal Issuer must, either not later than End of Day on the Despatch Date for the new Principal Financial Products, or such other time as ASX Settlement requires:

- (a) cause the Title to any Principal Financial Products that are to be held in the form of CDIs to be vested in the Depository Nominee nominated by the Principal Issuer under Rule 13.2.2, in a manner recognised by Australian law and all applicable foreign laws;
- (b) immediately give Notice to ASX Settlement that Title to the Principal Financial Products has vested in the Depository Nominee; and
- (c) record:
 - (i) the CDIs corresponding to the Principal Financial Products on the CHESS Subregister or the Issuer Sponsored Subregister, as the case requires; and
 - (ii) the information required to be recorded under these Rules in such manner as to identify each Holder of the CDIs, whether on the CHESS Subregister or the Issuer Sponsored Subregister.

Introduced 11/03/04 Origin SCH 3A.2.3 Amended 06/06/05

13.2.4 Effective date of approval — CDIs as Approved Financial Products

Where ASX Settlement determines to accept an application made under Rule 13.2.1, the Commencement Date for CDIs issued in respect of the class of Principal Financial Products will be the date that ASX Settlement notifies the Principal Issuer that those CDIs are Approved Financial Products, or such other date determined by ASX Settlement.

Introduced 06/06/05

13.2.5 CDIs as Approved Financial Products — transitional provision

From the date on which this rule 13.2.5 comes into effect, all CDIs issued by a Principal Issuer over a class of previously approved Principal Financial Products will be taken to be Approved Financial Products.

Introduced 06/06/05

13.3 TRANSMUTATION AND ALTERATIONS OF PRINCIPAL FINANCIAL PRODUCTS

13.3.1 Transmutation of Principal Financial Products to CDIs at Election of Holder

If a Holder of Financial Products that forms part of a class of Principal Financial Products in respect of which CDIs have been approved gives Notice to the Principal Issuer, at any time after the date of quotation of the Principal Financial Products, requesting the Transmutation of a quantity of those Principal Financial Products to CDIs, the Principal Issuer must, provided the Notice is accompanied by any corresponding documents of Title:

- (a) as soon as possible, cause Title to the quantity of Principal Financial Products specified in the Notice to be vested in the Depository Nominee for those Principal Financial Products;
- (b) record:
 - (i) the CDIs corresponding to the Principal Financial Products on the CDI Register; and

- (ii) the information required to be recorded under these Rules in such manner as to identify each Holder of the CDIs, on the CDI Register; and
- (c) give Notice to the Holder that the Transmutation has been effected.

Introduced 11/03/04 Origin SCH 3A.3.1 Amended 06/06/05

13.3.2 Transmutation of Principal Financial Products to CDIs for Settlement Purposes

Each Participant that is obliged to deliver a quantity of Principal Financial Products to another Participant must, unless otherwise agreed with that Participant, do so by initiating a Message to Transfer the corresponding quantity of CDIs in respect of those Principal Financial Products.

A Participant must not deliver a paper-based transfer of Principal Financial Products to another Participant unless otherwise agreed with that other Participant.

Introduced 11/03/04 Origin SCH 3A.3.2, 3A.3.3

13.3.3 Participant may initiate a Transmutation on behalf of a person

A Participant that is authorised by a person to do so, may Transmute Principal Financial Products to CDIs or CDIs to Principal Financial Products on behalf of the person in any circumstance where Transmutation by that person is permitted under these Rules.

Introduced 11/03/04 Origin SCH 3A.3.4

13.4 CONSEQUENCES OF VESTING TITLE IN DEPOSITARY NOMINEE

13.4.1 Trust for holders of CDIs

When Title to Principal Financial Products is vested in a Depositary Nominee under these Rules, all right, title and interest in those Principal Financial Products is held by the Depositary Nominee subject to the right of any person identified, in accordance with these Rules, as a Holder of CDIs in respect of those Principal Financial Products to receive all direct economic benefits and any other entitlements in relation to those Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.4.1 Amended 17/03/08

13.4.2 Identification of CDI Holders

For the purposes of Rule 13.4.1, a person is (subject to any subsequent disposition) entitled to all direct economic benefits and any other entitlements in relation to Principal Financial Products vested in a Depositary Nominee under these Rules if:

- (a) in accordance with Rule 13.2.3, the Principal Issuer has recorded the person in the CDI Register as the holder of CDIs for those Principal Financial Products; or
- (b) under Rule 13.3.1, the person is the former Holder of the Principal Financial Products to which the CDIs relate, or that person's nominee.

Introduced 11/03/04 Origin SCH 3A.4.2

13.4.3 Immobilisation of Principal Financial Products

A Depositary Nominee that holds Principal Financial Products under these Rules must:

- (a)

- (i) where a Certificate is issued as evidence of Title to those Financial Products, make arrangements satisfactory to ASX Settlement for any Certificate representing its holding of Principal Financial Products to be held by the Principal Issuer for safekeeping; or
- (ii) where the Financial Products are held on account in an Approved Clearing House, ensure that a Segregated Account is maintained in respect of those Financial Products, which must constitute the Principal Register for the purposes of these Rules;
- (b) not dispose of any of those Principal Financial Products unless authorised by these Rules; and
- (c) not create any interest (including a security interest) which is inconsistent with the Title of the Depository Nominee to the Principal Financial Products and the interests of the Holders of CDIs in respect of the Principal Financial Products unless authorised by these Rules.

Introduced 11/03/04 Origin SCH 3A.4.3

13.5 REGISTERS AND PROCESSING OF TRANSFERS AND TRANSMUTATIONS

13.5.1 Issuer to establish and maintain Principal Register and CDI Register

If CDIs in respect of a class of Principal Financial Products are approved, the Principal Issuer must establish and maintain:

- (a) a Principal Register in Australia which contains all of the information that would otherwise be required to be kept by the Principal Issuer if it maintained an Australian branch register for those Financial Products; and
- (b) a CDI Register in Australia that contains all of the information that would otherwise be required to be kept under the Corporations Act as if the Principal Issuer were an Australian listed public company and the CDIs were Financial Products of that company.

Introduced 11/03/04 Origin SCH 3A.5.1, 3A.5.2 Amended 06/06/05

13.5.2 Reconciliation of Registers

The Principal Issuer must ensure, at all times that:

- (a) the total number of CDIs on the CDI Register reconciles to the total number of Principal Financial Products registered in the name of the Depository Nominee on the Principal Register; and
- (b) where applicable, it has one or more Certificates registered in the name of the Depository Nominee in its possession which represent the same number of Principal Financial Products as are registered in the name of the Depository Nominee on the Principal Register.

Introduced 11/03/04 Origin SCH 3A.5.3 Amended 06/06/05

13.5.3 Right of Inspection of Principal Register and CDI Register

If:

- (a) a Principal Register; or
- (b) a CDI Register,

is required to be established and maintained by a Principal Issuer under Rule 13.5.1, the Principal Issuer must make that Principal Register or that CDI Register, as the case requires, available for inspection to the same extent and in the same manner as if that register were a register of Financial Products of an Australian listed public company.

This Rule 13.5.3 does not apply in respect of a class of Principal Financial Products issued by a DI Issuer to the extent that the Principal Register need not be available for inspection where that Principal Register is located in a foreign jurisdiction.

Introduced 11/03/04 Origin SCH 3A.5.4A

13.5.4 Issuer Sponsored Subregisters and CHESS Subregisters for CDIs

If CDIs in respect of a class of Principal Financial Products are approved, the Principal Issuer must establish and maintain:

- (a) an Issuer Sponsored Subregister; and
- (b) a CHESS Subregister,

of CDIs in respect of the Principal Financial Products as if the CDIs were Financial Products of an Australian Issuer, issued wholly in uncertificated form.

Introduced 11/03/04 Origin SCH 3A.5.5 Amended 06/06/05

13.5.5 Third Party Provider as Agent — [Deleted]

Introduced 11/03/04 Origin SCH 3A.5.6 Deleted 06/06/05

13.5.6 Agents of Principal Issuer

If a Principal Issuer employs or retains a Third Party Provider to establish and maintain a Principal Register or a CDI Register in respect of a class of its Principal Financial Products, then for the purposes of these Rules, the Third Party Provider is taken to perform those services as the agent of the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.5.7 Amended 06/06/05

13.5.7 Depository Nominee obliged to ensure information is provided to Principal Issuer

Notwithstanding Rule 13.5.2, if a Depository Nominee employs or retains a Third Party Provider to administer the Principal Register, which is not the same Third Party Provider as that retained by the Principal Issuer to establish and maintain a CDI Register under Rule 13.5.6, then the Depository Nominee must ensure that its Third Party Provider provides such information to the Principal Issuer at such times as the Principal Issuer requires for performance of its obligations under Rules 13.1 to 13.13.

Introduced 11/03/04 Origin SCH 3A.5.8

13.5.8 Power of Attorney

The Depository Nominee appoints the Principal Issuer to be the Depository Nominee's attorney and in the name of the Depository Nominee (or in the name of the Principal Issuer or its delegate) and on the Depository Nominee's behalf:

- (a) to execute any transfer for the purposes of Rule 13.3; and
- (b) to do all things necessary or desirable to give full effect to the rights and obligations of the Depository Nominee in Rules 13.1 to 13.13;

and the Depositary Nominee undertakes to ratify and confirm anything done under this power of attorney by the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.5.9

13.5.9 Delegation by Principal Issuer under Power of Attorney

The Principal Issuer may in writing:

- (a) delegate its powers to any person for any period;
- (b) at its discretion, revoke any such delegation; and
- (c) exercise or concur in exercising any power despite the Principal Issuer or a delegate of the Principal Issuer having a direct or personal interest in the mode or result of the exercise of that power.

Introduced 11/03/04 Origin SCH 3A.5.9A

13.5.10 Indemnity

If a Principal Issuer or its Third Party Provider executes a transfer of Principal Financial Products on behalf of a Depositary Nominee as transferor or transferee, other than a Transfer which is supported by a Message initiated by a Participant under these Rules, the Principal Issuer warrants to ASX Settlement that it indemnifies:

- (a) the Depositary Nominee;
- (b) ASX Settlement;
- (c) the transferor or the beneficial owner of the Principal Financial Products, as the case requires; and
- (d) each Participant,

against all losses, damages, costs and expenses that they or any of them may suffer or incur as a result of the transfer not being authorised by the transferor or by the beneficial owner of the Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.5.10

13.5.11 ASX Settlement holds benefit of warranties for Depositary Nominee

ASX Settlement holds the benefit of any warranties and indemnities given to it by the Principal Issuer under Rules 13.1 to 13.13 in trust for the benefit of the Depositary Nominee.

Introduced 11/03/04 Origin SCH 3A.5.10A

13.5.12 Principal Issuer and Depositary Nominee not to interfere in Transfer and Transmutation

Unless otherwise permitted under these Rules or the Listing Rules, a Principal Issuer or a Depositary Nominee must not refuse or fail to register, or give effect to, or otherwise interfere with the processing and registration of:

- (a) a paper-based transfer of Principal Financial Products;
- (b) a Transfer of CDIs;
- (c) a Transmutation of Principal Financial Products to CDIs;

- (d) a Transmutation of CDIs to Principal Financial Products;
- (e) a shunt from a DI Register to a Principal Register; or
- (f) a shunt from a Principal Register to a DI Register.

Introduced 11/03/04 Origin SCH 3A.5.11, 3A.5.12 Amended 06/06/05

13.5.13 No Notice of Unregistered Interests

For the purposes of all relevant Australian and foreign laws, neither ASX Settlement nor any Depository Nominee is affected by actual, implied or constructive notice of any interest in CDIs other than the Holdings on the CDI Register.

A Depository Nominee may deal with the registered Holder of CDIs as if, for all purposes, the Holder of CDIs is the absolute beneficial owner of the Principal Financial Products to which the CDIs relate, without any liability whatsoever to any other person who asserts an interest in the CDIs or in the Principal Financial Products to which the CDIs relate.

Introduced 11/03/04 Origin SCH 3A.5.13, 3A.5.14

13.5A TERMINATION OF CDI HOLDING BY THE DEPOSITARY NOMINEE

13.5A.1 Termination of trust over Principal Financial Products

If approval of CDIs in respect of a class of Principal Financial Products is revoked by ASX Settlement, the Depository Nominee may, by resolution of its board of directors, revoke the trust under which it holds the Principal Financial Products on a date specified in the resolution. The Depository Nominee must notify the affected Holders of CDIs of the revocation in accordance with the Procedures.

From the date of revocation specified in the resolution:

- (a) the Depository Nominee holds the Principal Financial Products and any other relevant property on trust for distribution to each Holder of CDIs and otherwise on the same terms as far as practicable as it held the Principal Financial Products and other relevant property before such revocation of trust;
- (b) the Depository Nominee may, in its absolute discretion, continue to hold on trust the Principal Financial Products and any other relevant property for any period determined by the Depository Nominee instead of distributing that property to the Holder of CDIs and, in doing so, the Depository Nominee will not be liable for any loss, cost, damage or expense suffered by the Holder of CDIs (except where such loss, cost, damage or expense is directly caused by the Depository Nominee's actual fraud or dishonesty); and
- (c) the Depository Nominee may appoint a custodian or agent (including the Principal Issuer) for the purpose of holding Principal Financial Products and any other relevant property (including, without limitation, net proceeds referred to in Rule 13.5A.2(e)) or performing any of its duties relating to the distribution or holding of property or for any other purpose for which a trustee may appoint an agent.

Introduced 17/03/08

13.5A.2 Distribution of Principal Financial Products and power of sale

If a Depository Nominee revokes the trust under which it holds a class of Principal Financial Products in accordance with Rule 13.5A.1:

- (a) the Depositary Nominee may, in its absolute discretion, notify the affected Holders of CDIs in accordance with the Procedures of a procedure by which the Principal Financial Products and any other relevant property will be distributed to Holders;
- (b) subject to any law or rule of any financial market where the Principal Financial Products are listed or quoted, the Principal Issuer must use all reasonable endeavours to assist the Depositary Nominee to distribute the Principal Financial Products and any other relevant property to Holders of CDIs in accordance with the procedure notified by the Depositary Nominee; and
- (c) if the Depositary Nominee, after taking any steps specified in the Procedures, has been unable to distribute the Principal Financial Products and any other relevant property to a Holder of CDIs, then the Depositary Nominee may sell the Principal Financial Products and any other relevant property and hold the net proceeds on trust for distribution to the Holder of CDIs and may, after any period specified by law for holding unclaimed moneys, remit those monies to a regulatory authority in accordance with relevant law.

Introduced 17/03/08

13.5A.3 Exercise of power of sale

In exercising the power of sale in Rule 13.5A.2, the Depositary Nominee may do any of the following:

- (a) sell, dispose of, transfer or otherwise deal with the Principal Financial Products and any other relevant property to any person including without limitation to an associate of any of the Principal Issuer, the Holder of CDIs or the Depositary Nominee;
- (b) effect any sale by a single contract or in separate lots or parcels or in any other manner that the Depositary Nominee may in its absolute discretion think fit, with power to the Depositary Nominee to apportion the sale price and all costs, expenses, purchase money and fees between the Principal Financial Products so dealt with, provided the apportionment is fair and equitable;
- (c) subject to any contrary rule of law or equity, allow a purchaser of the Principal Financial Products any time for payment of the whole or any part of the purchase money either with interest at any rate or without interest and either upon the security of the property sold or any part or upon any other security or without any security and the conditions of sale may include such special conditions as the Depositary Nominee may in its absolute discretion think fit;
- (d) receive and retain the proceeds of any sale and issue receipts in respect of such proceeds; or
- (e) sign deeds of sale with respect to the sale of any Principal Financial Product and any other relevant property, and execute any other documents as may be required to transfer the rights of such Principal Financial Products or any other relevant property.

Introduced 17/03/08

13A.5A.4 Limitation of liability

If a Depositary Nominee exercises the power of sale in accordance with this Rule 13.5A, the exercise of that power does not involve on the part of the Depositary Nominee:

- (a) incurring any personal liability in connection with that exercise or its consequences unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default; and

(b) any breach of duty or trust whatsoever, unless it is committed, made omitted in bad faith or as a result of negligence or wilful default.

Introduced 17/03/08

13.5A.5 Appointment of custodian or agent

If the Depository Nominee appoints a custodian or agent in accordance with this Rule 13.5A, the following will apply to such appointment:

- (a) the Depository Nominee may in its absolute discretion appoint one or more persons whom the Depository Nominee determines to be properly qualified to act as the custodian or agent in respect of the Principal Financial Products and any other relevant property (including, without limitation, net proceeds referred to in Rule 13.5A.2(c)) (“Relevant Property”);
- (b) the Depository Nominee and the custodian or agent must execute a written agreement setting out the terms and conditions in relation to the appointment of the custodian or agent which provides among other things:
 - (i) that the appointment of the custodian or agent will be subject to such conditions as the Depository Nominee may from time to time determine, and the Depository Nominee may delegate to and confer upon the appointed custodian or agent any authorities, powers and discretions as the Depository Nominee sees fit;
 - (ii) a representation from the custodian or agent to the Depository Nominee that it has the skill, facilities, capacity and staff to carry out the duties of a custodian or agent;
 - (iii) a representation that the custodian or agent agrees to follow any proper instructions or communications from the Depository Nominee or any relevant regulatory authority in relation to the transfer, disposal or remittance of the Relevant Property;
 - (iv) for such other matters that by law are required to be specified in the written agreement between the Depository Nominee and the custodian or agent;
- (c) any consideration or fees applying to the provision of custodian or agency services under this Rule 13.5A will be deducted from the Relevant Property by the custodian or agent (or as otherwise determined in accordance with the relevant custody or agency agreement referred to in this Rule 13.5A); and
- (d) where the Depository Nominee appoints a custodian or agent in accordance with this clause 13.5A, the exercise of that power does not involve on the part of the Depository Nominee:
 - (i) incurring any personal liability in connection with that exercise or its consequences unless it is committed, made or omitted in bad faith or as a result of negligence or wilful default; and
 - (ii) any breach of duty or trust whatsoever unless it is committed, made or omitted in bad faith or as a result of negligence or willful default.

Introduced 17/03/08

13.6 CORPORATE ACTIONS

13.6.1 Application of Rules

The purpose of the following Rules is to ensure that, to the extent permitted by the laws of the Principal Issuer’s jurisdiction of incorporation, the benefit of all Corporate Actions of a

Principal Issuer will ensure to the benefit of the relevant Holders of CDIs as if they were Holders of the corresponding Principal Financial Products, where Principal Financial Products are held by a Depository Nominee under these Rules.

Introduced 11/03/04 Origin SCH 3A.6.1 Amended 06/06/05, 17/03/08

13.6.2 Distribution of Dividends to Holders of CDIs

If CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Principal Issuer must distribute any dividend declared in respect of the corresponding Principal Financial Products to Holders of CDIs based on relevant Cum Entitlement Balances as at End of Day on the Record Date for the dividend in proportions as determined by the Transmutation Ratio.

Introduced 11/03/04 Origin SCH 3A.6.2 Amended 06/06/05

13.6.3 Direction and Acknowledgment by Depository Nominee

For the purposes of:

- (a) the Principal Issuer's constitution; and
- (b) all laws governing the entitlement to dividends of a Depository Nominee of the Principal Issuer,

the Depository Nominee is taken to have directed the Principal Issuer to distribute any dividend, that would otherwise be payable to it under the Principal Issuer's constitution, in accordance with these Rules.

Introduced 11/03/04 Origin SCH 3A.6.3

13.6.4 Discharge of Principal Issuer's obligation to pay dividend to Depository Nominee

A Depository Nominee for a Principal Issuer acknowledges that distribution of a dividend in accordance with these Rules discharges the Principal Issuer's obligation to pay the dividend to the Depository Nominee.

Introduced 11/03/04 Origin SCH 3A.6.4

13.6.5 Payment by Depository Interest Issuer

Rules 13.6.2, 13.6.3 and 13.6.4 apply in respect of a DI as if a reference to "dividend" is a reference to any distribution or payment, whether principal, premium or interest, as defined in the offering memorandum in respect of the Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.6.4A

13.6.6 Payment Obligations

Where a DI Issuer makes a payment pursuant to Rule 13.6.2, that payment must be made to all Holders of DIs as soon as reasonably practicable.

Introduced 11/03/04 Origin SCH 3A.6.4B Amended 04/04/05

13.6.7 Corporate Actions

- (a) Subject to paragraph (d), if CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Principal Issuer must administer all Corporate Actions that result in:

- (i) the issue of additional or replacement Financial Products in respect of the Principal Financial Products; or
 - (ii) the cancellation, buy back or other reduction in number by whatever means of the Principal Financial Products (whether in whole or part),
as if each Holder of CDIs with respect to the Depository Nominee's Holding is a Holder of a corresponding number of Principal Financial Products, so that the Holding of each Holder of CDIs is adjusted as a result of the Corporate Action (whether by issuing additional or replacement CDIs to Holders of CDIs, or by cancelling or otherwise reducing the number of CDIs in the existing Holdings of Holders of CDIs, as the case may be) based on relevant Cum Entitlement Balances as at End of Day on the Record Date for the Corporate Action on the same terms as would otherwise have applied if the Holders of CDIs were Holders of the Principal Financial Products.
- (b) If the benefits conferred in the Corporate Action are additional or replacement Financial Products as described in paragraph (a)(i), the Principal Issuer must ensure that those Financial Products are vested in the Depository Nominee as Holder of the Principal Financial Products and the benefits are distributed to Holders of CDIs in the form of CDIs corresponding to those Principal Financial Products.
 - (c) The Principal Issuer must ensure that the benefit of Corporate Actions is conferred on Holders of CDIs in proportions determined by the Transmutation Ratio.
 - (d) If:
 - (i) the laws of the Principal Issuer's jurisdiction of incorporation do not permit the Principal Issuer to administer a Corporate Action as if each Holder of CDIs with respect to the Depository Nominee's Holding is the Holder of a corresponding number of Principal Financial Products in the manner described in paragraph (a); and
 - (ii) the Principal Issuer has:
 - (A) so notified ASX Settlement in writing;
 - (B) given ASX Settlement:
 - a. written details of an alternative proposal ("Alternative Proposal") under which the number of Principal Financial Products held by the Depository Nominee (when adjusted in accordance with the Alternative Proposal), combined with any other benefits (if any) to be conferred on the Depository Nominee pursuant to the Alternative Proposal (such as cash), will result in each CDI Holder being placed as nearly as practicable in the same economic position as a result of the Corporate Action as if the Principal Issuer had administered the Corporate Action in the manner described in paragraph (a); or
 - b. if the laws of the Principal Issuer's jurisdiction of incorporation require the Corporate Action, so far as it concerns the Depository Nominee and the Holders of CDIs with respect to the Depository Nominee's Holding, to be administered having regard only to the Depository Nominee's holding of Principal Financial Products at that time, to the exclusion of all other considerations, and such laws do not admit of any alternative proposal under which the

interests of Holders of CDIs with respect to the Depository Nominee's Holding may be taken into account (including, without limitation, by the payment of cash consideration in lieu of any additional CDIs to which the Holders of CDIs would have been entitled if the Principal Issuer had administered the Corporate Action in the manner described in paragraph (a)), a statement to that effect ("Statement");

- (C) provided an undertaking to ASX Settlement that it has disclosed the details of the Corporate Action (including details of any Alternative Proposal or Statement, as applicable) to Holders of CDIs in accordance with all applicable laws; and
- (D) provided to ASX Settlement any additional information or documents which ASX Settlement requests for the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable) including, without limitation, a legal opinion satisfactory to ASX Settlement confirming the matters referred to in paragraph (d)(i) and such other matters related to the Corporate Action and the Alternative Proposal or Statement (as applicable) as ASX Settlement in its discretion may nominate; and

(iii) ASX Settlement has confirmed in writing its acceptance of the Alternative Proposal or Statement (as applicable),

the Principal Issuer must ensure that:

(iv) the Corporate Action is administered in accordance with the Alternative Proposal or Statement (as applicable); and

(v) the Holding of each Holder of CDIs is adjusted as a result of the Corporate Action accordingly.

For the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable), and in confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement relies and is entitled to rely on all information, opinions and other documents provided to it by the Principal Issuer. By confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement does not and shall not be taken for any purpose to:

(vi) endorse, promote or otherwise support the Alternative Proposal or Statement;

(vii) express any view about the merits or the correctness of the legal and factual basis of the Alternative Proposal or Statement or any other matter connected with them; or

(viii) accept any liability in connection with the Corporate Action, Alternative Proposal or Statement.

For the purposes of this Rule 13.6.7, "Corporate Action" includes (but is not limited to) bonus issues, rights issues, mergers and reconstructions (including any action taken by a Principal Issuer to reduce (or that will have the effect of reducing) the number of Principal Financial Products held by a Depository Nominee).

13.6.8 Dividend Reinvestment and Bonus Share Plans

If CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Principal Issuer must, in relation to any dividend investment scheme or bonus share plan in respect of those Principal Financial Products:

- (a) make available to Holders of CDIs, based on relevant Cum Entitlement Balances as at End of Day on the Record Date for determining entitlements, all benefits and entitlements arising under the dividend reinvestment scheme or bonus share plan, as the case requires;
- (b) distribute all benefits and entitlements arising under the dividend reinvestment scheme or bonus share plan, as the case requires, to Holders of CDIs in proportions determined by the Transmutation Ratio;
- (c) ensure that any right under such a plan to elect to receive financial products rather than cash is exercised by Holders of CDIs rather than the Depository Nominee; and
- (d) if a Holder of CDIs elects to receive financial products, issue Principal Financial Products to the Depository Nominee and distribute corresponding CDIs to the Holder of CDIs.

Introduced 11/03/04 Origin SCH 3A.6.6 Amended 06/06/05

13.6.9 Exercise of Holder rights

If CDIs in respect of a class of Principal Financial Products are approved under Rule 13.2, the Depository Nominee must exercise any rights vested in it as the Holder of the Principal Financial Products under any law (including any right to institute legal proceedings as a holder of Financial Products), in accordance with:

- (a) any direction given by a Holder of CDIs; or
- (b) any direction of Holders of CDIs given by ordinary resolution at a meeting of Holders of CDIs.

Introduced 11/03/04 Origin SCH 3A.6.7 Amended 06/06/05

13.6.10 Fractional Entitlements

(a) Subject to paragraph (b), if a Corporate Action would give Holders of CDIs a fractional entitlement to additional or replacement Principal Financial Products (if they held Principal Financial Products directly), the Principal Issuer must ensure that:

- (i) the number of additional or replacement Principal Financial Products issued to the Depository Nominee is calculated as if each Holder of CDIs with respect to the Depository Nominee's Holding is a Holder of a corresponding number of Principal Financial Products; and
- (ii) Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated.

(b) If:

(i) the laws of the Principal Issuer's jurisdiction of incorporation do not permit the Principal Issuer to calculate the number of additional or replacement Principal Financial Products issued to the Depository Nominee in the manner described in paragraph (a)(i) and to ensure that Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated; and

- (ii) the Principal Issuer has:
 - (A) so notified ASX Settlement in writing;
 - (B) given ASX Settlement:
 - a. written details of an alternative proposal (“Alternative Proposal”) under which the number of additional or replacement Principal Financial Products issued to the Depository Nominee, combined with any other benefits (if any) to be conferred on the Depository Nominee pursuant to the Alternative Proposal (such as cash), will result in each CDI Holder receiving as nearly as practicable the same economic benefit as a result of the Corporate Action as if the number of additional or replacement Principal Financial Products issued to the Depository Nominee had been calculated in the manner described in paragraph (a)(i) and the Principal Issuer had ensured that Holders of CDIs received additional or replacement CDIs reflecting the entitlements so calculated; or
 - b. if the laws of the Principal Issuer’s jurisdiction of incorporation require the number of additional or replacement Principal Financial Products issued to the Depository Nominee to be calculated having regard only to the Depository Nominee’s holding of Principal Financial Products at that time, to the exclusion of all other considerations, and such laws do not admit of any alternative proposal under which the interests of Holders of CDIs with respect to the Depository Nominee’s Holding may be taken into account (including, without limitation, by the payment of cash consideration in lieu of such additional or replacement CDIs as the Holders of CDIs would have received if the number of additional or replacement Principal Financial Products issued to the Depository Nominee had been calculated in the manner described in paragraph (a)(i)), a statement to that effect (“Statement”);
 - (C) provided an undertaking to ASX Settlement that it has disclosed the details of the Corporate Action (including details of any Alternative Proposal or Statement, as applicable) to Holders of CDIs in accordance with all applicable laws; and
 - (D) provided to ASX Settlement any additional information or documents which ASX Settlement requests for the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable) including, without limitation, a legal opinion satisfactory to ASX Settlement confirming the matters referred to in paragraph (b)(i) and such other matters related to the Corporate Action and the Alternative Proposal or Statement (as applicable) as ASX Settlement in its discretion may nominate; and
- (iii) ASX Settlement has confirmed in writing its acceptance of the Alternative Proposal or Statement (as applicable),
the Principal Issuer must ensure that:
 - (iv) the number of additional or replacement Principal Financial Products issued to the Depository Nominee is calculated in accordance with the Alternative Proposal or Statement (as applicable); and

(v) Holders of CDIs receive additional or replacement CDIs reflecting the entitlements so calculated.

For the purpose of evaluating the Corporate Action (as it affects CDI Holders) and the Alternative Proposal or Statement (as applicable), and in confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement relies and is entitled to rely on all information, opinions and other documents provided to it by the Principal Issuer. By confirming its acceptance of the Alternative Proposal or Statement (as applicable), ASX Settlement does not and shall not be taken for any purpose to:

- (vi) endorse, promote or otherwise support the Alternative Proposal or Statement;
- (vii) express any view about the merits or the correctness of the legal and factual basis of the Alternative Proposal or Statement or any other matter connected with them; or
- (viii) accept any liability in connection with the Corporate Action, Alternative Proposal or Statement or any other matter connected with them; or
- (viii) accept any liability in connection with the corporate Action, Alternative Proposal or Statement.

For the purposes of this Rule 13.6.10, "Corporate Action" includes (but is not limited to) bonus issues, rights issues, mergers and reconstructions (including any action taken by a Principal Issuer to reduce (or that will have the effect of reducing) the number of Principal Financial Products held by a Depository Nominee).

Introduced 11/03/04 Origin SCH 3A.6.8 Amended 06/06/05, 17/03/08

13.6.10A Disposal of surplus Principal Financial Products

If:

- (a) the Depository Nominee receives Principal Financial Products in connection with a Corporate Action; and
- (b) following receipt of the Principal Financial Products, the Depository Nominee's Holding of Principal Financial Products exceeds the aggregate of each CDI Holder's entitlement to a whole number of Principal Financial Products,

the Depository Nominee must sell such surplus Principal Financial Products and distribute the proceeds of sale (less transaction costs) to Holders of CDIs in proportion to their respective Holdings.

Introduced 17/03/08

13.6.11 General Direction and Acknowledgment by Depository Nominee

A Depository Nominee for a Principal Issuer:

- (a) is taken to have directed the Principal Issuer to administer all Corporate Actions of the Principal Issuer in the manner provided in these Rules; and
- (b) acknowledges that compliance with these Rules discharges the Principal Issuer's obligation to make the benefit of a Corporate Action available to the Depository Nominee.

Introduced 11/03/04 Origin SCH 3A.6.9, 3A.6.10

13.6.12 Transmutations of Financial Products and associated Entitlements

Where, during an ex-period for a Corporate Action, Principal Financial Products under Rules 13.1 to 13.13 are Transmuted in order to give effect to a transfer of those Principal Financial Products, the transmutation of those Principal Financial Products must be effected together with any associated Entitlement.

Introduced 11/03/04 Origin SCH 3A.6.11 Amended 06/06/05

13.6.13 Divestment of small Holdings

If CDIs in respect of a class of Principal Financial Products are approved and:

- (a) in accordance with the Listing Rules, a Holder of less than a specified number of Principal Financial Products can be subject to divestment or sale of those Principal Financial Products by the Principal Issuer; and
- (b) a Holder of CDIs would be subject to divestment or sale if it held the corresponding number of Principal Financial Products directly,

the Principal Issuer may give a Notice of Divestment in accordance with Rule 5.12.2 to the Holder of CDIs. The Principal Issuer must also give a Holder of CDIs the benefit of any notice and consent procedure that may be contained in the constitution of the Principal Issuer, the Listing Rules and the rules of any financial market on which the Principal Financial Products are listed or quoted to which the Holder of CDIs would be entitled if it held the Principal Financial Products directly.

Introduced 17/03/08

13.6.14 Depository Nominee may consent to sale or divestment

If the Depository Nominee is reasonably satisfied that the Principal Issuer has complied with its obligations under Rule 13.6.13, the Depository Nominee is authorised to consent to the sale or divestment of the number of Principal Financial Products which correspond to the Holder's CDIs.

Introduced 17/03/08

13.6.15 Principal Issuer must distribute proceeds

The Principal Issuer must distribute to the Holder of CDIs any proceeds of a sale made pursuant to a notice given under Rule 13.6.13 (net of transaction costs). If the Principal Issuer is required under the laws of its jurisdiction of incorporation to distribute the net proceeds to the Depository Nominee in its capacity as the Holder of the Principal Financial Products, the Depository Nominee shall be taken to have directed the Principal Issuer to distribute the net proceeds to the Holder of CDIs. Upon distribution of the net proceeds to the Holder of CDIs, the Principal Issuer must cancel the Holder's CDIs corresponding to the Principal Financial Products which have been sold.

Introduced 17/03/08

13.6.16 Indemnity by Principal Issuer

By giving a Notice of Divestment, a Principal Issuer indemnifies the Depository Nominee and ASX Settlement against any loss, cost, damage, expense or liability which they may suffer or incur as a result of any sale or divestment of Principal Financial Products and the cancellation of CDIs under this Rule.

Introduced 17/03/08

13.7 TAKEOVERS

13.7.1 Depository Nominee to accept only if authorised by Holders of CDIs

If a takeover offer in respect of Principal Financial Products is received by a Depository Nominee, the Depository Nominee must not accept the offer except to the extent that acceptance is authorised by Holders of CDIs with respect to the Principal Financial Products under these Rules.

Introduced 11/03/04 Origin SCH 3A.7.1 Amended 06/06/05

13.7.2 Acceptance with respect to Holders of CDIs on CHESS Subregister

If:

- (a) Principal Financial Products are held by a Depository Nominee; and
- (b) the corresponding CDIs are held on a CHESS Subregister,

then the provisions of the Rules governing the processing of takeover acceptances of Financial Products held on a CHESS Subregister apply as if the CDIs were Financial Products of a listed public company and the Depository Nominee must accept a takeover offer with respect to Principal Financial Products which it holds if and to the extent to which acceptances are received and processed pursuant to the Rules.

Introduced 11/03/04 Origin SCH 3A.7.2 Amended 06/06/05

13.7.3 Acceptance with respect to Holders of CDIs on Issuer-Sponsored Subregister

If:

- (a) Principal Financial Products are held by a Depository Nominee; and
- (b) corresponding CDIs are held on the Issuer Sponsored Subregister,

then the Depository Nominee must:

- (c) as soon as possible after the date of receipt of the takeover offer from the offeror, despatch to each Holder of CDIs registered on the CDI Register at the date of the offer, copies of the offer documentation, together with any other documents despatched to target holders of the Principal Financial Products; and
- (d) ensure that the offer documentation despatched to Holders of CDIs includes a Notice in a form acceptable to ASX Settlement in accordance with the Procedures.

Introduced 11/03/04 Origin SCH 3A.7.3 Amended 06/06/05

13.7.4 Processing of acceptances from Holders of CDIs

Where the provisions of Rule 13.7.3 apply, the Depository Nominee must ensure that:

- (a) the offeror receives and processes acceptances from Holders of CDIs or appoints a receiving agent in Australia to receive and process acceptances with respect to Holders of CDIs on the Issuer Sponsored Subregister; and
- (b) either the offeror or the offeror's receiving agent provides the Depository Nominee with a clear statement of the number of Principal Financial Products held by the Depository Nominee with respect to which acceptances of Holders of CDIs have been received, in

sufficient time to enable the Depository Nominee to lodge a valid acceptance of the offer with the offeror as holder of the Principal Financial Products.

Introduced 11/03/04 Origin SCH 3A.7.4

13.7.5 Liability of Depository Nominee

The Depository Nominee has no liability to:

- (a) the Principal Issuer;
- (b) Holders of Principal Financial Products;
- (c) Holders of CDIs;
- (d) any person claiming an interest in Principal Financial Products or CDIs; or
- (e) the takeover offeror,

with respect to lodging or not lodging takeover acceptances for the whole or any part of its Holding of Principal Financial Products unless it:

- (f) acts contrary to a statement of a receiving agent given under Rule 13.7.4(b) or contrary to the information supplied to it by ASX Settlement regarding takeover acceptances with respect to Holdings on the CHES Subregister for the CDIs;
- (g) acts negligently or in breach of these Rules; or
- (h) negligently fails to lodge the acceptance or acceptances before the close of the offer period.

Introduced 11/03/04 Origin SCH 3A.7.5 Amended 06/06/05

13.8 VOTING ARRANGEMENTS

13.8.1 Interpretation

For the purposes of Rule 13.8, “constitution of a Principal Issuer” means:

- (a) in respect of a share, constitution as defined in the Corporations Act; or
- (b) in respect of a Financial Product other than a share, the document which creates the right for a holder of Financial Products to attend and vote at meetings of holders of Financial Products of that class and to appoint proxies in respect of that voting.

Introduced 11/03/04 Origin SCH 3A.1.3

13.8.2 Principal Issuer to notify Holders of CDIs

If a meeting is convened of Holders of a class of Principal Financial Products vested in a Depository Nominee for a Principal Issuer, the Principal Issuer must give a Notice of the meeting to each Holder of CDIs at the same time as Notice of the meeting is sent to Holders of the Principal Financial Products.

For the purposes of this Rule 13.8.2, a Principal Issuer may give a Notice of the meeting to a Holder of CDIs in any manner provided for in the Corporations Act.

Note: this Rule 13.8.2 is intended to cover the means by which a notice of meeting may be given under section 249J of the Corporations Act.

Introduced 11/03/04 Origin SCH 3A.8.1 Amended 18/12/06

13.8.3 Holders of CDIs may give Directions to Depositary Nominee

Subject to Rule 13.8.8, the Depositary Nominee must appoint two proxies even if under the constitution of the Principal Issuer, a Depositary Nominee has a right to:

- (a) appoint more than one proxy for the purpose of voting at a meeting of the Principal Issuer; and
- (b) cast different proxy votes for different parts of the Holding.

Introduced 11/03/04 Origin SCH 3A.8.2

13.8.4 Proxies to indicate results of resolution

One of the two proxies so appointed in accordance with Rule 13.8.3 must indicate the number of Principal Financial Products in favour of the resolution described in the proxy, and the second proxy must indicate the number of Principal Financial Products against the resolution described in the proxy.

Introduced 11/03/04 Origin SCH 3A.8.3 Amended 06/06/05

13.8.5 Determining the number of Financial Products for each proxy

The manner in which the number of Principal Financial Products is determined for each proxy is by:

- (a) taking the number of CDIs in favour of the resolution;
- (b) taking the number of CDIs against the resolution;
- (c) applying the transmutation ratio to those CDIs; and
- (d) entering the resultant number of Principal Financial Products on the appropriate proxy.

Introduced 11/03/04 Origin SCH 3A.8.4 Amended 06/06/05

13.8.6 Depositary Nominee appointing a single proxy

If under the constitution of the Principal Issuer, a Depositary Nominee can only appoint a single proxy, the Depositary Nominee must:

- (a) take the number of CDIs in favour of the resolution;
- (b) take the number of CDIs against the resolution;
- (c) determine the net voting position either in favour of or against the resolution;
- (d) apply the transmutation ratio to those CDIs; and
- (e) accordingly enter the resultant number of Principal Financial Products on the proxy.

Introduced 11/03/04 Origin SCH 3A.8.5 Amended 06/06/05

13.8.7 Voting instructions by Depositary Nominee

Where the appointed proxy or proxies are required to vote on multiple resolutions, the Depositary Nominee must instruct the proxy or proxies to vote in such manner as will in the

reasonable opinion of the Depository Nominee best represent the wishes of the majority of Holders of CDIs.

Introduced 11/03/04 Origin SCH 3A.8.5A

13.8.8 Depository Nominee to appoint Holders of CDIs as proxy

The Depository Nominee must appoint a Holder of CDIs or a person nominated by a Holder of CDIs as its proxy for the purpose of attending and voting at a meeting of the Principal Issuer where:

- (a) the constitution of the Principal Issuer allows the Depository Nominee to appoint Holders of CDIs or a person nominated by a Holder of CDIs as its proxy; and
- (b) the Holder of CDIs has informed the Principal Issuer that the Holder wishes to nominate another person to be appointed as the Depository Nominee's proxy.

Introduced 11/03/04 Origin SCH 3A.8.1

13.8.9 Principal Issuer must notify Holders of CDIs of their Rights

The Principal Issuer must:

- (a) include with the Notice of meeting given under Rule 13.8.2 a Notice in a form acceptable to ASX Settlement in accordance with the Procedures; and
- (b) make appropriate arrangements to:
 - (i) collect and process any directions by Holders of CDIs;
 - (ii) provide the Depository Nominee with a report in writing that clearly shows how the Depository Nominee must exercise its right to vote by proxy at the meeting, in sufficient time to enable the Depository Nominee to lodge a proxy for the meeting; and
 - (iii) where a Holder of CDIs, or a person nominated by a Holder of CDIs, is to be appointed the Depository Nominee's proxy in accordance with Rule 13.8.8, collect and process all relevant proxy forms in sufficient time to enable the Depository Nominee to lodge a proxy or proxies for the meeting.

Introduced 11/03/04 Origin SCH 3A.8.6 Amended 18/12/06

13.8.10 Depository Nominee to call for a poll

To the extent that it is able to do so, the Depository Nominee must make or join in any demand for a poll in respect of any matter at a meeting of the Principal Issuer in accordance with any report in writing supplied by the Principal Issuer under Rule 13.8.9(b)(ii).

Introduced 11/03/04 Origin SCH 3A.8.7

13.8.11 Meetings of Holders of CDIs

If it is necessary or appropriate for a meeting of Holders of CDIs to be convened for any purpose, including a purpose specified in these Rules:

- (a) the meeting may be convened by the directors of the Principal Issuer to which the CDIs relate, or in any other manner in which a meeting of holders of Financial Products of the Principal Issuer may be convened under the law of the place of formation of the Principal Issuer;

- (b) the rights of Holders of CDIs to appoint a proxy, to vote on a show of hands, to call for a poll and vote on a poll must be determined as if the meeting were a meeting of holders of Financial Products of the Principal Issuer;
- (c) the requirements for Notice of the meeting and the rules and procedures for a meeting of Holders of CDIs must be the requirements, rules and procedures that would apply to a meeting of holders of Financial Products of the Principal Issuer.

Introduced 11/03/04 Origin SCH 3A.8.8

13.8.12 Liability of Depositary Nominees

The Depositary Nominee has no liability to:

- (a) the Principal Issuer;
- (b) Holders of Principal Financial Products;
- (c) Holders of CDIs; or
- (d) any person claiming an interest in Principal Financial Products or CDIs,

with respect to any conduct or omission of the Depositary Nominee at or connected with a meeting of Holders of Financial Products of a Principal Issuer, unless the Depositary Nominee:

- (e) acts contrary to a report of the Principal Issuer given under Rule 13.8.9(b)(ii);
- (f) acts negligently or in breach of these Rules; or
- (g) negligently fails to vote or lodge forms of proxy before the close of the period within which proxies for the meeting may be lodged.

Introduced 11/03/04 Origin SCH 3A.8.9

13.9 SPECIFIC MODIFICATIONS TO RULES

13.9.1 Modifications

The following modifications are made to the Rules in respect of the operation of Section 13 :

- (a) Rule 8.1 does not apply.
- (b) Rule 8.2.1(a) is varied by the insertion of the words “ or CDIs that are to be approved under Rules 13.1 to 13.13;” after Rule” 8.1”.
- (c) Rules 8.6.4 and 8.6.5 should be read as if references to the “Commission” were references to “ASX Settlement” and references to the “Corporations Act” were references to “these Rules”.
- (d) The provisions of Rule 8.12 are modified by the provisions of Rules 13.9.2 to 13.9.6 below.
- (e) Rule 5.2.1 is amended by insertion of the words “or CDIs that are to be approved under Rules 13.1 to 13.13” after “8.1” in Rule 5.2.1.
- (f) Rules 5.2.2 and 5.4.1 do not apply to a class of CDIs that is Approved under Rules 13.1 to 13.13.

- (g) Rule 5.4.2 is to be read as if the following provision is added to the end of Rule 5.4.2, “ A Principal Issuer may not cease to operate its Issuer Sponsored Subregister unless ASX Settlement agrees in writing.”
- (h) Rule 5.9 only applies where a Transfer is initiated by a Participant which has the effect of a Conversion.
- (i) Rules 5.13.1 and 5.13.3 are modified so that the references to “total issued capital” must be read as references to “ total number of CDIs”.
- (j) The provisions of Section 14 are taken to apply to CDIs as if the CDIs were Financial Products in an Australian listed public company and the takeover bid with respect to the Principal Financial Products was a takeover under the Corporations Act.

Introduced 11/03/04 Origin SCH 3A.9.1 to 3A.9.5, 3A.9.8 to 3A.9.12, 3A.9.12A to 3A.9.19

Amended 04/04/05, 06/06/05

13.9.2 CDI to Principal Financial Product Transmutation

A CDI to Principal Financial Product Transmutation may be initiated by a Participant that Transmits a Valid Originating Message to ASX Settlement in accordance with the Procedures.

Introduced 11/03/04 Origin SCH 3A.9.6.1 Amended 06/06/05

13.9.3 Actions of ASX Settlement

If an Originating Message Transmitted to ASX Settlement complies with Rule 13.9.2 and there are sufficient available CDIs in the Source Holding, ASX Settlement must:

- (a) deduct the number of CDIs specified in the Originating Message from the Source Holding; and
- (b) Transmit a Message to the Principal Issuer to transfer Principal Financial Products in accordance with the Originating Message.

Introduced 11/03/04 Origin SCH 3A.9.6.2 Amended 04/04/05, 06/06/05

13.9.4 Principal Issuer to generate Trustee Transfer Forms

If a Principal Issuer receives a Valid Message under Rule 13.9.3(b), the Principal Issuer must, within the Scheduled Time:

- (a) generate a Trustee Transfer Form in accordance with the Procedures; and
- (b) register that Transfer in the Principal Register.

Introduced 11/03/04 Origin SCH 3A.9.6.3 Amended 04/04/05, 06/06/05

13.9.5 Time at which Transfer takes effect

A Transfer initiated under Rule 13.9.4(a) is deemed to take effect at the time ASX Settlement deducts the number of CDIs specified in the Originating Message from the Source Holding.

Introduced 11/03/04 Origin SCH 3A.9.6.4 Amended 06/06/05

13.9.6 Authority of Holder of CDI required

A Participant must not transmit a Valid Originating Message which has the effect of Transmuting CDIs to Principal Financial Products without the prior authority of the Holder of CDIs.

Introduced 11/03/04 Origin SCH 3A.9.6.5

13.9.7 Principal Financial Product to CDI Transmutation

A Principal Financial Product to CDI Transmutation may be initiated by a Participant that:

- (a) lodges a properly completed document of Transfer and Certificate or Marked Transfer with the Principal Issuer within the Scheduled Time; and
- (b) Transmits a Valid Originating Message to ASX Settlement in accordance with the Procedures.

Introduced 11/03/04 Origin SCH 3A.9.7.1 Amended 06/06/05

13.9.8 ASX Settlement to request Principal Issuer to authorise the Transmutation

If an Originating Message Transmitted to ASX Settlement complies with Rule 13.9.7(b), ASX Settlement will:

- (a) Transmit to the Principal Issuer a Message requesting the Principal Issuer to authorise the Transmutation of Principal Financial Products to CDIs in accordance with that Originating Message; and
- (b) specify the Registration Details in the Message to the Issuer to enable the Issuer to validate the Registration Details, where applicable.

Introduced 11/03/04 Origin SCH 3A.9.7.2 Amended 04/04/05, 06/06/05

13.9.9 Principal Issuer to process the Transfer

If a Principal Issuer receives:

- (a) a properly completed document of Transfer and Certificate or Marked Transfer; and
 - (b) a Valid Message under Rule 13.9.8 from ASX Settlement pursuant to an Originating Message,
- the Principal Issuer must, within the Scheduled Time:
- (c) enter the Transfer in the Principal Register;
 - (d) Transmit a Message to ASX Settlement to Transfer the Financial Products in accordance with the Originating Message; and
 - (e) in the case of a Message requesting the Principal Issuer to authorise a Transfer where the Transfer has the effect of a Conversion, ensure the Registration Details specified in the Message for the Target Holding match the Registration Details maintained by the Principal Issuer for the Source Holding.

Introduced 11/03/04 Origin SCH 3A.9.7.3 Amended 04/04/05

13.9.10 ASX Settlement to enter Financial Products into Target Holding

If ASX Settlement receives a Valid Message under Rule 13.9.9(d), ASX Settlement must enter Financial Products into the Target Holding in accordance with the Originating Message.

Introduced 11/03/04 Origin SCH 3A.9.7.4

13.9.11 Conditions for Issuer's authorisation of a Transfer not met

If the conditions for authorisation by the Issuer of a Transfer as stipulated in Rule 13.9.9 are not met, the Issuer must, within the Scheduled Time:

- (a) reject the Message; and/or
 - (b) return the properly completed document of Transfer and Certificate or Marked Transfer to the Participant that lodged it without entering the Transfer in the Principal Register,
- whichever is relevant.

Introduced 11/03/04 Origin SCH 3A.9.7.5 Amended 09/05/05

13.9.12 Time at which Transfer takes effect

A Transfer initiated under Rule 13.9.7 takes effect when both the actions described in Rule 13.9.9(c) and (d) are completed.

Introduced 11/03/04 Origin SCH 3A.9.7.6

13.9.13 ASX Settlement may purge unactioned Messages

If a Principal Issuer receives a Message from ASX Settlement under Rule 13.9.8 and does not respond to ASX Settlement under either Rule 13.9.9 or Rule 13.9.11 within the relevant Scheduled Time for response, ASX Settlement may purge the unactioned Message from the Settlement Facility.

Introduced 09/05/05

13.10 SHUNTING BETWEEN REGISTERS

13.10.1 Shunt from DI Register to Principal Register

Where a Holder gives Notice requesting that the Principal Issuer shunt all or part of a Holding of DIs into Principal Financial Products, the Principal Issuer must reduce that Holding by the number specified in the Notice and take such steps as are necessary to shunt the same number of Principal Financial Products from the relevant Segregated Account to the Approved Clearing House account nominated in the Notice, within 3 Business Days of receipt of that Notice.

Introduced 11/03/04 Origin SCH 3A.10.1

13.10.2 Shunt from Principal Register to DI Register

Where a Holder gives Notice requesting that the Principal Issuer shunt all or part of a Holding of Principal Financial Products into DIs, the Principal Issuer must take all necessary steps to shunt those Principal Financial Products to the Segregated Account and enter the same number of DIs into a Holding in accordance with the instructions given in the Notice, within 3 Business Days of receipt of that Notice.

Introduced 11/03/04 Origin SCH 3A.10.2

13.11 TAX LAWS

13.11.1 Principal Issuer to company with Tax laws

The Principal Issuer will use its best endeavours to:

- (a) comply with all applicable Tax laws as agent and attorney of the Depositary Nominee;

- (b) ensure that the Depositary Nominee complies with all applicable Tax laws; and
- (c) not do any act or thing which creates a Tax liability, or not omit to do any act or thing, the omission of which creates a Tax liability, which must be discharged by the Depositary Nominee, unless provision has been made for the discharge of the liability by some person other than the Depositary Nominee.

The obligations of the Principal Issuer and the Depositary Nominee are subject to all relevant Tax laws.

Introduced 11/03/04 Origin SCH 3A.11.1, 3A.11.2

13.12 NOTICE

13.12.1 Notice to Holders of CDIs

Any obligation to give notice to Holders of CDIs under Rules 13.1 to 13.13 must be discharged upon the Depositary Nominee giving notice to the Holder of CDIs at the address of the Holder of CDIs noted on the CDI Register.

Introduced 11/03/04 Origin SCH 3A.12.1

13.13 GENERAL INDEMNITY

13.13.1 Principal Issuer to indemnify the Depositary Nominee

The Principal Issuer indemnifies the Depositary Nominee against all expenses, losses, damages and costs that the Depositary Nominee may sustain or incur in connection with:

- (a) CDIs;
- (b) its capacity as holder of Principal Financial Products;
- (c) any act done, or required to be done, by the Principal Issuer (whether or not on behalf of the Depositary Nominee) under Rules 13.1 to 13.13 of the Rules; and
- (d) any act otherwise done or required to be done by the Depositary Nominee under Rules 13.1 to 13.13 of the Rules.

Introduced 11/03/04 Origin SCH 3A.13.1

Subdivision B—The market’s operating rules and procedures**793A Content of the operating rules and procedures**

- (1) The operating rules of a licensed market must deal with the matters prescribed by regulations made for the purposes of this subsection.
- (2) The regulations may also prescribe matters in respect of which a licensed market must have written procedures.
- (3) However, subsections (1) and (2) do not apply if the licensee is also authorised to operate the market in the foreign country in which its principal place of business is located and the licence was granted under subsection 795B(2) (overseas markets).
- (4) In a subsection (3) case, ASIC may determine, by giving written notice to the licensee, matters in respect of which the licensed market must have written procedures.

793B Legal effect of operating rules

- (1) The operating rules (other than listing rules) of a licensed market have effect as a contract under seal:
 - (a) between the licensee and each participant in the market; and
 - (b) between a participant and each other participant; under which each of those persons agrees to observe the operating rules to the extent that they apply to the person and to engage in conduct that the person is required by the operating rules to engage in.
- (2) However, if there is an inconsistency between the operating rules of a financial market and the market integrity rules, the market integrity rules prevail to the extent of the inconsistency.
- (3) Subsection (2) does not apply in relation to a financial market the operator of which is licensed under subsection 795B(2) (overseas markets).

793C Enforcement of operating rules

- (1) If a person who is under an obligation to comply with or enforce any of a licensed market’s operating rules fails to meet that obligation, an application to the Court may be made by:
 - (a) ASIC; or
 - (b) the licensee; or

- (c) the operator of a clearing and settlement facility with which the licensee has clearing and settlement arrangements; or
 - (d) a person aggrieved by the failure.
- (2) After giving an opportunity to be heard to the applicant and the person against whom the order is sought, the Court may make an order giving directions to:
- (a) the person against whom the order is sought; or
 - (b) if that person is a body corporate—the directors of the body corporate;
- about compliance with, or enforcement of, the operating rules.
- (3) For the purposes of this section, a body corporate that is, with its acquiescence, included in the official list of a licensed market, or an associate of such a body corporate, is taken to be under an obligation to comply with the operating rules of that market to the extent to which those rules purport to apply to the body corporate or associate.
- (4) For the purposes of this section, if a disclosing entity that is an undertaking to which interests in a registered scheme relate is, with the responsible entity's acquiescence, included in the official list of a licensed market, the responsible entity, or an associate of the responsible entity, is taken to be under an obligation to comply with the operating rules of that market to the extent to which those rules purport to apply to the responsible entity or associate.
- (5) For the purposes of this section, if a body corporate fails to comply with or enforce provisions of the operating rules of a licensed market, a person who holds financial products of the body corporate that are able to be traded on the market is taken to be a person aggrieved by the failure.
- (6) There may be other circumstances in which a person may be aggrieved by a failure for the purposes of this section.

793D Changing the operating rules

Licensed markets other than subsection 795B(2) markets

- (1) As soon as practicable after a change is made to the operating rules of a licensed market, other than a market licensed under subsection 795B(2) (overseas markets), the licensee must lodge with ASIC written notice of the change. The notice must:
- (a) set out the text of the change; and
 - (b) specify the date on which the change was made; and
 - (c) contain an explanation of the purpose of the change.
- (2) If no notice is lodged as required by subsection (1) with ASIC within 21 days after the change is made, the change ceases to have effect at the end of that period.

Subsection 795B(2) markets

- (3) As soon as practicable after a change is made to the operating rules of a market the operation of which is licensed under subsection 795B(2) (overseas markets), the licensee must lodge with ASIC written notice of the change. The notice must:

- (a) set out the text of the change; and
- (b) specify the date on which the change was made; and
- (c) contain an explanation of the purpose of the change.

Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).

793E Disallowance of changes to operating rules

- (1) This section does not apply in respect of an Australian market licence granted under subsection 795B(2) (overseas markets).
- (2) As soon as practicable after receiving a notice under section 793D from a market licensee, ASIC must send a copy of the notice to the Minister.
- (3) Within 28 days after ASIC receives the notice from the licensee, the Minister may disallow all or a specified part of the change to the operating rules.
- (4) In deciding whether to do so, the Minister must have regard to the consistency of the change with the licensee's obligations under this Part (including in particular the obligation mentioned in paragraph 792A(a)).

Note: The Minister must also have regard to the matters in section 798A.

- (5) As soon as practicable after all or a part of a change is disallowed, ASIC must give notice of the disallowance to the licensee. The change ceases to have effect, to the extent of the disallowance, when the licensee receives the notice.