

**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

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended 31 March 2012

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)

Marcin Firek  
(Contact name)

353 1411 6924 (Telephone)    353 1479 1128 (Facsimile)

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

**Title of each class:**  
Common stock, represented by CHESS Units of Foreign Securities  
CHESS Units of Foreign Securities  
American Depositary Shares, each representing five units  
of CHESS Units of Foreign Securities

**Name of each exchange on which  
registered:**

---

New York Stock Exchange\*  
New York Stock Exchange\*  
New York Stock Exchange

[Table of Contents](#)

\* 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  
437,175,963 shares of common stock at 31 March 2012.

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

TABLE OF CONTENTS

	<u>Page</u>
<a href="#">Form 20-F Cross-Reference Index</a>	3
<b><a href="#">Section 1</a></b>	5
<a href="#">Introduction</a>	5
<a href="#">Selected Financial Data</a>	5
<a href="#">Information on the Company</a>	8
<a href="#">History and Development of the Company</a>	8
<a href="#">Business Overview</a>	11
<a href="#">Organisational Structure</a>	19
<a href="#">Property, Plants and Equipment</a>	19
<a href="#">Group Management Team</a>	23
<a href="#">Board of Directors</a>	26
<a href="#">Remuneration Report</a>	31
<a href="#">Corporate Governance Report</a>	62
<b><a href="#">Section 2</a></b>	82
<a href="#">Reading this report</a>	82
<a href="#">Management's Discussion and Analysis</a>	83
<a href="#">Consolidated Financial Statements</a>	111
<a href="#">Notes to Consolidated Financial Statements</a>	117
<a href="#">Remuneration of Independent Registered Public Accounting Firm</a>	160
<a href="#">Selected Quarterly Financial Data</a>	161
<b><a href="#">Section 3</a></b>	162
<a href="#">Risk Factors</a>	162
<a href="#">Commitment to Provide Funding on a Long-Term Basis in Respect of Asbestos-Related Liabilities of Former Subsidiaries</a>	177
<a href="#">Legal Proceedings</a>	185
<a href="#">Employees</a>	191
<a href="#">Share Ownership</a>	191
<a href="#">Related Party Transactions</a>	199
<a href="#">Listing Details</a>	199
<a href="#">Purchases of Equity Securities by the Issuer and Affiliated Purchasers</a>	202
<a href="#">Memorandum and Articles of Association</a>	203
<a href="#">Material Contracts</a>	211
<a href="#">Exchange Controls</a>	212
<a href="#">Taxation</a>	212
<a href="#">Quantitative and Qualitative Disclosures About Market Risk</a>	223
<a href="#">American Depositary Shares</a>	225
<b><a href="#">Section 4</a></b>	227
<a href="#">SHARE/CHESS Units of Foreign Securities ("CUFS") Information</a>	227
<a href="#">Glossary of Abbreviations and Defined Terms</a>	230
<a href="#">Exhibits</a>	231
<a href="#">Signatures</a>	236

*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."*

---

## **Table of Contents**

*For certain information about the basis of preparing the financial information in this Annual Report, see Section 2, "Reading this Report." In addition, this Annual Report contains statements that constitute "forward-looking statements". For an explanation of forward-looking statements and the risks, uncertainties and assumptions to which they are subject, see Section 2, "Reading this Report."*

*A "Glossary of Abbreviations and Defined Terms" has also been included under Section 4 of this Annual Report.*

*Information contained in or accessible through the websites mentioned in this Annual Report does not form part of this report unless we specifically state that it is incorporated by reference and forms part of this report. All references in this report to websites are inactive textual references and are for information only.*

FORM 20-F CROSS REFERENCE INDEX

<u>20-F Item Number and Description</u>	<u>Page</u>
<b>PART 1</b>	
Item 1. Identity of Directors, Senior Management and Advisers	Not applicable
Item 2. Offer Statistics and Expected Timetable	Not applicable
Item 3. Key Information	
A. Selected Financial Data	5-8
B. Capitalisation and Indebtness	Not applicable
C. Reasons for the Offer and Use of Proceeds	Not applicable
D. Risk Factors	162-177
Item 4. Information on the Company	
A. History and Development of the Company	8-10
B. Business Overview	11-19
C. Organisational Structure	9-10; 19
D. Property, Plants and Equipment	19-22; 109
Item 4A. Unresolved Staff Comments	None
Item 5. Operating and Financial Review and Prospects	
A. Operating Results	89-102
B. Liquidity and Capital Resources	103-110
C. Research and Development, Patents and Licenses, etc	17-18; 110
D. Trend Information	110
E. Off-Balance Sheet Arrangements	110
F. Tabular Disclosure of Contractual Obligations	109
G. Safe Harbor	82-83
Item 6. Directors, Senior Management and Employees	
A. Directors and Senior Management	23-30
B. Compensation	31-61
C. Board Practices	62-70
D. Employees	191
E. Share Ownership	191-198
Item 7. Major Shareholders and Related Party Transactions	
A. Major Shareholders	227-228
B. Related Party Transactions	199
C. Interests of Experts and Counsel	None
Item 8. Financial Information	
A. Consolidated Statements and Other Financial Information	111-159; 177-190; 208
B. Significant Changes	None
Item 9. The Offer and Listing	
A. Offer and Listing Details	199-200
B. Plan of Distribution	Not Applicable
C. Markets	201
D. Selling Shareholders	Not Applicable
E. Dilution	Not Applicable
F. Expenses of the Issue	Not Applicable
Item 10. Additional Information	
A. Share Capital	Not Applicable
B. Memorandum and Articles of Association	203-211
C. Material Contracts	211-212
D. Exchange Controls	212

**FORM 20-F CROSS REFERENCE INDEX**  
(Continued)

<b>20-F Item Number and Description</b>	<b>Page</b>
E. Taxation	212-222
F. Dividends and paying agents	Not Applicable
G. Statement by Experts	Not Applicable
H. Documents on Display	222-223
I. Subsidiary Information	Not Applicable
Item 11. Quantitative and Qualitative Disclosures About Market Risk	223-225
Item 12. Description of Securities Other Than Equity Securities	
A. Debt Securities	Not Applicable
B. Warrants and Rights	Not Applicable
C. Other Securities	Not Applicable
D. American Depositary Shares	225-226
<b>PART II</b>	
Item 13. Defaults, Dividend Arrearages and Delinquencies	None
Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds	None
Item 15. Controls and Procedures	75-78
Item 16A. Audit Committee Financial Expert	68
Item 16B. Code of Business Conduct and Ethics	70
Item 16C. Principal Accountant Fees and Services	160
Item 16D. Exemptions from the Listing Standards for Audit Committees	None
Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers	202
Item 16F. Change in Registrant's Certifying Accountant	None
Item 16G. Corporate Governance	80
Item 16H. Mine Safety Disclosures	21
<b>PART III</b>	
Item 17. Financial Statements	Not Applicable
Item 18. Financial Statements	111-159
Item 19. Exhibits	231-235

---

[Table of Contents](#)

**SECTION 1.**

**INTRODUCTION**

The Company is a world leader in manufacturing fibre cement siding and backerboard. Our current primary geographic markets include the United States ("US"), Australia, New Zealand, the Philippines, Europe and Canada.

Our fibre cement products are used in a number of markets, including new residential construction, manufactured housing, repair and remodeling and a variety of commercial and industrial applications.

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 and floor and tile underlay.

We employ approximately 2,600 people and generated net sales of US\$1.2 billion in fiscal year 2012.

**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 2012 and 2011, and our consolidated statements of operations, changes in shareholders' equity (deficit) and cash flows for each of the years ended 31 March 2012, 2011 and 2010, 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 US, 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.

[Table of Contents](#)

	Fiscal Year ended 31 March				
	2012	2011	2010	2009	2008
	(In millions of US dollars except sales price per unit and per share data)				
<b>Consolidated Statements of Operations Data:</b>					
Net Sales					
USA and Europe Fibre Cement <sup>1</sup>	\$ 862.0	\$ 814.0	\$ 828.1	\$ 929.3	\$ 1,170.5
Asia Pacific Fibre Cement <sup>2</sup>	375.5	353.0	296.5	273.3	298.3
Total net sales	<u>\$ 1,237.5</u>	<u>\$ 1,167.0</u>	<u>\$ 1,124.6</u>	<u>\$ 1,202.6</u>	<u>\$ 1,468.8</u>
Operating income (loss) <sup>3</sup>	\$ 155.5	\$ 104.7	\$ (21.0)	\$ 173.6	\$ (36.6)
Interest expense	(11.2)	(9.0)	(7.7)	(11.2)	(11.1)
Interest income	3.8	4.6	3.7	8.2	12.2
Other income (expense) <sup>4</sup>	3.0	(3.7)	6.3	(14.8)	—
Income (loss) from operations before income taxes	151.1	96.6	(18.7)	155.8	(35.5)
Income tax benefit (expense) <sup>5</sup>	453.2	(443.6)	(66.2)	(19.5)	(36.1)
Income (loss) from operations	<u>\$ 604.3</u>	<u>\$ (347.0)</u>	<u>\$ (84.9)</u>	<u>\$ 136.3</u>	<u>\$ (71.6)</u>
Net income (loss)	<u>\$ 604.3</u>	<u>\$ (347.0)</u>	<u>\$ (84.9)</u>	<u>\$ 136.3</u>	<u>\$ (71.6)</u>
Income (loss) from operations per common share — basic	\$ 1.39	\$ (0.80)	\$ (0.20)	\$ 0.32	\$ (0.16)
Net income (loss) per common share — basic	\$ 1.39	\$ (0.80)	\$ (0.20)	\$ 0.32	\$ (0.16)
Income (loss) from operations per common share — diluted	\$ 1.38	\$ (0.80)	\$ (0.20)	\$ 0.31	\$ (0.16)
Net income (loss) per common share — diluted	\$ 1.38	\$ (0.80)	\$ (0.20)	\$ 0.31	\$ (0.16)
Dividends paid per share	\$ 0.04	\$ —	\$ —	\$ 0.08	\$ 0.27
Weighted average number of common shares outstanding					
Basic	436.2	435.6	433.1	432.3	455.0
Diluted	437.9	435.6	433.1	434.5	455.0
<b>Consolidated Cash Flow Information:</b>					
Cash flows provided by operating activities	\$ 387.2	\$ 147.2	\$ 183.1	\$ (45.2)	\$ 319.3
Cash flows used in investing activities	\$ (49.9)	\$ (49.6)	\$ (50.5)	\$ (26.1)	\$ (38.5)
Cash flows used in financing activities	\$ (84.4)	\$ (89.7)	\$ (159.0)	\$ 25.0	\$ (254.4)
<b>Other Data:</b>					
Depreciation and amortisation	\$ 65.2	\$ 62.9	\$ 61.7	\$ 56.4	\$ 56.5
Adjusted EBITDA <sup>6</sup>	\$ 220.7	\$ 167.6	\$ 40.7	\$ 230.0	\$ 19.9
Capital expenditures	\$ 35.8	\$ 50.3	\$ 50.5	\$ 26.1	\$ 38.5
Volume (million square feet)					
USA and Europe Fibre Cement <sup>1</sup>	1,331.8	1,248.0	1,303.7	1,526.6	1,951.2
Asia Pacific Fibre Cement <sup>2</sup>	392.3	407.8	389.6	390.6	398.2
Average sales price per unit (per thousand square feet)					
USA and Europe Fibre Cement <sup>1</sup>	US\$ 647	US\$ 652	US\$ 635	US\$ 609	US\$ 600
Asia Pacific Fibre Cement <sup>2</sup>	A\$ 916	A\$ 916	A\$ 894	A\$ 879	A\$ 862



## Table of Contents

	Fiscal Year ended 31 March				
	2012	2011	2010	2009	2008
<b>Consolidated Balance Sheet Data:</b>					
Net current assets <sup>7</sup>	\$ 472.5	\$ 135.6	\$ 50.4	\$ 137.7	\$ 183.7
Total assets	\$ 2,310.0	\$ 1,960.6	\$ 2,178.8	\$ 1,891.7	\$ 2,179.9
Total debt <sup>8</sup>	\$ 30.9	\$ 59.0	\$ 154.0	\$ 324.0	\$ 264.5
Common stock	\$ 224.0	\$ 222.5	\$ 221.1	\$ 219.2	\$ 219.7
Shareholders' equity (deficit)	\$ 126.4	\$ (454.5)	\$ (117.9)	\$ (108.7)	\$ (202.6)

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Operating income (loss) includes the following asbestos adjustments, Asbestos Injuries Compensation Fund (which we refer to as "AICF") SG&A expenses, Australian Securities and Investments Commission (which we refer to as "ASIC") related expenses (recoveries), and impairment charges:

	Fiscal Years Ended 31 March				
	2012	2011	2010	2009	2008
	(Millions of US dollars)				
(Unfavourable) favourable asbestos adjustments	\$ (15.8)	\$ (85.8)	\$ (224.2)	\$ 17.4	\$ (240.1)
AICF SG&A expenses	(2.8)	(2.2)	(2.1)	(0.7)	(4.0)
ASIC related (expenses) recoveries	(1.1)	8.7	(3.4)	(14.0)	(5.5)
Impairment charges	\$ (14.3)	\$ —	\$ —	\$ —	\$ (71.0)

For additional information on the asbestos adjustments, AICF SG&A expenses, ASIC related expenses (recoveries) and impairment charges, see Section 2, "Management's Discussion and Analysis" and Notes 11, 13 and 7, respectively, to our consolidated financial statements in Section 2.

<sup>4</sup> Other income in fiscal year 2012 and other expense in fiscal year 2011 are due to changes 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 AICF. Other expense in fiscal year 2009 consists of an other-than-temporary impairment charge related to restricted short-term investments held by AICF of US\$14.8 million. For additional information see Section 2, "Management's Discussion and Analysis — Results of Operations."

<sup>5</sup> Income tax benefit in fiscal year 2012 includes a benefit of US\$485.2 million recognised upon RCI's successful appeal of the Australian Taxation Office's (which we refer to as the "ATO") disputed 1999 amended tax assessment. Income tax expense in fiscal year 2011 includes a charge of US\$345.2 million resulting from the dismissal by the Federal Court of Australia of RCI's appeal of the ATO's disputed 1999 amended tax assessment. For additional information, see Note 14 to our consolidated financial statements in Section 2.

<sup>6</sup> Adjusted EBITDA represents income from operations before interest income, interest expense, income taxes, other non-operating income (expense), described in footnote four above, 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 income (loss) to net cash provided by (used in) operating activities" and "Change in operating assets and liabilities, net" for fiscal years ended 31 March 2012, 2011 and 2010 are set forth in the Consolidated Statements of Cash Flows on page 115.

## Table of Contents

	Fiscal Years Ended 31 March				
	2012	2011	2010	2009	2008
	(Millions of US dollars)				
Net cash provided by (used in) operating activities	\$ 387.2	\$ 147.2	\$ 183.1	\$ (45.2)	\$ 319.3
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities	(114.4)	(136.8)	(312.0)	(3.5)	(318.9)
Change in operating assets and liabilities, net	331.5	(357.4)	44.0	185.0	(72.0)
Net income (loss)	604.3	(347.0)	(84.9)	136.3	(71.6)
Income tax (benefit) expense	(453.2)	443.6	66.2	19.5	36.1
Interest expense	11.2	9.0	7.7	11.2	11.1
Interest income	(3.8)	(4.6)	(3.7)	(8.2)	(12.2)
Other (income) expense	(3.0)	3.7	(6.3)	14.8	—
Depreciation and amortisation	65.2	62.9	61.7	56.4	56.5
Adjusted EBITDA	<u>\$ 220.7</u>	<u>\$ 167.6</u>	<u>\$ 40.7</u>	<u>\$230.0</u>	<u>\$ 19.9</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.

7 Total current assets less total current liabilities.

8 Total debt at 31 March 2012 represents the amount owed by AICF under a secured standby loan facility with the government of New South Wales (the "Facility"). Because the Company consolidates AICF due to pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA, any drawings, repayments or payments of accrued interest by AICF under the Facility impact the Company's consolidated financial position, results of operations and cash flows. James Hardie Industries SE and its wholly-owned subsidiaries are not a party to, guarantor of, or security provider in respect of the Facility.

## 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. After becoming a listed company, the Company built up a diverse portfolio of building and industrial products 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.

---

## [Table of Contents](#)

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 Australian Securities Exchange (“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 the implementation of 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 becoming an Irish SE, 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, Australian Securities and Investments Commission (“ASIC”), the New York Stock Exchange (“NYSE”), the United States Securities and Exchange Commission (“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, 3<sup>rd</sup> Floor, Albany, New York 12205.

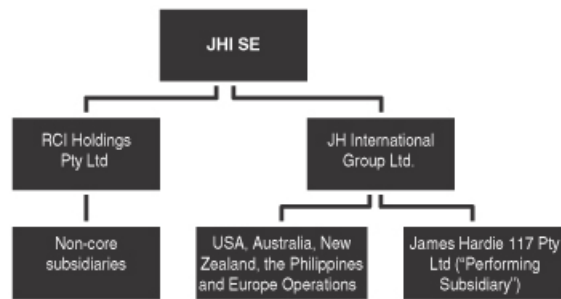
### **Corporate Restructuring**

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 during fiscal year 2011, as it remitted US earnings as part of the internal reorganisation.

This tax charge did not impact the contribution to AICF in July 2011, although it did reduce the amount to be contributed to AICF in July 2012 by approximately US\$12.4 million. However, this reduction was offset by the Company’s early contribution to AICF of US\$138.7 million on 2 April 2012, which was 35% of amounts received from the ATO during fiscal year 2012. See Note 14 to our consolidated financial statements in Section 2 for additional information on amounts received from the ATO.

## [Table of Contents](#)

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



### **Consolidation of AICF**

In February 2007, our shareholders approved the Amended and Restated Final Funding Agreement (which we refer to as “AFFA”) entered into on 21 November 2006 to provide long-term funding to AICF. JHI SE owns 100% of James Hardie 117 Pty Ltd (the “Performing Subsidiary”) that funds AICF subject to the provisions of the AFFA. We appoint three of AICF’s directors and the New South Wales (which we refer to as “NSW”) Government appoints two of AICF’s directors.

Under the terms of the AFFA, the Performing Subsidiary has an obligation to make payments to AICF on an annual basis. The amount of these annual payments is dependent on several factors, including our free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of 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 JHI SE to be the primary beneficiary of AICF.

Although we have no legal ownership in AICF, for financial reporting purposes, our interest in AICF is considered variable and we consolidate AICF due to our pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA. Our consolidation of AICF results in a separate recognition of the asbestos liability and certain other asbestos-related assets and liabilities on our consolidated balance sheet. Among other items, we record a deferred tax asset for the anticipated future tax benefit we believe is available to us that arises from amounts contributed to the asbestos fund by the Performing Subsidiary. Since fiscal year 2007, movements in the asbestos liability arising from changes in foreign currency or actuarial adjustments are classified as *asbestos adjustments*, and the income tax benefit arising from contributions to AICF is included within *income tax benefit (expense)* on our consolidated statements of operations when realised. See Note 2 to our consolidated financial statements in Section 2.

## [Table of Contents](#)

### **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, Cemplank® and Prevail® siding (we also formerly marketed siding under the brand name Sentry™ siding), Scyon™, Stria® siding, and HardieBacker®. 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 67%, 68% and 72% of our total net sales in fiscal years 2012, 2011 and 2010, 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, 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:

	<b>Fiscal Year Ended 31 March</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
	(Millions of US dollars)		
USA and Europe Fibre Cement	\$ 862.0	\$ 814.0	\$ 828.1
Asia Pacific Fibre Cement	375.5	353.0	296.5
Total	<u>\$ 1,237.5</u>	<u>\$ 1,167.0</u>	<u>\$ 1,124.6</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 financing 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, single family housing starts, which are one of the key drivers of the Company's performance, were relatively flat at 445,600 for fiscal year 2012 compared to fiscal year 2011.

---

## Table of Contents

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 external 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 amongst siding materials according to economic conditions, weather, materials availability and local taste. The 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 ("ABS") total dwelling commencements in Australia decreased from 167,577 in calendar year 2010 to 146,509 in calendar year 2011 with detached houses decreasing from 106,575 in calendar year 2010 to 91,807 in calendar year 2011. Renovation activity, as measured in local currency expenditures by the ABS, has increased from calendar year 2010 to calendar year 2011 for a total increase over this period of approximately 4%. 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 14,611 for the year ended March 2011 to 14,596 for the year ended March 2012. Residential renovation activity in New Zealand has decreased from the year ended March 2011 to the year ended March 2012 for a total decrease over this period of approximately 4%. InfoMetrics New Zealand believes new housing construction and renovation activity are expected to remain weak through calendar year 2012, with consents consistent with calendar year 2011.

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 add to their existing ones.

---

## [Table of Contents](#)

### *Philippines*

In the Philippines and other Asian and Middle Eastern (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 (we do not manufacture fibre cement products containing asbestos) has good long-term growth potential because of the benefits of light-weight and framed construction compared to traditional masonry 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 exterior 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 and roofing products in the United States. In May 2008 and April 2006, we ceased operation of our pipes and roofing businesses, respectively, 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 in the United States has been our HardieTrim® board. HardieTrim board is a fibre cement trim product that is used on the exterior of residential and

---

## Table of Contents

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 are durability and low maintenance, particularly when compared to competing wood and wood-based products, while offering comparable aesthetics. Our fibre cement products exhibit 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 fibre cement's aesthetics and the characteristics necessary for effectively accepting paint applications.

Our fibre cement products provide strength and the ability to imprint patterns that closely resemble patterns and profiles of traditional materials such as wood and stucco. The surface properties provide an effective paint-holding finish to wood and engineered wood products such that the periods between necessary maintenance and repainting are generally 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.

In our interior product range, we believe our ceramic tile underlayment products exhibit better 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, 10' 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, 12' Artisan® Accent Trim and HardieBacker® ProGrid™ cement board.
- During fiscal year 2012, we introduced new profile HZ5® HardiePlank® siding, additional HardieShingle® siding profiles, new Improved Smooth HardieTrim® boards, new HardieTrim® Crown Mouldings and three new colors to the James Hardie® ColorPlus® palette.

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 additionally, in New Zealand only, the following new products were released: ShingleSide panel and CLD™ Cavity Battens and Rigid Air Barrier.



---

## [Table of Contents](#)

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, "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.

*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 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 our 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 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, "Risk Factors." We have entered into contracts that discount pulp prices in relation to various pulp indices and purchase our pulp from several qualified suppliers in an attempt to mitigate price increases and supply interruptions.

Pulp has historically demonstrated more price sensitivity than other raw materials that we use in our manufacturing process. In fiscal year 2012, the average Northern Bleached Softwood Kraft (which we refer to as "NBSK") pulp price was US\$952 per ton, a 3% decrease compared to fiscal year 2011. Input costs are expected to remain at elevated levels when compared to historic long-term averages.

*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 can 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.

---

## [Table of Contents](#)

### **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, France, French Caribbean, Germany, Hong Kong, Hungary, India, Indonesia, Ireland, Italy, 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). 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 customer service support for Europe is based out of The Netherlands), 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 and lumber yards 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 five US customers accounted for approximately 55% of our total USA and Europe Fibre Cement gross sales in fiscal year 2012. 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. 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 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.

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. We maintain dedicated regional sales management teams in our major sales territories. As of 31 May 2012, the sales teams (including telemarketing staff) consisted of approximately 301 people in the United States and Canada, 72 people in Australia, 22 people in New Zealand, 38 people in the Philippines, and 26 people in Europe. We also employ one person based in Hong Kong and one person based in South Korea, who each function 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.

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

## [Table of Contents](#)

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.

### ***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:

<b>(Millions of US dollars)</b>	<b>Fiscal Years Ended 31 March</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
Research and Development Expenditures <sup>1</sup>	32.4	\$ 31.2	\$ 30.4
Research and Development Expenditures as a percentage of total net sales	2.6%	2.7%	2.7%

<sup>1</sup> Included within research and development expenditures for fiscal years 2012, 2011 and 2010 is US\$2.0 million, US\$3.2 million and US\$3.3 million, respectively, classified as selling, general and administrative expenses.

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 competitive advantage. 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.

---

## Table of Contents

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, "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 organisations, including the ASX, ASIC, the NYSE, the SEC, the Irish Takeovers Panel and various other rulemaking bodies. See Section 3, "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.

## [Table of Contents](#)

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.

### **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 2012.

<b>Name of Company</b>	<b>Jurisdiction of Establishment</b>
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 Ltd	Ireland
James Hardie International Finance Ltd.	Ireland
James Hardie International Group Ltd.	Ireland
James Hardie International Holdings Ltd.	Ireland
James Hardie N.V.	Netherlands
James Hardie New Zealand Ltd	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 in 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.

## [Table of Contents](#)

### **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 2012 capacity utilisation, based on this annual design capacity, for our fibre cement building products plants was an average of 46% and 72% 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.

#### 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<sup>1</sup>

Fontana, California<sup>2</sup>

Summerville, South Carolina<sup>2</sup>

##### **Asia Pacific**

###### **Australia**

Sydney, New South Wales

Brisbane, Queensland (Carole Park)<sup>3</sup>

###### **New Zealand**

Auckland

###### **The Philippines**

Manila

#### **Fibre Reinforced Concrete Pipes**

##### **Australia**

Brisbane, Queensland (Meeandah)<sup>3</sup>

---

## Table of Contents

- 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).

As a mine operator, we are required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), and rules promulgated by the Securities and Exchange Commission implementing that section of the Dodd-Frank Act, to provide certain information concerning mine safety violations and other regulatory matters concerning the operation of our mines. During fiscal year 2012, we did not receive any notices, citations, orders, legal action or other communication from the U.S. Department of Labor's Mine Safety and Health Administration that would necessitate additional disclosure under Section 1503(a) of the Dodd-Frank Act.

## [Table of Contents](#)

### **Capital Expenditures**

The following table sets forth our capital expenditures for each year in the three-year period ended 31 March 2012.

	Fiscal Years Ended 31 March		
	2012	2011	2010
	(Millions of US dollars)		
USA and Europe Fibre Cement	\$ 26.7	\$ 39.5	\$ 40.6
Asia Pacific Fibre Cement	6.7	9.9	6.7
Research and Development and Corporate	2.4	0.9	3.2
Total Capital Expenditures	<u>\$ 35.8</u>	<u>\$ 50.3</u>	<u>\$ 50.5</u>

The Company did not have any material divestitures in the fiscal years ended 31 March 2012, 2011 and 2010.

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 2012, we have incurred US\$23.5 million related to this project;
- commencement of expenditures to enhance environmental compliance at our plants in fiscal year 2011. As of 31 March 2012, we have incurred US\$11.0 million related to this project;
- an upgrade to our supply chain management IT systems. As of 31 March 2012, we have incurred US\$4.3 million related to this project;
- expenditures related to a new ColorPlus line at our Cleburne plant. As of 31 March 2012, we have incurred US\$5.7 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 between US\$70 million and US\$100 million in fiscal year 2013 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.



---

[Table of Contents](#)

**GROUP MANAGEMENT TEAM**

Our management is overseen by a Group Management Team (which we refer to as “GMT”), 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 alphabetical order) are:

**Joe Blasko BSc, JD**  
*General Counsel*  
Age 45



Joe Blasko joined James Hardie as General Counsel in June 2011. Mr Blasko reports to the Company’s CEO.

Before joining James Hardie, Mr Blasko was Assistant General Counsel, and later, the General Counsel at Liebert Corporation, an Emerson Network Power Systems company and wholly-owned subsidiary of Emerson Electric Co. In his four years with Liebert/Emerson, Mr Blasko was responsible for establishing the legal department in Columbus, Ohio, managing and overseeing all legal matters and working closely with

the executive management team. In this role, Mr Blasko also had global responsibilities which required expertise across multiple jurisdictions.

From 2004 to 2006, Mr Blasko was Associate General Counsel at The Scotts Miracle-Gro Company, serving as the effective “general counsel” to numerous corporate divisions within the organisation. From 1997 to 2004 Mr Blasko gained considerable regulatory and litigation expertise working at Vorys, Slater, Seymour and Pease LLP in Ohio.

Mr Blasko has a Juris Doctor from Case Western Reserve University in Cleveland, Ohio and a Bachelor of Science in Foreign Service from Georgetown University, with a speciality in Foreign Service, International Relations, Law and Organisations.

**Russell Chenu BCom, MBA**  
*Chief Financial Officer*  
Age 62



Russell Chenu joined James Hardie as Interim Chief Financial Officer (“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 Annual General Meeting (“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.

---

[Table of Contents](#)

**Mark Fisher BSc, MBA**

Executive General Manager — International

Age 41



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.

**Louis Gries BSc, MBA**

Chief Executive Officer

Age 58



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

AGM and continued as Chairman of the Managing Board until it was dissolved in June 2010.

In April 2012, the Company announced that effective 30 June 2012, Mr Gries would also assume responsibility for managing the US business upon Mr Nigel Rigby's departure from the Company.

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

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

---

## [Table of Contents](#)

### **Sean O'Sullivan BA, MBA**

Vice President — Investor & Media Relations

Age 47



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 45



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.

In April 2012, the Company announced that Mr Rigby will be leaving the Company effective 30 June 2012.

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 the GMT.

---

[Table of Contents](#)

**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 70



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 previously served as 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 Director of DynaVox Mayer-Johnson (listed in April 2010).

*Other:* Resident of the United States.

*Last elected:* August 2011

*Term expires:* August 2014

**Donald McGauchie AO**

Age 62



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 2010) and Director (since 2010) of Australian Agricultural Company Limited; Chairman (since 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.

---

## Table of Contents

*Last elected:* August 2010

*Term expires:* August 2013

### **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. He previously served as 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 CFO (1997-2004) and, more recently, Executive Vice President and CFO 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 2010) and Director (since 2005) of A.M. Castle & Co.; Director of Pulte Homes Corporation (since 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

*Term expires:* August 2012. Mr. Anderson will stand for re-election at the 2012 AGM.

### **David Dilger CBE, BA, FCA**

*Age 55*



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

*Term expires:* August 2013

---

[Table of Contents](#)

**David Harrison BA, MBA, CMA**

Age 65



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.

*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 CFO (1994-1996 and 2000-2007) and Vice President and CFO roles at Scotts, Inc. and Coltec Industries, Inc. (1996-2000).

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

*Other:* Resident of the United States.

*Last elected:* August 2010

*Term expires:* August 2013

**Alison Littley BA, FCIPS**

Age 50



Alison Littley was appointed as an independent Non-Executive Director of James Hardie in February 2012. She is a member of the Board and a member of the Audit Committee.

*Experience:* Ms Littley has substantial experience in multinational manufacturing and supply chain operations, and she brings a strong international leadership background building effective management teams and third party relationships. She has held a variety of positions, most recently as Chief Executive of Buying Solutions,

a UK Government Agency responsible for procurement of goods and services on behalf of UK government and public sector bodies (2006-2011). She has previously held senior management roles in Diageo plc (1999-2006) and Mars, Inc (1981-1999).

*Directorships of listed companies in the past five years:* None.

*Other:* Resident of the United Kingdom.

*Last elected:* Ms Littley will be standing for election at the August 2012 AGM.

---

## [Table of Contents](#)

### **James Osborne BA Hons, LLB**

Age 63



James Osborne was appointed as an independent Non-Executive Director of James Hardie in March 2009. He is a member of the Board and a member of the Nominating and Governance Committee. He previously served as 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 business operations in North America and Europe. His career includes 35 years with the leading Irish law

firm, A&L Goodbody, in roles which included opening the firm's New York office in 1979 and serving as the firm's managing partner (1982-1994). He has served as a consultant to the firm since 1994. Mr Osborne also contributed to the listing of Ryanair in London, New York and Dublin and continues to serve on Ryanair's board.

*Directorships of listed companies in the past five years:* Current – Director, Ryanair Holdings plc (since 1996); Former – Chairman, Independent News & Media (2011-2012), Chairman, Newcourt Group plc (2004-2009).

*Other:* Chairman, Eason & Son Ltd (since August 2010), Chairman, Centric Health (since 2006); resident of Ireland.

*Last elected:* August 2009

*Term expires:* August 2012. Mr. Osborne will stand for re-election at the 2012 AGM.

### **Rudy van der Meer M.Ch.Eng**

Age 67



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 VGZ U.A. Health Insurance (since May 2011); resident of The Netherlands.

*Last elected:* August 2011

*Term expires:* August 2014

---

[Table of Contents](#)

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 GMT. 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.



## **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 document reports on the Company's remuneration practices in fiscal year 2012 and also voluntarily includes an outline of the Company's proposed remuneration framework for fiscal year 2013.

During fiscal year 2012 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 adviser.

### **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 exposed to the US housing market, that emphasises operational excellence and shareholder value creation through incentives which link executive remuneration with the interests of shareholders. 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**

It is James Hardie's policy to align remuneration received with performance achieved.

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 with 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 (and potentially zero for poor performance).

### 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 adviser of the remuneration positioning for the CEO and senior executives relative to their US peers. Subject to compliance with US tax code requirements, 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 2012 were:

- Louis Gries, Chief Executive Officer
- Joe Blasko, General Counsel
- Russell Chenu, Chief Financial Officer
- Mark Fisher, Executive General Manager – International
- Nigel Rigby, Executive General Manager – USA

**2. FISCAL 2012 COMPANY PERFORMANCE AND LINK WITH REMUNERATION POLICY**

**2.1 Actual Performance**

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

**EBIT<sup>1</sup>**  
(Millions of US dollars)

12	189.5
11	184.0
10	208.7
09	170.9
08	287.2

<sup>1</sup> Excludes asbestos, asset impairments and ASIC expenses.

**Net Income<sup>2</sup>**  
(Millions of US dollars)

12	140.4
11	116.7
10	133.0
09	100.5
08	173.8

<sup>2</sup> Excludes asbestos, asset impairments, ASIC expenses and tax adjustments.



**2.2 Market Conditions**

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 demanding in fiscal year 2012. According to the US Census Bureau, single family housing starts, which are one of the key drivers of the Company's performance, were approximately 445,600 in fiscal year 2012, which is relatively flat compared to fiscal year 2011. Repair and remodel activity also slightly declined during fiscal year 2012.

Although there were ongoing challenges in the housing market, including tight credit conditions, elevated unemployment rates and a shadow inventory of foreclosed homes, fiscal year 2012 reflected a more stable market environment (albeit at historically low levels) and consistent operating results when compared with fiscal year 2011. Although some industry data suggest increased interest among potential homebuyers, builder confidence remains at relatively low levels and the market remains restrained due to the many challenges that continue to inhibit a sustainable recovery in the overall housing market and broader US economy.

## 2.3 Company Performance

Despite these challenges and the significant decline in the US housing market since March 2006, the Company achieved strong results in fiscal year 2012, gaining both category and market share and continuing to be in a strong operational and financial position. Some of the key components in the Company's performance in fiscal year 2012 include:

- an improvement of 20% in the Company's net operating result to US\$140.4 million, excluding asbestos, asset impairments, ASIC expenses and tax adjustments;
- an improvement in net sales, sales volume and EBIT (excluding asset impairments) for the USA and Europe Fibre Cement business of 6%, 7% and 1%, respectively;
- an improvement in net sales and EBIT for the Asia Pacific business of 6% and 1%, respectively, in a generally weak industry environment and with sales volume down 4%;
- successful resolution of the RCI litigation, which resulted in a refund of A\$369.8 million from the ATO; and
- strong net operating cash flow, which resulted in a net cash position of US\$265.4 million at 31 March 2012 (compared to net debt of US\$40.4 million at 31 March 2011) and allowed the Board to recommence dividend payments and capital management and to make an advance payment to the Asbestos Injuries Compensation Fund of US\$138.7 million.

As part of its assessment of the Company's performance in the US, the Board considered the impact of an asset impairment charge of US\$14.3 million taken during fiscal year 2012. Although the Board would normally take the view that such a charge should be included in the calculation of management's performance during the year, the Board determined not to do so in respect of this charge because:

- replacement of the asset provided space for new plant and equipment which will be used to more cost-effectively service continued growth in one of the Company's key markets; and
- recent improvements in manufacturing efficiency mean that markets serviced by the asset can be serviced more effectively by the Company's existing manufacturing facilities.

## 2.4 Performance Linkage with Remuneration Policy

The Board and Remuneration Committee continue to believe that the Company's remuneration framework is appropriate to focus management on dealing with the continuing difficult US housing industry conditions and provides appropriate alignment between senior executives and shareholders.

As part of their annual review of management performance, the Board and Remuneration Committee review management's performance compared to prior years and its peers on a range of factors, including performance against the measures in the Company's Variable Remuneration STI and LTI plans, other financial performance, and the Scorecard. Based on that review, the Board and Remuneration Committee concluded that management's performance in fiscal year 2012 was superior to the 75th percentile of its peer group of companies and substantially better than the Company's performance in fiscal year 2011. As a result of this assessment, Variable Remuneration outcomes in fiscal year 2012 are substantially above fiscal year 2011 and, for the STI plans, above target.

## [Table of Contents](#)

More details about this assessment, including the percentage of the maximum Variable Remuneration awarded to or forfeited by senior executives is set out in section 3 of this Remuneration Report below.

### 3. DESCRIPTION OF COMPANY'S REMUNERATION ARRANGEMENTS

This section describes the Company's remuneration arrangements applying in fiscal year 2012.

#### 3.1 Overview of Variable Remuneration

Variable Remuneration is at risk and is earned by senior executives when the Company or the individual meets or exceeds specified performance goals. The Company's Variable Remuneration incentive plans for senior executives in fiscal year 2012 are set out below:

Duration	Plan Name	Amount	Form Incentive Paid
Short-term (1-3 years)	Individual Performance Plan (IP Plan)	20% of STI Target	Cash
	Executive Incentive Plan	80% of STI Target	Cash
		40% of LTI Target	Hybrid RSUs
Long-term (3-5 years)	Long Term Incentive Plan (LTIP)	30% of LTI Target	Relative TSR RSUs
		30% of LTI Target	Scorecard LTI (cash)

#### 3.2 Scorecard

The Company includes an element of a 'Scorecard' rating in both its Hybrid RSUs (formerly called Executive Incentive Plan RSUs) and Scorecard LTI to ensure continued focus by senior executives on a balance of financial, strategic, business, customer and organisational development goals. Each of these 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 single objective and the final Scorecard assessment will involve an element of judgment by the Board.

The Remuneration Committee 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 that will ultimately vest). It cannot be applied to enhance the maximum reward that can be received. The only change to the Scorecard objectives for fiscal year 2012 compared to fiscal year 2011 was the replacement of the 'Zero to Landfill' objective with a broader 'Manufacturing Efficiency' objective, which is a multi-year initiative that builds on the waste reduction objectives of 'Zero-to-Landfill' with a focus on increasing machine efficiencies and product capabilities. Among other matters, this objective will support more efficient manufacturing. It is likely that senior executives will receive different ratings when assessing their Scorecard performance for the Hybrid RSUs and Scorecard LTI.

Further details related to the Scorecard for fiscal year 2012, including the method of measurement, historical performance against the proposed measures and the Board's expectations, were previously set out in the 2011 AGM Notice of Meeting. An assessment of the Company's Scorecard performance for fiscal years 2010-2012 is set out on pages 42-44 of this report. The Board will provide an

## [Table of Contents](#)

explanation of the final assessment of performance under the Scorecard for fiscal years 2012-2014 at the conclusion of fiscal year 2014.

### 3.3 Description of Variable Remuneration

#### 3.3.1 Short-Term Incentives

The STI target for senior executives is allocated between corporate goals (under the Executive Incentive Plan or EIP Plan) and individual goals (under the Individual Performance Plan or IP Plan). The STI target for senior executives was determined as a percentage of base salary, which was unchanged in fiscal year 2012:

Position	STI Target as % of base salary	Proportion of STI Target allocated to corporate goals	Proportion of STI target allocated to individual goals
Chief Executive Officer	125%	80%	20%
Chief Financial Officer	33%	0%	100%
Other senior executives	45-65%	75-80%	20-25%

Given the Board's assessment at the start of fiscal year 2012 that the US housing market continued to be uncertain and was lacking stability, for fiscal year 2012 the Board determined that 40% of each senior executive's LTI target should be received in Hybrid RSUs. Although this component of a senior executive's Variable Remuneration is received in three years time, it is treated as 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 2012, and then subject to the negative discretion exercisable two years later if the Board feels that performance in fiscal year 2012 was achieved at the expense of long-term measures, including those set forth in the Scorecard.

#### *(a) FY12 STI Cash bonus for individual goals – Individual Performance Plan*

Part of the STI target for each senior executive is allocated based on their individual performance and is payable in cash. The maximum payout for this component is 150% of the STI target allocated based on the respective senior executive's individual performance. Senior executives are assessed by the Board and the Remuneration Committee on their individual performance against specific objectives for fiscal year 2012, which are approved by the Board and the Remuneration Committee. Rewards are based on the Board's assessment of each senior executive's performance at the end of the fiscal year.

#### *Board's Assessment of the Individual Performance Plan for FY12*

The IP Plan links financial rewards to the achievement of a senior executive's specific individual objectives that have benefited the Company and contributed to shareholder value and that are not directly captured by the corporate component of the STI.

#### *(b) FY12 STI cash bonus for corporate goals - Executive Incentive Plan*

Each senior executive (other than the CFO) has part of their STI target allocated based on achievement of corporate objectives and is payable in cash. The maximum payout for this component is 300% of the STI target allocated for corporate performance.

The Company uses a 'Payout Matrix' which provides for a range of possible payouts depending on the Company's performance against performance hurdles which assess growth above market (which we

---

## Table of Contents

refer to as the "Growth Measure") and earnings (which we refer to as the "Return Measure") to determine the level of payout under the EIP. The purpose of the two Payout Matrix performance hurdles is to ensure that as management increases its top line growth focus, it does not do so at the expense of short to medium-term returns. Management is encouraged to balance growth and returns since achievement of strong rewards requires management to generate both strong earnings and sales growth substantially above market. Higher returns on one measure at the expense of the other measure result in lower, or nil, reward.

To ensure management does not unduly benefit or is not unduly penalised by external factors, the Growth Measure and Return Measure are respectively indexed for changes in new housing starts and the US repair and remodel market, and for changes in pulp prices. Other factors such as costs related to legacy issues and exchange rate movements are also excluded. The Board also has 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 following a management decision endorsed by the Board given an assessment of market circumstances at the time.

Each business has its own Payout Matrix which includes a range of Return Measure and Growth Measure targets. All senior executives, including the CEO, are assessed based on the consolidated results of all the operating businesses.

The Company does not disclose the Growth Measure and Return Measure targets since these are commercial in confidence. However, achieving a target payment for fiscal year 2012 would have required performance in excess of the average of the performance for the previous three years on both the Growth Measure and the Return Measure.

### *Board Assessment of the Executive Incentive Plan for FY12*

The Board believes that the Payout Matrix under the EIP is appropriate because it:

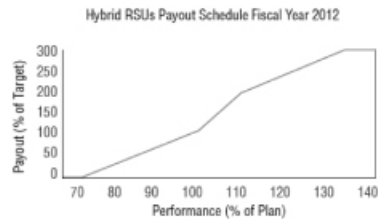
- provides management with an incentive towards achieving the overall corporate goals;
- balances growth with returns;
- recognises the need to flexibly respond to strategic opportunities depending on our markets' ability to recover from the currently prevailing uncertain economic environment;
- incorporates indexing for factors beyond management's control; and
- incorporates Board discretion where a long-term decision endorsed by the Board would impact short-term results measured under the Payout Matrix in the Board's assessment of management's performance.

### *(c) FY12 LTI (Hybrid RSUs) - Executive Incentive Plan*

For fiscal year 2012, 40% of the LTI target for senior executives was allocated to the EIP and payable in Hybrid RSUs. The maximum initial grant of Hybrid RSUs is up to 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 2012 were derived based on the STI EIP 'Payout Matrix' for fiscal year 2012 and a grant of Hybrid RSUs at target required an

## [Table of Contents](#)

improvement on performance for fiscal year 2011. The EBIT performance hurdle for the Hybrid RSUs was:



Before the Hybrid RSUs that were granted in June 2012 vest in June 2014 and convert to shares, the Board will assess the Company's results to ensure short-term results in fiscal year 2012 were not obtained at the expense of long-term sustainability, taking into account the Company's financial results, the measures set out in the Scorecard and each senior executive's individual performance. Based on this assessment, the Board will determine what percentage of the senior executive's Hybrid RSUs will vest and convert to shares. In effect, the Scorecard applies a "holdback and forfeiture" principle to give the Board discretion to review fiscal year 2012 performance with the benefit of another two years of trading and assess whether the strong results in fiscal year 2012 were obtained at the expense of long-term sustainability.

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 2012, and then subject to the negative discretion exercisable in a further two years if the Board feels that performance in fiscal year 2012 was achieved at the expense of long-term performance.

Calculation of the Hybrid RSUs granted to the CEO for fiscal year 2012 performance is described below:

Based on the CEO's LTI target quantum of US\$3,100,000 in fiscal year 2012 and James Hardie's performance of 98% of target against the Hybrid RSU EBIT performance hurdle, the CEO received:

$$40\% \times \text{US\$}3,100,000 \times 98\% = \text{US\$}1,215,200 \text{ which was settled in } 166,459 \text{ Hybrid RSUs on } 7 \text{ June } 2012.$$

At the conclusion of the additional two-year performance period in June 2014, the Board will assess the Company's and the CEO's performance in fiscal year 2012 with the benefit of an additional two years of trading. The number of Hybrid RSUs which will vest is between 0% and 100%. For indicative purposes, assuming that the Board determines 100% or 85% or 70% of the CEO's Hybrid RSUs should vest, he could receive one of:

- if the Board determines 100% of the RSUs should vest: 166,459 shares
- if the Board determines 85% of the RSUs should vest: 141,490 shares
- if the Board determines 70% of the RSUs should vest: 116,521 shares



---

## [Table of Contents](#)

### *Board Assessment of Hybrid RSUs for FY12*

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

- provide an incentive to ensure that the Company's growth focus 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;
- recognise that quantifying a specific long-term financial outcome requirement was not yet possible in the market prevailing at the start of fiscal year 2012;
- avoid a mechanistic formula with outcomes based on market movements rather than management action; and
- allow for the "forfeiture" of some or all of the potential value, in the collective judgment of the independent directors, based on financial returns, individual performance and a number of long-term objectives identified by the Board as being able to affect longer-term outcomes in uncertain economic times.

### *Board Assessment of management performance under Executive Incentive and Individual Performance Plans for FY12*

The Company's results and the subsequent STI and LTI payouts for fiscal year 2012 were above STI target and marginally below LTI target due to:

- USA and Europe Fibre Cement performing substantially above target on the Growth Measure, due to strong category and market share growth, and marginally below target on the Return Measure, due to lower prices in the second half of fiscal year 2012, higher freight costs and higher product provisions offset by strong manufacturing performance, lower energy prices and higher volume; and
- Asia Pacific achieving performance slightly above target on the Growth Measure, despite difficult market conditions in all geographic markets except the Philippines, and performance marginally above target on the Return Measure, due to a mixture of strong sales activity, improved price and product mix, controlled organisational spend and manufacturing performance.

The higher payout under the STI plan reflects the Company's strong Growth Measure performance in fiscal year 2012, whereas the lower payout under the LTI plan (before the Board even considers whether to exercise its negative discretion in two years' time) reflects the Company's marginally below target performance on the Return Measure.

The Board and the Remuneration Committee believe that stabilisation in the US housing market means that the heightened focus on short-term performance for the past four years using the Hybrid RSUs is no longer required. In fiscal year 2013, the Hybrid RSUs will be replaced by a long-term financial return measure based on return on capital employed (which we refer to as "ROCE RSUs"). ROCE RSUs are described in more detail in the 2012 AGM Notice of Meeting.

## Table of Contents

The percentage of the maximum Variable Remuneration under the EIP awarded to or forfeited by senior executives for performance in fiscal year 2012 compared to fiscal year 2011 is set out below.

	Cash STI <sup>1</sup>		Hybrid RSUs <sup>2</sup>	
	Awarded %	Forfeited %	Awarded %	Forfeited %
<b>L Gries</b>				
<b>Fiscal Year 2012</b>	56	44	33	67
Fiscal Year 2011	31	69	8	92
<b>J Blasko<sup>3</sup></b>				
<b>Fiscal Year 2012</b>	56	44	-	-
Fiscal Year 2011	-	-	-	-
<b>R Chenu</b>				
<b>Fiscal Year 2012</b>	100	-	33	67
Fiscal Year 2011	100	-	8	92
<b>M Fisher</b>				
<b>Fiscal Year 2012</b>	58	42	33	67
Fiscal Year 2011	34	66	8	92
<b>N Rigby</b>				
<b>Fiscal Year 2012</b>	56	44	33	67
Fiscal Year 2011	28	72	8	92

<sup>1</sup> **Awarded** = % of fiscal year 2011 or 2012 Cash STI maximum actually paid. **Forfeited** = % of fiscal year 2011 or 2012 STI maximum foregone. STI amounts were paid in cash under the Executive Incentive Program and IP Plan or as an additional one-off discretionary bonus for one executive in fiscal year 2011. These amounts do not include Hybrid RSUs. The cash payments for each fiscal year are paid in the June following the end of the fiscal year.

<sup>2</sup> **Awarded** = % of fiscal year 2011 or 2012 Hybrid RSUs maximum which actually granted. **Forfeited** = % of fiscal year 2011 or 2012 Hybrid RSUs maximum which was foregone. The value earned for performance in a fiscal year was granted in the form of Hybrid RSUs in the June following the end of the fiscal year. Hybrid RSUs will vest two years after grant date and convert to shares, subject to the Board's exercise of negative discretion.

<sup>3</sup> Commenced employment 13 June 2011. Received relocation allowance in lieu of fiscal year 2012 LTI grants.

### 3.3.2 Long-Term Incentives

The remaining 60% of the LTI target for senior executives is allocated as grants of RSUs based on the Company's total shareholder return relative to its peers (which we refer to as "Relative TSR RSUs"), 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 award under both of these programs is capped at 300% of the target.

#### (a) FY12 Relative TSR RSUs

30% of the LTI target for senior executives is allocated as grants of Relative TSR RSUs, which were granted in September 2011 for fiscal year 2012. The peer group for the Relative TSR RSUs consists of the same peer group of companies exposed to the US housing market which the Company uses for compensation benchmarking purposes. The Board and the 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

## [Table of Contents](#)

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:

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

### *Board's Assessment of the Relative TSR RSU Component of Long Term Incentive Plan for FY12*

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 given that further volatility may be experienced in the continuation of the global financial crisis. In addition, this approach extends the motivational potential of the Relative TSR RSUs from three to five years and, given that the Company will incur the same accounting expense irrespective of the vesting outcome, is more effective from a cost-benefit perspective.

### *(b) FY12 Scorecard LTI*

30% of the LTI target for senior executives is allocated as grants of Scorecard LTI awards that were granted in June 2011 for fiscal year 2012. 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 three years later. 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 accordance with their Scorecard rating.

### *Board Assessment of Scorecard LTI for FY12*

The Board introduced Scorecard LTI because it determined 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 an uncertain housing market. Ensuring that the reward's value is tied to share price provides alignment with shareholder interests. 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 decide to sell their shares.

[Table of Contents](#)

*Board Assessment of management performance under Scorecard LTI for FY12*

At the end of fiscal year 2012 the Board and the Remuneration Committee performed their first review of the Company's and management's performance under the Scorecard, relating to the grant of Scorecard LTI in June 2009 as part of the FY10 LTI. A weighted average Scorecard rating of 61% (from a range of 50% to 83%) was applied based on the senior executives' contribution to the Company's performance against the Scorecard objectives.

As previously disclosed in the Company's 2009 AGM Notice of Meeting, the Company's performance over the three-year period from FY10-FY12 based on the Scorecard objectives determined in mid-2009 was:

Measure	Performance over period	Board Requirement	Reasons	Assessment of Management's Performance
<b>US Primary Demand Growth (PDG)</b>	FY12: 9.1% FY11: (4.4)% <sup>1</sup> FY10: 7.4% <sup>1</sup>  <sup>1</sup> Figures have been restated to reflect updated methodology calculation.	<b>Minimum:</b> Maintain relative to market  <b>Stretch:</b> Primary demand growth relative to market	A key strategy for the Company is to maximise its market share growth/retention of the exterior cladding market for new housing and for repair & remodel segments, which it does by growing fibre cement's share of the exterior cladding market and by maintaining the Company's share of the fibre cement category.	Growth above stretch target achieved over three year period. Negative result in FY11 recovered and improved in FY12.
<b>US Product Mix Shift</b>	Color Plus and Artisan penetration improved each year.	<b>Board Minimum:</b> 5% annual improvement in penetration of ColorPlus and Artisan products  <b>Stretch:</b> 10% annual improvement in penetration of ColorPlus and Artisan products	The Company aims to maintain its leadership position across the fibre cement category of the exterior cladding market by developing new products/marketing/manufacturing approaches that will result in an improved mix of our products and gross margins.	Performance above stretch target. The focus of this goal will include other differentiated products going forward.
<b>US Zero To the Landfill (ZTL)</b>	In the past three years the Company has made significant progress in reducing the amount of materials sent to landfill.	<b>Minimum:</b> 5% annual reduction of equivalent dumpsters sent to landfill  <b>Stretch:</b> 7% annual reduction of equivalent dumpsters sent to landfill	This measure is a primary contributor to the Company's environmental goals and improving material yield will reduce manufacturing costs. In addition, achieving important environmental, social and governance (ESG) goals reduces risk.	Growth above stretch target achieved over three year period. The elimination rate slowed as savings became more difficult to find. The goal was expanded in FY11 to a broader manufacturing efficiency goal.

[Table of Contents](#)

Measure	Performance over period	Board Requirement	Reasons	Assessment of Management's Performance
<b>Safety</b>	FY12: 1.46 18.1  FY11: 1.74 18.8  FY10: 1.7 37	No fatalities  <b>Minimum:</b> 10.4 Incident Rate (IR) (FY10 industry average) and 50 Severity Rate (SR)  <b>Stretch:</b> 2.0 IR and 20 SR	Safety of Company employees is an essential ESG measure.	Performance above stretch goals. Results below 2 IR and 20 SR are now expected.
<b>Strategic Positioning</b>	JH Europe re-set as a viable business. Acquired small fibreglass windows manufacturer and shaped trim technology.	The Board expects that management will continue to diversify to provide more balance and greater profit opportunities to Company.	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.	Performance met minimum goals.
<b>Legacy Issues</b>	All major legacy issues concluded.	<b>Minimum:</b> Resolve or address the Dutch domicile and make substantial progress on others  <b>Stretch:</b> Resolve or address all 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.	Performance met stretch goals. All major legacy issues concluded, largely in the Company's favour.  Only remaining issue is conclusion of appeals of certain former directors and officers in the ASIC litigation (the Company is not involved in these proceedings).
<b>Managing During the Economic Crisis</b>	With nil debt, ample liquidity, strong EBIT margins, strong cash flow and earnings, JH is well-positioned, including relative to peers.	Maintain an adequate capital structure.	With the US building materials industry experiencing 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.	Performance met Board requirements. Strong cash generation in the business and a successful resolution of the ATO litigation.

[Table of Contents](#)

Measure	Performance over period	Board Requirement	Reasons	Assessment of Management's Performance
<b>Talent Management/ Development</b>	The Company continues to have a strong management team.	It is not possible to set a specific goal for this measure beyond requiring that management capability be retained and grown.	Improving management development and capability is important to the Company's future growth.	Performance below Board minimum requirements. The CEO will be managing the US business for the next few years with a focus on developing a strong management team capable of achieving the Company's goals.

*(c) FY12 Long-Term Incentives Below Senior Executive Level*

In fiscal year 2012, 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 was extended through to 2021 at the 2011 AGM.

*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 2012. 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 Description of Fixed Remuneration**

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

**3.4.1 Base Salaries**

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 salaries for senior executives are 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 2013, the Board determined that only two of the Company's senior executives will receive a base salary increase in fiscal year 2013.

[Table of Contents](#)

**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 in executive wellness programs, long service leave and an annual financial planning allowance (which includes tax return preparation assistance).

**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 2012**

The Company's improved performance in fiscal year 2012 was reflected in an increase in the Variable Remuneration paid to senior executives in fiscal year 2012 compared to fiscal year 2011:

	Fixed Remuneration <sup>1</sup>		Variable Remuneration <sup>3</sup>				Total Variable %
	Salary, Non-cash Benefits, Superannuation, 401(k) etc %	Cash Incentive <sup>2</sup>	Hybrid RSUs %	Scorecard LTI %	Relative TSR RSUs %		
L Gries							
<b>Fiscal Year 2012</b>	12	18	12	29	29	88	
Fiscal Year 2011	20	12	4	32	32	80	
J Blasko <sup>4</sup>							
<b>Fiscal Year 2012</b>	70	30	-	-	-	30	
Fiscal Year 2011	-	-	-	-	-	-	
R Chenu							
<b>Fiscal Year 2012</b>	54	12	6	14	14	46	
Fiscal Year 2011	55	13	2	15	15	45	
M Fisher							
<b>Fiscal Year 2012</b>	30	24	8	19	19	70	
Fiscal Year 2011	36	17	3	22	22	64	
N Rigby							
<b>Fiscal Year 2012</b>	27	27	8	19	19	73	
Fiscal Year 2011	36	17	3	22	22	64	

<sup>1</sup> Includes base salary, non-cash benefits, expatriate benefits, other non-recurring benefits and superannuation/pension payments.

<sup>2</sup> Includes STI amounts that were paid in cash under the Executive Incentive Program and IP Plan (for fiscal year 2011 as an additional one-off discretionary bonus for one executive). The cash payments for each fiscal year are paid in the June following the end of the fiscal year.

<sup>3</sup> Equity components include fiscal year 2012 SG&A expense for Hybrid RSUs, Scorecard LTI and Relative TSR RSUs.

<sup>4</sup> Commenced employment 13 June 2011. Received relocation allowance in lieu of fiscal year 2012 LTI grants.

### 3.6 Variable Remuneration Payable in Future Years

Details of the accounting cost of the Variable Remuneration for fiscal year 2012 that may be paid to senior executives in 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 and the Company's estimate of the Scorecard Rating to be applied to Scorecard LTI.

	Scorecard LTI <sup>1</sup> (US dollars)				Hybrid RSUs <sup>2</sup> (US dollars)				Relative TSR RSUs <sup>3</sup> (US dollars)			
	FY2012	FY2013	FY2014	FY2015	FY2012	FY2013	FY2014	FY2015	FY2012	FY2013	FY2014	FY2015
L Gries	659,222	807,437	807,437	150,427	-	487,867	599,567	111,700	451,695	832,670	832,670	383,256
J Blasko <sup>4</sup>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R Chenu	74,428	91,162	91,162	16,984	-	55,082	67,693	12,611	50,998	94,012	94,012	43,271
M Fisher	74,428	91,162	91,162	16,984	-	55,082	67,693	12,611	50,998	94,012	94,012	43,271
N Rigby	22,642	27,733	27,733	5,167	-	22,347	27,464	5,117	N/A	N/A	N/A	N/A
	<b>830,720</b>	<b>1,017,494</b>	<b>1,017,494</b>	<b>189,562</b>	<b>-</b>	<b>620,378</b>	<b>762,417</b>	<b>142,039</b>	<b>553,691</b>	<b>1,020,694</b>	<b>1,020,694</b>	<b>469,798</b>

<sup>1</sup> Represents annual SG&A expense for Scorecard LTI granted in June 2011 based on Board assumption of final Scorecard rating. The fair value of each award is adjusted for changes in JHI SE's common stock price at each balance sheet date until the final Scorecard rating is applied in June 2014, at which time the final value is based on the Company's share price and the senior executive's Scorecard rating at the time of vesting.

<sup>2</sup> Represents annual SG&A expense for the Hybrid RSUs granted in June 2012 for performance in fiscal year 2012. The fair value of each RSU is adjusted for changes in JHI SE's common stock price at each balance sheet date until the Board exercises negative discretion and some, all or none of the awards become vested in June 2014.

<sup>3</sup> Represents annual SG&A expense for the Relative TSR RSUs granted in September 2011 with fair market value estimated using the Monte Carlo option-pricing method.

<sup>4</sup> Commenced employment 13 June 2011. Received relocation allowance in lieu of fiscal year 2012 LTI grants.

## 4. CHANGES TO REMUNERATION FOR FISCAL YEAR 2013

### 4.1 Overview of Remuneration for Fiscal Year 2013

The Board and the Remuneration Committee have spent a considerable amount of time over the past year reviewing the Company's existing remuneration arrangements. With the Board believing that the US housing market has now stabilised to an extent which permits the setting of multi-year financial metrics as part of the Company's LTI compensation arrangements, there are a number of changes proposed to remuneration for fiscal year 2013.

There will be no increases to the CEO's base salary, target STI or target LTI in fiscal year 2013.

The principal changes to the Company's STI and LTI plans are:

- introducing an adjustment to the result achieved on the Growth Measure of the Payout matrix depending on the Company's performance against the largest participants in the 'wood-look' market;
- replacing the existing Hybrid RSUs with RSUs which have a performance measure based on the Company's average return on capital employed (ROCE) over a three year period;



---

## Table of Contents

- changing the performance criteria for the Relative TSR RSUs to increase the performance required to achieve target and maximum rewards, eliminate cliff vesting at the 50th percentile and provide for rewards to incrementally increase from the 40th percentile;
- reducing the maximum payout that can be received under the ROCE and Relative TSR RSUs (which account for 70% of target LTI) from 300% to 200% of LTI target. The Board has retained the maximum payout of 300% of target for the Scorecard LTI to give itself flexibility;
- increasing the number of days used to calculate the starting and testing points to 20 business days to reduce the impact of a single day's volatility on vesting;
- updating the Peer Group for fiscal year 2013 grants of Relative TSR RSUs; and
- updating the Scorecard objectives for fiscal year 2013.

The following section summarises the changes to the Executive Incentive Plan and the Scorecard LTI for fiscal year 2013.

### **4.2 STI - Changes to Executive Incentive Plan for FY13**

The Board proposes to continue with the basic Payout Matrix approach balancing performance on the Growth Measure against performance on the Return Measure for the corporate portion of the EIP described on page 36 of this report.

However, in fiscal year 2013 it will adjust the Growth Measure of the Payout Matrix based on the Company's performance against market tracking data from the largest participants in the 'wood-look' products market (collectively, the "Wood-Aesthetic Market Index" or "WMI").

The Company's performance against each of the three individual components of the WMI will impact the Growth Return by adding or subtracting from the current primary demand growth derived multiple as follows:

- if the Company meets or exceeds the performance of all three WMI participants, 0.2x will be added to the Growth Measure;
- If the Company meets or exceeds the performance of two of the three WMI participants, there will be no change to the Growth Measure; and
- If the Company fails to meet or exceed the performance of more than one of the three WMI participants, then 0.2x will be subtracted from the Growth Measure.

In each case, the resulting Growth Measure is multiplied by the Return Measure to achieve the final payout.

The Board and the Remuneration Committee believe that this amendment will further focus management on increasing the Company's share of the exterior cladding market at the expense of 'wood-look' competitors, which will create substantial value for shareholders.

[Table of Contents](#)

**4.3 LTI - Changes to Scorecard LTI for FY13**

The Board uses the Scorecard to set strategic objectives for which performance can only be assessed over a period of time. The changes to the objectives for fiscal year 2013, and the reasons for those changes are set out below:

<b>Goal</b>	<b>Change</b>	<b>Reasons</b>
Primary demand growth	Supplemented to include growth against 'wood-look' products.	This will provide greater focus on the areas where the Company can increase fibre-cement's share of the market.
Product Mix Shift	No change to the objective. But as the Company develops new differentiated products, measurement of this goal will include those products.	Product mix shift is a key part of the Company's product leadership through creating new differentiated value-added products.
Managing during the Economic Crisis	Replaced with a new goal 'Positioning the Company for potential recovery'.	Moving the Company to a more appropriate leverage and being ready to grow in the event that the US housing market recovers.
Legacy Issues	Removed.	Not required now that most of the Company's legacy issues have been resolved.

The other components of the Scorecard remain unchanged.

**4.3 LTI - Changes to ROCE RSUs and Relative TSR RSUs**

The 2012 AGM Notice of Meeting contains details of the changes to the ROCE RSUs and Relative TSR RSUs.

[Table of Contents](#)

**5. REMUNERATION PAID TO SENIOR EXECUTIVES**

**5.1 Total Remuneration for Senior Executives**

Details of the remuneration of the senior executives in fiscal years 2012 and 2011 are set out below:

(US dollars)	Primary			Post-employment	Equity Awards		Other	Total
	Base Pay	Bonuses <sup>1</sup>	Noncash Benefits <sup>2</sup>	Superannuation and 401(k) Benefits	Ongoing Vesting <sup>3</sup>	Mark-to-Market <sup>4</sup>	Relocation Allowances, Expatriate Benefits, and Other Non-recurring <sup>5</sup>	
Name								
<i>L Gries</i>								
<b>Fiscal Year 2012</b>	\$ 956,825	\$ 1,959,285	\$ 106,960	\$ 14,700	\$ 4,832,467	\$ 1,469,093	\$ 104,000	\$ 9,443,330
Fiscal Year 2011	944,137	948,342	50,948	17,072	5,016,523	58,953	599,806	7,635,781
<i>J Blasko</i>								
<b>Fiscal Year 2012</b>	230,769	161,730	45,840	9,808	-	-	387,062 <sup>6</sup>	835,209
Fiscal Year 2011	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<i>R Chenu</i>								
<b>Fiscal Year 2012</b>	953,735 <sup>7</sup>	339,510	96,474	88,800	895,737	287,159	105,133	2,766,548
Fiscal Year 2011	828,334	255,494	85,570	78,812	862,097	5,467	132,740	2,248,514
<i>M Fisher</i>								
<b>Fiscal Year 2012</b>	434,317	416,599	50,979	14,877	701,388	220,125	-	1,838,285
Fiscal Year 2011	438,596	200,803	28,401	15,986	750,268	5,457	-	1,439,511
<i>N Rigby</i>								
<b>Fiscal Year 2012</b>	509,711	529,939	28,469	-	734,313	171,637	-	1,974,069
Fiscal Year 2011	472,663	204,204	24,413	-	758,905	6,227	-	1,466,412
<b>Total Compensation for Senior Executives</b>								
<b>Fiscal Year 2012</b>	\$ 3,085,357	\$ 3,407,063	\$ 328,722	\$ 128,185	\$ 7,163,905	\$ 2,148,014	\$ 596,195	\$ 16,857,441
Fiscal Year 2011	\$ 2,683,730	\$ 1,608,843	\$ 189,332	\$ 111,870	\$ 7,387,793	\$ 76,104	\$ 732,546	\$ 12,790,218

- 1 Includes STI amounts that were paid in cash under the Executive Incentive Program and IP Plan or as an additional one-off discretionary bonus for one executive in fiscal year 2011. The cash payments for each fiscal year are paid in the June following the end of the fiscal year.
- 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, financial planning and tax services.
- 3 Includes grants of Scorecard LTI awards, Relative TSR RSUs and Hybrid RSUs. Relative TSR RSUs are valued using 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. In the case of Hybrid RSUs and Scorecard LTI awards, this amount excludes the equity award expense in fiscal years 2012 and 2011 resulting from changes in the Company's share price, which is disclosed separately in the Equity Awards "Mark-to-Market" column.
- 4 Hybrid RSUs and Scorecard LTI awards are valued based on the Company's share price at each reporting date. The amount included in this column is the equity award expense resulting solely from changes in the US dollar share price during fiscal years 2012 and 2011. During fiscal year 2012, there was a 27% appreciation in the Company's share price from US\$6.30 to US\$7.99.
- 5 Includes a non-cash charge to recognise gross-up and tax paid on equity vested during fiscal years 2012 and 2011 for which a portion of the vesting period was while L Gries and R Chenu were seconded to The Netherlands.

[Table of Contents](#)

<sup>6</sup> Commenced employment 13 June 2011. Received relocation allowance in lieu of fiscal year 2012 LTI grants.

<sup>7</sup> R Chenu's base salary is denominated in A\$ and a significant amount of this increase is as a result of changes in the A\$:US\$ exchange rate.

**5.2 Equity Holdings of Senior Executives**

(a) Options

Name	Grant Date	Exercise Price per right (A\$)	Holding at 1 April 2011	Granted	Total Value at Grant <sup>1</sup> (US\$)	Vested	Exercised	Value at Exercise per right <sup>2</sup> (US\$)	Lapsed	Value at Lapse per right <sup>3</sup> (US\$)	Holding at 31 March 2012	Weighted Average Fair Value per right <sup>4</sup>
<b>Senior Executives</b>												
L Gries	3-Dec-02 <sup>6</sup>	\$ 6.4490	325,000	325,000	\$ 210,633	325,000	(325,000)	1.0610	-	-	-	0.6481
	5-Dec-03 <sup>6</sup>	\$ 7.0500	325,000	325,000	\$ 338,975	325,000	-	-	-	-	325,000	1.0430
	21-Nov-06 <sup>7</sup>	\$ 8.4000	415,000	415,000	\$ 888,100	415,000	-	-	-	-	415,000	2.1400
	21-Nov-06 <sup>7</sup>	\$ 8.4000	381,000	381,000	\$ 1,131,570	228,600	-	-	(152,400)	-	228,600	2.9700
	29-Aug-07 <sup>7</sup>	\$ 7.8300	445,000	445,000	\$ 965,650	445,000	-	-	-	-	445,000	2.1700
	29-Aug-07 <sup>7</sup>	\$ 7.8300	437,000	437,000	\$ 1,302,260	343,482	-	-	-	-	437,000	2.9800
J Blasko	-	-	-	-	-	-	-	-	-	-	-	-
R Chenu	22-Feb-05 <sup>6</sup>	\$ 6.3000	93,000	93,000	\$ 107,973	93,000	-	-	-	-	93,000	1.1610
	21-Nov-06 <sup>7</sup>	\$ 8.4000	65,000	65,000	\$ 139,100	65,000	-	-	-	-	65,000	2.1400
	21-Nov-06 <sup>7</sup>	\$ 8.4000	60,000	60,000	\$ 178,200	36,000	-	-	(24,000)	-	36,000	2.9700
	29-Aug-07 <sup>7</sup>	\$ 7.8300	68,000	68,000	\$ 147,560	68,000	-	-	-	-	68,000	2.1700
	29-Aug-07 <sup>7</sup>	\$ 7.8300	66,000	66,000	\$ 196,680	51,876	-	-	-	-	66,000	2.9800
M Fisher	3-Dec-02 <sup>6</sup>	\$ 6.4490	74,000	74,000	\$ 47,959	74,000	(74,000)	1.3510	-	-	-	0.6481
	5-Dec-03 <sup>6</sup>	\$ 7.0500	132,000	132,000	\$ 137,676	132,000	-	-	-	-	132,000	1.0430
	14-Dec-04 <sup>6</sup>	\$ 5.9900	180,000	180,000	\$ 183,276	180,000	(90,000)	0.8500	-	-	90,000	1.0182
	1-Dec-05 <sup>6</sup>	\$ 8.9000	190,000	190,000	\$ 386,137	190,000	-	-	-	-	190,000	2.0323
	21-Nov-06 <sup>6</sup>	\$ 8.4000	158,500	158,500	\$ 291,069	158,500	-	-	-	-	158,500	1.8364
	10-Dec-07 <sup>6</sup>	\$ 6.3800	277,778	277,778	\$ 275,084	277,778	-	-	-	-	277,778	0.9903
N Rigby	17-Dec-01 <sup>6</sup>	\$ 5.0586	20,003	20,003	\$ 8,467	20,003	(20,003)	1.8914	-	-	-	0.4233
	3-Dec-02 <sup>6</sup>	\$ 6.4490	27,000	27,000	\$ 17,499	27,000	(27,000)	1.1510	-	-	-	0.6481
	5-Dec-03 <sup>6</sup>	\$ 7.0500	33,000	33,000	\$ 34,419	33,000	-	-	-	-	33,000	1.0430
	14-Dec-04 <sup>6</sup>	\$ 5.9900	180,000	180,000	\$ 183,276	180,000	(180,000)	1.6900	-	-	-	1.0182
	1-Dec-05 <sup>6</sup>	\$ 8.9000	190,000	190,000	\$ 386,137	190,000	-	-	-	-	190,000	2.0323
	21-Nov-06 <sup>6</sup>	\$ 8.4000	158,500	158,500	\$ 291,069	158,500	-	-	-	-	158,500	1.8364
	10-Dec-07 <sup>6</sup>	\$ 6.3800	277,778	277,778	\$ 275,084	277,778	(277,778)	1.3000	-	-	-	0.9903

[Table of Contents](#)

(b) Restricted Stock Units

Name	Grant Date	Holding at 1 April 2011	Granted	Total Value at Grant <sup>1</sup> (US\$)	Vested	Lapsed	Holding at 31 March 2012	Weighted Average Fair Value per right <sup>4</sup>
<b>Senior Executives</b>								
L Gries	15-Sep-08 <sup>8</sup>	558,708	558,708	\$ 1,592,318	(558,708)	-	-	\$ 2.8500
	29-May-09 <sup>9</sup>	487,446	487,446	\$ 1,640,256	(487,446)	-	-	\$ 3.3650
	15-Sep-09 <sup>8</sup>	234,900	234,900	\$ 1,176,849	-	-	234,900	\$ 5.0100
	11-Dec-09 <sup>8</sup>	81,746	81,746	\$ 564,865	-	-	81,746	\$ 6.9100
	7-Jun-10 <sup>9</sup>	360,267	360,267	\$ 2,142,760	-	-	360,267	\$ 5.9477
	15-Sep-10 <sup>8</sup>	577,255	577,255	\$ 2,595,627	-	-	577,255	\$ 4.4965
	7-Jun-11 <sup>9</sup>	-	45,687	\$ 279,901	-	-	45,687	\$ 6.1265
	15-Sep-11 <sup>8</sup>	-	606,852	\$ 2,500,291	-	-	606,852	\$ 4.1201
J Blasko	-	-	-	-	-	-	-	-
R Chenu	15-Sep-08 <sup>8</sup>	108,637	108,637	\$ 309,615	(108,637)	-	-	\$ 2.8500
	29-May-09 <sup>9</sup>	94,781	94,781	\$ 318,938	(94,781)	-	-	\$ 3.3650
	15-Sep-09 <sup>8</sup>	45,675	45,675	\$ 228,832	-	-	45,675	\$ 5.0100
	11-Dec-09 <sup>8</sup>	15,895	15,895	\$ 109,834	-	-	15,895	\$ 6.9100
	7-Jun-10 <sup>9</sup>	70,052	70,052	\$ 416,648	-	-	70,052	\$ 5.9477
	15-Sep-10 <sup>8</sup>	72,157	72,157	\$ 324,454	-	-	72,157	\$ 4.4965
	7-Jun-11 <sup>9</sup>	-	5,711	\$ 34,988	-	-	5,711	\$ 6.1265
	15-Sep-11 <sup>8</sup>	-	68,516	\$ 282,293	-	-	68,516	\$ 4.1201
M Fisher	17-Dec-08 <sup>8</sup>	116,948	116,948	\$ 268,980	(116,948)	-	-	\$ 2.3000
	29-May-09 <sup>9</sup>	77,548	77,548	\$ 260,949	(77,548)	-	-	\$ 3.3650
	15-Sep-09 <sup>8</sup>	39,150	39,150	\$ 196,142	-	-	39,150	\$ 5.0100
	11-Dec-09 <sup>8</sup>	13,624	13,624	\$ 94,142	-	-	13,624	\$ 6.9100
	7-Jun-10 <sup>9</sup>	60,044	60,044	\$ 357,124	-	-	60,044	\$ 5.9477
	15-Sep-10 <sup>8</sup>	67,003	67,003	\$ 301,279	-	-	67,003	\$ 4.4965
	7-Jun-11 <sup>9</sup>	-	5,303	\$ 32,489	-	-	5,303	\$ 6.1265
	15-Sep-11 <sup>8</sup>	-	68,516	\$ 282,293	-	-	68,516	\$ 4.1201
N Rigby	17-Dec-08 <sup>8</sup>	116,948	116,948	\$ 268,980	(116,948)	-	-	\$ 2.3000
	29-May-09 <sup>9</sup>	77,548	77,548	\$ 260,949	(77,548)	-	-	\$ 3.3650
	15-Sep-09 <sup>8</sup>	39,150	39,150	\$ 196,142	-	-	39,150	\$ 5.0100
	11-Dec-09 <sup>8</sup>	13,624	13,624	\$ 94,142	-	-	13,624	\$ 6.9100
	7-Jun-10 <sup>9</sup>	60,044	60,044	\$ 357,124	-	-	60,044	\$ 5.9477
	15-Sep-10 <sup>8</sup>	72,157	72,157	\$ 324,454	-	-	72,157	\$ 4.4965
	7-Jun-11 <sup>9</sup>	-	5,711	\$ 34,988	-	-	5,711	\$ 6.1265
	15-Sep-11 <sup>8</sup>	-	78,304	\$ 322,620	-	-	78,304	\$ 4.1201

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

<sup>2</sup> Value at Exercise/right = Market Value of a share of the Company's stock price at Exercise less the Exercise price per right.

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

<sup>4</sup> 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.

<sup>5</sup> Options granted under the 2005 Managing Board Transitional Stock Option Plan.

<sup>6</sup> Options granted under the 2001 JHI SE Equity Incentive Plan.

<sup>7</sup> Options granted under James Hardie Industries Long-Term Incentive Plan 2006 (LTIP).

<sup>8</sup> Relative TSR RSUs granted under the LTIP.

<sup>9</sup> Hybrid RSUs (formerly Executive Incentive Plan RSUs) granted under LTIP.

[Table of Contents](#)

(c) Scorecard LTI

Name	Grant Date	Holding at 1 April 2011	Granted	Vested	Lapsed	Holding at 31 March 2012
<b>Senior Executives</b>						
L Gries	21-Jun-09	483,294	483,294	-	-	483,294
	29-Jun-10	442,424	442,424	-	-	442,424
	7-Jun-11	-	455,239	-	-	455,239
J Blasko	-	-	-	-	-	-
R Chenu	21-Jun-09	93,974	93,974	-	-	93,974
	29-Jun-10	55,303	55,303	-	-	55,303
	7-Jun-11	-	51,398	-	-	51,398
M Fisher	21-Jun-09	80,549	80,549	-	-	80,549
	29-Jun-10	51,353	51,353	-	-	51,353
	7-Jun-11	-	51,398	-	-	51,398
N Rigby	21-Jun-09	80,549	80,549	-	-	80,549
	29-Jun-10	55,303	55,303	-	-	55,303
	7-Jun-11	-	58,740	-	-	58,740

**5.3 Relevant Interests in JHI SE for Senior Executives**

The Company's LTI plans and stock ownership guidelines (described below) provide a strong level of alignment between senior executives and shareholders. Changes in relevant interests of senior executives in JHI SE securities between 1 April 2011 and 31 March 2012 are set out below:

	CUFS at 1 April 2011	CUFS at 31 March 2012	Options at 1 April 2011	Options at 31 March 2012	RSUs at 1 April 2011	RSUs at 31 March 2012
L Gries	298,543	689,922	2,328,000	1,850,600	2,300,322	1,906,707
R Chenu	55,990	152,420	352,000	328,000	407,197	278,006
J Blasko	-	-	-	-	-	-
M Fisher	96,519	158,964	1,012,278	848,278	374,317	253,640
N Rigby	73,792	265,102	886,281	381,500	379,471	268,990

**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 the CEO, CFO and remaining senior executives, respectively, which require them to accumulate holdings of 3 times, 1.5 times and 1 times their base salary in the Company over a period of five years from 1 April 2009.

Until the stock ownership guidelines have been met, a senior executive is required to retain at least 75% of shares obtained under the Company's long-term equity incentive plans, through the exercising of options or vesting of the RSUs (net of taxes and other costs). The CEO and two other senior executives exceeded their respective stock ownership guidelines during fiscal year 2011. However, even after the stock ownership guidelines have been met, senior executives are required to retain at least 25% of shares issued under the Company's long-term equity incentive plans through the 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 72 of the Corporate Governance Report within this annual report.

[Table of Contents](#)

**5.5 Loans**

The Company did not grant loans to senior executives during fiscal year 2012. There are no loans outstanding to senior executives.

**6. EMPLOYMENT CONTRACTS**

Remuneration and other terms of employment for the CEO, CFO and 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:

<b>Components</b>	<b>Details</b>
Length of contract	Indefinite. The CEO is an 'at-will' employee.
Base salary	US\$950,000 for fiscal year 2012 and 2013. Salary reviewed annually by the Board and there will be no base salary increase for fiscal year 2013.
Short-term incentive	Annual STI target is 125% of annual base salary for fiscal year 2012 and 2013. 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 EIP and the IP Plan.
Long-term incentive	On the approval of shareholders, a LTI incentive will be granted each year. The recommended value of LTI to be granted will be appropriate for this level of executive in the US. For fiscal year 2012 and 2013, the LTI target is unchanged at 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.

[Table of Contents](#)

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 21 years.

Until the Company moved our corporate domicile to Ireland, the CEO was on international assignment in The Netherlands. During the time of his international assignment, his employment contract provided for the Company to cover the extra personal tax burden imposed by residency in The Netherlands (tax equalisation) and the cost of filing income tax returns in The Netherlands.

The CEO also receives the 'Other' benefits described in the summary of employment agreements for the senior executives (described below).

### 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 2012. Salary reviewed annually by the Board and there will be no A\$ base salary increase for fiscal year 2013.
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 a LTI incentive with performance hurdles each year. The value of LTI 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, with the balance paid to the CFO in cash.
Resignation or Termination of role	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.
International Assignment	Additional benefits due to international assignment: housing allowance, goods and services allowance, moving and storage. The Company covers the extra personal tax burden imposed by residency in The United States and, prior to that, The Netherlands (tax equalisation) and the cost of filing income tax returns.

The CFO also receives the 'Other' benefits described in the summary of employment agreements for the senior executives (described below).



---

[Table of Contents](#)

**6.3 Other senior executives' employment contracts**

Details of employment contracts for senior executives are as follows:

<b>Components</b>	<b>Details</b>
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 45% and 65% and reviewed annually.
Long-term incentive	Senior executives will receive a LTI incentive with performance hurdles each year. The value of LTI to be granted will be approved by the Remuneration Committee.
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	<b>Health, Welfare and Vacation Benefits:</b> 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. <b>Business Expenses:</b> 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. <b>Automobile:</b> 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. <b>Financial Planning:</b> The Company will reimburse senior executives for financial planning expenses incurred by the senior executive (including preparation of tax returns) up to a specified sum.

[Table of Contents](#)

**7. KEY TERMS OF EQUITY GRANTS**

**7.1 Outstanding Equity Grants**

<b>2001 JHI SE Equity Incentive Plan (Options)</b>	Annual option grants made in December 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 <sup>1</sup> (all awards were granted while JHI SE was domiciled in The Netherlands).
Vesting schedule	All of the options are fully vested and exercisable.
Expiration date	10th anniversary of each grant.
<b>2001 JHI SE Equity Incentive Plan (RSUs)</b>	Annual grants made in December 2009, 2010 and 2011.
Offered to	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.
<b>James Hardie Industries Long Term Incentive Plan 2006 (LTIP)</b>	
<b>Option Grants</b>	Options granted on 29 August 2007. The grant was 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 <sup>rd</sup> Anniversary and before the 5 <sup>th</sup> Anniversary.
Exercise period	Until ten years from the grant date.
Performance condition	<i>For the ROCE tranche:</i> 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. <i>For the TSR tranche:</i> 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.
Vesting criteria	<i>For the ROCE tranche:</i> – 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.

[Table of Contents](#)

*For the TSR tranche:*

- 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 ROCE tranche options vested 100% and the TSR tranche options have vested 56%. No options have been exercised.
<b>James Hardie Industries Long Term Incentive Plan 2006. (Relative TSR RSUs) (RSUs)</b>	Relative TSR RSUs granted December 2009 and September 2010 and 2011.
Offered to	Senior executives and Managing Board directors <sup>1</sup> .
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.
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, Qualex 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"> <li>- 0% vesting if TSR below 50th percentile of peer group.</li> <li>- 33% vesting if TSR at 50th percentile of peer group.</li> <li>- Between 50th and 75th percentile, vesting is on a straight line basis.</li> <li>- 100% vesting if TSR is at 75th percentile of peer group.</li> </ul>
RSU exercise price	Not applicable.
Expiration date	RSUs convert to shares on vesting on a one-for-one basis.

<sup>1</sup> The Managing Board was dissolved on 17 June 2010 following completion of JHI SE's re-domicile to Ireland.

<b>James Hardie Industries Long Term Incentive Plan 2006 (Hybrid RSUs) (Previously referred to as Executive Incentive RSUs)</b>	Hybrid RSUs granted June 2010, 2011 and 2012.
Offered to	Senior executives and Managing Board directors.
Option Exercise Price	Nil.
Vesting schedule	A proportion will vest on the 2 <sup>nd</sup> anniversary of the grant depending on the Board's exercise of negative discretion to allow each senior executive between 0% and 100% of the RSUs to vest.
Expiration date	RSUs convert to shares on vesting on a one-for-one basis.

[Table of Contents](#)

**James Hardie Industries Long Term Incentive Plan 2006** Cash-settled Awards granted June 2009, 2010, 2011 and 2012.

**Scorecard LTI (Cash)**

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 <sup>rd</sup> 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 2012**

The following equity grants vested or lapsed in fiscal year 2012. Further details of each grant are set out above in section 7.1.

<b>2001 JHI SE Equity Incentive Plan (Options)</b>	Annual option grant made in December 2001.
Expiration date	Lapsed on 10th anniversary of grant.
<b>2001 JHI SE Equity Incentive Plan (RSUs)</b>	Annual grant made in December 2008.
Expiration date	Fully vested on 3 <sup>rd</sup> anniversary of grant.
<b>James Hardie Industries Long Term Incentive Plan 2006 (LTIP) Option Grants</b>	Options granted on 21 November 2006. Grants were divided into two tranches: Return on Capital Employed (which we refer to as "ROCE") and TSR.
Expiration date	The ROCE tranche options vested 100% and the TSR options vested at 60% and both can be exercised until the 10 <sup>th</sup> anniversary of grant. The remaining TSR tranche options lapsed following the 5 <sup>th</sup> anniversary of grant.
<b>James Hardie Industries Long Term Incentive Plan 2006 (Relative TSR RSUs)</b>	Relative TSR RSUs granted September and December 2008 .
Expiration date	Fully vested on first test on 3 <sup>rd</sup> anniversary of grant.
<b>James Hardie Industries Long Term Incentive Plan 2006 Hybrid RSUs</b>	Hybrid RSUs granted June 2009.
Offered to	Senior executives and Managing Board directors <sup>1</sup> .
Option Exercise Price	Nil.
Vesting schedule (2009 grant only)	100% vest on the 2 <sup>nd</sup> anniversary of the grant.
Expiration date	The RSUs vested and converted into shares granted on a one-for-one basis.

## 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 maximum aggregate fee pool of US\$1.5 million per annum was approved by shareholders in 2006. The Company is proposing to seek shareholder approval at the 2012 AGM to increase the maximum aggregate fee pool by US\$500,000 to US\$2.0 million per annum. No additional Board fees are 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 one of the directors who serves on a number of the Company's subsidiary boards. All directors' fees are paid in cash.

During fiscal year 2012, the Remuneration Committee reviewed nonexecutive 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 4% effective 1 April 2012. The fees paid in fiscal year 2012, and payable in fiscal year 2013 are:

Position	FY12 (US\$)	FY13 (US\$)
Chairman	\$330,750	\$343,980
Deputy Chairman	\$192,938	\$200,655
Board member	\$143,325	\$149,058
Audit Committee Chair	\$20,000	\$20,000
Rem/N&GC Committee Chair	\$10,000	\$10,000
Non-executive member of subsidiary boards	Euro 22,000	Euro 23,000

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 Director Retirement Benefits

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

[Table of Contents](#)

**8.4 Total Remuneration for Non-Executive Directors for the Years Ended 31 March 2012 and 31 March 2011**

The table below sets out the remuneration for those directors who served on the Board during the fiscal years ended 31 March 2012 and 31 March 2011:

<b>(US dollars)</b>			
<b>Name</b>	<b>Primary Directors' Fees<sup>1</sup></b>	<b>Other Benefits<sup>2</sup></b>	<b>Total</b>
<i>M Hammes</i>			
<b>Fiscal Year 2012</b>	<b>\$ 330,750</b>	<b>\$ 34,457</b>	<b>\$ 365,207</b>
Fiscal Year 2011	316,500	6,065	322,565
<i>D McGauchie</i>			
<b>Fiscal Year 2012</b>	<b>202,938</b>	<b>-</b>	<b>202,938</b>
Fiscal Year 2011	193,750	1,659	195,409
<i>B Anderson</i>			
<b>Fiscal Year 2012</b>	<b>163,325</b>	<b>-</b>	<b>163,325</b>
Fiscal Year 2011	159,500	1,005	160,505
<i>D Dilger</i>			
<b>Fiscal Year 2012</b>	<b>172,524</b>	<b>13,964</b>	<b>186,488</b>
Fiscal Year 2011	154,019	2,431	156,450
<i>D Harrison</i>			
<b>Fiscal Year 2012</b>	<b>153,325</b>	<b>2,238</b>	<b>155,563</b>
Fiscal Year 2011	146,500	1,456	147,956
<i>A Littley<sup>3</sup></i>			
<b>Fiscal Year 2012</b>	<b>13,387</b>	<b>-</b>	<b>13,387</b>
Fiscal Year 2011	-	-	-
<i>J Osborne</i>			
<b>Fiscal Year 2012</b>	<b>143,325</b>	<b>-</b>	<b>143,325</b>
Fiscal Year 2011	138,000	2,483	140,483
<i>R van der Meer</i>			
<b>Fiscal Year 2012</b>	<b>143,325</b>	<b>-</b>	<b>143,325</b>
Fiscal Year 2011	136,500	1,264	137,764
<b>Total Compensation for Non-Executive Directors</b>			
<b>Fiscal Year 2012</b>	<b>\$ 1,322,899</b>	<b>\$ 50,659</b>	<b>\$ 1,373,558</b>
Fiscal Year 2011	\$ 1,244,769	\$ 16,363	\$ 1,261,132

<sup>1</sup> Amount includes base, Chairman, Deputy Chairman, Committee Chairman and service as a non-executive member of certain subsidiary boards.

<sup>2</sup> Other Benefits includes the cost of non-executive directors' fiscal compliance in The Netherlands and other costs connected with Board-related events.

<sup>3</sup> Joined the Board on 27 February 2012.

---

[Table of Contents](#)

**8.5 Non-Executive Directors' Interests in JHI SE**

Non-executive directors' relevant interests in JHI SE securities at 1 April 2011 and 31 March 2012 were:

	<b>Number of Shares/CUFS at 1 April 2011</b>	<b>Number of Shares/CUFS at 31 March 2012</b>
M Hammes <sup>1</sup>	32,847	32,847
D McGauchie <sup>2</sup>	20,372	20,372
B Anderson	7,635	7,635
D Dilger <sup>3</sup>	25,000	25,000
D Harrison <sup>4</sup>	12,384	12,384
A Littlely <sup>5</sup>	N/A	-
J Osborne	2,551	2,551
R 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 for which Mr McGauchie is a trustee and beneficiary.

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.

5 Joined the Board on 27 February 2012.

## **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 2012 and contain an overview of our corporate governance framework. These Corporate Governance Principles were approved by the Nominating and Governance Committee and the Board in May 2012.

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](http://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 SEC, the Irish Takeover Panel and various other rulemaking bodies.

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.

#### **Board of Directors**

The Board comprises eight non-executive directors and the CEO. The Board must have no less than three and not more than twelve directors, with the precise number to be 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;



---

## **Table of Contents**

- 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](http://www.jameshardie.com), then select Investor Relations, then 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.

### **Operation of the Board**

#### ***Board Meetings***

The Board meets at least five 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. 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.

## Table of Contents

The number of Board and Board Committee meetings held, and each director's attendance during fiscal year 2012, is set out below:

NAME	BOARD		AUDIT		REMUNERATION		NOMINATING & GOVERNANCE	
	H	A	H	A	H	A	H	A
M Hammes	5	5	6	6	6	6	7	7
B Anderson	5	5	6	6	6	6	-	-
D Dilger	5	5	6	6	6	6	-	-
D Harrison	5	5	6	6	6	6	-	-
A Littlely	1	1	1	1	-	-	-	-
D McGauchie	5	5	-	-	6	6	7	7
J Osborne	5	5	-	-	-	-	7	7
R Van der Meer	5	5	-	-	-	-	7	7
L Gries	5	5	-	-	-	-	-	-

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 in fulfilling its responsibilities and assist the Company in creating shareholder value. The skills, qualifications, experience and relevant expertise of each director, and his or her term of appointment, are summarised in the Board of Directors' biography section and also appear in the Investor Relations area of our website ([www.jameshardie.com](http://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 directors 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 reviewing the composition of the Board and overseeing a search for an additional director, which culminated with the appointment of Alison Littlely to the Board in February 2012.

As part of this review, 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.

---

## [Table of Contents](#)

### **Board Evaluation**

The Nominating and Governance Committee supervises the director evaluation process and makes recommendations to the Board. During fiscal year 2012, 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 annually discuss the performance of the CEO and the CEO's direct reports, and the Chairman provides 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 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 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.

### **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, with the assistance of 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 materiality of each potential or actual conflict of interest and the rules and regulations of the applicable exchange or regulatory body.

---

## [Table of Contents](#)

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 James Hardie products through the Company's customers. Pulte Homes receives a rebate from the Company or the Company's suppliers in respect of some of its purchases in accordance with a rebate program applicable to similar home builders.
- 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. As such, pursuant to Exchange Act Rule 10A-3(b), Mr. Dilger's service qualifies as an exemption from the listing standards for Audit Committees and is not subject to the disclosure requirements of Exchange Act Rule 10A-3(d).

Any transactions mentioned above are conducted on an arms-length basis and in accordance with normal terms and conditions and are not material to any of the companies listed above or to James Hardie. The rebate program existed and was disclosed to the Board before Mr Anderson became a director. It is not considered that Mr Anderson had any influence over these transactions.

### **Induction**

The Company has an induction program for new directors, which was reviewed during the past 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 also provided with comprehensive orientation materials including relevant corporate documents and policies.

### **Board Continuing Development**

The Company operates within a challenging industry and geographical spread and a complex 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 non-executive Board directors upon termination of appointment.

### **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.

---

## **Table of Contents**

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 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 GMT against performance measures approved by the Remuneration Committee and the Board. The CEO uses this feedback to assist in the annual review of members of the GMT. 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

---

## [Table of Contents](#)

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 statement 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 committees of the Board 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](http://www.jameshardie.com), then select Investor Relations, then Corporate Governance, then Board Committees). 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, Mr Harrison and Ms Littley.

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" and that all three individuals are independent.

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;

---

## Table of Contents

- 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:

---

## **Table of Contents**

- 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; and
- 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;
- Complaints/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](http://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 the Code of Business Conduct and Ethics policy during the fiscal year 2012.

We have not granted any waivers from the provisions of our Code of Business Conduct and Ethics during fiscal year 2012.



---

## [Table of Contents](#)

### ***Complaints/Ethics Hotline***

Our Code of Business Conduct and Ethics policy provides employees with advice about who they should contact if they have information or 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 during fiscal year 2012.

---

## [Table of Contents](#)

### ***Insider 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 short-swing 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 fiscal year 2012.

### **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 (comprised of the CEO, CFO, General Counsel, Executive General Manager USA, Executive General Manager International and the Vice President of Investor and Media Relations in fiscal year 2012) 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;

---

## Table of Contents

- effective systems are in place to monitor and manage risks; and
- 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 while simultaneously managing 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 financial statements and 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;
- a commitment to talent development, to ensure that the Company is developing sufficient employees to execute its business goals;

---

## **Table of Contents**

- implementing and maintaining training programs in relation to legal issues such as trade practices/antitrust, trade secrecy, foreign corrupt practices and anti-bribery, employment law matters 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 policies, processes and controls that address key aspects of our corporate governance is available in the Investor Relations area of our website ([www.jameshardie.com](http://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***

The Risk Management Committee is divided into three separate committees, one for Corporate, one for the US business and one for the non-US business. This structure allows 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 work-plan 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.

---

## [Table of Contents](#)

### ***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 Finance Directors of each business unit and the Corporate Controller, with annual certifications from the GMT.

### ***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 2012, 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.

---

## [Table of Contents](#)

### 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 2012. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organisations 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 2012.

The effectiveness of our internal control over financial reporting as of 31 March 2012 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.

**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 2012, 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 2012 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 2012 and 2011, and the related consolidated statements of operations, changes in shareholders' equity (deficit), and cash flows for each of the three years in the period ended 31 March 2012, and our report dated 21 May 2012 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Irvine, California  
21 May 2012

---

## [Table of Contents](#)

### ***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 CUFS on the ASX and as American Depositary Shares ("ADS") on the NYSE.

#### ***Annual General Meeting***

The 2011 AGM was held in Ireland and simultaneously broadcast to a meeting in Sydney, Australia. The 2012 AGM will be held in Ireland, and shareholders not present in Ireland who wish to participate in the meeting, including asking questions, can do so via a video webcast or teleconference of the meeting. Further details are set out in the 2012 AGM Notice of Meeting.

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:



---

## Table of Contents

- 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](http://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](http://www.jameshardie.com)) contains more detail about the ways in which we comply with the Principles and Recommendations.

#### Diversity

One of the key areas of focus for the Board is talent management and development, to ensure that the Company has the capability to adequately enable its anticipated growth as part of its core business strategy. Management has put in place a number of different programs to achieve this objective.

The Company's overriding desire is to maximise the effectiveness of the Board and workforce by appointing the best candidate for each role. The Board does not believe that achievement of this objective requires a formal, publicly stated diversity policy, gender diversity targets or reporting of the gender percentages at various levels of the organization (including to the exclusion of other indicators of diversity) and for this reason does not comply with Principle 3 and supporting recommendations of the ASX Corporate Governance Principles and Recommendations.

James Hardie's Board and senior management reflect a wide range of geographic representation, skills, qualifications, expertise, background and racial and gender diversity. All of these factors were taken into account in the recent search to appoint an additional director to our Board. With operations

---

## Table of Contents

in North America, Australia, New Zealand, Asia and Europe, the Board expects that achievement of the Company's core business strategy will involve continued development of a diverse workforce.

### **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 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.

**SECTION 2.**

**READING THIS REPORT**

**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-backs;
- statements concerning our corporate and tax domiciles and structures 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 ASIC;
- expectations about the timing and amount of contributions to 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 and home renovations, unemployment levels, changes in consumer income, 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 builder and consumer confidence.

---

## **Table of Contents**

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.

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 AICF, any shortfall in 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 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, putative consumer class action 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.

### **Currency of presentation, exchange rates and certain definitions**

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 2012 exchange rate of A\$0.9614 to US\$1.0000.

### **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.

---

## [Table of Contents](#)

### Overview

We intend this discussion to provide information that will assist in understanding our 31 March 2012 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, asset impairments and ASIC expenses
- Effective tax rate excluding asbestos, asset impairments and tax adjustments
- Net income excluding asbestos, ASIC expenses, asset impairments and tax adjustments

We have reconciled these non-GAAP financial measures to the most directly comparable US GAAP financial measure for fiscal years 2012 and 2011 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 2012 and 2011 were affected by unfavourable asbestos adjustments of US\$15.8 million and US\$85.8 million, respectively; AICF Selling, General and Administrative ("SG&A") expenses of US\$2.8 million and US\$2.2 million, respectively; asset impairments of US\$14.3 million and nil, respectively; ASIC expenses of US\$1.1 million in fiscal year 2012 and an ASIC recovery of US\$8.7 million in fiscal year 2011. Information regarding our asbestos-related matters, asset impairments and ASIC matters can be found in this discussion and Notes 11, 7 and 13, respectively, 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,

---

## [Table of Contents](#)

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 2012

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 2012 Key Results**

Total net sales increased 6% to US\$1,237.5 million in fiscal year 2012. Operating income increased to US\$155.5 million in fiscal year 2012 from US\$104.7 million in fiscal year 2011, primarily due to lower unfavourable asbestos adjustments in fiscal year 2012 when compared to fiscal year 2011, partially offset by an impairment charge recognised in fiscal year 2012. Operating income in fiscal years 2012 and 2011 was adversely affected by unfavourable asbestos adjustments of US\$15.8 million and US\$85.8 million, respectively, AICF SG&A expenses of US\$2.8 million and US\$2.2 million, respectively, and an impairment charge of US\$14.3 million in fiscal year 2012. Operating income excluding asbestos, asset impairments and ASIC expenses increased 3% to US\$189.5 million in fiscal year 2012 from US\$184.0 million in fiscal year 2011.

Net income excluding asbestos, asset impairments, ASIC expenses and tax adjustments increased 20% to US\$140.4 million in fiscal year 2012 from US\$116.7 million in fiscal year 2011. Including asbestos, asset impairments, ASIC expenses and tax adjustments, net income improved from a loss of US\$347.0 million in fiscal year 2011 to income of US\$604.3 million in fiscal year 2012. In fiscal year 2012, tax adjustments include an income tax benefit of US\$485.2 million due to RCI Pty Ltd's (which we refer to as "RCI") successful appeal of the Australian Taxation Office's ("ATO") 1999 disputed amended tax assessment. In fiscal year 2011, tax adjustments included a charge of US\$345.2 million related to the dismissal of RCI's appeal of the 1999 disputed amended tax assessment, which did not result in a cash outflow for the fiscal 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 2012, USA and Europe Fibre Cement net sales contributed approximately 70% of total net sales, and operating income from this segment was the primary contributor to the total Company results. Net sales for our USA and Europe Fibre Cement business increased 6% due to higher sales volume, partially offset by a lower average net sales price.

Operating income from our USA and Europe Fibre Cement segment excluding asset impairments increased 1% in fiscal year 2012 from fiscal year 2011 primarily due to higher sales volume and improved

---

## [Table of Contents](#)

plant performance, partially offset by higher fixed manufacturing and organisational costs, higher freight cost and a lower average net sales price.

During fiscal year 2012, Asia Pacific net sales contributed approximately 30% of total net sales. Net sales increased 6% due to favourable currency exchange rates movements in the Asia Pacific business' currencies.

We do not believe that general inflation has had a significant impact on our results of operations for the fiscal years ended 31 March 2012, 2011 and 2010.

### **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 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 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 Pty Limited ("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 AICF.



---

## **Table of Contents**

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 2074, 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 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.

---

## [Table of Contents](#)

### ***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 2012. 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.

[Table of Contents](#)

**Results of Operations**

**Year Ended 31 March 2012 Compared to Year Ended 31 March 2011**

The following table shows our selected financial and operating data for continuing operations for fiscal years 2012 and 2011, expressed in millions of US dollars, unless otherwise stated.

	Fiscal Years Ended 31 March		Favourable (Unfavourable) Change
	2012	2011	
Net sales:			
USA and Europe Fibre Cement	\$ 862.0	\$ 814.0	6 %
Asia Pacific Fibre Cement	375.5	353.0	6
Total net sales	1,237.5	1,167.0	6
Cost of goods sold	(830.5)	(775.1)	(7)
Gross profit	407.0	391.9	4
Selling, general and administrative expenses	(191.0)	(173.4)	(10)
Research and development expenses	(30.4)	(28.0)	(9)
Impairment charge	(14.3)	—	—
Asbestos adjustments	(15.8)	(85.8)	82
Operating income	155.5	104.7	49
Net interest expense	(7.4)	(4.4)	(68)
Other income (expense)	3.0	(3.7)	—
Income before income taxes	151.1	96.6	56
Income tax benefit (expense)	453.2	(443.6)	—
Net income (loss)	\$ 604.3	\$ (347.0)	—
Volume (mmsf):			
USA and Europe Fibre Cement	1,331.8	1,248.0	7
Asia Pacific Fibre Cement	392.3	407.8	(4)
Average net sale price per unit (per msf):			
USA and Europe Fibre Cement	US\$647	US\$ 652	(1)
Asia Pacific Fibre Cement	A\$916	A\$ 916	— %

*Net sales.* Total net sales increased 6% from US\$1,167.0 million in fiscal year 2011 to US\$1,237.5 million in fiscal year 2012. The increase in total net sales reflected higher sales volume from the USA and Europe Fibre Cement segment, partially offset by a lower average net sales price. Revenue was also favourably impacted by an appreciation of the Asia Pacific currencies against the US dollar, compared to fiscal year 2011.

*USA and Europe Fibre Cement net sales.* Net sales increased 6% from US\$814.0 million in fiscal year 2011 to US\$862.0 million in fiscal year 2012 due to higher sales volume, partially offset by a lower average net sales price.

Sales volume increased 7% from 1,248.0 million square feet in fiscal year 2011 to 1,331.8 million square feet in fiscal year 2012 due to increased fibre cement category share and strong primary demand growth in the northern markets.

The average net sales price decreased 1% from US\$652 per thousand square feet in fiscal year 2011 to US\$647 per thousand square feet in fiscal year 2012.

---

## [Table of Contents](#)

According to the US Census Bureau, single family housing starts, which are one of the key drivers of the Company's performance, were relatively flat at 445,600 for fiscal year 2012, compared to 444,000 in fiscal year 2011.

USA and Europe Fibre Cement operating income excluding asset impairment charges increased 1% due to higher sales volume, partially offset by higher fixed manufacturing and organisational costs and a lower average net sales price.

The average NBSK pulp price was 3% lower at US\$952 per ton, compared to fiscal year 2011. NBSK pulp prices reached a peak of US\$1,035 per ton in June 2011.

Despite ongoing challenges in the housing market, including tight credit conditions, elevated unemployment rates and a shadow inventory of foreclosed homes, the full year reflected a more stable market environment and consistent operating results when compared with the prior year. Although some industry data suggests increased interest among potential homebuyers, builder confidence remains at low levels and caution remains due to the many challenges that continue to inhibit a sustainable recovery in the overall housing market and broader US economy.

*Asia Pacific Fibre Cement net sales.* Net sales increased 6% from US\$353.0 million in fiscal year 2011 to US\$375.5 million in fiscal year 2012. Favourable exchange rate movements in the value of the Asia Pacific business' currencies compared to the US dollar resulted in a 10% increase in US dollar net sales. In Australian dollars, net sales decreased 4% compared to fiscal year 2011 due to lower sales volume and unfavourable geographic mix, partially offset by price increases.

According to Australian Bureau of Statistics data, the total number of new dwellings approvals for fiscal year 2012 (on an original basis) decreased 11% when compared to fiscal year 2011. The reduction in new dwellings approved reflects weaker consumer confidence and a slowing of the broader Australian economy.

Notwithstanding the softening operating environment, the Australian business gained both market and category share in fiscal year 2012.

The New Zealand business' sales volumes in fiscal year 2012 were lower than fiscal year 2011 and the New Zealand housing market remains very subdued.

The Philippines business' results in fiscal year 2012 reflected modest gains in sales volumes compared to fiscal year 2011.

*Gross profit.* Gross profit increased 4% from US\$391.9 million in fiscal year 2011 to US\$407.0 million in fiscal year 2012. The gross profit margin decreased 0.7 percentage points from 33.6% to 32.9%.

USA and Europe Fibre Cement gross profit increased 3% compared to the prior year, of which 7% was due to higher sales volume and 4% due to improved plant performance, partially offset by 3% due to a lower average net sales price, 3% due to freight costs and 2% due to higher fixed costs. The gross profit margin of the USA and Europe Fibre Cement business decreased by 0.7 percentage points.

Asia Pacific Fibre Cement gross profit increased 6% compared to fiscal year 2011. Favourable currency exchange rate movements in the Asia Pacific business' currencies compared to the US dollar resulted in a 10% increase in US dollar gross profit. In Australian dollars, Asia Pacific Fibre Cement gross profit decreased 4% compared to fiscal year 2011, primarily driven by a 4% reduction in sales volume compared to fiscal year 2011. The gross profit margin of the Asia Pacific Fibre Cement business decreased by 0.1 percentage points.

---

## Table of Contents

*Selling, general and administrative (SG&A) expenses*. SG&A expenses increased 10%, from US\$173.4 million in fiscal year 2011 to US\$191.0 million in fiscal year 2012, primarily due to higher employment costs in the USA and Europe Fibre Cement segment and the inclusion of recoveries from third parties of US\$10.3 million in fiscal year 2011 related to the costs of the ASIC proceedings for certain of the ten former officers and directors, as further explained below. As a percentage of sales, SG&A expenses increased 0.5 percentage points to 15.4%. As a percentage of sales, SG&A expenses excluding the recovery of ASIC costs in the prior corresponding period decreased 0.3 percentage points to 15.4%.

SG&A expenses in fiscal year 2012 included non-claims handling related operating expenses of AICF of US\$2.8 million, compared to US\$2.2 million in fiscal year 2011.

### ASIC Proceedings

Legal costs incurred in the ASIC proceedings in fiscal year 2012 were US\$1.1 million. The Company's cumulative net costs in relation to the ASIC proceedings from their commencement in February 2007 to 31 March 2012 have totalled US\$15.5 million, net of third party recoveries.

Losses and expenses arising from the ASIC proceedings could have a material adverse effect on the Company's financial position, liquidity, results of operations and cash flows. It is the Company's policy to expense legal costs as incurred.

Readers are referred to Note 13 of the Company's 31 March 2012 Consolidated Financial Statements and Section 3, "Legal Proceedings" for further information about the ASIC proceedings.

*Research and development expenses*. Research and development expenses include costs associated with research projects that are designed to benefit all business units. These costs are recorded in the Research and Development segment rather than attributed to individual business units. These costs were 11% higher for fiscal year 2012 at US\$18.8 million compared to fiscal year 2011.

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 5% higher for fiscal year 2012 at US\$11.6 million, compared to fiscal year 2011.

*Impairment charge*. The Company recorded an asset impairment charge of US\$14.3 million in fiscal year 2012 related to machinery and equipment in the USA and Europe Fibre Cement segment.

*Asbestos adjustments*. The Company's asbestos adjustments are derived from an estimate of future Australian asbestos-related liabilities in accordance with the 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 increased from A\$1.478 billion at 31 March 2011 to A\$1.580 billion at 31 March 2012. The increase in the discounted central estimate of A\$102 million is primarily due to lower discount rates, partially offset by 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 the Company's Consolidated Balance Sheet in US dollars is subject to adjustment, with a corresponding effect on the Company's Consolidated Statement of Operations, depending on the closing exchange rate between the two currencies at the balance sheet date.

## Table of Contents

During fiscal year 2012, the Australian dollar depreciated against the US dollar by 1%, compared to a 13% appreciation in fiscal year 2011.

The Company receives an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2012. The asbestos adjustments for fiscal years ended 31 March 2012 and 2011 are as follows:

(Millions of US dollars)	Fiscal Years Ended 31 March	
	2012	2011
Change in estimates	\$ (9.6)	\$ 21.5
Effect of foreign exchange movements	(6.2)	(107.3)
Asbestos adjustments	<u>\$ (15.8)</u>	<u>\$ (85.8)</u>

### Claims Data

The number of new claims filed in fiscal year 2012 of 456 is lower than new claims of 494 reported in fiscal year 2011, and below actuarial expectations for fiscal year 2012.

The number of settled claims in fiscal year 2012 of 428 is lower than claims settled of 459 in fiscal year 2011.

The average claim settlement in fiscal year 2012 of A\$219,000 is A\$15,000 higher than fiscal year 2011. Average claim sizes are in line with actuarial expectations for fiscal year 2012.

Asbestos claims paid of A\$99.1 million for fiscal year 2012 are lower than the actuarial expectation of A\$108.4 million due to lower settlement activity and lower-than-expected claims received.

All figures provided in this Claims Data section are gross of insurance and other recoveries. Readers are referred to Note 11 of the Company's 31 March 2012 Consolidated Financial Statements for further information on asbestos adjustments.

### AICF Loan Facility

On 17 February 2012, AICF made an initial drawdown of A\$29.7 million (being US\$32.0 million translated at the prevailing spot exchange rate at 17 February 2012) under the secured standby loan facility and related agreements (the "Facility") with The State of New South Wales, Australia. The initial drawing is reflected on the consolidated balance sheet within Current portion of long-term debt – Asbestos at 31 March 2012.

On 2 April 2012, the Company made an early contribution of US\$138.7 million to AICF, which enabled AICF to fully repay all amounts outstanding under the Facility on 3 April 2012.

Because the Company consolidates AICF due to the Company's pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA, any drawings, repayments or payments of accrued interest by AICF under the Facility impact the Company's consolidated financial position, results of operations and cash flows.

Any drawings, repayments, or payments of accrued interest under the Facility by AICF do not impact the Company's free cash flow, as defined in the AFFA, on which annual contributions remitted by the Company to 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.

## [Table of Contents](#)

Readers are referred to Note 11 of the Company's 31 March 2012 Consolidated Financial Statements for further information.

*Operating income.* Operating income increased 49% to US\$155.5 million in fiscal year 2012, compared to US\$104.7 million in fiscal year 2011. Operating income in fiscal year 2012 included net unfavourable asbestos adjustments of US\$15.8 million, AICF SG&A expenses of US\$2.8 million, ASIC expenses of US\$1.1 million and asset impairments of US\$14.3 million. In fiscal year 2011, operating income included net unfavourable asbestos adjustments of US\$85.8 million, AICF SG&A expenses of US\$2.2 million and a net benefit related to ASIC proceedings of US\$8.7 million.

USA and Europe Fibre Cement operating income excluding asset impairments increased 1% from US\$160.3 million in fiscal year 2011 to US\$162.7 million in fiscal year 2012. The increase in operating income was positively impacted by higher sales volume and improved plant performance, partially offset by higher fixed manufacturing and organisational costs, higher freight costs and a lower average net sales price. The USA and Europe Fibre Cement operating income margin excluding asset impairments was 0.8 percentage points lower at 18.9%.

Asia Pacific Fibre Cement operating income increased 1% from US\$79.4 million in fiscal year 2011 to US\$80.3 million in fiscal year 2012. In Australian dollars, Asia Pacific Fibre Cement operating income decreased 9% due to lower sales volume, unfavourable geographic mix and higher labour costs, partially offset by price increases. The Asia Pacific Fibre Cement operating income margin was 1.1 percentage points lower at 21.4%.

*General corporate costs.* General corporate costs increased 26% from US\$26.9 million in fiscal year 2011 to US\$33.9 million in fiscal year 2012.

ASIC expenses moved from a net benefit of US\$8.7 million in the prior year to an expense of US\$1.1 million. General corporate costs in fiscal year 2011 were materially impacted by US\$10.3 million recovered from third parties in respect of prior period ASIC expenses. General corporate costs in fiscal year 2011 also reflected domicile change related costs of US\$1.8 million.

General corporate costs excluding ASIC expenses and domicile change related costs decreased from US\$33.8 million in fiscal year 2011 to US\$32.8 million in fiscal year 2012.

*Net interest expense.* Net interest expense increased from US\$4.4 million in fiscal year 2011 to US\$7.4 million in fiscal year 2012. Net interest expense in fiscal year 2012 included interest and borrowing costs relating to the Company's external credit facilities of US\$3.7 million and a realised loss of US\$7.5 million on interest rate swaps, partially offset by AICF interest income of US\$3.3 million and other interest income of US\$0.5 million. Net interest expense in fiscal year 2011 included a realised loss of US\$3.9 million on interest rate swaps and interest and borrowing costs relating to the Company's external credit facilities of US\$5.0 million, partially offset by AICF interest income of US\$4.3 million.

*Other income (expense).* Other income (expense) increased from an expense of US\$3.7 million in fiscal year 2011 to income of US\$3.0 million in fiscal year 2012. Movements in other income (expense) are solely due to changes in the fair value accounting of interest rate swap contracts, which were favourably impacted by an increase in medium term US dollar interest rates.

*Income tax benefit (expense).* Income tax benefit (expense) moved from an expense of US\$443.6 million in fiscal year 2011 to an income tax benefit of US\$453.2 million in fiscal year 2012, as further explained below.

The Company's effective tax rate on earnings excluding asbestos, asset impairments and tax adjustments was 22.9% in fiscal year 2012, compared to 31.1% in fiscal year 2011, due to a higher

## Table of Contents

proportion of taxable earnings in jurisdictions with lower statutory income tax rates. The Company's geographic mix of earnings and expenses is also affected by fluctuations in foreign currency exchange rates of the US dollar to relevant local jurisdiction currencies.

**Tax Adjustments.** The Company recorded net favourable tax adjustments of US\$486.9 million in fiscal year 2012, compared to net unfavourable tax adjustments of US\$380.7 million in fiscal year 2011.

Fiscal year 2012 tax adjustments include a net benefit of US\$485.2 million relating to the 1999 disputed amended tax assessment with the ATO, due to the High Court of Australia's refusal to grant special leave for the ATO to appeal the Full Federal Court of Australia's decision in favour of RCI Pty Ltd, as discussed below. Tax adjustments also reflect adjustments in the value of provisions for uncertain tax positions and net tax benefits that the Company anticipates will eventually become unavailable.

Tax adjustments in fiscal year 2011 reflected a US\$32.6 million tax charge arising from the Company's corporate structure simplification and adjustments in the value of provisions for uncertain tax positions. In addition, income tax for fiscal year 2011 reflected income tax expense for the 1999 disputed amended assessment with the ATO following the dismissal of an appeal by RCI in the Federal Court of Australia on 1 September 2010.

**Net income (loss).** Net income was US\$604.3 million in fiscal year 2012, compared to a loss of US\$347.0 million in fiscal year 2011. Net income excluding asbestos, asset impairments, ASIC expenses and tax adjustments increased 20% from US\$116.7 million in fiscal year 2011 to US\$140.4 million in fiscal year 2012.

### 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	
<b>Net sales:</b>			
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)	—
<b>Volume (mmsf):</b>			
USA and Europe Fibre Cement	1,248.0	1,303.7	(4)
Asia Pacific Fibre Cement	407.8	389.6	5
<b>Average net sale price per unit (per msf):</b>			
USA and Europe Fibre Cement	US\$ 652	US\$ 635	3
Asia Pacific Fibre Cement	A\$ 916	A\$ 894	2 %



---

## [Table of Contents](#)

*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 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

---

## Table of Contents

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 Scyon™ 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.

## Table of Contents

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 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	<u>\$ (85.8)</u>	<u>\$ (224.2)</u>

## 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.

---

## [Table of Contents](#)

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.

---

## Table of Contents

*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.

*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.

## [Table of Contents](#)

### 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, asset impairments and ASIC expenses** – operating income excluding asbestos, asset impairments and ASIC expenses is not measures of financial performance under US GAAP and should not be considered to be more meaningful than operating income. Management has 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. Management uses these non-US GAAP measures for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2012	2011	2010
USA and Europe Fibre Cement	\$ 162.7	\$ 160.3	\$ 208.5
Asia Pacific Fibre Cement	80.3	79.4	58.7
Research and Development	(20.7)	(20.1)	(19.0)
General Corporate:			
General corporate costs	(33.9)	(26.9)	(42.9)
Asbestos adjustments	(15.8)	(85.8)	(224.2)
Asset impairments	(14.3)	—	—
AICF SG&A expenses	(2.8)	(2.2)	(2.1)
Total operating income (loss)	\$ 155.5	\$ 104.7	\$ (21.0)
Excluding:			
Asbestos:			
Asbestos adjustments	15.8	85.8	224.2
AICF SG&A expenses	2.8	2.2	2.1
Asset impairments	14.3	—	—
ASIC related expenses (recoveries)	1.1	(8.7)	3.4
Operating income excluding asbestos, asset impairments and ASIC expenses	<u>\$ 189.5</u>	<u>\$ 184.0</u>	<u>\$ 208.7</u>

## Table of Contents

**Effective tax rate excluding asbestos, asset impairments and tax adjustments** – Effective tax rate excluding asbestos, asset impairments 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. Management has 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. Management uses this non-US GAAP measure for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2012	2011	2010
Income (loss) before income taxes	\$ 151.1	\$ 96.6	\$ (18.7)
Excluding:			
Asbestos:			
Asbestos adjustments	15.8	85.8	224.2
AICF SG&A expenses	2.8	2.2	2.1
AICF interest income	(3.3)	(4.3)	(3.3)
Gain on AICF investments	—	—	(6.7)
Asset impairments	14.3	—	—
Income before income taxes excluding asbestos and asset impairments	\$ 180.7	\$ 180.3	\$ 197.6
Income tax benefit (expense)	\$ 453.2	\$(443.6)	\$ (66.2)
Excluding:			
Asbestos:			
Tax (benefit) expense related to asbestos adjustments	(2.7)	6.9	1.1
Tax benefit related to asset impairments	(5.0)	—	—
Tax adjustments <sup>1</sup>	(486.9)	380.7	(2.9)
Income tax expense excluding tax effect of asbestos adjustments, asset impairments and tax adjustments	\$ (41.4)	\$ (56.0)	\$ (68.0)
Effective tax rate	299.9%	(459.2)%	354.0%
Effective tax rate excluding asbestos, asset impairments and tax adjustments	22.9%	31.1%	34.4%

## Table of Contents

**Net income excluding asbestos, asset impairments, ASIC expenses and tax adjustments** – Net income excluding asbestos, asset impairments, 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. Management has 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. Management uses this non-US GAAP measure for the same purposes.

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2012	2011	2010
Net income (loss)	\$ 604.3	\$ (347.0)	\$ (84.9)
Excluding:			
Asbestos:			
Asbestos adjustments	15.8	85.8	224.2
AICF SG&A expenses	2.8	2.2	2.1
AICF interest income	(3.3)	(4.3)	(3.3)
Gain on AICF investments	—	—	(6.7)
Tax (benefit) expense related to asbestos adjustments	(2.7)	6.9	1.1
Asset impairments	14.3	—	—
ASIC related expenses (recoveries) net of tax	1.1	(7.6)	3.4
Tax benefit related to asset impairments	(5.0)	—	—
Tax adjustments <sup>1</sup>	(486.9)	380.7	(2.9)
Net income excluding asbestos, asset impairments, ASIC expenses and tax adjustments	\$ 140.4	\$ 116.7	\$ 133.0

<sup>1</sup> Fiscal year 2012 includes a benefit of US\$485.2 million recognised upon RCI's successful appeal of the ATO's disputed 1999 amended assessment. Fiscal year 2011 includes a charge of US\$345.2 million related to the dismissal of RCI's appeal of the 1999 disputed amended 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 May 2011, FASB issued ASU No. 2011-04, which amends some fair value measurement principles and disclosure requirements. The new guidance states that the concepts of highest and best use and valuation premise are only relevant when measuring the fair value of non-financial assets and prohibits the grouping of financial instruments for purposes of determining their fair values when the unit of account is specified in other guidance. ASU No. 2011-04 is effective for the interim and annual periods beginning on or after 15 December 2011. The adoption of this ASU did not result in a material impact on our consolidated financial position, results of operations or cash flows.

In June 2011, the FASB issued ASU No. 2011-05, which requires that all non-owner changes in stockholders' equity be presented either in a single continuous statement of comprehensive income or in two separate but consecutive statements, eliminating the option to present other comprehensive income in the statement of changes in equity. Under either choice, items that are reclassified from other comprehensive income to net income are required to be presented on the face of the financial statements where the components of net income and the components of other comprehensive income are presented. ASU No. 2011-05 is effective for fiscal years, and interim periods within those years, beginning after 15 December 2011. The adoption of this ASU is not expected to result in a material impact on our consolidated financial position, results of operations or cash flows.



## [Table of Contents](#)

In December 2011, the FASB issued ASU No. 2011-12, which defers the implementation of only those changes in ASU No. 2011-05 that relate to the presentation of reclassification adjustments out of accumulated other comprehensive income. All other requirements in ASU No. 2011-05 are not affected by this update, including the requirement to report comprehensive income either in a single continuous statement or in two separate but consecutive financial statements. The amendments in ASU No. 2011-12 are effective at the same time as the amendments in ASU No. 2011-05, being fiscal years, and interim periods within those years, beginning after 15 December 2011. The adoption of this ASU is not expected to result in a material impact on our 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 CFO.

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.

Excluding AICF's drawdown on its standby loan facility with the NSW Government (which the Company is not a party to, guarantor of or security provider in respect of AICF loan facility), we moved to a net cash position of US\$265.4 million at 31 March 2012 compared to net debt of US\$40.4 million at 31 March 2011.

As of 31 March 2012, we had credit facilities totaling US\$280.0 million, of which no amounts were drawn. The credit facilities are all uncollateralised and consist of the following:

Description	At 31 March 2012		
	Effective Interest Rate	Total Facility (Millions of US dollars)	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	—	50.0	—
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	—
<b>Total</b>		<b>\$ 280.0</b>	<b>\$ —</b>

---

## Table of Contents

The weighted average interest rate on the Company's total debt was nil and 1.02% at 31 March 2012 and 2011, respectively.

On 28 March 2012, US\$40.0 million of our unutilised credit facilities with a maturity of February 2013 were cancelled. We did not replace these credit facilities. Accordingly, at 31 March 2012, US\$280.0 million was unutilised and available to us.

We draw on and repay amounts available under our term facilities throughout the financial year. During fiscal year 2012, we drew down US\$160.0 million and repaid US\$219.0 million of our term facilities. The weighted average remaining term of the total credit facilities of at 31 March 2012 was 0.9 years.

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

The Company has historically met its working capital needs and capital expenditure requirements from a combination of cash flow from operations, credit facilities and other borrowings and proceeds from the sale of property, plant and equipment. Seasonal fluctuations in working capital generally have not had a significant impact on its short-term or long-term liquidity.

The Company anticipates it will have sufficient funds to meet its planned working capital and other expected cash requirements for the next twelve months based on its existing cash balances and anticipated operating cash flows arising during the year. The Company anticipates that any additional cash requirements will be met from existing unutilised committed credit facilities and anticipated future net operating cash flow.

At 31 March 2012, 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 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 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 consolidated with the James Hardie Group, (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 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 ("Annual Cash Flow Cap") is contributed to AICF on the payment dates under the AFFA in the next following financial year. The Annual Cash Flow Cap does not apply to payments of interest, if any, to AICF and is consistent with contractual obligations of the Performing Subsidiary and the Company under the AFFA.

### ATO – 1999 Disputed Amended Assessment

In March 2006, RCI Pty Ltd (RCI), a wholly-owned subsidiary of the Company, received an amended assessment from the ATO in respect of RCI's income tax return for the year ended 31 March 1999.

---

## [Table of Contents](#)

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 Receivables 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 NV) 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.

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, the Company 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 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 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 recognised an expense of US\$345.2 million (A\$388.0 million) on its consolidated statement of operations for the year ended 31 March 2011, which did not result in a cash outflow. In addition, the Company recognised an uncertain tax position of US\$190.4 million (A\$184.3 million) on its consolidated balance sheet at 31 March 2011 relating to the unpaid portion of the amended assessment.

RCI appealed the Federal Court's judgment to the Full Court of the Federal Court of Australia. RCI's appeal was heard in May 2011. On 22 August 2011, the Full Federal Court upheld RCI's appeal, ordered that RCI's objection be allowed in full and awarded RCI costs.

Following the decision of the Full Federal Court to uphold RCI's appeal, the Company undertook a review of RCI's tax position. Due to the continued uncertainty in relation to the ultimate outcome of the matter, the Company continued to reflect a liability on its consolidated balance sheet relating to the unpaid portion of the amended assessment, as discussed above.

Subsequently, on 19 September 2011, the ATO filed an application for special leave to appeal the Full Federal Court's decision to the High Court of Australia. On 10 February 2012, the High Court refused to grant special leave and dismissed the ATO's application. Accordingly, the matter was finalised in RCI's favour.

With all avenues of appeal exhausted and the matter effectively concluded, on 27 February 2012 the ATO issued a notice of amended assessment and paid a refund to RCI of A\$248.0 million (US\$265.8 million). This amount comprises cash that RCI remitted to the ATO during the appeal proceedings of A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), representing 50% of the previous amended assessment, and general interest charges paid by RCI on the unpaid portion of the previous amended assessment of A\$63.7 million (US\$68.3 million).

On 7 March 2012, the ATO paid an additional refund to RCI of A\$121.8 million (US\$130.5 million), being the ATO's calculation of interest income on amounts taken to have been overpaid in respect of

---

## [Table of Contents](#)

the notice of amended assessment issued by the ATO on 27 February 2012. This additional receipt of funds brings the total refunded by the ATO in respect of the RCI notice of amended assessment to A\$369.8 million (US\$396.3 million).

During the fourth quarter ended 31 March 2012, the Company recognised an income tax benefit of A\$452.9 million (US\$485.2 million) within income tax expense, which includes amounts refunded by the ATO noted above and the reversal of the provision for the unpaid portion of the amended assessment, being A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), partially offset by income taxes payable in respect of the reversal of general interest charges previously recognised as deductible, and interest on overpayment of tax, totalling A\$101.2 million (US\$108.6 million). The Company has determined that it is not required to recognise deferred taxes in association with undistributed profits of RCI.

Readers are referred to Note 14 of the Company's Consolidated Financial Statements for the year ended 31 March 2012 for further information.

### ASIC Proceedings

During fiscal year 2012, legal costs incurred in the ASIC proceedings were US\$1.1 million. The Company's cumulative net costs in relation to the ASIC proceedings from their commencement in February 2007 to 31 March 2012 have totalled US\$15.5 million, net of third party recoveries.

Losses and expenses arising from the ASIC proceedings could have a material adverse effect on the Company's financial position, liquidity, results of operations and cash flows. It is the Company's policy to expense legal costs as incurred.

Readers are referred to Note 13 of the Company's 31 March 2012 Consolidated Financial Statements for further information about the ASIC proceedings.

### ***Cash Flow — Year Ended 31 March 2012 compared to Year ended 31 March 2011***

Net operating cash flow increased US\$240.0 million from US\$147.2 million in fiscal year 2011 to US\$387.2 million in fiscal year 2012. Net operating cash flow was favourably impacted by a cash refund of US\$396.3 million from the ATO, reflecting RCI's successful appeal of a 1999 disputed amended tax assessment, partially offset by a contribution to AICF of US\$51.5 million in July 2011 (compared to US\$63.7 million in fiscal year 2011) and our early contribution to AICF of US\$138.7 million on 2 April 2012, which was reflected as restricted cash at 31 March 2012.

Excluding the ATO cash refund and contributions to AICF, net operating cash flow decreased 14% from US\$210.9 million in the prior year to US\$181.1 million. Net operating cash flow was unfavourably impacted by a payment of withholding taxes of US\$35.5 million arising from the Company's corporate structure simplification, as announced on 17 May 2011, of which US\$32.6 million was recognised as an expense in the final quarter of fiscal year 2011, and settlements of interest rate swap contracts, which resulted in a realised loss of US\$7.5 million. These unfavourable movements were partially offset by an unrelated tax refund of US\$12.3 million.

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.

---

## **Table of Contents**

Net cash used in investing activities increased from US\$49.6 million in fiscal year 2011 to US\$49.9 million in fiscal year 2012. The increase was due to the deposit of US\$14.4 million related to the acquisition of the assets of a US business engaged in the pultrusion of fibreglass profiles, which was completed in the first quarter of fiscal year 2013. This increase was offset by a US\$14.5 million decrease in our capital expenditures from US\$50.3 million in fiscal year 2011 to US\$35.8 million in fiscal year 2012.

Net cash used in financing activities decreased from US\$89.7 million in fiscal year 2011 to US\$84.4 million in fiscal year 2012 primarily due to repurchases of common stock of US\$19.0 million and dividends paid of US\$17.4 million in fiscal year 2012, which were both nil in fiscal year 2011. These decreases were partially offset by a reduction in our outstanding term facilities of US\$59.0 million during fiscal year 2012 compared to reduction of US\$95.0 million during fiscal year 2011.

### ***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 2012, we met our capital expenditure requirements through a combination of internal cash and funds from our credit facilities. We currently expect to spend between US\$70 million and US\$100 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\$265.4 million at 31 March 2012 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 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 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 AICF and the annual cash flow cap. Further contributions of A\$118.0 million (US\$110.0 million) (including interest payments), A\$72.8 million (US\$63.7 million) and A\$48.9 million (US\$51.5 million) were made in fiscal years 2009, 2011 and 2012, respectively. Under the terms of the AFFA, we were not required to make a contribution to AICF in fiscal years 2008 and 2010. On 2 April 2012, we made an early contribution of US\$138.7 million (A\$132.3 million) to AICF. We expect to make a further contribution of US\$45.4 million on 2 July 2012. Our obligation to make future contributions to 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 year 2011. On 17 May 2011, we announced the adoption of a capital management policy to distribute between 20% and 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 was likely to see us buying back or issuing shares as our capital needs dictate, subject to the Board's review and declaration. In accordance with this policy, we also announced that we were seeking to

---

## [Table of Contents](#)

acquire up to 5% of our issued capital via an on-market share buyback during the twelve month period which ended on 21 May 2012. We acquired 3.4 million shares during fiscal year 2012 at an aggregate cost of US\$19.0 million (A\$19.1 million) at an average price paid per share of US\$5.55 (A\$5.59) under this previous share buyback program. As of 31 March 2012, all acquired shares were officially cancelled. See Section 3, "Purchases of Equity Securities by the Issuer and Affiliated Purchasers" for further details.

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), we 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 was paid in fiscal year 2012. This charge did not impact our contribution to AICF in July 2011, although it is likely to reduce the contribution to AICF in July 2012 by approximately US\$12.4 million in accordance with the terms of the AFFA. However, this amount was offset with the Company's early contribution to AICF of US\$138.7 million on 2 April 2012, which was 35% of amounts received from the ATO.

On 21 May 2012, the Company announced a new share buyback program to acquire up to 5% of its issued capital over the subsequent 12 month period.

In fiscal year 2012, we paid an interim ordinary dividend to shareholders of US4.0 cents per security. The total amount of the dividend was US\$17.4 million. On 21 May 2012, we announced an ordinary dividend of US38.0 cents per security. The dividend was declared in United States currency and will be paid on 23 July 2012, with a record date of 29 June 2012. When added to the interim ordinary dividend of US4.0 cents per security, paid from earnings in the first-half of fiscal year 2012, the full year dividend is US42.0 cents per security.

The full year dividend is at the upper end of the dividend payout ratio of 20% to 30% announced by the Company in May 2011. The Company intends to make further distributions to shareholders in the near term and to improve capital efficiency through a more appropriately leveraged balance sheet. This may be achieved, in part, with an increase in the dividend payout ratio.

We believe our business is affected by general economic conditions, such as level of employment, consumer confidence, 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 slower recovery than expected 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 2012, the average NBSK pulp price was US\$952 per ton, a decrease of 3% compared to fiscal year 2011. Although US dollar pulp prices have fallen from their highs, they are expected to remain at elevated levels compared to previous periods. 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.

## [Table of Contents](#)

Freight costs in the US increased in fiscal year 2012 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.

### **Capital Expenditures**

Our total capital expenditures for fiscal years 2012, 2011 and 2010 were US\$35.8 million, US\$50.3 million and US\$50.5 million, respectively.

Significant capital expenditures in fiscal years 2012 and 2011 included expenditures related to: a new finishing capability on an existing product line; equipment to enhance environmental compliance at our plants; an upgrade to the US business' supply chain management IT systems; and a new ColorPlus line at our Cleburne, Texas plant. Significant capital expenditures in fiscal year 2011 also included the addition of 12 foot XLD Trim capability at our Peru, Illinois plant.

### **Contractual Obligations**

The following table summarises our contractual obligations at 31 March 2012:

(Millions of US dollars)	Payments Due During Fiscal Year Ending 31 March				
	Total	2013	2014 to 2015	2016 to 2017	Beyond 5 Years
Asbestos Liability <sup>1</sup>	\$ 1,662.6	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Long-Term Debt	—	—	—	—	—
Estimated interest payments on Long-Term Debt <sup>2</sup>	3.1	1.9	1.2	—	—
Long-Term Debt – AICF loan facility <sup>3</sup>	30.9	30.9	—	—	—
Estimated interest payments on Long-Term Debt – AICF loan facility <sup>4</sup>	—	—	—	—	—
Operating Leases	90.3	18.4	32.8	21.0	18.1
Purchase Obligations <sup>5</sup>	0.7	0.7	—	—	—
<b>Total</b>	<b>\$ 1,787.6</b>	<b>\$ 51.9</b>	<b>\$ 34.0</b>	<b>\$ 21.0</b>	<b>\$ 18.1</b>

<sup>1</sup> 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 AICF. The table above does not include a breakdown 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.

<sup>2</sup> Interest amounts are estimates based on gross debt remaining unchanged from the 31 March 2012 balance and interest rates remaining consistent with the rates at 31 March 2012. Interest paid includes interest in relation to our debt facilities, as

## Table of Contents

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 2018 as such amounts are not reasonably estimable.

- <sup>3</sup> On 3 April 2012, all amounts outstanding under AICF loan facility were fully repaid. JHI SE and its wholly-owned subsidiaries are not a party to, guarantor of, or security provided in respect of the AICF loan facility. However, because we consolidate AICF due to our pecuniary and contractual interest in AICF, any drawings, repayments or payments of accrued interest by AICF under the AICF loan facility impact our consolidated financial position, results of operations and cash flows.
- <sup>4</sup> On 3 April 2012, all amounts outstanding under AICF loan facility were fully repaid. The Company is unable to reasonably estimate the timing and amount of future drawings, if any, on the AICF loan facility. Accordingly, future interest payments are deemed to be nil.
- <sup>5</sup> 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.

See Notes 9, 11 and 13 to our consolidated financial statements for further information regarding long-term debt, long-term debt – asbestos and operating leases, respectively.

### **Off-Balance Sheet Arrangements**

As of 31 March 2012 and 2011, we did not have any material off-balance sheet arrangements.

### **Research and Development**

For fiscal years 2012, 2011 and 2010, our expenses for research and development were US\$30.4 million, US\$28.0 million and US\$27.1 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**

While some encouraging industry data points emerged during the final quarter of fiscal year 2012, we are planning for the market to be up only slightly over the prior year.

The rate of improvement in the US housing market continues to be inhibited by tight credit conditions, large but declining levels of excess inventory, high levels of unemployment, and uncertainty regarding house values.

In Australia, market conditions softened during the year, reflecting the continued deterioration in consumer confidence. Despite the Reserve Bank of Australia's recent reductions in official interest rates, market forecasters expect Australia's residential construction activity to continue to contract in the coming 12 months.

The New Zealand market continues to operate at subdued levels.

Additionally, while US dollar pulp prices have fallen from their highs, they remain at elevated levels and the business continues to contend with higher freight costs than in previous periods.

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.



---

[Table of Contents](#)

**James Hardie Industries SE**  
**Consolidated Financial Statements**

---

**Index**

<a href="#">Report of Independent Registered Public Accounting Firm</a>	112
<a href="#">Consolidated Balance Sheets as of 31 March 2012 and 2011</a>	113
<a href="#">Consolidated Statements of Operations for the Years Ended 31 March 2012, 2011 and 2010</a>	114
<a href="#">Consolidated Statements of Cash Flows for the Years Ended 31 March 2012, 2011 and 2010</a>	115
<a href="#">Consolidated Statements of Changes in Shareholders' Equity (Deficit) for the Years Ended 31 March 2012, 2011 and 2010</a>	116
<a href="#">Notes to Consolidated Financial Statements</a>	117

## 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 as of 31 March 2012 and 2011, and the related consolidated statements of operations, changes in shareholders' equity (deficit), and cash flows for each of the three years in the period ended 31 March 2012. 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 2012 and 2011, and the consolidated results of its operations and its cash flows for each of the three years in the period ended 31 March 2012 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 2012, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated 21 May 2012 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Irvine, California  
21 May 2012

[Table of Contents](#)

**James Hardie Industries SE**  
**Consolidated Balance Sheets**

	(Millions of US dollars)	
	31 March 2012	31 March 2011
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 265.4	\$ 18.6
Restricted cash and cash equivalents	140.4	0.8
Restricted cash and cash equivalents - Asbestos	59.0	56.1
Restricted short-term investments - Asbestos	6.0	5.8
Accounts and other receivables, net of allowance for doubtful accounts of \$2.3 million and \$2.7 million as of 31 March 2012 and 31 March 2011, respectively	137.7	138.1
Inventories	189.0	161.5
Prepaid expenses and other current assets	18.8	31.6
Insurance receivable - Asbestos	19.9	13.7
Workers' compensation - Asbestos	0.5	0.3
Deferred income taxes	15.9	21.1
Deferred income taxes - Asbestos	23.0	10.5
Total current assets	875.6	458.1
Restricted cash and cash equivalents	3.5	4.5
Property, plant and equipment, net	665.5	707.7
Insurance receivable - Asbestos	208.6	188.6
Workers' compensation - Asbestos	83.4	90.4
Deferred income taxes	11.1	27.3
Deferred income taxes - Asbestos	421.5	451.4
Other assets	40.8	32.6
Total assets	<u>\$ 2,310.0</u>	<u>\$ 1,960.6</u>
<b>Liabilities and Shareholders' Equity (Deficit)</b>		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 92.6	\$ 106.4
Current portion of long-term debt - Asbestos	30.9	-
Accrued payroll and employee benefits	45.4	40.9
Accrued product warranties	7.4	6.1
Income taxes payable	81.7	3.9
Asbestos liability	125.3	111.1
Workers' compensation - Asbestos	0.5	0.3
Other liabilities	19.3	53.8
Total current liabilities	403.1	322.5
Long-term debt	-	59.0
Deferred income taxes	100.5	108.1
Accrued product warranties	19.6	20.1
Asbestos liability	1,537.3	1,587.0
Workers' compensation - Asbestos	83.4	90.4
Australian Taxation Office - amended assessment	-	190.4
Other liabilities	39.7	37.6
Total liabilities	2,183.6	2,415.1
Commitments and contingencies (Note 13)		
Shareholders' equity (deficit):		
Common stock, Euro 0.59 par value, 2.0 billion shares authorised; 437,175,963 shares issued at 31 March 2012 and 436,386,587 shares issued at 31 March 2011	224.0	222.5
Additional paid-in capital	67.6	52.5
Accumulated deficit	(214.6)	(784.7)
Accumulated other comprehensive income	49.4	55.2
Total shareholders' equity (deficit)	126.4	(454.5)
Total liabilities and shareholders' equity (deficit)	<u>\$ 2,310.0</u>	<u>\$ 1,960.6</u>

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

[Table of Contents](#)**James Hardie Industries SE**  
**Consolidated Statements of Operations**

(Millions of US dollars, except per share data)	Years Ended 31 March		
	2012	2011	2010
Net sales	\$ 1,237.5	\$ 1,167.0	\$ 1,124.6
Cost of goods sold	(830.5)	(775.1)	(708.5)
Gross profit	407.0	391.9	416.1
Selling, general and administrative expenses	(191.0)	(173.4)	(185.8)
Research and development expenses	(30.4)	(28.0)	(27.1)
Impairment charge	(14.3)	-	-
Asbestos adjustments	(15.8)	(85.8)	(224.2)
Operating income (loss)	155.5	104.7	(21.0)
Interest expense	(11.2)	(9.0)	(7.7)
Interest income	3.8	4.6	3.7
Other income (expense)	3.0	(3.7)	6.3
Income (loss) before income taxes	151.1	96.6	(18.7)
Income tax benefit (expense)	453.2	(443.6)	(66.2)
Net income (loss)	\$ 604.3	\$ (347.0)	\$ (84.9)
Net income (loss) per share:			
Basic	\$ 1.39	\$ (0.80)	\$ (0.20)
Diluted	\$ 1.38	\$ (0.80)	\$ (0.20)
Weighted average common shares outstanding			
(Millions):			
Basic	436.2	435.6	433.1
Diluted	437.9	435.6	433.1

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

[Table of Contents](#)

## James Hardie Industries SE Consolidated Statements of Cash Flows

(Millions of US dollars)	2012	Years Ended 31 March 2011	2010
<b>Cash Flows From Operating Activities</b>			
Net income (loss)	\$ 604.3	\$ (347.0)	\$ (84.9)
Adjustments to reconcile net income (loss) to net cash provided by operating activities			
Depreciation and amortisation	65.2	62.9	61.7
Deferred income taxes	11.3	(21.9)	19.2
Pension cost	-	1.3	0.1
Stock-based compensation	7.8	9.1	7.7
Asbestos adjustments	15.8	85.8	224.2
Tax benefit from stock options exercised	-	(0.4)	(0.9)
Impairment charge	14.3	-	-
Changes in operating assets and liabilities:			
Restricted cash and cash equivalents	(59.1)	63.3	14.9
Restricted short-term investments	(0.1)	9.7	54.4
Payment to AICF	(51.5)	(63.7)	-
Accounts and other receivables	2.2	24.9	(30.1)
Inventories	(26.7)	(8.1)	(12.2)
Prepaid expenses and other assets	19.2	6.3	(48.1)
Insurance receivable - Asbestos	25.0	22.9	14.4
Accounts payable and accrued liabilities	87.4	(7.7)	35.4
Asbestos liability	(106.3)	(97.8)	(91.0)
Deposit with Australian Taxation Office	-	254.3	(29.3)
Australian Taxation Office - amended assessment	(197.4)	190.4	-
Other accrued liabilities	(24.2)	(37.1)	47.6
<b>Net cash provided by operating activities</b>	<b>\$ 387.2</b>	<b>\$ 147.2</b>	<b>\$ 183.1</b>
<b>Cash Flows From Investing Activities</b>			
Purchases of property, plant and equipment	\$ (35.8)	\$ (50.3)	\$ (50.5)
Proceeds from sale of property, plant and equipment	0.3	0.7	-
Deposit on acquisition	(14.4)	-	-
<b>Net cash used in investing activities</b>	<b>\$ (49.9)</b>	<b>\$ (49.6)</b>	<b>\$ (50.5)</b>
<b>Cash Flows From Financing Activities</b>			
Repayments of short-term borrowings	\$ -	\$ -	\$ (93.3)
Proceeds from long-term borrowings	160.0	460.0	274.0
Repayments of long-term borrowings	(219.0)	(555.0)	(350.7)
Proceeds from issuance of shares	11.0	4.9	10.1
Tax benefit from stock options exercised	-	0.4	0.9
Common stock repurchased and retired	(19.0)	-	-
Dividends paid	(17.4)	-	-
<b>Net cash used in financing activities</b>	<b>\$ (84.4)</b>	<b>\$ (89.7)</b>	<b>\$ (159.0)</b>
Effects of exchange rate changes on cash	\$ (6.1)	\$ (8.5)	\$ 3.2
Net increase (decrease) in cash and cash equivalents	246.8	(0.6)	(23.2)
Cash and cash equivalents at beginning of period	18.6	19.2	42.4
<b>Cash and cash equivalents at end of period</b>	<b>\$ 265.4</b>	<b>\$ 18.6</b>	<b>\$ 19.2</b>
<b>Components of Cash and Cash Equivalents</b>			
Cash at bank and on hand	\$ 256.1	\$ 9.5	\$ 13.1
Short-term deposits	9.3	9.1	6.1
Cash and cash equivalents at end of period	<b>\$ 265.4</b>	<b>\$ 18.6</b>	<b>\$ 19.2</b>
<b>Supplemental Disclosure of Cash Flow Activities</b>			
Cash paid during the year for interest, net of amounts capitalised	\$ 11.2	\$ 9.1	\$ 7.4
Cash paid during the year for income taxes, net	\$ 29.5	\$ 38.7	\$ 48.5

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

[Table of Contents](#)

**James Hardie Industries SE**  
**Consolidated Statements of Changes in Shareholders' Equity (Deficit)**

(Millions of US dollars)	Common Stock	Additional Paid-in Capital	Accumulated Deficit	Treasury Stock	Accumulated Other Comprehensive Income	Total
<b>Balances as of 31 March 2009</b>	<b>\$ 219.2</b>	<b>\$ 22.7</b>	<b>\$ (352.8)</b>	<b>\$ -</b>	<b>\$ 2.2</b>	<b>\$ (108.7)</b>
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
<b>Balances as of 31 March 2010</b>	<b>\$ 221.1</b>	<b>\$ 39.5</b>	<b>\$ (437.7)</b>	<b>\$ -</b>	<b>\$ 59.2</b>	<b>\$ (117.9)</b>
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
<b>Balances as of 31 March 2011</b>	<b>\$ 222.5</b>	<b>\$ 52.5</b>	<b>\$ (784.7)</b>	<b>\$ -</b>	<b>\$ 55.2</b>	<b>\$ (454.5)</b>
Comprehensive income:						
Net income	-	-	604.3	-	-	604.3
Unrealised gain on investments	-	-	-	-	0.1	0.1
Foreign currency translation loss	-	-	-	-	(5.9)	(5.9)
Other comprehensive loss	-	-	-	-	(5.8)	(5.8)
Total comprehensive income						598.5
Stock-based compensation	2.0	5.8	-	-	-	7.8
Equity awards exercised	1.3	9.7	-	-	-	11.0
Dividends paid	-	-	(17.4)	-	-	(17.4)
Treasury stock purchased	-	-	-	(19.0)	-	(19.0)
Treasury stock retired	(1.8)	(0.4)	(16.8)	19.0	-	-
<b>Balances as of 31 March 2012</b>	<b>\$ 224.0</b>	<b>\$ 67.6</b>	<b>\$ (214.6)</b>	<b>\$ -</b>	<b>\$ 49.4</b>	<b>\$ 126.4</b>

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

## James Hardie Industries SE

### Notes to Consolidated Financial Statements

---

#### 1. Background and Basis of Presentation

##### Nature of Operations

James Hardie Industries SE 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 moved its 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 on 7 February 2007 (the "AFFA"), the Asbestos Injuries Compensation Fund ("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

##### 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

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

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

Also included in restricted cash and cash equivalents at 31 March 2012 is US\$138.7 million related to the Company's expected early contribution to AICF as a result of the favourable outcome of RCI Pty Ltd's ("RCI") appeal of the Australian Taxation Office ("ATO") 1999 disputed amended tax assessment. This amount was contributed to AICF on 2 April 2012.

#### 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, are evaluated each quarter for events or changes in circumstances that indicate that an asset might be impaired because the carrying amount of the asset may not be recoverable. These include, without limitation, a significant adverse change in the extent or manner in which a long-lived asset or asset group is being used, a current period operating or cash flow loss combined with a history of operating or cash flow losses, a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset or asset group and/or a current expectation that it is more likely than not that a long lived asset or asset group will be sold or otherwise disposed of significantly before the end of its previously estimated useful life.



## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

When such indicators of potential impairment are identified, recoverability is tested by grouping long-lived assets that are used together and represent the lowest level for which cash flows are identifiable and distinct from the cash flows of other long-lived assets, which is typically at the production line or plant facility level, depending on the type of long-lived asset subject to an impairment review.

Recoverability is measured by a comparison of the carrying amount of the asset group to the estimated undiscounted future cash flows expected to be generated by the asset group. If the carrying amount exceeds the estimated undiscounted future cash flows, an impairment charge is recognized at the amount by which the carrying amount exceeds the estimated fair value of the asset group.

The methodology used to estimate the fair value of the asset group is based on a discounted cash flow analysis that considers the asset group's highest and best use that would maximize the value of the asset group. In addition, the estimated fair value of an asset group also considers, to the extent practicable, a market participant's expectations and assumptions in estimating the fair value of the asset group. If the estimated fair value of the asset group is less than the carrying value, an impairment loss is recognised at an amount equal to the excess of the carrying value over the estimated fair value of the asset group.

The Company recorded an asset impairment charge of US\$14.3 million during the year ended 31 March 2012. Readers are referred to Note 7 for additional information.

#### **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.

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

#### **Advertising**

The Company expenses the production costs of advertising the first time the advertising takes place. Advertising expense was US\$8.6 million, US\$7.9 million and US\$9.1 million during the years ended 31 March 2012, 2011 and 2010, 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. 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 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**

Stock-based compensation expense represents the estimated fair value of equity-based and liability-classified awards granted to employees, adjusted for estimated forfeitures, and recognised as an expense over the vesting period. Stock-based compensation expense is included in the line item Selling, general and administrative expenses on the consolidated statements of operations.

Equity awards with vesting based solely on a service condition are typically subject to graded vesting, in that the awards vest 25% after the first year, 25% after the second year and 50% after the third year.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

For equity awards subject to graded vesting, the Company has elected to use the accelerated recognition method. Accordingly, each vesting tranche is valued separately, and the recognition of stock-based compensation expense is more heavily weighted earlier in the vesting period. Stock-based compensation expense for equity awards that are subject to performance or market vesting conditions are typically recognised ratably over the vesting period. The Company issues new shares to award recipients upon exercise of stock options or when the vesting condition for restricted stock units has been satisfied.

The Company estimates the fair value of stock options 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").

For restricted stock units subject to a service vesting condition, the fair value 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. For restricted stock units subject to a scorecard performance vesting condition, the fair value is adjusted for changes in JHI SE's common stock price at each balance sheet date until the end of the performance period. For restricted stock units subject to a market vesting condition, the fair value is estimated using the Monte Carlo method.

Compensation expense recognised for liability-classified 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.

#### 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 income (loss) per share are as follows:

(Millions of shares)	Years Ended 31 March		
	2012	2011	2010
Basic common shares outstanding	436.2	435.6	433.1
Dilutive effect of stock awards	1.7	-	-
Diluted common shares outstanding	437.9	435.6	433.1

(US dollars)	2012	2011	2010
Net income (loss) per share - basic	\$ 1.39	\$ (0.80)	\$ (0.20)
Net income (loss) per share - diluted	\$ 1.38	\$ (0.80)	\$ (0.20)

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

Potential common shares of 11.1 million, 13.8 million and 13.7 million for the years ended 31 March 2012, 2011 and 2010, 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 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 AICF, which 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 AICF. The Company owns 100% of James Hardie 117 Pty Ltd (the "Performing Subsidiary") that funds AICF subject to the provisions of the AFFA. The Company appoints three AICF directors and the NSW Government appoints two AICF directors.

Under the terms of the AFFA, the Performing Subsidiary has an obligation to make payments to AICF on an annual basis. The amount of these annual payments is dependent on several factors, including

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

the Company's free cash flow (as defined in the AFFA), actuarial estimations, actual claims paid, operating expenses of AICF and the annual cash flow cap. JHI SE guarantees the Performing Subsidiary's obligation. As a result, the Company considers JHI SE to be the primary beneficiary of AICF.

The Company's interest in AICF is considered variable because the potential impact on the Company will vary based upon the annual actuarial assessments obtained by AICF with respect to asbestos-related personal injury claims against the Former James Hardie Companies.

Although the Company has no legal ownership in AICF, for financial reporting purposes the Company consolidates AICF due to its pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA. The Company's consolidation of AICF results in a separate recognition of the asbestos liability and certain other asbestos-related assets and liabilities on its consolidated balance sheet. Among other items, the Company records a deferred tax asset for the anticipated future tax benefit the Company believes is available to it that arise from amounts contributed to AICF by the Performing Subsidiary. Since fiscal year 2007, movements in the asbestos liability arising from changes in foreign currency or actuarial adjustments are classified as asbestos adjustments and the income tax benefit arising from contributions to AICF is included within income tax benefit (expense) on the consolidated statements of operations when realised.

For the year ended 31 March 2012, the Company did not provide financial or other support to AICF that it was not previously contractually required to provide. Future funding of 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.

AICF has operating costs that are claims related and non-claims related. Claims related costs incurred by 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 AICF are expensed as incurred in the line item Selling, general and administrative expenses in the consolidated statements of operations. 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

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 AICF are reflected in the consolidated statements of operations during the period in which they occur. Claims paid by AICF and claims-handling costs incurred by 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.

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.

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 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 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 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 AICF.

#### Deferred Income Taxes

The Performing Subsidiary is able to claim a tax deduction for its contributions to AICF over a five-year period commencing in the year the contribution is incurred. 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

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 May 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-04, which amends some fair value measurement principles and disclosure requirements. The new guidance states that the concepts of highest and best use and valuation premise are only relevant when measuring the fair value of non-financial assets and prohibits the grouping of financial instruments for purposes of determining their fair values when the unit of account is specified in other guidance. ASU No. 2011-04 is effective for the interim and annual periods beginning on or after 15 December 2011. The adoption of this ASU did not result in a material impact on the Company's consolidated financial position, results of operations or cash flows.

In June 2011, the FASB issued ASU No. 2011-05, which requires that all non-owner changes in stockholders' equity be presented either in a single continuous statement of comprehensive income or in two separate but consecutive statements, eliminating the option to present other comprehensive income in the statement of changes in equity. Under either choice, items that are reclassified from other comprehensive income to net income are required to be presented on the face of the financial statements where the components of net income and the components of other comprehensive income are presented. ASU No. 2011-05 is effective for fiscal years, and interim periods within those years, beginning after 15 December 2011. The adoption of this ASU is not expected to result in a material impact on the Company's consolidated financial position, results of operations or cash flows.

In December 2011, the FASB issued ASU No. 2011-12, which defers the implementation of only those changes in ASU No. 2011-05 that relate to the presentation of reclassification adjustments out of accumulated other comprehensive income. All other requirements in ASU No. 2011-05 are not affected by this update, including the requirement to report comprehensive income either in a single continuous statement or in two separate but consecutive financial statements. The amendments in ASU No. 2011-12 are effective at the same time as the amendments in ASU No. 2011-05, being fiscal years, and interim periods within those years, beginning after 15 December 2011. The adoption of this ASU is not expected to result in a material impact on the Company's consolidated financial position, results of operations or cash flows.

#### **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.



## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

Cash and cash equivalents consist of the following components:

(Millions of US dollars)	31 March	
	2012	2011
Cash at bank and on hand	\$ 256.1	\$ 9.5
Short-term deposits	9.3	9.1
Total cash and cash equivalents	<u>\$ 265.4</u>	<u>\$ 18.6</u>

#### 4. Restricted Cash

Included in restricted cash and cash equivalents is US\$5.2 million and US\$5.3 million related to an insurance policy at 31 March 2012 and 2011, respectively, which restricts the cash from use for general corporate purposes.

Also included in restricted cash and cash equivalents at 31 March 2012 is US\$138.7 million related to the Company's early contribution to AICF as a result of the favourable outcome of RCI Pty Ltd's ("RCI") appeal of the Australian Taxation Office ("ATO") 1999 disputed amended tax assessment. This amount was contributed to AICF on 2 April 2012.

#### 5. Accounts and Other Receivables

Accounts and other receivables consist of the following components:

(Millions of US dollars)	31 March	
	2012	2011
Trade receivables	\$ 123.3	\$ 118.3
Other receivables and advances	16.7	22.5
Allowance for doubtful accounts	(2.3)	(2.7)
Total accounts and other receivables	<u>\$ 137.7</u>	<u>\$ 138.1</u>

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	
	2012	2012
Balance at beginning of period	\$ 2.7	\$ 2.3
Charged to expense	-	0.4
Recoveries	(0.4)	-
Balance at end of period	<u>\$ 2.3</u>	<u>\$ 2.7</u>

## James Hardie Industries SE Notes to Consolidated Financial Statements (Continued)

### 6. Inventories

Inventories consist of the following components:

(Millions of US dollars)	31 March	
	2012	2011
Finished goods	\$ 117.9	\$ 104.5
Work-in-process	9.0	5.9
Raw materials and supplies	67.4	57.3
Provision for obsolete finished goods and raw materials	(5.3)	(6.2)
Total inventories	<u>\$ 189.0</u>	<u>\$ 161.5</u>

### 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 <sup>1</sup>	Total
<b>Balance at 31 March 2010:</b>					
Cost	\$ 18.1	\$ 205.2	\$ 897.9	\$ 47.7	\$ 1,168.9
Accumulated depreciation	-	(57.0)	(401.3)	-	(458.3)
Net book value	<u>18.1</u>	<u>148.2</u>	<u>496.6</u>	<u>47.7</u>	<u>710.6</u>
<b>Changes in net book value:</b>					
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)
<b>Balance at 31 March 2011:</b>					
Cost	18.3	209.6	966.5	34.5	1,228.9
Accumulated depreciation	-	(66.5)	(454.7)	-	(521.2)
Net book value	<u>\$ 18.3</u>	<u>\$ 143.1</u>	<u>\$ 511.8</u>	<u>\$ 34.5</u>	<u>\$ 707.7</u>
<b>Changes in net book value:</b>					
Capital expenditures	-	-	28.6	7.2	35.8
Retirements and sales	-	-	(0.3)	-	(0.3)
Depreciation	-	(8.8)	(56.4)	-	(65.2)
Impairment of long-lived assets	-	-	(14.3)	-	(14.3)
Foreign currency translation adjustments	-	-	1.8	-	1.8
Total changes	-	(8.8)	(40.6)	7.2	(42.2)
<b>Balance at 31 March 2012:</b>					
Cost	18.3	209.6	982.3	41.7	1,251.9
Accumulated depreciation	-	(75.3)	(511.1)	-	(586.4)
Net book value	<u>\$ 18.3</u>	<u>\$ 134.3</u>	<u>\$ 471.2</u>	<u>\$ 41.7</u>	<u>\$ 665.5</u>

<sup>1</sup> Construction in progress consists of plant expansions and upgrades.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

Depreciation expense for the year ended 31 March 2012 was US\$65.2 million. Included in property, plant and equipment are restricted assets of AICF with a net book value of US\$2.3 million and US\$2.4 million as of 31 March 2012 and 2011, respectively.

#### Impairment of Long-Lived Assets

The Company recorded an asset impairment charge of US\$14.3 million during the year ended 31 March 2012 related to machinery and equipment no longer in service that was utilised to produce materials for certain of the Company's products. The asset impairment charge was recorded in the USA and Europe Fibre Cement segment. The impaired assets were reduced to a net book value of nil, which was the estimated fair value based on a discounted cash flow analysis that considered, to the extent practicable, a market participant's expectations and assumptions and the impaired assets' highest and best use.

#### 8. Accounts Payable and Accrued Liabilities

Accounts payable and accrued liabilities consist of the following components:

(Millions of US dollars)	31 March	
	2012	2011
Trade creditors	\$ 67.3	\$ 57.7
Other creditors and accruals	25.3	48.7
Total accounts payable and accrued liabilities	<u>\$ 92.6</u>	<u>\$ 106.4</u>

#### 9. Long-Term Debt

At 31 March 2012, 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	-	50.0	-
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	-
<b>Total</b>		<u>\$ 280.0</u>	<u>\$ -</u>

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

At 31 March 2012, no amounts were drawn under the combined facilities. The weighted average interest rate on the Company's total outstanding debt was nil and 1.02% at 31 March 2012 and 2011, respectively, and the weighted average term of all debt facilities is 0.9 years at 31 March 2012. The weighted average fixed interest rate on the Company's interest rate swap contracts is set forth in Note 12.

On 28 March 2012, US\$40.0 million of the Company's unutilised credit facilities with a maturity of February 2013 were cancelled. The Company did not replace these credit facilities. Accordingly, at 31 March 2012, US\$280.0 million was unutilised and available to the Company.

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 2012, 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 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 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 consolidated with the James Hardie Group, (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 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 ("Annual Cash Flow Cap") is contributed to AICF on the payment dates under the AFFA in the next following financial year. The Annual Cash Flow Cap does not apply to payments of interest, if any, to AICF and is consistent with contractual obligations 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

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

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\$0.8 million and US\$0.9 million as of 31 March 2012 and 2011, respectively.

The following are the changes in the product warranty provision:

(Millions of US dollars)	Years Ended 31 March		
	2012	2011	2010
Balance at beginning of period	\$ 26.2	\$ 24.9	24.9
Accruals for product warranties	13.1	9.1	8.1
Settlements made in cash or in kind	(12.3)	(7.8)	(8.4)
Foreign currency translation adjustments	-	-	0.3
Balance at end of period	\$ 27.0	\$ 26.2	\$ 24.9

#### 11. Asbestos

The AFFA was approved by shareholders in February 2007 to provide long-term funding to 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		
	2012	2011	2010
Change in estimates:			
Change in actuarial estimate - asbestos liability	\$ (67.8)	\$ 9.8	\$ (3.8)
Change in actuarial estimate - insurance receivable	49.8	(0.5)	1.9
Change in estimate - AICF claims-handling costs	8.4	12.2	(1.4)
Subtotal - Change in estimates	(9.6)	21.5	(3.3)
Loss on foreign currency exchange	(6.2)	(107.3)	(220.9)
<b>Total Asbestos Adjustments</b>	<b>\$ (15.8)</b>	<b>\$ (85.8)</b>	<b>\$ (224.2)</b>

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### Asbestos-Related Assets and Liabilities

The Company has included on its consolidated balance sheets certain asbestos-related assets and liabilities under the terms of the AFFA. 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	
	2012	2011
Asbestos liability – current	\$ (125.3)	\$ (111.1)
Asbestos liability – non-current	(1,537.3)	(1,587.0)
Asbestos liability – Total	(1,662.6)	(1,698.1)
Insurance receivable – current	19.9	13.7
Insurance receivable – non-current	208.6	188.6
Insurance receivable – Total	228.5	202.3
Workers' compensation asset – current	0.5	0.3
Workers' compensation asset – non-current	83.4	90.4
Workers' compensation liability – current	(0.5)	(0.3)
Workers' compensation liability – non-current	(83.4)	(90.4)
Workers' compensation – Total	-	-
Loan facility	(30.9)	-
Other net liabilities	(2.3)	(1.3)
Restricted cash and cash equivalents and restricted short-term investment assets of the AICF	65.0	61.9
<b>Net AFFA liability</b>	<b>\$ (1,402.3)</b>	<b>\$ (1,435.2)</b>
Deferred income taxes – current	23.0	10.5
Deferred income taxes – non-current	421.5	451.4
Deferred income taxes – Total	444.5	461.9
Income tax payable	18.5	18.6
<b>Net Unfunded AFFA liability, net of tax</b>	<b>\$ (939.3)</b>	<b>\$ (954.7)</b>

On 1 July 2011, the Company contributed US\$51.5 million to AICF in accordance with the terms of the AFFA.

On 2 April 2012, the Company contributed US\$138.7 million to AICF, representing 35% of the total cash received from the ATO, resulting from the favourable outcome of RCI's appeal of the 1999 disputed amended tax assessment. Readers are referred to Note 14 for additional information on RCI's appeal of the ATO's amended tax assessment.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### 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 AICF. The Company receives an updated actuarial estimate as of 31 March each year. The most recent actuarial assessment was performed as of 31 March 2012.

The changes in the asbestos liability for the year ended 31 March 2012 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Asbestos liability – 31 March 2011	A\$(1,643.1)	0.9676	\$ (1,698.1)
Asbestos claims paid <sup>1</sup>	99.1	0.9573	103.5
AICF claims-handling costs incurred <sup>1</sup>	2.7	0.9573	2.8
Change in actuarial estimate <sup>2</sup>	(65.2)	0.9614	(67.8)
Change in estimate of AICF claims-handling costs <sup>2</sup>	8.1	0.9614	8.4
Loss on foreign currency exchange			(11.4)
<b>Asbestos liability – 31 March 2012</b>	<b>A\$(1,598.4)</b>	0.9614	<b>\$ (1,662.6)</b>

#### Insurance Receivable – Asbestos

The changes in the insurance receivable for the year ended 31 March 2012 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Insurance receivable – 31 March 2011	A\$195.7	0.9676	\$ 202.3
Insurance recoveries <sup>1</sup>	(23.9)	0.9573	(25.0)
Change in actuarial estimate <sup>2</sup>	47.9	0.9614	49.8
Gain on foreign currency exchange			1.4
<b>Insurance receivable – 31 March 2012</b>	<b>A\$219.7</b>	0.9614	<b>\$ 228.5</b>

Included in insurance receivable is US\$8.4 million recorded on a discounted basis because the timing of the recoveries has been agreed with the insurer.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### Deferred Income Taxes – Asbestos

The changes in the deferred income taxes – asbestos for the year ended 31 March 2012 are detailed in the table below:

(Millions of US dollars)	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Deferred tax assets – 31 March 2011	A\$ 446.9	0.9676	\$ 461.9
Amounts offset against income tax payable <sup>1</sup>	(22.1)	0.9573	(23.1)
AICF earnings <sup>1</sup>	2.5	0.9573	2.6
Gain on foreign currency exchange			3.1
<b>Deferred tax assets – 31 March 2012</b>	<b>A\$ 427.3</b>	0.9614	<b>\$ 444.5</b>

<sup>1</sup> 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.

<sup>2</sup> The spot exchange rate at 31 March 2012 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 2012 and 2011, this amount was US\$23.1 million and US\$21.1 million, respectively. During the year ended 31 March 2012, there was a US\$0.6 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\$2.3 million and US\$2.5 million at 31 March 2012 and 2011, respectively.

Also included in other net liabilities are the other assets and liabilities of AICF including trade receivables, prepayments, fixed assets, trade payables and accruals. These other assets and liabilities of AICF were a net asset of nil and US\$1.3 million at 31 March 2012 and 2011, respectively. During the year ended 31 March 2012, there was nil effect of foreign currency exchange on these other assets and liabilities.

#### Restricted Cash and Short-term Investments of AICF

Cash and cash equivalents and short-term investments of 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 AICF.

At 31 March 2012, the Company revalued AICF's short-term investments available-for-sale resulting in a positive mark-to-market fair value adjustment of US\$0.1 million. This appreciation in the fair value of investments are recorded in Other Comprehensive Income.



**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

The changes in the restricted cash and short-term investments of AICF for the year ended 31 March 2012 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 2011	A\$ 59.9	0.9676	\$ 61.9
Asbestos claims paid <sup>1</sup>	(99.1)	0.9573	(103.5)
Payments received in accordance with AFFA <sup>2</sup>	48.9	0.9487	51.5
AICF operating costs paid – claims-handling <sup>1</sup>	(2.7)	0.9573	(2.8)
AICF operating costs paid – non claims-handling <sup>1</sup>	(2.7)	0.9573	(2.8)
Insurance recoveries <sup>1</sup>	23.9	0.9573	25.0
Interest and investment income <sup>1</sup>	3.2	0.9573	3.3
Unrealised gain on investments <sup>1</sup>	0.1	0.9573	0.1
Proceeds from loan facility <sup>2</sup>	29.7	0.9281	32.0
Other <sup>1</sup>	1.3	0.9573	1.4
Loss on foreign currency exchange			(1.1)
<b>Restricted cash and cash equivalents and restricted short-term investments – 31 March 2012</b>	<b>A\$ 62.5</b>	0.9614	<b>\$ 65.0</b>

<sup>1</sup>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.

<sup>2</sup>The spot exchange rate on the date the transaction occurred is used to convert the Australian dollar amount to US dollars.

*Actuarial Study; Claims Estimate*

AICF commissioned an updated actuarial study of potential asbestos-related liabilities as of 31 March 2012. 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\$1.6 billion (US\$1.7 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\$2.5 billion (US\$2.6 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 2012 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

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 2012, KPMG Actuarial's undiscounted (but inflated) central estimate of asbestos-related liabilities was A\$2.5 billion (US\$2.6 billion). This undiscounted (but inflated) central estimate is net of expected insurance recoveries of A\$386.0 million (US\$401.5 million) after making a general credit risk allowance for insurance carriers for A\$44.8 million (US\$46.6 million) and an allowance for A\$53.9 million (US\$56.1 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\$1.1 billion (US\$1.1 billion) to A\$2.4 billion (US\$2.5 billion). The undiscounted (but inflated) estimates could be in a range of A\$1.6 billion (US\$1.7 billion) to A\$4.3 billion (US\$4.5 billion) as of 31 March 2012. 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**

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.

**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

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:

	For the Years Ended 31 March				
	2012	2011	2010	2009	2008
Number of open claims at beginning of period	564	529	534	523	490
Number of new claims	456	494	535	607	552
Number of closed claims	428	459	540	596	519
Number of open claims at end of period	592	564	529	534	523
Average settlement amount per settled claim	A\$ 218,610	A\$ 204,366	A\$ 190,627	A\$ 190,638	A\$ 147,349
Average settlement amount per case closed	A\$ 198,179	A\$ 173,199	A\$ 171,917	A\$ 168,248	A\$ 126,340
Average settlement amount per settled claim	US\$ 228,361	US\$ 193,090	US\$ 162,250	US\$ 151,300	US\$ 128,096
Average settlement amount per case closed	US\$ 207,019	US\$ 163,642	US\$ 146,325	US\$ 133,530	US\$ 109,832

Under the terms of the AFFA, the Company has rights of access to actuarial information produced for AICF by the actuary appointed by AICF (the "Approved Actuary"). The Company's disclosures with respect to claims statistics are subject to it obtaining such information from the Approved Actuary. The AFFA does not provide the Company an express right to audit or otherwise require independent verification of such information or the methodologies to be adopted by the Approved Actuary. As such, the Company relies on the accuracy and completeness of the information and analysis of the Approved Actuary when making disclosures with respect to claims statistics.

**AICF – NSW Government Secured Loan Facility**

On 9 December 2010, 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 AICF may borrow, subject to certain conditions, up to an aggregate amount of A\$320.0 million (US\$332.9 million, based on the exchange rate at 31 March 2012).

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 2012, the discounted value of insurance policies was A\$209.9 million (US\$218.3 million, based on the exchange rate at 31 March 2012).

In accordance with the terms of the Facility, drawings under the Facility may only be used by 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. 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 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").

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 AICF and 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 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 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.

On 17 February 2012, AICF made an initial drawing of A\$29.7 million (being US\$32.0 million translated at the prevailing spot exchange rate on 17 February 2012) under the Facility. On 3 April 2012, all amounts outstanding under the Facility were fully repaid.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

---

Because the Company consolidates AICF due to the Company's pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA, any drawings, repayments or payments of accrued interest by AICF under the Facility impact the Company's consolidated financial position, results of operations and cash flows.

Any drawings, repayments, or payments of accrued interest under the Facility by AICF do not impact the Company's free cash flow, as defined in the AFFA, on which annual contributions remitted by the Company to 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 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 held and managed by AICF and are recorded in the financial statements at fair value. The fair value of restricted short-term investments is based on inputs that are observable in the market or can be derived principally from or corroborated by observable market data such as pricing for similar securities, recently executed transactions, cash flow models with yield curves and benchmark securities. Accordingly, restricted short-term investments are categorised as Level 2. Changes in fair value are recorded as other comprehensive income and included as a component in shareholders' equity.

*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.

**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

*Interest Rate Swaps* – The Company may from time to time enter into interest rate swap contracts to protect against upward movements in US\$ LIBOR and the associated interest the Company pays on its external credit facilities. 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 (Expense). At 31 March 2012, the Company had interest rate swap contracts with a total notional principal of US\$100.0 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 2012 the weighted average fixed interest rate of these contracts is 2.5% and the weighted average remaining life is 1.4 years. These contracts have a fair value of US\$3.1 million, which is included in Accounts Payable. For the year ended 31 March 2012 and 2011, the Company included in Other Income (Expense) an unrealised gain of US\$3.0 million and an unrealised loss of US\$3.8 million, respectively, on interest rate swap contracts. Included in interest expense is a realised loss on settlements of interest rate swap contracts of US\$7.5 million and US\$3.9 million for the year ended 31 March 2012 and 2011, respectively.

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 2012 according to the valuation techniques the Company used to determine their fair values.

(Millions of US dollars)	Fair Value at 31 March 2012	Fair Value Measurements Using Inputs Considered as		
		Level 1	Level 2	Level 3
<b>Assets</b>				
Cash and cash equivalents	\$ 265.4	\$ 265.4	\$ -	\$ -
Restricted cash and cash equivalents	202.9	202.9	-	-
Restricted short-term investments	6.0	-	6.0	-
<b>Total Assets</b>	<b>\$ 474.3</b>	<b>\$ 468.3</b>	<b>\$ 6.0</b>	<b>\$ -</b>
<b>Liabilities</b>				
Interest rate swap contracts included in Accounts Payable	3.1	-	3.1	-
<b>Total Liabilities</b>	<b>\$ 3.1</b>	<b>\$ -</b>	<b>\$ 3.1</b>	<b>\$ -</b>

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

---

#### 13. Commitments and Contingencies

The Company is involved from time to time in various legal proceedings and administrative actions related to the normal conduct of its business, including putative class action lawsuits and 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 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, 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.

On 23 April 2009, the Supreme Court issued judgment against the Company and the ten former officers and directors of the Company.

All defendants other than two lodged appeals against the Supreme Court'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 were 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 the Supreme Court'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, but 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 that the Company may be required to pay to ASIC following the Court of Appeal judgments is contingent on a number of factors. These include, without limitation, whether such

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

costs (including the costs orders in ASIC's favour against the Company 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 the Company, the number of legal practitioners involved in such legal work and their applicable fee rates. In addition, the amount of costs is contingent on the associated legal work undertaken specifically in respect of those issues, since the Company is not liable for legal costs of a previous claim and related order that was withdrawn by ASIC in September 2008, the overlapping claims against other parties in the first instance or appeal proceedings or the successful interlocutory appeal by the Company against ASIC during the course of the first instance hearing.

ASIC has not notified the Company of the amount of costs that it has incurred in connection with the ASIC proceedings and any costs that may be asserted by ASIC in the future will be subject to third party review and may not represent the amount of costs the Company will ultimately be liable to pay. Accordingly, in light of the inherent uncertainty surrounding the amount of such costs, together with the unusual circumstances surrounding the ASIC proceedings, the Company is unable to estimate the additional loss or range of loss relating to the quantum of costs incurred by ASIC at this time. Therefore, the Company has not recorded any provision for these costs at 31 March 2012.

ASIC subsequently filed applications for special leave to the High Court appealing from the Court of Appeal judgment in favour of the former directors' and former officers' appeals. Two former officers 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 application for special leave on 13 May 2011. The High Court granted the special leave applications for one of the former officers, and the other former officer withdrew his application. Appeals brought by ASIC and the Company's former directors and former officer were heard by the High Court over three days commencing 25 October 2011.

On 3 May 2012, the High Court upheld ASIC's appeal and overturned the Court of Appeal's decision in favour of the former non-executive directors and dismissed the former officer's appeal against the Court of Appeal's decision. The High Court did not render judgment on claims to be excused from liability, penalty and disqualification and on certain questions concerning costs. The High Court remitted these matters back to the Court of Appeal for further consideration. The Court of Appeal has not delivered judgment on these matters.

Due to the High Court's decision to remit certain matters back to the Court of Appeal, further or different orders may be made with respect to the seven former non-executive directors and the former executive on issues such as liability, any banning orders, civil penalties payable, and as to the costs of the appeals and the first instance proceedings that the Company may become liable for under indemnities.

As with the first instance, Court of Appeal and High Court proceedings, the Company may pay a proportion of the costs of the continued proceedings involving the seven former non-executive directors and the former executive, with the remaining costs being met by third parties. We note that other recoveries may be available, including as a result of repayments by former directors and officers in accordance with the terms of their indemnities. As a result, it is not presently possible for the Company to estimate the amount of loss or range of loss, including costs that it might become liable to pay as a consequence of the continued proceedings involving the seven former non-executive directors and the former executive.



## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

Losses and expenses arising from the ASIC proceedings could have a material adverse effect on the Company's financial position, liquidity, results of operations and cash flows. It is the Company's 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.

The Company is involved from time to time as a defendant in certain legal proceedings and administrative actions related to general liability claims. The Company recognises a liability for unasserted and asserted claims in the period in which the loss becomes probable and estimable. The amount of loss is dependent on a number of factors including, without limitation, the specific facts and circumstances unique to each claim brought against the Company, the existence of any co-defendants involved in defending the claim, the solvency of such co-defendants (including the ability of such co-defendants to remain solvent until the related claim is ultimately resolved), the amount of loss estimated to be allocable to the Company in instances that involve co-defendants in defending the claim and whether the Company has access to third-party recoveries to cover a portion of the costs incurred in defending and settling such actions. Accordingly, the Company is unable to reasonably estimate a loss or range of loss in relation to some asserted claims brought against the Company at this time. Potential losses arising from both unasserted claims and asserted claims could in the future have a material adverse effect on the Company's financial position, results of operations and cash flows.

Historically, the Company has had and continues to have access to third-party recoveries to cover a portion of the costs incurred in defending and settling such actions, subject to contractual limitations on amounts available for recovery from third parties. The Company records an asset related to estimated third-party recoveries that are available for reasonably estimable asserted claims. Although the Company has historically had access to recoveries from third-parties, the Company could in the future lose access to some or all third-party recoveries due to expiration of contractual rights or insolvency of such third-parties. In such circumstance, losses that arise in relation to claims that would otherwise have been defrayed by third-party recoveries could in the future have a material adverse effect on the Company's financial position, results of operations and cash flows.

The Company also receives general liability claims for which third party recoveries are not available. In these instances, the Company recognises a loss for claims that are reasonably estimable.

For all claims, the Company adjusts its estimates based on new information as it becomes available and increases or decreases the related loss reserves and asset recoveries with a corresponding adjustment to selling, general and administrative expenses until each claim is ultimately settled.

The Company has made a provision for asserted and unasserted general liability claims that are reasonably estimable within Other Current and Other Non-current Liabilities, with a corresponding receivable for third-party recoveries being recognised within Accounts and Other Receivables at 31 March 2012.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### 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 2012:

Years ending 31 March (Millions of US dollars):		
2013	\$	18.4
2014		17.0
2015		15.8
2016		14.8
2017		6.2
Thereafter		18.1
<b>Total</b>	<b>\$</b>	<b>90.3</b>

Rental expense amounted to US\$16.0 million, US\$15.3 million and US\$13.2 million for the years ended 31 March 2012, 2011 and 2010, 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\$0.7 million at 31 March 2012.

#### 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 had 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.

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

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 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 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 ended 31 March 2011. In addition, the Company recognised an uncertain tax position of US\$198.1 million (A\$184.3 million) on its consolidated balance sheet relating to the unpaid portion of the amended assessment. With effect from 1 September 2010, the Company expensed payments of GIC to the ATO as incurred.

RCI appealed the Federal Court's judgment to the Full Court of the Federal Court of Australia. RCI's appeal was heard in May 2011. On 22 August 2011, the Full Federal Court upheld RCI's appeal, ordered that RCI's objection be allowed in full and awarded RCI costs.

Following the decision of the Full Federal Court to uphold RCI's appeal, the Company undertook a review of RCI's tax position. Due to the continued uncertainty in relation to the ultimate outcome of the matter, the Company continued to reflect a liability on its consolidated balance sheet relating to the unpaid portion of the amended assessment, as discussed above.

Subsequently, on 19 September 2011, the ATO filed an application for special leave to appeal the Full Federal Court's decision to the High Court of Australia. On 10 February 2012, the High Court refused to grant special leave and dismissed the ATO's application. Accordingly, the matter was finalised in RCI's favor.

With all avenues of appeal exhausted and the matter effectively concluded, on 27 February 2012 the ATO issued a notice of amended assessment and paid a refund to RCI of A\$248.0 million (US\$265.8 million). This amount comprises cash that RCI remitted to the ATO during the appeal proceedings of A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), representing 50% of the previous amended assessment, and general interest charges paid by RCI on the unpaid portion of the previous amended assessment of A\$63.7 million (US\$68.3 million).

On 7 March 2012, the ATO paid an additional refund to RCI of A\$121.8 million (US\$130.5 million), being the ATO's calculation of interest income on amounts taken to have been overpaid in respect of the notice of amended assessment issued by the ATO on 27 February 2012. This additional receipt of funds brings the total refunded by the ATO in respect of the RCI notice of amended assessment to A\$369.8 million (US\$396.3 million).

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

During the fourth quarter ended 31 March 2012, the company recognised an income tax benefit of A\$452.9 million (US\$485.2 million) within income tax expense, which primarily includes amounts refunded by the ATO noted above and the reversal of the provision for the unpaid portion of the amended assessment, being A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), partially offset by income taxes payable in respect of the reversal of general interest charges previously recognised as deductible and interest on overpayment of tax, totaling A\$101.2 million (US\$108.6 million). The Company has determined that it is not required to recognise deferred taxes in association with undistributed profits of RCI.

RCI was awarded costs in connection with all court proceedings. The Company will record income in relation to such costs during the period in which such amounts are received from the ATO.

#### 15. Income Taxes

Income tax benefit (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		
	2012	2011	2010
Income (loss) from operations before income taxes:			
Domestic <sup>1</sup>	\$ 97.1	\$ 66.5	\$ 12.8
Foreign	54.0	30.1	(31.5)
Total income (loss) before income taxes	<u>\$ 151.1</u>	<u>\$ 96.6</u>	<u>\$ (18.7)</u>
Income tax benefit (expense):			
Current:			
Domestic <sup>1</sup>	\$ (2.5)	\$ (15.6)	\$ 0.6
Foreign	454.3	(447.4)	(137.7)
Current income tax benefit (expense)	<u>451.8</u>	<u>(463.0)</u>	<u>(137.1)</u>
Deferred:			
Domestic <sup>1</sup>	(4.2)	(22.2)	(0.9)
Foreign	5.6	41.6	71.8
Deferred income tax benefit	<u>1.4</u>	<u>19.4</u>	<u>70.9</u>
Total income tax benefit (expense)	<u>\$ 453.2</u>	<u>\$ (443.6)</u>	<u>\$ (66.2)</u>

<sup>1</sup> 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 year 2010, domestic represents The Netherlands.

Income tax benefit (expense) 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.

[Table of Contents](#)

**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

Income tax benefit (expense) is reconciled to the tax at the statutory rates as follows:

(Millions of US dollars)	Years Ended 31 March		
	2012	2011	2010
Income tax (expense) benefit at statutory tax rates	\$ (28.4)	\$ (18.3)	\$ 8.3
US state income taxes, net of the federal benefit	(0.8)	(1.7)	(3.7)
Asbestos – effect of foreign exchange	(1.9)	(31.7)	(66.4)
Benefit from Dutch financial risk reserve regime	-	-	3.2
Expenses not deductible	(0.7)	(4.0)	(3.7)
Non-assessable items	0.4	-	2.0
Income (losses) not available for carryforward	1.1	0.7	(0.6)
Repatriation of foreign earnings	(0.1)	(32.6)	-
Change in reserves	1.0	(0.2)	(2.2)
Amortisation of intangibles	1.7	(5.9)	-
Taxes on foreign income	2.6	(2.0)	(1.6)
State amended returns and audit	(0.5)	-	(2.2)
Tax assessment in dispute	478.4	(349.1)	-
Other permanent items	0.4	1.2	0.7
<b>Total income tax benefit (expense)</b>	<b>\$ 453.2</b>	<b>\$ (443.6)</b>	<b>\$ (66.2)</b>
Effective tax rate	<b>299.9%</b>	<b>-459.2%</b>	<b>354.0%</b>

Deferred tax balances consist of the following components:

(Millions of US dollars)	31 March	
	2012	2011
<b>Deferred tax assets:</b>		
Asbestos liability	\$ 444.5	\$ 461.9
Other provisions and accruals	49.0	35.7
Net operating loss carryforwards	11.0	32.5
Capital loss carryforwards	34.5	34.3
<b>Total deferred tax assets</b>	<b>539.0</b>	<b>564.4</b>
<b>Valuation allowance</b>	<b>(42.1)</b>	<b>(43.1)</b>
<b>Total deferred tax assets, net of valuation allowance</b>	<b>496.9</b>	<b>521.3</b>
<b>Deferred tax liabilities:</b>		
Depreciable and amortisable assets	(117.3)	(114.9)
Unremitted earnings	-	(32.6)
Other	(8.6)	(4.2)
<b>Total deferred tax liabilities</b>	<b>(125.9)</b>	<b>(151.7)</b>
<b>Net deferred tax assets</b>	<b>\$ 371.0</b>	<b>\$ 369.6</b>

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

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

allowance pertaining to all of its Australian and European capital loss carry-forwards. The valuation allowance decreased by US\$1.0 million during fiscal year 2012 due to foreign currency movements.

At 31 March 2012, the Company had a US tax loss carry-forward of US\$7.4 million that will expire in 2031 and a US tax loss of US\$5.8 million in respect of which a benefit will be recorded in additional paid in capital when the loss is realised.

At 31 March 2012, the Company had US\$115.1 million in Australian capital loss carry-forwards which will never expire. At 31 March 2012, the Company had a 100% valuation allowance against the Australian capital loss carry-forwards.

At 31 March 2012, the Company had European tax loss carry-forwards of approximately US\$28.9 million that are available to offset future taxable income, of which US\$23.3 million will never expire. Carry-forwards of US\$5.6 million will expire in fiscal years 2015 through 2018. At 31 March 2012, 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 2012. 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 2012, the undistributed earnings of non-Irish subsidiaries approximated US\$236.9 million. Except for the undistributed earnings of the Company's US subsidiaries and of RCI, the Company intends to indefinitely reinvest its undistributed earnings of 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.

Due to the size and nature of its business, the Company is subject to ongoing reviews by taxing jurisdictions on various tax matters. 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 2012, 2011 and 2010, the Company recorded an income tax expense of US\$0.5 million, nil and US\$2.2 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.

## **James Hardie Industries SE**

### **Notes to Consolidated Financial Statements (Continued)**

---

The Company or its subsidiaries files income tax returns in various jurisdictions including Ireland, the United States, Australia, New Zealand, the Philippines and The Netherlands. The Company is no longer subject to US federal examinations by US Internal Revenue Service ("IRS") for tax years prior to tax year 2009. The Company is no longer subject to examinations by The Netherlands tax authority, for tax years prior to tax year 2006. The Company is no longer subject to Australian federal examinations by the Australian Taxation Office ("ATO") for tax years prior to tax year 2008.

Taxing authorities from various jurisdictions in which the Company operates are in the process of auditing the Company's respective jurisdictional income tax returns for various ranges of years. The Company accrues income tax liabilities in connection with ongoing audits and reviews based on knowledge of all relevant facts and circumstances, taking into account existing tax laws, its experience with previous audits and settlements, the status of current tax examinations and how the tax authorities view certain issues.

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 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 2009 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 2009 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 2012.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### 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
<b>Balance at 31 March 2009</b>	<b>\$ 12.3</b>	<b>\$ (16.0)</b>
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)
<b>Balance at 31 March 2010</b>	<b>\$ 7.7</b>	<b>\$ (26.9)</b>
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
<b>Balance at 31 March 2011</b>	<b>\$ 185.5</b>	<b>\$ 196.3</b>
Additions for tax positions of the current year	0.2	-
Additions for tax positions of prior year	-	6.1
Settlements paid during the current period	(184.4)	(208.9)
Other reductions for the tax positions of prior periods	(5.2)	-
Foreign currency translation adjustment	6.5	7.4
<b>Balance at 31 March 2012</b>	<b>\$ 2.6</b>	<b>\$ 0.9</b>

As of 31 March 2012, the total amount of unrecognised tax benefits and the total amount of interest and penalties accrued or prepaid by the Company related to unrecognised tax benefits that, if recognised, would affect the effective tax rate is US\$2.6 million and US\$0.9 million, respectively.

The Company recognises penalties and interest accrued related to unrecognised tax benefits in income tax expense. During the year ended 31 March 2012 and 2011, the total amount of interest and penalties recognised in income tax expense was US\$6.1 million and US\$195.6 million, respectively.

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 or ultimately resolved. 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.



## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

---

#### 16. Stock-Compensation Based

The Company recognised stock-based compensation expense (included in selling, general and administrative expense) of US\$11.1 million, US\$11.3 million and US\$9.3 million for the years ended 31 March 2012, 2011 and 2010, respectively. Compensation expense arising from equity-based award grants, as estimated using pricing models, was US\$7.8 million, US\$9.1 million and US\$7.7 million for the years ended 31 March 2012, 2011 and 2010, respectively. Included in stock-based compensation expense for the years ended 31 March 2012, 2011 and 2010 is an expense of US\$3.3 million, US\$2.2 million and US\$1.6 million, respectively, related to liability-classified awards. As of 31 March 2012, the unrecorded future stock-based compensation expense related to outstanding equity awards was US\$8.8 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 285,358 and 348,426 restricted stock units to its employees in the years ended 31 March 2012 and 2011, 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 2012, there were 617,316 restricted stock units outstanding under this plan.

##### *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.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

As of 31 March 2012, the Company had granted 6,116,375 restricted stock units under the LTIP. 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.

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.

At 31 March 2012, there were 1,760,600 options and 3,060,195 restricted stock units outstanding under the LTIP.

#### Stock Options

There were no stock options granted during the years ended 31 March 2012, 2011 and 2010. 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\$)
<b>Balance at 31 March 2010</b>	<b>25,288,048</b>	<b>14,444,438</b>	<b>7.44</b>
Exercised		(530,984)	5.19
Forfeited		(2,558,159)	8.10
Forfeitures available for re-grant	1,468,159		
<b>Balance at 31 March 2011</b>	<b>26,756,207</b>	<b>11,355,295</b>	<b>7.40</b>
Exercised		(1,682,841)	6.25
Forfeited		(587,314)	7.76
Forfeitures available for re-grant	587,314		
<b>Balance at 31 March 2012</b>	<b>27,343,521</b>	<b>9,085,140</b>	<b>7.59</b>

The total intrinsic value of stock options exercised was A\$2.0 million, A\$0.6 million and A\$4.7 million for the years ended 31 March 2012, 2011 and 2010, 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 nil, US\$0.4 million and US\$0.9 million for the years ended 31 March 2012, 2011 and 2010, respectively.

**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

The following table summarises outstanding and exercisable options under both the 2001 Equity Incentive Plan and the LTIP as of 31 March 2012:

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\$)
5.99	903,250	2.7	5.99	1,526,493	903,250	5.99	1,526,493
6.30	93,000	2.9	6.30	128,340	93,000	6.30	128,340
6.38	1,482,235	5.7	6.38	1,926,906	1,482,235	6.38	1,926,906
6.45	191,000	0.7	6.45	234,930	191,000	6.45	234,930
7.05	1,479,250	1.7	7.05	931,928	1,479,250	7.05	931,928
7.83	1,016,000	5.4	7.83	-	908,358	7.83	-
8.40	2,027,305	4.6	8.40	-	2,027,305	8.40	-
8.90	1,878,100	3.7	8.90	-	1,878,100	8.90	-
9.50	15,000	3.9	9.50	-	15,000	9.50	-
<b>Total</b>	<b>9,085,140</b>	<b>3.9</b>	<b>7.59</b>	<b>4,748,597</b>	<b>8,977,498</b>	<b>7.59</b>	<b>4,748,597</b>

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\$7.68 as of 31 March 2012, 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 (US\$)
<b>Non-vested at 31 March 2010</b>	<b>4,736,721</b>	<b>4.57</b>
Granted	2,107,077	6.11
Vested	(970,793)	3.90
Forfeited	(760,910)	4.60
<b>Non-vested at 31 March 2011</b>	<b>5,112,095</b>	<b>4.52</b>
Granted	1,303,209	4.92
Vested	(2,527,601)	3.13
Forfeited	(210,192)	5.35
<b>Non-vested at 31 March 2012</b>	<b>3,677,511</b>	<b>5.57</b>

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### *Restricted Stock – service vesting*

The Company granted restricted stock units with a service vesting condition to employees as follows:

<b>Grant Date</b>	<b>Equity Award Plan</b>	<b>Restricted Stock Units Granted</b>
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
7 December 2011	2001 Equity Incentive Plan	281,556
5 March 2012	2001 Equity Incentive Plan	3,802
		<b><u>3,870,983</u></b>

On 30 May 2011, 925,024 restricted stock units (service vesting) that were previously granted on 29 May 2009 became fully vested and the underlying common stock was issued.

On 7 December 2011, 81,619 and 55,404 restricted stock units (service vesting) that were previously granted on 7 December 2010 and 2009, respectively, became fully vested and the underlying common stock was issued.

On 17 December 2011, 316,283 restricted stock units (service vesting) that were previously granted on 17 December 2008 became fully vested and the underlying common stock was issued.

In addition, 281,556 restricted stock units (service vesting) were granted to employees on 7 December 2011 under the 2001 Equity Incentive Plan. 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 estimated dividends as the restricted stock holder is not entitled to dividends over the vesting period.

#### *Restricted Stock – performance vesting*

On 7 June 2011 and 2010, the Company granted 63,146 and 807,457 restricted stock units, respectively, with a performance vesting condition under the 2006 Long-Term Incentive Plan (LTIP) to senior executives and managers of the Company. 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 each of the award recipients. 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 performance period.

When the scorecard is applied at the vesting date, 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.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

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 vesting date.

#### *Restricted Stock – market condition*

Under the terms of the LTIP, the Company granted 954,705 and 951,194 restricted stock units (market condition) to senior executives on 15 September 2011 and 2010, respectively. The vesting of these restricted stock units is subject to a market condition as outlined in the LTIP.

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 2012 and 2011:

Date of grant	15 Sep 2011	15 Sep 2010
Dividend yield (per annum)	2.0%	0.0%
Expected volatility	51.9%	50.6%
Risk free interest rate	1.0%	1.5%
Expected life in years	3.0	3.0
JHX stock price at grant date (A\$)	5.64	5.94
Number of restricted stock units	954,705	951,194

On 15 September 2011, 760,037 restricted stock units (market condition) that were previously granted on 15 September 2008 became fully vested and the underlying common stock was issued.

On 17 December 2011, 385,288 restricted stock units (market condition) that were previously granted on 17 December 2008 became fully vested and the underlying common stock was issued.

#### *Scorecard LTI – Cash Settled Units*

Under the terms of the LTIP, the Company granted awards equivalent to 716,536 and 821,459 Scorecard LTI units during the years ended 31 March 2012 and 2011, respectively, which 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 expense is recognised ratably over the vesting period and 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 2,488 and 450 cash settled units (service vesting) to employees during the years ended 31 March 2012 and 2011, respectively, under the 2001 Equity Incentive Plan. Compensation expense recognised for awards are based on the fair 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.

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

#### 17. Capital Management and Dividends

On 17 May 2011, the Company announced a share buyback program to acquire up to 5% of its issued capital during the subsequent twelve month period. The Company acquired approximately 3.4 million shares of its common stock during the year ended 31 March 2012.

The acquired shares had an aggregate cost of A\$19.1 million (US\$19.0 million) and the average price paid per share of common stock was A\$5.59 (US\$5.55). The US dollar amount was determined using the weighted average spot exchange rates for the days on which shares were acquired. All acquired shares were officially cancelled prior to 31 March 2012.

The total shares of common stock acquired by the Company under its share buyback program to date represent 0.8% of the Company's issued capital.

On 23 January 2012, the Company paid an interim ordinary dividend to shareholders of US4.0 cents per security. The total amount of the dividend was US\$17.4 million.

On 18 May 2012, the Company announced a final dividend of US38.0 cents per security. The dividend was declared in United States currency and will be paid on 23 July 2012, with a record date of 29 June 2012.

#### 18. 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 senior management. 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.

#### Operating Segments

The following are the Company's operating segments and geographical information:

(Millions of US dollars)	2012	Net Sales to Customers <sup>1</sup>	
		Years Ended 31 March 2011	2010
USA & Europe Fibre Cement	\$ 862.0	\$ 814.0	\$ 828.1
Asia Pacific Fibre Cement	375.5	353.0	296.5
Worldwide total	\$ 1,237.5	\$ 1,167.0	\$ 1,124.6

**James Hardie Industries SE**  
**Notes to Consolidated Financial Statements (Continued)**

(Millions of US dollars)	Income (Loss) Before Income Taxes Years Ended 31 March		
	2012	2011	2010
USA & Europe Fibre Cement <sup>2, 3</sup>	\$ 148.4	\$ 160.3	\$ 208.5
Asia Pacific Fibre Cement <sup>2</sup>	80.3	79.4	58.7
Research and Development <sup>2</sup>	(20.7)	(20.1)	(19.0)
Segments total	208.0	219.6	248.2
General Corporate <sup>4</sup>	(52.5)	(114.9)	(269.2)
Total operating income (loss)	155.5	104.7	(21.0)
Net interest expense <sup>5</sup>	(7.4)	(4.4)	(4.0)
Other income (expense)	3.0	(3.7)	6.3
Worldwide total	\$ 151.1	\$ 96.6	\$ (18.7)

(Millions of US dollars)	Total Identifiable Assets 31 March	
	2012	2011
USA & Europe Fibre Cement	\$ 749.1	\$ 752.0
Asia Pacific Fibre Cement	238.4	235.0
Research and Development	15.6	14.4
Segments total	1,003.1	1,001.4
General Corporate <sup>6, 7</sup>	1,306.9	959.2
Worldwide total	\$ 2,310.0	\$ 1,960.6

(Millions of US dollars)	Net Sales to Customers <sup>1</sup> Years Ended 31 March		
	2012	2011	2010
USA	\$ 833.9	\$ 789.2	\$ 808.9
Australia	282.4	266.4	214.3
New Zealand	54.4	52.9	50.6
Other Countries	66.8	58.5	50.8
Worldwide total	\$ 1,237.5	\$ 1,167.0	\$ 1,124.6

(Millions of US dollars)	Total Identifiable Assets 31 March	
	2012	2011
USA	\$ 748.5	\$ 752.1
Australia	160.5	155.5
New Zealand	43.7	45.8
Other Countries	50.4	48.0
Segments total	1,003.1	1,001.4
General Corporate <sup>6, 7</sup>	1,306.9	959.2
Worldwide total	\$ 2,310.0	\$ 1,960.6

## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

---

<sup>1</sup> Export sales and inter-segmental sales are not significant.

<sup>2</sup> Research and development costs of US\$10.1 million, US\$9.7 million and US\$10.4 million in fiscal years 2012, 2011 and 2010, respectively, were expensed in the USA and Europe Fibre Cement segment. Research and development costs of US\$1.6 million, US\$1.4 million and US\$1.0 million in fiscal years 2012, 2011 and 2010, respectively, were expensed in the Asia Pacific Fibre Cement segment. Research and development costs of US\$18.7 million, US\$16.9 million and US\$15.7 million in fiscal years 2012, 2011 and 2010, respectively, were expensed in the Research and Development segment. The Research and Development segment also included selling, general and administrative expenses of US\$2.0 million, US\$3.2 million and US\$3.3 million in fiscal years 2012, 2011 and 2010, respectively.

Research and development expenditures are expensed as incurred and in total amounted to US\$30.4 million, US\$28.0 million and US\$27.1 million for the years ended 31 March 2012, 2011 and 2010, respectively.

<sup>3</sup> Included in the USA and Europe Fibre Cement segment for the year ended 31 March 2012 is an impairment charge of US\$14.3 million.

<sup>4</sup> 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 2012 are unfavourable asbestos adjustments of US\$15.8 million, AICF SG&A expenses of US\$2.8 million and ASIC expenses of US\$1.1 million. 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.

<sup>5</sup> 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\$3.3 million, US\$4.3 million and US\$3.3 million in fiscal years 2012, 2011 and 2010, respectively. See Note 11.

<sup>6</sup> 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.

<sup>7</sup> Asbestos-related assets at 31 March 2012 and 2011 are US\$825.2 million and US\$819.7 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.



## James Hardie Industries SE

### Notes to Consolidated Financial Statements (Continued)

These two customers' accounts receivable represented 21% and 20% of the Company's trade accounts receivable at 31 March 2012 and 2011, 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)	Years Ended 31 March					
	2012		2011		2010	
Customer A	\$ 207.4	16.8%	\$ 208.9	17.9%	\$ 224.4	20.0%
Customer B	135.7	11.0%	134.0	11.5%	144.5	12.8%
	<u>\$ 343.1</u>		<u>\$ 342.9</u>		<u>\$ 368.9</u>	

Approximately 33% of the Company's fiscal year 2012 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.

#### 19. Accumulated Other Comprehensive Income

Accumulated other comprehensive income consists of the following components:

(Millions of US dollars)	31 March 2012	31 March 2011
Pension and post-retirement benefit adjustments	\$ (0.3)	\$ (0.3)
Unrealised gain on investments	2.6	2.5
Foreign currency translation adjustments	47.1	53.0
Total accumulated other comprehensive income	<u>\$ 49.4</u>	<u>\$ 55.2</u>

#### 20. Acquisitions

In March 2012, the Company entered into an agreement to acquire the assets of a US business engaged in the pultrusion of fibreglass profiles. The Company made a deposit on the acquisition of US\$14.4 million during the fourth quarter of the 2012 financial year. The deposit is reflected within other non-current assets on the consolidated balance sheet at 31 March 2012. The acquisition was completed during the first quarter of the 2013 fiscal year. Accordingly, the Company expects to recognise a preliminary allocation of the estimated purchase consideration in its condensed consolidated financial statements as of and for the three months ending 30 June 2012.

[Table of Contents](#)

**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 2012, 2011 and 2010 were as follows:

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2012	2011	2010
Audit Fees <sup>1</sup>	\$ 2.6	\$ 2.7	\$ 2.7
Audit-Related Fees <sup>2</sup>	0.1	0.3	—

<sup>1</sup> 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.

<sup>2</sup> 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 2012, 2011 and 2010.

Our independent registered public accounting firm did not receive any fees for non-audit services or tax advisory services in fiscal year 2012, 2011 or 2010.

**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 from time to time 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.

[Table of Contents](#)

**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 2012 and 2011 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 2012				Fiscal Years Ended 31 March 2011			
	By Quarter				By Quarter			
	First	Second	Third	Fourth	First	Second	Third	Fourth
Net sales	\$ 313.6	\$ 331.6	\$ 283.0	\$ 309.3	\$ 318.4	\$ 287.6	\$ 272.6	\$ 288.4
Cost of goods sold	(205.4)	(219.0)	(192.4)	(213.7)	(201.6)	(194.2)	(187.8)	(191.5)
Gross profit	108.2	112.6	90.6	95.6	116.8	93.4	84.8	96.9
Operating income (loss)	17.5	143.6	1.8	(7.4)	127.0	(56.2)	(16.9)	50.8
Interest expense	(1.7)	(2.1)	(2.3)	(5.1)	(1.8)	(2.2)	(2.0)	(3.0)
Interest income	0.7	0.9	0.8	1.4	0.7	1.3	0.7	1.9
Other (expense) income	(1.5)	(0.5)	1.5	3.5	(4.4)	(2.9)	2.7	0.9
Income (loss) before income taxes	15.0	141.9	1.8	(7.6)	121.5	(60.0)	(15.5)	50.6
Income tax expense (benefit) <sup>1</sup>	(14.0)	(14.5)	(6.6)	488.3	(16.6)	(363.7)	(10.9)	(52.4)
Net income (loss)	\$ 1.0	\$ 127.4	\$ (4.8)	\$ 480.7	\$ 104.9	\$ (423.7)	\$ (26.4)	\$ (1.8)
Net income (loss) per share - basic	\$ -	\$ 0.29	\$ (0.01)	\$ 1.09	\$ 0.24	\$ (0.97)	\$ (0.06)	\$ (0.04)
Net income (loss) per share - diluted	\$ -	\$ 0.29	\$ (0.01)	\$ 1.08	\$ 0.24	\$ (0.97)	\$ (0.06)	\$ (0.04)

<sup>1</sup> The fourth quarter of fiscal year ended 31 March 2012 includes a tax benefit of US\$485.2 million recognised upon RCI's successful appeal of the ATO's disputed 1999 amended assessment. The second quarter of fiscal year ended 31 March 2011 includes non-cash charge of US\$345.2 million related to the dismissal of RCI's appeal of the 1999 disputed amended tax assessment.

The fourth quarter of fiscal year ended 31 March 2011 includes a charge of US\$32.6 million related to our corporate structure simplification, as announced on 17 May 2011, which was paid during the fiscal year ended 31 March 2012.

## SECTION 3

### 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 James Hardie Companies are found liable. These payments may affect our ability to grow the Company.***

On 21 November 2006, JHI SE (formerly JHI NV), 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 the AFFA to provide long-term funding to AICF, a special purpose fund that provides compensation for Australian asbestos-related personal injury and death claims for which certain Former James Hardie Companies, 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 2012, based on the AFFA governing our anticipated future payments to AICF. The initial funding was made to AICF in February 2007 and annual payments are to 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 AICF and the annual cash flow cap. In fiscal year 2012, we made a contribution of US\$51.5 million (A\$48.9 million) to AICF. In addition, in April 2012, we made an early contribution of US\$138.7 million (A\$132.3 million) to AICF. We expect to make a further contribution of US\$45.4 million on 2 July 2012. From the time AICF was established in February 2007 through May 2012, we have contributed approximately A\$556 million to the fund. Our obligation to make future contributions to 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 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.

---

## [Table of Contents](#)

### ***Potential escalation in proven claims made against, and associated costs of, 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 AICF on an undiscounted and uninflated basis. Future annual payments to 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 AICF's actuary, KPMG Actuarial, or if 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 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.***

Until 1987, two former subsidiaries of ABN 60, Amaca and Amaba, which are now owned and controlled by AICF, manufactured products in Australia that contained asbestos. In addition, prior to 1937, ABN 60, which is also now owned and controlled by 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. 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 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

---

## Table of Contents

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 AICF in Australian dollars. In addition, annual payments to 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 2012 and 2011, we recorded an unfavourable impact of US\$6.2 million and US\$107.3 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 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 "Commonwealth"), governments of the other states or territories of Australia or any other governments, unions or union representative groups, or

---

## [Table of Contents](#)

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 AICF will remain in place for the entire term of the facility.***

Drawings under the NSW Government loan facility to AICF, as described in Note 11 to our consolidated financial statements, 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, 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, AICF may experience a short-term funding shortfall. A short-term funding shortfall for 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,

---

## Table of Contents

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 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, there can be no assurance that it will not affect our decision making process. In addition, an adverse change in our 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 benefits that we realise as an Irish SE could be materially different from our current expectations.***

As an Irish SE, we are organised in a manner that should, 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, because we are subject to Irish law, we have increased our future flexibility. 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 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 2009 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



## [Table of Contents](#)

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 2009 and the subsequent period 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 2009 and the subsequent period 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 US-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 U.S.-Ireland Treaty. For the period between the incorporation of these subsidiaries until the date that we became a tax resident in Ireland, our Irish subsidiaries qualified for treaty benefits under the "derivative benefits" clause of the US-Ireland Treaty on the basis that 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.

---

## Table of Contents

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 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 distributable profits.***

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 distributable profits 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 distributable profits 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 2012. However, transactions or events could cause a reduction in our distributable profits, 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.

***In the future, we may be required to withhold Irish dividend withholding tax from distributions made by us to you.***

There can be no guarantee that the waiver received from the Irish Revenue authorities in respect of Irish dividend withholding tax, as described in Section 3, "Taxation", will be extended for periods after 31 July 2012 which may result in us being required to withhold Irish dividend withholding tax from distributions made by us to you.

## **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.

## **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

---

## [Table of Contents](#)

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, greater financial and other resources, and better access to raw materials 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 two largest customers individually account for over 10% of our net sales. These two customers' accounts receivable represented 21% and 20% of our trade accounts receivable at 31 March 2012 and 2011, respectively. We generally do not have long-term contracts with our large customers. Accordingly, if we were to lose one or more of our large 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 Irish residency could also result in increased negative publicity related to the Company. There continues to be negative publicity regarding, and criticism of, companies that have subsidiaries which 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 expenses 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 appeal and ordered that we pay 90% of the costs incurred by ASIC in connection with our appeal.

---

## [Table of Contents](#)

ASIC subsequently filed applications for special leave to the High Court appealing from the Court of Appeal judgment in favour of the former directors' and former officers' appeals. Two former officers also filed special leave applications to the High Court. The Company did not file application for special leave to the High Court.

On 3 May 2012, the High Court upheld ASIC's appeal and overturned the Court of Appeal's decision in favour of the former non-executive directors and dismissed the former officer's appeal against the Court of Appeal's decision. The High Court did not render judgment on claims to be excused from liability, penalty and disqualification and on certain questions concerning costs. The High Court remitted these matters back to the Court of Appeal for further consideration. The Court of Appeal will hear submissions on these issues at a proceeding to be held in late August 2012.

In fiscal years 2012, 2011 and 2010, we had net expenses/(recoveries) of US\$1.1 million, US\$(8.7) million and US\$3.4 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 2012 totaled US\$15.5 million, net of third party recoveries.

ASIC has not notified us of the amount of costs that it has incurred in connection with the ASIC proceedings. In addition, as with the first instance, Court of Appeal and High Court proceedings, the Company may pay a proportion of the costs of the continued proceedings involving the seven former non-executive directors and the former executive, in accordance with the terms of their indemnities, with the remaining costs being met by third parties. We note that other recoveries may be available, including as a result of repayments by former directors and officers in accordance with the terms of their indemnities. Losses and expenses arising from the ASIC proceedings could have a material adverse effect on the Company's financial position, liquidity, results of operations and cash flows.

***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 33%, 32% and 28% of our net sales in fiscal years 2012, 2011 and 2010, 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 2012. 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.

***We may be adversely affected by the current disruptions and volatility in the Eurozone.***

The Eurozone has experienced difficult credit and liquidity conditions and market disruptions leading to general fiscal and economic weakening, including in Ireland, the Company's country of domicile.

---

## [Table of Contents](#)

Concerns regarding European sovereign debt have resulted in instability and uncertainty in financial markets and adversely impacted market sentiment across Europe. These negative trends have caused considerable turbulence on the global financial and credit markets due to concerns related to the possible downgrading of the sovereign debt and fiscal instability of several Eurozone countries.

The ongoing uncertainty surrounding conditions in the Eurozone, and the impact it has on the world financial markets, may result in reduced access to credit for the Company. In addition, if conditions in the Eurozone deteriorate and the initiatives being implemented to resolve the sovereign debt crisis ultimately fail, there is a risk of departure from the Euro by one or more Eurozone countries, which may lead to volatility in foreign exchange rates as the negative effects of such a departure impact the world financial markets. Also, rescue measures that are or may be implemented to address the Eurozone sovereign debt crisis may result in significant changes to the current tax structure in Eurozone countries, which could have a significant adverse effect on the Company's effective tax rate on earnings.

Any such adverse consequences from the current disruptions and volatility in the Eurozone could have a material adverse effect on our financial position, results of operations and cash flows.

***If payouts for product liability claims resulting from allegations of product defects exceed our insurance coverage, these payouts 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 we 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 2012, we have accrued US\$27.0 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 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 our operations, including, among other matters (i) the air, soil, and water quality of our plants and (ii) the use, handling, storage, disposal and remediation of hazardous substances

---

## [Table of Contents](#)

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, such changes 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 2012, the average NBSK pulp price was US\$952 per ton, a decrease of 3% compared to fiscal year 2011. Although US dollar pulp prices have fallen from their highs, they are expected to remain at elevated levels compared to previous periods.

Freight costs in the US were also higher in fiscal year 2012 compared to the prior year. Freight costs are expected to continue to be higher compared to prior years.

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.

---

## [Table of Contents](#)

### ***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;



---

## Table of Contents

- 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 subject to challenge or possibly 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

---

## [Table of Contents](#)

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.***

The SEC, as directed by Section 404 of the Sarbanes-Oxley Act of 2002, adopted rules requiring companies to include in their Annual Report on Form 20-F a report of management on the Company's internal controls over financial reporting that contains an assessment by management of the effectiveness of the Company's internal controls over financial reporting. In addition, the Company's independent registered public accounting firm must report on the Company's internal control over financial reporting. Our management concluded that our internal controls over financial reporting are effective. Moreover, our independent registered public accounting firm was satisfied with our internal controls, the level at which our controls are documented, designed, operated and reviewed. Nonetheless, during the course of future evaluation, documentation and attestation, we may identify deficiencies that we may not be able to remedy in a timely manner. Furthermore, 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. If we fail to achieve and maintain the adequacy of our internal controls, we may not be able to conclude that we have effective internal controls, on an ongoing basis, over financial reporting in accordance with the Sarbanes-Oxley Act. Furthermore, effective internal controls over financial reporting are necessary for us to produce reliable financial reports and are important to help prevent fraud. As a result, our failure to achieve and maintain effective internal controls over financial reporting could result in the loss of investor confidence in the reliability of our financial statements, which in turn could harm our business and negatively impact the trading price of our ADSs. Furthermore, even effective internal controls can only provide reasonable assurance with respect to the preparation and fair presentation of financial statements. In addition, we have incurred considerable costs and used significant management time and other resources in our effort to comply with Section 404 and other requirements of the Sarbanes-Oxley Act.

***Our use of accounting estimates involves judgment and could impact our financial results.***

The preparation of financial statements requires management to make judgments, estimates, and assumptions that affect the reported amounts of assets, liabilities, income, and expenses. Due to the inherent uncertainty in making estimates, actual results reported in future periods may be based upon amounts which differ from those estimates. Estimates, judgments, and assumptions are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The accounting policies deemed critical to the Company's results, based upon materiality and significant judgments and estimates, are

---

## [Table of Contents](#)

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. If the judgment, estimates, and assumptions used by the Company in preparing its financial statements are subsequently found to be incorrect, there could be a material impact on the Company's results of operations.

***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 AICF was approved by shareholders in February 2007. The accounting policies utilised by us to account for the AFFA are described in Note 2 to our consolidated financial statements in Section 2.

[Table of Contents](#)

**Asbestos Adjustments**

The asbestos adjustments included in the consolidated statements of operations comprise the following:

(Millions of US dollars)	Fiscal Years Ended 31 March		
	2012	2011	2010
Change in estimates:			
Change in actuarial estimate – asbestos liability	\$ (67.8)	\$ 9.8	\$ (3.8)
Change in actuarial estimate – insurance receivable	49.8	(0.5)	1.9
Change in estimate – AICF claims handling costs	8.4	12.2	(1.4)
Subtotal – Change in estimates	(9.6)	21.5	(3.3)
Loss on foreign currency exchange	(6.2)	(107.3)	(220.9)
<b>Total Asbestos Adjustments</b>	<b>\$ (15.8)</b>	<b>\$ (85.8)</b>	<b>\$ (224.2)</b>

**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	
	2012	2011
Asbestos liability – current	\$ (125.3)	\$ (111.1)
Asbestos liability – non-current	(1,537.3)	(1,587.0)
Asbestos liability – Total	(1,662.6)	(1,698.1)
Insurance receivable – current	19.9	13.7
Insurance receivable – non-current	208.6	188.6
Insurance receivable – Total	228.5	202.3
Workers’ compensation asset – current	0.5	0.3
Workers’ compensation asset – non-current	83.4	90.4
Workers’ compensation liability – current	(0.5)	(0.3)
Workers’ compensation liability – non-current	(83.4)	(90.4)
Workers’ compensation – Total	—	—
Loan facility	(30.9)	—
Other net liabilities	(2.3)	(1.3)
Restricted cash and cash equivalents and restricted short-term investment assets of AICF	65.0	61.9
<b>Net AFFA liability</b>	<b>(1,402.3)</b>	<b>(1,435.2)</b>
Deferred income taxes – current	23.0	10.5
Deferred income taxes – non-current	421.5	451.4
Deferred income taxes – Total	444.5	461.9
Income tax payable	18.5	18.6
<b>Net Unfunded AFFA liability, net of tax</b>	<b>\$ (939.3)</b>	<b>\$ (954.7)</b>

## Table of Contents

On 1 July 2011, the Company contributed US\$51.5 million to AICF in accordance with the terms of the AFFA.

On 2 April 2012, the Company contributed US\$138.7 million to AICF, representing 35% of the total cash received from the ATO, resulting from the favourable outcome of RCI's appeal of the 1999 disputed amended tax assessment. Readers are referred to Note 14 in our consolidated financial statements in Section 2 for additional information on RCI's appeal of the ATO's amended tax assessment.

### 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 AICF. We receive an updated actuarial estimate as of 31 March each year. The last actuarial assessment was performed as of 31 March 2012.

The changes in the asbestos liability for the year ended 31 March 2012 are detailed in the table below:

	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Asbestos liability – 31 March 2011	A\$ (1,643.1)	0.9676	\$ (1,698.1)
Asbestos claims paid <sup>1</sup>	99.1	0.9573	103.5
AICF claims-handling costs incurred <sup>1</sup>	2.7	0.9573	2.8
Change in actuarial estimate <sup>2</sup>	(65.2)	0.9614	(67.8)
Change in estimate of AICF claims-handling costs <sup>2</sup>	8.1	0.9614	8.4
Loss on foreign currency exchange			(11.4)
<b>Asbestos liability – 31 March 2012</b>	<b>A\$ (1,598.4)</b>	<b>0.9614</b>	<b>\$ (1,662.6)</b>

<sup>1</sup> 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.

<sup>2</sup> The spot exchange rate at 31 March 2012 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 2012 are detailed in the table below:

	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Insurance receivable – 31 March 2011	A\$ 195.7	0.9676	\$ 202.3
Insurance recoveries <sup>1</sup>	(23.9)	0.9573	(25.0)
Change in actuarial estimate <sup>2</sup>	47.9	0.9614	49.8
Gain on foreign currency exchange			1.4
<b>Insurance receivable – 31 March 2012</b>	<b>A\$ 219.7</b>	<b>0.9614</b>	<b>\$ 228.5</b>

<sup>1</sup> 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.

<sup>2</sup> The spot exchange rate at 31 March 2012 is used to convert the Australian dollar amount to US dollars as the adjustment to the estimate was made on that date.

## Table of Contents

Included in insurance receivable is US\$8.4 million recorded on a discounted basis because the timing of the recoveries has been agreed with the insurer.

### Deferred Income Taxes – Asbestos

The changes in the deferred income taxes - asbestos for the year ended 31 March 2012 are detailed in the table below:

	<b>A\$ Millions</b>	<b>A\$ to US\$ rate</b>	<b>US\$ Millions</b>
Deferred tax assets – 31 March 2011	A\$ 446.9	0.9676	\$ 461.9
Amounts offset against income tax payable <sup>1</sup>	(22.1)	0.9573	(23.1)
AICF earnings <sup>1</sup>	2.5	0.9573	2.6
Gain on foreign currency exchange			3.1
<b>Deferred tax assets – 31 March 2012</b>	<b>A\$ 427.3</b>	<b>0.9614</b>	<b>\$ 444.5</b>

<sup>1</sup> 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

A portion of the deferred income tax asset is applied against our income tax payable. At 31 March 2012 and 2011, this amount was US\$23.1 million and US\$21.1 million, respectively. During the fiscal year ended 31 March 2012, there was a US\$0.6 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\$2.3 million and US\$2.5 million at 31 March 2012 and 2011, respectively.

Also included in other net liabilities are the other assets and liabilities of AICF including trade receivables, prepayments, fixed assets, trade payables and accruals. These other assets and liabilities of AICF were a net asset of nil and US\$1.3 million at 31 March 2012 and 2011, respectively. During the year ended 31 March 2012, there was nil effect of foreign currency exchange on these other assets and liabilities.

### Restricted Cash and Short-term Investments of AICF

Cash and cash equivalents and short-term investments of 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 AICF.

At 31 March 2012, we revalued AICF's remaining short-term investments available-for-sale resulting in a positive mark-to-market fair value adjustment of US\$0.1 million. This appreciation in the value of the investments was recorded as an unrealised gain in *Other Comprehensive Income*.

[Table of Contents](#)

The changes in the restricted cash and short-term investments of AICF for the fiscal year ended 31 March 2012 are detailed in the table below:

	A\$ Millions	A\$ to US\$ rate	US\$ Millions
Restricted cash and cash equivalents and restricted short-term investments – 31 March 2011	A\$ 59.9	0.9676	\$ 61.9
Asbestos claims paid <sup>1</sup>	(99.1)	0.9573	(103.5)
Payments received in accordance with AFFA <sup>2</sup>	48.9	0.9487	51.5
AICF operating costs paid – claims handling <sup>1</sup>	(2.7)	0.9573	(2.8)
AICF operating costs paid – non-claims handling <sup>1</sup>	(2.7)	0.9573	(2.8)
Insurance recoveries <sup>1</sup>	23.9	0.9573	25.0
Interest and investment income <sup>1</sup>	3.2	0.9573	3.3
Unrealised gain on investments <sup>1</sup>	0.1	0.9573	0.1
Proceeds from loan facility <sup>2</sup>	29.7	0.9281	32.0
Other <sup>1</sup>	1.3	0.9573	1.4
Loss on foreign currency exchange			(1.1)
<b>Restricted cash and cash equivalents and restricted short-term investments – 31 March 2012</b>	<b>A\$62.5</b>	<b>0.9614</b>	<b>\$ 65.0</b>

<sup>1</sup> 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.

<sup>2</sup> The spot exchange rate on the date the transaction occurred is used to convert the Australian dollar amount to US dollars.

**Actuarial Study; Claims Estimate**

AICF commissioned an updated actuarial study of potential asbestos-related liabilities as of 31 March 2012. 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 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\$1.6 billion (US\$1.7 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\$2.5 billion (US\$2.6 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 2012 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.

---

## [Table of Contents](#)

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, which refers to the potential for the cost of asbestos claims to increase at a level above the general rate of inflation. The potential range of losses disclosed includes both asserted and unasserted claims. While no assurances can be provided, we believe that it is likely to be able to partially recover losses from various insurance carriers. As of 31 March 2012, KPMG Actuarial's undiscounted (but inflated) central estimate of asbestos-related liabilities was A\$2.5 billion (US\$2.6 billion). This undiscounted (but inflated) central estimate is net of expected insurance recoveries of A\$386.0 million (US\$401.5 million) after making a general credit risk allowance for insurance carriers for A\$44.8 million (US\$46.6 million) and an allowance for A\$53.9 million (US\$56.1 million) of "by claim" or subrogation recoveries from other third parties. We have not netted the insurance receivable against the asbestos liability on the 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\$1.1 billion (US\$1.1 billion) to A\$2.4 billion (US\$2.5 billion). The undiscounted (but inflated) estimates could be in a range of A\$1.6 billion (US\$1.7 billion) to A\$4.3 billion (US\$4.5 billion) as of 31 March 2012. 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 estimated peak year has an impact much greater than the other sensitivities. If the peak year occurs five years later, in 2015/2016, the discounted (and inflated) central estimate could increase by approximately 50%.

### **Claims Data**

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.



## Table of Contents

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				
	2012	2011	2010	2009	2008
Number of open claims at beginning of period	564	529	534	523	490
Number of new claims	456	494	535	607	552
Number of closed claims	428	459	540	596	519
Number of open claims at end of period	592	564	529	534	523
Average settlement amount per settled claim	A\$218,610	A\$204,366	A\$190,627	A\$190,638	A\$147,349
Average settlement amount per settled claim	US\$228,361	US\$193,090	US\$162,250	US\$151,300	US\$128,096
Average settlement amount per case closed	A\$198,179	A\$173,199	A\$171,917	A\$168,248	A\$126,340
Average settlement amount per case closed	US\$207,019	US\$163,642	US\$146,325	US\$133,530	US\$109,832

Under the terms of the AFFA, we have rights of access to actuarial information produced for AICF by the actuary appointed by AICF (which we refer to as the "Approved Actuary"). Our disclosures with respect to claims statistics are subject to us obtaining such information from the Approved Actuary. The AFFA does not provide us an express right to audit or otherwise require independent verification of such information or the methodologies to be adopted by the Approved Actuary. As such, we 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, 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 AICF may borrow, subject to certain conditions, up to an aggregate amount of A\$320.0 million (US\$332.9 million, based on the exchange rate at 31 March 2012).

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 2012, the discounted value of insurance policies was A\$209.9 million (US\$218.3 million, based on the exchange rate at 31 March 2012).

In accordance with the terms of the Facility, drawings under the Facility may only be used by 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. 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 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.

---

## Table of Contents

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 AICF and 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 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 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.

On 17 February 2012, AICF made an initial drawing of A\$29.7 million (US\$32.0 million based on the prevailing spot exchange rate on 17 February 2012) under the Facility. On 3 April 2012, all amounts outstanding under the Facility were fully repaid.

---

## [Table of Contents](#)

Because the Company consolidates AICF due to the Company's pecuniary and contractual interests in AICF as a result of the funding arrangements outlined in the AFFA, any drawings, repayments or payments of accrued interest by AICF under the Facility impact the Company's consolidated financial position, results of operations and cash flows.

Any drawings, repayments, or payments of accrued interest under the Facility by AICF do not impact the Company's free cash flow, as defined in the AFFA, on which annual contributions remitted by the Company to 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.

### **LEGAL PROCEEDINGS**

We are involved from time to time in various legal proceedings and administrative actions incidental or related to the normal conduct of our business, including litigation concerning our products. Although it is impossible to predict the outcome of any pending legal proceeding, we believe that such proceedings and actions should not, except as it relates to asbestos, the ASIC proceedings, the matters described in the Environmental and Legal sections below, and income taxes, individually or in the aggregate, have a material adverse effect on our consolidated financial position, results of operations or cash flows. For further details, see "Risk Factors" in this Section.

#### **ASIC Proceedings**

In February 2007, 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.

On 23 April 2009, the Supreme Court issued judgment against the Company and the ten former officers and directors of the Company.

All defendants other than two lodged appeals against the Supreme Court'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 were 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 the Supreme Court'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, but 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

---

## [Table of Contents](#)

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.

ASIC subsequently filed applications for special leave to the High Court appealing from the Court of Appeal's judgment in favour of the former directors' and former officers' appeals. Two former officers 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 application for special leave on 13 May 2011. The High Court granted the special leave applications for one of the former officers, and the other former officer withdrew his application. Appeals brought by ASIC and the Company's former directors and former officer were heard by the High Court over three days commencing 25 October 2011.

On 3 May 2012, the High Court upheld ASIC's appeal and overturned the Court of Appeal's decision in favour of the former non-executive directors and dismissed the former officer's appeal against the Court of Appeal's decision. The High Court did not render judgment on claims to be excused from liability, penalty and disqualification and on certain questions concerning costs. The High Court remitted these matters back to the Court of Appeal for further consideration. The Court of Appeal will hear submissions on these issues at a proceeding to be held in late August 2012.

Due to the High Court's decision to remit certain matters back to the Court of Appeal, further or different orders may be made with respect to the seven former non-executive directors and the former executive on issues such as liability, any banning orders, civil penalties payable, and as to the costs of the appeals and the first instance proceedings that the Company may become liable for under indemnities.

The amount of the costs that the Company may be required to pay to ASIC is contingent on a number of factors. These include, without limitation, whether such costs (including the costs orders in ASIC's favour against the Company 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 the Company, the number of legal practitioners involved in such legal work and their applicable fee rates. In addition, the amount of costs is contingent on the associated legal work undertaken specifically in respect of those issues, since the Company is not liable for legal costs of a previous claim and related order that was withdrawn by ASIC in September 2008, the overlapping claims against other parties in the first instance or appeal proceedings or the successful interlocutory appeal by the Company against ASIC during the course of the first instance hearing.

ASIC has not notified the Company of the amount of costs that it has incurred in connection with the ASIC proceedings and any costs that may be asserted by ASIC in the future will be subject to third party review and may not represent the amount of costs the Company will ultimately be liable to pay. Accordingly, in light of the inherent uncertainty surrounding the amount of such costs, together with the unusual circumstances surrounding the ASIC proceedings, the Company is unable to estimate the additional loss or range of loss relating to the quantum of costs incurred by ASIC at this time. Therefore, the Company has not recorded any provision for these costs at 31 March 2012.

As with the first instance, Court of Appeal and High Court proceedings, the Company may pay a proportion of the costs of the continued proceedings involving the seven former non-executive directors and the former executive, with the remaining costs being met by third parties. We note that other recoveries may be available, including those as a result of repayments by former directors and officers in accordance with the terms of their indemnities. As a result, it is not presently possible for the Company to estimate the amount of loss or range of loss, including costs that it might become liable to

---

## [Table of Contents](#)

pay as a consequence of the continued proceedings involving the seven former non-executive directors and the former executive.

Losses and expenses arising from the ASIC proceedings could have a material adverse effect on the Company's financial position, liquidity, results of operations and cash flows. It is the Company's policy to expense legal costs as incurred.

For further information, see Section 3, "Risk Factors" in this Section 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 2012, 2011 and 2010, we recorded an income tax expense of US\$0.5 million, nil and US\$2.2 million, respectively, as a result of the finalisation of litigation with the ATO in our favour, 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 Ireland, the United States, Australia, New Zealand, the Philippines and The Netherlands. We are no longer subject to US federal examinations by the IRS for tax years prior to tax year 2009. We are no longer subject to examinations by The Netherlands tax authority, for tax years prior to tax year 2006. We are no longer subject to Australian federal examinations by the ATO for tax years prior to tax year 2008.

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-NL 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 2009 and the subsequent period 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 2009 and the subsequent period 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 2012.

---

[Table of Contents](#)

**Amended Australian Taxation Office 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 had 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 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 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 ended 31 March 2011. In addition, the Company recognised an uncertain tax position of US\$198.1 million (A\$184.3 million) on its consolidated balance sheet relating to the unpaid portion of the amended assessment. With effect from 1 September 2010, the Company expensed payments of GIC to the ATO as incurred.

RCI appealed the Federal Court’s judgment to the Full Court of the Federal Court of Australia. RCI’s appeal was heard in May 2011. On 22 August 2011, the Full Federal Court upheld RCI’s appeal, ordered that RCI’s objection be allowed in full and awarded RCI costs.

Following the decision of the Full Federal Court to uphold RCI’s appeal, the Company undertook a review of RCI’s tax position. Due to the continued uncertainty in relation to the ultimate outcome of the matter, the Company continued to reflect a liability on its consolidated balance sheet relating to the unpaid portion of the amended assessment, as discussed above.

---

## [Table of Contents](#)

Subsequently, on 19 September 2011, the ATO filed an application for special leave to appeal the Full Federal Court's decision to the High Court of Australia. On 10 February 2012, the High Court refused to grant special leave and dismissed the ATO's application. Accordingly, the matter was finalised in RCI's favour.

With all avenues of appeal exhausted and the matter effectively concluded, on 27 February 2012 the ATO issued a notice of amended assessment and paid a refund to RCI of A\$248.0 million (US\$265.8 million). This amount comprises cash that RCI remitted to the ATO during the appeal proceedings of A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), representing 50% of the previous amended assessment, and general interest charges paid by RCI on the unpaid portion of the previous amended assessment of A\$63.7 million (US\$68.3 million).

On 7 March 2012, the ATO paid an additional refund to RCI of A\$121.8 million (US\$130.5 million), being the ATO's calculation of interest income on amounts taken to have been overpaid in respect of the notice of amended assessment issued by the ATO on 27 February 2012. This additional receipt of funds brings the total refunded by the ATO in respect of the RCI notice of amended assessment to A\$369.8 million (US\$396.3 million).

During the fourth quarter ended 31 March 2012, the Company recognised an income tax benefit of A\$452.9 million (US\$485.2 million) within income tax expense, which primarily includes amounts refunded by the ATO noted above and the reversal of the provision for the unpaid portion of the amended assessment, being A\$184.3 million (US\$197.5 million, translated at the prevailing spot exchange rate of US\$1.0714/A\$1.00 at 10 February 2012), partially offset by income taxes payable in respect of the reversal of general interest charges previously recognised as deductible and interest on overpayment of tax, totaling A\$101.2 million (US\$108.6 million). The Company has determined that it is not required to recognise deferred taxes in association with undistributed profits of RCI.

RCI was awarded costs in connection with all court proceedings. The Company will record income in relation to such costs during the period in which such amounts are received from the ATO.

For further information, see "Risk Factors" in this Section and "Management's Discussion and Analysis — Liquidity and Capital Resources" and Note 14 to our consolidated financial statements in Section 2.

### **Environmental and Legal**

Our operations, 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.

We are involved from time to time as a defendant in certain legal proceedings and administrative actions related to general liability claims (including the matters noted below). We recognise a liability for unasserted and asserted claims in the period in which the loss becomes probable and estimable. The amount of loss is dependent on a number of factors including, without limitation, the specific facts and circumstances unique to each claim brought against us, the existence of any co-defendants involved in defending the claim, the solvency of such co-defendants (including the ability of such co-defendants to remain solvent until the related claim is ultimately resolved), the amount of loss estimated to be allocable to us in instances that involve co-defendants in defending the claim and whether we have access to third-party recoveries to cover a portion of the costs incurred in defending and settling such actions. Accordingly, we are unable to reasonably estimate a loss or range of loss in

---

## [Table of Contents](#)

relation to some asserted claims brought against the Company at this time. Potential losses arising from both unasserted claims and asserted claims could in the future have a material adverse effect on the Company's financial position, results of operations and cash flows.

Between March 2011 and March 2012, one of our US subsidiaries was named as a defendant in seven lawsuits, each of which relates to products allegedly manufactured by the subsidiary and is pending in five separate U.S. federal district courts. Each lawsuit has a different set of facts and circumstances; however, the lawsuits all relate to products allegedly manufactured by the subsidiary, raise virtually the same claims and are brought by generally the same underlying plaintiffs' counsel. In addition to the individually-named plaintiffs, each lawsuit seeks to pursue claims on behalf of a purported but unidentified class of homeowners.

The plaintiffs moved to transfer and consolidate all of the related actions within one federal district court, and their motion was granted in June 2012. However, no class has been certified. We believe we have meritorious defenses to each lawsuit, and intend to vigorously defend the actions. Based on available information and circumstances presently known, we believe that the outcome of these related actions will not have a material adverse effect on our financial condition, results of operations or cash flows.

Historically, we had and continue to have access to third-party recoveries to cover a portion of the costs incurred in defending and settling such actions, subject to contractual limitations on amounts available for recovery from third parties. We record an asset related to estimated third-party recoveries that are available for reasonably estimable asserted claims. Although we have historically had access to recoveries from third-parties, we could in the future lose access to some or all third-party recoveries due to expiration of contractual rights or insolvency of such third-parties. In such circumstance, losses that arise in relation to claims that would otherwise have been defrayed by third-party recoveries could in the future have a material adverse effect on our financial position, results of operations and cash flows.

We also receive general liability claims for which third-party recoveries are not available. In these instances, we recognise a loss for claims that are reasonably estimable.

For all claims, we adjust our estimates based on new information as it becomes available and increase or decrease the related loss reserves and asset recoveries with a corresponding adjustment to SG&A expenses until each claim is ultimately settled.

The Company has made a provision for asserted and unasserted general liability claims that are reasonably estimable within Other Current and Other Non-current Liabilities, with a corresponding receivable for third-party recoveries being recognised within Accounts and Other Receivables at 31 March 2012.



## Table of Contents

### EMPLOYEES

During each of the last three fiscal years, we employed the following average number of people:

	Fiscal Years Ended 31 March		
	2012	2011	2010
Fibre Cement United States and Canada	1,581	1,586	1,464
Fibre Cement Australia	453	416	389
Fibre Cement New Zealand	143	142	152
Fibre Cement Philippines	154	151	154
Pipes (United States and Australia)	62	59	60
Fibre Cement Europe	47	43	44
Research & Development, including Technology	128	107	106
General Corporate	36	36	41
<b>Total Employees</b>	<b>2,604</b>	<b>2,540</b>	<b>2,410</b>

As of the end of 31 March 2012, of the 2,604 average number of people employed, approximately 386 employees were members of labour unions (approximately 293 employees in Australia and 93 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 2012, 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 <sup>1</sup>
<b>Current Directors and Executive Officers</b>		
Michael Hammes <sup>2</sup>	32,847	*
Donald McGauchie <sup>3</sup>	20,372	*
Brian Anderson	7,635	*
David Dilger <sup>4</sup>	25,000	*
David Harrison	12,384	*
Alison Littlely	—	*
James Osborne	2,551	*
Rudy van der Meer	17,290	*
Louis Gries	2,807,271	*
Joe Blasko	—	*
Russell Chenu	536,328	*
Mark Fisher	1,067,286	*
Nigel Rigby	706,646	*

\* Indicates that the individual beneficially owns less than 1% of our shares of common stock.

<sup>1</sup> Based on 437,218,725 shares of common stock outstanding at 31 May 2012 (all of which are subject to CUFS).

<sup>2</sup> As of 31 May 2012, 27,847 shares were held in the name of Mr and Mrs Hammes.

[Table of Contents](#)

3 As of 31 May 2012 6,000 shares were held for the McGauchie Superannuation Fund for which Mr McGauchie is a trustee and beneficiary.

4 As of 31 May 2012, 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 2012.

**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 2012 was:

Name	Number of Shares Underlying Options Owned	Exercise Price	Expiration Date
<b>Current Executive Officers</b>			
Louis Gries	325,000 <sup>1</sup>	A\$ 7.05/share	December 2013
	415,000 <sup>2</sup>	A\$ 8.40/share	November 2016
	228,600 <sup>2</sup>	A\$ 8.40/share	November 2016
	437,000 <sup>2</sup>	A\$ 7.83/share	August 2017
	445,000 <sup>2</sup>	A\$ 7.83/share	August 2017
Joe Blasko	—		
Russell Chenu	93,000 <sup>3</sup>	A\$ 6.30/share	February 2015
	36,000 <sup>2</sup>	A\$ 8.40/share	November 2016
	65,000 <sup>2</sup>	A\$ 8.40/share	November 2016
	68,000 <sup>2</sup>	A\$ 7.83/share	August 2017
	66,000 <sup>2</sup>	A\$ 7.83/share	August 2017
Mark Fisher	132,000 <sup>1</sup>	A\$ 7.05/share	December 2013
	90,000 <sup>4</sup>	A\$ 5.99/share	December 2014
	190,000 <sup>5</sup>	A\$ 8.90/share	December 2015
	158,500 <sup>6</sup>	A\$ 8.40/share	November 2016
	277,778 <sup>7</sup>	A\$ 6.38/share	December 2017
Nigel Rigby	33,000 <sup>1</sup>	A\$ 7.05/share	December 2013
	190,000 <sup>5</sup>	A\$ 8.90/share	December 2015
	158,500 <sup>6</sup>	A\$ 8.40/share	November 2016

1 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by December 2006.

2 Granted under the Long Term Incentive Plan. Option vesting is subject to 'performance hurdles' as outlined in the plan rules.

3 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by February 2008.

4 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by December 2007.

5 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by December 2008.

6 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by November 2009.

7 Granted under the 2001 Equity Incentive Plan. All options vested and became exercisable by December 2010.

[Table of Contents](#)

**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 2012 was:

Name	Number of Restricted Stock Units Granted	Unvested
<b>Current Executive Officers</b>		
Louis Gries	234,900 <sup>1</sup>	234,900
	81,746 <sup>2</sup>	81,746
	360,267 <sup>3</sup>	360,267
	577,255 <sup>4</sup>	577,255
	45,687 <sup>5</sup>	45,687
	606,852 <sup>6</sup>	606,852
Joe Blasko	—	—
Russell Chenu	45,675 <sup>1</sup>	45,675
	15,895 <sup>2</sup>	15,895
	70,052 <sup>3</sup>	70,052
	72,157 <sup>4</sup>	72,157
	5,711 <sup>5</sup>	5,711
	68,516 <sup>6</sup>	68,516
Mark Fisher	39,150 <sup>1</sup>	39,150
	13,624 <sup>2</sup>	13,624
	60,044 <sup>3</sup>	60,044
	67,003 <sup>4</sup>	67,003
	5,303 <sup>5</sup>	5,303
	68,516 <sup>6</sup>	68,516
Nigel Rigby	39,150 <sup>1</sup>	39,150
	13,624 <sup>2</sup>	13,624
	60,044 <sup>3</sup>	60,044
	72,157 <sup>4</sup>	72,157
	5,711 <sup>5</sup>	5,711
	78,304 <sup>6</sup>	78,304

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Granted under the Long Term Incentive Plan on 7 June 2010. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules and vest, subject to the application of negative discretion by the Board, in one instalment on 7 June 2012.

<sup>4</sup> 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.

<sup>5</sup> Granted under the Long Term Incentive Plan on 7 June 2011. Restricted stock units vesting are subject to 'performance hurdles' as outlined in the plan rules and vest, subject to the application of negative discretion by the Board, in one instalment on 7 June 2013.

<sup>6</sup> Granted under the Long Term Incentive Plan on 15 September 2011. Restricted stock units vesting is subject to 'performance hurdles' as outlined in the plan rules.

## **Stock-Based Compensation**

At 31 March 2012, 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, 2009 and 2010 (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 2012, 2011 and 2010. No shares were issued under this plan during years ended 31 March 2012, 2011 and 2010.

### ***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 and reapproved for a further 10 years at the 2011 Annual General Meeting. The 2001 Equity Incentive Plan has a 10 year life and expires in September 2021.

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.

## [Table of Contents](#)

The following number of options to purchase shares of our common stock issued under this plan were as follows:

<b>Share Grant Date</b>	<b>Number of Options Granted</b>	<b>Options Outstanding as of 31 May 2012</b>
December 2002	4,037,000	181,000
December 2003	6,179,583	1,479,250
December 2004	5,391,100	875,250
February 2005	273,000	93,000
December 2005	5,224,100	1,861,000
March 2006	40,200	15,000
November 2006	3,499,490	1,282,705
March 2007	330,900	17,100
December 2007	5,031,310	1,477,473
<b>Total outstanding</b>		<b>7,281,778</b>

The following number of restricted stock units issued under this plan was as follows:

<b>Share Grant Date</b>	<b>Number of Restricted Stock Units Granted</b>	<b>Restricted Stock Units vested as of 31 May 2012</b>
June 2008	698,440	533,091
December 2008	992,271	724,609
December 2009	278,569	118,763
December 2010	348,426	83,194
December 2011	281,556	—
March 2012	3,802	—
<b>Total vested</b>		<b>1,459,657</b>

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.

If the exercise price of an option or stock appreciation right is above the market value of the shares, it will be prohibited without shareholder approval from reducing the exercise price of such an option or stock appreciation right or exchanging such an option or stock appreciation right for cash, or other awards or a new option or stock appreciation right at a reduced exercise price.

The payment of dividends or dividend equivalent rights on unearned performance awards is prohibited.

---

## Table of Contents

*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. Options cannot be granted with exercise prices lower than the fair market value of the underlying shares on the grant date.

*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 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 285,358, 348,426 and 278,569 restricted stock units under the 2001 Equity Incentive Plan in the years ended 31 March 2012, 2011 and 2010, respectively. As of 31 March 2012, there were 617,316 restricted stock units outstanding under this plan.

*Scorecard LTI Units.* We granted 2,488, 450 and 35,741 cash settled Scorecard LTI units to employees in fiscal year 2012, 2011 and 2010, 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.

## [Table of Contents](#)

*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 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.

As of 31 May 2012, the Company granted the following restricted stock units to certain members of our management under the LTIP:

<b>Grant Date</b>	<b>Number of Restricted Stock Units Granted</b>
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
June 2011	63,146
September 2011	954,705
<b>Total</b>	<b>6,116,375</b>

---

## [Table of Contents](#)

As of 31 May 2012, there were 1,760,600 options and 3,060,195 restricted stock units outstanding under this plan.

Under the terms of the LTIP, 716,536 and 821,459 Scorecard LTI units were granted during the years ended 31 March 2012 and 2011, 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**

#### ***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.

The Board has the authority and discretion to approve payments under this plan to the CEO and CFO, 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 2012 and 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



---

## [Table of Contents](#)

current annual compensation by up to US\$17,000 in calendar year 2012 and have the amount of such reduction contributed to the 401(k) Plan, with a maximum eligible compensation limit of US\$250,000. 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.

## **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. Pulte Homes receives a rebate from the Company or the Company's suppliers in respect of some of its purchases in accordance with a rebate program applicable to similar home builders.

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. The rebate program existed and was disclosed to the Board before Mr. Anderson became a director. It is not considered that Mr. Anderson had any influence over these transactions.

## **LISTING DETAILS**

As a company incorporated under the laws of Ireland, we have listed our securities for trading on the ASX, through the use of the Clearing House Electronic Subregister System, or CHESS, via 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 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." 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.

[Table of Contents](#)**Price History**

The high and low trading prices of JHI SE CUFS on the ASX are as follows:

<b>Period</b>	<b>High (A\$)</b>	<b>Low (A\$)</b>
<b>Fiscal year ended:</b>		
31 March 2012	7.99	4.66
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
<b>Fiscal quarter ended:</b>		
31 March 2012	7.99	6.59
31 December 2011	7.45	5.27
30 September 2011	6.30	4.66
30 June 2011	6.37	5.20
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
<b>Month ended:</b>		
31 May 2012	7.75	6.87
30 April 2012	7.81	7.25
31 March 2012	7.99	7.00
28 February 2012	7.64	6.84
31 January 2012	7.60	6.59
31 December 2011	7.45	6.34

The high and low trading prices of JHI SE ADSs on the NYSE are as follows:

<b>Period</b>	<b>High (US\$)</b>	<b>Low (US\$)</b>
<b>Fiscal year ended:</b>		
31 March 2012	40.90	25.23
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
<b>Fiscal quarter ended:</b>		
31 March 2012	40.90	34.29
31 December 2011	35.81	25.23
30 September 2011	32.94	25.28
30 June 2011	33.34	27.57
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
<b>Month ended:</b>		
31 May 2012	38.95	34.08
30 April 2012	40.30	37.04
31 March 2012	40.90	37.37
28 February 2012	40.81	37.78
31 January 2012	39.56	34.29
31 December 2011	35.81	31.00

---

[Table of Contents](#)

**Trading Markets**

Our securities are listed and quoted on the following stock exchanges:

Common Stock (in the form of CUFS)  
ADs

Australian Securities Exchange  
New York Stock Exchange

We cannot predict the prices at which our shares and ADs 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 ADs trade on the NYSE 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 ADs should be directed to The Bank of New York Mellon, depository for our ADs, 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](mailto:shrrelations@bnymellon.com) or visit the website at [www.bnymellon.com/shareowner](http://www.bnymellon.com/shareowner).

[Table of Contents](#)**PURCHASES OF EQUITY SECURITIES BY THE ISSUER AND AFFILIATED PURCHASERS**

(Number of shares in millions)

<u>Period</u>	<u>Total Number of Shares (or Units) Purchased</u>	<u>Average Price Paid per Share (or Unit) US\$</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs <sup>1</sup></u>	<u>Maximum Number of Shares that May Yet be Purchased Under the Plans or Programs <sup>1</sup></u>
From 1 August 2011 through 30 August 2011	0.2	\$ 5.95	0.2	21.6
From 1 September 2011 through 30 September 2011	2.2	\$ 5.61	2.2	19.4
From 1 October 2011 through 31 October 2011	1.0	\$ 5.33	1.0	18.4
From 1 November 2011 through 30 November 2011	—	\$ —	—	18.4
From 1 December 2011 through 31 December 2011	—	\$ —	—	18.4
From 1 January 2012 through 31 January 2012	—	\$ —	—	18.4
From 1 February 2012 through 29 February 2012	—	\$ —	—	18.4
From 1 March 2012 through 31 March 2012	—	\$ —	—	18.4

<sup>1</sup> Pursuant to a share repurchase program originally announced on 17 May 2011 to acquire up to 5% of our issued capital (approximately 21.8 million shares) during the subsequent twelve month period, we repurchased approximately 3.4 million shares at a cost of US\$19.0 million in fiscal year 2012 as part of this plan. On 21 May 2012, we announced a new share repurchase program to acquire up to 5% of our issued capital. The program will expire on 21 May 2013.

## 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 CEO, 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;
- 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

---

## Table of Contents

- 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. We are proposing to increase this maximum by US\$500,000 to US\$2,000,000 at the 2012 AGM. Changes to non-executive director remuneration are recommended by the Remuneration Committee and are approved at a properly convened meeting of the Board (which consists of eight non-executive directors and the CEO).

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.

*Power to vote on proposals, arrangements or contracts in which the director is materially interested*: The Company's Articles of Association provide that a director cannot vote on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material or a duty which conflicts or may conflict with the interests of the Company. A director cannot be counted in the quorum present at a meeting in relation to any such resolution on which the director is not entitled to vote.

Under Irish law, directors who have a personal interest in a contract or a proposed contract with the Company are required to declare the nature of their interest at a meeting of the directors of the Company. The Company is required to maintain a register of such declared interests which must be made available for inspection by the shareholders at general meetings.

### ***Issuance of Shares; Preemptive Rights***

We have been registered with one class of shares; however, our 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 our 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).

---

## Table of Contents

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 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 NYSE, 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.

---

## [Table of Contents](#)

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 AGMs will generally be held in Ireland unless shareholder approval, pursuant to an ordinary resolution, is granted at the preceding AGM to hold the following general meeting outside of Ireland. There is no requirement that extraordinary general meetings be held in Ireland. Following our first AGM, we must hold an AGM in each calendar year and within six months after the financial year end and we shall announce the date of each such AGMs no less than 35 business days before such meeting is due to be held. All business that is transacted at an AGM 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, with rotation occurring at staggered intervals and in any event at least once every three years, except for the CEO, who must stand for re-election every six years); (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 of an Irish SE is one or more persons who alone or jointly hold at least 5% of such 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.



---

## **Table of Contents**

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
- 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.

ADS 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 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. Our 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.

---

## [Table of Contents](#)

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 distributable profits 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 be owned by the Company. 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. However, it is unlikely that any such unclaimed dividends will be forfeited due to the operation of Australian legislation, under which dividends that have been unclaimed for six years are paid to the relevant state authority, through which shareholders can claim a refund of such dividends in the future.

Our board determines the record dates at which time registered holders of our shares, including the CHESSE Depository Nominee issuing CUFS to the ADS depository, will be entitled to dividends and also sets the payment dates for these dividends. 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 CUFS dividend payment date and will distribute any dividend to holders of ADSs in US dollars pursuant to the terms of the deposit agreement. Other CUFS holders registered at a dividend record date are paid their dividend on each CUFS dividend payment date in the equivalent amount of Australian dollars, as determined by the prevailing exchange rate shortly after the CUFS dividend record date.

### ***Amendment of Articles of Association***

Our Articles of Association may be amended by our shareholders, which include changes to the rights of shareholders, subject to Irish Company Law restrictions, 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.

---

## Table of Contents

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.

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;

---

## **Table of Contents**

- 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
- 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.

---

## Table of Contents

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](http://www.sec.gov).

### **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.

*US Dollar Cash Advance Facilities.* For all facilities, interest is calculated two business days prior to the commencement of each draw-down period based on the 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, 2012, there were no facilities drawn under the combined facilities and US\$280.0 million was available.

As of 31 March 2012, 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 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 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 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 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 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,

---

## [Table of Contents](#)

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 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.

---

## [Table of Contents](#)

This discussion does not bind either the US, Irish, or Dutch tax authorities or the courts of those jurisdictions. Except where outlined below, 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 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 beneficially own 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.

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

---

## Table of Contents

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. Unless extended by the United States Congress, the 15% tax rate on qualified dividend income will expire on 31 December 2012, and effective 1 January 2013, dividends may become subject to a marginal tax rate of 39.6%. In addition, effective 1 January 2013, the Health Care and Education Reconciliation Act of 2010 will subject net investment income (including dividend income) of certain taxpayers to a 3.8% tax rate.

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. 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 recognize ordinary US source gain or loss when it sells or exchanges the foreign currency. US Shareholders who are individuals will not recognize 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



---

## Table of Contents

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 recognize 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 realized on the sale or disposition. Individual US Shareholders may benefit from lower marginal tax rates on capital gains recognized 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 2011, 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). Effective 1 January 2013, the Health Care and Education Reconciliation Act of 2010 will subject net investment income (including long and short-term capital gain income) of certain taxpayers to additional tax of 3.8%.

*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 Controlled Foreign Corporation ("CFC"), under the Code. This classification would, among other consequences, require 10-Percent Shareholders to include in their gross income their pro rata

---

## Table of Contents

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.

*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

---

## Table of Contents

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, or *zuivere 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

## Table of Contents

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.

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

---

## Table of Contents

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, 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.

---

## [Table of Contents](#)

*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 the shareholder is not the beneficial owner, we will be required to withhold Irish dividend withholding tax at the standard rate of income tax unless the shareholder is a qualifying intermediary under Irish law and that shareholder has received all necessary documentation required by the relevant legislation, as described above, from the beneficial owner 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.

---

## Table of Contents

Non-resident shareholders who are entitled to an exemption, as outlined above, will generally be able to receive dividends without any dividend withholding tax and without the need to complete the aforementioned non-resident declaration forms, pursuant to a waiver we have received from the Irish Revenue authorities, up to 31 July 2012.

Subject to any extension of the waiver period after 31 July 2012, where these forms are not required, 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 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).

*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 30%. 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;

---

## **Table of Contents**

- 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; or
- where the person receiving the gift or inheritance is resident or ordinarily resident in Ireland at the date of the gift or inheritance.

Please note that the charge to CAT in respect of appointments from a discretionary trust can be different and as a result, specific advice should be taken in this regards.

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 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](http://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



## [Table of Contents](#)

- 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 months 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. 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 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" in this Section."

For our fiscal year ended 31 March 2012, the following currencies comprised the following percentages of our net sales, expenses and liabilities:

	<u>US\$</u>	<u>A\$</u>	<u>NZ\$</u>	<u>Other<sup>1</sup></u>
Net sales	67.4%	22.8%	4.4%	5.4%
Expenses <sup>2</sup>	66.6%	24.1%	4.2%	5.1%
Liabilities (excluding borrowings) <sup>2</sup>	10.7%	87.3%	1.4%	0.6%

For our fiscal year ended 31 March 2011, the following currencies comprised the following percentages of our net sales, expenses and liabilities:

	<u>US\$</u>	<u>A\$</u>	<u>NZ\$</u>	<u>Other<sup>1</sup></u>
Net sales	67.6%	22.8%	4.5%	5.1%
Expenses <sup>2</sup>	61.5%	29.7%	3.9%	4.9%
Liabilities (excluding borrowings) <sup>2</sup>	11.7%	86.5%	1.4%	0.4%

<sup>1</sup> Comprised of Philippine Pesos and Euros.

<sup>2</sup> 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" in this Section, 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

---

## [Table of Contents](#)

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 2012, there were no material contracts outstanding.

### **Funding Under the AFFA**

The A\$ to US\$ assets and liabilities rate moved unfavourably for us from 0.9676 as of 31 March 2011 to 0.9614 as of 31 March 2012, a 0.6% movement, resulting in a US\$15.8 million unfavourable impact, net of changes in actuarial estimates, on our fiscal year 2012 net income. Assuming that our unfunded net AFFA liability in Australian dollars remains unchanged at A\$902.9 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 31 March 2012 exchange rate of 0.9614) would have approximately a US\$85.4 million and US\$104.3 million favourable and unfavourable impact, respectively, on our net income.

For fiscal year 2011, assuming that our unfunded net AFFA liability in Australian dollars remained unchanged at A\$923.8 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 2011 exchange rate of 0.9676) would have had approximately an US\$86.8 million and US\$106.1 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 2012 and 2011, all of our borrowings were subject to 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 2012, we had interest rate swap contracts with a total notional principal of US\$100.0 million and a fair value of US\$3.1 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% move against our weighted-average floating rate interest rates) would have had a 0.1% change on our fiscal year 2012 income before income taxes.

For fiscal year 2011, an assumed 10 basis point move in the interest rates applicable to our borrowings (a 10% 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.

### **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.

## Table of Contents

We have assessed the market risk for pulp and believe that, a US\$103 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 2012, would have had approximately a 1.2% change in our cost of sales in fiscal year 2012. 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 2012, would have had approximately a 0.5% change in cost of sales in fiscal year 2012.

For fiscal year 2011, we had assessed the market risk for pulp and believe that, a US\$109 per metric ton movement in market pulp prices, which represented approximately 10% of the average NBSK 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 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.

### **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

Registration or transfer fees

Any charges incurred by the depositary or its agents for servicing the deposited securities

Expenses of the depositary

\$5.00 (or less) per 100 ADSs (or portion of 100 ADSs)

\$0.02 (or less) per ADS (or portion thereof)

#### **For:**

As necessary

Transfer and registration of shares on our share register to or from the name of the depositary or its agent when you deposit or withdraw shares

As necessary

Converting foreign currency to US dollars, cable, telex and facsimile transmission expenses (when expressly provided for in the deposit agreement)

Execution and delivery of ADSs, including issuances resulting from a distribution of shares, rights, or other property

Cancellation of ADSs for the purpose of withdrawal, including if the deposit agreement terminates

Cash distributions and depositary services

---

## Table of Contents

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 Depositary. The Depositary may refuse to effect any transfer or withdrawal of a deposited security until such payment is made. The Depositary 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.

The Depositary collects its fees for delivery and surrender of ADSs directly from investors depositing shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deductions from cash distributions or by directly billing investors or by charging the book-entry system of accounts of participants acting for them. The depositary may generally refuse to provide fee-attracting services until its fees for those services are paid.

The Bank of New York Mellon, as depositary, has agreed to reimburse us for expenses we incur that are related maintenance expenses of the American Depositary Receipt program. The Depositary has also agreed to pay the standard out-of-pocket maintenance costs for the ADRs, which consist of the expenses of postage and envelopes for mailing annual financial reports, printing and distributing dividend checks, electronic filing of U.S. Federal tax information, mailing required tax forms, stationery, postage, facsimile and telephone calls. It has also agreed to reimburse us annually for certain investor relationship programs or special investor relations promotional activities. There are limits on the amount of expenses for which the Depositary will reimburse us, but the amount of reimbursement available is not necessarily tied to the amount of fees the Depositary collects from investors. For fiscal years ended 31 March 2012 and 2011, the Depositary waived US\$121,714 and US\$123,425, respectively, in fees for standard, out-of-pocket maintenance costs for the administration of the ADR program.

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](mailto:shrrelations@bnymellon.com) or visit the website at [www.bnymellon.com/shareowner](http://www.bnymellon.com/shareowner).

[Table of Contents](#)

**SECTION 4.**

**SHARE/CHESS Units of Foreign Securities (CUFS) INFORMATION**

**James Hardie Industries SE voting rights:**

As of 31 May 2012, James Hardie Industries SE had on issue 437,218,725 CUFS issued over 437,218,725 ordinary shares held by CHESS Depository Nominees Pty Ltd (CDN) on behalf of 10,126 CUFS holders. Each ordinary share carries the right to one vote. CUFS holders can direct CDN how to vote the ordinary shares on a one vote per CUFS basis. Options and Restricted Stock Units carry no voting rights.

**James Hardie Industries SE distribution schedule as at 31 May 2012:**

Size of Holding Range	CUFS		Options	
	Holders	Holdings	Holders	Holdings
1-1,000	4,635	2,143,040	-	-
1,001-5,000	4,121	9,823,182	17	39,391
5,001-10,000	768	5,514,202	22	176,802
10,001-100,000	526	11,853,141	69	2,460,168
100,001 and over	76	407,885,160	19	6,366,017
<b>Totals</b>	<b>10,126</b>	<b>437,218,725</b>	<b>127</b>	<b>9,042,378</b>

Based on the closing price of A\$7.42 on 31 May 2012, 335 CUFS holders held less than a marketable parcel.

**James Hardie Industries SE substantial CUFS holders as at 31 May 2012:**

As of 31 May 2012, all issued and outstanding ordinary shares were listed on the ASX in the form of 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 2012 which was 437,218,725 shares.

Shareholder	Shares Beneficially Owned	Percentage of Shares Outstanding
Commonwealth Bank of Australia <sup>1</sup>	38,944,519	8.91%
FMR LLC and FIL Limited <sup>2</sup>	33,874,177	7.75%
Schroder Investment Management Australia Limited <sup>3</sup>	33,435,199	7.65%
Baillie Gifford & Co <sup>4</sup>	31,301,628	7.16%
Lazard Asset Management Pacific Co <sup>5</sup>	28,678,287	6.56%
National Australia Bank Limited Group <sup>6</sup>	28,198,184	6.45%
Ausbil Dexia Limited <sup>7</sup>	24,980,920	5.71%
The Capital Group Companies, Inc <sup>8</sup>	22,021,150	5.04%

---

## Table of Contents

- 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 and sales, increased its holdings of our issued capital to 38,944,519 shares on 23 May 2012 in the last notice received.
- 2 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.
- 3 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 33,435,199 shares on 25 May 2012 in the last notice received.
- 4 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 through subsequent purchases, has increased its holding to 31,301,628 shares of our issued share capital on 9 January 2012 in the last notice received.
- 5 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 and through subsequent purchases, increased its holding to 28,678,287 shares of our issued share capital in the last notice received on 1 June 2011.
- 6 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.
- 7 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.
- 8 The Capital Group Companies, Inc became a major shareholder on 8 May 2012, with a holding of 22,021,150 shares of our issued share capital in the last notice received.

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.

[Table of Contents](#)**James Hardie Industries SE 20 largest CUFS holders and their holdings as at 31 May 2012:**

Name	Note	CUFS Holdings	%	Position
HSBC Custody Nominees (Australia) Limited	1	122,854,810	28.10	1
JP Morgan Nominees Australia Limited	1	98,437,981	22.51	2
National Nominees Limited	1	92,891,005	21.25	3
Citicorp Nominees Pty Limited	1	23,394,208	5.35	4
Citicorp Nominees Pty Limited	1	20,655,571	4.72	5
Cogent Nominees Pty Limited	1	7,267,775	1.66	6
JP Morgan Nominees Australia Pty Limited	1	5,830,256	1.33	7
Cogent Nominees Pty Limited	1	5,133,056	1.17	8
AMP Life Limited		3,750,431	0.86	9
Cogent Nominees Pty Limited	1	3,123,656	0.71	10
Cogent Nominees Pty Limited	1	1,675,000	0.38	11
JP Morgan Australia Pty Limited		1,502,014	0.34	12
Madingley Nominees Pty Limited	1	1,385,557	0.32	13
HSBC Custody Nominees	1	1,143,491	0.26	14
Mirrabooka Investments Limited		1,115,000	0.26	15
Argo Investments Limited		964,000	0.22	16
Mr. George G. Cross		919,842	0.21	17
Queensland Investment Corporation		830,284	0.19	18
Millenium Pty Limited		700,000	0.16	19
Mr. Louis Gries		689,922	0.16	20
Total:		394,263,859	90.16	

<sup>1</sup> Entities which hold interests in the CUFS solely as a nominee or trustee for another person may have those interests disregarded for the purposes of the takeover and substantial share/CUFS holder provisions contained in the Articles of Association of the Company. Those nominees may hold CUFS for holders which include the substantial shareholders named above.

**Distribution of Issued Capital by Geography:**

The following analysis is based on a Top 100 extract of the share register:

	31 May 2012	31 May 2011
Australia	51.02%	60.90%
North America	22.98%	15.05%
United Kingdom	13.36%	12.18%
Asia	5.13%	5.31%
Europe (excluding the United Kingdom)	1.62%	2.17%
Other	0.30%	0.12%

As of 31 May 2012, 0.72% of the outstanding shares of our common stock was held by 73 CUFS holders with registered addresses in the United States. In addition, as of 31 May 2012, 0.52% of our outstanding shares was represented by ADSs held by 4 holders, all of whom have registered addresses in the United States. A total of 1.24% of our outstanding capital stock was registered to 77 US holders as of 31 May 2012.

## 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
CHES	Clearing House Electronic Subregister System
CUFS	CHES Units of Foreign Securities
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.



## [Table of Contents](#)

### 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 (11)
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 (13)
2.2	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. (13)
2.3	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)
2.4	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)
2.5	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 (12)
2.6	AET Guarantee Trust Deed dated 19 December 2006 between James Hardie Industries N.V. and AET Structured Finance Services Pty Limited (12)
2.7	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 (13)
2.8	Performing Subsidiary Undertaking and Guarantee Trust Deed dated 19 December 2006 between James Hardie 117 Pty Limited and AET Structured Finance Services Pty Limited (12)
2.9	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 (13)
2.10	Form of Term Facility Agreement between James Hardie International Finance Limited and Financier (9)
2.11	Form of Term (Bullet) Facility Agreement [entered into between James Hardie International Finance Limited, James Hardie Building Products, Inc; James Hardie International Finance Limited and Financier (14)
4.1	Amended and Restated James Hardie Industries SE 2001 Equity Incentive Plan
4.2	Executive Incentive Plan 2009 (7)
4.3	Amended and Restated James Hardie Industries SE Long Term Incentive Plan 2006 (10)
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)

## Table of Contents

<b>Exhibit Number</b>	<b>Description of Exhibits</b>
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 Carole Park Landowner Pty Limited (f/k/a 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 Rosehill Landowner Pty Ltd (f/k/a 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 Meeandah Landowner Pty Ltd (f/k/a 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	Notice of sale of property, 46 Randle Road, Meeandah, Queensland, dated 6 December 2011, between Northshore No 3 Pty Ltd and Brookfield Meeandah Landowner Pty Ltd re premises at 46 Randle Road, Meeandah, Queensland, Australia
4.14	Lease Agreement dated 23 March 2004 among Penrose Land 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)
4.15	Lease Agreement dated 23 March 2004 among Penrose Land 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)
4.16	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)
4.17	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)
4.18	Asset Purchase Agreement by and between James Hardie Building Products, Inc. and Cemplank, Inc. dated as of 12 December 2001 (2)
4.19	Amended and Restated Stock Purchase Agreement dated 12 March 2002, between BPB US Holdings, Inc. and James Hardie Inc. (2)
4.20	Amended and Restated Final Funding Agreement (AFFA) dated 21 November 2006 (4)

## Table of Contents

<b>Exhibit Number</b>	<b>Description of Exhibits</b>
4.21	AFFA Amendment dated 6 August 2007 (6)
4.22	AFFA Amendment dated 8 November 2007 (6)
4.23	AFFA Amendment dated 11 June 2008 (6)
4.24	Address for Service of Notice on Trustee dated 13 June 2008 (6)
4.25	AFFA Amendment dated 17 July 2008 (7)
4.26	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 (14)
4.27	AFFA Amendment dated 29 February 2012
4.28	AFFA Amendment dated 28 March 2012
4.29	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)
4.30	Deed Poll dated 11 June 2008 – amendment of the Asbestos Injuries Compensation Fund Amended and Restated Trust Deed (6)
4.31	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)
4.32	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. (13)
4.33	Deed of Release by and between James Hardie Industries N.V. and The State of New South Wales dated 22 June 2006 (3)
4.34	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)
4.35	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)
4.36	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 (12)
4.37	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 (12)
4.38	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 (13)
4.39	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 (12)
4.40	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 (12)

## Table of Contents

<b>Exhibit Number</b>	<b>Description of Exhibits</b>
4.41	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 (13)
4.42	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)
4.43	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 (14)
4.44	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 (14)
4.45	2013 Advance Payment Agreement between James Hardie Industries SE, James Hardie 117 Pty Limited, The State of New South Wales, and Asbestos Injuries Compensation Fund Limited
4.46	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
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.

---

## Table of Contents

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.
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. 333-161482) dated 17 June 2010 and incorporated herein by reference.
11	Previously filed as an exhibit to our Current Report on Form 6-K dated 18 June 2010 and incorporated herein by reference.
12	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.
13	Previously filed as an exhibit to our Annual Report on Form 20-F dated 30 June 2010 and incorporated herein by reference.
14	Previously filed as an exhibit to our Annual Report on Form 20-F dated 29 June 2011 and incorporated herein by reference.



**JAMES HARDIE INDUSTRIES SE**  
**2001 EQUITY INCENTIVE PLAN**  
**Amended and Restated**  
**(as of 16 August 2011)**

**ARTICLE I**  
**PURPOSE OF PLAN**

The Company adopted this Plan to promote the interests of the Company and its stockholders by using investment interests in the Company to attract, retain and motivate its and its Affiliated Entities' employees and management. Capitalized terms not otherwise defined herein have the meanings ascribed to them in Article VII.

**ARTICLE II**  
**EFFECTIVE DATE AND TERM OF PLAN**

**2.1 Term of Plan.** This Plan originally became effective on September 26, 2001, the date the Plan was adopted by the Board. The amended and restated Plan shall become effective if, and at such time as, the stockholders of the Company have approved it in accordance with applicable law and stock exchange requirements and will continue in effect until the Expiration Date, at which time this Plan will automatically terminate.

**2.2 Effect on Awards.** Awards may be granted only during the Plan Term, but each Award granted during the Plan Term will remain in effect after the Expiration Date until such Award has been exercised or terminated or expires in accordance with its terms and the terms of this Plan.

**ARTICLE III**  
**SHARES SUBJECT TO PLAN**

**3.1 Board Authorization.**

(a) On September 26, 2001, the Joint Board resolved to: (i) authorize and approve the adoption of the Plan; (ii) establish the Committee to administer the Plan, including granting Awards covering Plan Shares under the Plan to Eligible Persons, (iii) appoint Alan McGregor, Martin Koffel and Meredith Hellicar as initial members of the Committee, and (iv) reserve 45,077,100 shares of Common Stock for issuance upon exercise of Awards, effective immediately following the submission of the declaration referred to in article 52.3 of the Company's articles of association with the chamber of commerce and industries for Amsterdam (the "Plan Shares").

(b) On August 9, 2002, the authority to issue shares in the Company and to grant rights to subscribe for shares (including pursuant to the Plan) was transferred from the Joint Board to the Supervisory Board.

(c) On November 11, 2003, the Board resolved to appoint the Remuneration Committee of the Board to be the Administrator of the Plan and to amend and restate this Plan to (i) provide for the reduction of the exercise price of Stock Options and other Awards granted under this Plan in the event of a capital return by the Company, and (ii) clarify the intent and terms of this Plan. As a result of the discretion granted to the Administrator in this Plan and the benefits and considerations provided to Recipients, this Amendment did not require the written consent of Recipients. This amended and restated Plan shall govern the terms of all Awards granted on or after the original effective date of September 26, 2001.

(d) On February 19, 2010, this Plan was amended (effective as of such transformation) to reflect the changes necessary, because the Company was transformed into an *Societas Europaea* (a European company) governed by Dutch law.

(e) On June 15, 2010, this Plan was amended (effective as of such transformation) to reflect the changes necessary, because the Company was transformed from a *Societas Europaea* governed by Dutch law to a *Societas Europaea* governed by Irish law.

(f) On August 16, 2011, this Plan was amended to provide for the grant of Restricted Stock Units and best corporate governance practices, effective upon the re-approval of the Plan by the Company's stockholders and to extend the term of the Plan to 2021.

**3.2 Number of Shares.** The maximum number of shares of Common Stock that may be issued pursuant to Awards granted under this Plan is 45,077,100, subject to adjustment as set forth in Section 3.5; *provided, however*, that the maximum number of shares of Common Stock that may be offered in Australia (whether such offer is made under an option or otherwise) is equal to the maximum number of shares that may be offered (whether such offer is made under an option or otherwise) in accordance with applicable Australian law without the need to issue an Australian prospectus, subject to adjustment as set forth in Section 3.5.

**3.3 Source of Shares.** The Common Stock to be issued under this Plan will be made available, at the discretion of the Administrator, either from authorized but unissued shares of Common Stock, or from previously issued shares of Common Stock reacquired by the Company in accordance with Irish law and the Company's articles of association.

**3.4 Availability of Unused Shares.** Shares of Common Stock subject to unexercised portions of any Award that expire, terminate or are canceled, and shares of Common Stock issued pursuant to an Award that are reacquired by the Company pursuant to the terms of the Award under which such shares were issued, shall, upon such expiration, termination, cancellation or reacquisition, become available for the grant of further Awards under this Plan as part of the shares available under Section 3.2. In addition, shares of Common Stock subject to an Award that are delivered to or retained by the Company upon exercise to cover cashless exercise or tax withholding, and any shares of Common Stock underlying an Award that are not issued because the Award is settled in cash, shall be available for grant of further Awards under this Plan as part of the shares available under Section 3.2.



### 3.5 Adjustment Provisions.

(a) Adjustments. If the Company consummates any Reorganization in which holders of shares of Common Stock are entitled to receive in respect of such shares any additional shares or new or different shares or securities, cash or other consideration (including, without limitation, a different number of shares of Common Stock), or if the outstanding shares of Common Stock are increased, decreased or exchanged for a different number or kind of shares or other securities through merger, consolidation, sale or exchange of assets of the Company, reorganization, re-capitalization, reclassification, combination, stock dividend, stock split, reverse stock split, spin-off, return of capital, or similar transaction, then, subject to Section 5.15, an appropriate and proportionate adjustment shall be made by the Administrator in: (1) the maximum number and kind of shares subject to this Plan as provided in Section 3.2; (2) the number and kind of shares or other securities subject to then outstanding Awards; and/or (3) the price for each share or other unit of any other securities subject to, or measurement criteria applicable to, then outstanding Awards.

(b) No Fractional Interests. No fractional interests will be issued under the Plan resulting from any adjustments.

(c) Adjustments Related to Company Stock. To the extent any adjustments relate to stock or securities of the Company, such adjustments will be made by the Administrator, whose determination in that respect will be final, binding and conclusive.

(d) Right to Make Adjustment. The grant of an Award will not affect in any way the right or power of the Company to make adjustments, reclassifications, reorganizations or changes of its capital or business structure or to merge or to consolidate or to dissolve, liquidate or sell, or transfer all or any part of its business or assets.

**3.6 Reservation of Shares.** The Company will at all times reserve and keep available for issuance shares of Common Stock equaling at least the total number of shares of Common Stock issuable pursuant to all outstanding Awards with due observance of Section 3.2.

## ARTICLE IV ADMINISTRATION OF PLAN

### 4.1 Administrator.

(a) Plan Administration. This Plan will be administered by the Board and may also be administered by a Committee of the Board appointed pursuant to Section 4.1(b).

(b) Administration by Committee. The Board in its sole discretion may from time to time appoint a Committee of not less than two (2) Board members with authority to administer this Plan in whole or part and, subject to applicable law, to exercise any or all of the powers, authority and discretion of the Board under this Plan. The Board may from time to time increase or decrease (but not below two (2)) the number of members of the Committee, remove from membership on the Committee all or any portion of its members, and/or appoint such person or persons as it desires to fill any vacancy existing on the Committee, whether caused by removal, resignation or otherwise. The Board may disband the Committee at any time.

---

#### 4.2 Authority of Administrator.

(a) Authority to Interpret Plan. Subject to the express provisions of this Plan, the Administrator will have the power to implement, interpret and construe this Plan and any Awards and Award Documents or other documents defining the rights and obligations of the Company and Recipients hereunder and thereunder, to determine all questions arising hereunder and thereunder, and to adopt and amend such rules and regulations for the administration hereof and thereof as it may deem desirable. The interpretation and construction by the Administrator of any provisions of this Plan or of any Award or Award Document, and any action taken by, or inaction of, the Administrator relating to this Plan or any Award or Award Document, will be within the discretion of the Administrator and will be conclusive and binding upon all persons. Subject only to compliance with the express provisions hereof, the Administrator may act in its discretion in matters related to this Plan and any and all Awards and Award Documents.

(b) Authority to Grant Awards. Subject to the express provisions of this Plan, the Administrator may from time to time in its discretion select the Eligible Persons to whom, and the time or times at which, Awards will be granted or sold, the nature of each Award, the number of shares of Common Stock or the number of rights that make up or underlie each Award, the exercise price and period (if applicable) for the exercise of each Award, and such other terms and conditions applicable to each individual Award as the Administrator may determine. Any and all terms and conditions of Awards may be established by the Administrator without regard to existing Awards or other grants and without incurring any obligation of the Company in respect of subsequent Awards. The Administrator may grant or sell, at any time, new Awards to an Eligible Person who has previously received Awards or other grants (including other stock options) regardless of the status of such other Awards or grants. The Administrator may grant Awards singly or in combination or in tandem with other Awards as it determines in its discretion.

(c) Procedures. Subject to the Company's constitution or any Board resolution conferring authority on the Committee, any action of the Administrator with respect to the administration of this Plan must be taken pursuant to a majority vote of the authorized number of members of the Administrator or by the unanimous written consent of its members; *provided, however*, that (i) if the Administrator is the Committee and consists of two (2) members, then actions of the Administrator must be unanimous, and (ii) actions taken by the Board will be valid if approved in accordance with Irish law.

**4.3 No Liability.** No member of the Board or the Committee or any designee thereof will be liable for any action or inaction with respect to this Plan or any Award or any transaction arising under this Plan or any Award except in circumstances constituting bad faith of such member.

#### 4.4 Amendments.

(a) Plan Amendments. The Administrator may at any time and from time to time in its discretion, insofar as permitted by applicable law, rule or regulation and subject to Section 4.4(c), suspend or discontinue this Plan or revise or amend it in any respect whatsoever, and this Plan as so revised or amended will govern all Awards, including those granted before such revision or amendment. Without limiting the generality of the foregoing, the Administrator is authorized to amend this Plan to comply with or take advantage of amendments to applicable laws, rules, or regulations of any exchange or market system upon which the shares of Common Stock are listed or traded, or any rules or regulations promulgated thereunder. No stockholder approval of any amendment or revision will be required unless such approval is required by applicable law, rule or regulation.

---

(b) **Award Amendments.** The Administrator may at any time and from time to time in its discretion, subject to Section 4.4(c) and compliance with applicable statutory or administrative requirements, accelerate or extend the vesting or exercise period of any Award as a whole or in part, and make such other modifications in the terms and conditions of an Award as it deems advisable.

(c) **Limitation.** Except as otherwise provided in this Plan or in the applicable Award Document, no amendment, revision, suspension or termination of this Plan or an outstanding Award that would alter, impair or diminish in any material respect any rights or obligations under any Award theretofore granted under this Plan may be effected without the written consent of the Recipient to whom such Award was granted, provided that no such consent shall be required if the Administrator determines in its sole discretion and prior to the date of any Change in Control that such amendment or revision either is required or advisable in order for the Company, the Plan or the Award to satisfy any law or regulation or to meet the requirements of any accounting standard, or is not reasonably likely to diminish the Recipient's benefits thereunder or that any diminution has been adequately compensated for.

**4.5 Other Compensation Plans.** The adoption of this Plan will not affect any other stock option, incentive or other compensation plans in effect from time to time for the Company or any Affiliated Entity, and this Plan will not preclude the Company or any Affiliated Entity from establishing any other forms of incentive or other compensation for their employees or their directors, whether or not approved by stockholders.

**4.6 Plan Binding on Successors.** This Plan will be binding upon the successors and assigns of the Company.

**4.7 References to Successor Statutes, Regulations and Rules.** Any reference in this Plan to a particular statute, regulation or rule will also refer to any successor provision of such statute, regulation or rule.

**4.8 Invalid Provisions.** In the event that any provision of this Plan is found to be invalid or otherwise unenforceable under any applicable law, such invalidity or unenforceability is not to be construed as rendering any other provisions contained herein invalid or unenforceable, and all such other provisions are to be given full force and effect to the same extent as though the invalid and unenforceable provision were not contained herein.

**4.9 Governing Law.** This Plan will be governed by and interpreted in accordance with the internal laws of the Republic of Ireland, without giving effect to the principles of the conflicts of laws thereof.

**4.10 Interpretation.** Headings herein are for convenience of reference only, do not constitute a part of this Plan, and will not affect the meaning or interpretation of this Plan. References herein to Sections or Articles are references to the referenced Section or Article hereof, unless otherwise specified. For purposes of the Plan, references to the "grant" or "granting" of Awards shall mean the allocation by the Administrator of Awards covering Plan Shares.

**ARTICLE V  
GENERAL AWARD PROVISIONS**

**5.1 Participation in Plan.**

(a) Eligibility to Receive Awards. A person is eligible to receive grants of Awards if, at the time of the grant of the Award, such person is an Eligible Person. Status as an Eligible Person will not be construed as a commitment that any Award will be granted under this Plan to an Eligible Person or to Eligible Persons generally.

(b) Awards to Foreign Nationals. Notwithstanding anything to the contrary herein, the Administrator may, in order to fulfill the purposes of this Plan, modify grants of Awards to Recipients who are foreign nationals or employed outside of Australia to recognize differences in applicable law, tax policy or local custom.

**5.2 Award Documents.**

(a) Generally. Subject to Section 5.2(b), the grant of each Award must be reflected in an agreement duly executed on behalf of the Company and by the Recipient or, in the Administrator's discretion, a confirming memorandum issued by the Company to the Recipient, setting forth such terms and conditions applicable to the Award as the Administrator may in its discretion determine. Awards will not be deemed made or binding upon the Company, and Recipients will have no rights thereto, until such an agreement is entered into between the Company and the Recipient or such a memorandum is delivered by the Company to the Recipient, but an Award may have an effective date prior to the date of such an agreement or memorandum. Award Documents may be (but need not be) identical and must comply with and be subject to the terms and conditions of this Plan, a copy of which will be provided to each Recipient and incorporated by reference into each Award Document. Any Award Document may contain such other terms, provisions and conditions not inconsistent with this Plan as may be determined by the Administrator. In case of any conflict between this Plan and any Award Document, this Plan shall control.

(b) Australian Nationals. In addition to the document referred to in Section 5.2(a), the Company shall comply with any requirements under Australian law and provide such documents as are necessary to avoid the need for a Disclosure Document.

**5.3 Payment For Awards.**

(a) Payment of Exercise Price. The exercise price or other payment for an Award is payable upon the exercise of a Stock Option or upon other purchase of shares pursuant to an Award granted hereunder by delivery of legal tender of Australia or payment of such other consideration as the Administrator may from time to time deem acceptable in any particular instance, including but not limited to delivery of legal tender of the United States, *provided, however*, that the Administrator may, in the exercise of its discretion, allow exercise of an Award in a broker-assisted or similar transaction in which the exercise price is not received by the Company until promptly after exercise.

(b) Broker-Assisted Exercises. If permitted by the Administrator and if the Company has established such a procedure, the exercise price for Awards may be paid through a special sale and remittance procedure pursuant to which the Recipient shall concurrently provide irrevocable instruction to (i) a Company-designated brokerage firm to

effect the immediate sale of the purchased shares and remit to the Company, out of sale proceeds available on the settlement date, sufficient funds to cover the aggregate exercise price payable for the purchased shares of Common Stock, plus all applicable income and employment taxes required to be withheld by the Company by reason of such exercise and (ii) the Company to deliver the certificates for the purchased shares of Common Stock directly to such brokerage firm in order to complete the sale.

(c) Company Assistance. The Company may assist any Recipient in the payment of the purchase price or other amounts payable in connection with the receipt or exercise of an Award, by lending such amounts to such person on such terms and at such rates of interest (if any) and upon such security (if any) as may be consistent with applicable law, including but not limited to the Sarbanes-Oxley Act of 2002, and Regulation G promulgated by the Federal Reserve Board, and approved by the Administrator. In case of such a loan, the Administrator may require that the exercise be followed by a prompt sale of some or all of the underlying shares and that a portion of the sale proceeds be dedicated to full payment of the exercise price and amounts required pursuant to Section 5.10.

(d) Cashless Exercise. If permitted in any case by the Administrator in its discretion, the exercise price for Awards may be paid by shares of Common Stock delivered in transfer to the Company by or on behalf of the person exercising the Award and duly endorsed in blank or accompanied by stock powers duly endorsed in blank, with signatures guaranteed in accordance with the applicable legal statutes if required by the Administrator; or retained by the Company from the securities otherwise issuable upon exercise or surrender of vested and/or exercisable Awards or other equity awards previously granted to the Recipient and being exercised (if applicable) (in either case valued at Fair Market Value as of the exercise date); or such other consideration as the Administrator may from time to time in the exercise of its discretion deem acceptable in any particular instance.

(e) No Precedent. Recipients will have no rights to the broker-assisted procedure described in Section 5.3(b), the assistance described in Section 5.3(c) or the exercise techniques described in Section 5.3(d), and the Company may offer or permit such assistance or techniques on an *ad hoc* basis to any Recipient without incurring any obligation to offer or permit such assistance or techniques on other occasions or to other Recipients.

**5.4 No Employment Rights.** Nothing contained in this Plan (or in Award Documents or in any other documents related to this Plan or to Awards) will confer upon any Eligible Person or Recipient any right to continue in the employ of or engagement by the Company or any Affiliated Entity or constitute or form part of any contract or agreement of employment or engagement, or interfere in any way with the right of the Company or any Affiliated Entity to reduce such person's compensation or other benefits or to terminate the employment or engagement of such Eligible Person or Recipient, with or without cause. Except as expressly provided in this Plan or in any statement evidencing the grant of an Award, the Company has the right to deal with each Recipient in the same manner as if this Plan and any such statement evidencing the grant of an Award did not exist, including, without limitation, with respect to all matters related to the hiring, discharge, compensation and conditions of the employment or engagement of the Recipient. Unless otherwise set forth in a written agreement binding upon the Company or an Affiliated Entity or required by applicable law, all employees of the Company or an Affiliated Entity are "at will" employees whose employment may be terminated by the Company or the Affiliated Entity at any time for any reason or no reason, without payment or penalty of any kind. Any question(s) as to whether and when there has been a termination of a Recipient's employment or engagement,

the reason (if any) for such termination, and/or the consequences thereof under the terms of this Plan or any statement evidencing the grant of an Award pursuant to this Plan will be determined by the Administrator and the Administrator's determination thereof will be final and binding.

#### **5.5 Restrictions Under Applicable Laws and Regulations.**

(a) Government and Other Approvals. All Awards will be subject to the requirement that, if at any time the Company determines, in its discretion, that the listing, registration or qualification of the securities subject to Awards granted under this Plan upon any securities exchange or inter-dealer quotation system or under any Australian or foreign law, or the consent of the members of the Company or approval of any government or regulatory body (including any stock exchange on which the Company's securities are listed), is necessary or desirable or required by law or any listing rules of any relevant stock exchange as a condition of, or in connection with, the granting of such an Award or the issuance, if any, or purchase of securities subject to an Award granted under this Plan, such Award may not be exercised as a whole or in part unless and until such listing, registration, qualification, consent or approval has been effected or obtained free of any conditions not acceptable to the Company. During the term of this Plan, the Company will use its reasonable efforts to seek to obtain from the appropriate governmental and regulatory agencies (including any relevant stock exchange) any requisite qualifications, consents, approvals or authorizations in order to issue and sell such number of shares of its Common Stock as is sufficient to satisfy the requirements of this Plan. The inability of the Company to obtain any such qualifications, consents, approvals or authorizations will relieve the Company of any liability in respect of the non-issuance or sale of such stock as to which such qualifications, consents, approvals or authorizations pertain.

(b) No Registration Obligation; Recipient Representations. The Company will be under no obligation to register or qualify the issuance of Awards or underlying securities under the applicable securities laws (unless required by such laws). Unless the issuance of Awards and underlying securities have been registered under applicable securities laws, the Company shall be under no obligation to issue any Awards or underlying securities unless the Awards and underlying securities may be issued pursuant to applicable exemptions from such registration or qualification requirements. In connection with any such exempt issuance, the Administrator may require the Recipient to provide a written representation and undertaking to the Company, satisfactory in form and scope to the Company, that such Recipient is acquiring such Awards and underlying securities for such Recipient's own account as an investment and not with a view to, or for sale in connection with, the distribution of any such securities, and that such person will make no transfer of the same except in compliance with any rules and regulations in force at the time of such transfer under applicable law, and that if securities are issued without registration, a legend to this effect (together with any other legends deemed appropriate by the Administrator) may be endorsed upon the securities so issued, and to the effect of any additional representations that are appropriate in light of applicable securities laws and rules. The Company may also order its transfer agent to stop transfers of such shares. The Administrator may also require the Recipient to provide the Company such information and other documents as the Administrator may request in order to satisfy the Administrator as to the investment sophistication and experience of the Recipient and as to any other conditions for compliance with any such exemptions from registration or qualification.

---

(c) Compliance with Laws. Any offer of Awards, any announcement thereof and all offer notices, publications, advertisements and other documents, such as Award Documents, in which an offer of an Award is made or a forthcoming offer is announced, will (i) be in compliance with the applicable laws, rules and regulations of the jurisdictions in which the persons to whom the offer is directed are established, domiciled or resident and (ii) only be directed to Eligible Persons. In addition, in an Award Document, the Recipient may be required to represent that he or she is an Eligible Person. Any offer of Awards by the Company shall, or receipt, purchase or exercise of Awards or Plan Shares by a Recipient, or sale or other disposition of Plan Shares by a Recipient should comply with the Company's insider trading policy or policies and all applicable insider trading laws, rules and regulations.

**5.6 Additional Conditions.** Any Award may also be subject to such other provisions (whether or not applicable to any other Award or Recipient) as the Administrator deems appropriate, including without limitation provisions for the forfeiture of or restrictions on resale, transfer or other disposition of securities of the Company acquired under this Plan, provisions giving the Company the right to repurchase securities of the Company acquired under this Plan in the event the Recipient leaves the Company for any reason or elects to effect any disposition thereof, and provisions to comply with applicable securities laws.

**5.7 No Privileges re Stock Ownership or Specific Assets.** Except as otherwise set forth herein, a Recipient or a permitted transferee of an Award will have no rights as a shareholder with respect to any shares issuable or issued in connection with the Award until the Recipient has delivered to the Company all amounts payable and performed all obligations required to be performed in connection with exercise of the Award and the Company has issued such shares. No person will have any right, title or interest in any fund or in any specific asset (including shares of Common Stock) of the Company by reason of any Award granted hereunder. Neither this Plan (or any documents related hereto) nor any action taken pursuant hereto is to be construed to create a trust of any kind or a fiduciary relationship between the Company and any person. To the extent that any person acquires a right to receive an Award hereunder, such right shall be no greater than the right of any unsecured general creditor of the Company.

**5.8 Non-assignability.** No Award is assignable or transferable except: (a) by will or by the laws of descent and distribution; or (b) upon dissolution of marriage pursuant to a qualified domestic relations order or similar order by a court of competent jurisdiction or, in the discretion of the Administrator and under circumstances that would not adversely affect the interests of the Company, transfers for estate planning purposes or pursuant to a nominal transfer that does not result in a change in beneficial ownership. During the lifetime of a Recipient, an Award granted to such person will be exercisable only by the Recipient (or the Recipient's permitted transferee) or such person's guardian or legal representative.

**5.9 Information To Recipients.**

(a) Provision of Information. The Administrator in its sole discretion may determine what, if any, financial and other information is to be provided to Recipients and when such financial and other information is to be provided after giving consideration to applicable laws, rules and regulations.

(b) Confidentiality. The furnishing of financial and other information that is confidential to the Company is subject to the Recipient's agreement to maintain the confidentiality of such financial and other information, and not to use the information for any purpose other than evaluating the Recipient's position under this Plan. The Administrator may impose other restrictions on the access to and use of such confidential information and may require a Recipient to acknowledge the Recipient's obligations under this Section 5.9(b) (which acknowledgment is not to be a condition to the Recipient's obligations under this Section 5.9(b)).

**5.10 Withholding Taxes.** Whenever the granting, vesting or exercise of any Award, or the issuance of any securities upon exercise of any Award or transfer thereof, gives rise to tax or tax withholding liabilities or obligations, the Administrator will have the right as a condition thereto to require the Recipient to remit to the Company an amount sufficient to satisfy any applicable statutory withholding tax requirements arising in connection therewith. The Administrator may, in its discretion, allow satisfaction of tax withholding requirements by accepting delivery of shares of Common Stock of the Company or by withholding a portion of the shares of Common Stock otherwise issuable in connection with an Award, in each case valued at Fair Market Value as of the date of such delivery or withholding, as the case may be, is determined.

**5.11 Legends on Awards and Stock Certificates.** Each Award Document and each certificate (if any) representing securities acquired upon vesting or exercise of an Award must be endorsed with all legends, if any, required by applicable securities and other laws to be placed on the Award Document and/or the certificate (if any). The determination of which legends, if any, will be placed upon Award Documents or the certificates will be made by the Administrator in its discretion and such decision will be final and binding.

**5.12 Effect of Termination of Employment on Awards.**

(a) Alteration of Vesting and Exercise Periods. Notwithstanding anything to the contrary herein, the Administrator may in its discretion (i) designate shorter or longer periods following a Recipient's termination of employment during which Awards may vest or be exercised; *provided, however*, that any shorter periods determined by the Administrator will be effective only if provided for in this Plan or the instrument that evidences the grant to the Recipient of the affected Award or if such shorter period is agreed to in writing by the Recipient, and (ii) accelerate the vesting of all or any portion of any Awards by increasing the number of shares purchasable at any time.

(b) Leave of Absence. In the case of any employee on an approved leave of absence, the Administrator may make such provision respecting continuance of Awards granted to such employee as the Administrator in its discretion deems appropriate, except that in no event will an Award be exercisable after the date such Award would expire in accordance with its terms had the Recipient remained continuously employed.

(c) General Cessation. Except as otherwise set forth in this Plan or an Award Document or as determined by the Administrator in its discretion, all Awards granted to a Recipient, and all of such Recipient's rights thereunder, will terminate upon termination for any reason of such Recipient's employment with the Company or any Affiliated Entity.

**5.13 Restrictions on Common Stock and Other Securities.** Common Stock or other securities of the Company issued or issuable in connection with any Award will be subject to all of the restrictions imposed under this Plan upon Common Stock issuable or issued upon exercise of Stock Options, except as otherwise determined by the Administrator.



**5.14 Cancellation and Rescission of Awards.** Unless an Award Document or other separate written agreement binding upon the Company provides otherwise, the Administrator may cancel any unexpired, unpaid or deferred Award (whether or not vested) at any time if the Recipient thereof fails at any time to comply with all applicable provisions of the Award Document or this Plan.

**5.15 Effect of Change in Control.** Unless otherwise set forth in an Award Document or in this Section 5.15, as of the effective time and date of any Change in Control, this Plan and any then outstanding Awards (whether or not vested) will automatically terminate unless: (a) provision is made in writing in connection with such transaction for the continuance of this Plan and for the assumption of such Awards, or for the substitution for such Awards of new awards covering the securities of a successor entity or an affiliate thereof, on no less favorable terms and with appropriate adjustments as to the number and kind of securities and exercise prices or other measurement criteria, in which event this Plan and such outstanding Awards will continue or be replaced, as the case may be, in the manner and under the terms so provided; or (b) the Board otherwise provides in writing for such adjustments as it deems appropriate in the terms and conditions of the then-outstanding Awards (whether or not vested), including, without limitation, (i) accelerating the vesting of outstanding Awards, and/or (ii) providing for the cancellation of Awards and their automatic conversion into the right to receive the securities, cash or other consideration that a holder of the shares underlying such Awards would have been entitled to receive upon consummation of such Change in Control had such shares been issued and outstanding immediately prior to the effective date and time of the Change in Control (net of the appropriate option exercise prices). If, pursuant to the foregoing provisions of this Section 5.15, this Plan and the Awards terminate by reason of the occurrence of a Change in Control without provision for any of the action(s) described in clause (a) or (b) hereof, then subject to Section 5.12, Section 5.16 and Section 6.1(e), any Recipient holding outstanding Awards will have the right, at such time prior to the consummation of the Change in Control as the Board designates, to exercise or receive the full benefit of the Recipient's Awards to the full extent not theretofore exercised, including any installments which have not yet become vested.

**5.16 Termination of Employment in Connection With a Change in Control.**

(a) Acceleration of Awards. Unless otherwise set forth in an Award Document, if a Change in Control occurs and provision for Awards is made as described in part (a) or (b) of Section 5.15 such that a Recipient continues to own Awards or replacement awards, but in connection with such Change in Control and without any circumstances that would justify a Just Cause Dismissal of the Recipient, the Recipient's employment with the Company or an Affiliated Entity is terminated by the Company or an Affiliated Entity as described in Section 5.16(b), then, subject to Sections 5.12, 6.1(e), and 6.3(e) and the terms of any written employment agreement between the Company or any Affiliated Entity and the Recipient, such Recipient will have the right to exercise or receive the full benefit of the Recipient's Awards during the applicable time period provided in Sections 5.12, 6.1(e), and 6.3(e) without regard to any vesting or performance requirements or other milestones.

(b) Employment Termination. For purposes of this Section, and subject to any separate written agreement binding upon the Company, a Recipient's employment with the Company or any Affiliated Entity will be deemed to have been terminated in connection with a Change in Control if within two years of the Change in Control: (i) the Recipient is removed from the Recipient's employment by, or resigns the Recipient's employment upon the request of, a Person exercising practical voting control over the Company following the

Change in Control or a person acting upon authority or at the instruction of such Person; or (ii) the Recipient's position is eliminated as a result of a reduction in force made to reduce over-capacity or unnecessary duplication of personnel and the Recipient is not offered a replacement position with compensation substantially similar to the compensation in effect immediately before the Change in Control; or (iii) the Recipient terminates employment because he or she is forced to relocate to a work place more than 50 miles away from his or her work place before the Change in Control. Unless otherwise provided in a written agreement with the Company or any Affiliated Entity, assignment of a Recipient to different duties or reporting will not be deemed to constitute or justify termination of Recipient's employment in connection with the Change in Control.

## ARTICLE VI AWARDS

### 6.1 Stock Options.

(a) Nature of Stock Options. Stock Options granted under this plan shall be Nonstatutory Stock Options.

(b) Option Exercise Price. The exercise price for each Stock Option will be determined by the Administrator as of the date such Stock Option is granted, provided that, notwithstanding anything contained herein to the contrary, such exercise price shall be (A) fixed as of the grant date, and (B) not less than the Fair Market Value of a share of Common Stock on the grant date. Notwithstanding the foregoing, any substitute Award granted in assumption of or in substitution for an outstanding Award granted by a company or business acquired by the Company or a subsidiary or affiliate, or with which the Company or a subsidiary or affiliate combines, may be granted with an exercise price per share of Common Stock other than as required above. Other than in connection with a change in the Company's capitalization, without the approval of stockholders, at any time when the exercise price of a Stock Option is above Fair Market Value of a share of Common Stock, the Administrator will not (A) reduce the exercise price of such Stock Option, (B) exchange such Stock Option for cash, another Award or a new Stock Option with a lower exercise price or (C) otherwise reprice such Stock Option.

(c) Option Period and Vesting. A Stock Option shall become exercisable, as a whole or in part, on the date or dates specified by the Administrator and thereafter shall remain exercisable until the earlier of (i) the date that such Stock Option expires and becomes unexercisable pursuant to the terms of an Award Document or the terms of this Plan and (ii) the date that is ten (10) years after the date of grant.

(d) Exercise of Stock Options. The exercise price for Stock Options will be paid as set forth in Section 5.3. No Stock Option will be exercisable except in respect of whole shares, and fractional share interests shall be disregarded. A Stock Option will be deemed to be exercised when the individual at the Company designated as its "Stock Plan Administrator" (or other designated official of the Company) receives written notice of such exercise from the Recipient in the form of Exhibit A hereto or such other form as the Company may specify from time to time, together with payment of the exercise price in accordance with Section 5.3 and any amounts required under Section 5.10 or, with permission of the Administrator, arrangement for such payment. Notwithstanding any other provision of this Plan, the Administrator may impose, by rule and/or in Award Documents, such conditions upon the exercise of Stock Options (including, without limitation, conditions limiting the time of exercise to specified periods) as may be required to satisfy applicable regulatory requirements.

(e) Termination of Employment

(i) Termination for Just Cause. Subject to Section 5.12 and except as otherwise provided in the Award Document or any written agreement between the Company or an Affiliated Entity and the Recipient, which may be entered into at any time before or after termination of employment, in the event of a Just Cause Dismissal of a Recipient all of the Recipient's unexercised Stock Options, whether or not vested, will expire and become unexercisable as of the date of such Just Cause Dismissal.

(ii) Termination Other Than for Just Cause. Subject to Section 5.12 and except as otherwise provided in the Award Document or any written agreement between the Company or an Affiliated Entity and the Recipient, which may be entered into at any time before or after termination of employment, if a Recipient's employment with the Company or any Affiliated Entity is terminated:

(A) by the Company or an Affiliated Entity on account of a Redundancy Termination, then (1) all Stock Options that would have vested between the date of such termination and December 31st of the year in which termination occurs shall vest in full and (2) all of the Recipient's vested Stock Options shall remain exercisable until the earlier of (x) the date such Stock Options would expire in accordance with their terms and (y) 90 days after the date of termination of employment. All other unvested Stock Options shall immediately expire and become unexercisable as of the date of such termination.

(B) by the Company or an Affiliated Entity for any reason other than Just Cause Dismissal, Redundancy Termination, death, Retirement or Permanent Disability, then, except as required by applicable law, (1) all unvested Stock Options shall immediately expire and become unexercisable on the date of such termination and (2) all vested and unexercised options shall remain exercisable until the earlier of (x) the date such Stock Options would expire in accordance with their terms and (y) 90 days after the date of termination of employment.

(C) by the Recipient for any reason other than death, Retirement or Permanent Disability, the Recipient's unexercised Stock Options that are not vested as of the termination date will expire and become unexercisable as of the date of termination, and the Recipient's unexercised Stock Options that are vested as of the date of termination will become unexercisable as of the earlier of: (1) the date such Stock Options would expire in accordance with their terms had the Recipient remained employed; and (2) 90 days after the date of termination of employment.

(D) due to death, Retirement or Permanent Disability, the Recipient's unexercised Stock Options will vest in full and will become unexercisable as of the earlier of: (1) the date such Stock Options would expire in accordance with their terms had the Recipient remained employed; and (2) two years after the date of death, Retirement or Permanent Disability.

## 6.2 Performance Awards.

(a) Grant of Performance Award. The Administrator will determine in its discretion, subject to applicable law, the performance criteria (which need not be identical and may be established on an individual or group basis) governing Performance Awards, the terms thereof, and the form and time of payment of Performance Awards.

(b) Payment of Award. Upon satisfaction of the conditions applicable to a Performance Award, payment will be made to the Recipient in cash, in shares of Common Stock valued at Fair Market Value as of the date payment is due, or in a combination of shares of Common Stock and cash, as the Administrator in its discretion may determine.

(c) Right of Recapture. If at any time after the date on which a Recipient has been granted or becomes vested in an Award pursuant to the achievement of a performance goal the Administrator determines that the earlier determination as to the achievement of the performance goal was based on incorrect data and that in fact the performance goal had not been achieved or had been achieved to a lesser extent than originally determined and a portion of an Award would not have been granted, vested or paid, given the correct data, then (i) such portion of the Award that was granted shall be forfeited and any related shares (or if shares were disposed of, the cash equivalent) shall be returned to the Company as provided by the Administrator, (ii) such portion of the Award that became vested shall be deemed to be not vested and any related shares (or if such shares were disposed of, the cash equivalent) shall be returned to the Company as provided by the Administrator, and (iii) such portion of the Award paid to the Recipient shall be paid by the Recipient to the Company upon notice from the Company as provided by the Administrator.

## 6.3 Restricted Stock.

(a) Award of Restricted Stock. The Administrator will determine the Purchase Price (if any), the terms of payment of the Purchase Price, the restrictions upon the Restricted Stock, and when such restrictions will lapse.

(b) Requirements of Restricted Stock. All shares of Restricted Stock granted or sold pursuant to this Plan will be subject to the following conditions:

(i) No Transfer. The shares of Restricted Stock may not be sold, assigned, transferred, pledged, hypothecated or otherwise disposed of, alienated or encumbered until the restrictions are removed or expire;

(ii) Certificates. The Administrator may require that the certificates representing shares of Restricted Stock (if any) granted or sold to a Recipient remain in the physical custody of an escrow holder or the Company until all restrictions are removed or expire;

(iii) Restrictive Legends. Each certificate (if any) representing shares of Restricted Stock granted or sold to a Recipient pursuant to this Plan will bear such legend or legends making reference to the restrictions imposed upon such shares of Restricted Stock as the Administrator in its discretion deems necessary or appropriate to enforce such restrictions; and

(iv) Other Restrictions. The Administrator may impose such other conditions on shares of Restricted Stock as the Administrator may deem advisable, including, without limitation, trading or other restrictions under any laws or rules of any applicable stock exchange or clearing house applicable to such securities.

(c) Lapse of Restrictions. The restrictions imposed upon Restricted Stock will lapse in accordance with such terms or other conditions as are determined by the Administrator.

(d) Rights of Recipient. Subject to the provisions of Section 6.3(b) and any restrictions imposed upon the shares of Restricted Stock, the Recipient will have all rights of a stockholder with respect to the shares of Restricted Stock granted or sold to such Recipient under this Plan, including, without limitation, the right to vote the shares of Restricted Stock and receive all dividends and other distributions paid or made with respect thereto.

#### **6.4 Restricted Stock Units.**

(a) Award of Restricted Stock Units. The Administrator may at any time and from time to time approve the grant to Eligible Persons of Restricted Stock Units that will entitle the Recipient to be issued or transferred a CUFS, or a cash amount of equivalent value, subject to the vesting of the Restricted Stock Unit. Each Restricted Stock Unit shall represent the right to receive one CUFS or a cash amount of equivalent value. The specific terms and conditions of each award will be set out in the Award Document.

(b) Vesting. Restricted Stock Units shall become vested, as a whole or in part, on the date or dates specified by the Administrator, subject to continuous employment through such date or dates.

#### (c) Termination of Employment

(i) Termination for Just Cause. Subject to Section 5.12 and except as otherwise provided in the Award Document or any written agreement between the Company or an Affiliated Entity and the Recipient, which may be entered into at any time before or after termination of employment, in the event of a Just Cause Dismissal of a Recipient all of the Recipient's Restricted Stock Units, whether or not vested, will expire and be forfeited as of the date of such Just Cause Dismissal.

(ii) Termination Other Than for Just Cause. Subject to Section 5.12 and except as otherwise provided in the Award Document or any written agreement between the Company or an Affiliated Entity and the Recipient, which may be entered into at any time before or after termination of employment, if a Recipient's employment with the Company or any Affiliated Entity is terminated:

(A) by the Company or an Affiliated Entity on account of a Redundancy Termination, then all Restricted Stock Units that would have vested between the date of such termination and December 31st of the year in which termination occurs shall vest in full. All other unvested Restricted Stock Units shall immediately expire and be forfeited as of the date of such termination.

(B) by the Company or an Affiliated Entity for any reason other than Just Cause Dismissal, Redundancy Termination, death, Retirement or Permanent Disability, then, except as required by applicable law, all unvested Restricted Stock Units shall immediately expire and be forfeited on the date of such termination.

(C) by the Recipient for any reason other than death, Retirement or Permanent Disability, the Recipient's unvested Restricted Stock Units shall immediately expire and be forfeited on the date of such termination.

(D) due to death, Retirement or Permanent Disability, the Recipient's unvested Restricted Stock Units shall immediately vest in full.

(d) Rights of Recipient. Holders of Restricted Stock Units will not be entitled to vote or entitled to dividends with respect to the Restricted Stock Units until the Restricted Stock Units vest and an equivalent number of CUFS have been issued. Restricted Stock Units will not carry any entitlement to participate in new issues of CUFS prior to vesting.

#### **6.5 Stock Appreciation Rights.**

(a) Granting of Stock Appreciation Rights. The Administrator may at any time and from time to time approve the grant to Eligible Persons of Stock Appreciation Rights, related or unrelated to Stock Options.

##### **(b) Stock Appreciation Rights Related to Options.**

(i) A Stock Appreciation Right related to a Stock Option will entitle the holder of the related Stock Option, upon exercise of the Stock Appreciation Right, to surrender such Stock Option, or any portion thereof to the extent previously vested but unexercised, with respect to the number of shares of Common Stock as to which such Stock Appreciation Right is exercised, and to receive payment of an amount computed pursuant to Section 6.5(b)(iii). Such Stock Option will, to the extent surrendered, then cease to be exercisable.

(ii) A Stock Appreciation Right related to a Stock Option hereunder will be exercisable at such time or times, and only to the extent that, the related Stock Option is exercisable, and will not be transferable except to the extent that such related Stock Option may be transferable (and under the same conditions), will expire no later than the expiration of the related Stock Option, and may be exercised only when the market price of the Common Stock subject to the related Stock Option exceeds the exercise price of the Stock Option.

(iii) Upon the exercise of a Stock Appreciation Right related to a Stock Option, the Recipient will be entitled to receive payment of an amount determined by multiplying: (A) the difference obtained by subtracting the exercise price of a share of Common Stock specified in the related Stock Option from the Fair Market Value of a share of Common Stock on the date of exercise of such Stock Appreciation Right (or as of such other date or as of the occurrence of such event as may have been specified in the instrument evidencing the grant of the Stock Appreciation Right), by (B) the number of shares as to which such Stock Appreciation Right is exercised.

(c) Stock Appreciation Rights Unrelated to Options. The Administrator may grant Stock Appreciation Rights unrelated to Stock Options. Section 6.5(b)(iii) will govern the amount payable at exercise under such Stock Appreciation Right, except that in lieu of an option exercise price the initial base amount specified in the Award shall be used.

(d) Limits. Notwithstanding the foregoing, the Administrator, in its discretion, may place a dollar limitation in such currency as it in its discretion chooses on the maximum amount that will be payable upon the exercise of a Stock Appreciation Right.

(e) Payments. Payment of the amount determined under the foregoing provisions may be made solely in whole shares of Common Stock valued at their Fair Market Value on the date of exercise of the Stock Appreciation Right or, alternatively, at the discretion of the Administrator, in cash (in such currency as the Administrator in its discretion chooses) or in a combination of cash and shares of Common Stock as the Administrator deems advisable. The Administrator has full discretion to determine the form in which payment of a Stock Appreciation Right will be made and to consent to or disapprove the election of a Recipient to receive cash in full or partial settlement of a Stock Appreciation Right. If the Administrator decides to make full payment in shares of Common Stock, and the amount payable results in a fractional share, payment for the fractional share will be made in cash.

(f) No Repricing. Other than in connection with a change in the Company's capitalization, without the approval of stockholders, at any time when the exercise price or base price of a Stock Appreciation Right is above Fair Market Value of a share of Common Stock, the Administrator will not (A) reduce the exercise price or base price of such Stock Appreciation Right, (B) exchange such Stock Appreciation Right for cash, another Award or a new Stock Appreciation Right with a lower exercise price or base price or (C) otherwise reprice such Stock Appreciation Right.

**6.6 Stock Payments.** The Administrator may approve Stock Payments to any Eligible Person on such terms and conditions as the Administrator may determine. Stock Payments will replace cash compensation at the Fair Market Value of the Common Stock on the date payment is due.

**6.7 Dividend Equivalents.** The Administrator may grant Dividend Equivalents to any Recipient who has received a Stock Option, Stock Appreciation Right or other Award denominated in shares of Common Stock. Dividend Equivalents may be paid in cash, shares of Common Stock or other Awards; the amount of Dividend Equivalents paid other than in cash will be determined by the Administrator by application of such formula as the Administrator may deem appropriate to translate the cash value of dividends paid to the alternative form of payment of the Dividend Equivalent. Dividend Equivalents will be computed as of each dividend record date and will be payable to recipients thereof at such time as the Administrator may determine. Notwithstanding anything herein to the contrary, in no event shall dividends or dividend equivalents be currently payable with respect to unvested or unearned Awards subject to performance criteria.

**6.8 Stock Bonuses.** The Administrator may issue Stock Bonuses to Eligible Persons on such terms and conditions as the Administrator may determine.

**6.9 Stock Sales.** The Administrator may sell to Eligible Persons shares of Common Stock on such terms and conditions as the Administrator may determine.

**7.0 Other Stock-Based Benefits.** The Administrator is authorized to grant Other Stock-Based Benefits. Other Stock-Based Benefits are any arrangements granted under this Plan not otherwise described above that: (a) by their terms might involve the issuance or sale of shares of Common Stock or other securities of the Company; or (b) involve a benefit that is measured, as a whole or in part, by the value, appreciation, dividend yield or other features attributable to a specified number of shares of Common Stock or other securities of the Company.

## **ARTICLE VII DEFINITIONS**

Capitalized terms used in this Plan and not otherwise defined have the meanings set forth below:

**“Administrator”** means the Board as long as no Committee has been appointed and is in effect and also means the Committee to the extent that the Board has delegated authority thereto.

**“Affiliated Entity”** means any entity controlled by the Company.

**“Amendment Effective Date”** means August 16, 2011, the date that the stockholders re-approved the Plan.

**“Applicable Dividend Period”** means (i) the period between the date a Dividend Equivalent is granted and the date the related Stock Option, Stock Appreciation Right, or other Award is exercised, terminates, or is converted into shares of Common Stock, or (ii) such other time as the Administrator may specify in the written instrument evidencing the grant of the Dividend Equivalent.

**“ASX”** means the Australian Securities Exchange, or the stock market conducted by it, as the context requires.

**“Award”** means any Stock Option, Performance Award, Restricted Stock, Restricted Stock Unit, Stock Appreciation Right, Stock Payment, Stock Bonus, Stock Sale, Dividend Equivalent, or Other Stock-Based Benefit granted or sold to a Recipient under this Plan.

**“Award Document”** means the agreement or confirming memorandum setting forth the terms and conditions of an Award.

**“Board”** means the Board of the Company.

**“Change in Control”** means the following and shall be deemed to occur if any of the following events occurs:

(i) Any Person becomes the beneficial owner (within the meaning of applicable securities laws) of 30% or more of either the then outstanding shares of Common Stock or the combined voting power of the Company’s then outstanding securities entitled to vote generally in the election of directors; or



(ii) Individuals who, as of the Amendment Effective Date hereof, constitute the Board (the “**Incumbent Board**”), cease for any reason to constitute at least a majority of the Board, provided that any individual who becomes a member of the Board after the effective date hereof whose election, or nomination for election by the Company’s shareholders, is approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered to be a member of the Incumbent Board unless that individual was nominated or elected by any person, entity or group (as defined above) having the power to exercise, through beneficial ownership, voting agreement and/or proxy, twenty percent (20%) or more of either the outstanding shares of Common Stock or the combined voting power of the Company’s then outstanding voting securities entitled to vote generally in the election of directors, in which case that individual shall not be considered to be a member of the Incumbent Board unless such individual’s election or nomination for election by the Company’s shareholders is approved by a vote of at least two-thirds of the directors then comprising the Incumbent Board; or

(iii) Consummation by the Company of the sale or other disposition by the Company of all or substantially all of the Company’s assets or a Reorganization of the Company with any other person, corporation or other entity, other than a

(A) Reorganization that would result in the voting securities of the Company outstanding immediately prior thereto (or, in the case of a Reorganization that is preceded or accomplished by an acquisition or series of related acquisitions by any Person, by tender or exchange offer or otherwise, of voting securities representing 5% or more of the combined voting power of all securities of the Company, immediately prior to such acquisition or the first acquisition in such series of acquisitions) continuing to represent, either by remaining outstanding or by being converted into voting securities of another entity, more than 50% of the combined voting power of the voting securities of the Company or such other entity outstanding immediately after such Reorganization (or series of related transactions involving such a Reorganization), or

(B) Reorganization effected to implement a re-capitalization or re-incorporation of the Company (or similar transaction) that does not result in a material change in beneficial ownership of the voting securities of the Company or its successor; or

(iv) Resolution of the shareholders of the Company or a court order of the competent Irish court to liquidate the Company or the liquidation of the Company on any other ground for liquidation pursuant to applicable law.

“**Committee**” means any committee appointed by the Board to administer this Plan pursuant to Section 4.1.

“**Common Stock**” means the common stock of the Company, as constituted at the moment immediately following the submission of the declaration referred to in article 52.3 of the Company’s articles of association with the chamber of commerce and industries for Amsterdam, and as thereafter adjusted under Section 3.5. The Administrator, in its discretion, may treat CUFS or American Depositary Shares (“ADSs”) evidenced by American Depositary Receipts (“ADRs”) as equivalent to and interchangeable with the Common Stock of the Company for the purposes of this Plan, in the case of ADRs on a proportionately adjusted basis to account for the ratio of Common Stock in relation to ADRs.

---

**“Company”** means James Hardie Industries SE, a Societas Europaea under Irish law and for the avoidance of doubt:

- (i) for the period until conversion to an SE under Dutch law, James Hardie Industries N.V.; and
- (ii) for the period after conversion to an SE under Dutch law but prior to conversion to an SE under Irish law, James Hardie Industries SE, a Societas Europaea under Dutch law.

**“CUFS”** means CHESSE Units of Foreign Securities as defined in the SCH Business Rules.

**“Disclosure Document”** has the same meaning as set out in the Corporations Law.

**“Dividend Equivalent”** means a right granted by the Company under [Section 6.7](#) to a holder of a Stock Option, Stock Appreciation Right or other Award denominated in shares of Common Stock to receive from the Company during the Applicable Dividend Period payments equivalent to the amount of dividends payable to holders of the number of shares of Common Stock underlying such Stock Option, Stock Appreciation Right, or other Award.

**“Eligible Person”** means employees of the Company or of any Affiliated Entity, including officers of the Company or of any Affiliated Entity who are employees of the Company or of any Affiliated Entity; *provided, however*, that any employee who is also a member of the Board of the Company shall not be an Eligible Person, and *provided further*, that if any listing rule of any stock exchange where the Company’s securities are listed or the ASX requires the Company to obtain shareholder approval prior to granting an Award or issuing any securities to any employee, such an employee is not an Eligible Person unless and until any such shareholder approval has been obtained.

**“Expiration Date”** means the tenth (10th) anniversary of the Amendment Effective Date.

**“Fair Market Value”** as of a particular date means either:

(i) the market price of a share of the Common Stock determined as follows: (A) if the stock is listed on an established stock exchange or exchanges (including for this purpose, the Nasdaq National Market), the closing price of a share on that trading day on the primary exchange upon which the stock trades, as measured by volume, as published in *The Australian Financial Review* or other reputable newspaper circulating in the country where the Company’s Common Stock is primarily listed, or if no sale price was quoted for such date, then as of the next preceding date on which such a sale price was quoted, or (B) if the stock is not then listed on an established stock exchange, the fair market value as determined by the Administrator in good faith on such basis as it deems appropriate;

(ii) the market price of an ADS evidenced by an ADR determined as follows: (A) if the ADR is listed on an established exchange or exchanges (including for this purpose, the Nasdaq National Market), the closing price of the ADR on that trading day on the primary exchange on which the ADR trades, as measured by volume, as published in *The Wall Street Journal* or other reputable newspaper circulating in the country where the Company’s ADRs are primarily listed, or if no sale price was

---

quoted for such date, then as of the next preceding date on which the sale price was quoted, or (B) if the ADR is not then listed on an established stock exchange, the fair market value as determined by the Administrator in good faith on such basis as it deems appropriate; or

(iii) the market price of a single CUFS unit determined as follows: (A) if the CUFS are listed on an established exchange or exchanges (including for this purpose, the ASX), the arithmetic mean of the highest and lowest sale prices of the CUFS or the underlying stock for that trading day on the primary exchange on which the CUFS or underlying stock trade, as measured by volume, as published in *The Australian Financial Review* or other reputable newspaper circulating in the country where the Company's CUFS are primarily listed, or if no sale price was quoted for such date, then as of the next preceding date on which the sale price was quoted, or (B) if the CUFS or underlying stock are not then listed on an established stock exchange, the fair market value as determined by the Administrator in good faith on such basis as it deems appropriate.

**"Just Cause Dismissal"** means a termination of a Recipient's employment for any of the following reasons: (i) the refusal of the Recipient to carry out reasonable directions provided to the Recipient by the Board, the President or Chief Executive Officer of the Company, or any other person who has authority to so direct the Recipient; (ii) the commission of a grossly negligent act by the Recipient in the performance of his or her duties which injures the Company; (iii) the commission of theft from the Company by the Recipient; (iv) a material violation of any policy of the Company which injures the Company; (v) the conviction of the Recipient of violating a criminal law that involves the commission of a felony or other crime that involves moral turpitude; (vi) the performance of services by the Recipient for any other person or entity that, in the judgment of the Chief Executive Officer of the Company or other senior executive officer designated by the Administrator, competes with the Company or an Affiliated Entity, or is otherwise prejudicial to or in conflict with the business or interests of the Company or its Affiliated Entities, while the Recipient is employed by the Company and without the prior written approval of the Chief Executive Officer of the Company.

**"Nonstatutory Stock Option"** means a regular Stock Option that is not covered by special tax or other regulatory provisions.

**"Other Stock-Based Benefits"** means an Award granted under [Section 7.0](#).

**"Performance Award"** means an Award under [Section 6.2](#), payable in cash, shares of Common Stock or a combination thereof, that vests and becomes payable over a period of time upon attainment of individual performance criteria or other criteria tied to the performance of the Company, any Affiliated Entity, or any part of the Company or any Affiliated Entity, established in connection with the grant of the Award, which may include satisfactory completion of a specified period of employment service.

**"Permanent Disability"** means that the Recipient becomes physically or mentally incapacitated or disabled so that the Recipient is unable to perform substantially the same services as the Recipient performed prior to incurring such incapacity or disability (the Company, at its option and expense, being entitled to retain a physician to confirm the existence of such incapacity or disability, and the determination of such physician to be binding upon the Company and the Recipient), and such incapacity or disability continues for a period of three consecutive months or six months in any 12-month period or such other period(s) as may be determined by the Administrator with respect to any Award.

---

**“Person”** means any person, entity or group, within the meaning ascribed to by relevant security laws, but excluding (i) the Company and its subsidiaries, (ii) any depository for the CUFS or ADRs, (iii) any employee stock ownership or other employee benefit plan maintained by the Company and (iv) an underwriter or underwriting syndicate that has acquired the Company’s securities solely in connection with a public offering thereof.

**“Plan”** means this 2001 Equity Incentive Plan of the Company, as amended from time to time.

**“Plan Term”** means the period during which this Plan remains in effect (commencing on the original effective date and ending on the Expiration Date).

**“Purchase Price”** means the purchase price (if any) to be paid by a Recipient for Restricted Stock as determined by the Administrator (which price shall be at least equal to the minimum price required under applicable laws and regulations for the issuance of shares of Common Stock which is nontransferable and subject to a substantial risk of forfeiture until specific conditions are met).

**“Recipient”** means an employee, including an officer, who has received an Award under this Plan.

**“Redundancy Termination”** means termination of a Recipient’s employment as a result of the elimination of a Recipient’s position or as apart of a reduction of force that is not related to the performance of the Recipient.

**“Reorganization”** means any merger, consolidation or other reorganization.

**“Restricted Stock”** means Common Stock or CUFS issued in respect of such stock that is the subject of an Award made under Section 6.3 and that is nontransferable and subject to a substantial risk of forfeiture until specific conditions are met, as set forth in this Plan and in any statement evidencing the grant of such Award.

**“Restricted Stock Unit”** means a right granted under Section 6.4 to be issued or transferred a CUFS or a cash amount of equivalent value subject to certain vesting requirements.

**“Retirement”** of a Recipient means the Recipient’s resignation from the Company or any Affiliated Entity after reaching age 62 and at least five years of full-time employment by the Company or any Affiliated Entity, without any circumstances that would justify a Just Cause Dismissal of the Recipient.

**“Stock Appreciation Right”** means a right granted under Section 6.5 to receive a payment that is measured with reference to the amount by which the Fair Market Value of a specified number of shares of Common Stock appreciates from a specified date, such as the date of grant of the Stock Appreciation Right, to the date of exercise.

**“Stock Bonus”** means an issuance or delivery of unrestricted or restricted shares of Common Stock under Section 6.8 as a bonus for services rendered or for any other valid consideration under applicable law.

---

***“Stock Payment”*** means a payment in shares of Common Stock under Section 6.6 to replace all or any portion of the compensation or other payment that would otherwise become payable to the Recipient in cash.

***“Stock Option”*** means a right to purchase shares of Common Stock granted under Section 6.1 of this Plan.

COOPER GRACE WARD  
LAWYERS

Our ref: KRM: MRF 10102364

6 December 2011

James Hardie Australia Pty Ltd  
10 Colquhoun Street  
Rosehill NSW 2141

Level 21, 400 George Street  
Brisbane 4000 Australia

GPO Box 834, Brisbane 4001

T 61 7 3231 2444

F 61 7 3221 4356

www.cgw.com.au

ABN 95 591 906 639

**By post and by facsimile:** 1800 818 819

Your lease of 46 Randle Road, Meeandah, Queensland – Notice of sale of property

We act for Northshore No 3 Pty Ltd as trustee (Northshore).

Northshore purchased the property from Brookfield Meeandah Landowner Pty Ltd (as trustee) on 6 December 2011.

Please find enclosed:

- 1: Notice to Lessee; and
- 2: Notice to Guarantor.

In accordance with the notices, can you please advise your accounts payable department of the change in landlord entity and landlord's bank details which are identified below:

Northshore No 3 Pty Ltd  
[Bank name] – [Bank account]

Please pay all rent and other money payable under the lease from 6 December 2011 to Northshore.

The primary contact for Northshore is:

Mr	Angus Campbell
Mobile	0407 061 824
Email	angusc@northshorecorp.com.au
Mail	PO Box 1031 Hamilton Qld 4007

Angus Campbell will be making contact directly with you Accounts Department and Operations Team.

Yours faithfully

COOPER GRACE WARD

/s/ Katie Miller

Katie Miller  
Senior Associate  
T 61 7 3231 2983  
F 61 7 3231 8983  
E katie.miller@cgw.com.au

/s/ Marcus Ford

Marcus Ford  
Partner

CC: James Hardie Industries SE (formerly James Hardie Industries N.V.)  
Guarantor of the lease  
Facsimile +353 1 479 1128

This electronic transmission (and any following pages) is confidential, may contain legally privileged information and is intended solely for the named addresses. If you receive this document in error, please destroy it and advise the sender.

---

**NOTICE TO LESSEE**

**TO: James Hardie Australia Pty Limited, 10 Colquhoun Street, Rosehill NSW**

**Brookfield Meeandah Landowner Pty Limited: Lease to James Hardie Australia Pty Limited**

**Premises:** 46 Randle Road, Meeandah being all of the land in lot 27 on RP64120, Lot 2 on RP34121 and Lot 3 on RP199034

**Property:** 46 Randle Road, Meeandah being all of the land in lot 27 on RP64120, Lot 2 on RP34121 and Lot 3 on RP199034

We act for Brookfield Meeandah Landowner Pty Limited which has today completed the sale of the above Property to Northshore No 3 Pty Ltd. That sale was subject to your tenancy under lease dated 6 November 1998 (registered no. 706009769 as varied by Amendment No. 706009780 and Amendment No. 707678947).

Please pay all rent and other money payable under that lease falling due for payment after 6 December 2011 to Northshore No 3 Pty Ltd or as it or its solicitors Cooper Grace Ward Lawyers direct.

Yours faithfully

/s/ Signed on behalf of Norton Rose Australia by Lexia Wilson, Partner

For and on behalf of Brookfield Meeandah Landowner Pty Ltd CAN 108 198 616  
By its solicitor

Dated: 6 December 2011



---

**NOTICE TO GUARANTOR**

**TO: James Hardie Industries N.V.**

Your Guarantee to **Brookfield Meeandah Landowner Pty Limited**

Lease to James Hardie Australia Pty Limited

**Premises:** 46 Randle Road, Meeandah being all of the land in lot 27 on RP64120, Lot 2 on RP34121 and Lot 3 on RP199034

**Property:** 46 Randle Road, Meeandah being all of the land in lot 27 on RP64120, Lot 2 on RP34121 and Lot 3 on RP199034

We act for Brookfield Meeandah Landowner Pty Limited which has today completed the sale of the above Property to Northshore No 3 Pty Ltd. That sale was subject to your tenancy under Lease.

We note that you have guaranteed the performance of the Lessee's obligations under the Lease and agreed to indemnify the lessor in this regards. The benefit of your guarantee and indemnity has today been assigned by the vendor to the purchaser who is now the lessor under the Lease.

Your obligations under the guarantee and indemnity are not otherwise altered.

Yours faithfully

/s/ Signed on behalf of Norton Rose Australia by Lexia Wilson, Partner

For and on behalf of Brookfield Meeandah Landowner Pty Ltd CAN 108 198 616  
By its solicitor

Dated: 6 December 2011

**Deed to amend the AFFA**

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](http://www.gtlaw.com.au)

---

<b>Contents</b>		<b>Page</b>
1	Defined terms and interpretation	1
	1.1 Definitions in the Dictionary	1
	1.2 Interpretation	1
2	AFFA amendments	2
	2.1 Consideration	2
	2.2 AFFA	2
3	General	2
	3.1 Counterparts	2
	3.2 Costs, expenses and duties	2
	3.3 Governing law	2
	3.4 Jurisdiction	2
	3.5 Further assurances	2
	3.6 Notices	2
	3.7 Severability	3
	3.8 Variation	3
	3.9 Waiver	3
	Schedule 1 — Dictionary	4
	Schedule 2 — AFFA Amendments	6
	Execution page	9
Gilbert + Tobin		

**Date: 29 February 2012**

**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 Clause 20.3 of the AFFA sets out the agreement of the parties on the way in which JHISE may make contributions towards medical research and the circumstances in which JHISE's obligations under clauses 20.1 and 20.2, relating to payment of such contributions, are suspended.
- C The parties enter into this deed:
  - to amend clause 20.3 to vary the circumstances in which JHISE's obligations under clauses 20.1 and 20.2 are suspended; and
  - to formally reflect the changes to the name of JHISE following its redomicile to the Republic of Ireland.

**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 of this deed.

## **3 General**

### **3.1 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.

### **3.2 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.

### **3.3 Governing law**

This deed is governed by the laws of New South Wales.

### **3.4 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, and waives any right to claim that those Courts are an inconvenient forum.

### **3.5 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.

### **3.6 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.

---

**3.7 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.

**3.8 Variation**

No variation of this deed is effective unless made in writing and signed by each party.

**3.9 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.

**Dictionary**

**1 Dictionary**

In this deed:

**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, 17 July 2008, 23 June 2009 and 9 December 2010 between those parties and by the Deed of Confirmation.

**Business Day** means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney, New South Wales.

**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.

**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) replacing the words “James Hardie Industries N.V.” and “JHINV” with “James Hardie Industries SE” and “JHISE”, respectively, in each place those words appear;
- (b) replacing the words “Netherlands and having its registered office at Atrium, 8th floor, Strawinskylaan 3077, 1077ZX Amsterdam, The Netherlands” which appear in the Parties details with “Republic of Ireland, having registered number 485719 and its registered office at 2nd Floor Europa House, Harcourt Centre Harcourt Street Dublin 2, Ireland”;
- (c) for the purposes of clause 30(b) of the AFFA, the new contact address is as follows:  
“2nd Floor Europa House,  
Harcourt Centre Harcourt Street  
Dublin 2, Ireland  
Facsimile: +353 1 479 1128”;
- (d) deleting clause 20.3 in its entirety and inserting the following:

**20.3 Deed with NHMRC or other approved research organisation**

- (a) The parties agree that if:
  - (i) JHISE and the National Health and Medical Research Council (“**NHMRC**”) enter into a deed in a form acceptable to the NSW Government, acting reasonably (“**NHMRC Deed**”) within the period of time specified in **clause 20.1(b)**;
  - (ii) each “Annual Amount” that JHISE pays to the NHMRC under the NHMRC Deed is no less than \$500,000;
  - (iii) JHISE pays the first “Annual Amount” to the NHMRC as soon as possible after the “Commencement Date” under the NHMRC Deed and thereafter pays the “Annual Amount” to the NHMRC in February of each year, commencing in February 2008;
  - (iv) JHISE promptly provides to the NSW Government a copy of any receipt it receives from the NHMRC in respect of any “Annual Amount” JHISE pays to the NHMRC under the NHMRC Deed;
  - (v) JHISE promptly provides to the NSW Government a copy of each “Annual Funding Report” it receives from the NHMRC under the NHMRC Deed;
  - (vi) JHISE complies with the NHMRC Deed; and
  - (vii) the NHMRC Deed is not terminated,

then, for the period in which all of the above circumstances exist, JHISE’s obligations under **clauses 20.1** and **20.2** are suspended.

- (b) The parties agree that if:
- (i) the NHMRC Deed is terminated but, within two (2) months of termination (or such longer period as agreed to in writing by the NSW Government), JHISE enters into a deed in a form acceptable to the NSW Government, acting reasonably, (“**Research Deed**”) with another medical research institution of good repute which conducts medical research into the diagnosis and treatment of Asbestos related diseases (or selects and provides funding to grantees who conduct such research) and which is acceptable to the NSW Government, acting reasonably (“**Approved Organisation**”);
  - (ii) each “Annual Amount” that JHISE pays to the Approved Organisation under the Research Deed is no less than \$500,000;
  - (iii) the first payment of an “Annual Amount” under the Research Deed is made on or before whichever is the latest to occur of the date by which the next payment would have been due under the NHMRC Deed had it not been terminated or the date which is two (2) months after the date the NHMRC Deed is terminated (or such longer period as agreed to in writing by the NSW Government);
  - (iv) other than in respect of the first payment which is to be paid in accordance with clause 20.3(b)(iii), JHISE pays the “Annual Amount” to the Approved Organisation in February of each year, commencing after the Research Deed is entered into;
  - (iv) JHISE promptly provides to the NSW Government a copy of any receipt it receives from the Approved Organisation in respect of any “Annual Amount” JHISE pays to the Approved Organisation under the Research Deed;
  - (v) JHISE promptly provides to the NSW Government a copy of each “Annual Funding Report” it receives from the Approved Organisation under the Research Deed;
  - (vi) JHISE complies with the Research Deed;
  - (vii) the Research Deed is not terminated, other than in circumstances where following its termination, JHISE enters into a new Research Deed in accordance with **clause 20.3(b)(i)** (amended as if references to the “NHMRC Deed” were references to the Research Deed being terminated); and
  - (viii) upon a Research Deed being terminated and JHISE entering into a new Research Deed with a new Approved Organisation in accordance with **clause 20.3(b)(i)** (amended as if references to the “NHMRC Deed” were references to the Research Deed being terminated), JHISE complies with **clauses 20.3(b)(ii) to (vii)** in relation to the new Research Deed (amended as if references to the “NHMRC Deed” (other than the reference in **clause 20.3(b)(vii)**) were references to the last Research Deed terminated and references to the “Approved Organisation” were references to the research institution that is a party to the new Research Deed),

then, for the period in which all of the above circumstances exist or are being complied with, JHISE’s obligations under **clauses 20.1 and 20.2** are suspended.

- (c) If:
- (i) the NHMRC Deed is terminated and JHISE does not enter into a Research Deed in accordance with **clause 20.3(b)(i)**; or
  - (ii) any Research Deed is terminated and JHISE does not enter into a new Research Deed in accordance with **clause 20.3(b)(i)** (amended as if references to the “NHMRC Deed” were references to the Research Deed being terminated); or

- 
- (ii) for any other reason JHISE does not make ten payments in total of at least \$500,000 each under the NHMRC Deed and any Research Deeds in accordance with clauses 20.3(a) or 20.3(b) (as relevant) within 10 years of the Commencement Date, then JHISE's obligations under **clauses 20.1 and 20.2** will cease to be suspended and JHISE must comply with those obligations in respect of the balance of \$5,000,000, after deducting any payments made to NHMRC under the NHMRC Deed or an Approved Organisation under a Research Deed.
- (d) If **clause 20.3(c)** applies, JHISE must establish the trust fund required under **clause 20.1** as soon as reasonably practicable after the relevant event in **clauses 20.3(c)(i), (ii) or (iii)** occurs, and no later than the date which is 6 months after that event occurs.

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED )

by the Honourable Gregory )  
Eugene Smith MP Attorney General )  
of New South Wales for THE STATE )  
OF NEW SOUTH WALES in the )  
presence of: )

/s/ Damien Tudehope )

Signature of witness )

DAMIEN TUDEHOPE )

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/ Robert Russell )

Signature of director )

ROBERT RUSSELL )

Name of director (block letters) )

Given under the common seal of JAMES )  
HARDIE INDUSTRIES SE and delivered: )

/s/ Marcin Firek )

Signature of ~~director~~/company secretary\* )

\*delete whichever is not applicable )

MARCIN FIREK )

Name of ~~director~~/company secretary\* )

(block letters) )

\*delete whichever is not applicable )

DUBLIN, IRELAND )

Gilbert + Tobin )

/s/ Gregory Smith )

Signature of the Honourable Gregory )

Eugene Smith MP )

Attorney General of New South Wales )

/s/ Glenn Revell )

Signature of director/company )

secretary\* )

\*delete whichever is not applicable )

GLENN REVELL )

Name of director/company secretary\* )

(block letters) )

\*delete whichever is not applicable )

/s/ Louis Gries )

Director )

LOUIS GRIES )

Name of director )

(block letters) )

DUBLIN, IRELAND )

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/ Scott C. Barnett  
Signature of director

SCOTT C. BARNETT  
Name of director (block letters)

Gilbert + Tobin

)  
)  
)  
)  
)  
)  
) /s/ G. M. Jarvi  
) Signature of director/~~company secretary~~\*  
) \*delete whichever is not applicable  
)  
)  
)  
)  
)  
) GUY M JARVI  
) Name of director/~~company secretary~~\*  
) (block letters)  
) \*delete whichever is not applicable  
)  
)

**Deed to amend the AFFA**

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](http://www.gtlaw.com.au)

---

Contents		Page
1	Defined terms and interpretation	1
	1.1 Definitions in the Dictionary	1
	1.2 Interpretation	1
2	AFFA amendments	2
	2.1 Consideration	2
	2.2 AFFA	2
3	General	2
	3.1 Counterparts	2
	3.2 Costs, expenses and duties	2
	3.3 Governing law	2
	3.4 Jurisdiction	2
	3.5 Further assurances	2
	3.6 Notices	2
	3.7 Severability	3
	3.8 Variation	3
	3.9 Waiver	3
	Schedule 1 — Dictionary	4
	Schedule 2 — AFFA Amendments	6
	Execution page	8
Gilbert + Tobin		

**Date: 28 March 2012**

**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 Clause 13.7 of the AFFA sets out the agreement of the parties as to the treatment of “statutory recovery claims” under the Transaction Legislation.
- C The parties enter into this deed to clarify clause 13.7 of the AFFA so as to ensure it accurately reflects the parties’ intentions.

**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 of this deed.

**3 General**

**3.1 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.

**3.2 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.

**3.3 Governing law**

This deed is governed by the laws of New South Wales.

**3.4 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, and waives any right to claim that those Courts are an inconvenient forum.

**3.5 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.

**3.6 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.

---

**3.7 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.

**3.8 Variation**

No variation of this deed is effective unless made in writing and signed by each party.

**3.9 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.

**Dictionary**

**1 Dictionary**

In this deed:

**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, 17 July 2008, 23 June 2009, 9 December 2010, by the amending deed to amend clause 20.3 of that document and to formally reflect the changes to the name of JHISE following its redomicile to the Republic of Ireland, each of which is between those parties and by the Deed of Confirmation.

**Business Day** means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney, New South Wales.

**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.

**Transaction Legislation** has the meaning given in the AFFA.

**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.

**AFFA Amendments**

The AFFA is amended by deleting clause 13.7 in its entirety and inserting the following:

13.7 Limitations on Recoveries

(a)

- (i) For the purposes of this clause 13.7, “Recoveries” means any statutory entitlement of the NSW Government or any Other Government or any governmental agency or authority of any such government (“Relevant Body”) to impose liability on or to recover an amount or amounts from any person in respect of any payments made or to be made or benefits provided by a Relevant Body in respect of Personal Asbestos Claims or Marlew Claims (other than as a defendant or in settlement of any claim, including a crossclaim or claim for contribution) that is from time to time a “statutory recovery claim” for the purposes of the Transaction Legislation.

**Note:** Any statutory entitlement of a Relevant Body properly paid out of the damages payable as part of a Proven Claim pursuant to a judgement or settlement of a Personal Asbestos Claim or a Marlew Claim is not to be treated as a Recovery for the purposes of this clause 13.7.

- (ii) The Parties agree and acknowledge that the intent of this clause 13.7 is to establish a framework for and to limit the JHISE Group’s funding of Recoveries under this deed and that the reference in section 32(3)(a) of the Transaction Legislation to “the funding set aside” under this deed for the payment of statutory recovery claims is a reference to the Annual Limit and the Term Limit provided for in clause 13.7(b).

- (b) In consideration of JHISE’s and the Performing Subsidiary’s agreement to include Recoveries within the scope of the funding arrangements set out in this deed (but only to the limited extent provided for in this clause 13.7), the NSW Government agrees to use its best endeavours to ensure, through the Transaction Legislation, that the Liable Entities (or the Trustee on their behalf) cannot be compelled to pay (whether paid directly to Relevant Bodies or as a component of amounts payable or liabilities incurred in respect of Personal Asbestos Claims or Marlew Claims or to Concurrent Wrongdoers) Recoveries which in aggregate exceed in any Financial Year the lesser of:

- (i) the amount equal to the liabilities of the Liable Entities to pay Recoveries as calculated under the relevant statute(s) from time to time;
- (ii) for the first Financial Year of operation of the Compensation Funds, an amount equal to \$750,000 (“Annual Limit”) and in respect of each subsequent Financial Year, an amount equal to the prior Financial Year’s Annual Limit, indexed for inflation or deflation by reference to the All Groups Consumer Price Index as published by the Australian Bureau of Statistics (or, if such statistic ceases to be published, the nearest equivalent generally published figure);

and further the aggregate of Recoveries paid by the Liable Entities (or the Trustee on their behalf) over the Term of this deed (including any extension of the Term under clause 9.9 of this deed) shall not exceed \$30 million (“Term Limit”).

- (c) Notwithstanding clause 13.7(a) and without limiting JHISE's or the Performing Subsidiary's rights under any other provision of this deed, if any Liable Entity (or the Trustee on its own behalf or on behalf of a Liable Entity) or any member of the JHISE Group is required to pay any amount in respect of Recoveries in excess of the Annual Limit or the Term Limit as described in clause 13.7(b), the payment obligations of the Performing Subsidiary and JHISE under this deed and the Related Agreements shall be adjusted by the amount of the excess as though the excess were a payment of a Relevant Liability under a Scheme to which clause 13.4 applies.

**Note:** If a Liable Entity (or the Trustee on its own behalf or on behalf of a Liable Entity) records as a liability in its financial statements any amount in respect of Recoveries in excess of the Annual Limit or the Term Limit, the amount is to be treated as an Asbestos Liability and thereby excluded from liabilities of the Trustee and the Liable Entities under clause 9.10(b)(ii) when determining the net assets of the Liable Entities under clause 9.4(a)(iii) for the purposes of calculating the Annual Contribution Amount.

- (d) If any Liable Entity (or the Trustee on its own behalf or on behalf of a Liable Entity) or any member of the JHISE Group is required to pay any amount representing any statutory entitlement of a Relevant Body that is not:
- (i) a Recovery for the purposes of this clause 13.7; or
  - (ii) an amount otherwise permitted to be paid by this deed and the Transaction Legislation,
- the payment obligations of the Performing Subsidiary and JHISE under this deed and the Related Agreements shall be adjusted by the amount of the payment as though the payment were a payment of a Relevant Liability under a Scheme to which clause 13.4 applies.
- If a payment of the kind described in this clause 13.7(d) is required to be made or is reasonably anticipated to be required to be made, any Party may immediately request by Notice to the other Parties that they undertake the negotiations contemplated by clause 13.4(c)(ii).
- (e) For the purposes of clause 13.7(b) and section 32(3)(b) of the Transaction Legislation, the parties agree that Recoveries are to be paid in accordance with the provisions of the James Hardie Former Subsidiaries (Winding up and Administration) Amendment (Statutory Recovery Claims) Regulation 2012 (made pursuant to section 32(4) of the Transaction Legislation) (as amended from time to time) as if the reference to "statutory recovery claims" in the Regulation is a reference to Recoveries, unless the parties otherwise agree in writing.
- (f)
- (i) To avoid doubt, the parties acknowledge that clauses 13.2 and 13.3 apply to this clause 13.7 and any amendment to the Transaction Legislation or the Release Legislation made in connection with the subject matter of this clause 13.7.
  - (ii) Without limiting clause 13.7(f)(i), the NSW Government undertakes and agrees that it will not amend the James Hardie Former Subsidiaries (Winding up and Administration) Amendment (Statutory Recovery Claims) Regulation 2012, or make any regulation to prescribe any claim as a "statutory recovery claim" without the consent in writing of JHISE.

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED )

by the Honourable Gregory )  
Eugene Smith MP Attorney General )  
of New South Wales for THE STATE )  
OF NEW SOUTH WALES in the )  
presence of: )

/s/ Damien Tudehope )

Signature of witness )

DAMIEN TUDEHOPE )

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/ Dennis Loduwick )

Signature of director )

DENNIS LODUWICK )

Name of director (block letters) )

/s/ Gregory Smith )

Signature of the Honourable Gregory )

Eugene Smith MP )

Attorney General of New South Wales )

/s/ Glenn Revell )

Signature of ~~director~~/company secretary\* )

\*delete whichever is not applicable )

GLENN REVELL )

Name of ~~director~~/company secretary\* )

(block letters) )

\*delete whichever is not applicable )

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/ Margaret Kavanagh  
Signature of witness

MARGARET KAVANAGH  
Name of witness (block letters)  
Dublin, Ireland

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/ Scott C. Barnett  
Signature of director

SCOTT C. BARNETT  
Name of director (block letters)

Gilbert + Tobin

/s/ Louis Gries Dublin, Ireland  
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 Dublin, Ireland  
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

/s/ G. M. Jarvi  
Signature of director/~~company secretary~~\*  
\*delete whichever is not applicable

GUY M JARVI  
Name of director/~~company secretary~~\* (block letters)  
\*delete whichever is not applicable





**James Hardie Industries SE**  
 Europa House 2<sup>nd</sup> Floor, Harcourt Centre  
 Harcourt Street, Dublin 2, Ireland

T: +353 (0) 1 411 6924  
 F: +353 (0) 1 497 1128

March 2012

**The State of New South Wales**  
 c/- The Cabinet Office  
 Level 39, Governor Macquarie Tower  
 1 Farrer Place  
 Sydney NSW 2000

Attention: Deputy Director – General (Legal)

**Copy to:**

**NSW Department of Premier & Cabinet**  
 Level 39, Governor Macquarie Tower  
 1 Farrer Place  
 Sydney NSW 2000

Attention: Mr Paul Miller

**Asbestos Injuries Compensation Fund Limited**  
 Suite 1, Level 7  
 233 Castlereagh Street  
 Sydney NSW 2000

Attention: The Chief Executive Officer

**Lifetime Care and Support Authority**  
 Level 24  
 580 George Street  
 Sydney NSW 2000

Attention: Chief Executive Officer,  
 Mr David Bowen

**Strictly Private & Confidential**

Dear Sirs

**AFFA Advance Payment**

We refer to the Amended and Restated Final Funding Agreement dated 21 November 2006 (the “**AFFA**”) between James Hardie Industries SE (“**JHISE**”) (formerly known as James Hardie Industries N.V), James Hardie 117 Pty Limited (“**JH117**”), Asbestos Injuries Compensation Fund Limited (“**AICF**”) and the State of New South Wales (as amended from time to time).

JH117 proposes to pay in advance part of the Annual Payment it is required to contribute to the AICF in respect of the Payment Date of 1 July 2012 on the basis set out in this letter.

JH117 will pay US\$138,677,000 to the AICF on 2 April 2012 (the “**2013 Advance Payment**”) as a prepayment under clause 9.7(a)(ii) of the AFFA provided, and on the basis, that the parties to the AFFA agree that:

- (a) this letter constitutes sufficient notice of the 2013 Advance Payment in lieu of the 10 Business Days’ notice required by clause 9.7(a) of the AFFA; and
- (b) clause 9.14 of the AFFA does not apply in relation to the 2013 Advance Payment, but rather the provisions of this letter are to apply in lieu of clause 9.14; and

James Hardie Industries SE is a limited liability company incorporated in Ireland with its registered office at Europa House, Harcourt Centre, Harcourt Street, Dublin 2, Ireland.

**Directors:** Michael Hammes (Chairman), Brian Anderson (USA), David Dilger, David Harrison (USA), Alison Littlely (UK), James Osborne, Donald McGauchie (Australia), Rudy van deer Meer (Netherlands).

**Chief Executive Officer:** Louis Gries

**Company number:** 485719

- (c) the 2013 Advance Payment will be converted to Australian dollars at the spot Australian dollar / US dollar exchange rate (for purchasing AUD) shown on the Bloomberg AUD/USD currency Bid-Quote page as at 10.00am (Sydney time) on 26 March 2012.

In relation to the 2013 Advance Payment:

- (i) the amount of the 2013 Advance Payment shall be included in the net assets of the AICF for the purposes of calculating an Annual Contribution Amount if the Valuation Ratio as at the last day of the Financial Year ending 31 March 2013 and each subsequent year is less than 2.75;
- (ii) the 2013 Advance Payment is not refundable and cannot cause the amount calculated under clause 9.3(a) of the AFFA to be negative;
- (iii) the 2013 Advance Payment will be included in the calculation of the Free Cash Flow in the Financial Year ending 31 March 2013 and the Free Cash Flow in each subsequent year shall be calculated on the basis that the 2013 Advance Payment was made on 2 April 2012, but only if it is made on that date;
- (iv) for the purposes of calculating the Free Cash Flow Amount in respect of the Payment Date of 1 July 2012, the Free Cash Flow will be equal to the Free Cash Flow for the Financial Year ended 31 March 2012 pursuant to clause 9.5 of the AFFA less US\$396,220,000<sup>1</sup> and adding that part of the 2013 Advance Payment classified as "restricted cash" in the cash flow statement of the JHISE Group for the Financial Year ended 31 March 2012;
- (v) for the purposes of Schedule 3, the Annual Contribution Amount for the Financial Year ending 31 March 2012 and the Annual Contribution Amount in each subsequent year shall be calculated on the basis that the 2013 Advance Payment was made on 2 April 2012, but only if it is made on that date; and
- (vi) in calculating the Valuation Ratio referred to in paragraph (a) of the definition of ED in clause 7.8(f) of the AFFA, the 2013 Advance Payment cannot render ED equal to nil.

The attachment to this letter illustrates the intended effect on the Annual Payment in respect of the Payment Date of 1 July 2012 of the calculation in paragraph (iv) above including the exchange rate to be used in making the relevant calculation.

Please also confirm your acknowledgment and agreement of the above matters by signing and returning the attached copies of this letter to JHISE. The parties to the AFFA acknowledge that except as amended by this letter, the terms of the AFFA remain in full force and effect.

Clauses 1 (**Definitions and Interpretation**), 26 (**Governing law and Jurisdiction**) and 27 (**Counterparts**) of the AFFA apply to this letter as if those provisions were set out in full in this letter.

**Executed as a deed**

**Signed, sealed and delivered by James Hardie Industries SE**

/s/ James Osborne

**Name: James Osborne**  
**Title: Director**

/s/ Marcin Firek

**Name: MARCIN FIREK**  
**Title: SECRETARY**  
**DUBLIN, IRELAND**

<sup>1</sup> The 2013 Advance Payment is 35% of this amount, 35% being the applicable percentage determined in accordance with clause 9.6 of the AFFA.  
DUBLIN, IRELAND

---

Signed, sealed and delivered by James Hardie 117 Pty Limited

/s/ Marcin Firek  
Name: MARCIN FIREK  
Title: COMPANY SECRETARY

/s/ G. M. Jarvi  
Name: GUY JARVI  
Title: DIRECTOR

Accepted and Agreed:

Signed, sealed and delivered by The Honourable Gregory Eugene Smith MP, Attorney-General of New South Wales,  
for The State of New South Wales

/s/ Gregory Smith

Signed, sealed and delivered by Asbestos Injuries Compensation Fund Limited in its capacity as trustee for the Charitable Fund

/s/ Dennis Loduwick  
Name: DENNIS LODUWICK  
Title: Director

/s/ Glenn Revell  
Name: GLENN REVELL  
Title: Company Secretary

## LIST OF SIGNIFICANT SUBSIDIARIES

The table below sets forth our significant subsidiaries as of 31 March 2012, all of which are 100% owned by James Hardie Industries SE, either directly or indirectly.

<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 Ltd	Ireland
James Hardie International Finance Ltd.	Ireland
James Hardie International Group Ltd.	Ireland
James Hardie International Holdings plc.	Ireland
James Hardie N.V.	Netherlands
James Hardie New Zealand Ltd	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: 2 July 2012

/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: 2 July 2012

/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 2012 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: 2 July 2012

/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 Ernst & Young LLP, 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 21, 2012, 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, 2012.

/s/ Ernst & Young LLP

Irvine, California  
June 27, 2012



**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 2012, dated 21 May 2012 (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 2012.

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 Annual Report on Form 20-F for the fiscal year ended 31 March 2012.

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

28 June 2012