NOTICE OF FILING

Details of Filing

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Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

SEAL OF THE FEDERAL COURT OF AUSTRALIA

Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17, Rule 8.05(1)(a)

No. VID 564 of 2020

FURTHER AMENDED STATEMENT OF CLAIM

(Amended on 7 October 2022 and filed in accordance with order 1 of the orders made by Justice Middleton dated 30 September 2022)

Federal Court of Australia

District Registry: Victoria

Division: General

MICIULIS SUPERANNUATION PTY LTD (ACN 146 559 426) ATF THE MICIULIS SUPERANNUATION FUND

Applicant

CIMIC GROUP LIMITED (ACN 004 482 982)

Respondent

Note:

In this statement of claim, all references to currency using the symbol '$' are to Australian Dollars.

The defined terms are set out in the index to this statement of claim

A. PARTIES

1. Miciulis Superannuation Pty Ltd (as trustee for the Miciulis Superannuation Fund) (the **Applicant**), commences this proceeding as a representative party pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth) on its own behalf and on behalf of the Group Members.

2. The Applicant and the persons it represents (**Group Members**) are persons who:

   (a) acquired an interest in ordinary shares in the Respondent (**CIMIC**) during the period from 7 February 2018 to 22 January 2020 (inclusive) (**Relevant Period**);

Filed on behalf of	Miciulis Superannuation Fund Pty Ltd ATF The Miciulis Superannuation Fund, Applicant
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Particulars

The particulars of the Applicant's shareholding are as follows:

Date	Number of Shares	Price per Share	Cost
27 June 2018	4,000	$41.455467	$165,821.87

Particulars of the shareholdings of the Group Members will be provided following the trial of the common questions.

(b) suffered loss and damage by or resulting from the conduct of CIMIC alleged below; and

(c) are not:

(i) directors or officers or a close associate (as defined in s 9 of the *Corporations Act 2001* (Cth) (**Corporations Act**)) of CIMIC; or

(ii) a related party (as defined in s 228 of the Corporations Act) of CIMIC; or

(iii) a related body corporate (as defined in s 50 of the Corporations Act) of CIMIC; or

(iv) an associated entity (as defined in s 50AAA of the Corporations Act) of CIMIC; or

(v) a Justice, Registrar, District Registrar, or Deputy District Registrar of the High Court of Australia or the Federal Court of Australia.

3. As at the date of the commencement of this proceeding, there are seven or more persons who have claims against CIMIC in respect of the matters set out in this Statement of Claim.

4. CIMIC is and at all material times:

(a) has been a corporation registered pursuant to the Corporations Act;

(b) a person within the meaning of s 1041H of the Corporations Act;

(c) a person within the meaning of s 12DA of the Australian Securities and Investments Commission Act 2001 (Cth) (**ASIC Act**);

(d) has been a person within the meaning of s 18 of the Australian Consumer Law being Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**CCA**), as applied by:

(i) s 131 of the CCA;

(ii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT);

(iii) s 28 of the *Fair Trading Act 1987* (NSW);

(iv) s 8 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);

(v) s 16 of the *Fair Trading Act 1989* (Qld);

(vi) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);

(vii) s 19 of the *Fair Trading Act 2010* (WA);

(viii) s 14 of the *Fair Trading Act 1987* (SA); and/or

(ix) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),

(individually or together, the **Australian Consumer Law**)

(e) has been a corporation listed on a financial market, the Australian Securities Exchange (**ASX**), operated by ASX Limited;

(f) has had on issue ordinary shares (**CIMIC Securities**) that are:

(i) traded on the ASX under the designation "CIM";

(ii) ED Securities within the meaning of s 111AE of the Corporations Act; and

(iii) quoted ED Securities within the meaning of s 111AM of the Corporations Act;

(g) as the issuer of the CIMIC Securities, has been:

(i) subject to and bound by the Listing Rules of the ASX (**ASX Listing Rules**);

(ii) a listed disclosing entity within the meaning of s 111AL of the Corporations Act; and

(iii) subject to the requirements of s 674 of the Corporations Act*;* and

(h) has engaged in the business of providing engineering, construction and mining services.

B. APPLICATION OF SECTION 674(2) OF THE CORPORATIONS ACT

5. At all material times, ASX Limited was a market operator of a listing market, the ASX, in relation

to CIMIC for the purposes of s 674(1) of the Corporations Act.

6. At all material times, Rule 3.1 of the ASX Listing Rules provided that once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must, unless the exceptions in ASX Listing Rule 3.1A apply, immediately tell the ASX that information.

7. At all material times, Rule 19.3 of the ASX Listing Rules and s 677 of the Corporations Act had the effect that, for the purposes of Rule 3.1 of the ASX Listing Rules, a reasonable person would be taken to expect information to have a material effect on the price or value of an entity's securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to acquire or dispose of the entity's securities.

8. At all material times, Rule 19.12 of the ASX Listing Rules provided that an entity becomes aware of information if an officer has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity.

9. At all material times, there existed a market of investors and potential investors in CIMIC Securities on the ASX.

C. CIMIC'S OPERATIONS

C.1 FINANCIAL YEAR

10. At all material times:

    (a) CIMIC's financial year has been 1 January to 31 December; and

    (b) the financial year of Al Habtoor – Leighton LLC (**HLG**) (later renamed BIC Contracting LLC (**BICC**)) has been 1 January to 31 December.

C.2 CIMIC'S SUBSIDIARIES AND DIVISIONS

10A. At all material times, the following entities were wholly owned subsidiaries of CIMIC and were reported in CIMIC's financial statements as material subsidiaries and its "operating companies":

    (a) CPB Contractors Pty Ltd (**CPB Contractors**);

    (b) Leighton Asia Ltd (**Leighton Asia**);

    (c) Thiess Pty Ltd (**Thiess**);

(d) UGL Pty Ltd (**UGL**).

10B. At all material times, the following entities were wholly owned subsidiaries of CIMIC:

(a) LMENA No 1 Pty Ltd (**LMENA**);

(b) Sedgman Pty Ltd (**Sedgman**);

(c) Pacific Partnerships Pty Ltd (**Pacific Partnerships**); and

(d) EIC Activities Pty Ltd (**EIC Activities**).

10C. At all times between 3 September 2007 and 22 January 2020:

(a) LMENA held 45% of the shares in HLG; and

(b) by reason of paragraph (a), CIMIC indirectly held 45% of the shares in HLG.

10D. At all material times, CIMIC's operations were reported in its financial statements in the following segments:

(a) Construction, comprising CPB Contractors and Leighton Asia;

(b) Mining and Mineral Processing, comprising Thiess and Sedgman;

(c) Services, comprising UGL; and

(d) Corporate, comprising BICC (from 30 June 2018 onwards), Pacific Partnerships and EIC Activities.

10E. At all material times, CIMIC had a centrally managed Treasury department which:

(a) was responsible for managing the working capital requirements and factoring and reverse factoring arrangements for CIMIC and CIMIC's wholly owned subsidiaries;

(b) was headed by Scott McAlpine, Executive General Manager Treasury, who reported directly to Stefan Camphausen, chief financial officer (**CFO**) of CIMIC.

Particulars

(i) CIMIC Group Overview Organisational Chart as of 1 January 2018 [**CIM.006.001.0006**]

(ii) CIMIC Group Overview Organisations Chart as of November 2019

[**CIM.006.001.0036**]

10F. At all material times, CIMIC had a centrally managed Accounting and Controlling department which:

(a) was responsible for financial reporting and modelling for CIMIC and CIMIC's wholly owned subsidiaries;

(b) was headed by Derek Kerr, Executive General Manager Finance, who reported directly to Stefan Camphausen, CFO of CIMIC.

Particulars

(i) CIMIC Group Overview Organisational Chart as of 1 January 2018 [**CIM.006.001.0006**]

(ii) CIMIC Group Overview Organisations Chart as of November 2019 [**CIM.006.001.0036**]

C.3 BICC

Structure and governance

11. On 3 September 2007, CIMIC (then named Leighton Holdings Limited) published and lodged with the ASX a media release and presentation in which it stated that it was merging its Leighton International operations in the Arabian Gulf with Al Habtoor Engineering and acquiring a 45% stake in the newly formed entity HLG by investing approximately $870 million, which was funded through a mix of cash ($350 million) and non-recourse debt ($520 million).

11A. On or about 1 November 2016, LMENA, Mr Riad Tawfiq Mahmood Alsadik and HLG entered into an agreement entitled "Amended & Restated Shareholders Agreement relating to Al Habtoor Leighton LLC" (**HLG Shareholders Agreement**).

Particulars

Agreement dated 1 November 2016 between LMENA, Mr Riad Tawfiq Mahmood Alsadik (**RTS**) and HLG [**CIM.102.022.7583**].

11B. There were terms of the HLG Shareholders Agreement, among others, that:

(a) the Board shall have responsibility for the supervision of HLG and its business (cl 3.1);

(b) the number of directors shall at all times be three, of whom two shall be nominated for appointment by the CIMIC Shareholder (being LMENA) (cl 3.2);

(c) if required, a director of the company may at any time appoint an alternate director to act on his behalf (cl 3.6)

(d) the CIMIC Shareholder had the right to nominate the managing director of the company (cl 3.10.2);

(e) the CIMIC Shareholder had the right to acquire the additional 55% interest in HLG for an exercise price of the higher of one Emirati Dirham (**AED**) and the Fair Value of the shares (as defined) (the **Call Option**) (cl 8.6.4 – 8.6.5).

11C. Between 1 January 2018 and 23 January 2020, the directors of HLG nominated by LMENA were:

(a) between 1 January 2018 and 23 January 2020: Michael Wright (chief executive officer of CIMIC) as director, with Stefan Camphausen (chief financial officer of CIMIC) as the alternate;

(b) between 1 January 2018 and June 2019, Mustafa Fahour as CEO and managing director;

(c) from June 2019 to 23 January 2020, Paul Russel as acting CEO and managing director.

Shareholder Loans

11D. Between 20 May 2010 and 22 December 2016, LMENA entered into agreements with HLG pursuant to which LMENA advanced loans to HLG on the terms contained in the agreements (each a **Shareholder Loan** and together the **Shareholder Loans**).

Particulars

(i) Agreement between dated 20 May 2010 between LMENA, Al Habtoor Group LLC (**Habtoor**) and RTS (each then the shareholders of HLG) and HLG dated 20 May 2010 [**CIM.102.032.1930**] (**First Shareholder Loan Agreement**), pursuant to which LMENA, RTS and Habtoor agreed to make loan facilities totalling AED 700,000,000 available to HLG, of which LMENA agreed to advance AED 315,000,000.

(ii) Amendment Agreement to First Shareholder Loan Agreement dated 30 December 2010 between HLG, LMENA, RTS and Habtoor [**CIM.102.032.1940**] (**First Amendment to First Shareholders Loan Agreement**) pursuant to which the definition of Total Commitment under the First Shareholders Loan Agreement was increased to AED 760,000,000 and pursuant to which LMENA agreed to make advances of AED 462,500,000.

(iii) Loan Agreement between HLG and LMENA dated 12 April 2011 [**CIM.108.036.0325**] (**Second Shareholders Loan Agreement**) pursuant to which LMENA and HLG agreed the existing loans LMENA had made to HLG (in the amounts of AED250,000,000 on 25 January 2011; AED150,000,000 on 22 February 2011 and AED200,000,000 on 22 March 2011) would be governed by the terms of Second Shareholders Loan Agreement.

(iv) Amendment to the First Shareholder Loan Agreement dated 21 December 2011 between HLG, LMENA, RTS and Habtoor [**CIM.108.044.3447**] (**Second Amendment to First Shareholder Loan Agreement**) pursuant to which the parties agreed to change the "Long-Stop Date" under the First Loan Agreement from 5 September 2012 to 31 March 2014.

(v) Amendment to Second Shareholder Loan Agreement dated 21 December 2011 between LMENA and HLG [**CIM.108.044.3448**] pursuant to which the parties agreed to change the "Long-Stop Date" under the Second Loan Agreement from 5 September 2012 to 31 March 2014.

(vi) Loan Facility Agreement dated 3 October 2013 between HLG and LMENA [**CIM.102.010.4325**] (**Third Shareholders Agreement**) pursuant to which the parties agreed that the existing loans advanced by LMENA to HLG (totalling AED1,525,000,000) and aggregate amount of interest which had accrued on the existing loans (of AED151,472,293 as of July 2013) be governed by the terms of the Third Shareholders Agreement.

(vii) Deed of Amendment between HLG and LMENA dated 22 December 2016 [**CIM.102.010.4370**] (**Amendment to Third Shareholders Agreement**) pursuant to which the parties agreed that the Third Shareholders Agreement was to be amended subject to the terms and conditions of that deed, including that the definition of Facility Limit be amended to mean AED 1,829,000,000 (being the aggregate amount then outstanding) or any other amount as may be agreed in writing between LMENA and HLG.

Debt Facilities and CIMIC Financial Guarantees

11E. As at 30 November 2016, HLG (as borrower) had entered into the following facility agreements with United National Bank (**UNB**) (as lender):

(a) on or about 28 November 2004, HLG had entered into a facility agreement with UNB, which agreement was renewed by the facility offer letters dated 4 September 2012, 7 April 2014, 27 July 2014, 30 March 2015 and 23 November 2016; and

(b) on or about 25 March 2014, HLG had entered into a credit facilities agreement with UNB,

pursuant to which UNB agreed to lend to HLG the total principal sum of AED 1,764,100,000 to be repaid with interest (together, the **UNB Facility Agreements** and each a **Guaranteed**

Facility).

Particulars

> The best particulars the applicant can provide is that the UNB Facilities Agreements are identified in the Letter of Guarantee dated 30 November 2016 provided by CIMIC to UNB [**CIM.103.028.6877**].
>
> Further particulars may be provided following further discovery.

11F. On 30 November 2016, CIMIC provided a Letter of Guarantee to UNB pursuant to which CIMIC guaranteed HLG's obligations to UNB under the UNB Facility Agreements (**UNB Guarantee** and a **CIMIC Guarantee**).

Particulars

> Letter of Guarantee dated 30 November 2016 provided by CIMIC to UNB [**CIM.103.028.6877**]

11G. Pursuant to the UNB Guarantee:

(a) CIMIC guaranteed on demand to pay to UNB all moneys and discharge all obligations and liabilities whether actual or contingent due owning or incurred to UNB by HLG in connection with the UNB Facility Agreements, together with interest to date of such payment and upon such terms as may from time to time be payable by HLG, and all legal and other costs and expenses incurred by UNB;

(b) the total amount recoverable under the guarantee was limited to the principal sum of AED1,764,100,000 in addition to interest and all costs, charges and expenses;

(c) CIMIC agreed and covenanted that if and whenever HLG shall make default in the payment of any sum due and payable by it to UNB, CIMIC shall forthwith within 5 Business Days of HLG's first demand make good the default and pay to UNB all funds that may be due and payable by HLG in connections with the UNB Facility Agreements (cl 2);

(d) CIMIC represented, warranted and agreed that it would notify UNB forthwith of any material event or circumstance which might adversely affect its or HLG's financial position or its ability to perform any of their respective obligations to UNB (cl 11(h)).

11H. On or about 14 June 2017, HLG (as Borrower) entered into a facilities agreement with the Hong Kong and Shanghai Banking Corporation Limited (**HSBC**) (as Agent and Arranger) and Standard Chartered Bank (**SCB**) (as Arranger) pursuant to which, on the terms of the agreement, the

Lenders (as defined) relevantly agreed to make available to HLG:

(a) a Dirham revolving loan facility in an aggregate amount equal to AED 520,000,000 (Facility B); and

(b) a USD term loan facility in an aggregate amount equal to USD 212,360,468.28 (Facility C),

(**HSBC Syndicated Loan Agreement** and a **Guaranteed Facility**).

Particulars

Facilities Agreement dated 14 June 2017 between HLG, HSBC and SCB [**CIM.106.007.4847**]

11I. There were terms of the HSBC Syndicated Loan Agreement, among others, that:

(a) the rate of interest on each loan was the percentage rate per annum which was the aggregate of (i) the Margin (being 2.20% per annum in relation to Facility B, and 1.70% per annum relation to Facility C); and (ii) the EIBOR (in relation to Facility B) or LIBOR (in relation to Facility C) (cl 8.1);

(b) the Borrower was to pay accrued interest on each loan on the last day of each applicable Interest Period (as determined pursuant to cl 8) (cl 8.2);

(c) the Termination Date was 14 June 2021 (cl 1.1);

(d) Facility B was repayable on the earlier of the Termination Date, or the last date of the Interest Period (as defined therein) (cl 6.2);

(e) Facility C was repayable on the Termination Date (cl 6.3);

(f) each of the following were Events of Default, among others (cl 21.1):

(i) Non-payment (cl 21.2): an Obliger (defined to include HLG as borrower and CIMIC as guarantor) does not pay on the due date any amount payable pursuant to a Finance Document (defined to include the HSBC Syndicated Loan Agreement and the CIMIC Group Guarantee) at the place and in the currency in which it is expressed to be payable, unless its failure to pay is caused by administrative or technical error or a Disruption Event (as defined therein) payment is made within three Business Days.

(ii) Cross-default (cl 21.7):

A. any Financial Indebtedness (defined to include any indebtedness for or in respect of any moneys borrowed by way of a financing arrangement) of any Relevant Entity (defined as the Borrower and any member of the Borrower Group) is not paid when due nor within any originally applicable grace period;

B. any Financial Indebtedness of any Relevant Entity is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default, however described;

C. any commitment for any Financial Indebtedness of any Relevant Entity is cancelled or suspended by a creditor of any Relevant Entity as a result of an event of default, however described;

D. any creditor of any Relevant Entity becomes entitled to declare any Financial Indebtedness of any Relevant Entity due and payable prior to its specified maturity as a result of an event of default, however described;

(iii) Insolvency (cl 21.8):

A. a Relevant Entity is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally with a view to rescheduling any of its indebtedness;

B. the value of the assets of any Relevant Entity is less than its liabilities (taking into account contingent and prospective liabilities but excluding specified shareholder loans) or any Relevant Entity is or is deemed or presumed to be insolvent under the relevant laws of its jurisdiction of incorporation.

C. a moratorium is declared in respect of any indebtedness of any Relevant Entity.

(g) On and at any time after the occurrence of an Event of Default which was continuing the Agent may, and shall if so directed by the Majority Lenders (as defined) by notice to the Borrower (cl 21.14):

(i) cancel the Total Commitments (being the commitments under Facility B and

Facility C) whereupon they shall immediately be cancelled;

(ii) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(iii) declare that all or part of the Loans be payable on demand, whereupon they shall immediately become payable on demand by the Agent on the instructions of the Majority Lenders.

11J. On or about 14 June 2017, CIMIC and subsidiaries of CIMIC (each defined as Original Guarantors) executed a Deed of Guarantee in favour of HSBC, SCB and each of the lenders under the HSBC Syndicated Facilities Agreement (defined as Finance Parties) in relation to the HSBC Syndicated Facility Agreement (**HSBC Syndicated Guarantee** and a **CIMIC Guarantee**).

Particulars

Deed of Guarantee – HLG Facilities between CIMIC, the CIMIC subsidiaries listed in Schedule 1 to the Deed (**Original Guarantors**), and HSBC as Agent, dated 14 June 2017 [**CIM.106.007.4950**].

The HSBC Syndicated Guarantee was signed on behalf of CIMIC by Scott McAlpine and Nigel Lowry, and signed on behalf of the CIMIC subsidiaries by Scott McAlpine and Stuart Charlton.

11K. There were terms of the HSBC Syndicated Guarantee, among others, that:

(a) each Guarantor irrevocably and unconditionally guaranteed to each Finance Party (defined as the Agent, the Arrangers or a Lender under the HSBC Syndicated Loan Agreement) the punctual performance by HLG of all of HLG's payment obligations to the Finance Parties under the Finance Documents (defined to include the HSBC Syndicated Loan Agreement) (cl 3.1(a));

(b) each Guarantor undertook with the Finance Parties that whenever HLG did not pay any amount when due under or in connection with the Finance Documents HSBC Syndicated Facilities Agreement, it shall within 5 business days of demand by the Agent pay that amount as if it were principal obliger (cl 3.1(b)).

11L. At all material times until 23 January 2020, CIMIC reported in its financial statements as contingent liabilities the amounts drawn down by HLG (later BICC) under the Guaranteed Facilities in respect of which CIMIC had provided the CIMIC Guarantees.

12. At all material times after September 2007 and until 30 June 2018, CIMIC reported on HLG's operations as a separate segment in its statutory financial reports.

C4. CIMIC OFFICERS

13. Officers of CIMIC during the Relevant Period, within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12 (**CIMIC Officers**), included (but were not limited to):

(a) Marcelino Fernandez Verdes, the Executive Chairman;

(b) Michael Wright, the Chief Executive Officer and Managing Director;

(c) Stefan Camphausen, the Chief Financial Officer;

(d) Ignacio Segura Suriñach, the Deputy Chief Executive Officer and Chief Operating Officer;

(e) Roman Garrido, the Chief Safety, Strategy and Governance Officer until approximately November 2019;

(f) Brad Davey, the Chief Legal and Risk Officer since 1 April 2018;

(g) George Sassine, the Executive General Manager of Investments and Group Property Services;

(h) Scott McAlpine, the Executive General Manager of Treasury.

13A. By reason of the matters pleaded in paragraph 8 above, any information which any of the CIMIC Officers came into possession of, or which ought reasonably to have come into their possession in the course of the performance of their respective duties, was information of which CIMIC was aware (as awareness is defined in ASX Listing Rule 19.12).

D. ANNOUNCEMENTS MADE BY CIMIC BETWEEN 2016 AND MID-2019

D.1 2016 ANNOUNCEMENTS

13B. On 10 February 2016, CIMIC published and lodged with the ASX its 2015 Annual Report in which it stated that:

(a) major projects awarded for 2015 included nationally significant Australian infrastructure projects such as the WestConnex M4 East Motorway and New M5 Motorway; and

(b) Solomon iron ore mine was a major mine project during the period.

Particulars

The statement in paragraph (a) was made at page (iv) of the 2015 Annual Report.

The statement in paragraph (b) was made at page 24 of the 2015 Annual Report.

13C. On 22 April 2016, CIMIC published and lodged with the ASX a document entitled "CIMIC's CPB Contractors Awarded Level Crossing Removals Contract" in which it stated that:

(a) CPB Contractors had been awarded an Alliance contract with the Level Crossing Removal Authority to design and construct the Level Crossing Removal Project: Caulfield to Dandenong in Melbourne;

(b) the project would generate revenue of approximately $500 million for CPB Contractors.

14. On 19 July 2016, CIMIC published and lodged with the ASX its 2016 Half Year Report, in which it stated in relation to HLG that:

(a) during the reporting period, the carrying value of its investment in HLG was $432.8 million;

(b) in respect of a series of legacy projects in the Middle East (**Legacy Project Receivables**):

(i) there continued to be a delay in payment from clients in the Middle East & North Africa region, particularly for projects in progress at the time CIMIC invested in HLG;

(ii) it assumed that of the remaining unprovided Legacy Project Receivables 52% would be collected within 24 months and 48% collected subsequently;

(c) borrowings obtained to fund working capital would be progressively repaid during the forecast period;

(d) management considered that for the recoverable amount of CIMIC's investment to fall below the carrying value there would have to be unreasonable changes to key assumptions, which management considered the chances of occurring as unlikely;

(e) CIMIC had pledged the following security against borrowings by HLG under two facilities totalling US$251.7 million (equivalent to $335.6 million), comprising:

(i) letters of credit of US$64.1 million (equivalent to $85.5 million); and

(ii) guarantees of US$187.6 million (equivalent to $250.1 million).

Particulars

The statements were made at page 22 of the 2016 Half Year Report under the heading “Associates and Joint Ventures Accounted for Using the Equity Method”.

14A. In its 2016 Half Year Report, CIMIC also stated that:

(a) WestConnex M4 and the Sydney Metro Northwest Rail Link were major construction projects by revenue during the period;

(b) the Solomon iron ore mine was one of the major mining and mineral processing projects by revenue during the period.

Particulars

The statement in paragraph (a) was made at page 40 of the 2016 Half Year Report under the heading “Revenue”.

The statement in paragraph (b) was made at page 40 of the 2016 Half Year Report under the heading “Revenue”.

15. On 26 August 2016, CIMIC published and lodged with the ASX a document entitled “Update on HLG Shareholders” in which it stated that:

(a) it had entered into a binding agreement with its two joint venture partners in HLG which would enable one of the shareholders to transfer its shares to another partner;

(b) CIMIC’s shareholding was unchanged; and

(c) as a result of the change in ownership, a strategic review of the HLG business would commence.

15A. On 25 November 2016, CIMIC published and lodged with the ASX a document entitled “CIMIC’s CPB Contractors Wins Water Treatment Plant Upgrade” in which it stated that:

(a) CPB Contractors had been selected by Melbourne Water to deliver the Western Treatment Plant – Treatment Capacity Increase Project in a 50:50 joint venture with UGL;

(b) the design and construct contract would generate combined revenue of approximately $127 million over four years.

16. On 1 December 2016, CIMIC published and lodged with the ASX a document entitled “Completion of Change of Shareholder in HLG” in which it stated that:

(a) HLG’s new shareholder structure had now been implemented as another step towards reaching its long term strategic objectives in the region;

(b) CIMIC’s shareholding in HLG was unchanged at 45% and CIMIC also had a call option over the remaining 55% of shares in HLG; and

(c) a strategic review of HLG was ongoing as management seek to improve efficiencies within the business for the benefit of shareholders.

D.2 2017 ANNOUNCEMENTS

17. On 8 February 2017, CIMIC published and lodged with the ASX its 2016 Annual Report, in which it stated in relation to HLG that:

(a) the directors of CIMIC considered that HLG was a joint venture entity which was material to CIMIC;

(b) as part of the contractual arrangements around the shareholder exit in late 2016, CIMIC assumed certain obligations from the other shareholders including guaranteeing various performance bonds (the value of which was not disclosed) and acquired certain loans from the outgoing shareholder for $37.5 million and acquired a call option to purchase the remaining 55% shareholding in HLG, the fair value of which was US$54 million (equivalent to $75 million);

(c) HLG’s new shareholder structure was a step toward reaching its long term strategic objectives in the region; this would allow HLG to continue to deliver leading projects for clients;

(d) a strategic review of the HLG business had commenced and was ongoing;

(e) during the reporting period, the carrying value of CIMIC’s investment in HLG had decreased to $366.5 million, due to CIMIC’s share of equity accounted loss of $84.4 million offset by a foreign exchange gain of $6.2 million;

(f) in respect of Legacy Project Receivables:

(i) there continued to be a delay in payment from clients in the Middle East & North Africa region, particularly for projects in progress at the time CIMIC invested in HLG;

(ii) it assumed that of the remaining unprovided legacy project receivables 55% would be collected within 24 months and 45% collected subsequently;

(g) borrowings obtained to fund working capital would be progressively repaid during the forecast period;

(h) management considered that for the recoverable amount of CIMIC's investment to fall below the carrying value there would have to be unreasonable changes to key assumptions, which management considered the chances of occurring as unlikely;

(i) CIMIC had pledged the following security against borrowings by HLG under two facilities totalling US$251.7 million (equivalent to $335.6 million) comprising:

(i) letters of credit of US$85.4 million (equivalent to $118.6 million); and

(ii) guarantees of US$154.3 million (equivalent to $214.3 million).

Particulars

The statements were made at pages 22-24 and 124-127 of the 2016 Annual Report under the heading "Joint Venture Entities".

18. On 8 February 2017, CIMIC also published and lodged with the ASX a document entitled "Analyst and Investor Presentation – Full Year Results", which stated in relation to HLG that:

(a) as part of the transaction for HLG's new shareholder structure, CIMIC injected additional working capital of $114.9 million into HLG and assumed certain performance bonds and obligations from the other shareholders;

(b) the operational and business strategic review of HLG was ongoing with the support of CIMIC, which was seeking to improve efficiencies within the business leveraging CIMIC's technical and operational expertise; and

(c) as part of the strategic review of HLG, the new management team was committed to resolving legacy issues within the business, in relation to which CIMIC raised an $85 million provision created against legacy receivables reflecting the expected recoverability of the receivables outstanding.

18A. In its 2016 Annual Report, CIMIC also stated that:

(a) WestConnex M4 and M5 and Sydney Metro Northwest were major construction projects by revenue during the period; and

(b) Solomon iron ore mine was one of the major mining and mineral processing projects by revenue.

Particulars

The statement in (a) was made at page 18 of the 2016 Annual Report.

The statement in (b) was made at page 19 of the 2016 Annual Report.

18B. On 4 July 2017, CIMIC published and lodged with the ASX a document entitled "CIMIC's Thiess Awarded $650 million Solomon Extension" in which it stated:

(a) Thiess secured a contract extension at Fortescue Metals Group's Solomon Hub in Western Australia, involving Thiess continuing to deliver mining services until 2020;

(b) the project would generate revenue of approximately $650 million.

19. On 17 July 2017, CIMIC published and lodged with the ASX its 2017 Half Year Report, in which it stated in relation to HLG that:

(a) during the reporting period, the carrying value of its investment in HLG had decreased to $298.2 million, due to CIMIC's share of equity accounted loss of $49 million and foreign exchange translation loss of $19.3 million;

(b) in respect of Legacy Project Receivables:

(i) there continued to be a delay in payment from clients in the Middle East & North Africa region, particularly for projects in progress at the time CIMIC invested in HLG; and

(ii) it assumed that of the remaining unprovided Legacy Project Receivables approximately half would be collected within 24 months and approximately half collected subsequently;

(c) borrowings obtained to fund working capital would be progressively repaid during the forecast period;

(d) management considered that for the recoverable amount of CIMIC's investment to fall below the carrying value there would have to be unreasonable changes to key assumptions, which management considered the chances of occurring as unlikely;

(e) CIMIC continued to hold a call option to purchase the remaining 55% shareholding in

HLC; and

(f) during the period HLG had entered into a new four-year syndicated loan facility to refinance existing borrowing facilities; and CIMIC continued to secure the HLG contracting facility with a secured and drawn amount of US$268.2 million (equivalent to $352.9 million).

Particulars

The statements were made at page 22-23 of the 2017 Half Year Report under the heading "Associates and Joint Ventures Accounted for Using the Equity Method".

19A. In its 2017 Half Year Report, CIMIC also stated:

(a) WestConnex M4 and M5 and Sydney Metro Northwest Rail Link were major construction projects by revenue during the period;

(b) Solomon iron ore mine was a major mining and mineral processing project by revenue during the period.

Particulars

The statements in (a) and (b) were made at page 38 of the 2017 Half Year Report.

19B. On 18 July 2017, CIMIC published and lodged with the ASX a document entitled "CIMIC's CPB Contractors Preferred for Metro Tunnel Rail Systems" in which it stated:

(a) CPB Contractors had been selected by the Victorian Government as the preferred proponent, with Bombardier Transportation, to deliver the Metro Tunnel Project Rail Systems Alliance with the Melbourne Metro Rail Authority and Metro Trains Melbourne;

(b) the Rail Systems Alliance works package had a total value of approximately $1 billion, a portion of which would be delivered by CPB Contractors and Bombardier Transportation in equal partnership;

(c) the quantum of forecast revenue would be confirmed at contract execution.

19C. On 18 December 2017, CIMIC published and lodged with the ASX a document entitled "CIMIC's CPB Contractors Wins $312m Metro Tunnel Rail Works" in which it stated:

(a) CPB Contractors, as part of the Rail Systems Alliance, had been awarded the works described at paragraph 27;

(b) the contract would generate revenue of approximately $312 million to CPB Contractors.

D.3 2018 ANNOUNCEMENTS

20. On 7 February 2018, CIMIC announced its FY17 results, which included:

(a) net profit after tax (**NPAT**) of $702.1 million, up 21% from FY16 and at the top end of the guidance;

(b) cash flows from operating activities (before interest, finance costs, taxes and dividends received) (**Operating Cash Flows**) of $1.523 billion, up 27% from FY16;

(c) earnings before interest, tax, depreciation and amortisation (**EBITDA**) cash conversion rate of 101%;

(d) free operating cash flows (net cash from operating activities less net capital expenditure for property, plant and equipment) (**Free Operating Cash Flows**) of over $1.0 billion, up 12% from FY16;

(e) net cash of $910.4 million at December 2017, up by more than $501.1 million; and

(f) FY18 NPAT guidance of $720 million to $780 million, up 3 – 11% from FY17.

Particulars

The FY17 Results were recorded in:

(i) CIMIC's 2017 Annual Report dated 7 February 2018 at pages 39 - 40;

(ii) CIMIC Analyst and Investor Presentation dated 7 February 2018 at pages 3 – 4;

(iii) ASX / Media Release published and lodged by CIMIC on 7 February 2018, page 1.

21. On 7 February 2018, CIMIC published and lodged with the ASX a document entitled "Analyst and Investor Presentation – Full Year Results 2017", in which it stated that in FY17:

(a) CIMIC had maintained its focus on managing working capital and generating sustainable cash backed profits; and

(b) CIMIC's EBITDA cash conversion rate of 101% reflected its focus on managing working capital and cash generation.

Particulars

The statements were made at pages 2 and 4 of the Analyst and Investor Presentation – Full Year Results 2017.

22. On 7 February 2018, CIMIC also held a teleconference with analysts from Deutsche Bank, Macquarie Group, JPMorgan, UBS and Rimor Equity Research, during which CIMIC's Executive Chairman said:

(a) CIMIC "substantially improved our cash flow generation";

(b) "CIMIC further strengthened its financial position, increasing net cash by $500 million to $910 million. This is a consequence of the consistent cash back to profit generation achieved by the business, and our focus on managing working capital";

(c) "our operating performance is supported by a very solid cash flow generation"; and

(d) "HLG is continuing with a strategic review which includes a focus on improving efficiency, delivering leading projects for clients and their recovery of legacy issues with a strict bidding approach."

Particulars

The statements were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 7 February 2018 at pages 2 and 3.

22A. At the same teleconference on 7 February 2018, CIMIC's CEO said "a lot of the growth [in the contract mining business] is coming in our Australian market, our Indonesian market, from our expansions in Mongolia, and continued expansions in Chile and Canada so we see the business continue to grow in that space."

Particulars

The statements were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 7 February at page 5.

23. In relation to HLG, CIMIC's 2017 Annual Report stated:

(a) HLG had recorded a decline in its work in hand, with the value of CIMIC's share of HLG's work in hand reducing to $842.2 million as at December 2017, from $1.798 billion as at December 2016;

(b) during the reporting period, the carrying value of CIMIC's investment in HLG had decreased to $245.6 million, due to CIMIC's share of equity accounted loss of $92.7 million and a foreign exchange translation loss of $28.2 million;

(c) there was little change in the value of CIMIC's loan to HLG which was $1.046.3 billion, with the balance comprising 96% of CIMIC's non-current trade and other receivables balance;

(d) CIMIC continued to guarantee HLG's four year syndicated facility, with a secured and drawn amount of US$326.1 million (equivalent value of $418.1 million);

(e) in respect of Legacy Project Receivables:

    (i) there continued to be a delay in payment from clients in the Middle East & North Africa region, particularly for projects in progress at the time CIMIC invested in HLG;

    (ii) it assumed that of the remaining unprovided Legacy Project Receivables approximately half would be collected within 24 months and approximately half collected subsequently;

(f) borrowings obtained to fund working capital would be progressively repaid during the forecast period;

(g) management considered that for the recoverable amount of CIMIC's investment to fall below the carrying value there would have to be unreasonable changes to key assumptions, which management considered the chances of occurring as unlikely;

(h) CIMIC continued to hold a call option to purchase the remaining 55% shareholding in HLG;

(i) CIMIC had conducted an analysis of the impact of adoption of new accounting standard AASB 15, as a result of which an adjustment to HLG's book value at 1 January 2018 would be recognised, and the higher recognition threshold in the new standard might lead to a currently estimated adjustment reducing equity by around $250 million (after tax);

(j) CIMIC had undertaken an assessment of the impacts of new accounting standard AASB 9, and that the change in method under the standard from recognition of incurred losses to recognition of expected credit losses for impairment of financial assets might lead to a currently estimated adjustment reducing equity by around $500 million (after tax) with regards to the non-current loan receivables from HLG.

Particulars

The statements at (a) were made at page 50 of the 2017 Annual Report under the heading "New Work and Work in Hand".

The statements at (b) and (d) – (h) were made at page 201 of the 2017 Annual Report under the hearing "Joint Venture Entities".

The statements at (c) were made at pages 46 – 47 of the 2017 Annual Report under the heading "Financial Position".

The statements at (i) were made at page 253 of the 2017 Annual Report.

The statements at (j) were made at page 252 of the 2017 Annual Report.

24. CIMIC's 2017 Annual Report also stated that:

(a) in the opinion of the directors of CIMIC, the financial statements and notes were in accordance with the Corporations Act including giving a true and fair view of CIMIC's financial position as at 31 December 2017 and its performance for the financial year ended on that date.

(b) WestConnex M4 and M5 and Sydney Metro Northwest Rail Link were major construction projects by revenue during the period;

(c) Solomon mines was a major mining and mineral processing project by revenue during the period.

Particulars

The statements in paragraph (a) were made at page 256 of the 2017 Annual Report.

The statement in paragraph (b) was made at page 43 of the 2017 Annual Report.

The statement in paragraph (c) was made at page 43 of the 2017 Annual Report.

25. On 13 April 2018, CIMIC conducted its annual general meeting during which its Executive Chairman delivered an address to shareholders in which he stated:

(a) "our aim is to deliver returns based on sustainable profit, backed by the generation of cash"; and

(b) "with deep relationships and knowledge of our markets, we are in a unique position to identify and deliver value from such opportunities. We do it in a disciplined manner, allocating cash where it is in the best, long-term interests of our shareholders, seeking controlled growth with sustainable cash-backed profits".

Particulars

The statement at (a) was recorded in a copy of the address to shareholders dated 13 April 2018, page 3.

The statement at (b) was recorded in a copy of the address to shareholders dated 13 April 2018, page 6.

25A. On 17 April 2018, CIMIC announced its First Quarter 2018 results, which included net capital expenditure of $104.9 million, which was up from $93.6 million in the previous corresponding period.

Particulars

The First Quarter 2018 results were recorded in the CIMIC Analyst and Investor Presentation dated 17 April 2018 at page 4.

25B. On 16 July 2018, CIMIC published and lodged with the ASX a document entitled "CIMIC's CPB Contractors Preferred for $1b Metro Tunnel Works" in which it stated:

(a) CPB Contractors, as part of the Rail Infrastructure Alliance, had been named as the Victorian Government's preferred proponent to deliver a $1 billion package in support of the Metro Tunnel Project;

(b) CPB Contracts and John Holland were to be equal construction partners in the Rail Infrastructure Alliance;

(c) the revenue from this contract would be confirmed at contract execution.

26. On 18 July 2018, CIMIC released its 2018 Half Year results, which included:

(a) NPAT of $363 million, up 12% from first half of FY17 (**1H17**);

(b) Operating Cash Flows of $724 million, up 17% from 1H17;

(c) EBITDA cash conversion rate of 102%;

(d) Free Operating Cash Flow of $402 million, up 17% from 1H17;

(e) net cash of $1.299 billion at June 2018, up by 43% from 1H17; and

(f) net capital expenditure of $234.5 million, up 23.9% from $189.3 million in 1H17.

Particulars

The First Half 2018 Results were recorded in:

(i) CIMIC's Half Year 2018 Report dated 18 July 2018 at pages 42, 43, 48-51;

(ii) CIMIC Analyst and Investor Presentation dated 18 July 2018 at pages 2 – 4;

(iii) ASX / Media Release published and lodged by CIMIC on 18 July 2018, page 1.

27. On 18 July 2018, CIMIC published and lodged with the ASX:

(a) a document entitled "Analyst and Investor Presentation – HY18", in which it stated that CIMIC had achieved strong cash generation, with a strict focus on managing working capital and generating sustainable cash backed profits; and

(b) an ASX / Media Release in which CIMIC's Executive Chairman was quoted as saying "[t]his positive outlook supports our guidance, and our sound balance sheet and strong new cash position flexibility to pursue strategic growth initiatives, capital allocation opportunities and sustained shareholder returns."

Particulars

The statements in (a) were made at pages 2 and 4 of the Analyst and Investor Presentation – HY18.

The statements in (b) were made at page 2 of the ASX / Media Release published and lodged by CIMIC on 18 July 2018.

28. In relation to HLG (which had been renamed BICC in the reporting period), CIMIC's 2018 Half Year Report stated:

(a) the higher recognition threshold and constraint criteria of new AASB 15 had led to a reduction in CIMIC's investment in BICC of $245.6 million, as a result of which BICC was held at nil value and was no longer material to CIMIC;

(b) the change in method from recognition of incurred losses to recognition of expected credit losses for impairment of financial assets under AASB 9 had led to an adjustment reducing non-current receivables by $487.4 million with regards to the non-current loan receivables from BICC, as a result of which trade receivables associated with BICC were $593.2 million at 30 June 2018 (compared with $1,046.3 million as at 31 December 2017);

(c) the BICC segment did not meet the size threshold of a reportable segment as at 30 June 2018, and its results had been included in the "Corporate" segment's results;

(d) the Corporate segment had a profit before tax loss for the period of $76 million;

(e) CIMIC continued to guarantee BICC's syndicated facility, with a secured and drawn amount of US$423.2 million (equivalent value of $564.3 million);

(f) CIMIC continued to hold shareholder loans relating to BICC totalling US$445 million (equivalent to $593.2 million) with an expected repayment date of 30 September 2021, and the repayment of those loans was subject to certain restrictions as a result of the loans being subordinate to other external debt held by BICC such as its syndicated loan facility; and

(g) CIMIC continued to hold a call option to purchase the remaining 55% shareholding in BICC.

Particulars

The statements at (a) and (b) were made in the 2018 Half Year Report at pages 11 and 12 under the heading "Change in Accounting Standards" and at page 30 under the heading "Associates and Joint Ventures Accounted for Using the Equity Method".

The statement at (c) was made at page 20 of the 2018 Half Year Report under the heading "Segment Information".

The statement at (d) was made at page 21 of the 2018 Half Year Report under the heading "Segment Information".

The statements at (e) and (g) were made at page 30 of the 2018 Half Year Report under the heading "Associates and Joint Ventures Accounted for Using the Equity Method".

The statements at (f) were made at page 26 of the 2018 Half Year Report under the heading "Trade and Other Receivables" and page 30 under the heading "Associates and Joint Ventures Accounted for Using the Equity Method".

29. CIMIC's 2018 Half Year Report also stated that:

(a) CIMIC had a strict focus on managing working capital and generating sustainable cash-backed profits;

(b) the increase in net cash for the reporting period was primarily a result of the strong operating cash flows during the period;

(c) in the opinion of the directors of CIMIC, the consolidated interim financial report and notes were in accordance with the Corporations Act including giving a true and fair view of the position of CIMIC as at 30 June 2018 and of its performance as represented by the results of its operations and cash flows for the half-year ended on that on that date;

(d) mining and mineral processing revenue in the six months to June 2018 was $1.77 billion, up from $1.51 billion (or 16.8%) in the six months to June 2017;

(e) Hong Kong's strong economic growth and cooperative development with mainland China would continue to drive infrastructure spending in both the public and private sectors;

(f) WestConnex M4 East and M5 were both major construction projects during the period;

(g) Sydney Metro City and Southwest Rail Project was a major construction project during the period;

(h) Sydney Metro Northwest Rail Project was a major construction and services project during the period; and

(i) Solomon mines was a major mining and mineral processing project during the period.

Particulars

The statement at paragraphs (a) was made at page 42 and 51 of the 2018 Half Year Report.

The statement at paragraph (b) was made at page 49 of the 2018 Half Year Report.

The statement at paragraph (c) was made at page 38 of the 2018 Half Year Report.

The result reported at paragraph (d) was recorded at page 18 of the 2018 Half Year Report.

The statement at paragraph (e) was made at page 54 of the 2018 Half Year Report.

The statements at paragraphs (f)-(i) were made at pages 45-46 of the 2018 Half Year Report.

29A. On 18 July 2018, CIMIC held a teleconference with analysts from Deutsche Bank, JPMorgan and UBS during which CIMIC's CEO stated in relation to constraints on projects in Hong Kong:

(a) "[CIMIC has] got many projects in Hong Kong and Singapore and other places throughout Asia";

(b) "our teams remain on the ground executing projects in accordance with our scheduled program";

(c) "it's business as usual"; and

(d) "we don't see it [issues in Hong Kong] as a long term issue."

Particulars

The statements at (a)-(d) were recorded in the transcript of the Analyst and Investor Presentation for Half Year 2018 at page 8.

29B. On 28 September 2018, CIMIC published and lodged with the ASX a document entitled "CIMIC's CPB Contractors Awarded $1b Metro Tunnel Works" in which it stated:

(a) CPB Contracts, as part of the Rail Infrastructure Alliance, had been awarded the contract referred to in paragraph 25B;

(b) the contract would generate revenue to CPB Contractors of approximately $400 million.

29C. On 4 October 2018, CIMIC published and lodged with the ASX a document entitled "CIMIC's Leighton Asia Wins A$110m Building Project in India" in which it stated:

(a) Leighton Asia had been selected by Bayaweaver Ltd as its Alliance partner to construct the 'Oh My God' mixed use development project in Noida, India;

(b) the project would generate revenue of approximately A$110 million for Leighton Asia.

30. On 23 October 2018, CIMIC released its Third Quarter 2018 results (**3Q18**), which included:

(a) NPAT of $201 million, up 10% from third quarter of FY17 (**3Q17**);

(b) Operating Cash Flows of $1.065 billion in 9 months to 30 September 2018, up 16% from pcp;

(c) EBITDA cash conversion rate of 86%;

(d) Free Operating Cash Flow of $572 million, up 7% from 3Q17;

(e) net cash of $1.201 billion at September 2018; and

(f) net capital expenditure of $383.4 million, up 33.1% from $288 million in 3Q17.

Particulars

The 3Q18 Results were recorded in:

(i) CIMIC Analyst and Investor Presentation dated 23 October 2018 at pages 2 – 5;

(ii) ASX / Media Release published and lodged by CIMIC on 23 October 2018 at page 1.

31. On 23 October 2018, CIMIC published and lodged with the ASX a document entitled "Analyst and Investor Presentation – 9m Results 2018", in which it stated that CIMIC's cash generation was consistently strong, with a strict focus on managing working capital and generating sustainable cash backed profits.

Particulars

The statements were made at pages 2 and 4 of the Analyst and Investor Presentation – 9m Results 2018.

31A. On 21 November 2018, CIMIC published and lodged with the ASX a document entitled "CIMIC Group Companies win $1.37bn Sydney Metro Works" in which it stated:

(a) CPB Contractors and UGL had been selected by the NSW Government to deliver the Line-wide works in support of the Sydney Metro City and Southwest project;

(b) the contract was forecast to generate revenue of $1.38 billion to the joint venture between CPB Contractors and UGL.

31B. On 11 December 2018, CIMIC published and lodged with the ASX a document entitled "CIMIC Group Companies Preferred to Deliver Taswater's Capital Works" in which it stated:

(a) UGL and CPB Contractors had been selected by Taswater as the preferred contractor to deliver a capital works program to support and develop wastewater infrastructure and major regional water projects in Tasmania;

(b) the joint venture would generate revenue of more than $600 million over an initial four year period.

D.4 2019 ANNOUNCEMENTS

32. On 5 February 2019, CIMIC announced its FY18 results, which included:

(a) NPAT of $781 million, up 11% from FY17 and at the top end of the guidance;

(b) Operating Cash Flows of $1.859 billion, up 22% from FY17;

(c) EDBITA cash conversion rate of 109%;

(d) Free Operating Cash Flow of $1.244 billion, up 18% from FY17;

(e) net cash of $1.619 billion at December 2018, up 78% from December 2017;

(f) net capital expenditure of $464.8 million, up 52.1% from $305.5 million in FY17; and

(g) FY2019 NPAT guidance of $790 million to $840 million.

Particulars

The FY18 Results were red in:

(i) CIMIC's 2018 Annual Report dated 5 February 2019 at pages 25, 26, 31, 34;

(ii) CIMIC Analyst and Investor Presentation dated 5 February 2019 at p 4;

(iii) ASX / Media Release published and lodged by CIMIC on 5 February 2019, page 1.

33. On 5 February 2019, CIMIC published and lodged with the ASX a document entitled "Analyst and Investor Presentation – Full Year Results 2018", in which it stated that:

(a) in FY18 CIMIC had a strict focus on managing working capital and generating sustainable cash-backed profits, and it had achieved strong cash generation; and

(b) its strong balance sheet provided flexibility to pursue strategic growth initiatives, capital allocation opportunities and to deliver shareholder returns.

Particulars

The statements at (a) were made at pages 2 and 4 of the Analyst and Investor Presentation.

The statements at (b) were made at pages 2 and 8 of the Analyst and Investor Presentation.

34. CIMIC's 2018 Annual Report:

(a) disclosed that CIMIC entered into various factoring agreements with banks and financial institutions to sell its receivables;

(b) disclosed that CIMIC entered into supply chain factoring arrangements (also referred to as reverse factoring) with financial institutions for suppliers which may elect to receive early payment for goods and services;

(c) disclosed that its factoring arrangements were on a non-recourse basis;

(d) did not quantify the extent or value of the factoring or supply chain factoring arrangements;

(e) did not disclose that the factoring and supply chain factoring arrangements did or may impact upon its cash results or other financial results; and

(f) did not disclose the extent of the impact of the factoring and supply chain factoring arrangements on its cash results or other financial results.

Particulars

The statements in (a), (b) and (c) were made in the 2018 Annual Report at page 199 under the heading "Trade and other receivables".

35. In relation to BICC, CIMIC's 2018 Annual Report:

(a) did not report results for BICC at an individual level, but only within the Corporate segment;

(b) stated that the Corporate segment's profit before tax was a loss of $141.8 million, a $26.3 million improvement mainly driven by a reduction of BICC's losses compared to the previous year;

(c) stated that CIMIC continued to hold shareholder loans relating to BICC totalling US$454.9 million (equivalent to $640.7 million) with an expected repayment date of 30 September 2021, being a reduction from FY17 of $1.046 billion;

(d) again stated that the change in method from recognition of incurred losses to recognition of expected credit losses for impairment of financial assets under AASB 9 had led to an adjustment reducing non-current receivables by $487.4 million with regards to the non-current loan receivables from BICC, impliedly representing that there had been no further reduction in the loans in the six months since 18 July 2018;

(e) stated that CIMIC continued to guarantee BICC's facilities, with a secured and drawn amount of US$621.4 million (equivalent value of $889.2 million) it had guaranteed compared with $418.10 in FY17, being an increase in the amount guaranteed by BICC by $146.1 million since 18 July 2018; and

(f) CIMIC continued to hold a call option to purchase the remaining 55% shareholding in BICC.

Particulars

The statements at (a) and (b) were made in the 2018 Annual Report at page 29 under the heading "Financial Performance".

The statement at (c) was made in the 2018 Annual Report at page 161 under the heading “Trade and other receivables”.

The statement at (d) was made in the 2018 Annual Report at page 142 under the heading “Summary of Significant Account Policies”.

The statements at (e) and (f) were made in the 2018 Annual Report at page 179 under the heading “Joint Ventures”.

36. CIMIC’s 2018 Annual Report also stated that:

(a) CIMIC had maintained its strict focus on managing working capital and generating sustainable cash-backed profits; and

(b) in the opinion of the directors of CIMIC, the financial statements and notes were in accordance with the Corporations Act including giving a true and fair view of CIMIC’s financial position as at 31 December 2018 and its performance for the financial year ended on that date;

(c) in many cases, CIMIC and its Operating Companies deliver work in joint venture or alliance relationships;

(d) mining and mineral processing revenue for 2018 was $3.97 billion, up 25.4% from $3.16 billion in FY17;

(e) WestConnex M4 East and New M5 and Sydney Metro Northwest, City and Southwest projects were major construction projects during the period; and

(f) Solomon mines was a significant mining and mineral processing project during the period;

Particulars

The statement in (a) was made at pages 25 and 34 of the 2018 Annual Report.

The statement in (b) was made at page 230 of the 2018 Annual Report.

The statement in (c) was made at page 75 of the 2018 Annual Report under the heading “Dealing with third parties”.

The result reported in (d) was recorded at page 28 of the 2018 Annual Report.

The statements in (e) and (f) were made at pages 28 and 29 of the 2018 Annual

Report.

37. On 5 February 2019, CIMIC held a teleconference with analysts from Deutsche Bank, Macquarie Group, JPMorgan, Credit Suisse, Ord Minnett and HSBC, during which:

(a) in response to a question about the strategic review of BICC, CIMIC's Chief Financial Officer said:

> That strategic review had continued during the year. That led to a reduction in the size of BIC, which was one of the targeted outcomes of the strategic review. And in line with that we were minimising the risk of the business… So while we have highlighted that the losses have been reduced in BIC, that is one of the consequences of the strategic review as well. We are not separately disclosing the financial statements or the further financial data on BIC anymore. But the strategic review you are alluding to has progressed and it has yielded further outcomes during 2018.

(b) in response to a further question about whether BICC was still a core part of CIMIC's business, or whether CIMIC was looking to divest BICC, CIMIC's CFO said: "I think we do have all options for BIC and we continue to pursue all options, but no decisions have been made one way of the other at this point in time."

(c) in response to a question as to whether the temporary ban in Hong Kong had any impact on CIMIC, CIMIC's CEO stated:

(i) "Hong Kong has come off";

(ii) "there is a temporary ban but the positive thing is we've got a significant work in hand up there that we continue to execute";

(iii) "we're seeing Hong Kong as a very positive market and strong market into the future".

Particulars

The statements in (a) and (b) were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 5 February 2019 at page 11.

The statements in (c) were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 5 February 2019 at page 9.

38. On 11 April 2019, CIMIC conducted its annual general meeting during which its Executive Chairman and Chief Executive Officer each delivered an address to shareholders in which:

(a) the Executive Chairman stated “our aim at CIMIC Group is to deliver returns based on sustainable profits, backed by the generation of cash” and “our strong cash generation resulted in an increase in net cash of more than $700 million”;

(b) the CEO confirmed CIMIC’s FY19 guidance of NPAT between $790 million to $840 million;

(c) the CEO stated “[l]ooking forward, CIMIC Group is in a great position to deliver sustained shareholder returns”;

(d) the CEO stated:

(i) “[CIMIC’s] construction business, CPB Contractors, including Leighton Asia and Broad, and mining and mineral processing companies Thiess and Sedgman and [its] services specialist UGL, supported by Pacific Partnerships in Public Prive Partnerships, and EIC Activities in Engineering, contributed to growth in work in hand year-on-year of $1.8 billion to $36.7 billion”;

(ii) “a significant part of this growth was achieved by [CIMIC’s] ability to provide unique, integrated capabilities for our clients in financing, design, construction, operations and maintenance of infrastructure and resources assets”;

(iii) “an example of this is where CPB Contractors and UGL work together as the premier rail infrastructure and services provider to secure two key projects, a $1 billion package of works of the Victorian government, for the Victorian Metro Tunnel, and a $1.4 billion line-wide railworks for the Sydney Metro City and Southwest Project to be delivered over six years”;

(iv) “both of these are lower-risk, collaborative style contracts where our teams work together”.

(e) neither the Executive Chairman nor the CEO referred to the fact of nor extent of CIMIC’s use of factoring or reverse factoring; and

(f) neither the Executive Chairman nor the CEO referred to BICC.

Particulars

The statements at (a) were recorded on page 2 of the Executive Chairman’s address to shareholders, lodged with ASX on 11 April 2019.

The statement at (b) was recorded on page 7 of the transcript of CIMIC’s annual general meeting held on 11 April 2019.

The statement at (c) was recorded on page 11 of the transcript of CIMIC's annual general meeting held on 11 April 2019.

The statement at (d) was recorded on page 5 of the transcript of CIMIC's annual general meeting held on 11 April 2019

39. On 11 April 2019, CIMIC published and lodged with the ASX an ASX / Media Release, which stated that CIMIC's Executive Chairman had that day stated that CIMIC was "in an excellent position to deliver sustained shareholder returns, with a positive outlook across its core market and a solid order book".

Particulars

The statement was recorded on page 1 of the ASX / Media Release published and lodged by CIMIC on 11 April 2019.

40. On 16 April 2019, CIMIC announced its results for the first quarter of 2019, which included:

(a) NPAT of $181 million, up 5.4% from first quarter FY18 (**1Q18**);

(b) Operating Cash Flows of $248 million, up 60% from 1Q18;

(c) EDBITA cash conversion rate of 49%, up 23% from 1Q18;

(d) Free Operating Cash flow of $16 million, up 5% from 1Q18;

(e) net cash of $1.575 billion at March 2019, up 73% from March 2018;

(f) net capital expenditure of -$160.3 million; and

(g) confirmation of its 2019 NPAT guidance in the range of $790 million to $840 million.

Particulars

The first quarter of FY19 Results were recorded in:

(i) CIMIC Analyst and Investor Presentation dated 16 April 2019 at pages 3 – 4;

(ii) ASX / Media Release published and lodged by CIMIC on 16 April 2019, page 1.

41. On 16 April 2019, CIMIC published and lodged with the ASX:

(a) a document entitled "Analyst and Investor Presentation – 1Q Results 2019", in which it stated that:

(i) CIMIC had achieved strong cash generation, with a strict focus on managing working capital and generating sustainable cash backed profits; and

(ii) CIMIC's strong balance sheet provided flexibility to pursue strategic growth initiatives, capital allocation opportunities and to deliver shareholder returns; and

(b) an ASX / Media Release, which attributed the following statement to CIMIC's Executive Chairman: "[w]ith continued growth in revenue and profit, and substantial increases in cash flow and net cash during the period we are in a strong financial and operating position".

Particulars

The statements in (a)(i) were made at pages 2 and 4 of the Analyst and Investor Presentation – 1Q Results 2019.

The statement in (a)(ii) was made at page 2 of the Analyst and Investor Presentation – 1Q Results 2019.

The statement in (b) was made at page 1 of the ASX / Media Release published and lodged by CIMIC on 16 April 2019.

E. CASH FLOW DISCLOSURE CONTRAVENTIONS

E.1 FY17 CASH FLOW INFORMATION AND CONTRAVENTIONS

41A. At year end for FY15, FY16 and FY17, CIMIC's factoring and reverse-factoring balances were as follows:

(a) as at 31 December 2015:

(i) factoring balance of AUD 334 million; and

(ii) reverse-factoring balance of nil.

(b) as at 31 December 2016:

(i) factoring balance of AUD 373 million;

(ii) reverse-factoring balance of AUD 80 million;

(c) as at 31 December 2017:

(i) factoring balance of AUD 558 million;

(ii) reverse-factoring balance of AUD 177 million;

Particulars

Working Capital Update provided to CIMIC's Audit Risk Management Committee on 17 July 2019 **[CIM.004.005.0001]**

True Position – February 2018

42. As at 7 February 2018, for the FY17 reporting period (1 January 2017 to 31 December 2017):

(a) CIMIC's total receipts from factoring were approximately $185 million, alternatively approximately $201 million;

(b) CIMIC's operating cash flow without inclusion of factoring receipts (**Pre-Factoring Operating Cash Flow**) was approximately $1.338 billion, alternatively approximately $1.322 billion;

(c) CIMIC's EBITDA cash conversion without inclusion of factoring receipts (**Pre-Factoring EBITDA Cash Conversion**) was approximately 88%, alternatively approximately 87%;

(d) CIMIC's reverse-factor balance as at 31 December 2017 was approximately $177 million with a Net Balance Sheet Impact of $258 million;

(e) CIMIC's operating cash flow without inclusion of factoring receipts and reverse-factoring receipts (**Pre-Working Capital Instrument Operating Cash Flow**) was approximately $1.133 billion, alternatively approximately $1.158 billion; and

(f) CIMIC's EBITDA cash conversion without inclusion of factoring receipts and reverse-factoring receipts (**Pre-Working Capital Instrument EBITDA Cash Conversion**) was approximately 75%, alternatively approximately 77%.

Particulars

(i) Working Capital Update provided to Audit and Risk Management Committee (**ARMC**) on 6 February 2018 (CIM.004.001.3549 at pages 379-382);

(ii) Working Capital Update provided to ARMC on 5 February 2019 (CIM.004.001.4251 at pages 347-348) and Board on 5 February 2019 (CIM.004.001.7730 at pages 29-30); and

(iii) Document entitled 'Group Financial Highlights – FY18 v FY17' circulated by Stefan Camphausen to Michael Wright on 4 December 2018

(CIM.100.017.8150 and CIM.100.017.8154)

(iv) Document entitled ‘Group Financial Highlights – FY18 v FY17’ circulated by Stefan Camphausen to Michael Wright on 22 January 2019 (CIM.100.017.7845 and CIM.100.017.7851).

FY17 Cash Flow Information

43. As at 7 February 2018 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that for the FY17 reporting period:

(a) CIMIC’s total receipts from factoring were approximately $185 million, alternatively approximately $201 million;

(b) CIMIC’s Pre-Factoring Operating Cash Flow was approximately $1.338 billion, alternatively approximately $1.322 billion;

(c) CIMIC’s Pre-Factoring EBITDA Cash Conversion was approximately 88%, alternatively approximately 87%; and

(d) CIMIC’s reverse factor-balance as at 31 December 2017 was approximately $177 million with a Net Balance Sheet Impact of $258 million.

(e) CIMIC’s Pre-Working Capital Instrument Operating Cash Flow was approximately $1.133 billion, alternatively approximately $1.158 billion; and

(f) CIMIC’s Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 75%, alternatively approximately 77%.

(**FY17 Cash Flow Information**)

Particulars

Each of the items comprising the FY17 Cash Flow Information was information which by 7 February 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

CIMIC’s officers were aware of those matters by reason that:

(i) the information about CIMIC’s receipts from factoring and its reverse factoring balance was disseminated to Board and the ARMC in papers authored by Scott McAlpine and provided in advance of the Board and ARMC meetings held on 6 February 2018 (CIM.004.001.3549 at pages 379-382), and 5 February 2019 (CIM.004.001.4251 at pages 347-348 and CIM.004.001.7730 at pages 29-30); and

(ii) the balance of the FY17 Cash Information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's FY18 Annual Report) and the information about CIMIC's receipts from factoring and reverse factoring

Further, the FY17 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same. Further, it is to be inferred that CIMIC officers were, or ought reasonably to have been, aware of the impact of factoring and reserve-factoring on reported operating cash flow and EBITDA cash conversion by reason of:

(i) the objective relationship between increases in factoring and increases in operating cash flow and EBITDA cash conversion;

(ii) the email from Stefan Camphausen to Michael Wright entitled "Important – SM2 factoring update" on 14 September 2017 in which Mr Camphausen drew a link between factoring receivables on the Sydney Metro project and a 10% boost to 4Q17 EBITDA Cash Conversion [**CIM.100.032.6243**]; and

(iii) the Q&A document used by CIMIC Officers to answer investor and analysts questions in relation to the FY17 Financial Accounts held on 7 February 2018 in which the hypothetical question "*does Factoring boost your cash flow"* included an answer acknowledging the premise of the question.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of the CIMIC 'Market Disclosure and Communications Framework' dated 10 August 2015 and published at all times during the Relevant Period on the company's website (**Market Disclosure and Communications Framework**).

Further particulars may be provided following further discovery.

44. The FY17 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

45. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 44, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the FY17 Cash Flow Information from 7 February 2018.

46. Notwithstanding the matters alleged in paragraphs 44 and 45, CIMIC did not notify the ASX of the FY17 Cash Flow Information at any time during the period 7 February 2018 to 6 May 2019, alternatively 17 July 2019.

47. By reason of the matters alleged in paragraphs 43 to 46, CIMIC contravened s 674(2) of the Corporations Act (**FY17 Cash Flow Disclosure Contraventions**).

E.2 1Q18 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – April 2018

47A. As at 12 April 2018, for the 1Q18 reporting period (1 January 2018 to 30 March 2018):

(a) CIMIC's total receipts from factoring were approximately $195 million, alternatively approximately $193 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $-76.8 million, alternatively approximately $-74.8 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately -21%, alternatively approximately -20%;

(d) CIMIC's total factor balance as at 30 March 2018 was approximately $753 million, alternatively, approximately $767 million;

(e) CIMIC's reverse factor-balance as at 30 March 2018 was approximately $199 million with a Net Balance Sheet Impact of $284 million;

(f) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $-89.8 million;

(g) CIMIC's Pre-Working Capital Instrument EBITDA Cash Conversion was approximately -24%;

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the impact of those cash flow and working capital pressures;

(k) CIMIC's reported EBITDA Cash Conversion and Operating Cash Flow (**Cash Flow Metrics**) reflected the implementation of increased levels of factoring and reverse factoring;

(l) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

Particulars

As to subparagraphs (a) to (g), the Applicant refers to:

(i) Working Capital Update provided to ARMC on 12 April 2018 (CIM.004.001.2940 at pages 105-106) and Board on 12 April 2018 (CIM.004.001.6787 at pages 32-33); and

(ii) Working Capital Update provided to ARMC on 5 February 2019 (CIM.004.001.4251 at pages 347-348) and Board on 5 February 2019 (CIM.004.001.7730 at pages 29-30); and

(iii) Document entitled 'Group Financial Highlights – FY19 v FY18' sent to Stefan Camphausen 7 April 2019 (CIM.108.021.1765 and CIM.108.021.1777).

As to subparagraph (h), the Applicant says it is to be inferred from CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics, that CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements.

As to subparagraph (i):

(i) revenue growth for Thiess in 1Q18 increased by approximately 10% on the prior corresponding period (CIM.122.017.1586).

(ii) the applicant also refers to the spreadsheet entitled '2018 Rating Cash Flow v2' prepared and distributed by Stefan Camphausen on or around 22 March 2019 (**Camphausen FY18 Factoring Spreadsheet**) and its covering email sent by Stefan Camphausen to Angel Muriel Bernal on 25 March 2019 (CIM.114.018.3689 and CIM.114.018.3691).

As to paragraph (j) it is to be inferred that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) from the fact of its use of factoring and reverse factoring in 1Q18 at the same time that its cash flows for that quarter were declining as compared to 1Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as the reasons for the increased levels of factoring in FY18 in the Camphausen FY18 Factoring Spreadsheet.

As to subparagraphs (h) to (k), the Applicant further refers to:

(iii) the Camphausen FY18 Spreadsheet;

(iv) the spreadsheet entitled '2018 Rating Cash Flow v2' prepared and distributed by Stefan Camphausen on or around 6 May 2019 (**Camphausen FY18 and 1Q19 Factoring Spreadsheet**) and its covering email sent by Stefan Camphausen to Scott McAlpine, Derek Kerr and Justin Grogan (CIM.108.009.2535 and CIM.108.009.2536).

(v) the PowerPoint presentation entitled 'Factoring and Supply Chain Financing' distributed by Stefan Camphausen on 28 May 2019 (CIM.114.016.3202 and CIM.114.016.3204).

The matters in (l) are inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

Further particulars may be provided following further discovery.

1Q18 Cash Flow Information

47B. As at 12 April 2018 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that for the 1Q18 reporting period:

(a) CIMIC's total receipts from factoring were approximately $195 million, alternatively approximately $193 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $-76.8 million, alternatively approximately $-74.8 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately -21%, alternatively approximately $-20%;

(d) CIMIC's total factor balance as at 30 March 2018 was approximately $753 million, alternatively, approximately $767 million;

(e) CIMIC's reverse factor-balance as at 30 March 2018 was approximately $199 million with a Net Balance Sheet Impact of $284 million;

(f) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $-89.8 million;

(g) CIMIC's Pre-Working Capital Instrument EBITDA Cash Conversion was approximately -24%;

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the impact of those cash flow and working capital pressures;

(k) CIMIC's reported Cash Flow Metrics reflected the implementation of increased levels of factoring and reverse factoring;

(l) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(**1Q18 Cash Flow Information**)

Particulars

Each of the items comprising the 1Q18 Cash Flow Information was information which by 12 April 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a) to (g),

CIMIC's officers were aware of those matters by reason that:

(i) the information about CIMIC's receipts from factoring and its reverse factoring balance was disseminated to Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 12 April 2018 (CIM.004.001.6787 at pages 32-33) and (CIM.004.001.2940 at pages 105-106), and 5 February 2019 (CIM.004.001.4251 at pages 347-348 and CIM.004.001.7730 at pages 29-30); and

(ii) the balance of the information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's FY18 Annual Report) and the information about CIMIC's receipts from factoring and reverse factoring

As to subparagraph (h) and (k), it is to be inferred that one or more CIMIC Officers were, or ought reasonably to have been, aware of this information by reason that it is to be inferred from the fact of CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics.

As to paragraph (i), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) revenue growth for Thiess in 1Q18 had increased by approximately 10% on the prior corresponding period (CIM.122.017.1586);

(ii) cash flow and working capital pressures arising from relative growth in the mining sector in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1Q18 of the cash flow impact of the relative revenue growth in the mining sector;

As to paragraph (j) it is to be inferred that one or more CIMIC Officers were, or ought to have been aware, that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) by the fact of CIMIC's increased use of factoring and reverse factoring in 1Q18 at the same time that its cash flows for that quarter were declining as compared to 1Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as reasons for the increased levels of factoring in FY18 in:

(a) the Camphausen FY18 Factoring Spreadsheet; and

(b) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to paragraph (l), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware of this information by reason that those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice vera).

Further, the 1Q18 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

47C. The 1Q18 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

47D. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 47C, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the 1Q18 Cash Flow Information from 12 April 2018.

47E. Notwithstanding the matters alleged in paragraphs 47C and 47D, CIMIC did not notify the ASX of the 1Q18 Cash Flow Information at any time during the period 12 April 2018 to 6 May 2019, alternatively 17 July 2019.

47F. By reason of the matters alleged 47B to 47E, CIMIC contravened s 674(2) of the Corporations Act (**1Q18 Cash Flow Disclosure Contraventions**).

E.3 1H18 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – July 2018

48. As at 18 July 2018:

(a) for the second quarter of FY18 (**2Q18**) reporting period (1 April 2018 to 30 June 2018):

(i) CIMIC's total receipts from factoring were approximately $255 million;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $350.4 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was 82%;

(iv) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $279.9 million;

(v) CIMIC's Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 66%;

(vi) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(vii) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of approximately $81.5 million in 2Q18;

B. the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

C. unplanned capital expenditure associated with Thiess' Australian and Indonesian mining regions and CPB Contractors' Sydney Metro and Westgate Tunnel construction projects;

D. the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) in 2Q18, which were approximately $-100m as a consequence of problems with the Mass Transit Railway project, and a related Commission of Inquiry by Hong Kong authorities which had commenced in 2Q18;

(viii) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(ix) CIMIC's reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring; and

(x) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(b) for the first half of FY18 (**1H18**) reporting period (1 January 2018 to 30 June 2018):

(i) CIMIC's total receipts from factoring were approximately $450 million, alternatively approximately $448 million;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $273.6 million, alternatively approximately $275.6 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 34%, alternatively approximately 35%;

(iv) CIMIC's total factor balance as at 30 June 2018 was approximately $1,008 million, alternatively approximately $1,020 million;

(v) CIMIC’s reverse factor-balance as at 30 June 2018 was approximately $312 million with a Net Balance Sheet Impact of $425 million;

(vi) CIMIC’s Pre-Working Capital Instrument Operating Cash Flow was approximately $190.1 million;

(vii) CIMIC’s Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 24%;

(viii) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(ix) CIMIC’s reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring; and

(x) CIMIC’s reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

Particulars

As to subparagraphs (a)(i) to (v) and (b)(i) to (vii), the Applicant refers to:

(i) Working Capital Update provided to ARMC on 18 July 2018 (CIM.004.005.0246 at pages 277-278);

(ii) Working Capital Update provided to ARMC on 5 February 2019 (CIM.004.001.4251 at pages 347-348) and Board on 5 February 2019 (CIM.004.001.7730 at pages 29-30);

(iii) Document entitled ‘Group Financial Highlights – FY19 v FY18’ sent to Stefan Camphausen (CFO) 7 April 2019 (CIM.108.021.1765 and CIM.108.021.1777).

As to subparagraph (a)(vii)(A):

(i) in April 2018, CPB Contractors entered into approximately $543m worth of alliance contracts, being:

(a) a variation of the alliance contract for the design and construction of the Caulfield to Dandenong Level Crossing Removal Project in Melbourne (LXRA Variance) with revenue attributable of $393m (CIM.122.021.1061);

(b) a contract for the Delivery of the ANGAU Memorial Hospital in Lae, Papua New Guinea with revenue attributable of $150m

(CIM.122.021.1061 and CIM.114.018.3691); and

(ii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iii) accordingly, CIMIC experienced an approximately negative $81.5m cash impact in 2Q18 in relation to its award of alliance contracts (being 15% of $543m worth of alliance contracts entered into in 2Q18).

As to subparagraph (a)(vii)(B), revenue growth for Thiess in 2Q18 increased by approximately 20% on the prior corresponding period (CIM.122.017.1586).

As to subparagraph (a)(vii)(C), the Applicant refers to:

(i) the document entitled ‘PPE Additions Cheat Sheet’ circulated between members of CIMIC’s finance team on 19 May 2018 which described ‘additions’ to Thiess and CPB Contractors’ capital expenditure as at the end of April 2018 (CIM.108.028.1980 and CIM.108.028.1984); and

(ii) the document entitled ‘PPE Additions Cheat Sheet’ circulated between members of CIMIC’s finance team on 8 July 2018 which described ‘additions’ to Thiess and CPB Contractors’ capital expenditure as at the end of June 2018 (CIM.108.034.0800 and CIM.108.034.0801).

As to subparagraph (a)(vii)(D), the Applicant refers to:

(i) the 1H18 Group Risk Management Report distributed to Michael Wright (CEO) by Brad Davey (Chief Legal and Risk Officer) on 11 July 2018 prior to the meetings of the Board and ARMC to be held on 18 July 2018 (CIM.100.022.0562 and CIM.100.022.0564, pages 3 and 4) which upgraded risk to the following ratings due to Hong Kong related factors:

   (a) with respect to Leighton Asia, from ‘C – High, Unlikely’ to ‘B – Very High, Likely’; and

   (b) with respect to ‘Brand and Reputation’, from ‘E – Low’ to ‘C – High’.

(ii) the Leighton Asia 2Q18 Financial Highlights document distributed to Stefan Camphausen (CFO) on 9 August 2018 (CIM.108.024.8220 and CIM.108.024.8228).

As to paragraph (a)(viii) it is to be inferred that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) from the fact of its use of factoring and reverse factoring in 2Q18 at the same time that its cash flows for that quarter were declining as compared to 2Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as the reasons for the increased levels of factoring in FY18 in the Camphausen FY18 Factoring Spreadsheet and in the Camphausen FY18 and 1Q19 Spreadsheet.

As to subparagraphs (a)(vi), (viii) and (ix) and (b)(viii) and (ix), the Applicant further refers to:

(i) the PowerPoint presentation entitled ‘Factoring and Supply Chain Financing’ distributed by Stefan Camphausen (CFO) on 28 May 2019 (CIM.114.016.3202 and CIM.114.016.3204);

(ii) the Camphausen FY18 Factoring Spreadsheet; and

(iii) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

The matters in (a)(x) and (b)(x) are to be inferred from the objective relationship between increases in factoring and increases in CIMIC’s reported cash metrics.

Further particulars may be provided following further discovery.

1H18 Cash Flow Information

49. As at 18 July 2018 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that:

(a) for the 2Q18 reporting period:

(i) CIMIC’s total receipts from factoring were approximately $255 million;

(ii) CIMIC’s Pre-Factoring Operating Cash Flow was approximately $350.4 million;

(iii) CIMIC’s Pre-Factoring EBITDA Cash Conversion was 82%;

(iv) CIMIC’s Pre-Working Capital Instrument Operating Cash Flow was approximately $279.9 million;

(v) CIMIC’ Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 66%;

(vi) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(vii) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC’s operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of approximately $81.5 million in 2Q18;

B. the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

C. unplanned capital expenditure associated with Thiess' Australian and Indonesian mining regions and CPB Contractors' Sydney Metro and Westgate Tunnel construction projects;

D. the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) in 2Q18, which were approximately $-100m as a consequence of problems with the Mass Transit Railway project, and a related Commission of Inquiry by Hong Kong authorities which had commenced in 2Q18;

(viii) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(ix) CIMIC's reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring; and

(x) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(b) for the 1H18 reporting period:

(i) CIMIC's total receipts from factoring were approximately $450 million, alternatively approximately $448 million;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $273.6 million, alternatively approximately $275.6 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 34%, alternatively approximately 35%;

(iv) CIMIC's total factor balance as at 30 June 2018 was approximately $1,008 million, alternatively, approximately $1,020 million;

(v) CIMIC's reverse factor-balance as at 30 June 2018 was approximately $312 million with a Net Balance Sheet Impact of $425 million;

(vi) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $190.1 million;

(vii) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 24%;

(viii) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(ix) CIMIC's reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring; and

(x) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(**1H18 Cash Flow Information**)

Particulars

Each of the items comprising the 1H18 Cash Flow Information was information which by 18 July 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a)(i) to (v) and (b)(i) to (vii), CIMIC's officers were aware of those matters by reason that:

(i) the information was disseminated to the Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 18 July 2018 (CIM.004.005.0246 at pages 277-278), and 5 February 2019 (CIM.004.001.4251 at pages 347-348 and CIM.004.001.7730 at pages 29-30); and

(ii) the balance of the information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's FY18 Annual Report) and the information about CIMIC's receipts from factoring and reverse factoring

As to subparagraph (a)(vi) and (ix) and (b)(viii) and (ix), it is to be inferred that one or more CIMIC Officers were, or ought reasonably to have been, aware of this information by reason that it is to be inferred from the fact of CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics.

As to paragraph (a)(viii) it is to be inferred that one or more CIMIC Officers were, or ought to have been aware, that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) by the fact of CIMIC's increased use of factoring and reverse factoring in 2Q18 at the same time that its cash flows for that quarter were declining as compared to 2Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as reasons for the increased levels of factoring in FY18 in:

(a) the Camphausen FY18 Factoring Spreadsheet; and

(b) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to subparagraph (a)(vii)(A), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) in April 2018, CPB Contractors entered into approximately $543m worth of alliance contracts, being:

(a) a variation of the alliance contract for the design and construction of the Caulfield to Dandenong Level Crossing Removal Project in Melbourne (LXRA Variance) with revenue attributable of $393m (CIM.122.021.1061);

(b) a contract for the Delivery of the ANGAU Memorial Hospital in Lae, Papua New Guinea with revenue attributable of $150m (CIM.122.021.1061 and CIM.114.018.3691); and

(ii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iii) accordingly, CIMIC experienced an approximately negative $81.5m cash impact in 2Q18 in relation to its award of alliance contracts (being 15% of $543m worth of alliance contracts entered into in 2Q18);

(iv) cash flow and working capital pressures arising from increased alliance contracting in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(v) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1H18 of the cash flow impact of the relative growth in alliance contracting;

As to subparagraph (a)(vii)(B), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) revenue growth for Thiess in 2Q18 increased by approximately 20% on the prior corresponding period (CIM.122.017.1586).

(ii) cash flow and working capital pressures arising from relative growth in the mining sector in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1H18 of the cash flow impact of the relative revenue growth in the mining sector;

As to subparagraph (a)(vii)(C), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the document entitled ‘PPE Additions Cheat Sheet’ circulated between members of CIMIC’s finance team on 19 May 2018 which described ‘additions’ to Thiess and CPB Contractors’ capital expenditure as at the end of April 2018 (CIM.108.028.1980 and CIM.108.028.1984);

(ii) the document entitled ‘PPE Additions Cheat Sheet’ circulated between members of CIMIC’s finance team on 8 July 2018 which described ‘additions’ to Thiess and CPB Contractors’ capital expenditure as at the end of June 2018 (CIM.108.034.0800 and CIM.108.034.0801);

(iii) cash flow and working capital pressures arising from unplanned capital expenditure in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iv) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1H18 of the cash flow impact of unplanned capital expenditure.

As to subparagraph (a)(vii)(D), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the 1H18 Group Risk Management Report distributed to Michael Wright (CEO) by Brad Davey (Chief Legal and Risk Officer) on 11 July 2018 prior to the meetings of the Board and ARMC to be held on 18 July 2018 (CIM.100.022.0562 and CIM.100.022.0564, pages 3 and 4) which upgraded risk to the following ratings due to Hong Kong related factors:

   (a) with respect to Leighton Asia, from ‘C – High, Unlikely’ to ‘B – Very High, Likely’; and

   (b) with respect to ‘Brand and Reputation’, from ‘E – Low’ to ‘C – High’.

(ii) the Leighton Asia 2Q18 Financial Highlights document distributed to Stefan Camphausen (CFO) on 9 August 2018 (CIM.108.024.8220 and CIM.108.024.8228).

(iii) cash flow and working capital pressures arising from reductions in Leighton Asia’s cash contribution in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iv) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1H18 of the cash flow impact of reductions in Leighton Asia's cash contribution.

As to paragraph (b)(viii) it is to be inferred that one or more CIMIC Officers were, or ought to have been aware, that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) by the fact of CIMIC's increased use of factoring and reverse factoring in 1H18; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as reasons for the increased levels of factoring in FY18 in:

(a) the Camphausen FY18 Factoring Spreadsheet; and

(b) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to paragraph (a)(x) and (b)(x), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware of this information by reason that those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

Further, the 1H18 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

50. The 1H18 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

51. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 50, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the 1H18 Cash Flow Information from 18 July 2018.

52. Notwithstanding the matters alleged in paragraphs 50 and 51, CIMIC did not notify the ASX of the 1H18 Cash Flow Information at any time during the period 18 July 2018 to 6 May 2019,

alternatively 17 July 2019.

53. By reason of the matters alleged 49 to 52, CIMIC contravened s 674(2) of the Corporations Act (**1H18 Cash Flow Disclosure Contraventions**).

E.4 3Q18 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – October 2018

54. As at 23 October 2018, for the 3Q18 reporting period (30 June 2018 to 30 September 2018):

(a) CIMIC's total receipts from factoring were approximately $455 million, alternatively approximately $469 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $-113.7 million, alternatively approximately $-127.7 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately (-26%), alternatively approximately -29%;

(d) CIMIC's total factor balance as at 30 September 2018 was approximately $1,463 million, alternatively, approximately $1,491 million;

(e) CIMIC's reverse factor-balance as at 30 September 2018 was approximately $441 million with a Net Balance Sheet Impact of $557 million;

(f) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $-179.7 million;

(g) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately -41%;

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from:

(i) CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of $60million in 3Q18;

(ii) the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

(iii) several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments

(iv) unplanned capital expenditure associated with Thiess' Australian and Indonesian mining regions and CPB Contractors' Sydney Metro and Westgate Tunnel construction projects;

(v) the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) for 3Q18 which were approximately $-118m as a consequence of problems associated with the Mass Transit Railway project and a related Commission of Inquiry by Hong Kong, with CIMIC forecasting operating cash flow (post-factoring and reverse-factoring) of approximately $-147.5m for FY18;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(k) CIMIC's reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring; and

(l) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

Particulars

As to subparagraphs (a) to (g), the Applicant refers to:

(i) Working Capital Update provided to ARMC on 23 October 2018 (CIM.004.001.3436 at pages 90-91);

(ii) Working Capital Update provided to ARMC on 5 February 2019 (CIM.004.001.4251 at pages 347-348) and Board on 5 February 2019 (CIM.004.001.7730 at pages 29-30); and

(iii) Document entitled 'Group Financial Highlights – FY19 v FY18' circulated to Stefan Camphausen (CFO) 7 April 2019 (CIM.108.021.1765 and CIM.108.021.1777).

As to subparagraphs (h) and (k), the Applicant says it is to be inferred from CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics, that CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements.

As to subparagraph (i)(i):

(i) by no later than 28 September 2018, CPB Contractors entered into an alliance contract for the design and construction work for the Metro Tunnel project in Melbourne, Victoria with revenue attributable of $400m (ASX / Media Release published and lodged by CIMIC on 28 September 2018, page 1);

(ii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iii) accordingly, CIMIC experienced an approximately negative $60m cash impact in 3Q18 in relation to its award of alliance contracts (being 15% of $400m worth of alliance contracts entered into in 3Q18).

As to subparagraph (i)(ii), revenue growth for Thiess in 3Q18 was approximately 33% on the prior corresponding period (CIM.122.017.1586).

As to (i)(iii), the infrastructure projects were the Westconnex 2, Westconnex 1B, North West Rail Link, 810A Station Project in Hong Kong, Solomon Iron Ore Project and Northwest Rapid Transit projects as per the Camphausen FY18 Factoring Spreadsheet.

As to subparagraph (i)(iv), the Applicant refers to the document entitled 'PPE Additions Cheat Sheet' distributed to Stefan Camphausen (CFO) on 13 October 2018 which described 'additions' to Thiess and CPB Contractors' capital expenditure as at the end of September 2018 (CIM.108.022.5160 and CIM.108.022.5189)

As to subparagraph (i)(v), the Applicant refers to:

(i) the Monthly Performance Report for Leighton Asia distributed by Stefan Camphausen (CFO) to Michael Wright (CEO) on 21 August 2018 forecast FY18 operating cash flow as $-147.5m compared with budget of $124,8m (CIM.100.032.8381 and CIM.100.032.8383); and

(ii) the 3Q18 Group Risk Management Report distributed and approved by Michael Wright (CEO) to Brad Davey (Chief Legal and Risk Officer) on 20 October 2018 prior to the meetings of the Board and ARMC to be held on 23 October 2018 (CIM.100.014.7893 and CIM.100.014.7894, page 3).

(iii) the Leighton Asia 3Q18 Financial Highlights document prepared and distributed by CIMIC's finance team on 19 October 2018 (CIM.122.022.0255 and CIM.122.022.0260); and

(iv) the Leighton Asia 3Q18 Financial Highlights document distributed to Stefan Camphausen (CFO) on 21 January 2019 (CIM.100.017.7905 and CIM.100.017.7909).

As to paragraph (j) it is to be inferred that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) from the fact of its use of factoring and reverse factoring in 3Q18 at the same time that its cash flows for that quarter were declining as compared to 3Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as the reasons for the increased levels of factoring in FY18 in the Camphausen FY18 Spreadsheet.

As to subparagraphs (h) to (k), the Applicant further refers to:

(i) the PowerPoint presentation entitled 'Factoring and Supply Chain Financing' distributed by Stefan Camphausen (CFO) on 28 May 2019 (CIM.114.016.3202 and CIM.114.016.3204);

(ii) the Camphausen FY18 Factoring Spreadsheet; and

(iii) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

The matters in (l) are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported cash metrics.

Further particulars may be provided following further discovery.

3Q18 Cash Flow Information

55. As at 23 October 2018 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that for the 3Q18 reporting period:

(a) CIMIC's total receipts from factoring were approximately $455 million, alternatively approximately $469 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $-113.7 million, alternatively approximately $-127.7 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately (-26%), alternatively approximately -29%;

(d) CIMIC's total factor balance as at 30 September 2018 was approximately $1,463 million, alternatively, approximately $1,491 million;

(e) CIMIC's reverse factor-balance as at 30 September 2018 was approximately $441 million with a Net Balance Sheet Impact of $557 million;

(f) CIMIC's total factor balance as at 30 September 2018 was approximately $1,463 million, alternatively, approximately $1,491 million;

(g) CIMIC's reverse factor-balance as at 30 September 2018 was approximately $441 million with a Net Balance Sheet Impact of $557 million;

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from:

   (i) CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of;

   (ii) the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

   (iii) several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments;

   (iv) unplanned capital expenditure associated with Thiess' Australian and Indonesian mining regions and CPB Contractors' Sydney Metro and Westgate Tunnel construction projects;

   (v) the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) for 3Q18 which were approximately $-118m as a consequence of problems associated with the Mass Transit Railway project and a related Commission of Inquiry by Hong Kong, with CIMIC forecasting operating cash flow (post-factoring and reverse-factoring) of approximately $-147.5m for FY18;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(k) CIMIC's reported Cash Flow Metrics reflected the increased levels of factoring and reverse factoring;

(l) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(**3Q18 Cash Flow Information**)

Particulars

Each of the items comprising the 3Q18 Cash Flow Information was information which by 23 October 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a) to (g), CIMIC's officers were aware of those matters by reason that:

(i) the information was disseminated to the Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 23 October 2018 (CIM.004.001.3436 at pages 90-91), and 5 February 2019 (CIM.004.001.4251 at pages 347-348 and CIM.004.001.7730 at pages 29-30); and

(ii) the balance of the information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's FY18 Annual Report) and the information about CIMIC's receipts from factoring and reverse factoring.

As to subparagraph (h) and (k), it is to be inferred that one or more CIMIC Officers were, or ought reasonably to have been, aware of this information by reason that it is to be inferred from the fact of CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics.

As to subparagraph (i)(i), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) by no later than 28 September 2018, CPB Contractors entered into an alliance contract for the design and construction work for the Metro Tunnel project in Melbourne, Victoria with revenue attributable of $400m (ASX / Media Release published and lodged by CIMIC on 28 September 2018, page 1);

(ii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iii) accordingly, CIMIC experienced an approximately negative $60m cash impact in 3Q18 in relation to its award of alliance contracts (being 15% of $400m worth of alliance contracts entered into in 3Q18);

(iv) cash flow and working capital pressures arising from increased alliance contracting in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(v) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 3Q18 of the cash flow impact of the relative growth in alliance contracting.

As to subparagraph (i)(ii), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) revenue growth for Thiess in 3Q18 was approximately 33% on the prior corresponding period (CIM.122.017.1586); and

(ii) cash flow and working capital pressures arising from relative growth in the mining sector in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 3Q18 of the cash flow impact of the relative revenue growth in the mining sector.

As to subparagraph (i)(iii), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the infrastructure projects were the Westconnex 2, Westconnex 1B, North West Rail Link, 810A Station Project in Hong Kong, Solomon Iron Ore Project and Northwest Rapid Transit projects as per the Camphausen FY18 Factoring Spreadsheet;

(ii) cash flow and working capital pressures arising from several large Australian infrastructure projects moving into execution phase in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 3Q18 of the cash flow impact of several large Australian infrastructure projects moving into execution phase.

As to subparagraph (i)(iv), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the Applicant refers to the document entitled ‘PPE Additions Cheat Sheet’ distributed to Stefan Camphausen (CFO) on 13 October 2018 which described ‘additions’ to Thiess and CPB Contractors’ capital expenditure as at the end of September 2018 (CIM.108.022.5160 and CIM.108.022.5189);

(ii) cash flow and working capital pressures arising from unplanned capital expenditure in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 1H18 of the cash flow impact of unplanned capital expenditure.

As to subparagraph (i)(v), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the Monthly Performance Report for Leighton Asia distributed by Stefan Camphausen (CFO) to Michael Wright (CEO) on 21 August 2018 forecast FY18 operating cash flow as $-147.5m compared with budget of $124,8m

(CIM.100.032.8381 and CIM.100.032.8383); and

(ii) the 3Q18 Group Risk Management Report distributed and approved by Michael Wright (CEO) to Brad Davey (Chief Legal and Risk Officer) on 20 October 2018 prior to the meetings of the Board and ARMC to be held on 23 October 2018 (CIM.100.014.7893 and CIM.100.014.7894, page 3).

(iii) the Leighton Asia 3Q18 Financial Highlights document prepared and distributed by CIMIC's finance team on 19 October 2018 (CIM.122.022.0255 and CIM.122.022.0260);

(iv) the Leighton Asia 3Q18 Financial Highlights document distributed to Stefan Camphausen (CFO) on 21 January 2019 (CIM.100.017.7905 and CIM.100.017.7909);

(v) cash flow and working capital pressures arising from reductions in Leighton Asia's cash contribution in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(vi) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in 3Q18 of the cash flow impact of reductions in Leighton Asia's cash contribution.

As to paragraph (j) it is to be inferred that one or more CIMIC Officers were, or ought to have been aware, that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) by the fact of CIMIC's increased use of factoring and reverse factoring in 3Q18 at the same time that its cash flows for that quarter were declining as compared to 3Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as reasons for the increased levels of factoring in FY18 in:

(c) the Camphausen FY18 Factoring Spreadsheet; and

(d) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to paragraph (l), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware of this information by reason that those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

Further, the 3Q18 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

56. The 3Q18 Factoring Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

57. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 56, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the 3Q18 Cash Flow Information from 23 October 2018.

58. Notwithstanding the matters alleged in paragraphs 56 to 57, CIMIC did not notify the ASX of the 3Q18 Cash Flow Information at any time during the period 23 October 2018 to 6 May 2019, alternatively 17 July 2019.

59. By reason of the matters alleged 55 to 58, CIMIC contravened s 674(2) of the Corporations Act (**3Q18 Cash Flow Disclosure Contraventions**).

E.5 FY18 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – February 2019

60. As at 5 February 2019, alternatively 22 March 2019:

(a) for the fourth quarter of FY18 (**4Q18**) reporting period (1 October 2018 to 31 December 2018):

(i) CIMIC's total receipts from factoring were approximately $490 million;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $304.0 million; and

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was 65%;

(iv) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $302.0 million;

(v) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 64%;

(vi) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(vii) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of approximately $105 million in 4Q18;

B. the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

C. several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments;

D. the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) in 4Q18, which were approximately $-20.6m as a consequence of problems with the Mass Transit Railway project, and a related Commission of Inquiry by Hong Kong authorities;

(viii) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flow and working capital pressures;

(ix) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring; and

(x) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(b) for the FY18 reporting period (1 January 2018 to 31 December 2018):

(i) CIMIC's total receipts from factoring were approximately $1.395 billion;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $463.9 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 27%;

(iv) CIMIC's reverse factor-balance as at 31 December 2018 was approximately $471 million with a Net Balance Sheet Impact of $561 million;

(v) CIMIC's total factor balance as at 31 December 2018 was $1.953 billion;

(vi) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $312.4 million;

(vii) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 18%;

(viii) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(ix) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact in FY18 of between $205 million and $230 million;

B. the relative growth in revenue from contracts within the Mining Segment, which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment, which had a cumulative negative cash impact in FY18 of $200 million;

C. several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments, which had a cumulative negative cash impact in FY18 of $399.6 million

D. the reduction new work in Hong Kong as a consequence of problems with the Mass Transit Railway project, a related Commission of Inquiry by Hong Kong authorities, and Leighton Asia's suspension from tendering for new government work, which had a cumulative negative cash impact in FY18 of approximately

$210.2m;

E. legal costs related to legacy projects which had a cumulative negative cash impact in FY18 of $89.6m;

F. increased cost of tendering for projects in the Australian infrastructure market which had a cumulative negative cash impact in FY18 of $28.2m;

(x) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(xi) By reason of the above, CIMIC was experiencing significant cash flow and working capital pressures with a cumulative negative cash impact in FY18 of $1,284.9m;

(xii) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring;

(xiii) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

Particulars

As to subparagraphs (a)(i) to (v) and (b)(i) to (vii), the Applicant refers to:

(i) the Working Capital Update provided to the ARMC on 5 February 2019 (CIM.004.001.4251 at pages 347-348) and Board on 5 February 2019 (CIM.004.001.7730 at pages 29-30); and

(ii) Document entitled 'Group Financial Highlights – FY19 v FY18' circulated to Stefan Camphausen (CFO) 7 April 2019 (CIM.108.021.1765 and CIM.108.021.1777).

As to subparagraph (a)(vi) and (b)(viii), the Applicant says it is to be inferred from CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics, that CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements.

As to subparagraph (a)(vii)(A), in 4Q18, CIMIC operating companies had entered into approximately $700m worth of alliance contracts, being:

(i) by no later than 4 October 2018, Leighton Asia entered into a contract for the construction of the 'Oh My God' project in Noida, India with revenue attributable of $100m (ASX / Media Release published and lodged by CIMIC on 4 October 2018, page 1);

(ii) by no later than 21 December 2018, UGL and CPB Contractors entered into an alliance contract for the delivery of capital works program for Taswater in Tasmania with revenue attributable of $600m (ASX / Media Release published and lodged by CIMIC on 21 December 2018, page 1).

(iii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iv) accordingly, CIMIC experienced an approximately negative $105m cash impact in 4Q18 in relation to its award of alliance contracts (being 15% of $700m worth of alliance contracts entered into in 4Q18).

As to subparagraph (a)(vii)(B), revenue growth for Thiess in 4Q18 was approximately 49% on the prior corresponding period (CIM.122.017.1586).

As to subparagraph (a)(vii)(C), the execution of physical works on the Westconnex 2, Westconnex 1B, North West Rail Link, 810A Station Project in Hong Kong, Solomon Iron Ore Project and Northwest Rapid Transit projects resulted in a cumulative cash impact of $399.6m across FY18 as per the Camphausen FY18 Factoring Spreadsheet.

As to subparagraph (a)(vii)(D), the Applicant refers to:

(i) 4Q18 Group Risk Management Report distributed by Brad Davey (Chief Legal and Risk Officer) and approved by Michael Wright (CEO) on 4 February 2019 prior to the meetings of the Board and ARMC to be held on 5 February 2019 (CIM.100.018.8944 and CIM.100.018.8948, page 2); and

(ii) the Leighton Asia 4Q18 Financial Highlights document distributed by Stefan Camphausen (CFO) to Michael Wright (CEO) on 21 January 2019 (CIM.100.017.7905 and CIM.100.017.7911).

As to subparagraph (a)(viii) and (b)(x) it is to be inferred that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) from the fact of its use of factoring and reverse factoring in 4Q18 at the same time that its cash flows for that quarter were declining as compared to 4Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as the reasons for the increased levels of factoring in FY18 in the Camphausen FY18 Factoring Spreadsheet.

As to subparagraphs (a)(vi) and (ix) and (b)(viii) to (xii), the Applicant refers to:

(i) the Camphausen FY18 Factoring Spreadsheet; and

(ii) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to subparagraph (a)(vii)(A) to (B) and (b)(ix)(A) to (B), the Applicant refers to the PowerPoint presentation entitled ‘Factoring and Supply Chain Financing’ distributed by Stefan Camphausen (CFO) on 28 May 2019 (CIM.114.016.3202 and CIM.114.016.3204).

As to subparagraphs (a)(x) and (b)(xii), the Applicant further refers to:

(iv) the PowerPoint presentation entitled 'Factoring and Supply Chain Financing' distributed by Stefan Camphausen (CFO) on 28 May 2019 (CIM.114.016.3202 and CIM.114.016.3204); and

(v) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

The matters in subpargarphs (a)(x) and (b)(xiii) are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported cash metrics.

Further particulars may be provided following further discovery.

FY18 Cash Flow Information

61. As at 5 February 2019, alternatively 22 March 2019, until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that:

(a) for the 4Q18 reporting period:

(i) CIMIC's total receipts from factoring were approximately $490 million;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $304.0 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 65%.

(iv) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $302.0 million;

(v) CIMIC's Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 64%;

(vi) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(vii) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact of approximately $105 million in 4Q18;

B. several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments;

C. the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment;

D. the reduction in Leighton Asia's underlying cash flows from operating activities (pre-factoring and reverse-factoring) in 4Q18, which were approximately $-20.6m as a consequence of problems with the Mass Transit Railway project, and a related Commission of Inquiry by Hong Kong authorities;

(viii) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flow and working capital pressures;

(ix) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring; and

(x) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(b) for the FY18 reporting period:

(i) CIMIC's total receipts from factoring were approximately $1.395 billion;

(ii) CIMIC's Pre-Factoring Operating Cash Flow was approximately $463.9 million;

(iii) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 27%;

(iv) CIMIC's reverse factor-balance as at 31 December 2018 was approximately $471 million with a Net Balance Sheet Impact of $561 million;

(v) CIMIC's total factor balance as at 31 December 2018 was $1.953 billion;

(vi) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $312.4 million;

(vii) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 18%;

(viii) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(ix) CIMIC was experiencing significant cash flow and working capital pressures arising from:

A. CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts, which had resulted in a cumulative negative cash impact in FY18 of between $205 million and $230 million;

B. several large fixed price Australian infrastructure projects, which had large initial mobilisation payments collected in prior periods, being in the execution phase precipitating higher cash outflows, in circumstances where new projects had not been awarded with similar initial mobilisation payments, which had a cumulative negative cash impact in FY18 of $399.6 million

C. the relative growth in revenue from contracts within the Mining Segment which contracts had a higher upfront working capital burden and lower cash flow conversion rates than contracts in the Construction Segment, which had a cumulative negative cash impact in FY18 of $200 million;

D. the reduction new work in Hong Kong as a consequence of problems with the Mass Transit Railway project, a related Commission of Inquiry by Hong Kong authorities, and Leighton Asia's suspension from tendering for new government work, which had a cumulative negative cash impact in FY18 of approximately $210.2m;

E. legal costs related to legacy projects which had a cumulative negative cash impact in FY18 of $89.6m;

F. increased cost of tendering for projects in the Australian infrastructure market which had a cumulative negative cash impact in FY18 of $28.2m;

(x) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(xi) By reason of the above, CIMIC was experiencing significant cash flow and working capital pressures with a cumulative negative cash impact in FY18 of $1,284.9m;

(xii) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring;

(xiii) CIMIC's reported Cash Flow Metrics would likely decrease substantially as factoring and reverse factoring arrangements came to a conclusion or were substantially reduced.

(**FY18 Cash Flow Information**)

Particulars

Each of the items comprising the FY18 Cash Flow Information was information which by 5 February 2019, alternatively 22 March 2019, had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a)(i) to (v) and (b)(i) to (vii), CIMIC's officers were aware of those matters by reason that:

(i) the information was disseminated to the Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 5 February 2019 (CIM.004.001.4251 at pages 347-348 and CIM.004.001.7730 at pages 29-30); and

(ii) the balance of the information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's FY18 Annual Report) and the information about CIMIC's receipts from factoring and reverse factoring.

As to subparagraph (a)(vi) and (viii) and (b)(viii) and (xii), it is to be inferred that one or more CIMIC Officers were, or ought reasonably to have been, aware of this information by reason that it is to be inferred from the fact of CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics.

As to subparagraph (a)(vii)(A), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) by no later than 4 October 2018, Leighton Asia entered into a contract for the construction of the 'Oh My God' project in Noida, India with revenue attributable of $100m (ASX / Media Release published and lodged by CIMIC on 4 October 2018, page 1);

(ii) by no later than 21 December 2018, UGL and CPB Contractors entered into an alliance contract for the delivery of capital works program for Taswater in

Tasmania with revenue attributable of $600m (ASX / Media Release published and lodged by CIMIC on 21 December 2018, page 1).

(iii) CIMIC assumed that it received approximately 15% of contract value by way of advance payments when it entered into fixed price contracts (CIM.114.018.3691);

(iv) accordingly, CIMIC experienced an approximately negative $105m cash impact in 4Q18 in relation to its award of alliance contracts (being 15% of $700m worth of alliance contracts entered into in 4Q18);

(v) cash flow and working capital pressures arising from increased alliance contracting in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(vi) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in FY18 of the cash flow impact of the relative growth in alliance contracting.

As to subparagraph (a)(vii)(B), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) revenue growth for Thiess in 4Q18 was approximately 49% on the prior corresponding period (CIM.122.017.1586);

(ii) cash flow and working capital pressures arising from relative growth in the mining sector in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in FY18 of the cash flow impact of the relative revenue growth in the mining sector.

As to subparagraph (a)(vii)(C), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) the execution of physical works on the Westconnex 2, Westconnex 1B, North West Rail Link, 810A Station Project in Hong Kong, Solomon Iron Ore Project and Northwest Rapid Transit projects resulted in a cumulative cash impact of $399.6m across FY18 as per the Camphausen FY18 Factoring Spreadsheet;

(ii) cash flow and working capital pressures arising from several large Australian infrastructure projects moving into execution phase in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iii) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in FY18 of the cash flow impact of several large Australian infrastructure projects moving into execution phase.

As to subparagraph (a)(vii)(D), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that:

(i) 4Q18 Group Risk Management Report distributed by Brad Davey (Chief Legal and Risk Officer) and approved by Michael Wright (CEO) on 4 February 2019 prior to the meetings of the Board and ARMC to be held on 5 February 2019 (CIM.100.018.8944 and CIM.100.018.8948, page 2);

(ii) the Leighton Asia 4Q18 Financial Highlights document distributed by Stefan Camphausen (CFO) to Michael Wright (CEO) on 21 January 2019 (CIM.100.017.7905 and CIM.100.017.7911); and

(iii) cash flow and working capital pressures arising from reductions in Leighton Asia's cash contribution in FY18 were identified by Stefan Camphausen in the Camphausen FY18 Factoring Spreadsheet in March 2019 as a reason for the increased factoring levels in FY18; and

(iv) it is to be inferred that CIMIC monitored its cash flow metrics and working capital requirements, such that it was aware in FY18 of the cash flow impact of reductions in Leighton Asia's cash contribution.

As to subparagraphs (a)(vii) and (ix) and (b)(ix) and (xii), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason of:

(i) the Camphausen FY18 Factoring Spreadsheet; and

(ii) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to subparagraph (a)(viii) and (b)(x), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware, that CIMIC was using increased levels of factoring to alleviate the impact of cash flow and working capital pressures:

(i) by the fact of CIMIC's increased use of factoring and reverse factoring in 4Q18 at the same time that its cash flows for that quarter were declining as compared to 4Q17; and

(ii) by reason that cash flow and working capital pressures were identified by Stefan Camphausen as reasons for the increased levels of factoring in FY18 in:

  (a) the Camphausen FY18 Factoring Spreadsheet; and

  (b) the Camphausen FY18 and 1Q19 Factoring Spreadsheet.

As to subparagraph (a)(x) and (b)(xiii), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware of this information by reason that those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

Further, the FY18 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

62. The FY18 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

63. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 62, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the FY18 Cash Flow Information from 5 February 2019, alternatively 22 March 2019.

64. Notwithstanding the matters alleged in paragraphs 62 and 63, CIMIC did not notify the ASX of the FY18 Cash Flow Information at any time during the period 5 February 2019, alternatively 22 March 2019, to 6 May 2019, alternatively 17 July 2019.

65. By reason of the matters alleged in paragraphs 61 to 64, CIMIC contravened s 674(2) of the Corporations Act (**FY18 Cash Flow Disclosure Contraventions**).

E.6 1Q19 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – April 2019

66. As at 10 April 2019, for the first quarter of 2019 reporting period (**1Q19**) (1 January 2019 to 31 March 2019):

(a) CIMIC's total receipts from factoring were approximately $200 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $47.5 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 10%;

(d) CIMIC's total factor balance as at 31 March 2019 was approximately $2,153 million;

(e) CIMIC's reverse factor-balance as at 31 March 2019 was approximately $404 million with a Net Balance Sheet Impact of $595 million;

(f) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $30.5 million;

(g) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 6%;

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(k) the cumulative negative cash impact of CIMIC's cash flow and working capital pressures in FY18 pleaded in 60 above and 1Q19 was $1,479.9m;

(l) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring;

(m) there was a significant risk that CIMIC's reported cash flow metrics in 1H19 would decrease substantially as factoring arrangements came to a conclusion or were substantially reduced.

Particulars

As to subparagraphs (a) to (g), the Applicant refers to:

(i) Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34); and

(ii) Document entitled 'Group Financial Highlights – FY19 v FY18' circulated to Stefan Camphausen (CFO) and Michael Wright on 6 August 2019 (CIM.100.051.7550 and CIM.100.051.7557).

As to subparagraph (h), the Applicant says it is to be inferred from CIMIC's total receipts from factoring and reverse factoring, and the impact of factoring on CIMIC's Cash Flow Metrics, that CIMIC was using factoring and reverse-factoring as substantial components of its working capital and financing arrangements.

As to subparagraph (i) and (k), the Applicant refers to the Camphausen FY18 and 1Q19 Factoring Spreadsheet identifying as an explanation for factoring the $1.3 billion "Linewide" alliance project, which had been entered into in about November 2018 (a 15% impact from which is $195million).

As to subparagraph (h) to (k), the Applicant refers to the Camphausen FY18 and 1Q19 Factoring Spreadsheet identifying that CIMIC had required factoring to 'offset' the impact of approximately $1,479.9m worth of cash flow pressures in FY18 and 1Q19.

As to subparagraph (l), the Applicant refers to the fact that CIMIC was experiencing difficulty in factoring coal receivables associated with Thiess due to financial institutions reducing their exposure to coal as set out in the Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34).

The matters in subparagraph (l) are otherwise to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported cash metrics (and vice versa).

Further particulars may be provided following further discovery.

1Q19 Cash Flow Information

67. As at 10 April 2019 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that for 1Q19:

(a) CIMIC's total receipts from factoring were approximately $200 million;

(b) CIMIC's Pre-Factoring Operating Cash Flow was approximately $47.5 million;

(c) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 10%;

(d) CIMIC's total factor balance as at 31 March 2019 was approximately $2,153 million;

(e) CIMIC's reverse-factor balance as at 31 March 2019 was approximately $404 million with a Net Balance Sheet Impact of $595 million;

(f) CIMIC's Pre-Working Capital Instrument Operating Cash Flow was approximately $30.5 million;

(g) CIMIC' Pre-Working Capital Instrument EBITDA Cash Conversion was approximately 6%; and

(h) by reason of the foregoing, CIMIC was using factoring and reverse-factoring as a substantial components of its working capital and financing arrangements;

(i) CIMIC was experiencing significant cash flow and working capital pressures arising from CIMIC's operating companies having been awarded an increased number of large alliance contracts, which did not include advance payments and therefore had a higher upfront working capital burden and lower cash flow conversion rate than fixed price contracts;

(j) CIMIC was using increased levels of factoring and reverse factoring to alleviate the adverse impact of those cash flows and working capital pressures;

(k) the cumulative negative cash impact of CIMIC's cash flow and working capital pressures in FY18 pleaded above in paragraph 66 and 1Q19 was $1,479.9m;

(l) CIMIC's reported Cash Flow Metrics reflected the implementation of factoring and reverse factoring;

(m) there was a significant risk that CIMIC's reported Cash Flow Metrics in 1H19 would decrease substantially as factoring arrangements came to a conclusion or were substantially reduced.

(**1Q19 Cash Flow Information**).

Particulars

Each of the items comprising the 1Q19 Cash Flow Information was information which by 10 April 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a) to (g), CIMIC's officers were aware of those matters by reason that:

(i) the information was disseminated to the Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 10 April 2019 (CIM.004.001.3967 at pages 119-120 and CIM.004.001.8141 at pages 33-34); and

(ii) the balance of the information was readily ascertainable by CIMIC's officers based on the information about CIMIC's operating cash flow and cash conversion (as reported in CIMIC's 1Q19 Investor Presentation) and the information about CIMIC's receipts from factoring and reverse factoring.

As to subparagraph (i) and (k), it is to be inferred that that one or more CIMIC Officers were, or ought reasonably to have been aware of this information by reason that the Camphausen FY18 and 1Q19 Factoring Spreadsheet identified as an explanation for factoring the $1.3 billion "Linewide" alliance project, which had been entered into in about November 2018 (a 15% impact from which is $195million).

As to subparagraph (m), it is to be inferred that one or more CIMIC Officers were, or ought reasonably to have been aware, of this information by reason that:

(i) CIMIC was experiencing difficulty in factoring coal receivables associated with Thiess due to financial institutions reducing their exposure to coal as set out in the Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34); and

(ii) those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

Further, the 1Q19 Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

68. The 1Q19 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

69. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 68, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the 1Q19 Cash Flow Information from 10 April 2019.

70. Notwithstanding the matters alleged in paragraphs 68 and 69, CIMIC did not notify the ASX of the 1Q19 Cash Flow Information at any time during the period 10 April 2019 to 6 May 2019, alternatively 17 July 2019.

71. By reason of the matters alleged in paragraphs 67 to 70, CIMIC contravened s 674(2) of the Corporations Act (**1Q19 Cash Flow Disclosure Contraventions**).

EA. CLARIFICATION STATEMENT

71A. On Monday 6 May 2019 at 3.01pm, CIMIC published and lodged with the ASX a document entitled "Clarification Statement" (**Clarification Statement**), in which it:

(a) stated that further to media coverage published by Fairfax on 4 and 6 May 2019, CIMIC confirmed that it was in compliance with its disclosure obligations;

(b) stated that for accurate information and analysis related to the company, CIMIC advised market participants to refer to its 2018 and past annual reports, its quarterly, half and full year financial results, and its other disclosures;

(c) noted that its annual reports and full year financial results were fully audited and in compliance with the accounting standards;

(d) did not refute that it had used factoring of receivables or reverse factoring of payables; and

(e) did not refute that it had substantially boosted pre-tax profits in the past two years by booking revenue before the customer had been billed or the amount agreed.

Particulars

On Saturday 4 May 2019, Fairfax media published an article entitled "Construction giant CIMIC targets over $800 million profit boost" reporting that a Hong Kong based research company, GMT Research, had prepared a report available to its subscribers containing its analysis of CIMIC which stated that:

(i) CIMIC had inflated its profit and hidden poor performance to boost its share price by "engineering" its accounts;

(ii) CIMIC had boosted pre-tax profits by up to $800 million in the past two years by booking revenue in some cases before the customer had been billed or the amount agreed;

(iii) CIMIC had hidden the poor underlying quality of its earnings through increased factoring of receivables and reverse factoring of payables;

(iv) GMT estimated that the company's total operating cash flow of $3.1 billion in the last two years had been inflated by $1.4 billion, or over 80 per cent.

(**Fairfax 4 May Report**)

On Monday 6 May 2019 at 12.05am, Fairfax media published a further article reporting on GMT Research's analysis of CIMIC, and quoting a GMT Research analyst saying that GMT Research considered CIMIC's accounting some of the most aggressive they had seen (**Fairfax 6 May Report**)

71B. The information contained in the Clarification Statement together with the information in the Fairfax 4 May Report and Fairfax 6 May Report:

(a) operated to correct or partly correct the information available to the market concerning the subject matter of the FY17 Cash Flow Information, 1Q18 Cash Flow Information, 1H18 Cash Flow Information, 3Q18 Cash Flow Information, FY18 Cash Flow Information and 1Q19 Cash Flow Information;

(b) by correcting or partly correcting the said information, influenced persons who commonly invest in securities by causing:

(i) persons who held CIMIC securities to reduce the price at which they were willing to dispose of CIMIC Securities; and

(ii) persons who were considering acquiring CIMIC Securities to reduce the price at which they were willing to purchase CIMIC Securities;

Particulars

The said effect is to be inferred from the character of the market for CIMIC Securities as set out in paragraph 124 below and the change in the traded price following the release of the Clarification Statement set out in paragraph 126 below.

Further particulars will be provided following the receipt of expert evidence.

(c) consequently, caused the price at which CIMIC Securities traded to adjust downward toward the traded price which would have existed if the FY17 Cash Flow Disclosure Contravention, 1Q18 Cash Flow Disclosure Contravention, 1H18 Cash Flow Disclosure Contravention, 3Q18 Cash Flow Disclosure Contravention, FY18 Cash Flow Disclosure Contravention, and 1Q19 Cash Flow Disclosure Contravention had not occurred.

EB. FURTHER CASH FLOW DISCLOSURE CONTRAVENTIONS

EB.1 JUNE 2019 CASH FLOW INFORMATION AND CONTRAVENTIONS

True Position – June 2019

71C. By no later than 30 June 2019:

(a) in the second quarter of FY19 (**2Q19**) reporting period (1 April 2019 to 30 June 2019), CIMIC's receipts from receivables factoring had materially declined compared with the prior reporting period;

(b) by reason of (a), CIMIC's factor balance would stabilise around the 31 December 2018 level such that receivables factoring would provide no material support, alternatively limited support, to CIMIC's reported Cash Flow Metrics in 2Q19 and 1H19;

(c) consequently, CIMIC's reported Operating Cash Flow and EBITA Cash Conversion for 1H19 would decrease materially in comparison to 1H18;

(d) for the 2Q19 reporting period:

(i) CIMIC's total receipts from factoring were approximately $-158 million;

(ii) CIMIC's Operating Cash Flow was approximately $281.1 million; and

(iii) CIMIC's EBITDA Cash Conversion was approximately 54%.

(e) for the 1H19 reporting period (1 January 2019 to 30 June 2019):

(i) CIMIC's total receipts from factoring were approximately $42 million;

(ii) CIMIC's Operating Cash Flow was approximately $528.6 million ($468.9 million excluding the $59.7 million impact of a cash inflow from 'short term assets and investments', being 'liquid assets converted or readily convertible to cash').

(iii) CIMIC's EBITDA Cash Conversion was approximately 52%;

(iv) CIMIC's Pre-Factoring Operating Cash Flow was approximately $486.8 million;

(v) CIMIC's Pre-Factoring EBITDA Cash Conversion was approximately 48%;

(vi) CIMIC's reverse factor-balance as at 30 June 2019 was approximately $471 million with a Net Balance Sheet Impact of $561 million;

(vii) CIMIC's total factor balance as at 30 June 2019 was $1.995 billion;

Particulars

As to subparagraph (a), the best particulars the applicant can presently provide is that:

(i) CIMIC's rating agencies (including Moody's and Standard & Poors) had raised concerns about the level of factoring within the company by at least 20 May 2019;

(ii) CIMIC's banks had started considering the level of factoring and reverse-factoring in their analyses of the company's debt position by at least 20 May 2019;

(iii) by reason of the foregoing, CIMIC's factoring and reverse-factoring trend was putting pressure on CIMIC's debt position; and

(iv) by at least 10 April 2019, CIMIC was experiencing difficulty in factoring coal receivables associated with Thiess due to financial institutions reducing their exposure to coal.

In that respect, the Applicant refers to:

(i) the PowerPoint presentation entitled ‘Factoring and Supply Chain Financing’ distributed by Justin Grogan (Executive General Manager, Investor Relations and Sustainability) to Stefan Camphausen (CFO) on 20 May 2019 (CIM.110.002.1128 and CIM.110.002.1130, pages 9-10);

(ii) the PowerPoint presentation entitled ‘Factoring and Supply Chain Financing’ distributed by Stefan Camphausen (CFO) to Michael Wright (CEO) on 21 May 2019 (CIM.100.056.0147 and CIM.100.056.0689, pages 11-12); and

(iii) comments by Marcelino Fernandez Verdes (Chairman) at the HOCHTIEF 1H19 investor and analyst call that ‘we have been stable in the last six months more or less keeping the same level of factoring that this is what is – will happen in the future’.

(i) the document entitled ‘Thiess Financial Highlights – Q2 FY19 Forecast’ circulated to Stefan Camphausen (CFO) which forecast underlying operating cash flow (post-factoring and reverse-factoring) for Thiess of $72.9m for 2Q19 (a reversal of -74% on the prior corresponding period) (CIM.123.011.3781 and CIM.123.011.3790); and

(ii) Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34).

As to subparagraphs (b), (d) and (e), the Applicant refers to:

(iii) Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34); and

(iv) Working Capital Update provided to ARMC on 17 July 2019 (CIM.004.005.0001, pages 235-236).

The matters in subparagraph (c) are to be inferred from the objective relationship between increases in factoring and increases in CIMIC’s reported cash metrics (and vice versa).

Further particulars may be provided following further discovery.

June 2019 Cash Flow Information

71D. By no later than 30 June 2019 until 17 July 2019, CIMIC was aware for the purpose of ASX Listing Rule 19.12 that:

(a) in the **2Q19** reporting period (1 April 2019 to 30 June 2019), CIMIC’s receipts from receivables factoring had materially declined compared with the prior reporting period;

(b) by reason of (a), CIMIC’s factor balance would stabilise around the 31 December 2018 level such that receivables factoring would provide no material support, alternatively limited support, to CIMIC's reported Cash Flow Metrics in 2Q19 and 1H19;

(c) consequently, CIMIC's reported Operating Cash Flow and EBITA Cash Conversion for 1H19 would decrease materially in comparison to 1H18;

(d) for the 2Q19 reporting period:

  (i) CIMIC's total receipts from factoring were approximately $-158 million;

  (ii) CIMIC's Operating Cash Flow was approximately $281.1 million; and

  (iii) CIMIC's EBITDA Cash Conversion was approximately 54%.

(e) for the 1H19 reporting period:

  (i) CIMIC's total receipts from factoring were approximately $42 million;

  (ii) CIMIC's Operating Cash Flow was approximately $528.6 million ($468.9 million excluding the impact of a cash inflow from 'short term assets and investments', being 'liquid assets converted or readily convertible to cash');

  (iii) CIMIC's Operating Cash Flow would be -34.2% lower than 1H18;

  (iv) CIMIC's EBITDA Cash Conversion was approximately 52%; and

  (v) CIMIC's EBITDA Cash Conversion was approximately 40% lower than 1H18.

(**June 2019 Cash Flow Information**).

Particulars

Each of the items comprising the June 2019 Cash Flow Information was information which by 30 June 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), the best particulars the applicant can presently provide is that one or more CIMIC Officers were aware of that information by reason that they created or received the documents particularised in respect of paragraph 71C(a) above.

As to subparagraphs (b) and (c), it is to be inferred that one or more CIMIC Officers were, or ought to have been aware of this information by reason that those matters are to be inferred from the objective relationship between increases in factoring and increases in CIMIC's reported Cash Flow Metrics (and vice versa).

As to subparagraphs (d) to (e), CIMIC's officers were aware of those matters by reason that:

(i) the June Cash Flow Information was known to, alternatively it was readily ascertainable by, Scott McAlpine and Stefan Camphausen, by reason that CIMIC's Treasury department was responsible for working capital management and factoring arrangements, and for preparing reports about the same;

(ii) the information about 1Q19 was disseminated to the Board and the ARMC in papers provided in advance of the Board and ARMC meetings held on 10 April 2019 Working Capital Update provided to ARMC on 10 April 2019 (CIM.004.001.3967 at pages 119-120) and Board on 10 April 2019 (CIM.004.001.8141 at pages 33-34); and

(iii) information about 2Q19 and 1H19 was prepared for the purpose of the Working Capital Update provided to ARMC on 17 July 2019 (CIM.004.005.0001, pages 235-236), and it is to be inferred that some or all of that information was readily available to CIMIC Officers prior to the17 July 2019 meeting.

Further, CIMIC's awareness of those matters is to be inferred from the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following further discovery.

71E. The June 2019 Cash Flow Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

71F. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 71E, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the June 2019 Cash Flow Information from 30 June 2019.

71G. Notwithstanding the matters alleged in paragraphs 71E and 71F, CIMIC did not notify the ASX of the June 2019 Cash Flow Information at any time during the period 30 June 2019 to 17 July 2019.

71H. By reason of the matters alleged in paragraphs 71D to 71G, CIMIC contravened s 674(2) of the Corporations Act (**June 2019 Cash Flow Disclosure Contraventions**).

F. CASH FLOW REPRESENTATIONS

72. By the statements at paragraphs 21, 22(a) to 22(c), 25(a), 27(a), 29(a), 29(b), 31, 33(a), 36(a), 38(a), and 41(a)(i), 41(b), CIMIC represented that:

(a) its reported earnings were a result of cash generation from operating activities; and

(b) its cash generation was sustainable.

(**Cash Generation Representations**)

73. On and from 7 February 2018 until 6 May 2019, alternatively 17 July 2019:

(a) CIMIC did not at any time amend, qualify or withdraw the Cash Generation Representations; and

(b) accordingly, the Cash Generation Representations were continuing representations that were maintained by CIMIC from 7 February 2018 until 6 May 2019, alternatively 17 July 2019.

74. Contrary to the Cash Generation Representations, at all material times from 7 February 2018:

(a) CIMIC's reported earnings were not as a result of cash generation from operating activities; and

(b) CIMIC's cash generation was not sustainable.

Particulars

CIMIC's reported earnings were largely a result of cash generated from the receipt of factoring, not a result of cash generated from operating activities.

CIMIC's generation of cash receipts from factoring was not sustainable.

The Applicant refers to and repeats the matters in paragraphs 42, 47A, 48, 54, 60, 66, 71A and 71C.

75. To the extent the Cash Generation Representations related to future matters, the Applicant relies on s 12BB of the ASIC Act, s 769C of the Corporations Act and s 4 of the Australian Consumer Law and contends that CIMIC did not have reasonable grounds for making the representations.

Particulars

The Applicant refers to and repeats the particulars subjoined to paragraph 74 above.

76. By reason of the matters alleged in paragraphs 73 to 75, by making the Cash Generation Representations, CIMIC engaged in conduct:

(a) in trade or commerce, in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act;

(b) in relation to a financial product or a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the Corporations Act; and/or

(c) in trade or commerce, that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the Australian Consumer Law.

(**Cash Generation Misleading Conduct**)

G. CASH FLOW CORRECTIVE DISCLOSURE

77. [Not used]

78. On 17 July 2019 after close of trade, CIMIC released its 2019 Half Year (**1H19**) results, which included:

(a) NPAT of $367 million, up 1% from First Half of FY18;

(b) Operating Cash Flows of $529 million, down 34% from 1H18;

(c) EBITDA cash conversion rate of 52%, down 40% from 1H18;

(d) Free Operating Cash Flow of $33 million, down 93% from 1H18; and

(e) net cash of $1.368 billion at June 2019, up by 5% from 1H18.

Particulars

The First Half FY19 Results were recorded in:

(i) CIMIC's 1H19 Report dated 17 July 2019 at pages 42-48;

(ii) CIMIC's Analyst and Investor Presentation dated 17 July 2019 at pages 2 – 4;

ASX / Media Release published and lodged by CIMIC on 17 July 2019, page 1.

79. On 17 July 2019, after close of trade, CIMIC published and lodged with the ASX its 2019 Half Year Report, which:

(a) stated that the level of factoring across the CIMIC Group was $1.995 billion as at 30 June 2019;

(b) stated that the level of factoring across the CIMIC Group had been $1.953 billion as at 31 December 2018;

(c) stated that "operating cash flows were $528.6 million for HY19, a decrease of 34.2% or $274.6 million, compared to HY18. The decrease was mainly driven by the impact on cashflows of the recently awarded alliance construction projects with a different working capital profile, as well as the significant growth in the Mining business";

(d) stated that "the Group's net contract debtors were $1,440.4 million at 30 June 2019. The increase is partly attributable to the growth in the Mining business where advance payments are not commonly received. CIMIC has also won a number of alliance construction contracts in Australia over the past year with a different working capital profile compared to completed infrastructure projects. The level of factoring across the Group was $1,994.8 million as at 30 June 2019, which is consistent with the 31 December 2018 position of $1,953.0 million"; and

(e) stated that "Construction revenue was $3.6 billion for HY19, a decrease of 7.0%, or $271.6 million, compared to HY18. The revenue reflects substantial contributions from the delivery of a number of large scale transport infrastructure projects in Australia, offset by a decline in the Hong Kong construction market."

Particulars

(i) The statements at (a) and (b) were made in the 2019 Half Year Report at page 48 under the heading "Financial Position".

(ii) The statement at (c) was made in the 2019 Half Year Report at page 51 under the heading "Operating Cash Flows".

(iii) The statement at (d) was made in the 2019 Half Year Report at page 49 under the heading "Net contract debtors".

(iv) The statement at (e) was made in the 2019 Half Year Report at page 45 under the heading "Construction Revenue".

79A. On 17 July 2019, CIMIC held a teleconference with analysts from Kepler Cheavreux, Macquarie Research, Credit Suisse, HSBC and UBS during which CIMIC's Executive Chairman stated:

(a) "In the last 12 months, CIMIC delivered $1.8 billion of operating cash flows. These helped deliver an EBITDA cash conversion rate of 87%. After several periods of elevated conversion rates, this development in the cash flow should reflect the evolution of our business and the markets in which we operate."

(b) "Some specific factors contributing to this evolution include: firstly, CIMIC has won numerous alliance contract over the last year, which have different working capital requirements as well as risk and return profiles to traditional E&C contracts. Secondly, in construction, we have completed a number of large Australian infrastructure projects, some of which I mentioned earlier. In these cases, the associated mobilization [sic] payments received in prior years are now unwinding. Also in the construction sector, the slowing of activity in the Hong Kong operations have been a contributing factor. And lastly, the mining business has grown by 16% year on year, which has provided CIMIC with stable long-term annuity style income. But again, it has a different working capital profile which has to be handed [sic]."

Particulars

The statements at (a) and (b) were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 17 July 2019 at pages 3-4.

~~(c)~~ (The statements set out at paragraphs 78, 79 and 79A constituted the **July Cash Flow Corrective Disclosure**.)

80. [Not used]

81. The information contained in the July Cash Flow Corrective Disclosure:

(a) operated to correct or partly correct the information available to the market concerning the subject matter of the FY17 Cash Flow Information, 1Q18 Cash Flow Information, 1H18 Cash Flow Information, 3Q18 Cash Flow Information, FY18 Cash Flow Information and 1Q19 Cash Flow Information and the June 2019 Cash Flow Information (together, **the Cash Flow Information**);

(b) by correcting or partly correcting the said information, influenced persons who commonly invest in securities by causing:

(i) persons who held CIMIC securities to reduce the price at which they were willing to dispose of CIMIC Securities; and

(ii) persons who were considering acquiring CIMIC Securities to reduce the price at which they were willing to purchase CIMIC Securities;

Particulars

The said effect is to be inferred from the character of the market for CIMIC Securities as set out in paragraph 124 below and the change in the traded price following the release of the Cash Flow Corrective Disclosure set out in paragraph 127 below.

Further particulars will be provided following the receipt of expert evidence.

(c) consequently, caused the price at which CIMIC Securities traded to adjust downward toward the traded price which would have existed if the FY17 Cash Flow Disclosure Contravention, 1Q18 Cash Flow Disclosure Contravention, 1H18 Cash Flow Disclosure Contravention, 3Q18 Cash Flow Disclosure Contravention, FY18 Cash Flow Disclosure Contravention, and 1Q19 Cash Flow Disclosure Contravention and June 2019 Cash Flow Disclosure Contravention (together, the **Cash Flow Contravening Conduct**) had not occurred.

H. ANNOUNCEMENTS MADE BY CIMIC AFTER MID-2019

82. On 17 July 2019, CIMIC released its 2019 Half Year Report, which in relation to BICC:

(a) did not report results for BICC at an individual level, but only within the Corporate segment;

(b) stated that the Corporate segment's profit before tax was a loss of $75.2 million (compared with a loss of $74.6 million in 1H18);

(c) stated that CIMIC continued to hold shareholder loans relating to BICC totalling US$455 million (equivalent to $673.9 million), compared with amounts of $641 million at 31 December 2018;

(d) stated that CIMIC continued to guarantee BICC's facilities, with a secured and drawn amount of US$862 million (equivalent value of $1.249 billion) it had guaranteed, compared with $889 million as at December 2017; and

(e) stated that CIMIC continued to hold a call option to purchase the remaining 55% shareholding in BICC.

Particulars

The statements at subparagraphs (a) and (b) were made in the 2019 Half Year Report at pages 19 - 20 under the heading "Segment Information".

The statement at subparagraph (c) was made in the 2019 Half Year Report at page 26 under the heading "Trade and other receivables".

The statements at subparagraphs (d) and (e) were made in the 2019 Half Year Report at page 30 under the heading "Associates and Joint Ventures accounted for using the equity method".

83. CIMIC's 2019 Half Year Report also stated that in the opinion of the directors of CIMIC, the consolidated interim financial report and notes were in accordance with the Corporations Act including giving a true and fair view of the position of CIMIC as at 30 June 2019 and of its performance as represented by the results of its operations and cash flows for the half-year ended on that on that date.

Particulars

The statements were made at page 38 of the 2019 Half Year Report.

84. On 17 July 2019, CIMIC held a teleconference with analysts from Kepler Cheavreux, Macquarie Research, Credit Suisse, HSBC and UBS during which:

(a) CIMIC's Executive Chairman stated:

(i) "the strength of our work in hand and inherent profitability in that work should help us to achieve our NPAT guidance of between $790 million to $840 million, subject to market conditions"; and

(ii) "In the Middle East, the strategic review of BICC is ongoing. CIMIC has provided additional financial support during the half, while BICC pursues the collection of outstanding legacy receivables;"

(b) in response to a question about the current status and situation of BICC and the reason for CIMIC's confidence that it would be repaid in full its loan to BICC, CIMIC's Chief Financial Officer said words to the effect that the strategic review of BICC was ongoing and CIMIC would inform the market when it was concluded.

Particulars

(i) The statements at subparagraph (a) were recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 17 July 2019 at page 3.

(ii) The statement at subparagraph (b) was recorded in the transcript of the CIMIC Analyst and Investor Presentation dated 17 July 2019 at page 9.

85. On 17 July 2019, CIMIC reaffirmed its FY19 guidance of NPAT of $790 million to $840 million.

Particulars

CIMIC made statements confirming its FY19 Guidance in the ASX / Media Release published and lodged by CIMIC on 17 July 2019, pages 1 and 2, and the Analyst and Investor Presentation – HY19 Results dated 17 July 2019 at page 2.

86. On 17 July 2019, CIMIC published and lodged with the ASX:

(a) a document entitled "Analyst and Investor Presentation – HY19 Results", in which it stated that CIMIC's strong balance sheet provided flexibility to pursue strategic growth initiatives, capital allocation opportunities and to deliver shareholder returns; and

(b) an ASX / Media Release, which attributed the following statement to CIMIC's Executive Chairman: "[w]ith our integrated business model and strong balance sheet, CIMIC is in an advantageous position and remains on track to achieve our full year guidance and to deliver strong cash performance, supporting continued returns to shareholder".

Particulars

The statement in subparagraph (a) was made at page 2 of the Analyst and Investor Presentation – HY19 Results.

The statement in subparagraph (b) was made at page 2 of the ASX / Media Release published and lodged by CIMIC on 17 July 2019.

87. On 23 October 2019, CIMIC released its third quarter 2019 results, which included:

(a) NPAT of $206 million;

(b) cash flows from operating activities (now calculated before factoring as well as before interest, finance costs, taxes and dividends received) of $308 million;

(c) EBITDA cash conversion rate of 52% and EBITDA cash conversion rate pre-factoring of 57%;

(d) Free Operating Cash Flow of $38 million; and

(e) net cash of $826 million at September 2019.

Particulars

The First Half FY19 Results were recorded in:

(i) CIMIC Analyst and Investor Presentation dated 23 October 2019 at pages 2 – 5;

(ii) ASX / Media Release published and lodged by CIMIC on 23 October 2019, page

1.

88. On 23 October 2019, CIMIC reaffirmed its FY19 guidance of NPAT of $790 million to $840 million.

Particulars

CIMIC made statements confirming its FY19 Guidance in the ASX / Media Release published and lodged by CIMIC on 23 October 2019, page 1, and the Analyst and Investor Presentation dated 23 October 2019 at page 2.

89. On 23 October 2019, CIMIC published and lodged with the ASX:

(a) a document entitled "Analyst and Investor Presentation – 9m19 Results 2019", in which it stated that:

(i) CIMIC had returned $294 million to shareholders through dividends and share buyback in 3Q19; and

(ii) CIMIC's strong balance sheet continued to provide flexibility to pursue strategic growth initiatives and capital allocation opportunities and to deliver shareholder returns; and

(b) an ASX / Media Release, which attributed the following statement to CIMIC's Executive Chairman: "[w]e continue to make progress on our objectives and the Group remains in a strong financial position. Our robust balance sheet provides flexibility to pursue strategic growth initiatives and capital allocation opportunities. We are also focused on delivering returns to shareholders, with highlights include strong dividends and a share buy-back".

Particulars

(i) The statement in subparagraph (a)(i) was made at page 2 of the Analyst and Investor Presentation – 9m19 Results 2019.

(ii) The statements in subparagraph (a)(ii) were made at pages 2 and 7 of the Analyst and Investor Presentation – 9m19 Results 2019.

(iii) The statement in subparagraph (b) was made at page 2 of the ASX / Media Release published and lodged by CIMIC on 23 October 2019.

I. MIDDLE EAST DISCLOSURE CONTRAVENTIONS

I.1 FEBRUARY 2018 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

Shareholder Loans

89A. On or about 31 July 2017, LMENA and HLG entered into a loan agreement (**First Restructured Shareholder Loan Agreement**) pursuant to which the parties agreed to amend the terms applicable to AED 500,000,000 (defined therein as "Loan") of the principal loaned by LMENA to HLG under the First Shareholders Agreement relevantly as follows:

(a) HLG was not obliged to repay the Loan and may repay the Loan at any time at its discretion (cl 2.2);

(b) interest would not accrue on the Loan unless (cl 2.3(a)):

(i) HLG had paid a dividend to shareholders; and/or

(ii) the Loan had not been repaid by the date that is five years after the date of the agreement (being 31 July 2022).

(c) if interest had accrued pursuant to cl 2.3(a), the interest would accrue as follows (cl 2.3(b)):

(i) before year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% p.a. on the day the dividend was paid, for the financial year in which the dividend was paid; and/or

(ii) after year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% on the first day of the relevant financial year multiplied by the number of years that the loan was outstanding after year 5 (up to a maximum of 20%).

Particulars

(i) Agreement between LMENA and HLG dated 31 July 2017 [**CIM.119.006.5431**]

89B. On or about 30 December 2017, LMENA and HLG entered into a loan agreement (**Second Restructured Shareholder Loan Agreement**) pursuant to which they agreed to amend the terms applicable to AED 127,000,000 (defined therein as "Loan") of the principal loaned by LMENA to HLG under the First Shareholders Agreement as follows:

(a) HLG was not obliged to repay the Loan and may repay the Loan at any time at its discretion (cl 2.2);

(b) interest would not accrue on the Loan unless (cl 2.3(a)):

(i) HLG had paid a dividend to shareholders; and/or

(ii) the Loan had not been repaid by the date that is five years after the date of the agreement (being 30 December 2022);

(c) if interest had accrued pursuant to cl 2.3(a), the interest would accrue as follows (cl 2.3(b)):

(i) before year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% p.a. on the day the dividend is paid, for the financial year in which the dividend was paid; and/or

(ii) after year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% on the first day of the relevant financial year multiplied by the number of years that the loan was outstanding after year 5 (up to a maximum of 20%).

Particulars

(i) Agreement between LMENA and HLG dated 30 December 2017 [**CIM.102.022.8990**]

89C. On or about 30 December 2017, LMENA and HLG entered into a loan agreement (**Third Restructured Shareholder Loan Agreement)** pursuant to which they agreed to amend the terms applicable to AED 481,000,000, of accrued interest on amounts loaned under the Second Shareholder Agreement (defined therein as “Accrued Interest”) relevantly as follows:

(a) HLG was not obliged to repay the Accrued Interest and may repay the Accrued Interest at any time at its discretion (cl 2.2);

(b) interest would not accrue on the Accrued Interest unless (cl 2.3(a)):

(i) HLG had paid a dividend to shareholders; and/or

(ii) the Accrued Interest had not been repaid by the date that is five years after the date of the agreement (being 31 July 2022);

(c) if interest had accrued pursuant to cl 2.3(a), the interest on the Accrued Interest would accrue as follows (cl 2.3(b)):

(i) before year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% p.a. on the day the dividend was paid, for the financial year in which the dividend was paid; and/or

(ii) after year five, at a rate equal to the one year fixed EIBOR rate plus 2.5% on the first day of the relevant financial year multiplied by the number of years that the loan is outstanding after year 5 (up to a maximum of 20%).

Particulars

Agreement between LMENA and HLG dated 30 December 2017 [**CIM.102.032.1949**]

89D. As of 31 December 2017, the Shareholder Loans between LMENA and HLG had a total carrying value of AUD1,046.3 million, whereby:

(a) the First Restructured Shareholder Loan Agreement, Second Restructured Loan Agreement and Third Restructure Loan Agreement (together, the **Restructured Loan Agreements**) were valued at AUD 368.5 million, on which no interest accrued; and

(b) the balance of the amounts outstanding under the Shareholder Loans was AUD 677.8 million, for which interest accrued daily and based on EIBOR plus a margin of 3.5%.

Particulars

CIMIC presentation entitled IRFS 9 Financial Instruments – HLG Receivable Preliminary Impact Assessment dated January 2018 [**CIM.100.008.1965**]

89E. In January 2018, KPMG assessed HLG’s indicative credit rating on a stand alone basis as at the end of FY17 and using the Moody’s rating methodology for the global construction industry, as Caa3, being the third lowest available rating.

Particulars

KPMG report: “Extract of Credit Rating and Peer Benchmarking Analysis Report” dated 25 January 2018 [**CIM.108.064.8160**]

KPMG report: “HLG Contracting LLC – Credit Rating and Peer Benchmarking Analysis Report dated January 2018” [**CIM.108.027.1859**] (**KPMG HLG Credit Report**)

89F. In or about January 2018, CIMIC management assessed the lifetime expected credit loss for the Shareholder Loans was approximately $487 million (being 46.6% of the gross value of the loans), reflecting management’s assessment of the loans as “stage 2 (underperforming)” under

AASB 9.

Particulars

CIMIC Presentation, “IFRS 9 Financial Instruments – HLG Receivable Preliminary Impact Assessment” dated January 2018 [**CIM.100.008.1965**]

CIMIC’s determination of the lifetime expected credit loss on the Shareholder Loans relied upon the KPMG assessment of HLG’s indicative credit rating referred to in paragraph X above.

Memorandum from Harnek Soor to Derek Kerr and multiple persons at Deloitte dated 12 June 2018 entitled “HLG Half Year Update” [**CIM.108.034.2043**, p 2].

Call Option

89G. On or about 7 February 2018, CIMIC received an external valuation report in which the Call Option was valued, as at 31 December 2017, in the range of AUD 52 million to AUD 82 million, with a mid point of AUD 67 million.

Particulars

(i) KPMG report dated 7 February 2018 entitled “CIMIC Group Limited – Valuation of HLG Contracting LLC option as at 31 December 2017” [**CIM.119.006.2239**]

89H. On and after February 2018, CIMIC accounted for the Call Option in its financial statements as a derivative financial asset with a carrying value around the mid-range of the external valuation.

Particulars

The Applicant refers to the memorandum drafted by KPMG entitled ‘Valuation of HLG Contracting LLC Option as at 31 December 2017’ dated 7 February 2018 [**CIM.119.006.2237**].

89I. At all times after February 2018 until 23 January 2020, CIMIC did not alter the accounting treatment of the Call Option, other than to make adjustments to its carrying value to reflect foreign exchange movements.

Particulars

The Applicant refers to:

(i) the memorandum drafted by KPMG entitled 'Valuation of HLG Contracting LLC Option as at 31 December 2017' dated 7 February 2018 [**CIM.119.006.2237**];

(ii) the memorandum drafted by Harnek Soor entitled 'HLG half year balances review' dated 12 June 2018 and circulated to Derek Kerr and a number of persons at Deloitte on 22 June 2018 **[CIM.108.034.2042** and **CIM.108.034.2043]**; and

(iii) the memorandum drafted by Harnek Soor entitled 'BIC Contracting half year balances review' dated 19 June 2019 and circulated to Derek Kerr on 11 July 2019 **[CIM.108.006.4825]**.

HLG's performance

89J. In November 2017, CIMIC received a copy of the HLG Board Report for the financial year to date, which relevantly stated that:

(a) HLG had experienced a YTD loss of AED -497m (compared with a profit of AED 2m in YTD 2016), with a net margin of -10.9%; and

(b) HLG had AED 8,041m in uncertified receivables (compared with AED 1,100m in certified receivables) as at September 2017.

Particulars

(i) The HLG Board Report dated 18 November 2017 [**CIM.114.042.5241**] was provided to Michael Wright, Michael Cooper and Stefan Camphausen by email dated 20 November 2017 [**CIM.114.042.5239**].

89K. On or about 15 December 2017, CIMIC received a draft 2018 Business Plan for HLG (**HLG Draft Business Plan**), which relevantly stated that:

(a) HLG's balance sheet remained over-geared and its banks were limiting access to new funds (p 2);

(b) credit claims and lawsuits continued to overwhelm HLG's business (p 2);

(c) HLG continued to be impacted by its past and legacy shareholder disputes (p 5);

(d) HLG's external funding sources were nearly tapped out, with approximately AED 150 million remaining on the HSBC Syndicated Loan Agreement and other lines frozen (p 6);

(e) the majority of contract debtors were uncertified and disputed by HLG's clients (p 6);

(f) HLG needed to settle claims and collect debtors worth approximately AED 1.5 billion in FY18 to avoid a cash short-fall (p 6);

(g) HLG needed to increase its order book to be able to deliver on its business plan for 2018 and beyond (p 8);

(h) HLG's order book was depleting while bonding constrains and market perceptions about HLG's financial position had impacted its ability to win new work (p 7);

(i) HLG's work in hand was expected to run down to AED 4.2 billion by the end of 2018 absent new contract wins (p 7);

(j) HLG's banks had refused to extend credit to HLG with a parent guarantee from CIMIC (p 8);

(k) HLG considered that its book position on all projects would be very challenging (p 11);

Particulars

(i) Draft HLG Business Plan dated 15 December 2017 entitled "HLG Contracting LLC – Draft 2018 Business Plan" [**BIC.002.028.0456**].

(ii) The Draft 2018 Business Plan was sent by George Sassine to Michael Wright and Stefan Camphausen on 15 December 2017 [**BIC.002.028.0455**]

(iii) The HLG Business Plan was finalised in or about 14 February 2018 (**2018 Business Plan for HLG**)[**CIM.108.013.0461**] and contained only immaterial changes to the draft plan dated 15 December 2017

89L. On or about 24 January 2018, CIMIC received a copy of the HLG monthly report for November 2017, which reported HLG's financial position as at 30 November 2017 as follows:

(a) year to date work in hand of AED 6,055 million;

(b) year to date margin in hand of AED 208 million;

(c) year to date revenue of AED 5,010 million;

(d) year to date profit (loss) of AED (1,250 million);

(e) total assets of AED 12,203 million and total liabilities of AED 12,795 million;

(f) total debt of AED 5,016 million;

(g) year to date negative cash flow from operations of AED (437 million).

Particulars

(i) HLG Contracting Monthly Report for November 2017 [**CIM.100.034.7959**]

(ii) The report was sent to Michael Wright, Stefan Camphausen, Roman Garrido Sanchez, George Sassine, Michael Charlton on 24 January 2018 [**CIM.100.034.7958**]

89M. In January 2018, CIMIC prepared a valuation report for HLG (**2018 HLG Valuation Report**), in which CIMIC substantially downgraded its five year forecast revenue and profit before tax for HLG, as follows:

(a) forecast revenue for 2018 was AED 5,843 million, down from AED 10,819 million in the valuation report prepared for HLG in January 2017;

(b) forecast revenue for 2019 was AED 6,413 million, down from AED 12,254 million in the valuation report prepared for HLG in January 2017;

(c) forecast revenue for 2020 was AED 7,363 million, down from AED 13,703 million in the valuation report prepared for HLG in January 2017;

(d) forecast profit before tax for 2018 was AED 184 million, down from AED 275 million in the valuation report prepared for HLG in January 2017;

(e) forecast profit before tax for 2019 was AED 203 million, down from AED 420 million in the valuation report prepared for HLG in January 2017;

(f) forecast profit before tax for 2020 was AED 271 million, down from AED 525 million in the valuation report prepared for HLG in January 2017.

Particulars

(i) HLG Valuation Report of January 2018, provided to ARMC in advance of the ARMC meeting on 7 February 2018 [**CIM.004.001.3549**], p.105

(ii) HLG Valuation Report 2017, provided to ARMC in advance of ARMC meeting on 7 February 2017 [**CIM.004.001.3549**] p 205.

Legacy Project Receivables

89N. On or about 31 January 2018, CIMIC received a copy of HLG's Project Data Report for November 2017, which stated, as was the fact, that HLG had a total of AED 2,508.4 million (equivalent to AUD 853.2 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 1,867.5 million were uncertified; and

(b) approximately AED 640.8 million were certified.

Particulars

(i) HLG Project Data Report as at November 2017 [**CIM.102.032.5332**], provided by Ram Kumar Paranjothi (HLG) to Colin Young at CIMIC on 31 January 2018 [**CIM.102.032.5326**]

Cash Requests

89O. In January 2018, HLG:

(a) provided to CIMIC details of its forecasted monthly cash deficit for January 2018; and

(b) made requests to CIMIC for approval to draw down amounts totalling approximately AED 129 million under the HSBC Syndicated Facility, which drawdowns were stated to be for, among other things, cash for operations including critical project payments, project settlement payments, paying salaries and post-dated cheques.

Particulars

(i) Copy of HLG syndicate facility utilisation request for AED 11 million dated 15 December 2017 [**CIM.104.032.4224]**, as sent in email from David Wood (BICC) to Stefan Camphausen, Scott McAlpine, George Sassine, Roman Garrido Sanchez, Colin Young, Michael Azzi and Nick Cain dated 1 January 2018 [CIM.104.032.4222].

(ii) Copy of HLG syndicate facility utilisation request for AED 71 million dated 9 January [**CIM.104.032.3221**], as sent in email from David Wood (BICC) to Stefan Camphausen, Scott McAlpine, George Sassine, Roman Garrido Sanchez, Colin Young, Michael Azzi, Nick Cain and Carlos Mendes dated 10 January 2018 [**CIM.104.032.3217**].

(iii) Copy of HLG syndicate facility utilisation request for AED 23 million dated 12 January 2018 [**CIM.100.034.7981**]; email from David Wood (BICC) to Stefan Camphausen, Scott McAlpine, George Sassine, Roman Garrido Sanchez, Colin Young, Michael Azzi, Nick Cain and Carlos Mendes dated 12 January 2018 [**CIM.100.034.7976**].

(iv) Copy of HLG syndicate facility utilisation request for AED 27 million dated 16 January 2018 [**CIM.104.032.1987**]; email from David Wood (BICC) to Roman Garrido Sanchez, Stefan Camphausen, Scott McAlpine and George Sassine dated 16 [**CIM.104.032.1985**].

(v) Copy of HLG syndicate facility utilisation request for AED 20 million dated 18

January 2018 [**CIM.104.032.1030**]: email from David Wood (BICC) to Roman Garrido Sanchez, Stefan Camphausen, Scott McAlpine and George Sassine dated 18 January 2018 [**CIM.104.032.1028**].

89P. In January 2018:

(a) CIMIC approved the January 2018 requests from HLG in part;

(b) pursuant to which HLG drew down under the HSBC Syndicated Facility Agreement AED 81 million (equivalent AUD 28.3 million).

Particulars

(i) Utilisation request to HSBC for AED 11 million on 4 January 2018: email from David Wood (BICC) to HSBC, George Sassine, Stefan Camphausen, Roman Garrido Sanchez, Colin Young, Michael Azzi, Nick Cain and Scott McAlpine [**CIM.104.032.3941**].

(ii) Copy of HLG syndicate facility utilisation request for AED 11 million dated 15 December 2017 executed by CIMIC [**CIM.102.015.0193**]

(iii) Approval by Stefan Camphausen of AED 23 million on or around 12 January 2018: email from David Wood (BICC) Stefan Camphausen, Scott McAlpine, Michael Wright, George Sassine and Roman Garrido Sanchez [**CIM.100.034.7976**]

(iv) Copy of HLG syndicate facility utilisation request for AED 23 million dated 12 January 2018 executed by CIMIC [**CIM.102.032.0498**]

(v) Confirmation by Nick Cain of executed utilisation notice for AED 27 million on or around 16 January 2018: email from Nick Cain to George Sassine, Roman Garrido Sanchez, Stefan Camphausen and Scott McAlpine [**CIM.104.023.3847**].

(vi) Copy of HLG syndicate facility utilisation request for AED 27 million dated 16 January 2018 executed by CIMIC [**CIM.104.032.1987**]

(vii) Approval by Michael Wright of AED 20 million on or around 22 January 2018: email from Michael Wright to Stefan Camphausen, Roman Garrido Sanchez and Dianne Cassidy [**CIM.100.031.8006**].

(viii) Copy of HLG syndicate facility utilisation request for AED 20 million dated 18 January 2018 executed by CIMIC [**CIM.100.040.1926**]

(c) CIMIC later approved, on or around the end of January 2018, a further draw down under the HSBC Syndicated Facility, pursuant to which HLG drew down under the HSBC Syndicated Facility AED 55.1 million (equivalent to AUD 19.2 million).

Particulars

(i) Copy of HLG syndicate facility utilisation request for AED 55 million dated 29 January 2018 executed by CIMIC [**CIM.104.031.7974**].

(ii) HLG syndicate facility utilisation request to HSBC for AED 55 million (AUD 19.2 million) on 31 January 2018: email from David Wood (BICC) to George Sassine, Stefan Camphausen, Roman Garrido Sanchez, Colin Young, Michael Azzi, Nick Cain and Scott McAlpine [**CIM.104.031.7971**].

CIMIC's exposure to HLG

89Q. As at 31 January 2018, CIMIC's total exposure to potential losses in respect of HLG was, at least, approximately AUD 1,340 million comprising:

(a) approximately AUD 561 million under the Shareholder Loans;

(b) approximately AUD 710 million under the CIMIC Guarantees (being the UNB Guarantee and the HSBC Syndicated Guarantee); and

(c) AUD 69 million under the Call Option.

Particulars

(i) HLG Exposure Update (Balances date: 31 January 2018, Report date: 19 February 2018) [**CIM.104.031.4690**] attached to an email from Colin Young to Stefan Camphausen, George Sassine, Roman Garrido Sanchez, Emilio Grande, Scott McAlpine, Christopher Granda dated 19 February 2018 [**CIM.104.031.4689**].

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – February 2018

89R. As at 7 February 2018:

(a) HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY17, being the third lowest available rating;

(b) HLG had total outstanding Legacy Project Receivables of approximately AED 2,508.4 million, of which approximately AED 1,867.5 million were uncertified;

(c) the Legacy Project Receivables associated with HLG were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all

(**Legacy Project Receivables Risk**);

(d) HLG was operating at a loss and had negative cash flow from operations;

(e) HLG's performance in FY17 had materially declined from prior years;

(f) HLG faced significant challenges to improving its performance in FY18, by reason of its declining levels of work in hand and margin in hand;

(g) CIMIC had restructured AUD 368.5 million of the amounts owing by HLG under its Shareholder Loans, so that HLG was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion.

Particulars

(i) As to subparagraph (b), the applicant refers to the HLG Project Data Report for November 2017.

(ii) As to subparagraph (c), the applicant refers to:

A. the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

B. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific Cost Value Reconciliations (**CVRs**) prepared by HLG, and the HLG Draft Business Plan;

C. the limited recent recoveries by HLG of Legacy Project Receivables, as reflected in the HLG Project Data Report for November 2017.

(iii) As to subparagraph (d), the applicant refers to:

A. HLG Board Report for November 2017;

B. HLG Draft Business Plan;

C. HLG Contracting Monthly Report for November 2017;

D. the Cash Requests made by HLG to CIMIC in January 2018.

(iv) As to subparagraph (e), the applicant refers to:

A. HLG Board Report for November 2017;

B. HLG Draft Business Plan

C. HLG Contracting Monthly Report for November 2017;

(v) As to subparagraph (f), the applicant refers to:

A. HLG Issues Paper dated 20 June 2017 setting out a summary of key issues at HLG [**CIM.100.080.2702**] sent by George Sassine to Adolfo Valderas (then CIMIC CEO and Managing Director) on 20 June 2017 [**CIM.100.080.2701**].

B. the HLG Draft Business Plan [**BIC.002.028.0455**] provided to CIMIC listed numerous challenges including the run down of HLG's order book banks limiting access to funds, the balance sheet remaining stretched.

C. the 2018 HLG Valuation report which downgraded CIMIC's five year forecast revenue and profit of HLG.

D. In November 2017, HLG's managing director (Moustafa Fahour) told Michael Wright by email that if HLG does not raise its work in hand to around AED 10 billion it cannot fund overheads [**CIM.100.032.3340]**.

E. CIMIC knew that HLG faced ongoing macroeconomic instability and geopolitical issues (IFRS 9 Financial Instruments – HLG Receivable Preliminary Impact Assessment dated January 2018 [**CIM.100.008.1965**]).

February 2018 Middle East Information

89S. At all material times from 7 February 2018 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY17, being the third lowest available rating;

(b) HLG had total outstanding Legacy Project Receivables of approximately AED 2,508.4 million, of which approximately AED 1,867.5 million were uncertified;

(c) the Legacy Project Receivables associated with HLG were critically degraded such that there was an escalating risk that HLG would not recover those outstanding amounts at all;

(d) HLG was operating at a loss and had negative cash flow from operations;

(e) HLG's performance in FY17 had materially declined from prior years;

(f) HLG faced significant challenges to improving its performance in FY18, by reason of its declining levels of work in hand and margin in hand;

(g) CIMIC had restructured AUD 368.5 million of the amounts owing by HLG under its Shareholder Loans, so that HLG was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion.

(**February 2018 Middle East Information**)

Particulars

Each of the items comprising the February 2018 Middle East Information was information which by 7 February 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a):

(i) one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

A. CIMIC commissioned the KPMG HLG Credit Report (email KPMG to Derek Kerr copied to Colin Young dated 8 January 2018 [**CIM.108.037.3551**]);

B. CIMIC applied the conclusion of the KPMG Credit Report in its assessment of the expected credit loss of the Shareholder Loans in January 2018 –CIMIC Presentation, "IFRS 9 Financial Instruments – HLG Receivable Preliminary Impact Assessment" dated January 2018 [**CIM.100.008.1965**];

C. CIMIC made disclosures in its FY17 Annual Reports that it had undertaken an assessment in accordance with AASB 9 of the expected credit losses of the Shareholder Loans.

As to subparagraph (b):

(i) one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that they were sent a copy of the HLG Project Data report for November 2017.

(ii) it is to be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

A. CIMIC employees with responsibilities for HLG who had obligations to report to CIMIC Officers were sent a copy of the November 2017 containing the information.

B. on 5 February 2018, the CIMIC ARMC was provided with a draft FY17 Audit Report from Deloitte Touche Tahmatsu which contained information about the status of five HLG legacy projects and their recoveries, which was described as a key area of focus (the Applicant refers to page 316 of the FY17 Audit Report prepared by Deloitte and provided to the ARMC on 5 February 2018 [CIM.004.001.3549]). It is to be inferred that the CIMIC ARMC was aware of and continued to review the status of HLG's Legacy Project Receivables thereafter.

As to subparagraph (c):

(i) it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that the Legacy Project

Receivables were critically degraded such that there was an escalating risk that HLG would not recover those amounts at all, based on the CIMIC Officers' knowledge of the following matters:

A. the quantum of the Legacy Project Receivables reported in the HLG Project Data report for November 2017;

B. the fact that the large majority of the Legacy Project Receivables reported in the HLG Project Data report for November 2017 were uncertified;

C. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by HLG and provided to CIMIC, and the HLG Draft Business Plan.

D. the matters in the draft FY17 Audit Report from Deloitte Touche Tahmatsu to the CIMIC ARMC about the status of the five HLG legacy projects and their recoveries;

E. the information about the legacy projects and difficulties with their recovery contained in the HLG Draft Business Plan.

As to subparagraph (d), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the HLG Monthly Report for November 2017;

(ii) they were sent a copy of HLG's forecasted monthly cash deficits for January 2018.

As to subparagraph (e), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) This information was contained in the HLG Draft Business Plan.

(ii) This information was reflected in the 2018 HLG Valuation Report.

As to subparagraph (f):

(i) it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by of:

A. the matters in the HLG Draft Business Plan, which was provided to CIMIC Officers;

B. the matters in the HLG Board Report dated November 2017, which was provided to CIMIC Officers;

C. the matters in the HLG Contracting Monthly Report for November 2017, which was provided to CIMIC Officers and employees with responsibilities for HLG who had obligations to report to CIMIC Officers.

(ii) alternatively, it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively, ought to have formed the opinion, that HLG faced significant challenges to improving its performance in FY18 based on the CIMIC Officers' knowledge of the above matters.

As to subparagraph (g), it can be inferred that one or more CIMIC Officers actually knew the information by reason that the agreements were entered into on behalf of CIMIC and concerned a substantial asset of CIMIC.

Further, CIMIC's awareness of the February 2018 Middle East Information is to be inferred from:

(i) The regular reports and updates provided by HLG to CIMIC about its performance, financial position and forecasts, including:

A. HLG monthly reports, reporting on HLG's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. HLG Project Data Reports, reporting on receivables for each of HLG's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. HLG Liquidity reports, reporting on HLG's monthly cash forecasts and provided to CIMIC from time to time in support of HLG's requests for draw downs under the Guaranteed Facilities and cash injections.

D. HLG Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) The monthly HLG exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to HLG's funding sources, and from time to time on work in hand evolution, funding provided to HLG, HLG's contract debtors and trade creditors, and M&A activity updates. The HLG exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related.

(iii) the fact that at all relevant times, officers of CIMIC were closely involved in HLG's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections;

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

89T. The February 2018 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

89U. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 89T, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the February 2018 Middle East Information from 7 February 2018.

89V. Notwithstanding the matters alleged in paragraphs 89T and 89U, CIMIC did not notify the ASX of the February 2018 Middle East Information at any time from 7 February 2018 until the end of the Relevant Period.

89W. By reason of the matters alleged in paragraphs 89S to 89V, CIMIC contravened s 674(2) of the Corporations Act (**February 2018 Middle East Disclosure Contraventions**).

I.2 APRIL 2018 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

HLG's Performance

89X. On or about 22 February 2018, CIMIC received a copy of the HLG monthly report for December 2017, which reported HLG's financial position as at 31 December 2017 as follows:

(a) year to date work in hand of AED 5,512 million;

(b) year to date margin in hand of AED 192 million;

(c) year to date revenue of AED 5,576 million;

(d) year to date profit (loss) of AED (1,246 million);

(e) total assets of AED 12,434 million and total liabilities of AED 12,436 million;

(f) total debt of AED 4,633 million;

(g) year to date negative cash flow from operations of AED (933 million).

Particulars

(i) HLG Contracting Monthly Report for December 2017 [**CIM.122.002.1173**]

(ii) The report was sent to Stefan Camphausen, George Sassine, Emilio Grande, Colin Young and Christopher Granda on 21 and 22 February 2018 [**CIM.104.031.4115**] and [**CIM.104.031.4370]**

89Y. On or about 8 March 2018, CIMIC received a copy of the HLG monthly report for January 2018, which reported HLG's financial position as at 31 January 2018 as follows:

(a) year to date work in hand of AED 4,874 million;

(b) year to date margin in hand of AED 76 million;

(c) year to date revenue of AED 549 million;

(d) year to date profit of AED 2 million;

(e) total assets of AED 12,505 million and total liabilities of AED 12,496 million;

(f) total equity and shareholders funds of AED 10 million;

(g) total debt of AED 4,723 million;

(h) year to date negative cash flow from operations of AED (137 million).

Particulars

(i) HLG Contracting Monthly Report for January 2018 [**CIM.102.027.7425**]

(ii) The report was sent to Michael Wright, Stefan Camphausen, Roman Garrido Sanchez, George Sassine, Michael Charlton, Colin Young and Christiana Ilinkovski on 8 March 2018 **[CIM.120.001.8247]**.

89Z. On or about 10 April 2018, CIMIC received a copy of the HLG monthly report for February 2018, which reported HLG's financial position as at 28 February 2018 as follows:

(a) year to date work in hand of AED 4,178 million;

(b) year to date margin in hand of AED 133 million;

(c) year to date revenue of AED 999 million;

(d) year to date profit of AED 3 million;

(e) total assets of AED 12,517 million and total liabilities of AED 12,492 million;

(f) total equity and shareholders funds of AED 25 million;

(g) total debt of AED 4,820 million;

(h) year to date negative cash flow from operations of AED (213 million).

Particulars

(i) HLG Contracting Monthly Report for February 2018 [**CIM.100.034.7603**]

(ii) The report was sent to Michael Wright, Stefan Camphausen, Roman Garrido Sanchez, George Sassine, Ignacio Segura on 10 April 2018 [**CIM.100.157.3666**]

Legacy Project Receivables

89ZA. On or about 22 February 2018, CIMIC received a copy of HLG's Project Data Report for December 2017, which stated, as was the fact, that HLG had a total of AED 2,453.5 million (equivalent to AUD 849.6 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 1,870 million were uncertified; and

(b) approximately AED 583.5 million were certified.

Particulars

(i) HLG Project Data Report as at December 2017 [**CIM.102.032.5282**], provided by Vijay Divate (HLG) to Colin Young, and Christopher Granda at CIMIC on 22 February 2018 [**CIM.102.032.5280**]

89ZB. On or about 9 March 2018, CIMIC received a copy of HLG's Project Data Report for January 2018, which stated, as was the fact, that HLG had a total of AED 2,356.6 million (equivalent to AUD 822.1 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 1,864.6 million were uncertified; and

(b) approximately AED 492.1 million were certified.

Particulars

(i) HLG Project Data Report as at January 2018 [**CIM.102.027.7339**], provided by Christopher Granda to Emilio Grande and Colin Young at CIMIC on 9 March 2018 [**CIM.102.027.7336**]

CIMIC's exposure to HLG

89ZC. As at 31 March 2018, CIMIC's total exposure to potential losses in respect of HLG was, at least, approximately AUD 1,360.09 million comprising:

(a) approximately AUD 564 million under the Shareholder Loans;

(b) approximately AUD 727.09 million under the CIMIC Guarantees (being the UNB

Guarantee and the HSBC Syndicated Guarantee);

(c) AUD 69 million under the Call Option.

Particulars

(i) HLG Status Update as at 30 April 2018 [**CIM.102.028.5915**] attached to an email from Colin Young to Emilio Grande dated 31 May 2018 [**CIM.102.028.5914**].

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – April 2018

90. As at 12 April 2018:

(a) HLG had for FY17 recorded a loss of AED 1,246 million and total negative cash flows from operations of AED 933 million, with its performance in FY17 having materially declined from prior years;

(b) for the year to date in FY18, BICC had negative cash flows from operations;

(c) BICC faced significant challenges to improving its performance in FY18 by reason that its work in hand was declining, its projects were not progressing and it had decreased liquidity;

(d) the Legacy Project Receivables associated with BICC continued to be critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a significant increase in risk since January 2018 that CIMIC would be required to meet its obligations under the CIMIC Guarantees, in the event of which CIMIC's liabilities under those guarantees would no longer be contingent.

Particulars

As to subparagraphs (a) and (b), the applicant refers to:

(i) HLG Board Report for November 2017;

(ii) 2018 Business Plan for HLG;

(iii) HLG monthly report for the December 2017, which set out HLC's financial performance for FY17 [**CIM.122.002.1173**];

(iv) HLG Contracting Monthly Report for January 2018.

(v) HLG Contracting Monthly Report for February 2018.

(vi) the Cash Requests made by HLG to CIMIC in February 2018.

As to subparagraph (c), the applicant refers to:

(i) HLG Issues Paper dated 20 June 2017 setting out a summary of key issues at HLG [**CIM.100.080.2701**] sent by George Sassine to Adolfo Valderas (then Chief Executive Officer and Managing Director, CIMIC);

(ii) The 2018 HLG Business Plan (**CIM.108.013.0461**) provided to CIMIC listed numerous challenges including the run down of HLG's order book banks limiting access to funds, the balance sheet remaining stretched.

(iii) The 2018 HLG Valuation report which downgraded CIMIC's five year forecast revenue and profit of HLG.

(iv) In November 2017, HLG's managing director (Moustafa Fahour) told Michael Wright by email that if HLG does not raise its work in hand to around AED 10 billion it cannot fund overheads (**CIM.100.032.3340)**

(v) CIMIC knew that HLG faced ongoing macroeconomic instability and geopolitical issues (IFRS 9 HLG Receivables Memorandum [**CIM.100.008.1965**])

(vi) Email from Gavan Williams (COO of HLG) to Roman Garrido dated 21 March 2018 [**CIM.120.001.7381**], which was forwarded by Roman Garrido to Michael Wright, Stefan Camphausen, and George Sassine on 22 March 2018 [**CIM.100.034.7638**] advising of critical issues facing HLG, including that its projects were not progressing, it faced decreased liquidity including from court attachment orders which locked up bank accounts, and HLG faced further unrest in its labour camp.

As to subparagraph (d), the applicant refers to:

(i) the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

(ii) the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by HLG, and the 2018 Business Plan for HLG.

(iii) the limited recent recoveries by HLG of Legacy Project Receivables, as reflected in the CVRs and the HLG Project Data Report for January 2018 [**CIM.102.027.7339**].

As to subparagraph (e):

(i) each of the matters in subparagraphs (a) to (d) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

(ii) any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

(iii) further, each of the matters in subparagraphs (a) to (d) are the types of factors which would reasonably be considered when assessing expected credit loss for the purpose of AASB 9;

(iv) to the 1Q18 Group Risk Management Report stated that the IFRS assessment of the potential impairment of the Shareholder Loans was ongoing, and had additional executive focus in 2018 (report distributed to the Board and the ARMC prior to their 12 April 2018 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO [**CIM.004.001.2940**, p 116 and **CIM.004.001.6787**, p 43]).

(v) further particulars will be provided following expert evidence.

As to subparagraph (f):

(i) each of the matters in subparagraphs (a) to (d) were matters which significantly reduced the likelihood of HLG meeting its payment and other obligations under the Guaranteed Facilities;

(ii) by reason of the terms of the applicable CIMIC Guarantees, the reduced likelihood of HLG meetings its payment and other obligations under the Guaranteed Facilities increased the risk that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

(iii) further particulars will be provided following expert evidence.

Further particulars may be provided following evidence.

April 2018 Middle East Information

91. At all material times from 12 April 2018 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) in FY17, BICC had recorded a loss of AED 1,246 million and total negative cash flows from operations of AED 933 million, with its performance in FY17 having materially declined from prior years;

(b) for the year to date in FY18, BICC had negative cash flows from operations;

(c) BICC faced significant challenges to improving its performance in FY18 by reason that its work in hand had declined substantially to AED 2,832 million (from AED5,512 million as at December 2017), its current margin in hand was AED 92 million and the majority of its projects were loss making;

(d) the Legacy Project Receivables associated with BICC continued to be critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a significant increase in risk since January 2018 that CIMIC would be required to meet its obligations under the CIMIC Guarantees, in the event of which CIMIC's liabilities under those guarantees would no longer be contingent.

(**April 2018 Middle East Information**)

Particulars

Each of the items comprising the April 2018 Middle East Information was information which by 12 April 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a) and (b), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. the HLG Monthly Reports for November 2017, December 2017, January 2018 and February;

B. HLG Board Report for November 2017;

C. 2018 Business Plan for HLG;

D. the Cash Requests made by HLG to CIMIC in February 2018; and

(i) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (c), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the following documents:

A. HLG Issues Paper dated 20 June 2017 setting out a summary of key issues at HLG [**CIM.100.080.2701**] sent by George Sassine to Adolfo Valderas (then Chief Executive Officer and Managing Director, CIMIC);

B. The 2018 Business Plan for HLG, provided to CIMIC listed numerous challenges including the run down of HLG's order book banks limiting access to funds, the balance sheet remaining stretched.

C. The 2018 HLG Valuation report which downgraded CIMIC's five year forecast revenue and profit of HLG.

D. In November 2017, HLG's managing director (Moustafa Fahour) told by email Michael Wright that if HLG does not raise its work in hand to around AED 10 billion it cannot fund overheads (**CIM.100.032.3340**)

E. The IFRS 9 HLG Receivables Memorandum indicating that CIMIC knew that HLG faced ongoing macroeconomic instability and geopolitical issues [**CIM.100.008.1965**];

F. Email from Gavan Williams (CEO of HLG) to Roman Garrido dated 21 March 2018 (CIM.120.001.7381), which was forwarded by Roman Garrido to Michael Wright, Stefan Camphausen, and George Sassine on 22 March 2018 (**CIM.100.034.7638**); and

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to paragraph (d), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that the Legacy Project Receivables were critically degraded such that there was an escalating risk that HLG would not recover those amounts at all, based on the CIMIC Officers' knowledge of the following matters:

(i) the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

(ii) the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by HLG, and the 2018 Business Plan for HLG;

(iii) the limited recent recoveries by HLG of Legacy Project Receivables, as reflected in the CVRs and the HLG Project Data Report for January 2018 [**CIM.102.027.7339**] and the fact that this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to paragraph (e), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans, based on the CIMIC Officers' knowledge of the following matters:

(i) each of the matters in subparagraphs (a) to (d), as particularised above;

(ii) the fact the 1Q18 Group Risk Management Report stated that the IFRS assessment of the potential impairment of the Shareholder Loans was ongoing, and had additional executive focus in 2018 (report distributed to the Board and the ARMC prior to their 12 April 2018 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO [**CIM.004.001.2940**, p 116 and **CIM.004.001.6787**, p 43].

(iii) further particulars may be provided following evidence.

As to paragraph (f), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a significant increase in risk since January 2018 that CIMIC would be required to meet its obligations under the CIMIC Guarantees, in the event of which CIMIC's liabilities under those guarantees would no longer be contingent, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (d), as particularised above. Further particulars may be provided following evidence.

Further, CIMIC's awareness of the April 2018 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by HLG to CIMIC about its performance, financial position and forecasts, including:

A. HLG monthly reports, reporting on HLG's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. HLG Project Data reports, reporting on receivables for each of HLG's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. HLG Liquidity reports, reporting on HLG's monthly cash forecasts and provided to CIMIC from time to time in support of HLG's requests for draw downs under the Guaranteed Facilities and cash injections.

D. HLG Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly HLG exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to HLG's funding sources, and from time to time on work in hand evolution, funding provided to HLG, HLG's contract debtors and trade creditors, and M&A activity updates. The HLG exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related.

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in HLG's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections;

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

92. Further particulars may be provided following evidence.The April 2018 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

93. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 92, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the April 2018 Middle East Information from 12 April 2018.

94. Notwithstanding the matters alleged in paragraphs 92 and 93, CIMIC did not notify the ASX of the April 2018 Middle East Information at any time from 12 April 2018 until the end of the Relevant Period.

95. By reason of the matters alleged in paragraphs 91 to 94, CIMIC contravened s 674(2) of the Corporations Act (**April 2018 Middle East Disclosure Contraventions**).

I.3 JULY 2018 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

BICC's performance

95AA. On or about 16 April 2018, CIMIC received a copy of the HLG Board Report for FY17 which relevantly stated:

(a) HLG had won only three new projects in 2017 valued at AED 467 million versus AED 2.7 billion in 2016 (p 4);

(b) HLG's cash position continued to remain under immense pressure and affect project progress, performance and delivery, triggering the risk of bond calls on a number of ongoing projects (p 4);

(c) the majority of HLG projects were loss making (p 4);

(d) it would be extremely difficult to obtain financing from other banks given the current market conditions (p 4);

(e) existing banks remain unwilling to consider increasing credit limits due to their concerns on the HLG's balance sheet health and lack of progress on the recovery of receivables, unless CIMIC offers parent guarantees (p 5);

(f) HLG's credibility with the banks continued to be affected due to court orders freezing its bank accounts from time to time where legal cases were initiated by its subcontractors due to non-payment of their dues (p 5).

Particulars

(i) The HLG Board Report for April 2018 [**CIM.100.034.7268**] was sent by Moustafa Fahour to Michael Wright, Stefan Camphausen, Raman Garrido Sanchez, George Sassine and Michael Charlton by email on 16 April 2018 [**CIM.100.034.7267**].

95AB. On or about 3 May 2018, CIMIC received a copy of the HLG monthly report for March 2018, which reported HLG's financial position as at 31 March 2018.

Particulars

(i) HLG Contracting Monthly Report for March 2018 [**CIM.100.034.6877**]

(ii) The report was sent to Michael Wright, Stefan Camphausen, Roman Garrido Sanchez, George Sassine, Emilio Grande, Colin Young and Carlos Mendes on 3 May 2018 [**CIM.102.027.5577**]

95AC. On or about 5 June 2018, CIMIC received a copy of the BICC monthly report for April 2018, which reported BICC's financial position as at 30 April 2018.

Particulars

(i) BICC Monthly Report for April 2018 [**CIM.122.020.7324**]

(ii) The report was sent to Emilio Grande, Colin Young, Roman Garrido Sanchez, Christopher Granda and Tamara Kidd on 5 June 2018 [**CIM.122.020.7323**]

95AD. On or about 29 June 2018, CIMIC received a copy of the BICC monthly report for May 2018, which reported BICC's financial position as at 31 May 2018 as follows:

(a) year to date work in hand of AED 2,892 million;

(b) year to date margin in hand of AED 92 million;

(c) year to date revenue of AED 2,341 million;

(d) year to date profit of AED 9 million;

(e) total assets of AED 12,557 million and total liabilities of AED 12,524 million;

(f) total equity and shareholders funds of AED 33 million;

(g) total debt of AED 5,143 million;

(h) year to date negative cash flow from operations of AED (547 million).

Particulars

BICC Monthly Report for May 2018 [**CIM.122.020.3264**] sent to Christopher Granda, Colin Young and Tamara Kidd on 29 June 2018 [**CIM.122.018.5811**]

Legacy Project Receivables

95AE. On or about 5 June 2018, CIMIC received a copy of HLG's Project Data Report for March 2018, which stated, as was the fact, that HLG had a total of AED 3,452.2 million (equivalent to AUD 1,204.3 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,913.5 million were uncertified; and

(b) approximately AED 538.7 million were certified.

Particulars

(i) HLG Project Data Report as at March 2018 [**CIM.100.113.7685**], provided by Christopher Granda to Ignacio Segura and Dianne Cassidy at CIMIC on 23 July 2019 [**CIM.100.113.7678**].

(ii) HLG Project Data Report as at March 2018 [**CIM.100.158.3552**], provided by Christopher Granda to Ignacio Segura and Dianne Cassidy at CIMIC on 5 June 2018 [**CIM.100.158.3545**].

95AF. On or about 29 June 2018, CIMIC received a copy of BICC's Project Data Report for May 2018, which stated, as was the fact, that BICC had a total of AED 3,456.6 million (equivalent to AUD 1,205.9 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,943.2 million were uncertified; and

(b) approximately AED 513.4 million were certified.

Particulars

(i) BICC Project Data Report as at May 2018 [**CIM.122.018.5829**], provided by Ram Kumar Paranjothi (BICC) to Colin Young and Christopher Granda then Tamara Kidd at CIMIC on 29 June 2018 [**CIM.122.018.5811**].

Cash Requests – March, April and May 2018

95AG. In March and April 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for April 2018 (being a forecast cash deficit of AED 170.1 million); and

(b) made requests to CIMIC for funds which were stated to be for, among other things cash for operations including critical project payments, paying salaries and post-dated cheques and meeting separate loan obligations including repayments of bank debts and bank fees.

Particulars

(i) email from Roman Garrido Sanchez to Michael Wright, Stefan Camphausen, Ignacio Segura and Emilio Grande dated 28 March 2018 [**CIM.100.034.7636**] attaching a BICC liquidity report showing deficit of AED 170.1 million for April 2018 [**CIM.100.034.7637**]

(ii) Copy of April forecast cash deficit and request for AED 82.3 million made on or around 9 April 2018: email from David Wood (BICC) to Emilio Grande, Roman Garrido Sanchez and George Sassine dated 9 April 2018[**CIM.100.034.7473**]

(iii) Email from Roman Garrido Sanchez to Michael Wright, Stefan Camphausen, Emilio Grande and Ignacio Segura dated 11 April 2018 forwarding request for AED 82.3 million [**CIM.100.034.7471**].

95AH. In April 2018:

(a) BICC received AED 60 million (equivalent to AUD 20.69 million) from CIMIC's acquisition of BICC's share in Al Dhafra Recycling Plant, and BICC used these funds to pay salaries and HR settlements, post dated cheques and project payments;

(b) CIMIC approved the April 2018 requests from BICC in part;

(c) pursuant to which CIMIC transferred to BICC cash totalling AED 87 million (equivalent to AUD 30.35 million).

Particulars

(i) AED 60M Payment details spreadsheet and extracts from BICC's bank statements [**CIM.100.034.7474**] sent in an email from David Wood (BICC) to Emilio Grande, Roman Garrido Sanchez and George Sassine on 9 April 2018

[**CIM.100.034.7473**], as confirmation of what payments were made following the AED 60 million injection

(ii) Recommendation of Emilio Grande that Ignacio Segura approve AED 20 million cash injection on 16 April 2018: email from Emilio Grande to Ignacio Segura on 16 April 2018 [**CIM.105.006.7574**].

(iii) Confirmation that AED 67 million was paid to BICC: email from Nick Cain to George Sassine, Roman Garrido Sanchez, Emilio Grande, Christina Ilinkovski, Colin Young, Ignacio Segura, Stefan Camphausen and Scott McAlpine [**CIM.102.028.5708**].

(iv) Email from Nick Cain to Colin Young confirming the dates and amounts of the payments sent to HLG in April [**CIM.102.028.5707**].

95AI. In May 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for May 2018; and

(b) made requests to CIMIC for funds totalling AED 32 million, which funds were stated to be for, among other things, cash for operations including critical utility payments, paying salaries and post-dated cheques.

Particulars

(i) Copy of BICC cash request for May 2018: email from Roman Garrido Sanchez to Michael Wright, Stefan Camphausen, Ignacio Segura, Emilio Grande and George Sassine on 28 May 2018 [**CIM.114.037.2436**].

95AJ. In May 2018, CIMIC:

(a) approved the May 2018 requests from BICC;

(b) transferred to BICC cash totalling AED 32 million (equivalent to AUD 11.2 million).

Particulars

(i) Approval by Michael Wright on or around 29 May 2018: email from Michael Wright to Roman Garrido Sanchez, Stefan Camphausen, Ignacio Segura, Emilio Grande and George Sassine [**CIM.100.023.3114**].

(ii) Confirmation that AED 32 million was to be treated, for accounting purposes, as a deposit for the acquisition of BICC receivables: email from Emilio Grande to George Sassine, Mira Sekartika, Tim Martel, Harnek Soor and Roman Garrido Sanchez [**CIM.104.029.0438**].

Additional debt facilities - Greensill Facility A and Facility B

95AK. On or about 20 June 2018, BICC, as customer, entered into an accounts payable finance facility agreement with Greensill Capital (UK) Limited (**Greensill**), as the financial institution, (**Greensill Facility A Agreement** and a **Guaranteed Facility**).

Particulars

Facility A Customer Agreement dated 20 June 2018 [**CIM.118.007.0492**]

95AL. There were terms of the Greensill Facility A Agreement, among others, that:

(a) BICC may request Greensill to make payments to it, in order for BICC to fulfill its obligation to pay account payables arising out of commercial trade transactions which BICC may enter into with suppliers from time to time (paragraph A);

(b) Greensill make available to BICC the Facility, capable of being utilised up to the relevant Available Facility Limit (defined as, at any time, the Total Facility Limit minus the Utilised Amount at that time) (cl 1.5.1; cl 1.1);

(c) the Total Facility Limit had the meaning given to it in the CIMIC Guarantee (as defined), being from 20 June 2018 until the fourth anniversary of the date of the agreement, USD 350,000,000 or such higher amount as agreed from time to time (cl 1.1, CIMIC Guarantee cl 3.18);

(d) the Total Facility Limit may be reduced to zero at Greensill's election by notice to BICC where an Event of Default occurs (cl 1.5.2)

(e) BICC had obligations to pay each Payment Amount (as defined) in accordance with the terms of the agreement (cl 2);

(f) if an Event of Default was continuing, Greensill may, by notice to BICC, declare that all Payment Amounts then unpaid shall become immediately due and payable and the Total Facility Limit be reduced to zero (cl 2.5);

(g) an Event of Default meant the occurrence of any of the following events (cl 1.1):

(i) BICC or CIMIC fails to pay in the manner and currency when due any amount payable by it under any Transaction Document (defined as including the Greensill

Facility A Agreement and CIMIC Guarantee) and any such amount is not paid within 7 calendar days after Greensill had notified CIMIC that such sum had not been paid;

(ii) Indebtedness Default Event, which meant:

i. any indebtedness, present or future, actual or contingent, in respect of moneys borrowed or raised or any financial accommodation whatsoever, including under or in respect of any guarantee or indemnity in respect of any such indebtedness or under any finance lease (defined as Financial Indebtedness) in excess of (in the case of CIMIC) AUD25,000,000 or (in the case of BICC) AED40,000,000 becomes due and payable prior to its stated maturity as a result of default and is not paid forthwith; or

ii. any Obligor (defined as BICC and CIMIC) fails to pay when due or upon expiration of any appliable grace period any Financial Indebtedness in excess of (in the case of CIMIC) AUD 25,000,000 or (in the case of BICC) AED40,000,000;

(iii) an Event of Insolvency, which included the following:

i. an Obligor enters into or resolved to enter into a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or calls a meeting to consider a reorganisation, moratorium or other administration involving any of them, other than for the purpose of a reconstruction or amalgamation on terms approved by Greensill;

ii. an Obligor is or state that it is unable to pay its debts when they fall due;

iii. anything analogous or having a substantially similar effect to any of the events specified above happens to an Obligor under the law of any applicable jurisdiction.

95AM. On or about 20 June 2018, CIMIC executed a deed of guarantee, as amended by a supplemental deed dated 25 June 2018, in favour of Greensill pursuant to which CIMIC guaranteed BICC's obligations to Greensill under the Greensill Facility A Agreement (**Greensill Facility A Guarantee** and a **CIMIC Guarantee**).

Particulars

Deed of Guarantee dated 20 June 2018 executed by CIMIC and Greensill

[**CIM.118.007.0513**], and signed on behalf of CIMIC by Scott McAlpine and Louisa Griffiths.

Supplemental Deed of Guarantee dated 25 June 2015 executed by CIMIC and Greensill [**CIM.118.007.0516**], and signed on behalf of CIMIC by Scott McAlpine and L Nikolopoulos.

The Greensill Facility A Guarantee was the "CIMIC Guarantee" referred to in the Greensill Facility A Agreement.

95AN. The terms of the Greensill Facility A Guarantee included:

(a) CIMIC unconditionally and irrevocably guaranteed to Greensill the due and punctual performance by BICC of its obligations and satisfaction of its liabilities (including each obligation to pay money) under or in connection with the Greensill Facility A Agreement (defined as Guaranteed Obligations) (cl 3.1);

(b) CIMIC as principal obliger agreed to indemnify and keep indemnified Greensill in full from and against any losses, costs and expenses suffered or incurred by Greensill arising out of any failure of BICC to perform or discharge the Guaranteed Obligations (cl 3.2);

(c) any amount which CIMIC was liable to pay Greensill under cl 3.1 or 3.2 must be paid within 3 business days of a demand being made by Greensill on CIMIC (cl 3.3).

95AO. On or about 20 June 2018, BICC, as customer, entered into an accounts payable finance facility agreement with Greensill, as the financial institution, (**Greensill Facility B Agreement** and a **Guaranteed Facility**).

Particulars

Facility B Customer Agreement dated 20 June 2018 [**CIM.118.007.0499**]

95AP. The terms of the Greensill Facility B Agreement were relevantly identical to the terms of the Greensill Facility A Agreement as pleaded above, including that the Total Facility Limit had the meaning given to it in the CIMIC Guarantee (as defined), being from 20 June 2018 until the fourth anniversary of the date of the agreement, USD 350,000,000 or such higher amount as agreed from time to time (cl 1.1, CIMIC Guarantee cl 3.18).

95AQ. On or about 20 June 2018, CIMIC executed a deed of guarantee in favour of Greensill pursuant to which CIMIC guaranteed BICC's obligations to Greensill under the Greensill Facility B Agreement (**Greensill Facility B Guarantee** and a **CIMIC Guarantee**).

Particulars

Deed of Guarantee dated 20 June 2018 executed by CIMIC and Greensill [**CIM.118.007.0513**], and signed on behalf of CIMIC by Scott McAlpine and Louisa Griffiths.

The Greensill Facility B Guarantee was the "CIMIC Guarantee" referred to in the Greensill Facility B Agreement.

95AR. The terms of the Greensill Facility B Guarantee included:

(a) CIMIC unconditionally and irrevocably guaranteed to Greensill the due and punctual performance by BICC of its obligations and satisfaction of its liabilities (including each obligation to pay money) under or in connection with the Greensill Facility A Agreement (defined as Guaranteed Obligations) (cl 3.1);

(b) CIMIC as principal obliger agreed to indemnify and keep indemnified Greensill in full from and against any losses, costs and expenses suffered or incurred by Greensill arising out of any failure of BICC to perform or discharge the Guaranteed Obligations (cl 3.2);

(c) any amount which CIMIC was liable to pay Greensill under cl 3.1 or 3.2 must be paid within 3 business days of a demand being made by Greensill on CIMIC (cl 3.3).

Cash Requests – June 2018

95AS. In June 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for June 2018; and

(b) made a request to CIMIC for funds totalling AED 66 million, which funds were stated to be for, among other things, cash for operations including cash for bank payments, post-dated cheques and labour wages.

Particulars

(i) Copy of BICC liquidity report and request for AED 66 million dated 21 June 2018: email from Moustafa Fahour to Emilio Grande, Roman Garrido Sanchez, George Sassine, Colin Young and Ignacio Segura dated 21 June 2018 [**BIC.002.025.1660**].

95AT. In June 2018:

(a) CIMIC approved the June 2018 requests from BICC;

(b) pursuant to which:

(i) CIMIC transferred to BICC cash totalling AED 68.6 million (equivalent to AUD 24.9 million);

(ii) BICC drew down under the Greensill Facilities AED 198.5 million (equivalent AUD 72 million); and

(iii) BICC transferred to CIMIC cash totalling AED 187.6 million (equivalent to AUD 68.1 million)

Particulars

(i) Approval by Scott McAlpine of AED 46 million cash injection on or around 22 June 2018: email from Scott McAlpine to Nick Cain, Michael Azzi and Thai Dang dated 22 June 2018 [**CIM.118.012.3765**]; email from Emilio Grande to David Wood, Colin Young, Moustafa Fahour, Roman Garrido Sanchez and George Sassine dated 22 June 2018 [**CIM.104.028.5412**]

(ii) BICC Update recording the funding provided to BICC and the repayment of advances via the Greensill Facility [**CIM.100.030.0310**] attached to an email from Stefan Camphausen to Michael Wright and Ignacio Segura dated 3 September 2018 [**CIM.100.030.0309**].

95AU. In July 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for July 2018; and

(b) made requests to CIMIC for approval to draw down amounts totalling AED 143 million under the Greensill Facilities, which drawdowns were stated to be for, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

(i) Copy of BICC liquidity report for July 2018 and request for AED 77 million to be sent urgently and an additional AED 48 million later in the month sent on or around 5 July 2018: email from Emilio Grande to Michael Wright, Ignacio Segura, Stefan Camphausen, Roman Garrido Sanchez and George Sassine dated 5 July 2018 [**CIM.100.025.4288**].

(ii) Copy of BICC mid-month liquidity report for July 2018 and request for AED 66 million sent on or around 17 July 2018: email from David Wood (BICC) to Emilio Grande, Scott McAlpine, Colin Young, Roman Garrido Sanchez and George Sassine [**CIM.104.028.1650** and **CIM.104.028.1651**].

95AV. In July 2018:

(a) CIMIC approved the requests from BICC in part;

(b) pursuant to which BICC drew down under the Greensill Facilities AED 150.7 million (equivalent to AUD 54.7 million).

Particulars

(i) Approval by Michael Wright of AED 77 million cash transfer on or around 6 July 2018: email from Michael Wright to Emilio Grande, Ignacio Segura, Stefan Camphausen, Roman Garrido Sanchez and George Sassine [**CIM.100.025.4620**]. Approval also confirmed in email from Michael Wright to to Emilio Grande, Ignacio Segura, Stefan Camphausen, Roman Garrido Sanchez and George Sassine dated 10 July 2018 [**CIM.100.025.4288**]

(ii) Approval by Michael Wright of AED 66 million drawdown on or around 24 July 2018: email from Roman Garrido Sanchez to Scott McAlpine, Ignacio Segura, Stefan Camphausen, George Sassine, Emilio Grande and Michael Wright [**CIM.104.028.0170**].

(iii) Greensill funding on or around 6 July and 25 July 2018 totalling AED 150.7 million or AED 144.4 million net of discount, reported in the BICC update [**CIM.100.028.1053**] sent in an email from Stefan Camphausen to Michael Wright, Ignacio Segura, Dianne Cassidy and Derek Kerr on 10 September 2018 [**CIM.100.028.0988**].

CIMIC's exposure to BICC

95AW. As at 30 June 2018, CIMIC's total exposure to potential losses in respect of BICC was, at least, approximately AUD 1,477 million comprising:

(a) approximately AUD 593 million under the Shareholder Loans;

(b) approximately AUD 811.96 million under the CIMIC Guarantees, being the UNB Guarantee, the HSBC Syndicated Guarantee, Greensill Facility A Guarantee and Greensill Facility B Guarantee;

(c) AUD 72 million under the Call Option.

Particulars

(i) BICC update [**CIM.100.028.1053**] sent in an email from Stefan Camphausen to Michael Wright, Ignacio Segura, Dianne Cassidy and Derek Kerr on 10 September 2018 [**CIM.100.028.0988**].

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – July 2018

95AX. As at 25 July 2018:

(a) for the year to date in FY18, BICC had negative cash flows from operations, and its cash position was under immense pressure;

(b) BICC faced significant challenges to improving its performance in FY18 by reason that its work in hand had declined substantially to AED 2,892 million (from AED 5,512 million as at December 2017), its current margin in hand was AED 92 million and the majority of its projects were loss making;

(c) BICC was reliant upon CIMIC for financial support;

(d) the Legacy Project Receivables associated with BICC continued to be critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 such that CIMIC would be required to book further impairments against the Shareholder Loans;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

Particulars

(i) As to subparagraph (a), the applicant refers to:

A. BICC Monthly reports for March, April and May 2018 which stated BICC's negative cash flows from operations for each month;

B. HLG Board Report for April 2018 which stated that BICC's cash flow was under immense pressure;

C. The Cash Requests made by BICC to CIMIC in April, May, June and July 2018;

D. BICC's entry into Greensill Facility A and Greensill Facility B (the **Greensill Facilities**), and its draw downs under those facilities, including the stated reasons for the draw downs, from which it may be inferred that BICC's cash position was under pressure;

(ii) As to subparagraphs (b) the applicant refers:

A. HLG Issues Paper dated 20 June 2017 setting out a summary of key issues at HLG [**CIM.100.080.2701**] sent by George Sassine to Adolfo Valderas (then Chief Executive Officer and Managing Director, CIMIC);

B. The 2018 Business Plan for HLG provided to CIMIC listed numerous challenges including the run down of HLG's order book banks limiting access to funds, the balance sheet remaining stretched.

C. The 2018 HLG Valuation report which downgraded CIMIC's five year forecast revenue and profit of HLG.

D. In November 2017, HLG's managing director (Moustafa Fahour) told by email Michael Wright that if HLG does not raise its work in hand to around AED 10 billion it cannot fund overheads (**CIM.100.032.3340)**

E. CIMIC knew that HLG faced ongoing macroeconomic instability and geopolitical issues (IFRS 9 HLG Receivables Memorandum [**CIM.100.008.1965**])

F. Email from Gavan Williams (COO of HLG) to Roman Garrido dated 21 March 2018 [**CIM.120.001.7381**], which was forwarded by Roman Garrido to Michael Wright, Stefan Camphausen, and George Sassine on 22 March 2018 [**CIM.100.034.7638**] advising of critical issues facing HLG, including that its projects were not progressing, it faced decreased liquidity including from court attachment orders which locked up bank accounts, and HLG faced further unrest in its labour camp.

G. the HLG Board Report for April 2018 which stated that the majority of HLG projects were loss making [**CIM.100.034.7267**];

H. email from Roman Garrido to Michael Wright, copying Ignacio Segura, Stefan Camphausen, George Sassine and Emilio Grande on 25 July 2018 [**CIM.100.027.7567**] which stated his concerns regarding BICC's cash flow requirements, stating that BICC's cash flow requirements would not improve.

I. BICC Monthly Report for May 2018

(iii) As to subparagraph (c), the applicant refers to:

A. the HLG Board Report for April 2018;

B. the fact of CIMIC providing guarantees to secure each of the Greensill Facilities; and

C. the Cash Requests made by BICC to CIMIC in April, May, June and July 2018.

(iv) As to subparagraph (d), the applicant refers to:

A. the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

B. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by BICC, and the 2018 Business Plan for HLG;

C. the limited recent recoveries by BICC of Legacy Project Receivables, as reflected in the Project Data Reports for February 2018, March 2018, April 2018 and May 2018.

(v) As to paragraph (e):

A. each of the matters in subparagraphs (a) to (d) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in subparagraphs (a) to (d) are the types of factors which would reasonably be considered when assessing expected credit loss for the purpose of AASB 9;

D. further particulars will be provided following expert evidence.

(vi) As to paragraph (f):

A. each of the matters in subparagraph (a) to (d) were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities;

B. further, BICC's entry into two additional external debt facilities increased its debt burden;

C. by reason of the terms of the applicable CIMIC Guarantees, the reduced likelihood of BICC meetings its payment and other obligations under the Guaranteed Facilities increased the risk that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

D. further particulars will be provided following expert evidence.

July 2018 Middle East Information

95AY. At all material times from 25 July 2018 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) for the year to date in FY18, BICC had negative cash flows from operations, and its cash position was under immense pressure;

(b) BICC faced significant challenges to improving its performance in FY18, by reason that its work in hand had declined substantially to AED 2,832 million (from AED5,512 million as at December 2017); its current margin in hand was AED 92 million and the majority of its projects were loss making;

(c) BICC was reliant upon CIMIC for financial support;

(d) the Legacy Project Receivables associated with BICC continued to be critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 such that CIMIC would be required to book further impairments against the Shareholder Loans;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(**July 2018 Middle East Information**)

Particulars

Each of the items comprising the July 2018 Middle East Information was information which by 25 July 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. HLG Board Report for April 2018 which stated that BICC's cash flow was under immense pressure;

B. BICC Monthly Reports for March 2018, April 2018 and May 2018;

C. the Cash Requests made by BICC to CIMIC in April, May, June and July 2018; and

these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers;

(ii) BICC's entry into Greensill Facility A and Greensill Facility B (the **Greensill Facilities**), and its draw downs under those facilities, including the stated reasons for the draw downs, from which it may be inferred that BICC's cash position was under pressure. It can be inferred that one or more CIMIC Officers actually knew the information regarding the Greensill Facilities by reason that CIMIC entered into the Greensill Facility A Guarantee and the Greensill Facility B Guarantee in support of BICC's obligations under those facilities.

As to subparagraph (b), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. HLG Issues Paper dated 20 June 2017 setting out a summary of key issues at HLG [**CIM.100.080.2701**] sent by George Sassine to Adolfo Valderas (then Chief Executive Officer and Managing Director, CIMIC);

B. The Draft HLG 2018 Business Plan (**BIC.002.028.0455**) provided to CIMIC listed numerous challenges including the run down of HLG's order book banks limiting access to funds, the balance sheet remaining stretched.

C. The 2018 HLG Valuation report which downgraded CIMIC's five year forecast revenue and profit of HLG.

D. In November 2017, HLG's managing director (Moustafa Fahour) told by email Michael Wright that if HLG does not raise its work in hand to around AED 10 billion it cannot fund overheads (**CIM.100.032.3340)**

E. CIMIC knew that HLG faced ongoing macroeconomic instability and geopolitical issues (IFRS 9 HLG Receivables Memorandum [**CIM.100.008.1965**])

F. Email from Gavan Williams (CEO of HLG) to Roman Garrido dated 21 March 2018 [**CIM.120.001.7381**], which was forwarded by Roman Garrido to Michael Wright, Stefan Camphausen, and George Sassine on 22 March 2018 (CIM.100.034.7638)

G. the HLG Board Report for April 2018 which stated that the majority of HLG projects were loss making [**CIM.100.034.7267**];

H. email from Roman Garrido to Michael Wright, copying Ignacio Segura, Stefan Camphausen, George Sassine and Emilio Grande on 25 July 2018 [**CIM.100.027.7567**] which stated his concerns regarding BICC's cash flow requirements, stating that BICC's cash flow requirements would not improve;

I. BICC Monthly Report for May 2018 [**CIM.122.020.3264**]; and

these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

(ii) alternatively, it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that BICC faced significant challenges to improving its performance by reason of their knowledge of BICC's reduced work in hand, BICC's current margin in hard and that the majority of its projects were loss making, as set out above.

As to subparagraph (c), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) the information was contained in:

A. the HLG Board Report for April 2018 [**CIM.100.034.7267**];

B. the Cash Requests made by BICC to CIMIC in April, May, June and July 2018; and

these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers;

(ii) the fact of CIMIC providing guarantees to secure each of the Greensill Facilities.

As to subparagraph (d), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that the Legacy Project Receivables were critically degraded such that there was an escalating risk that HLG would not recover those amounts at all, based on the CIMIC Officers' knowledge of the following matters:

(i) the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

(ii) the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by HLG, and the HLG Draft Business Plan [**BIC.002.028.0456**]

(iii) the limited recent recoveries by HLG of Legacy Project Receivables, as reflected in the Project Data Reports for February 2018, March 2018, April 2018 and May 2018 and the fact that these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (e), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans, based on the CIMIC Officers' knowledge of the following matters:

(i) each of the matters in subparagraphs (a) to (d), as particularised above;

(ii) the fact the 1Q18 Group Risk Management Report stated that the IFRS assessment of the potential impairment of the Shareholder Loans was ongoing, and had additional executive focus in 2018 (report distributed to the Board and the ARMC prior to their 12 April 2018 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO [**CIM.004.001.2940**, p 116 and **CIM.004.001.6787**, p 43]);

(iii) CIMIC's analysis in May 2018 of BICC for the purpose of an "investment pitch", which included the potential write down of the Shareholder Loans of $312 to $380 million [**CIM.102.030.8421, CIM.102.030.8419, CIM.102.030.8434]**

(iv) further particulars may be provided following evidence.

As to subparagraph (f), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (d), as particularised above. Further particulars may be provided following evidence.

Further, CIMIC's awareness of the July 2018 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections.

D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related.

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections;

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

95AZ. The July 2018 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

95AZA. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 95AZ, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the July 2018 Middle East Information from 25 July 2018.

95AZB. Notwithstanding the matters alleged in paragraphs 95AZ and 95AZA, CIMIC did not notify the ASX of the July 2018 Middle East Information at any time from 25 July 2018 until the end of the Relevant Period.

95AZC. By reason of the matters alleged in paragraphs 95AY to 95AZB, CIMIC contravened s 674(2) of the Corporations Act (**July 2018 Middle East Disclosure Contraventions**).

I.4 OCTOBER 2018 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

BICC's performance

95AZD. On or about 5 August 2018, CIMIC received a copy of the BICC monthly report for June 2018, which reported BICC's financial position as at 30 May 2018.

Particulars

BICC Monthly Report for June 2018 [**CIM.122.020.0969**], sent by email to Christopher Granda, Colin Young and Tamara Kidd on 5 August 2018 [**CIM.122.020.0966**]

95AZE. On or about 2 September 2018, CIMIC received a copy of the BICC monthly report for July 2018, which reported BICC's financial position as at 31 July 2018.

Particulars

BICC Monthly Report for July 2018 [**CIM.122.019.7159**], sent by email to Christopher Granda, Colin Young and Tamara Kidd on 2 September 2018 [**CIM.122.019.7156**]

95AZF. On or about 26 September 2018, CIMIC received a copy of the BICC monthly report for August 2018, which reported BICC's financial position as at 31 August 2018 as follows:

(a) year to date work in hand of AED 2,077 million;

(b) year to date margin in hand of AED 63 million;

(c) year to date revenue of AED 3,214 million;

(d) year to date profit of AED 11 million;

(e) total assets of AED 12,222 million and total liabilities of AED 12,184 million;

(f) total equity and shareholders funds of AED 36 million;

(g) total debt of AED 5,524 million;

(h) year to date negative cash flow from operations of AED (747 million).

Particulars

BICC Monthly Report for August 2018 [**CIM.122.019.4382**], sent by email to Christopher Granda, Colin Young and Tamara Kidd on 26 September 2018 [**CIM.102.026.1825**]

Legacy Project Receivables

95AZG. On or about 5 August 2018, CIMIC received a copy of BICC's Project Data Report for June 2018, which stated, as was the fact, that BICC had a total of AED 3,440 million (equivalent to AUD 1,248 million in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,918.1 million were uncertified; and

(b) approximately AED 522 million were certified.

Particulars

(i) BICC Project Data Report as at June 2018 [**CIM.122.020.0968**], provided by Qaisir Mahmood (BICC) to Colin Young and Christopher Granda then to Tamara Kidd at CIMIC on 5 August 2018 [**CIM.122.020.0966**].

95AZH. On or about 2 September 2018, CIMIC received a copy of BICC's Project Data Report for July 2018, which stated, as was the fact, that BICC had a total of AED 3,493.4 million (equivalent to AUD 1,267.4 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,971.5 million were uncertified; and

(b) approximately AED 521.9 million were certified.

Particulars

(i) BICC Project Data Report as at July 2018 [**CIM.122.019.7172**], provided by Ram Kumar Paranjothi (BICC) to Colin Young and Christopher Granda then Tamara Kidd at CIMIC on 2 September 2018 [**CIM.122.019.7156**].

95AZI. On or about 30 September 2018, CIMIC received a copy of BICC's Project Data Report for August 2018, which stated, as was the fact, that BICC had a total of AED 3,432.1 million (equivalent to AUD 1,245.2 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,917.4 million were uncertified; and

(b) approximately AED 514.6 million were certified.

Particulars

(i) BICC Project Data Report as at August 2018 [**CIM.122.019.4368**], provided by Ram Kumar Paranjothi (BICC) to Colin Young, Roman Garrido Sanchez and Christopher Granda at CIMIC on 30 September 2018 [**CIM.122.019.4365**].

Cash Requests

95AZJ. In late July and August 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for August 2018;

(b) made requests to CIMIC for approval to draw down amounts totalling AED 126 million under the Greensill Facilities, which were stated to be for the purposes of, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

(i) Copy of BICC liquidity report for August 2018 and request for AED 55 million on 1 August 2018 and AED 71 million on 15 August 2018 sent on or around 27 July 2018: email from David Wood (BICC) to Ignacio Segura, Roman Garrido Sanchez, Emilio Grande, George Sassine, Scott McAlpine and Colin Young [**CIM.114.026.5125**].

(ii) Copy of BICC mid-month liquidity report for August 2018 and request for AED 38 million sent on or around 20 August 2018: email from David Wood (BICC) to Ignacio Segura, Roman Garrido Sanchez, Emilio Grande, George Sassine, Scott McAlpine and Colin Young [**CIM.105.010.1536**].

95AZK. In August 2018:

(a) CIMIC approved the requests from BICC in part; and

(b) pursuant to which BICC drew down under the Greensill Facilities AED 58.1 million (equivalent to AUD 21.1 million).

Particulars

(i) Confirmation of approval of AED 55 million drawdown sent by Scott McAlpine on or around 7 August 2018: email from Scott McAlpine to David Wood (BICC), Ignacio Segura, Roman Garrido Sanchez, Emilio Grande, George Sassine, Colin Young, Moustafa Fahour (BICC) and Nick Cain [**CIM.105.007.3441**].

(ii) Approval by Michael Wright of AED 38 million drawdown on or around 30 August 2018: email Michael Wright to Roman Garrido Sanchez, Stefan Camphausen, Ignacio Segura, Emilio Grande and George Sassine [**CIM.100.025.1002**].

(iii) Drawdowns from Greensill Facility on or around 15 August and 30 August 2018 totalling AED 97.8 million or AED 93.5 million net of discount, reported in the BICC update [**CIM.100.028.1053**] sent in an email from Stefan Camphausen to Michael Wright, Ignacio Segura, Dianne Cassidy and Derek Kerr on 10 September 2018 [**CIM.100.028.0988**].

95AZL. In September 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for September 2018;

(b) made requests to CIMIC for approval to draw down amounts totalling AED 219 million under the Greensill Facilities, which drawdowns were stated to be for the purposes of, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

Copy of BICC liquidity report for September 2018 and request for AED 125 million for first half of September and AED 94 million for the second half of September 2018, sent on or around 6 September 2018: email from David Wood (BICC) to Colin Young, Ignacio Segura, Roman Garrido Sanchez, George Sassine, Scott McAlpine and Christopher Granda [**CIM.105.009.8685**].

95AZM. In September 2018:

(a) CIMIC approved the requests from BICC in part;

(b) pursuant to the August 2018 and September 2018 approvals, BICC drew down a total of AED 133.5 million (equivalent to AUD 50.4 million), comprised of:

(i) AED 133.4 million under the Greensill Facilities; and

(ii) AED 0.1 million under the HSBC Syndicated Facility.

Particulars

(i) Approval by Michael Wright of AED 90.4 million drawdown on or around 14 September 2018: email from Michael Wright to Roman Garrido Sanchez, Ignacio Segura, Stefan Camphausen and George Sassine [**CIM.100.024.8859**].

(ii) Drawdowns from Greensill Facility transferred to BICC on or around 25 September 2018 totalling AED 93.7 million or AED 89.8 million net of discount [**CIM.102.023.5935**].

95AZN. In October 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for October 2018; and

(b) made a request to CIMIC for funds totalling AED 88.6 million which were stated to be for the purposes of, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

(i) Copy of revised BICC liquidity report and request for October 2018 for AED 88.6 million sent on or around 4 October 2018: email from David Wood (BICC) to Roman Garrido Sanchez, George Sassine, Colin Young and Christopher Granda [**CIM.104.026.4771**].

95AZO. In October 2018:

(a) CIMIC approved the October 2018 request; and

(b) pursuant to which BICC drew down under the Greensill Facilities AED 88.2 million (AUD 33.3 million).

Particulars

(i) Approval by Michael Wright of AED 88.6 million draw down on or around 8 October 2018: email from Michael Wright to Roman Garrido Sanchez, Ignacio Segura, Stefan Camphausen and George Sassine [**CIM.100.019.7656**].

(ii) Draw down request for USD 24 million (equivalent to AED 88.2 million) dated 9 October 2018 executed by Scott McAlpine [**CIM.104.026.4075**] and data file [**CIM.104.026.4075**].

(iii) Drawdowns from Greensill Facility transferred to BICC on or around 17 October

2018 totalling AED 88.2 million or AED 84.4 million net of discount [**CIM.102.023.5935**].

CIMIC's exposure to BICC

95AZP. As at 30 September 2018, CIMIC's total exposure to potential losses in respect of BICC was, at least, approximately AUD 1,638.71 million comprising:

(a) approximately AUD 625 million under the Shareholder Loans;

(b) approximately AUD 983.71 million under the CIMIC Guarantees (being the UNB Guarantee, the HSBC Syndicated Guarantee, Greensill Facility A Guarantee and Greensill Facility B Guarantee);

(c) AUD 75 million under the Call Option.

Particulars

(i) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – October 2018

95A. As at 23 October 2018:

(a) for the year to date in FY18, BICC had negative cash flows from operations, and its cash position was under immense pressure;

(b) BICC's work in hand and in the pipeline had declined to AED 2,077 as existing projects completed and were not replaced by new work;

(c) there was an escalation of the risk associated with the long term viability of BICC as a result of the deterioration of work in hand and in the pipeline;

(d) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans; and

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

Particulars

(i) As to subparagraph (a), the applicant refers to:

A. HLG Board Report for April 2018;

B. 2018 Business Plan for HLG;

C. BICC Monthly Report for June 2018, July 2018 and August 2018; and

D. the Cash Requests made by BICC to CIMIC in August, September and October 2018.

(ii) As to subparagraph (b) and (c), the applicant refers to:

A. the CEO’s verbal updates provided to the Board, recorded in the minutes of meetings held on 18 July 2018 (CIM.004.001.4717, p. 6) and 23 October 2018 (CIM.004.001.4724, p 3); and

B. the BICC Monthly Report for August 2018 [CIM.122.019.4382].

(iii) As to subparagraph (d):

A. each of the matters in paragraph 95A(a) to (c) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in paragraph 95A(a) to (c) are the types of factors which would reasonably be considered when assessing expected credit loss for the purpose of AASB 9;

D. the 3Q18 Group Risk Management Report distributed to the Board and ARMC prior to their 23 October 2018 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO [**CIM.004.001.3436**, p 99**]** and [**CIM.004.001.7625,** p 38**]** identifying a risk of potential impairment of remaining CIMIC loans to BICC;

E. further particulars will be provided following expert evidence.

(iv) As to subparagraph (e):

A. each of the matters in paragraph 95A(a) to (c) were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities;

B. further, BICC's entry into two additional external debt facilities increased its debt burden;

C. by reason of the terms of the applicable CIMIC Guarantees, the reduced likelihood of BICC meetings its payment and other obligations under the Guaranteed Facilities increased the risk that CIMIC would be required to meet its obligations under the CIMIC Guarantees; and

D. further particulars will be provided following expert evidence.

October 2018 Middle East Information

95B. At all material times from 23 October 2018 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) for the year to date in FY18, BICC had negative cash flows from operations, and its cash position was under immense pressure;

(b) BICC's work in hand and in the pipeline had declined to AED 2,077 as existing projects completed and were not replaced by new work;

(c) there was an escalation of the risk associated with the long term viability of BICC as a result of the deterioration of work in hand and in the pipeline;

(d) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(**October 2018 Middle East Information**)

Particulars

Each of the items comprising the October 2018 Middle East Information was information which by 23 October 2018 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) the information was contained in:

A. HLG Board Report for April 2018;

B. 2018 Business Plan for HLG;

C. BICC Monthly Report for June 2018, July 2018 and August 2018; and

D. the Cash Requests made by BICC to CIMIC in August, September and October 2018.

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (b) and (c), the applicant refers to:

(i) the information was contained in:

A. the CEO's verbal updates provided to the Board, recorded in the minutes of meetings held on 18 July 2018 (CIM.004.001.4717, p. 6) and 23 October 2018 (CIM.004.001.4724, p 3); and

B. the BICC Monthly Report for August 2018 [CIM.122.019.4382].

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (d), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans, based on the CIMIC Officers' knowledge of the following matters:

(i) each of the matters in paragraphs 95A(a) to (c), as particularised above;

(ii) the fact the 3Q18 Group Risk Management Report stated that the there was a risk of potential impairment of the remaining CIMIC shareholder loan receivables associated with BICC, and had additional executive focus in 2018 (report distributed to the ARMC prior to their 23 October 2018 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.3436, p 99));

(iii) CIMIC's analysis in May 2018 of BICC for the purpose of an "investment pitch", which included the potential write down of the Shareholder Loans of $312 to $380 million (CIM.102.030.8421, CIM.102.030.8419, CIM.102.030.8434); and

(iv) further particulars may be provided following evidence.

As to subparagraph (e), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees, based on the CIMIC Officers' knowledge of the matters in paragraphs 95A(a) to (c), as particularised above. Further particulars may be provided following evidence.

Further, CIMIC's awareness of the October 2018 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections; and

D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections;

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework; and

(v) Further particulars may be provided following evidence.

95C. The October 2018 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

95D. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 95C, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the October 2018 Middle East Information from 23 October 2018.

95E. Notwithstanding the matters alleged in paragraphs 95C and 95D, CIMIC did not notify the ASX of the October 2018 Middle East Information at any time from 23 October 2018 until the end of the Relevant Period.

95F. By reason of the matters alleged in paragraphs 95B to 95E, CIMIC contravened s 674(2) of the Corporations Act (**October 2018 Middle East Disclosure Contraventions**).

I.5 FEBRUARY 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

BICC's performance – as of September 2018

95FA. On or about 25 October 2018, CIMIC received a copy of the BICC monthly report for September 2018, which reported BICC's financial position as at 30 September 2018 as follows:

(a) year to date work in hand of AED 2,036 million;

(b) year to date margin in hand of AED 59 million;

(c) year to date revenue of AED 3,380 million;

(d) year to date profit of AED 13 million;

(e) total assets of AED 11,960 million and total liabilities of AED 11,922 million;

(f) total equity and shareholders funds of AED 38 million;

(g) total debt of AED 5,451 million;

(h) year to date negative cash flow from operations of AED (503 million).

Particulars

BICC Monthly Report for September 2018 [**CIM.122.019.1970**], sent to Christopher Granda, Colin Young and Tamara Kidd on 25 October 2018 [**CIM.122.019.1969**]

95FB. On or about 25 October 2018, CIMIC received a copy of the BICC Board Report for the year to date as of 30 September 2018, which relevantly stated:

(a) revenue in 2018 dropped mainly due to slow progress and no new work (p 4);

(b) lower work in hand in 2018 was mainly due to lack of new wins and completion of current jobs (p 5);

(c) BICC secured a new facility line from Greensill which had improved project progress on some of the key ongoing projects. But BICC continued to face cash challenges not only due to non-settlement of legacy project dues but also due to outstanding claims/variations on projects near completion (p 4);

(d) due to the majority of BICC projects being loss making and some terminated pending settlements, BICC's cash position continued to be severely stressed and affect project delivery and performance, with a high risk of bond calls by the client via a via increase cost to complete and application of liquidated damages (p 5);

(e) BICC turned to shareholder support for funding at the start of the year and this was routed through Greensill who advanced USD 171 million (AED 628 million) to date (p 5);

(f) BICC continued to rely on funding from shareholders in order to complete the existing projects (p 5);

(g) existing banks remained unwilling to consider increasing credit limits due to their concerns on the BICC's balance sheet health and lack of progress on the recovery of receivables, unless CIMIC offered parent company guarantees (p 5).

Particulars

The BICC Board Report dated November 2018 [**CIM.100.018.0877**] was sent by Moustafa Fahour to Michael Wright and Stefan Camphausen by email on 25 October 2018 [**CIM.100.018.0874**].

Additional Debt Facilities – HSBC Multi-Option Facility

95FC. On or about 30 October 2018, BICC (as borrower) entered into a multi-option facility agreement with HSBC (as the original financier) pursuant to which, on the terms of the agreement, HSBC granted:

(a) Tranche A Facility: a revolving credit facility under which HSBC would issue for the account of each Tranche A Borrower (defined as BICC and any Additional Borrower), Guarantee Instruments during the Availability Period (being the period from the date of the agreement until one month before the Termination Date); and

(b) Tranche B Facility: a revolving cash advance facility under which HSBC would make advances to the Tranche B Borrowers (defined as BICC and any Additional Borrowers) during the Availability Period,

in total up to an amount not exceeding the Facility Limit, which was USD100,000,000 (**HSBC Multi-Option Facility Agreement** and a **Guaranteed Facility**).

Particulars

Multi-Option Facility Agreement between BICC and HSBC dated 30 October 2018 [**CIM.118.008.8023**]

95FD. There were terms of the HSBC Multi-Option Facility Agreement, among others, that:

(a) Purpose (cl 2.3):

(i) the Tranche A Facility may only be used to support the contractual obligations of a member of the Borrower Group incurred by a member of the Borrower Group in the course of its ordinary business;

(ii) the Tranche B Facility may only be used for the general corporate purposes and working capital requirements of the Borrower Group including, but not limited to, the refinancing of existing Financial Indebtedness;

(iii) the Facility may not be used to repay any Shareholder Loans (as defined) or to fund any capital reductions, share buy backs or dividend payments by any member of the Borrower Group.

(b) each Facility terminates on the Termination Date, being the earlier of date four years from the date of the document (30 October 2022) and any date on which the Facility is terminated or cancelled in full in accordance with the agreement, subject to HSCB agreeing to extend the termination on the terms of the agreement (cl 2.4, cl 1.1);

(c) Interest on each Advance accrued daily at the Prescribed Rate, being the rate per annum which was the sum of the Base Rate applicable to that Interest Period (being the greater of zero and, for amounts denominated in QAR and USD, the LIBOR; for amounts denominated in AED, the EIBOR) and the Margin (1.70% p.a.) applicable to that Advance on that day (cl 7.2);

(d) Repayment (cl 6):

(i) each Tranche A Borrower must repay to HSBC the Outstanding Liability Amount of each Guarantee Instrument issued at its request on the Termination Date;

(ii) each Tranche B Borrower must repay to HSBC each Advance made to it in full on the last day of the Interest Period (as defined) relating to that Advance;

(e) each of the following was an Event of Default, among others (cl 17):

(i) Non-payment (cl 17.2): an Obliger (defined to include BICC as borrower and CIMIC as guarantor) does not pay on the due date any amount payable pursuant to a Transaction Document (defined to include the HSBC Multi-Option Facility Agreement and the CIMIC Group Guarantee) at the place and in the currency in which it is expressed to be payable, unless its failure to pay is caused by administrative or technical error or a Disruption Event (as defined therein) payment is made within three Business Days.

(ii) Cross-default (cl 17.7):

A. any Financial Indebtedness (defined to include any indebtedness for or in respect of any moneys borrowed by way of a financing arrangement) of any Relevant Entity (defined as the Borrower and any member of the Borrower Group) is not paid when due nor within any originally applicable grace period;

B. any Financial Indebtedness of any Relevant Entity is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default, however described;

C. any commitment for any Financial Indebtedness of any Relevant Entity is cancelled or suspended by a creditor of any Relevant Entity as a result of an event of default, however described;

D. any creditor of any Relevant Entity becomes entitled to declare any Financial

Indebtedness of any Relevant Entity due and payable prior to its specified maturity as a result of an event of default, however described;

(iii) Insolvency (cl 17.8):

A. a Relevant Entity is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally with a view to rescheduling any of its indebtedness;

B. the value of the assets of any Relevant Entity is less than its liabilities (taking into account contingent and prospective liabilities but excluding specified shareholder loans) or any Relevant Entity is or is deemed or presumed to be insolvent under the relevant laws of its jurisdiction of incorporation.

C. a moratorium is declared in respect of any indebtedness of any Relevant Entity.

(f) If an Event of Default has occurred and is subsisting, HSBC may by written notice to the Borrowers declare (cl 17.14):

(i) all moneys owing under any Transaction Document (whether actually or contingently) to be due and payable either immediately or as specified in the notice;

(ii) that all or part of the Facility (including the Facility Limit) is cancelled;

(iii) where HSBC makes a declaration under clause 17.14, the Borrowers must pay all moneys set out in the notice as and when required by the notice.

95FE. On or about 30 October 2018, CIMIC and subsidiaries of CIMIC (each defined as Original Guarantors) executed a Deed of Guarantee in favour of HSBC in relation to the HSBC Multi-Option Facility (**HSBC MOFA Guarantee** and a **CIMIC Guarantee**).

Particulars

Deed of Guarantee – HSBC Multi-option Facility between CIMIC, the CIMIC subsidiaries listed in Schedule 1 to the Deed (**Original Guarantors**), and HSBC, dated 30 October 2018 [**CIM.118.008.8128**].

The HSBC MOFA Guarantee was signed on behalf of CIMIC by Scott McAlpine and L Nikololouos, and signed on behalf of the subsidiaries of CIMIC by Scott McAlpine and Michael Azzi.

95FF. There were terms of the HSBC MOFA Guarantee, among others, that:

(a) each Guarantor irrevocably and unconditionally guaranteed to HSBC the punctual performance by BICC of all of BICC's obligations to HSBC under the Finance Documents (defined to include the HSBC Multi-Option Facility Agreement) (cl 3.1(a)(i));

(b) each Guarantor undertook to HSBC that whenever BICC did not pay any amount when due under or in connection with any Finance Document, it shall within 5 business days of demand by HSBC pay that amount, or deliver to HSBC such property or asset which BICC liable to pay or deliver in connection with the Finance Documents and which BICC has failed to pay or deliver, as if it were principal obliger (cl 3.1(a)(ii)).

Cash Requests

95FG. In November 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for November 2018; and

(b) made a request to CIMIC for approval to drawdown under the Greensill Facilities AED 160 million, which drawdowns were stated to be for the purposes of, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

(i) Copy of BICC liquidity report for November 2018 and request for AED 152.8 million in funds sent on or around 2 November 2018: email from Roman Garrido Sanchez to Michael Wright [**CIM.104.022.3731**].

(ii) Draw down request for USD 43.5 million (equivalent to AED 160 million) dated 5 November 2018: email from Harihan Srinivasan (BICC) to Scott McAlpine, George Sassine, Colin Young, Stefan Camphausen and others dated 5 November 2018 [**CIM.104.025.6992**].

95FH. In November 2018:

(a) CIMIC approved the November 2018 request from BICC;

(b) pursuant to which BICC drew down under the Greensill Facilities AED 159.9 million (AUD 64.4 million).

Particulars

(i) Approval by Michael Wright of AED 152.8 million Greensill drawdown on or around 5 November 2018: email from Michael Wright to Roman Garrido Sanchez, Stefan Camphausen, Ignacio Segura and George Sassine [**CIM.104.022.3731**].

(ii) Approval by George Sassine of an additional USD 1.8 million (equivalent AED 6.6 million) of Greensill drawdown on or around 5 November 2018: email from George Sassine [**CIM.104.022.3731**].

(iii) Draw down request for USD 43.5 million (equivalent to AED 160 million) dated 5 November 2018 executed by Michael Azzi [**CIM.104.025.6977**] and data file [**CIM.104.025.6988**].

(iv) Drawdowns from Greensill Facility transferred to BICC on or around 9 November 2018 totalling AED 159.9 million or AED 152.9 million net of discount [**CIM.102.023.5935**].

95FI. In December 2018, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for December 2018; and

(b) made a request to CIMIC for approval to drawdown under the Greensill Facilities AED 85.3 million, which drawdowns were stated to be for the purposes of, among other things, cash for operations including cash for bank payments, post-dated cheques, salary payments and critical project payments.

Particulars

(i) Copy of BICC liquidity report and request for December 2018 sent on or around 11 December 2018: email from David Wood to Roman Garrido Sanchez, George Sassine and Christopher Granda on 11 December 2018 [CIM.104.024.6129].

(ii) Draw down request for USD3.2 million (equivalent to AED 11.8 million) dated 22 November 2018 executed by Scott McAlpine [**CIM.118.004.3425**] and data file [**CIM.118.004.3424**].

(iii) Draw down request for USD20 million (equivalent to AED 73.5 million) dated 12 December 2018 executed by Scott McAlpine [**CIM.118.004.1927**] and data file [**CIM.118.004.1929**].

95FJ. In December 2018:

(a) CIMIC approved the December 2018 requests from BICC;

(b) pursuant to which BICC made drawdowns under the Greensill Facilities (net of repayments) of AED 74.2 million (equivalent to AUD 28.5 million).

Particulars

(i) Approval by Michael Wright of AED 69.7 million cash transfer on or around 12 December 2018: email from Michael Wright to Roman Garrido Sanchez, Stefan Camphausen, Ignacio Segura, George Sassine and Scott McAlpine

[**CIM.100.015.6762**].

(ii) Draw down request for USD3.2 million (equivalent to AED 11.8 million) dated 22 November 2018 executed by Scott McAlpine [**CIM.118.004.3425**] and data file [**CIM.118.004.3424**].

(iii) Draw down request for USD20 million (equivalent to AED 73.5 million) dated 12 December 2018 executed by Scott McAlpine [**CIM.118.004.1927**] and data file [**CIM.118.004.1929**].

(iv) Drawdowns from Greensill Facility on or around 9 December and 18 December 2018 totalling AED 85.3 million or AED 81.4 million net of discount and AED 11 million repayment to Greensill of first maturity of US$3 million [**CIM.102.023.5935**].

95FK. In January 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for January 2019; and

(b) made requests to CIMIC for approval to drawdown amounts totalling AED 115.1 million, which drawdowns were stated to be for, among other things, cash for operations including critical project payments, project settlement payments, paying salaries and post-dated cheques.

Particulars

(i) Copy of January forecast cash deficit and request for AED 107 million made on or about 9 January 2019: email from email from Moustafa Fahour (BICC) to Roman Garrido Sanchez, George Sassine, David Wood (BICC) and Colin Young [**CIM.120.005.2084**]

(ii) Draw down request for USD 2.2 million (equivalent to AED 8.1 million) dated 7 January 2019 executed by Michael Azzi [**CIM.104.019.5286**] and email from Michael Azzi dated 8 January 2019 [**CIM.104.019.5284**].

95FL. In January 2019:

(a) CIMIC approved the January 2019 requests from BICC in part;

(b) pursuant to which BICC made drawdowns under the Greensill Facilities (net of repayments) of AED 112.8 million (equivalent to AUD 43.2 million).

Particulars

(i) Drawdowns from Greensill Facilities on or around 9 January and 21 January January 2019 totalling AED 120.2 million and AED 7.4 million repayment of maturity to Greensill [**CIM.104.018.0661**]

(ii) Draw down request for USD 2.2 million (equivalent to AED 8.1 million) dated 7 January 2019 executed by Michael Azzi [**CIM.104.019.5286**] and data file [**CIM.118.004.1929**].

Legacy Project Receivables

95FM. On or about 25 October 2018, CIMIC received a copy of HLG's Project Data Report for September 2018, which stated, as was the fact, that HLG had a total of AED 3,416.9 million (equivalent to AUD 1,291.3 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,940.3 million were uncertified; and

(b) approximately AED 476.6 million were certified.

Particulars

(i) HLG Project Data Report as at September 2018 [**CIM.122.019.1983**], provided by Ram Kumar Paranjothi (BICC) to Colin Young and Christopher Granda then to Tamara Kidd at CIMIC on 25 October 2018 [**CIM.122.019.1969**].

95FN. On or about 28 November 2018, CIMIC received a copy of HLG's Project Data Report for October 2018, which stated, as was the fact, that HLG had a total of AED 3,429.9 million (equivalent to AUD 1,296.3 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,934.6 million were uncertified; and

(b) approximately AED 495.3 million were certified.

Particulars

(i) HLG Project Data Report as at October 2018 [**CIM.122.018.7568**], provided by Ram Kumar Paranjothi (BICC) to Colin Young and Christopher Granda then to Tamara Kidd at CIMIC on 28 November 2018 [**CIM.122.018.7567**].

95FO. On or about 23 January 2019, CIMIC received a copy of HLG's Project Data Report for November 2018, which stated, as was the fact, that HLG had a total of AED 2,913.4 million (equivalent to AUD 1,101.1 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,142.9 million were uncertified; and

(b) approximately AED 770.5 million were certified.

Particulars

(i) HLG Project Data Report as at November 2018 [**CIM.102.020.1797**], provided by Ram Kumar Paranjothi (BICC) to Carlos Mendes at CIMIC on 23 January 2019 [**CIM.102.020.1788**].

(ii) HLG Project Data Report as at November 2018 [**CIM.102.020.1788**] also provided by Carlos Mendes to Colin Young at CIMIC on 30 January 2019 [**CIM.102.020.1788]**.

95FP. On or about 1 February 2019, CIMIC received a copy of HLG's Project Data Report for December 2018, which stated, as was the fact, that HLG had a total of AED 2,622.4 million (equivalent to AUD 1,005 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,144.2 million were uncertified; and

(b) approximately AED 478.2 million were certified.

Particulars

(i) HLG Project Data Report as at December 2018 [**CIM.102.014.2242**], provided by Qaisir Mahmood (BICC) to Christopher Granda at CIMIC on 22 September 2019 [**CIM.102.014.2238**].

(ii) HLG Project Data Report as at December 2018 [**CIM.102.020.1787**] also provided by Qaisir Mahmood (BICC) to Christopher Granda and Colin Young at CIMIC on 1 February 2019 [**CIM.102.020.1768]**.

BICC's performance – as of late 2018

95FQ. On or about 28 November 2018, CIMIC received a copy of the BICC monthly report for October 2018, which reported BICC's financial position as at 31 October 2018.

Particulars

BICC Monthly Report for October 2018 [**CIM.122.018.7569**], sent to Christopher Granda, Colin Young and Tamara Kidd on 28 November 2018 [**CIM.122.018.7567**]

95FR. On or about 18 January 2019, CIMIC received a copy of the BICC monthly report for November 2018, which reported BICC's financial position as at 30 November 2018.

Particulars

BICC Monthly Report for November 2018 [**CIM.102.020.1833**], sent to Christopher Granda, Colin Young and Tamara Kidd on 18 January 2019 [**CIM.102.020.1830**]

95FS. On or about 1 February 2019, CIMIC received a copy of the BICC monthly report for December 2018, which reported BICC's financial position as at 31 December 2018 as follows:

(a) year to date work in hand of AED 2,807 million;

(b) year to date margin in hand of AED 54 million;

(c) year to date revenue of AED 4,010 million;

(d) year to date profit (loss) of AED (268 million);

(e) total assets of AED 10,206 million and total liabilities of AED 9,795 million;

(f) total equity and shareholders funds of AED 410 million;

(g) total debt of AED 3,615 million;

(h) year to date negative cash flow from operations of AED (910 million).

Particulars

BICC Monthly Report for December 2018 [**CIM.102.020.1773**], sent to Christopher Granda, Colin Young and Tamara Kidd on 1 February 2019 [**CIM.102.020.1768**]

BICC Valuation and Credit Rating

95FT. In January 2019, KPMG assessed BICC's indicative credit rating on a stand alone basis as at the end of FY18 and using the Moody's rating methodology for the global construction industry, as Caa3, being the third lowest available rating.

Particulars

KPMG report: "BIC Contracting LLC – Credit Rating and Peer Benchmarking Analysis Report dated January 2019" [**CIM.108.064.8167**]

95FU. In January 2019, CIMIC prepared a valuation report for BICC, in which CIMIC substantially downgraded its five year forecast revenue and profit before tax for BICC, as follows:

(a) forecast revenue for 2019 was AED 4,750 million, down from AED 6,413 million in the valuation report prepared for BICC in January 2018;

(b) forecast revenue for 2020 was AED 5,700 million, down from AED 7,363 million in the valuation report prepared for BICC in January 2018;

(c) forecast revenue for 2021 was AED 6,840 million, down from AED 8,788 million in the valuation report prepared for BICC in January 2018;

(d) forecast profit before tax for 2019 was AED 50 million, down from AED 203 million in the valuation report prepared for BICC in January 2018;

(e) forecast profit before tax for 2020 was AED 165 million, down from AED 271 million in the valuation report prepared for BICC in January 2018;

(f) forecast profit before tax for 2021 was AED 288 million, down from AED370 million in the valuation report prepared for BICC in January 2018.

Particulars

(i) BICC Valuation Report of January 2019, provided to the ARMC in advance of the ARMC meeting on 5 February 2019 (CIM.004.001.4251, p 102).

(ii) BICC Valuation Report of January 2018, provided to ARMC in advance of the ARMC meeting on 7 February 2018 (CIM.004.001.3549, p.105)

CIMIC's exposure to BICC

95FV. As at 31 January 2019, CIMIC's total exposure to potential losses in respect of BICC was approximately AUD 1,883 million comprising:

(a) approximately AUD 643 million under the Shareholder Loans;

(b) approximately AUD 1,164 million under the CIMIC Guarantees (being the UNB Guarantee, the HSBC Syndicated Guarantee, Greensill Facility A Guarantee, Greensill Facility B Guarantee and HSBC MOFA Guarantee);

(c) AUD 76 million under the Call Option.

Particulars

(i) BICC Exposure Update [**CIM.104.018.0661**] attached to email from Colin Young to Stefan Camphausen, George Sassine, Roman Garrido Sanchez, and Christopher Granda dated 11 March 2019 [**CIM.104.018.0660**]

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – February 2019

95G. As at 5 February 2019:

(a) for FY18, BICC had recorded a loss of AED 268 million (equivalent to AUD 102.7 million) and negative cash flow from operations of AED 910 million (equivalent to AUD 348.7 million);

(b) BICC's work in hand and in the pipeline had continued to further deteriorate as existing projects completed and were not replaced by new work;

(c) BICC's cash position continued to be severely stressed and was affecting project delivery and performance;

(d) BICC was reliant on new external debt facilities guaranteed by CIMIC, and support from CIMIC, to continue its operations and complete existing projects;

(e) BICC faced significant challenges to improving its performance in FY19, with the majority of its projects being loss making;

(f) HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY18, being the third lowest available rating;

(g) CIMIC had substantially downgraded its five year forecast revenue and profit before tax for BICC;

(h) the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(i) CIMIC had upgraded its risk assessment of BICC and the potential impairment of CIMIC's intercompany loans to BICC to "very high" with a likelihood of "possible";

(j) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans; and

(k) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

Particulars

(i) As to subparagraph (a), the Applicant refers to the BICC Monthly Report for December 2018.

(ii) As to subparagraph (b), the Applicant refers to:

A. the BICC Valuation Report of January 2019, provided to the ARMC in advance of the ARMC meeting on 5 February 2019 (CIM.004.001.4251, p 101); and

B. the update provided by management to the ARMC at the meeting on 5 February 2019 (CIM.004.001.0088, p 3).

(iii) As to subparagraph (c), the Applicant refers to the BICC Board Report dated November 2018.

(iv) As to subparagraph (d), the Applicant refers to:

A. The BICC Monthly Report for September 2018;

B. the BICC Board Report dated November 2018;

C. the HSBC Multi-Option Facility Agreement; and

D. the Cash Requests made by BICC to CIMIC in November, December and January 2019.

(v) As to subparagraph (e), the Applicant refers to:

A. BICC Board Report dated November 2018; and

B. BICC Valuation Report of January 2019.

(vi) As to subparagraph (f), the Applicant refers to KPMG report: "BIC Contracting LLC – Credit Rating and Peer Benchmarking Analysis Report dated January 2019".

(vii) As to subparagraph (g) the Applicant refers to:

A. 2018 Business Plan for HLG;

B. BICC Board Report dated November 2018;

C. BICC Monthly Report for December 2018;

D. the Cash Requests made by BICC to CIMIC in November, December and January 2019;

E. the BICC Valuation Report of January 2019, provided to the ARMC in advance of the ARMC meeting on 5 February 2019 (CIM.004.001.4251, p

101); and

F. the update provided by management to the ARMC at the meeting on 5 February 2019 (CIM.004.001.0088, p 3).

(i) As to subparagraph (h), the applicant refers to:

A. the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

B. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by BICC, and the HLG Draft Business Plan; and

C. the limited recent recoveries by BICC of Legacy Project Receivables, as reflected in the BICC Project Data Report for December 2018.

(ii) As to subparagraph (i), the applicant refers to the 4Q18 Group Risk Management Report distributed by Brad Davey (Chief Legal and Risk Officer) and approved by Michael Wright (CEO) on 4 February 2019 prior to the meetings of the Board and ARMC to be held on 5 February 2019 (CIM.100.018.8944 and CIM.100.018.8948, page 2).

(iii) As to subparagraph (j), the applicant refers to:

A. Each of the matters in subparagraphs (a) to (e) and (g) to (i) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in subparagraphs (a) to (e) and (g) to (i) are the types of factors which would reasonably be considered when assessing expected credit loss for the purpose of AASB 9; and

D. further particulars may be provided following expert evidence.

(iv) As to subparagraph (k), the applicant refers to:

A. each of the matters in subparagraphs (a) to (e) and (g) to (i) were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities;

B. further, BICC's entry into an additional external debt facility increased its debt burden;

C. by reason of the terms of the applicable CIMIC Guarantees, the reduced likelihood of BICC meeting its payment and other obligations under the

Guaranteed Facilities increased the risk that CIMIC would be required to meet its obligations under the CIMIC Guarantees; and

D. further particulars may be provided following expert evidence.

February 2019 Middle East Information

95H. At all material times from 5 February 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) for FY18, BICC had recorded a loss of AED 268 million (equivalent to AUD 102.7 million) and negative cash flow from operations of AED 910 million (equivalent to AUD 348.7 million);

(b) BICC's work in hand and in the pipeline continued to deteriorate as existing projects completed and were not replaced by new work;

(c) BICC's cash position continued to be severely stressed and was affecting project delivery and performance;

(d) BICC was reliant on new external debt facilities guaranteed by CIMIC, and support from CIMIC, to continue its operations and complete existing projects;

(e) BICC faced significant challenges to improving its performance in FY19, with the majority of its projects being loss making;

(f) HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY18, being the third lowest available rating;

(g) CIMIC had substantially downgraded its five year forecast revenue and profit before tax for BICC;

(h) the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(i) CIMIC had upgraded its risk assessment of BICC and the potential impairment of CIMIC's intercompany loans to BICC to "very high" with a likelihood of "possible";

(j) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the

Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans;

(k) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(**February 2019 Middle East Information**)

Particulars

Each of the items comprising the February 2019 Middle East Information was information which by 5 February 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in BICC Monthly Report for December 2018.

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (b), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. the BICC Valuation Report of January 2019, provided to the ARMC in advance of the ARMC meeting on 5 February 2019 **[CIM.004.001.4251**, p 101**]**; and

B. the update provided by management to the ARMC at the meeting on 5 February 2019 **[CIM.004.001.0088**, p 3**]**;

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (c), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the BICC Board Report dated November 2018; and

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (d) it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. The BICC Monthly Report for September 2018.

B. the BICC Board Report dated November 2018.

C. the HSBC Multi-Option Facility Agreement.

D. the Cash Requests made by BICC to CIMIC in November, December and January 2019

(ii) The fact these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (e), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. BICC Board Report dated November 2018; and

B. BICC Valuation Report of January 2019.

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (f), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the KPMG report: "Extract of Credit Rating and Peer Benchmarking Analysis Report" dated 25 January 2018; and

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (g), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. 2018 Business Plan for HLG;

B. BICC Board Report dated November 2018 **[CIM.100.018.0877]**;

C. BICC Monthly Report for December 2018;

D. the Cash Requests made by BICC to CIMIC in November, December and

January 2019;

E. the BICC Valuation Report of January 2019, provided to the ARMC in advance of the ARMC meeting on 5 February 2019 **[CIM.004.001.4251**, p 101**]**; and

F. the update provided by management to the ARMC at the meeting on 5 February 2019 **[CIM.004.001.0088**, p 3**]**;

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (h), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all, based on the CIMIC Officers' knowledge of the following matters:

(i) the quantum of the Legacy Project Receivables reported in the BICC Project Data reports for September, October, November and December 2018, which were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers;

(ii) the fact that the large majority of the Legacy Project Receivables were uncertified, as reported in the BICC Project Data report for September, October, November and December 2018, which were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers;

(iii) the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by BICC and provided to CIMIC, and the HLG Draft Business Plan, which were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers;

As to subparagraph (i), one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that they were sent a copy of the 4Q18 Group Risk Management Report distributed by Brad Davey (Chief Legal and Risk Officer) and approved by Michael Wright (CEO) on 4 February 2019 prior to the meetings of the Board and ARMC to be held on 5 February 2019 **[CIM.100.018.8944]** and **[CIM.100.018.8948**, page 2**]**.

As to subparagraph (j), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans, based on the CIMIC Officers' knowledge of the following matters:

(i) each of the matters in subparagraphs (a) to (i), as particularised above;

(ii) the fact the FY18 Group Risk Management Report stated that the there was a risk of potential impairment of the remaining CIMIC shareholder loan receivables associated with BICC (report distributed to the ARMC prior to their 5 February 2019 meeting, prepared by the Chief Legal and Risk Officer and signed off by the CEO **[CIM.004.001.4251**, p 359]);

(iii) further particulars may be provided following evidence.

As to subparagraph (k), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees, based on the CIMIC Officers' knowledge of each of the following matters:

(i) the matters in subparagraphs (a) to (i), as particularised above;

(ii) BICC's entry into an additional external debt facility which increased its debt burden and negatively affects its liquidity position; and

(iii) further particulars may be provided following evidence.

Further, CIMIC's awareness of the February 2019 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections; and

D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections;

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework; and

(v) further particulars may be provided following evidence.

95I. The February 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

95J. By reason of the matters pleaded in paragraphs 4(a), (c) to (g) and 95I, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the February 2019 Middle East Information from 5 February 2019.

95K. Notwithstanding the matters alleged in paragraphs 95I and 95J, CIMIC did not notify the ASX of the February 2019 Middle East Information at any time from 5 February 2019 until the end of the Relevant Period.

95L. By reason of the matters alleged in paragraphs 95H to 95K, CIMIC contravened s 674(2) of the Corporations Act (**February 2019 Middle East Disclosure Contraventions**).

I.6 APRIL 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

Additional Debt Facility

95LA. On about 9 December 2018, BICC entered into a facility agreement with UNB which, on the terms of the agreement:

(a) revised and renewed the UNB Facility Agreements; and

(b) offered a new commercial loan facility in the amount of AED 108,193,000 for a term of 9 months,

(**Revised UNB Facility Agreement** and a **Guaranteed Facility**).

Particulars

Facility Offer Letter/Agreement from UNB to BICC dated 9 December 2018 [**CIM.100.008.4386**].

95LB. On or about 28 February 2019, alternatively 5 April 2019, CIMIC provided a Letter of Guarantee to UNB pursuant to which CIMIC guaranteed BICC's obligations to UNB under the Revised UNB Facility Agreements (**Second UNB Guarantee** and a **CIMIC Guarantee**).

Particulars

Letter of Guarantee dated 28 February 2019 provided by CIMIC to UNB [**CIM.102.021.2494**], signed on behalf of CIMIC by Stefan Camphausen and Shelly Maxwell-Smith.

Letter of Guarantee dated 5 April 2019 provided by CIMIC to UNB [**CIM.100.008.4393**], signed on behalf of CIMIC by Stefan Camphausen and Michael Charlton.

95LC. Pursuant to the Second UNB Guarantee:

(a) CIMIC guaranteed to UNB punctual performance of the Guaranteed Obligations, being all present and future obligations and liabilities, whether actual or contingent, of BICC (excluding specified obligations) to UNB under or arising out of a claim under or breach of the Facility Agreements (defined to include the Revised UNB Facility Agreement) (cl 1);

(b) if and when BICC defaults in the payment of any sum due and payable by it to UNB pursuant to the provisions of any of the Facility Agreements, CIMIC shall forthwith with 5 business days of UNB's first demand make good the default and pay to UNB all sums that are due and payable but unpaid by BICC that form part of the Guaranteed Obligations (cl 2);

(c) the maximum recoverable amount from CIMIC was AED835,000,000 (definitions);

(d) the Second UNB Guarantee superseded and replaced any previous guarantees that CIMIC may have provided to UNB in connection with the UNB Facility Agreements (preamble).

Cash Requests

95LD. In February 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for February 2019; and

(b) made requests to CIMIC for approval to draw down amounts totalling of AED 267.4 million, later revised to AED 189 million, which drawdowns were stated to be for the purposes of, among other things, banking repayments, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of February forecast cash deficit and request for AED210.9 million made on or about 6 February 2019: email from email from David Wood (BICC) to Roman Garrido Sanchez, George Sassine, Colin Young and Christopher Granda [**CIM.102.023.8952**]

(ii) Copy of additional request for AED 56.5 million made on or about 22 February 2019: email from David Wood (BICC) to George Sassine, Roman Garrido Sanchez, Gavan Williams (BICC), Christopher Granda and Colin Young [**CIM.104.018.3463**].

95LE. In February 2019:

(a) CIMIC approved the February 2019 requests from BICC in part;

(b) pursuant to which BICC drew down a total of AED 195.5 million, equivalent to AUD 74.9 million) comprised of:

(i) AED 136.7 million (equivalent to AUD 52.4 million) under the Greensill Facilities; and

(ii) AED 58.8 million (equivalent to AUD 22.5 million) under the HSBC Multi-Option Facility Agreement.

Particulars

(i) Approval by Michael Wright on or about 8 February 2019: Email dated 8 February 2019 from Michael Wright to Roman Garrido Sanchez, Stefan Camphausen and Ignacio Segura [**CIM.104.021.0359**].

(ii) Approval by Michael Wright on or about 27 February 2019: Email dated 27 February 2019 from Michael Wright to Roman Garrido Sanchez, Stefan

Camphausen, Ignacio Segura and George Sassine [**CIM.104.018.3463**].

(iii) Drawdowns from Greensill Facilities on or around 5 February and 7 February 2019 totalling AED 146.3 million and AED 9.6 million repayment of maturity to Greensill [**CIM.104.018.0661**]

(iv) Drawdown from HSBC MOFA Facility on or around 27 February 2019 totalling AED 58.8 million [**CIM.104.018.0661**].

95LF. In March 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for March 2019; and

(b) made requests to CIMIC for approval to draw down amounts totalling AED 199 million, later revised to AED 204 million, which were stated to be for the purposes of, among other things, banking repayments, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments and settlements, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of March forecast cash deficit and request for AED 108 million made on or about 7 March 2019: email from email from David Wood (BICC) to George Sassine, Gavin Robert Williams (BICC), Roman Garrido Sanchez, George Sassine, Colin Young and Christopher Granda [**CIM.100.055.4840**]

(ii) Copy of additional request for AED 91 million made on or about 20 March 2019: email from David Wood (BICC) to George Sassine, Moustafa Fahour (BICC), Roman Garrido Sanchez, Gavan Williams (BICC), Christopher Granda and Colin Young [**CIM.100.058.5818**]:

95LG. In March 2019:

(a) CIMIC approved the requests from BICC in part;

(b) pursuant to which BICC drew down a total of AED 203.2 million (total equivalent to AUD 77.9 million), comprised of.

(i) AED 78.3 million (equivalent to AUD 30.0 million) under the Greensill Facilities; and

(ii) AED 125 million (equivalent to AUD 47.9 million) under the HSBC Multi-Option Facility Agreement.

Particulars

(i) Approval by Michael Wright on or about 20 March 2019: Email dated 20 March 2019 from Michael Wright to George Sassine, Stefan Camphausen, Roman Garrido Sanchez and Dianne Cassidy [**CIM.100.058.5818**].

(ii) Drawdown from Greensill Facilities on or around 21 March 2019 totalling AED 78.3 million and drawdowns on HSBC MOFA Facility on 14 March and 21 March 2019 totalling AED 124.9 [**CIM.104.016.5619**].

Greensill Facilities and HSBC Multi-Option Facility

95LH. By the end of March 2019, the Greensill Facility A, Greensill Facility B and the HSBC Multi-Option Facility had been exhausted.

Particulars

(i) Email from Scott McAlpine to David Wood, George Sassine, Michael Azzi, Colin Young, Stefan Camphausen on 21 March 2019 [**CIM.104.017.7686**]

BICC's performance

95LI. On or about 25 February 2019, CIMIC received a copy of the BICC Board Report for Year Ended December 2018, which relevantly stated:

(a) work in hand as at 31 December 2018 was AED 2.8 billion versus AED 5.2 billion at 31 December 2017. Lower work in hand was mainly due to lack of new wins and completion of current jobs (p 5);

(b) revenue for the year in 2018 was AED 4 billion versus AED 5.4 billion for FY17. Revenue dropped mainly due to closing out of jobs and lack of new work (p 5);

(c) due to the majority of BICC past projects being loss making and some terminated pending settlements, BICC's cash position continued to be severely stressed and affecting project delivery and performance with a high risk of bond calls by clients vis a vis increase cost to complete and application of LDs (p 5);

(d) BICC continued to rely on funding from shareholder in order to complete existing projects (p 6);

Particulars

(i) The BICC Board Report dated March 2019 [**CIM.100.018.0160**] was sent by Moustafa Fahour to Michael Wright and Stefan Camphausen by email on 25 February 2019 [**CIM.100.018.0159**].

95LJ. On or about 25 February 2019, CIMIC received a copy of the BICC 2019 Business Plan February

2019 which forecast FY19 revenue of AED 4,750 million and FY19 profit (loss) before tax of AED 50 million.

Particulars

(i) BICC 2019 Business Plan dated February 2019 [CIM.104.018.4243] provided to Michael Wright, Stefan Camphausen, Dianne Cassidy, Roman Garrido Sanchez, George Sassine and Christina Ilinkovski on 25 February 2019 [CIM.104.108.4114].

95LK. On or about 19 March 2019, CIMIC received a copy of the BICC monthly report for January 2019, which reported BICC's financial position as at 31 January 2019.

Particulars

(i) BICC Monthly Report for January 2019 [**CIM.102.020.1713**]

(ii) The report was sent to Christopher Granda and Colin Young on 19 March 2019 [**CIM.102.020.1712**]

95LL. On or about 1 April 2019, CIMIC received a copy of the BICC monthly report for February 2019, which reported BICC's financial position as at 28 February 2019 as follows:

(a) year to date work in hand of AED 2,544million;

(b) year to date margin in hand of AED 46 million;

(c) year to date revenue of AED 705 million;

(d) year to date profit of AED 1 million;

(e) total assets of AED 10,761 million and total liabilities of AED 10,352 million;

(f) total equity and shareholders funds of AED 409 million;

(g) total debt of AED 3,846 million;

(h) year to date negative cash flow from operations of AED (153 million).

Particulars

BICC Monthly Report for February 2019 [CIM.102.020.1453].

The report was sent to Christopher Granda and Colin Young on 1 April 2019

[**CIM.102.020.1451**].

Restructured Shareholders Loan

95LM. On or about 12 March 2019, LMENA and BICC entered into a loan agreement (**Fourth Restructured Shareholder Loan Agreement)** pursuant to which they agreed to amend the terms applicable to AED 116,371,332 (equivalent to AUD 45 million) being all interest which had accrued under the Shareholder Agreements in FY18, such that BICC was not required to pay the accrued interest and BICC could repay the loan at its discretion.

Particulars

(i) The best particulars the applicant can presently provide is email from Colin Young to Qaisir Mahmood of BICC dated 26 June 2019 [**CIM.102.023.1279**] and attached document entitled "Rate calc for BICC", row 141 [**CIM.102.023.1279**]

(ii) Further particulars may be provided following further discovery.

Legacy Project Receivables

95LN. On or about 19 March 2019, CIMIC received a copy of BICC's Project Data Report for January 2019, which stated, as was the fact, that BICC had a total of AED 3,439.2 million (equivalent to AUD 1,318.1 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,909.5 million were uncertified; and

(b) approximately AED 529.8 million were certified.

Particulars

(i) BICC Project Data Report as at January 2019 [**CIM.102.020.1727**], provided by Qaisir Mahmood (BICC) to Christopher Granda at CIMIC on 19 March 2019 [**CIM.102.020.1712**].

95LO. On or about 1 April 2019, CIMIC received a copy of BICC's Project Data Report for February 2019, which stated, as was the fact, that BICC had a total of AED 2,622.4 million (equivalent to AUD 1,005 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,147.2 million were uncertified; and

(b) approximately AED 475.1 million were certified.

Particulars

(i) BICC Project Data Report as at February 2019 [**CIM.102.020.1467**], provided by Qaisir Mahmood (BICC) to Christopher Granda and Colin Young at CIMIC on 1 April 2019 [**CIM.102.020.1451**].

CIMIC's exposure to BICC

95LP. As at 31 March 2019, CIMIC's total exposure to potential losses in respect of BICC was, at least, approximately AUD 2,029 million comprising:

(a) approximately AUD 648 million under the Shareholder Loans;

(b) approximately AUD 1,305 million under the CIMIC Guarantees;

(c) AUD 76 million under the Call Option

Particulars

BICC Exposure Update [**CIM.100.061.3362**] attached to email from George Sassine to Michael Wright, Ignacio Segura, Stefan Camphausen, Louise Griffiths, Lyn Nikolopoulos and Dianne Cassidy dated 4 April 2019 [**CIM.10.0161.3356**]

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – April 2019

95M. As at 10 April 2019:

(a) BICC's performance and growth prospects were being negatively impacted by the macroeconomic and market conditions in the Middle East;

(b) BICC's performance in FY18 had materially declined from prior years, with revenue for FY18 of AED 4 billion versus AED 5.4 billion for FY17, and work in hand as at 31 December 2018 of AED 2.8 billion versus AED 5.2 billion at 31 December 2017. Lower revenue and work in hand for FY18 was mainly due to lack of new wins and completion of current jobs;

(c) BICC was operating at a loss and had negative cash flow from operations and its cash position was under immense pressure;

(d) BICC was reliant on funding from CIMIC to complete existing projects;

(e) CIMIC had restructured a further AUD 45 million of the amounts owing by BICC under its Shareholder Loans, so that BICC was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans;

(g) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

Particulars

(i) As to subparagraph (a), the applicant refers to:

A. The continued isolation of Qatar within the Middle East was increasing the challenges for BICC's performance and growth prospects;

B. The economic conditions in Qatar and the United Arab Emirates were impacting BICC's performance and growth prospects;

C. the verbal report provided by the CEO at the 10 April 2019 Board meeting (CIM.004.001.4734, p 2); and

D. the 1Q19 Group Risk Management Report distributed to the Board and the ARMC prior to their 10 April 2019 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.8141, p 42) and (CIM.004.001.3967, p 128).

(ii) As to subparagraph (b), the applicant refers to the BICC Board Report dated March 2019 [CIM.100.018.0160].

(iii) As to subparagraphs (c) and (d), the applicant refers to:

A. BICC 2019 Business Plan;

B. BICC Board Report for March 2019;

C. BICC Monthly Report for December 2018; and

D. the two Cash Requests made by BICC to CIMIC in March 2019 [CIM.100.055.4840] and [CIM.100.058.5818].

(iv) As to subparagraph (e), the applicant refers to email from Colin Young to Qaisir Mahmood of BICC dated 26 June 2019 [CIM.102.023.1279] and attached document entitled "Rate calc for BICC", row 141 [CIM.102.023.1279].

(v) As to subparagraph (f), the applicant refers to:

A. each of the matters in paragraph 95M(a) to (e) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in paragraph 95M(a) to (e) are the types of factors which would reasonably be considered when assessing expected credit loss for the purpose of AASB 9; and

D. further particulars will be provided following expert evidence.

(vi) As to subparagraph (g), the applicant refers to:

A. each of the matters in paragraph 95M(a) to (e) were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities;

B. by reason of the terms of the applicable CIMIC Guarantees, the reduced likelihood of BICC meetings its payment and other obligations under the Guaranteed Facilities increased the risk that CIMIC would be required to meet its obligations under the CIMIC Guarantees; and

C. further particulars will be provided following expert evidence.

April 2019 Middle East Information

95N. At all material times from 10 April 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) BICC's performance and growth prospects were being negatively impacted by the macroeconomic and market conditions in the Middle East;

(b) BICC's performance in FY18 had materially declined from prior years, with revenue for FY18 of AED 4 billion versus AED 5.4 billion for FY17, and work in hand as at 31 December 2018 of AED 2.8 billion versus AED 5.2 billion at 31 December 2017. Lower revenue and work in hand for FY18 was mainly due to lack of new wins and completion of current jobs;

(c) BICC was operating at a loss and had negative cash flow from operations and its cash position was under immense pressure;

(d) BICC was reliant on support from CIMIC to complete existing projects;

(e) CIMIC had restructured a further AUD 45 million of the amounts owing by BICC under its Shareholder Loans, so that BICC was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion;

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans; and

(g) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(**April 2019 Middle East Information**)

Particulars

Each of the items comprising the April 2019 Middle East Information was information which by 10 April 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. the verbal report provided by the CEO at the 10 April 2019 Board meeting (CIM.004.001.4734, p 2); and

B. the 1Q19 Group Risk Management Report distributed to the Board and the ARMC prior to their 10 April 2019 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.8141, p 42) and (CIM.004.001.3967, p 128);

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (b), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the BICC Board Report dated March 2019; and

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraphs (c) and (d), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. BICC 2019 Business Plan;

B. BICC Board Report for March 2019;

C. BICC Monthly Report for December 2018;

D. the two Cash Requests made by BICC to CIMIC in March 2019

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (e), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in an email from Colin Young to Qaisir Mahmood of BICC dated 26 June 2019 [**CIM.102.023.1279**] and attached document entitled "Rate calc for BICC", row 141 [**CIM.102.023.1279**];

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers; and

(iii) it can be inferred that one or more CIMIC Officers actually knew the information regarding the Fourth Restructured Shareholder Loan Agreement by reason that the shareholder loan agreements were entered into on behalf of CIMIC.

As to subparagraph (f), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans since CIMIC's assessment of expected credit loss in January 2018 so that there was a material risk that CIMIC would be required to book further impairments against the Shareholder Loans, based on the CIMIC Officers' knowledge of the following matters:

(i) each of the matters in paragraphs 95M(a) to (e), as particularised above;

(ii) the fact the 1Q19 Group Risk Management Report stated that the there was a risk of potential impairment of the remaining CIMIC shareholder loan receivables associated with BICC and risk associated with Qatar's diplomatic isolation and deterioration of the Middle East economy (report distributed to the ARMC prior to their 10 April 2019 meeting, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.3967, p 128));

(iii) CIMIC's analysis in May 2018 of BICC for the purpose of an "investment pitch", which included the potential write down of the Shareholder Loans of $312 to $380 million (CIM.102.030.8421, CIM.102.030.8419, CIM.102.030.8434); and

(iv) further particulars may be provided following evidence.

As to subparagraph (g), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees, based on the CIMIC Officers' knowledge of each of the following matters:

(i) the matters in paragraphs 95M(a) to (e), as particularised above;

(ii) the fact the 1Q19 Group Risk Management Report stated that the there was a risk of potential impairment of the guaranteed liabilities associated with BICC and risk associated with Qatar's diplomatic isolation and deterioration of the Middle East economy (report distributed to the ARMC prior to their 10 April 2019 meeting, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.3967, p 128)); and

(iii) further particulars may be provided following evidence.

Further, CIMIC's awareness of the April 2019 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

    A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

    B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

    C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections; and

    D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on

CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections; and

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

95O. The April 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

95P. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 95O, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the April 2019 Middle East Information from 10 April 2019.

95Q. Notwithstanding the matters alleged in paragraphs 95O and 95P, CIMIC did not notify the ASX of the April 2019 Middle East Information at any time from 10 April 2019 until the end of the Relevant Period.

95R. By reason of the matters alleged in paragraphs 95N to 95Q, CIMIC contravened s 674(2) of the Corporations Act (**April 2019 Middle East Disclosure Contraventions**).

I.7 JULY 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

BICC Performance – March and April 2019

95S. On or about 7 May 2019, CIMIC received a copy of the BICC monthly report for March 2019, which reported BICC's financial position as at 31 March 2019.

Particulars

BICC Monthly Report for March 2019 [**CIM.102.020.1337**]

The report was sent to Christopher Granda and Colin Young on 7 May 2019 [**CIM.102.020.1336**]

95T. On or about 28 May 2019, CIMIC received a copy of the BICC monthly report for April 2019, which reported BICC's financial position as at 30 April 2019, as follows:

(a) year to date work in hand of AED 2,373 million;

(b) year to date margin in hand of AED 40 million;

(c) year to date revenue of AED 969 million;

(d) year to date profit of AED 1 million;

(e) total assets of AED 10,791 million and total liabilities of AED 10,386 million;

(f) total equity and shareholders funds of AED 405 million;

(g) total debt of AED 4,200 million;

(h) year to date negative cash flow from operations of AED (361 million).

Particulars

(i) BICC Monthly Report for April 2019 [**CIM.102.020.1290**]

(ii) The report was sent to Christopher Granda and Colin Young on 28 May 2019 [**CIM.102.020.1287**]

Legacy Project Receivables

95U. On or about 7 May 2019, CIMIC received a copy of HLG's Project Data Report for March 2019, which stated, as was the fact, that HLG had a total of AED 2,623.3 million (equivalent to AUD 1,005.4 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,148.2 million were uncertified; and

(b) approximately AED 475.1 million were certified.

Particulars

(i) HLG Project Data Report as at March 2019 [**CIM.102.020.1351**], provided by Qaisir Mahmood (BICC) to Christopher Granda and Colin Young at CIMIC on 7 May 2019 [**CIM.102.020.1336**].

Cash Requests

95V. In April 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for April 2019; and

(b) made requests to CIMIC for cash injections of AED 267 million, later revised to AED 224 million, which were stated to be for the purposes of, among other things:

(i) cash for operations, including cash for bank payments, court orders, paying critical project payments (including supplies and fuel), and paying salaries and wages; and

(ii) meeting separate loan repayments and obligations.

Particulars

(i) Copy of April forecast cash deficit and request made on or about 2 April 2019: email from David Wood (BICC) to George Sassine, Colin Youn, Christopher Granda [**CIM.100.058.4022**].

(ii) Copy of revised April forecast cash deficit and request for AED 267 million revised down to AED 224 million made on or about 4 April 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda dated 4 April 2019 [**CIM.100.055.4595**].

(iii) Copy of revised April 2nd half forecast cash deficit and request for AED 91 million revised down to AED 79 million made on or about 23 April 2019: Email from David Wood (BICC) to Colin Young, George Sassine, Christopher Granda [**CIM.100.058.3279**].

95W. In April 2019, CIMIC:

(a) approved the April 2019 requests from BICC for cash injections in part; and

(b) pursuant to those approvals, made cash transfers to BICC totalling AED 211.5 million (equivalent to approximately AUD 81.1 million).

Particulars

(i) Approval by Michael Wright of AED 37.5 million on or about 3 April 2019: email dated 3 April 2019 from Michael Wright to Moustafa Fahour (BICC), George Sassine, Stefan Camphausen, Ignacio Segura, Paul Russell (BICC), Brad Davey and David Wood (BICC) [**CIM.100.058.4756**].

(ii) Approval by Michael Wright of AED 37.6 million on or about 5 April 2019: email dated 5 April 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Dianne Cassidy [**CIM.100.058.4022**].

(iii) Approval by Michael Wright of AED 20 million on or about 15 April 2019: email dated 15 April 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Dianne Cassidy [**CIM.100.058.4022**].

(iv) Approval by Michael Wright of AED 116.4 million on or about 26 April 2019: email dated 26 April 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Dianne Cassidy [**CIM.100.058.3279**].

(v) CIMIC April cash advances totalling AED 211.5m [**CIM.104.016.5619**].

95X. In May 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for May 2019; and

(b) made requests to CIMIC for cash injections of AED 292 million, later revised to AED 255 million which were stated to be for the purposes of, among other things, mandatory banking repayments, court orders, post-dated cheques, salaries and wages, critical project payments and overheads.

Particulars

(i) Copy of May forecast cash deficit and request made on or about 2 May 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.102.023.8298**].

(ii) Copy of revised May forecast cash deficit and request made on or about 6 May 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.102.023.8298**].

(iii) Copy of revised May 2nd half forecast cash deficit and request made on or about 19 May 2019: email from David Wood (BICC) to Colin Young, George Sassine, Christopher Granda [**CIM.100.058.1057**].

95Y. In May 2019, CIMIC:

(a) approved the May 2019 requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC of totalling AED 255 million (equivalent to approximately AUD 97.7 million);

Particulars

(i) Approval by Michael Wright of AED 148 million on or about 10 May 2019; email dated 10 May 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Brad Davey and Dianne Cassidy [**CIM.100.058.2571**].

(ii) Approval by Michael Wright of AED 107 million on or about 24 May 2019: email dated 24 May 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Brad Davey and Dianne Cassidy [**CIM.100.058.1057**].

(iii) Cash transfers on or about 14 May 2019 and 28 May 2019 totalling AED 255 million [**CIM.104.010.1083** Greensill tab].

95Z. In June 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for June 2019; and

(b) made requests to CIMIC for cash injections totalling AED 293 million, later revised to AED 193 million, which were stated to be for the purposes of, among other things, banking repayments, post-dated cheques, court orders and legal fees; payment of salaries and wages, settlements, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of June Forecast cash deficit and request made on or about 10 June 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.100.054.4470**].

(ii) Copy of revised June Forecast cash deficit and request made on or about 12 June 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.100.054.4470**].

95ZA. In June 2019:

(a) CIMIC approved the requests from BICC in part;

(b) pursuant to which:

(i) CIMIC made cash transfers to BICC totalling AED 192.0 million (equivalent to AUD 75.7 million); and

(ii) BICC drew down under the SCB Facility AED 367.5 million (equivalent to AUD 144.9 million);

(iii) BICC made a repayment of AED 361.6 million (equivalent to AUD 142.6 million) to CIMIC for the April, May and June 2019 cash advances.

Particulars

(i) approval by Michael Wright of AED 30m on or about 30 May 2019: email dated 30 May 2019 from Michael Wright to Khalaf Ahmad Al Habtoor (Habtoor), Yusef Shalabi (Habtoor), Hadi El Kadi (Habtoor), Paul Russell (BICC), George Sassine [**CIM.105.015.4899**].

(ii) approval by Michael Wright of AED 162m on or about 14 June 2019; email dated 14 June 2019 from Michael Wright to George Sassine, Stefan Camphausen, Ignacio Segura, Brad Davey and Dianne Cassidy [**CIM.100.054.4470**].

(iii) BICC Exposure Update recording the CIMIC cash advances to BICC, the BICC drawdowns on Greensill Facility to fund rollover of maturities, the BICC drawdown of the SCB Bilateral Facility and the partial repayment from BICC to CIMIC of the April, May and June cash advances from the SCB Bilateral proceeds [**CIM.104.012.6002**] attached to an email from Colin Young to George Sassine and Stefan Camphausen dated 9 July 2019 [**CIM. 104.012.6001**].

95ZB. In July 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for July 2019; and

(b) made requests to CIMIC for cash injections totalling AED 296 million, later revised to AED 278.1 million, which were stated to be for the purposes of, among other things, banking repayments, post-dated cheques, court orders and legal fees; payment of salaries and wages, settlements and project works, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of July forecast cash deficit and request for AED 278.1 million made on or about 1 July 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.102.023.8101**].

(ii) Copy of revised July forecast cash deficit and request made on or about 3 July 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.102.023.8101**].

95ZC. In July 2019, CIMIC:

(a) approved the July 2019 requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC totalling AED 265.4 million (equivalent to AUD 104.7 million).

Particulars

(i) Approval by Michael Wright of AED 197.4 million on or about 8 July 2019; email dated 8 July 2019 from Michael Wright to George Sassine, and Dianne Cassidy [**CIM.100.052.6536**].

(ii) Approval by Ignacio Segura of AED 68 million on or about 22 July 2019: email dated 22 July 2019 from Ignacio Segura to Michael Wright, George Sassine, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.048.8364**].

(iii) BICC Exposure Update recording the CIMIC cash advances to BICC and BICC draw downs on Greensill Facility to fund rollover of maturities [**CIM.105.004.8299**] attached to an email from Colin Young to Ignacio Segura, Stefan Camphausen, Scott McAlpine, George Sassine, Emilio Grande and Michael Cooper dated 25 July 2019 [**CIM. 105.004.8298**].

Additional Debt Facility – SCB

95ZD. On or about 28 June 2019, BICC (as borrower) entered into a facility agreement with SCB (as the original financier) pursuant to which, on the terms of the agreement, SCB granted a cash advance facility to BICC with a Facility Limit of USD 100,000,000 (**SCB Facility Agreement** and a **Guaranteed Facility**).

Particulars

Facility Agreement between BICC and SCB dated 28 June 2019 [**CIM.100.008.4072**]

95ZE. There were terms of the SCB Facility Agreement, among others, that:

(a) the Facility may be used for the general corporate purposes and working capital requirements of the Borrower Group (being BICC and its subsidiaries), including but not limited to, the refinancing of existing Financial Indebtedness (cl 2.3);

(b) the Facility terminates on the Termination Date, being the earlier of date three years from the date of the document (28 June 2022) and any date on which the Facility is terminated or cancelled in full in accordance with the agreement, subject to SCB agreeing to extend the termination date on the terms of the agreement (cl 2.4, cl 1.1);

(c) Interest on each Advance accrued daily at the Prescribed Rate, being the rate per annum which was the sum of the Base Rate applicable to that Interest Period (being the greater of zero and the LIBOR) and the Margin (1.70% p.a.) applicable to that Advance on that day (cl 6.2);

(d) each Borrower (being BICC and any Additional Borrower) must pay to SCB the interest that accrues in relation to each Advance made to it over an Interest Period on the last day of the Interest Period (cl 6.3);

(e) each Borrower must repay to SCB each Advance made it in in full on the Termination Date (cl 5.1);

(f) each of the following was an Event of Default, among others (cl 16.1):

(i) Non-payment (cl 16.2): an Obliger (defined to include BICC as borrower and CIMIC as guarantor) does not pay on the due date any amount payable pursuant to a Transaction Document (defined to include the SCB Facility Agreement and the CIMIC Group Guarantee) at the place and in the currency in which it is expressed to be payable, unless its failure to pay is caused by administrative or technical error or a Disruption Event (as defined) payment is made within three Business Days.

(ii) Cross-default (cl 16.7):

A. any Financial Indebtedness (defined to include any indebtedness for or in respect of any moneys borrowed by way of a financing arrangement) of any Relevant Entity (defined as the Borrower and any member of the Borrower Group) is not paid when due nor within any originally applicable grace period;

B. any Financial Indebtedness of any Relevant Entity is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default, however described;

C. any commitment for any Financial Indebtedness of any Relevant Entity is cancelled or suspended by a creditor of any Relevant Entity as a result of an event of default, however described;

D. any creditor of any Relevant Entity becomes entitled to declare any Financial Indebtedness of any Relevant Entity due and payable prior to its specified maturity as a result of an event of default, however described;

(iii) Insolvency (cl 16.8):

A. a Relevant Entity is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally with a view to rescheduling any of its indebtedness;

B. the value of the assets of any Relevant Entity is less than its liabilities (taking into account contingent and prospective liabilities but excluding specified shareholder loans) or any Relevant Entity is or is deemed or presumed to be insolvent under the relevant laws of its jurisdiction of incorporation.

C. a moratorium is declared in respect of any indebtedness of any Relevant Entity.

(iv) If an Event of Default has occurred and is subsisting, SCB may by written notice to the Borrowers declare (cl 16.14):

A. all moneys owing under any Transaction Document (whether actually or contingently) to be due and payable either immediately or as specified in the notice;

B. that all or part of the Facility (including the Facility Limit) is immediately cancelled; and/or

C. where SCB makes a declaration under clause 16.14, the Borrowers must pay all moneys set out in the notice as and when required by the notice.

95ZF. On or about 28 June 2019, CIMIC and subsidiaries of CIMIC executed a Deed of Guarantee in favour of SCB in relation to the SCB Facility Agreement (**SCB Guarantee** and a **CIMIC Guarantee**), pursuant to which CIMIC guaranteed to SCB the punctual performance by BICC of BICC's obligations to SCB under the SCB Facility Agreement.

Particulars

Deed of Guarantee – Cash Facility between CIMIC and SCB dated 28 June 2019 [**BIC.006.016.2368**] (CIMIC counterpart signed by Scott McAlpine and Michael Azzi) and [**BIC.006.016.2085**] (SCB counterpart).

Authorised Officer Certificate – Original Guarantors Cash Facility provided by CIMIC and CIMIC subsidiaries to SCB on or about 28 June 2019, signed by Scott McAlpine and Michael Azzi on or about 28 June 2019 [**CIM.100.008.4223**].

BICC's performance – May and June 2019

95ZG. On or about 25 June 2019, CIMIC prepared a revised BICC Business Plan FY19 which:

(a) forecast FY19 revenue of AED 2,249 million (revised down from AED 4,750 million in the FY19 Financial Plan adopted by the BICC Board in February 2019) and FY19 profit (loss) before tax of AED (278 million) (revised down from profit of AED 50 million in the FY19 Financial Plan adopted by the Board in February 2019).

(b) considered three business plan scenarios for FY20 to FY23 under each of which:

(i) BICC was estimated to have a cash shortfall until at least FY23;

(ii) BICC still required external funding from banks or shareholders to meet its existing debt obligations.

Particulars

(i) "2019 Business Plan [DRAT] [sic] June 2019" [**BIC.003.011.2463**] and "BICC Business Plan Scenarios June 2019" [**BIC.003.011.2458**], circulated in an email from Colin Young to Stefan Camphausen, George Sassine, David Wood (BICC), Paul Russell (BICC), and Carlos Mendes on 25 June 2019 [**BIC.003.011.2457**].

95ZH. On or about 9 July 2019, CIMIC received a copy of the BICC monthly report for May 2019, which reported BICC's financial position as at 31 May 2019 as follows:

(a) year to date work in hand of AED 2,160 million;

(b) year to date margin in hand of AED 30 million;

(c) year to date revenue of AED 870 million;

(d) year to date profit (loss) of AED (27 million);

(e) total assets of AED 10,421 million and total liabilities of AED 10,045 million;

(f) total equity and shareholders funds of AED 376 million;

(g) total debt of AED 4,386 million;

(h) year to date negative cash flow from operations of AED (692 million).

Particulars

(i) BICC Monthly Report for May 2019 [**CIM.102.020.1143**]

(ii) The report was sent to Christopher Granda and Colin Young on 9 July 2019 [**CIM.102.020.1142**]

CIMIC's exposure to BICC

95ZI. As at 30 June 2019, CIMIC's total exposure to potential losses in respect of BICC was at least approximately AUD 2,345.5 million comprising:

(a) approximately AUD 674 million under the Shareholder Loans;

(b) approximately AUD 117.1 million CIMIC cash advances;

(c) approximately AUD 1,476.4 million under the CIMIC Guarantees (being the UNB Guarantee, the HSBC Syndicated Guarantee, Greensill Facility A Guarantee, Greensill Facility B Guarantee, HSBC MOFA Guarantee, the Second UNB Guarantee and the SCB Guarantee);

(d) approximately AUD 78 million under the Call Option.

Particulars

(i) BICC Exposure Update [**CIM.104.012.6002**] attached to email from Colin Young to George Sassine and Stefan Camphausen dated 9 July 2019 [**CIM.104.012.6001**].

(ii) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

True Position – July 2019

96. As at 17 July 2019:

(a) the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(b) BICC was operating at a loss, it had negative cash flow from operations and its cash position was under immense pressure;

(c) BICC was experiencing severe liquidity issues resulting in total cash injections from CIMIC of $260 million in 2Q19;

(d) BICC was reliant on support from CIMIC and additional external funding to complete existing projects;

(e) CIMIC had revised its forecasts for BICC for FY19, forecasting substantially reduced revenue and a before tax loss of approximately AED (278 million);

(f) BICC was forecast to have a cash shortfall until at least 2023, being after the dates that all of the Guaranteed Facilities were to become due and payable;

(g) by reason of BICC's performance, growth prospects, liquidity position and the Legacy

Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(h) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(i) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.346 billion in FY19; and

(j) further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19;

Particulars

(i) As to subparagraph (a), the Applicant refers to:

A. the verbal update provided to the Board by CEO at the 10 April 2019 meeting **[CIM.004.001.4734**, p.2**]**;

B. the verbal update provided to the Board by CEO at the 17 July 2019 meeting **[CIM.004.001.4739**, p.3**]**;

C. the fact a large proportion of the Legacy Project Receivables were not certified, reducing the likelihood of recovery, and increasing the likely delay and costs involved in any recoveries;

D. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by BICC, and the HLG Draft Business Plan;

E. the limited recent recoveries by BICC of Legacy Project Receivables, as reflected in the BICC Project Data Report for March 2019; and

F. the analysis conducted by PwC of the Legacy Project Receivables and ongoing Project Receivables as of July 2019, which concluded that management's assumptions were objectively overstated in relation to both types of projects [**CIM.102.002.7310**].

(ii) As to subparagraphs (b) to (f), the Applicant refers to:

A. the Key Judgements and Accounting Matters report circulated to the ARMC by the CFO in advance of the meeting held on 17 July 2019

[**CIM.004.005.0001**, p.47].

B. BICC Business Plan Scenarios dated June 2019;

C. BICC Board Report dated March 2019;

D. BICC Monthly Reports for March, April and May 2019;

E. the SCB Facility Agreement; and

F. the Cash Requests made by BICC to CIMIC in April, May, June and July 2019.

(iii) Further, as to subparagraph (c), in 2Q19, CIMIC had injected additional cash of approximately AUD 260 million into BICC as at 30 June 2019. Following entry by BICC into the SCB Facility Agreement, BICC drew down under that facility and transferred to CIMIC approximately AUD 143 million in repayment for some of the cash injections. Net of those repayments, the cash injections provided to BIC as at 30 June 2019 were approximately AUD 117 million.

(iv) Further, as to subparagraph (f), the Applicant refers to the BICC Business Plan Scenarios June 2019 [**BIC.003.011.2458**].

(v) As to subparagraph (g):

A. each of the matters in subparagraphs (a) to (f) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in subparagraphs (a) to (f) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk are factors which would reasonably be considered when assessing expected credit loss of the Shareholder Loans and CIMIC's cash advances to BICC for the purpose of AASB 9;

D. in the premises, by reason of the matters in subparagraphs (a) to (f) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired; and

E. further particulars will be provided following expert evidence.

(vi) As to subparagraph (h):

A. each of the matters in subparagraphs (a) to (f), together with BICC's performance, growth prospects, liquidity position and Legacy Projects

Receivables Risk, were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities, such that it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

B. by reason of the terms of the applicable CIMIC Guarantees, the probability that BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

C. in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations; and

D. further particulars will be provided following expert evidence.

(vii) As to paragraph (i):

A. by reason of:

(a) the Shareholder Loans and CIMIC's cash advances to BICC being fully impaired;

(b) CIMIC being required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees; and

(c) CIMIC's total exposure to potential losses in respect of BICC being 2.346 billion comprising approximately AUD 674 million under the Shareholder Loans; AUD 117 million CIMIC cash advances, AUD 78 million under the call option and AUD 1,476.4 million under the CIMIC Guarantees;

CIMIC's pre-tax financial position would be negatively impacted in FY19 in the amount of approximately AUD 2.346 billion.

(viii) As to paragraph (j), it is to be inferred that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of approximately AUD 2.346 billion, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

July 2019 Middle East Information

97. At all material times from 17 July 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

(b) BICC was operating at a loss, it had negative cash flow from operations and its cash position was under immense pressure;

(c) BICC was experiencing severe liquidity issues resulting in total cash injections from CIMIC $260 million in 2Q19;

(d) BICC was reliant on support from CIMIC and additional external funding to complete existing projects;

(e) CIMIC had revised its forecasts for BICC for FY19, forecasting substantially reduced revenue and a before tax loss of approximately AED (278 million);

(f) BICC was forecast to have a cash shortfall until at least 2023, being after the dates that all of the Guaranteed Facilities were to become due and payable;

(g) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(h) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(i) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.346 billion in FY19; and

(j) further, CIMIC's FY19 results would be negatively impacted such that:

    (i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

    (ii) CIMIC would not be able to pay a final dividend in FY19;

(**July 2019 Middle East Information**).

Particulars

Each of the items comprising the July 2019 Middle East Information was information which by 17 July 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a):

(i) it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that the Legacy Project Receivables were critically degraded such that there was an escalating risk that BICC would not recover those amounts at all, based on the CIMIC Officers' knowledge of the following matters:

A. the quantum of the Legacy Project Receivables reported in the BICC Project Data report for March 2019;

B. the fact that the large majority of the Legacy Project Receivables reported in the HLG Project Data report for March 2019 were uncertified;

C. the period of time since completion of a large number of the projects to which the Legacy Project Receivables related, as recorded in the project specific CVRs prepared by BICC and provided to CIMIC, and the HLG Draft Business Plan.

D. the matters in the draft FY17 Audit Report from Deloitte Touche Tahmatsu to the CIMIC ARMC about the status of the five HLG legacy projects and their recoveries;

E. the information about the legacy projects and difficulties with their recovery contained in the BICC Business Plan Scenarios and Business Plan Update BICC [**BIC.003.011.2478**] (both dated 25 June 2019) and the 2018 Business Plan for HLG.

As to subparagraphs (b) to (d), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the BICC Business Plan Scenarios and Business Plan Update BICC [**BIC.003.011.2478**], which were provided to CIMIC Officers on 25 June 2019;

(ii) this information was contained in the BICC Monthly Report for March, April and May 2019, which were provided to CIMIC employees with responsibilities for BICC who had obligations to report to CIMIC Officers;

(iii) CIMIC Officers were sent BICC's forecasted monthly cash deficits for April, May, June and July 2019;

(iv) CIMIC Officers were sent BICC's monthly Cash Requests April, May, June and July 2019, and approved cash injections totalling AUD 260 million;

(v) CIMIC had entered into the SCB Guarantee (signed on behalf of CIMIC by Scott McAlpine) to secure BICC's obligations under the new SCB Facility;

As to subparagraph (e), one or more CIMIC Officers actually knew, or ought reasonably to have known, that CIMIC had revised its forecasts for BICC for FY19, forecasting substantially reduced revenue and a before tax loss of approximately AED (278 million), by reason that this information was contained in the BICC Business Plan Scenarios dated

June 2019 prepared by CIMIC and provided to CIMIC Officers and employees with responsibilities for BICC who had obligations to report to CIMIC officers.

As to subparagraph (f), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that this information was contained in the BICC Business Plan Scenarios June 2019, which was provided to CIMIC Officers and employees with responsibilities for BICC who had obligations to report to CIMIC Officers.

As to subparagraph (g):

(i) it is to be inferred that, based on:

A. the CIMIC Officers' knowledge of each of the matters in paragraph 97(a) to (e) particularised above;

B. the CIMIC presentation entitled "BICC – Accounting Options" dated 7 June 2019 [**CIM.100.053.2907**] sent by Stefan Camphausen to Michael Wright and Ignacio Segura, and forwarded on by Michael Wright to Adolfo Valderas [**CIM.100.053.2894**] which identified four options, being (1) increase shareholders loans; (2) write off exposure to BICC; (3) exercise Call Option and consolidate BICC; and (4) make new cash injections structured as new equity, new shareholder loans and new banks loans; and which presentation stated that the baseline assumptions for all options was that extensive disclosure was required with anticipated regulatory / market feedback; and

C. CIMIC presentation entitled "2019 Strategic Options" dated 10 July 2019 [**CIM.102.023.0641**] sent by Colin Young to Emilio Grande on 16 July 2019 [**CIM.102.023.0640**], which identified three potential alternatives to continued operations, being (1) immediate closure and exit; (2) transfer/sale to existing partners; (3) combination transaction, and where each option was stated to trigger write-off up to [AUD]2.35 billion against CIMIC's book position, stated to include non-cash P&L impact from the Call Option and Shareholders Loans, and a cash P&L charge of AUD1.6 billion in relation to BICC guaranteed debts and bonds;

one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired.

(ii) Further particulars may be provided following evidence.

As to subparagraph (h):

(i) it is to be inferred that, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (e) and the matters in the two CIMIC presentations particularised in subparagraph (g) above, one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, that by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk:

A. it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

B. by reason of the terms of the applicable CIMIC Guarantees, the probability that BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under CIMIC Guarantees;

C. in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations,

(ii) further particulars may be provided following evidence.

As to subparagraph (i):

(i) it is to be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, based on their knowledge of the each of the matters in subparagraphs (a) to (e) and the matters in the two CIMIC presentations particularised in subparagraph (g) above, that by reason of:

A. the Shareholder Loans and CIMIC's cash advances to BICC being fully impaired;

B. CIMIC being required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees; and

C. CIMIC's total exposure to potential losses in respect of BICC being approximately AUD 2.346 billion comprising approximately AUD 674 million under the Shareholder Loans; AUD 117 million CIMIC cash advances, AUD 78 million under the call option and AUD 1,476.4 million under the CIMIC Guarantees;

CIMIC's pre-tax financial position would be negatively impacted in FY19 in the amount of approximately AUD 2.346 billion.

As to subparagraph (j):

(i) it is to be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion, based on their knowledge of the matters in subparagraphs (a) to (e), that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of approximately AUD 2.346 billion, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

(ii) Further particulars may be provided following evidence.

Further, CIMIC's awareness of the July 2019 Middle East Information is to be inferred from:

(i) The regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections.

D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections; and

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

98. The July 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

99. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 98, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the 2019 Middle East Information from 17 July 2019.

100. Notwithstanding the matters alleged in paragraphs 98 and 99, CIMIC did not notify the ASX of the July 2019 Middle East Information at any time from 17 July 2019 until the end of the Relevant Period.

101. By reason of the matters alleged in paragraphs 97 to 100, CIMIC contravened s 674(2) of the Corporations Act (**July 2019 Middle East Disclosure Contraventions**).

I.8 SEPTEMBER 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

BICC Performance

101A. On or about 30 August 2019, CIMIC received a copy of the BICC monthly report for June 2019, which reported BICC's financial position as at 30 June 2019.

Particulars

(i) BICC Monthly Report for June 2019 [**CIM.102.020.0977**]

(ii) The report was sent to Colin Young on 30 August 2019 [**CIM.102.020.0973**] and to Emilio Grande on 2 September 2019 [**CIM.102.016.5090**]

101B. On or about 18 September 2019, CIMIC received a copy of the BICC monthly report for July 2019, which reported BICC's financial position as at 31 July 2019 as follows:

(a) year to date work in hand of AED 2,339 million;

(b) year to date margin in hand of AED 14 million;

(c) year to date revenue of AED 938 million;

(d) year to date profit (loss) of AED (455 million);

(e) total assets of AED 9,283 million and total liabilities of AED 9,263 million;

(f) total equity and shareholders funds of AED 20 million;

(g) total debt of AED 4,381 million;

(h) year to date negative cash flow from operations of AED (611 million).

Particulars

BICC Monthly Report for July 2019 [**CIM.102.014.2260**]

The report was sent to Christopher Granda and Colin Young on 18 September 2019 [**CIM.102.014.2257**]

Cash Requests

101C. In August 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for August 2019; and

(b) made requests to CIMIC for cash injections of AED 295 million, later revised to AED 128 million, which were stated to be for the purposes of, among other things, banking repayments, repayment of CIMIC guaranteed facilities, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of August forecast cash deficit and request made on or about 5 August 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.102.022.8899**]

(ii) Copy of revised August forecast cash deficit and request made on or about 26 August 2019: email from David Wood (BICC) to George Sassine, Colin Young, Christopher Granda [**CIM.100.044.8504**].

101D. In August 2019, CIMIC:

(a) approved the requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC totalling AED 146 million (equivalent to AUD 57.57 million).

Particulars

(i) Approval by Michael Wright on or about 8 August 2019; email dated 8 August 2019 from Michael Wright to George Sassine, Ignacio Segura, Stefan

Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.052.4434**].

(ii) Approval by Michael Wright on or about 27 August 2019; email dated 27 August 2019 from Michael Wright to Ignacio Segura, Stefan Camphausen, Brad Davey, Dianne Cassidy and George Sassine [**CIM.100.044.8504**].

(iii) BICC Exposure Update recording the CIMIC cash advances to BICC and BICC draw downs on Greensill Facility to fund rollover of maturities [**CIM.102.016.0264**] attached to an email from Colin Young to Emilio Grande dated 13 October 2019 [**CIM.102.016.0262**].

101E. In September 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for September 2019; and

(b) made requests to CIMIC for cash injections of AED 298.4 million, later revised to AED 122.5 million which were stated to be for the purposes of, among other things, banking repayments, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads:

Particulars

(i) Copy of September forecast cash deficit and request for AED 298.4 million, made on or about 4 September 2019: email from David Wood to George Sassine, Colin Young, Christopher Granda [**CIM.105.017.7483**].

(ii) Copy of revised September forecast cash deficit and request for AED 49.7 million made on or about 19 September 2019: email from David Wood to George Sassine, Colin Young and Christopher Granda [**CIM.100.045.4810**].

101F. In September 2019, CIMIC:

(a) approved the requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC totalling AED 110.3 million (equivalent to AUD 43.5 million).

Particulars

(i) Approval of AED 72.7 million by Michael Wright on or about 10 September 2019; email dated 10 September 2019 from Michael Wright to George Sassine, Ignacio Segura, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.044.7862**].

(ii) Approval of AED 49.7 million (in two tranches of AED 37.6 million and AED 12.1 million the later to be transferred in October 2019) by Michael Wright on or about 19 September 2019; email dated 19 September 2019 from Michael Wright to

George Sassine, Ignacio Segura, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.044.6986**].

(iii) BICC Exposure Update recording the CIMIC cash advances to BICC and BICC draw downs on Greensill Facility to fund rollover of maturities [**CIM.102.016.0264**] attached to an email from Colin Young to Emilio Grande dated 13 October 2019 [**CIM.102.016.0262**].

Provision for Cash Advances

101G. By reason of the foregoing, in the period 1 July to 30 September 2019, CIMIC made cash transfers to BICC totalling AUD 206 million.

101H. On or by 30 September 2019, CIMIC booked a provision for $96 million against its Shareholder Loans to BICC (being 46.6% of the $206 million in cash transfers CIMIC had made to BICC in 3Q18).

Particulars

CIMIC's draft financial report for 3Q19 circulated to the ARMC in advance of its 23 October 2019 meeting **[CIM.004.001.4097**, p 28].

Key Judgments and Accounting Matters Report circulated to the ARMC in advance of its 23 October meeting **[CIM.004.001.4097**, p52**].**

Restructuring of Debt Facilities

101I. On or by 8 August 2019, BICC and CIMIC had jointly engaged Moelis & Company UK LLP (**Moelis**) as:

(a) financial adviser with respect to a restricting in relation to the existing debt financing and liabilities of BICC and its subsidiaries, excluding those financial liabilities guaranteed by CIMIC;

(b) financial adviser with respect to a sale transaction, being:

(i) the sale of all or a majority of the equity securities of BICC to a third party;

(ii) the merger of combination of BICC with a third party;

(iii) the sale of all or a significant portion of the assets, properties or business of BICC to a third party.

Particulars

Letter of engagement between Moelis, CIMIC and BICC dated 2 October

2019 [**CIM.102.038.3043**]

101J. On or about 30 August 2019, CIMIC made requests to each of the lenders under the Guaranteed Facilities that they agree to a standstill of the obligations under each of the facilities.

Particulars

Email dated 30 August 2019 from Scott McAlpine to HSBC representatives, copied to Emilio Grande, Colin Young, Michael Cooper and Stefan Camphausen [**CIM.102.020.5164**], attaching a draft consent deed [**CIM.102.020.5165**]

Email dated 30 August 2019 from Scott McAlpine to SCB representatives, copied to Stefan Camphausen [**CIM.114.009.5797**], attaching a draft consent deed [**CIM.114.009.5798**]

Email dated 30 August 2019 from Scott McAlpine to Societe Generale representatives, copied to Stefan Camphausen and Emilio Grande [**CIM.114.009.5853**], attaching a draft consent deed [**CIM.114.009.5854**]

Email dated 30 August 2019 from Scott McAlpine to Bank of America Merrill Lynch representatives, copied to Stefan Camphausen [**CIM.114.009.5822**], attaching a draft consent deed [**CIM.114.009.5823**]

101K. None of the lenders under the Guaranteed Facilities agreed to a standstill or other moratorium on payment under the Guaranteed Facilities.

Legacy Project Receivables

101L. On or about 29 July 2019, CIMIC received a copy of BICC's Project Data Report for April 2019, which stated, as was the fact, that BICC had a total of AED 2,790.5 million (equivalent to AUD 1,069.4 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,335.7 million were uncertified; and

(b) approximately AED 454.9 million were certified.

Particulars

(i) BICC Project Data Report as at April 2019 [**CIM.101.015.8892**], provided by George Sassine to Michael Cooper, Brad Davey and Christina Ilinkovski at CIMIC on 29 July 2019 [**CIM.101.015.8890**].

101M. On or about 21 August 2019, CIMIC received a copy of BICC's Project Data Report for May 2019, which stated, as was the fact, that BICC had a total of AED 3,185.4 million (equivalent to AUD 1,220.8 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,512.8 million were uncertified; and

(b) approximately AED 672.7 million were certified.

Particulars

(i) BICC Project Data Report as at May 2019 [**CIM.102.022.6339**], provided by Colin Young to Lee Hall at CIMIC on 21 August 2019 [**CIM.102.022.6338**].

101N. On or about 16 September 2019, CIMIC received a copy of BICC's Project Data Report for June 2019, which stated, as was the fact, that BICC had a total of AED 3,511.2 million (equivalent to AUD 1,384.7 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,895.6 million were uncertified; and

(b) approximately AED 615.6 million were certified.

Particulars

(i) BICC Project Data Report as at June 2019 [**CIM.102.016.3418**], provided by Colin Young to Christopher Granda at CIMIC on 16 September 2019 [**CIM.102.016.3416**].

101O. On or about 17 September 2019, CIMIC received a copy of BICC's Project Data Report for July 2019, which stated, as was the fact, that BICC had a total of AED 2,609.8 million (equivalent to AUD 1,029.2 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,117.7 million were uncertified; and

(b) approximately AED 492.2 million were certified.

Particulars

(i) BICC Project Data Report as at July 2019 [**CIM.102.012.6607**], provided by Qaisir Mahmood (BICC) to Colin Young and Lee Hall at CIMIC on 17 September 2019 [**CIM.102.012.6603**].

101P. By no later than 17 September 2019, CIMIC received copies of BICC's Project Data Reports for August 2019, which stated, as was the fact, that:

(a) BICC had a total of AED 2,354.7 million (equivalent to AUD 928.6 million) in outstanding Legacy Project Receivables for its UAE-based projects of which:

(i) approximately AED 1,927.7 million were uncertified; and

(ii) approximately AED 427 million were certified.

Particulars

(i) BICC Project Data Report (UAE) as at August 2019 [**CIM.102.017.4380**], provided by Qaisir Mahmood (BICC) to Christopher Granda and Colin Young at CIMIC on 17 September 2019 [**CIM.102.017.4376**].

(b) BICC had a total of AED 61.8 million (equivalent to AUD 24.4 million) in outstanding Legacy Project Receivables for its Qatar-based projects of which:

(i) approximately AED 5.4 million were uncertified; and

(ii) approximately AED 56.3 million were certified.

Particulars

(i) BICC Project Data Report (Qatar) as at August 2019 [**CIM.102.014.2288**], provided by David Wood (BICC) to Christopher Granda then Colin Young at CIMIC on 16 September 2019 [**CIM.102.014.2286**].

CIMIC's exposure to BICC

101Q. As at 30 September 2019, CIMIC's total exposure to potential losses in respect of BICC was approximately AUD 2,554 million comprising:

(a) approximately AUD 681 million under the Shareholder Loans;

(b) approximately AUD 323 million CIMIC cash advances;

(c) approximately AUD 1,471 million under the Guaranteed Facilities;

(d) approximately AUD 78 million under the Call Option.

Particulars

(i) BICC Exposure Estimate [**CIM.104.010.1083**] attached to an email from George Sassine to Emilio Grande and Colin Young dated 11 October 2019 [**CIM.104.010.1080**].

(ii) BICC Exposure Update [**CIM.102.016.0264**] attached to email from Colin Young to Emilio Grande dated 13 October 2019 [**CIM.102.016.0262**].

True Position – September 2019

102. As at 30 September 2019:

(a) for 1H19, BICC had a made loss of AED (455 million), it had negative cash flow from operations of AED (611 million) and work in hand margin of AED 14 million;

(b) BICC was continuing to experience severe liquidity issues resulting in CIMIC providing BICC with a further $206 million cash injection in 3Q19;

(c) the total value of CIMIC's Shareholder Loan receivables in relation to BICC had increased to approximately $791 million (as at 30 September 2019) from $636.2 million (as at 30 June 2019);

(d) CIMIC had booked a $96 million provision against the Shareholder Loans to BICC;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(f) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(g) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

(h) further, CIMIC's FY19 results would be negatively impacted such that:

  (i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

  (ii) CIMIC would not be able to pay a final dividend in FY19;

Particulars

(i) As to subparagraphs (a) to (d), the applicant refers to:

  A. BICC Board Report for July 2019;

  B. BICC Monthly Report for July 2019;

  C. HLG Project Data Report as at July 2019;

  D. the 'BICC Exposure Report as at 30 September 2019' [**CIM.104.010.1080**]; and

  E. the two Cash Requests made by BICC to CIMIC in August 2019;

(ii) As to subparagraph (e):

A. each of the matters in subparagraphs (a) to (d) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in subparagraphs (a) to (d) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk are factors which would reasonably be considered when assessing expected credit loss of the Shareholder Loans and CIMIC's cash advances to BICC for the purpose of AASB 9;

D. in the premises, by reason of the matters in subparagraphs (a) to (d) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired; and

E. further particulars will be provided following expert evidence.

(iii) As to subparagraph (f):

A. each of the matters in subparagraphs (a) to (d), together with BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities, such that it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

B. by reason of the terms of the applicable CIMIC Guarantees, the probability that BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

C. in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations; and

D. further particulars will be provided following expert evidence.

(iv) As to subparagraph (g):

A. by reason of:

(a) the Shareholder Loans and CIMIC's cash advances to BICC being fully impaired;

(b) CIMIC being required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees; and

(c) CIMIC's total exposure to potential pre-tax losses in respect of BICC being AUD 2.554 billion comprising approximately AUD 78 million under the call option, AUD 681 million under the Shareholder Loans; AUD 323 million under the cash advances and AUD 1,471 million under the CIMIC Guarantees,

CIMIC's pre-tax financial position would be negatively impacted in FY19 in the amount of approximately AUD 2.554 billion.

(v) As to subparagraph (h), it is to be inferred that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of approximately AUD 2.554 billion, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

September 2019 Middle East Information

103. At all material times from 30 September 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) for 1H19, BICC had a made loss of AED (455 million), it had negative cash flow from operations of AED (611 million) and work in hand margin of AED 14 million;

(b) BICC was continuing to experience severe liquidity issues resulting in CIMIC providing BICC with a further $206 million cash injection in 3Q19;

(c) the total value of CIMIC's Shareholder Loan receivables in relation to BICC had increased to approximately $791 million (as at 30 September 2019) from $636.2 million (as at 30 June 2019);

(d) CIMIC had booked a $96 million provision against the Shareholder loans to BICC;

(e) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(f) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(g) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

(h) further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19;

(**September 2019 Middle East Information**)

Particulars

Each of the items comprising the September 2019 Middle East Information was information which by 30 September 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a) to (d), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) the information was contained in:

A. BICC Board Report for July 2019;

B. BICC Monthly Report for July 2019;

C. HLG Project Data Report as at July 2019; and

D. the 'BICC Exposure Report as at 30 September 2019' [**CIM.104.010.1080**]; and

E. the two Cash Requests made by BICC to CIMIC in August 2019;

(ii) these documents were sent by or to CIMIC Officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (e):

(i) it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (d) particularised above, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired; and

(ii) further particulars will be provided following expert evidence.

As to subparagraph (f), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (d), together with BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk:

(i) it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

(ii) by reason of the terms of the applicable CIMIC Guarantees, the probability that BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

(iii) in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations; and

(iv) further particulars will be provided following expert evidence.

As to subparagraph (g), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason of the matters in subparagraphs (a) to (e) and the particulars subjoined thereto.

As to subparagraph (h), it is to be inferred that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of approximately AUD 2.554 billion, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

Further, CIMIC's awareness of the September 2019 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

   A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

   B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

   C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections; and

   D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections; and

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

104. The September 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

105. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 104, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the September 2019 Middle East Information from 30 September 2019.

106. Notwithstanding the matters alleged in paragraphs 104 and 105, CIMIC did not notify the ASX of the September 2019 Middle East Information at any time from 30 September 2019 until the end of the Relevant Period.

107. By reason of the matters alleged in paragraphs 103 to 106, CIMIC contravened s 674(2) of the Corporations Act (**September 2019 Middle East Disclosure Contraventions**).

I. OCTOBER 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

Cash Requests

107AA. In October 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for October 2019; and

(b) made requests to CIMIC for cash injections totalling AED 278 million, later revised to AED 112 million, which were stated to be for the purposes of, among other things, banking repayments, repayment of CIMIC guaranteed facilities, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of October forecast cash deficit and request for AED 278 million made on or about 2 October 2019: email from David Wood (BICC) to Ignacio Segura, George Sassine, Colin Young and Christopher Granda [**CIM.102.016.0102**].

(ii) Copy of revised request for AED 253 million made on or about 20 October 2019: email from David Wood (BICC) to Ignacio Segura, George Sassine, Colin Young and Christopher Granda [**CIM.105.017.3325**].

(iii) Copy of revised request for AED 122 million made on or about 23 October 2019: email from David Wood (BICC) to Ignacio Segura, George Sassine, Colin Young and Christopher Granda [**CIM.105.017.4572**].

107AB. In October 2019, CIMIC:

(a) approved the requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC totalling AED 81.9 million (equivalent to AUD 32.3 million).

Particulars

(i) Approval of AED 35.2 million by Michael Wright on or about 10 October 2019: email dated 10 October 2019 from Michael Wright to George Sassine, Ignacio Segura, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.044.5570**].

(ii) Approval of AED 34.3 million by Ignacio Segura on or about 24 October 2019 to cover a Reservation of Rights letter for ADCB: email from Ignacio Segura to Stefan Camphausen dated 24 October 2019 [**CIM.105.003.0015**]

(iii) Approval of AED 18.7 million by Michael Wright on or about 31 October 2019: email dated 31 October 2019 from Michael Wright to Ignacio Segura, Stefan Camphausen, George Sassine, Brad Davey and Dianne Cassidy [**CIM.100.038.1328**].

(iv) cash transfers on or about 9 October, 10 October, 24 October 2019 totalling AED 81.9 million [**CIM.102.015.2922**].

True Position – October 2019

107A. As at 23 October 2019:

(a) BICC's performance and growth prospects continued to be negatively impacted by the macroeconomic and market conditions in the Middle East;

(b) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(c) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(d) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

(e) further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19.

Particulars

(i) As to subparagraph (a):

A. the Middle East region was experiencing deteriorating macroeconomics conditions, including a liquidity squeeze, a tough construction market with low margin projects and poor growth prospects;

B. the ongoing isolation of Qatar from Saudi Arabia and the United Arab Emirates was increasing challenges to BICC's work environment and client payments and collections;

C. the increasing diplomatic tensions in the Middle East were driving uncertainty in the region; and

D. the Applicant refers to:

(a) the CFO's update to the ARMC at the 23 October 2019 meeting [**CIM.004.005.0574**, p 4];

(b) the CEO's update to the Board at the 23 October 2019 meeting [**CIM.004.001.4744**, p 2**]**;

(c) the 3Q19 Group Risk Management Report distributed to the Board and the ARMC prior to their 23 October 2019 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO **[CIM.004.001.4097**, p 119**]** and **[CIM.004.001.8336**, p 33**]**; and

(d) the minutes of the CDC meeting held on 22 January 2020 **[CIM.007.005.0250]** and the minutes of the Board meeting held on 22 January 2020 **[CIM.004.001.8632,** p 9**]**.

(ii) As to subparagraphs (b)-(d), the applicant refers to and repeats particulars (ii) – (iv) of paragraph 102, and says that no relevant matters had arisen since 30 September 2019 which materially changed the true position in respect of that information as at 23 October 2019.

(iii) As to subparagraph (e), the applicant refers to particular (v) of paragraph 102.

107B. At all material times from 23 October 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) BICC's performance and growth prospects continued to be negatively impacted by the macroeconomic and market conditions in the Middle East;

(b) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(c) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(d) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

(e) further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19;

(**October 2019 Middle East Information**)

Particulars

Each of the items comprising the October 2019 Middle East Information was information which by 23 October 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraph (a), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) the information was contained in:

A. the CFO's update to the ARMC at the 23 October 2019 meeting (CIM.004.005.0577, p 4);

B. the CEO's update to the Board at the 23 October 2019 meeting (CIM.004.001.4744, p 2);

C. the 3Q19 Group Risk Management Report distributed to the Board and the ARMC prior to their 23 October 2019 meetings, prepared by the Chief Legal and Risk Officer and signed off by the CEO (CIM.004.001.4097, p 119) and (CIM.004.001.8336, p 33); and

(ii) these documents were discussed and sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraphs (b) to (d), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason of the matters in particulars (ii) – (iv) of paragraph 103 and says that no relevant matters had arisen since 30 September 2019 which materially changed the true position in respect of that information as at 23 October 2019.

As to subparagraphs (e), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason of the matters in particular (v) of paragraph 103.

Further, CIMIC's awareness of the October 2019 Middle East Information is to be inferred from:

(i) the regular reports and updates provided by BICC to CIMIC about its performance, financial position and forecasts, including:

A. BICC monthly reports, reporting on BICC's financial position and provided to CIMIC approximately two months after the month to which the report related;

B. BICC Project Data reports, reporting on receivables for each of BICC's projects including Legacy Project Receivables, for each month, which were provided to CIMIC approximately two months after the month end to which the report related;

C. BICC Liquidity reports, reporting on BICC's monthly cash forecasts and provided to CIMIC from time to time in support of BICC's requests for draw downs under the Guaranteed Facilities and cash injections; and

D. BICC Board Reports prepared each six months, and provided to CIMIC shortly thereafter;

(ii) the monthly BICC exposure reports prepared by CIMIC which reported on CIMIC's direct and indirect balance sheet exposure to BICC's funding sources, and from time to time on work in hand evolution, funding provided to BICC, BICC's contract debtors and trade creditors, and M&A activity updates. The BICC exposure reports were updated and circulated within CIMIC approximately two months after the month to which the report related;

(iii) the fact that at all relevant times, CIMIC Officers were closely involved in BICC's operations, including by reviewing requests for funding to address forecast cash shortfalls, by way of draw downs under the Guaranteed Facilities and direct cash injections; and

(iv) the procedures and practices regarding reporting and disclosure of information set out in clauses 4 to 6 of its Market Disclosure and Communications Framework.

Further particulars may be provided following evidence.

107C. The October 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

107D. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 107C, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the October 2019 Middle East Information from 23 October 2019.

107E. Notwithstanding the matters alleged in paragraphs 107C and 107D, CIMIC did not notify the ASX of the October 2019 Middle East Information at any time from 23 October 2019 until the end of the Relevant Period.

107F. By reason of the matters alleged in paragraphs 107B to 107E, CIMIC contravened s 674(2) of the Corporations Act (**October 2019 Middle East Disclosure Contraventions**).

I.10 DECEMBER 2019 MIDDLE EAST DISCLOSURE CONTRAVENTIONS

Cash Requests

107FA. In November 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for November 2019; and

(b) made requests to CIMIC for cash injections of AED 295 million, later revised to AED 204 million, which were stated to be for the purposes of, among other things, banking repayments, repayment of CIMIC guaranteed facilities, post-dated cheques, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of November forecast cash deficit and request for AED 295 million made on or about 7 November 2019: email from David Wood (BICC) to Ignacio Segura, George Sassine, Colin Young and Christopher Granda [**CIM.102.018.4782**].

(ii) Copy of revised request for AED 204 million made on or about 21 November 2019: email from David Wood (BICC) to Ignacio Segura, George Sassine, Colin Young and Christopher Granda [**CIM.100.058.4873**].

107FB. In November 2019, CIMIC:

(a) approved the requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC of AED 76.9 million (equivalent to approximately AUD 30.89 million).

Particulars

(i) AED 18.7 million approved by Michael Wright on or about 31 October 2019, paid to BICC on 4 November 2019 [**CIM.102.015.2922**].

(ii) Approval of AED 27 million by Michael Wright on or about 5 November 2019: email dated 5 November 2019 from Michael Wright to George Sassine, Ignacio Segura, Brad Davey, Dianne Cassidy and Stefan Camphausen [**CIM.100.027.7812**]

(iii) Approval of AED 23.2 million by Michael Wright on or about 18 November 2019: email dated 18 November 2019 from Michael Wright to George Sassine, Ignacio Segura, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.100.015.8833**].

(iv) Approval of AED 8 million by Michael Wright on or about 26 November 2019: email dated 26 November 2019 from Michael Wright to George Sassine, Ignacio Segura, Brad Davey, Stefan Camphausen and Dianne Cassidy [**CIM.104.009.8721]**.

(v) cash transfers on or about 4 November, 6 November, 18 November and 26 November 2019 totalling AED 76.9 million [**CIM.102.015.2922**].

107FC. In December 2019, BICC:

(a) provided to CIMIC details of its forecasted monthly cash deficit for December 2019; and

(b) made requests to CIMIC for cash injections of AED 329.1 million, which were stated to be for the purposes of, among other things, banking repayments, repayment of CIMIC guaranteed facilities, post-dated cheques, execution order payment, court orders and legal fees, payment of salaries and wages, critical project payments, payment of plant and fuel supplies and overheads.

Particulars

(i) Copy of December forecast cash deficit and request for AED 329.1 million made on or about 8 December 2019: email from email from David Wood (BICC) to Ignacio Segura, George Sassine, Brad Davey, Stefan Camphausen, Colin Young and Christopher Granda dated 8 December 2019 [**BIC.003.004.7543**].

(ii) Copy of additional request for AED 1.6 million made on or about 30 December 2019: email from David Wood (BICC) to Ignacio Segura, Stefan Camphausen, Brad Davey, George Sassine, Colin Young, Christina Ilinkovski and Michael Cooper dated 30 December 2019 [**CIM.102.015.2951**].

107FD. In December 2019, CIMIC:

(a) approved the requests from BICC in part; and

(b) pursuant to those approvals, made cash transfers to BICC of AED 36.25 million (total equivalent to AUD 14.1 million).

Particulars

(i) Approval of AED 8.275 million by Michael Wright on or about 5 December 2019: Email from Michael Wright to George Sassine. Ignacio Segura, Stefan Camphausen, Brad Davey and Dianne Cassidy dated 5 December 2019 [**CIM.104.006.0313**].

(ii) Approval of AED 9.8 million by Ignacio Segura on or about 11 December 2019: Email dated 11 December 2019 from Ignacio Segura to George Sassine, Michael Wright, Stefan Camphausen, Brad Davey and Dianne Cassidy [**CIM.102.015.2945**].

(iii) USD and AED payment confirmations for interest payments (equivalent to AED 16,574,665) to CIMIC Guaranteed Banks sent in an email dated 19 December 2019 from Thai Dang (CIMIC) to David Wood (BICC), Colin Young, Nick Cain and Michael Azzi [CIM.102.014.1635 and attaching 'IMTTransactionGroup.pdf' **CIM.102.014.1637**].

(iv) Approval of AED 1.6 million by Ignacio Segura of additional request on or about 30 December 2019: Email dated 30 December 2019 from George Sassine to Michael Azzi, Thai Dang, Nick Cain, Stefan Camphausen and Ignacio Segura [**CIM.102.015.2951**].

(v) Cash transfers on or about 6 December, 12 December, 19 December and 30 December totalling approximately AED 36.25 million [**CIM.102.015.2922**].

Legacy Project Receivables

107FE. On or about 4 November 2019, CIMIC received a copy of BICC's Project Data Report for September 2019, which stated, as was the fact, that BICC had a total of AED 3,532.4 million (equivalent to AUD 1,393 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,916.4 million were uncertified; and

(b) approximately AED 615.9 million were certified.

Particulars

(i) BICC Project Data Report as at September 2019 [**CIM.119.001.6439**], provided by Qaisir Mahmood (BICC) to Colin Young at CIMIC on 4 November 2019, then Christopher Granda on 5 November 2019 and Carlos Mendes on 7 November 2019 [**CIM.119.001.6437**].

107FG. On or about 13 December 2019, CIMIC received a copy of BICC's Project Data Report for October 2019, which stated, as was the fact, that BICC had a total of AED 3,520.2 million (equivalent to AUD 1,388.2 million) in outstanding Legacy Project Receivables of which:

(a) approximately AED 2,871.4 million were uncertified; and

(b) approximately AED 648.8 million were certified.

Particulars

(i) BICC Project Data Report as at October 2019 [**CIM.102.016.7854**], provided by Lee Hall to Colin Young at CIMIC on 13 December 2019 [**CIM.102.016.7853**].

BICC Performance

107FH. On or about 26 November 2019, CIMIC received a copy of the BICC monthly report for June 2019, which reported BICC's financial position as at 30 September 2019.

Particulars

BICC Monthly Report for September 2019 [**CIM.102.014.1822**]

The report was sent to Colin Young and Christopher Granda on 26 November 2019 [**CIM.102.014.1820**]

107FI. On or about 12 December 2019, CIMIC received a copy of the BICC monthly report for October 2019, which reported BICC's financial position as at 31 October 2019 as follows:

(a) year to date work in hand of AED 1,675 million;

(b) year to date margin in hand of AED 11 million;

(c) year to date revenue of AED 1,016 million;

(d) year to date profit (loss) of AED (455 million);

(e) total assets of AED 9,104 million and total liabilities of AED 9,043 million;

(f) total equity and shareholders funds of AED 61 million;

(g) total debt of AED 4,641 million;

(h) year to date negative cash flow from operations of AED (868 million).

Particulars

BICC Monthly Report for October 2019 [**CIM.102.014.1793**]

The report was sent to Christopher Granda and Colin Young on 12 December 2019 [**CIM.102.014.1793**]

107FJ. In December 2019, the BICC Board Report was provided to CIMIC, which relevantly stated that:

(a) revenue for the 9 months ended September 2019 was AED 1 billion versus 2018 AED 4 billion (p 4);

(b) BICC's cash position continues to be severely stressed and affects project delivery and performance;

(c) the new facilities obtained from Greensill in 2018 and from SCB in 2019 had been fully utilised. Other funding was attempted but not ultimately realised in last 2019 (p 5);

(d) BICC continued to rely on funding from shareholders to complete existing projects (p 5);

(e) existing banks remained unwilling to consider increasing credit facility limits due to their concerns on BICC's balance sheet and lack of progress on the recovery of receivables, unless the shareholders offer parent company guarantees (p 5);

(f) ongoing challenges with payment to suppliers and subcontractors resulted in drastic slowdown on project progress, as a result of which some BICC clients on legacy projects threatened to call on the project performance bonds (p 5);

(g) of the key strategic risks, the first major risk was identified as executions and court orders, including increased judgments, execution orders, attachments on bank accounts, executions on office assets, seizure of funds in bank accounts, travel banks and criminal complaints against the management team, caused by non-payment of suppliers and sub-contractors, breach of settlement terms and non-payment of execution orders (p 47).

Particulars

(i) The BICC Board Report dated December 2019 [**CIM.100.054.8043**] was sent by Paul Russel to Michael Wright and Stefan Camphausen by email on 19 December 2019 [**CIM.100.054.8042**].

CIMIC's exposure to BICC

107FK. As at 31 December 2019, CIMIC's total exposure to potential losses in respect of BICC was at least AUD 2,591.9 million including:

(a) approximately AUD 678.1 million under the Shareholder Loans;

(b) AUD 394 million in respect of cash advances;

(c) approximately AUD 1,442.7 million under the CIMIC Guarantees; and

(d) approximately AUD 77.1 million under the Call Option.

Particulars

(i) BICC Exposure Estimate [**CIM.108.072.4614**] attached to email from Derek Kerr to Kaushali Bhatt (CIMIC) dated 13 January 2020 **[CIM.108.072.4613**].

(ii) Memorandum from CIMIC Finance dated December 2019 entitled "Overview of the Financial Impact of Middle East Exit" [**CIM.108.067.0744**].

True Position – December 2019

107G. As at 31 December 2019:

(a) BICC was operating at a loss and had negative cash flow from operations;

(b) all external debt facilities had been drawn down and no further external funding had been obtained. BICC was reliant upon funding from CIMIC to continue operations;

(c) BICC's difficulties with meeting its payment obligations was affecting its projects progress and putting at risk of seizure and freezing of its assets, and criminal complaints against its management;

(d) BICC's liquidity issues had worsened in 4Q19 resulting in CIMIC providing BICC with a further $75.8 million cash injection in 4Q19;

(e) the total value of CIMIC's intercompany loan receivables in relation to BICC had increased to approximately $866.8 million (as at 31 December 2019) from approximately $791 million (as at 30 September 2019);

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(g) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(h) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of at least approximately AUD 2,591.9 million in FY19; and

(i) further, CIMIC's FY19 results would be negatively impacted such that:

  (i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

  (ii) CIMIC would not be able to pay a final dividend in FY19;

Particulars

(i) As to subparagraphs (a), (b), (d) and (e) the applicant refers to:

  A. the draft 4Q19 financial report provided to the ARMC in advance of its 4 February 2020 meeting [**CIM.004.005.0574**, pp 35 and 36];

B. BICC Board Report for December 2019;

C. BICC Monthly Report for October 2019;

D. HLG Project Data Report as at October 2019;

E. Memorandum from CIMIC Finance dated December 2019 entitled "Overview of the Financial Impact of Middle East Exit" [**CIM.108.067.0744**]; and

F. Copy of December forecast cash deficit and request made on or about 7 December 2019: email from email from David Wood (BICC) to Ignacio Segura, George Sassine, Brad Davey, Stefan Camphausen, Colin Young and Christopher Granda [**BIC.003.004.7543**].

(ii) As to subparagraph (c), the applicant refers to the BICC Board Report dated December 2019 [**CIM.100.054.8043**].

(iii) As to subparagraph (f):

A. each of the matters in subparagraphs (a) to (e) are the types of factors identified in the KPMG HLG Credit Report which could lower the calculated Caa3 credit rating for BICC;

B. any reduction in the calculated credit rating for BICC would likely increase the expected credit loss on the Shareholder Loans;

C. further, each of the matters in subparagraphs (a) to (e) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk are factors which would reasonably be considered when assessing expected credit loss of the Shareholder Loans and CIMIC's cash advances to BICC for the purpose of AASB 9;

D. in the premises, by reason of the matters in subparagraphs (a) to (e) as well as BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired; and

E. further particulars will be provided following expert evidence.

(iv) As to subparagraph (g):

A. each of the matters in subparagraphs (a) to (e), together with BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, were matters which significantly reduced the likelihood of BICC meeting its payment and other obligations under the Guaranteed Facilities, such that it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

B. by reason of the terms of the applicable CIMIC Guarantees, the probability that BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

C. in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations; and

D. further particulars will be provided following expert evidence.

(v) As to subparagraph (h):

A. by reason of:

(a) the Shareholder Loans and CIMIC's cash advances to BICC being fully impaired;

(b) CIMIC being required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees; and

(c) CIMIC's total exposure to potential losses in respect of BICC being at least AUD 2,591.9 million pre-tax comprising approximately AUD 678.1 million under the Shareholder Loans; approximately AUD 394 million under the cash advances, approximately AUD 77.1 million under the call option and AUD 1,442.7 million under the CIMIC Guarantees,

CIMIC's pre-tax financial position would be negatively impacted in FY19 in the amount of, at least, approximately AUD 2,591.9 million.

(vi) As to subparagraph (i), it is to be inferred that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of at least approximately AUD 2,591.9 million, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

December 2019 Middle East Information

107H. At all material times from at least 31 December 2019 until the end of the Relevant Period, CIMIC was aware, for the purposes of ASX Listing Rule 19.12 that:

(a) BICC was operating at a loss and had negative cash flow from operations;

(b) all external debt facilities had been drawn down and no further external funding had been obtained. BICC was reliant upon funding from CIMIC to continue operations;

(c) BICC's difficulties with meeting its payment obligations was affecting its projects progress and putting at risk of seizure and freezing of its assets, and criminal complaints against its management;

(d) BICC's liquidity issues had worsened in 4Q19 resulting in CIMIC providing BICC with a further $75.8 million injection in 4Q19;

(e) the total value of CIMIC's intercompany loan receivables in relation to BICC had increased to approximately $866.8 million (as at 31 December 2019) from approximately $791 million (as at 30 September 2019);

(f) by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

(g) by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

(h) consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of at least approximately AUD 2,591.9 million in FY19; and

(i) further, CIMIC's FY19 results would be negatively impacted such that:

    (i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

    (ii) CIMIC would not be able to pay a final dividend in FY19;

(**December 2019 Middle East Information**)

Particulars

Each of the items comprising the December 2019 Middle East Information was information which by 31 December 2019 had, or ought reasonably to have, come into the possession of an officer of CIMIC, and was therefore information of which it was aware within the meaning of ASX Listing Rule 19.12.

As to subparagraphs (a), (b), (d) and (e) it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in:

A. the draft 4Q19 financial report provided to the ARMC in advance of its 4

February 2020 meeting [**CIM.004.005.0574**, pp 35 and 36];

B. BICC Board Report for December 2019;

C. BICC Monthly Report for October 2019;

D. BICC Project Data Report as at October 2019;

E. Memorandum from CIMIC Finance dated December 2019 entitled "Overview of the Financial Impact of Middle East Exit" [**CIM.108.067.0744**]; and

F. Copy of December forecast cash deficit and request made on or about 7 December 2019: email from email from David Wood (BICC) to Ignacio Segura, George Sassine, Brad Davey, Stefan Camphausen, Colin Young and Christopher Granda [**BIC.003.004.7543**];

(ii) these documents were sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (c), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason that:

(i) this information was contained in the BICC Board Report for December 2019; and

(ii) this document was sent by or to CIMIC officers and/or CIMIC personnel with responsibility for BICC who had obligations to report to CIMIC officers.

As to subparagraph (f):

(i) it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (e) particularised above, by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, the expected credit loss on the Shareholder Loans had increased, such that Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired; and

(ii) further particulars will be provided following expert evidence.

As to subparagraph (g), it can be inferred that one or more of the CIMIC Officers had formed the opinion, alternatively ought to have formed the opinion that, based on the CIMIC Officers' knowledge of each of the matters in subparagraphs (a) to (€), together with BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk:

(i) it was probable BICC would not meet its payment and other obligations under the Guaranteed Facilities;

(ii) by reason of the terms of the applicable CIMIC Guarantees, the probability that

BICC would not meet its payment and other obligations under the Guaranteed Facilities made it probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees;

(iii) in the premises, CIMIC's contingent liability under the CIMIC Guarantees had become probable in accordance with AASB 137, so that it would be required to raise a provision and recognise a liability in respect of those obligations; and

(iv) further particulars will be provided following expert evidence.

As to paragraph (h), it can be inferred that one or more CIMIC Officers actually knew, or ought reasonably to have known, the information by reason of the matters in subparagraphs (a) to (g) and the particulars subjoined thereto.

As to subparagraph (i), it is to be inferred that by reason of CIMIC's pre-tax financial position being negatively impacted in FY19 in the amount of at least approximately AUD 2,591.9 million, CIMIC would not meet its NPAT guidance of $790 to $840 million and CIMIC would not be able to pay a final dividend.

107I. The December 2019 Middle East Information was:

(a) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(b) not generally available; and

(c) not information to which Rule 3.1A of the ASX Listing Rules applied.

107J. By reason of the matters pleaded in paragraphs 4(a), (e) to (g) and 107I, CIMIC was obliged by Rule 3.1 of the ASX Listing Rules and s 674(2) of the Corporations Act to immediately notify the ASX of the December 2019 Middle East Information from 31 December 2019.

107K. Notwithstanding the matters alleged in paragraphs 107I and 107J, CIMIC did not notify the ASX of the December 2019 Middle East Information at any time from 31 December 2019 until the end of the Relevant Period.

107L. By reason of the matters alleged in paragraphs 107H to 107K, CIMIC contravened s 674(2) of the Corporations Act (**December 2019 Middle East Disclosure Contraventions**).

J. FURTHER MISLEADING STATEMENTS

108. By the statements at paragraphs 24, 29(c), 36(b), 77 and 83, CIMIC represented that its financial

reports provided a true and fair view of CIMIC's financial position as at the reporting date to which the relevant financial report related.

(**True and Fair View Representations**)

109. On and from 7 February 2018 until the end of the Relevant Period:

(a) CIMIC did not at any time amend, qualify or withdraw the True and Fair View Representations; and

(b) accordingly, the True and Fair View Representations were continuing representations that were maintained by CIMIC from 7 February 2018 until the end of the Relevant Period.

110. Contrary to the True and Fair View Representations, at all materials times from 7 February 2018, CIMIC's financial reports did not provide a true and fair view of CIMIC's financial position as at the reporting date to which the relevant financial report related.

Particulars

(i) Until 5 February 2019, CIMIC's financial reports did not disclose the fact that it used factoring and reverse factoring, and did not disclose the impact of factoring and reverse factoring on its earnings and other results.

(ii) Until 17 July 2019, CIMIC's financial reports did not disclose the extent of the factoring or reverse factoring used and it did not disclose the impact of factoring and reverse factoring on its earnings and other results.

(iii) From 7 February 2018, CIMIC's financial reports did not provide sufficient information about BICC to reflect the entity's position and CIMIC's likely exposure and associated risks to its financial position.

(iv) From 7 February 2018, CIMIC failed to disclose the escalating risk of a material financial impact associated with BICC's performance, growth prospects, liquidity position and Legacy Project Receivables Risk, and the associated risk to CIMIC by reason of its exposure to potential losses in respect of BICC.

111. To the extent the True and Fair View Representations related to future matters, the Applicant relies on s 12BB of the ASIC Act, s 769C of the Corporations Act and s 4 of the Australian Consumer Law and contends that CIMIC did not have reasonable grounds for making the representations.

Particulars

The Applicant refers to and repeats the particulars subjoined to paragraph 110 above.

112. By reason of the matters alleged in paragraphs 109 to 111, by making the True and Fair View Representations, CIMIC engaged in conduct:

(a) in trade or commerce, in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act;

(b) in relation to a financial product or a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the Corporations Act; and/or

(c) in trade or commerce, that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the Australian Consumer Law.

(**True and Fair View Misleading Conduct**)

113. By the statements at 32(g), 38(b), 40(g), 84(a)(i), 85 and 88, CIMIC represented that it would achieve NPAT for FY19 in the range of $790 million to $840 million.

(**Guidance Representations**)

114. On and from 5 February 2019 until the end of the Relevant Period:

(a) CIMIC did not at any time amend, qualify or withdraw the Guidance Representations;

(b) accordingly, the Guidance Representations were continuing representations that were maintained by CIMIC from 5 February 2019 until the end of the Relevant Period.

115. The Guidance Representations related to future matters and the Applicant relies on s 12BB of the ASIC Act, s 769C of the Corporations Act and s 4 of the Australian Consumer Law and contends that CIMIC did not have reasonable grounds for making the representation.

Particulars

In respect of the Guidance Representation made on 5 February 2019 (paragraph 32(f)):

(i) as of 5 February 2019, CIMIC was aware that, as was the fact:

A. for FY18, BICC had recorded a loss of AED 268 million (equivalent to AUD 102.7 million) and negative cash flow from operations of AED 910 million (equivalent to AUD 348.7 million);

B. BICC's work in hand and in the pipeline continued to deteriorate as existing projects completed and were not replaced by new work;

C. BICC's cash position continued to be severely stressed and was affecting project delivery and performance;

D. BICC was reliant on new external debt facilities guaranteed by CIMIC, and support from CIMIC, to continue its operations and complete existing projects;

E. BICC faced significant challenges to improving its performance in FY19, with the majority of its projects being loss making;

F. HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY18, being the third lowest available rating;

G. CIMIC had substantially downgraded its five year forecast revenue and profit before tax for BICC;

H. The Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

I. CIMIC had upgraded its risk assessment of BICC and the potential impairment of CIMIC's intercompany loans to BICC to "very high" with a likelihood of "possible";

J. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans;

K. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(ii) the above matters were likely to negatively impact CIMIC's NPAT for FY19 such that CIMIC did not have reasonable grounds for making the Guidance Representation on 5 February 2019;

(iii) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G and 95H;

In respect of the Guidance Representations made on 11 April and 16 April 2019 (paragraphs 38(b) and 40(f)):

(iv) as of 11 April and 16 April 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraph (i) above;

B. that BICC's performance and growth prospects were being negatively impacted by the macroeconomic and market conditions in the Middle East;

C. BICC's performance in FY18 had materially declined from prior years, with revenue for FY18 of AED 4 billion versus AED 5.4 billion for FY17, and work in hand as at 31 December 2018 of AED 2.8 billion versus AED 5.2 billion at 31 December 2017. Lower revenue and work in hand for FY18 was mainly due to lack of new wins and completion of current jobs;

D. BICC was operating at a loss and had negative cash flow from operations and its cash position was under immense pressure;

E. BICC was reliant on support from CIMIC to complete existing projects;

F. CIMIC had restructured a further AUD 45 million of the amounts owing by BICC under its Shareholder Loans, so that BICC was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion;

G. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans; and

H. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(v) the above matters were likely to negatively impact CIMIC’s NPAT for FY19 such that CIMIC did not have reasonable grounds for making Guidance Representations on 11 April and 16 April 2019;

(vi) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M and 95N.

In respect of the Guidance Representation made on 17 July 2019 (paragraphs 84(a)(ii) and 85):

(vii) as of 17 July 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraphs (i) and (iv) above;

B. that the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

C. BICC was operating at a loss, it had negative cash flow from operations and its cash position was under immense pressure;

D. that BICC was experiencing severe liquidity issues resulting in total cash injections from CIMIC of $260 million in 2Q19;

E. BICC was reliant on support from CIMIC and additional external funding to complete existing projects;

F. CIMIC had revised its forecasts for BICC for FY19, forecasting substantially reduced revenue and a before tax loss of approximately AED (278 million);

G. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

H. by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

I. consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.346 billion in FY19; and

J. further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19;

(viii) The above matters were likely to negatively impact CIMIC's NPAT for FY19 such that CIMIC did not have reasonable grounds for making the Guidance Representations on 17 July 2019;

(ix) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M, 95N, 96 and 97.

In respect of the Guidance Representation made on 23 October 2019 (paragraph 88):

(x) as of 23 October 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraph (i), (iv) and (vii) above;

B. for 1H19, BICC had a made loss of AED (455 million), it had negative cash flow from operations of AED (611 million) and work in hand margin of AED 14 million;

C. BICC was forecast to have a cash shortfall until at least 2023, being after the dates that all of the Guaranteed Facilities were to become due and payable;

D. that BICC was continuing to experience severe liquidity issues resulting in CIMIC providing BICC with a further $206 million cash injection in 3Q19;

E. that the total value of CIMIC's intercompany loan receivables in relation to BICC had increased to approximately $791 million as at 30 September 2019 from $636.2 million (as at 30 June 2019);

F. that CIMIC had booked a $96 million provision against the intercompany loans to BICC;

G. that BICC's performance and growth prospects continued to be negatively impacted by the macroeconomic and market conditions in the Middle East;

H. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

I. by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

J. consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

K. further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19.

(xi) The above matters were likely to negatively impact CIMIC's NPAT for FY19 such that CIMIC did not have reasonable grounds for making the Guidance Representations on 23 October 2019;

(xii) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M, 95N, 96, 97, 102, 103, 107A and 107B.

(xiii) further, the size of the BICC impact announced in the Middle East Corrective Disclosure on 23 January 2020, and the short period between the Guidance Representation made on 23 October 2019 and the Middle East Disclosure, supports an inference that there were no reasonable grounds for making the Guidance Representation on 23 October 2019.

Further particulars may be provided following discovery.

116. By reason of the matters alleged in paragraphs 114 and 115, by making the Guidance Representations, CIMIC engaged in conduct:

(a) in trade or commerce, in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act;

(b) in relation to a financial product or a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the Corporations Act; and/or

(c) in trade or commerce, that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the Australian Consumer Law.

(**Guidance Misleading Conduct**)

117. By the statements at paragraphs 33(b), 38(c), 39, 41(a)(ii) and 86 and 89 CIMIC represented that it would likely pay a final dividend in FY19 (**Dividends Representations**).

118. On and from 5 February 2019 until the end of the Relevant Period:

(a) CIMIC did not at any time amend, qualify or withdraw the Dividends Representations; and

(b) accordingly, the Dividends Representations were continuing representations that were maintained by CIMIC from 5 February 2019 until the end of the Relevant Period.

119. The Dividends Representations related to future matters and the Applicant relies on s 12BB of the ASIC Act, s 769C of the Corporations Act and s 4 of the Australian Consumer Law and contends that CIMIC did not have reasonable grounds for making the representation.

Particulars

CIMIC's representations that it would likely pay a final dividend in FY19 were based largely on its projected NPAT for FY19.

In respect of the Dividends Representation made on 5 February 2019 (paragraph 33(b)):

(i) as of 5 February 2019, CIMIC was aware that, as was the fact:

A. for FY18, BICC had recorded a loss of AED 268 million (equivalent to AUD 102.7 million) and negative cash flow from operations of AED 910 million (equivalent to AUD 348.7 million);

B. BICC's work in hand and in the pipeline continued to deteriorate as existing projects completed and were not replaced by new work;

C. BICC's cash position continued to be severely stressed and was affecting project delivery and performance;

D. BICC was reliant on new external debt facilities guaranteed by CIMIC, and support from CIMIC, to continue its operations and complete existing projects;

E. BICC faced significant challenges to improving its performance in FY19, with the majority of its projects being loss making;

F. HLG's indicative credit rating as a counterparty on a standalone basis had been assessed as Caa3 as at end of FY18, being the third lowest available rating;

G. CIMIC had substantially downgraded its five year forecast revenue and profit before tax for BICC;

H. The Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

I. CIMIC had upgraded its risk assessment of BICC and the potential impairment of CIMIC's intercompany loans to BICC to "very high" with a likelihood of "possible";

J. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans;

K. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

L.

(ii) the above matters were likely to negatively impact CIMIC's NPAT for FY19, and therefore its ability to pay dividends, such that CIMIC did not have reasonable grounds for making the Dividends Representation on 5 February 2019.

(iii) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G and 95H;

In respect of the Dividend Representations made on 11 April 2019 and 16 April 2019 (paragraphs 38(c), 39 and 41(a)(ii)):

(iv) as of 11 April and 16 April 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraph (i) above;

B. that BICC's performance and growth prospects were being negatively impacted by the macroeconomic and market conditions in the Middle East;

C. BICC's performance in FY18 had materially declined from prior years, with revenue for FY18 of AED 4 billion versus AED 5.4 billion for FY17, and work in hand as at 31 December 2018 of AED 2.8 billion versus AED 5.2 billion at 31 December 2017. Lower revenue and work in hand for FY18 was mainly due to lack of new wins and completion of current jobs;

D. BICC was operating at a loss and had negative cash flow from operations and its cash position was under immense pressure;

E. BICC was reliant on support from CIMIC to complete existing projects;

F. CIMIC had restructured a further AUD 45 million of the amounts owing by BICC under its Shareholder Loans, so that BICC was not obliged to pay interest on those amount for five years and could repay those amounts at its discretion;

G. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, there had been further deterioration in the credit risk of the Shareholder Loans such that CIMIC would be required to book further impairments against the Shareholder Loans; and

H. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Projects Receivables Risk, there was a material risk that CIMIC would be required to raise a provision and recognise a liability in respect of its obligations under the CIMIC Guarantees.

(v) the above matters were likely to negatively impact CIMIC’s NPAT for FY19, and therefore its ability to pay dividends, such that CIMIC did not have reasonable grounds for making the Dividends Representations on 11 April and 16 April 2019;

(vi) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M and 95N.

In respect of the Dividend Representation made on 17 July 2019 (paragraph 86):

(vii) as of 17 July 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraphs (i) and (iv) above;

B. that the Legacy Project Receivables associated with BICC were critically degraded such that there was an escalating risk that BICC would not recover those outstanding amounts at all;

C. BICC was operating at a loss, it had negative cash flow from operations and its cash position was under immense pressure;

D. that BICC was experiencing severe liquidity issues resulting in total cash injections from CIMIC of $260 million in 2Q19;

E. BICC was reliant on support from CIMIC and additional external funding to complete existing projects;

F. CIMIC had revised its forecasts for BICC for FY19, forecasting substantially reduced revenue and a before tax loss of approximately AED (278 million);

G. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

H. by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

I. consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.346 billion in FY19; and

J. further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19;

(viii) the above matters were likely to negatively impact CIMIC’s NPAT for FY19, and therefore its ability to pay dividends, such that CIMIC did not have reasonable grounds for making the Dividends Representation on 17 July 2019

(ix) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M, 95N, 96 and 97.

In respect of the Dividend Representation made on 23 October 2019 (paragraph 89):

(x) as of 23 October 2019, CIMIC was aware, as was the fact:

A. of each of the matters in subparagraph (i), (iv) and (vii) above;

B. for 1H19, BICC had a made loss of AED (455 million), it had negative cash flow from operations of AED (611 million) and work in hand margin of AED 14 million;

C. BICC was forecast to have a cash shortfall until at least 2023, being after the dates that all of the Guaranteed Facilities were to become due and payable;

D. that BICC was continuing to experience severe liquidity issues resulting in CIMIC providing BICC with a further $206 million cash injection in 3Q19;

E. that the total value of CIMIC’s intercompany loan receivables in relation to BICC had increased to approximately $791 million as at 30 September 2019 from $636.2 million (as at 30 June 2019);

F. that CIMIC had booked a $96 million provision against the intercompany loans to BICC;

G. that BICC’s performance and growth prospects continued to be negatively impacted by the macroeconomic and market conditions in the Middle East;

H. by reason of BICC's performance, growth prospects, liquidity position and the Legacy Project Receivables Risk, the Shareholder Loans to BICC and CIMIC's cash advances to BICC were fully impaired;

I. by reason of BICC's performance, growth prospects, liquidity position and Legacy Projects Receivables Risk, it was probable that CIMIC would be required to meet its obligations under the CIMIC Guarantees, so that CIMIC would raise a provision and recognise a liability in respect of those obligations;

J. consequently, CIMIC's pre-tax financial position would be negatively impacted in the amount of approximately AUD 2.554 billion in FY19; and

K. further, CIMIC's FY19 results would be negatively impacted such that:

(i) CIMIC would not meet its FY19 NPAT guidance of $790-$840 million; and

(ii) CIMIC would not be able to pay a final dividend in FY19.

(xi) the above matters were likely to negatively impact CIMIC’s NPAT for FY19, and therefore its ability to pay dividends, such that CIMIC did not have reasonable grounds for making the Dividends Representation on 23 October 2019

(xii) the Applicant refers to and repeats paragraphs 89R, 89S, 90, 91, 95AX, 95AY, 95A, 95B, 95G, 95H, 95M, 95N, 96, 97, 102, 103, 107A and 107B.

(xiii) further, the size of the BICC impact announced in the Middle East Corrective Disclosure on 23 January 2020, and the short period between the Dividends Representation made on 23 October 2019 and the Middle East Corrective Disclosure, supports an inference that there were no reasonable grounds for making the Dividends Representation on 23 October 2019.

Further particulars may be provided following discovery.

120. By reason of the matters alleged in paragraphs 118 and 119, by making the Dividends Representations, CIMIC engaged in conduct:

(a) in trade or commerce, in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act;

(b) in relation to a financial product or a financial service that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 1041H of the Corporations Act; and/or

(c) in trade or commerce, that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the Australian Consumer Law.

(**Dividends Misleading Conduct**)

K. MIDDLE EAST CORRECTIVE REPORTS AND DISCLOSURES

121. On 23 January 2020 before trading opened, CIMIC published and lodged with the ASX an update to the market in which it stated that:

   (a) CIMIC had completed an extensive strategic review of its financial investment in BICC;

   (b) after thorough evaluation of all available options, CIMIC had decided to exit the Middle East region;

   (c) in this context, CIMIC had reassessed its financial exposure to BICC, mainly shareholder loans and financial guarantees;

   (d) CIMIC would recognise a one-off post-tax impact of around $1.8 billion in its FY19 financial statements, representing all of CIMIC's exposure in relation to BICC;

   (e) the above impact included an expected cash outlay net of tax or around $700 million during 2020, as CIMIC's financial guarantees of certain BICC liabilities materialised, and that CIMIC had committed facilities and cash available to meet all obligations as required;

   (f) consequently, CIMIC would not declare a final dividend for 2019; and

   (g) excluding the BICC impact, CIMIC expected to report NPAT for 2019 of around $800 million.

   (**Middle East Corrective Disclosure**)

122. The information contained in the Middle East Corrective Disclosure:

   (a) operated to correct or partly correct the information available to the market concerning the subject matter of the February 2018 Middle East Information, April 2018 Middle East Information, July 2018 Middle East Information, October 2018 Middle East Information, February 2019 Middle East Information, April 2019 Middle East Information, July 2019 Middle East Information, September 2019 Middle East Information, October 2019 Middle East Information and December 2019 Middle East Information (together, the **Middle East Information**);

   (b) by correcting or partly correcting the said information, influenced persons who commonly invest in securities by causing:

(i) persons who held CIMIC securities to reduce the price at which they were willing to dispose of CIMIC Securities; and

(ii) persons who were considering acquiring CIMIC Securities to reduce the price at which they were willing to purchase CIMIC Securities;

Particulars

The said effect is to be inferred from the character of the market for CIMIC Securities as set out in paragraph 124 below and the change in the traded price following the release of the Middle East Corrective Disclosure set out in paragraph 129 below.

Further particulars will be provided following the receipt of expert evidence.

(c) consequently, caused the price at which CIMIC Securities traded to adjust downward toward the traded price which would have existed if the Middle East Contravening Conduct had not occurred.

L. MARKET EFFECTS

123. During the Relevant Period, the Applicant and each of the Group Members acquired an interest in CIMIC Securities in the market comprised of all then current investors and potential investors in CIMIC Securities (**CIMIC Securities Market**).

124. During the Relevant Period, the CIMIC Securities Market was a market:

(a) regulated relevantly by the ASX Listing Rules and ss 674(2) and 1041H of the Corporations Act;

(b) where the price or value of CIMIC Securities would reasonably be expected to have been informed or affected by information disclosed in accordance with the ASX Listing Rules and ss 674(2) and 1041H of the Corporations Act;

(c) to which the Cash Generation Representations, True and Fair Value Representations, Guidance Representations and Dividends Representations alleged in this Statement of Claim had been made, being representations which a reasonable person would expect to have a material effect on the price or value of CIMIC Securities; and/or

(d) further or alternatively to (c), was a market to which the material information alleged in this Statement of Claim had not been disclosed, being information which a reasonable person would expect, had it been disclosed, would have had a material effect on the price or value of CIMIC Securities.

125. Further to paragraph 124, throughout the Relevant Period, the CIMIC Securities Market was a market for listed securities that was sufficiently efficient so that at all relevant times:

(a) the traded price for CIMIC Securities on the ASX reflected all generally available information; and

(b) the traded price for CIMIC Securities quickly adjusted to reflect any additional information that became generally available.

126. Further to paragraphs 124 and 125, in relation to the Cash Flow Information:

(a) on 3 May 2019, the closing price of CIMIC Securities was $50.04 per share;

(b) on 6 May 2019, the price of CIMIC Securities fell to a low of $44.65 and closed at $46.50 per share;

(c) on 7 May 2019, the price of CIMIC Securities fell to a low of $44.69 and closed at $45.00 per share;

(d) on 8 May 2019, the price of CIMIC Securities fell to a low of $42.50 and closed at $44.74 per share.

127. Further or in the alternative to paragraph 126, and further to paragraphs 124 and 125, in relation to the Cash Flow Information:

(a) on 17 July 2019, the closing price of CIMIC Securities was $45.78 per share;

(b) on 18 July 2019, the price of CIMIC Securities fell to a low of $36.03 and closed at $37.09 per share;

(c) on 19 July 2019, the price of CIMIC Securities fell to a low of $36.45 and closed at $36.57 per share;

(d) on 22 July 2019, the price of CIMIC Securities fell to a low of $35.62 and closed at $35.66 per share;

128. Each of:

(a) FY17 Cash Flow Disclosure Contravention;

(b) 1Q18 Cash Flow Disclosure Contravention

(c) 1H18 Cash Flow Disclosure Contravention;

(d) 3Q18 Cash Flow Disclosure Contravention;

(e) FY18 Cash Flow Disclosure Contravention;

(f) 1Q19 Cash Flow Disclosure Contravention;

(g) June 2019 Cash Flow Disclosure Contravention,

(**Cash Flow Contravening Conduct**)

separately or together or in any combination, caused the market price for CIMIC Securities to be materially higher in the period 7 February 2018 to 6 May 2019, alternatively 17 July 2019 than:

(f) their true value; and/or

(g) alternatively, the traded price that would have prevailed if the Cash Flow Contravening Conduct had not occurred.

Particulars

That the Cash Flow Contravening Conduct caused the price of CIMIC Securities to be higher in the period from 7 February 2018 to 6 May 2019, alternatively 17 July 2019 than it would have been had it not occurred is to be inferred from the following matters:

(i) the characteristics of the CIMIC Securities Market alleged at paragraphs 124 and 125;

(ii) the changes to the price for CIMIC Securities on the ASX from the date on which the Clarification Statement and Cash Flow Corrective Disclosure were made, as set out in paragraphs 126 and 127; and

(iii) the fact that each of the FY17 Cash Flow Information, 1Q18 Cash Flow Information, 1H18 Cash Flow Information, 3Q18 Cash Flow Information, FY18 Cash Flow Information, 1Q19 Cash Flow Information and June 2019 Cash Flow Information was information that, if disclosed, would reasonably be expected to have a negative impact on the price of CIMIC Securities.

129. Further to paragraphs 124 and 125 above, in relation to the Middle East Information:

(a) on 22 January 2020, the closing price of CIMIC Securities was $34.98 per share;

(b) on 23 January 2020, the price of CIMIC Securities fell to a low of $27.80 and closed at $28.03 per share;

(c) on 24 January 2020, the price of CIMIC Securities fell to a low of $28.25 and closed at $28.88 per share;

(d) on 28 January 2020, the price of CIMIC Securities fell to a low of $28.00 and closed at $28.21 per share.

130. Each of:

(a) February 2018 Middle East Disclosure Contravention;

(b) April 2018 Middle East Disclosure Contravention;

(c) July 2018 Middle East Disclosure Contravention;

(d) October 2018 Middle East Disclosure Contravention;

(e) February 2019 Middle East Disclosure Contravention;

(f) April 2019 Middle East Disclosure Contravention;

(g) July 2019 Middle East Disclosure Contravention;

(h) September 2019 Middle East Disclosure Contravention;

(i) October 2019 Middle East Disclosure Contravention;

(j) December 2019 Middle East Disclosure Contravention,

(**Middle East Contravening Conduct**)

separately or together or in any combination, caused the market price for CIMIC Securities to be materially higher from 7 February 2018 to the end of the Relevant Period than:

(i) their true value; and/or

(j) alternatively, the traded price that would have prevailed if the Middle East Contravening Conduct had not occurred.

Particulars

That the Middle East Contravening Conduct caused the price of CIMIC Securities to be higher during the Relevant Period than it would have been had it not occurred is to be inferred from the following matters:

(i) the characteristics of the CIMIC Securities Market alleged at paragraphs 124 and 125;

(ii) the changes to the price for CIMIC Securities on the ASX from the date on which the Middle East Corrective Disclosure was made, as set out in paragraph 129; and

(iii) the fact that each of the February 2018 Middle East Information, April 2018 Middle East Information, July 2018 Middle East Information, October 2018 Middle East Information, February 2019 Middle East Information, April 2019 Middle East Information, July 2019 Middle East Information, September 2019 Middle East Information, October 2019 Middle East Information and December 2019 Middle East Information, was information that, if disclosed, would reasonably be expected to have a negative impact on the price of CIMIC Securities.

130A. Each of:

(a) Cash Generation Misleading Conduct;

(b) True and Fair View Misleading Conduct;

(c) Guidance Misleading Conduct; and

(d) Dividends Misleading Conduct,

(**Misleading Conduct**)

separately or together or in any combination, caused the market price for CIMIC Securities to be materially higher in the Relevant Period than:

(e) their true value; and/or

(f) alternatively, the traded price that would have prevailed if the Misleading Conduct had not occurred.

Particulars

That the Misleading Conduct caused the price of CIMIC Securities to be higher during the Relevant Period than it would have been had it not occurred is to be inferred from the following matters:

(i) the characteristics of the CIMIC Securities Market alleged at paragraphs 124 and 125;

(ii) the fact that each of the Cash Generation Representations, True and Fair Value Representations, Guidance Representations and Dividends Representations were about matters that would reasonably be expected to have an impact on the price of CIMIC Securities;

(iii) the changes to the price for CIMIC Securities on the ASX from the date on which the Clarification Statement and Cash Flow Corrective Disclosure were made, as set out in paragraphs 126 and 127;

(iv) the changes to the price for CIMIC Securities on the ASX from the date on which the Middle East Corrective Disclosure was made, as set out in paragraph 129.

131. By reason of the matters set out in paragraphs 128, 130 and 130A above, at the times during the Relevant Period when the Applicant and all of the Group Members acquired interests in CIMIC Securities, the price of the CIMIC Securities they acquired had been artificially inflated by the Cash Flow Contravening Conduct, the Middle East Contravening Conduct and/or the Misleading Conduct.

Particulars

Particulars of the Applicant's transactions involving CIMIC Securities are set out the particulars subjoined to paragraph 2(a) above.

Particulars of the shareholdings of the Group Members will be provided following the trial of the common questions.

M. RELIANCE

132. Further or alternatively, the Applicant and at least some of the Group Members acquired an interest in CIMIC Securities during the Relevant Period as a result of holding and acting upon the assumption (being also an assumption generally made by all participants in the market for CIMIC Securities) that:

(a) the price at which they acquired that interest in CIMIC Securities represented the market price in a market that had been informed of all material information relating to CIMIC that was required to be disclosed by it in accordance with the ASX Listing Rules and s 674(2) of the Corporations Act; and

(b) all such material information had been incorporated into the price of those CIMIC Securities as at the date of acquisition, (**Price Integrity Assumption**).

Particulars

(i) Investors and potential investors in shares on the ASX, including CIMIC Securities, are generally aware that there is a complex and comprehensive regulatory regime including, relevantly, the ASX Listing Rules and s 674(2) of the Corporations Act, which has as one of its purposes to ensure that the market is promptly informed of all information which is relevant to the price at which shares are traded.

(ii) If the Cash Flow Contravening Conduct, Middle East Contravening Conduct and/or the Misleading Conduct had not occurred, the Applicant and the Group Members would either have acquired interests in CIMIC Securities at a price which had not been artificially inflated or they would have made alternative investments, including acquiring interests in shares in another listed entity instead.

(iii) Particulars for each of the Group Members who also held and relied upon the Price Integrity Assumption will be provided following resolution of the common questions.

N. CHANGE OF POSITION

133. Further to paragraphs 123 to 132 above, if CIMIC had not engaged in the:

(a) Cash Flow Contravening Conduct; and/or

(b) Middle East Contravening Conduct; and/or

(c) Misleading Conduct;

(together, **Contravening Conduct**)

each of the Group Members:

(d) would have acquired their interests in CIMIC Securities at a lower price; or

(e) alternatively, would not have acquired some or any of their interests in the CIMIC Securities and would instead have retained or acquired other investments or assets for which the price was not inflated.

Particulars

Particulars of the Group Members who would have retained or acquired alternative investments will be provided following the determination of the common questions.

133A. Further to paragraphs 123 to 132 above, if CIMIC had not engaged in the:

(a) Cash Flow Contravening Conduct (to the extent it occurred prior to 27 June 2018);

(b) Misleading Conduct (to the extent it occurred prior to 27 June 2018);

(c) Middle East Contravening Conduct (to the extent it occurred prior to 27 June 2018);

(together, **Applicant Contravening Conduct**)

the Applicant:

(d) would not have acquired any of its interests in the CIMIC Securities and would instead have retained or acquired other investments or assets for which the price was not inflated.

Particulars

Particulars of any alternative investments or assets that the Applicant would have retained or acquired will be provided prior to trial.

O. LOSS AND DAMAGE

134. By reason of CIMIC's Contravening Conduct (in the case of Group Members) and Applicant Contravening Conduct (in the case of the Applicant), the Applicant and each of the Group Members have suffered loss and damage.

Particulars

The loss suffered by the Applicant is the difference, at the date of hearing, between their actual position as a result of having acquired an interest in CIMIC Securities during the Relevant Period and the position in which they would have been had they not acquired that interest and further or alternatively made an alternative investment instead

The loss suffered by Group Members is either:

i. the difference between the price at which they acquired an interest in CIMIC's Securities during the Relevant Period and the price at which that interest would have been acquired at that time had the Contravening Conduct not occurred (**Price Inflation**). Particulars of the Price Inflation in relation to CIMIC Securities at the relevant times will be provided following the provision of expert evidence;

ii. alternatively, the difference between the price at which they acquired an interest in CIMIC Securities during the Relevant Period and whatever is "left in hand" or was realised upon a sale of those shares following the Corrective Disclosure, modified to take into account so much, if any, of the movement in the traded price of CIMIC Securities which did not result from the Contravening Conduct;

iii. alternatively, for days during the Relevant Period and thereafter where the traded price of CIMIC Securities fell as a result of the disclosure of information which had not previously been disclosed because of the Contravening Conduct, the quantum of that fall;

iv. alternatively, for those Group Members who would have, but for the Contravening Conduct, not acquired an interest in CIMIC Securities and further or alternatively retained or acquired an alternative investment, the difference, at the date of hearing, between their actual position as a result of having acquired an interest in CIMIC Securities during the Relevant Period and the position in which they would have been had they not acquired that interest and further or alternatively made that alternative investment instead.

135. By reason of the matters alleged in paragraphs 123 to 134:

(a) CIMIC is obliged pursuant to s 1317HA, alternatively s 1325, of the Corporations Act to compensate the Applicant and Group Members for the damage that resulted from its contraventions of s 674(2) of the Corporations Act;

(b) the Applicant and Group Members may recover the amount of loss and damage suffered by them from CIMIC pursuant to s 1041I of the Corporations Act, s 12GF of the ASIC Act, and s 236 of the Australian Consumer Law for the damage that results from its contraventions of s 1041H of the Corporations Act, s 12DA of the ASIC Act, and s 18 of the Australian Consumer Law respectively;

(c) alternatively, CIMIC is obliged pursuant to s 12GM of the ASIC Act to compensate the Applicant and Group Members for the damage that resulted from its contraventions of s 12DA of the ASIC Act.

P. COMMON QUESTIONS OF FACT OR LAW

136. The questions of law or fact common to the claims of the Group Members are:

(a) whether, during the period between 7 February 2018 and 17 July 2019, the Cash Flow Information was:

(i) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(ii) not generally available; and

(iii) not information to which Rule 3.1A of the ASX Listing Rules applied.

(b) whether CIMIC was or ought to have been aware of the Cash Flow Information and if so, at what time if any during the period 7 February 2018 and 17 July 2019;

(c) whether CIMIC contravened s 674(2) of the Corporations Act by failing to disclose the Cash Flow Information as soon as it was or ought to have been aware of that information;

(d) whether, during the period between 7 February 2018 and 22 January 2020, the Middle East Information was:

(i) information that a reasonable person would expect to have a material effect on the price or value of CIMIC Securities;

(ii) not generally available; and

(iii) not information to which Rule 3.1A of the ASX Listing Rules applied.

(e) whether CIMIC was or ought to have been aware of the Middle East Information and if so, at what time if any during the period 7 February 2018 and 22 January 2020;

(f) whether CIMIC contravened s 674(2) of the Corporations Act by failing to disclose the Middle East Information as soon as it was or ought to have been aware of that information;

(g) whether CIMIC made any or all of Cash Generation Representations, True and Fair View Representations, Guidance Representations and Dividends Representations;

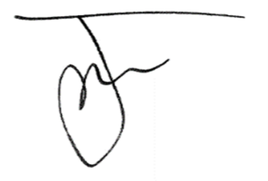
(h) whether any or all of the Cash Generation Representations, True and Fair View Representations, Guidance Representations, and Dividends Representations, if made, were misleading or deceptive or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act, s 1041H of the Corporations Act, and/or s 18 of the Australian Consumer Law; and

(i) whether any of the Contravening Conduct caused the price or value of CIMIC Securities to be higher during the Relevant Period than it would have been had CIMIC not engaged in that conduct and, if so, to what extent or by what amount.

Date: 21 August 2020

Amended Statement of Claim Date: 22 January 2021

Further Amended Statement of Claim Date: 7 October 2022



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Signed by Jeremy Alexander Zimet

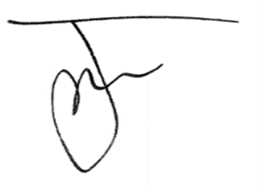
Lawyer for the Applicant

This pleading was prepared by Peter Collinson KC and Alexandra Folie of counsel.

Certificate of lawyer

I, Jeremy Alexander Zimet, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 7 October 2022



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Signed by Jeremy Alexander Zimet

Lawyer for the Applicant

INDEX OF DEFINED TERMS AND PHRASES

Term/Phrase **Paragraph**