

**COMPLETED ACQUISITION BY AUSURUS GROUP LIMITED
THROUGH ITS SUBSIDIARY EUROPEAN METAL RECYCLING
LIMITED OF CUFE INVESTMENTS LIMITED**

Directions issued on 23rd February 2018 pursuant to paragraph 10 of the Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72 of the Enterprise Act 2002 (the Act) on 11 September 2017

On 25 August 2017, Ausurus Group Limited (Ausurus), through its subsidiary European Metal Recycling Limited (EMR), acquired CuFe Investments Limited (CuFe), the holding company of Metal & Waste Recycling Limited (MWR) (together referred to as the Parties) (the Merger).

On 11 September 2017, the Competition and Markets Authority (CMA) made an Initial Enforcement Order (IEO) in accordance with section 72(2) of the Act for the purpose of preventing pre-emptive action.

On 7 February 2018, the CMA referred the Merger for a phase 2 investigation pursuant to section 22 of the Act (the Reference).

The Reference has not been finally determined within the meaning of section 79 of the Act.

The CMA now issues written directions under paragraph 10 of the Initial Enforcement Order that, for the purposes of securing compliance with the Initial Enforcement Order, Ausurus must appoint a monitoring trustee in accordance with the terms provided for in the Annex and shall comply with the obligations set out in the Annex.

Signed

Timothy Geer
Project Director
23rd February 2018

Annex

Directions to appoint a monitoring trustee

Interpretation

In these Directions:

- (a) 'Ausurus' means Ausurus Group Limited (company number 09123549)
- (b) 'the Ausurus business' means the business of Ausurus and its subsidiaries, with the exception of CuFe, as of 11 September 2017
- (c) 'the Act' means the Enterprise Act 2002;
- (d) 'CMA' means the Competition and Markets Authority;
- (e) 'CuFe' means CuFe Investments Limited (company number 08369020)
- (f) 'the CuFe business' means the business of CuFe and all its subsidiaries as of 11 September 2017;
- (e) 'Directions' means these directions, issued under paragraph 10 of the Initial Enforcement Order;
- (f) 'Initial Enforcement Order' means the Initial Enforcement Order made by the CMA on 11 September 2017;
- (g) 'MT' means the monitoring trustee appointed in accordance with the Directions;
- (k) 'working day' means any day of the week other than a Saturday, Sunday or any other day that is a public holiday in England.

Terms and expressions defined in the Initial Enforcement Order have the same meaning in these Directions, unless the context requires otherwise.

Appointment

1. Ausurus must appoint an MT in order to ensure compliance with the Initial Enforcement Order, in particular:
 - (a) support the CMA taking any action which may be required to maintain the Ausurus business and the CuFe business as going concerns; and
 - (b) monitor compliance by Ausurus and its subsidiaries with the Initial Enforcement Order.

2. The MT must act on behalf of the CMA and be under an obligation to the CMA to carry out his or her functions to the best of his or her abilities.
3. Ausurus and its subsidiaries must cooperate fully with the MT, in particular as set out below, and Ausurus must ensure that the terms and conditions of appointment of the MT reflect and give effect to the functions and obligations of the MT and the obligations of Ausurus and its subsidiaries as set out in these Directions.

General

4. The MT must possess appropriate qualifications and experience to carry out his or her functions.
5. The MT must neither have nor become exposed to a conflict of interest that impairs the MT's objectivity and independence in discharging his or her duties under these Directions, unless it can be resolved in a manner and within a timeframe acceptable to the CMA.
6. Ausurus shall remunerate and reimburse the MT for all reasonable costs properly incurred in accordance with the terms and conditions of the appointment and in such a way so as not to impede the MT's independence or ability to effectively and properly carry out his or her functions.
7. Ausurus must appoint the MT as soon as is reasonably practicable and in any event by **2 March 2018** and the MT will continue to act either until the CMA has finally determined the reference (within the meaning of section 79 of the Act) or directs that the MT is no longer required.
8. The appointment of a MT by Ausurus is subject to the approval of the CMA as to the identity of the MT and the terms and conditions of appointment in their entirety and:
 - (a) the name of the proposed MT must be notified to the CMA as soon as is reasonably practicable and in any event by **26 February 2018** along with draft terms and conditions of appointment; and
 - (b) once the MT has been approved by the CMA and appointed, Ausurus must provide the CMA with a copy of the agreed terms and conditions of appointment.

Functions

9. The functions of the MT will be to:

- (a) ascertain the current level of compliance by Ausurus and its subsidiaries with the Initial Enforcement Order;
 - (b) assess the arrangements made by Ausurus and its subsidiaries for compliance with the Initial Enforcement Order and what changes to those arrangements, if any, are necessary to preserve the possibility of the CMA taking any remedial action, if required;
 - (c) identify and supervise if necessary the arrangements made by Ausurus and its subsidiaries for ensuring compliance with the Initial Enforcement Order;
 - (d) monitor compliance by Ausurus and its subsidiaries with the Initial Enforcement Order; and
 - (e) without prejudice to the right of Ausurus and CuFe to contact the CMA, respond to any questions which Ausurus or CuFe may have in relation to compliance with the Initial Enforcement Order, in consultation with the CMA.
10. The MT must take such steps as he or she reasonably considers necessary in order to carry out his or her functions effectively, including requiring the provision of information or the production of documents relating to communications within and between the EMR business and MWR business, such as written and electronic communications, telephone conversations and meetings as may be required.
11. The MT must comply with any requests made by the CMA for the purpose of ensuring the full and effective compliance by Ausurus and its subsidiaries with the Initial Enforcement Order.

Obligations of Ausurus and its subsidiaries

12. Ausurus, its subsidiaries and their employees, officers, directors, advisers and consultants must cooperate fully with the MT, in particular by providing the MT with all cooperation, assistance and information as the MT may reasonably require in order to discharge his or her functions, including but not limited to:
- (a) the provision of full and complete access to all personnel, books, records, documents, facilities and information of the Ausurus business and the CuFe business as the MT may reasonably require; and
 - (b) the provision of such office and supporting facilities as the MT may reasonably require.

13. If the Ausurus business or the CuFe business is in any doubt as to whether any action or communication would infringe the Initial Enforcement Order, it is required to contact the MT for clarification.
14. If Ausurus has any reason to suspect that the Initial Enforcement Order may have been breached, it must notify the MT and the CMA immediately.

Reporting functions

15. The MT is required to provide an initial report to the CMA no later than **9 March**, giving details of any arrangements which have been, or should be, put in place to ensure compliance with the Initial Enforcement Order, and including among other things:
 - (a) details of the current extent of compliance with the Initial Enforcement Order;
 - (b) a description of the current arrangements made for the operation of the CuFe business and for the preservation of the assets required to operate the CuFe business; and
 - (c) recommendations as to what changes to those arrangements, if any, are necessary.
16. In addition to providing the initial report referred to in paragraph 15 above, the MT must provide a statement to the CMA every two weeks (or otherwise as required by the CMA) stating whether or not, in his or her view, Ausurus and its subsidiaries have complied with the Initial Enforcement Order. At the same time, the MT must provide the CMA with a report setting out the following:
 - (a) the basis for the MT's view that the Initial Enforcement Order have or have not, as the case may be, been complied with and in particular whether:
 - (i) anything has caused him or her to be concerned as to whether Ausurus and its subsidiaries have complied with the Initial Enforcement Order, and if it has, whether those concerns have been resolved and why;
 - (ii) he or she has any remaining doubts or uncertainties as to whether Ausurus and its subsidiaries have complied with the Initial Enforcement Order; and

- (iii) anything that causes him or her to be concerned about a possible future breach of the Initial Enforcement Order (whether deliberate or inadvertent);
 - (b) details of the performance of the CuFe businesses, including any factors that might indicate asset deterioration;
 - (c) whether appropriate steps are being taken to maintain the Ausurus business and the CuFe business as a going concern;
 - (d) the extent to which Ausurus and its subsidiaries have cooperated with the MT in his or her task of monitoring its compliance with the Initial Enforcement Order and details of any aspects of the cooperation of Ausurus and its subsidiaries that he or she considers could be improved;
 - (e) the extent to which the MT considers that he or she is in an appropriate position to monitor the compliance of Ausurus and its subsidiaries with the Initial Enforcement Order and if there is anything that the MT considers would assist him or her in monitoring compliance;
 - (f) any current or anticipated requests for consent to vary the Initial Enforcement Order; and
 - (g) the information he or she used to compile the report.
17. When providing reports to the CMA, the MT must ensure that he or she does not disclose any information or documents to the CMA which Ausurus and its subsidiaries would be entitled to withhold from the CMA on the grounds of legal privilege and nothing in these Directions requires Ausurus and its subsidiaries to produce any information or documents to the MT which are privileged.
18. The MT must immediately notify the CMA in writing if he or she forms a reasonable suspicion that the Initial Enforcement Order have been breached, or if he or she considers that he or she is no longer in a position to effectively carry out his or her functions. In that situation, the MT must give reasons for this view, including any supporting evidence available (unless doing so would infringe the obligations referred to in paragraph 17 above).
19. All communications between the MT and the CMA (including the statements and reports referred to in paragraphs 15 and 16) are confidential and should not be disclosed to Ausurus or its subsidiaries, save with the prior written consent of the CMA. The MT shall not disclose such communications to third parties.