

**DEROGATION LETTER
IN RESPECT OF INITIAL ENFORCEMENT ORDERS ISSUED
PURSUANT TO SECTION 72(2) ENTERPRISE ACT 2002
COMPLETED ACQUISITION**

**Consent under section 72(3C) of the Enterprise Act 2002 to certain actions
for the purposes of the Initial Enforcement Order made by the Competition
and Markets Authority (CMA) on 25 January 2019**

**Completed acquisition by Nutrius BidCo Limited of Partnership in Children's Services
Limited and Boston HoldCo B Limited**

We refer to your emails of 13 February 2019, 14 February 2019, 15 February 2019, 18 February 2019, 19 February 2019 and 20 February 2019 requesting that the CMA consents to derogations to the Initial Enforcement Order of 25 January 2019 (the 'Initial Order'). The terms defined in the Initial Order have the same meaning in this letter.

Under the Initial Order, save for written consent by the CMA, Nutrius UK TopCo, CapVest and Nutrius UK BidCo are required to hold separate the PICS business and the Boston HoldCo B business and refrain from taking any action which might prejudice a reference under section 22 of the Act or impede the taking of any remedial action following such a reference. After due consideration of your request for derogations from the Initial Order, based on the information received from you and in the particular circumstances of this case, Nutrius UK TopCo, CapVest and Nutrius UK BidCo and PICS and Boston HoldCo B may carry out the following actions, in respect of the specific paragraphs:

1. Paragraph 5(a), 5(b) and 5(l) of the Initial Order

In order to maintain financial oversight of the PICS and Boston HoldCo B businesses to ensure each business is maintained as a going concern and sufficiently resourced, and for Nutrius UK TopCo to meet its obligations under the Senior Facilities Agreement with transaction financiers, the CMA understands that the Board of Nutrius UK TopCo requires access to certain commercially-sensitive information of the PICS and Boston HoldCo businesses. Nutrius UK TopCo proposed that monthly management accounts of the PICS and Boston HoldCo B businesses be provided to the Nutrius UK TopCo Board.

The CMA consents to the PICS and Boston HoldCo B businesses sharing monthly management accounts with the Nutrius UK TopCo Board, subject to the following safeguards being in place:

- The financial information contained in the monthly management accounts (containing the consolidated results of PICS and Boston HoldCo B) to be shared with the Nutrius UK TopCo Board will be limited to that provided for in a template agreed with the CMA;

- Nutrius UK TopCo will put in place effective ring-fencing measures to ensure that no other Nutrius UK TopCo employee has access to any commercially-sensitive information of the PICS business or the Boston HoldCo business;
- the Nutrius UK TopCo board members entitled to receive the monthly management accounts are limited to [3<] (the 'Nutrius UK TopCo Board Members');
- The Nutrius UK TopCo Board Members can only be amended with prior approval of the CMA;
- The Nutrius UK TopCo Board Members must each enter into a confidentiality agreement, in the form agreed with the CMA; and
- Should the CMA require Nutrius UK TopCo, Nutrius UK BidCo or CapVest to divest all, or part, of the PICS and/or Boston HoldCo B businesses, any records or copies (electronic or otherwise) of these monthly management accounts will be returned and any copies destroyed.

2. Paragraph 5(a), 5(b) and 5(l) of the Initial Order

In order to maintain financial oversight of the PICS and Boston HoldCo B businesses to ensure each business is maintained as a going concern and sufficiently resourced, and for Nutrius UK TopCo to meet its obligations under the Senior Facilities Agreement with transaction financiers, the CMA understands that the Board of Nutrius UK TopCo requires access to certain commercially-sensitive information of the PICS and Boston HoldCo businesses. Nutrius UK TopCo proposed that management commentary regarding the performance of the PICS and Boston HoldCo B businesses be provided to the Nutrius UK TopCo Board.

The CMA consents to the Nutrius UK TopCo board requesting the PICS and Boston HoldCo B businesses to provide management commentary covering a relevant month but only where both:

- PICS and Boston HoldCo B's monthly consolidated revenues for the relevant month were at least 15% below monthly forecast; and
- PICS and Boston HoldCo B's actual monthly consolidated EBITDA for the relevant month was at least 15% below monthly forecast.

This derogation is granted subject to the following conditions:

- the CMA will be copied into the management commentary for the relevant month when this is sent to Nutrius UK TopCo;
- the forecast monthly consolidated revenue and EBITDA figures for PICS and Boston HoldCo B which will be used in the calculation of the percentage variances, will be agreed with the CMA;

- the management commentary will be limited to discussing aggregated financial information only, and will not include any commercially-sensitive information relating to the PICS or Boston HoldCo B business, including site-level, customer or pricing information; and
- the CMA retains the right to stop or amend the scope of this exchange if it considers that the management commentary facilitates the sharing of information that undermines the viability or independence of PICS or Boston HoldCo B from Nutrius UK TopCo, Nutrius UK BidCo and CapVest.

3. Paragraph 5(a) and 5(l) of the Initial Order

In order for Nutrius UK TopCo to maintain sufficient oversight of the PICS and Boston HoldCo B businesses in relation to serious matters of child safety and other matters that could endanger the provision of services by PICS and Boston HoldCo B, the CMA understands that the board of Nutrius UK TopCo requires access to certain commercially-sensitive information of the PICS and Boston HoldCo B businesses. Nutrius UK TopCo proposed that a monthly serious incident report from PICS and Boston HoldCo B be provided to the Nutrius UK TopCo board.

The CMA consents to the PICS and Boston HoldCo B businesses sharing a monthly serious incident report with the Nutrius UK TopCo board, subject to the following safeguards being in place:

- The monthly serious incident report will cover both PICS and Boston HoldCo B on a consolidated basis;
- Any information contained in the monthly serious incident reports to be shared with Nutrius UK TopCo Board will be limited to that provided for in a template agreed with the CMA;
- The monthly serious incident reports will only contain information that is strictly necessary for the purpose of reporting serious incidents and will not contain any other commercially-sensitive information relating to either the PICS business or the Boston HoldCo B business;
- Nutrius UK TopCo will put in place effective ring-fencing measures to ensure that no other Nutrius UK TopCo employee has access to any commercially-sensitive information of the PICS business or the Boston HoldCo business;
- Only the Nutrius UK TopCo Board Members are entitled to receive the monthly serious incident reports;
- The Nutrius UK TopCo Board Members can only be amended with prior approval of the CMA;
- The Nutrius UK TopCo Board Members must each enter into a confidentiality agreement, in the form agreed with the CMA;

- Should the CMA require Nutrius UK TopCo, Nutrius UK BidCo or CapVest to divest all, or part, of the PICS and/or Boston HoldCo B businesses, any records or copies (electronic or otherwise) of these monthly serious incident reports will be returned and any copies destroyed.

4. Paragraph 5(g) and 5(l) of the Initial Order

The CMA consents to the appointment of PwC as auditors of PICS and Boston HoldCo B, and for the Audit Committee of Nutrius UK TopCo to receive limited information from PwC on the PICS and Boston HoldCo B businesses, subject to the following safeguards being in place:

- Except with the prior approval of the CMA, PwC can only share, the following information regarding the audit and accounting policies and practices at PICS and Boston HoldCo B with the Audit Committee of Nutrius UK TopCo, subject to the condition that no commercially-sensitive information of PICS and Boston HoldCo B will be provided to the Audit Committee of Nutrius UK TopCo:
 - scope of the PwC audit work;
 - overview of key accounting policies;
 - summary of any key areas of financial judgement and estimates, such as provision policies;
 - schedule of agreed audit adjustments;
 - summary of unadjusted audit differences;
 - summary of financial reporting control environment and details of any key risks identified, including any instances where management has overridden control processes;
 - confirmation tax returns completed, filed and paid on a timely basis;
 - notification of any HMRC VAT, PAYE, or corporation tax investigations, fines or penalties; and
 - annual tax compliance report including key risks and specific matters relating to current year tax computations.
- PwC can only meet with the Audit Committee of Nutrius UK TopCo to discuss issues arising in relation to the matters contained in the list above. Any discussions are to relate only to matters that are strictly limited to the audit and accounting policies and practices at PICS and Boston HoldCo B, and cannot involve a disclosure of information that may contain commercially-sensitive information of PICS and Boston HoldCo B.

- The members of the Audit Committee of Nutrius UK TopCo entitled to receive the information above, and meet with PwC regarding that information, are [X] (the 'Audit Committee');
- The PwC audit team is limited to [X] (the 'PwC Audit Team');
- The members of the Audit Committee and PwC Audit Team can only be amended with prior approval of the CMA;
- The members of the Audit Committee and PwC Audit Team must each enter into a confidentiality agreement, the form of which will be agreed with the CMA;
- Should the CMA require Nutrius UK TopCo, Nutrius UK BidCo or CapVest to divest all, or part, of the PICS and/or Boston HoldCo B businesses, any records or copies (electronic or otherwise) of these monthly management accounts will be returned and any copies destroyed.

5. Paragraph 5(e) of the Initial Order

In order to meet the requirements of the financing agreements for the PICS acquisition, the CMA consents to Nutrius UK BidCo acceding to its financing documents the following PICS entities: ISP Childcare Limited, Integrated Services Programme Limited, P&D Group Limited and Fosterplus Limited.

More specifically, the CMA consents to these entities entering into accession deeds with respect to the Senior Facilities Agreement, the Intercreditor Agreement and the Debenture, to make applicable filings with Companies House and the Land Registry and to take additional steps to ensure the validity, enforceability and priority of the security in accordance with the terms of the Debenture, including delivering share certificates, share transfer forms and other documents of title and issuing notices to their respective creditors and counterparties.

This derogation is granted on the basis of representations by Nutrius UK TopCo, Nutrius UK BidCo and CapVest that allowing the PICS entities to accede to these financing arrangements will not impede any potential future requirement by the CMA for all, or part of the PICS and/or Boston HoldCo B businesses to be divested.

6. Paragraph 5(k) of the Initial Order

In order to provide certainty and fair treatment for two senior staff at Core Assets Group Limited (CAG) ([X]), who were in the process of negotiating compromise agreements with CAG at the time that the IEO was put in place, the CMA agrees to allow these agreements to be finalised. These agreements will provide for a six-month notice period for both senior staff members.

7. Paragraph 5(e) of the Initial Order

In order to meet the requirements of the financing agreements for the transaction, the CMA consents to a monthly cash transfer of £[X] from PICS to Nutrius UK BidCo.

This derogation is granted on the basis of representations by Nutrius UK TopCo, Nutrius UK BidCo and CapVest that: (i) [X]; and (ii) these monthly cash transfers will have no adverse effect on the PICS business or its ability to fund its pre-Merger business plan.