

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

Please note that [X] indicates figures or text which have been deleted at the request of the parties for reasons of commercial confidentiality.

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 20 January 2020, as varied on 11 February 2020.

Anticipated acquisition by Breedon Group plc of certain assets of Cemex Investments Limited (the 'Merger')

We refer to your submissions of 22 January, 3 February, 22 April, 29 April, 15 May and 12 June 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 20 January 2020 as amended by the Variation Order of 11 February 2020 (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, Breedon Group plc, Breedon Southern Limited (together, "**Breedon**") and Cemex Investments Limited ("**Cemex**") are required to hold separate certain assets of Cemex Investments Limited (the "**Target**") from the Breedon business and refrain from taking any action which might prejudice a reference under section 22 or 33 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, Breedon and Cemex may carry out the following actions, in respect of the specific paragraphs:

1. Paragraph 6(a) of the Initial Order

Breedon submits that it is required to conduct IT site visits at Target business sites ahead of completion in order to understand the IT infrastructure, hardware and network capabilities in place at the Target business (together '**the IT site visit purpose**').

Breedon states that these site visits are strictly necessary in order to ensure that the viability of the Target business is maintained following completion and there is no failure in the Target business' IT systems. Breedon is therefore seeking a derogation

from paragraph 6(a) of the Initial Order to carry out IT site visits at the Target business sites prior to completion of the Merger.

The CMA consents to a derogation from paragraph 6(a) of the Initial Order, permitting Breedon to carry out IT site visits at the Target business' sites for the IT site visit purpose strictly on the basis that:

- a) the IT site visits:
 - i. will not cause any material disruption to the Target business;
 - ii. are strictly necessary to ensure the ongoing viability of the Target business following completion;
 - iii. will not result in any integration of the Target business with the Breedon business;
 - iv. will only be attended by the Breedon individuals listed in Annex 1, who will be accompanied by Cemex staff at all times;
 - v. will not involve any Breedon employees with a commercial or strategic role within the Breedon business and Breedon employees with a commercial or strategic role will not be required to physically access the Target sites;
- b) For the avoidance of doubt, no confidential or commercially sensitive information will be shared by Cemex with the Breedon for the purposes of this derogation;
- c) No further changes to the staff listed in Annex 1 are permitted without the prior written consent from the CMA (including via email);
- d) The individuals listed in Annex 1 will be fully briefed by Breedon on the obligations contained in the Initial Order;
- e) Any changes required to the Target business' IT networks would only occur subject to the terms of a further derogation from the CMA; and
- f) This derogation will have no impact on any remedial action that the CMA may need to take regarding the Merger.

2. Paragraphs 5(a), 6(a) and 6(f) of the Initial Order

Breedon submits that the Target business which is being acquired from Cemex as a result of the Merger will be transferred to Breedon on completion without any IT, finance, operating, payroll or accounting systems. Subject to the terms of the derogation granted by the CMA on 1 June 2020, Breedon, with the assistance of third party IT service providers has been building replacement IT, finance, operating,

payroll and accounting systems ("**Target IT Systems**") for use by the Target business following completion. Upon completion, Breedon will need to connect the Target business to the Target IT Systems to ensure the continued and viable operation of the Target business following completion.

Breedon is therefore seeking the CMA's consent to connect the Target business to the Target IT Systems upon completion.

The CMA consents a derogation from paragraphs 5(a), 6(a) and 6(f) of the Initial Order, permitting Breedon to connect the Target business to the Target IT Systems upon completion, strictly on the basis that:

- a) connecting the Target business to the Target IT Systems:
 - i. will not cause any material disruption to the Target business;
 - ii. is strictly necessary to ensure the ongoing viability of the Target business following completion;
- b) Save for the individuals identified in paragraphs 1(ii), 1(iv), 1(vi) and 1(viii) of the derogation granted by the CMA on 1 June 2020 and any additional individuals under each of these paragraphs which the CMA has consented to in accordance with paragraph 1(d) of the derogation granted by the CMA on 1 June 2020, the Target IT Systems will not be accessible for the purpose of connecting the target business to the Target IT systems by any Breedon personnel without the prior written consent from the CMA (including via email);
- c) The Target IT Systems will either be located on a separate server from Breedon or access restrictions will be put in place (as described in the 1 June 2020 derogation granted by the CMA) to prevent any Breedon personnel from accessing the Target IT Systems and the information contained therein, following the connection of the Target IT Systems to the Target business; and
- d) This derogation shall not impede any remedial action which the CMA may need to take regarding the Merger.

Yours sincerely,

Assistant Director, Remedies, Business and Financial Analysis

3 July 2020

ANNEX 1 – AUTHORISED BREEDON INDIVIDUALS

Name	Role
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]