

**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 31 July 2020.

Completed acquisition by Breedon Group plc of certain assets of Cemex Investments Limited

We refer to your submissions of 29 April, 29 June and 21 July 2020 requesting that the CMA consents to a derogation to the Initial Enforcement Order of 31 July 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 and Breedon Southern Limited (together, "**Breedon**") are required to hold separate certain assets acquired from Cemex Investments Limited (the "**Target**") from the Breedon 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, Breedon may carry out the following actions, in respect of the specific paragraphs:

1. Paragraphs 4(a), 5(a), 5(c) and 5(l) of the Initial Order

Breedon submits that, given the Target business is not transferring with the necessary back office functions required for maintaining the viability of the Target business following completion, it is in the interests of the Target to share certain of Breedon's non-commercial back-office functions, to the extent considered necessary by the Target Managing Director (or the Hold Separate Manager as appointed under any directions issued by the CMA).

On this basis, the CMA consents to the following, to the extent considered necessary by the Target Managing Director (or the Hold Separate Manager as appointed under any directions issued by the CMA):

- a) Breedon providing the Target business with the following back-office functions (the "**Relevant Back-Office Functions**"):
 - Health, Safety & Environment
 - Human Resources
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- Payroll
 - Employee Benefits
 - Land & Planning
 - Legal/Regulatory
 - IT Management
 - IT Support / Help Desk
 - Insurance
 - Sustainability
 - Purchasing (gas and rail only)
- b) The Breedon employees listed in Annex 1 to carry out the Relevant Back-Office Functions for the Target business (and for the Breedon business) ("**Shared Employees**"); and
- c) The Shared Employees accessing the Target's systems and sites to the extent strictly necessary for the purposes of fulfilling their roles as Shared Employees.

This derogation is granted strictly on the basis that:

- a) All of the Relevant Back-Office Functions are non-commercial back-office functions;
- b) The Shared Employees do not have a commercial or strategic role and would not perform a commercial or strategic role for the Target business;
- c) The Shared Employees would be limited to those listed in Annex 1, or as otherwise amended with the prior written consent of the CMA;
- d) The Target Managing Director (or the Hold Separate Manager as appointed under any directions issued by the CMA) would have the discretion to amend the scope of the Relevant Back-Office Functions and/or the list of Shared Employees, including seeking to procure any of the Relevant Back-Office Functions from a third party provider and/or through the employment of a non-Breedon employee;
- e) [X] role as a Seconded Employee is strictly limited to the Target business's [X], and her role as a Seconded Employee may be terminated at any time at the discretion of the Target Managing Director (or the Hold Separate Manager as appointed under any directions issued by the CMA);
- f) The Shared Employees would each enter into confidentiality undertakings/NDAs in a form approved by the CMA;
- g) The Shared Employees would be fully briefed by Breedon on the terms of the Initial Order prior to taking up their roles as Shared Employees, and more specifically on the implications of the Initial Order for their specific roles;
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- h) The Shared Employees would only receive information relating to the Target business that is strictly necessary for the purposes of providing the Relevant Back-Office Functions, and any such information will only be used by the Shared Employees for that purpose;
- i) The Shared Employees would ensure that any information they obtain in relation to the Target business is not disclosed to other employees of Breedon (other than a Shared Employee in the same Relevant Back-Office Function) and that any information they obtain in relation to the Breedon business is not disclosed to employees of the Target business;
- j) The Shared Employees would store all hard copy documents related to the Target at the office space in [redacted] which Breedon has leased specifically for the Target business, or in another office which is occupied solely by the Target business;
- k) The Shared Employees providing legal/regulatory support will avoid conflicts of interest arising and arrange for the Target to receive external legal/regulatory support in the event that any conflict of interest should arise;
- l) the location and working facilities of the Shared Employees would be at Breedon offices where they currently operate from, and the Shared Employees will only require access to Target offices and sites from time to time, where strictly necessary for the purposes of performing the Shared Employee's permitted functions for the Target business;
- m) The Shared Employees would save all electronic documents only to the Target systems and/or a folder on the Breedon system dedicated to the Target business and only accessible by Shared Employees / relevant Target employees;
- n) In respect of [redacted] ([redacted]) and [redacted] ([redacted], Breedon Group) neither individual would advise both the Target and Breedon in parallel on any commercial matters; and
- o) The Monitoring Trustee shall audit the implementation of this derogation and where necessary, make recommendations to the CMA on any further safeguards or changes to this derogation.

Yours sincerely,

Assistant Director, Remedies. Business and Financial Analysis

31 July 2020

ANNEX 1 – SHARED EMPLOYEES (BY RELEVANT BACK-OFFICE FUNCTION)

[✂]:

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

[✂]:

Name	Role
[✂]	[✂]
[✂]	[✂]

[✂]:

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

[✂]:

Name	Role
[✂]	[✂]

[✂]:

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

[✂]:

Name	Role
[✂]	[✂]
[✂]	[✂]

[✂]:

Name	Role
[✂]	[✂]

[✂]	[✂]
[✂]	[✂]
[✂]	[✂]

[✂]:

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

[✂]:

Name	Role
[✂]	[✂]
[✂]	[✂]
[✂]	[✂]

[✂]:

Name	Role
[✂]	[✂]

[✂]:

Name	Role
[✂]	[✂]
