



Oliver's Real Food Ltd ABN 33 166 495 441  
PO Box 3678  
TUGGERAH NSW 2259  
(02) 4353 8055

22 April 2021

Mr. Corey Lian  
Graduate, Listing Compliance ASX (Sydney)  
Reference: 31678

Dear Mr. Lian

**Response to ASX Directors' Interest Queries Letter**

We refer to your email and letter dated 6 April 2021 and respond to your queries on behalf of Oliver's Real Foods Limited ("OLI", or the "Company") as follows.

Before providing responses to your questions it is important to advise that neither Mr Martin Green nor myself were Directors at the relevant times your questions relate to.

Since receiving your correspondence, the current Board has conducted a review of the conduct of the Board and the decisions taken at the relevant time(s) and provides honest and accurate responses in respect of each of the issues raised.

**ASX Question 1**

**Please provide a copy of the documentation from OLI's share registry that confirmed that all securities issued to Directors were placed in a holding lock (not for release to the market)**

**OLI Response to Question 1**

See attachment A (not for release to the market).

**ASX Question 2**

**Please provide a copy of the documentation which confirms that the securities issued to Directors were not on-sold (not released to the market).**

**OLI Response to Question 2**

See attachments B, C and D (not for release to the market).



### **ASX Question 3**

**Please explain why an Appendix 3Y was not lodged for the change of interest for Ms Amanda Gunn in respect of the issue of 5,000,000 options**

#### **OLI Response to Question 3**

The Company received verbal notification on or about 10 February that Ms Amanda Gunn transferred her options to Mr Jason Gunn or his nominee, the Hauraki Trustee Company, (as evidenced from instructions given by Mr Jason Gunn, as the Company's then CEO, to the Company's share registry in the email dated 10 February 2020, see attachment E (not for release to the market)) and a review of the Appendix 3Y released on or about 13 March 2020 for Mr Jason Gunn shows 10,000,000 issued to the Hauraki Trustee Company and not 5,000,000.

### **ASX Question 4**

**Please advise whether any securities issued to Mr Nicholas Dower and his related entities (or any other director) were on-sold.**

#### **OLI Response to Question 4**

Yes, all securities issued to Mr Nicholas Dower and his related entities were on-sold, see attachment F (not for release to the market). Please also refer to the answer to Question 2 regarding the other directors.

### **ASX Question 5**

**If any securities were on-sold:**

**a) Did OLI obtain a legal opinion regarding the relevant provision of the Corporation Act and the warranty provided to the ASX in the Appendix 2A?**

Yes

**b) Please explain why OLI did not seek Federal Court and/or Supreme Court orders at the relevant time.**

The legal advice received and on which the Board (as then constituted) accepted and acted stated that there was no contravention of the Corporations Act by OLI or its directors in the connection with the sale of the shares by Mr Dower's company and the registration of the transfer of those shares.

**c) Is OLI now intending to seek declarations and relief under section 1322(4) of the Corporations Act to validate procedural and administrative errors and grant relief from any civil liability?**



Yes. The Board refers to the Company's announcement of 13 April 2021.

#### **ASX Question 6**

**Please explain the apparent discrepancy in the number of shares (i.e., 5,000,000 shares) which should have been held in voluntary escrow alongside the other 15,000,000 shares issued to Directors.**

#### **OLI Response to Question 6**

The discrepancy relates to the 5,000,000 issued to Mr Nicholas Dower who resigned from the Board on 2 May 2020 and then between 6 July 2020 and 8 October 2020 sold his shares. The shares were initially not placed in a holding lock, then a holding lock was applied on 23 June 2020 and, subsequently, following further legal advice the holding lock was lifted.

#### **ASX Question 7**

**What arrangements does OLI have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?**

#### **OLI Response to Question 7**

Each of the OLI directors are subject to written binding obligations with the Company to ensure that they disclose to the Company all the information required by it to give ASX completed Appendices 3X, 3Y and 3Z.

#### **ASX Question 8**

**If the current arrangements are inadequate or not being enforced, what additional steps does OLI intend to take to ensure compliance with Listing Rule 3.19B**

#### **OLI Response to Question 8**

The Board considers that the arrangements are adequate and are being enforced.

#### **ASX Question 9**

**Please confirm that OLI is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

#### **OLI Response to Question 9**

OLI is complying with the Listing Rules and, in particular, Listing Rule 3.1.



**ASX Question 10**

**Please confirm that OLI responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of OLI with delegated authority from the board to respond to ASX on disclosure matters.**

**OLI Response to Question 10**

OLI confirms the responses to the questions above have been authorised and approved by the Board of OLI or an officer with delegated authority from the Board to respond to the ASX on disclosure matters.

Yours sincerely

A handwritten signature in black ink that reads "Kim Wood".

Mr Kimley John Wood  
Chairman  
Oliver's Real Food  
Limited 10 Amsterdam  
CCT.  
Wyong NSW 2259



6 April 2021

Reference: 32500

Mr Kimley John Wood  
Chairman and Non-Executive Director  
Oliver's Real Food Limited  
10 Amsterdam Ct  
Wyong NSW 2259

By email

Dear Mr Wood

**Oliver's Real Food Limited ('OLI'): Directors' Interests Queries**

ASX refers to the following:

- A. The suspension of OLI's securities from official quotation on 1 October 2019 due to 'failure to lodge the relevant periodic report by the due date.'
- B. The reinstatement of OLI's securities to official quotation on 6 November 2019 'following lodgement of its Annual Report for the year ended 30 June 2019 and Appendix 4C for the quarter ended 30 September 2019.'
- C. OLI's Appendix 2A lodged on the ASX Market Announcements Platform ('MAP') which included details of 20,000,000 shares being issued on 13 March 2020 upon the conversion of unquoted remuneration options.

*Mr Nicholas Downer*

- D. OLI's notice of extraordinary general meeting lodged on MAP on 9 January 2020 ('Notice of EGM') which stated as follows:

*'That, for the purposes of Listing Rule 10.11 and for all other purposes, shareholders approve the issue of 5,000,000 Options to Mr. Nicholas Martin Dower with an exercise price of \$0.022 per Option on the terms and conditions more particularly described in the Explanatory Memorandum accompanying this Notice. Mr Dower's current remunerative package from Olivers amounts to \$100K pa.'* ('Resolution 2')

- E. OLI's results of meeting lodged on MAP on 6 February 2020, which stated that Resolution 2 was carried.
- F. Correspondence from OLI to ASX on 24 July 2020 indicating that Mr Downer had disposed of approximately 1.4 million shares in OLI.
- G. Confirmation from the share registry that the remainder of approximately 3.6 million fully paid ordinary shares in OLI issued to Mr Downer were placed in a holding lock.

*Mr Steven Matter*

- H. OLI's Notice of EGM which stated as follows:

*'That, for the purposes of Listing Rule 10.11 and for all other purposes, shareholders approve the issue of 5,000,000 Options to Mr. Steven Metter with an exercise price of \$0.022 per Option on the terms and conditions more particularly described in the Explanatory Memorandum accompanying this Notice. Mr Metter's current remunerative package from Olivers amounts to \$80K pa.'* ('Resolution 3')

- I. OLI's results of meeting lodged on MAP on 6 February 2020, which stated that Resolution 3 was carried.

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Ms Amanda Gunn

J. OLI's Notice of EGM which stated as follows:

*'That, for the purposes of Listing Rule 10.11 and for all other purposes, shareholders approve the issue of 5,000,000 Options to Mrs. Amanda Robson Gunn with an exercise price of \$0.022 per Option on the terms and conditions more particularly described in the Explanatory Memorandum accompanying this Notice. Mrs Gunn's current remunerative package from Olivers amounts to \$125K pa.'* ('Resolution 4')

K. OLI's results of meeting lodged on MAP on 6 February 2020, which stated that Resolution 4 was carried.

L. OLI's Annual Report lodged on MAP on 1 October 2020, which notes the issue of 5,000,000 options, which were subsequently converted to shares, to Ms Gunn on 9 March 2020. In the same document, it is suggested that all the shares are held indirectly by Ms Gunn's spouse, Mr Jason Gunn.

M. OLI's Appendix 3Z lodged on MAP on 9 March 2021 for Ms Gunn which indicated that she did not have any direct relevant interest in OLI at the time of her resignation, whilst holding indirect interests via her spouse, and former Director, Mr Jason Gunn.

Mr Jason Gunn

N. OLI's Notice of EGM which stated as follows:

*'That, for the purposes of Listing Rule 10.11 and for all other purposes, shareholders approve the issue of 5,000,000 Options to Mr. Jason Antony Gunn with an exercise price of \$0.022 per Option on the terms and conditions more particularly described in the Explanatory Memorandum accompanying this Notice. Mr Gunn's current remunerative package from Olivers amounts to \$100K pa.'* ('Resolution 5')

O. OLI's results of meeting lodged on MAP on 6 February 2020, which stated that Resolution 5 was carried.

P. The proposed announcement of the notification of release of shares from voluntary escrow, which was lodged on MAP but not released to the market due to this pending enquiry (the 'Proposed Announcement')

*'15,000,000 fully paid ordinary shares currently held in voluntary escrow are due for release on 15 March 2021.....*

*As a result of options being exercised, the Shares were issued to Directors on 11 March 2020 however, due to an oversight, a cleansing notice was not provided to the market. As a result Directors agreed that the Shares be held in voluntary escrow for a period of 12 months which ends on 15 March 2021.'*

Q. Listing Rule 3.19A which requires an entity to tell ASX the following:

3.19A.1 *'The notifiable interests of a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) at the following times.*

- *On the date that the entity is admitted to the official list.*
- *On the date that a director is appointed.*

*The entity must complete Appendix 3X and give it to ASX no more than 5 business days after the entity's admission or a director's appointment.*

3.19A.2 *A change to a notifiable interest of a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) including whether the change occurred during a closed period where prior written clearance was required and, if so, whether prior written clearance was provided. The entity must complete Appendix 3Y and give it to ASX no more than 5 business days after the change occurs.*

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3.19A.3 *The notifiable interests of a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) at the date that the director ceases to be a director. The entity must complete Appendix 3Z and give it to ASX no more than 5 business days after the director ceases to be a director.'*

R. Listing rule 3.19B which states that:

*'An entity must make such arrangements as are necessary with a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) to ensure that the director discloses to the entity all the information required by the entity to give ASX completed Appendices 3X, 3Y and 3Z within the time period allowed by listing rule 3.19.A. The entity must enforce the arrangements with the director.'*

S. The warranty in ASX's Appendix 2A which states that:

*'An offer of the securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.'*

#### **ASX's Observations**

- ASX cannot locate an Appendix 3Y for either the grant of the remuneration options and/or conversion to fully paid ordinary shares in OLI for Ms Amanda Gunn. The date of the last notice in relation to Ms Gunn's interest prior to the grant of remuneration options was 6 March 2019.
- By adding the numbers to be issued to Ms Amanda Gunn, Mr Steve Matter, Mr Gunn and Mr Nicholas Downer (the 'Directors'), based upon the approval of OLI's EGM Resolutions 2 to 5, it can be concluded that there is a discrepancy of 5,000,000 shares that were held in escrow for 12 months based on the Proposed Announcement. This is also supported by the Appendix 2A lodged on MAP on 13 March 2020 whereby the total amount to be issued was 20,000,000.
- ASX notes in the 12 month period prior to the lodgement of OLI's Appendix 2A on 13 March 2020, OLI had been suspended from 1 October to 6 November 2019 which amounted to 36 days.
- Due to the lengthy suspension, OLI would have been unable to issue a cleansing notice in relation to the issue of securities in accordance with section 708A(5) of the *Corporations Act 2001 (Cth)* ('Corporations Act'). Consequently, OLI would have been required to issue a cleansing prospectus under section 708A(11) of the Corporations Act. ASX has reviewed OLI's disclosures around that point in time, and it cannot locate a cleansing prospectus pertaining to the Appendix 2A lodged on 13 March 2020.

#### **Questions and Request for Information**

Under Listing Rule 18.7, ASX asks that you answer each of the following questions having regard to Listing Rules 3.19A and 3.19B and *Guidance Note 22: Director Disclosure of Interests and Transactions in Securities - Obligations of Listed Entities*.

1. Please provide a copy of the documentation from OLI's share registry that confirmed that all the securities issued to the Directors were placed into a holding lock (not for release to the market).
2. Please provide a copy of the documentation which confirms that the securities issued to the Directors were not on-sold (not for release to the market).
3. Please explain why an Appendix 3Y was not lodged for the change of interest for Ms Amanda Gunn in respect of the issue of 5,000,000 options.
4. Please advise whether any securities issued to Mr Nicholas Downer and his related entities (or any other director) were on-sold.

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5. If any securities were on-sold:
    - a) Did OLI obtain a legal opinion regarding the relevant provisions of the Corporations Act and the warranty provided to ASX in the Appendix 2A?
    - b) Please explain why OLI did not seek Federal Court and/or Supreme Court orders at the relevant time.
    - c) Is OLI now intending to seek declarations and relief under section 1322(4) of the Corporations Act to validate procedural and administrative errors and grant relief from any potential civil liability?
  6. Please explain the apparent discrepancy in the number of shares (i.e. 5,000,000 shares) which should have been held in voluntary escrow alongside the other 15,000,000 shares issued to the Directors.
  7. What arrangements does OLI have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?
  8. If the current arrangements are inadequate or not being enforced, what additional steps does OLI intend to take to ensure compliance with Listing Rule 3.19B?
  9. Please confirm that OLI is complying with the Listing Rules and, in particular, Listing Rule 3.1.
  10. Please confirm that OLI's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of OLI with delegated authority from the board to respond to ASX on disclosure matters.

#### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00AM AEST on Friday, 23 April 2021**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, OLI's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph.

Your response should be sent to me by e-mail. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

#### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to OLI's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that OLI's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

#### **Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

#### **Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely





**Corey Lian**  
Graduate, Listings Compliance (Sydney)