

# Target's Statement

## **Asset Resolution Limited ACN 159 827 871**

Your Directors unanimously recommend that you **REJECT** the inadequate and unsolicited Offer by Hamilton Securities Limited

This Target's Statement has been issued in response to the off-market takeover bid made by Hamilton Securities Limited ACN 138 270 201 for all the ordinary shares in Asset Resolution Limited ACN 159 827 871.

### **THIS DOCUMENT IS IMPORTANT**

This is an important document and requires your immediate attention. If you are in doubt as to the course of action you should follow, you should consult your accountant, solicitor, investment adviser or other professional adviser immediately.

**Legal Advisors**

**Corporate Advisors**

**HWL**  
**EBSWORTH**  
LAWYERS

# IMPORTANT NOTICES & DISCLAIMERS

## Nature of this document

This document is a Target's Statement issued by Asset Resolution Limited (**ARL**) under Part 6.5 Division 3 of the Corporations Act in response to Hamilton Securities Limited's (**HSL**) Bidder's Statement and Offer. You should read this document in its entirety.

## Defined terms

Capitalised terms used in this Target's Statement are defined in the Glossary set out in section 1.1 of this Target's Statement.

## Responsibility for information

Except as otherwise stated, the information that is contained in this Target's Statement, including financial information and information as to the opinions and decisions of the directors of Asset Resolution Limited (**ARL Information**), has been prepared and provided by Asset Resolution Limited and its advisers and is the responsibility of Asset Resolution Limited.

## No account of personal circumstances

This Target's Statement does not take into account your individual objectives, financial situation or particular needs. It does not contain personal advice. The Directors encourage you to seek independent financial and taxation advice before making a decision as to whether or not to accept the Offer.

## ASIC

A copy of this Target's Statement has been lodged with ASIC. None of ASIC or any of their respective officers take any responsibility for the content of this Target's Statement.

## Forward looking statements

This Target's Statement contains both historical and forward looking statements in relation to ARL. All statements other than statements of historical fact are, or may be deemed to be, forward looking statements.

All forward looking statements in this Target's Statement reflect the current expectations of ARL. They are not necessarily based on historical facts.

Neither ARL or any of its officers or employees, or any person named in this Target's Statement with their consent or any person involved in the preparation of this Target's Statement makes any representation or warranty (either express or implied) as to the accuracy or likelihood of any forward looking statement, or any events or results expressed or implied in any forward looking statement, except to the extent required by law.

These forward looking statements involve risks, uncertainties and other factors that may cause ARL's, actual results, performance or achievements to differ materially from the anticipated results, performance or achievements expressed, projected or implied by these

forward looking statements. Accordingly, you should review carefully all of the information, including the financial information, included in this Target's Statement.

Unknown or unpredictable factors could have material adverse effects on future results. The forward looking statements in this Target's Statement reflect the views held only as at the date of this Target's Statement. ARL cannot guarantee Shareholders that projected or implied results or events will be achieved. You are cautioned not to place undue reliance on any forward looking statement.

All subsequent written and oral forward looking statements attributable to ARL or any person acting on their behalf are qualified by the above statements.

## Privacy

ARL has collected your information from the Shareholders' register for the purposes of providing you with this Target's Statement. The type of information ARL has collected includes your name, contact details and information about your ARL Shares. Without this information ARL would be hindered in its ability to issue this Target's Statement.

The Corporations Act requires the names and addresses of ARL Shareholders to be held on a public register. Your information may be disclosed on a confidential basis (such as to ARL's registry and print and mail service provider) and may be required to be provided to regulators such as ASIC and others in accordance with the Corporations Act.

## Foreign jurisdictions

The release, publication or distribution of this Target's Statement in jurisdictions other than Australia may be restricted by law or regulation in such other jurisdictions and persons who come into possession of it should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable laws or regulations. This Target's Statement has been prepared having regard to Australian disclosure requirements and Australian accounting standards. These disclosure requirements and accounting standards may be different from those in other countries.

## Date of this Target's Statement and Key Dates

<b>Event</b>	<b>Date</b>
<b>HSL's Announcement of Offer</b>	7 April 2015
<b>Original Bidder's Statement lodged with ASIC</b>	7 April 2015
<b>Replacement Bidder's Statement lodged with ASIC</b>	5 May 2015
<b>Date of Bidder's Offer</b>	11 May 2015
<b>Date of this Target's Statement</b>	19 May 2015
<b>Closing of Bidder's Offer (unless extended or withdrawn)</b>	7pm (Sydney time) AEST on 16 June 2015

## ARL Shareholder Information

ARL has a shareholder information line which Shareholders may call if they have any queries in relation to HSL offer. The telephone number for the shareholder information line is (02) 8263 2389 or for international calls +61 2 8263 2389.

You should also regularly check the ARL website ([www.arlimited.com.au](http://www.arlimited.com.au)) for further updates.

## No adoption of letter sent with this Target's Statement

Mailed to you with this Target's Statement is a copy of a letter received by ARL from Peter Grenadier, Charles Hodges, Diane Grenadier, Sue Clifford and Robert Axam. The Board does not adopt any of the statements in the letter and such statements are made solely by the signatories to that letter. The statements and opinions contained therein are solely those of the signatories to that letter. You should form your own view on the reliability of such statements and whether they should have any bearing on your decision whether to accept or **REJECT** the Offer.

# Chairman's Letter

Dear Shareholder

## **REJECT HAMILTON SECURITIES LIMITED'S UNSOLICITED AND INADEQUATE OFFER**

You should have recently received a copy of the Bidder's Statement issued by Hamilton Securities Limited (**HSL**) which outlines their offer to acquire all of the shares in ARL (the **Offer**).

This Offer is opportunistic and was not solicited by the board of ARL.

This document contains ARL's Target's Statement in which the Directors provide their recommendation in relation to the Offer by HSL.

### Recommendation

The Directors, being all the Directors of ARL have carefully considered the Offer and all relevant information known to the Directors, including that which is set out in the Bidder's Statement and this Target's Statement and unanimously recommend that Shareholders **REJECT** the Offer.

### Reasons for Recommendation to **REJECT** the Offer

The Directors unanimously recommend that you should **REJECT** the Offer because:

- **The Offer significantly undervalues ARL.** As at 20 April 2015 the net tangible assets (unaudited) of ARL were \$19,902,187<sup>1</sup>. The Offer price of \$0.01 per ARL Share values ARL at \$9,805,581.67 (There are currently 980,558,167 ARL shares on issue). Based on the net tangible assets (unaudited) of ARL as at 20 April 2015, the value of ARL is approximately \$0.0203 per ARL Share.
- **Pending return of capital by ARL equals the Offer.** ARL is on track to make a further 1 cent per share distribution to shareholders. It presently holds \$9.1 million in cash which represents 0.93 cents per share. Subject to receipt of funds discussed below, the Board will seek shareholder approval and endorsement from the Australian Tax Office to undertake a further return of capital to ARL Shareholder's of \$0.01 per share by no later than 30 June 2015. If shareholder approval or endorsement by the Australian Tax Office is not forthcoming, ARL will declare a dividend of \$0.01 per share.

The return of capital/dividend is the same value as the Consideration in the Offer of \$0.01 per ARL Share but allows ARL Shareholders to retain their ARL Shares and participate in any future distributions made by ARL. The timing of payment of the return of capital/dividend is similar to the timing of payment of Consideration by HSL under the Offer (assuming that HSL does not extend the Offer Period).

The return of capital or payment of dividend by ARL to ARL Shareholders is subject to ARL's receipt of \$1.26 million of funds from the Purchaser who acquired the Kooralbyn

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<sup>1</sup> Last audited accounts were ARL's half-yearly accounts dated 31 December 2014 which can be viewed on ARL's website: [www.arlimited.com.au](http://www.arlimited.com.au).

Resort in 2014. If ARL does not receive payment of \$1.26 million in full from the Purchaser, the return of capital/dividend to be made by ARL no later than 30 June 2015 will be for not less than \$0.009 per ARL Share.

When the Kooralbyn Resort was sold, ARL agreed to lend the Purchaser \$5.183 million under the Finance Agreement against a purchase price of \$6.5 million. The Purchaser has been paying down the amount owing under the Finance Agreement ever since, under a strict debt reduction plan which ended on 30 April 2015 with a balance of \$1.938 million. ARL then demanded repayment of the Finance Agreement in full with notices of default being served. Subsequently on 12 May 2015 a development site was sold by the Purchaser with the full net proceeds of \$0.677 million received by ARL. If the Purchaser fails to remedy defaults by 28 May 2015, ARL may exercise its rights as first secured party and may re-sell Kooralbyn Resort.

ARL is confident that the Purchaser will perform based on the terms of the Finance Agreement (interest accruing at 20% per annum) as the risk to the Purchaser is that ARL may take recovery action if the Vendor is not repaid on time.

- **Liquidator distributions.** The Offer does not attribute any value to further dividends that may be paid to ARL out of the liquidation of Octaviar Administration Pty Ltd and Octaviar Limited after 12 May 2015.
- **Highly Conditional Offer.** The Offer is highly conditional and does not provide a sufficient degree of certainty for ARL Shareholders that the Offer will be completed.

## How to **REJECT** the Offer

To **REJECT** the Offer, you should do nothing and not complete or return any documentation to HSL.

## Enquiries

The Directors recommend that you read this Target's Statement in full, including the detailed reasons for reaching our conclusions in this document.

The Offer is currently scheduled to close at **7pm (Sydney time) AEST on 16 June 2015**, unless extended. If you are in doubt as to whether to **REJECT** the Offer, please consider obtaining professional advice.

The Directors will update you with any material developments in relation to this presently inadequate Offer. We look forward to your continued support as an ARL shareholder.

Yours faithfully



**David Beddall**  
**Chairman**  
**On behalf of the Directors**

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# Target's Statement

## 1. GLOSSARY AND INTERPRETATION

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### 1.1 Definitions

**\$, AU or AUD** means the lawful currency of Australia.

**AEST** means Australian Eastern Standard Time.

**AGM** means an Annual General Meeting.

**Announcement Date** means the date the Offer was announced, being 7 April 2015.

**ARL** means Asset Resolution Limited ACN 159 827 871.

**ARL Prescribed Event** has the meaning given to that term in the Bidder's Statement.

**ARL Share** means fully paid ordinary shares in ARL.

**ARL Shareholder** means a person who is registered as the holder of ARL Shares in the Register.

**ASIC** means the Australian Securities and Investments Commission.

**ASIC Claim** has the meaning given to that term in the Bidder's Statement.

**Associate** has the meaning given to that term in section 12 of the Corporations Act.

**ATO** means the Australian Taxation Office.

**Bidder** means HSL.

**Bidders Statement** means the replacement bidder's statement of HSL lodged with ASIC on 5 May 2015.

**Board** means the board of directors of ARL and **Directors** has a corresponding meaning.

**Business Day** means any day that is not a Saturday, Sunday or a public holiday in Queensland.

**CGT** means capital gains tax.

**Collateral Sale** has the meaning given to that term in section 5.2(a).

**Condition** means each condition of the Offer set out in section 9.7 of the Bidder's Statement.

**Consideration** means the cash amount of \$0.01 per ARL Share which HSL will offer under the Offer or the aggregate amount payable by HSL if it receives acceptances of Offers for all ARL Shares.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Finance Agreement** has the meaning given to that term in section 5.2(a).

**Forest Resort** means 1500 Midland Highway, Creswick Victoria.

**HSL** means Hamilton Securities Limited ACN 138 270 201.

**HSL Offer Terms** means the terms and conditions to the Offer contained in section 9 of the Bidders Statement.

**Kooralbyn Resort** means 1 Routley Drive, Kooralbyn Qld.

**Liquidators** means the liquidator that has been appointed to Octaviar Administration Pty Ltd and Octaviar Limited.

**Material Adverse Change** has the meaning given to that term in the Bidder's Statement.

**Mount Louisa** means 507-523 Dalrymple Road, Mount Louisa, Townsville QLD.

**NSX** means the National Stock Exchange of Australia Limited or the main exchange operated by the NSX as applicable.

**OA** means Octaviar Administration Pty Ltd ACN 101 069 390.

**Offer** means the offer by HSL for the Share, which offer is contained in the HSL Offer Terms.

**Offer Period** means the period during which the Offer will remain open for acceptance in accordance with clause 9.2 of the HSL Offer Terms.

**OL** means Octaviar Limited ACN 107 863 436.

**Premium Income Fund** means Premium Income Fund ARSN 090 687 577.

**Purchaser** has the meaning given to that term in section 5.2(a).

**Register** means the register of ARL Shareholders maintained by ARL in accordance with the Corporations Act.

**Related Body Corporate** has the meaning given to that term in the Corporations Act.

**Relevant Interest** has the meaning given to that term in the Corporations Act.

**Samuel Terry** means Samuel Terry Asset Management Pty Ltd ACN 108 611 785 in its capacity as trustee of the STAR Fund.

**South Ripley** means 34 O'Dempsey Road, South Ripley, Queensland.

**STAR Fund** means the Samuel Terry Absolute Return Fund.

**Share or Shares** means fully paid ordinary shares in ARL.

**Target's Statement** means this document, being the statement of ARL under Part 6.5 Division 3 of the Corporations Act.

## 1.2 Interpretation

In this Target's Statement, unless the context requires otherwise:

- (a) other words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (b) words importing a gender include any gender;
- (c) words importing the singular include the plural and vice versa;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- (e) a reference to any section, clause, annexure and schedule is a reference to a section of, clause of and annexure and schedule to this Target's Statement as relevant;
- (f) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes regulations, proclamations , ordinances or by-laws amending, varying, consolidating or replacing it and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (g) headings, bolding, capitalisation and underlining are for convenience only and do not affect the interpretation of this Target's Statement;
- (h) a reference to time is a reference to AEST; and
- (i) a reference to dollars, \$, A\$, AUD, cents and currency is a reference to the lawful currency of the Commonwealth of Australia.

## 2. WHY YOU SHOULD **REJECT** THE OFFER

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### 2.1 Recommendation to **REJECT** the Offer

After taking into account each of the matters in this Target's Statement and in the Bidders Statement, the Directors unanimously recommend that you should **REJECT** the Offer because:

- (a) **The Offer significantly undervalues ARL.** As at 20 April 2015 the net tangible assets (unaudited) of ARL were \$19,902,187<sup>2</sup>. The Offer price of \$0.01 per ARL Share values ARL at \$9,805,581.67 (There are currently 980,558,167 ARL shares on issue). Based on the net tangible assets of ARL as at 20 April 2015, the value of ARL is approximately \$0.0203 per ARL Share.
- (b) **Pending return of capital by ARL equals the Offer.** Subject to receipt of funds discussed below, the Board will seek shareholder approval and endorsement from the Australian Tax Office to undertake a further return of capital to ARL Shareholder's of \$0.01 per share by no later than 30 June 2015. If shareholder approval or endorsement by the Australian Tax Office is not forthcoming, ARL will declare a dividend of \$0.01 per share.

The return of capital/dividend is the same value as the Consideration in the Offer of \$0.01 per ARL Share but allows ARL Shareholders to retain their ARL Shares and receive future distributions made by ARL. The timing of payment of the return of capital/dividend is similar to the timing of payment of Consideration by HSL under the Offer (assuming that HSL does not extend the Offer Period).

The return of capital or payment of dividend is subject to receipt of \$1.26 million in final repayment of the Finance Agreement from the Purchaser of Kooralbyn Resort (See section 5.2 for further details and discussion of ARL's rights if the breach is not remedied and specific risk in section 8.3(g)).

If ARL does not receive payment from the Purchaser of \$1.26 million within the timeframes necessary for ARL to undertake the return of capital/dividend of \$0.01 per ARL Share by 30 June 2015, the return of capital/dividend undertaken by no later than 30 June 2015 will be for not less than \$0.009 per ARL Share.

- (c) **Liquidator distributions.** The Offer does not attribute any value to further dividends that may be paid to ARL out of the liquidation of Octaviar Administration Pty Ltd and Octaviar Limited after 12 May 2015.
- (d) **Highly Conditional Offer.** The Offer is highly conditional and does not provide a sufficient degree of certainty for ARL Shareholders that the Offer will be completed.
- (e) **Clarification of Material Adverse Change Condition.** In addition to the general conditional nature of the Offer, the Offer Condition that there be no Material Adverse Change affecting ARL sets a low threshold such that the Board are of the view that there has already been a breach of this Condition through the ordinary course of ARL's business as ARL has incurred expenses of \$1.4 million since 31 December 2014 (see section 7). As a consequence, the Board believes this Condition may have been breached and is subject to HSL's election whether to waive the Condition or not. Without further confirmation from HSL as to whether there is a breach and, if there is a breach, HSL will waive the Condition, there is uncertainty that if you accept the Offer, HSL will complete the acquisition. (See further discussion in section 6.2)

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<sup>2</sup> Last audited accounts were ARL's half-yearly accounts dated 31 December 2014 which can be viewed on ARL's website: [www.arlimited.com.au](http://www.arlimited.com.au).

- (f) **Clarification of ARL Prescribed Event Condition.** In addition to the general conditional nature of the Offer, the Offer Condition that no ARL Prescribed Event occurs between the Announcement Date and Completion has set such a low threshold that the Board is of the view that there has already been a breach of this Condition by ARL.

The ARL Prescribed Event Condition will be breached where "*ARL enters into, or agrees to enter into, any contract of service for the appointment of a director, senior manager, consultant, contractor or adviser, or otherwise agrees to vary an existing contract of service for the appointment of a director, senior manager, consultant, contractor or adviser;*". In responding to HSL's Bidder's Statement, it has been necessary for ARL to retain advisors in order to discharge its obligations under the Corporations Act. As there is no monetary threshold specified in this ARL Prescribed Event Condition, the Board is of the view that ARL is in breach of this Condition.

Unless HSL waives the ARL Prescribed Event Condition, HSL will not be required to complete the acquisition if you accept the Offer. (See further discussion in section 6.2)

## 2.2 **Alternative proposals**

In the event that an alternative proposal does emerge, the Directors will keep you informed of all material developments relating to such proposal.

## 2.3 **Careful consideration**

In considering whether to accept or **REJECT** the Offer, the Directors encourage you to:

- (a) read the whole of this Target's Statement and the Bidder's Statement;
- (b) have regard to your individual risk portfolio, portfolio strategy, tax position and financial circumstances; and
- (c) obtain financial advice from your broker or financial adviser upon receipt of the Offer and obtain taxation advice on the effect of accepting the Offer.

## 2.4 **Commercial desirability of the takeover**

Given the stated purpose of ARL is to realise its assets and return funds to shareholders and not to continue to operate a business, a takeover for cash consideration could be a favourable outcome.

Some factors which the Directors believe are relevant to determine whether the Offer is favourable are:

- (a) Is the Consideration under the Offer a reasonable reflection of the value of ARL (**Value Comparison**)?
- (b) Will the Offer result in you realising the value of your ARL Shares sooner and what value do you attribute to this (**Timing of Payment**)?

- (c) What is the level of risk attributable to receiving your Consideration under the Offer or receiving a return of funds from ARL following realisation of its assets and what level of discount should apply to the value attributable to each option **(Certainty of Payment)**?

Applying these factors to ARL and the Offer the Board is of a view that the Consideration is not sufficient to outweigh the value of ARL Shares if ARL is allowed to continue to realise assets and return funds to ARL Shareholders. A consideration of the above factors is set out in the table below:

Factor	Acceptance of HSL's Offer	ARL's Realisation of assets and return of funds
<b>Value Comparison</b>	\$0.01 per ARL Share	<p>The unaudited net tangible asset backing per ARL Share is \$0.0203 as at 20 April 2015.</p> <p>There may be additional funds available for distribution as a result of the liquidation of OA and OL.</p>
<b>Timing of Payment</b>	<p>Generally, on the earlier of 1 month after the Offer is free of all Conditions or 21 days after the end of the Offer Period.</p> <p><b>NB the Offer Period can be extended at the discretion of HSL by up to a year from the date of commencement of the Offer Period.</b></p>	<p>Subject to receipt of \$1.26 million payable in connection with sale of Kooralbyn Resort which is overdue (see discussion in section 5.2(a) and specific risk in section 8.3(g)), ARL will undertake a return of capital of \$0.01 per ARL Share by no later than 30 June 2015.</p> <p>If the requisite shareholder approval or endorsement by the ATO is not forthcoming to undertake a return of capital, the Board will resolve that ARL declares and pays a dividend of \$0.01 per ARL Share in place of the return of capital.</p>
<b>Certainty of Payment</b>	<p>Uncertain for the following reasons:</p> <p>(a) Offer is highly</p>	<p>Low risk as current cash holdings of \$9.1 million plus expected realisations from sale of assets and from</p>

Factor	Acceptance of HSL's Offer	ARL's Realisation of assets and return of funds
	conditional;  (b) unclear if HSL's financier, Samuel Terry will be able to meet its funding obligations to HSL so that HSL can make payments under the Offer as and when due (See section 6.7).	liquidation of OA and OL.  If ARL does not receive payment of \$1.26 million from the Purchaser, ARL will undertake a return of capital of not less than \$0.009 per ARL Share by no later than 30 June 2015.

### 3. FREQUENTLY ASKED QUESTIONS

You may have questions regarding the Offer. The following set of questions and answers is intended to assist you in your understanding of the Offer.

Question	Answer
<b>Who is the Bidder</b>	The Bidder is Hamilton Securities Limited ACN 138 270 201, a company listed on the NSX.
<b>How many ARL Shares does HSL hold</b>	HSL stated in its Bidder's Statement, it had a Relevant Interest in 195,217,021 ARL Shares on issue (held directly by HSL and its associate, Samuel Terry), representing 19.9% of ARL Shares. ARL has been unable to verify this from analysis of the Register. See section 5.4 for further discussion.
<b>What will I receive if I accept the Offer?</b>	HSL is offering \$0.01 per ARL Share.
<b>What choices do I have as an ARL Shareholder</b>	As an ARL Shareholder you have the choice to: <ul style="list-style-type: none"> <li>• <b>REJECT</b> the inadequate Offer and remain an ARL Shareholder;</li> <li>• Sell your ARL Shares to a third party which may be at a higher or lower price than the Consideration. If you wish to sell you ARL Shares to a third party, you should not accept the</li> </ul>

Question	Answer
	<p>Offer.</p> <ul style="list-style-type: none"> <li>• Accept the inadequate Offer for all your ARL Shares.</li> </ul> <p>You should carefully consider the Director's recommendation, the information set out in this Target's Statement and the Bidder's Statement prior to making your decision.</p>
<p><b>What do the Directors recommend?</b></p>	<p>The Directors unanimously recommend that you <b>REJECT</b> the Offer.</p> <p>The reasons for this recommendation are detailed in section 2.</p> <p>If there is a change to this recommendation or any material developments in relation to the inadequate Offer, ARL will provide you with a supplementary target statement.</p>
<p><b>Why are the Directors recommending that I REJECT the inadequate Offer?</b></p>	<p>The Directors recommend that you <b>REJECT</b> the inadequate Offer for the following reasons:</p> <ul style="list-style-type: none"> <li>• the Consideration represents only 49.26% of the total net tangible assets (unaudited) attributable to each ARL Share as at 20 April 2015;</li> <li>• ARL is likely to make a return of capital or declare a dividend of \$0.01 per share which is equivalent to the Consideration in similar timeframe to when you would receive payment under the Offer (see discussion of repayment of Kooralbyn Resort vendor finance in section 5.2(a) and specific risk in section 8.3(g)); and</li> <li>• the Offer does not attribute any value to possible dividends that may be paid to ARL as part of the liquidations of Octaviar Administration Pty Limited and Octaviar Limited.</li> <li>• the Offer is highly conditional and does not provide a sufficient degree of certainty for ARL Shareholders that the Offer will be completed.</li> <li>• the Board is of the view that the no Material Adverse Change Condition specified in the Offer may have been breached during the ordinary course of ARL's business. If this is the case, HSL</li> </ul>



Question	Answer
	<p>will not be obligated to complete the Offer if accepted by you unless HSL waives the Condition. (See further discussion in section 6.2)</p> <ul style="list-style-type: none"> <li>the Board is of the view that the no ARL Prescribed Event Condition specified in the Offer has been breached by ARL's engagement of advisors in order to respond to the Bidder's Statement. HSL will not be obligated to complete the Offer if accepted by you unless HSL waives the Condition. (See further discussion in section 6.2)</li> </ul>
<p><b>How do I REJECT the Offer?</b></p>	<p>To <b>REJECT</b> the Offer, you do not need to take any action and should not fill in or send any documents to HSL.</p> <p>The Board recommends that you take this course of action.</p>
<p><b>How do I accept the Offer?</b></p>	<p>To accept the Offer, you must follow the instructions in section 9.3 of the Bidder's Statement.</p>
<p><b>What happens to my rights attaching to ARL Shares if I accept the Offer?</b></p>	<p>If you accept the inadequate Offer, upon acceptance and regardless of whether you have received payment or not, HSL will be entitled to all of the Rights attaching to your ARL Shares including the right to attend and vote at general meetings and receive any dividends paid by ARL.</p> <p>HSL has the right under the Offer to reduce the Consideration which you are otherwise entitled to by the amount of any dividend paid by ARL and received and retained by you following your acceptance of the Offer.</p> <p>For example if ARL pays a dividend of \$0.005 after you accept the Offer but before HSL pays for your Shares, the Consideration payable by HSL will be \$0.005.</p>
<p><b>When do I have to make a decision?</b></p>	<p>If you wish to follow the Director's recommendation and <b>REJECT</b> the Offer, you do not need to do anything.</p> <p>If you wish to accept the inadequate Offer, you must follow the instructions in section 9.3 of the Bidder's Statement.</p> <p>Please note that you can accept the Offer at any time before the end of the Offer Period. As such, we</p>

Question	Answer
	<p>encourage that if you are inclined to accept the Offer, you maximise the options available to you by not accepting the Offer until towards the end of the Offer Period. This will give you the benefit of any supplementary information which is issued by HSL or ARL during the Offer Period and also ensure that you retain the Rights attaching to your ARL Shares, including the right to receive dividends (if any) that are paid by ARL for as long as possible.</p>
<p><b>What happens if HSL raises its Offer price?</b></p>	<p>The Directors will carefully consider the revised Offer and advise you accordingly.</p> <p>If you have already accepted the Offer, you will be entitled to any increase in the Offer price.</p>
<p><b>What happens if I accept the inadequate Offer and a superior offer is made for my ARL Shares after I accept?</b></p>	<p>If you accept the Offer, you will only be able to withdraw in the event that the Offer remains conditional at the time that HSL extends the Offer Period by one month or greater.</p> <p>If you accept the Offer, you may be unable to accept a superior offer if one arises.</p>
<p><b>Can I be forced to sell my ARL Shares?</b></p>	<p>You cannot be forced to sell your ARL Shares unless HSL proceeds to compulsorily acquire ARL Shares. To do so, HSL and its Associates will need to have a Relevant Interest in at least 90% of ARL Shares on issue and have acquired at least 75% of all ARL Shares that HSL has offered to acquire under the Offer (excluding ARL Shares in which HSL or its Associates have a Relevant Interest at commencement of the Offer) before it may exercise compulsory acquisition rights.</p> <p>If HSL proceeds with compulsory acquisition, you will be paid the same consideration that is payable by HSL under the Offer.</p>
<p><b>What are the tax implications of accepting the inadequate Offer?</b></p>	<p>A general discussion of the tax treatment for certain ARL Shareholders accepting the Offer is set out in section 9 of the Target's Statement and section 8 of the Bidder's Statement.</p>
<p><b>What are the conditions to the inadequate Offer?</b></p>	<p>The Offer is highly conditional and completion of the Offer is subject to the following conditions:</p>

Question	Answer
	<p>(c) HSL and its associates having a Relevant Interest in greater than 50% of ARL Shares on issue;</p> <p>(d) If the NSX requires, HSL obtains approval of its shareholders to the acquisition of ARL Shares (HSL has confirmed that this condition has been satisfied. See further information in section 6.2);</p> <p>(e) Other than an application or decision of ASIC or the Takeovers Panel in consequence or in connection with the Offer, no regulatory action being taken between the Announcement Date of the Offer and the end of the Offer Period as a consequence of or in connection with the Offer which restrains or prohibits the making or completion of the Offer, or the rights of HSL in respect of ARL or ARL Shares;</p> <p>(f) Between the Announcement Date and end of the Offer Period, no Material Adverse Change occurs or becomes known to HSL; and</p> <p>(g) Between the Announcement Date and the end of the Offer Period, no ARL Prescribed Event occurs.</p> <p>The conditions to the Offer are set out in section 9.7 of the Bidder's Statement and discussed in greater detail in section 6.2 of this Target's Statement.</p>
<p><b>What happens if I accept the inadequate Offer and the Conditions are not satisfied?</b></p>	<p>If the Offer Conditions are not satisfied and HSL has not waived the Conditions by the end of the Offer Period, your acceptance of the Offer will be void and of no effect whatsoever. You will then be free to deal with you ARL Shares in another way.</p> <p>If the Offer Conditions are satisfied or waived before the end of the Offer Period, you will be paid the Consideration by HSL.</p> <p>Once you accept the Offer, you cannot withdraw your acceptance before the end of the Offer Period except in limited circumstances (see section 6.5).</p>
<p><b>When will I be paid if I accept the inadequate Offer?</b></p>	<p>If you accept the Offer, you will not be paid until the earlier of:</p> <p>(a) one month after the date of acceptance or, if the</p>

Question	Answer
	<p>Offer is subject to a Condition when you accept the Offer, within one month after the Offer becomes free of all Conditions; or</p> <p>(b) 21 days after the end of the Offer Period.</p>
<p><b>Who can I call if I have any questions?</b></p>	<p>ARL has a shareholder information line for ARL Shareholder's in relation to the Offer.</p> <p>The telephone number for the shareholder information line is (02) 8263 2389 or for international calls +61 2 8263 2389.</p>

## 4. DIRECTORS' INTERESTS

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### 4.1 Directors of ARL

As at the date of this Target's Statement, the directors of ARL are:

- (a) The Honourable Mr David Beddall - Chairman, Non-executive

Mr Beddall brings to the ARL board a breadth of experience including being a Federal member in the Australian Parliament from 1983 to 1998, federal minister from 1990 to 1996 and president of the Australian Franchisees Association Incorporated, Members of the Australian Competition & Consumer Franchising Consultative Committee.

Mr Beddall has also been Councillor of the Australian Industry Group and Councillor - Queensland executive members (branch Secretary & Treasurer) of the Australian Industry Group (Qld). Mr Beddall was most recently Chairman of Industrea Limited, an ASX 200 listed Company which was sold in November 2012 to the General Electric Company.

- (b) Mr Lindsay Johnston - Non-executive Director

Mr Johnston has had over 15 years banking and accounting experience as a National and General Manager/Executive.

Mr Johnston's specialties include: portfolio finance and management; portfolio sales; credit risk; market risk; asset management; risk assessment; and mergers and acquisitions.

- (c) Mr Tony Pope - Non-executive Director

Mr Pope has in excess of 40 years' experience in banking and funds management. Mr Pope has been involved in the senior management of finance and investment banking companies with experience in lending, treasury,

equipment leasing and structured finance. Mr Pope has extensive expertise in the property and finance sectors particularly relating to their compliance with Australian Financial Services Licences.

Mr Pope was involved in the turnaround of Estate Mortgage Trusts and their restructure into the successful listed property trust, Meridian Investment Trust. Acting as the Fund Manager for a number of years, Mr Pope negotiated the takeover of two other listed trusts, one of which was a retail trust with 10 shopping centres in New South Wales and Queensland.

Mr Pope has extensive experience in the financing and workout of property assets and has particular experience in the development and management of 15 shopping centres, ranging from neighbourhood centres to sub regional centres. In recent years he has completed the construction and sale of two multi-unit residential developments on behalf of lending institutions, as well as the disposal of more specialised assets such as retirement villages and hotels.

#### 4.2 Senior Management of ARL

There is no senior management of ARL.

#### 4.3 Interests and dealings in ARL securities

As at the date of this Target's Statement, the Directors had the following Relevant Interests in ARL Shares:

Director	Number of Shares	Holder
Mr David Beddall	Nil	N/A
Mr Lindsay Johnston	Nil	N/A
Mr Tony Pope	Nil	N/A

#### 4.4 Interests and Dealings in HSL

Neither ARL nor any of ARL's Directors have a Relevant Interest in HSL or any Related Body Corporate of HSL.

There have been no acquisitions or disposals of securities in HSL or any Related Body Corporate of HSL by ARL, any associate of ARL or any of the Directors in the four months ending on the day preceding the date of this Target's Statement.

#### 4.5 Benefits to Directors

No benefit other than as permitted by section 200F or 200G of the Corporations Act and compulsory superannuation entitlements has been paid or will be paid to any Director,

secretary or executive officer in connection with the loss of, or their resignation from, their office.

No agreement has been made between any of the Directors and any other person in connection with or conditional upon the outcome of the Offer.

#### 4.6 **Directors' independence to consider the Offer**

For the above stated reasons, the Directors consider themselves independent for the purposes of considering the Offer and are able to make the recommendation to ARL Shareholders.

## 5. About ARL

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### 5.1 **Brief history of ARL**

ARL was incorporated on 8 August 2012 as a special purpose vehicle for the realisation of assets transferred to it from the Premium Income Fund.

The Directors have significant experience and connections to facilitate the realisation of mortgage loans and leisure assets (see section 4.1 above).

### 5.2 **Current business activities of ARL**

The business of ARL continues to be the orderly realisation of its assets and the return of money to its shareholders. A summary of the current status of realisation of ARL's assets is set out below.

- (a) 1 Routley Drive, Kooralbyn, QLD (Kooralbyn Resort) (Performing and income producing loan for ARL):

Repayment of vendor finance for Kooralbyn Resort was scheduled for 31 March 2015. Repayment on 31 March 2015 did not occur. The purchaser of Kooralbyn Resort (the **Purchaser**) is currently in breach and has been in breach since 31 March 2015 of their obligations under the terms of their agreement with ARL for vendor finance (**Finance Agreement**), having failed to repay the entire balance of principal and interest when due.

Despite the default, the Purchaser has been continuing to make monthly interest repayments at the standard interest rate. However, as a result of the breaches, default interest is accruing at 20% per annum on the amount outstanding and the Purchaser is liable to pay the holding costs incurred by ARL as a result of the breaches. The holding costs include those of ARL's consultants, Castlereagh Capital Limited and HWL Ebsworth Lawyers.

ARL holds first ranking security over the Kooralbyn Resort as well as a second ranking mortgage (first secured party has priority over ARL for the amount of \$1,220,400) over a significant residential development site at South Ripley.

Notice of default has been served on the Purchaser with respect to the failure to make payments of interest and repayment of principal under the Finance Agreement. If the Purchaser fails to remedy the defaults by 28 May 2015, ARL may exercise its rights as first secured party and sell Kooralbyn Resort and the other collateral security being a second mortgage over South Ripley to recover the balance amount owing.

The Purchaser of Kooralbyn Resort completed the sale of collateral property over which ARL has first security (**Collateral Sale**) on 12 May 2015. The Purchaser applied the full net sale proceeds of \$677,439.70 from the Collateral Sale against accrued interest, costs and part of the principal so that the balance outstanding under the Finance Agreement is approximately \$1.26 million.

The Purchaser has indicated that they intend to repay the balance of debt owing to ARL under the Finance Agreement. If they fail to do so by 28 May 2015, ARL can exercise its rights as first secured party and sell part or all of Kooralbyn Resort and its rights as second secured party to sell the collateral security in South Ripley. As such, ARL is confident that the Purchaser will repay to ARL the balance that is owed before 28 May 2015.

If the Purchaser fails to repay the balance by 28 May 2015, ARL is confident that the value of Kooralbyn Resort and the other collateral security in South Ripley exceeds the balance of vendor finance owed by the Purchaser to ARL and that ARL can sell such part of Kooralbyn Resort and the other collateral security in South Ripley as is necessary to clear the balance of vendor finance that remains outstanding.

As payment of all amounts owing under the Finance Agreement are payable during the Offer Period, ARL will advise if the balance of vendor finance is not paid by 28 May 2015.

- (b) 507-523 Dalrymple Road, Mount Louisa, Townsville QLD (Mount Louisa) (Performing and income producing loan for ARL):

The purchaser of Mount Louisa paid the balance of the vendor financing amount of \$1.07 million on 11 May 2015.

- (c) 1500 Midland Highway, Creswick VIC (Forest Resort) (Non-performing Loan for ARL):

ARL are currently in discussions with a reputable interested party who has been undertaking due diligence to purchase Forest Resort. The name of the interested party cannot be disclosed for confidentiality reasons. In the next month, should the interested party not proceed with the purchase, the Forest Resort will immediately be put to a public marketing campaign and it is the Directors expectation that sale of this asset will be well advanced by the end of September 2015 if not completed beforehand.

- (d) Proof of Debt Claims- Octaviar Administration Pty Ltd (**OA**)(In Liquidation) and Octaviar Limited (receivers and managers appointed) (in liquidation) (**OL**):

Section 4.4.3 of the Bidder's Statement comments about ARL's Proof of Debt Claim against OA and OL. The admitted proof of debt of ARL in the amount of approximately \$137 million makes up approximately 8.5% of the approximate admitted creditor pool of \$1,614 million. Accordingly, ARL will be entitled to receive approximately 8.5% of any distribution to creditors which is made by the Liquidators.

A representative of ARL is appointed to the Committee of Inspection ("COI") of OA. Through that appointment, ARL's interest in seeing dividends paid by OA as soon as practicable is being actively managed.

On 17 April 2015, the Liquidators gave notice of their intention to declare and pay, on 17 June 2015, a dividend to creditors likely to be in the amount of 1.2 cents in the dollar. The Liquidators procured payment of this dividend in advance of the date scheduled for payment. On 12 May 2015, ARL received, out of this dividend, the sum of \$1.65 million.

As at 31 March 2015, OA held cash of approximately \$82 million. The total of the amount of the intended dividend payments is approximately \$20 million. Accordingly, and although updated details of the cash reserves are not available, the Directors believe that, after payment of the above mentioned dividend, OA still holds a significant amount of cash.

In addition, the Liquidators are progressing legal proceedings for claims against various parties as summarised in the Schedule. The Liquidators are subject to various duties in pursuing those claims, and managing the available cash reserves, including a duty to act generally in the interests of creditors. The Directors believe that the Liquidators will act in accordance with those duties and accordingly will declare further dividend payments to creditors. The amount of the further dividends are unknown, although it is anticipated that substantially the whole of the amount of the further dividends will be declared and paid by the Liquidators prior to the end of this calendar year. As stated above, ARL's interest in having the dividends paid as soon as practicable is being actively managed.

Provided ARL receives additional dividend payments, the net tangible asset (unaudited) per share currently at 2.03 cents per share, will increase. By way of example, a further dividend payment from the Liquidators of OA totalling \$20 million where ARL makes up 8.5% of the creditor pool will result in an increased net asset backing in ARL of 0.17 cents per share. This amount will further increase if higher dividends are paid by the Liquidators.

(e) Managing ongoing costs

In the last 12 months the Board has taken the issue of holding costs very seriously and have made changes to lower costs. These include having only one consultant which has close to halved ARL's fees, removal of overheads, administration costs, reduced the number of lawyers and changed shareholder registries.



The Board has also converted two non-performing and loss making loans (Kooralbyn Resort and Mount Louisa) into performing loans where interest is paid and costs are recovered.

The potential sale of ARL's primary asset, Forest Resort would have the effect of further reducing ARL's ongoing costs through the elimination of management, controller and holding costs associated with Forest Resort.

### 5.3 Issued capital

As at the date of this Target's Statement, ARL's total issued share capital consists solely of 980,558,167 fully paid ordinary shares.

There are no securities on issue which are convertible into ARL Shares.

### 5.4 Major shareholders

According to the Register as at 12 May 2015<sup>3</sup>, the following ARL Shareholders are the registered holder of 5% or more of all ARL Shares that are presently on issue:

Shareholder	Number of ARL Shares	Total Percentage Interest held in ARL
Samuel Terry as trustee for the STAR Fund	103,000,000	10.5%
JP Morgan Nominees	77,991,231	7.95%

We note that the Bidder's Statement states that "STAR Fund owns 18.5 per cent of the issued shares in ARL and directors of Samuel Terry own a further 1.4 per cent of the issued shares in ARL". It is unclear to ARL as to how they hold 19.90% as our analysis of the Register as at 8 April 2015 shows that their holdings are closer to 11.13% being made up of the following shareholdings:

- (a) Samuel Terry is the registered holder of 103,000,000 ARL Shares (10.5% of ARL Shares on issue);
- (b) Nigel Burgess, a director of Samuel Terry is the registered holder of 6,188,822 ARL Shares (0.63% of ARL Shares on issue); and
- (c) Fred Woollard, a director of Samuel Terry is the registered holder of 36,968 ARL Shares.

From the above, it appears that the statement made in the Bidder's Statement and extracted above regarding the shareholdings of STAR Fund and of directors of Samuel

<sup>3</sup> Transfers of shares are only approved at monthly board meetings. The next board meeting is scheduled for 29 May 2015. Accordingly, the register as at 12 May 2015 is true and correct as at the date of issue of this Target's Statement.

Terry is incorrect. The actual shareholdings of STAR Fund, the directors of Samuel Terry and HSL are relevant for determining the likelihood that HSL will acquire 50% or more of ARL's Shares in satisfaction of the minimum acceptance Condition.

## 5.5 Fair value of assets

The fair value of assets assigned to ARL by Premium Income Fund on 4 September 2012 and 18 December 2012, based on information that directors were entitled to use in accordance with accounting standards, was estimated at \$55,405,000 (in aggregate).

Since assignment of the assets, ARL has undertaken subsequent third-party valuations which have resulted in impairment losses. As ARL obtained updated valuations on the remaining assets when needed, impairment losses were occurring in every period.

The table below sets out the net tangible assets (unaudited) per share and impairment losses of ARL since taking assignment of the assets and shown in each subsequent annual and half yearly accounts and the accounts to 20 April 2015 of ARL.

<b>Date</b>	<b>Net tangible assets per Share</b> <b>(cents)</b>	<b>Impairment Losses in Period</b> <b>(\$)</b>
Assets assigned to ARL 4 September 2012 & 18 December 2012	5.65	N/A
Half Yearly Financials 31 December 2012	4.17	13,226,420
Full Year Financials 30 June 2013	3.61	17,466,043
Half Year Financials 31 December 2013	2.98	4,454,695
Full Year Financials 30 June 2014	3.14	5,242,497
<b>ARL returns 1 cent per ARL Share on 11 December 2014</b>		
Half Yearly Financials 31 December 2014	1.99	617,759

Date	Net tangible assets per Share (cents)	Impairment Losses in Period (\$)
Accounts to 20 April 2014	2.03 (unaudited)	2,064,972

The impairment losses of the assets as well as significant holding costs (notably for Forest Resort and Kooralbyn Resort) resulted in the declining value of net tangible assets.

The decrease in price between 30 June 2014 and 31 December 2014 was due to a return of capital to shareholders of 1 cent per share on 11 December 2014.

ARL has since its inception actively managed the assets, and will continue to manage the assets so as to best preserve and realise their value. Subject to any unforeseen circumstances (see a non-exhaustive discussion in section 8 which discusses risk), no further material impairments are anticipated.

To clarify statements in the Bidder's Statement regarding entitlement to any proceeds received under this ASIC Claim, the Board confirms that ARL is the paying agent and that any proceeds received on account of the ASIC Claim are only distributable to those persons who were unitholders in the Premium Income Fund as at 15 October 2008. The amount of any proceeds that may be received under the ASIC Claim is not included in the calculation of ARL's current net tangible assets.

## 5.6 Minority ownership consequences

If you do not accept the Offer and following the close of the Offer Period, HSL holds a Relevant Interest of more than 50%, HSL will be able to unilaterally pass ordinary shareholder resolutions. If HSL does not or is not able to compulsorily acquire your ARL Shares, you will be a minority shareholder and HSL will be a controlling shareholder of ARL. This may have a number of implications including:

- (a) difficulty in finding a willing buyer and realising full value for your ARL Shares if you decide to sell them at a future date; and
- (b) HSL will be able to appoint and remove directors of ARL and accordingly determine ARL's dividend, financial and operating policies and strategic direction.

On page 20 of the Bidder's Statement, HSL states that if it and its Associates acquire more than 50% but less than 90% of all ARL Shares on issue "...Hamilton intends to replace all members of the ARL board with its own nominees."

On page 21 of the Bidder's Statement, HSL states that if it and its Associates do not achieve the Minimum Acceptance Condition but waive the Condition and obtain a Relevant Interest in less than 50% of ARL Shares, its intentions are the same as if together with its Associates, HSL acquires more than 50% of all ARL Shares. However,

HSL states that if it is unable to implement those changes, it may vote against any proposal to payout further capital and propose motions at a general meeting or ARL to effect changes to the Board or changes to board remuneration.

Further detail regarding HSL's intentions is set out in section 6 of the Bidder's Statement.

## 5.7 Future Dividends and returns of capital

ARL will seek shareholder approval and a favourable endorsement from the ATO to make further returns of capital to ARL Shareholders in the amounts and at the times and subject to satisfaction of the conditions specified in the table below:

Amount per ARL Share	Timing	Conditional Upon
1 cent	No later than 30 June 2015.	<ul style="list-style-type: none"> <li>Receipt of \$1.26 million which is overdue in connection with sale of Kooralbyn Resort. (See further information regarding current status Kooralbyn Resort in section 5.2(a) and specific risk discussed in section 8.3(g))</li> </ul>
Residual asset balance	No later than 31 December following ARL's AGM	Realisation of remaining assets and receipt of further distributions from Liquidators of OA and OL

If a favourable shareholder resolution or endorsement from the ATO is not obtained to undertake the above contemplated return's of capital, the Board will resolve for ARL to pay the returns of capital contemplated above by way of dividend.

If ARL does not receive payment of \$1.26 million from the Purchaser pursuant to the Finance Agreement relating to Kooralbyn Resort, ARL will undertake a return of capital/pay a dividend of not less than 0.9 cents per ARL Share by no later than 30 June 2015.

## 6. IMPORTANT INFORMATION ABOUT THE OFFER

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### 6.1 Consideration payable to ARL shareholders who accept the Offer

The Consideration specified in the Offer is \$0.01 per ARL Share.

## 6.2 Conditions to the Offer

The Offer is subject to the following Conditions which the Board is of the view are disadvantageous to ARL Shareholders:

- (a) During or at the end of the Offer Period, HSL and its associates have a Relevant Interest in greater than 50% of all ARL Shares on issue;
- (b) If the NSX requires shareholders in HSL to approve the acquisition by HSL of ARL under the Offer, such shareholder approval is obtained;
- (c) Between the Announcement Date and the end of the Offer Period, no decision, action or investigation is commenced by a Regulatory Authority (other than ASIC or the Takeovers Panel in consequence or connection with the Offer) which restrains or prohibits the making or completion of the Offer, the acquisition of ARL Shares under the Offer, the completion of transactions contemplated in the Offer or the rights of HSL in respect of ARL or any ARL Shares;
- (d) Between the Announcement Date and end of the Offer Period, no Material Adverse Change occurs or becomes known to HSL; and
- (e) Between the Announcement Date and the end of the Offer Period, no ARL Prescribed Event occurs.

As at the date of this Target's Statement, with the exception of the "Material Adverse Change" Condition and "ARL Prescribed Event" Condition, the breach of which is discussed below, ARL is not aware of any of the Conditions of the Offer having been breached.

With respect to the Conditions, as at the date of this Target's Statement we note that:

- (a) HSL has confirmed that NSX does not require that HSL obtains shareholder approval to the acquisition by HSL of ARL under the Offer and that as such, this Condition has been satisfied.
- (b) The no "Material Adverse Change" Condition refers to any Material Adverse Change occurring or becoming known to HSL. We note that the definition of Material Adverse Change in the Offer is unclear but appears to set a threshold for a Material Adverse Change to be one or more matters which either individually or in aggregate result in the consolidated net assets of ARL being reduced by \$1 million or more. Since 31 December 2014, ARL has incurred costs of approximately \$1.4 million (see section 7). On a conservative reading of the definition of Material Adverse Change, this would appear to constitute a breach of the Material Adverse Change Condition.
- (c) In addition to the Board's concern that there has already been a breach of the Material Adverse Change Condition, the Board suggests that a \$1 million threshold is quite a low threshold such that even if the above discussed breach of the Material Adverse Change Condition has not occurred, there is a reasonable risk that there may be a breach of this Condition prior to close of the Offer Period.

- (d) The no "ARL Prescribed Event Condition" has been breached as a result of ARL retaining its advisors in order to respond to the Bidder's Statement and discharge its obligations under the Corporations Act.

If the Conditions are not satisfied before close of the Offer Period or waived no later than 7 days prior to close of the Offer Period, HSL will not be required to acquire your ARL Shares or pay the Consideration.

ARL Shareholders who accept the Offer are disadvantaged because you will lose control of your ARL Shares and HSL will be able to exercise all Rights attaching to your ARL Shares including, receive any dividends paid by ARL and attend and vote at general meetings until lapse of the Offer.

Without further confirmation from HSL whether there has been a breach of the Material Adverse Change Condition and if there has been a breach, HSL will waive the Material Adverse Change Condition and similarly the ARL Prescribed Event Condition, there is no certainty that if you accept the Offer, HSL will be required to complete the acquisition.

### 6.3 Offer period

The Bidder's Statement specifies that the Offer Period will close on 16 June 2015 however the Bidder may extend the Offer Period for up to 12 months from the date that the Offer Period commences. However, if the Offer Period is extended by one month or more and at such time the Offer is subject to a Condition, you will have the right to withdraw from the Offer.

Alternately, if the Offer is not subject to a Condition when the Offer Period is extended by one month or greater, you will not be able to withdraw from the Offer.

### 6.4 Effect of acceptance

Once you accept the Offer, regardless of whether or not:

- (a) the Conditions have been satisfied or waived;
- (b) HSL has been entered in the member's register of ARL as the holder of your ARL Shares; or
- (c) you have been paid your Consideration,

HSL will be able to exercise all Rights attaching to your ARL Shares and you will not have any Rights with respect to your ARL Shares. Including the receipt of any dividends paid by ARL or the ability to attend and vote at shareholder meetings.

If HSL were to obtain sufficient acceptances so that together with its Associates it could exercise voting rights over greater than 50% of ARL Shares, it would be possible for HSL to call and hold a general meeting at which it could unilaterally pass any resolutions that require a simple majority such as replacement of the Board. If HSL exercised its right to extend the Offer Period, and the Offer remained subject to Conditions, this could be prior to your receiving payment of Consideration. It is possible

that the meeting could be held, resolutions passed and then the ARL Shares returned to you because the Conditions were not satisfied and HSL elected to not waive the Conditions such that each Offer is rescinded and HSL is not obliged to pay the Consideration.

#### 6.5 **Your ability to withdraw your acceptance**

If you accept the inadequate Offer, you may forfeit the benefit from any better offer made by another bidder for your ARL Shares, if such an offer eventuates.

#### 6.6 **When you will receive your consideration if you accept HSL Offer**

No payment for the ARL Shares tendered into the inadequate Offer will be made until after the Offer becomes unconditional. You will not be paid under the Offer until the earlier of:

- (a) one month after the date of acceptance or, if the Offer is subject to a defeating condition when you accept the Offer, within one month after the Offer becomes unconditional; or
- (b) 21 days after the end of the Offer Period.

See section 9.6 of the Bidder's Statement for further details on when you will be sent your payment from HSL.

#### 6.7 **HSL's funding**

The Bidder's Statement sets out HSL's source of funds which includes cash reserves of \$2.6 million and a loan facility with the non-bank financial institution, Samuel Terry, for \$8,000,000.

HSL's disclosure regarding the loan facility with Samuel Terry is set out in section 7.4 of the Bidder's Statement which states:

*"Hamilton's ability to drawdown from the New Facility is subject to satisfaction of a number of conditions that are customary for a facility of this nature. The conditions to drawdown which are outstanding as at the date of this Bidder's Statement are:*

- (a) *Hamilton having received acceptance under the Offer from ARL Shareholders (excluding Samuel Terry and its Associates) in respect of at least 200,000,000 ARL Shares [(being less than the Minimum Acceptance Condition)];*
- (b) *the representations and warranties in the Facility Agreement given by Hamilton being true and correct; and*
- (c) *no event of default or potential event of default (as such terms are defined in the Facility Agreement) is subsisting."*

Although HSL in the Bidder's Statement states that HSL is not aware of any fact or circumstances which would give rise to the representations and warranties not being true and correct or which would constitute an event of default under the "Facility

Agreement", there is insufficient detail regarding the nature of the conditions for ARL to make an assessment of the risk that the conditions will not be satisfied. If the conditions to the "Facility Agreement" are not satisfied, this would negatively impact HSL's ability to pay Consideration to each ARL Shareholder who accepts the Offer as and when contemplated in the Offer.

The Bidder's Statement includes a statement "*Samuel Terry has confirmed to Hamilton that as at the date of this Bidder's Statement it has cash and/or non-cash assets that can be realised within the timeframes required to make an advance under the New Facility,...*" This statement and the Bidder's Statement in general does not provide sufficient detail regarding the nature of the non-cash assets and the amount of cash which Samuel Terry currently has on hand to enable ARL to make an informed assessment regarding the ability of Samuel Terry to realise assets in a timely way and provide funding to HSL within the timeframes necessary for HSL to satisfy its obligations under the Offer.

## 6.8 **Transaction expenses**

The Offer has resulted in ARL incurring expenses that would not otherwise arise from operations in the current financial year. These expenses are anticipated to be approximately \$116,000 to 20 April 2015. There are likely to be further costs incurred before close of the Offer Period. These expenses include professional fees for legal, corporate, registry, mail out, compliance and tax advisers engaged to assist in responding to this Bid and will have a negative impact on after tax earnings in the current financial year.

## 6.9 **Compulsory acquisition**

If HSL and its Associates have a Relevant Interest in 90% of all ARL Shares on issue and 75% of all ARL Shares for which it has made an Offer (excluding ARL Shares in which HSL or its Associates have a Relevant Interest immediately prior to commencement of the Offer Period), HSL will be able to compulsorily acquire any remaining ARL Shares. HSL will have one month from the end of the Offer Period within which to give compulsory acquisition notices to ARL Shareholders who have not accepted the Offer. The consideration payable will be the same as the Consideration last offered under the Offer.

If HSL does not become entitled to compulsorily acquire ARL Shares in accordance with the above procedures it may nevertheless become entitled to exercise general compulsory acquisition rights under Part 6A.2 Division 1 of the Corporations Act.

If ARL Shares are compulsorily acquired, ARL Shareholders are unlikely to receive payment until at least one month after compulsory acquisition notices are sent.

HSL has indicated in its Bidder's Statement that, if it becomes entitled to proceed to compulsorily acquire outstanding ARL Shares, it intends to do so.



## 7. ARL'S FINANCIAL INFORMATION

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This section provides relevant financial information for ARL Shareholders to consider when assessing whether to accept or **REJECT** the Offer.

The financial information should be read in conjunction with the risks described in section 8 and other information contained in this Target's Statement.

The financial information in this section is presented in an abbreviated form and does not contain all of the disclosures that would be required to be presented in an annual report in accordance with the Corporations Act.

### 7.1 Audited accounts

The full year financials to 30 June 2014 were sent out to ARL Shareholders on 31 October 2014 and together with the half year financials to 31 December 2014 (which were not sent to ARL Shareholders) are available on ARL's website: [www.arlimited.com.au](http://www.arlimited.com.au)

As at 31 December 2014, the net tangible assets of ARL were \$19,517,964 and based on this, the value of ARL is approximately \$0.0199 per ARL Share.

### 7.2 Unaudited accounts to 20 April 2015

Set out below are unaudited accounts as at 20 April 2015 which have been prepared using ARL's management accounts and applying accounting policies which are consistent with those previously applied and adjustments which match the nature of adjustments made previously in each set of ARL's audited financials.<sup>4</sup>

The Board highlights that because these accounts are unaudited, they have not been subjected to the same rigorous review that would ordinarily be undertaken by an auditor and are based on the asset valuations in the 31 December 2014 accounts.

(a) Unaudited Statement of Profit or Loss for the Period Year Ended 20 April 2015:

	<b>Period ended 20 April 2015</b>	<b>Period ended 31 Dec 2014</b>	<b>Year ended 30 June 2014</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Revenue from continuing operations</b>			
Interest income	253,080	195,872	270,865
Gain on realisation of mortgage loans	455,968	444,155	686,034
Other income	1,724,294	61,648	2,586,392
<b>Total revenue and investment income</b>	<b>2,433,342</b>	<b>701,675</b>	<b>3,543,290</b>

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<sup>4</sup> HSL's original bidder's statement indicated that the first day of the offer period would be 22 April 2015. Accordingly, ARL arranged for updated unaudited accounts to be prepared. Other than as disclosed in this section, the Board is of the view that the accounts of ARL have not materially changed.

<b>Expenses</b>			
Audit expense	81,870	28,215	92,410
Consultancy fees	654,917	455,168	1,391,464
Insurance	221,921	221,921	188,444
Legal and accounting	149,980	125,204	223,122
Impairment loss on mortgage loans	2,064,972	1,061,914	5,928,531
Loss on realisation of mortgage loans	-	-	-
Other	325,769	259,563	329,717
<b>Total expenses</b>	<b>3,499,429</b>	<b>2,151,985</b>	<b>8,153,689</b>
<b>Profit / (loss) before income tax</b>	<b>(1,066,087)</b>	<b>(1,450,310)</b>	<b>(4,610,399)</b>
Income tax (expense) / benefit	-	-	-
<b>Profit / (loss) for the period</b>	<b>(1,066,087)</b>	<b>(1,450,310)</b>	<b>(4,610,399)</b>
<b>Other comprehensive income, net of income tax</b>			
Other comprehensive income, net of income tax	-	-	-
<b>Total comprehensive income, net of income tax</b>	<b>(1,066,087)</b>	<b>(1,450,310)</b>	<b>(4,610,399)</b>
<b>Profit / (loss) attributable to members</b>	<b>(1,066,087)</b>	<b>(1,450,310)</b>	<b>(4,610,399)</b>
<b>Total comprehensive income attributable to members</b>	<b>(1,066,087)</b>	<b>(1,450,310)</b>	<b>(4,610,399)</b>

(b) Unaudited Statement of Financial Position as at 20 April 2015:

	As at 20 April 2015	As at 31 Dec 2014	As at 30 June 2014
	\$	\$	\$
<b>Assets</b>			
Cash	6,166,323	4,426,896	14,438,194
Receivables	1,885,229	309,058	1,424,085
Financial assets - Loans and receivables	1,906,344	4,357,972	4,932,972
Financial assets - Mortgage loans	10,521,883	11,119,500	11,216,591
<b>Total assets</b>	<b>20,479,779</b>	<b>20,213,425</b>	<b>32,011,842</b>
<b>Liabilities</b>			
Payables	477,052	624,949	1,156,437
Accrued expenses	49,000	25,000	49,000
Other payables	51,540	45,512	32,549

<b>Total liabilities</b>	<b>577,592</b>	<b>695,461</b>	<b>1,237,986</b>
<b>Net assets</b>	<b>19,902,187</b>	<b>19,517,964</b>	<b>30,773,856</b>
<b>Equity</b>			
Owners' capital	45,599,418	45,599,418	55,405,000
Retained losses	(25,697,231)	(26,081,454)	(24,631,144)
<b>Total equity</b>	<b>19,902,187</b>	<b>19,517,964</b>	<b>30,773,856</b>

The net tangible asset value per share as at 20 April 2015 is 2.03 cents per share. The change between the net assets at 30 June 2014 to 31 December 2014 was largely due to the capital return payment of 1 cent per share made on 11 December 2014.

Since preparation of the unaudited accounts to 20 April 2015, the following payments have been received by ARL:

- (a) on 11 May 2015, \$1.07 million in repayment of vendor finance for Mount Louisa; and
- (b) on 12 May 2015:
  - (i) \$1.65 million from liquidation of OA; and
  - (ii) \$0.677 million from Purchaser in partial repayment of the Finance Agreement.

Accordingly, ARL has Cash of approximately \$9.1 million.

Except as described above, the Board is of the view that the accounts of ARL have not materially changed since 20 April 2015.

## 8. RISKS

### 8.1 Introduction

In considering the Target's Statement, ARL Shareholders should be aware there are a number of risks, both general and specific, which may affect the future operation and financial performances of ARL and the value of ARL Shares.

Most of these risks are outside of the control of ARL. There is no certainty that ARL will achieve its current objectives or that any forward looking statements will eventuate.

Additional risks and uncertainties not currently known to ARL may have a material adverse effect on ARL's operations. The following is not an exhaustive list of risks which may or may not affect ARL or the Offer.

You should carefully consider the following risk factors when deciding whether or not to accept the Offer.

## 8.2 General Risks

- (a) **General economic conditions:** Changes in the broader economic and financial conditions may have an adverse affect on ARL. In particular, ARL's operating and financial performance is influenced by a variety of general economic and business conditions including the level of inflation, interest rates, domestic and international political activity or government fiscal, monetary and regulatory policies.

Any sustained economic downturn may have an adverse effect on the income generated by ARL's operating assets or the ability to realise ARL's assets for full value and in a timely fashion.

- (b) **Net tangible asset value:** Prevailing market conditions may mean that it is not possible to realise assets at the estimated values. Valuations of property and property securities are subject to uncertainty as they depend on the individual nature of each property. The underlying asset value may be less than the current net tangible asset value in such circumstances.

- (c) **Taxation:** A change to the current taxation regime in Australia or overseas may affect ARL or ARL Shareholders. Personal tax liabilities are the responsibility of each individual ARL Shareholder. For further information on taxation implications see section 9.

## 8.3 Specific Risks

- (a) **Operational risk:** ARL's operation of existing asset may be disrupted by risks and hazards beyond the control of ARL. External matters may have an adverse effect on demand for accommodation or increase competition resulting in a negative impact on earnings.

- (b) **Tourism risk:** A decline in domestic and international tourism could have a materially adverse impact on ARL.

- (c) **Liquidity of underlying assets:** The Assets of ARL are predominantly mortgages over assets. Because of this, there is a risk that delays in realising these assets when required may significantly impact ARL's ability to operate.

- (d) **Forest Resort:** It should also be noted that the realisation of Forest Resort is at a critical stage and there are a number of operational complexities with this

asset that need to be taken into consideration. We believe that any change to management or control could impact the realisable value of this asset.

- (e) **Counter party risk:** There are a number of arrangements which have been entered into with third parties in connection with the assets. There is a risk that the counter-parties may not for any reason meet their obligations under the arrangements, with associated commercial consequences.
- (f) **Key personnel:** The loss of the Board and advisors may have a material impact on the ability of ARL to meet management and operational needs and could influence the performance of ARL.
- (g) **30 June Distribution:** ARL's contemplated \$0.01 return of capital or dividend which is to be made on before 30 June 2015 is conditional upon repayment in full of the Finance Agreement relating to Kooralbyn Resort. The Purchaser of Kooralbyn Resort is presently in breach of their obligations under the Finance Agreement and ARL has issued a notice of default which the Purchaser must remedy by 28 May 2015. ARL has first ranking security over Kooralbyn Resort and second ranking mortgage (first secured party has priority to ARL for the sum of \$1,220,400) over a significant residential development site at South Ripley. The value of security taken over Kooralbyn Resort and South Ripley exceeds the balance of the vendor finance owed by the Purchaser under the Finance Agreement. However, failure by the Purchaser to pay the balance owing under the Finance Agreement may result in ARL's return of capital/distribution to be made on or before 30 June 2015 to be for not less than \$0.009 per ARL Share.

#### 8.4 Risks relating to the Offer

- (a) **Completion risk:** The Offer is subject to a number of Conditions which may be triggered such that HSL is not required to complete acquisitions of accepting ARL Shareholder's ARL Shares unless it elects to waive the Conditions. ARL Shareholders who elect to accept the Offer will not except in limited circumstances be able to withdraw from the Offer.
- (b) **Minority shareholder risk:** If you do not accept the Offer but HSL acquires 50% or more of ARL Shares and either cannot or elects to not compulsorily acquire your ARL Shares, you will become a minority shareholder in ARL in circumstances where HSL will be able to unilaterally appoint and remove directors of ARL and accordingly determine ARL's dividend, financial and operating policies and strategic direction. HSL has indicated that if it acquires less than a 50% interest in ARL, it may vote against any proposal to pay out further capital.

## 9. TAXATION CONSEQUENCES

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### 9.1 Introduction

The following is a general description of the Australian income tax consequences to Shareholders of ARL as a consequence of various actions that may be taken in relation to the Offer. The information is intended to be a broad outline of the Australian income tax and CGT consequences of disposing of Shares by Australian resident investors (individuals complying superannuation entities and companies). These comments do not consider Shareholders who are non-residents of Australia for tax purposes, hold their shares on revenue account, are exempt from Australian tax or are subject to special taxation regimes in Australia such as the employee share scheme (ESS) rules or taxation of financial arrangements (TOFA) rules.

This summary is based on income tax law and administrative practice in force as at the date of this Target's Statement. It is necessarily general in nature and does not take into account the specific circumstances of each Shareholder. It is not advice and should not be relied upon as such. Accordingly, each Shareholder should satisfy themselves as to the potential income tax consequences of disposing of Shares in their own particular circumstances by consulting their own professional adviser.

### 9.2 Acceptance of Offer and disposal of ARL Shares

Acceptance of the Offer will result in a Shareholder disposing of their Shares for Australian CGT purposes.

A Shareholder will make a capital gain on the disposal of Shares where the capital proceeds from the disposal of the Shares exceed the cost base of those Shares. A Shareholder will make a capital loss on the disposal of the Shares where the capital proceeds from the disposal are less than the reduced cost base of the Shares.

The capital proceeds in respect of the disposal of Shares will be the Offer Consideration of \$0.01 per Share that will be paid to Shareholders by HSL. Shareholders will need to confirm their cost base of the Shares.

Capital gains and capital losses of a taxpayer in a year of income are aggregated to determine whether there is a net capital gain. Any net capital gain is included in assessable income and is subject to income tax at the Shareholder's marginal tax rate. Capital losses may not be deducted against other income for income tax purposes, but may be carried forward to offset future net capital gains in later years.

Certain CGT concessions, such as the CGT discount, may be available to some Shareholders. Individuals, complying superannuation entities or trustees that have held their Shares for at least 12 months may be entitled to discount the amount of the capital gain by 50% in the case of individuals and 33 1/3% for complying superannuation entities.

### 9.3 **Rejection of Offer and returns of capital**

Where Shareholders continue to hold their Shares, it is the current intention of the Board that the recovered value of the ARL assets will be returned to Shareholders by way of further direct cash returns.

The first return to ARL Shareholders made on 11 December 2014 was treated as a return of capital for income tax purposes. Endorsement and confirmation of this taxation treatment was obtained from the Australian Taxation Office (ATO) and confirmed publically in class ruling 'CR 2014/108 Class Ruling: Income tax: Asset Resolution Limited - Return of Share Capital'.

The effect of this characterisation was that the return was taxed under the CGT rules rather than as a dividend. Such returns are first applied to reduce the Shareholders' cost base and reduced cost base of their Shares. A capital gain only results where the return is in excess of that cost base. In such a situation the CGT discount can be applied to any resultant gain. Where the return on a Share does not exceed its cost base, no tax is immediately payable.

### 9.4 **Goods and Services Tax**

Shareholders will not be liable to Goods and Services Tax in respect of a disposal or cancellation of Shares.

## 10. **OTHER MATERIAL INFORMATION**

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### 10.1 **Effect of takeover on ARL material contracts**

The Board are not aware of any material contracts to which ARL is a party which will be adversely affected by the Offer.

### 10.2 **ARLs proof of debt and material litigation**

OA and its Liquidators are presently conducting legal proceedings against various parties involved in the affairs of OA. For strategic reasons, the Liquidators have not made publicly available details of the various proceedings. ARL, through the appointment of its representative to the Committee of Inspection of OA, is actively monitoring and consulting with the Liquidators in relation to the conduct of the proceedings.

Details of the litigation, and potential realisations, are contained in the attached Schedule.

### 10.3 **Consents**

This Target's Statement contains statements made by, or statements said to be based on statements made by, directors of ARL. Each director has consented to the inclusion

of each statement they have made in the form and context in which statements appear and has not withdrawn that consent as at the date of this Target's Statement.

HWL Ebsworth Lawyers has given and has not before lodgement of this Target's Statement with ASIC, withdrawn its written consent to be named in this Target's Statement.

#### 10.4 **No other material information**

This Target's Statement is required to include all the information that ARL Shareholders and their professional advisers would reasonably require to make an informed assessment whether to accept the Offer, but:

- (a) only to the extent to which it is reasonable for investors and their professional advisers to expect to find this information in this Target's Statement; and
- (b) only if the information is known to any director of ARL.

The directors of ARL are of the opinion that the information that ARL shareholders and their professional advisers would reasonably require to make an informed assessment whether to accept the Offer is:

- (a) the information contained in the Bidder's Statement (to the extent that the information is not inconsistent or superseded by information in this Target's Statement);
- (b) in the documents lodged by ARL with ASIC, before the date of this Target's Statement; and
- (c) the information contained in this Target Statement.

The Directors of ARL have assumed, for the purposes of preparing this Target's Statement, that the information in the Bidder's Statement is accurate (unless they have expressly indicated otherwise in this Target's Statement). However, the Directors do not take any responsibility for the contents of the Bidder's Statement and are not to be taken as endorsing, in any way, any or all of the statements contained in it.

## 11. **Approval of Target's Statement**

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This Target's Statement has been approved by a resolution passed by the Board on 12 May 2015.

Signed for and on behalf of ARL:

19 May 2015



David Beddall  
**Chairman**, Asset Resolution Limited



## Schedule - Proofs of debt against OA and OL and legal proceedings by OA against various parties

### Background

1. On 4 September 2012 Wellington Capital assigned to ARL various amounts claimed against OA and OL.
2. ARL's assigned Proof of Debt against OA has been admitted by the Liquidators in the sum of approximately \$137 million. This comprises approximately 8.5% of all presently admitted claims. On this basis ARL will receive 8.5% of any distributions.
3. ARL's assigned Proof of Debt against OL in the sum of \$206 million has not presently been admitted. The Liquidators of OL have not called for Formal Proofs of Debt, and may only do so in the event they intend to declare a dividend out of any available assets of OL.

### Claims by OA and its liquidators

Proceeding	Summary	Amount of Claims	ARL Potential Entitlement
<p>Fletcher v Fortress Credit Corp (Aust.) II, Supreme Court of Queensland proceeding no 3135/12)</p> <p>Fletcher (OA) v Drawbridge, Fortress &amp; Ors, Supreme Court of the State of New York, 14-cv-1376(PKC) (<b>USA Proceeding</b>)*</p>	<ul style="list-style-type: none"> <li>• OA and its Liquidators have brought proceedings in the Supreme Court of Qld against Fortress Group entities. The proceedings are to recover the benefit of payments, in the amount of \$208.7m, made to the Fortress Group out of the proceeds of the sale by the Octaviar Group of its interest in the Stella Group.</li> </ul>	<p>\$300 million, including interest. But subject to cross-claims.</p>	<p>approx. 8.5% of net return from the claims after legal expenses and liquidators remuneration.</p> <p><b>Note</b> : the net return may be affected by the proof of debt which has been submitted by OL in</p>

Proceeding	Summary	Amount of Claims	ARL Potential Entitlement
	<ul style="list-style-type: none"> <li>The Liquidators have brought analogous proceedings in the USA against Fortress Group entities domiciled in the USA.</li> <li>With accrued interest the total of the claims is approximately \$300m.</li> <li>The proceedings have been vigorously defended and the benefit of any successful recovery (at trial or settlement) from the Fortress entities may be diluted by cross claims brought by OL and its special purpose liquidator against OA.</li> </ul>		OA
	<ul style="list-style-type: none"> <li>Accordingly, the maximum amount available to OA is in the range of approximately \$200m to \$300m. The potential maximum amount available to ARL (8.5% of total) is in the range \$17m to \$25.5m)</li> <li>The Australian proceeding is at an advanced stage and is listed for trial ( 6 weeks) from 4 May to 22 June 2015 before Applegarth J.</li> </ul>		
Other proceedings	<ul style="list-style-type: none"> <li>Claims against various consultants and professional advisors. The Liquidators, for strategic reasons, have not made details of the claims publicly available. The proceedings have been issued in court registries which are not available to the public.</li> </ul>	Unknown	Unknown
OA v Craig; OL v Craig, Supreme Court of New South Wales proceeding no. 2012/292506	<ul style="list-style-type: none"> <li>Claim against KPMG for damages for breach of contract, negligence and misleading or deceptive conduct in breach of the <i>Trade Practices Act 1974</i> (Cth) and <i>Fair Trading Acts</i> of NSW, Queensland and Victoria.</li> </ul>	Unknown	Unknown

Proceeding	Summary	Amount of Claims	ARL Potential Entitlement
	<ul style="list-style-type: none"> <li>OA claims damages in the amount of the trading losses incurred by OA in the period after the alleged breaches. The Liquidators have not made publicly available the amount of the claim for damages.</li> </ul>		

\*See Summary of USA proceeding below

## Summary of USA Proceedings

In February 2014 a complaint was brought in New York state court by the liquidators of OA against the US affiliates of Fortress and three of its US directors over a fraudulent transfer. The liquidators sued the defendants for \$210m, claiming funds were siphoned from Octaviar whilst it was insolvent in 2008 and early 2009. The siphoned funds allegedly came from Octaviar's sale of the "Stella group" of companies in February 2008. The Liquidators allege that the defendants were aware of "blatantly incorrect" recitals contained in a 'Repayment Deed' which substantially misstated the Stella Group's intercompany loan position. The alleged effect of the transactions was to divert OA's interest in and entitlement to approximately \$200m of the Stella sale proceeds (based on its status as the sole intercompany creditor of the Stella Group) to Fortress for no consideration, and to release and discharge between \$737m and \$1.34b of intercompany loans that would otherwise be owed to OA by the Stella Group. In proceedings dated 5 September 2014, Fortress moved to dismiss the complaint on several grounds.

In favour of the liquidators, the Court determined that:

- the complaint would not be dismissed for failure to establish liability against the US defendants;
- the liquidators had set forth their allegations sounding in fraud with adequate particularity, and had alleged facts giving rise to a strong inference that the defendants knew that specified misstatements in the Stella Proceeds Deed were false;
- the liquidators pled facts adequately and plausibly to fall within the doctrine of equitable tolling, and the motion to dismiss on statute of limitations grounds was denied;
- the defendants' arguments in response to the claim that they aided and abetted a breach of fiduciary duty failed, and their motion to dismiss Count V was denied;
- in relation to the unjust enrichment claim brought against Drawbridge, the liquidators' allegations were sufficient to survive a dismissal for failure to state a claim;
- in relation to the claim of tortious interference with contractual relations, the defendants' motion to dismiss the claim was denied; and
- the defendants had not demonstrated the exceptional circumstances necessary for the Court to decline to exercise its jurisdiction based on the pendency of a foreign proceeding.

In favour of the defendants, the Court determined that:

- the liquidator lacked standing to bring a fraudulent transfer claim, therefore Count II and II of the complaint were dismissed for failure to state a claim; and
- the liquidator's conversion claims were deficient. OA's claim to the Stella sale proceeds was not definite, specific or concrete enough to support the conversion claims, accordingly Counts XI, XII and XIII were dismissed for failure to state a claim.

The defendants moved for reconsideration of its motions to dismiss the action based on principles relating to the court's jurisdiction. The defendants' motion was denied in the Court's decision dated 17 October 2014.