



Benjamin Hornigold Ltd  
ACN 614 854 045

ASX Announcement  
(ASX: BHD)

21 June 2019

## Reasons for Suspension

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The current board feels it important for shareholders to understand why the company is currently suspended.

We attach a copy of recent correspondence with the ASX where the previous board had queried the reasons for the ongoing suspension.

ENDS

Benjamin Hornigold Limited

24 May 2019

Adrian Smythe  
Manager Listings Compliance (Sydney)  
ASX Compliance Pty Ltd  
20 Bridge Street  
SYDNEY NSW 2000  
*Email: [adrian.smythe@asx.com.au](mailto:adrian.smythe@asx.com.au)*

Dear Mr Smythe,

### **LIFTING OF SUSPENSION**

The Board of Benjamin Hornigold Ltd refers to all previous correspondence between the Company and ASX since the ASX unilaterally and without notice suspended trading in the securities of the Company on 30 July 2018 – almost 10 months ago.

The Board of Benjamin Hornigold Ltd sincerely believes that:

1. The Company has undertaken all action required by ASX, including rectification of a deemed breach of ASX Listing Rule 10.1 and the provision of fulsome responses to all queries issued by ASX.
2. The Company has incurred, and will continue to incur, significant loss arising from the suspension of trading in its securities. The suspension of trading impacts most heavily on BHD securityholders, who are not able to acquire or dispose of their securities on market.
3. BHD has been contacted by numerous shareholders and the media querying the reason for the ongoing suspension in trading in BHD's securities. Indeed, the Board believes that the failure by ASX to articulate the reason for the suspension has led to speculation and gossip-mongering on social media sites, which has in turn damaged the reputation of the Company and its future prospects.

4. The Board of BHD is not aware of any reason why ASX would not lift the ongoing suspension in trading in BHD's securities.
5. The Board therefore requests that ASX lift the suspension in the trading in the Company's securities without delay, or alternatively, explain why it refuses to do so.

Yours faithfully



**Jody Wright**

Company Secretary

**Benjamin Hornigold Limited**



30 May 2019

Reference: ODIN02952

Ms Jody Wright  
Company Secretary  
Benjamin Hornigold Limited  
GPO Box 3112  
Brisbane QLD 4001

By email: [cosec@benjaminhornigold.com.au](mailto:cosec@benjaminhornigold.com.au)

Dear Ms Wright

### **Benjamin Hornigold Limited (“BHD”): Continued Suspension**

ASX refers to your letter of 24 May 2019 regarding the continued suspension of BHD by ASX. In particular, BHD requests that ASX lifts the ongoing suspension without delay, or alternatively explains why it refuses to do so.

ASX suspended BHD under Listing Rule 17.3 on 30 July 2018, pending further enquiries about a transaction (subsequently discontinued) whereby JB Trading House Pty Ltd (“JBTH”) would issue BHD a \$13.5 million convertible note in return for BHD committing to trade exclusively through JBTH subsidiaries for five years (the “JBTH Agreement”). This transaction appeared to ASX to be uncommercial and raised serious questions about the relationship between BHD and the JBTH group.

ASX continues to hold serious concerns about the conduct and operations of BHD, Henry Morgan Limited (“HML”) and their investment manager, John Bridgeman Limited (“JBL”). These concerns include:

- Poor governance practises, examples of which include:
  - The Final Stop Order issued by ASIC on 28 July 2017 in relation to HML’s prospectus for the issue of bonus options dated 2 June 2017, which led to corrective disclosure by HML on 15 August 2017 where it clarified or retracted a number of statements in earlier announcements.
  - ASIC’s decision on 19 June 2018 to restrict HML from issuing a reduced content prospectus until 8 June 2019, following HML’s failure to lodge a financial report, directors’ report and auditor’s report for the financial year ended 30 June 2017, within 3 months, as required by the Corporations Act.
  - HML’s breach of Listing Rule 10.1 whereby it acquired 1,398,573 shares and options in JBL on 23 November 2017 without shareholder approval.
  - BHD’s breach of Listing Rule 10.1 whereby it acquired 536,585 shares and options in JBL on 23 November 2017 without shareholder approval.
  - HML’s protracted breach of Listing Rule 4.12 whereby it failed to lodge its NTA for the months ended May 2017, June 2017, July 2017, August 2017, September 2017, October 2017, November 2017, December 2017, January 2018, February 2018, March 2018 and April 2018 within the timeframe required by that rule. This delay was largely caused by HML electing to couple the proposed review of its NTA calculations by BDO Corporate Finance (Qld) Ltd to the completion of an independent expert’s report for the proposed acquisition by JBL of HML’s shares in JB Financial Group Limited (“JBFG”), and periodically renegotiating the terms of that acquisition.
  - HML acquiring on 8 August 2016 25% of the issued shares of JBFG, despite section 3.4 of its Replacement Prospectus dated 5 November 2015 stating that “[t]he Company may not hold

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unlisted securities". HML did not obtain shareholder approval to amend the investment guidelines of the Company (as articulated in its Prospectus dated 5 November 2015) until 18 October 2016.

- The Takeover Panel's declaration of unacceptable circumstances on 25 January 2019 in relation to the affairs of BHD and declaration of unacceptable circumstances in relation to the affairs of HML, in connection with bids made by JBL for each of BHD and HML. The Panel declared the circumstances unacceptable because (among other things) shareholders had not been given sufficient information to assess the bids; JBL, BHD and HML failed to adequately advise shareholders in relation to the bids; and certain transactions between JBL, BHD and another entity operated as a lock-up device in relation to the bid for BHD. The Panel made orders, which included cancelling acceptances, requiring repayment of a \$4.5 million loan from BHD to JBL and further disclosure.
- A large part of the activities of BHD and HML appear to consist of investments in, or loans to, various unlisted entities connected with Mr Stuart McAuliffe (BHD's Executive Chairman, HML's Managing Director, and JBL's Managing Director and Chief Investment Officer). For HML, this has included at various times investments in JBL, BHD, JBFG, Bartholomew Roberts Pty Ltd and loans to Capital Credit Pty Ltd and JBL. For BHD, this has included at various times investments in JBL and loans to JBFG, Genesis Proprietary Trading Pty Ltd and JBL. Both HML and BHD have also entered into, or have proposed to enter into at various times, unusual transactions for which in ASX's opinion, convincing commercial rationales were not provided. For example, under the JBTH Agreement it was not clear why JBTH would agree to incur substantial debts (\$25.5 million) to BHD and HML in consideration solely for undertakings from those companies to trade exclusively with JBTH and its subsidiaries, when there are no minimum trading requirements imposed on BHD or HML, nor why JBTH would agree to issue securities to BHD at a discount of 40% to an arm's length valuation.
- Viewed collectively, the combined activities of BHD and HML, call into question whether or not BHD and HML still satisfy the definition of "investment entity" within the Listing Rules, as they appear to be being used (along with other entities) to secure (or maintain) control over various unlisted companies connected with Mr McAuliffe. JBL's takeover offers for BHD and HML are further evidence of this objective.

ASX also understands that there are ongoing investigations by ASIC into the activities of BHD and HML.

Given the concerns outlined above, ASX considers that it would be inappropriate to reinstate the securities of BHD to trading until the outcome of ASIC's investigations are known. BHD's securities will remain suspended from trading until further notice.

If you have any queries about the above, please feel free to contact me.

Yours sincerely

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**Adrian Smythe**  
Manager, Listings Compliance (Sydney)