

9 August 2023

Ms Karina So  
Adviser, Listings Compliance  
Australian Securities Exchange  
Level 5, 20 Bridge Street  
SYDNEY NSW 2000  
By Email: ListingsComplianceSydney@asx.com.au

### **Response to ASX Query**

Dear Ms So

BIR Financial Limited (**BIR** or the **Company**) (ASX:BIR) provides this response to ASX's letter dated 7 August 2023 (**ASX Letter**).

**1. Please explain why the Appendix 3Y was lodged late.**

The disposal of shares disclosed in the Appendix 3Y was finalised whilst Mr Fogarty was recuperating at home following a period of hospitalisation having fallen ill upon his return from an overseas trip. Mr Fogarty only became aware of the failure to lodge the Appendix 3Y upon his return to the office. As soon as he became aware of the oversight, he took immediate steps to ensure the Appendix 3Y was lodged.

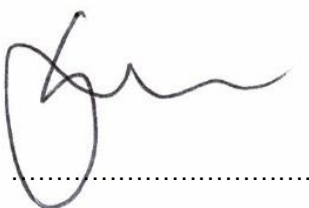
**2. What arrangements does BIR have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?**

BIR and its directors are aware of their responsibilities under the Listing Rules, including Listing Rule 3.19A and 3.19B, which are set out in the appointment letters for each director where, amongst other things, they agree to provide the relevant information to the Company so that it can meet its disclosure obligations under Listing Rule 3.19A. These requirements are also contained in the Company's Securities Trading Policy and Continuous Disclosure Policy.

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

BIR believes the current arrangements are, in general, adequate for ensuring timely and accurate notification, and that failure to do so on this occasion was due to an administrative oversight.

Yours faithfully



Greg Starr  
Company Secretary  
BIR Financial Limited



7 August 2023

Reference: 77670

Mr Greg Starr  
Company Secretary  
BIR Financial Limited  
Level 19, 10 Eagle Street  
Brisbane QLD 4000

By email

Dear Mr Starr

**BIR Financial Limited ('BIR'): Appendix 3Y – Change of Director's Interest Notice Query**

ASX refers to the following:

1. BIR's Appendix 3Y lodged on the ASX Market Announcements Platform ('MAP') on 4 August 2023 for Mr Robert John Fogarty (the 'Notice');
2. BIR's 'Quarterly Activities/Appendix 4C Cash Flow Report' lodged on the MAP on 31 July 2023 (the 'Quarterly Report'). The Notice indicates that Mr Fogarty disposed 100,000 shares at \$0.079 on 26 July 2023, which was three business days prior to announcing the Quarterly Report;
3. Listing Rule 3.19A which requires an entity to tell ASX the following:

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

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

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

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

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

4. Listing rule 3.19B which states that:

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

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The Notice indicates that a change in Mr Fogarty's notifiable interest occurred on 26 July 2023. It appears that the Notice should have been lodged with ASX by 2 August 2023. Consequently, BIR may have breached Listing Rules 3.19A and/or 3.19B.

### Request for Information

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

1. Please explain why the Appendix 3Y was lodged late.
2. What arrangements does BIR have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?
3. If the current arrangements are inadequate or not being enforced, what additional steps does BIR intend to take to ensure compliance with Listing Rule 3.19B?

### When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 AM AEST Thursday, 10 August 2023**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, BIR's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require BIR to request a trading halt immediately.

Your response should be sent to me by e-mail at [ListingsComplianceSydney@asx.com.au](mailto:ListingsComplianceSydney@asx.com.au). It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

### Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in BIR's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

### Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in BIR's securities under Listing Rule 17.3.

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

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

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

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

### **Questions**

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

Kind regards

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**Karina So**  
Adviser, Listings Compliance

CC: Catriona Glover, Tearum Corporate Service