

12 July 2022

Nikki Ciavatta
Adviser, Listings Compliance (Perth)
ASX Limited
Level 40 Central Park
152 – 158 St Georges Terrace
PERTH WA 6000

By email: ListingsCompliancePerth@asx.com.au
Your reference: ODIN54825

Dear Nikki

RESPONSE TO ASX – AWARE QUERY

CFOAM Limited (“**CFOAM**” or the “**Company**”) refers to your Aware Query letter dated 8 July 2022 and provides the following responses:

1. CFO had been negotiating the conditional sale agreement with CONSOL Energy Inc. The negotiations were on a non-binding basis and were incomplete and also confidential in compliance with Listing Rule 3.1A. The conditional agreement was only confirmed and signed on 7 July 2022, which was after the trading halt was made.
2. Yes, CFO considers the conditional sale agreement to be information that a reasonable person would expect to have a material effect on the price or value of its securities. The Company acted immediately the price query was raised and called a trading halt to ensure the integrity of the market was maintained.
3. Not applicable.
4. As noted above, the conditional agreement was only confirmed and signed on 7 July 2022, which was after the trading halt was made and not before. The negotiations were on a non-binding basis and were incomplete and also confidential in compliance with Listing Rule 3.1A.
5. The Company confirms that it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
6. The Company confirms that its response has been authorised and approved by officers of the Company that have delegated authority from the Board to respond to ASX on disclosure matters.

Yours sincerely

A handwritten signature in black ink that reads 'G Steinepreis'.

Gary Steinepreis
Director



8 July 2022

Reference: ODIN54825

Mr Gary Steinepreis
Company Secretary
CFOAM Limited

By email: gs@ascentcapital.com.au

Dear Mr Steinepreis

CFOAM Limited ('CFO'): Aware Query

ASX refers to the following:

- A. The change in the price of CFO's securities from a low of \$0.003 to an intraday high of \$0.009 and the significant increase in the volume of CFO's securities traded on 5 July 2022 ('Trading Information').
- B. CFO's request for a trading halt released on the ASX Market Announcements Platform ('MAP') at 9:20am AEST on 6 July 2022.
- C. CFO's announcement entitled "Conditional sale of business to CONSOL Energy Inc" lodged on MAP and released at 1:48pm AEST on 7 July 2022 (the 'Announcement'), disclosing details of a conditional agreement for the sale of CFO's 74.34% interest in CFOAM Corp to CONSOL Energy Inc. for US \$1,000,000 ('Information').
- D. CFO's letter dated 7 July 2022 in response to ASX's Price Query letter dated 7 July 2022 released to MAP on 7 July 2022 ('Price Query Response'), which set out the following:

1. *Is CFO aware of any information concerning it that has not been announced to the market which, if known by some in the market, could explain the recent trading in its securities?*

"Yes, the Company is aware of information concerning it that has not been announced which, if known by some in the market, could be an explanation for the recent trading in the securities of the Company.

CFOAM Limited advises that it has entered into a conditional agreement for the sale of its 74.34% interest in CFOAM Corp to CONSOL Energy Inc. for US\$1,000,000.

CFOAM Corp is currently 74.34% owned by CFOAM Limited and 25.66% owned by CONSOL Energy Inc. CFOAM Corp owns the operating entity CFOAM LLC, located in Triadelphia, West Virginia.

Closing of the transactions set forth in the agreement is conditioned on standard conditions including but not limited to CFOAM Limited shareholder approval under Chapter 11 of the ASX Listing Rules and critically, a full release of any parent company guarantees provided by CFOAM Limited to the USA domiciled entities, CFOAM Corp and CFOAM LLC, as well as any required third-party consents to the transactions. CONSOL Energy Inc. has agreed to fund the CFOAM Corp and CFOAM LLC business during the period from the signing of the agreement to settlement up to the amount of US\$300,000. In the event that the proposed sale does not complete then this funding may be converted to equity in CFOAM Corp increasing CONSOL Energy Inc.'s ownership interest to up to 39.21% (on the basis that US\$300,000 is the amount of the working capital loan). Attached is an announcement relating to the corporate transaction."

2. *If the answer to question 1 is "yes".*

- a. *Is CFO relying on Listing Rule 3.1A not to announce that information under Listing Rule 3.1? Please note that the recent trading in CFO's securities would suggest to ASX that such information may have ceased to be confidential and therefore CFO may no longer be able to rely on Listing Rule 3.1A.*

Accordingly, if the answer to this question is “yes”, you need to contact us immediately to discuss the situation.

- b. Can an announcement be made immediately? Please note, if the answer to this question is “no”, you need to contact us immediately to discuss requesting a trading halt (see below).
- c. If an announcement cannot be made immediately, why not and when is it expected that an announcement will be made?

“The Company has been relying on Listing Rule 3.1A.”

- E. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity’s securities.
- F. The definition of “aware” in Chapter 19 of the Listing Rules, which states that:

“an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity” and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B “When does an entity become aware of information.”

- G. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

“3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following applies:

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 A reasonable person would not expect the information to be disclosed.”

- H. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.”

Request for information

Having regard to the above, ASX asks CFO to respond separately to each of the following questions and requests for information:

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1. In CFO's answer to question 1 in the Price Query Response, CFO stated that *"the Company is aware of information concerning it that has not been announced which, if known by some in the market, could be an explanation for the recent trading in the securities of the Company"* being the Information contained in the Announcement. Please explain when CFO became aware of the Information (that is, when did CFO become aware of the conditional sale agreement).
 2. Does CFO consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
 3. If the answer to question 2 is "no", please advise the basis for that view.
 4. If the answer to question 2 is "yes" and CFO first became aware of the Information before the relevant date, did CFO make any announcement prior to the relevant date which disclosed the Information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe CFO was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps CFO took to ensure that the information was released promptly and without delay.
 5. Please confirm that CFO is complying with the Listing Rules and, in particular, Listing Rule 3.1.
 6. Please confirm that CFO's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of CFO with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **12:00PM AWST Wednesday, 13 July 2022**. 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, CFO'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 CFO to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@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 CFO'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 CFO's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to CFO'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 CFO's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

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

Questions

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

Yours sincerely

Nikki Ciavatta
Adviser, Listings Compliance (Perth)