



Market Announcement

31 January 2020

ATC Alloys Limited (ASX: ATA) – ASX Query letter

Description

ATC Alloys Limited ('ATA') was sent the attached query letter by ASX on 20 December 2019 seeking a response by 3 January 2020. The nature of ASX's queries are apparent from the query letter. ATA has failed to respond to the query letter in breach of Listing Rule 18.7.

ASX has formed the view that the query letter should be released to the market under Listing Rule 18.7A.

ATA will be removed from the Official List of ASX from the commencement of trading on Monday, 3 February 2020 under Listing Rule 17.12.

The securities of ATA have been suspended from trading for a continuous period of 2 years. The removal will be undertaken in accordance with the policy set out in section 3.4 of ASX Listing Rules Guidance Note 33 *Removal of Entities from the ASX Official List*.

Issued by

James Rowe

Senior Manager, Listings Compliance (Perth)



20 December 2019

John Chegwidden
Company Secretary
ATC Alloys Ltd

By email: atcalloys101@gmail.com

Dear John

ATC Alloys Limited ('ATC'): ASX Query Letter

ASX refers to the following:

- A. ATC's ongoing suspension since 1 September 2016.
- B. ATC's Annual Report for the period ended 30 June 2018 lodged on MAP on 30 September 2019, including:
 - (a) the Directors Report dated 8 September 2019 disclosing amongst other things:
 - (i) The Company underwent a number of changes of management during the year, including the appointment of Mr Imants Kins as a director and chairman of the Company, Mr Pat Burke resigning as director and chairman of the Company and Mr Nicholas Halliday resigning as director of the Company. Subsequent to the end of the financial year two new directors were appointed Mr John Chegwidden and Mr Chen (George) Guangyu, and Mr Trent Franklin resigned as the Company Secretary and Mr John Chegwidden was appointed the Company Secretary.
 - (ii) The Company is party to an Agreement pursuant to which Ochre Capital Management will provide corporate services to the Company, with Nathan Featherby and Saxon Ball as non-executive directors and consultants. The Agreement provides for fees of \$27,500 per month. The term of the Agreement is 12 months.
 - (iii) \$300,000 salary and commission paid to Mr Featherby and Mr Ball in respect of a consultancy agreement with Ochre Capital Management Pty Ltd, of which Mr Featherby and Mr Ball are both directors and shareholders of its parent company, Ochre Group Holdings Limited.
 - (b) Related Part Notes to the Consolidated Financial Statements disclosing amongst other things that ATA entered into the following transactions with related parties:
 - (i) Ochre Group Holdings Limited (OGH), an entity associated with Mr Nathan Featherby and Saxon Ball, received \$300,000 (2017: \$220,000) in relation to corporate advisory services provided to the Company. As at balance date the Company owed \$413,880 (2017: \$146,000) to OGH.
 - (ii) Enrizen Accounting Pty Ltd (EA), an entity associated with Trent Franklin, received \$96,000 (2017: \$66,900) in relation to company secretarial and accounting services provided to the Company. As at balance date the Company owed \$197,367 (2017: \$73,590) to EA.
 - (iii) Enable Finance Pty Ltd, (EF) an entity associated with Trent Franklin, received \$nil (2017: \$1,433) in relation to financing and administration services to the Company for insurance. As at balance date the Company owed \$44,889(2016: \$1,576) to EF.

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- (iv) Enrizen Pty Ltd, (EPL) an entity associated with Trent Franklin, received \$2,000 (2017: \$3,000) in relation to insurance services to the Company. As at balance date the Company owed \$Nil (2017: \$3,300) to EPL.
- (v) Enrizen Lawyers Pty Ltd, (EL) an entity associated with Trent Franklin, received \$58,440 (2017: \$23,249) in relation to legal services provided to the Company. As at balance date the Company owed \$89,854 (2017: \$25,574) to EL.
- (c) Independent Audit Report dated 8 September 2019 disclosing amongst other things:
- (i) a net working capital deficiency of \$10,393,159 and net operating cash outflows of \$203,930; and
- (ii) the existence of a material uncertainty that may cast significant doubt about the ability of the Company to continue as a going concern.
- C. ATC's Annual Report for the period ended 30 June 2019 lodged on MAP on 30 September 2019, including:
- (a) the Directors Report dated 8 September 2019 disclosing amongst other things:
- (i) As advised in the 2017 financial year the Company had made the decision to suspend production runs conducted by the Joint Venture. This arose from a dispute over the management of the plant and operation of the Joint Venture.
- (ii) The net liabilities of the Consolidated Entity have increased from \$10,392,726, at 30 June 2018 to \$12,756,139 at 30 June 2019. This increase is largely due to the following factors:
- Increase in Trade payables & Other Payables of \$2,030,332 due to reduced cash available.
 - Increase in unsecured loans to fund the Company of \$307,686.
- The Consolidated Entity's has a net working capital deficiency, being current liabilities exceeding current assets, of \$12,754,265 at 30 June 2019 (2018: \$10,393,159).
- (iii) The Company raised a further \$127,500 in unsecured convertible debt in August and September 2019 from Fern Street Partners for the ongoing support of the Company whilst it undertakes the non-renounceable rights issue.
- (iv) The Company is party to an Agreement pursuant to which Ochre Capital Management (Ochre) will provide corporate services to the Company, with Nathan Featherby and Saxon Ball as non-executive directors and consultants. The Agreement provides for fees of \$25,000 per month, with Ochre agreeing to a reduced amount in the financial year of \$13,667 per month. The term of the Agreement is 12 months. Ochre is considered a related party due to the common directors of the Company of Saxon Ball and Nathan Featherby.
- (v) \$164,000 salary and commission paid to Mr Featherby and Mr Ball in respect of a consultancy agreement with Ochre Capital Management Pty Ltd, of which Mr Featherby and Mr Ball are both directors and shareholders of its parent company, Ochre Group Holdings Limited.
- (vi) \$36,000 salary and commission paid to Mr Ball.
- (vii) \$409,305 paid to Mr Franklin through a consultancy agreement with Enrizen Accounting Pty Ltd, Enrizen Legal Pty Ltd & Enrizen Capital Pty Ltd. Mr Franklin is a director and shareholder of these companies. Mr Franklin resigned in April 2019.
- (viii) Consolidated Statement of Cash Flow disclosing amongst other things:
- Cash and Cash equivalents – Nil (2018 \$2,261)

Total Current Assets - \$1,874 (2018 \$24,962)
 Trade and Other payables - \$4,487,420 (2018 2,457,100)
 Financial Liabilities - \$8,268,719 (2018 \$7,961,021)
Total Current Liabilities - \$12,756,139 (2018 \$10,392,726)

- (b) Related Part Notes to the Consolidated Financial Statements disclosing amongst other things that ATA entered into the following transactions with related parties:
- (i) Ochre Group Holdings Limited (OGH), an entity associated with Mr Nathan Featherby and Saxon Ball, received \$164,000 (2018: \$300,000) in relation to corporate advisory services provided to the Company. As at balance date the Company owed \$862,827 (2018: \$413,880) to OGH.
 - (ii) Enrizen Accounting Pty Ltd (EA), an entity associated with Trent Franklin, received \$96,000 (2018: \$96,000) in relation to company secretarial and accounting services provided to the Company. As at balance date the Company owed \$302,967 (2018: \$197,367) to EA
 - (iii) Enable Finance Pty Ltd, (EF) an entity associated with Trent Franklin, received \$7,428 (2018: \$ nil) in relation to financing services to the Company for insurance. As at balance date the Company owed \$46,964 (2018: \$44,889) to EF.
 - (iv) Enrizen Lawyers Pty Ltd, (EL) an entity associated with Trent Franklin, received \$63,305 (2018: \$58,440) in relation to legal services provided to the Company. As at balance date the Company owed \$159,490 (2018: \$89,854) to EL.
 - (v) Enrizen Capital Pty Ltd, (EC) an entity associated with Trent Franklin, received \$250,000 (2018: \$Nil) in relation to corporate services provided to the Company. As at balance date the Company owed \$275,000 (2018: \$Nil) to EC.
- (c) Key Management Personnel Compensation Notes to the Consolidated Financial Statements disclosing amongst other things:
- (i) Short-term benefits to key management personnel 2019 - \$755,305 (2018 - \$485,000).
- (d) Independent Audit Report dated 8 September 2019 disclosing amongst other things:
- (i) a net working capital deficiency of \$12,754,265 and net operating cash outflows of \$38,534.
 - (ii) The existence of a material uncertainty that may cast significant doubt about the ability of the Company to continue as a going concern and whether it will realise its assets and extinguish its liabilities in the normal course of business and at the amounts stated in the financial report.
- D. Final Directors Interest Notice for Nathan Featherby lodged on MAP on 12 December 2019, disclosing amongst other things Mr Featherby ceased to be a director of ATC on 12 June 2019.
- E. ATC's Appendix 5B Cash flow Reports for the periods set out below detail the following:

Date	Cash and cash equivalents at the end of quarter	Administration and corporate costs
30 September 2017	\$1,000	\$33,000
31 December 2017	\$1,000	\$18,000
31 March 2018	\$1,000	\$94,000
30 June 2018	\$2,000	\$12,000
Year to date		\$156,000
30 September 2018	\$1,000	\$72,000

31 December 2018	\$3,000	\$48,000
31 March 2019	\$1,000	\$12,000
30 June 2019	\$1,000	\$70,000
Year to date		\$202,000
30 September 2019	\$1,000	\$172,000

- F. 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.
- G. Listing Rule 18.6, which states:

On admission to the official list, an entity must comply with the listing rules. This applies even if quotation of the entity's securities is deferred, suspended or subject to a trading halt.

Request for Information

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

1. Please detail the \$300,000 in corporate advisory services provided by Ochre Group Holdings Limited to ATA in the financial year ending 30 June 2018 and the basis on which Ochre Group Holdings Limited was engaged to provide such services (including ATA's assessment of Ochre Group Holdings Limited's capacity to provide these services).
2. Please outline the factors that the directors took into account in making the determination that the exception in section 210 of the Corporations Act applied to the corporate advisory services provided, specifically referencing ASIC Regulatory Guide 76: Related Party Transactions ('RG 76') including paragraph 76.70 therein.
3. Please detail the services provided by Enrizen Accounting Pty Ltd, Enable Finance Pty Ltd, Enrizen Lawyers Pty Ltd & Enrizen Pty Ltd, to ATA in the financial year ending 30 June 2018 and the basis on which the parties were engaged to provide such services (including ATA's assessment of the parties' capacity to provide these services).

In answering this question, please separately break down the services provided by each of the following entities:

- Enrizen Accounting Pty Ltd - \$96,000
 - Enrizen Lawyers Pty Ltd - \$58,440
 - Enrizen Pty Ltd - \$2,000
4. Please outline the factors that the directors took into account in making the determination that the exception in section 210 of the Corporations Act applied to the services provided referred to above, specifically referencing ASIC Regulatory Guide 76: Related Party Transactions ('RG 76') including paragraph 76.70 therein.
 5. Please explain why ATA's cash flows from operating activities as set out in the Appendix 5B for the period ending 30 June 2018 discloses \$156,000 in administration and corporate costs for the year to date, whereas the 2018 Annual Report discloses related party transactions for non - director fees of approximately \$456,440.
 6. Please detail the \$164,000 in corporate advisory services provided by Ochre Group Holdings Limited to ATA in the financial year ending 30 June 2019 and the basis on which Ochre Group Holdings Limited was engaged to provide such services (including ATA's assessment of Ochre Group Holdings Limited's capacity to provide these services).

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7. Please outline the factors that the directors took into account in making the determination that the exception in section 210 of the Corporations Act applied to the corporate advisory services provided, specifically referencing ASIC Regulatory Guide 76: Related Party Transactions ('RG 76') including paragraph 76.70 therein.
 8. Please detail the transactions resulting in the increase in ATA's indebtedness to Ochre Group Holdings Limited from \$413,880 as at 30 June 2018 to \$862,827 as at 30 June 2019 as detailed in the Related Party Notes to the 2019 Annual Report.
 9. Please detail the services provided by Enrizen Accounting Pty Ltd, Enable Finance Pty Ltd, Enrizen Legal Pty Ltd & Enrizen Capital Pty Ltd, to ATA in the financial year ending 30 June 2019 and the basis on which the parties were engaged to provide such services (including ATA's assessment of the parties' capacity to provide these services).

In answering this question, please separately break down the services provided by each of the following entities:

- Enrizen Accounting Pty Ltd - \$96,000
 - Enable Finance Pty Ltd - \$7,428
 - Enrizen Lawyers Pty Ltd - \$63,305
 - Enrizen Capital Pty Ltd - \$250,000
10. Please outline the factors that the directors took into account in making the determination that the exception in section 210 of the Corporations Act applied to the services provided referred to above, specifically referencing ASIC Regulatory Guide 76: Related Party Transactions ('RG 76') including paragraph 76.70 therein.
 11. Please explain why ATA's cash flows from operating activities as set out in the Appendix 5B for the period ending 30 June 2019 discloses \$202,000 in administration and corporate costs for the year to date, whereas the 2019 Annual Report discloses related party transactions for non - director fees of approximately \$627,773.
 12. In respect of the \$127,500 unsecured convertible debt issued in August and September 2019 to Fern Street Partners please answer the following:
 - a. Does ATC consider the information regarding the convertible debt to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
 - b. If the answer to question "a" is "no", please advise the basis for that view
 - c. When did ATC first become aware of the Information?
 - d. If ATC first became aware of the Information before it was disclosed in the Directors Report to the 2019 Annual Report, did ATC make any announcement prior to the release of the 2019 Annual Report 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 ATC was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps ATC took to ensure that the information was released promptly and without delay.
 13. Noting the Appendix 3Z - Final Directors Interest Notice lodged by Nathan Featherby on 12 December 2019 disclosed that he ceased to be a director on 12 June 2019, please explain why there has been no announcement (including any reference in subsequent event notes to 2019 Annual Report) disclosing that fact prior to 12 June 2019.
 14. Please confirm that ATC is complying with the Listing Rules and, in particular, Listing Rule 3.1.

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15. Please confirm that ATC'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 ATC 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 3pm **AWST Friday, 3 January 2020**

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, ATC'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 ATC to request a trading halt immediately.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

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.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to ATC's obligations under Listing Rules 3.1 and 3.1A and to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that ATC'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.

Enquiries

If you have any queries or concerns about any of the above, please contact me immediately.

Regards

James Rowe
Senior Manager, Listings Compliance (Perth)