

24 November 2022

Ms Yushra Haniff
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ASX Limited
Exchange Centre
Level 6, 20 Bridge Street
SYDNEY NSW 2000

By email: yushra.haniff@asx.com.au
and via the Company Announcements Platform

Dear Madam

Notice under Section 708AA(2)(f) of the *Corporations Act 2001* (Cth)

This notice is given by Marley Spoon AG ARBN 625 684 068 (ASX: MMM) (**Company**) under section 708AA(2)(f) of the *Corporations Act 2001* (Cth) (**Act**) as modified by applicable legislative instruments including ASIC Corporations (Non-Traditional Rights Issues) Instrument 2016/84 and ASIC Corporations (Disregarding Technical Relief) Instrument 2016/73 (the **ASIC Instruments**).

The Company has today announced that it is undertaking a partially underwritten pro-rata accelerated non-renounceable entitlement offer to raise up to approximately A\$22.8 million (**Entitlement Offer**). The Offer is partially underwritten to A\$14.6 million.

The proceeds of the Entitlement Offer will be used to provide additional working capital to continue to fund operations, pay costs of the offer and may also be used to partially repay debt.

Under the Entitlement Offer, eligible securityholders will be invited to subscribe for 1 new CHESS depositary interest (**CDI**) over fully paid ordinary share in the Company (**security**) for every 2.11 CDIs held as at 7.00pm (Sydney time) on Monday, 28 November 2022 by securityholders with a registered address in Australia and New Zealand and certain other jurisdictions nominated by the Company and in compliance with local securities law.

CDIs will be offered at an issue price of A\$0.165 per security under the Entitlement Offer.

Further details regarding the Entitlement Offer are set out in the ASX announcement and Investor Presentation released earlier today (Thursday, 24 November 2022).

For purposes of section 708AA(7) of the Act, the Company confirms in relation to the Entitlement Offer, that:

- a) the securities will be offered without disclosure to investors under Part 6D.2 of the Act;

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- b) this notice is being given under section 708AA(2)(f) of the Act, as modified by the ASIC Instruments;
- c) as at the date of this notice, the Company has complied with:
 - i) the provisions of Chapter 2M of the Act as they apply to the Company; and
 - ii) sections 674 and 674A of the Act; and
- d) as at the date of this notice, there is no excluded information of the type referred to in sections 708AA(8) and 708AA(9) of the Act that is required to be set out in this notice under section 708AA(7) of the Act; and
- e) the potential effect that the issue of the securities will have on the control of the Company and the consequences of that effect will depend on a number of factors, including investor demand and existing securityholdings. However, it is not expected that the issue of the securities under the Entitlement Offer will have any material effect or consequence on the control of the Company. Further detail in this regard is set out below.

Canaccord Genuity (Australia) Limited ABN 19 075 071 466 and Wilsons Corporate Finance Limited ACN 057 547 323 (**Underwriters**) have committed under an underwriting agreement with the Company to partially underwrite the Entitlement Offer up to A\$14.6 million, subject to certain conditions precedent, representations, warranties and undertakings, termination events and other customary provisions.

Conifer Capital Management (**Conifer**) and Union Square Ventures (**USV**), two of the Company's existing institutional securityholders, have committed A\$6.20 million and A\$4.65 million respectively to take up their entitlement in full, and in subscription for available shortfall securities not taken up by eligible securityholders (Conifer and USV together, the **Major Pre-Committing Securityholders**).

If all eligible security holders take up their entitlements in full (or take up additional securities in an oversubscription facility to be offered to eligible retail securityholders), the Major Pre-Committing Securityholders will not be required to apply for shortfall securities, and their percentage holding will not increase from their approximately 16.57% and 14.72% respective holdings.

However if this does not occur, the Major Pre-Committing Securityholders will subscribe for additional securities and their percentage holdings will increase to up to approximately 22.6% and 18.7% respectively depending upon the level of participation by other eligible securityholders and investors in the Entitlement Offer.

Any shortfall at the close of the Entitlement Offer will be allocated to eligible retail securityholders applying for additional securities under the oversubscription facility before they are allocated to the Major Pre-Committing Securityholders or other sub-underwriters to the Entitlement Offer.

The potential effect that the Entitlement Offer will have on the control of the Company is as follows:

- if all eligible securityholders take up their full entitlement under the Entitlement Offer, there will be no material effect on the control of the Company and those eligible securityholders will not be diluted as they will continue to hold the same percentage interest in the Company;

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- to the extent that any eligible securityholder fails to take up their entitlement under the Entitlement Offer, that eligible securityholder's percentage holding in the Company will be diluted by the issue of new securities to those who did take up their full entitlement (including the Major Pre-Committing Securityholders), those who did take up their full entitlement and applied for additional securities over and above their entitlement under the oversubscription facility), and other investors who take up shortfall securities including potentially the Major Pre-Committing Securityholders;
- the percentage holding in the Company of securities of securityholders who are ineligible to participate in the Entitlement Offer will be diluted as a result of the issue of securities under the Entitlement Offer. Ineligible securityholders are estimated currently to hold 2.4% of securities in the Company; and
- to the extent to which the percentage holdings of the holdings of the Major Pre-Committing Securityholders may increase is described above and depends upon the level of participation by other eligible securityholders and investors in the Entitlement Offer. This is further illustrated in the table below.

Amount raised	Conifer	USV
Underwritten amount only (ie nil additional take up, including under the retail entitlement offer)	22.6%	18.7%
80% take-up (ie Underwritten Amount plus any additional take, including under the retail entitlement offer)	21.3%	17.7%
90% take-up (ie Underwritten Amount plus any additional take, including under the retail entitlement offer)	20.6%	17.1%
100% take-up	20.0%	16.5%

Having regard to the above, the Major Pre-Committing Securityholders will remain major securityholders following completion of the Entitlement Offer and may increase their relevant interest as a consequence of the Entitlement Offer as set out above. Other than Conifer, no other person is expected to acquire voting power in the Company of 20% or more as a consequence of the Entitlement Offer.

Although the issue of securities which are not taken up by eligible securityholders under the Entitlement Offer may result in an increase in the voting power in the Company of the Major Pre-Committing Securityholders of the Entitlement Offer, it is not expected that such issue of securities will have a material effect on the control of the Company.

Please note that, as discussed in the investor presentation lodged with ASX on the date of this notice, Marley Spoon is incorporated under German law, it is not subject to the Australian Corporations Act 2001 (Cth) provisions – refer to page 37 of that presentation for further details.

For and on behalf of the Board of the Company.



Fabian Siegel
Chief Executive Officer