

Partner
Contact

John Williamson-Noble
Chris Morse
T +61 2 9263 4778
CMorse@gtlaw.com.au
JWN:CJM:1049593

Our ref



L 35, Tower Two, International Towers Sydney
200 Barangaroo Avenue,
Barangaroo NSW 2000 AUS
T +61 2 9263 4000 F +61 2 9263 4111
www.gtlaw.com.au

9 October 2023

The Manager
Market Announcements Office
ASX Limited
20 Bridge Street
Sydney NSW 2000

Dear Sir/Madam

Takeover bid by Australian Clinical Labs Limited for Healius Limited – third supplementary bidder’s statement

We act for Australian Clinical Labs Limited (ACN 645 711 128) (**ACL**) in relation to its off-market takeover bid under Chapter 6 of the *Corporations Act 2001* (Cth) (**Corporations Act**) for all of the ordinary shares in Healius Limited (ACN 064 530 516) (**Healius**) (**Offer**).

We attach, by way of service pursuant to subsection 647(3)(a)(ii) of the Corporations Act (as inserted by ASIC Class Order [CO 13/528]), ACL’s third supplementary bidder’s statement in respect of the Offer (**Third Supplementary Bidder’s Statement**).

A copy of the Third Supplementary Bidder’s Statement has been lodged with the Australian Securities and Investments Commission and sent to Healius today.

Yours faithfully
Gilbert + Tobin

A handwritten signature in blue ink that reads 'John Williamson-Noble'.

John Williamson-Noble
Partner
T +61 2 9263 4030
JWilliamson-Noble@gtlaw.com.au

A handwritten signature in blue ink that reads 'Chris Morse'.

Chris Morse
Partner
T +61 2 9263 4778
CMorse@gtlaw.com.au

9 October 2023

Australian Clinical Labs Limited (ABN 94 645 711 128)

Third Supplementary Bidder's Statement

1 Important notice

This document is a supplementary bidder's statement under section 643 of the *Corporations Act 2001* (Cth) (**Corporations Act**). It is the third supplementary bidder's statement (**Third Supplementary Bidder's Statement**) issued by Australian Clinical Labs Limited (ABN 94 645 711 128) (**ACL**) in relation to its off-market takeover bid for all of the fully paid ordinary shares in Healius Limited (ABN 24 064 530 516) (**Healius**) (**Offer**). This Third Supplementary Bidder's Statement supplements, and should be read together with, ACL's replacement bidder's statement dated 14 April 2023 (**Bidder's Statement**), ACL's first supplementary bidder's statement lodged with ASIC on 14 April 2023, which attached a mark-up of the Bidder's Statement against ACL's original bidder's statement dated 20 March 2023 (**First Supplementary Bidder's Statement**), and ACL's second supplementary bidder's statement lodged with ASIC on 22 May 2023 (**Second Supplementary Bidder's Statement**).

Capitalised terms used in this Third Supplementary Bidder's Statement have the meanings given to them in the Bidder's Statement, unless the context otherwise requires. The rules of interpretation in section 12.2 of the Bidder's Statement also apply to this Third Supplementary Bidder's Statement. This Third Supplementary Bidder's Statement prevails to the extent of any inconsistency between this Third Supplementary Bidder's Statement and the Bidder's Statement, the First Supplementary Bidder's Statement and/or the Second Supplementary Bidder's Statement.

This Third Supplementary Bidder's Statement is dated 9 October 2023. A copy of this Third Supplementary Bidder's Statement was lodged with ASIC and given to the ASX on 9 October 2023. Neither ASIC nor the ASX, nor any of their respective officers, take any responsibility for its contents.

Detailed information about the Offer is set out in the Bidder's Statement and the Second Supplementary Bidder's Statement, and ACL strongly encourages Healius Shareholders to read this Third Supplementary Bidder's Statement together with the Bidder's Statement and the Second Supplementary Bidder's Statement carefully and in their entirety before making a decision as to whether to accept the Offer. Healius Shareholders should carefully consider the risks outlined in section 8 of the Bidder's Statement (which sets out certain risks relating to the Proposed Merger, including risks of the Proposed Merger and risks that will arise as a result of the creation of the Merged Group), noting that section 8 of the Bidder's Statement is general in nature only and does not take into account the individual objectives, financial situation, taxation position or particular needs of any person.

2 Healius FY23 Financial Results

ACL refers to its announcement to the ASX on 14 September 2023, in which it advised that it was considering the information regarding breaches or potential or likely breaches of Conditions contained in Healius' supplementary target's statement to its target's statement in relation to the Offer dated 4 May 2023 (**Supplementary Target's Statement**)¹ and the implications of that information for the Offer. In that announcement, ACL advised that it expected to provide an update at the appropriate time following:

¹ In section 2.3 of the Supplementary Target's Statement, Healius disclosed that, based on the information in Healius' unaudited preliminary final report for FY23 (which Healius released to the ASX on 30 August 2023) and, where relevant, as a result of Healius releasing that report to the ASX, certain Conditions to the Offer (relating to Healius' audited FY23 financial results, announcements made by Healius regarding its expected FY23 financial performance, and no material adverse change occurring in respect of Healius) had either not been satisfied or, in Healius' view, were unlikely to be satisfied.

- ACL's review of the Healius FY23 Financial Statements and the Healius FY23 Annual Report (together, the **Healius FY23 Financial Results**), together with any other information that ACL may require after that review; and
- the ACCC's final decision in respect of the Proposed Merger.

ACL notes that, on Tuesday, 26 September 2023, the Healius FY23 Financial Results were released by Healius to the ASX.

ACL has undertaken a review of the information in the Healius FY23 Financial Results and provides the following update on the status of certain Conditions that have been breached, or that have been satisfied, as a result of the information disclosed by Healius during the Offer Period (including, but not limited to, the information contained in the Healius FY23 Financial Results).

3 Fulfilment of certain Conditions

ACL advises that, as a result of the release of the Healius FY23 Financial Results to the ASX, the following Conditions have been fulfilled and, accordingly, the Offer is free from those Conditions:

Condition and Section of Bidder's Statement	Summary of Condition	Explanation of the basis on which the Condition has been fulfilled
Healius' FY23 financial results ² Section 11.9(g)(i)	Healius releasing the Healius FY23 Financial Results and those documents stating (or otherwise showing) that the Healius Group's free cash flow less growth capex for FY23 is not less than \$250.0 million.	As set out in Healius' FY23 Financial Results, the Healius Group's free cash flow less growth capex for FY23 was \$257.2 million (calculated in accordance with the specific requirements set out in section 11.9(g)(i) of the Bidder's Statement). This amount exceeded the amount specified by the Condition.
Accounting policies Section 11.9(h)	Healius not making any voluntary changes to its accounting policies (compared to the accounting policies applied by it in preparing its audited financial statements for FY22) in preparing the Healius FY23 Financial Statements.	The Healius FY23 Financial Statements state that accounting policies were applied consistently to all years presented (and the years presented in the Healius FY23 Financial Statements include FY22 and FY23).

ACL will lodge with the ASX, pursuant to sections 630(4) and 630(5)(b) of the Corporations Act, a notice of fulfilment of the Conditions contained in sections 11.9(g)(i) and 11.9(h) of the Bidder's Statement. The notice will also be sent to Healius pursuant to section 630(5)(a) of the Corporations Act.

4 Breaches of certain Conditions

ACL advises that, as a result of the release of the Healius FY23 Financial Results and/or other information released by Healius during the Offer Period, ACL has identified the following breaches of Conditions:

² In respect of the Condition in section 11.9(g)(i) of the Bidder's Statement relating to Healius Group's free cash flow less growth capex for FY23.

Condition and Section of Bidder's Statement	Summary of Condition(s)	Explanation of the basis on which each Condition has not been satisfied
<p>Announcements regarding Healius' expected FY23 financial performance</p> <p>Sections 11.9(f)(i) to 11.9(f)(iii) (inclusive)</p>	<p>Healius not making a public announcement that (or to the effect that) the Healius Group's underlying EBIT, reported EBIT and/or profit from continuing operations for FY23 will be, or is expected or likely to be, less than specified amounts.</p>	<p>As set out in Healius' unaudited preliminary final report for FY23 (Healius FY23 Preliminary Report), the Healius Group's:</p> <ul style="list-style-type: none"> • underlying EBIT was \$99.0 million; • reported EBIT was a loss of \$335.0 million; and • loss for the year from continuing operations was \$380.0 million, <p>all of which (when calculated in accordance with the specific requirements set out in the relevant Condition) are less than the relevant amounts specified in sections 11.9(f)(i) to 11.9(f)(iii) of the Bidder's Statement.</p> <p>As a result, each of these Conditions has not been satisfied.</p>
<p>Healius' FY23 financial results</p> <p>Sections 11.9(g)(ii) to 11.9(g)(v) (inclusive)</p>	<p>Healius releasing the Healius FY23 Financial Results and those documents stating (or otherwise showing) that the Healius Group's underlying EBIT, reported EBIT and profit for the year from continuing operations (in each case, for FY23) are no less, and the Healius Group's net debt plus current tax liabilities less current tax assets is no greater, than specified amounts.</p>	<p>As set out in the Healius FY23 Financial Results, the Healius Group's:</p> <ul style="list-style-type: none"> • underlying EBIT was \$99.0 million; • reported EBIT was a loss of \$335.0 million; and • loss for the year from continuing operations was \$380.0 million, <p>all of which (when calculated in accordance with the specific requirements set out in the relevant Condition) are less than the relevant amounts specified in sections 11.9(g)(ii) to 11.9(g)(iv) of the Bidder's Statement.</p> <p>In addition, as set out in the Healius FY23 Financial Results, net debt plus current tax liabilities less current tax assets for the Healius Group as at 30 June 2023 was \$442.0 million, which exceeds the amount specified in section 11.9(g)(v) of the Bidder's Statement.</p> <p>As a result, each of these Conditions has not been satisfied.</p>

Condition and Section of Bidder's Statement	Summary of Condition(s)	Explanation of the basis on which each Condition has not been satisfied
<p>No material adverse change Section 11.9(m)(i)</p>	<p>No material adverse change occurring (or being disclosed or announced or becoming known to ACL) in the specified time period in respect of Healius, being certain occurrences or changes having, or being reasonably like to have, the effect of a diminution in the value of the Healius Group's net assets by at least \$90 million.</p>	<p>As set out in the Healius FY23 Preliminary Report (and disclosed in the Supplementary Target's Statement), Healius incurred a non-cash impairment charge to goodwill of \$349.8 million in the six months to 30 June 2023. This resulted in net current assets and consolidated net assets reducing from \$1,843.3 million as at 31 December 2022 to \$1,506.2 million as at 30 June 2023 (being a diminution of \$337.1 million).</p> <p>This diminution is more than the amount specified in the Condition.</p> <p>As a result, this Condition has not been satisfied.</p>
<p>No other material occurrences Sections 11.9(p)(ii)(A) and 11.9(p)(ii)(B)</p>	<p>The Healius Group's net debt plus current tax liabilities less current tax assets exceeds, or is reasonably likely to exceed, \$558.0 million at any time before completion of the Day Hospitals Sale or \$437.3 million at any time after completion of the Day Hospitals Sale, and in each case remains, or is reasonably likely to remain, in excess of such an amount (as applicable) for 30 days (or Healius publicly announcing that this has occurred (whether to the ASX or otherwise)).</p>	<p>Healius' Target's Statement stated that Healius considered that the Healius Group's net debt plus current tax liabilities less current tax assets in the period since the Announcement Date had exceeded the \$558 million limit specified in the Condition for more than 30 days or was likely to remain in excess of that amount (or the \$437.3 million limit following completion of the Day Hospitals Sale) for more than 30 days.</p> <p>As a result, each of these Conditions has not been satisfied.</p>
<p>Debt Covenants Section 11.9(r)(ii)</p>	<p>Healius not being granted or permitted any waivers, standstills or similar indulgences by lenders in respect of a breach of a Debt Covenant.</p>	<p>Healius announced to the ASX on 2 May 2023, and further stated in its Target's Statement, that it had agreed with its banking group to amend its gearing ratio covenant under its debt facilities from 3.5 times to 4.0 times to provide additional headroom for the 30 June 2023 and 31 December 2023 testing dates.</p> <p>The arrangements agreed with the lenders trigger this Condition.</p> <p>As a result, this Condition has not been satisfied.</p>
<p>No issue of convertible securities,</p>	<p>No securities, derivatives or other rights convertible into, or that may result in the issue of, Healius Shares</p>	<p>Healius issued:</p> <ul style="list-style-type: none"> • 2,857,743 Healius Performance Rights on 30 May 2023 (including

Condition and Section of Bidder's Statement	Summary of Condition(s)	Explanation of the basis on which each Condition has not been satisfied
derivatives or other rights Section 11.9(x)	being issued or granted (or agreed to be issued or granted) by Healius and otherwise no alteration to Healius' capital structure or rights attaching to Healius issued securities, derivatives or other rights occurring ³ .	313,406 Healius Performance Rights to Malcolm Parmenter, 371,859 Healius Performance Rights to Maxine Jaquet, and 232,898 Healius Performance Rights to John McKechnie); and <ul style="list-style-type: none"> • 203,786 Healius Performance Rights on 23 June 2023. <p>As a result, this Condition has not been satisfied.</p>

ACL reserves its right to rely on any or all of the breaches of the Conditions that have occurred or may have occurred as a result of the matters summarised above (including those breaches specifically identified above), and its right to waive any such breaches.

ACL expects to provide an update at the appropriate time following the ACCC's final decision in respect of the Proposed Merger as ACL expects that the ACCC's final decision in respect of the Proposed Merger will be important information for ACL in relation to its decision whether to rely on or waive the breaches described above. As advised in ACL's announcement to the ASX on 22 September 2023, the ACCC has advised ACL that it has suspended the timeline on its public register of its review of the Proposed Merger pending the receipt by the ACCC of further information (and has updated its public register to that effect). ACL notes that the ACCC has not yet publicly stated or advised ACL of its new expected decision date.

ACL will update ACL Shareholders and Healius Shareholders in relation to these matters at the appropriate time.

5 Offer Information Line

Healius Shareholders who have any questions in relation to the Offer should call the Offer Information Line on 1800 882 147 (from within Australia) or +61 1800 882 147 (from outside Australia) between 8.30am and 5.00pm (Sydney time), Monday to Friday.

³ Other than pursuant to the issue of Healius Shares that come to be in the bid class between the Register Date and the end of the Offer Period in accordance with the terms of, or otherwise in connection with, Healius Options and/or Healius Rights, securities, derivatives or other rights that are on issue as at the Register Date.

6 Approval of Third Supplementary Bidder's Statement

This Third Supplementary Bidder's Statement has been approved by a unanimous resolution passed by all of the ACL Directors.

Date: 9 October 2023

Signed for and on behalf of **Australian Clinical Labs Limited**

A handwritten signature in black ink, appearing to read 'M Alscher', with a long horizontal flourish extending to the right.

Michael Alscher
Chair
Australian Clinical Labs Limited