

6 November 2015



universal
coal plc

Grant of ASX Waiver

Universal Coal Plc (“Universal” or “Company”) (UNV) announces that the Company has been granted a waiver in respect of ASX Listing Rule 15.15 (“Waiver”). The Waiver was sought by the directors of Universal who are independent (“Independent Directors”) of the unsolicited offer by Ichor Coal N.V. (“Ichor”) to acquire all of the ordinary shares of the Company (“Shares”) it does not already own at a price of A\$0.16 per Share (“Ichor’s Offer”).

ASX Listing Rule 15.15 requires that a foreign company’s constitution must not include provisions relating to takeovers and substantial shareholdings. Universal’s Articles of Association (“Articles”) include provisions, in Articles 18.1(b) to (e), that (in summary) entitle the Universal Board, when:

- shares in Universal are acquired above a specified threshold; and
- no follow-up offer is extended to shareholders generally,

to impose “sanctions” by way of a suspension of voting rights (Article 18.1(b)(iii)(A)) and by directing registered holders of shares to divest their interest in shares acquired above the threshold (Article 18.1(b)(iii)(B)). The threshold shareholding is 20% unless the Board resolves under Article 18.1(b)(iii)(B) to increase it to 30%.

A waiver of Listing Rule 15.15 was sought to avoid doubt as to whether Articles 18.1(b) to (e) are valid and enforceable. The Waiver has been granted to permit the Articles to continue to include these provisions (defined as the “Takeover Provisions” in the Waiver) and to retain the “sanctions” set out in Article 18.1(b)(iii)(A) and Article 18.1(b)(iii)(B) (defined as the “Sanctions” in the Waiver) on a conditional basis.

The following conditions apply to the Waiver:

- For the purposes of Article 18.1(b)(iii)(B), the Company does not resolve to apply the 30% threshold in the UK City Code on Takeovers and Mergers (the “City Code”) to Article 18.1(b)(i), Article 18.1(b)(ii) and Article 18.1(b)(iii).
- The Company does not enforce the Takeover Provisions in Article 18.1(c), Article 18.1(d)(i) and Article 18.1(e).

- The Company does not exercise the Sanctions other than in accordance with the ruling of a competent court that a person or persons to whom Article 18.1(b)(iii) applies has failed or will fail to comply with Article 18.1(b)(iii) within the period of 21 days to which that Article refers.
- If the Company becomes subject to a law of any jurisdiction which applies so as to regulate the acquisition of control, and the conduct of any takeover of the Company, the Company shall consult promptly with ASX. If ASX considers that amendment to the Takeover Provisions or the Sanctions is required, and such amendment is not made to the satisfaction of ASX, the waiver shall cease to apply.
- The Company must disclose in each annual report that it is not subject to the City Code and the effect of the Takeover Provisions as varied by this waiver.
- The terms of the Waiver must be announced to the market immediately.

The material effects of the conditions of the Waiver, which takes effect on and from the date of its grant, are as follows:

- The Board of the Company cannot resolve to increase the acquisition threshold from 20% to 30%, as it was previously able to do under Article 18.1(b)(iii)(B).
- The Board of the Company cannot exercise the power granted by Article 18.1(c) to require a shareholder to disclose to the Board any persons or entities who are affiliated persons of, or who are acting in concert with, that shareholder in respect of an interest in the shares of the Company.
- The Board of the Company cannot enforce the Takeover Provisions in circumstances where the City Code applies to the Company. In such circumstances, shareholders would have the protections afforded to them under the City Code and any takeover offer would be subject to the jurisdiction of the UK Panel on Takeovers and Mergers.
- The Board of the Company will not have the benefit of Article 18.1(e), which purported to limit the liability of the Board in respect of the way its discretions and powers were exercised in respect of the Takeover Provisions.
- Before the Board of the Company exercises its rights in respect of the Sanctions, it must first obtain a ruling from a competent court that:
 - a person (together with persons acting with him) has acquired an interest in the shares of the Company that is equal to or higher than the acquisition threshold that applies to that shareholding (“Relevant Persons”);
 - the Relevant Persons would be obliged to make a mandatory offer to the other shareholders under the City Code (as adjusted for the purposes of article 18.1(b)), if the City Code applied to the Company (“Mandatory Offer”); and

- the Relevant Persons have failed or will fail to make a Mandatory Offer on terms no less favourable to the other shareholders than would have been required if the City Code had applied to the Company, within 21 days following the date on which such an obligation would have arisen.

The Independent Directors do not agree with ASX's view that, at present, the Articles contain "provisions relating to takeovers" for the purposes of ASX Listing Rule 15.15.

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