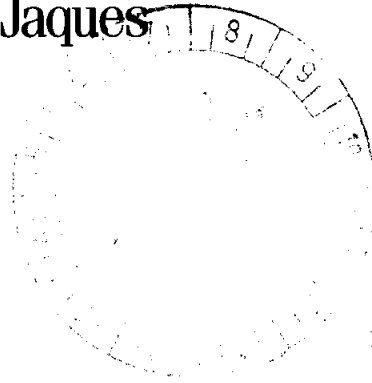


Mallesons Stephen Jaques

SOLICITORS



Private & Confidential

15 May 2001

The Commissioner
Australian Competition and
Consumer Commission
Level 35, 360 Elizabeth Street
Melbourne VIC 3000

FILE No.
ENTITY
DMAN DO1 15184

Dear Sir

**Merrill Lynch
Protected Equity Portfolio Loan**

We refer to the application made in respect of the above facility by members of the Merrill Lynch group in relation to potential third line forcing.

We confirm that the main public benefit of the Merrill Lynch entities being required to be used in connection with the facility is the savings achievable through reducing administration and risk. In particular, a fundamental requirement of the facility is that EML be able to enter into a put option with MLAF in respect of the portfolio. The put option enables EML to offer customers a limited recourse facility in respect of their loan, protecting them against losses if the market value of the shares falls below the acquisition price. To be able to offer such put options, MLAF needs to be able to hedge its position, which in turn means that it needs to participate in the sale to the customer of the physical stocks when the loan facility is first used.

In addition, the use of MLAN to hold the portfolio on behalf of the customer in certain circumstances provides advantages to the customer by improving the position of EML as secured lender and reducing its risks. One result of this is reduced interest rates for customers. Further, the holding services provided by MLAN are provided in connection with the supply of the Protected Equity Portfolio Loan and therefore would not compete directly with other nominee services.

From Merrill Lynch's viewpoint, having these separate functions organised and transacted within the Merrill Lynch group enables Merrill Lynch to reduce the risk of failure in communication or execution of the relevant transactions, reduce its security risk and to provide what is, in substance, one single service.

We enclose a cheque for \$1000.00 being the fee for this Notification.

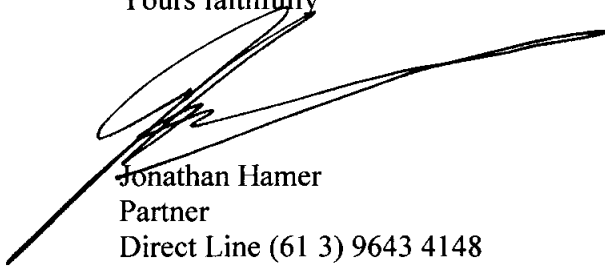
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Yours faithfully



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Encl.

FORM G
Regulation 9

COMMONWEALTH OF AUSTRALIA
Trade Practices Act 1974 - Sub-section 93(1)

EXCLUSIVE DEALING : NOTIFICATION

To the Australian Competition and Consumer Commission:

Notice is hereby given in accordance with sub-section 93(1) of the Trade Practices Act 1974 of particulars of conduct or of proposed conduct of a kind referred to in sub-section 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a),(b) or (c) or (9)(a),(b),(c) or (d) of that Act in which the person giving notice engages or proposes to engage.

1 (a) Name of person giving notice:

Equity Margins Limited ACN (004 841 169) of 120 Collins Street, Melbourne ("**EML**") on its own behalf and on behalf of

- (i) Merrill Lynch (Australia) Futures Limited ACN 003 639 674 ("**MLAF**") of 120 Collins Street, Melbourne; and
- (ii) Merrill Lynch (Australia) Nominees Pty. Limited ACN 003 925 031 ("**MLAN**") of 120 Collins Street, Melbourne.

(b) Short description of business carried on by that person:

EML provides finance for the acquisition of equities including shares and options and other marketable securities approved by EML from time to time.

MLAF is a dealer in options and derivatives.

MLAN provides holding (nominee) services and is a sponsoring participant of CHESS.

(c) Address in Australia for service of documents on that person:

The Company Secretary
Equity Margins Limited
120 Collins Street
Melbourne, 3000

2 (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

EML provides a Service of making available loans to acquire a preselected portfolio of 10 Australian Shares ("**portfolio**") with 100% protection to cover any downside movement in the shares at expiry, ("**Protected Equity Portfolio Loan**").

The portfolio will be acquired partly from MLAF and partly from the market (depending on what stocks are held by MLAF at the time). The acquisition price is a specified amount (the closing sale price on the ASX on the acquisition date). MLAF will grant EML a put option over the portfolio at the acquisition price.

Holding services (acting as nominee) for the portfolio will be supplied by MLAN (“**Holding Services**”).

(b) Description of the conduct or proposed conduct:

EML proposes to supply or offer to supply Protected Equity Portfolio Loans to customers on condition that the customer purchases a portfolio of shares from a combination of MLAF and the market using the proceeds of the Protected Equity Portfolio Loan. In addition, it is a term of the Secured Equity Investment Loan that customers appoint MLAN to provide Holding Services.

Public benefit

The proposed conduct will be of benefit to the public as it will:

- (a) provide customers with the financial benefits of gearing an investment in shares while being protected against losses if the market value of the shares falls below the acquisition price;
- (b) increase the number and variety of lending products available for the acquisition of equities including shares and promote competition in the market.

It is essential to the underlying structure of the Protected Equity Portfolio Loan that EML be able to enter into a put option in respect of the portfolio. The put options are not standard (they relate to a particular portfolio of shares comprised of specific company shares in particular percentages). To be able to offer such put options MLAF needs to hedge its position which in turn means that it needs to participate in the sale to the customer of the physical stocks when they are acquired by the customer with the proceeds of the loan. The put option enables EML to offer customers a limited recourse facility in respect of their loan, providing protection to customers in the event of a fall in the price of shares in the portfolio.

The use of MLAN as nominee of the client to hold the portfolio in certain circumstances improves the position of EML as secured lender and reduces its risks one result of which is reduced interest rates for the customer.

No lessening of competition

The conduct will not lessen competition in the markets for lending products for the acquisition of equities as the services provided by MLAF and MLAN are directly linked to the services offered by EML and comprise, in substance, one single service.

There are many competitors in the relevant markets and competition is vigorous.

The services provided by MLAN are also provided in connection with the supply of the Protected Equity Portfolio Loan and will not compete directly with other nominee services.

The benefits from the proposed conduct will outweigh any possible detriment considered to arise from the conduct.

3 (a) **Class or classes of persons to which the conduct relates:**

EML customers and potential customers.

(b) **Number of those persons**

The estimated number of people presently using lending products for the acquisition of equities is approximately 400,000.

(c) ***Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses:**

Not applicable.

4 **Name and address of person authorised by the person giving this notice to provide additional information in relation to this notice:**

Jonathan Hamer
Mallesons Stephen Jaques
Level 28, Rialto
525 Collins Street
Melbourne Vic 3000
(03) 9643 4148

Dated: *15 / May* 2001

Signed on behalf of the person giving this notice:

For and on behalf of Equity Margins Limited by:

.....
Title

Partner
Mallesons Stephen Jaques

DIRECTIONS

- 1 If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
- 2 If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1(a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3 In item 1(b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4 If particulars of a condition or of a reason of the type referred to in subsection 47(2), (3), (4), (5), (6), (7), (8), or (9) of the **Trade Practices Act 1974** have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
- 5 In item 3(a), describe the nature of the business carried on by the persons referred to in that item.
- 6 In item 3(b)(ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

NOTICE

If this notification is in respect of conduct of a kind referred to in subsection 47(6) or (7), or paragraph 47(8)(c) or (9)(d), of the Trade Practices Act 1974 (“**the Act**”), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act (“**the prescribed period**”) unless the Commission gives a notice under subsection 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under subsection 93A(2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93(3A) of the Act. The notification comes into force when the decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8), (a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.