



James Hardie Industries N.V
ARBN 097 829 895
Incorporated in The Netherlands
with a corporate seat in Amsterdam.
The liability of members is limited.

2 December 2009

Dutch Registration Number:
34106455

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The article "Hardie given far too much wriggle room" (*Australian Financial Review*, 1 December 2009) is riddled with inaccuracies which indicate a lack of understanding of both basic accounting concepts and the Amended and Re-stated Final Funding Agreement (AFFA) and associated legislation entered into by James Hardie, the Asbestos Injuries Compensation Fund (AICF) and the NSW Government.

First, the standby loan facility to be provided by the NSW Government to the AICF in no way abrogates or limits James Hardie's responsibilities to meet its obligations under the AFFA. The facility is available only to the AICF and has no impact on the calculation of James Hardie's annual and future contributions.

The authors also refer to James Hardie continuing to pay dividends when in fact the company announced that it suspended dividends in November 2008 due to a number of factors, not least of which is the unprecedented downturn in the US housing market, and as recently as last week confirmed that this suspension continues.

The article further states that James Hardie's ability to provide funds is "based on the notion of accounting profitability". This is not correct. James Hardie pays 35% of its Net Operating Cash Flow to the fund. The definition of Net Operating Cash Flow is set out in the AFFA and the amount is readily identified from the Cash Flow Statement in James Hardie's consolidated annual accounts which are audited by Ernst & Young.

Furthermore, the authors assert that "due to the re-domicile of the parent company", there will be no payment to the fund in 2011. This comment ignores statements made by James Hardie CEO Louis Gries only last week, that, based on its fiscal year results to date, James Hardie anticipates that it will make a contribution to the AICF in calendar 2010 in accordance with the AFFA. It obviously remains too early to ascertain the level of contribution in 2011.

Contrary to the arguments put forward in the article, the AFFA is widely-recognised as being a robust agreement designed to ensure the company is able to make contributions to the AICF, for the benefit of asbestos claimants over the long term. Already, since the AICF was established in 2007, James Hardie has contributed A\$302 million to the fund. In addition, the company is also making substantial annual contributions to medical research into asbestos related diseases and to asbestos awareness education.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sean O'Sullivan', written over a horizontal line.

Sean O'Sullivan
Vice President – Investor Relations