

# Challenger and CPH sign Merger Agreement

CHALLENGER FINANCIAL SERVICES GROUP

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9 April 2003

The Manager

Company Announcement Platform

20 Bridge Street Sydney NSW 2001

Dear Sir

Attached is an announcement by the Directors of Challenger International Limited ("Challenger") concerning the proposed merger of Challenger with CPH Investment Corp.

Yours faithfully

**David H Slatyer**

Company Secretary

Att.

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**ASX AND MEDIA RELEASE BY CHALLENGER INTERNATIONAL LIMITED  
(ASX: CLI)**

Wednesday 9 April 2003

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**Challenger International Limited and CPH Investment Corp sign Merger Implementation Agreement**

The board of Challenger International Limited ("Challenger") today announced the signing of the Merger Implementation Agreement with CPH Management Limited

("CPH Management"), the responsible entity of CPH Investment Corp ("CPHIC"). The merger, if approved by Challenger shareholders, CPHIC unitholders and the Court, will create a substantial Australian financial services group.

The merged entity will be renamed "Challenger Financial Services Group" to reflect the significance of the Challenger business, and at the current stock market price will have a market capitalisation of approximately \$1.1 billion, making it one of the top 100 entities by market capitalisation on the Australian Stock Exchange.

### ***Benefits of the Merger***

The board of Challenger considers that shareholders will benefit from the merger through:

- increased opportunities for growth, as Challenger's capital base will be significantly strengthened by combining Challenger's business model with CPHIC's liquid assets;
- the creation of an enlarged financial services group capable of further extension into select areas of financial services;
- exposure to a wealth management business model leveraged to mandated superannuation growth both pre and post retirement
- increased investor and market support for a significantly larger company by market capitalisation.

### ***Merger by Scheme of Arrangement***

#### Challenger ordinary shares

Under the proposed merger, CPHIC will acquire all of Challenger's ordinary shares by way of scheme of arrangement. The agreed exchange ratio is 4.5 CPHIC units for each Challenger ordinary share.

#### Challenger convertible notes

It is intended that Challenger will propose a scheme which, if approved, will allow each Challenger noteholder to choose one of the following two alternatives in respect of their convertible notes:

Alternative 1: Challenger convertible notes remain on issue on the same terms, but upon subsequent conversion, noteholders would immediately transfer Challenger shares issued on conversion to CPHIC in exchange for 4.5 CPHIC units per Challenger share.

OR

Alternative 2: On the merger effective date, Challenger convertible notes are exchanged into 5.5 CPHIC units per Challenger convertible note. The higher exchange ratio under this alternative is intended to compensate noteholders for forgoing the annual coupon of 9.5% on the convertible notes until maturity in 2007 and the value of the equity option inherent in the convertible notes.

If a Challenger noteholder does not make an election, the noteholder will be deemed to have made an election for Alternative 2.

### Challenger options

It is intended that Challenger will propose a scheme pursuant to which Challenger options would remain on issue on the same terms, but upon exercise, optionholders would immediately transfer Challenger shares issued on exercise to CPHIC in exchange for 4.5 CPHIC units per share.

### ***Due diligence and approvals***

Both parties have undertaken detailed due diligence and have reached agreement on all key commercial issues. The proposed merger remains conditional on various approvals including:

- approval of the Challenger Share Scheme by Challenger shareholders and the Court
- holders of CPHIC Units approving the merger and the acquisition of Challenger securities from CPH related entities
- approval of the Federal Treasurer under the Financial Sector (Shareholdings) Act no material adverse change affecting the assets of either Challenger or CPHIC
- the Australian Prudential Regulation Authority ("APRA") reconfirming to CPH Management immediately prior to the court approval date that it is satisfied with CPH Management's capital management plan for Challenger.

Full details of these conditions are set out in the attachment.

### ***Timetable***

It is expected that scheme booklets (which will include the notices of scheme meetings) will be sent in May to Challenger shareholders, noteholders and optionholders, and the notice of meeting and explanatory memorandum to CPHIC unitholders at the same time. This documentation will include full details of the proposed merger between Challenger and CPHIC, together with independent experts' reports.

Grant Samuel has been appointed to prepare the independent expert's report for Challenger shareholders, convertible noteholders and optionholders and KPMG has been appointed to prepare the independent expert's report for CPHIC unitholders.

Meetings of Challenger securityholders and CPHIC unitholders are expected to be held in June. The present intention is that, if the necessary approvals are given, the merger will be effective on 1 July 2003.

### ***Board and Management***

Mr Bill Ireland will step down as Managing Director of Challenger with immediate

effect, but will remain on the board of Challenger as a non-executive director until the conclusion of the merger.

As a consequence, Challenger will make a payment of \$1.25m to Universal Equity Pty Ltd which has provided the services of Mr Ireland to Challenger. The board of Challenger wishes to record its appreciation of Mr Ireland's contribution to the development of Challenger over the last 16 years.

Mr Chris Cuffe has today been appointed by the board of Challenger as Acting Chief Executive Officer (but not as a board member) of Challenger. That appointment is effective until the completion of the proposed merger.

In summary, the terms of appointment of Mr Cuffe are as follows:

- He is seconded from CPH Management at nil cost to Challenger; he will have no executive responsibilities to CPH Management during the term of the secondment
- He will have customary duties of a chief executive officer, subject always to direction from the board of Challenger the contract may be terminated by Challenger, CPH Management or Mr Cuffe on 7 days notice
- He is specifically excluded from direction or participation in matters relevant to Challenger in the proposed merger with CPHIC (other than dealings with APRA).

Mr Jim Service and Ms Brenda Shanahan, currently non-executive directors of Challenger, will join the board of CPH Management on the effective date for the merger.

Mr Colin Bell has announced his intention to retire from the Challenger board on that date.

Challenger is being advised by Rothschild, Mallesons Stephen Jaques and Speed & Stracey.

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Media inquiries, please contact:

**Challenger:**

Sheridan Lee 02 9247 8533 or 0411 101 492

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**ATTACHMENT**

## CONDITIONS PRECEDENT

The Schemes and the obligations of the parties under the Schemes are subject to there being no order restraining or prohibiting the implementation of the Schemes or otherwise adversely impacting on the Schemes as at the Court Approval Date (which is the date when the Court gives its approval to the Schemes) and the satisfaction of the following conditions, on or prior to the Court Approval Date:

- a. the CPHIC Units to be issued in accordance with the Schemes are accepted for quotation and trading on a deferred settlement basis from the Business Day next following the Effective Date by ASX, subject only to the Schemes being approved by the Court pursuant to section 411(4) of the Corporations Act and taking effect and to such other conditions as are acceptable to CPHIC and to Challenger;
- b. the holders of CPHIC Units approve, pursuant to ASX Listing Rule 10.1, the acquisition of Challenger Shares and Challenger Notes from Consolidated Press Holdings Limited or its Associates under the Share Scheme and the Notes Scheme;
- c. the holders of CPHIC Units granting such approvals as may be required for the implementation of the Schemes including the acquisition of Challenger Shares, Challenger Notes and Challenger Options under the Schemes including such approvals as may be required by ASX;
- d. the Treasurer of the Commonwealth of Australia (Treasurer) approving the acquisition of Challenger Shares, the Challenger Notes and the Challenger Options by CPHIC and the FSSA Associates under the Schemes under the *Financial Sector (Shareholdings) Act 1998* and, if such approval is subject to conditions, those conditions are reasonably acceptable to CPHIC and, to the extent necessary, the FSSA Associates;
- e. the Merger Implementation Agreement is not terminated by a party in accordance with its terms;
- f. the Treasurer consenting to CPHIC carrying out any trigger proposals under the *Insurance Acquisitions and Takeovers Act 1991* (IATA) as required and, if such approvals are subject to conditions, those conditions are reasonably acceptable to CPHIC or the Treasurer ceasing to be empowered to make any order under IATA in relation to such trigger proposals;
- g. any unconditional approval of the Financial Services Authority required for the implementation of this Agreement under the *Financial Services and Markets Act 2000* (UK) or if such approval is subject to conditions those conditions are reasonably acceptable to CPHIC;
- h. between the date of the Merger Implementation Agreement and the Court Approval Date APRA has not given any direction under the *Life Insurance Act 1995* or issued a notice to show cause why such a direction should not be given to either:
  - o Challenger Life Limited (CLL); or

- Challenger Life No. 2 Limited (CLL2),

**PROVIDED THAT** if such a direction has been given and the direction is revoked before the earlier of the Court Approval Date and 10 Business Days after it is given, then this condition will be deemed never to have been breached in relation to the direction.

- i. APRA confirms in writing to CPHIC not earlier than five business days before the Court Approval Date for the Share Scheme that, based on APRA's analysis of the Capital Management Plan APRA is satisfied that implementation of that plan will:
  - be consistent with the obligations of CLL and CLL2 under the *Life Insurance Act 1995*;
  - and
  - not give rise, as far as can be ascertained, to any material prudential concerns.
- j. prior to the Court Approval Date, Challenger or its Related Bodies Corporate do not, without CPHIC's prior written consent (which consent may be withheld in CPHIC's absolute discretion), announce, agree to or implement any action the effect of which may be to increase or vary the interest (either debt or equity or both) held by Challenger and its Related Bodies Corporate in Garrison Accounting Group Limited (**Garrison**), whether by way of takeover, scheme of arrangement, capital reduction, buy-back, capital re-organisation or otherwise;
- k. the CPHIC Representations and Warranties that are qualified as to materiality shall be true and correct, and the CPHIC Representations and Warranties that are not so qualified shall be true and correct in all material respects, in each case as of the date of this agreement and as of the Court Approval Date as though made on that date except to the extent any such representation or warranty expressly relates to an earlier date (in which case as of such date);
- l. the Challenger Representations and Warranties that are qualified as to materiality shall be true and correct, and the Challenger Representations and Warranties that are not so qualified shall be true and correct in all material respects, in each case as of the date of this agreement and as of the Court Approval Date as though made on that date, except to the extent any such representation or warranty expressly relates to an earlier date (in which case as of such date).

#### **TERMINATION EVENTS**

In addition to the conditions precedent there are termination events in the Merger Implementation Agreement which include:

- a. at any time after the date of the Merger Implementation Agreement and before the Court Approval Date a material adverse change occurs or is announced or

disclosed in the business, financial or trading position or condition, assets, liabilities, profitability or prospects of the other party and its subsidiaries taken as a whole other than any material adverse change in the business, financial or trading position or condition, assets, liabilities, profitability or prospects of Garrison;

- b. (b) in relation to the other party (which includes in relation to Challenger any Related Body Corporate of Challenger), any material event occurs before the Court Approval Date which would constitute an event for the purposes of sections 652C( 1)( a)-( h) or 652C( 2)( a)-( e) of the Corporations Act in relation to that party, except as required or contemplated by this agreement or the Schemes, or the other party acquires or disposes of an asset for an amount in excess of \$10,000,000 or the other party declares, announces or makes a capital distribution or pays a dividend or distribution other than the announced distribution to be made by CPHIC.