

Thursday, 21 February 2013

Equity Trustees takeover offer for Trust Company to create a leading Australasian Company

Equity Trustees Limited (ASX: EQT) announces its intention to make an off-market takeover offer (the "Offer") for all of the issued shares in The Trust Company Limited (ASX: TRU) to create a leading Australasian trustee, investment and administration services provider.

Offer highlights¹

- **33 EQT shares to be offered for every 100 TRU shares²**
- **Values TRU at \$5.28 per share based on the EQT share price before the offer was announced**
- **11.2% premium to TRU share price before the offer was announced**
- **13.3% premium to average TRU and EQT share prices over the past 1 month**
- **Estimated to generate up to \$8m p.a. of synergies by end of 2014**
- **TRU shareholders will own approximately 59% of the Combined Group and participate proportionately in gains from consolidating the two organisations**
- **TRU shareholders retain up to 17 cents dividends per share under the Offer**
- **TRU shareholders may qualify for EQT's FY13 final dividend**
- **Share-based offer may provide rollover relief from CGT**
- **Fulfil a long-standing corporate opportunity for consolidation and efficiency gains**

Mr Tony Killen, Chairman of EQT said, "Combining Equity Trustees and Trust Company has been identified as the best available corporate transaction for both companies. We strongly support this view. Discussions between the two companies have been held formally and informally on a number of occasions without success. The Offer will provide the opportunity for Trust Company shareholders to decide the matter."

Mr Killen added, "This is an exceptional opportunity for shareholders in each company. The benefits for each company's investors, many of whom are long-term and very loyal, are highly attractive. Both groups of shareholders will access the upsides that can be realised by the combined group. Clients and employees will also benefit from being associated with a larger, more diversified organisation with deeper resources, broader scope and a wider range of high-quality services."

¹ See the body of the announcement for the supporting commentary and calculations. EQT and TRU are termed the "Combined Group" in this announcement.

² The Offer will express the Offer consideration as 0.33 EQT shares for every TRU share.

Mr Robin Burns, CEO and Managing Director of EQT said, “Equity Trustees has structured a compelling offer of 33 EQT shares for every 100 TRU shares valuing TRU shares at \$5.28 per share³. This represents a headline premium of 11.2 percent⁴, in addition to Trust Company shareholders owning approximately 59 percent of the combined entity and therefore receiving this percentage of the gains from integration and realisation of synergies. All Trust Company shareholders who continue with Equity Trustees will benefit along with our current investors.”

Based on the Offer Ratio, the Offer is a premium of 13.3 percent to the average prices for TRU and EQT for the one month period prior to the announcement of the Offer⁵.

Synergies

EQT and TRU are complementary businesses that provide the opportunity to realise savings through the rationalisation of duplicated administrative, business and corporate costs. Integration of the EQT and TRU operations is estimated to be capable of delivering synergies of \$8m p.a.⁶.

The complementary strengths in the personal client and corporate service offerings mean the Combined Group will be well positioned for future growth opportunities. Cross-selling existing and new products to a larger customer base is anticipated to increase revenue, particularly through a stronger integrated private wealth management business in Australia. This potential is in addition to the synergies referred to above.

A significant element of the synergy benefits are anticipated through:

- EQT's existing business improvement initiatives being applied across a larger platform; and
- Utilising EQT's existing IT platform across combined operations.

Operational integration is expected to result in the run-rate for the synergies referred to above being realised by the end of 2014. The costs to implement the synergies are anticipated to be incurred in the first 12-18 months following completion of the Offer.

Increased scale

The Combined Group provides diversification, scale and financial strength. It may enable EQT to be considered for inclusion in applicable S&P/ASX indices. This is anticipated to lead to increased investor interest in the Combined Group.

³ Based on the closing share price of EQT of \$16.00, as at 20 February 2013, the last trading day prior to the announcement of this offer.

⁴ Based on the closing share price for TRU of \$4.75 and EQT's share price of \$16.00, as at 20 February 2013, the last trading day prior to the announcement of this offer and the Offer Ratio of 0.33 then the implied premium is 11.16%.

⁵ The Volume Weighted Average Price (VWAP) for TRU from 21 January 2013 to 20 February 2013 was \$4.55 and the VWAP for EQT for the same period was \$15.62. This creates an average share price ratio of 0.29 and the Offer Ratio of 0.33 is a premium of 13.3%.

⁶ This is EQT's best estimate of the synergies available, without the benefit of due diligence. It is also consistent with the quantum of synergies last indicated by TRU to EQT in earlier incomplete discussions.

Dividends

TRU has provided market guidance that its final dividend for the year ending 28 February 2013 is expected to be in the range of 15-17 cents per share⁷.

Under the terms of the Offer, TRU shareholders will be entitled to payment of this final dividend, despite it being paid after the announcement of the Offer.

Following the completion of the Offer, all accepting TRU shareholders will be entitled to dividends from EQT. This may mean that former TRU shareholders receive EQT's final dividend for the year ending 30 June 2013⁸. EQT has not provided any market guidance for dividends. EQT notes that its first half 2013 results (as audit reviewed) are scheduled for announcement on 27 February 2013.

Ownership⁹

Following the successful completion of the Offer, EQT will have approximately 18.8 million ordinary shares on issue. Based on the Offer Ratio, former TRU shareholders will own approximately 59% in the Combined Group (with current EQT shareholders owning the remaining 41%).

This provides each TRU shareholder who accepts the Offer the opportunity to participate in the upside in the Combined Group – including participation in the synergies.

Due to the nature of the share-based Offer, qualifying TRU shareholders may have the opportunity to claim rollover relief from any applicable Capital Gains Tax¹⁰.

Board and Management

EQT wishes to ensure that the Combined Group has a strong Board and the skills to integrate and manage the combined businesses for future growth.

EQT intends to extend an invitation for up to 2 existing TRU directors to join the Board of the Combined Group. Tony Killen, the Chairman of EQT, would be Chairman of the new Board.

⁷ On 9 October 2012, TRU announced, "The total dividend for the year is now expected to be in the range of 27-29cps, down on prior guidance of 35cps." This guidance was reconfirmed on 3 December 2012, together with the announcement that the TRU CEO, Mr John Atkin, had decided to resign and leave the company in the first half of 2013. TRU paid an interim dividend of 12 cents per share on 9 November 2012. Therefore, the implied final dividend is in the range of 15-17cps.

⁸ Subject to the Offer becoming unconditional and each accepting TRU shareholder becoming registered as the holder of new EQT shares prior to the Record Date for EQT's final dividend for the year ending 30 June 2013.

⁹ This analysis excludes the 1,193,942 shares that TRU holds in EQT. The Combined Group has 12 months to either cancel or dispose of these shares. The voting rights attached to these shares will be suspended until they are cancelled or disposed of. The current intention is for EQT to cancel these shares.

¹⁰ No advice is offered by EQT on taxation matters with respect to the Offer. All shareholders should seek their own advice on taxation matters, as individual circumstances will impact on taxation outcomes. In particular, TRU shareholders holding at least 80% of TRU shares are required to accept EQT's share-based offer for Capital Gains Tax rollover relief to be available.

Management of the Combined Group would be led by Robin Burns, the CEO and Managing Director of EQT. Other executive roles would be filled based on relevant skills and merit from the current teams at both TRU and EQT.

Mr Burns said, “I am enthusiastic and excited about the opportunity to lead the combined group. The two companies each possess a long and distinguished record operating in essentially the same fields, ensuring close cultural alignment. The complementary products and services and closely aligned structures will provide the capacity to efficiently reach a bigger client base with a broader range of service offerings. Combined, the two companies will be a significantly greater force in our chosen market segments, able to operate with greater cost-efficiency and with the resources to more aggressively pursue long-term growth strategies. The Combined Group will also lead to an expanded range of opportunities for employees from working for a larger, more diversified business.”

Mr Burns added, “Apart from the significant potential upside for EQT and Trust Company shareholders and employees, we are confident that clients, our reason for being in business, will gain from greater depth of resourcing, improved operational efficiency and access to a broader range of services and products.”

Branding

A review will be done on the most appropriate company naming and branding strategy for the Combined Group to determine the best customer-facing propositions. EQT proposes to continue with existing brand names in the short term and will consider re-naming the Group to recognise the inherent strengths of each existing brand and their extensive and proud histories.

Conditions

The Offer is subject to a number of Conditions. These Conditions are set out in the Appendix to this Announcement. EQT wishes to highlight the following specific conditions to TRU shareholders¹¹.

EQT is not seeking exclusivity, due diligence nor the payment of break fees as part of the Offer¹². This reduces the burden for TRU in assessing the Offer.

The Offer will be conditional on EQT obtaining a relevant interest in at least 90% of TRU shares. This would allow EQT to compulsorily acquire any remaining TRU shares and to consolidate TRU's earnings, maximise the potential for synergies to be realised for the benefit of all shareholders and to de-list the company from the ASX (noting that accepting TRU shareholders will obtain shares in EQT, which will remain listed on the ASX).

The Offer is conditional on TRU not appointing a CEO or Managing Director following the resignation of Mr John Atkin. EQT has every confidence that Mr Robin Burns has the skills and expertise to manage the Combined Group. As such, there is no need for TRU to make

¹¹ Capitalised words in this section have the same meaning as defined in the Offer Conditions in the Appendix.

¹² Subject to these not being provided to any Competing Proposal, refer to EQT's detailed Offer Conditions in the Appendix.

any new appointment as this may lead to unnecessary and additional costs for the Combined Group.

The Offer is conditional on TRU not incurring or committing any expenditure, or entering into any agreement which requires any expenditure, which is in connection with the Systems Upgrade or relates to any material upgrading of, investment in or outsourcing of information technology or business information systems or services beyond the expenditure already announced. EQT considers that its existing Information Technology (IT) platform has the capability to provide a long-term solution for the Combined Group. EQT will undertake a formal review of IT matters as soon as possible after the Offer. As such, there is no need for TRU to make any significant commitments with respect to its IT platform as this may lead to unnecessary and additional costs for the Combined Group.

EQT is making the Offer prior to the formal announcement of TRU's results for the year ended 28 February 2013. In doing this, EQT has relied on the public announcements by TRU of its forecast profitability and dividends for the year ended 28 February 2013. As such, the Offer is conditional on these public announcements not being materially varied, revoked or qualified.

The Offer will be conditional on EQT obtaining all required regulatory approvals. In particular, EQT is unable to acquire more than 15% voting power in TRU until it receives regulatory approval in accordance with Chapter 5D of the Corporations Act 2001. EQT will shortly apply for this approval.

EQT may waive any or all of the conditions of the Offer (other than those pertaining to the required regulatory approvals).

Advisers

EQT is receiving corporate and financial advice from Lion Capital, legal advice from Allens and communications advice from Kreab Gavin Anderson.

Next steps

Detailed information in relation to the Offer will be set out in a Bidder's Statement to be lodged with the applicable regulators and then provided to TRU shareholders as soon as practical.

Further information

Shareholder queries with respect to the Offer should be directed to the Equity Trustees information line on:

1300 357 574 – for local callers

+61 3 9415 4075 – for international callers

Alternatively, please contact the following:

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Appendix – Offer Conditions

The Offer and any contract that results from acceptance of the Offer will be subject to the fulfilment of the following conditions except that condition 5 is a condition precedent to Bidder's acquisition of any interest in TRU Shares and no contract for the sale of TRU shares will come into force or be binding until such condition has been satisfied or waived.

Note: Terms used in this Annexure have the meanings given to them in the Definitions.

1. Minimum acceptance

During, or at the end of, the Offer Period, Bidder and its associates together have relevant interests (disregarding any relevant interests that Bidder has merely because of the operation of section 608(3) of the Corporations Act) in at least 90% of all TRU Shares on issue (even if subsequently Bidder and its associates together have relevant interests in less than 90% of all TRU Shares on issue as a result of the issue of further TRU Shares) and Bidder becomes entitled to compulsorily acquire all outstanding TRU Shares under Part 6A.1 of the Corporations Act.

2. No appointment of a new CEO or Managing Director

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group appoints, or enters into any agreement, arrangement or understanding to appoint, an interim or replacement Chief Executive Officer or Managing Director of TRU to succeed Mr John Atkin (as a consequence of the resignation of Mr John Atkin as Chief Executive Officer and Managing Director of TRU as announced in TRU's ASX announcement dated 3 December 2012).

3. IT contractual commitments

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group:

- (1) incurs or commits to incur any expenditure; or
- (2) enters into any agreement, arrangement or understanding which requires or may result in any expenditure,

which is in connection with the Systems Upgrade or relates to any other material upgrading of, investment in or outsourcing of information technology or business information systems or services, other than expenditure of the type described in the 2H13 Additional Operating Expense provided that such expenditure, together with any other such expenditure incurred by the TRU Group in the period between 9 October 2012 and the Announcement Date, does not exceed \$800,000.

4. Index out

Between the Announcement Date and the end of the Offer Period (each inclusive), the S&P/ASX All Ordinaries Index is not below 4500 at the close of trading on each of three consecutive ASX trading days.

5. Ministerial Approval

One of the following occurs before the end of the Offer Period:

- (1) EQT or Bidder has received written notice from the relevant Minister or his or her agent under section 601VBB of the Corporations Act granting unconditional approval for Bidder (and each other member of the EQT Group) to have voting power of up to 100% in TRU (whether as a result of the Offer or of any other means permitted by the Corporations Act); or
- (2) the relevant Minister is, by operation of section 601VBI(3) of the Corporations Act, deemed to have approved EQT's or Bidder's application for Bidder (and each other member of the EQT Group) to have voting power of up to 100% in TRU (whether as a result of the Offer or of any other means permitted by the Corporations Act).

6. Other regulatory Approvals

Before the end of the Offer Period, the EQT Group receives all other Approvals (other than that referred to in condition 5):

- (1) that are necessary to permit the Offer to be lawfully made to, and accepted by, TRU Shareholders;
- (2) that are required as a result of the Offer or the acquisition of TRU Shares and are necessary for the continued operation of the business of the TRU Group, or of the EQT Group, substantially on the same terms as the relevant business was conducted as at the Announcement Date; or
- (3) that are necessary to permit the transactions contemplated by the Bidder's Statement (including, without limitation, full and lawful implementation of the intentions section to be set out in the Bidder's Statement),

in each case on an unconditional basis, and at all relevant subsequent times until the end of the Offer Period, all of those Approvals remain in full force and effect in all respects, and are not subject to any notice, intimation or indication of intention to withdraw, revoke, cancel, suspend, restrict, modify or not renew the same.

7. No regulatory actions

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (1) there is not in effect any preliminary or final decision, order or decree issued by a Governmental Agency;
- (2) no action or investigation is announced, commenced or threatened by any Governmental Agency; and
- (3) no application is made to any Governmental Agency (other than by any member of the EQT Group),

(other than an application to, or a decision or order of, ASIC or the Australian Takeovers Panel under, or relating to a breach of, Chapter 6A, 6B or 6C of the Corporations Act or relating to unacceptable circumstances within the meaning of section 657A of the Corporations Act in consequence of, or in connection with, the Offer) that:

- (4) restrains, prohibits or impedes (or if granted or made could restrain, prohibit or impede), or otherwise materially adversely impacts upon:

(A) the making of the Offer, the acquisition of the TRU Shares under the Offer or the completion of any transaction contemplated by the Bidder's Statement or the Offer; or

(B) the rights of any member of the EQT Group in respect of TRU or the TRU Shares; or

(5) requires the divestiture:

(A) by any member of the EQT Group of any TRU Shares; or

(B) of any material assets owned by any member of the EQT Group or the TRU Group.

8. No material adverse change

(1) Before the end of the Offer Period, no event, matter or thing occurs, is announced or becomes known to Bidder (whether or not it becomes public) where that event, matter or thing has had, will have or is reasonably likely to have, a material adverse effect on the assets, liabilities, business, financial or trading position, performance, profitability or prospects of the TRU Group taken as a whole (whether individually or when aggregated with one or more other events, matters or things) except for events, matters and things publicly announced by TRU or otherwise disclosed in public filings by TRU or any member of the TRU Group prior to the Announcement Date where the relevant disclosure is not, and is not likely to be, incomplete, incorrect, untrue or misleading.

(2) Without limitation to any other part of this condition, the following events will have the effect referred to in sub-paragraph (1):

(A) a person exercises rights under an agreement, arrangement or understanding to which any member of the TRU Group is a party where that exercise has had, will have or is reasonably likely to have, the effect of accelerating or adversely modifying the performance or terms of any of the obligations of the relevant TRU Group member under the agreement, arrangement or understanding;

(B) an outbreak of hostilities (whether war is declared or not) or terrorism, mobilisation of armed forces, civil or political unrest or labour disturbance, fire or natural disaster or a material increase in the intensity of any such event existing as at the Announcement Date which affects the assets, liabilities, financial position, performance, profitability or prospects of the TRU Group taken as a whole; or

(C) a Governmental Agency or other body withdraws, revokes, cancels, suspends, restricts or otherwise modifies a consent, authority, licence, approval, order, ruling, waiver, exemption or permit granted to or held by the TRU Group (or expresses an intention to do any of these things).

(3) Without limitation to any other part of this condition, an event, matter or thing will have the effect referred to in sub-paragraph (1) if it (either individually or when aggregated with one or more other events, matters or things) has reduced, will reduce or is reasonably likely to reduce, the value of the consolidated net tangible assets per TRU Share as at 31 August 2012 (as set out in the condensed consolidated statement of financial position contained in TRU's Appendix 4D for the half year ended 31 August 2012) by at least 14 cents per TRU Share.

9. Earnings Confirmation

(1) If the Target's Statement is prepared prior to the date on which TRU gives its FY13 Financial Report to ASX, the Target's Statement contains a statement (**Earnings Confirmation**), expressed to be made with the approval of the TRU Board, which confirms, to the best of the knowledge and belief of the TRU Board after having made due enquiry, that the consolidated operating earnings before interest, tax, depreciation and amortisation of the TRU Group for the half year ended 28 February 2013 will be no less than \$9.0 million (on the basis of the application of accounting principles consistent with those applied to the TRU earnings guidance and results for the half year to 31 August 2012 announced to ASX on 9 October 2012), and the Earnings Confirmation is not materially varied, revoked or qualified (whether in any supplementary target's statement or otherwise) prior to the end of the Offer Period.

(2) If the Offer Period has not ended on the date that TRU gives its FY13 Financial Report to ASX, the materials given by TRU to ASX together with the FY13 Financial Report contain a statement (**Earnings Statement**) that the consolidated operating earnings before interest, tax, depreciation and amortisation of the TRU Group for the half year ended 28 February 2013 was no less than \$9.0 million (on the basis of the application of accounting principles consistent with those applied to the TRU earnings guidance and results for the half year to 31 August 2012 announced to ASX on 9 October 2012).

10. Liabilities Confirmation

The Target's Statement contains a statement (**Liabilities Confirmation**), expressed to be made with the approval of the TRU Board, which confirms as at the date of the Liabilities Confirmation, to the best of the knowledge and belief of the TRU Board after having made due enquiry, each of the matters set out below, and the Liabilities Confirmation is not materially varied, revoked or qualified (whether in any supplementary Target's statement or otherwise) prior to the end of the Offer Period:

(1) the TRU Group has no liability or contingent liability (including a liability or contingent liability arising in relation to a Defined Event) with a value greater than \$1.0 million, and no liabilities or contingent liabilities (including any liabilities or contingent liabilities arising in relation to the Defined Events) which in aggregate have a value greater than \$1.0 million, the nature, size and existence of which has not been disclosed in announcements by TRU to ASX prior to the Announcement Date;

(2) no liability or contingent liability (including a liability or contingent liability as a result of a Defined Event) which has been disclosed in announcements made by TRU to ASX prior to the Announcement Date has increased by a value greater than \$1.0 million than that previously announced to ASX, and no liabilities or contingent liabilities (including any liabilities or contingent liabilities arising in relation to the Defined Events) which have been previously disclosed in announcements by TRU to ASX prior to the Announcement Date have, in aggregate, increased by a value greater than \$1.0 million than that previously announced to ASX; and

(3) the net cash of the TRU Group as at 28 February 2013 is no less than \$5 million.

11. No other outstanding securities

At the end of the Offer Period there are no TRU securities on issue other than the TRU Shares and there are no outstanding agreements to issue TRU Shares or any other TRU securities.

12. No dividends or distributions above market guidance

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group makes, determines as payable or declares any distribution (whether by way of dividend, capital reduction or otherwise and whether cash or in specie) in excess of 17 cents per share (being the maximum final dividend per share estimated by TRU in its ASX announcement of 3 December 2012 titled "CEO GIVES NOTICE OF TERMINATION. GUIDANCE REAFFIRMED").

13. No prescribed occurrences

Between the date on which the Bidder's Statement is given to TRU and the end of the Offer Period (each inclusive), none of the following occur:

- (1) TRU converts all or any of its shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (2) any member of the TRU Group resolves to reduce its share capital in any way;
- (3) any member of the TRU Group:
 - (A) enters into a buy-back agreement; or
 - (B) resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (4) any member of the TRU Group issues shares, or grants an option over its shares, or agrees to make such an issue or grant such an option (other than an issue of shares pursuant to the vesting and exercise of rights on issue on the Announcement Date under the Performance Rights Plan or other rights plan either in accordance with their terms where there is no exercise of any TRU Board discretion to permit early vesting or pursuant to the exercise of TRU Board discretion taking effect upon the Offer becoming unconditional);
- (5) any member of the TRU Group issues, or agrees to issue, convertible notes or any other instrument convertible into TRU Shares;
- (6) any member of the TRU Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (7) any member of the TRU Group grants, or agrees to grant, a security interest in the whole, or a substantial part, of its business or property;
- (8) any member of the TRU Group resolves to be wound up;
- (9) a liquidator or provisional liquidator of any member of the TRU Group is appointed;
- (10) a court makes an order for the winding up of any member of the TRU Group;
- (11) an administrator of any member of the TRU Group is appointed under section 436A, 436B or 436C of the Corporations Act;
- (12) any member of the TRU Group executes a deed of company arrangement; and
- (13) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of any member of the TRU Group.

14. No prescribed occurrences between the Announcement Date and the date of the Bidder's Statement

Between the Announcement Date and the day before the Bidder's Statement is given to TRU (each inclusive), none of the events listed in paragraphs (1) to (13) of condition 13 happens.

15. Conduct of TRU business

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group:

- (1) enters into, amends, terminates or waives or otherwise forgoes rights under any Material Contract;
- (2) makes any change to its constitution or other constituent documents or the Performance Rights Plan;
- (3) borrows an amount or amounts or incurs new financial indebtedness in aggregate in excess of \$1 million;
- (4) enters into or materially amends any employment, consulting, severance or other similar arrangement or agreement with, any of the officers, directors or executives of the TRU Group or any other employees of the TRU Group whose total annual employment cost equals or exceeds or could equal or exceed \$150,000, or otherwise materially increases or agrees to increase compensation or benefits for any of the above or pays or agrees to pay any bonus, retention or termination payment (other than in accordance with existing contractual entitlements as at the Announcement Date) to any of the above;
- (5) enters into or materially amends any employment, consulting, severance or other similar arrangement or agreement with, any of the officers, directors or executives of the TRU Group or any other employees of the TRU Group whose total annual employment cost is less than or likely to be less than \$150,000, or otherwise materially increases or agrees to increase compensation or benefits for any of the above or pays or agrees to pay any bonus, retention or termination payment (other than in accordance with existing contractual entitlements as at the Announcement Date or normal TRU Group remuneration review practices as at the Announcement Date) to any of the above;
- (6) issues, grants or amends the terms of, any securities, options or rights to, or accelerates the rights of, any of the officers, directors, executives or employees of the TRU Group to compensation or benefits of any kind (including under any employee or director share, option or incentive plan and including by vesting any outstanding rights under the Performance Rights Plan or any other rights plan) otherwise than in the ordinary course of business and except for any vesting of rights upon the Offer becoming unconditional);
- (7) waives or forgives any loans made by any member of the TRU Group in respect of TRU Shares issued under any employee or director share, option or incentive plan or cancels any rights under the Performance Rights Plan or any other rights plan for consideration higher than the net benefit to the relevant holder had the rights been exercised and the Offer accepted; or
- (8) enters into any guarantee or indemnity on behalf of any entity within the TRU Group or provides security for the obligations of any entity within the TRU Group in relation to amounts in excess of \$1 million.

16. No litigation on foot or pending

Between the Announcement Date and the end of the Offer Period (each inclusive):

(1) no litigation (including, but not limited to, in relation to any Defined Event) against any member of the TRU Group which may reasonably result in a judgement of more than \$1 million is commenced, is threatened to be commenced, is announced, or is made known to Bidder (whether or not becoming public) or TRU;

(2) no litigation (including, but not limited to, in relation to any Defined Event) against any member of the TRU Group which in aggregate may reasonably result in judgements of more than \$1 million are commenced, threatened to be commenced, announced, or made known to Bidder (whether or not becoming public) or TRU; and

(3) no claim alleging wrongful or negligent administration or management of a trust, fund or other client matter by any member of the TRU Group which might reasonably require a payment by the TRU Group member of more than \$1 million is made, announced or made known to EQT (whether or not becoming public) or TRU,

other than where such litigation or claim has been publicly announced by TRU or otherwise disclosed in public filings by TRU or any member of the TRU Group prior to the Announcement Date and there has been no material adverse change from the position as described in such announcement or disclosure.

17. No additional capex, opex, material acquisitions or disposals

Other than any transaction or expenditure publicly announced by TRU or otherwise disclosed in public filings by TRU or any member of the TRU Group prior to the Announcement Date, between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group incurs or commits to incur a capital expenditure or operating expenditure, acquires or disposes, offers to acquire or dispose or enters into or announces any agreement to acquire or dispose one or more companies, businesses or assets (or an interest in one or more companies, businesses or assets) or enters into any corporate transaction, which would or would be likely to involve a material change in:

(1) the manner in which TRU conducts its business;

(2) the nature, extent or value of the assets of the TRU Group; or

(3) the nature, extent or value of the liabilities of TRU Group,

including, without limitation, any transaction which would or (subject to one or more conditions) may involve:

(4) any member of the TRU Group acquiring, or agreeing to acquire, one or more companies, businesses or assets (or an interest in one or more companies, businesses or assets) for an amount in aggregate greater than \$1 million;

(5) any member of the TRU Group disposing, or agreeing to dispose of, one or more companies, businesses or assets (or an interest in one or more companies, businesses or assets) for an amount in aggregate greater than \$1 million; or

(6) any member of the TRU Group incurring or committing to incur, in aggregate, an amount of capital expenditure in excess of \$1 million which is not in the ordinary course of business of the TRU Group conducted in the same manner as before the Announcement Date.

18. No inaccurate public information

Between the Announcement Date and the end of the Offer Period (each inclusive), Bidder does not become aware that any document filed by or announcement made by or on behalf of any member of the TRU Group, or by or on behalf of any person in relation to the TRU Group, with ASX, ASIC or anywhere in the public domain, contains a statement which is incorrect or misleading in any material respect or from which there is a material omission.

19. Equal access

At all times between the Announcement Date and the end of the Offer Period (each inclusive), TRU promptly, and in any event within 2 Business Days, provides to EQT or Bidder a copy of all information that is not generally available (within the meaning of the Corporations Act) relating to any member of the TRU Group, or their respective assets, liabilities or operations, that has been provided by any member of the TRU Group or any of their directors, officers, advisors, agents or representatives to any person other than a member of the EQT Group, other than in the ordinary course of ordinary business, including (without limitation) for the purposes of soliciting, encouraging or facilitating any proposal with respect to:

- (1) a takeover bid for, or scheme of arrangement proposed by, TRU;
- (2) the acquisition by that person or an associate of substantially all the assets and operations of TRU (or of any of the Key Business Divisions); or
- (3) any transaction having a similar economic effect.

20. No break fees

Between the Announcement Date and the end of the Offer Period (each inclusive), no member of the TRU Group agrees (whether conditionally or unconditionally) to make any payment by way of break fee, inducement fee, cost reimbursement or otherwise, to any person or forgo any amount to which it would otherwise be entitled, in connection with a proposal by that person for:

- (1) a takeover bid for, or scheme of arrangement proposed by, TRU;
- (2) the acquisition by that person or an associate of substantially all the assets and operations of TRU (or of any of the Key Business Divisions); or
- (3) any transaction having a similar economic effect.

This condition does not apply to a payment by way of remuneration for professional services or to directors of TRU for the discharge of their duties in connection with the Offer.

Definitions

In this document references to \$ are to Australian dollars (unless stated otherwise) and:

2H13 Additional Operating Expense means the anticipated \$800,000 of additional operating expense to be incurred by the TRU Group in connection with the Systems Upgrade as identified in slide 6 of TRU's results presentation for the half year ending 31 August 2012.

Announcement Date means the date of announcement of EQT's intention for Bidder to make the Offer.

APRA means the Australian Prudential Regulation Authority.

Approval means:

- (a) a consent, authority, licence, approval, order, ruling, waiver, exemption, permit or notification that is required by law or by a Governmental Agency; or
- (b) in relation to anything that will be fully or partly prohibited or restricted by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry or termination of that period without intervention or action.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691.

ASX Listing Rules means the official listing rules of ASX.

Bidder means EQT or a wholly owned Subsidiary of EQT nominated by EQT.

Bidder's Statement means the bidder's statement to be prepared in relation to the Offer and includes any supplementary or replacement bidder's statement.

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning of the ASX Listing Rules; and
- (b) a day that banks are open for business in Melbourne, Australia.

Corporations Act means the *Corporations Act 2001* (Cth).

Defined Event means:

- (1) the payment of any deferred consideration pursuant to a business, asset or share purchase or acquisition agreement;
- (2) professional advice claims; or
- (3) warranty or indemnity claims in relation to any professional services.

EQT means Equity Trustees Limited ABN 46 004 031 298.

EQT Group means EQT and its Subsidiaries.

FY13 Financial Report means the financial report for the year ending 28 February 2013 required to be prepared by TRU in accordance with section 292 of the Corporations Act.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, statutory, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister (including for the avoidance of doubt, the Treasurer), ASIC, ASX and any regulatory organisation established under statute or any other stock exchange.

Key Business Divisions means the segments of the TRU's Group's business referred to in Note 27 to TRU's FY12 Consolidated Financial Report as Corporate Client Services and Personal Client Services.

Material Contract means any agreement, arrangement or understanding to which any member of the TRU Group is a party that:

- (1) requires or may result in any expenditure by any member of the TRU Group (either alone or together with any other member of the TRU Group) of \$1.0 million or more in any year; or
- (2) is otherwise material to the business or operations of any member of the TRU Group.

Offer means, as the context requires, the offer for TRU Shares to be made by Bidder under the Bidder's Statement, or the off-market takeover bid constituted by that offer and each offer by Bidder for TRU Shares in the form of that offer, including in each case as varied in accordance with the Corporations Act.

Offer Period means the period during which the Offer will remain open for acceptance in accordance with the Bidder's Statement.

Performance Rights Plan means the TRU Performance Rights Plan in force as at the Announcement Date.

Subsidiary has the meaning given to that term in the Corporations Act.

Systems Upgrade means the upgrade of the TRU Group's business information technology systems most recently referred to in slide 6 of TRU's results presentation for the half year ending 31 August 2012.

Target's Statement means the target's statement to be prepared by TRU in relation to the Offer.

Treasurer means the Treasurer of the Commonwealth of Australia.

TRU means The Trust Company of Australia Limited ACN 004 027 749.

TRU Board means the board of directors of TRU.

TRU Group means TRU and its Subsidiaries.

TRU Shareholder means a person registered in the register of members of TRU as a holder of TRU Shares.

TRU Share means a fully paid ordinary share in TRU.

Terms used in this document, if not defined, have the meaning given to them by section 9 of the Corporations Act.