

4 March 2024

Dale Wang
Adviser, Listings Compliance
ASX Compliance
By email: ListingsComplianceMelbourne@asx.com.au

Dear Dale

RE: Lark Distilling Co. Ltd (ASX: LRK) (“Lark” or the “Company”): Aware Query

We refer to your letter dated 28 February 2024 (a copy of which is enclosed for reference) (**ASX Letter**) and provide the following responses. The responses below reference the numbered items in the ASX Letter, with your questions included in italics for reference.

We have adopted terms defined in the ASX Letter, unless separately defined in this letter.

1. *Please explain why LRK represented in the Cleansing Notice that it was not aware of any ‘excluded information’, when it appears to ASX that LRK would have been in the final stages of preparing its half-year accounts at the time it released the Cleansing Notice on MAP.*

The Cleansing notice was inadvertently lodged along with the Appendix 2A for the issue of shares upon the exercise of vested performance rights. As this was an inadvertent lodgement on the ASX platform the contents of the cleansing notice were not considered in light of the Appendix 4D. The Company Secretarial office inadvertently lodged the cleansing notice and the cleansing notice and associated statement contained within are required to be retracted.

A copy of the draft retraction is attached.

2. *Is LRK of the view that the Cleansing Notice was validly issued? If so, please explain the basis for that view. If not, please outline the remedial action LRK intends to take in response to this breach.*

The Cleansing Notice lodgement was an oversight and there was no intention for this to be lodged.

3. *Please confirm that LRK is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

The Company confirms it is in compliance with Listing Rule 3.1.

4. *Please confirm that LRK’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of LRK with delegated authority from the board to respond to ASX on disclosure matters.*

The Company confirms that the responses have been approved and authorised in accordance with its published continuous disclosure policy.

Yours sincerely,
Lark Distilling Co. Limited



Melanie Leydin
Company Secretary

CC - Mr Dale Wang - dale.wang@asx.com.au



28 February 2024

Reference: 89581

Ms Eleanor Lieberfreund
Associate Company Secretary
Lark Distilling Co. Ltd
Level 1, 91-93 Macquarie Street
Hobart TAS 7000

By email only: Eleanor.Lieberfreund@vistra.com

Dear Ms Lieberfreund

Lark Distilling Co. Ltd ('LRK'): Query Letter

ASX refers to the following:

- A. LRK's announcement titled "Section 708A Cleansing Statement" lodged on the ASX Market Announcements Platform ('MAP') on 21 February 2024 (the '**Cleansing Notice**'), which stated (relevantly):

"(d) as at the date of this notice the Company, as a disclosing entity under the Corporations Act, has compiled with:

- (i) the provision of Chapter 2M of the Corporations Act as they apply to the Company; and*
- (ii) Section 674 of the Corporations Act as it applies to the Company; and*

(e) as at the date of this announcement, there is no excluded information of the type referred to in Section 708A(7) and 708A(8) of the Corporations Act."

- B. LRK's announcements titled "HY24 Appendix 4D & Half Year Report" and "HY24 Results", released on MAP on 22 February 2024, which contained the assets and liabilities; financial position and performance; and profits and losses for LRK for the half year ending 31 December 2023.
- C. Section 708A(7) of the Corporations Act 2001 (Cth) (the 'Act') which states:

"For the purposes of subsection (6), excluded information is information:

- (a) that has been excluded from a continuous disclosure notice in accordance with the listing rules of the relevant market operator to whom that notice is required to be given; and*
- (b) that investors and their professional advisers would reasonably require for the purpose of making an informed assessment of:*
 - i. the assets and liabilities, financial position and performance, profits and losses and prospects of the body; or*
 - ii. the rights and liabilities attaching to the relevant securities."*

- D. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.

- E. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

“an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity”

F. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

“3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following applies:

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 A reasonable person would not expect the information to be disclosed.”

Request for information

Having regard to the above, ASX asks LRK to respond separately to each of the following questions and requests for information:

1. Please explain why LRK represented in the Cleansing Notice that it was not aware of any ‘excluded information’, when it appears to ASX that LRK would have been in the final stages of preparing its half-year accounts at the time it released the Cleansing Notice on MAP.
2. Is LRK of the view that the Cleansing Notice was validly issued? If so, please explain the basis for that view. If not, please outline the remedial action LRK intends to take in response to this breach.
3. Please confirm that LRK is complying with the Listing Rules and, in particular, Listing Rule 3.1.
4. Please confirm that LRK’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of LRK with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **4:00 PM AEDT Friday, 1 March 2024**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, LRK’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require LRK to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsComplianceMelbourne@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm

that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in LRK's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in LRK's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to LRK's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that LRK's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Yours faithfully

ASX Compliance