



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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The Directors
Holon Investments Australia Limited
Office 18, Level 2 Lawson Place
165 Phillip Street
SYDNEY NSW 2000

Our Reference: CAS-105545-Q5B4S9

10 October 2022

Dear Directors

**HOLON INVESTMENTS AUSTRALIA LIMITED ACN 648 884 164
INVESTMENT FUND TARGET MARKET DETERMINATION**

NOTICE OF HEARING

The Australian Securities and Investments Commission (**ASIC**) has conducted a review of the target market determinations (**TMDs**) issued by Holon Investments Australia Limited ACN 648 884 164 (**Holon**) in relation to:

1. Holon Bitcoin Fund ARSN 659 090 294;
2. Holon Ethereum Fund ARSN 659 090 516; and
3. Holon Filecoin Fund ARSN 659 090 614 (together known as the **Funds** in this Notice).

ASIC is concerned that the TMDs contravene paragraph 994B(8)(b) of the *Corporations Act 2001* (**the Act**).

Accordingly, ASIC considers that it has grounds to make interim orders (**the Interim Orders**) under subsection 994J(4) of the Act and may have grounds to make final orders (**the Final Orders**).

The effect of the Interim Orders is that, for 21 days after the date on which they were made, unless they are revoked before then, the specified conduct in the Interim Orders in respect of the interests in the Funds to which the TMDs relates must not be engaged in.

The purpose of this letter is to:

- (i) inform you of the concerns which were the basis of the Interim Orders;
- (ii) offer you the opportunity to make written or oral submissions on the question of whether final orders should be made on the basis of the enclosed Statements of Concerns; and
- (iii) advise you that ASIC intends to hold a hearing under subsection 994J(3) of the Act on this question.

Opportunity for a Hearing

An ASIC Delegate will decide whether Final Orders should be made.

In deciding whether a Final Order should be made, ASIC is required to give you an opportunity to be heard in accordance with subsection 994J(3) of the Act.

Since ASIC is considering grounds to make Final Orders in respect of each of the Funds, you are entitled to a hearing under s994J(3) of the Act in relation to each of the Funds. Each hearing is an opportunity to make submissions or give evidence or do both in relation to the respective Fund.

The hearing(s) will be conducted in private.

Hearing Procedures

ASIC's hearings are administrative proceedings which are conducted with informality and as expeditiously as possible. The rules of evidence do not apply, but ASIC is required to observe the rules of natural justice: section 59 of the *Australian Securities and Investments Commission Act 2001* (**ASIC Act**).

You have a right to legal representation: section 56 and subsection 59(8) of the ASIC Act. However, it is a matter for you to decide whether to have legal representation or not.

Enclosed is an Information Sheet on Administrative Hearings with further details on the hearing procedures.

Hearing arrangements if you wish to appear

Assuming you wish to appear, the Delegate has set aside 4.5 hours on Friday 28 October for you to give evidence or make submissions or both. The Delegate proposes to hold three hearings in succession in the following order:

1. Holon Bitcoin Fund ARSN 659 090 294;
2. Holon Ethereum Fund ARSN 659 090 516; and
3. Holon Filecoin Fund ARSN 659 090 614

The first hearing will commence at 10am AEST on Friday, 28 October.

The hearing(s) will be held via Video Conference. Details of video conference will be provided once we receive confirmation on how you wish to proceed.

If the times that the Delegate suggests are not convenient or if you consider the period that the Delegate has allowed for the hearing(s) is inappropriate, please let me know as soon as possible. If you require the assistance of an interpreter, you should let me know so that suitable arrangements can be made.

If you wish to rely on statements of witnesses in responding to the concerns ASIC has identified, you should provide copies of those statements by 24 October 2022. This will allow the hearing(s) to proceed expeditiously. Except in unusual circumstances, written statements will suffice. You will be notified before the hearing if it is necessary to call any witnesses to give oral evidence.

Arrangements if you do not wish to appear

If you do not wish to appear at the hearing(s), you may nevertheless make written submissions which the Delegate will take into account in reaching his decision. Submissions should be provided by 5pm AEST on 24 October 2022.

Statements of Concerns

To assist you I attach documents entitled Statements of Concerns for the Funds, which sets out ASIC's concerns in relation to the TMDs.

At the hearings we will discuss ASIC's concerns. Accordingly, your written submissions, if any, should address:

- (i) ASIC's concerns; and
- (ii) reasons why the Delegate should not make Final Orders after considering all the material before him including any submissions that you may make.

If you do not wish to appear at the hearing(s) or make any written submissions, a decision will be made on the information that the Delegate has before him, namely the TMDs and the enclosed Statements of Concerns for the Funds. In such circumstances, ASIC may, without further consultation with you, make Final Orders.

Please contact David Halperin at David.halperin@asic.gov.au or on +61 434 341 661 by 10am on 24 October 2022 to confirm how you wish to proceed.

Please note that I will be on leave from 13 October 2022 to 28 October 2022 inclusive.

As discussed above, the appropriate way to make submissions in response to this Statements of Concerns is in writing before the hearing(s) or orally at the hearing(s).

Yours faithfully,



Andrew Choi
Senior Lawyer

Australian Securities and Investment Commission

- Encl. 1. Interim Orders for the Funds
 2. Statements of Concerns and Attachments
 3. Information Sheet on Administrative Hearings