

Àrd-stiùiriche na h-Eaconomaidh
Director-General Economy
Liz Ditchburn



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By email: [REDACTED]

11 October 2018

Dear [REDACTED]

We refer to your letter of 8 October 2018 and remain concerned and disappointed at the contents of your correspondence. We note in particular that the confirmation sought in our letter to you of 5 October 2018 was not provided in your response and you will see below we are still seeking that confirmation.

For clarity, we are asking you to confirm that you have now received sufficient sale proceeds into CBC Fund III to enable you to invest further sums into FMEL now. You are obliged to provide this information to Scottish Ministers under clause 3.7 of the shareholders' agreement.

You indicate in your response that, in looking to re-negotiate the terms of the agreements entered into in June 2018, you are acting in the best interests of your investors. We understood that your Investment Committee (representing the interest of your investors) was aware of the terms of the legal agreements entered into in June of this year.

You committed your investors to an arrangement with full awareness of the implications of not complying with your obligations. The fact that the terms of the legal agreement may no longer be acceptable to you or your investors does not mean the agreement or the structure itself are "*fundamentally flawed*" or that legal obligations need to be re-written.

Indeed, you do not set out the perceived flaws or why you entered into a legal agreement when you considered it to be unworkable. Any explanation on the "*fundamental flaws*" in the agreement we have both committed to should include why neither the diversification element [REDACTED] nor the working capital element [REDACTED] is now deemed valid.

It is not clear to us how or why the financial position of the business has changed since the date you entered into the agreement. For example, you have not indicated any further delay to your revised delivery dates for vessels 801 or 802, nor highlighted any other circumstance which might affect the financial position of your business.

Your letter further notes that "*The ability to have further funds invested into FMEL... will help protect the Scottish Government's position*" but does not identify the further funds to which you refer and does not explain how these funds protect the Scottish Government's position. There has been no justification put forward for a commercial lender agreeing to reduce its ranking without a corresponding benefit of equal value.

We remain intent on providing further funds to FMEL in line with our legal agreement and remain hopeful that CBC will comply with its obligations to provide the cash that FMEL requires.

We note your request to meet and offered dates to you for a meeting in Glasgow with SG Officials and Advisers next week. I understand that Wednesday 17 October has been agreed.. Final arrangements for the meeting will be confirmed shortly, however prior to the meeting we would, pursuant to the terms of the shareholders' agreement and loan agreement [REDACTED]

[REDACTED] need to be in receipt of the following information:

1. Confirmation of the Realised Profits arising from your recent disposal
2. Comments on why you now consider our June 2018 loan agreement was flawed
3. Comments on what changes there have been to the financial position of FMEL including detail of the additional costs incurred or forecasted in the completion of 801/2 since the June 2018 loan agreement was entered into
4. Reasons that Scottish Ministers should provide loan facilities on less attractive commercial terms than we have agreed to previously
5. Copies of the three draft new work contracts you have referenced in communications with our team recently and the last relevant correspondence thereon
6. If you remain unable to meet your obligations under the loan agreement – provide details of what alternative options you consider can resolve this position.

Subject to receiving this information in advance, we are available to meet on Wednesday 17 October in Glasgow.

[REDACTED]

LIZ DITCHBURN