

**The Takeover Panel consultation:
Proposed amendments to the
Takeover Code (PCP 2011/1)**

**A response by the National
Association of Pension Funds**

May 2011

www.napf.co.uk

The NAPF represents the interests of Pension Funds in the UK who hold some £800bn of assets in total and are substantial investors in shares listed on the London Stock Exchange.

The NAPF has representation on the Takeover Panel and should also declare that its current Chairman Lindsey Tomlinson is also Chairman of the Takeover Panel Code Committee. Mr Tomlinson has not been party to the formulation of this response by the NAPF.

The NAPF welcomes the revisions to the regulation of takeover bids and is broadly supportive of the changes proposed particularly those in Sections C. However, in considering the widening of the code to include the interests of employees and their representative in Section D we believe that the interests of Pension Schemes have not been adequately considered.

Section C

Increased transparency and improved disclosure can only help pension fund trustees in their assessment of the impact of an offer on the strength of the employer covenant and the steps proposed are therefore welcomed. We would be disappointed if any of them were not to be included in the final regulations.

Section D

Pension Funds often represent a significant financial interest in the employer by employees over and above their continuing employment. We believe that the Takeover Panel should recognise that the Pension Fund Trustees are a relevant representative of employees and the future of the fund is a relevant interest of the employees. The position of these employees financial interests would be materially strengthened by requiring an Offeror to disclose its intentions regarding the pension scheme, including the impact of the offer and associated financing on the scheme and a negative statement if it has no intentions and no impact is expected. In particular, we believe that Pension Fund Trustees should have information rights and be able to rely on the statements made by Offerors.

Q26. As regards improving disclosure to Pension Fund Trustees we would welcome the conclusions in 7.1 a) and b) to include pension funds. This would require Rule 24.2 to have a clause referring to the Offerors intentions regarding the Pension Fund.

Q29. Pension Fund Trustees and their advisors should be included as a category of employee representatives.

Furthermore, to be consistent with the above Rules 25.9 and 32.6 should be further amended to include the opinion of the pension fund trustees, where it has been received in time. Their opinion is of course constrained by the scope of their fiduciary responsibilities.

Should you wish to discuss the above please contact me at the NAPF.

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27th May 2011