

Law Debenture

The Law Debenture Pension Trust Corporation p.l.c.

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The Secretary to the Code Committee
The Takeover Panel
10 Paternoster Square
London
EC4M 7DY

Sent by email (and not by post) to:
supportgroup@thetakeoverpanel.org.uk

27 September 2012

Dear Sirs

The Takeover Panel Consultation PCP 2012/2: Pension Scheme Trustee Issues

We are pleased to respond to the Panel's Consultation on Pension Scheme Trustee issues.

About Law Debenture

Law Debenture is a leading independent provider of professional trustee services to the financial markets and pension schemes. Law Debenture has been in business for over 100 years and has been providing pension trustee services for over 30 years.

Law Debenture is a public company which is quoted on the London Stock Exchange with a market capitalisation of approximately £400m (represented mostly by marketable securities).

We act as trustee for over 200 pension schemes with over 1 million members and £100bn in assets. Of these, one third have less than 500 members and one third have more than 5,000 members. We act for all types of schemes. We are trustee to schemes whose sponsoring employers are quoted companies.

Our response

Law Debenture wrote to the Panel on 21 April 2011, proposing changes which would protect pension schemes against the significant risks which they can and do face as a result of takeover activity affecting their sponsoring employers. Specifically, the result of a takeover can be to reduce substantially the financial strength of their sponsoring employer (for example, as a result of increased gearing, often supported by security granted in favour of lenders to finance a bid). Pension schemes are almost universally dependent upon the continuing financial viability of their sponsoring employers and the ability of their sponsoring employers to fund the pension scheme and to make good any deficit which there may be from time to time (and at present there typically will be a deficit). Even if a scheme is currently in surplus, this is very rarely guaranteed to continue to be the case, and

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thus all schemes have a vital interest (and exposure to) the long term financial health of their sponsoring companies.

The proposals made by the Panel in their consultation PCP 2012/2 are very welcome, but they are the minimum required to serve any useful protective purpose. We say this because the proposals stop short of incorporating all of the provisions which we, and others working with pension schemes, advocated. In particular, the Panel's proposals do not provide for what is to happen in the crucial situation where the pension scheme trustees consider that they face a material threat from the proposed takeover and that no mitigation to protect against this risk has been agreed. We proposed that in this situation the Pensions Regulator should be involved, and we continue to believe that this should be the case. Without this provision, we fear that the revised provisions of the Code may well be akin to exhorting a ship's owners to consider and discuss safety with its passengers, without any requirement to provide lifebelts or lifeboats.

We also note with some alarm the proposal that pension schemes should pay the costs of obtaining an opinion as to compliance with the Code. To develop the analogy just employed, this is akin to asking a ship's passengers to pay for a safety inspection whilst the ship is in a storm. We consider that the pension scheme, which represents the collective interests of current and former employees, is in the same position as employee representatives as regards costs, and should therefore not be expected to bear the costs of a report which they would not otherwise need to obtain.

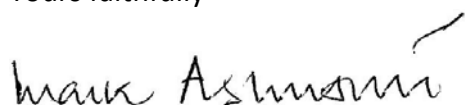
We have seen a draft of the letter from Penfida Partners and agree with and therefore echo all of the comments made under the heading of "Detailed comments".

Summary

We consider that it is essential that the reforms proposed are implemented. However, we consider that the proposals fall short of providing the protection which pension schemes require in the event that agreement over the effects of a proposed takeover cannot be reached. There should be a reference to the Pensions Regulator in this event. We also consider that it is unfair and unreasonable for a pension scheme to meet the costs of obtaining an opinion in respect of the Code. We also endorse the detailed comments made by Penfida Partners.

We would be delighted to provide any further comment or information which might be helpful to the Panel in its deliberations

Yours faithfully



Mark Ashworth
Chairman