



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

By email: supportgroup@thetakeoverpanel.org.uk

September 28, 2012

Dear Sirs

Consultation paper issued by the Code Committee of the Takeover Panel: Pension Scheme Trustee Issues (the “Consultation”)

Please find enclosed a response to the Consultation from the BT Pension Scheme (“BTPS”). By way of background, the BTPS is the UK’s largest corporate pension scheme, managing assets worth around £38 billion, paying over £2bn in pension payments per year and accountable to some 330,000 beneficiaries under a defined benefit structure.

We welcome the opportunity to respond to this consultation and are grateful for the way that the Code Committee has responded to the comments which we and other interested parties made about the need to give appropriate rights to the trustees of corporate pension schemes when their sponsor is subject to a bid.

We firmly believe that the Committee has got the balance right in this area: granting trustees the right to greater information and to make a statement, which will presumably be used only in exceptional circumstances. We believe that these rights and powers are fully warranted and that they go far enough for trustees to play a role in protecting the beneficiaries’ interests; we firmly believe, though, that the ultimate role of protecting beneficiaries must remain with the Pensions Regulator, which has the enforcement powers necessary to ensure that financial resources are made available by sponsors to fund the pension promises which they have made. We note the Code Committee’s conclusion that there is a significant gap currently in the Pensions Regulator’s powers in these circumstances, in that it cannot require public disclosure of the offeror’s intentions with regards to pension schemes, and we welcome the way in which the proposals in effect close this gap.

We agree with the Committee’s proposals, which would not amount to giving pension fund trustees a veto over any proposed takeover of their sponsor, but they should help ensure that a proper dialogue occurs which encompasses the interests of the pension scheme beneficiaries. We believe that these are necessary changes that strike the right balance and help limit the risk of significantly detrimental impacts from sponsor takeovers.

We thus support the proposals and respond only briefly to each of the questions below.

Yours faithfully

Helene Winch
Head of Policy, BT Pension Scheme



Questions

- 1. Do you have any comments on the proposed amendments to Rules 24.2(a) and (b) relating to the requirement for an offeror to disclose, among other matters, its intentions with regard to the offeree company's pension scheme(s)?**

We support the proposed amendments and welcome the early engagement with trustees that this approach should engender.

- 2. Do you have any comments on the proposed amendments to Rule 25.2(a) relating to the requirement for the offeree board to include in the offeree board circular its views on, among other matters, the effects of implementation of the offer on the offeree company's pension scheme(s)?**

We support the proposed amendments.

- 3. Do you have any comments on the proposed amendments to Rules 2.12(a), 2.12(b), 24.1, 25.1, 32.6(a) and 27.1(b), and to Note 6 on Rule 20.1, in each case relating to the information to be disclosed to the trustees of an offeree company's pension scheme(s)?**

We support the proposed amendments. We accept the analysis that a 12 month period is all that is appropriate for the Takeover Code to require, and that any further certainty needs to be provided through the mechanisms available to the Pensions Regulator.

- 4. Do you have any comments on the proposed amendments to Rule 25.9 (and Note 1 on that Rule) and to Rule 32.6 regarding the rights of the trustees of an offeree company's pension scheme(s) to make known their views on the effects of the offer on the scheme(s)?**

We support the proposed amendments. We would expect that this communication will only be used where the trustees have ongoing concerns and therefore believe that it would only occur very exceptionally. It should therefore facilitate a full dialogue between the parties, which would be welcome.

- 5. Do you have any comments on the proposed amendments to Rule 2.12(d) and to Rule 32.1 regarding the requirement for the trustees of the offeree company's pension scheme(s) to be informed of their rights under the Code to make known the effects of the offer on the scheme(s)? Do you have any**



comments on the proposed amendment to Rule 19.2 relating to directors' responsibility statements?

We support the proposed amendments as facilitative of the rights to make a formal statement.

- 6. Do you have any comments on the proposed new Rule 24.3(d)(xvi) and new Rule 26.2(i) relating to the requirement for the offer document to include a summary of any agreement between the offeror and the offeree company's employee representatives or the trustees of the offeree company's pension scheme(s) in relation to any of the matters described in Rule 24.2 and to the requirement for any such agreement(s) to be put on display?**

We support the proposed amendments and believe that the additional transparency for beneficiaries is an important step forward in protecting their interests and enhancing their rights.