



RS8 Issued on 21 February 2002

THE PANEL ON TAKEOVERS AND MERGERS

AGGREGATION OF DEALINGS REQUIRING DISCLOSURE

STATEMENT BY

THE CODE COMMITTEE OF THE PANEL

FOLLOWING THE EXTERNAL CONSULTATION PROCESS ON PCP

1. Introduction

1.1 In December 2001 the Code Committee of the Takeover Panel published a Public Consultation Paper (PCP 8) on the extent to which the Code should permit the aggregation of dealings required to be disclosed in offer documentation.

1.2 The proposals in PCP 8 sought to amend Note 4 on Rule 24.3 of the Code (which applies equally to Rule 25.3) to allow dealings during and in the month prior to the offer period to be (separately) aggregated, provided that no significant dealings were thereby concealed. Until now such dealings have been required to be listed individually and it was felt that this probably did not serve a useful purpose.

1.3 The purpose of this paper is to provide details of the Code Committee's response to the external consultation process on PCP 8.

2. Number of Responses Received

A total of six responses were received, mainly from major industry bodies and investment institutions.

3. Significant Conflicts of View

All the responses were in agreement with the Code Committee's proposals and there were no significant conflicts of view with the proposals. However, two respondents expressed concern that the requirement to obtain the Panel's prior approval of the proposed aggregation might exacerbate the difficulties that already exist in meeting posting deadlines.

4. The Code Committee's Conclusions

- 4.1 The Code Committee has no desire to impose requirements on practitioners which are genuinely impracticable to satisfy. However, the Code Committee notes that the requirement to disclose dealings imposed by Rule 24.3(c) ends on "the latest practicable date prior to the posting of the document". Furthermore, the Panel has indicated that, as is its usual practice and as long as the quality of information to shareholders would not be impaired, it would, in cases of genuine difficulty, consider alternative ways of satisfying its requirements, for example by the despatch of a supplementary circular containing the relevant information. In view of this and the general support for the proposals, the Code Committee has decided to adopt the changes to Note 4 on Rule 24.3 as proposed in PCP 8.
- 4.2 The Appendix to this document sets out in full Note 4 on Rule 24.3 as revised by the proposals outlined in PCP 8.

APPENDIX

RULE 24.3 SHAREHOLDINGS AND DEALINGS

NOTES ON RULE 24.3

4. Aggregation

There may be cases where no useful purpose would be served by listing a large number of transactions. In such cases the Panel will accept in documents some measure of aggregation of dealings by a person provided that no significant dealings are thereby concealed. The following approach is normally acceptable:

(i) for dealings during the offer period, all purchases and all sales can be aggregated;

(ii) for dealings in the three months prior to that period, all purchases and all sales in that period can be aggregated on a monthly basis; and

(iii) for dealings in the nine months prior to that period, purchases and sales can be aggregated on a quarterly basis.

Purchases and sales should not be netted off and the highest and lowest prices should be stated. A full list of all dealings, together with a draft of the proposed aggregated disclosure, should be sent to the Panel, for its approval, in advance of the posting of the offer documentation and the full list of dealings should be made available for inspection.