

# THE TAKEOVER PANEL

## **BANNER INDUSTRIES INC ("BANNER") /AVDEL PLC ("AVDEL")**

On 22 November, Credit Suisse Buckmaster & Moore ("CSBM") made a disclosure under Rule 8.3 of the Code that it had bought 1.38% of the Ordinary shares of Avdel on behalf of a client. The owner of the shares was identified as Eastern Holdings SA, Panama. The prices paid were between 81.5p and 83p, in excess of the offer price of 80p.

Following discussions with CSBM, the executive has not been satisfied that this disclosure provides sufficient information as required by Rule 8. In Note 5 on Rule 8, it is stated that "for the purpose of disclosing identity, the owner or controller must be specified, in addition to the person dealing. The naming of nominees or vehicle companies is insufficient. The Panel may require additional information to be disclosed when it appears to be appropriate, for example, to identify other persons who have an interest in the securities in question".

The executive is particularly concerned about the lack of full disclosure in this instance since, on Friday 18 November, as part of its normal monitoring procedures, the executive had spoken to CSBM, having identified that CSBM had a client which, after dealing on 17 November, was approaching the 1% disclosure threshold. The executive reminded CSBM of the requirements of Rule 8.3, and, in particular, of Note 10 on Rule 8 which states, inter alia, that "stockbrokers, banks and others who deal in relevant securities on behalf of clients have a general duty to ensure, so far as they are able, that those clients are aware of the disclosure obligations attaching to associates and other persons under Rule 8 and that those clients are willing to comply with them". Purchases made by CSBM on 18 November triggered a disclosure obligation.

In the circumstances, the executive has asked for assurances from both the offeror and the offeree company that Eastern Holdings SA, Panama, is not connected or associated with either party.

CSBM has given an assurance that it will not deal on behalf of Eastern Holdings in securities of Avdel during the relevant offer period unless Eastern Holdings is willing fully to comply with Rule 8.

24 November 1988