

THE TAKEOVER PANEL

CREST - CODE AMENDMENTS

The introduction of CREST requires amendments to a number of areas in the Code. Although all shareholders will still be required to complete and return an acceptance form, the Code has to address the manner in which receiving agents can be satisfied that an accepting shareholder with a dematerialised holding is entitled to accept: additions to the Notes on Rule 10 and to Appendix 4 achieve this. There are further additions and amendments to Appendix 4 to ensure that the offeror's receiving agents are provided with changes to the offeree company register in a timely manner.

These amendments to the Code will come into effect on 15 July. Amended pages of the Code will be issued shortly.

RULE 10

In Note 4(a) the following should be added after "received" in line 5:-

"or relevant escrow transfers identified":

In Note 4(b) a new sub-paragraph is added after sub-paragraph (i) as follows:-

"(ii) in the case of a holding in CREST, covered by a transfer to the relevant member's escrow account, details of which must be provided on the acceptance form; if the acceptance is covered by a transfer to escrow in respect of some but not all of the relevant holding, it may be treated as fulfilling the requirement of this sub-paragraph (ii) in respect of that part of the holding transferred to escrow; or "

All subsequent sub-paragraphs to be re-numbered.

The following addition should be made to new subparagraph (iii) (current (ii)) after 'holding' in line 2:-

'as at the final time for acceptance'.

In Note 6 on Rule 10, an additional sub-paragraph is to be added after Note 6(a)(i) as follows:-

"(ii) in the case of a holding in CREST, are covered by the transfer of the relevant holding into the relevant member's escrow account; acceptances covered by a transfer in respect of some but not all of the relevant holding may be treated as fulfilling the requirements of this sub-paragraph (ii) in respect of that part of the holding transferred to escrow; or "

All subsequent sub-paragraphs to be renumbered.

RULE 31.10

The following should be added to the existing wording:-

"and the receiving agent should immediately give instructions for the release of securities held in escrow. "

APPENDIX 4

Appendix 4 of the Code deals with the role of receiving agents and registrars during a bid. The revised texts of Sections 1 and 3 are as follows:

1 INTRODUCTION

This Code of Practice has been drawn up by the Panel in consultation with the Confederation of British Industry, the Receiving Bankers Committee of the Committee of London and Scottish Bankers and the Registrars Group of the Institute of Chartered Secretaries and Administrators. It is reproduced with the agreement and support of these bodies. In relation to the additions and

amendments necessitated by the introduction of CREST, the Panel also consulted CRESTCo Limited.

It is essential when determining the result of an offer under the Code that appropriate measures are adopted such that all parties to the offer may be confident that the result of the offer is arrived at by an objective procedure which, as far as possible, eliminates areas of doubt. This Code of Practice is designed to ensure that those acceptances and purchases which may be counted towards fulfilling the acceptance condition and thus included in the certificate are properly identified to enable the receiving agent to provide the certificate required by Note 7 on Rule 10. Receiving agents are also required to establish appropriate procedures such that acceptances and purchases can be checked against each other and between different categories so that no shareholding will be counted twice.

The principles and procedures outlined in this Code of Practice are, except with the prior consent of the Panel, to be followed in all cases. It must be understood that the Panel expects co-operation between the offeree company's registrar and the offeror's receiving agent to ensure that the procedures can be undertaken in a timely manner. Co-operation is interpreted to include the provision of data in a form convenient for the receiving agent. For example, if the receiving agent so requests, following the announcement of an offer, the registrar should, if practicable, provide the register in computer readable form (eg by magnetic tape). Whenever possible, if requested to do so, the registrar should provide, in similar form, details of changes to the register rather than a complete new register.

Receiving agents will have direct access to the Panel should they believe that there is insufficient co-operation or that they are being given instructions contrary to this Code of Practice.

3 THE PROVISION OF THE OFFEREE COMPANY'S REGISTER

- (a) When a firm intention to make an offer is announced, the offeree company should instruct its registrar to respond within two business days to a request from the offeror for the provision of the register**

which should be updated to reflect the position as at the close of business on the date of the request. The registrar should provide details of both participant and account IDs for holdings in CREST.

- (b) The offeree company's registrar should also be instructed to keep the register as up-to-date as the register maintenance system will allow. CREST imposes certain obligations on registrars in this respect but for certificated holdings outside CREST the registrar should ensure that maintenance is such that it can comply with (c) below. The updating procedures should include, in addition to the registration of transfers, the registration of all changes affecting the register (eg grants of representation, marriage certificates, changes of address etc). The receiving agent should also be informed on a daily basis by the offeree company's registrar of any adjustment to holdings in CREST not advised by the CREST operator through register update requests ("RURs").
- (c) From the date following the day on which a firm intention to make an offer is announced, the CREST operator will, after the appropriate request, make available to the offeror's receiving agent copies of all RURs generated in relation to the offeree company. RURs will be made available immediately the CREST operator has received notification that the relevant RUR has been acted on by the offeree company's registrar.

As far as certificated holdings are concerned, the registrar must provide updates, on a daily basis, to the register within two business days after notification of the transfer and, in addition, copies of all documents, including CREST stock deposits, which would lead to a change in the last copy register provided to the offeror must be provided as rapidly. On the final register day* any such information received by the offeree company's registrar but not yet provided to the offeror's receiving agent must be made available for collection by the offeror's receiving agent, at the latest, by noon on the day preceding the final closing date+ of the offer.

From the final register day* until the time that the offer becomes or is declared unconditional as to acceptances or lapses, the offeree company's registrar should continue to update the register on a daily basis so that all transfers and other documents which have been received by the offeree company's registrar by 1.00pm on the final closing date+ of the offer are processed by 5.00pm that day at the latest. In addition, copies of these documents should be relayed immediately to the offeror's receiving agent insofar as not previously notified.

- (d) Arrangements should be made to ensure that the offeror's receiving agent has access to the offeree company's registrar at all times, which includes weekends and Bank Holidays, during the period between the final register day* and the time the offer becomes or is declared unconditional as to acceptances or lapses, in order that any queries arising from acceptances and purchases can be investigated and accurate decisions taken.**

10 July 1996