

THE TAKEOVER PANEL

PANEL EXECUTIVE PRACTICE STATEMENT NO. 26

The Panel Executive has today published [Practice Statement No. 26](#) which describes the way in which the Executive interprets and applies certain provisions of the Takeover Code (the “Code”) to collective shareholder action.

The Executive does not believe that the relevant provisions of the Code have either the intention or the effect of acting as a barrier to co-operative action by fund managers and institutional shareholders or of constraining normal collective shareholder action. In summary, a mandatory offer may only be triggered by activist shareholders if both of the following tests are satisfied:

- (a) those shareholders requisition a general meeting to consider a “board control-seeking” resolution or threaten to do so; and
- (b) after an agreement or understanding is reached between the activist shareholders that a “board control-seeking” resolution should be proposed or threatened, those shareholders acquire interests in shares such that the shares in which they are interested together carry 30% or more of the voting rights in the company (or, if they are already interested in shares carrying 30% or more of the voting rights of the company, they acquire further interests in shares).

For these purposes, a resolution will not normally be considered to be “board control-seeking” unless it seeks to replace existing directors with directors who have a significant relationship with the requisitioning shareholders with the result that those shareholders would effectively be in a position to control the board. A resolution will not normally be considered to be “board control-seeking” if the directors to be appointed are independent of the activist shareholders or if the primary purpose of the proposal is to appoint additional non-executive directors in order to improve the company’s corporate governance.

Copies of the Practice Statement may be obtained from the Panel's website at www.thetakeoverpanel.org.uk/statements/practice-statements or by telephoning the Panel on +44 (0)20 7382 9026.

If you would like to receive a copy of future Panel Statements by e-mail you may wish to subscribe, free of charge, for the Panel's electronic distribution service by telephoning the Panel on the number above or sending your name and contact details by e-mail to supportgroup@thetakeoverpanel.org.uk.

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