

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

**Grant Thornton UK LLP**  
30 Finsbury Square  
London EC2P 2YU

T +44 (0)20 7383 5100  
F +44 (0)20 7184 4301  
[www.grant-thornton.co.uk](http://www.grant-thornton.co.uk)

31 October 2014

Dear Sir/Madam

We set out below our responses in respect of the current Panel Consultation Paper.

## **PCP 2014/2 – Post offer undertakings and intention statements**

### **Q1 Should the new definitions of “post-offer intention statement” and “post-offer undertaking” be introduced as proposed?**

We are of the view that the proposed changes to introduce a distinction between statements of intention and undertakings may help to provide clarity to the stakeholders in public takeovers as well as to set out a framework of the consequences of making such statements.

We would, however, like to make the observation that one of the unintended consequences of the proposed changes may be that offeree boards make it the market norm to insist that offerors provide statements of undertakings in order for the target board to recommend an offer. In our view, at the time of the changes made to the Takeover Code in 2011, it was felt by many that the balance of power had perhaps shifted too much towards the target boards. The current proposed changes may be seen as another step to make takeover bids difficult to implement from an offeror's perspective. We would welcome your thoughts on this.

### **Q2 Should the new Rule 19.7 be introduced as proposed?**

It would be helpful if further guidance can be provided on the independence aspect of the supervisor. For example, can an adviser that was originally involved in the transaction act as a supervisor if the Panel deemed it to be independent of the party to the offer concerned? We would expect that the Panel will apply the same principle of independence as is applied for the purposes of Rule 3 of the Takeover Code when making an assessment on this. However, it would be helpful to be provided with clarity on this aspect please.

We have considerable experience and knowledge of how the monitoring trustee role operates in practice including in relation to CMA related matters and would very much welcome the opportunity to share our thoughts and insights with the Panel on this.

In relation to the role of advisers in the context of the proposed changes, we would like to seek guidance from the Panel on what the additional expectations and responsibilities, if any, would be of such advisers with regards to their interaction with the appointed supervisor as well as the party to the offer it was acting for during the relevant transaction. Furthermore,

#### **Chartered Accountants**

Member firm within Grant Thornton International Ltd  
Grant Thornton UK LLP is a limited liability partnership registered in England and Wales: No.OC307742. Registered office: Grant Thornton House, Melton Street, Euston Square, London NW1 2EP  
A list of members is available from our registered office.

Grant Thornton UK LLP is authorised and regulated by the Financial Services Authority for investment business.

how does the Panel expect the advisers' roles and responsibilities to change, if at all, during the course of a transaction where its client makes a post-offer undertaking? Guidance on this area would be much appreciated.

**Q3 Should the new Rule 19.8 be introduced as proposed?**

We do not have any comments on the proposed changes.

**Q4 Should Rule 19.1 be amended, and Note 2 on Rule 19.1 deleted, as proposed?**

We do not have any comments on the proposed changes.

**Q5 Should the new Rules 24.2(d), 24.3(d)(xv), 25.2(c) and 25.7(c) be introduced, and Rules 27.2(b) and (c) amended, as proposed?**

We do not have any comments on the proposed changes.

**Q6 Do you agree with the proposed minor amendments to Rule 24.2?**

We do not have any comments on the proposed changes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Salmaan Khawaja', written over a horizontal line.

Salmaan Khawaja  
Director  
For Grant Thornton UK LLP  
T 020 7728 2053  
E salmaan.a.khawaja@uk.gt.com