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By email: supportgroup@thetakeoverpanel.org.uk

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

Dear Sir/Madam

PCP2017/2 - Statements of Intention and Related Matters

Thank you for affording us the opportunity to provide comments on the amendments to the Code proposed in PCP 2017/2, published on 19 September 2017, regarding 'statements of intention and related matters'.

As the Panel Executive is aware, Strand Hanson is a leading, independent, advisory-led, modern merchant banking boutique, and its dedicated and highly experienced M&A team offers a comprehensive range of small to mid-market M&A services and has advised on a number of the more complex and challenging small to mid-market UK Code transactions in recent years.

Further to our review and consideration of the consultation paper, please find set out below the Strand Hanson M&A team's responses to the various questions raised, which also encompass those of our COO/Compliance Director.

I would note that, in contrast to other consultation papers, from both the Panel and AIM, these responses were unanimous.

Q1:	**Should Rule 24.2(a) be amended so as to require an offeror to make specific statements of intention with regard to the offeree company's research and development functions, the balance of the skills and functions of the offeree company's employees and management, and the location of the offeree company's headquarters and headquarter's functions?**
Response: Whilst intentions with respect to R&D and the offeree company's headquarters are relatively objective and fairly swiftly ascertainable, we believe that the "balance" of skills and functions of the offeree's employees and management is a far more subjective area and even with the benefit of a comprehensive due diligence exercise may be difficult for the offeror to address and disclose in a meaningful manner upfront.	

Accordingly, we would question the utility of requiring the inclusion of this aspect of the proposed amendments, which in our view is unlikely to elicit the level of specificity in disclosures favoured by the Code Committee.

We would also request that it should be possible for offeree and offeror to agree, with the consent of the Panel, that no statement of intention need be made if the offeree has no substantive R&D function, as this is often the case with smaller cap companies, particularly those in the Natural Resources sector. We would suggest, in such cases a "No substantive R&D function" statement is made instead.

Q2:	**Do you have any comments on the proposed amendments to Rules 24.2(a) and (b)?**

Response:

Yes

As mentioned above we do not believe that the proposed amendment to Rule 24.2(a)(ii) regarding the "balance of the skills and functions of the employees and management" will engender greater specificity or provide any particularly meaningful additional information to decision makers.

In addition, we do think some carve out language is needed whereby a "No substantive R&D function" statement is made instead.

Q3:	**Should Rule 2.7 be amended so as to bring forward to the firm offer announcement the requirement for an offeror to state its intentions with regard to the business, employees and pension scheme(s) of the offeree company and, where appropriate, the offeror?**

Response:

Yes.

Q4:	**Do you have any comments on the proposed amendments to Rule 2.7 and Rule 25.9?**

Responses:

No, save that as per our response to Q2 above, we question the utility of requiring reference to any material change in the "balance of the skills and functions of the offeree's employees and management".

Q5:	**Should an offeror be obliged to seek the consent of the board of the offeree company in order to publish an offer document within the 14 days following its firm offer announcement?**

Response:

No, we strongly believe that this vests too much influence/power in the hands of the offeree board and is particularly prejudicial to hostile or contested bid situations. As a house, we already believe that the pendulum has moved too far in favour of the offeree in a hostile situation, as a result of the changes to the Code in September 2011.

In practice, we believe that major shareholders in the offeree (particularly those who have entered into irrevocable undertakings in support of the bid) will be primarily focused on the offer price/premium and speed of execution/receipt of their consideration and accordingly would be likely to exert

significant pressure on the offeree board to consent to waiving all, or the majority of, any such notional 14 day period, to avoid any uncertainty and protracted bid process.	
Q6:	**Do you have any comments on the proposed amendments to Rule 24.1 and Rule 25.1?**
Response: No, save that as referred to above we do not believe the 14 day provision should be added to Rule 24.1(a).	
Q7:	**Should an offeror or offeree company which has made a post-offer undertaking always be required to publish, in whole or in part, any report submitted to the Panel under Rule 19.5(h)?**
Response: Yes, subject to any commercially sensitive text being capable of redaction with the Panel's consent.	
Q8:	**Do you have any comments on the proposed amendments to Rule 19.5(h)?**
Response: No.	
Q9:	**Should an offeror or offeree company which has made a post-offer intention statement be required, at the end of the period of 12 months from the date on which the offer period ends, or such other period of time as was specified in the statement, to confirm in writing to the Panel whether it has taken, or not taken, the course of action described in the post-offer intention statement and publish that confirmation via a RIS?**
Response: We are supportive of the requirement for written confirmation to be made privately to the Panel, as we believe it is necessary for the Panel to be overseeing these post-offer intention statements, and being seen so to do. However we do not believe that such confirmation should be required to be published via a RIS. In our view, automatic RIS publication is an unnecessary expense for the offeror, especially as the Panel can already require the reasons for any deviations from the stated intentions during the period concerned to be publicly announced via a RIS. Accordingly, in our view it is currently implicit that in the absence of any such announcement there will not have been any material deviations and that should suffice from both an oversight and market up date point of view.	
Q10:	**Do you have any comments on the proposed new Rule 19.6(c)?**
Response: Further to our above response to Q9, we do not believe that the inclusion of Rule 19.6(c)(ii) is warranted.	

As a general observation, we do understand the need for greater clarity with regard to an offeror's intentions, but do think that has to be balanced against the limited amount of due diligence that can be undertaken, even in a recommended transaction and the required specificity that such statements require.

For your information, please be advised that as well as replying directly to this PCP, via this email, we are also contributing to the QCA's discussion and its response.

Please do not hesitate to contact me, or any other member of the M&A team, should you wish to clarify or discuss any of our above responses.

Kind regards

Stuart J Faulkner
Head of Mergers & Acquisitions
for and on behalf of
Strand Hanson Limited