

THE TAKEOVER PANEL

CODE COMMITTEE

Instrument 2019/2

Amendments to references to the UKLA and other matters

Pursuant to sections 942, 943 and 944 of the Companies Act 2006, Articles 2, 3 and 4 of the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009, and sections 340A, 340B and 340C of the Companies (Guernsey) Law, 2008, and in exercise of the functions conferred on it by the Panel in paragraph 2 of its Terms of Reference, the Code Committee hereby makes this instrument containing rules.

The Takeover Code is amended, with effect from 1 April 2019, in accordance with the Appendix to this instrument.

In the Appendix, except as otherwise stated, underlining indicates new text and striking-through indicates deleted text.

Richard Murley
Chairman of the Code Committee
for and on behalf of the Code Committee

25 March 2019

APPENDIX

INTRODUCTION

11 DISCIPLINARY POWERS

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(b) Sanctions or other remedies for breach of the Code

If the Hearings Committee finds a breach of the Code or of a ruling of the Executive, the Hearings Committee and/or the Board, it may:

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- (v) publish a Panel Statement indicating that the offender is someone who, in the Hearings Committee's opinion, is not likely to comply with the Code. The Panel Statement will normally indicate that this sanction will remain effective for only a specified period. ~~The rules of the FCA Handbook and the rules of certain professional bodies~~ oblige their members, in certain circumstances, not to act for the person in question in a transaction subject to the Code, including a dealing in relevant securities requiring disclosure under Rule 8 (so called "cold-shouldering"). For example, ~~the FCA's rules~~ FCA Handbook requires a person authorised under the Financial Services and Markets Act 2000 ("FSMA") not to act, or continue to act, for any person in connection with a transaction to which the Code applies if the firm has reasonable grounds for believing that the person in question, or his principal, is not complying or is not likely to comply with the Code.

DEFINITIONS

FCA Handbook

References to the FCA Handbook include references to the Listing Rules, the Disclosure Guidance and Transparency Rules and the Prospectus Rules (or any of them as the context may require).

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Regulatory information service or RIS

Regulatory information service or RIS has the same meaning as in the FCA Handbook ~~UKLA Rules~~.

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UKLA

~~The FCA acting in its capacity as the competent authority for the purposes of Part 6 of the FSMA.~~

UKLA Rules

~~UKLA Rules include the Listing Rules, the Disclosure Guidance and Transparency Rules and the Prospectus Rules of the FCA (or any of them as the context may require).~~

Rule 2.2**2.2 WHEN AN ANNOUNCEMENT IS REQUIRED**

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NOTES ON RULE 2.2

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2. Clear statements

The Panel will not normally require an announcement under Rule 2.2(d) if it is satisfied that the price movement, rumour or speculation results only from a clear and unequivocal public statement, eg (a) a disclosure under the ~~FCA Handbook UKLA Rules~~; (b) an announcement of a dawn raid or an intention to purchase; or (c) an announcement of a tender offer.

Rule 9**9.1 WHEN A MANDATORY OFFER IS REQUIRED AND WHO IS PRIMARILY RESPONSIBLE FOR MAKING IT**

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NOTES ON RULE 9.1

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2. Collective shareholder action

The Panel does not normally regard the action of shareholders voting together on a particular resolution as action which of itself indicates that such parties are acting in concert. However, the Panel will normally presume shareholders who requisition or threaten to requisition the consideration of a board control-seeking proposal ~~either at an annual a general meeting or at an extraordinary general meeting, in each case together with their supporters as at the date of the requisition or threat, to be acting in concert with each other and with the proposed directors. Such parties will be presumed to have come into concert once an agreement or understanding is reached between them in respect of a board control-seeking proposal with the result that subsequent acquisitions of interests in shares by any member of the group could give rise to an offer obligation.~~

Rule 20.5**20.5 ADVERTISEMENTS**

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(c) The categories are as follows:

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- (v) advertisements giving information, the publication of which by advertisement is required or specifically permitted by the UKLA Rules FCA Handbook (or the equivalent rules of another jurisdiction).

Rule 24.10

24.10 ADMISSION TO LISTING AND ADMISSION TO TRADING CONDITIONS*

Where securities are offered as consideration and it is intended that they should be admitted to listing on the Official List and/or to trading on a recognised investment exchange, the relevant admission to listing and/or trading condition should, except with the consent of the Panel, be in terms which ensure that it is capable of being satisfied only when the decision to admit the securities to listing or trading has been announced by the UKLA FCA and/or the relevant recognised investment exchange, as applicable. Where securities are offered as consideration and it is intended that they should be admitted to listing or to trading on any other investment exchange or market, the Panel should be consulted.

Rule 28.5

28.5 PROFIT ESTIMATES

Rule 28.1 does not apply to a profit estimate included in:

- (a) a preliminary statement of annual results which complies with the relevant provisions of the FCA Handbook UKLA Rules;
- (b) a half-yearly financial report which complies with the relevant provisions of the FCA Handbook UKLA Rules, the AIM Rules for Companies or the NEX Exchange Growth Market Rules for Issuers; or

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NOTES ON RULE 28.5

1. Preliminary statements of annual results

Where an unaudited preliminary statement of annual results is published by an offeree company or a securities exchange offeror whose securities are admitted to trading on a recognised investment exchange but to which the relevant provisions of the UKLA Rules FCA Handbook do not apply, the Panel may nonetheless treat the exemption from the requirements of Rule 28.1 as applying if it is satisfied that the statement complies with the substance of those provisions.

Appendix 1

APPENDIX 1

WHITEWASH GUIDANCE NOTE

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2. SPECIFIC GRANT OF WAIVER REQUIRED

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NOTES ON SECTION 2

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2. *Other legal or regulatory requirements*

It must be noted that ~~clearance~~ Clearance of the circular in accordance with any other legal or regulatory requirement (for example, under the FCA Handbook ~~UKLA Rules~~) does not constitute approval of the circular by the Panel.

Appendix 5

APPENDIX 5

TENDER OFFERS

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2 PROCEDURE AND CLEARANCE

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(f) In every case the ~~FCA~~ UKLA, the relevant regulated market or multilateral trading facility and the Panel must be sent a copy of the final text of the advertisements or circulars in hard copy form and electronic form at the same time as they are sent to the newspapers or are published.

Appendix 7

APPENDIX 7

SCHEMES OF ARRANGEMENT

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15 ADMISSION TO LISTING AND ADMISSION TO TRADING CONDITIONS

Where securities are offered as consideration and it is intended that they should be admitted to listing on the Official List and/or to trading on a recognised investment exchange, the relevant admission to listing and/or trading condition should, except with the consent of the Panel, be in terms which ensure that it is capable of being satisfied only when all steps required for the admission to listing or trading have been completed other than the ~~UKLA~~ FCA and/or the relevant recognised investment exchange, as applicable, having announced their respective decisions to admit the securities to listing or trading. Where securities are offered as consideration and it is intended that they should be admitted to listing or to trading on any other investment exchange or market, the Panel should be consulted.