THE TAKEOVER PANEL

ISSUE OF PRACTICE STATEMENTS NO. 22, NO. 23 AND NO. 24, WITHDRAWAL OF PRACTICE STATEMENTS NO. 4 AND NO. 15 AND AMENDMENT OF PRACTICE STATEMENT NO. 20

The Panel Executive has today issued Practice Statement No. 22 (Irrevocable commitments, concert parties and related matters), Practice Statement No. 23 (Rule 21.2 – inducement fee agreements and other agreements between an offeror and the offeree company) and Practice Statement No. 24 (Appropriate offers and proposals under Rule 15). A copy of each of Practice Statements No. 22, No. 23 and No. 24 is attached to this Statement.

The Panel Executive has also today withdrawn Practice Statement No. 4 (Rule 21.2 – inducement fees) and Practice Statement No. 15 (inducement fees – agreements between the offeror and the offeree company etc.) and amended Practice Statement No. 20 (Rule 2 – secrecy, possible offer announcements and pre-announcement responsibilities).

1. Practice Statement No. 22 (Irrevocable commitments, concert parties and related matters)

Practice Statement No. 22 describes the way in which the Executive normally interprets and applies certain provisions of the Takeover Code to irrevocable commitments to accept an offer which include an undertaking to vote the shares to which the irrevocable commitment relates in a particular way.

2. Practice Statement No. 23 (Rule 21.2 – inducement fee agreements and other agreements between an offeror and the offeree company)

Practice Statement No. 23 consolidates the description of the Executive's

interpretation of Rule 21.2 previously set out in Practice Statement No. 4 (Rule 21.2 – inducement fees) and Practice Statement No. 15 (inducement fees – agreements between the offeror and the offeree company etc.), which the Executive has today withdrawn.

In addition, Practice Statement No. 23 provides a number of clarifications in respect of the Executive's application of Rule 21.2 to inducement fee agreements and other agreements between an offeror and the offeree company.

3. Practice Statement No. 24 (Appropriate offers and proposals under Rule 15)

Practice Statement No. 24 sets out the Executive's interpretation and application of certain of the provisions of Rule 15 of the Code, which requires that, when an offer is made for voting equity share capital or for other transferable securities carrying voting rights and the offeree company has convertible securities, options or subscription rights outstanding, the offeror must make an appropriate offer or proposal to the holders of such securities to ensure that their interests are safeguarded.

4. Practice Statement No. 20 (Rule 2 – secrecy, possible offer announcements and pre-announcement responsibilities)

Practice Statement No. 20 has been amended to reflect the development of the Principles of Good Practice for the Handling of Inside Information, as referred to by the Financial Services Authority in Market Watch, Issue No. 27. The amendments are not material and do not alter the substance of the Practice Statement.

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PRACTICE STATEMENT NO. 22

IRREVOCABLE COMMITMENTS, CONCERT PARTIES AND RELATED MATTERS

1. Introduction

1.1 This Practice Statement describes the way in which the Executive normally interprets and applies certain provisions of the Takeover Code (the "Code") to irrevocable commitments to accept an offer which include an undertaking to vote the shares to which the irrevocable commitment relates in a particular way.

1.2 The principal issues under the Code that are considered in this Practice Statement are whether, as a result of entering into an irrevocable commitment which includes a voting undertaking:

(a) the shareholder should be considered to be "acting in concert" with the offeror for the purposes of Note 9 on the definition of "acting in concert";

(b) the offeror should be considered to be "interested" in the interests in shares to which the irrevocable commitment relates; and

(c) the offeror or shareholder should be required to make a disclosure.

1.3 While this Practice Statement refers only to irrevocable commitments to accept an offer, similar reasoning will apply to irrevocable commitments:

(a) not to accept an offer;

(b) to procure that any other person accepts or does not accept an offer; and

(c) to vote (or to procure that any other person vote) in favour of or against a resolution of an offeror or the offeree company (or of its shareholders) in the context of an offer, including a resolution to approve or to give effect to a scheme of arrangement.

Where a shareholder enters into an irrevocable undertaking with the offeree company, for example, not to accept an offer or to procure that another person does not accept an offer, references in this Practice Statement to Note 9 on the definition of "acting in concert" would be relevant in determining whether the shareholder is "acting in concert" with the offeree company.

2. Concert parties and irrevocable commitments

2.1 Note 9 on the definition of "acting in concert" provides as follows:

"*9. Irrevocable commitments*

A person will not normally be treated as acting in concert with an offeror or the offeree company by reason only of giving an irrevocable commitment. However, the Panel will consider the position of such a person in relation to the offeror or the offeree company (as the case may be) in order to determine whether he is acting in concert if … :

(a) the terms of the irrevocable commitment give the offeror or the offeree company (as the case may be) either the right (whether conditional or absolute) to exercise or direct the exercise of the voting rights attaching to the shares or general control of them; …

… .".

2.2 Entering into an irrevocable commitment which relates only to acceptance of an offer will not therefore, of itself, normally result in a shareholder being considered to be acting in concert with an offeror.

2.3 Although the precise wording of a voting undertaking contained in an irrevocable commitment to accept an offer may vary from case to case, it generally comprises, among other things, an undertaking to vote the relevant shares in accordance with the instructions of the offeror in the context of:

(a) resolutions required to implement its offer; and

(b) resolutions which, if passed, might result in a condition of its offer not being fulfilled or which might impede or frustrate the offer in some way (for example, by approving a competing scheme of arrangement).

2.4 This raises the question of whether the inclusion of a voting undertaking of this kind in an irrevocable commitment to accept an offer should be regarded as giving the offeror "*the right … to exercise or direct the exercise of the voting rights attaching to the shares or general control of them*" for the purposes of paragraph (a) of Note 9 on the definition of "acting in concert".

2.5 The Executive considers that, in entering into a voting undertaking of the type described above, a shareholder is doing no more than what is logically consistent with his irrevocable commitment to accept the offer, since he is undertaking to vote his shares in the context of that offer in a manner which is supportive of his acceptance decision. As such, the Executive would not normally consider the offeror to have acquired a right to exercise or direct the exercise of the voting rights attaching to, or general control of, the relevant shares for the purposes of Note 9 on the definition of "acting in concert", provided that the voting undertaking is:

(a) given in the context of an irrevocable commitment to accept the offer;

(b) limited to the duration of the offer or, if earlier, until the irrevocable commitment otherwise ceases to be binding; and

(c) limited to matters which relate to ensuring that its offer is successful.

2.6 Consequently, a shareholder which enters into an irrevocable commitment to accept an offer which includes a voting undertaking that satisfies the criteria above would not normally be considered by the Executive to be acting in concert with the offeror.

3. Interests in securities and irrevocable commitments

3.1 The definition of "interests in securities" provides, among other things, as follows:

"… a person will be treated as having an interest in securities if:-

…

(2) he has the right (whether conditional or absolute) to exercise or direct the exercise of the voting rights attaching to them or has general control of them;

…

(5) in the case of Rule 5 only, he has received an irrevocable commitment in respect of them.".

3.2 Where an offeror has received an irrevocable commitment to accept its offer, that will not, of itself, result in the offeror being considered to be interested in the shares to which the irrevocable commitment relates (other than for the purposes of Rule 5). However, where an irrevocable commitment includes a voting undertaking, the question arises of whether this gives the offeror "*the right … to exercise or direct the exercise of the voting rights attaching to [the shares] or general control of them*" for the purposes of paragraph (2) of the definition of "interests in securities".

3.3 For the same reasons as are described in paragraph 2.5 in the context of the definition of "acting in concert", and provided that the three criteria referred to in paragraphs 2.5(a) to (c) are satisfied, the Executive would not normally consider an offeror which enters into an irrevocable commitment including a voting undertaking with a shareholder to be interested in the shares to which the irrevocable commitment relates (other than for the purposes of Rule 5,

pursuant to paragraph (5) of the definition of "interests in securities").

4. Disclosure

4.1 Paragraph (a) of the definition of "dealings" provides, among other things, that:

"A dealing includes … :

(a) the acquisition or disposal … of the right (whether conditional or absolute) to exercise or direct the exercise of the voting rights attaching to securities, or of general control of securities;

…".

4.2 In applying paragraph (a) of the definition of "dealings", neither the procuring of the voting undertaking by the offeror, nor the entering into of such a voting undertaking by the shareholder, would amount to a dealing and neither action would therefore need to be disclosed under Rule 8.1 or Rule 8.3 provided that the three criteria referred to in paragraphs 2.5(a) to (c) above are satisfied. However, the procuring by an offeror of the irrevocable commitment to accept its offer would be required to be disclosed under Rule 8.4 in the normal way.

Practice Statements are issued by the Executive to provide informal guidance to companies involved in takeovers and practitioners as to how the Executive normally interprets and applies relevant provisions of the Code in certain circumstances. Practice Statements do not form part of the Code. Accordingly, they are not binding on the Executive or the Panel and are not a substitute for consulting the Executive to establish how the Code applies in a particular case. All Practice Statements issued by the Executive are available on the Panel's website at www.thetakeoverpanel.org.uk.

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PRACTICE STATEMENT NO. 23

RULE 21.2 – INDUCEMENT FEE AGREEMENTS AND OTHER AGREEMENTS BETWEEN AN OFFEROR AND THE OFFEREE COMPANY

1. Introduction

1.1 Rule 21.2 provides that certain safeguards must be observed prior to an offeree company agreeing to pay an inducement fee to an offeror. These include a requirement that the inducement fee must be de minimis, the test for which is that it must normally be no more than 1% of the value of the offeree company calculated by reference to the offer price. The primary rationale for this limit (and Rule 21.2 generally) is to prevent the possible payment of an inducement fee from frustrating a competing bid.

1.2 The purpose of this Practice Statement is to clarify the way in which the Executive applies Rule 21.2 to inducement fee agreements and certain other agreements between an offeror and the offeree company.

2. Agreements between an offeror and the offeree company

2.1 The first two paragraphs of Note 1 on Rule 21.2 state that:

"*An inducement fee is an arrangement which may be entered into between an offeror or a potential offeror and the offeree company pursuant to which a cash sum will be payable by the offeree company if certain specified events occur which have the effect of preventing the offer from proceeding or causing it to fail (e.g. the recommendation by the offeree company board of a higher competing offer).*

This Rule will also apply to any other favourable arrangements with an

offeror or potential offeror which have a similar or comparable financial or economic effect, even if such arrangements do not actually involve any cash payment.".

2.2 The Executive is consulted about the application of Rule 21.2 to a range of agreements between offerors and offeree companies. These agreements (which are frequently described as "Implementation Agreements" or "Exclusivity Agreements") may impose a variety of restrictions on offeree companies, for example, seeking to restrict the offeree company from soliciting other offers. Such restrictions are sometimes in addition to the agreement by the offeree company to pay an offeror an inducement fee of up to 1% of the offer value if a higher offer is recommended by the offeree company board or if certain other specified events occur.

2.3 The Executive regards payments pursuant to, or for any breach of, such an agreement in respect of any matter which has the effect of preventing the offer from proceeding, or of causing it to fail, (because, for example, the offeree board successfully solicits a higher bid) as falling within Rule 21.2. In addition, the Executive regards payments in respect of offer-related costs, losses and expenses pursuant to, or for any breach of, such an agreement as falling within the scope of Rule 21.2. For example, the Executive would regard a payment in respect of the breach of an undertaking not to solicit other offers as falling within Rule 21.2. This is on the basis that any such payments would have a similar or comparable financial or economic effect to an inducement fee pursuant to the second paragraph of Note 1 on Rule 21.2. Where relevant, references to "inducement fees" in the remainder of this Practice Statement include such payments. Therefore, the maximum total payments that may be made by the offeree company to an offeror in respect of offer-related costs, losses and expenses (including any inducement fee) should be 1% of the value of the offeree company calculated by reference to the offer price.

2.4 The Executive recognises that payments by the offeree company in respect of matters which have not prevented the offer from proceeding or caused it to

fail, or which are not otherwise in respect of offer-related costs, losses and expenses, will normally fall outside Rule 21.2. For example, the Executive would not normally regard the payment of damages in respect of a loss suffered by an offeror as a result of a breach of a confidentiality undertaking as falling within the scope of Rule 21.2.

2.5 The Executive is concerned to ensure that agreements entered into by offeree companies are consistent with the provisions of the Code. Therefore, when consulted in cases where an inducement fee or similar arrangement is proposed (as required by Rule 21.2), the Executive will normally require all relevant agreements to include a clause as follows:

"Nothing in this agreement shall oblige [the offeree company] to pay any amount which the Panel determines would not be permitted by Rule 21.2 of the City Code on Takeovers and Mergers."

3. Calculation of the maximum amount payable

3.1 In determining the maximum amount permitted for an inducement fee, the Executive will normally consider that:

(a) the 1% limit can be calculated on the basis of the fully diluted equity share capital of the offeree company, but taking into account only those options and warrants that are "in the money". When determining the value of the fully diluted equity share capital, the Executive will consider the value attributable to options and warrants to be their "see through" value (being their value by reference to the value of the offer for the shares to which they relate, net of any exercise price). The Executive will consider the value attributable to convertible securities to be the offer price for the shares into which the convertible securities may be converted multiplied by the conversion ratio;

(b) any VAT payable as a result of the payment of an inducement fee to an offeror should be taken into account in determining whether the 1%

limit would be exceeded (except to the extent that such VAT is recoverable by the offeree company); and

(c) in a securities exchange offer, the value of the offeree company will be fixed by reference to the value of the offer as stated in the firm offer announcement and will not fluctuate as a result of subsequent movements in the price of the consideration securities.

3.2 Where an inducement fee is agreed prior to the announcement of a firm intention to make an offer, the 1% limit may be calculated by reference to:

(a) the expected value of the offer at the time the inducement fee is agreed; or

(b) the value of the offeree company by reference to the offer price as stated in a subsequent firm offer announcement.

If the inducement fee is calculated by reference to the expected value of the offer at the time the inducement fee is agreed, the agreement should provide that, if the value of the offeree company by reference to the offer price as stated in the firm offer announcement is lower than the expected value of the offer at the time the inducement fee was agreed, the maximum inducement fee payable shall be scaled back to an amount representing not more than 1% of that lower value.

3.3 The Executive also interprets Rule 21.2 as permitting an offeree company to agree inducement fees with two or more offerors or potential offerors, each up to the relevant 1% limit, notwithstanding that, in certain circumstances, the aggregate amount payable by the offeree company in respect of all such inducement fees might exceed 1% of the value of the offeree company.

4. Confirmations to the Executive

4.1 A further safeguard which must be observed prior to agreeing to pay an

inducement fee is that the offeree company board and its financial adviser must provide certain written confirmations to the Panel.

4.2 Each of the offeree company board and its financial adviser must give separate written confirmations, or a single confirmation, signed by, or on behalf of, both the offeree company board and the financial adviser. A letter from the financial adviser on behalf of the board will not be acceptable.

4.3 The written confirmations should normally address the following points:

(a) confirmation that the inducement fee was agreed as a result of arms' length commercial negotiations;

(b) an explanation of the circumstances in which the inducement fee will become payable and the basis on which such circumstances were considered appropriate;

(c) any relevant information concerning possible competing offerors, for example, the status of any discussions, the possible offer terms, any pre-conditions to the making of an offer and the timing of any such offer;

(d) confirmation that there are no side agreements or understandings in relation to the inducement fee that have not been fully disclosed; and

(e) confirmation that, in the opinion of the offeree company board and its financial adviser, the agreement to pay the inducement fee is in the best interests of offeree company shareholders.

The Executive should be consulted at the earliest opportunity in all cases where an inducement fee or any similar arrangement is proposed.

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PRACTICE STATEMENT NO. 24

APPROPRIATE OFFERS AND PROPOSALS UNDER RULE 15

1. Introduction

1.1 Rule 15 of the Takeover Code (the "Code") requires that, when an offer is made for voting equity share capital or for other transferable securities carrying voting rights (a "voting equity offer") and the offeree company has any outstanding securities which are convertible into, or which comprise options or other rights to subscribe for, securities to which the voting equity offer relates ("Rule 15 securities"), the offeror must make an appropriate offer or proposal to the holders of those Rule 15 securities. The purpose of Rule 15 is to safeguard the interests of holders of Rule 15 securities in their capacity as potential holders of the securities to which the voting equity offer relates. An offer or proposal is therefore required for Rule 15 securities whether or not they are currently convertible or exercisable.

1.2 The Executive's interpretation and application of certain of the provisions of Rule 15 are set out below.

2. "Appropriate" offer or proposal

(a) "See through" value

2.1 In order to be "appropriate" in the terms of Rule 15(a), the Executive considers that an offer or proposal will normally need to be for no less than "see through" value, i.e. the value of the Rule 15 securities by reference to the value of the voting equity offer.

2.2 The see through value of options, warrants and other rights to subscribe should be calculated net of any exercise price. This is illustrated by the following Example 1:

Example 1

Offeror A offers 100p for each ordinary share in offeree company B. Each offeree company B warrant entitles the holder to subscribe for one ordinary share in offeree company B at an exercise price of 10p. The see through value of each offeree company B warrant by reference to the value of the offer for the ordinary shares is therefore 90p.

2.3 Where the see through value of Rule 15 securities is positive, as in Example 1 above, an offer or proposal at no less than that value will normally be regarded by the Executive to be appropriate.

2.4 Where the see through value of Rule 15 securities is zero or negative, no Rule 15 offer or proposal will normally be required. This is illustrated by the following Example 2:

Example 2

Offeror C offers 10p for each ordinary share in offeree company D. Each offeree company D option entitles the holder to subscribe for one ordinary share in offeree company D at an exercise price of 30p. The see through value of each offeree company D option by reference to the value of the offer for the ordinary shares is therefore minus 20p. No Rule 15 offer or proposal in respect of such options would normally be required.

(b) Convertible securities and other Rule 15 securities which are admitted to trading

2.5 Since convertible securities do not have an exercise price, their see through value will always be positive and an offer or proposal at no less than see

through value will be required, even if that offer or proposal would be below the market price of the convertible securities.

2.6 Where the market price (if any) of any Rule 15 securities is higher than their see through value, for example where a convertible security is trading as a fixed income security, the Executive does not require a Rule 15 offer or proposal to be at market price or above. This is because, as indicated above, the purpose of Rule 15 is to safeguard the interests of holders of Rule 15 securities in their capacity as potential holders of the securities to which the voting equity offer relates. These points are illustrated by the following Example 3:

Example 3

Offeror E offers 200p for each ordinary share in offeree company F. Each offeree company F convertible bond entitles the holder to convert that bond into one ordinary share in offeree company F. The current market price of offeree company F convertible bonds is 220p. The see-through value of each offeree company F convertible bond by reference to the value of the offer for the ordinary shares is therefore 200p and a Rule 15 offer or proposal at no less than this value will normally be required. However, there is no requirement for the Rule 15 offer or proposal in respect of the convertible bonds to be at no less than the current market price of 220p.

(c) No requirement to offer same specie as voting equity offer

2.7 The Executive will regard a Rule 15 offer or proposal to be appropriate if made at no less than see through value. However, the Executive does not require any particular form of consideration to be offered to holders of Rule 15 securities. In particular, there is no requirement for holders of Rule 15 securities to be offered the same form of consideration as offered under the voting equity offer.

(d) Securities exchange offers

2.8 Where the voting equity offer is a securities exchange offer but offeror securities are not being offered to the holders of Rule 15 securities, the see through value of the Rule 15 securities should normally be calculated by reference to the value of the voting equity offer on the latest practicable date prior to the despatch of the Rule 15 offer or proposal.

2.9 Where the voting equity offer is a securities exchange offer and offeror securities are also being offered to the holders of Rule 15 securities, the Executive will require the exchange ratio offered to holders of Rule 15 securities to be no less favourable than that offered under the voting equity offer. This is illustrated in the following Example 4:

Example 4

Offeror G offers two new offeror G shares for each ordinary share in offeree company H. Each offeree company H convertible preference share entitles the holder to convert that share into one ordinary share in offeree company H. If offeror G wishes to offer new offeror G shares to holders of offeree company H convertible preference shares, the Executive will require the exchange ratio of the Rule 15 offer or proposal to be no worse than the "two for one" ratio offered to holders of offeree company H ordinary shares.

(e) "Time value" and adjustment mechanisms

2.10 Rule 15 does not require an "appropriate" offer or proposal to reflect the ability of holders of Rule 15 securities to exercise a conversion, option or subscription right over a period time.

2.11 However, where the rights attached to Rule 15 securities include an adjustment mechanism which affects the exercise terms of the securities in the event of an offer for the offeree company, an "appropriate" offer or proposal should normally take the adjusted exercise terms into account. If the adjusted

exercise terms are not capable of immediate determination, the Executive should be consulted.

(f) Alternative offers

2.12 Where alternative voting equity offers are made, the see through value of any Rule 15 securities should normally be calculated by reference to the voting equity offer with the highest value as at the latest practicable date prior to the despatch of the Rule 15 offer or proposal, even if that offer has ceased to be open for acceptance by existing offeree company shareholders by that time.

(g) Equality of treatment

2.13 The final sentence of Rule 15(a) states that "Equality of treatment is required." The equality of treatment required is as between holders of the same class of Rule 15 security and not as between (i) holders of different classes of Rule 15 securities, or (ii) holders of Rule 15 securities and shareholders in the offeree company.

3. Independent advice and views of the offeree company board

3.1 Under Rule 15(b), the board of the offeree company must obtain competent independent advice on a Rule 15 offer or proposal and the substance of such advice must be made known to the holders of Rule 15 securities, together with the board's views on the offer or proposal. In certain circumstances, however, as indicated in Section 4 below, it may not be practicable for a Rule 15 offer or proposal to be despatched until after the voting equity offer becomes or is declared wholly unconditional, by which time the board of the offeree company will be under the control of the offeror.

3.2 The Executive expects the board of the offeree company to take appropriate steps at the outset of the voting equity offer to ensure that Rule 15(b) will be complied with at the time when any Rule 15 offer or proposal is made, for example, by ensuring that the mandate of the adviser retained pursuant to

Rule 3 will extend to advising on any Rule 15 offer or proposal. In the event that there are no independent directors on the board of the offeree company at the time when the Rule 15 offer or proposal is made, the board of the offeree company must nevertheless obtain independent advice on the offer or proposal and make the substance of such advice known to the holders of Rule 15 securities.

4. Despatch of a Rule 15 offer or proposal

4.1 Under Rule 15(c), whenever practicable, the offer or proposal should be despatched to holders of Rule 15 securities at the same time as the offer document is posted to offeree company shareholders. If this is impracticable, the Executive should be consulted and the Rule 15 offer or proposal despatched as soon as possible thereafter.

4.2 The Executive will take all relevant factors into account in considering when it is practicable for a Rule 15 offer or proposal to be despatched. If the Rule 15 offer or proposal is not despatched at the same time as the voting equity offer, the Executive will normally expect it to be despatched, at the latest, as soon as possible after the voting equity offer becomes or is declared wholly unconditional.

5. "Exercise and accept" proposals

5.1 Note 1 on Rule 15 provides that:

(i) all relevant documents issued to offeree shareholders in connection with the voting equity offer must also, where practicable, be issued simultaneously to holders of Rule 15 securities; and

(ii) if holders of Rule 15 securities are able to exercise their rights during the course of the voting equity offer, and to accept the voting equity offer in respect of the resulting shares, their attention should be drawn to this in the relevant documents.

5.2 Where holders of Rule 15 securities are able to exercise their conversion, option or subscription rights prior to or upon the voting equity offer becoming or being declared wholly unconditional, the Executive will normally regard a proposal that such holders exercise their rights and accept the voting equity offer (an "exercise and accept" proposal) as being appropriate for the purposes of Rule 15(a).

5.3 However, where alternative voting equity offers are made, an exercise and accept proposal may not satisfy an offeror's obligations under Rule 15 if the alternative offer with the highest value (see paragraph 2.12 above) ceases to be open for acceptance at any time earlier than the end of the 21 day period referred to in paragraph 6.2 below, even if the holders of the Rule 15 securities in question had been able to exercise their conversion, option or subscription rights when that higher alternative offer was open for acceptance. This is because such holders should not be required to exercise their conversion, option or subscription rights in advance of knowing whether or not the offer for the voting equity will be successful. The Executive should be consulted in such circumstances.

5.4 Where an offeror's obligations under Rule 15 are to be satisfied by way of an "exercise and accept" proposal, this fact should be stated clearly in the relevant documents issued to holders of the Rule 15 securities pursuant to Note 1 on Rule 15. In addition, the Executive regards Rule 15(b) as requiring the board of the offeree company to obtain separate independent advice on the "exercise and accept" proposal and to make such advice known to the holders of Rule 15 securities, together with the board's views on the proposal.

6. Rule 15 offer or proposal to be open for at least 21 days

6.1 The Executive's practice is normally to require a Rule 15 offer or proposal to be open for at least 21 days following the date on which the relevant documentation is sent to holders of Rule 15 securities.

6.2 The Executive notes that Rule 31.4 provides, broadly, that after the voting equity offer has become or is declared unconditional as to acceptances, it must remain open for acceptance for not less than 14 days after the date on which it would otherwise have expired. Notwithstanding this, if the only "appropriate" Rule 15 offer or proposal made by an offeror is an "exercise and accept" proposal, the Executive's practice is normally to require the voting equity offer to remain open for not less than 21 days after the later of:

(i) the date on which the documentation setting out the "exercise and accept" proposal is sent to the holders of the Rule 15 securities ; and

(ii) the date on which the voting equity offer becomes or is declared wholly unconditional.

7. Rule 16

7.1 See through value is the minimum value at which a Rule 15 offer or proposal must be made in order for it to be appropriate and it is therefore normally permissible for a Rule 15 offer or proposal to be made at above that minimum value.

7.2 Rule 16 provides that, except with the consent of the Panel, an offeror may not make arrangements with offeree company shareholders if there are favourable conditions attached which are not being extended to all shareholders. Therefore, where:

(i) certain persons are both holders of Rule 15 securities and also offeree company shareholders; and

(ii) a Rule 15 offer or proposal is made at a value which is higher than see through value,

the Executive will be concerned to ensure that the Rule 15 offer or proposal does not have the effect of affording such persons favourable treatment (when compared to other shareholders) as prohibited by Rule 16.

The Executive should be consulted in the case of any doubt in relation to any of the above points.

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