

THE TAKEOVER PANEL  
REPORT AND ACCOUNTS FOR THE YEAR ENDED  
31 MARCH 2007

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PANEL MEMBERS AND EXECUTIVE

AS AT 11 JULY 2007

CHAIRMAN AND DEPUTY CHAIRMEN

☆PETER SCOTT QC	CHAIRMAN Appointed by the Panel	DAVID J CHALLEN	DEPUTY CHAIRMAN Appointed by the Panel
☆†ANTONY R BEEVOR	DEPUTY CHAIRMAN Appointed by the Panel	VICE CHAIRMAN, EUROPEAN INVESTMENT BANK, CITIGROUP	
FORMER SENIOR ADVISER, INVESTMENT BANKING, SOCIETE GENERALE			

All members of the Panel are designated to act as a member of either the Hearings Committee or the Code Committee.

THE HEARINGS COMMITTEE

In addition to the Chairman and the Deputy Chairmen, the membership of the Hearings Committee is as follows:

ANTONY HICHENS	Appointed by the Panel	ALAN PORTER	Appointed by the Confederation of British Industry
DIRECTOR, CANDOVER INVESTMENTS		SOLICITOR, BRITISH AMERICAN TOBACCO	
☆SIR DAVID LEES	Appointed by the Panel	RICHARD G DYSON	Appointed by the Institute of Chartered Accountants in England and Wales
CHAIRMAN, TATE & LYLE		NATIONAL RISK MANAGEMENT PARTNER, ERNST & YOUNG	
LORD MORRIS OF HANDSWORTH	Appointed by the Panel	ROBERT JENKINS	Appointed by the Investment Management Association
FORMER GENERAL SECRETARY, THE TRANSPORT AND GENERAL WORKERS UNION		NON EXECUTIVE CHAIRMAN, F&C MANAGEMENT	
SIR IAN ROBINSON	Appointed by the Panel	☆ALAN C D YARROW	Appointed by the London Investment Banking Association
CHAIRMAN, LADBROKES		VICE CHAIRMAN, DRESDNER KLEINWORT	
KEITH SATCHELL	Appointed by the Association of British Insurers	CHARLES G WILKINSON	Appointed by the London Investment Banking Association representing its Corporate Finance Committee
FORMER GROUP CHIEF EXECUTIVE, FRIENDS PROVIDENT		MANAGING DIRECTOR, DEUTSCHE BANK	
HAMISH BUCHAN	Appointed by the Association of Investment Companies	†ROBERT WIGLEY	Appointed by the London Investment Banking Association representing its Securities Trading Committee
CHAIRMAN, JP MORGAN AMERICAN INVESTMENT TRUST		CHAIRMAN, EUROPE, MIDDLE EAST & AFRICA MERRILL LYNCH INTERNATIONAL	
JOHN HALL	Appointed by the Association of Private Client Investment Managers and Stockbrokers	ARNO KITTS	Appointed by the National Association of Pension Funds Investment Council
CHIEF EXECUTIVE OFFICER, BREWIN DOLPHIN SECURITIES		DIRECTOR OF INSTITUTIONAL BUSINESS, HENDERSON GLOBAL INVESTORS	
STEPHEN GREEN	Appointed by the British Bankers' Association		
GROUP CHAIRMAN, HSBC HOLDINGS			

Sir Brian Stewart, Chairman of Scottish & Newcastle, and Baroness Hogg, Chairman of 3i, have been appointed by the Panel to serve as alternates for Antony Hichens, Sir David Lees and Sir Ian Robinson. Dr Campbell Christie has been appointed by the Panel to serve as an alternate for Lord Morris of Handsworth. Alternates for those members appointed by the major financial and business institutions are listed on the Panel's website.

THE CODE COMMITTEE

The membership of the Code Committee is as follows:

LINDSAY P TOMLINSON VICE CHAIRMAN, EUROPE, BARCLAYS GLOBAL INVESTORS	Chairman Appointed by the Panel	☆ALAN D PAUL PARTNER, ALLEN & OVERY	Appointed by the Panel
JAMES AGNEW MANAGING DIRECTOR, CHAIRMAN OF UK CORPORATE BROKING, DEUTSCHE BANK	Appointed by the Panel	THOMAS M ROSS DIRECTOR, ROYAL LONDON MUTUAL INSURANCE SOCIETY	Appointed by the Panel
CHRIS CHEETHAM CHIEF EXECUTIVE OFFICER, HALBIS CAPITAL MANAGEMENT	Appointed by the Panel	CHRISTOPHER SMITH MANAGING DIRECTOR, CORPORATE FINANCE, JPMORGAN CAZENOVE	Appointed by the Panel
HEYDAR KAHNAMOUYIPOUR FORMER MANAGING DIRECTOR, UBS INVESTMENT BANK	Appointed by the Panel	ANDREW JM SPOKES PARTNER, NOONDAY ASSET MANAGEMENT	Appointed by the Panel

☆ Nomination Committee Member

† Remuneration Committee Member

THE PANEL EXECUTIVE

*MARK F WARHAM MORGAN STANLEY	DIRECTOR GENERAL
NOEL P HINTON	DEPUTY DIRECTOR GENERAL
ANTHONY G B PULLINGER	DEPUTY DIRECTOR GENERAL
CHARLES M CRAWSHAY	ASSISTANT DIRECTOR GENERAL
*DAVID G WATKINS SLAUGHTER AND MAY	SECRETARY
*PAUL A WHITELOCK NORTON ROSE	SECRETARY
*CHRISTIAN J HUNT DEUTSCHE BANK	ASSISTANT SECRETARY
*NICK J IVEY HAMMONDS	ASSISTANT SECRETARY
*CHRISTOPHER P HOUGHTON PRICEWATERHOUSECOOPERS	ASSISTANT SECRETARY
*SALMAAN KHAWAJA GRANT THORNTON	ASSISTANT SECRETARY
*BRITTA BÄHR HSBC	ASSISTANT SECRETARY
*AMERJIT S KALIRAI BERWIN LEIGHTON PAISNER	ASSISTANT SECRETARY
*MARK C HUTT LEHMAN BROTHERS	ASSISTANT SECRETARY
*ANNA L HOWARD KPMG	ASSISTANT SECRETARY
MARTIN C HARRISON	MANAGER, MARKET SURVEILLANCE UNIT
CRAIG G ANDREWS	DEPUTY MANAGER, MARKET SURVEILLANCE UNIT
SUSAN POWELL	MANAGER, EXEMPT GROUPS UNIT
NADIR M DOCTOR	EXEMPT GROUPS UNIT
BARBARA A MUSTON	POLICY AND REVISION UNIT
ANTONIA F STEWART	POLICY AND REVISION UNIT
JOHN A DOVEY	POLICY AND REVISION UNIT
JEREMY D EVANS	POLICY AND REVISION UNIT
CHRIS J GILLOOLY	OFFICE MANAGER
JANE M TAYLOR	MANAGER, SUPPORT GROUP

\*SECONDED

## INTRODUCTION TO THE TAKEOVER PANEL

The Panel is an independent body whose main functions are to issue and administer the Takeover Code (the “Code”) and to supervise and regulate takeovers and other matters to which the Code applies in accordance with the rules set out in the Code.

The Code is designed principally to ensure that shareholders are treated fairly and are not denied an opportunity to decide on the merits of a takeover and that shareholders of the same class are afforded equivalent treatment by an offeror. The Code also provides an orderly framework within which takeovers are conducted. In addition, it is designed to promote, in conjunction with other regulatory regimes, the integrity of the financial markets.

The Code is not concerned with the financial or commercial advantages or disadvantages of a takeover. These are matters for the company and its shareholders. Nor is the Code concerned with those issues, such as competition policy, which are the responsibility of government and other bodies.

The Panel was set up as a non-statutory body in 1968, since when its composition and powers have evolved as circumstances have changed. On 20 May 2006, the Panel was designated by the Secretary of State for Trade and Industry as the supervisory authority to carry out certain regulatory functions in relation to takeovers pursuant to the Directive on Takeover Bids (2004/25/EC). Its statutory functions are set out in and under Chapter 1 of Part 28 of the Companies Act 2006 (the “Act”).

The essential characteristics of the Panel system are flexibility, certainty and speed, enabling parties to know where they stand under the Code in a timely fashion. These characteristics are important in order to avoid over-rigid rules and the risk of takeovers becoming delayed by litigation of a tactical nature, which may frustrate the ability of shareholders to decide the outcome of an offer.

It is the Panel’s practice to focus on the specific consequences of rule breaches, rather than simply on disciplinary action, with the aim of providing appropriate redress. If the Panel finds there has been a breach, it may have recourse to private censure, to public censure, to suspension or withdrawal of any exemption, approval or other special status granted by the Panel (or to the imposition of conditions in relation to the grant), or to reporting the offender’s conduct to another regulatory authority (for example, the Department for Business, Enterprise and Regulatory Reform or the Financial Services Authority) or professional body, as it thinks fit. The Panel can also implement cold-shouldering procedures such that, in certain circumstances, persons authorised by the Financial Services Authority or certain other professional bodies will not be permitted to act for the individual in question in a transaction subject to the Code.

Under the Act, the Panel also has powers to require documents and information, to make compensation rulings in certain circumstances, and to seek enforcement of its rulings through the courts.

## THE PANEL

The Chairman, the Deputy Chairmen and up to 20 independent members are appointed by the Panel. In addition, 11 members are nominated by major financial and business institutions thus ensuring a spread of expertise in takeovers, securities markets, industry and commerce.

Each member of the Panel is designated on appointment to act as a member of either the Panel's Hearings Committee or its Code Committee. Of the possible 20 independent members appointed by the Panel, up to eight may be designated as members of the Hearings Committee and up to 12 as members of the Code Committee. All of the members nominated by the major financial and business institutions are members of the Hearings Committee.

No person who is or has been a member of the Code Committee may be a member of the Hearings Committee.

## THE HEARINGS COMMITTEE

The principal function of the Hearings Committee is to review rulings of the Executive. It also hears disputed disciplinary cases. The Hearings Committee can be convened at short notice, where appropriate.

## THE CODE COMMITTEE

The Code Committee carries out the rule-making functions of the Panel and is solely responsible for keeping under review and, where appropriate, proposing, consulting upon and making and issuing amendments to the substantive provisions (in the Introduction, the General Principles and Rules) of the Code and the Rules of Procedure of the Hearings Committee.

## THE EXECUTIVE

The Executive is headed by the Director General, usually an investment banker on secondment. Some of the Executive are permanent, providing an essential element of continuity. They are joined by lawyers, accountants, stockbrokers, investment bankers and others on two-year secondments.

The day-to-day work of takeover supervision and regulation is carried out by the Executive. In carrying out these functions, the Executive operates independently of the Panel. This includes, either on its own initiative or at the instigation of third parties, the conduct of investigations, the monitoring of relevant dealings in connection with the Code and the giving of rulings on the interpretation, application or effect of the Code. The Executive is available both for consultation and also the giving of rulings on the interpretation, application or effect of the Code before, during and, where appropriate, after takeovers or other relevant transactions. The Panel encourages, and in some cases requires, early consultation so that problems can be avoided; a major part of the Executive's role is to provide guidance.

Further information on the Panel is available on its website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk).

## CHAIRMAN'S STATEMENT

Notwithstanding a reduction in the number of announced transactions, it has been a busy and eventful year for the Panel and the Executive in which there have been an unusual number of interesting issues to deal with.

I start, as has become usual, with the Takeovers Directive. From 6 April 2007 the Panel finally became a body recognised by statute with its own statutory rule-making powers. As such, it satisfies the United Kingdom's obligation to have such a body to regulate takeovers in accordance with the Directive. We had, of course, been operating on the basis of the Directive under Interim Regulations while the Companies Act 2006 (the "Act") was going through Parliament, so we are now in a position to make a preliminary assessment of the effect of the Directive on what we do. I am delighted to hear from the Director General that, from his perspective, the overall picture is one of business as usual. There are no signs that the independence of the Panel, its constitution, or the efficiency of its day-to-day operations have been adversely affected, and there seems to be no apparent threat in those areas in the provisions of the Act.

We shall continue to be vigilant to ensure that this remains the case. At the same time, however, the Executive will want to play a significant role, in conjunction with regulators in other European jurisdictions, in tackling the practical issues to which the Directive gives rise. The unique experience of the Panel since it was founded in 1968 and the importance of the London market will, I hope, be important in enabling the Panel to influence practical answers to questions that may arise from the broad language of the Directive. These include arrangements to deal with cases involving more than one regulatory jurisdiction and interpretation of particular phrases in the Directive. When the Directive is reviewed in 2011, I expect that we shall see more clearly what now seems to be a modest effect. An opportunity may then arise to deal with important issues which were left to individual Member States such as the ability of Member States to opt out of the requirement to consult shareholders when frustrating action is proposed.

In this area, as in others, the whole Panel will continue at its quarterly meetings to review recent developments when it considers the report of the Director General. The membership of the Panel, now made up of the Hearings Committee (including importantly, its independent members) and the Code Committee, comes together at these meetings to consider policy or strategic issues which may affect the Panel's operations as a whole. In addition, both the Panel as a whole and the Executive benefit from informal discussions and ideas from individual Panel members as to general policy and operational matters between meetings.

The creation of the Code Committee has been one of the very positive developments of the changes we have made in recent years. It has led to a sharper focus on the wording of the Code which is the basis of our operations, and has helped to ensure that in a world of



ever widening regulatory requirements, we remain committed to principles based regulation and to an operation which in a fast moving field can maintain through the Executive the apparently contradictory features of flexibility and certainty. I continue to be very grateful, as I know are the other members of the Panel, to the Code Committee which under its new Chairman, Lindsay Tomlinson, is carrying forward so effectively the work of the Committee.

There is only one change to report amongst the independent members of the Hearings Committee. Sadly, Martin Taylor felt his duties elsewhere no longer permit him to continue as an alternate to the independent members, but I am delighted to report that Baroness Hogg has agreed to replace him.

The Panel is, of course, founded on the commitment of practitioners. This is true not only of those who serve on the Panel but also of those who are seconded to the Executive. Secondees blend into the team and the Executive works the hours that are necessary to provide a good service to the market. The professionalism of the Executive is outstanding. I would like to thank them, and particularly Mark Warham, for the work that they have put in during this busy year.

A handwritten signature in black ink that reads "Peter Scott." The signature is written in a cursive, slightly slanted style.

PETER SCOTT QC  
11 July 2007

## CODE COMMITTEE CHAIRMAN'S REPORT

In a year which began with the publication of major revisions to the Code and, in May 2006, the issue of a complete new edition, the Code Committee met four times, focussing on reviewing the application of the Code in specific areas and on planning for the future. It published four Response Statements (“RSs”) but, for the first time since the Committee was established in 2001, no new Public Consultation Papers (“PCPs”) were released. However, the Committee did approve a number of technical amendments that needed to be made to reflect the implementation of certain provisions of the Companies Act 2006 (the “Act”).

April saw the publication of four RSs which represented the culmination of the Committee’s work in the previous year. RS 2005/3 included the second tranche of Code amendments relating to dealings in derivatives and options. These concerned the consequences of dealing in derivatives and options by parties to an offer or their concert parties (the so-called “Control Issues”) and also the introduction of a new “Recognised Intermediary” status for certain trading desks. RS 2005/4 announced the abolition of the Rules Governing Substantial Acquisitions of Shares (the “SARs”), but the retention of tender offer rules in a new Appendix 5. RS 2005/5 set out all the Code changes required to implement the Takeovers Directive (Directive 2004/25/EC — the “Directive”). Finally, RS 2006/1 dealt with a number of miscellaneous amendments. All the amendments arising from these RSs were incorporated into a new edition of the Code which came into effect on 20 May 2006.

The issue to which the Code Committee gave priority for the remainder of the year was a review of the application of the Code to schemes of arrangement effected under section 425 of the Companies Act 1985. The use of schemes as a means of implementing a Code transaction has significantly increased in recent years and, while it is clear that the Code applies to such transactions, some problems of interpretation have arisen because the Code has not been drafted so as specifically to provide for them. Consequently, the Committee decided to undertake a full review of the Code, including an informal consultation exercise with practitioners, with a view to establishing what, if any, amendments might be made in order to clarify the position. Its proposals were published on 11 June 2007 in PCP 2007/1 and the Committee looks forward to receiving comments.

When the Code Committee published RS 2005/3 and its predecessor RS 2005/2, which dealt with disclosure issues relating to derivatives and options, it recognised that the consequent rule changes might have significant implications for market participants. The Committee therefore committed to undertaking a review of the operation of the new regime and publishing the conclusions. The review looked at the operation of the new derivatives and options regime in practice and a wide range of entities were invited to offer comments on its various aspects. On 29 June 2007, the Code Committee issued statement 2007/15,

which summarised the conclusions of its review. The Committee concluded that the new regime changes as a whole, and the new dealing disclosure rules in particular, had achieved their principal objectives, that they had done so without imposing undue burdens on market participants and, accordingly, that they were a proportionate regulatory response to the increasing use of derivatives during bids. The Committee concluded that at this stage no amendments to the new regime need to be made.

The Code Committee also stated in RS 2005/3 that consideration of the Control Issues relating to derivatives and options had led it to recognise that there might be an argument that a mandatory offer made under Rule 9.1 should not be subject to any acceptance condition, so that shareholders could be guaranteed an exit in order to enable them to benefit from any bid premium. It proposed to give this question further consideration in due course and duly did so, taking into account the responses to an informal consultation exercise which indicated support for the retention of the acceptance condition, and the Code Committee decided not to pursue this matter further.

When considering the responses to PCP 2005/4 on the abolition of the SARs, the Code Committee identified another issue which it wished to consider further. In RS 2005/4, it stated that it recognised that there was an argument that, consistent with the abolition of controls on purchases in the market below 30%, the Code should also cease to regulate in any way acquisitions of interests in shares below the 30% level. It therefore stated its intention of considering further whether the Panel should continue to regulate partial offers or tender offers which would result in a person's interests in shares remaining below 30%. After further consideration and consulting informally, the Code Committee concluded that the Panel should continue to regulate both tender and partial offers for holdings up to 30%.

The Code Committee has spent some time this year in looking at the way in which it carries out its rule-making function with a view to ensuring compliance with best practice. The Code Committee has now revised and updated its procedures to reflect this review. The procedures replace the Committee's original consultation procedures which were approved and published by the FSA pursuant to section 143 of the Financial Services and Markets Act 2000 (which was repealed with effect from 6 April 2007). The revised and updated procedures have now been published on the Panel's website.

6 April 2007 was a significant landmark for the Code Committee, as it was for the Panel as a whole, because on that day, with the implementation of Chapter 1 of Part 28 of the Act, the Code Committee's rule-making function was given a statutory basis. The implementation of relevant parts of the Act required a revision of the Introduction to the Code and some more technical amendments to certain Definitions and Rules. The Committee approved and published these amendments, as well as some other minor amendments, in March 2007, prior to their entry into force on 6 April. These amendments did not require public consultation.

Looking to the future, and in particular to the need to keep abreast of other changes introduced by the Act, the Code Committee has begun to consider the extent to which the Code should be amended to take account of the availability of electronic communication as a means of assisting with the dissemination of information and documentation. In the light of concerns expressed by practitioners, the Code Committee is also discussing with the Executive the operation of Rule 3.

It will be clear from this report that, although no PCPs were published this year, the Executive undertook a number of informal consultations in order to help the Code

Committee to determine whether there might be a case for making a rule change and if so, what form it should take. Such informal consultation is of great value to the Committee and I would like to express my thanks to all those who have contributed in this way.

At the end of my first year as Chairman, I would like to pay tribute to the Committee members for their continuing commitment to its work and their thoughtful and constructive contributions. In particular, I want to thank John Coombe, a member of the Committee since its establishment, who stood down on 6 July 2007. The Committee has benefitted greatly from his insight over the past six years. I would also like to thank the Director General and the Executive team for their excellent support, without which the Committee could not function effectively.



LINDSAY P TOMLINSON  
11 July 2007

## DIRECTOR GENERAL'S REPORT

The number of takeover proposals which became unconditional, were withdrawn or lapsed during the year was 144. This was a slight decrease on last year's figure of 151.

### TAKEOVERS DIRECTIVE

As previously reported, the Takeovers Directive was implemented in the UK on 20 May 2006, by the Takeovers Directive (Interim Implementation) Regulations. Pending the completion of the passage of the Companies Act 2006 through its Parliamentary process, those Regulations implemented the Directive on an interim basis and gave statutory effect to the Code in relation to transactions and rules subject to the requirements of the Directive. The Regulations ceased to have effect when the relevant provisions in the Companies Act 2006 came into force on 6 April 2007. Since then, the Panel's statutory powers have extended to all transactions to which the Code applies, other than those relating to Channel Islands or Isle of Man companies, to which the Code continues to apply as before.

As stated previously, the Executive expected that its day-to-day operations would be little changed by implementation of the Directive. I am pleased to report that to date this has proved to have been the case. The Executive continues to deal with day-to-day issues, including giving rulings, interpreting the Code and consulting with parties to an offer and their advisers, as it did before. Furthermore, the Executive has experienced very few, if any, difficulties of interpretation or judgement in relation to changes made to the Code to reflect the implementation of the Directive.

We are now in the process of establishing working relationships with our European counterparts so that we can exchange views on relevant issues and have taken part in the initial meetings of a network of all takeover regulators in the EU held by the Committee of European Securities Regulators ("CESR"). To date, the Executive has not been involved in supervision of a 'shared jurisdiction' transaction as envisaged by the Directive.

In short, the expectation that it would be 'business as usual' has, to date, been fulfilled.

### DEALINGS IN DERIVATIVES AND OPTIONS

As reported by the Code Committee Chairman, the Code was amended with effect from 7 November 2005 to require persons with an aggregate gross long interest of 1% or more, including interests held through derivatives and options, to disclose publicly relevant dealings during an offer period. This was a significant extension to the Panel's dealing disclosure requirements.

Prior to, and following, the introduction of this new regime, the Executive devoted considerable resources to ensuring that securities houses, hedge funds, lawyers and others

properly understood the way in which the new rules operate. Since their introduction, the Executive has given particular attention to market surveillance in relation to the new dealing disclosure rules and to the policing and enforcement of the new requirements. I am pleased to report that market participants have generally been both diligent and cooperative in complying with their disclosure obligations and the Executive is not aware of widespread material compliance failures. Nevertheless, we will remain vigilant in our monitoring and policing of this area and the Market Surveillance Unit will continue to be available to assist compliance officers and others in discharging dealing disclosure obligations by the relevant deadlines.

The Code was further amended with effect from 20 May 2006 to require long derivative and option interests to be taken into account in addition to shareholdings for the purposes of the mandatory offer obligation under Rule 9, the restrictions on acquisitions in the 30% to 50% band under Rule 5.1, and the offer price setting provisions of Rules 6, 9.5 and 11. Relatively few issues have arisen in relation to these changes.

### RECOGNISED INTERMEDIARY STATUS

As part of the amendments made to the Code on 20 May 2006, a new status, Recognised Intermediary status, was introduced for trading desks whose primary function is client-serving business, and not proprietary business. Desks which are granted Recognised Intermediary status enjoy relief under the mandatory offer rule in respect of interests in shares by virtue of long positions in derivatives and options acquired in a client-serving capacity. In addition, to the extent that the desk deals in relevant securities in a client-serving capacity, it is exempted from the Code's dealing disclosure requirements that apply to persons with interests in securities of 1% or more.

The Executive has granted Recognised Intermediary status to trading desks in 39 securities houses and has kept the dealings and positions of these trading desks under close scrutiny. Although on occasion the distinction between client-serving and proprietary business is difficult to draw, the Executive has not encountered any significant difficulties in the policing of the Recognised Intermediary regime.

### PRACTICE STATEMENTS

The Executive published two Practice Statements during the year. These Statements provide informal guidance as to how the Executive normally interprets and applies relevant provisions of the Code in certain circumstances. Accordingly, they do not form part of the Code and they are not binding on the Executive or the Panel. Importantly, reading them is not a substitute for consulting with the Executive to establish how the Code applies in a particular case.

The Statements published were:

Practice Statement 16 – Note 5 on the definition of acting in concert – standstill agreements

Practice Statement 17 – The Companies Act 2006

The text of these Statements is available on the Panel's website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk).

## ACCOUNTS

Income rose to £17,220,970 from £12,970,562, reflecting increased income from both PTM levy and document charges.

Expenditure fell to £9,429,943, compared with £9,942,017. As expected, following the implementation of the Takeovers Directive, the level of professional expenses was lower compared with the previous year.

A surplus of £8,167,045 was recorded this year, compared to a surplus of £3,239,868 in the previous year. The accumulated surplus has risen significantly and now represents almost two years' expenditure. The Finance Committee believes that, given the highly variable and unpredictable nature of the vast majority of the Panel's income and, to a lesser extent, costs, it is necessary to retain a substantial reserve. This is illustrated by the fact that five years ago the reserve was only £879,000, a little over a tenth of the then current annual expenditure. Nevertheless, the Finance Committee will keep under review, as it does every year, whether there is a case for rebating income from time to time if the reserve continues to grow.



MARK WARHAM  
11 July 2007

# THE TAKEOVER APPEAL BOARD

AS AT 11 JULY 2007

LORD STEYN	CHAIRMAN
SIR MARTIN NOURSE	DEPUTY CHAIRMAN
ERIC ANSTEE	NON-EXECUTIVE DIRECTOR, INSIGHT INVESTMENTS
KENNETH AYERS	FORMER CHAIRMAN, NATIONAL ASSOCIATION OF PENSION FUNDS (INVESTMENT COUNCIL)
CHRISTOPHER FRENCH	CHAIRMAN EUROPEAN INVESTMENT BANKING EUROPE, MIDDLE EAST AND AFRICA GOLDMAN SACHS
SIMON ROBEY	MANAGING DIRECTOR, CO-CHAIRMAN OF GLOBAL M&A AND HEAD OF MORGAN STANLEY UK
ROBERT TALBUT	CHIEF INVESTMENT OFFICER, ROYAL LONDON ASSET MANAGEMENT

The Takeover Appeal Board (the “Board”) is an independent body which hears appeals against rulings of the Hearings Committee. The Chairman and Deputy Chairman are appointed by the Master of the Rolls and will usually have held high judicial office. The other members are appointed by the Chairman or Deputy Chairman of the Board and will usually have relevant knowledge and experience of takeovers and the Takeover Code. No person who is or has been a member of the Code Committee of the Panel may simultaneously or subsequently be a member of the Board.

Any party to a hearing before the Hearings Committee (or any person denied permission to be a party to a hearing before the Hearings Committee) may appeal to the Board against any ruling of the Hearings Committee or of the chairman of the relevant hearing (including in respect of procedural directions).

The procedures of the Board are set out in its Rules which can be viewed on its website at [www.thetakeoverappealboard.org.uk](http://www.thetakeoverappealboard.org.uk).



ACCOUNTS FOR THE YEAR ENDED  
31 MARCH 2007

INCOME AND EXPENDITURE ACCOUNT  
FOR THE YEAR ENDED 31 MARCH 2007

	NOTE	2007	2006
		£	£
INCOME			
PTM levy	2	6,970,483	4,778,603
Document fees		9,668,500	7,674,500
City Code sales		256,220	291,137
Exempt income		304,994	224,922
Other income		20,773	1,400
		<u>17,220,970</u>	<u>12,970,562</u>
EXPENDITURE			
Personnel costs		6,888,767	6,029,715
Accommodation costs		840,348	899,224
Other expenditure	3	1,700,828	3,013,078
		<u>9,429,943</u>	<u>9,942,017</u>
SURPLUS BEFORE INTEREST AND TAXATION			
		7,791,027	3,028,545
Interest receivable		490,653	264,153
Taxation	4	(114,635)	(52,830)
		<u>8,167,045</u>	<u>3,239,868</u>
SURPLUS FOR THE YEAR			
		8,167,045	3,239,868
ACCUMULATED SURPLUS AT BEGINNING OF YEAR			
		8,891,889	5,652,021
ACCUMULATED SURPLUS AT END OF YEAR			
		<u><u>17,058,934</u></u>	<u><u>8,891,889</u></u>

All activities are regarded as being continuing.

The Takeover Panel has no recognised gains and losses other than the income and expenditure shown above and therefore no statement of total recognised gains and losses has been presented.

BALANCE SHEET  
AT 31 MARCH 2007

	NOTE	2007	2006
		£	£
FIXED ASSETS	5	5,309	—
CURRENT ASSETS			
Debtors and prepayments	6	3,671,065	2,251,997
Bank and cash		14,153,979	8,523,544
		<u>17,825,044</u>	<u>10,775,541</u>
CURRENT LIABILITIES			
Creditors and accruals	7	654,142	1,830,822
Corporation tax	4	117,277	52,830
		<u>771,419</u>	<u>1,883,652</u>
Net Assets		<u>17,058,934</u>	<u>8,891,889</u>
Representing:			
ACCUMULATED SURPLUS		<u>17,058,934</u>	<u>8,891,889</u>

The accounts on pages 18 to 22 were approved by the Takeover Panel on 11 July 2007 and signed on behalf of the Members by:

PETER SCOTT QC  
Chairman, Panel on Takeover and Mergers

ANTHONY BEEVOR  
Chairman, Finance Committee

CASH FLOW STATEMENT  
FOR THE YEAR ENDED 31 MARCH 2007

	NOTE	2007	2006
		£	£
Net cash inflow from operating activities	8	5,197,048	4,126,443
Returns on investments and servicing of finance			
Interest received		490,653	264,153
Net cash inflow from returns on investments and servicing of finance		490,653	264,153
Taxation			
UK corporation tax paid		(50,188)	(34,753)
Capital expenditure		(7,078)	—
Increase in cash	9	5,630,435	4,355,843

NOTES TO THE ACCOUNTS

1. BASIS OF PREPARATION OF ACCOUNTS, ACCOUNTING POLICIES AND ADOPTION OF NEW ACCOUNTING POLICIES

- (a) These accounts have been prepared under the historical cost basis of accounting.
- (b) Income comprises the PTM levy, Document fees, City Code sales, Exempt income and other income and is accounted for on an accruals basis.
- (c) Expenditure is accounted for on an accruals basis.
- (d) Interest receivable arises wholly in the UK and relates to interest receivable on deposits held and is recognised on an accruals basis.
- (e) The following accounting policy was adopted during this financial year: Fixed assets are capitalised and shown at historical cost net of accumulated depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items. Expenses in relation to repairs and maintenance are charged to the income statement during the financial periods in which they are incurred. Depreciation on fixed assets is calculated using the straight-line method to allocate their cost over the estimated useful lives, as follows:

Fixtures & Fittings — straight-line depreciation over 4 years

2. PTM LEVY

During the year ended 31 March 2007 the Panel received additional PTM levy income of approximately £1.2m in respect of trading prior to 31 March 2006 over and above the amount accrued in 31 March 2006 financial statements. Accordingly the financial statements for the year ended 31 March 2007 include PTM levy income of some £1.2m attributable to prior years.

NOTES TO THE ACCOUNTS *continued*

3. OTHER EXPENDITURE

Included in other expenditure in 2007 are the expenses of the Takeover Appeal Board. In 2006 these were included under personnel costs.

	2007	2006
	£	£
4. TAXATION		
UK corporation tax payable on interest income received:		
Current tax payable	117,277	52,830
Prior year adjustment	(2,642)	—
	<u>114,635</u>	<u>52,830</u>
Tax charge for the year	<u><u>114,635</u></u>	<u><u>52,830</u></u>

In agreement with HM Revenue & Customs, the Panel pays Corporation Tax only on the bank interest it receives. For the year to 2007, Corporation Tax was charged at the rate of 30% which after marginal relief resulted in an effective tax rate of 24%.

5. FIXED ASSETS

	Fixtures & Fittings £
Cost at 1 April 2006	—
Additions during the year	7,078
Depreciation for the year	(1,769)
	<u>5,309</u>
Net Book Value at 31 March 2007	<u><u>5,309</u></u>

6. DEBTORS AND PREPAYMENTS

	2007	2006
	£	£
PTM levy accrued income	1,931,405	940,064
Document fees	958,000	514,012
Other debtors and prepayments	311,746	797,921
	<u>3,201,151</u>	<u>2,251,997</u>

DEBTORS — AMOUNTS DUE AFTER ONE YEAR

Rent Deposit	469,914	469,914
	<u>3,671,065</u>	<u>2,251,997</u>

7. CREDITORS AND ACCRUALS

	2007	2006
	£	£
Personnel costs	322,802	1,311,050
Legal and professional fees	193,925	179,812
Provision for PTM levy repayable	—	318,000
Other creditors and accruals	137,415	21,960
	<u>654,142</u>	<u>1,830,822</u>
	<u><u>654,142</u></u>	<u><u>1,830,822</u></u>

NOTES TO THE ACCOUNTS *continued*

	2007	2006
8. NET CASHFLOW FROM OPERATING ACTIVITIES	£	£
Surplus before interest and taxation	7,791,027	3,028,545
Depreciation	1,769	—
Decrease/(Increase) in debtors and prepayments	(1,419,068)	81,320
Increase/(Decrease) in creditors	(1,176,680)	1,016,578
	<hr/>	<hr/>
Net cash inflow from operating activities	5,197,048	4,126,443
	<hr/> <hr/>	<hr/> <hr/>
9. RECONCILIATION OF NET CASHFLOW TO MOVEMENT IN NET FUNDS	£	£
Increase in cash in period	5,630,435	4,355,843
	<hr/>	<hr/>
Change in net funds	5,630,435	4,355,843
Net funds at 1 April 2006	8,523,544	4,167,701
	<hr/>	<hr/>
Net funds at 31 March 2007	14,153,979	8,523,544
	<hr/> <hr/>	<hr/> <hr/>

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF THE PANEL ON TAKEOVERS AND MERGERS

We have audited the non-statutory accounts of the Takeover Panel for the year ended 31 March 2007 which comprise the Income and Expenditure Account, the Balance Sheet and the related notes. These non-statutory accounts have been prepared in accordance with the accounting policies set out therein.

These non-statutory accounts were prepared solely for the purposes of management of the Panel's affairs, have not been prepared under section 226 of the Companies Act 1985 and are not statutory accounts.

RESPECTIVE RESPONSIBILITIES OF PANEL MEMBERS AND AUDITORS

The Panel Members' responsibilities for preparing the non-statutory accounts in accordance with the basis of preparation and accounting policies in Note 1 to the non-statutory accounts are set out in the Statement of Panel Members' Responsibilities.

Our responsibility is to audit the non-statutory accounts in accordance with International Standards on Auditing (UK and Ireland). This report, including the opinion, has been prepared for and only for the Panel Members' purposes in accordance with our engagement letter dated 18 June 2007 and for no other purpose. We do not, in giving this opinion, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come including without limitation under any contractual obligations of the Panel, save where expressly agreed by our prior consent in writing.

We report to you our opinion as to whether the non-statutory accounts are properly prepared, in all material respects, in accordance with the basis of preparation and accounting policies in Note 1 to the non-statutory accounts.

We read the other information contained in the 2006-2007 Report, and consider whether it is consistent with the audited non-statutory accounts. This other information comprises only Panel Members and Executive, Introduction to the Takeover Panel, Chairman's Statement, Code Committee Chairman's Report, Director General's Report, The Takeover Appeal Board, Statistics, Statements issued by the Panel, Statements issued by the Code Committee and Statements issued by the Takeover Appeal Board. The other information that is "read" is the content of the printed document containing the non-statutory accounts other than the non-statutory accounts themselves. The description of the information that has been read is tailored to reflect the terms used in the document containing the non-statutory accounts. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the non-statutory accounts. Our responsibilities do not extend to any other information.

BASIS OF AUDIT OPINION

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the non-statutory accounts. It also includes an assessment of the significant estimates and judgments made by the Panel Members in the preparation of the non-statutory accounts, and of whether the accounting policies are appropriate to the Panel's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the non-statutory accounts are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the non-statutory accounts.

OPINION

In our opinion the non-statutory accounts for the year ended 31 March 2007 have been properly prepared, in all material respects, in accordance with the basis of preparation and accounting policies in Note 1 to the non-statutory accounts.

PRICEWATERHOUSECOOPERS LLP

Chartered Accountants, London

11 July 2007

STATEMENT OF PANEL MEMBERS' RESPONSIBILITIES

The Panel Members have determined that accounts should be prepared for each financial year that present fairly the state of affairs of the Panel as at the end of the financial year and of its surplus or deficit for that period.

The Panel Members confirm that suitable accounting policies have been used and applied consistently and reasonable and prudent judgments and estimates have been made in the preparation of the accounts for the year ended 31 March 2007. The Panel Members also confirm that applicable accounting standards have been followed and that the accounts have been prepared on the going concern basis.

The Panel Members are responsible for keeping proper accounting records and for taking reasonable steps to safeguard the assets of the Panel and to prevent and to detect fraud and other irregularities.

## STATISTICS

There were no meetings of the Hearings Committee to review rulings made by the Executive.

There were 144 (year ended 31 March 2006 – 151) resolved takeover or merger proposals (i.e. proposals announced under Rule 2.5 which subsequently became wholly unconditional, lapsed, or were withdrawn) of which 143 (147) reached the stage where formal documents were sent to shareholders. These proposals were in respect of 140 (143) target companies.

13 offers were not recommended at the time of the Rule 2.5 announcement and 11 (17) of these were not recommended at the time the offer document was posted. 9 (11) of these remained unrecommended at the end of the offer period, of which 6 (6) lapsed.

5 (11) offers were, at the time of their announcement under Rule 2.5, mandatory bids under Rule 9.

A further 27 (17) proposals announced under Rule 2.5 were still open at 31 March 2007 and are not included in these figures.

	2006-2007	2005-2006
OUTCOME OF PROPOSALS		
Successful proposals involving control	127	123
Unsuccessful proposals involving control	12	14
Proposals involving control withdrawn before issue of documents	1	4
Proposals involving minorities, etc	4	10
	<u>144</u>	<u>151</u>
	<u><u>144</u></u>	<u><u>151</u></u>

There were 57 (56) offeree companies in an offer period as at 31 March 2007 and 230 (245) offeree companies went into an offer period during the year.

81 (90) whitewashes (i.e. documents seeking a waiver from existing shareholders of an obligation to make a mandatory offer under Rule 9 following an issue of new shares) were posted during the year.

39 (32) Code waivers (i.e. dispensations from the application of the Code to offers or proposals for companies with a very limited number of shareholders) were granted during the year.

The Executive issued 9 letters of private criticism during the year of which 1 related to a failure to consult, 6 related to the conduct of the parties involved and 2 were market related. The Executive issued 1 statement of public criticism (Statement 2007/6).



STATEMENTS ISSUED BY THE PANEL  
DURING THE YEAR  
ENDED 31 MARCH 2007

2006		
7 April	2006/06	MITCHELLS & BUTLERS PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 8 May 2006)</i>
20 April	2006/07	BABCOCK INTERNATIONAL GROUP PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 18 May 2006)</i>
21 April	2006/08*	RESPONSE STATEMENTS 2005/3, 2005/4, 2005/5 and 2006/1 <i>(Issue of Response Statements 2005/3, 2005/4, 2005/5 and 2006/1)</i>
22 May	2006/09	THE TAKEOVER CODE <i>(Release of the new edition of the Code)</i>
2 June	2006/10	BAA PLC <i>(Requirement for potential competing offeror to make Rule 2.5 announcement or announce no intention to bid by 9 June 2006)</i>
6 June	2006/11	BAA PLC <i>(Extension of Day 60 of the BAA offer period under Rule 31.6 and consequential amendments to Day 46 and Day 50)</i>
3 July	2006/12	ENODIS PLC <i>(Requirement for potential offerors to make a Rule 2.5 announcement or announce no intention to bid by 17 July 2006)</i>
13 July	2006/13	APPOINTMENT OF PANEL DEPUTY CHAIRMAN <i>(Panel appointment)</i>
13 July	2006/14	APPOINTMENT OF CODE COMMITTEE CHAIRMAN <i>(Panel appointment)</i>
17 July	2006/15	ENODIS PLC <i>(Extension of the requirement for potential offerors to make a Rule 2.5 announcement or announce no intention to bid from 17 July to 14 August 2006)</i>
19 July	2006/16	2006 ANNUAL REPORT <i>(Publication of Panel's 2006 Annual Report)</i>
27 July	2006/17	MATALAN PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 12 September 2006)</i>
22 August	2006/18	MATALAN PLC <i>(Extension of the requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid from 12 September to 11 October 2006)</i>
22 August	2006/19	PANEL EXECUTIVE PRACTICE STATEMENT <i>(Issue of Practice Statement No. 16)</i>
30 October	2006/20	NORD ANGLIA EDUCATION PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 29 November 2006)</i>
13 November	2006/21	ENODIS PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 11 December 2006)</i>

\* Joint statement by the Panel and the Code Committee.

THE TAKEOVER PANEL  
2006-2007 REPORT

2006

5 December	2006/22	CREST NICHOLSON PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 12 January 2007)</i>
12 December	2006/23	MONSTERMOB GROUP PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 8 January 2007)</i>
19 December	2006/24	CORUS GROUP PLC <i>(Final date for announcement of revised offers by Tata Steel UK Limited and CSN Acquisitions Limited is 30 January 2007)</i>

2007

12 January	2007/01	CREST NICHOLSON PLC <i>(Extension of the requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid from 12 January to 28 February 2007)</i>
19 January	2007/02	PANEL EXECUTIVE PRACTICE STATEMENT <i>(Issue of Practice Statement No. 17)</i>
26 January	2007/03	CORUS GROUP PLC <i>(Auction procedure introduced under Rule 32.5)</i>
31 January	2007/04	CORUS GROUP PLC <i>(Result of Corus auction)</i>
9 February	2007/05	SIRVIS IT PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 12 March 2007)</i>
12 February	2007/06	PLUSNET PLC <i>(Criticism of N M Rothschild &amp; Sons Limited)</i>
28 February	2007/07	CREST NICHOLSON PLC <i>(Extension of the requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid from 28 February to 7 March 2007)</i>
6 March	2007/08	SAINSBURY (J) PLC <i>(Requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid by 13 April 2007)</i>
7 March	2007/09*	CODE AMENDMENTS <i>(Code amendments to have effect on 6 April 2007 in relation to the Companies Act 2006 and the change of name of OFEX)</i>
7 March	2007/10	CREST NICHOLSON PLC <i>(Extension of the requirement for potential offeror to make Rule 2.5 announcement or announce no intention to bid from 7 March to 8 March 2007)</i>

\* Joint statement by the Panel and the Code Committee.

STATEMENTS ISSUED BY THE CODE  
COMMITTEE DURING THE YEAR  
ENDED 31 MARCH 2007

2006

21 April 2006/08\* RESPONSE STATEMENTS 2005/3, 2005/4, 2005/5 AND 2006/1  
(Issue of Response Statements 2005/3, 2005/4, 2005/5 and 2006/1)

2007

7 March 2007/09\* CODE AMENDMENTS  
(Code amendments to have effect on 6 April 2007 in relation to the Companies  
Act 2006 and the change of name of OFEX)

\*Joint statement by the Panel and the Code Committee

STATEMENTS ISSUED BY THE  
TAKEOVER APPEAL BOARD DURING  
THE YEAR ENDED 31 MARCH 2007

2006

13 July 2006/01 APPOINTMENT OF TAKEOVER APPEAL BOARD  
CHAIRMAN  
(Appeal Board appointment)