

THE TAKEOVER PANEL
REPORT AND ACCOUNTS FOR THE YEAR ENDED
31 MARCH 2017

THE TAKEOVER PANEL
2016-2017 REPORT

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INTRODUCTION TO THE TAKEOVER PANEL

The Panel is an independent body whose main functions are to issue and administer the City Code on Takeovers and Mergers (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 in an offeree company are treated fairly and are not denied an opportunity to decide on the merits of a takeover and that shareholders in the offeree company 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 offeree company and its shareholders. In addition, it is not the purpose of the Code either to facilitate or to impede takeovers. Nor is the Code concerned with wider questions of public interest, including competition policy, which are the responsibility of government and other bodies.

The Panel was established 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 as the supervisory authority to carry out certain regulatory functions in the UK 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 rules set out in the Code also have statutory effect in relation to the Isle of Man, Jersey and Guernsey by virtue of legislation enacted in those jurisdictions.

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 offeree company shareholders to decide the outcome of an offer.

The Panel seeks to avoid problems arising during takeovers and other relevant transactions by encouraging, and in some cases requiring, early consultation. In the event of a breach of a provision of the Code, the Panel focuses on providing an appropriate remedy in addition to taking appropriate disciplinary action. Such action may include private censure, public censure, the suspension, withdrawal or imposition of conditions on the terms of, any exemption, approval or other special status granted by the Panel, or reporting the offender’s conduct to another regulatory authority or professional body. The Panel can also implement “cold-shouldering” procedures such that persons authorised by the Financial Conduct Authority or certain other professional bodies will not be permitted to act for an individual in a transaction subject to the Code for a specified period.

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 other members are appointed by the Panel. In addition, 12 members are appointed 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 as a member of either the Panel's Hearings Committee or its Code Committee. The Chairman, at least one Deputy Chairman, and the members appointed by the major financial and business institutions are designated as members of the Hearings Committee. Of the possible 20 other 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. 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 quorum for proceedings before the Hearings Committee is five members.

Any party to a hearing before the Hearings Committee (or any person denied permission to be a party to a hearing) may appeal to the Takeover Appeal Board against any ruling of the Hearings Committee. The Rules of the Takeover Appeal Board are available on its website at www.thetakeoverappealboard.org.uk.

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, making and issuing amendments to the Code save for certain matters that are reserved to the Panel itself. The Code Committee is also responsible, in consultation with the Hearings Committee, for proposing, consulting on and adopting the Rules of Procedure of the Hearings Committee.

THE EXECUTIVE

The Panel has delegated the day-to-day work of takeover supervision and regulation to the Panel Executive (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. A major part of the Executive's role is to provide guidance.

The Executive is headed by the Director General, usually an investment banker on secondment. The majority of the Executive's staff are permanent, providing an essential element of continuity. They are joined by lawyers, accountants, corporate brokers, investment bankers and others on two year secondments.

Further information on the Panel is available on its website at www.thetakeoverpanel.org.uk.

PANEL MEMBERS

AS AT 12 JULY 2017

CHAIRMAN AND DEPUTY CHAIRMEN

	MICHAEL CRANE QC	CHAIRMAN Appointed by the Panel		
DAVID CHALLEN	DEPUTY CHAIRMAN Appointed by the Panel		PHILIP REMNANT	DEPUTY CHAIRMAN Appointed by the Panel

Each member of the Panel is designated to act as a member of either the Hearings Committee or the Code Committee.

HEARINGS COMMITTEE

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

DAME ALISON CARNWATH CHAIRMAN, LAND SECURITIES	Appointed by the Panel	PETER ARTHUR CHAIRMAN, ASSOCIATION OF INVESTMENT COMPANIES	Appointed by the Association of Investment Companies
STUART CHAMBERS CHAIRMAN DESIGNATE, ANGLO AMERICAN	Appointed by the Panel	ALAN PORTER GROUP GENERAL COUNSEL AND COMPANY SECRETARY, PRUDENTIAL	Appointed by the Confederation of British Industry
BARONESS HOGG LEAD INDEPENDENT DIRECTOR, HM TREASURY	Appointed by the Panel	NICHOLAS PARKER PRESIDENT, INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES	Appointed by the Institute of Chartered Accountants in England and Wales
LORD MORRIS OF HANDSWORTH	Appointed by the Panel	PETER HARRISON CHAIRMAN, THE INVESTMENT ASSOCIATION	Appointed by the Investment Association
CHRIS SAUL FORMER SENIOR PARTNER, SLAUGHTER AND MAY	Appointed by the Panel	MARTIN MANNION HEAD OF TRUSTEE SERVICES, JOHN LEWIS PARTNERSHIP PENSIONS TRUST	Appointed by the Pensions and Lifetime Savings Association
MARK WARHAM EXECUTIVE VICE CHAIRMAN, ROTHSCHILD	Appointed by the Association for Financial Markets in Europe	TIM INGRAM CHAIRMAN, PERSONAL INVESTMENT MANAGEMENT AND FINANCIAL ADVICE ASSOCIATION	Appointed by the Personal Investment Management and Financial Advice Association
CHARLES WILKINSON CHAIRMAN, UK CORPORATE BROKING, DEUTSCHE BANK	Appointed by the Corporate Finance Committee of the Association for Financial Markets in Europe	TIM WARD CEO, QUOTED COMPANIES ALLIANCE	Appointed by the Quoted Companies Alliance
MARK ASTAIRE CHAIRMAN, BARCLAYS COPRORATE BROKING	Appointed by the Securities Trading Committee of the Association for Financial Markets in Europe	ROBERT WIGLEY CHAIR, UK FINANCE	Appointed by UK Finance
ANDY BRIGGS CHAIRMAN, ASSOCIATION OF BRITISH INSURERS	Appointed by the Association of British Insurers		

Sir Brian Stewart has been appointed by the Panel to serve as an alternate for Dame Alison Carnwath, Stuart Chambers and Baroness Hogg. Lord Monks has been appointed by the Panel to serve as an alternate for Lord Morris. Alternates for those members appointed by the major financial and business institutions are listed on the Panel's website.

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CODE COMMITTEE

The membership of the Code Committee is as follows:

	GUY ELLIOTT NON-EXECUTIVE DIRECTOR, ROYAL DUTCH SHELL	CHAIRMAN Appointed by the Panel	
JAMES AGNEW SENIOR DIRECTOR, KPMG	Appointed by the Panel	ROBERT HINGLEY PARTNER, ONDRA PARTNERS	Appointed by the Panel
PHILIP BROADLEY NON-EXECUTIVE DIRECTOR, LEGAL & GENERAL GROUP	Appointed by the Panel	JAMES LAING DEPUTY HEAD OF UK & EUROPEAN EQUITIES, ABERDEEN ASSET MANAGEMENT	Appointed by the Panel
RICHARD GODDEN PARTNER, LINKLATERS	Appointed by the Panel	RICHARD MURLEY EXECUTIVE VICE CHAIRMAN, ROTHSCHILD	Appointed by the Panel
MICHAEL HERZOG CO-CEO, PARTNER, DAVIDSON KEMPNER EUROPEAN PARTNERS	Appointed by the Panel	TRELAWNY WILLIAMS HEAD OF CORPORATE FINANCE, FIDELITY INTERNATIONAL	Appointed by the Panel

CHAIRMAN'S STATEMENT

The year to March 2017 saw a reduction in the level of public M&A, particularly in the first half of the year.

During the year, as noted also in the report of the Chairman of the Code Committee, considerable preliminary work has been undertaken to understand the extent to which amendments will need to be made to Chapter 1 of Part 28 of the Companies Act 2006 and their consequent impact upon the Code as a result of Brexit. Whilst there is much that remains to be clarified about the shape and form that Brexit will take, I am confident that the Panel is well prepared and that the impact of Brexit on the Code will be relatively modest.

The Executive has continued to be an active participant in the Takeover Bids Network of the supervisory authorities in the EEA Member States, a useful forum for the exchange of views and experiences in takeover regulation.

This year has seen the retirement of three distinguished members of the Panel.

Sir Ian Robinson has retired after 15 years as a member of the Panel and, since its inception in 2006, a member of the Hearings Committee. During that time he sat on seven hearings, including significant cases such as the *Canary Wharf Group*. I am most grateful for Ian's judgment, rigour and attention to detail and we wish him all the best in retirement.

This year the Code Committee also bade farewell to Jonathan Bloomer and Alistair Defriez. Having served on the Executive as a seconded Assistant Secretary in the 1980s, Jonathan Bloomer went on to have a distinguished career in the financial services industry. He served on the Code Committee for five years. Alistair Defriez was an investment banker and served as Director General of the Panel for three years from 1996-9 at a time of intense activity. He joined the Code Committee in 2008. We are greatly indebted to Jonathan and Alistair for their wise and considered input to the deliberations of the Code Committee.

In April, Robert Hingley joined the Panel as a member of the Code Committee. Robert was Director General of the Panel from 2008-10 and is a partner at Ondra Partners. The Panel is fortunate to have acquired the benefit of Robert's experience and expertise.

I am delighted that Crispin Wright, the current Director General, has accepted the invitation of the Panel to extend his secondment from Rothschild until 30 June 2018.

MICHAEL CRANE QC

12 July 2017

CODE COMMITTEE CHAIRMAN'S REPORT

During the year ended 12 July 2017, the Code Committee met twice and published one Public Consultation Paper ("PCP"), one Response Statement ("RS") and six rule-making Instruments.

On 14 July 2016, the Committee published RS 2016/1 following the consultation on PCP 2016/1 ("The communication and distribution of information during an offer"). The PCP had proposed amendments to the Code with regard to various matters, including:

- equality of information to shareholders;
- meetings and telephone calls with shareholders and others;
- videos, social media and websites; and
- advertisements and telephone campaigns.

Having considered the responses to the consultation, the Committee adopted the amendments proposed in PCP 2016/1, subject to certain modifications. The amendments to the Code were formally made by Instrument 2016/5 on 29 July (which superseded Instrument 2016/1 dated 14 July) and came into effect on 12 September. The Committee is grateful to respondents for their input into the consultation.

On 14 July 2016, the Committee made Instrument 2016/2, which adopted revised Rules of Procedure of the Hearings Committee, and Instrument 2016/3, which adopted amendments to the Introduction to the Code. These amendments, which came into effect on 12 September, did not materially alter the Rules of Procedure of the Hearings Committee or the Introduction to the Code and were therefore made without consultation.

During the year, the Committee and the Executive undertook a considerable amount of preparatory work on the implications for the Code of the UK exiting the EU (assuming that the EU Takeovers Directive will cease to apply in the UK following Brexit). The Committee's initial view is that there are relatively few areas of the Code in which amendments would need to be made upon the UK exiting the EU. A key area which the Committee will need to address will be the Directive's "shared jurisdiction" regime, whereby the regulation of an offer for a company which has its registered office in one Member State and whose securities are admitted to trading on a regulated market in another Member State (and not on a regulated market in its home state) is currently shared between the supervisory authorities of those two Member States.

On 12 April 2017, the Committee and the Panel jointly made Instrument 2017/1. This principally set out amendments to the Introduction to the Code following the adoption by the Takeover Appeal Board of revised Rules of the Board. On the same date, the Committee made Instrument 2017/2, which set out certain minor amendments to the Code. The amendments in Instruments 2017/1 and 2017/2, which came into effect on 2 May, were either made as a consequence of changes to legislation or did not materially alter the effect of the provisions in question and were therefore made without consultation.

On 12 July 2017, the Committee published PCP 2017/1 (“Asset sales in competition with an offer and other matters”). The PCP included proposals with regard to:

- preventing an offeror from circumventing certain provisions of the Code by purchasing the offeree company’s assets following its offer lapsing;
- the requirements applicable to asset sales and other transactions subject to the restrictions on frustrating action in Rule 21.1;
- where, in competition with an offer, the board of an offeree company proposes to sell all or substantially all of the company’s assets and return the company’s cash balances to shareholders;
- circumstances in which a statement of no intention to make an offer may be set aside;
- the use of social media during an offer; and
- when a dispensation may be available from the requirement to make a mandatory offer.

The consultation period in relation to PCP 2017/1 will run until 22 September 2017.

In April 2017, Jonathan Bloomer and Alistair Defriez retired from the Committee. The Committee is very grateful to them for their services to the Committee. In May 2017, the Committee welcomed Robert Hingley as a new member.

GUY ELLIOTT
12 July 2017

HEARINGS COMMITTEE CHAIRMAN'S REPORT

Since the publication of the Panel's previous report and accounts, the Hearings Committee has met on two occasions, in November 2016 in relation to Rangers International Football Club plc, and in December 2016 in relation to the cold-shouldering of Mr Arthur Leonard Robert Morton and Mr John Benjamin Garner in the context of their conduct in relation to Hubco Investments plc. In the *Rangers* case, the ruling of the Hearings Committee was appealed to the Takeover Appeal Board, which upheld the Hearings Committee's ruling. The statements published by the Hearings Committee in these cases are available on the Panel's website at www.thetakeoverpanel.org.uk and the statement published by the Takeover Appeal Board in the *Rangers* case is available on the Takeover Appeal Board's website at www.thetakeoverappealboard.org.uk.

In the *Rangers* case, the Hearings Committee upheld the Executive's ruling that Mr David Cunningham King was acting in concert with Messrs George Letham, George Taylor and Douglas Park at the time that he instructed Cantor Fitzgerald to purchase 14.57% of the issued share capital of Rangers through New Oasis Asset Management Limited, a company wholly owned by Sovereign Trust International Limited, the trustee of trusts settled by Mr King on behalf of himself and his family. On the basis that this purchase resulted in Mr King and persons acting in concert with him holding an aggregate of 34.05% of Rangers' issued share capital, the Hearings Committee agreed with the Executive that Mr King thereby triggered an obligation to make a mandatory offer for the Rangers shares not held by him or persons acting in concert with him at a price of 20 pence per share in accordance with the requirements of Rule 9 of the Code. In April 2017 the Panel initiated proceedings in the Court of Session, Edinburgh seeking an order requiring Mr King to comply with the rulings, which matter remains outstanding before the Court at the date of this report.

In the case of *Hubco*, the Hearings Committee upheld the Executive's recommendation that the Panel should publish a Panel Statement cold-shouldering Mr Morton and Mr Garner for their respective breaches of the requirement in section 9(a) of the Introduction to the Code that any person dealing with the Panel must take care not to provide incorrect, incomplete or misleading information to the Panel. These breaches were particularly serious and involved collaboration between Mr Morton and Mr Garner in providing to the Executive a dishonestly back-dated promissory note which purported to acknowledge a fictitious transaction between them. In the case of Mr Morton, the Hearings Committee concluded that the cold-shouldering should be effective for a period of six years in view of the fact that, among other matters, Mr Morton had been disciplined by the Executive on three previous occasions for breaches of the Code; in the case of Mr Garner, the Hearings Committee concluded that the cold-shouldering should be effective for a period of two years.

MICHAEL CRANE QC
12 July 2017

FINANCE, AUDIT AND RISK COMMITTEE

DAVID CHALLEN CHAIRMAN
PHILIP BROADLEY
PHILIP REMNANT
CHARLES WILKINSON

The Finance, Audit and Risk Committee reviews the financial statements of the Panel and recommends them for adoption by the Panel; monitors internal controls and the external audit process; reviews the Panel's exposure to financial, operational and reputational risks and the strategy for mitigation; reviews income and expenditure and the management of the Panel's reserves; and reviews and recommends the annual budget for adoption by the Panel. The Committee gives regular reports to the Panel.

The Finance, Audit and Risk Committee met three times during the course of the year. It considered reforecasts of the Panel's expected results for the 2016-17 year, the full year results and audit for 2016-17 and the budget for 2017-18. It also reviewed the Panel's risk register and the Panel's deposit profile.

In April 2017 Jonathan Bloomer retired from the Committee. The Committee is very grateful to him for his services to the Committee.

DAVID CHALLEN
12 July 2017

NOMINATION COMMITTEE

MICHAEL CRANE QC CHAIRMAN

DAVID CHALLEN

STUART CHAMBERS

GUY ELLIOTT

JOANNA PLACE
ACTING CHIEF OPERATING OFFICER,
BANK OF ENGLAND

PHILIP REMNANT

MARK WARHAM

The Nomination Committee monitors the size, composition and balance of the Panel. In particular, it makes recommendations to the Panel in relation to the appointment (and any renewal of appointment) of the Chairman and Deputy Chairmen and of other Panel members (and their alternates) but not those members appointed by the major financial and business institutions. It also makes recommendations to the Panel in relation to the appointment of the Director General.

During the course of the year, the Committee met twice and considered and recommended to the Panel the appointment of one new member of the Panel, the renewal of the appointments of a further three members of the Panel whose terms of appointment were due to expire and the extension of the appointment of the Director General.

At the end of the year Charlotte Hogg retired as the Bank of England's nominee on the Committee and was replaced by Joanna Place. We are grateful to Charlotte for her services to the Committee.

MICHAEL CRANE QC
12 July 2017

REMUNERATION COMMITTEE

JAMES AGNEW CHAIRMAN

DAME ALISON CARNWATH

DAVID CHALLEN

PHILIP REMNANT

TRELAWNY WILLIAMS

The Remuneration Committee applies a formal and transparent procedure for determining the salary or fees payable to, and policy on reimbursement of expenses of, members of the Panel. In particular, it considers and determines the remuneration of the Chairman, Deputy Chairmen and the members of the Panel who are appointed by the Panel and designated as members of the Hearings Committee, and of the Director General and Deputy Directors General.

The Committee met once during the year and discussed the remuneration of the new Chairman, increases to the remuneration of eligible Panel members, the circumstances in which expenses will be paid to them, the remuneration of the Director General in the context of his extension and the remuneration of the Deputy Directors General.

JAMES AGNEW
12 July 2017

PANEL EXECUTIVE

AS AT 12 JULY 2017

*CRISPIN WRIGHT ROTHSCHILD	DIRECTOR GENERAL
CHARLES CRAWSHAY	DEPUTY DIRECTOR GENERAL
CHRISTOPHER JILLINGS	DEPUTY DIRECTOR GENERAL
ANTHONY PULLINGER	DEPUTY DIRECTOR GENERAL
JEREMY EVANS	ASSISTANT DIRECTOR GENERAL

CASE OFFICERS

*SIMON WOOD ADDLESHAW GODDARD	SECRETARY
DIPIKA SHAH	SENIOR ASSISTANT SECRETARY
*GEORGE FRY NUMIS	ASSISTANT SECRETARY
*AMY GRAMMER TRAVERS SMITH	ASSISTANT SECRETARY
*CONOR HOURICAN MORGAN STANLEY	ASSISTANT SECRETARY
MARK HUTT	ASSISTANT SECRETARY
* CRAIG KELLY SKADDEN, ARPS, SLATE, MEAGHER & FLOM	ASSISTANT SECRETARY

POLICY AND REVISION

JOHN DOVEY SECRETARY,
HEAD OF POLICY AND REVISION

JUSTINE USHER

MARKET SURVEILLANCE

ROSALIND GRAY HEAD OF MARKET SURVEILLANCE

CRAIG ANDREWS DEPUTY HEAD

CLIVE DAVIDSON

EMILY DENNY

REBECCA MEESON-FRIZELLE

MATTHEW PLASTINA

ADMINISTRATION AND SUPPORT

ALEX TETLEY	CHIEF OPERATING OFFICER
SASHA HILL	HEAD OF SUPPORT GROUP

EXEMPT GROUPS

SUSAN POWELL	HEAD OF EXEMPT GROUPS
KEITH OFFORD	

* SECONDED

DIRECTOR GENERAL'S REPORT

OVERVIEW OF ACTIVITY

2016-17 saw a lower level of public M&A activity than in the previous year. The number of firm takeover offers which were announced during the year was 52 (61 in 2015-16), and the number of offers which became unconditional in all respects, or the scheme became effective, or lapsed or were withdrawn during the year was 58 (60 in 2015-16). There were 5 firm offers of over £1 billion in value announced in 2016-17, compared to 12 in 2015-16.

As well as regulating firm offers, the Executive undertakes a substantial volume of work in respect of possible offers, whitewashes, concert party queries, re-registrations and other general enquiries relating to the application of the Code, much of which does not become public. In addition, a significant amount of resource is focused on investigating potential breaches of the Code and, in particular, the alleged existence of undisclosed concert parties. Such investigatory work, and any subsequent disciplinary action, is forensic in nature and time-consuming. Accordingly, since headcount remains at a low level, the Executive continues to be busy and I am grateful to all its members for their hard work and professionalism during the year.

During the year, the Executive issued one letter of private censure and 17 educational/warning letters.

POST-OFFER UNDERTAKINGS

In July 2016, SoftBank Group Corp. made five post-offer undertakings in respect of its offer for ARM Holdings plc and in September 2016, following completion of the offer, ARM made similar undertakings. These were the first post-offer undertakings made since the introduction of what is now Rule 19.5 in 2015. Post-offer undertakings are important commitments which attract considerable public scrutiny. Parties to an offer and their advisers who are considering making post-offer undertakings are required to consult the Panel in advance. Ensuring that such undertakings comply in full with Rule 19.5 is a detailed and extensive exercise and accordingly those considering making them should allow plenty of time in their timetables for their preparation.

OFFEROR SHARE BUYING

2016-17 was notable for several bids, often where multiple offerors were competing for the same company, where share buying by one or more offerors was an important contributor to the outcome. There are extensive rules in the Code relating to share buying by offerors and persons acting in concert with them, whose operation can be quite complex. Offerors who are considering buying shares and their advisers are strongly encouraged to consult the Executive before doing so.

PRACTICE STATEMENTS NOS 20 AND 31

In April, the Executive published revisions to Practice Statement No 20 (Rule 2 – secrecy, possible offer announcements and pre-announcement responsibilities). These were designed to make clear that:

- (a) the obligation to consult the Executive prior to more than a total of six parties being approached about an offer or possible offer applies equally to subsequent potential offerors in an offer period as it does to potential offerors before an offer period; and
- (b) if a shareholder is approached before an offer period begins and the meeting relates to a possible offer (or would not be taking place but for the possible offer), the meeting will need to be attended by a financial adviser or corporate broker and such financial adviser or corporate broker must provide a letter to the Panel as specified by Rule 20.2(c) or Note 1 on Rule 20.2 (as applicable) by not later than 12 noon the following business day unless:
 - (i) no representative of, or adviser to, the offeror or the offeree company was present other than the financial adviser or corporate broker; and
 - (ii) no material new information or significant new opinions were provided during the meeting.

In July, the Executive published Practice Statement No 31. This describes the way in which the Executive normally interprets and applies certain aspects of Rule 2 (Secrecy before announcements; the timing and contents of announcements), Rule 21.2 (Inducement fees and other offer-related arrangements) and Rule 21.3 (Equality of information to competing offerors) in circumstances in which a company wishes:

- (a) to make an announcement that it is conducting a strategic review of its business, which in certain cases may include an offer for the company as a possible outcome;
- (b) to conduct a “formal sale process” and benefit from the dispensations referred to in Note 2 on Rule 2.6 and Note 2 on Rule 21.2; or
- (c) otherwise to seek one or more potential offerors.

Practice Statement No 31 incorporated the relevant content from Practice Statement No 3 and Practice Statement No 6, which were accordingly withdrawn.

CHECKLISTS

In December, the Executive published on the Panel’s website new checklists and supplementary forms to be completed and submitted to the Executive by the financial adviser to an offeror or an offeree company (as appropriate) when publishing a firm offer announcement and the final form of certain documents to be sent to shareholders in the offeree company. The checklists are intended to benefit parties to offers, their advisers and the Executive when assessing the compliance of announcements and documents with the applicable provisions of the Code. From the Executive’s point of view, the implementation of the new system has been a success and I am grateful to financial advisers for their cooperation.

The checklists will continue to be updated from time-to-time and advisers should ensure that they have the most recent version by downloading the relevant checklist and any supplementary forms on each occasion.

ACCOUNTS

The Panel's income in 2016-17 was £12,874,432 compared with £13,723,111 in 2015-16, a decrease of 6.2%. This decrease was largely driven by lower document charge income, which was £4,437,000 in 2016-17 compared with £5,929,000 in the previous year. This decrease reflected a reduction both in the number and size of offers announced in the year. The PTM levy was £7,683,404 in 2016-17, a 9.7% increase on £7,005,190 in the previous year.

Expenditure in 2016-17 was £12,245,358 compared with £11,780,069 in 2015-16, an increase of 3.9%. This was largely driven by an increase in legal and professional costs, which may vary considerably from year to year and which, in 2016-17, were increased by the cost of legal advice associated with hearings before the Hearings Committee and the Takeover Appeal Board. Excluding legal and professional costs, all other expenditure increased by 0.2% in aggregate.

Before interest receivable and taxation, the Panel generated a surplus of £629,074 in 2016-17 compared with a surplus of £1,943,042 in 2015-16. Interest receivable increased to £332,313 compared with £299,455 in the previous year.

After interest receivable and taxation, the surplus for the year was £894,925 compared with a surplus of £2,182,606 in the previous year.

The Panel's cash position has increased by £1,553,145 with the excess over the surplus for the year being mostly due to the reduction in working capital of £645,795. This was primarily due to a reduction in the rent prepayment due to the timing of receipt of the quarterly rent invoice and an increase in accruals due to outstanding legal and professional invoices.

The accumulated surplus as at 31 March 2017 was £28,509,207. When considering the Panel's levels of charges and costs, the Finance, Audit and Risk Committee's objective is to maintain reserves, across the cycle, broadly of the order of two years' expenditure. The Committee will keep this under review.

CRISPIN WRIGHT
12 July 2017

STATISTICS

The following sets out some of the key statistics relating to transactions regulated by the Panel in the year ended 31 March 2017. In each case, the equivalent statistics are provided for the year ended 31 March 2016 for comparative purposes.

OFFER PERIODS COMMENCING DURING THE YEAR

During the year ended 31 March 2017, an offer period commenced in respect of 69 offeree companies (year ended 31 March 2016 – 74). Of these offer periods:

- 30 (28) commenced with the announcement of a firm offer by an offeror;
- 24 (35) commenced with the announcement of a possible offer, of which 20 (33) identified one potential offeror, 4 (1) identified more than one potential offeror, and 0 (1) did not identify a potential offeror;
- 13 (11) commenced with the announcement of a formal sale process (as described in Note 2 on Rule 2.6 of the Code);
- 1 (0) commenced because a person announced an offer to acquire shares that would result in it holding over 50% of the voting rights of a company that was interested in a controlling block of shares in a company to which the Code applied (an offer required under the “chain principle”); and
- 1 (0) commenced because the Takeover Appeal Board affirmed the ruling of the Hearings Committee that an offer was required to be announced pursuant to Rule 9 of the Code.

As at 31 March 2017, there were 22 (23) offeree companies in an offer period.

FIRM OFFERS ANNOUNCED DURING THE YEAR

During the year, 52 (61) firm offers were announced, of which 22 (24) were structured as a contractual offer and 30 (37) as a scheme of arrangement at the time of the firm offer announcement.

There were no (0) offers where the Panel shared jurisdiction with a supervisory authority of another EEA Member State.

OFFERS RESOLVED DURING THE YEAR

During the year, 58 (60) offers in respect of 51 (59) offeree companies became unconditional in all respects, or the scheme became effective, or lapsed or were withdrawn. Of these 58 (60) offers:

- 5 (7) were not recommended by the board of the offeree company at the time of the firm offer announcement;
- 4 (5) remained not recommended at the time that the offer document was published; and

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- 4 (2) remained not recommended at the end of the offer period. None (2) of these offers became unconditional as to acceptances and 4 (0) lapsed.

At the time of the firm offer announcement, 1 (2) offer was a mandatory offer under Rule 9.

A further 10 (16) offers remained unresolved as at 31 March 2017, and are not included in these figures.

	2016-2017	2015-2016
OUTCOME OF OFFERS		
Offers involving the acquisition of control which became unconditional in all respects or the scheme became effective	45	52
Offers involving the acquisition of control which lapsed	11	2
Offers involving the acquisition of control which were withdrawn before an offer document or scheme circular was published	1	0
Offers to minority shareholders etc.	1	6
	58	60
	58	60

During the year, the Executive granted 58 (59) “whitewash” dispensations (i.e. dispensations from the obligation to make a mandatory offer under Rule 9 following an issue of new shares) and 21 (16) “Code waivers” (i.e. dispensations from the application of the Code to offers or proposals in relation to companies with a very limited number of shareholders).

ACCOUNTS FOR THE YEAR ENDED
31 MARCH 2017

INCOME AND EXPENDITURE ACCOUNT
FOR THE YEAR ENDED 31 MARCH 2017

	NOTE	2017	2016
		£	£
INCOME			
PTM levy		7,683,404	7,005,190
Document charges		4,437,000	5,929,000
Code sales		100,028	108,921
Exempt charges		432,000	454,000
Recognised Intermediary charges		222,000	226,000
		<u>12,874,432</u>	<u>13,723,111</u>
EXPENDITURE			
Personnel costs		7,759,866	7,752,796
Legal and professional costs		2,297,317	1,856,277
Accommodation costs		1,284,236	1,294,237
Other expenditure		903,939	876,759
		<u>12,245,358</u>	<u>11,780,069</u>
SURPLUS BEFORE INTEREST AND TAXATION		629,074	1,943,042
Interest receivable		332,313	299,455
Taxation	2	(66,462)	(59,891)
SURPLUS FOR THE YEAR		<u>894,925</u>	<u>2,182,606</u>
ACCUMULATED SURPLUS AT BEGINNING OF YEAR		<u>27,614,282</u>	<u>25,431,676</u>
ACCUMULATED SURPLUS AT END OF YEAR		<u><u>28,509,207</u></u>	<u><u>27,614,282</u></u>

All activities are regarded as being continuing.

THE TAKEOVER PANEL
2016-2017 REPORT

BALANCE SHEET
AT 31 MARCH 2017

	NOTE	2017 £	2016 £
FIXED ASSETS	3	<u>3,096</u>	<u>15,521</u>
CURRENT ASSETS			
Debtors and prepayments	4	3,968,439	4,276,895
Debtors — Amounts due after one year:			
Rent deposit		<u>564,049</u>	<u>564,049</u>
		4,532,488	4,840,944
Cash and term deposits		<u>25,142,820</u>	<u>23,589,675</u>
		<u>29,675,308</u>	<u>28,430,619</u>
CURRENT LIABILITIES			
Creditors and accruals	5	1,102,735	771,967
Corporation tax		<u>66,462</u>	<u>59,891</u>
		<u>1,169,197</u>	<u>831,858</u>
NET ASSETS		<u>28,509,207</u>	<u>27,614,282</u>
Representing			
ACCUMULATED SURPLUS		<u>28,509,207</u>	<u>27,614,282</u>

The accounts on pages 22-27 were approved by the Finance, Audit and Risk Committee on 12 July 2017 and signed on behalf of the Panel members by:

MICHAEL CRANE QC

Chairman, Panel on Takeovers and Mergers

DAVID CHALLEN

Chairman, Finance, Audit and Risk Committee

The notes form part of these accounts.

CASH FLOW STATEMENT
FOR THE YEAR ENDED 31 MARCH 2017

	NOTE	2017	2016
		£	£
Surplus for the year		894,925	2,182,606
Interest		(332,313)	(299,455)
Taxation		66,462	59,891
Depreciation		13,876	23,850
Decrease/(Increase) in debtors and prepayments		247,462	(1,260,074)
Increase/(Decrease) in creditors		330,768	(479,095)
UK corporation tax paid		(59,891)	(55,407)
NET CASH INFLOW FROM OPERATING ACTIVITIES		1,161,289	172,316
CASH FLOWS FROM INVESTING ACTIVITIES			
Interest received		393,307	184,533
Capital expenditure		(1,451)	(1,581)
NET CASH INFLOW FROM INVESTING ACTIVITIES		391,856	182,952
INCREASE IN CASH	6	<u>1,553,145</u>	<u>355,268</u>

NOTES TO THE ACCOUNTS

1. BASIS OF PREPARATION OF ACCOUNTS AND ACCOUNTING POLICIES

- (a) The Panel on Takeovers and Mergers (the “Panel”) is an independent body, established in 1968, whose main functions are to issue and administer the City Code on Takeovers and Mergers (the “Code”) and to supervise and regulate takeovers and other matters to which the Code applies. The address of the Panel is 10 Paternoster Square, London, EC4M 7DY.

The functional currency of the Panel is considered to be pounds sterling because that is the currency of the primary economic environment in which the Panel operates.

- (b) The financial reporting framework that has been applied is applicable law and United Kingdom Accounting Standards, including Financial Reporting Standard FRS 102 – ‘The Financial Reporting Standard Applicable in the United Kingdom and the Republic of Ireland’ (FRS 102).
- (c) These accounts have been prepared under the historical cost basis of accounting.
- (d) Income comprises the PTM levy, Document charges, Code sales, Exempt charges, Recognised Intermediary charges and Other income and is accounted for on an accruals basis. The PTM levy is accrued based on quarterly returns from member firms. Document charges are charged at 50% of the relevant charge on an announcement of a firm offer and 50% on publication of an offer document and become payable at that point or on the lapse of the offer before publication. Income from Document charges is recognised in full on an announcement unless, at a period end, it is probable that no offer document will be published.
- (e) Expenditure is accounted for on an accruals basis.
- (f) Interest receivable arises wholly in the UK and relates to interest receivable on deposits held and is recognised on an accruals basis.
- (g) Cash at bank and term deposits comprises cash and deposit amounts up to 24 months maturity. This is considered to represent cash and cash equivalents.
- (h) Fixed assets are shown at historical cost net of accumulated depreciation. Historical cost includes expenditure that is directly attributable to the acquisition of the items. Repairs and maintenance are charged to the income and expenditure account during the financial periods in which they are incurred.

A full year of depreciation is provided on fixed assets in the year of acquisition whilst no depreciation is provided in the year of disposal.

Depreciation is calculated to write down the cost of all tangible fixed assets on a straight-line basis over 4 years being their estimated useful economic lives.

- (i) Financial risk management

The main financial risk to the Panel is that its income is not sufficient to meet its expenditure. The principal sources of income are inherently uncertain and market dependent and the Panel mitigates this risk by ensuring it has sufficient accumulated funds to meet broadly of the order of two years’ expenditure.

- (j) Critical accounting judgments and key sources of estimation uncertainty

Whilst the Panel does have to estimate accrued income at each period end, these estimates are normally based upon actual cash flows which are received well ahead of finalisation of the financial statements. Where cash has not been received at that time the Panel considers the likelihood of the charge being payable.

	2017	2016
2. TAXATION	£	£
UK Corporation tax payable:		
Current tax payable	66,462	59,891
Tax charge for the year	<u>66,462</u>	<u>59,891</u>

In agreement with HM Revenue & Customs, the Panel pays Corporation tax on the bank deposit interest it receives and on any profit it makes on Code sales. For the year to 31 March 2017, Corporation tax was charged at the main rate of 20%.

THE TAKEOVER PANEL
2016-2017 REPORT

NOTES TO THE ACCOUNTS *continued*

	2017	2016
	Fixtures & Fittings	
	£	
3. TANGIBLE FIXED ASSETS		
Cost		
At 1 April 2016	440,928	
Additions	1,451	
At 31 March 2017	442,379	
Depreciation		
At 1 April 2016	425,407	
Provided during the year	13,876	
At 31 March 2017	439,283	
Net book value		
At 31 March 2017	3,096	
At 31 March 2016	<u>15,521</u>	
	2017	2016
	£	£
4. DEBTORS AND PREPAYMENTS		
PTM levy accrued	2,186,583	1,840,845
Document fees accrued	1,201,000	1,412,000
Code sales accrued	2,950	2,750
Exempt fees accrued	126,000	264,000
Recognised Intermediary fees accrued	84,000	96,000
Other debtors and prepayments	<u>367,906</u>	<u>661,300</u>
	<u>3,968,439</u>	<u>4,276,895</u>
	2017	2016
	£	£
5. CREDITORS AND ACCRUALS		
Personnel costs	439,399	373,068
Legal and professional fees	277,923	73,249
Other creditors and accruals	<u>385,413</u>	<u>325,650</u>
	<u>1,102,735</u>	<u>771,967</u>
	2017	2016
	£	£
6. RECONCILIATION OF NET CASHFLOW TO MOVEMENT IN NET FUNDS		
Increase in cash in period	<u>1,553,145</u>	<u>355,268</u>
Change in net funds	1,553,145	355,268
Net funds as at 1 April 2016	<u>23,589,675</u>	<u>23,234,407</u>
Net funds as at 31 March 2017	<u>25,142,820</u>	<u>23,589,675</u>

THE TAKEOVER PANEL
2016-2017 REPORT

NOTES TO THE ACCOUNTS *continued*

	2017	2016
7. FINANCIAL INSTRUMENTS	£	£
Financial assets measured at amortised cost	25,706,869	24,153,724
Financial liabilities measured at amortised cost	717,322	446,317
Total interest income for financial assets measured at amortised cost	332,313	299,455

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE TAKEOVER PANEL

We have audited the accounts of the Takeover Panel for the year ended 31 March 2017 which comprise the income and expenditure account, the balance sheet, the statement of cash flows and the related notes 1 to 7. These accounts have been prepared under the accounting policies set out therein.

This report is made solely to the Panel members, as a body. Our audit work has been undertaken so that we might state to the Panel members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Panel and the Panel members as a body, for our audit work, for this report, or for the opinions we have formed.

RESPECTIVE RESPONSIBILITIES OF PANEL MEMBERS AND AUDITOR

The Panel members' responsibilities for preparing the accounts in accordance with the basis of preparation and accounting policies in note 1 are set out in the Statement of Panel Members' Responsibilities.

Our responsibility is to audit the accounts in accordance with International Standards on Auditing (UK and Ireland).

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

In addition, we also report to you if, in our opinion, the Panel has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

We read other information contained in the Annual Report, and consider whether it is consistent with the audited accounts. The other information comprises only that contained in the sections entitled Introduction to the Takeover Panel, Panel Members, Chairman's Statement, Code Committee Chairman's Report, Hearings Committee Chairman's Report, Finance Audit and Risk Committee, Nomination Committee, Remuneration Committee, Panel Executive, Director General's Report, Statistics and Statements Issued by the Panel. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the 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 accounts. It also includes an assessment of the significant estimates and judgments made by the Panel members in the preparation of the 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 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 accounts.

OPINION

In our opinion, the accounts have been properly prepared in accordance with the basis of preparation and accounting policies in note 1 of the accounts.

GRANT THORNTON UK LLP
REGISTERED AUDITOR
CHARTERED ACCOUNTANTS

MILTON KEYNES
12 July 2017

STATEMENT OF PANEL MEMBERS' RESPONSIBILITIES

Pursuant to section 963 of the Companies Act 2006, the Panel has a duty to include accounts in its Annual Report. The Panel members have determined that these accounts should 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 2017. 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.

STATEMENTS ISSUED BY THE PANEL

2016

14 July	2016/5	THE COMMUNICATION AND DISTRIBUTION OF INFORMATION DURING AN OFFER <i>Publication of Response Statement 2016/1</i>
14 July	2016/6	NEW TERMS OF REFERENCE AND NEW PROCEDURES FOR THE HEARINGS COMMITTEE AND THE CODE COMMITTEE; AMENDMENTS TO THE INTRODUCTION TO THE TAKEOVER CODE <i>New Terms of Reference and Procedures</i>
20 July	2016/7	2016 ANNUAL REPORT <i>Publication of the Panel's Annual Report</i>
29 July	2016/8	AMENDMENTS TO PRACTICE STATEMENTS AND INSTRUMENT 2016/5 Withdrawal of Practice Statement No 1 and amendments to Practice Statements Nos 2, 3, 20, 22, 25, 29 and 30
14 December	2016/9	NEW CHECKLISTS <i>New checklists and supplementary forms to accompany final form offer announcements, offer documents, scheme circulars etc.</i>

2017

10 January	2017/1	HUBCO INVESTMENTS PLC <i>Decision by the Hearings Committee to cold-shoulder Mr Bob Morton and Mr John Garner</i>
19 January	2017/2	PANEL MEMBERSHIP <i>Appointment of new Panel Member</i>
17 February	2017/3	UNILEVER <i>Rule 8.3 disclosure procedures for Unilever and Kraft Heinz</i>
13 March	2017/4	RANGERS INTERNATIONAL FOOTBALL CLUB PLC <i>Hearings Committee dismissal of appeal by Mr King and requirement for Mr King to announce an offer pursuant to Rule 9 of the Takeover Code</i>