THE TAKEOVER PANEL

CODE COMMITTEE

Instrument 2009/6

Extending the Code's disclosure regime

Pursuant to sections 942, 943 and 944 of the Companies Act 2006, and in exercise of the functions conferred on it by the Panel in paragraph 2 of its Terms of Reference, the Code Committee hereby makes this instrument containing rules.

The Takeover Code is amended, with effect from 19 April 2010, in accordance with the Appendix to this instrument.

In the Appendix, underlining indicates new text and striking through indicates deleted text.

Made by Lindsay Tomlinson, Chairman, acting on behalf of the Code Committee

16 December 2009

APPENDIX

DEFINITIONS

Acting in concert

…

NOTES ON ACTING IN CONCERT

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10. Disclosure where presumption rebutted

Where it is accepted by the Panel that a person who would normally be presumed to be acting in concert with either an offeror or the offeree company should not in fact be considered in a particular case to be acting in concert with that party, the Panel may, where it considers it appropriate, require the person concerned to make private disclosures to the Panel (containing the details that would be required to be disclosed under Rule 8.4) of any dealings by it in any relevant securities of any party to the offer.

11. Indemnity and other dealing arrangements

(a) For the purpose of this Note, a dealing arrangement includes any indemnity or option arrangements, and any agreement or understanding, formal or informal, of whatever nature, relating to relevant securities which may be an inducement to deal or refrain from dealing.

(b) If any person is party to a dealing arrangement of the kind referred to in Note 11(a) with any offeror or any person acting in concert with any offeror, whether in respect of relevant securities of that offeror or the offeree company or any competing offeror, such person will be treated (during an offer period) as acting in concert with that offeror. If any person is party to a dealing arrangement of the kind referred to in Note 11(a) with an offeree company or any person acting in concert with an offeree company, such person will be treated (during an offer period) as acting in concert with the offeree company.

Such dealing arrangements must be disclosed as required by Note 9 on Rule 2.4, Rule 2.5(b)(v), Notes 5 and 6 on Rule 8, Rule 24.12 and Rule 25.5.

(c) Note 11(b) does not apply to irrevocable commitments or letters of intent, which are subject to Rule 2.11 and Note 5(a) on Rule 8.

(d) See also Rule 4.4.

~~**Associate**~~

~~*This definition has particular relevance to disclosure of dealings under Rule 8.*~~

~~It is not practicable to define associate in terms which would cover all the different relationships which may exist in an offer. The term associate is intended to cover all persons (whether or not acting in concert) who directly or indirectly are interested or deal in relevant securities of an offeror or the offeree company in an offer and who have an interest or potential interest, whether commercial, financial or personal, in the outcome of the offer.~~

~~Without prejudice to the generality of the foregoing, the term associate will normally include the following:—~~

~~(1) an offeror's or the offeree company's parent, subsidiaries and fellow subsidiaries, and their associated companies, and companies of which such companies are associated companies (for this purpose ownership or control of 20% or more of the equity share capital of a company is regarded as the test of associated company status);~~

~~(2) connected advisers and persons controlling#, controlled by or under the same control as such connected advisers;~~

~~(3) the directors (together with their close relatives and related trusts) of an offeror, the offeree company or any company covered in (1);~~

~~(4) the pension funds of an offeror, the offeree company or any company covered in (1);~~

~~(5) any investment company, unit trust or other person whose investments an associate manages on a discretionary basis, in respect of the relevant investment accounts;~~

~~(6) an employee benefit trust of an offeror, the offeree company or any company covered in (1); and~~

~~(7) a company having a material trading arrangement with an offeror or the offeree company.~~

…

Cash offeror

An offeror (or potential offeror) which has announced, or in respect of which the offeree company has announced, that its offer is, or is likely to be, solely in cash.

…

Connected adviser

Connected adviser normally includes only the following:

(1) in relation to the offeror or the offeree company:

(a) an organisation which is advising that party in relation to the offer; and

(b) a corporate broker to that party; and

(2) in relation to a person who is acting in concert with the offeror or the offeree company, an organisation which is advising that person either:

(a) in relation to the offer; or

(b) in relation to the matter which is the reason for that person being a member of the relevant concert party~~; and~~.

~~(3) in relation to a person who is an associate of the offeror or of the offeree company by virtue of paragraph (1) of the definition of associate, an organisation which is advising that person in relation to the offer.~~

…

Dates**, business day**s**, ~~and~~ period**s** of time and London time**

…

(2) … ;~~ and~~

(3) … ~~.~~; and

(4) all references to time are to the time in London.

Dealings

…

NOTES ON DEALINGS

1. Indemnity and other dealing arrangements

Dealing arrangements of the kind referred to in Note 11 on the definition of acting in concert in relation to relevant securities which are entered into during the offer period by any offeror, the offeree company or a person acting in concert with any offeror or the offeree company must be disclosed as required by Notes 5 and 6 on Rule 8, Rule 24.12 and Rule 25.5.

2. Securities borrowing and lending

Securities borrowing and lending transactions are not regarded as dealings. However, under Rule 4.6, if an offeror, the offeree company or any person acting in concert with an offeror or the offeree company enters into, or takes action to unwind, a securities borrowing or lending transaction (including any financial collateral arrangement of the kind referred to in Note 4 on Rule 4.6) in respect of relevant securities of an offeror (other than a cash offeror) or, with the Panel's consent, the offeree company, the transaction must be disclosed as if it were a dealing in relevant securities (see Note 5(l) on Rule 8).

…

Exempt fund manager

…

Exempt principal trader

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NOTES ON EXEMPT FUND MANAGER AND EXEMPT PRINCIPAL TRADER

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3. The effect of a principal trader or fund manager having exempt status is that presumption (5) of the definition of acting in concert will not apply. However, the principal trader or fund manager will still be regarded as connected with the offeror or offeree company, as appropriate. Connected exempt principal traders, but not connected exempt fund managers, must comply with Rule 38. Connected exempt principal traders and connected exempt fund managers must comply with the relevant provisions of Rule 8.

4. In appropriate cases, a fund manager based overseas may be granted special exempt status subject to its satisfying certain conditions. References in the Code to exempt fund managers (with the exception of those in Rule ~~8.1(b)~~8.6) include such special exempt fund managers, subject always to the conditions on which such special exempt status is granted in any particular case.

…

Interests in securities

…

NOTES ON INTERESTS IN SECURITIES

1. Gross interests

The number of securities in which a person is treated as having an interest is normally the gross number … Short positions should not normally be deducted.

However, i~~I~~f each of the following conditions is met, the Panel will normally allow offsetting positions to be netted off against each other:

…

Parties to the offer

The offeree company and any offeror or competing offeror whose identity has been publicly announced (including, in each case, any potential offeree company, offeror or competing offeror).

…

Recognised intermediary

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NOTES ON RECOGNISED INTERMEDIARY

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2. Recognised intermediary status is relevant only for the purposes of Note 16 on Rule 9.1, Note 1(c) on Rule 7.2, ~~and~~ Rule 8.3(~~d~~e) and Note 5(b) on Rule 8, in each case to the extent only that the recognised intermediary is acting in a client-serving capacity. As a result, subject to Note 3 below~~,~~ and to the extent only that it is acting in a client-serving capacity: (i) a recognised intermediary will not be treated, for the purposes of Rule 9.1, as interested in (or as having acquired an interest in) any securities by virtue only of paragraph (3) or paragraph (4) of the definition of interests in securities~~, nor will~~; (ii) any dealings by it in relevant securities during an offer period will not be required to be publicly disclosed under Rules 8.3(a) to ~~(c),~~(d); and (iii) dealing disclosures required to be made by it under Rule 8.5(c) will need to include the details specified in Note 5(b), rather than those specified in Note 5(a), on Rule 8. ~~in each case to the extent only that the recognised intermediary is acting in a client-serving capacity.~~

3. …

Where a recognised intermediary is, or forms part of, a person acting in concert with ~~an associate of~~ the offeree company, it will not benefit from the exception from disclosure afforded by Rule 8.3(e~~d~~) after the commencement of the offer period. Where a recognised intermediary is acting in concert with ~~an associate of~~ an offeror or potential offeror, it will not benefit from the exception from disclosure afforded by Rule 8.3(e~~d~~) after the identity of the

offeror or potential offeror ~~of~~ with which it is ~~an associate~~ acting in concert is publicly announced. After such time, disclosures should be made ~~dealings should be disclosed~~ under Rule 8.4~~8.1(a)~~ or, if the recognised intermediary is, or forms part of, an exempt principal trader whose exempt status has not fallen away, Rule 8.5~~8.5(a) or (b)~~.

…

4. Any dealings by a recognised intermediary which is not acting in a client-serving capacity will not benefit from the dispensations afforded by Note 16 on Rule 9.1, Note 1(c) on Rule 7.2 ~~and~~, Rule 8.3(e~~d~~) and Note 5(b) on Rule 8 with the result that all such dealings by it will be subject to the provisions of the Code as if those dispensations did not apply.

…

Rule 2.4

2.4 THE ANNOUNCEMENT OF A POSSIBLE OFFER

…

NOTES ON RULE 2.4

…

9. Indemnity and other dealing arrangements

Where the offeree company, an offeror or any person acting in concert with the offeree company or an offeror enters into any dealing arrangement of the kind referred to in Note 11 on the definition of acting in concert before the start of the offer period or the announcement that first identifies the offeror, details of the arrangement must be included in the relevant announcement as required by Notes 6(b) and (c) on Rule 8.

Where a dealing arrangement of the kind referred to above is entered into during the offer period, see Note 6(a) on Rule 8.

Rule 2.5

2.5 THE ANNOUNCEMENT OF A FIRM INTENTION TO MAKE AN OFFER

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(b) When a firm intention to make an offer is announced, the announcement must state:—

…

~~**(iii) details of any relevant securities of the offeree company in which the offeror or any person acting in concert with it has an interest or in respect of which he has a right to subscribe, in each case specifying the nature of the interests or rights concerned (see Note 2 below and Note 5(a) on Rule 8). Similar details of any short positions (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, must also be stated;**~~

~~**(iv) details of any relevant securities of the offeree company in respect of which the offeror or any of its associates has procured an irrevocable commitment or a letter of intent (see Note 14 on Rule 8);**~~

~~**(v) details of any relevant securities of the offeree company which the offeror or any person acting in concert with it has borrowed or lent, save for any borrowed shares which have been either on-lent or sold;**~~

(~~v~~iii) … **;**

(~~vi~~iv) … **;**

(~~vii~~v) details of any dealing arrangement of the kind referred to in Note ~~6(b) on Rule 8~~11 on the definition of acting in concert to which the offeror or any person acting in concert with it is a party;

(~~viii~~vi) … **;~~ and~~**

(~~ix~~vii) … **.~~; and~~**

(viii) confirmation that the offeror is on the same day disclosing, or has previously disclosed, the details required to be disclosed by it under Rule 8.1(a) and, where such disclosure is being made on the same day but (in accordance with Note 2(a)(i) on Rule 8) may not include all relevant details in respect of all persons acting in concert with the offeror, confirmation that a further disclosure in accordance with Rule 8.1(a) and Note 2(a)(i) on Rule 8 will be made as soon as possible.

…

NOTES ON RULE 2.5

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~~*2. Interests of a group of which an adviser is a member*~~

~~*It is accepted that, for reasons of secrecy, it would not be prudent to make enquiries so as to include in an announcement details of any relevant securities of the offeree company in which other parts of an adviser's group are interested or have short positions or borrowings (see (5) of "acting in concert" in Definitions Section). In such circumstances, details should be obtained as soon as possible after the announcement has been made and the Panel consulted. If the interests, short positions or borrowings are significant, a further announcement may be required.*~~

2~~3~~. Subjective conditions

…

3~~4~~. New conditions for increased or improved offers

…

4~~5~~. Pre-conditions

…

5~~6~~. Financing conditions and pre-conditions

…

Rule 2.9

2.9 PUBLICATION OF AN ANNOUNCEMENT ABOUT AN OFFER OR POSSIBLE OFFER

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NOTES ON RULE 2.9

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2. Rules 2.11, 6, 7, 8, 9, 11, 12, 17, 30, 31, 32, Appendix 1.6, Appendix 5 and Appendix 7

Announcements made under Rules 2.11, 6.2(b), 7.1, 8(Notes 6 and 12), 9.1(Note 9), …

Rule 2.11

2.11 IRREVOCABLE COMMITMENTS AND LETTERS OF INTENT

(a) During an offer period, if any party to the offer or any person acting in concert with it procures an irrevocable commitment or a letter of intent, the relevant party to the offer must publicly disclose the details in accordance with the Notes on this Rule 2.11.

(b) If a party to the offer or any person acting in concert with it has procured an irrevocable commitment or a letter of intent prior to the commencement of the offer period and/or prior to midnight on the day before an Opening Position Disclosure is made under Rule 8.1(a) or 8.2(a), the details must be disclosed in the Opening Position Disclosure made by the relevant party to the offer (see Note 5(a) on Rule 8 and the Notes on this Rule 2.11).

(c) If, during the offer period and prior to midnight on the day before an Opening Position Disclosure is made under Rule 8.1(a) or 8.2(a), a party to the offer or any person acting in concert with it procures an irrevocable commitment or a letter of intent and the details are disclosed in accordance with Rule 2.11(a), that disclosure must also include details of any other commitments or letters which have been procured prior to the date of the disclosure and which have not previously been disclosed.

(d) If a person who has given an irrevocable commitment or a letter of intent either becomes aware that he will not be able to comply with the terms of that commitment or letter or no longer intends to do so, that person must:

> **(i) promptly announce an update of the position together with all relevant details; or**
>
> **(ii) promptly notify the relevant party to the offer and the Panel of the up-to-date position. Upon receipt of such a notification, the relevant party to the offer must promptly make an appropriate announcement of the information notified to it together with all relevant details.**

(e) See also Note 9 on the definition of acting in concert.

NOTES ON RULE 2.11

1. Timing of disclosure

A disclosure required by Rule 2.11(a) must be made by no later than 12 noon on the business day following the date of the transaction.

No separate disclosure by an offeror is required under Rule 2.11(a) where the relevant information is included in an announcement made under Rule 2.5 which is published no later than 12 noon on the business day following the date on which the irrevocable commitment or letter of intent is procured.

2. Method of disclosure

Disclosure under this Rule 2.11 should be made in accordance with the requirements of Rule 2.9.

3. Contents of disclosure

A disclosure of the procuring of an irrevocable commitment or a letter of intent must provide full details of the nature of the commitment or letter including:

(a) the number of relevant securities of each class to which the irrevocable commitment or letter of intent relates;

(b) the identity of the person from whom the irrevocable commitment or letter of intent has been procured. For this purpose, the information which should be disclosed is that which would be required by Note 5 on Rule 8 if the person concerned were disclosing a dealing in relevant securities;

(c) in respect of an irrevocable commitment, the circumstances (if any) in which it will cease to be binding; and

(d) in the case of an irrevocable commitment or a letter of intent procured prior to the announcement of a firm intention to make an offer under Rule 2.5, the value (and any other material terms) of the possible offer in respect of which the commitment or letter has been procured. (See Rule 2.4(c).)

4. Letters of intent procured prior to the commencement of the offer period

Where a party to the offer has procured a letter of intent prior to the commencement of the offer period, it must be verified that the letter of intent continues to represent the intentions of the shareholder or other person concerned at the time that the relevant details are publicly disclosed. This will normally include the shareholder or other person concerned providing an up-to-date written confirmation to the relevant party to the offer or its adviser.

Rule 4.4

4.4 DEALINGS IN OFFEREE SECURITIES BY CERTAIN OFFEREE COMPANY CONCERT PARTIES~~ASSOCIATES~~

…

Rule 4.6

4.6 ~~RESTRICTION ON~~ SECURITIES BORROWING AND LENDING TRANSACTIONS BY OFFERORS, THE OFFEREE COMPANY AND THEIR CONCERT ~~CERTAIN OTHER~~ PARTIES

(a) During ~~the~~ an offer period, ~~none of~~ the following persons ~~may~~ must not, except with the consent of the Panel, enter into or take action to unwind a securities borrowing or lending transaction in respect of relevant securities of the offeree company:

(~~a~~i) ~~the~~ an offeror;

(~~b~~ii) the offeree company; and

~~(c) a company which is an associate of the offeror or the offeree company by virtue of paragraph (1) of the definition of associate;~~

~~(d) a connected adviser and persons controlling#, controlled by or under the same control as any such adviser (except for an exempt principal trader or an exempt fund manager);~~

~~(e) a pension fund of the offeror or the offeree company or of a company which is an associate of the offeror or the offeree company by virtue of paragraph (1) of the definition of associate; and~~

(~~f~~iii) any ~~other~~ person acting in concert with ~~the~~ an offeror or with the offeree company.

(b) During an offer period, where a person subject to Rule 4.6(a) enters into or takes action to unwind a securities borrowing or lending transaction in respect of relevant securities of an offeror (other than a cash offeror) or, with the consent of the Panel, the offeree company, the transaction must be disclosed as if it were a dealing in those relevant securities (see Note 5(l) on Rule 8).

NOTES ON RULE 4.6

1. Return of borrowed relevant securities

The redelivery by a borrower of relevant securities (or equivalent securities) which have been recalled, or the accepting by a lender of the redelivery of relevant securities (or equivalent securities) which have not been recalled, in each case in accordance with an existing securities borrowing or lending agreement, will not normally be treated as taking action to unwind a securities borrowing or lending transaction. However, the Panel will normally require the redelivery or the accepting of the redelivery of such relevant securities to be disclosed as if it were a dealing in those relevant securities.

~~*2. Pension funds*~~

~~*Rule 4.6(e) does not apply in respect of any pension funds which are managed under an agreement or arrangement with an independent third party in the terms set out in Note 7 on the definition of acting in concert.*~~

2~~3~~. ~~Disclosure or n~~Notice ~~where consent is given~~ in lieu of disclosure

~~*Where the Panel consents to a person to whom Rule 4.6 applies entering into or taking action to unwind a securities borrowing or lending transaction in respect of relevant securities, the Panel will normally require the transaction to be disclosed by that person as if it were a dealing in the relevant securities.*~~ *Where a person subject to Rule 4.6 wishes to enter into or take action to unwind more than one lending transaction in respect of relevant securities of an offeror (other than a cash offeror) or, with the consent of the Panel, the offeree company, the Panel may instead require that person to give public notice that he might do so.*

3~~4~~. Discretionary fund managers and principal traders

Securities borrowing or lending transactions by non-exempt discretionary fund managers and principal traders ~~which are subject to Rule 4.6(d)~~ will be treated in accordance with Rule 7.2.

4. Financial collateral arrangements

If, during an offer period, a person subject to Rule 4.6 enters into, or takes action to unwind, a security financial collateral arrangement which provides a right for the collateral-taker to use and dispose of relevant securities of the offeree company as if it were the owner of those relevant securities (a "right of use"), or enters into, or takes action to unwind, a title transfer collateral arrangement in respect of relevant securities of the offeree company, this will be treated in the same way as entering into or taking action to unwind a securities lending transaction. A person subject to Rule 4.6 should not therefore enter into such an arrangement, except with the consent of the Panel. If a person subject to Rule 4.6 has an existing financial collateral arrangement in relation to relevant securities of the offeree company at the commencement of the offer period, the Panel should be consulted.

If, during an offer period, a person subject to Rule 4.6 grants a right of use, or enters into or takes action to unwind a title transfer collateral arrangement, in respect of relevant securities of an offeror (other than a cash offeror) or, with the consent of the Panel, the offeree company, the transaction must be disclosed as if it were a dealing in relevant securities (see Note 5(l) on Rule 8).

Rule 5.4

5.4 ACQUISITIONS FROM A SINGLE SHAREHOLDER – DISCLOSURE

…

(b) any shares of the company in which he has an interest or in respect of which he has a right to subscribe, in each case specifying the nature of the interests or rights concerned (see Note 5~~(a)~~ on Rule 8). …

NOTE ON RULE 5.4

Disclosure of the identity of the person dealing

Any announcement must comply with the requirements of Note 5~~(a)~~ on Rule 8 regarding the disclosure of the identity of the person dealing and, if different, the owner or controller.

Rule 7.1

7.1 IMMEDIATE ANNOUNCEMENT REQUIRED IF THE OFFER HAS TO BE AMENDED

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NOTE ON RULE 7.1

Potential offerors

… *A Dealing Disclosure will also be required in accordance with Rule 8.1(b).*

Rule 7.2

7.2 DEALINGS BY CONNECTED DISCRETIONARY FUND MANAGERS AND PRINCIPAL TRADERS

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NOTES ON RULE 7.2

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3. Dealings by principal traders

… The Panel will also normally, pursuant to Rule 4.6, consent to connected principal traders taking action to unwind a securities borrowing or lending transaction in respect of relevant securities of the offeree company in such

circumstances. The Panel will not normally require such dealings to be disclosed under Rules 4.6, ~~8.1(a),~~ 8.4, 24.3 or 25.3. Any such dealings must take place within a time period agreed in advance by the Panel.

4. Dealings by discretionary fund managers

(a) … The Panel will also normally, pursuant to Rule 4.6, consent to connected discretionary fund managers taking action to unwind securities borrowing transactions in respect of relevant securities of the offeree company in such circumstances. Any such acquisitions or unwinding arrangements must take place within a time period agreed in advance by the Panel and should be disclosed pursuant to Rule ~~8.1(b)(i)~~ 8.4, Rule 4.6 or Note ~~3~~2 on Rule 4.6, as appropriate.

(b) After the commencement of the offer period, with the prior consent of the Panel, a discretionary fund manager connected with an offeror will normally be permitted to sell offeree company securities without such sales being relevant for the purposes of Rule 4.2, notwithstanding the usual application of the presumptions of acting in concert and Rule 7.2(a). Any such sale should be disclosed under Rule ~~8.1(b)(i)~~8.4.

Rule 8

RULE 8. DISCLOSURE OF DEALINGS ~~DURING THE OFFER PERIOD; ALSO INDEMNITY AND OTHER ARRANGEMENTS~~AND POSITIONS

Rule 8 requires various persons, during an offer period, to make public disclosures, or in certain cases private disclosures to the Panel only, of their positions or dealings in relevant securities of the parties to the offer. Disclosures are not required to be made in respect of positions or dealings in relevant securities of a cash offeror.

An Opening Position Disclosure is an announcement containing details of interests or short positions in, or rights to subscribe for, any relevant securities of a party to the offer if the person concerned has such a position. An Opening Position Disclosure is required to be made after the commencement of the offer period and, if later, after the announcement that first identifies an offeror and must be made by the offeree company, by an offeror (after its identity is first publicly disclosed) and by any person that is interested in 1% or more of any class of relevant securities of any party to the offer. Opening Position Disclosures must be made within 10 business days.

A Dealing Disclosure is required after the person concerned deals in relevant securities of any party to the offer. If a party to the offer or any person acting in concert with it deals in relevant securities of any party to the offer, it must make a Dealing Disclosure by no later than 12 noon on the business day following the date of the relevant dealing. If a person is, or becomes, interested in 1% or more of any class of relevant securities of any party to the

offer, he must make a Dealing Disclosure if he deals in any relevant securities of any party to the offer (including by means of an option in respect of, or a derivative referenced to, relevant securities) by no later than 3.30 pm on the business day following the date of the dealing. Dealing Disclosures are required to contain details of the interests or short positions in, or rights to subscribe for, any relevant securities of the party to the offer in whose securities the person disclosing has dealt as well as the person's positions (if any) in the relevant securities of any other party to the offer, unless these have previously been published under Rule 8 (and have not changed).

Rule 8 also sets out the disclosure obligations of exempt principal traders and exempt fund managers, and of the parties to the offer and persons acting in concert with them when they deal for the account of non-discretionary clients.

8.1 DEALINGS BY PARTIES AND BY ASSOCIATES FOR THEMSELVES OR FOR DISCRETIONARY CLIENTS

(a) Own account

Dealings in relevant securities by an offeror or the offeree company, and by any associates, for their own account during an offer period must be publicly disclosed in accordance with Notes 3, 4 and 5.

(b) For discretionary clients

(i) Dealings in relevant securities by an offeror or the offeree company, and by any associates, for the account of discretionary investment clients during an offer period must be publicly disclosed in accordance with Notes 3, 4 and 5. If, however, the associate is an exempt fund manager connected with an offeror or the offeree company, paragraph (ii) below will apply.

(ii) Except with the consent of the Panel, all dealings in relevant securities made during an offer period for the account of discretionary investment clients by an associate which is an exempt fund manager connected with the offeror or the offeree company must be privately disclosed in accordance with Notes 3, 4 and 5.

If, however, an exempt fund manager is required to disclose publicly under Rule 8.3, such private disclosure will not normally be required in addition.

8.2 DEALINGS BY PARTIES AND BY ASSOCIATES FOR NON-DISCRETIONARY CLIENTS

Except with the consent of the Panel, dealings in relevant securities during an offer period by an offeror or the offeree company, and by any associates, for the account of non-discretionary investment clients (other than an offeror, the offeree company and any associates) must be privately disclosed in accordance with Notes 3, 4 and 5.

8.1 DISCLOSURE BY AN OFFEROR

(a) An offeror must make a public Opening Position Disclosure:

(i) after the announcement that first identifies it as an offeror; and

(ii) after the announcement that first identifies a competing offeror (other than a cash offeror).

(b) An offeror must also make a public Dealing Disclosure if it deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period for its own account or for the account of discretionary investment clients.

(See also Note 12 below.)

8.2 DISCLOSURE BY THE OFFEREE COMPANY

(a) An offeree company must make a public Opening Position Disclosure:

(i) after the commencement of the offer period; and

(ii) if later, after the announcement that first identifies any offeror (other than a cash offeror).

(b) An offeree company must also make a public Dealing Disclosure if it deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period for its own account or for the account of discretionary investment clients.

8.3 ~~DEALINGS~~DISCLOSURE BY PERSONS WITH INTERESTS IN SECURITIES REPRESENTING 1% OR MORE

(a) ~~During an offer period, if a person, whether or not an associate,~~Any person who at the relevant time (see Note 7(a) below) is interested (directly or indirectly) in 1% or more of any class of relevant securities of ~~an offeror or of the offeree company or as a result of any transaction will be interested in 1% or more, dealings in any relevant securities of that company by such person (or any other person through whom the interest is derived) must be publicly disclosed in accordance with Notes 3, 4 and 5.~~any party to the offer (other than a cash offeror) must make a public Opening Position Disclosure:

(i) after the commencement of an offer period; and

(ii) if later, after the announcement that first identifies any offeror (other than a cash offeror).

(b) Any person who is (or as a result of any dealing becomes) interested (directly or indirectly) in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) must make a public Dealing Disclosure if he deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period.

(~~b~~c) Where two or more persons act pursuant to an agreement or understanding, whether formal or informal, to acquire or control an interest in relevant securities, they will normally be deemed to be a single person for the purpose of this Rule~~.~~ 8.3. (See also Note 12(b) below.)

(~~c~~d) If a person manages investment accounts on a discretionary basis, he, and not the person on whose behalf the relevant securities (or interests in relevant securities) are managed, will be treated for the purpose of this Rule as interested in the relevant securities concerned. Except with the consent of the Panel, where more than one discretionary investment management operation is conducted in the same group, the interests in relevant securities of all such operations will be treated for the purpose of this Rule as those of a single person and must be aggregated (see Note 8 below).

(~~d~~e) Rules 8.3(a) to (~~c~~d) do not apply to recognised intermediaries acting in a client-serving capacity (see Note 9 below).

(f) A person making a disclosure in accordance with Rules 8.1, 8.2, 8.4 or 8.5 need not also disclose the same information pursuant to Rule 8.3.

8.4 DISCLOSURE BY CONCERT PARTIES

A person acting in concert with any party to an offer must make a public Dealing Disclosure if he deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period for his own account or for the account of discretionary investment clients. (See also Note 12 below.)

8.5 DISCLOSURE BY EXEMPT PRINCIPAL TRADERS

(a) An exempt principal trader connected with an offeror which does not have recognised intermediary status or which does have recognised intermediary status but which holds any interest or short position in, or right to subscribe for, any relevant securities of any party to the offer (other than a cash offeror) in a proprietary capacity must make a public Opening Position Disclosure:

(i) after the announcement that first identifies the offeror with which it is connected as an offeror; and

(ii) after the announcement that first identifies a competing offeror (other than a cash offeror).

(b) An exempt principal trader connected with the offeree company which does not have recognised intermediary status or which does have recognised intermediary status but which holds any interest or short position in, or right to subscribe for, any relevant securities of any party to the offer (other than a cash offeror) in a proprietary capacity must make a public Opening Position Disclosure:

(i) after the commencement of the offer period; and

(ii) if later, after the announcement that first identifies any offeror (other than a cash offeror).

(c) An exempt principal trader connected with a party to the offer must make a public Dealing Disclosure if it deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period, stating the following details:

(i) if the exempt principal trader does not have recognised intermediary status, or if it does but it is dealing in a proprietary capacity, the details required under Note 5(a) on Rule 8; and

(ii) if the exempt principal trader has recognised intermediary status and is dealing in a client-serving capacity, the details required under Note 5(b) on Rule 8.

8.6 DISCLOSURE BY EXEMPT FUND MANAGERS WITH NO INTERESTS IN SECURITIES OF ANY PARTY TO THE OFFER REPRESENTING 1% OR MORE DEALING FOR DISCRETIONARY CLIENTS

(a) An exempt fund manager connected with a party to the offer must make a private Dealing Disclosure if it deals in any relevant securities of any party to the offer (other than a cash offeror) for the benefit of discretionary investment clients during an offer period.

(b) Rule 8.6(a) does not apply if the exempt fund manager is also required to make a disclosure in accordance with Rule 8.3.

8.7 DISCLOSURE OF NON-DISCRETIONARY DEALINGS BY PARTIES AND CONCERT PARTIES

A party to the offer and any person acting in concert with it must make a private Dealing Disclosure if it deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period for the account of non-discretionary investment clients (other than a non-discretionary client that is a party to the offer or any person acting in concert with it).

~~**8.4 IRREVOCABLE COMMITMENTS AND LETTERS OF INTENT**~~

~~**(a) During an offer period, if an offeror or offeree company or any of their respective associates procures an irrevocable commitment or a letter of intent, the offeror or offeree company (as appropriate) must publicly disclose the details in accordance with Notes 3, 4 and 14.**~~

~~**(b) If a person who has given an irrevocable commitment or a letter of intent either becomes aware that he will not be able to comply with the terms of that commitment or letter or no longer intends to do so, that person must:**~~

~~**(i) promptly announce an update of the position together with all relevant details; or**~~

~~**(ii) promptly notify the offeror or offeree company (as appropriate) and the Panel of the up-to-date position. Upon receipt of such a notification, the offeror or offeree company must promptly make an appropriate announcement of the information notified to it together with all relevant details.**~~

NOTES ON RULE 8

~~*1. Consultation with the Panel*~~

~~*In any case of doubt as to the application of Rule 8 the Panel should be consulted.*~~

1. Cash offerors

Shares or other securities of a cash offeror will not be treated as "relevant securities" for the purposes of Rule 8.

Following an announcement by a cash offeror that its offer is being revised to become (or that its possible offer may be) a securities exchange offer, Opening Position Disclosures and Dealing Disclosures will be required in the same way as if the announcement had been the first to identify the offeror as an offeror which was not a cash offeror.

~~*2. Dealings in relevant securities of the offeror*~~

~~*Where it has been announced that an offer or possible offer is, or is likely to be, solely in cash, there is no requirement to disclose dealings in relevant securities of the offeror.*~~

~~3~~2. Timing of disclosure

(a) Disclosures by the parties to the offer

(i) Subject to the following paragraph, a party to the offer must make an Opening Position Disclosure by no later than 12 noon on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).

However, if an offeror announces a firm intention to make an offer before the deadline in the previous paragraph, it must at the same time make an Opening Position Disclosure in accordance with Rule 8.1(a)(i). In such a case, it may not be practicable in the time available to have made enquiries of all persons acting in concert with the offeror in order to include all relevant details in respect of such persons in the Opening Position Disclosure. In such circumstances, this fact should be stated and a further Opening Position Disclosure, containing all relevant details, should be made as soon as possible thereafter and in any event (except with the consent of the Panel) before the deadline in the previous paragraph. The Panel should be consulted in all such cases.

If a party to the offer deals in any relevant securities of any party to the offer (other than a cash offeror) before midnight on the day before the relevant deadline in the paragraphs above, it must make a Dealing Disclosure (in respect of the dealings and positions of itself alone) in accordance with Rule 8.1(b) or 8.2(b) (as appropriate) and with paragraph (ii) below. However, the party to the offer must also make an Opening Position Disclosure (in respect of the positions of itself and any persons acting in concert with it) by the relevant deadline above.

~~*Both*~~*(ii) A party to the offer must make a Dealing Disclosure (whether public ~~and~~or private ~~disclosure required by Rules 8.1, 8.2 and 8.4(a) must be made~~) by no later than 12 noon on the business day following the date of the ~~transaction~~dealing.*

(b) Disclosures by persons with interests in securities representing 1% or more

(i) Subject to the following paragraph, a person required to make an Opening Position Disclosure under Rule 8.3(a) must do so by no later than 3.30 pm on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).

~~*Public disclosure required by Rule 8.3 must be made*~~ *However, if a person required to make an Opening Position Disclosure under Rule 8.3(a) deals in any relevant securities of any party to the offer (other than a cash offeror) before midnight on the day before the deadline in the previous paragraph, he must instead make a Dealing Disclosure under Rule 8.3(b) by no later than 3.30 pm on the business day following the date of the dealing~~~~transaction~~. In such a case, it will not also be necessary to make a separate Opening Position Disclosure under Rule 8.3(a).*

(ii) A person required to make a Dealing Disclosure under Rule 8.3(b) must do so by no later than 3.30 pm on the business day following the date of the dealing.

(c) Disclosures by concert parties

(i) A person acting in concert with a party to the offer does not need to make an Opening Position Disclosure itself. Instead, details of the person's positions should be included in the Opening Position Disclosure made by the party to the offer with which he is acting in concert (see Note 5(a)(vi) below).

(ii) A person acting in concert with a party to the offer must make a Dealing Disclosure, whether public (in the case of Rule 8.4) or private (in the case of Rule 8.7), by no later than 12 noon on the business day following the date of the dealing.

(d) Disclosures by exempt principal traders

(i) Subject to the following paragraph, an exempt principal trader required to make an Opening Position Disclosure under Rule 8.5(a) or Rule 8.5(b) must do so by no later than 12 noon on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).

However, if an exempt principal trader required to make an Opening Position Disclosure under Rule 8.5(a) or Rule 8.5(b) deals in any relevant securities of any party to the offer (other than a cash offeror) before midnight on the day before the deadline in the previous paragraph, it must instead make a Dealing Disclosure under Rule 8.5(c) by no later than 12 noon on the business day. In such a case, it will not also be necessary to make a separate Opening Position Disclosure under Rule 8.5(a) or Rule 8.5(b).

(ii) An exempt principal trader must make a Dealing Disclosure by no later than 12 noon on the business day following the date of the dealing.

(e) Disclosures by exempt fund managers with no interests in securities of any party to the offer representing 1% or more dealing for discretionary clients

A private Dealing Disclosure by an exempt fund manager subject to Rule 8.6(a) dealing for discretionary clients must be made by no later than 12 noon on the business day following the date of the dealing.

4~~(public or private)~~3. Method of disclosure

(a) Public disclosures

~~Dealings should be disclosed~~Public disclosures under Rule 8 must be made to a RIS in typed format by fax or electronic delivery and may be made by the

person concerned or by an agent acting on its behalf. A copy must also be sent to the Panel in electronic form.

~~If parties to an offer and their associates choose to make press announcements regarding dealings in addition to making formal disclosures, they must ensure that no confusion results.~~

~~Public disclosure may be made by the party concerned or by an agent acting on its behalf. Where there is more than one agent (eg an investment bank and a broker), particular care should be taken to ensure that the responsibility for disclosure is agreed between the parties and that it is neither overlooked nor duplicated.~~

(b) Private disclosures

Private disclosures ~~under Rules 8.1(b)(ii) and 8.2 is~~ are to the Panel only~~. Dealings should~~ and must be sent to the Panel in electronic form.

~~5. Details to be included in disclosures (public or private)~~

~~(a) Public disclosure (Rules 8.1(a), 8.1(b)(i) and 8.3)~~

(~~i~~c) Disclosure forms

Specimen disclosure forms are available on the Panel's website (www.thetakeoverpanel.org.uk) or may be obtained from the Panel. ~~Public d~~Disclosures should follow the format of those forms. ~~Where a disclosure is made pursuant to Rule 8.1(a) or (b)(i), it is not necessary to disclose the same information pursuant to Rule 8.3.~~

4. Disclosure in relation to more than one party

(a) Opening Position Disclosures

Subject to paragraphs (i) to (iii) below, when an Opening Position Disclosure is made, the details in Note 5 below must be disclosed in relation to the relevant securities of each party to the offer (other than a cash offeror) at the same time.

However:

(i) no disclosure is required in respect of the relevant securities of any party to the offer if there are no positions to disclose;

(ii) (except where the disclosure is an Opening Position Disclosure by an offeror or the offeree company) no disclosure is required in respect of positions in the relevant securities of a party to the offer if full details of positions in each class of that party's relevant securities have previously been publicly disclosed under Rule 8 (and have not changed). An Opening Position Disclosure by an offeror or the offeree company, though, must include the

details in Note 5 in relation to the relevant securities of each party to the offer (other than a cash offeror), even if certain details have previously been disclosed by the offeror or offeree company or persons acting in concert with the offeror or the offeree company (as the case may be), in accordance with Rule 8; and

(iii) where a person is required to make an Opening Position Disclosure and, before the deadline for doing so in Note 2, there is a subsequent announcement that first identifies an offeror, the Opening Position Disclosure does not need to disclose details in respect of the relevant securities of that subsequently announced offeror. A separate Opening Position Disclosure must then be made in respect of the relevant securities of that offeror by the deadline established under Note 2 by reference to the subsequent announcement.

Where a person is disclosing details in respect of more than one party to the offer at the same time, he must use a separate disclosure form in respect of each such party.

(b) Dealing Disclosures

Subject to the following sentence, when a Dealing Disclosure is made the details in Note 5 below must be disclosed in relation to the relevant securities of each party to the offer (other than a cash offeror) at the same time. However, no disclosure is required in respect of the relevant securities of a party if there are no dealings or positions to disclose or if full details of positions in each class of that party's relevant securities have previously been publicly disclosed under Rule 8 (and have not changed).

Where a person is disclosing details in respect of more than one party to the offer at the same time, he must use a separate disclosure form in respect of each such party.

The above paragraphs of this Note 4(b) do not apply to disclosures under Rule 8.7 where details only need to be given in relation to the party in whose relevant securities the dealing took place.

5.~~(ii)~~ Details ~~Information~~ to be included in the disclosure

(a) Public disclosures (other than Dealing Disclosures by exempt principal traders with recognised intermediary status dealing in a client-serving capacity)

Any public disclosure ~~of dealings~~ under Rule 8 (other than a Dealing Disclosure by an exempt principal trader with recognised intermediary status dealing in a client-serving capacity) must include ~~the following information~~:

~~(a) the total of the relevant securities in question of an offeror or of the offeree company in which the dealing took place;~~

~~(b) *the prices paid or received (in the case of an average price bargain, each underlying trade should be disclosed);*~~

(i~~c~~) the identity of the ~~associate or other~~ person disclosing and that person's status (eg offeror, person acting in concert with the offeror, etc.) ~~dealing and, if different, the owner or controller of the interest~~;

~~(d) *if the dealing is by an associate, an explanation of how that status arises;*~~

(e~~i~~i) details of any relevant securities of the offeree company or ~~an~~ the offeror (as the case may be) in which the ~~associate or other~~ person ~~disclosing~~making the disclosure has an interest or in respect of which he has a right to subscribe, in each case specifying the nature of the interests or rights concerned ~~(see also below and Note 7(b))~~and the relevant percentages. Similar details of any short positions (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, must also be disclosed;~~ and

(~~f~~iii) ~~if relevant,~~ details of any dealing arrangements ~~required by Note 6 below.~~of a kind referred to in Note 11(b) on the definition of acting in concert to which the person making the disclosure is a party;

(iv) if the disclosure is by an exempt fund manager or an exempt principal trader, the identity of the party to the offer with which the person disclosing is connected;

(v) confirmation whether the person making the disclosure is on the same day disclosing, or has previously disclosed, details in respect of the relevant securities of any other party or parties to the offer under Rule 8; and

(vi) if the disclosure is by a party to the offer or any person acting in concert with it, details of any securities borrowing and lending positions required by Note 5(l) below.

An Opening Position Disclosure by a party to the offer must also include:

(vii) similar details as in (ii) and (iii) above of any interests, short positions or rights to subscribe of any person acting in concert with that party to the offer, and of any dealing arrangements of a kind referred to in Note 11(b) on the definition of acting in concert to which any such person acting in concert with it is a party, together with (in each case) the identity of the persons concerned; and

(viii) details of any relevant securities in respect of which that party or any person acting in concert with it has procured an irrevocable commitment or a letter of intent (see Rule 2.11).

The interests, short positions, rights to subscribe, dealing arrangements, securities borrowing and lending positions and irrevocable commitments and letters of intent to be disclosed under (ii), (iii), (vi), (vii) and (viii) above are those determined in accordance with Note 7(d) below.

Any Dealing Disclosure must also include:

(ix) the total of the relevant securities in question in which the dealing took place;

(x) the prices paid or received (in the case of an average price bargain, each underlying trade should be disclosed). In the case of dealings in options or derivatives, full details should be given so that the nature of the dealings can be fully understood (see Note 5(i) below);

(xi) if the disclosure is by a person acting in concert with a party to the offer, the identity of the party to the offer concerned; and

(xii) the date of the dealing.

(b) Dealing Disclosures by exempt principal traders with recognised intermediary status dealing in a client-serving capacity

A Dealing Disclosure by an exempt principal trader with recognised intermediary status dealing in a client-serving capacity must include:

(i) the identity of the person disclosing;

(ii) the identity of the party to the offer with which the person disclosing is connected;

(iii) total acquisitions and disposals;

(iv) the highest and lowest prices paid and received; and

(v) the date of the dealing.

In the case of dealings in options or derivatives, full details should be given so that the nature of the dealings can be fully understood (see Note 5(i) below).

(c) Private disclosures by connected exempt fund managers with no interests in securities of any party to the offer representing 1% or more

A private Dealing Disclosure under Rule 8.6 must include the same details as a public Dealing Disclosure (see (a) above).

(d) Private disclosures of non-discretionary dealings by parties and concert parties

A private Dealing Disclosure made under Rule 8.7 must include:

(i) the identity of the person disclosing;

(ii) if the disclosure is by a person acting in concert with a party to the offer, the identity of the party to the offer concerned;

(iii) the total of the relevant securities in question in which the dealing took place;

(iv) the prices paid or received (in the case of an average price bargain, each underlying trade should be disclosed). In the case of dealings in options or derivatives, full details should be given so that the nature of the dealings can be fully understood (see Note 5(i) below); and

(v) the date of the dealing.

(~~iii~~e) Related dealings

~~For the avoidance of doubt, when~~When a person transacts two or more separate but related dealings executed at or around the same time (for example, the entering into of a derivative referenced to relevant securities and the acquisition of such securities for the purposes of hedging)~~, the~~ or has two or more separate but related positions in relevant securities, any disclosure must include the required information in relation to each such dealing so executed~~.~~ or position held.

(~~iv~~f) Owner or controller details

For the purpose of disclosing identity, the owner or controller of ~~the~~any interest or short position in securities disclosed must be specified, in addition to ~~the person dealing~~any other details. The naming of nominees or vehicle companies is insufficient. The Panel may require additional information to be disclosed when it appears to be appropriate, for example to identify other persons who have an interest in the securities in question. However, in the case of disclosures ~~of dealings~~ by fund managers of dealings on behalf of, or positions held for the account of, discretionary clients, the clients need not be named.

(~~v~~g) Specially cum or ex dividend acquisitions

Where an offeror or any person acting in concert with it acquires any interest in offeree company securities on a specially cum or specially ex dividend basis, details of that fact should also be disclosed.

(~~vi~~h) Percentage calculations and subscription for new securities

Percentages should be calculated by reference to the numbers of relevant securities given in a ~~company~~party's latest announcement required by Rule 2.10. In the case of a disclosure relating to a right to subscribe, or subscription, for new securities, the Panel should be consulted regarding the

appropriate number of relevant securities to be used in calculating the relevant percentage.

(~~viii~~i) Options, derivatives etc.

In the case of agreements to purchase or sell, rights to subscribe, options or derivatives, full details should be given so that the nature of the interest, position or dealing can be fully understood. For options this should include, at least, a description of the options concerned, the number of securities under option, the exercise period (or in the case of exercise, the exercise date), the exercise price and any option money paid or received. For derivatives this should include, at least, a description of the derivatives concerned, the number of reference securities to which they relate (when relevant), the maturity date (or if applicable the closing out date) and the reference price (and any fee payable on entering into the derivative).

In addition, if there exists any agreement, arrangement or understanding, formal or informal, between the person ~~dealing~~disclosing and any other person relating to the voting rights of any relevant securities under option or relating to the voting rights or future acquisition or disposal of any relevant securities to which a derivative is referenced (as the case may be), full details of such agreement, arrangement or understanding, identifying the relevant securities in question, must be included in the disclosure. If there are no such agreements, arrangements or understandings, this fact should be stated. Where such an agreement, arrangement or understanding is entered into at a later date than the derivative or option to which it relates, it will be regarded as a dealing in relevant securities.

(~~viii~~j) Futures contracts and covered warrants

For the purpose of ~~the~~any disclosure ~~of dealings~~, a futures contract or covered warrant for which exercise includes the possibility of delivery of the underlying securities is treated as an option. A futures contract or covered warrant which does not include the possibility of delivery of the underlying securities is treated as a derivative.

(~~ix~~k) Transfers in and out

If, following a public disclosure made under Rule 8, interests in relevant securities are transferred into or out of a person's management, a reference to the transfer must be included in the next public disclosure made by that person under Rule 8.

~~(x) Associates~~

~~If an associate is an associate for more than one reason, all the reasons must be specified.~~

~~(xi) Connected exempt fund managers~~

~~*A disclosure by an exempt fund manager must specify the name of the offeror or the offeree company with which it is connected and the nature of the connection.*~~

(~~xiii~~l) Securities borrowing and lending

An Opening Position Disclosure by a party to the offer must include details of any relevant securities of the offeree company and any offeror (other than a cash offeror) which the party making the disclosure or any person acting in concert with it has borrowed or lent, save for any borrowed relevant securities which have been either on-lent or sold. In addition, a Dealing Disclosure by a party to the offer or any person acting in concert with a party to the offer must include details of any relevant securities of the offeree company and any offeror (other than a cash offeror) which the person making the disclosure has borrowed or lent, save for any borrowed relevant securities which have been either on-lent or sold.

Where a ~~disclosure of~~party to the offer or any person acting in concert with it enters into, or takes action to unwind, a securities borrowing or lending transaction ~~is made pursuant to Note 3 on Rule 4.6,~~in respect of relevant securities of an offeror or, with the Panel's consent under Rule 4.6(a), the offeree company, a Dealing Disclosure must be made by that person.

The provisions of this Note also apply in respect of any financial collateral arrangements of the kind referred to in Note 4 on Rule 4.6 entered into or unwound by a party to the offer or any person acting in concert with it as if such arrangements were securities lending transactions.

In all cases referred to above, all relevant details should be given.~~Where a person to whom Rule 4.6 applies discloses a dealing in relevant securities and has previously borrowed relevant securities from, or lent such securities to, another person,~~ and the disclosure must be made in a form agreed by the Panel.

~~*(b) Private disclosure (Rules 8.1(b)(ii) and 8.2)*~~

~~*Private disclosure under Rule 8.1(b)(ii) by exempt fund managers connected with an offeror or the offeree company must be in the form required by the Panel. A specimen disclosure form is available on the Panel's website (www.thetakeoverpanel.org.uk) or may be obtained from the Panel.*~~

~~*A disclosure by an exempt fund manager must specify the name of the offeror or the offeree company with which it is connected and the nature of the connection.*~~

~~*A private disclosure under Rule 8.2 must include the identity of the associate dealing, the total of relevant securities in which the dealing took place and the prices paid or received (in the case of an average price bargain, each underlying trade should be disclosed). A specimen disclosure form is available on the Panel's website (www.thetakeoverpanel.org.uk) or may be obtained*~~

~~*from the Panel. Rule 8.2 disclosures should follow that format. In the case of dealings in options or derivatives the same information as specified in Note 5(a) is required.*~~

6. Indemnity and other dealing arrangements

~~*(a) For the purpose of this Note, an arrangement includes indemnity or option arrangements, and any agreement or understanding, formal or informal, of whatever nature, relating to relevant securities which may be an inducement to deal or refrain from dealing.*~~

~~*If any person is party to such an arrangement with any offeror or an associate of any offeror, whether in respect of relevant securities of that offeror or the offeree company, not only will that render such person an associate of that offeror but it is also likely to mean that such person is acting in concert with that offeror; in that case Rules 4, 5, 6, 7, 9, 11 and 24 will be relevant. If any person is party to such an arrangement with an offeree company or an associate of an offeree company, not only will that render such person an associate of the offeree company but Note 3 on Rule 9.1 and Rule 25.3 may be relevant.*~~

(a) Where a dealing arrangement of the kind referred to in Note 11 on the definition of acting in concert is entered into during the offer period by an offeror, the offeree company or a person acting in concert with an offeror or the offeree company, that person must make an immediate announcement, giving all relevant details of the dealing arrangement, in accordance with Rule 2.9.

~~*(b) When an arrangement exists with any offeror, with the offeree company or with an associate of any offeror or of the offeree company in relation to relevant securities, details of such arrangement must be publicly disclosed, whether or not any dealing takes place.*~~

(b) Where the offeree company has entered into such a dealing arrangement before the start of the offer period or an offeror has entered into such a dealing arrangement before the announcement that first identifies it as an offeror, details of the arrangement must be included in the announcement that commences the offer period or the announcement that first identifies the offeror (as the case may be).

~~*(c) This Note does not apply to irrevocable commitments or letters of intent, which are subject to Rule 8.4 and Note 14.*~~

(c) Where a person acting in concert with the offeree company has entered into such a dealing arrangement before the start of the offer period or a person acting in concert with an offeror has entered into such a dealing arrangement before the announcement that first identifies the offeror, that person must make an announcement, giving all relevant details of the dealing arrangement, in accordance with Rule 2.9 as soon as possible after the

commencement of the offer period or the announcement that first identifies the offeror (as the case may be).

~~(d) See also Rule 4.4.~~

(d) Details of dealing arrangements must also be included in Opening Position Disclosures and Dealing Disclosures as required by Note 5 above.

7. Time for calculating a person's interests etc.

(a) Under Rule 8.3(a), ~~a disclosure of dealings~~ an Opening Position Disclosure is ~~not~~ required ~~unless~~ if the person is interested in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) at the time of the announcement that commences the offer period or the time of the announcement that first identifies an offeror (as the case may be).

(b) Under Rule 8.3(b), a Dealing Disclosure is required if the person dealing is interested in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) at midnight on the date of the dealing or was so interested at midnight on the previous business day.

~~(b) For the purposes of Note 5, the interests and short positions to be disclosed are those existing or outstanding at midnight on the date of the dealing in question.~~

(c) A person will be treated as interested in relevant securities for the purposes of this Note 7, and Rule 8 generally, if he has disposed of an interest in relevant securities before midnight on the date in question but there exists an agreement, arrangement or understanding, formal or informal, of any nature (but not itself amounting to an interest in the securities) as a result of which he is entitled, or would expect to be able, to acquire an interest in the securities concerned (or equivalent securities) thereafter.

(d) The interests, short positions, rights to subscribe, dealing arrangements, securities borrowing and lending positions, irrevocable commitments and letters of intent to be disclosed under paragraphs (ii), (iii), (vi), (vii) and (viii) of Note 5(a) on Rule 8 are those existing or outstanding at midnight on the day immediately preceding the date on which the disclosure is made (except in the case of a Dealing Disclosure made on the same day as the dealing concerned, when the interests etc. to be disclosed are those existing or outstanding immediately following the dealing taking place).

8. Discretionary fund managers

The principle normally applied by the Panel is that where the investment decision is made by a discretionary fund manager, he, and not the person on whose behalf the fund is managed, will be treated as interested in~~, and~~ (or having a short position in or right to subscribe for), or having dealt in, the relevant securities concerned. For that reason, Rule 8.3(~~c~~d) requires a

discretionary fund manager to aggregate the investment accounts which he manages for the purpose of determining whether he has an obligation to disclose. The beneficial owner would not normally, therefore, be concerned with disclosure to the extent that his investment is managed on a discretionary basis. However, where any of the funds managed on behalf of a beneficial owner are not managed by the fund manager originally contracted to do so but are managed by a different independent third party who has discretion regarding dealing, voting and offer acceptance decisions, the fund manager to whom the management of the funds has been sub-contracted (and not the originally contracted fund manager) is required to aggregate those funds and to comply with the relevant disclosure obligations accordingly.

This approach assumes that the discretionary fund manager does not take instructions from the beneficial owner (or, in the case of sub-contracted funds, from the originally contracted manager or the beneficial owner) on the positions or dealings in question and that fund management arrangements are not established or used to avoid disclosure.

9. Recognised intermediaries

(a) The exceptions in this Rule in relation to recognised intermediaries must not be used to avoid or delay disclosures ~~of dealings~~. For example, a dealing in relevant securities by a recognised intermediary, backed by a firm commitment by a person to purchase the relevant securities from the recognised intermediary, will be regarded as a dealing by that person. A commitment may effectively be firm even if not legally binding, for example because of market practice. Such arrangements, therefore, should not be entered into unless appropriate disclosures are to be made. In addition, if such an arrangement is entered into with an offeror or a person acting in concert with the offeror, it might mean that the recognised intermediary is acting in concert with the offeror and normal concert party consequences might follow (such as the application of Rules 4, 5, 6, 7, 9, 11 and 24 and disclosure of dealings by the recognised intermediary under Rule 8.~~1~~4).

(b) Where a desk with recognised intermediary status deals ~~in~~, or has any interest or short position in, or right to subscribe for, relevant securities ~~other than in a client-serving capacity (or re-books a position which was acquired in a client-serving capacity so as to hold it~~ in a proprietary capacity~~)~~, it should aggregate ~~and, where appropriate, disclose~~ the interests, short positions and rights to subscribe which it holds in a proprietary capacity with those of the rest of the group. However, in making such disclosures, it need not aggregate and disclose details of any interests, short positions ~~and~~or rights to subscribe which it holds in a client-serving capacity.~~Exempt principal traders connected with an offeror or the offeree company should, subject to the above, disclose dealings in the manner set out in Rule 38.5.~~ Where a desk with recognised intermediary status re-books a position which was acquired in a client-serving capacity so as to hold it in a proprietary capacity, it will be regarded as a dealing in a proprietary capacity.

(c) Recognised intermediaries which are ~~associates of the offeror or the offeree company~~principal traders connected with a party to the offer and to which exempt principal trader status is not applicable should disclose dealings under Rule 8.~~1~~4.

10. Responsibilities of intermediaries

Intermediaries are expected to co-operate with the Panel in its ~~dealings~~ enquiries. Therefore, those who deal in relevant securities, or who have relevant interests, short positions or rights to subscribe, should appreciate that intermediaries will supply the Panel with relevant information as to those dealings and positions, including identities of clients and full client contact information, as part of that co-operation.

11. Unquoted public companies and relevant private companies

The requirements to disclose dealings and positions under Rule 8 apply also ~~to dealings~~ in respect of the relevant securities of public companies whose securities are not admitted to trading and of relevant private companies.

12. Potential offerors

(a) If a potential offeror has been the subject of an announcement that talks are taking place ~~(whether or not the potential offeror has~~but has not been named~~) or has announced that it is considering making an offer~~, the potential offeror and persons acting in concert with it must disclose any dealings in relevant securities of the offeree company after the time of that announcement in accordance with Rule 8.1(b) or Rule 8.4 respectively ~~and must disclose the procuring of irrevocable commitments or letters of intent in accordance with Rule 8.4 and such disclosures must include the identity of the potential offeror~~.

At the same time as or before any such Dealing Disclosure, the offeror must also make an announcement that it is considering making an offer in accordance with Rule 2.9 (see also the Note on Rule 7.1 for when an immediate announcement will be required). The announcement must include a summary of the provisions of Rule 8 (see www.thetakeoverpanel.org.uk).

(b) If a potential offeror has not been identified as such, it will not need to make an Opening Position Disclosure under Rule 8.1(a)(i) or (ii) until after the announcement that first identifies it as an offeror. However, before that time, the potential offeror and persons acting in concert with it will need to make Opening Position Disclosures in accordance with Rule 8.3(a), if applicable. If members of an offer consortium that has not been identified as such might be subject to Rule 8.3(c), the Panel should be consulted. In such cases, the consortium members will not normally be required to make a joint Opening Position Disclosure which could identify them as such, although any member who is interested in 1% or more of a class of relevant securities of the offeree company will be required to make an individual Opening Position Disclosure.

(c) After the announcement that first identifies a potential offeror as such, it will be required to make an Opening Position Disclosure in accordance with Rule 8.1(a)(i). Such disclosure must include details in relation to the relevant securities of each party to the offer (other than a cash offeror), even if certain details have previously been disclosed by the potential offeror or persons acting in concert with it in accordance with Rule 8.3.

13. ~~UKLA Rules~~Other statutory or regulatory provisions

In addition to the requirements to disclose under Rule 8, the requirements of other statutory or regulatory provisions, in particular the UKLA Rules, may be relevant.

~~14. Irrevocable commitments and letters of intent~~

~~A disclosure of the procuring of an irrevocable commitment or a letter of intent must provide full details of the nature of the commitment or letter including:~~

~~(a) the number of relevant securities of each class to which the irrevocable commitment or letter of intent relates;~~

~~(b) the identity of the person from whom the irrevocable commitment or letter of intent has been procured. For this purpose, the information which should be disclosed is that which would be required by Note 5(a) on Rule 8 if the person concerned were disclosing a dealing in relevant securities;~~

~~(c) in respect of an irrevocable commitment, the circumstances (if any) in which it will cease to be binding; and~~

~~(d) in the case of an irrevocable commitment or a letter of intent procured prior to the announcement of a firm intention to make an offer under Rule 2.5, the value (and any other material terms) of the possible offer in respect of which the commitment or letter has been procured. (See Rule 2.4(c).)~~

~~No separate disclosure by an offeror is required under Rule 8.4(a) where the relevant information is included in an announcement made under Rule 2.5 which is published no later than 12 noon on the business day following the date on which the irrevocable commitment or letter of intent is procured.~~

~~See also Note 9 on the definition of acting in concert.~~

~~15~~14. Amendments

If details included in a ~~dealing~~ disclosure under Rule 8 are incorrect, they should be corrected as soon as practicable in a subsequent disclosure. Such disclosure should state clearly that it corrects details disclosed previously, identify the disclosure or disclosures being corrected, and provide sufficient

detail for the reader to understand the nature of the corrections. In the case of any doubt, the Panel should be consulted.

15. Irrevocable commitments and letters of intent

See Rule 2.11 and Note 5(a)(viii) on Rule 8.

Rule 9.1

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

…

NOTES ON RULE 9.1

…

17. Borrowed or lent shares

For the purpose of ~~this~~ Rule 9.1, if a person has borrowed or lent shares he will be treated as ~~holding the voting rights in respect of~~ interested in such shares save for any borrowed shares which he has either on-lent or sold. A person must consult the Panel before borrowing or acquiring an interest in ~~or borrowing~~ shares which, when taken together with shares (including lent shares) in which he or any person acting in concert with him is already interested, and shares already borrowed ~~or lent~~ by him or any person acting in concert with him, ~~would~~ might result in an obligation to make a mandatory offer~~this Rule~~ being triggered. Where a person intends to borrow and lend shares on the same day, a mandatory offer will normally be required only if this will result in an increase in his net borrowing position, or that of any person acting in concert with him, as at midnight on that day. ~~In such circumstances, the Panel will then decide, inter alia, how the borrowed or lent shares should be treated for the purpose of the acceptance condition.~~ See also Note 2 on Rule 9.3.

Rule 9.3

9.3 CONDITIONS AND CONSENTS

…

2. Acceptance condition

…

… (See also Rule 35.1.)

The Panel must be consulted if the offeror, or any person acting in concert with it, has borrowed or lent shares in the offeree company. The Panel will then decide how the borrowed or lent shares should be treated for the purpose of the acceptance condition.

Rule 11.2

11.2 WHEN A SECURITIES OFFER IS REQUIRED

…

NOTES ON RULE 11.2

…

3. Vendor placings

Shares acquired in exchange for securities will normally be deemed to be acquisitions for cash for the purposes of this Rule if an offeror or any person acting in concert with it ~~of its associates~~ arranges the immediate placing of such consideration securities for cash, in which case no obligation to make a securities offer under this Rule will arise.

Rule 13.3

13.3 ACCEPTABILITY OF PRE-CONDITIONS

…

(See Note ~~5~~4 on Rule 2.5.)

Rule 17.1

17.1 TIMING AND CONTENTS

…

(a) the number of shares for which acceptances of the offer have been received, specifying the extent to which acceptances have been received from persons acting in concert with the offeror or in respect of shares which were subject to an irrevocable commitment or a letter of intent procured by the offeror or any person acting in concert with the offeror~~of its associates~~;

(b) details of any relevant securities of the offeree company in which the offeror or any person acting in concert with it has an interest or in

respect of which he has a right to subscribe, in each case specifying the nature of the interests or rights concerned (see Note 5~~(a)~~ on Rule 8). … **;**

(c) details of any relevant securities of the offeree company in respect of which the offeror or any person acting in concert with it ~~of its associates~~ has an outstanding irrevocable commitment or letter of intent (see ~~Note 14 on Rule 8~~Note 3 on Rule 2.11); and

…

Rule 19.1

19.1 STANDARDS OF CARE

…

NOTES ON RULE 19.1

…

8. Merger benefits statements

In order to satisfy the existing standards of information set out in the Code, certain additional requirements may need to be complied with if a party to the offer makes quantified statements about the expected financial benefits of a proposed takeover or merger (for example, a statement by an offeror that it would expect the offeree company to contribute an additional £x million of profit post acquisition). …

…

A party to an offer ~~Parties~~ wishing to make a merger benefits statement~~s~~ should consult the Panel in advance. See also Rule 28.6(g).

Rule 19.3

19.3 UNACCEPTABLE STATEMENTS

Parties to an offer ~~or potential offer~~ and their advisers must take care not to make statements which, while not factually inaccurate, may be misleading or may create uncertainty. In particular, an offeror must not make a statement to the effect that it may improve its offer, or that it may make a change to the structure, conditionality or the non-financial terms of its offer, without committing itself to doing so and specifying the improvement or change. In the case of any doubt as to the application of this Rule to a proposed statement, parties to an offer ~~or potential offer~~ and their advisers should consult the Panel.

NOTES ON RULE 19.3

…

2. Statements of support

… The Panel will not require separate verification by an offeror where the information required by Note 3 on Rule 2.11 ~~Note 14 on Rule 8~~ is included in an announcement made under Rule 2.5 which is published no later than 12 noon on the business day following the date on which the letter of intent is procured.

Rule 19.6

19.6 INTERVIEWS AND DEBATES

Parties to an ~~involved in~~ offers should, if interviewed on radio, television or any other media, seek to ensure that the sequence of the interview is not broken by the insertion of comments or observations by others not made in the course of the interview. …

Rule 19.7

19.7 INFORMATION PUBLISHED FOLLOWING THE ENDING OF AN OFFER PERIOD PURSUANT TO RULE 12.2

… **Consequently, the parties to an offer must take care to ensure that any statements made during the competition reference period are capable of substantiation.**

Rule 20.1

20.1 EQUALITY OF INFORMATION TO SHAREHOLDERS AND PERSONS WITH INFORMATION RIGHTS

…

NOTES ON RULE 20.1

…

2. Media interviews

Parties ~~involved in~~ to an offer must take particular care not to disclose new material in interviews or discussions with the media. …

…

4. Information published by concert parties ~~associates~~ (eg brokers)

Rule 20.1 does not prevent brokers or advisers to any party to the ~~transaction~~ offer sending circulars during the offer period to their own investment clients provided such publication has previously been approved by the Panel.

In giving to their own clients material on the companies involved in an offer, persons acting in concert with any party to the offer ~~associates~~ must bear in mind the essential point that new information must not be restricted to a small group. …

The ~~associate's~~ status of the person issuing the circular as a person acting in concert with the offeree company or an offeror must be clearly disclosed. …

Attention is drawn to paragraph (5~~2~~) of the definition of acting in concert~~associate~~, as a result of which, for example, this Note will be relevant to brokers who, although not directly involved with the offer, are presumed to be acting in concert with ~~associates of~~ an offeror or the offeree company because the broker is in the same group as the financial adviser to an offeror or the offeree company.

When an offer or possible offer is referred to the Competition Commission or the European Commission initiates proceedings, the offer period may end in accordance with Rule 12.2(a). ~~Associates~~Persons acting in concert with an offeror or the offeree company must, however, consult the Panel about the publication of circulars as described in this Note during the reference or proceedings. …

Rule 22

RULE 22. RESPONSIBILITIES OF THE OFFEREE COMPANY AND AN OFFEROR REGARDING REGISTRATION PROCEDURES AND PERSONS WITH INTERESTS IN SECURITIES REPRESENTING 1% OR MORE

(a) The board of the offeree company should ~~take action to~~ ensure that its registrar complies fully with the procedures set out in Appendix 4. The board should also ensure prompt registration of transfers during an offer.

(b) The board of the offeree company should assist the Panel in identifying persons who are interested in 1% or more of any class of relevant securities of the offeree company and, promptly after the commencement of an offer period, should provide the Panel with details of all persons who are reasonably considered to be so interested. Such persons should also be sent an explanation of their disclosure obligations under Rule 8 at the same time as their details are provided to the Panel.

(c) Except in cases where it has been announced that any offer is, or is likely to be, in cash, the board of the offeror should assist the Panel in identifying persons who are interested in 1% or more of any class of relevant securities of the offeror and, promptly after the announcement that first identifies the offeror as such, should provide the Panel with details of all persons who are reasonably considered to be so interested. Such persons should be sent an explanation of their disclosure obligations under Rule 8 at the same time as their details are provided to the Panel.

NOTE ON RULE 22

Rule 2.6

Where, following the commencement of an offer period, the offeree company has sent a person a copy of an announcement or a circular in accordance with the provisions of Rule 2.6, there is no requirement to send that person a separate explanation of their disclosure obligations under Rule 8 in accordance with Rule 22(a) or (b).

Rule 24.2

24.2 FINANCIAL AND OTHER INFORMATION ON THE OFFEROR, THE OFFEREE COMPANY AND THE OFFER

…

(d) …

(x) details of any irrevocable commitment or letter of intent which the offeror or any person acting in concert with it ~~of its associates~~ has procured in relation to relevant securities of the offeree company (or, if appropriate, the offeror) (see Note 3 on Rule 2.11~~Note 14 on Rule 8~~);

…

NOTES ON RULE 24.2

…

4. Persons acting in concert with the offeror

… Disclosure will normally include: a person who is interested in shares in the offeree company and (in the case of a securities exchange offer only) the offeror; any person with whom the offeror or the offeree company and any person acting in concert with either of them has any arrangement of the kind referred to in Note 11 ~~6(b)~~ on the definition of acting in concert ~~Rule 8~~; any financial adviser which is advising the offeror or the offeree company in

relation to the offer; and any corporate broker to either of them. In cases of doubt, the Panel should be consulted.

Rule 24.3

24.3 INTERESTS AND DEALINGS

(a) The offer document must state:—

(i) details of any relevant securities of the offeree company in which the offeror has an interest or in respect of which he has a right to subscribe, specifying the nature of the interests or rights concerned (see Note 5~~(a)~~ on Rule 8). … **;**

(ii) the same details as in (i) above in relation to each of:

…

(c) **any person with whom the offeror or any person acting in concert with the offeror has any arrangement of the kind referred to in Note 11~~6~~ on the definition of acting in concert~~Rule 8~~;**

…

(iv) details of any relevant securities of the offeree company and (in the case of a securities exchange offer only) the offeror which the offeror or any person acting in concert with it has borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 on Rule 4.6), save for any borrowed shares which have been either on-lent or sold.

…

(c) If any person referred to in Rule 24.3(a) has dealt in any relevant securities of the offeree company (or, in the case of a securities exchange offer only, of the offeror) during the period beginning 12 months prior to the offer period and ending with the latest practicable date prior to the publication of the offer document, the details, including dates, must be stated (see Note 5~~(a)~~ on Rule 8). If no such dealings have taken place, this fact should be stated.

…

NOTES ON RULE 24.3

…

4. Competing offerors

Where more than one offeror has announced an offer or possible offer for the offeree company, the details required by Rules 24.3(a)(iii) and (iv), 24.3(b) and 24.3(c) must be included in relation to the relevant securities of each offeror or possible offeror (other than any cash offeror).

Rule 24.12

24.12 ARRANGEMENTS IN RELATION TO DEALINGS

The offer document must disclose any arrangements of the kind referred to in Note ~~6(b) on Rule 8~~ 11 on the definition of acting in concert which exist between the offeror, or any person acting in concert with the offeror, and any other person; if there are no such arrangements, this should be stated. ~~If the directors or their financial advisers are aware of any such arrangements between any other associate of the offeror and any other person, such arrangements must also be disclosed.~~

Rule 25.3

25.3 INTERESTS AND DEALINGS

(a) The first major circular published by the offeree board in connection with the offer (whether recommending acceptance or rejection of the offer) must state:—

(i) details of any relevant securities of the offeror in which the offeree company or any of the directors of the offeree company has an interest or in respect of which it or he has a right to subscribe, in each case specifying the nature of the interests or rights concerned (see Note 5~~(a)~~ on Rule 8). Similar details of any short positions (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, must also be stated;

(ii) the same details as in (i) above in respect of any relevant securities of the offeree company in relation to each of:

***(a)* the directors of the offeree company;**

***(b)* any other person acting in concert with the offeree company; and ~~company which is an associate of the offeree company by virtue of paragraph (1) of the definition of associate;~~**

~~***(c)*** **~~any pension fund of the offeree company or of a company which is an associate of the offeree company by virtue of paragraph (1) of the definition of associate;~~**

~~***(d)*** **~~any employee benefit trust of the offeree company or of a company which is an associate of the offeree company by virtue of paragraph (1) of the definition of associate;~~**

~~***(e)*** **~~any connected adviser to the offeree company, to a company which is an associate of the offeree company by virtue of paragraph (1) of the definition of associate or to a person acting in concert with the offeree company;~~**

~~***(f)*** **~~any person controlling#, controlled by or under the same control as any connected adviser falling within *(e)* above (except for an exempt principal trader or an exempt fund manager); and~~**

(c~~g~~) **any person with whom the offeree company or any person acting in concert with the offeree company ~~who~~ has an arrangement of the kind referred to in Note ~~6 on Rule 8~~11 on the definition of acting in concert~~with the offeree company or with any person who is an associate of the offeree company by virtue of paragraphs (1), (2), (3) or (4) of the definition of associate~~;**

(iii) in the case of a securities exchange offer, the same details as in (i) above in respect of any relevant securities of the offeror in relation to each of the persons listed in (ii)*(b)* and *(c)* ~~to *(g)*~~ above;

(iv) details of any relevant securities of the offeree company and (in the case of a securities exchange offer only) the offeror which the offeree company or any person acting in concert with the offeree company has borrowed or lent (including for these purposes any financial collateral arrangements of the kind referred to in Note 4 on Rule 4.6), save for any borrowed shares which have been either on-lent or sold; and

…

(b) If, in the case of any of the persons referred to in Rule 25.3(a), there are no interests or short positions to be disclosed, this fact should be stated. This will not apply to category (a)(ii)*(g~~c~~)* if there are no such arrangements.

(c) If any person referred to in Rule 25.3(a)(i) has dealt in any relevant securities of the offeree company or the offeror between the start of the offer period and the latest practicable date prior to the publication of the circular, the details, including dates, must be stated (see Note 5~~(a)~~ on Rule 8). If any person referred to in Rule 25.3(a)(ii)*(b)* to *(c~~g~~)* has dealt

in relevant securities of the offeree company (or, in the case of a securities exchange offer only, the offeror) during the same period, similar details must be stated. In all cases, if no such dealings have taken place this fact should be stated.

…

NOTES ON RULE 25.3

…

~~*2. Pension funds*~~

~~*Rule 25.3(a)(ii)*(c) *does not apply in respect of any pension funds which are managed under an agreement or arrangement with an independent third party in the terms set out in Note 7 on the definition of acting in concert.*~~

2. Competing offerors

Where more than one offeror has announced an offer or possible offer for the offeree company, the details required by Rules 25.3(a)(i), (iii) and (iv) must be included in relation to the relevant securities of each offeror or possible offeror (other than any cash offeror). Similarly, where more than one offeror has announced an offer in accordance with Rule 2.5, the details required by Rule 25.3(a)(v) must be included in respect of each offer.

Rule 25.5

25.5 ARRANGEMENTS IN RELATION TO DEALINGS

The first major circular published by the offeree board in connection with the offer (whether recommending acceptance or rejection of the offer) must disclose any arrangements of the kind referred to in Note ~~6(b) on Rule 8~~ 11 on the definition of acting in concert which exist between the offeree company, or any person acting in concert with the offeree company~~who is an associate of the offeree company by virtue of paragraphs (1), (2), (3) or (4) of the definition of associate~~, and any other person; if there are no such arrangements, this should be stated. ~~If the directors or their financial advisers are aware of any such arrangements between any other associate of the offeree company and any other person, such arrangements must also be disclosed.~~

Rule 25.6

25.6 MATERIAL CONTRACTS, IRREVOCABLE COMMITMENTS AND LETTERS OF INTENT

…

(b) details of any irrevocable commitment or letter of intent which the offeree company or any person acting in concert with it ~~of its associates~~ has procured in relation to relevant securities of the offeree company (or, if appropriate, the offeror) (see ~~Note 14 on Rule 8~~Note 3 on Rule 2.11).

Rule 26

RULE 26. DOCUMENTS TO BE ON DISPLAY

…

(h) any document evidencing an irrevocable commitment or a letter of intent which has been procured by the offeror or offeree company (as appropriate) or any person acting in concert with it~~of their respective associates~~;

…

(k) all derivative contracts which in whole or in part have been disclosed under Rules 24.3(a) and (c) and 25.3(a) and (c) or in accordance with Rules 8.1, 8.2 or 8.4. Documents in respect of the last mentioned must be made available for inspection from the time the offer document or the offeree board circular is published or from the time of disclosure, whichever is the later;

…

(n) any agreements or arrangements, or, if not reduced to writing, a memorandum of the terms of such agreements or arrangements, of the kind referred to in Note ~~6 on Rule 8~~11 on the definition of acting in concert;

…

Rule 27.1

27.1 MATERIAL CHANGES

Documents subsequently sent to shareholders of the offeree company and persons with information rights by a ~~either~~ party to the offer must contain details of any material changes in information previously published by or on behalf of the relevant party during the offer period; if there have been no such changes, this must be stated. In particular, the following matters must be updated:—

…

Rule 27.2

27.2 CONTINUING VALIDITY OF PROFIT FORECASTS

When a profit forecast has been made, documents subsequently published by the party to the offer making the forecast must comply with the requirements of Rule 28.5.

Rule 28.6

28.6 STATEMENTS WHICH WILL BE TREATED AS PROFIT FORECASTS

…

(g) Earnings enhancement and merger benefits statements

Parties to an offer wishing to make earnings enhancement statements which are not intended to be profit forecasts must include an explicit and prominent disclaimer to the effect that such statements should not be interpreted to mean that earnings per share will necessarily be greater than those for the relevant preceding financial period.

…

Rule 29.1

29.1 VALUATIONS TO BE REPORTED ON IF GIVEN IN CONNECTION WITH AN OFFER

When a valuation of assets is given in connection with an offer, it should be supported by the opinion of a named independent valuer. (For the purposes of this Rule, "an independent valuer" means a valuer who meets the requirements of an "external valuer" as defined in The Standards and, in addition, has no connection with other parties to the offer~~transaction~~.)

…

(d) Another party's assets

A party to an offer ~~a takeover situation~~ will not normally be permitted to publish a valuation, …

Rule 38.5

~~38.5 DISCLOSURE OF DEALINGS~~

~~Dealings in relevant securities, during the offer period, by an exempt principal trader connected with an offeror or the offeree company should be aggregated and disclosed to a RIS and the Panel not later than 12 noon on the business day following the date of the transactions, stating the following details: —~~

~~(a) if the relevant trading desk has recognised intermediary status and is dealing in a client-serving capacity:~~

~~(i) total acquisitions and disposals; and~~

~~(ii) the highest and lowest prices paid and received; or~~

~~(b) if the relevant trading desk does not have recognised intermediary status, or if it does but is not dealing in a client-serving capacity, the details required under Note 5(a) on Rule 8 (see Note 4 on this Rule).~~

~~In each case, it should be stated whether the connection is with an offeror or the offeree company. In the case of dealings in options or derivatives, full details should be given so that the nature of the dealings can be fully understood (see Note 5 on Rule 8).~~

~~NOTES ON RULE 38.5~~

~~1. Dealings and relevant securities~~

~~See the definitions of dealings and relevant securities in the Definitions Section.~~

~~2. Method of disclosure~~

~~Dealings should be disclosed to a RIS by electronic delivery. A copy must be sent to the Panel in electronic form. A specimen disclosure form is available on the Panel's website (www.thetakeoverpanel.org.uk) or may be obtained from the Panel. Disclosures under this Rule should follow that format.~~

~~3. Exception~~

~~Where it has been announced that an offer or possible offer is, or is likely to be, solely in cash, there is no requirement to disclose dealings in relevant securities of the offeror.~~

~~4. Recognised intermediaries dealing in a proprietary capacity~~

~~Where an exempt principal trader with recognised intermediary status deals in relevant securities other than in a client-serving capacity (or re-books a~~

~~*position which was acquired in a client-serving capacity so as to hold it in a proprietary capacity), it should aggregate and disclose under Rule 38.5(b) the interests, short positions and rights to subscribe which it holds in a proprietary capacity with those of the group's exempt principal traders which do not have recognised intermediary status. However, in making such disclosures, it need not aggregate and disclose details of any interests, short positions and rights to subscribe which it holds in a client-serving capacity.*~~

~~*5. Amendments*~~

~~*If details included in a dealing disclosure are incorrect, they should be corrected as soon as practicable in a subsequent disclosure. Such disclosure should state clearly that it corrects details disclosed previously, identify the disclosure or disclosures being corrected, and provide sufficient detail for the reader to understand the nature of the corrections. In the case of any doubt, the Panel should be consulted.*~~

Appendix 3

APPENDIX 3

DIRECTORS' RESPONSIBILITIES AND CONFLICTS OF INTEREST GUIDANCE NOTE

1 DIRECTORS' RESPONSIBILITIES

…

(a) the board is provided promptly with copies of all documents and announcements published by or on behalf of their company which bear on the offer; the board receives promptly details of all dealings in relevant securities made by their company or <u>any persons acting in concert with it</u> ~~its associates~~ and details of any agreements, understandings, guarantees, expenditure (including fees) or other obligations entered into or incurred by or on behalf of their company in the context of the offer which do not relate to routine administrative matters;

…

Appendix 5

APPENDIX 5

TENDER OFFERS

1 PANEL'S CONSENT REQUIRED

…

NOTES ON SECTION 1

…

2. Tender offers in competition with other types of offer under the Code

…

(c) disclosure of positions and dealings by the offeror making the tender offer and any persons treated as acting in concert with it ~~associates~~ in the manner set out in Rule 8.

…

3 DETAILS OF TENDER OFFER ADVERTISEMENTS

(a) …

…

(viii) the number and percentage of shares in which the offeror and persons acting in concert with it are interested, specifying the nature of the interests concerned (see Note 5~~(a)~~ on Rule 8);

…

Appendix 7

APPENDIX 7

SCHEMES OF ARRANGEMENT

…

8 SWITCHING

…

(c) …

…

(iv) an explanation of whether or not any irrevocable commitments or letters of intent procured by the offeror or any person acting in concert with it ~~its associates~~ will remain valid following the switch.