

THE TAKEOVER PANEL

Instrument 2017/1

Amendments to section 8 (Takeover Appeal Board) of the Introduction to the Takeover Code and other minor amendments

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

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

In accordance with section 4(b) of the Introduction to the Takeover Code (the **“Introduction”**):

- (a) the Takeover Appeal Board has agreed the amendments to section 8 of the Introduction set out in the Appendix, which amendments are hereby made by the Panel;
- (b) the Panel hereby makes the amendments to sections 4(a) and 4(b) of the Introduction set out in the Appendix; and
- (c) the Code Committee hereby makes the amendments to sections 4(d), 6 and 11 of the Introduction set out in the Appendix.

The amendments will take effect on 2 May 2017.

Michael Crane QC
Chairman of the Panel
for and on behalf of the Panel

Guy Elliott
Chairman of the Code Committee
for and on behalf of the Code Committee

12 April 2017

APPENDIX

INTRODUCTION

4 THE PANEL AND ITS COMMITTEES

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(a) The Panel

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The Panel comprises up to 36 members:

...

(iv) individuals appointed by each of the following bodies:

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The Pensions and Lifetime Savings Association ~~The National Association of Pension Funds~~

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(b) The Code Committee

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... Amendments to the matters set out in section 8 of the Introduction will be agreed by the Takeover Appeal Board (the “Board”) and made by the Panel.

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(d) Membership and representation restrictions

No person who is or has been a member of the Code Committee may simultaneously or subsequently be a member (or an alternate of a member) of the Hearings Committee or ~~the Takeover Appeal Board~~ (the “Board”).

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6 INTERPRETING THE CODE

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(b) Interpreting the Code — rulings of the Executive and the requirement for consultation

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Rulings of the Executive, including any grant or refusal to grant a waiver or derogation from the application of any rules, may be referred to the Hearings Committee for review as set out in Appendix 9.

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8 TAKEOVER APPEAL BOARD

~~This section gives an overview of the Takeover Appeal Board (the “Board”) and the procedures followed by the Board in connection with hearings before it. The full procedures of the Board are set out in its Rules, a copy of which is available on the Board’s website at www.thetakeoverappealboard.org.uk.~~

~~(a) — Status, purpose and membership of the Board~~

~~The Board is an independent body which hears appeals against rulings of the Hearings Committee. The Board’s rules, procedures and practices by which appeals to the Board are conducted are described in greater detail below set out in its Rules, which are published on the Board’s website at www.thetakeoverappealboard.org.uk.~~

~~The Chairman and Deputy Chairman of the Board will usually have held high judicial office, and are appointed by the Master of the Rolls. Other members, who will usually have relevant knowledge and experience of takeovers and the Code, are appointed by the Chairman (or, failing that, the Deputy Chairman) of the Board. The names of the members of the Board are available on the Board’s website.~~

~~The Board is assisted in its proceedings by a secretary to the Board (who will not be the person who acted as secretary to the Hearings Committee in the same matter), usually a partner in a law firm.~~

~~(b) — Conduct of hearings before the Board~~

~~The quorum for Board proceedings is three. However, the Board hearing an appeal will usually comprise at least five members. The Chairman or, where he is unavailable, the Deputy Chairman will usually preside as chairman of the proceedings in question (“chairman of the hearing”), although if they are unavailable, another member of the Board will be appointed by the Chairman (or, failing that, by the other members of the Board) to act as chairman of the hearing.~~

~~Proceedings before the Board are generally conducted in a similar way to those before the Hearings Committee as set out in section 7(c) above, using the procedure set out in the Board’s Rules. In addition, the Board or the chairman of the hearing may give such directions as it or he considers appropriate for the conduct and determination of the case.~~

~~The chairman of the hearing may, on behalf of the Board, deal with appeals relating to procedural directions of the Hearings Committee, or appeals that he considers to have no reasonable prospect of success, without convening the Board and without holding an oral hearing.~~

~~The Board provides its decision to the parties in writing as soon as practicable. Decisions of the Board are usually published in a public statement, save for matters redacted in order to protect confidential or commercially sensitive information (redaction being allowed following a request by one of the parties to the hearing and at the discretion of the chairman of the hearing). Any public statement of the Board will be issued as promptly as possible, having regard to all the circumstances of the case, after the decision has been provided in writing to the parties. In certain circumstances, the Board may issue a public statement of its decision (without providing reasons at this stage) in advance of the publication of the full decision.~~

~~(c) — Remedies~~

~~The Board may confirm, vary, set aside, annul or replace the contested ruling of the Hearings Committee. On reaching its decision, the Board remits the matter to the Hearings Committee with such directions (if any) as the Board (or the chairman of the hearing) considers appropriate for giving effect to its (or his) decision. The Hearings Committee will give effect to the Board's decision.~~

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11 DISCIPLINARY POWERS

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(a) Disciplinary action

... Disciplinary actions are conducted in accordance with the Rules of Procedure of the Hearings Committee, ~~which are available on the Panel's website.~~