

THE TAKEOVER PANEL
HEARINGS COMMITTEE
RULING OF THE CHAIRMAN OF THE HEARINGS COMMITTEE
IN THE MATTER OF THIRD POINT INVESTORS LIMITED

This Panel Statement sets out the Ruling of the Chairman of the Hearings Committee of 1 September 2025. The period for appeal to the Takeover Appeal Board has expired without any such appeal having been made. It is now published in accordance with paragraphs 6.5 and 6.6 of the Hearings Committee Rules of Procedure.

1 Introduction and Background

- 1.1 This Ruling is given in respect of a request made by certain persons (the "**Investor Group**") related to proposals concerning the acquisition of interests in an investment company known as Third Point Investors Limited ("**TPIL**" or the "**Company**") by Third Point LLC ("**Third Point**") for a review of a ruling given by the Executive of the Takeover Panel (the "**Executive**") on 13 August 2025 in which it concluded that there was no obligation on the part of Third Point to make a mandatory offer for the Company pursuant to Rule 9 of The City Code on Takeovers and Mergers (the "**Code**").
- 1.2 For reasons explained more fully below, this Ruling is given without the Hearings Committee having been convened, pursuant to the power vested in me as Chair of that Committee so to do, by paragraph 2.1(d) of the Rules of Procedure set out at Appendix 9 to the Code where I consider, on the basis of the materials provided, that any appeal against the Executive's Ruling (defined below) has no reasonable prospect of success.

Parties

- 1.3 The following parties are relevant to this Ruling:
- (a) TPIL is a Guernsey incorporated closed-ended investment company which has its ordinary shares of no par value each ("**Ordinary Shares**") listed on the Equity Shares (Closed-Ended Investment Funds) category ("**CEIF Category**") of the Official List of the Financial Conduct Authority ("**FCA**") and admitted to trading on the Main Market of the London Stock Exchange ("**LSE**"). TPIL is currently a company to which the Code applies under section 3(a)(i) of the Introduction to the Code as it has its registered office in the Channel Islands and its Ordinary Shares are admitted to trading on a UK regulated market.
- (b) Third Point is a New York-headquartered investment management business founded by Mr Daniel Loeb ("**Mr Loeb**") that operates as the Investment Manager of TPIL. There is no dispute that Third Point, Mr Loeb and certain other persons act in concert together, as further detailed in paragraph 3 below (the "**Third Point Concert Party**").

- (c) Third Point Offshore Independent Voting Company Limited ("**VoteCo**") is a company registered in Guernsey on 20 June 2007 established by TPIL ahead of TPIL's IPO in July 2007 for the purpose of holding the unlisted B Shares, defined in paragraph 2.1(b) below.
- (d) Malibu Life Reinsurance SPC ("**Malibu**") is an annuity re-insurer incorporated on 1 February 2024 as an exempted company with limited liability and regulated as a segregated portfolio company pursuant to the Companies Act of the Cayman Islands. Malibu is wholly owned by Malibu Holdings LLC ("**Malibu Holdings**") which is in turn wholly owned by Third Point Opportunities Master Fund L.P. ("**Third Point Opportunities**"), an affiliate of Third Point. There is no dispute that these entities also form part of the Third Point Concert Party.
- (e) Asset Value Investors Limited ("**AVI**"), Evelyn Partners Investment Management LLP ("**EPIL**") and Staude Capital Pty Limited ("**SCP**") are all shareholders in TPIL who together are referred to as the Investor Group.

2 TPIL's Share Capital

2.1 TPIL's share capital comprises:

- (a) Ordinary Shares, which entitle the holder upon a poll to one vote in respect of each Ordinary Share on all matters ("**Ordinary Shares**"). As noted above, the Ordinary Shares are admitted to listing on the CEIF Category and to trading on the Main Market of the LSE and are held by public investors; and
- (b) redeemable B shares ("**B Shares**") which, other than in respect of Listing Rule Reserved Matters (addressed at paragraph 2.5 below), entitle the holder upon a poll to one vote in respect of each B Share and a fixed annual dividend of 0.0000001 pence per share but carry no other right to share in the profits of TPIL or rights to distribution of capital on a winding-up of TPIL.

2.2 Under article 6 of TPIL's articles of incorporation ("**TPIL Articles**"), the aggregate issued number of B Shares must at all times be at least 40% of the aggregate issued number of Ordinary Shares and B Shares in issue. Accordingly, for every three Ordinary Shares that are issued (or redeemed), two B Shares are simultaneously issued (or redeemed). The B Shares are not listed or traded on any stock exchange or market.

2.3 As at the date of the Circular (see below), TPIL's issued share capital consisted of the following:

- (a) 17,392,389 Ordinary Shares; and
- (b) 11,594,926 B Shares.

2.4 All B Shares issued by TPIL are held by VoteCo to ensure that the Company at all times continues to retain foreign private issuer status ("**FPI Status**") for the purposes US securities regulation.

2.5 As the Ordinary Shares are admitted to listing on the CEIF Category and to trading on the Main Market of the LSE, there are a number of matters for which the UK Listing Rules ("**UKLRs**") stipulate that approval of the holders of the listed shares (in this case, the Ordinary Shares) is required ("**Listing Rule Reserved Matters**").

The Acquisition

2.6 On 21 May 2025, TPIL entered into a sale and purchase agreement with Malibu Holdings ("**Sale and Purchase Agreement**") pursuant to which Malibu Holdings agreed to sell and the Company agreed to buy Malibu Holdings' entire interest in Malibu ("**Acquisition**"). The Acquisition will result in TPIL

issuing Ordinary Shares ("**Consideration Shares**") to Malibu Holdings in consideration for its interest in Malibu. The Consideration Shares will be valued at the NAV per Ordinary Share of the Company and Malibu will be valued at its tangible book value, in each case: (i) after a deduction of transaction costs; and (ii) as at a specified calculation date.

- 2.7 Pursuant to the UKLRs, the Acquisition will lead to a fundamental change in business and thus requires shareholder approval pursuant to UKLR 7.5.1R(2) which applies to the Company by virtue of UKLR 11.5.1R. This approval was sought and obtained at a meeting of the shareholders of TPIL ("**TPIL Shareholders**") held at 10.00 a.m. on 14 August 2025 ("**EGM**") convened by means of a shareholder circular published by the Company on 25 July 2025 ("**Circular**"). Certain other TPIL Shareholder approvals were also sought and obtained at the EGM.
- 2.8 As the Acquisition constitutes a reverse takeover under UKLR 7.5.1R(2), the listing of the Ordinary Shares on the CEIF Category will be automatically cancelled from the point of completion of the Acquisition. The Company is in the process of applying for admission of its Ordinary Shares to the Equity Shares (Commercial Companies) category ("**ESCC Category**") of the Official List of the FCA and to trading on the Main Market of the LSE from and including completion of the Acquisition.

Migration

- 2.9 A further material element of the proposals relating to the Acquisition involves TPIL moving its domicile from Guernsey to the Cayman Islands ("**Migration**"). In the Circular, the Company's board ("**TPIL Board**") identified a number of reasons why the Migration was thought to benefit TPIL.
- 2.10 In terms of the mechanics of the Migration, this will be effected by means of a statutory process governed by Part VII of Companies (Guernsey) Law, 2008 (as amended) ("**Law**") and the Cayman Islands Companies Act (2025 Revision). In connection with the Migration, TPIL has submitted the following in Guernsey:
- (a) an application to the Guernsey Financial Services Commission to surrender its current authorisation as an authorised closed-ended collective investment scheme from completion of the Migration;
 - (b) a submission to His Majesty's Procureur to confirm it has no objection to the Company's removal from the Register of Companies in Guernsey; and
 - (c) a submission to the Director of the Revenue Services to confirm it has no objection to the Migration.
- 2.11 On 13 August 2025, TPIL was notified that the Director of the Revenue Services had issued confirmation that it has no objection to the Migration. On 19 August 2025, TPIL was further notified that His Majesty's Procureur also has no objection to the Company's removal from the Register of Companies in Guernsey. TPIL was expecting to receive approval from the Guernsey Financial Services Commission to surrender its current authorisation by Friday 29 August 2025.
- 2.12 Further, pursuant to the Law, the Migration requires TPIL Shareholder approval by way of special resolution which under Guernsey law requires 75% of votes cast in person or by proxy. Such approval was sought and obtained from the TPIL Shareholders at the EGM.
- 2.13 In accordance with that statutory process and by operation of Guernsey law, at completion of the Migration TPIL will be removed from the Register of Companies in Guernsey and will be re-registered in the Cayman Islands by way of continuation as a Cayman Islands exempted company.

- 2.14 The Migration will take place at least two business days prior to completion of the Acquisition and the Shareholder Rotation (defined below).

Redemption Offer and Shareholder Rotation

- 2.15 As already noted above, the Acquisition will result in a fundamental change of business of TPIL. Because of this, holders of Ordinary Shares ("**Ordinary Shareholders**") were all invited, subject to regulatory restrictions, to submit some or all of their Ordinary Shares for redemption by the Company on the terms set out in the Circular ("**Redemption Offer**"). On 21 May 2025, TPIL announced that it contemplated a tender offer of at least \$75 million at a discount of 12.5% to NAV ("**Original Redemption Offer**"). However, on 23 July 2025, the Company announced an intended revision of the terms of the Original Redemption Offer, reducing the effective discount to the Reference NAV to approximately 4.8% for the redeemed Ordinary Shares, and increasing the maximum consideration payable to approximately \$136 million ("**Revised Redemption Offer**").
- 2.16 In its announcement on 21 May 2025, the TPIL Board said that it expected that all B Shares would be redeemed immediately prior to but conditional on Completion (as defined below), i.e., that VoteCo would no longer own any B Shares or be able to exercise any voting rights at general meetings of TPIL. However, this plan was revised, and in both the Revised Redemption Offer announced on 23 July 2025 and the Circular published on 25 July 2025, TPIL instead said that VoteCo would continue to hold all of the B Shares immediately following Completion to ensure that TPIL continues to retain FPI Status for US regulatory purposes.
- 2.17 Although the Redemption Offer identified above is subject to a maximum aggregate consideration of approximately \$136 million, Ordinary Shareholders holding approximately 25.3% of the issued Ordinary Shares, including Third Point, have undertaken not to submit any Ordinary Shares for redemption. Consequent on this, a greater proportion of Ordinary Shares held by other Ordinary Shareholders wishing to exit may be redeemed than would otherwise be the case.
- 2.18 In connection with the Redemption Offer and conditional on completion of the Acquisition and the Redemption Offer having become unconditional, TPIL has agreed to accept applications for subscriptions for Ordinary Shares comprising: (i) \$30 million in value by Third Point Opportunities; and (ii) \$3.85 million in value in aggregate by nine employees of Third Point and its affiliates who are together members of the Third Point Concert Party; (iii) \$25 million in value in aggregate by two subsidiaries of Voya Financial Inc.; (iv) \$2.5 million by Gatemore Special Opportunities Master Fund Limited, an investment company controlled by Mr. Liad Meidar, an independent director of the Company; and (v) \$0.5 million by Mr. Dimitri Goulandris, an independent director of the Company (together, the "**Subscriptions**" and, together with the Redemption Offer, the "**Shareholder Rotation**").
- 2.19 The Shareholder Rotation required the passing of: (i) an ordinary resolution pursuant to UKLR 9.6.2R(2) (which applies to the Company by virtue of UKLR 11.4.1R) to authorise the terms of, among other things, the Subscriptions; and (ii) a special resolution pursuant to article 65 of the TPIL Articles to disapply the pre-emption rights contained in the TPIL Articles. Both resolutions were duly passed at the EGM.
- 2.20 The Acquisition, the Migration and the Shareholder Rotation are referred to collectively below as the "**Proposals**".

3 The Third Point Concert Party

- 3.1 It is necessary to say something further about the Third Point Concert Party, which, as foreshadowed above, includes: (i) Mr. Loeb; (ii) family members of Mr. Loeb; (iii) related trusts of Mr. Loeb; (iv) partners, managers and employees of Third Point, as well as their respective family members and related trusts; and (v) affiliates of Third Point, including Third Point Opportunities and Malibu Holdings.

- 3.2 In aggregate the Third Point Concert Party is interested in 4,356,423 of Ordinary Shares, representing:
- (a) 15.0% of the total voting rights of TPIL¹; and
 - (b) 25.0% of the economic rights of TPIL.
- 3.3 As already noted above, following completion of the Acquisition and the Shareholder Rotation, certain alterations to the issued share capital of TPIL will occur, including: (i) the issue of the Consideration Shares to Malibu Holdings pursuant to the Acquisition; (ii) the Subscriptions as part of the Shareholder Rotation; and (iii) the redemption of up to 4,340,843 existing Ordinary Shares pursuant to the Redemption Offer in relation to which members of the Third Point Concert Party have committed not to participate.
- 3.4 On completion of the Acquisition and the Shareholder Rotation, the Third Point Concert Party is expected to be interested in Ordinary Shares representing:
- (a) approximately 26.2% of the total voting rights of TPIL²; and
 - (b) approximately 43.7% of the economic rights of TPIL.³
- 3.5 In addition, on completion of the Proposals ("**Completion**"):
- (a) Third Point and persons acting in concert with it may, for so long as Third Point and persons acting in concert with it hold in aggregate a beneficial interest in more than 10% of the Ordinary Shares, nominate natural persons to the TPIL Board representing a minority of the members of the board and up to a maximum of three natural persons;
 - (b) Third Point and persons acting in concert with it may, for so long as Third Point and persons acting in concert with it hold in aggregate a beneficial interest in more than 10% of the Ordinary Shares, appoint one board observer to the TPIL Board and may remove and/or replace such board observer;
 - (c) TPIL will enter into a shareholder agreement with Third Point, Malibu Holdings and Third Point Opportunities to regulate their relationship. This includes that, for so long as Third Point and persons acting in concert with it are entitled to nominate at least one director to the TPIL Board and in aggregate hold more than 10% of the Ordinary Shares, TPIL will not without the consent of the majority of the board (including all directors nominated by Third Point and persons acting in concert with it) amend the TPIL Articles, issue new shares representing more than 10% of the issued Ordinary Shares, acquire, sell or propose to acquire or sell the whole or part of any undertaking, shares or assets, liquidate TPIL, appoint a new investment adviser or remove or seek to remove the investment manager;
 - (d) Third Point and Malibu will enter into an amended and restated investment management agreement pursuant to which Third Point will provide Malibu with investment management and related services, including by investing Malibu's funds in accordance with its investment guidelines; and

1 The total voting rights include the Ordinary Shares and the B Shares.

2 The total voting rights include the Ordinary Shares and the B Shares.

3 As referenced in paragraph 2.1(b) above, the B Shares carry a fixed annual dividend of 0.0000001 pence per share but carry no other right to share in the profits of TPIL or rights to distribution of capital on a winding-up of TPIL. The Ordinary Shares carry rights to receive dividends attributable to the Ordinary Shares and, on a winding-up, the holders of Ordinary Shares will be entitled to receive, by way of capital, any surplus assets of TPIL attributable to the Ordinary Shares as a class in proportion to their holdings remaining after settlement of any outstanding liabilities of TPIL.

- (e) Third Point and Malibu will enter into an amended, restated and novated strategic services agreement pursuant to which Third Point will provide operational and strategic support services, (together, the "**Collateral Arrangements**").

4 Chronology leading to the Executive's Ruling, the Executive Ruling, and the Investor Group request for a review thereof

- 4.1 Following the announcement of the Proposals on 21 May 2025, the Investor Group⁴ via its solicitors Ogilvy & Wachtel LLP began a dialogue with the Executive, including in particular as to whether there was an obligation on the part of Third Point to make a mandatory offer for TPIL pursuant to Rule 9 of the Code.
- 4.2 In its dealings with the Executive, the Investor Group made the following four written submissions to the Executive:
- (a) On 8 July 2025, by reference to the original transaction announced by TPIL and the Code issues arising on the original transaction terms, including the Original Redemption Offer, announced on 21 May 2025 ("**First Submission**").
- (b) On 11 July 2025, on the matter of jurisdiction of the Executive in relation to TPIL following Completion of the Proposals. It is understood that this submission was made at the invitation of the Executive after the matter of jurisdiction had been raised by TPIL or Third Point ("**Second Submission**")⁵.
- (c) On 25 July 2025, following the announcement on 23 July 2025 of the Revised Redemption Offer.
- (d) On 8 August 2025, in the form of an abbreviated submission at the request of the Executive in order to obtain a ruling of the Executive.
- 4.3 On 13 August 2025, and following the request made by the Investor Group, the Executive made the following ruling (the "**Executive's Ruling**"):

"The Panel Executive rules that the Proposals, as defined in the circular published by [TPIL] on 25 July 2025, do not trigger an obligation for [Third Point] to make a mandatory offer for the Company pursuant to Rule 9.1 of the Takeover Code. Accordingly, there is no basis for the Company to seek a Rule 9 waiver subject to an independent vote at a shareholders' meeting in accordance with Note 1 of the Notes on Dispensations from Rule 9.

This ruling is given on the basis that:

- (a) *the Proposals will not result in Third Point or any person acting in concert with it acquiring an interest in shares so as to increase the percentage of shares carrying voting rights in which Third Point (together with persons acting in concert with it) is interested through the thresholds set out in either Rule 9.1(a) or Rule 9.1(b); and*
- (b) *in any event, the acquisitions of interests in shares carrying voting rights by Third Point and persons acting in concert with it under the Proposals will only occur when the Company has its registered office in the Cayman Islands, at which time the Code will not apply to the Company."*

4 At an earlier stage the Investor Group included also Metage Capital Limited and Almitas Capital LLC but neither is party to the present appeal.

5 The First Submission had also addressed the question of jurisdiction.

- 4.4 On 15 August 2025, the Investor Group made a request that the Hearings Committee be convened to review the Executive's Ruling.
- 4.5 On 20 August 2025, in accordance with my directions, each of the Investor Group (represented by Ogilvy & Wachtel LLP), the Executive and the Company (represented by Herbert Smith Freehills Kramer LLP) served simultaneous focused submissions in respect of the Executive's Ruling.
- 4.6 On 22 August 2025, again in accordance with my directions, each of the Investor Group, the Executive and the Company served a focused rejoinder on the points raised by the other parties in their respective submissions.
- 4.7 The main points raised in these submissions and rejoinders are addressed below.

5 Relevant Code provisions

- 5.1 Before addressing the submissions made by the parties, it may be helpful first to identify some of the Code provisions that are relevant to this matter, starting with Rule 9.1 of the Code, dealing with mandatory offers, as well as other materials relating to this produced by the Panel.
- 5.2 Rule 9.1 provides (so far as relevant) as follows:⁶

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

Except with the consent of the Panel, when:

- (a) *any person acquires an interest in shares which (taken together with shares in which the person or any person acting in concert with that person is interested) carry 30% or more of the voting rights of a company; or*
- (b) *any person, together with persons acting in concert with that person, is interested in shares which in the aggregate carry not less than 30% of the voting rights of a company but does not hold shares carrying more than 50% of such voting rights and such person, or any person acting in concert with that person acquires an interest in any other shares which increases the percentage of shares carrying voting rights in which that person is interested,*

such person shall extend offers, on the basis set out in Rule 9.3 and Rule 9.5, to the holders of any class of equity share capital whether voting or non-voting and also to the holders of any other class of transferable securities carrying voting rights. Offers for different classes of equity share capital must be comparable; the Panel should be consulted in advance in such cases...

- 5.3 The requirement for a mandatory offer to be made in the circumstances set out in Rule 9.1, implements General Principle 1 which provides that "All holders of the securities of an offeree company of the same class must be afforded equivalent treatment" and that "If a person acquires control of a company, the other holders of securities must be protected."

6 Emphasis added.

5.4 The 30% voting rights threshold identified by Rule 9.1 reflects the level determined by the Code as that at which a person acquires control of a company. Thus, 'control' is defined by the Code as follows:⁷

"Control means an 'interest, or interests, in shares' carrying in aggregate 30% or more of the 'voting rights' (as defined below) of a company, irrespective of whether such interest or interests give de facto control."

5.5 Since both the determination of control and, relatedly, the triggering of Rule 9, depend upon the acquisition of a certain level of 'voting rights' of a company, it is important to have regard to how this is defined by the Code:⁸

"Voting rights of a company means all the voting rights attributable to its share capital which are currently exercisable at a general meeting.

Except for treasury shares, any shares which are subject to:

(a) a restriction on the exercise of voting rights:

(i) in an undertaking or agreement by or between a shareholder and the company or a third party; or

(ii) arising by law or regulation; or

(b) a suspension of voting rights implemented by means of the company's articles of association or otherwise,

will normally be regarded as having voting rights which are currently exercisable at a general meeting."

5.6 The Code Committee, in PCP 2025/1, recently noted that control for the purposes of the Code is determined by the level of a person's interests in shares carrying voting rights and not, for example, with reference to governance or other contractual rights.

5.7 Thus, paragraph 1.12 of PCP 2025/1 states:⁹

"The Code is primarily concerned with the passing of "control" of a company to which the Code applies (a "Code company"), as determined by the level of a person's interests in shares carrying voting rights and defined by reference to the voting rights that are currently exercisable at a general meeting of the company. The establishment of a [dual class share structure] will give rise to issues in relation to the level of a person's voting rights, and therefore potentially as to the control of a Code company. This PCP addresses the application of the Code to DCSS companies and does not seek to address situations where a company and its shareholders adopt a structure other than a DCSS to confer on a person some degree of "control" in another sense (e.g. a contractual right under a shareholders' agreement or a relationship agreement for a shareholder to appoint a majority of the company's directors)."

5.8 Having set out the provisions of the Code and other materials that are particularly relevant to the present matter, it is convenient to turn next to consider the submissions made by the parties.

7 Emphasis added.

8 Emphasis added.

9 Emphasis added.

6 **The Investor Group's submissions**

- 6.1 As foreshadowed above, the Investor Group submits that the Executive's Ruling is wrong and should be reviewed and, indeed, that the Executive should have concluded that Third Point should be required to make a mandatory offer under Rule 9 of the Code or to seek a waiver of its obligation to do so.
- 6.2 The Investor Group submissions contend in summary that:
- (a) Third Point (and, in turn, the Third Point Concert Party) is acquiring control of the Company for the purposes of Rule 9 of the Code as a consequence of the Proposals and therefore should be required to make a mandatory offer pursuant to Rule 9; and
 - (b) at the time the Proposals were and are proposed to TPIL Shareholders, the Executive had and has jurisdiction in respect of the Company to require that a mandatory offer be made or that a waiver of the obligation to make a mandatory offer pursuant to Rule 9 be sought. The Investor Group also say that if the Executive disagreed as to whether it had jurisdiction, it had the opportunity to refer the matter to the Code Committee to amend the Code on an expedited basis to ensure that it had jurisdiction and should have done so when it had the opportunity.
- 6.3 Further detail about the Investor Group submissions is set out below.

The mandatory offer issue

- 6.4 So far as concerns the Investor Group's contention that the Executive should have determined that the Third Point Concert Party will have control over the Company for the purposes of Rule 9 of the Code, the Investor Group draws attention to the definitions of control and voting rights contained in the Code (as set out above). It notes, in particular, that although shares which are subject to restrictions on the exercise of voting rights, "*will normally be regarded as having voting rights which are currently exercisable at a general meeting*", the use of the word "*normally*" in this context is relevant as indicating that it is not invariably the case that such shares will be treated as having voting rights for the purpose of determining control.
- 6.5 More particularly, the Investor Group contend that the use of the word "*normally*" or similar words or phrases within the Code puts parties on notice that the interpretation is subject to the Executive's power to exercise its discretion. They further refer in this regard to the fact that, as explained at paragraph 2(b) of the Introduction to the Code, the Rules of the Code are subject to the General Principles and this informs how the Rules are interpreted.
- 6.6 Against this background, the Investor Group contend that, in the circumstances of the Proposals, the Panel should depart from the normal approach stipulated by the Code as to the determination of whether an obligation to make a mandatory offer under Rule 9 of the Code should arise.
- 6.7 The Investor Group identifies in particular the following matters as demonstrating that Third Point and the Third Point Concert Party will control the Company for the purposes of Rule 9 of the Code by reason of the Proposals:¹⁰
- (a) Third Point is the Manager of TPIL and, together with the other members of the Third Point Concert Party, is its largest holder of Ordinary Shares with 25% of the Ordinary Shares. Third Point put forward a proposal, accepted by the TPIL Board, for TPIL to buy Malibu, a business also owned by Third Point, in exchange for Consideration Shares which, based on the Investor

¹⁰ What follows is a summary of what appear to be the main points made by the Investor Group in this regard.

Group's calculations, means that Third Point will increase its holding of Ordinary Shares to 32.7% and which will subsequently be increased by the Redemption Offer to 42.6%¹¹ of the Ordinary Shares then in issue.

- (b) VoteCo will for UKLR purposes become a 'controlling shareholder'¹² from admission of the Ordinary Shares to the ESCC Category even though it does not and will not have any economic interest in the Ordinary Shares. Meanwhile, Third Point's total voting rights on a fully diluted basis will increase from 15% to 25.8%¹³.
- (c) On Listing Rule Reserved Matters where VoteCo cannot vote, Third Point will be able to exercise 42.6%¹⁴ of the voting rights eligible to vote. The Investor Group contend that the statement by the Company in the Circular that "*Third Point and its affiliates will, following Completion, possess enhanced voting power sufficient to have a significant influence over all matters requiring shareholder approval, including the election of directors*" further illustrates this point.
- (d) The list of Listing Rule Reserved Matters to which VoteCo cannot exercise its voting rights includes important corporate matters. Therefore, contends the Investor Group, having the control of 43% is very significant when considering Third Point's 'control' for the purposes of the Code.
- (e) In particular, the Investor Group highlights that pursuant to UKLR 6.2.8R and UKLR 6.2.27R(2)¹⁵, the election or re-election of any 'independent director'¹⁶ is one such matter on which VoteCo cannot vote. They contend that this right, taken together with Third Point's right to nominate directors to the TPIL Board pursuant to a shareholder agreement to be entered into as part of the Collateral Arrangements, are significant because Third Point as a shareholder with 42.6%¹⁷ voting rights¹⁸ can thereby determine the outcome of shareholder votes on the election, re-election or removal of members of the TPIL Board.
- (f) The Investor Group also contend that if an offer for the Company is made under the Code, that offer would only be made to the holders of Ordinary Shares. This, it appears to be suggested, is because the "*B Shares held by VoteCo have no economic interest or rights at all.*"¹⁹ Therefore, it is contended that if a future offer is made to buy Third Point's shares in TPIL, Third Point could sell its 42.6%²⁰ economic interest (based on predicted future equity ownership). It is further contended that if the Code does not apply following the Migration, Third Point can deliver 'control' to a buyer of the business, especially if VoteCo still exists at that stage and the buyer has no need for a VoteCo. Other TPIL Shareholders may not receive an offer at all, and if they do, they may not share in any control premium, because, after the proposed transaction they will have lost that protection under the Code. The Investor Group consider this to be of

11 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 43.7% of the voting rights held by the Ordinary Shares.

12 The FCA Handbook defines a controlling shareholder as "*any person who exercises or controls on their own or together with any person with whom they are acting in concert, 30% or more of the votes able to be cast on all or substantially all matters at general meetings of the company. For the purposes of calculating voting rights, the following voting rights are to be disregarded....*"

13 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 26.2% of the total voting rights.

14 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 43.7% of the voting rights eligible to vote on Listing Rule Reserved Matters.

15 In its rejoinder, the Investor Group clarified its position that VoteCo cannot vote as only referring to the resolution required under UKLR 6.2.8R(2).

16 The FCA Handbook defines an Independent director as "*a director whom an applicant or listed company has determined to be independent under the UK Corporate Governance Code*".

17 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 43.7% of the voting rights held by the Ordinary Shares.

18 The Investor Group acknowledge that statutory voting control is set at 50% of voting rights eligible to vote on these matters and therefore, the Investor Group is 7.4% short of being able to pass these resolutions on a standalone basis.

19 Although this is unlikely to matter for present purposes, it is not entirely easy to understand on what basis it is said that the B Shares have 'no...rights at all'.

20 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 43.7% of the voting rights held by the Ordinary Shares.

point of some significance because, in its view, not only will Third Point have acquired control, it will also have ensured that if it passes on that control to a future buyer it can keep the control premium to itself.

- (g) The Investor Group further contends that the Collateral Arrangements being entered into by members of the Third Point Concert Party are very significant and relevant when assessing whether Third Point is acquiring control or contractually acquiring negative control. They contend that whilst the provisions of the Collateral Agreements do not impact the percentage of voting rights – which the Investor Group acknowledge is the central to Rule 9 – this is, they say, nonetheless a significant factor in deciding whether what they label as the discretion in the definition of voting rights should be exercised.

6.8 The Investor Group also raise in this context the question as to why the Company changed its position as to whether the B Shares held by VoteCo would be redeemed, having initially said that they would be redeemed but subsequently making clear that the B Shares would be retained. Whilst the Investor Group acknowledges it is unable to provide evidence that this was done deliberately to avoid a mandatory offer, and that the Circular offers an explanation for the decision to maintain VoteCo, they nonetheless contend that this explanation should be closely examined. In this regard:

- (a) the Investor Group note that the Circular refers to the *“significant increase in the size of the Redemption Offer from \$75 million to approximately \$136 million since the Company’s announcement on 21 May 2025, together with the increase in the size of the subscription from Third Point Opportunities, employees of Third Point (and its affiliates) and other US-based third party investors, are expected to materially increase the percentage of voting rights held by US residents.”* The Investor Group also note that the announcement of the Original Redemption Offer referenced at least \$75 million suggesting it was originally contemplated that the amount might be higher, but no ceiling was placed on the same and TPIL proposed removing VoteCo under the terms of that offer. The Investor Group also say that in discussions between the Investor Group and Richard Boléat, a Director of TPIL, it was stated that TPIL would be working to increase the Original Redemption Offer to a level where any shareholder who wished to have a full exit would be provided with one;
- (b) the Investor Group also note that the Circular refers to *“the Company needing to deploy its investment out of the Master Fund earlier than previously anticipated, such that the Company may need to raise equity capital earlier than previously anticipated in order to scale the Malibu business,”* The Investor Group contend that the statement carries the hallmarks of a confluence of interest being created to justify the re-introduction of VoteCo; and
- (c) the Investor Group notes that the Company also says in the final paragraph of the relevant part of the Circular that: *“As a result, following completion of the Acquisition and the Shareholder Rotation, Third Point and persons acting in concert with Third Point will hold less than 30 per cent. of the voting rights in the Company.”* The Investor Group contends that the inclusion of this statement infers that this is the ‘real reason’ why VoteCo was, as it puts it, *“reintroduced”*.

6.9 These matters, going to the change in position as regards redeeming the B Shares and which are said to suggest the possibility of a deliberate strategy on the part of TPIL and Third Point to avoid having to make a mandatory offer under Rule 9, are put forward as a further reason why, according to the Investor Group, the Executive should have exercised what the Investor Group describe as a ‘discretion’ to depart from the normal approach to assessing the level of voting rights and control for the purposes of Rule 9.

Concert Party

- 6.10 In addition to the points made above, the Investor Group in its earlier submissions (referred to at paragraph 4.2 above), also suggested that Third Point and VoteCo might be acting in concert for the purpose of the Code.
- 6.11 However, in its more recent submission of 20 August 2025, the Investor Group make clear that they do not press this point because, as the Executive had noted, it is one that is likely to become circular given that if such a concert party did exist then it was one that always controlled more than 50% of the voting rights of TPIL, which would have made the requirement for a mandatory offer under Rule 9 of the Code inapplicable in any event.
- 6.12 In light of the fact that the point is no longer one pressed by the Investor Group, it is unnecessary to say any more about it.

Jurisdiction

- 6.13 On the matter of jurisdiction, the main arguments advanced in respect of this point were included by the Investor Group in its First Submission and Second Submission.
- 6.14 As already noted above, the Investor Group state in this regard that the Executive was wrong to decide that TPIL will not be subject to the jurisdiction of the Code at Completion of the Proposals and after the Migration by reason of the fact that the Company at that point will be domiciled in the Cayman Islands and not in Guernsey.
- 6.15 More particularly, the Investor Group contend that what matters in this regard is that TPIL is subject to the Code at the time the Proposals were proposed whenever they are to be implemented and that the Code applies notwithstanding that it has been sequenced so that technically control arises after the Migration.
- 6.16 More particularly, the Investor Group make reference to PCP 2024/1 and RS 2024/1 whereby the Code Committee sought to make the jurisdiction test under the Code clear, certain and objective and in doing so, removed the ‘residency test’ which involved a subjective determination by the Panel of whether certain companies had their place of central management in the UK, the Channel Islands or the Isle of Man and introduced the concept of ‘transition companies’ whereby the Code will continue to apply to companies to which the Code applies for two years following certain events occurring (i.e. the delisting of its securities from a UK regulated market)²¹.
- 6.17 As the Investor Group point out, reflecting the work done by the Code Committee, section 3(a)(i) of the Introduction to the Code now provides that:

"The Code applies to any company which has its registered office[] in the United Kingdom, the Channel Islands or the Isle of Man if any of its securities are admitted to trading on a UK regulated market, a UK MTF[#], or a stock exchange in the Channel Islands or the Isle of Man"*

- 6.18 The Investor Group contend that as TPIL is a Guernsey registered company and its Ordinary Shares are listed on the LSE which is a UK regulated market, the Company falls within the jurisdictional scope of the Code.

21 Given the reference to delisting, the reference to ‘transition companies’ in this context may have been intended to be a reference to companies in a ‘run-off period’ under section 3(a)(ii) of the Introduction to the Code which provides that “*The Code also applies to any company ... which has its registered office* in the United Kingdom, the Channel Islands or the Isle of Man if any of its securities were admitted to trading on a UK regulated market, a UK MTF#, or a stock exchange in the Channel Islands or the Isle of Man at any time during the two years prior to the relevant date*” (rather than to the ‘transition companies’ referred to in section 3(a)(iii) of the Introduction to the Code.

6.19 It is to be noted, however, that whereas PCP 2024/1 and RS 2024/1 set out implications for companies who cease to become UK quoted public companies, they do not deal with the situation whereby a UK quoted company with a registered office in the United Kingdom, the Channel Islands or the Isle of Man, subsequently re-domiciles or re-registers in another jurisdiction. The Investor Group contend however that the Code does not expressly state that transition companies have to remain registered in the United Kingdom, the Channel Islands or the Isle of Man during the two year period to which the Code continues to apply²².

6.20 The Investor Group further contend that the Proposals are subject to the Code because, it is contended, they fall within the broad definition of transactions subject to the Code as set out in section 3(b) of the Introduction to the Code:

"The Code is concerned with regulating takeover bids and merger transactions of the companies referred to in section 3(a) above, however effected, including by means of statutory merger or scheme of arrangement (as defined in the Definitions Section). The Code is also concerned with regulating other transactions (including offers by a parent company for shares in its subsidiary, dual holding company transactions, new share issues, share capital reorganisations and offers to minority shareholders) which have as their objective or potential effect (directly or indirectly) obtaining or consolidating control of the relevant companies, as well as partial offers (including tender offers pursuant to Appendix 5) to shareholders for securities in the relevant companies. The Code also applies to unitisation proposals which are in competition with another transaction to which the Code applies.

The Code applies to all the above transactions at whatever stage of their implementation, including possible transactions which have not yet been announced."

6.21 The Investor Group draw attention, in relation to section 3(b), to the words making clear that the Code applies to transactions, "*which have as their objective or potential effect (directly or indirectly) obtaining or consolidating control of the relevant companies*". They argue that the Proposals have exactly that in mind and therefore the Panel should require that a Rule 9 waiver be proposed to TPIL Shareholders whilst the Company is within the Executive's jurisdiction and prior to the Migration taking place.

6.22 The Investor Group also contend that it is not correct to say that the Panel's jurisdiction is limited only to 'Code companies' falling within the definition set out in section 3(a)(i) of the Introduction to the Code. They point by way of an example to the situation where a bidder makes a 'post offer intention statement' under Rule 19.6 of the Code, where the party making that statement must, amongst other matters, obtain Panel consent if it wishes to act contrary to the intentions statement within 12 months. In such a situation, they contend, the Panel is potentially regulating companies no longer subject to its jurisdiction in the strict application of section 3(a)(i) of the Introduction to the Code.

6.23 The Investor Group suggested in its submissions to the Executive that the matter should be referred to the Code Committee in order to: (i) ensure the correct outcome and avoid a Panel appeal; (ii) provide immediate 'legislative' clarity to a live situation if the Executive is reluctant to rule; and (iii) enable the Code Committee to revisit the jurisdiction test afterwards and consult more widely.

7 TPIL's submission

7.1 Before turning to address the main points made by TPIL on the substance of the Executive's Ruling, it may be worth noting in passing the submission by the Company that all steps taken by it in relation to the Proposals have been cleared in advance with the Executive. While that may well be so, this can in my

22 In the light of footnote 21 above, to the extent the Investor Group's reference to 'transition companies' was intended to refer to companies in a 'run-off period', it is noted that the position in respect of such companies is addressed by section 3(a)(ii) of the Introduction to the Code.

view have no effect whatever on the correctness or otherwise of the Executive's Ruling with which this review is concerned.

The mandatory offer issue

- 7.2 TPIL contends, in short, that the B Shares and the voting rights attached to them, have always fallen, and continue to fall, within the definition of voting rights under the Code and should be included in the denominator for the calculation of whether any person has crossed a threshold under Rule 9 of the Code. On this basis, no obligation to make a mandatory offer arises.
- 7.3 TPIL notes in this regard that the B Shares carry voting rights attributable to the share capital of the Company which are currently exercisable at a general meeting, equivalent to those attaching to the Ordinary Shares on a 'one share, one vote' basis. This includes, says TPIL, voting on fundamental matters for the operation, management and share capital of the Company, including resolutions to appoint and remove all directors from the TPIL Board whether at an annual general meeting or at any other general meeting, and on resolutions to disapply pre-emption rights in connection with the issue of shares, to buy-back shares and for the payment of dividends.
- 7.4 TPIL further contends that the Listing Rule Reserved Matters for which the B Shares are not entitled to vote are a narrow, limited subset of matters under the UKLRs that the Company requires the holders of the listed Ordinary Shares only to approve. TPIL suggests that these are not so much a restriction on the voting rights of the B Shares but are, rather, a positive requirement for holders of listed shares to approve certain matters under the UKLRs. As such, says TPIL, the requirement under the UKLRs is more akin to a class consent right afforded to the Ordinary Shares than a restriction on the voting rights of the B Shares.
- 7.5 TPIL also observes that, in considering VoteCo as a 'controlling shareholder' for the purpose of the UKLRs²³ it is clear that the FCA regards the B Shares as carrying voting rights on all, or substantially all, matters to be decided at a general meeting of the Company. TPIL further observes that, in response to a request for guidance on the applicability of UKLR 5.4.5R (concerning specified weighted voting right shares) to the B Shares, the FCA confirmed on 15 August 2025 that the B Shares are not 'weighted voting rights shares' for the purpose of the UKLRs, on the basis that the B Shares each carry one vote on matters to be decided at a general meeting of the Company.
- 7.6 Moreover, notes TPIL, while certain matters voted on at the EGM were reserved for the holders of the listed Ordinary Shares all of which were matters required to be voted on by the holders of the Ordinary Shares under the UKLRs, VoteCo exercised the voting rights attaching to the B Shares in respect of all matters which require a shareholder vote under Guernsey company law.
- 7.7 Consequently, observes TPIL, there is no restriction on the exercise of the B Shares' voting rights under limb (a) of the Code definition of voting rights. Instead, the B Shares are entitled to vote on all matters requiring a shareholder vote under Guernsey company law; the only additional matters on which the Ordinary Shares were entitled to vote exclusively were those where this was required by the UKLRs.
- 7.8 Further, says TPIL, even if the limitation on B Shares voting on matters reserved for the holders of the listed Ordinary Shares was determined to be a restriction arising from law or regulation, the circumstances in this case would still not justify departing from the Executive's general approach that shares subject to such restriction "*will normally be regarded as having voting rights which are currently exercisable at a general meeting*". The fact that at the EGM there are a number of matters to be determined only by holders of the listed Ordinary Shares arising from the transformational nature of the transaction being undertaken by the Company, does not, says TPIL, change the underlying nature of the B Shares as shares carrying

23 The definition of which is set out in footnote 12 above.

voting rights as part of the share capital of the Company exercisable at a general meeting. In short, says TPIL, the limited subset of matters where VoteCo is not entitled to vote should not alter the conclusion that it controls 40% of the voting rights of the Company.

- 7.9 Further, notes TPIL, if the B Shares were excluded from the definition of voting rights and therefore fell outside the application of Rule 9 of the Code simply because the shares may not be voted in certain limited circumstances, this would be contrary to the purpose underlying Rule 9 which is to afford to all shareholders holding voting shares the benefit of a price which includes a control premium. Such a conclusion, says TPIL, would directly contradict the terms of Rule 9 and set an illogical precedent.
- 7.10 TPIL, in its rejoinder, also takes direct issue with the contention on the part of the Investor Group to the effect that the 'reintroduction' of VoteCo was motivated by a desire to circumvent the Code: see paragraph 6.8 above. As to this, TPIL submits that:
- (a) VoteCo had never in fact been removed to then be 'reintroduced'. Rather, the Company in its announcement on 21 May 2025 simply said that it expected the B Shares to be redeemed but it did not commit to do so.
 - (b) In any event, the Company is not able to unilaterally redeem the B Shares because, except in the case of a winding-up of the Company, any redemption requires the consent of VoteCo.
 - (c) There are, moreover, materially adverse consequences for TPIL if it were to cease to be a foreign private issuer for US securities regulation purposes, a risk that was heightened by the Revised Redemption Offer.
 - (d) The decision whether to retain VoteCo required the Company to balance these regulatory risks of removing VoteCo as against the potential commercial implications of retaining the arrangement following the change of listing category. After further consideration with its advisers, the TPIL Board finally determined that it was in the best interests of the Company and its shareholders as a whole to retain VoteCo in order to ensure that it maintains FPI Status.
 - (e) This being so, says TPIL, there is no basis for inferring from the change in direction as regards the intention to retain VoteCo, a deliberate attempt to avoid the application of the Code.

PCP 2025/1

- 7.11 In its submission, TPIL also refers to PCP 2025/1 to note that it does not expressly include within the three principal structures of dual class share structures ("**DCSS**") analysed, a structure equivalent to the B Shares of the Company. This is because, in relation to DCSS 1 companies (as defined in PCP 2025/1), the B Shares carry one vote per share, rather than multiple votes per share, and in relation to DCSS 2 and DCSS 3 companies (in each case, as defined in PCP 2025/1), there are multiple B Shares in issue, rather than a single special share. In each of the three dual class share structures analysed, the voting rights attaching to weighted voting rights shares or a single special share are counted as voting rights of the DCSS company, even if the rights apply to only a limited number of matters (e.g., change of control).
- 7.12 TPIL highlights that the B Shares precede PCP 2025/1 by many years and the recent changes to the UKLRs to allow dual class structures. In any event, the B Shares do not fit within the concept of weighted voting rights shares (under either the Code or the UKLRs) because, rather than granting additional voting power to a founder which is disproportionate to its economic interest, VoteCo has no economic interest in the Company and the B Shares were created to fulfil a regulatory compliance mechanism (i.e., to ensure the Company retains its status as a foreign private issuer for US regulatory purposes). TPIL submits that this view is also now the view of the FCA as noted in paragraph 7.5 above, the FCA have since confirmed to the Company on 15 August 2025 that the B Shares are not "weighted voting rights shares" for the

purpose of the UKLRs because the B Shares carry only one vote on matters to be decided at a general meeting.

- 7.13 TPIL submits that, since PCP 2025/1 indicates that voting rights attaching to weighted voting rights shares or a single special share are considered voting rights in a DCSS company, and in light of the FCA's determination and assessment of the B Shares in the context of dual class share structures, there is no justification for excluding the voting rights of the B Shares from the denominator when calculating the percentage of voting rights held by any particular shareholder.

Jurisdiction

- 7.14 So far as concerns the question of jurisdiction, TPIL emphasises that the Panel does not regulate takeover bids and merger transactions of companies that are registered in any jurisdiction other than the UK, the Channel Islands or the Isle of Man.
- 7.15 Accordingly, contends TPIL, the Panel's jurisdiction over the Company exists only to the extent that it remains domiciled/registered in Guernsey and, notes TPIL, this will cease to apply immediately upon completion of the Migration after which point its registered office will transfer to the Cayman Islands, a move that TPIL says is being pursued in order to align its domicile with that of Malibu in a jurisdiction that is one of the leading global domiciles for reinsurers of US-originated insurance risk. There is, says TPIL, no legal basis for the Code to continue to apply to it, or for the Panel to continue to have jurisdiction over it, once it ceases to be a UK registered company, i.e. once it has redomiciled to the Cayman Islands.

8 The Executive's submission

- 8.1 Unsurprisingly, the Executive in its submissions to me, contends that the Executive's Ruling, and the basis therefore, were correct. Indeed, the Executive submit that the request by the Investor Group that the Hearings Committee be convened should be rejected on the basis that the matter has no reasonable prospect of success. This point is addressed further below.
- 8.2 The main points made by the Executive in support of the Executive's Ruling and in response to the Investor Group's request for a review are set out below.

The mandatory offer issue

- 8.3 As regards whether Third Point should be required by the Panel to make a mandatory offer or seek a Rule 9 waiver, the Executive contends that the determination as to whether a person has triggered an obligation to make a mandatory offer under Rule 9 of the Code is by reference to whether that person has acquired an interest in shares so as to increase the percentage of shares carrying voting rights in which that person, together with persons acting in concert with it, is interested through the voting rights thresholds set out in Rule 9.1(a) or Rule 9.1(b).
- 8.4 The Executive notes in this regard that the definition of 'voting rights' in its current form was introduced by Instrument 2015/3 with effect from 23 November 2015, following a consultation by the Code Committee (see PCP 2015/2 and RS 2015/2). Prior to that, the definition of voting rights was "*all voting rights attributable to the share capital of a company which are currently exercisable at a general meeting*", this having been the form since 1983. The primary purpose of the amendments in 2015, says the Executive, was to clarify that shares which are subject to a restriction on the exercise of voting rights, or to a suspension of voting rights, should nonetheless be regarded for the purposes of the Code as having voting rights which are currently exercisable at a general meeting.
- 8.5 According to the Executive, in respect of voting rights in dual class share structures, the Code Committee confirmed in 2025 in PCP 2025/1, that it agreed with the Executive's well-established practice in relation to class B or special shares, and did not consider that any specific amendments to the Code were required

to give effect to that practice. The Executive says that this policy, endorsed by the Code Committee, was that:

- (a) a class of B or special shares other than listed ordinary shares can and typically does carry voting rights under the Code irrespective of economic rights; the Executive refers in this regard by way of example, to paragraph 1.12 of PCP 2025/1 (see paragraph 5.7 above); and
- (b) as such, a person or a group of persons acting in concert would incur an obligation to make a mandatory offer under Rule 9 of the Code if it acquires interests in such class B or special shares which when taken together with its existing interests, if any, in shares carrying voting rights, carry 30% or more of the company's voting rights; the Executive refers in this regard by way of example, to paragraph 2.20 of PCP 2025/1.

- 8.6 The Executive further notes that in footnote 2 on page 2 of PCP 2025/1, it is recognised that there are some matters for which enhanced voting rights in a dual class share structure are not accepted under the UKLRs. However, as the Executive contends, consistent with the Executive's well-established practice, this does not affect the overall position endorsed by PCP 2025/1 that such class B or special shares carry voting rights under the Code.
- 8.7 Against this background, the Executive submits, in agreement with TPIL, that both the Ordinary Shares and the B Shares carry voting rights under the Code definition of voting rights. The Executive further contends, again in agreement with TPIL, that voting rights are defined in the Code as meaning all the voting rights attributable to a company's share capital which are currently exercisable at a general meeting and that the B Shares held by VoteCo satisfy this definition.
- 8.8 Further, contends the Executive, whilst the listed Ordinary Shares, and not the unlisted B Shares, are permitted to vote on Listing Rule Reserved Matters, this does not affect the analysis of whether the B Shares carry voting rights currently exercisable at a general meeting in circumstances where the B Shares may be voted on all other resolutions.
- 8.9 The Executive notes in this regard that there are a number of companies with multiple classes of shares where one class of shares (e.g. 'B' or 'special' shares) has a different voting and/or economic position to the listed ordinary shares – whether that is enhanced voting rights and/or no, or proportionally smaller, economic rights. In such cases, as in the case of TPIL, the B or special shares are typically not transferable and the Executive's consistent policy in relation to such companies has been to treat the B or special shares as carrying voting rights. According to the Executive, its policy in this regard has been endorsed by the Code Committee in PCP 2025/1. It refers in this regard, by way of example, to paragraphs 1.12 and 2.20 of PCP 2025/1 (see paragraph 8.5 above).
- 8.10 The Executive contends, moreover, that if the Investor Group's arguments were to be accepted, a Code company could, after its IPO, issue B or special shares to a person which carry 30% or more of voting rights of that company without a mandatory offer or Rule 9 waiver being required, so long as those B or special shares were not able to vote on certain resolutions under the UKLRs. This outcome, says the Executive, would be highly undesirable and inconsistent with both the Code definition of voting rights and the Executive's well-established practice as endorsed by the Code Committee in paragraph 2.20 of PCP 2025/1.
- 8.11 The Executive also agrees with TPIL's submissions to the effect that the fact that, under the TPIL Articles, only the listed Ordinary Shares and not the unlisted B Shares are permitted to vote on Listing Rule Reserved Matters, does not amount to either: (i) a suspension of voting rights by means of the TPIL Articles; or (ii) a restriction on the exercise of voting rights arising by law or regulation, because the UKLRs do not impose a restriction on the exercise of the voting rights attached to the B Shares but instead create a positive requirement for TPIL, as a listed company, to obtain approval of only the listed Ordinary Shares before implementing any of the Listing Rule Reserved Matters.

- 8.12 The Executive further contends that even if this analysis is wrong, this would make no difference because even where the voting rights of shares are in some respects restricted or suspended they will still normally be regarded for Code purposes as having voting rights currently exercisable at a general meeting and there is no reason to diverge from the position that normally applies.
- 8.13 In its rejoinder, the Executive also refers to the fact that the Investor Group's submission attaches particular weight to one of the matters included in its list of Listing Rule Reserved Matters, namely the election or re-election of any independent director (see paragraph 6.7(e) above). It makes the point that the relevant provisions of the UKLRs are contained within Chapter 6 of the UKLRs ("**Chapter 6**") and that as of today the provisions of Chapter 6, including those relating to the election or re-election of any independent director, do not apply to TPIL and would only come to apply to it following Completion when it will be listed in ESCC category of the Official List and at which point TPIL's registered office will be in the Cayman Islands.
- 8.14 The Executive also notes in this context that disclosures made by TPIL as regards the number of its shares carrying voting rights in issue for the purposes of the Disclosure Guidance and Transparency Rules of the FCA have since its IPO in 2007 regularly and consistently included the voting rights attaching to the B Shares in the relevant denominator.
- 8.15 On the basis of the views expressed by the Executive above as to the appropriate treatment of the B Shares, the Executive considers that on Completion of the various transactions contemplated by the Proposals: (i) VoteCo will continue to be interested in shares carrying 40% of the total voting rights; and (ii) Third Point and persons acting in concert with it will be interested in shares carrying approximately 26.2% of the total voting rights.
- 8.16 The Executive also contends, on the basis that it is right about the appropriate treatment of the B Shares, that Third Point and persons acting in concert with it would not obtain control of TPIL, this being defined in the Code as "*an interest, or interests, in shares carrying in aggregate 30% or more of the voting rights of a company...*". It would follow from this, notes the Executive, that the requirement in General Principle 1(2), i.e., that other holders of securities must be protected if a person acquires control of a company to which the Code applies, would also not be engaged.
- 8.17 The Executive also contends that, although the 'spirit' of the Code can be a vital consideration in certain matters, the Panel can only apply its jurisdiction, and therefore the mandatory offer requirement, if the relevant provisions of the Code are engaged on their terms. More specifically the Executive considers that:
- (a) the Panel cannot require a mandatory offer or a Rule 9 waiver unless Rule 9.1 is engaged, which can only be the case if a person acquires an interest in shares which (taken together with shares in which the person or any person acting in concert with that person is interested) carry 30% or more of the voting rights of a company (or, to the extent a person and persons acting in concert with it are interested in shares carrying between 30% and 50% of the voting rights, if that person increases the percentage of shares carrying voting rights in which it is interested);
 - (b) similarly, General Principle 1(2) and the requirement for protection of other shareholders applies only if a person acquires control, i.e. an interest in shares carrying in aggregate 30% or more of the voting rights of a company; and
 - (c) even if Rule 9.1 (or General Principle 1(2)) would otherwise be engaged on its terms, the Panel cannot require a mandatory offer to be made or a Rule 9 waiver to be sought if the relevant acquisitions of interests in shares take place at a time when the company is not subject to the Code under section 3(a) of the Introduction to the Code.

- 8.18 In this case, the Executive contends that the Proposals do not engage the terms of either Rule 9.1 or General Principle 1(2) and that section 3(a) of the Introduction to the Code will not apply to the Company at the time of Completion of the Proposals. The Executive contends further that this analysis is unaffected by the entry into the Collateral Arrangements, since, as it says, the Code determines the acquisition of control by reference to the definition of voting rights rather than by reference to any governance or other rights that a person has as a contractual matter.

Jurisdiction

- 8.19 So far as concerns the issue of jurisdiction, the Executive contends that even if the other arguments made by the Investor Group were persuasive, the acquisitions of interests in shares in TPIL by Third Point and persons acting in concert with it under the Proposals would not be subject to the jurisdiction of the Code.
- 8.20 In particular, and as foreshadowed above, echoing the position of TPIL, the Executive says that while TPIL is currently a company to which the Code applies under section 3(a)(i) of the Introduction to the Code, at the time of the acquisition by Third Point and persons acting in concert with it of interests in shares carrying voting rights in the Company under the Proposals, TPIL's registered office will be in the Cayman Islands. At that point, says the Executive, TPIL will not be a company to which the Code applies.
- 8.21 This being so, the Executive says that even if Third Point and persons acting in concert with it were to be considered to be increasing the percentage of shares carrying voting rights in TPIL in which they were collectively interested to 30% or more as a result of these acquisitions; (i) General Principle 1(2) and (ii) Rule 9.1 would still have no application.
- 8.22 The Executive submits that it has in coming to this view also taken into account the Code Committee's recent review of the companies which should be subject to the Code. As part of its review, says the Executive, the Code Committee considered whether the Code should apply to companies registered overseas if their securities were admitted to trading on a UK regulated market, a UK multilateral trading facility or a stock exchange in the Channel Islands or the Isle of Man, concluding that the Code should continue not to apply in these circumstances because offers for overseas registered companies would likely result in compatibility of laws issues, given that those companies would be subject to the laws and regulations of the jurisdictions in which they are registered.

9 Discussion

- 9.1 As noted at the outset, having given careful consideration to all the submissions that have been made by the parties, I have concluded that the Executive's Ruling to the effect that the Proposals do not trigger an obligation for Third Point to make a mandatory offer for TPIL pursuant to Rule 9.1 of the Code is plainly correct and that any appeal against the Executive's Ruling lacks any reasonable prospect of success.

The mandatory offer issue

- 9.2 So far as concerns the mandatory offer issue, I make the following points.
- 9.3 First, it is plain from Rule 9.1 that the obligation to make a mandatory offer arises only where there has been an acquisition of an interest in shares which carry 30% or more of the voting rights of a company, this being defined by the Code as the threshold at which control over a company is obtained.
- 9.4 Secondly, the Code expressly provides, when defining voting rights, that this means all the voting rights attributable to the share capital which are currently exercisable at a general meeting, and that, save in relation to treasury shares, the fact that shares may be subject to a restriction in respect of voting rights, or may be affected by a suspension of those voting rights, will normally make no difference for Code purposes to whether those shares will be regarded as having voting rights which are currently exercisable at a general meeting.

- 9.5 Third, whilst the use of the word “*normally*” in this context indicates that circumstances may arise which are such as to mean that the normal approach to the treatment of shares having voting rights subject to restrictions or suspensions is not invariable, this does not mean that the Panel has in every case a general discretion as to whether or not to treat such shares as carrying voting rights for the purpose of the Code, still less as to the basis upon which control for the purposes of Rule 9.1 is to be determined. Rather, the correct approach is that regard should be had to the voting rights of those shares unless there are good reasons arising from the particular circumstances of a case for departing from the normal approach.
- 9.6 Fourth, having regard to the calculations carried out in relation to the interests that will be held following the implementation of the Proposals, unless a departure from the normal approach to the treatment of shares having voting rights subject to restrictions or suspensions can be justified in the present case in relation to the B Shares (assuming for these purposes that the operation of the UKLRs in relation to those shares should be regarded as involving such restrictions or suspensions), it is plain (and not disputed) that even after the Completion of the Proposals, Third Point and the Third Point Concert Party will not have acquired an interest in shares carrying 30% of the voting rights in TPIL. This is reflected in the fact that it is only by disregarding the B Shares by adopting an approach that is not ‘normal’, that the Investor Group is able to point to Third Point having an interest in TPIL shares carrying voting rights that exceeds the 30% threshold.
- 9.7 Fifth, it follows that it is only if the Investor Group is able to identify matters relating to the circumstances of this case that make it appropriate to disregard the normal approach in favour of what by definition would be an unusual approach that it can have any basis whatever for a contention that Third Point should be required to make a mandatory offer under Rule 9 of the Code or seek a Rule 9 waiver. To the extent that it is appropriate to have regard to what the Investor Group refers to as the ‘spirit’ of the Code this in my view leads to the same analysis.
- 9.8 Sixth, I am of the clear view that none of the reasons or matters identified by the Investor Group for departing from the normal approach are sufficient, whether viewed individually or collectively, to lead to the conclusion that some different approach to the determination of control for the purposes of the Code or the application of Rule 9.1 should be adopted. As to this:
- (a) The fact that Third Point will increase its holding of Ordinary Shares to 32.7% and that this will subsequently be increased by the Redemption Offer to 42.6% of the Ordinary Shares then in issue is neither here nor there as regards the approach taken by the Code to the question of control and the circumstances that might trigger an obligation to make a mandatory offer under Rule 9 of the Code: it has no regard to the fact that TPIL also has in issue B Shares that also carry a significant percentage of the voting rights in the Company currently exercisable at a general meeting.
 - (b) So too whether or not VoteCo for the purposes of the UKLRs will become a controlling shareholder from admission of the Ordinary Shares to the ESCC Category even though it does not and will not have any economic interest in the Ordinary Shares. Again, this says nothing about whether, having regard to the Code definitions of control and voting rights, there should be a departure from the normal approach that is adopted.
 - (c) The same applies in relation to the Investor Group’s observation that, on Listing Rule Reserved Matters where VoteCo cannot vote, Third Point will exercise 42.6%²⁴ of the voting rights eligible to vote. Again, while that may indicate that Third Point will indeed have very substantial influence in relation to matters falling within the limited category of circumstances where the UKLRs require a vote of only those holding Ordinary Shares, the fact remains that in all other

24 The Company has confirmed in its submission that the Third Point Concert Party is expected to hold 43.7% of the voting rights eligible to vote on Listing Rule Reserved Matters.

circumstances Third Point will hold less than 30% of the voting rights in TPIL. Put differently, this is not a reason why the normal approach adopted by the Code to questions of voting rights and control for the purposes of Rule 9.1 of the Code should be disapplied, but simply an illustration of the fact that, under the Code, even shares where the voting rights might be restricted or suspended (if that is the case here), are still shares carrying voting rights to which regard must be had when determining whether the 30% threshold has been met for the purposes of triggering an obligation to make a mandatory offer under Rule 9 of the Code.

- (d) Given the view I take about this (set out above), it is perhaps unnecessary to decide whether the Executive and TPIL are correct to say that in fact the B Shares are indeed, as the Investor Group appears to contend, shares in relation to which voting rights are restricted or may be suspended. Be that as it may, I consider that the Executive and TPIL are right to suggest that the better analysis is that the UKLRs do not actually impose a restriction on the exercise, or suspension, of the voting rights attached to the B Shares but instead create a positive requirement for TPIL, as a listed company, to obtain approval of only the listed Ordinary Shares before implementing any of the Listing Rule Reserved Matters.
- (e) To be clear, the view expressed above does not depend upon whether, as the Investor Group suggest, the list of Listing Rule Reserved Matters in respect of which VoteCo cannot exercise its voting rights involves important corporate matters, so as to mean that having the control of nearly 43% of the voting rights attached to the Ordinary Shares is significant when considering Third Point's 'control' for the purposes of the Code. Indeed, this is simply to make the point addressed at paragraph (c) above in a different way, and to suggest that there may be circumstances where the additional requirements imposed by the UKLRs about the category of shareholders who may be required to vote on certain particular matters, may have a material consequence. It does not, in my view, provide a good reason for departing from the normal approach.
- (f) Given my conclusion on this point, it is unnecessary for me to consider whether the Investor Group's reliance, in relation to the Listing Rule Reserved Matters, on the example of the election or re-election of any independent director is well founded or whether, as the Executive suggests, the relevant provisions of the UKLRs are contained within Chapter 6 of the UKLRs which as of today do not apply to TPIL and would only come to apply to it following Completion when it will be listed in the ESCC Category of the Official List and at which point TPIL's registered office will be in the Cayman Islands.
- (g) I also consider there to be force in the point made by the Executive, that if the Investor Group's arguments were to be accepted, a Code company could, after its IPO, issue B or special shares to a person which carry 30% or more of voting rights of that company without a mandatory offer or Rule 9 waiver being required so long as those B or special shares were not able to vote on certain resolutions under the UKLRs. As the Executive rightly observes, this would be highly undesirable and inconsistent with the Code definition of voting rights.
- (h) As regards the observation made by the Investor Group as to what might happen in the future if the Proposals are implemented with Migration taking place in a way that means the Code no longer applies to TPIL, and, in particular, the possibility that this might involve Third Point thereafter being able to dispose of its interest in the 42.6% of Ordinary Shares in circumstances where no commensurate terms are offered to the other TPIL Shareholders, there are at least three reasons why I do not regard this as moving the dial in any way.
- (i) First, there is no suggestion by the Investor Group that there is any evidence of which they are aware that this is in fact what Third Point proposes to do. Secondly, I do not believe that it would be right, on the basis of speculation as to some future and uncertain event that might occur

at a time when the Code no longer applies, to disapply the normal approach taken by the Code in relation to the transaction actually before the Panel. Third, and relatedly, to the extent that this illustrates anything, it is as to the significant benefits that shareholders derive from the application of the Code to takeovers coming within the Panel's jurisdiction. As already noted, however, it cannot justify not applying to a real transaction presently being conducted the normal rules laid down in the Code.

- (j) So far as concerns the Investor Group's contention relating to the making of Collateral Arrangements by members of the Third Point Concert Party, as they themselves acknowledge this does not in any way impact the percentage of voting rights which is the test expressly established by Rule 9.1 as to whether a mandatory offer must be made. Moreover, as already noted above, I do not consider it correct to regard the Panel as having some sort of discretion about how to approach the application of Rule 9.1 so as to entitle the Panel simply to depart from the clear thrust of the Rule and to disregard the normal approach taken to voting rights, for reasons entirely collateral to the voting rights in question. Nor do I consider that such an approach could possibly be justified by an appeal to the 'spirit' of the Code.
- (k) Moreover, the existence of material collateral arrangements might be a feature of transactions even where none of the voting rights attached to a company's shares are even arguably the subject of any restriction or possible suspension. It follows that if the point made by the Investor Group is a good one, it ought to be a factor in all such cases when deciding on the application of Rule 9.1. But this is simply not what the Code provides. I note in this regard that in PCP 2025/1, the Code Committee recently affirmed that control for the purposes of the Code is determined by the level of a person's interests in shares carrying voting rights and not, for example, with reference to governance or other contractual rights.
- (l) I note further that, as pointed out by both TPIL and the Executive, treatment of the B Shares as carrying voting rights has been accepted by the FCA since TPIL's IPO in 2007. Whilst the fact that the FCA has done so does not of course mean that it was correct so to do, this does to my mind provide at least some further comfort that this represents the right approach.

9.9 Seventh, in the absence of any evidence whatever that there has been a deliberate and improper attempt to avoid the application of any Code Rule or General Principle to the transaction in order to prejudice the position of TPIL Shareholders, I do not regard the change of intention by TPIL in relation to whether the B Shares held by VoteCo would be redeemed, as having any bearing at all on whether Third Point should be obliged to make a mandatory offer under Rule 9 of the Code if, according to the ordinary application of the Code Rules and General Principles, it should not be required so to do. Nor, if different, would a departure from the application of the Rules in these circumstances be justified by reference to the 'spirit' of the Code. To the extent that this matters, I would observe that I do not regard the reasons given in the Circular as to why the B Shares held by VoteCo are not to be redeemed as in any way lacking in merit or suspicious.

Jurisdiction

9.10 So far as concerns the jurisdiction issue, I would begin by noting that if, as I have found, the Executive's Ruling was correct in relation to the mandatory offer issue, then it will not matter for present purposes if it made an error as regards the jurisdiction issue. However, as already noted above, I consider that the Executive's conclusion in relation to the jurisdiction issue cannot be faulted.

9.11 I would make the following points.

- (a) First, I consider that the relevant time at which to consider whether a particular transaction is one governed by the Code for the purpose of deciding whether the transaction is one that triggers

a Rule 9.1 obligation to make a mandatory offer, is the point at which that transaction is carried out, and not at some earlier point where it is simply being proposed.

- (b) Secondly, it is not in dispute that while TPIL is currently a company to which the Code applies under section 3(a)(i) of the Introduction to the Code, a consequence of the proposed Migration of TPIL is that at the time of the acquisition by Third Point and persons acting in concert with it of interests in shares carrying voting rights in the Company under the Proposals, TPIL's domicile and registered office will be in the Cayman Islands. Applying section 3(a)(i) of the Introduction to the Code, TPIL will not then be a company to which the Code applies. This being so, I do not consider that the Panel will have jurisdiction to require Third Point to make a mandatory offer under Rule 9 of the Code at that time. I note in this regard that TPIL has made clear that its reasons for this move are in order to align its domicile with that of Malibu in a jurisdiction that is one of the leading global domiciles for reinsurers of US-originated insurance risk. I do not understand it to be suggested that there is any evidence showing that this is no more than a pretextual reason.
- (c) Third, I do not believe that there is anything in the work produced by the Code Committee in 2024 that would mean that the Code applies beyond the ambit of what is expressly set out at section 3(a)(i) of the Introduction to the Code.
- (d) Fourth, it is right to note, as the Investor Group does, that section 3(b) of the Introduction to the Code does provide a broad definition of transactions that will be subject to the Code. However, there is nothing in section 3(b) that serves to undermine the territorial limits to the Code laid down by section 3(a)(i) and it is difficult to see how the broad ambit of section 3(b) assists in determining whether, following the Migration, the Code will continue to apply to deciding whether the Panel has jurisdiction to require a mandatory offer under Rule 9 of the Code to be made by virtue of transactions that only take place at a time when, having regard to section 3(a)(i), the Panel no longer has jurisdiction over TPIL.
- (e) Fifth, I am not persuaded that the example given by the Investor Group as to occasions where the Panel might extend its jurisdiction to companies that do not fall within the definition set out in section 3(a)(i) of the Introduction to the Code takes matters any further on the facts of the present case. As to this, it will be recalled that the Investor Group point, by way of illustration, to the situation where a bidder makes a 'post offer intention statement' under Rule 19.6 of the Code, where the party making that statement must, amongst other matters, obtain Panel consent if it wishes to act contrary to the intentions statement within 12 months. This, according to the Investor Group, shows that the Panel will potentially regulate companies no longer subject to its jurisdiction in the strict application of section 3(a)(i) of the Introduction to the Code. But even if it is correct (about which I express no view) that, in such a situation the Panel will regard itself as continuing to have jurisdiction, as regards an intentions statement, to ensure compliance by the offeree in such a case, that will be because the requirement was imposed in relation to the statement at a time when the offeree did fall within the jurisdiction of the Panel. That is however not the case here, where the conditions that potentially bring Rule 9.1 of the Code into play will only arise at a time when no such Code jurisdiction exists.

9.12 Finally in this regard I should deal with the suggestion made by the Investor Group in its submissions to the Executive that the jurisdiction issue should have been referred by the Executive to the Code Committee to be dealt with by that Committee. The correctness or otherwise of the approach taken by the Executive in not following the course suggested by the Investor Group is not in my view a matter that arises for determination by me. This follows from the fact that the present review has as its focus only the correctness or otherwise of the Executive's Ruling, as opposed to considering other steps the Executive might have taken in dealing with this matter.

- 9.13 Be that as it may, and without wishing to descend into the detail of this debate, I can for my part see good reason why the Executive considered that the appropriate course was to apply the Code as it now stands to make a ruling, and for the Investor Group to be able to exercise its right to request that the Hearings Committee be convened to review the matter. This is the course envisaged by the Rules of Procedure in the Code, rather than expecting the Executive, on an ad hoc basis, to delegate its responsibility for determining a contentious matter that might arise in a live bid situation to the Code Committee.

Conclusion

- 9.14 For all these reasons, as already noted above, I find that the challenge that the Investor Group seek to make to the Executive's Ruling has no reasonable prospect of success. I accordingly reject the Investor Group's request that the Hearings Committee be convened to consider this matter.

10 Time for Appeal

- 10.1 Any appeal against this Ruling must be filed with the Takeover Appeal Board in accordance with its Rules of Procedure by no later than 4.00 p.m. on Wednesday 3 September 2025.

Laurence Rabinowitz KC

Chairman of the Hearings
Committee

1 September 2025

Date of this Panel Statement: 4 September 2025