RS 2009/1 Issued on 16 December 2009

THE TAKEOVER PANEL

EXTENDING THE CODE'S DISCLOSURE REGIME

STATEMENT BY THE CODE COMMITTEE OF THE PANEL FOLLOWING THE EXTERNAL CONSULTATION PROCESS ON PCP 2009/1

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1. Introduction

(a) The consultation in relation to extending the Code's disclosure regime

1.1 This Response Statement sets out the response of the Code Committee of the Takeover Panel (the "**Code Committee**") to the external consultation process in relation to the proposals in PCP 2009/1 ("Extending the Code's disclosure regime") issued by the Code Committee on 8 May 2009 (the "**PCP**"). Unless the context otherwise requires, words and expressions defined in the Takeover Code (the "**Code**") have the same meanings when used in this Response Statement.

1.2 In summary, the PCP proposed a number of amendments to the disclosure rules of the Code which would provide increased transparency by extending the ambit of those rules. The principal proposals set out in the PCP were that:

(a) persons subject to the Code's disclosure regime should be required to disclose their long interests and short positions in the relevant securities of the offeree company and, in the case of a securities exchange offer, the offeror, shortly after the commencement of the offer period (and, in the case of an offeror, shortly after the announcement that first identifies it as an offeror), regardless of whether they have dealt in the relevant securities of the party to the offer concerned. This was referred to in the PCP as the "**opening position disclosure**" requirement; and

(b) the Code's disclosure regime should be extended to provide for "**extended composite disclosure**", which would require:

(i) persons who have a gross long interest of 1% or more in any class of relevant securities of any party to an offer, other than an offeror offering solely cash (a "**cash offeror**"), to disclose any dealings in the relevant securities of any party to the offer (other than a cash offeror), i.e. not only dealings in the relevant securities of the party in which they have a gross long interest of 1% or more; and

(ii) persons who are required to make a dealing disclosure under the Code to disclose details of all of their long interests and short positions in the relevant securities of all parties to the offer (other than a cash offeror), i.e. not only the party to the offer in whose relevant securities the dealing occurred.

1.3 The Code Committee also proposed that the concept and definition of an "associate" of a party to an offer should be deleted from the Code and that the rules which currently refer to a party's "associates" should be amended so as to refer instead to "persons acting in concert" with that party.

1.4 The combination of the opening position disclosure requirement and extended composite disclosure would result in the parties to the offer (and persons acting in concert with them), and persons with gross long interests of 1% or more in any class of relevant securities of the offeree company or a paper offeror, being required to disclose:

(a) their positions in the relevant securities of the offeree company and any paper offeror shortly after the commencement of an offer period or, if later, an announcement that first identifies a paper offeror; and

(b) their dealings in the relevant securities of the offeree company and any paper offeror.

1.5 In addition, the Code Committee concluded that:

(a) there would be potential benefits in requiring persons subject to the Code's disclosure regime who have borrowed or lent relevant securities to disclose publicly details of, and changes to, their borrowing or lending positions (the "**securities borrowing and lending disclosure**" requirement). However, the Code Committee concluded that the costs of introducing the necessary systems and policy changes would currently be disproportionate to the increase in market transparency that would be achieved and it did not therefore propose amendments to the Code in this

regard. However, the Code Committee stated that it intended to keep these issues under review; and

(b) persons with a significant gross short position in the relevant securities of a party to an offer, but no significant gross long interest in the relevant securities of any party to the offer, should not be required to disclose their dealings and positions in the same way as the Code requires disclosures by persons with a gross long interest of 1% or more in relevant securities (the so-called "**short trigger**").

(b) Responses to the consultation

1.6 Thirteen responses to the PCP were received. Ten of the respondents submitted their comments on a non-confidential basis. A list of non-confidential respondents can be found at Appendix A. The Code Committee would like to thank all of the respondents for their comments.

(i) Opening position disclosure

1.7 In summary, the respondents generally supported the opening position disclosure requirement, although a small number of respondents expressed reservations.

1.8 There were conflicting views as to the appropriate deadline by which opening position disclosures should be made. In addition, certain respondents expressed concerns in relation to the proposed requirement that the board of the offeree company (or a paper offeror) should provide the Panel with details of persons with interests in securities representing 1% or more and notify such persons of their obligations under Rule 8.

(ii) Extended composite disclosure

1.9 No objections were raised to the proposed introduction of extended composite disclosure.

(iii) Definition of "associate"

1.10 No objections were raised to the proposed deletion from the Code of the definition of "associate".

(iv) Securities borrowing and lending disclosure

1.11 There was broad support for the principle that securities borrowing and lending positions should be disclosed, although this was not unanimous. Only one respondent disagreed with the Code Committee's conclusion that it would not be appropriate to put forward detailed proposals for the amendment of the Code in relation to securities borrowing and lending disclosure at the present time.

(v) Short trigger

1.12 There was unanimous agreement with the Code Committee's conclusion not to propose the introduction of a short trigger.

(c) The Code Committee's conclusions

1.13 In the light of the responses received, the Code Committee has largely adopted the proposals made in the PCP. In addition, in the light of comments and suggestions made by respondents, and certain other matters identified in the course of the consultation, the Code Committee has made a number of modifications and improvements to certain of the proposals, as described in this Response Statement.

1.14 The Code Committee intends to undertake a further review in the future of the disclosure of securities borrowing and lending positions, and financial collateral arrangements, generally. However, at the present time, the Code Committee is unable to predict when it will be appropriate to undertake such a review.

1.15 The Code Committee believes that the amendments set out in this PCP constitute proportionate measures to increase transparency in relation to the positions of, and

dealings by, persons involved in takeovers. In particular, the Code Committee believes that the benefits of introducing the opening position disclosure requirement and extended composite disclosure will outweigh any additional burdens and costs.

(d) Code amendments

1.16 The proposed amendments to the Code set out in Appendix B to the PCP have been adopted by the Code Committee subject to the changes described in the main body of this Response Statement and other minor changes reflected in Appendix B. Unless otherwise indicated, where new or amended provisions of the Code are set out in the main body of this Response Statement, they are marked to show changes from the provisions proposed in the PCP.

1.17 The provisions of the Code which are being introduced or amended as a result of the consultation exercise are set out in full in Appendix B. In Appendix B, underlining indicates new text and striking through indicates deleted text, as compared to the current provisions of the Code. By way of exception, in view of the substantial amendments being made to Rule 8, the new Rule 8 in Appendix B has been marked-up so as to show amendments made since the version proposed in Appendix B to the PCP. For a version of the new Rule 8 marked-up against the current Rule 8, see Instrument 2009/6.

1.18 In addition to this Response Statement, the Code Committee is also publishing today RS 2009/2 ("Miscellaneous Code amendments"). The Code Committee has adopted amendments to Rule 26 in both RS 2009/2 and in this Response Statement. In Appendix B, Rule 26 is shown as if the amendments adopted in RS 2009/2 had already been implemented.

(e) Implementation

1.19 In order to allow time for market participants to introduce the necessary systems changes, the amendments to the Code introduced as a result of this Response

Statement will take effect on Monday, 19 April 2010. The Code as revised will be applied to all offers and possible offers from that date. For example:

(a) where dealings are undertaken on or after 19 April, the Code's disclosure regime will operate on the basis of "extended composite disclosure";

(b) where an offer period commences on or after 19 April, the "opening position disclosure" requirement will apply (on the basis of extended composite disclosure) with respect to the offeree company; and

(c) where an offeror is first identified as such on or after 19 April, the "opening position disclosure" requirement will apply (on the basis of extended composite disclosure) with respect to that offeror.

1.20 Amended pages of the Code will be published prior to the implementation of the amendments.

(f) Transitional arrangements

1.21 In addition, where an offer period has already commenced before 19 April 2010, or where an offeror has already been identified as such before that date, the Code Committee considers that:

(a) the parties to the offer;

(b) any person who is interested in 1% or more of any class of relevant securities of a party to an offer (other than a cash offeror); and

(c) exempt principal traders which are connected with a party to the offer and which do not have recognised intermediary status (or where recognised intermediary status is inapplicable)

should be required to make an opening position disclosure (on the basis of extended composite disclosure) by no later than the date which is 10 business days following the implementation of the amendments to the Code.

1.22 In other words, opening position disclosures should be made by not later than 12 noon or 3.30 pm (as appropriate) on Tuesday, 4 May 2010 (Monday, 3 May not being a business day in the UK), including details of long interests, short positions and rights to subscribe etc. existing or outstanding at midnight on 3 May. However, the Code Committee does not consider that an opening position disclosure would need to be made in relation to the relevant securities of any party to the offer in respect of which the person concerned has already disclosed details of his positions during the offer period pursuant to the Code's disclosure requirements. Therefore, on 4 May:

(a) each offeree company and each identified offeror should make an opening position disclosure, including details of its positions, and those of any person acting in concert with it, in each party to the offer (other than a cash offeror), unless all such positions have previously been disclosed in accordance with, for example, Rules 2.5, 24.3 or 25.3;

(b) each person who is interested in 1% or more of any class of relevant securities of a party to an offer (other than a cash offeror) at midnight on 3 May should make an opening position disclosure, including details of its positions in each party to the offer (other than a cash offeror), unless all such positions have previously been disclosed in accordance with Rule 8.3 (in either its previous or its new form); and

(c) each exempt principal trader which is connected with a party to the offer and which does not have recognised intermediary status (or where recognised intermediary status is inapplicable) should make an opening position disclosure, including details of its positions in each party to the offer (other than a cash offeror), unless all such positions have previously been disclosed in accordance with the previous Rule 38.5 or the new Rule 8.5.

(g) New disclosure forms

1.23 New specimen disclosure forms prepared by the Panel Executive (the "**Executive**") are set out at Appendix C and are available to be downloaded from the "Disclosure" section of the Panel's website at www.thetakeoverpanel.org.uk. In relation to dealing disclosures, the new forms should be used to disclose dealings undertaken on or after Monday, 19 April 2010. Dealings undertaken between Friday, 16 April and Sunday, 18 April and disclosed on Monday, 19 April may also be disclosed on the new forms. In relation to opening position disclosures, subject to the transitional arrangements described in paragraph 1.21 above, the new forms should be used to disclose positions in relevant securities of offeree companies in respect of which offer periods commence on or after 19 April 2010 and following the identification of offerors as such on or after that date.

1.24 The Code Committee understands that, in preparing the new disclosure forms, the Executive has, amongst other things, reviewed the Notes on the current disclosure forms. At present, these Notes can be found either at the bottom of the specimen forms (in the case of the forms for making private disclosures) or in separate documents on the "Disclosure Forms" page on the Panel's website (in the case of the forms for making public disclosures). The Code Committee notes that the new disclosure forms incorporate various Notes in the main body of the disclosure forms themselves.

1.25 In relation to private disclosures by exempt fund managers which have no interests in any class of relevant securities of 1% or more, the Code Committee notes that the Note on the current Form 8.1(b)(ii) in relation to seed capital has not been carried forward into the new Form 8.6. However, the Code Committee understands that, in accordance with the terms on which exempt fund manager status is granted to the relevant fund managers, where seed capital represents 10% or more of a fund, the restrictions in Rule 38.1 (prohibition on dealings with the purpose of assisting the offeror or the offeree company) will apply to the whole of that fund and the restrictions set out in Rules 38.2 (as regards dealings with

offerors), 38.3 (as regards assenting securities and dealings in assented securities) and 38.4 (as regards voting in the context of an offer) will apply to the proportion of securities within the fund represented by seed capital.

1.26 In the case of any doubt as to the disclosures required following the implementation of the amendments to the Code adopted in this Response Statement, the Panel's Market Surveillance Unit should be contacted on +44 (0)20 7638 0129.

(h) Pro forma summaries of Rule 8

1.27 A revised version of the summary of the provisions of Rule 8, which is required to be included in various announcements made in accordance with the provisions of the Code, and a form of wording which would fulfil the requirement under the amended Rule 22 for the offeree company or a paper offeror to explain the disclosure obligations under Rule 8 to persons with interests in its securities representing 1% or more, will be made available to be downloaded from the Panel's website in due course.

2. Extending the requirements of the Code's disclosure regime

(a) Opening position disclosure and extended composite disclosure

Q.1 Do you agree that the "opening position disclosure" requirement and "extended composite disclosure" should be adopted as proposed?

(i) Opening position disclosures

2.1 In section 2(c) of the PCP, the Code Committee proposed that the Code should be amended so as to require a public "opening position disclosure", containing details of any long interests or short positions in, or rights to subscribe for, any relevant securities of the offeree company and any paper offeror (if the person concerned has any such positions), to be made shortly after the commencement of an offer period and, if later, after an announcement that first identifies an offeror as such, by the following persons:

(a) the offeree company;

(b) an offeror (after its identity as such is first publicly announced);

(c) any person who is interested in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror); and

(d) exempt principal traders which do not benefit from recognised intermediary status (which are currently subject to Rule 38.5(b)).

2.2 As regards opening position disclosures made by an offeror or offeree company, the Code Committee said that it believed that the disclosures should include details of the positions held by:

(a) the offeror or offeree company itself; and

(b) persons acting in concert with it,

and that there should be no separate requirement on persons acting in concert with the parties to the offer to make an opening position disclosure.

(ii) Extended composite disclosure

2.3 In section 2(d) of the PCP, the Code Committee proposed that the Code should be amended so as to provide for "extended composite disclosure" so that:

(a) any person who has a gross long interest of 1% or more in any class of relevant securities of any party to the offer (other than a cash offeror) would be required to disclose any dealings in the relevant securities not only of that party but also of any other party to the offer (other than a cash offeror). (Under the current Rule 8.1, each of the parties to the offer, and each of their respective associates, is already required to disclose its dealings in the relevant securities of any party to the offer, other than a cash offeror, regardless of the level of its long interests and short positions in any party to the offer); and

(b) any person who is required to make a dealing disclosure under the Code would be required to disclose details of his interests and short positions in the relevant securities of both:

(i) the party to the offer in whose relevant securities the dealing occurred; and

(ii) any other party to the offer (other than a cash offeror),

unless such details had previously been disclosed under the Code.

2.4 In addition, the Code Committee proposed that opening position disclosures should be made on the basis of extended composite disclosure, such that any person required to make an opening position disclosure would be required to disclose details of his interests and short positions in any relevant securities of the

offeree company and any publicly identified paper offeror which he had not previously disclosed under the Code.

(iii) Responses and conclusion

2.5 The respondents to Question 1 generally agreed with, or did not object to, the adoption of the opening position disclosure requirement and extended composite disclosure, as proposed in the PCP. One respondent stated that views differed amongst its membership regarding whether the introduction of the opening position disclosure requirement was merited.

2.6 A small number of respondents raised queries as to whether the benefits of the additional transparency that the extensions to the disclosure regime would bring were proportionate to:

(a) the costs of compliance for market participants, in particular those investors who were less sophisticated or who had relatively small interests in relevant securities; and

(b) the additional burdens that would be placed on the parties to an offer.

2.7 The Code Committee acknowledges that extending the Code's disclosure regime will result in a degree of additional cost and administrative burden for certain market participants and parties to offers but continues to believe that these will be outweighed by the resulting additional transparency. For example, opening position disclosures will be required to be made by persons who are interested in 1% or more of a class of relevant securities but who are not required to make disclosures under the Code's current disclosure regime because they do not undertake any dealings. The Code Committee also acknowledges that the lower the threshold for interests in relevant securities that trigger a disclosure, the more likely it may be that smaller investors will be required to make disclosures. That said, the Code has for many years required dealing disclosures to be made at the 1% level. In addition, under the current regime, a person who is interested in 1% or more of a class of relevant securities will need to have systems in place in order

to make disclosures in the event of a dealing, such that the opening position disclosure requirement should not add a significant extra burden.

2.8 Subject to the amendments to the proposals referred to in the remainder of this section 2, the Code Committee has therefore adopted the opening position disclosure requirement and extended composite disclosure as proposed in the PCP.

2.9 One respondent suggested that the Code should require offeree companies and paper offerors to consolidate and disclose in one statement the interests of all persons with discloseable interests in their relevant securities and to update the statement on a regular basis. The Code Committee acknowledges that such a statement might potentially be beneficial in terms of consolidating into a single place details disclosed in disparate disclosures. However, the Code Committee believes that further consideration would need to be given as to whether the possible benefits would outweigh the costs and administrative burdens that would be placed on offeree companies and papers offerors and does not intend to pursue this suggestion at the present time.

(b) Deadlines for disclosures

Q.2 Should the deadlines for "opening position disclosures" and "dealing disclosures" be those described above?

(i) Summary of proposals

2.10 Section 2(e) of the PCP described the proposed deadlines for opening position disclosures and dealing disclosures under the amended provisions of the Code.

2.11 In summary, the Code Committee proposed that:

(a) the deadlines by which opening position disclosures must be made should be as follows:

(i) 3.30 pm on the day falling 10 business days after the commencement of the offer period; and

(ii) 3.30 pm on the day falling 10 business days after the announcement that first identifies a paper offeror as such. However, the Code Committee proposed that, where an offeror announces a firm intention to make an offer under Rule 2.5 prior to this deadline, the offeror's opening position disclosure in relation to the interests and short positions of itself and persons acting in concert with it in relevant securities of the offeree company and, if a paper offeror, the offeror itself should be made at the same time as its announcement under Rule 2.5; and

(b) the deadlines by which dealing disclosures must be made should continue to be as follows:

(i) for the parties to the offer, persons acting in concert with them and exempt principal traders, 12 noon on the business day following the date of the dealing; and

(ii) for a person with an interest of 1% or more in any class of relevant securities of any party to the offer (other than a cash offeror), 3.30 pm on the business day following the date of the dealing.

2.12 The deadlines for opening position disclosures, and for dealing disclosures which would be required prior to the deadline for opening position disclosures, were described in greater detail in paragraphs 2.29 to 2.41 of the PCP and an illustrative summary of the disclosure deadlines proposed was set out in Appendix D to the PCP.

(ii) Responses and conclusion

2.13 Whilst the majority of respondents to Question 2 agreed with the proposed deadlines for opening position disclosures and dealing disclosures, a minority

believed that the deadline of 10 business days was too long for an opening position disclosure that would be required in the absence of a dealing. None of the respondents called for a longer deadline for opening position disclosures.

2.14 One respondent suggested that the opening position disclosure deadline for independent market participants ought to be shorter than that for the parties to the offer. Another respondent suggested that the "10 business days" deadline for opening position disclosures might be reviewed in the light of experience, and possibly shortened in due course. One respondent suggested that the provisions of the amended Rule 8 should make clear that opening position disclosures were not required to be made on a particular date and that they could be made at any time prior to the final deadline.

2.15 The Code Committee has given careful consideration to the views of respondents as to the appropriate deadline for opening position disclosures. In proposing a deadline of 10 business days after the relevant announcement, the Code Committee was mindful, in particular, of the need for a party to an offer to collect and collate accurate details of the positions not only of the party itself but also of persons acting in concert with it. The Code Committee acknowledges that this is likely to be less of an issue for other market participants, who will generally be required to ascertain details of their own positions only and not those of other persons. However, the Code Committee believes that setting different deadline dates for different classes of person would be an unnecessary complication of the disclosure regime.

2.16 In addition, the Code Committee believes that opening position disclosures which are made within 10 business days of the relevant announcement will, in most cases, be made in the early stages of an offer period, and before the time that any substantive decisions in relation to the offer are required to be made by shareholders in the offeree company.

2.17 However, the Code Committee has decided to bring forward the time by which opening position disclosures should be made by the parties to an offer and by exempt principal traders connected with them from 3.30 pm on the 10th business

day following the relevant announcement (as proposed in the PCP) to 12 noon on that day. This is in order to conform the opening position disclosure deadline for such persons with the deadline for disclosures relating to dealings on the ninth business day following the relevant announcement.

2.18 Save as described above, the Code Committee has decided to adopt the deadlines for opening position disclosures and dealing disclosures described in section 2(e) of the PCP and set out in the new Note 2 on Rule 8.

2.19 However, the Code Committee accepts the suggestion that it should be made clear in the Code that opening position disclosures may be made at any time before the final deadline and has amended the relevant provisions of the proposed Note 2 on Rule 8 accordingly. For example:

> "2. *Timing of disclosure*
>
> *(a) Disclosures by the parties to the offer*
>
> *(i) Subject to the following paragraph, a party to the offer must make an Opening Position Disclosure by ~~3.30 pm~~ no later than 12 noon on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).*".

(c) Time for calculating a person's interests and short positions

Q.3 Do you agree with the proposal as to the time for calculating whether a person has an interest in relevant securities of 1% or more for the purpose of the "opening position disclosure" requirement?

Q.4 Do you agree that the positions which should be disclosed in an opening position disclosure are those existing or outstanding at midnight on the day immediately preceding the date on which the disclosure is made?

(i) Summary of proposals

2.20 In section 2(f) of the PCP, the Code Committee proposed that:

(a) a person (other than a party to the offer and persons acting in concert with it) should be required to make an opening position disclosure if he is, or was, interested in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) at the time of the announcement that commences the offer period or the time of the announcement that first identifies a paper offeror (as the case may be); and

(b) the positions to be disclosed in an opening position disclosure by a party to the offer or a person (other than a person acting in concert with a party to the offer) interested in 1% or more of any class of relevant securities of a party to the offer, should be those existing or outstanding at midnight on the day immediately preceding the date on which the disclosure is made (including, in the case of an opening position disclosure by a party to the offer, the positions of persons acting in concert with it at that time).

(ii) Responses and conclusion

2.21 All of the respondents to Questions 3 and 4 agreed with, or did not object to, these proposals.

2.22 One respondent suggested that a person who disposed of interests in relevant securities to below 1% prior to the relevant deadline should be exempted from making an opening position disclosure. The Code Committee notes that such a dealing would be required to be disclosed under the current provisions of Rule 8.3 of the Code and does not believe that a relaxation of the current position is necessary or desirable.

2.23 One respondent suggested that, in order to enhance market participants' awareness of the times of the commencement of offer periods and the identification of paper offerors, these details should be included in the Disclosure Table on the Panel's website (which gives details of the companies in whose relevant securities dealings are required to be disclosed). In addition, two respondents suggested that details of the deadlines for opening position disclosures should also be included on the Disclosure Table.

2.24 With effect from Thursday, 17 December, details of the dates and times at which offer periods commence, and at which offerors are first identified as such, will be included in the Disclosure Table. The Code Committee also understands that, upon the implementation of the amendments to the Code set out in this Response Statement, it is intended that the notes to the Disclosure Table will include an explanation of how the deadlines for opening position disclosures should be calculated. However, it is not intended to include opening position disclosure deadlines in the Disclosure Table itself, as this would make the Disclosure Table unduly complex.

2.25 In the light of the above, the Code Committee has:

(a) adopted the amendments with regard to the time for calculating whether a person has an interest in relevant securities of 1% or more for the purposes of opening position disclosures (Note 7(a) on the new Rule 8) as proposed in the PCP; and

(b) adopted the amendments with regard to the relevant positions to be disclosed in an opening position disclosure being those as at midnight on the day prior to disclosure as proposed in the PCP, subject to the introduction of certain additional wording clarifying the position in circumstances where a dealing disclosure is made on the same day as the dealing concerned. For ease of reference, the Code Committee has moved the relevant provision so that it now appears as Note 7(d) on the new Rule 8 and has introduced a cross-reference to the new Note 7(d) between paragraphs (viii) and (ix) of Note 5(a) on the new Rule 8.

(d) Separate disclosure forms; disclosures in relation to more than one party to the offer and information to be disclosed

Q.5 Do you agree with the proposals as to disclosures in relation to more than one party to the offer?

2.26 In section 2(g) of the PCP, the Code Committee proposed that:

(a) the Code should provide that a person who is making disclosures in relation to his positions in the relevant securities of more than one party to an offer at the same time should use a separate disclosure form in respect of each party (see Notes 4(a) and (b) on the new Rule 8); and

(b) a person required to make a dealing disclosure or an opening position disclosure should be required to confirm on his disclosure form(s) whether he is on the same day disclosing, or has previously disclosed, details of his positions in the relevant securities of any other party to the offer (see Note 5(a)(v) on the new Rule 8).

2.27 In section 2(h) of the PCP, the Code Committee proposed that:

(a) notwithstanding the introduction of extended composite disclosure, except in certain cases (such as an opening position disclosure by an offeror or the offeree company), when making a disclosure in relation to the relevant securities of a party to an offer, a person should not be required to make a further disclosure in relation to his positions in the relevant securities of another party to the offer if the person has already disclosed details of those positions under the Code and those positions remain unchanged;

(b) where, following an announcement which commences an offer period, a person is required to make an opening position disclosure and, before the deadline for doing so, a subsequent announcement is made that first identifies a paper offeror, the person's opening position disclosure in respect of the relevant securities of that offeror should be made by the deadline established by reference to the announcement in relation to that offeror, and not by the deadline established by reference to the earlier announcement which commenced the offer period; and

(c) where more than one offeror has announced an offer or possible offer for the offeree company, the information required to be included in the offer

documentation in relation to interests and dealings under Rules 24.3(a)(iii) and (iv), 24.3(b) and 24.3(c) should be included in relation to the securities of each offeror or potential offeror (other than a cash offeror).

2.28 All of the respondents to Question 5 agreed with, or did not object to, these proposals.

2.29 One respondent queried whether the requirement for a person to indicate on his disclosure form(s) whether he was on the same day disclosing, or had previously disclosed, details of his positions in relevant securities of any other party to the offer would introduce unnecessary complexity into the disclosure process. The Code Committee does not believe that this would be the case. A person making a disclosure will be able to satisfy this requirement by answering a simple "yes/no" question on the disclosure form. If the answer is "no", a reader of the disclosure form will know that the form represents the totality of the person's disclosures in relation to the parties to the offer in question as at that time and that there is no reason to continue to search for other disclosures by that person. If the answer is "yes", the reader will know that the person has made one or more disclosures in relation to another party or parties to the offer in question (which party or parties should be identified on the disclosure form) that he will need to search for in order to understand the totality of the person's discloseable positions in relation to the offer(s) in question.

2.30 One respondent queried whether it might be preferable for disclosures in relation to the relevant securities of all parties to an offer to be made on a single disclosure form. The Code Committee continues to believe that it would be unduly onerous to require a person to include in his disclosure form details in relation to positions in the relevant securities of a second party to the offer which have been previously disclosed but which have not changed. For example, where a person has previously dealt in, and disclosed his positions in, the relevant securities of the offeree company, the Code Committee does not believe that it is necessary to repeat those positions if the person subsequently deals in, and discloses his positions in, the relevant securities of a paper offeror. From the perspective of readers of disclosure forms, the Code Committee believes that, provided that

disclosers are required to indicate whether they have also made a disclosure in relation to another party to the offer, it should be relatively easy for a person searching a Secondary Information Provider for disclosures made under the Code in relation to a particular offer period to locate the disclosures in question.

2.31 Separately, the Code Committee notes that, as currently framed, the specimen forms on the Panel's website require a person to make separate disclosures if he deals in two or more classes of the relevant securities of the same party to an offer on the same day. The Code Committee notes that the new disclosure forms are framed such that a person will able to disclose dealings in more than one class of relevant securities of a party to an offer on the same form.

2.32 In the light of the above, the Code Committee has adopted the proposals described in sections 2(g) and 2(h) of the PCP as proposed.

2.33 As mentioned above, new disclosure forms for use upon the implementation of the amendments adopted in this Response Statement are set out at Appendix C and are available to be downloaded from the Panel's website.

(e) Unnamed potential offerors and their concert parties

2.34 In section 2(k) of the PCP, the Code Committee proposed that a potential offeror whose identity has not yet been publicly announced should not be required to identify itself as a potential offeror simply by virtue of the requirement to make an opening position disclosure as a result of its being interested in 1% or more of a class of relevant securities of a party to an offer. To this end, the Code Committee proposed the introduction of Note 12(b) on Rule 8, as follows:

> "*12. Potential offerors*
>
> …
>
> *(b) If a potential offeror has not been identified as such, it will not need to make an Opening Position Disclosure under Rule 8.1(a)(i) or (ii) until after the announcement that first identifies it as an offeror. However, before that time, the potential offeror and persons acting in concert with it*

will need to make Opening Position Disclosures in accordance with Rule 8.3(a), if applicable. …".

2.35 In addition, section 2(k) of the PCP proposed that, where the identity of an undisclosed potential offeror is revealed as a result of a dealing in relevant securities by the potential offeror or a person acting in concert with it, separate announcements should be made of the dealing disclosure and of the fact of the possible offer. To this end, the Code Committee proposed the introduction of Note 12(a) on Rule 8, as follows:

"*12. Potential offerors*

(a) If a potential offeror has been the subject of an announcement that talks are taking place but has not been named, the potential offeror and persons acting in concert with it must disclose any dealings in relevant securities of the offeree company after the time of that announcement in accordance with Rule 8.1(b) or Rule 8.4 respectively.

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

2.36 The Code Committee has adopted Notes 12(a) and (b) on the new Rule 8 as proposed, save that:

(a) the words "Other than in the case of a cash offeror" have been deleted from the final sentence of the proposed Note 12(a); and

(b) the Code Committee has modified the proposed Note 12(b), as described below.

(f) Rule 8.3(b)

Q.6 Do you agree that the current Rule 8.3(b) should be amended as proposed?

2.37 In section 2(l) of the PCP, the Code Committee proposed that the current Rule 8.3(b) should be amended as follows:

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

2.38 The Code Committee proposed the introduction of the words "or control" in order to make clear that a single opening position disclosure would be required when two or more persons are acting pursuant to an agreement or understanding to control an interest in relevant securities. This would reinstate wording which appeared in Rule 8.3(b) prior to amendments made in 2005.

2.39 The other amendments to Rule 8.3(b) were proposed to cater for a situation where members of a consortium are considering the possibility of making an offer. As explained in paragraph 2.66 of the PCP, the Code Committee considered that it would be undesirable if, for example, the combination of the introduction of the opening position disclosure requirement and the introduction of the words "or control" were automatically to result in the members of a consortium becoming identified as such by virtue of an opening position disclosure requirement for the sole reason that one of them was interested (or that they were collectively interested) in 1% or more of a class of the offeree company's relevant securities. In addition to the proposed amendments to Rule 8.3(b), the Code Committee also proposed the introduction of a final sentence of the new Rule 12(b) on Rule 8 in relation to consortia, as follows:

> "*12. Potential offerors*
>
> …
>
> *(b) … If the potential offeror might be subject to Rule 8.3(c) by virtue of being a member of a consortium, it should first consult the Panel.*".

2.40 All of the respondents to Question 6 agreed with, or did not object to, the proposed amendments, save that one respondent queried the proposed extension

of Rule 8.3(b) to agreements or understandings to control an interest in relevant securities. The Code Committee continues to believe that, where two or more persons act together to control a block of relevant securities, this should be disclosed in an opening position disclosure if no dealing disclosure has been made by the deadline for opening position disclosures.

2.41 The Code Committee has therefore adopted the amendments to Rule 8.3(b) (which will become Rule 8.3(c)) as proposed in the PCP.

2.42 In addition, the Code Committee believes, on reflection, that it should be made clear in the Code itself that a consortium will not normally be required to disclose its identity as a potential offeror by virtue of the combination of the requirement for opening position disclosures to be made and the new Rule 8.3(c). The Code Committee has therefore modified the third sentence of the new Note 12(b) on Rule 8 and introduced a new final sentence, as follows:

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

(g) Where a cash offer is revised so as to become a securities exchange offer

2.43 In section 2(i) of the PCP, the Code Committee proposed that, following an announcement by a cash offeror that its offer is being revised to become (or that its possible offer may be) a securities exchange offer, opening position disclosures and dealing disclosures should be required in the same way as if the announcement had been the first to identify the offeror as a paper offeror. The

related provision of the Code was set out in the new Note 1 on Rule 8, which the Code Committee has adopted as proposed.

(h) Requirement to provide the Panel with details of persons with interests in securities representing 1% or more and to notify them of their obligations under Rule 8

2.44 In section 2(j) of the PCP, the Code Committee proposed amendments to Rule 22 to require the board of the offeree company, or a paper offeror, to take all reasonable steps to determine the identity of persons who are interested in 1% or more of any class of relevant securities of the relevant party and promptly to provide the Panel with details of all persons who are reasonably considered to be so interested. In addition, the Code Committee proposed that offeree companies and paper offerors should be required to send to all such persons an explanation of their disclosure obligations under Rule 8. Paragraph 2.56 of the PCP gave details of the steps that the Code Committee believed that the board of an offeree company (or paper offeror, as the case may be) might reasonably be expected to take in providing information to the Panel under the amended Rule 22.

2.45 A number of respondents expressed concerns in relation to the proposed amendments to Rule 22 and/or the Code Committee's expectations as to the application of the new provisions. The principal concerns were that:

(a) there was a danger that the proposed amendments could be perceived as shifting the onus of ensuring compliance with the Code's disclosure regime away from the persons who were interested in relevant securities of the parties to an offer and onto the parties to the offer themselves;

(b) the Code Committee's expectation in paragraph 2.56(c) of the PCP that the boards of offeree companies and paper offerors should serve notices pursuant to section 793 of the Companies Act 2006 or other applicable legislation would result in excessively onerous requirements being placed on the parties to an offer; and

(c) the proposed requirement for the boards of offeree companies and paper offerors to send to persons interested in 1% or more of their relevant securities an explanation of their disclosure obligations under Rule 8 could impose undue costs and administrative burdens on the parties to an offer.

These concerns are addressed in turn in the following paragraphs.

(i) Responsibilities of the parties to the offer

2.46 In putting forward the proposals, it was not the Code Committee's intention that the parties to an offer should incur a new responsibility to monitor for persons who have significant interests in their relevant securities or for ensuring such persons' compliance with the Code's disclosure regime. As indicated in section 2(j) of the PCP, the existing practice of the Executive is to seek assistance from offeree companies and paper offerors in identifying persons who are subject to the Code's disclosure regime and, to a large extent, the proposed amendments to Rule 22 were intended as a codification of existing practice. As explained in the PCP, the assistance which the Executive receives from the parties to the offer in this regard will assume a particular importance as the Code's disclosure regime moves to being a principally "positions-based" regime (as opposed to a principally "dealings-based" regime). However, the Code Committee acknowledges the concerns expressed by respondents in this regard and has adopted the new Rules 22(b) and (c) in a slightly modified form from that proposed in the PCP, as set out in paragraph 2.49 below.

(ii) Sources of information

2.47 The Code Committee accepts that it would be unduly onerous for the boards of offeree companies and paper offerors to be required to serve new notices under section 793 of the Companies Act 2006 in order to comply with their obligations under Rule 22. The Code Committee accepts that boards should be expected to provide information to the Panel only to the extent that it is readily available or easily obtainable. In complying with its obligations to assist the Panel under Rule 22, the Code Committee would expect the boards of the parties to an offer

normally to provide the Executive with details elicited from the following sources:

(a) the company's shareholder register;

(b) notifications received pursuant to the Disclosure Rules and Transparency Rules (or similar regulations) and responses to notices served under section 793 of the Companies Act 2006 (or similar legislation), to the extent that the company has elected to serve such notices; and

(c) analysis previously received from, or readily available from, the company's corporate broker or other advisers.

As stated in the PCP, the steps which an offeree company or paper offeror might be expected to take in fulfilling its obligations under Rule 22 will depend on the particular circumstances of the case and parties to offers and their advisers are encouraged to consult the Executive in cases of doubt.

(iii) Requirement to send an explanation of Rule 8 obligations

2.48 The Code Committee acknowledges that sending an explanation of the requirements of Rule 8 to persons with interests of 1% or more could lead to additional costs being incurred by offeree companies and paper offerors but believes that, in most cases, these costs would be proportionate to the benefit obtained. However, the Code Committee considers that it would not be necessary for the board of an offeree company to send an explanation of their disclosure obligations to persons who, following the commencement of an offer period, have been sent an announcement or circular in accordance with Rule 2.6(a) or (b) which includes a summary of the provisions of Rule 8. The Code Committee has therefore adopted a new Note on Rule 22, as set out in paragraph 2.49 below.

(iv) Code amendments etc.

2.49 In the light of the above, the Code Committee has adopted the new Rules 22(b) and (c) and the new Note on Rule 22 as follows:

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

…

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

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

NOTE ON RULE 22

Rule 2.6

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

2.50 The Code Committee understands that the Executive intends to produce a pro forma explanation of the provisions of the new Rule 8 which may be used by

offeree companies and paper offerors for the purposes of the amended Rule 22 and that this will be made available to be downloaded from the Panel's website in due course.

(i) Irrevocable commitments and letters of intent

2.51 In paragraph 2.71(a) of the PCP, the Code Committee proposed that the current Rule 8.4 and Note 14 on Rule 8 in relation to irrevocable commitments and letters of intent should be deleted and replaced with a new Rule 2.11 and Notes on Rule 2.11, as set out in Appendix B to the PCP. Under the proposed new Rule 2.11, as under the current Rule 8.4, a party who procures an irrevocable commitment or letter of intent during the course of an offer period would be required to disclose the details publicly by no later than 12 noon the following business day.

2.52 One respondent suggested that the new Rule 2.11 should require details of any irrevocable commitments or letters of intent procured prior to the commencement of an offer period to be disclosed on the business day following the commencement of the offer period. Under the proposed new Note 5(a)(viii) on Rule 8, details of any relevant securities in respect of which a party to the offer or any person acting in concert with it had procured an irrevocable commitment or a letter of intent (whether procured prior to or during the offer period) would be required to be included in that party's opening position disclosure. This would be in addition to the requirement to disclose the procuring of irrevocable commitments and letters of intent during the offer period under the proposed Rule 2.11(a). However, in the form proposed, Rule 2.11 did not catch commitments and letters procured prior to the offer period.

2.53 Having considered this issue further, the Code Committee believes that details of irrevocable commitments and letters of intent procured by an offeror (or an offeree company) prior to the commencement of an offer period should be required to be publicly disclosed by that party to the offer as follows:

(a) if the relevant party procures further irrevocable commitments or letters of intent before the deadline for opening position disclosures, in the first announcement required by the new Rule 2.11(a); and

(b) in the opening position disclosure by the relevant party to the offer.

2.54 In the light of the above, the Code Committee has introduced new Rules 2.11(b) and (c), as follows:

> "**(b) If a party to the offer or any person acting in concert with it has procured an irrevocable commitment or a letter of intent prior to the commencement of the offer period and/or prior to midnight on the day before an Opening Position Disclosure is made under Rule 8.1(a) or 8.2(a), the details must be disclosed in the Opening Position Disclosure made by the relevant party to the offer (see Note 5(a) on Rule 8 and the Notes on this Rule 2.11).**
>
> **(c) If, during the offer period and prior to midnight on the day before an Opening Position Disclosure is made under Rule 8.1(a) or 8.2(a), a party to the offer or any person acting in concert with it procures an irrevocable commitment or a letter of intent and the details are disclosed in accordance with Rule 2.11(a), that disclosure must also include details of any other commitments or letters which have been procured prior to the date of the disclosure and which have not previously been disclosed.**".

As a consequence, the new Rules 2.11(b) and (c) proposed in the PCP have been renumbered as Rules 2.11(d) and (e).

2.55 In addition, in any case where a party to the offer has procured a letter of intent prior to the commencement of the offer period, the Code Committee believes that, before publicly disclosing the details, the relevant party should ensure that the letter of intent continues to represent the up-to-date intentions of the shareholder or other person concerned. This would be similar to the requirement in Note 2 on Rule 19.3 for a party to an offer to verify the up-to-date intentions of shareholders or other persons before making a "statement of support".

2.56 The Code Committee has therefore introduced a new Note 4 on Rule 2.11, as follows:

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

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

2.57 In addition, the Code Committee has introduced cross-references to Note 5(a) on Rule 8 into the new Note 11 on the definition of "acting in concert" and Note 15 on Rule 8, as follows:

"*11. Indemnity and other dealing arrangements*

…

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

"*15. Irrevocable commitments and letters of intent*

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

(j) Other rules and regulations

2.58 One respondent noted that the proposed new Note 13 on Rule 8 stated that, in addition to the requirements of Rule 8, the requirements of the UKLA Rules might be relevant to a person making a disclosure. The respondent queried whether it was correct to single out the UKLA Rules in this way.

2.59 The Code Committee notes that Note 13 on Rule 8 as proposed in the PCP was in identical terms to the current Note 13 on Rule 8. However, the Code Committee acknowledges that the scope of Note 13 could be broadened and has adopted the new Note 13 in the following revised form:

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

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

(k) Code amendments

Q.7 Do you agree with the proposed amendments to the Code in relation to the matters described in section 2 of this PCP, as set out in Appendix B to this PCP?

2.60 Other than as described above, and save for certain minor changes which are reflected in Appendix B, the Code Committee has adopted the amendments to the Code described in section 2 of the PCP as set out in Appendix B to the PCP.

3. Definition of "associate"

(a) Definitions

Q.8 Do you agree that the definitions of "associate" and "acting in concert" should be conformed and that the definition of "associate" should be deleted?

3.1 In section 3(b) of the PCP, the Code Committee proposed that, in view of the significant degree of overlap between the two concepts of:

(a) persons who are "associates" of a party to an offer; and

(b) persons who are "acting in concert" with a party to an offer,

and in order to simplify the application of the Code to such persons, the definition of "associate" should be deleted from the Code and the provisions of the Code which refer to an associate of a party to the offer should be amended so as to refer instead to a person acting in concert with a party to the offer.

3.2 All of the respondents to Question 8 agreed with, or did not object to, the proposal and the Code Committee has accordingly deleted the definition of "associate", as proposed in the PCP.

Q.9 Do you agree with the proposed new Note 10 on the definition of "acting in concert"?

3.3 In addition, section 3(b) of the PCP also proposed that a new Note 10 should be added to the definition of "acting in concert", to provide that, where the Panel agrees that a presumption set out in the definition of "acting in concert" is rebutted in any individual case, it may require that the person who would otherwise have been treated as a person acting in concert with an offeror or the offeree company (as appropriate) should make an appropriate private disclosure to the Panel if he deals in any relevant securities during an offer period. This is because such dealings might be relevant to the Panel's assessment of whether it

should continue to treat the presumption of concertedness as having been rebutted.

3.4 All of the respondents to Question 9 agreed with, or did not object to, the proposal. However, one respondent suggested that the provision should make it clear that the Panel would only require a person to make private disclosures “where appropriate”, i.e. that this would not be a general requirement in all cases where a presumption is rebutted. The Code Committee accepts this suggestion and has therefore adopted the new Note 10 on the definition of “acting in concert” in the following revised form:

> “*10. Disclosure where presumption rebutted*
>
> *Where it is accepted by the Panel that a person who would normally be presumed to be acting in concert with either an offeror or the offeree company should not in fact be considered in a particular case to be acting in concert with that party, the Panel may, where it considers it appropriate, ~~still~~ require the person concerned to make private disclosures to the Panel (containing the details that would be required to be disclosed under Rule 8.4) of any dealings by it in any relevant securities of any party to the offer.*”.

(b) Dealing arrangements

Q.10 Do you agree with the proposed amendments in relation to the current Note 6 on Rule 8?

3.5 In section 3(c) of the PCP, the Code Committee proposed, in effect, that:

(a) the current Note 6 on Rule 8 should be moved to become a new Note 11 on the definition of “acting in concert”, amended as follows:

> “*~~6.~~11. Indemnity and other dealing arrangements*
>
> *(a) For the purpose of this Note, ~~an~~ a dealing arrangement includes any indemnity or option arrangements, and any agreement or understanding, formal or informal, of whatever nature, relating to relevant securities which may be an inducement to deal or refrain from dealing.*

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

(b) ~~When an arrangement exists with any offeror, with the offeree company or with an associate of any offeror or of the offeree company~~ Dealing arrangements of the kind referred to in this Note in relation to relevant securities~~, details of such arrangement must be publicly disclosed, whether or not any dealing takes place.~~ which have been entered into, or are entered into, by any offeror, the offeree company or a person acting in concert with any offeror or the offeree company, must be disclosed as required by Note 9 on Rule 2.4, Rule 2.5(b)(v), Notes 5 and 6 on Rule 8, Rule 24.12 and Rule 25.5.

(c) This Note does not apply to irrevocable commitments or letters of intent, which are subject to Rule ~~8.4 and Note 14.~~2.11.

(d) See also Rule 4.4.";

(b) a new Note 6 on Rule 8 should be introduced, as follows:

"*6. Indemnity and other dealing arrangements*

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

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

(c) Where a person acting in concert with the offeree company has entered into such a dealing arrangement before the start of the offer

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

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

(c) various consequential amendments should be made to those Rules which refer to the existing Note 6 on Rule 8 (i.e. the current Rule 2.5(b)(viii), Note 4 on Rule 24.2, Rule 24.3(a)(ii)(*c*), Rule 24.12, Rule 25.3(a)(ii)*(g*), Rule 25.5 and Rule 26(o)).

3.6 In addition, it was proposed to introduce:

(a) a new Note 1 on the definition of "dealings" as a reminder that dealing arrangements would require disclosure under Notes 5 and 6 on Rule 8, Rule 24.12 and Rule 25.5; and

(b) a new Note 9 on Rule 2.4 referring to the requirements in Note 6 on Rule 8 to disclose details of both dealing arrangements entered into during an offer period and any which pre-exist an announcement that commences an offer period or first identifies an offeror.

3.7 Paragraph 3.10 of the PCP explained that these amendments were consequential upon the amendments in relation to the proposed deletion of the definition of "associate" and were not intended to affect the manner in which Note 6 on Rule 8 has historically been applied by the Panel.

3.8 All of the respondents to Question 10 agreed with, or did not object to, the amendments, which, save for certain minor amendments and other amendments noted elsewhere in this Response Statement, the Code Committee has adopted as proposed.

(c) Consequential amendments

Q.11 Do you agree with the proposed consequential amendments arising out of the proposed deletion of the definition of "associate"?

3.9 In section 3(d) of the PCP, the Code Committee proposed consequential amendments to certain provisions of the Code arising out of the proposed deletion of the definition of "associate".

3.10 All of the respondents to Question 11 agreed with, or did not object to, the amendments, which the Code Committee has therefore adopted as proposed. The affected provisions are: paragraph (3) of the definition of "connected adviser"; Note 3 on the definition of "recognised intermediary"; Rule 2.5(b)(iv); Rule 4.4 (heading); Note 2 on Rule 4.6; Note 3 on Rule 11.2; Rule 17.1; Note 4 on Rule 20.1; Rule 24.2(d)(x); Rule 25.3(a)(ii); Note 2 on Rule 25.3; Rule 25.5; Rule 25.6(b); Rule 26(i); section 1(a) of Appendix 3; Note 2(c) on section 1 of Appendix 5; and section 8(c)(iv) of Appendix 7.

4. Disclosure of securities borrowing and lending positions and related issues

(a) Securities borrowing and lending and financial collateral arrangements

(i) Securities borrowing and lending

Q.12 Should securities borrowing and lending positions be disclosed under the Code as described?

4.1 In section 4(a) of the PCP, the Code Committee concluded, in summary, that there could be potential benefits if the Code were to be amended so as to treat securities borrowing and lending transactions as "dealings" and to require a person to disclose his borrowing or lending position in relevant securities. Although the Code Committee did not put forward detailed proposals for the amendment of the Code in relation to securities borrowing and lending disclosure, sections 4(b) to 4(e) of the PCP described, in substance, the amendments that the Code Committee believed might be made if detailed proposals were to be put forward in the future.

(ii) Financial collateral arrangements

Q.13 Should the Code's disclosure regime apply where a right of use is exercised in respect of relevant securities in which a person is interested or where relevant securities are subject to a title transfer collateral arrangement?

4.2 In section 4(f) of the PCP, the Code Committee concluded that, for the purposes of the Code's disclosure regime, it was not possible to make a meaningful distinction between the position of:

(a) a shareholder whose shares have been lent to a securities borrower under a securities lending agreement; and

(b) a shareholder whose shares are either (i) subject to a security financial collateral arrangement where the collateral-taker has exercised its right to acquire itself, or transfer to a third party, full title in the shares (otherwise

known as a "right of use" or "right of rehypothecation"), or (ii) subject to a title transfer financial collateral arrangement.

This is because, in each case, whilst the shareholder will remain economically interested in the shares concerned, the shareholder will generally have given up its beneficial ownership of, and control of the voting rights attaching to, the shares and its beneficial interest in the shares will have been replaced by a contractual right to be delivered equivalent securities at some point in the future.

4.3 The Code Committee considered that, where a right of use over relevant securities in which a person is interested has been exercised, or where relevant securities in which a person is interested are subject to a title transfer collateral arrangement, the person could be required to disclose this in the same way as a person would be required to disclose that the relevant securities in which he was interested had been lent.

(iii) Conclusion not to put forward detailed proposals

Q.14 Do you have any comments regarding the Code Committee's conclusions in relation to the disclosure of securities borrowing and lending and financial collateral arrangements?

4.4 In section 4(g) of the PCP, the Code Committee explained that, in order for:

(a) the prime brokerage departments of certain investment banks which hold customers' shares over which they have taken security financial collateral in a pooled client account to be able to notify those customers when the bank exercises its right of use over such shares (and of the consequent reduction in the customers' proportionate proprietary interests in the shares held in the pooled client account); and

(b) the proprietary and client-serving trading desks of certain investment banks to be able to identify the shares over which they do and do not currently have control,

those investment banks would need to implement new policies and introduce changes to their existing practices, systems and technology. The Code Committee concluded that the costs of implementing these policy and systems changes would be disproportionate to the increase in market transparency that would be achieved during offer periods and, accordingly, that it would not be appropriate to put forward detailed proposals for the amendment of the Code in relation to the disclosure of securities borrowing and lending and financial collateral arrangements. However, the Code Committee stated that it intended to keep these issues under review.

(iv) Responses and conclusions

4.5 There was broad support from the respondents to Questions 12 and 13 for the principle of extending the Code's disclosure regime so as to apply to securities borrowing and lending positions and financial collateral arrangements, although a small number of respondents doubted the merits of extending the Code's disclosure regime to these areas.

4.6 All but one of the respondents to Question 14 agreed with, or did not object to, the Code Committee's conclusion not to put forward detailed proposals for the amendment of the Code in relation to the disclosure of securities borrowing and lending and financial collateral arrangements. However, one respondent was not convinced that the costs of implementing amendments to the Code would be disproportionate to the increase in market transparency which would result from extending the Code's disclosure regime to these areas and so favoured immediate implementation.

4.7 One respondent expressed concern that the Code Committee should not extend the Code's disclosure regime so as to apply to securities borrowing and lending and financial collateral arrangements without further consultation. The Code Committee confirms that it does not intend to extend the Code's disclosure requirements in these areas without first consulting on detailed amendments to the Code.

4.8 One respondent urged the Code Committee to set a firm deadline for reviewing the application of the Code to securities borrowing and lending and financial collateral arrangements and for making amendments to the Code. The Code Committee confirms that, as stated in paragraph 4.47 of the PCP, it intends to keep these issues under review. However, it is not possible to predict the appropriate time for undertaking a substantive review in this area as this will depend on a number of factors, for example whether market or regulatory forces result in a significant increase in prime brokerage departments of investment banks holding customers' shares in designated client accounts as opposed to pooled client accounts.

(b) Rule 4.6

Q.15 Do you agree with the proposed amendments to Rule 4.6 and its Notes and to the introduction of provisions in relation to financial collateral arrangements into the proposed new Note 5(l) on Rule 8?

4.9 In section 4(h) of the PCP, the Code Committee proposed amendments to Rule 4.6, which imposes restrictions on securities borrowing and lending transactions by the parties to an offer and persons acting in concert with them. In addition, the Code Committee proposed to introduce provisions in relation to the disclosure of financial collateral arrangements into the proposed new Note 5(l) on Rule 8.

4.10 In summary, the effect of the relevant provisions of the Code, as proposed to be amended, would be as follows:

(a) during an offer period, persons subject to Rule 4.6 would continue to be restricted from undertaking securities borrowing and lending transactions in relation to the relevant securities of the offeree company but would no longer be restricted from undertaking securities borrowing and lending transactions in relation to the relevant securities of a paper offeror;

(b) by virtue of the proposed new Note 4 on Rule 4.6, the entering into of certain financial collateral arrangements in relation to the relevant securities of the offeree company during an offer period would be subject

to the same restrictions as the entering into of securities lending transactions;

(c) by virtue of the new Note 5(l) on Rule 8, an opening position disclosure by a party to an offer would be required to include details of any relevant securities borrowed or lent by that party or by any persons acting in concert with it. In addition, the opening position disclosure would be required to include details of any financial collateral arrangements entered into by such persons in relation to relevant securities. Similarly, a dealing disclosure by a party to an offer or any person acting in concert with it would be required to include details of any securities borrowing or lending positions, or any financial collateral arrangements, which that person has in relation to relevant securities; and

(d) the entering into of securities borrowing and lending transactions, or financial collateral arrangements, in relation to the relevant securities of a paper offeror and, with the consent of the Panel, the offeree company, by persons subject to Rule 4.6 would be required to be disclosed by means of a dealing disclosure.

4.11 All but one of the respondents to Question 15 agreed with the proposed amendments.

4.12 The remaining respondent questioned whether financial collateral arrangements should be equated with securities lending transactions for the purposes of the Code. As stated in the PCP, the Code Committee does not believe that a meaningful distinction can be drawn between securities lending transactions and (i) security financial collateral arrangements coupled with a right of use, or (ii) transfer of title collateral arrangements. For example, the Code Committee believes that an offeror should be restricted from granting a right of use over relevant securities of the offeree company in the same way that it is restricted from lending such relevant securities. In both cases, the offeror would be liable to lose its legal ownership of, and control over the voting rights attached to, the

offeree company's relevant securities, which would appear to be contrary to its objective of securing control of the offeree company.

4.13 The Code Committee has therefore adopted the amendments proposed in section 4(h) of the PCP, although it has made some minor drafting modifications, as set out below. In addition, the Code Committee has introduced into the new Note 4 on Rule 4.6 a requirement for the Panel to be consulted in the event that a party to an offer or any person acting in concert with it has a pre-existing financial collateral arrangement with respect to the relevant securities of the offeree company. This proposal was described in paragraph 4.52 of the PCP but was not included in the amendments to the Code set out in Appendix B to the PCP.

4.14 For clarity, the final versions of Rule 4.6 and Note 5(l) on Rule 8 (marked to show amendments to the versions proposed in the PCP) are set out below:

Rule 4.6

"4.6 SECURITIES BORROWING AND LENDING TRANSACTIONS BY OFFERORS, THE OFFEREE COMPANY AND THEIR CONCERT PARTIES

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

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

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

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

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

NOTES ON RULE 4.6

1. Return of borrowed relevant securities

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

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

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

3. Discretionary fund managers and principal traders

Securities borrowing or lending transactions by non-exempt discretionary fund managers and principal traders will be treated in accordance with Rule 7.2.

4. Financial collateral arrangements

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

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

Note 5(l) on Rule 8

"*5. Details to be included in the disclosure*

…

(l) Securities borrowing and lending

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

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

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

In all cases referred to above, all relevant details should be given and the disclosure must be made in a form agreed by the Panel.".

4.15 In addition, and as proposed in the PCP, the Code Committee has:

(a) introduced a new Note 2 on the definition of "dealings", to the effect that, whilst securities borrowing and lending transactions are not regarded as "dealings", securities borrowing and lending transactions by the parties to

the offer, and persons acting in concert with them, are required to be disclosed under Rule 4.6 as if they were dealings; and

(b) made consequential amendments to Notes 3 and 4 on Rule 7.2, Rule 24.3(a)(iv) and Rule 25.3(a)(iv).

(c) Rule 9

Q.16 Do you agree that Note 17 on Rule 9.1 and Note 2 on Rule 9.3 should be amended as proposed?

4.16 In section 4(i) of the PCP, the Code Committee proposed a number of amendments to Note 17 on Rule 9.1 and Note 2 on Rule 9.3. The substance of the proposed amendments was that intra-day securities borrowing and lending transactions should only be regarded as relevant for the purposes of the 30% mandatory offer threshold where these transactions would result in an increase in a person's "net borrowing position" in a company's shares as at midnight on the day in question.

4.17 For example, the Code Committee does not believe that a mandatory offer should be required if a person who, together with persons acting in concert with him, is interested in 29.9% of a company's shares carrying voting rights (i) borrows and then (ii) on-lends a further 0.5% of the shares in the company on the same day. This is because, at the end of the day, his ability to exercise control over voting rights attached to the company's shares will not have increased as a result of these transactions. However, if (i) the shares which the borrower had on-lent were subsequently redelivered to him, but (ii) he did not on the same day redeliver the shares to the original lender, the Code Committee believes that the resulting increase in the person's net borrowing position should be regarded as relevant for the purposes of the mandatory offer threshold.

4.18 All but one of the respondents to Question 16 agreed with the proposed amendments, with one respondent making a minor drafting suggestion. The remaining respondent did not agree that borrowed shares which have been on-lent

should be excluded from the mandatory offer threshold, in view of the borrower's right to recall the on-lent shares and have them redelivered to him. The Code Committee notes the respondent's comment. However, the Code Committee believes that, in such circumstances, a mandatory offer should only be required if the on-lent shares were to be redelivered to the borrower but he did not then redeliver them to the original lender.

4.19 The Code Committee has therefore adopted the proposed amendments to Note 17 on Rule 9.1 and Note 2 on Rule 9.3, subject to the further minor amendments to Note 17 on Rule 9.1 set out below:

> "*17. Borrowed or lent shares*
>
> *For the purpose of ~~this~~ Rule 9.1, if a person has borrowed or lent shares he will be treated as interested in such shares save for any borrowed shares which he has either on-lent or sold. A person must consult the Panel before borrowing or ~~otherwise~~ acquiring an interest in shares which, when taken together with shares (including lent shares) in which he or any person acting in concert with him is already interested, ~~including~~ and shares already borrowed ~~or lent~~ by him or any person acting in concert with him, ~~would~~ might result in an obligation to make a mandatory offer being triggered. ~~However, w~~Where a person intends to borrow~~s~~ and lend~~s~~ shares on the same day, a mandatory offer will ~~only~~ normally be required only if this will result~~s~~ in an increase in his net borrowing position, or that of any person acting in concert with him, as at midnight on that day. See also Note 2 on Rule 9.3.*".

5. Disclosure of short only positions

Q.17 Do you agree with the Code Committee's conclusion that the Code should not require persons with a significant gross short position in the relevant securities of a party to an offer to disclose their dealings and positions in relevant securities if they do not have a gross long interest of 1% or more in any class of relevant securities of a party to the offer?

5.1 In section 5 of the PCP, the Code Committee concluded, in summary, that, whilst an arguable case could be made for the introduction of a "short trigger" provision, whereby the Code's disclosure regime would apply to a person who has a significant gross short position in the relevant securities of a party to an offer but does not have a gross long interest of 1% or more in any relevant securities, it did not believe that it would be proportionate to introduce such a new disclosure requirement for the relatively unusual cases in which short positions would not otherwise be subject to disclosure under the Code.

5.2 All of the respondents to Question 17 agreed with, or did not object to, the Code Committee's conclusion.

5.3 One respondent suggested that the Code Committee should reconsider whether to require "symmetrical" disclosures of long interests and short positions once the permanent short selling measures being considered by the Financial Services Authority (the "**FSA**") had been finalised and implemented. For the reasons given in paragraph 5.3 of the PCP, the Code Committee remains of the view that the short trigger proposal should not be adopted. The Code Committee's conclusion is not dependent on the implementation of permanent short selling measures by the FSA and, whilst the Code Committee reserves the right to review its conclusion in the future if circumstances were to change, it has no current intention of doing so.

APPENDIX A

Non-confidential respondents

1. Alternative Investment Managers Association
2. Association for Financial Markets in Europe (formerly the London Investment Banking Association)
3. Association of British Insurers
4. Association of Corporate Treasurers
5. Institute of Chartered Accountants in England and Wales
6. International Securities Lending Association
7. International Swaps and Derivatives Association
8. London Stock Exchange
9. Quoted Companies Alliance
10. Takeovers Joint Working Party of the City of London Law Society Company Law Sub-Committee and the Law Society of England and Wales' Standing Committee on Company Law

APPENDIX B

Amendments to the Code

In this Appendix B, with the exception of Rule 8, underlining indicates new text and striking through indicates deleted text. However, in view of the substantial amendments being made to Rule 8, the new Rule 8 has been marked-up so as to show amendments made since the version proposed in Appendix B to PCP 2009/1. For a version of the new Rule 8 marked-up against the current Rule 8, see Instrument 2009/6.

DEFINITIONS

Acting in concert

…

NOTES ON ACTING IN CONCERT

…

10. Disclosure where presumption rebutted

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

11. Indemnity and other dealing arrangements

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

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

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

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

(d) See also Rule 4.4.

~~Associate~~

[Note: the current definition of “Associate” to be deleted.]

…

Cash offeror

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

…

Connected adviser

Connected adviser normally includes only the following:

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

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

(b) a corporate broker to that party; and

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

(a) in relation to the offer; or

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

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

…

Dates, business days, ~~and~~ periods of time and London time

…

(2) … ; ~~and~~

(3) … ~~.~~; and

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

Dealings

…

NOTES ON DEALINGS

1. Indemnity and other dealing arrangements

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

2. Securities borrowing and lending

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

…

Exempt fund manager

…

Exempt principal trader

…

NOTES ON EXEMPT FUND MANAGER AND EXEMPT PRINCIPAL TRADER

…

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

exempt principal traders and connected exempt fund managers must comply with the relevant provisions of Rule 8.

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

…

Interests in securities

…

NOTES ON INTERESTS IN SECURITIES

1. Gross interests

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

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

…

Parties to the offer

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

…

Recognised intermediary

…

NOTES ON RECOGNISED INTERMEDIARY

…

2. Recognised intermediary status is relevant only for the purposes of Note 16 on Rule 9.1, Note 1(c) on Rule 7.2, ~~and~~ Rule 8.3(~~d~~e) and Note 5(b) on Rule 8, in each case to the extent only that the recognised intermediary is acting in a client-serving capacity. As a result, subject to Note 3 below~~,~~ and to the extent only that it is acting in a client-serving capacity: (i) a recognised intermediary will not be treated, for the purposes of Rule 9.1, as interested in (or as having acquired an interest in) any securities by virtue only of paragraph (3) or paragraph (4) of the

definition of interests in securities~~, nor will~~; (ii) any dealings by it in relevant securities during an offer period will not be required to be publicly disclosed under Rules 8.3(a) to ~~(c),~~(d); and (iii) dealing disclosures required to be made by it under Rule 8.5(c) will need to include the details specified in Note 5(b), rather than those specified in Note 5(a), on Rule 8.~~ in each case to the extent only that the recognised intermediary is acting in a client-serving capacity.~~

3. …

Where a recognised intermediary is, or forms part of, a person acting in concert with ~~an associate of~~ the offeree company, it will not benefit from the exception from disclosure afforded by Rule 8.3(e~~d~~) after the commencement of the offer period. Where a recognised intermediary is acting in concert with ~~an associate of~~ an offeror or potential offeror, it will not benefit from the exception from disclosure afforded by Rule 8.3(e~~d~~) after the identity of the offeror or potential offeror ~~of~~ with which it is ~~an associate~~ acting in concert is publicly announced. After such time, disclosures should be made ~~dealings should be disclosed~~ under Rule 8.4~~8.1(a)~~ or, if the recognised intermediary is, or forms part of, an exempt principal trader whose exempt status has not fallen away, Rule 8.5~~38.5(a) or (b)~~.

…

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

…

Rule 2.4

2.4 THE ANNOUNCEMENT OF A POSSIBLE OFFER

…

NOTES ON RULE 2.4

…

9. Indemnity and other dealing arrangements

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

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

Rule 2.5

2.5 THE ANNOUNCEMENT OF A FIRM INTENTION TO MAKE AN OFFER

…

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

…

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

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

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

(~~vi~~iii) … ;

(~~vii~~iv) … ;

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

(~~ix~~vi) … ;~~ and~~

(~~x~~vii) … ~~.~~; and

(viii) confirmation that the offeror is on the same day disclosing, or has previously disclosed, the details required to be disclosed by it under Rule 8.1(a) and, where such disclosure is being made on the

same day but (in accordance with Note 2(a)(i) on Rule 8) may not include all relevant details in respect of all persons acting in concert with the offeror, confirmation that a further disclosure in accordance with Rule 8.1(a) and Note 2(a)(i) on Rule 8 will be made as soon as possible.

…

NOTES ON RULE 2.5

…

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

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

2~~3~~. Subjective conditions

…

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

…

4~~5~~. Pre-conditions

…

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

…

Rule 2.9

2.9 PUBLICATION OF AN ANNOUNCEMENT ABOUT AN OFFER OR POSSIBLE OFFER

…

NOTES ON RULE 2.9

…

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

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

Rule 2.11

2.11 IRREVOCABLE COMMITMENTS AND LETTERS OF INTENT

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

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

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

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

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

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

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

NOTES ON RULE 2.11

1. Timing of disclosure

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

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

2. Method of disclosure

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

3. Contents of disclosure

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

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

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

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

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

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

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

Rule 4.4

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

…

Rule 4.6

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

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

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

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

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

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

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

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

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

NOTES ON RULE 4.6

1. Return of borrowed relevant securities

The redelivery by a borrower of relevant securities (or equivalent securities) which have been recalled, or the accepting by a lender of the redelivery of

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

~~*2. Pension funds*~~

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

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

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

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

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

4. Financial collateral arrangements

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

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

Rule 5.4

5.4 ACQUISITIONS FROM A SINGLE SHAREHOLDER – DISCLOSURE

…

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

NOTE ON RULE 5.4

Disclosure of the identity of the person dealing

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

Rule 7.1

7.1 IMMEDIATE ANNOUNCEMENT REQUIRED IF THE OFFER HAS TO BE AMENDED

…

NOTE ON RULE 7.1

Potential offerors

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

Rule 7.2

7.2 DEALINGS BY CONNECTED DISCRETIONARY FUND MANAGERS AND PRINCIPAL TRADERS

…

NOTES ON RULE 7.2

…

3. Dealings by principal traders

… The Panel will also normally, pursuant to Rule 4.6, consent to connected principal traders taking action to unwind a securities borrowing or lending transaction <u>in respect of relevant securities of the offeree company</u> in such circumstances. The Panel will not normally require such dealings to be disclosed under Rules 4.6, ~~8.1(a),~~ <u>8.4,</u> 24.3 or 25.3. Any such dealings must take place within a time period agreed in advance by the Panel.

4. Dealings by discretionary fund managers

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

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

Rule 8

[Note: in view of the substantial amendments being made to Rule 8, the new Rule 8 has been marked-up so as to show amendments made since the version proposed in Appendix B to PCP 2009/1. For a version of the new Rule 8 marked-up against the current Rule 8, see Instrument 2009/6.]

RULE 8. DISCLOSURE OF DEALINGS AND POSITIONS

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

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

A Dealing Disclosure is required after the person concerned deals in relevant securities of any party to the offer. If a party to the offer or any person acting in concert with it deals in relevant securities of any party to the offer, it must make a Dealing Disclosure by no later than 12 noon on the business day following the date of the relevant dealing. If a person is, or becomes, interested in 1% or more of any class of relevant securities of any party to the offer, he must make a Dealing Disclosure if he deals in any relevant securities of any party to the offer (including by means of an option in respect of, or a derivative referenced to, relevant securities) by no later than 3.30 pm on the business day following the date of the ~~relevant~~ dealing. ~~If a party to the offer or any person acting in concert with it deals in relevant securities of any party to the offer, it must make a Dealing Disclosure by no later than 12.00 noon on the business day following the date of the relevant dealing.~~ Dealing Disclosures are required to contain details of the interests or short positions in, or rights to subscribe for, any relevant securities of the party to the offer in whose securities the person disclosing has dealt as well as the person's positions (if any) in the relevant securities of any other party to the offer, unless these have previously been published under Rule 8 (and have not changed).

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

8.1 DISCLOSURE BY AN OFFEROR

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

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

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

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

(See also Note 12 below.)

8.2 DISCLOSURE BY THE OFFEREE COMPANY

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

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

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

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

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

(a) Any person who at the relevant time (see Note 7(a) below) is interested (directly or indirectly) in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) must make a public Opening Position Disclosure:

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

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

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

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

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

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

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

8.4 DISCLOSURE BY CONCERT PARTIES

A person acting in concert with any party to an offer must make a public Dealing Disclosure if he deals in any relevant securities of any party to the offer (other than a cash offeror) during an offer period for his own account

or for the account of discretionary investment clients. (See also Note 12 below.)

8.5 DISCLOSURE BY EXEMPT PRINCIPAL TRADERS

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

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

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

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

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

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

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

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

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

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

(a) An exempt fund manager connected with a party to the offer must make a private Dealing Disclosure if it deals in any relevant securities of any

party to the offer (other than a cash offeror) for the benefit of discretionary investment clients during an offer period.

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

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

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

NOTES ON RULE 8

1. Cash offerors

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

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

2. Timing of disclosure

(a) Disclosures by the parties to the offer

(i) Subject to the following paragraph, a party to the offer must make an Opening Position Disclosure by ~~3.30 pm~~ no later than 12 noon on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).

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

If a party to the offer deals in any relevant securities of any party to the offer (other than a cash offeror) before midnight on the day before the relevant

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

(ii) A party to the offer must make a Dealing Disclosure (whether public or private) by no later than 12~~.00~~ noon on the ~~next~~ business day following the date of the dealing.

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

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

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

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

(c) Disclosures by concert parties

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

(ii) A person acting in concert with a party to the offer must make a Dealing Disclosure, ~~(~~whether public (in the case of Rule 8.4) or private (in the case of Rule 8.7), by no later than 12~~.00~~ noon on the ~~next~~ business day following the date of the dealing.

(d) Disclosures by exempt principal traders

(i) Subject to the following paragraph, an exempt principal trader required to make an Opening Position Disclosure under Rule 8.5(a) or Rule 8.5(b) must do so by ~~3.30 pm~~ no later than 12 noon on the day falling 10 business days after the commencement of the offer period or the announcement that first identifies an offeror (as the case may be).

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

(ii) An exempt principal trader must make a Dealing Disclosure by no later than 12~~.00~~ noon on the ~~next~~ business day following the date of the dealing.

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

A private Dealing Disclosure by an exempt fund manager subject to Rule 8.6(a) dealing for discretionary clients must be made by no later than 12~~.00~~ noon on the ~~next~~ business day following the date of the dealing.

3. Method of disclosure

(a) Public disclosures

Public disclosures under Rule 8 must be made to a RIS in typed format by fax or electronic delivery and may be made by the person concerned or by an agent acting on its behalf. A copy must also be sent to the Panel in electronic form.

(b) Private disclosures

Private disclosures are to the Panel only and must be sent to the Panel in electronic form.

(c) Disclosure forms

Specimen disclosure forms are available on the Panel's website (www.thetakeoverpanel.org.uk) or may be obtained from the Panel. Disclosures should follow the format of those forms.

4. Disclosure in relation to more than one party

(a) Opening Position Disclosures

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

However:

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

(ii) (except where the disclosure is an Opening Position Disclosure by an offeror or the offeree company) no disclosure is required in respect of positions in the relevant securities of a~~ny~~ party to the offer if ~~such~~ full details of positions in each class of that party's relevant securities have previously been publicly disclosed under Rule 8 (and have not changed). An Opening Position Disclosure by an offeror or the offeree company, though, must include the details in Note 5 in relation to the relevant securities of each party to the offer (other than a cash offeror), even if certain details have previously been disclosed by the offeror or offeree company or persons acting in concert with the offeror or the offeree company (as the case may be), in accordance with Rule 8; and

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

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

(b) Dealing Disclosures

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

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

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

5. Details to be included in the disclosure

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

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

(i) the identity of the person disclosing and that person's status (eg offeror, person acting in concert with the offeror, etc.);

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

(iii) details of any dealing arrangements of a kind referred to in Note 11(b) on the definition of acting in concert to which the person making the disclosure is a party;

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

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

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

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

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

~~*(vii) details of any securities borrowing and lending positions required by Note 5(l) below; and*~~

(viii) details of any relevant securities in respect of which that party or any person acting in concert with it has procured an irrevocable commitment or a letter of intent (see ~~*Note 3 on*~~ *Rule 2.11).*

The interests, short positions, rights to subscribe, dealing arrangements, securities borrowing and lending positions and irrevocable commitments and letters of intent to be disclosed under (ii), (iii), (vi), (vii) and (viii) above are those

determined in accordance with Note 7(d) below~~existing or outstanding at midnight on the day immediately preceding the date on which the disclosure is made~~.

Any Dealing Disclosure must also include:

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

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

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

(xii) the date of the dealing.

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

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

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

(i) the identity of the person disclosing;

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

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

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

(v) the date of the dealing.

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

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

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

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

A private Dealing Disclosure made under Rule 8.7 must include:

(i) the identity of the person disclosing;

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

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

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

(v) the date of the dealing.

(e) Related dealings

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

(f) Owner or controller details

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

(g) Specially cum or ex dividend acquisitions

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

(h) Percentage calculations and subscription for new securities

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

(i) Options, derivatives etc.

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

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

(j) Futures contracts and covered warrants

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

(k) Transfers in and out

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

(l) Securities borrowing and lending

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

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

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

In all cases referred to above, all relevant details should be given and the disclosure must be made in a form agreed by the Panel.

6. Indemnity and other dealing arrangements

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

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

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

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

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

(a) Under Rule 8.3(a), an Opening Position Disclosure is required if the person is interested in 1% or more of any class of relevant securities of any party to the offer (other than a cash offeror) at the time of the announcement that commences the offer period or the time of the announcement that first identifies an offeror (as the case may be).

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

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

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

8. Discretionary fund managers

The principle normally applied by the Panel is that where the investment decision is made by a discretionary fund manager, he, and not the person on whose behalf the fund is managed, will be treated as interested in (or having a short position in or right to subscribe for), or having dealt in, the relevant securities concerned. For that reason, Rule 8.3(d) requires a discretionary fund manager to aggregate the investment accounts which he manages for the purpose of determining whether he has an obligation to disclose. The beneficial owner would not normally, therefore, be concerned with disclosure to the extent that his investment is managed on a discretionary basis. However, where any of the funds managed on behalf of a beneficial owner are not managed by the fund manager originally contracted to do so but are managed by a different independent third party who has discretion regarding dealing, voting and offer acceptance decisions, the fund manager to whom the management of the funds has been sub-contracted (and not the originally contracted fund manager) is required to aggregate those funds and to comply with the relevant disclosure obligations accordingly.

This approach assumes that the discretionary fund manager does not take instructions from the beneficial owner (or, in the case of sub-contracted funds,

from the originally contracted manager or the beneficial owner) on the positions or dealings in question and that fund management arrangements are not established or used to avoid disclosure.

9. Recognised intermediaries

(a) The exceptions in this Rule in relation to recognised intermediaries must not be used to avoid or delay disclosures. For example, a dealing in relevant securities by a recognised intermediary, backed by a firm commitment by a person to purchase the relevant securities from the recognised intermediary, will be regarded as a dealing by that person. A commitment may effectively be firm even if not legally binding, for example because of market practice. Such arrangements, therefore, should not be entered into unless appropriate disclosures are to be made. In addition, if such an arrangement is entered into with an offeror or a person acting in concert with the offeror, it might mean that the recognised intermediary is acting in concert with the offeror and normal concert party consequences might follow (such as the application of Rules 4, 5, 6, 7, 9, 11 and 24 and disclosure of dealings by the recognised intermediary under Rule 8.4).

(b) Where a desk with recognised intermediary status deals, or has any interest or short position in, or right to subscribe for, relevant securities in a proprietary capacity, it should aggregate the interests, short positions and rights to subscribe which it holds in a proprietary capacity with those of the rest of the group. However, in making such disclosures, it need not aggregate and disclose details of any interests, short positions ~~and~~ or rights to subscribe which it holds in a client-serving capacity. Where a desk with recognised intermediary status re-books a position which was acquired in a client-serving capacity so as to hold it in a proprietary capacity, it will be regarded as a dealing in a proprietary capacity.

(c) Recognised intermediaries which are ~~considered to be acting in concert~~ principal traders connected with a party to the offer and to which exempt principal trader status is not applicable should disclose dealings under Rule 8.4.

10. Responsibilities of intermediaries

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

11. Unquoted public companies and relevant private companies

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

12. Potential offerors

(a) If a potential offeror has been the subject of an announcement that talks are taking place but has not been named, the potential offeror and persons acting in concert with it must disclose any dealings in relevant securities of the offeree company after the time of that announcement in accordance with Rule 8.1(b) or Rule 8.4 respectively.

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

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

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

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

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

14. Amendments

If details included in a disclosure under Rule 8 are incorrect, they should be corrected as soon as practicable in a subsequent disclosure. Such disclosure should state clearly that it corrects details disclosed previously, identify the disclosure or disclosures being corrected, and provide sufficient detail for the reader to understand the nature of the corrections. In the case of any doubt, the Panel should be consulted.

15. Irrevocable commitments and letters of intent

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

Rule 9.1

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

…

NOTES ON RULE 9.1

…

17. Borrowed or lent shares

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

Rule 9.3

9.3 CONDITIONS AND CONSENTS

…

2. Acceptance condition

…

… *(See also Rule 35.1.)*

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

Rule 11.2

11.2 WHEN A SECURITIES OFFER IS REQUIRED

…

NOTES ON RULE 11.2

…

3. Vendor placings

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

Rule 13.3

13.3 ACCEPTABILITY OF PRE-CONDITIONS

…

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

Rule 17.1

17.1 TIMING AND CONTENTS

…

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

(b) details of any relevant securities of the offeree company in which the offeror or any person acting in concert with it has an interest or in respect of which he has a right to subscribe, in each case specifying the nature of the interests or rights concerned (see Note 5~~(a)~~ on Rule 8). … ;

(c) details of any relevant securities of the offeree company in respect of which the offeror or any person acting in concert with it ~~of its associates~~ has

an outstanding irrevocable commitment or letter of intent (see ~~Note 14 on Rule 8~~Note 3 on Rule 2.11); and

…

Rule 19.1

19.1 STANDARDS OF CARE

…

NOTES ON RULE 19.1

…

8. Merger benefits statements

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

…

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

Rule 19.3

19.3 UNACCEPTABLE STATEMENTS

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

NOTES ON RULE 19.3

…

2. Statements of support

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

Rule 19.6

19.6 INTERVIEWS AND DEBATES

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

Rule 19.7

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

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

Rule 20.1

20.1 EQUALITY OF INFORMATION TO SHAREHOLDERS AND PERSONS WITH INFORMATION RIGHTS

…

NOTES ON RULE 20.1

…

2. Media interviews

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

…

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

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

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

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

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

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

Rule 22

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

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

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

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

<u>should be sent an explanation of their disclosure obligations under Rule 8 at the same time as their details are provided to the Panel.</u>

<u>NOTE ON RULE 22</u>

<u>Rule 2.6</u>

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

Rule 24.2

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

…

(d) …

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

…

NOTES ON RULE 24.2

…

4. *Persons acting in concert with the offeror*

… Disclosure will normally include: a person who is interested in shares in the offeree company and (in the case of a securities exchange offer only) the offeror; any person with whom the offeror or the offeree company and any person acting in concert with either of them has any arrangement of the kind referred to in Note <u>11</u> ~~6(b)~~ on <u>the definition of acting in concert</u> ~~Rule 8~~; any financial adviser which is advising the offeror or the offeree company in relation to the offer; and any corporate broker to either of them. In cases of doubt, the Panel should be consulted.

Rule 24.3

24.3 INTERESTS AND DEALINGS

(a) The offer document must state:—

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

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

…

***(c)* any person with whom the offeror or any person acting in concert with the offeror has any arrangement of the kind referred to in Note 116 on the definition of acting in concertRule 8;**

…

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

…

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

…

NOTES ON RULE 24.3

…

4. Competing offerors

Where more than one offeror has announced an offer or possible offer for the offeree company, the details required by Rules 24.3(a)(iii) and (iv), 24.3(b) and

24.3(c) must be included in relation to the relevant securities of each offeror or possible offeror (other than any cash offeror).

Rule 24.12

24.12 ARRANGEMENTS IN RELATION TO DEALINGS

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

Rule 25.3

25.3 INTERESTS AND DEALINGS

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

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

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

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

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

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

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

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

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

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

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

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

…

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

(c) If any person referred to in Rule 25.3(a)(i) has dealt in any relevant securities of the offeree company or the offeror between the start of the offer period and the latest practicable date prior to the publication of the circular, the details, including dates, must be stated (see Note 5~~(a)~~ on Rule 8). If any person referred to in Rule 25.3(a)(ii)*(b)* to *(c~~g~~)* has dealt in relevant securities of the offeree company (or, in the case of a securities exchange offer only, the offeror) during the same period, similar details must be stated. In all cases, if no such dealings have taken place this fact should be stated.

…

NOTES ON RULE 25.3

…

~~*2. Pension funds*~~

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

2. Competing offerors

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

Rule 25.5

25.5 ARRANGEMENTS IN RELATION TO DEALINGS

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

Rule 25.6

25.6 MATERIAL CONTRACTS, IRREVOCABLE COMMITMENTS AND LETTERS OF INTENT

…

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

Rule 26

RULE 26. DOCUMENTS TO BE ON DISPLAY

…

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

…

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

…

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

…

Rule 27.1

27.1 MATERIAL CHANGES

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

…

Rule 27.2

27.2 CONTINUING VALIDITY OF PROFIT FORECASTS

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

Rule 28.6

28.6 STATEMENTS WHICH WILL BE TREATED AS PROFIT FORECASTS

…

(g) Earnings enhancement and merger benefits statements

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

…

Rule 29.1

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

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

…

(d) Another party's assets

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

Rule 38.5

[Note: Rule 38.5 and the Notes on Rule 38.5 to be deleted.]

Appendix 3

APPENDIX 3

DIRECTORS' RESPONSIBILITIES AND CONFLICTS OF INTEREST GUIDANCE NOTE

1 DIRECTORS' RESPONSIBILITIES

…

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

…

Appendix 5

APPENDIX 5

TENDER OFFERS

1 PANEL'S CONSENT REQUIRED

…

NOTES ON SECTION 1

…

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

…

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

…

3 DETAILS OF TENDER OFFER ADVERTISEMENTS

(a) …

…

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

…

Appendix 7

APPENDIX 7

SCHEMES OF ARRANGEMENT

…

8 SWITCHING

…

(c) …

…

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

APPENDIX C

New disclosure forms

New form	Description	New Rule(s)	Current form(s)
Form 8 (OPD)	Public Opening Position Disclosure by a party to an offer	Rules 8.1 and 8.2	N/A
Form 8 (DD)	Public Dealing Disclosure by a party to an offer or person acting in concert (including dealings for the account of discretionary investment clients)	Rules 8.1, 8.2 and 8.4	Form 8.1
Form 8.3	Public Opening Position Disclosure/Dealing Disclosure by a person with interests in relevant securities representing 1% or more	Rule 8.3	Form 8.3
Form 8.5 (EPT/NON-RI)	Public Opening Position Disclosure/Dealing Disclosure by an exempt principal trader without recognised intermediary ("RI") status (or where RI status is not applicable)	Rules 8.5(a), (b) and (c)(i)	Form 38.5(b)
Form 8.5 (EPT/RI)	Public Dealing Disclosure by an exempt principal trader with recognised intermediary status dealing in a client-serving capacity	Rules 8.5(a), (b) and (c)(ii)	Form 38.5(a)
Form 8.6	Private Dealing Disclosure by an exempt fund manager with no interests in securities representing 1% or more in any party	Rule 8.6	Form 8.1(b)(ii)
Form 8.7	Private disclosure of dealings for the account of non-discretionary investment clients by a party to an offer or person acting in concert	Rule 8.7	Form 8.2
Supplemental Form 8 (Open Positions)	Details of open option and derivative positions, agreements to purchase or sell etc.	Note 5(i) on Rule 8	Supplemental Forms 8 and 38.5(b)
Supplemental Form 8 (SBL)	Details of securities borrowing and lending and financial collateral arrangements by offerors, offeree companies and persons acting in concert	Note 5(l) on Rule 8	N/A

FORM 8 (OPD)

PUBLIC OPENING POSITION DISCLOSURE BY A PARTY TO AN OFFER
Rules 8.1 and 8.2 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Identity of the party to the offer making the disclosure:	
(b) Owner or controller of interests and short positions disclosed, if different from 1(a): *The naming of nominee or vehicle companies is insufficient*	
(c) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each party to the offer*	
(d) Is the party to the offer making the disclosure the offeror of the offeree?	OFFEROR/OFFEREE
(e) Date position held:	
(f) Has the party previously disclosed, or is it today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. POSITIONS OF THE PARTY TO THE OFFER MAKING THE DISCLOSURE

(a) Interests and short positions in the relevant securities of the offeror or offeree to which the disclosure relates

Class of relevant security:				
	Interests		**Short positions**	
	Number	**%**	**Number**	**%**
(1) Relevant securities owned and/or controlled:				
(2) Derivatives (other than options):				
(3) Options and agreements to purchase/sell:				
TOTAL:				

All interests and all short positions should be disclosed.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

Details of any securities borrowing and lending positions or financial collateral arrangements should be disclosed on a Supplemental Form 8 (SBL).

(b) Rights to subscribe for new securities

Class of relevant security in relation to which subscription right exists:	
Details, including nature of the rights concerned and relevant percentages:	

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 2(a) or (b) (as appropriate) for each additional class of relevant security.

(c) Irrevocable commitments and letters of intent

Details of any irrevocable commitments or letters of intent procured by the party to the offer making the disclosure or any person acting in concert with it (see Note 3 on Rule 2.11 of the Code):

3. POSITIONS OF PERSONS ACTING IN CONCERT WITH THE PARTY TO THE OFFER MAKING THE DISCLOSURE

Details of any interests, short positions and rights to subscribe of any person acting in concert with the party to the offer making the disclosure:

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 3 for each additional class of relevant security.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

Details of any securities borrowing and lending positions or financial collateral arrangements should be disclosed on a Supplemental Form 8 (SBL).

4. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the party to the offer making the disclosure or any person acting in concert with it: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the party to the offer making the disclosure, or any person acting in concert with it, and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

(c) Attachments

Are any Supplemental Forms attached?

Supplemental Form 8 (Open Positions)	YES/NO
Supplemental Form 8 (SBL)	YES/NO

Date of disclosure:	
Contact name:	
Telephone number:	

Public disclosures under Rule 8 of the Code must be made to a Regulatory Information Service and must also be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8 (DD)

PUBLIC DEALING DISCLOSURE BY A PARTY TO AN OFFER OR PERSON ACTING IN CONCERT (INCLUDING DEALINGS FOR THE ACCOUNT OF DISCRETIONARY INVESTMENT CLIENTS)
Rules 8.1, 8.2 and 8.4 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Identity of the party to the offer or person acting in concert making the disclosure:	
(b) Owner or controller of interests and short positions disclosed, if different from 1(a): *The naming of nominee or vehicle companies is insufficient*	
(c) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each offeror/offeree*	
(d) Status of person making the disclosure: *e.g. offeror, offeree, person acting in concert with the offeror/offeree (specify name of offeror/offeree)*	
(e) Date dealing undertaken:	
(f) Has the party previously disclosed, or is it today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. POSITIONS OF THE PERSON MAKING THE DISCLOSURE

(a) Interests and short positions in the relevant securities of the offeror or offeree to which the disclosure relates following the dealing

Class of relevant security:				
	Interests		**Short positions**	
	Number	**%**	**Number**	**%**
(1) Relevant securities owned and/or controlled:				
(2) Derivatives (other than options):				
(3) Options and agreements to purchase/sell:				
TOTAL:				

All interests and all short positions should be disclosed.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

Details of any securities borrowing and lending positions or financial collateral arrangements should be disclosed on a Supplemental Form 8 (SBL).

(b) Rights to subscribe for new securities (including directors' and other executive options)

Class of relevant security in relation to which subscription right exists:	
Details, including nature of the rights concerned and relevant percentages:	

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 2(a) or (b) (as appropriate) for each additional class of relevant security.

3. DEALINGS BY THE PERSON MAKING THE DISCLOSURE

(a) Purchases and sales

Class of relevant security	Purchase/sale	Number of securities	Price per unit

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	Nature of dealing *e.g. subscription, conversion*	Details	Price per unit (if applicable)

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 3(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

4. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the party to the offer or person acting in concert making the disclosure and any other person: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the party to the offer or person acting in concert making the disclosure and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

(c) Attachments

Are any Supplemental Forms attached?

Supplemental Form 8 (Open Positions)	YES/NO
Supplemental Form 8 (SBL)	YES/NO

Date of disclosure:	
Contact name:	
Telephone number:	

Public disclosures under Rule 8 of the Code must be made to a Regulatory Information Service and must also be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8.3

PUBLIC OPENING POSITION DISCLOSURE/DEALING DISCLOSURE BY A PERSON WITH INTERESTS IN RELEVANT SECURITIES REPRESENTING 1% OR MORE Rule 8.3 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Identity of the person whose positions/dealings are being disclosed:	
(b) Owner or controller of interests and short positions disclosed, if different from 1(a): *The naming of nominee or vehicle companies is insufficient*	
(c) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each offeror/offeree*	
(d) If an exempt fund manager connected with an offeror/offeree, state this and specify identity of offeror/offeree:	
(e) Date position held/dealing undertaken:	
(f) Has the discloser previously disclosed, or are they today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. POSITIONS OF THE PERSON MAKING THE DISCLOSURE

(a) Interests and short positions in the relevant securities of the offeror or offeree to which the disclosure relates following the dealing (if any)

Class of relevant security:				
	Interests		**Short positions**	
	Number	**%**	**Number**	**%**
(1) Relevant securities owned and/or controlled:				
(2) Derivatives (other than options):				
(3) Options and agreements to purchase/sell:				
TOTAL:				

All interests and all short positions should be disclosed.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

(b) Rights to subscribe for new securities (including directors' and other executive options)

Class of relevant security in relation to which subscription right exists:	
Details, including nature of the rights concerned and relevant percentages:	

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 2(a) or (b) (as appropriate) for each additional class of relevant security.

3. DEALINGS (IF ANY) BY THE PERSON MAKING THE DISCLOSURE

(a) Purchases and sales

Class of relevant security	Purchase/sale	Number of securities	Price per unit

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	Nature of dealing *e.g. subscription, conversion*	Details	Price per unit (if applicable)

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(c), copy table 3(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

4. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the person making the disclosure and any party to the offer or any person acting in concert with a party to the offer: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the person making the disclosure and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

(c) Attachments

Is a Supplemental Form 8 (Open Positions) attached?	YES/NO

Date of disclosure:	
Contact name:	
Telephone number:	

Public disclosures under Rule 8 of the Code must be made to a Regulatory Information Service and must also be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8.5 (EPT/NON-RI)

PUBLIC OPENING POSITION DISCLOSURE/DEALING DISCLOSURE BY AN EXEMPT PRINCIPAL TRADER WITHOUT RECOGNISED INTERMEDIARY ("RI") STATUS (OR WHERE RI STATUS IS NOT APPLICABLE)
Rule 8.5 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Name of exempt principal trader:	
(b) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each offeror/offeree*	
(c) Name of the party to the offer with which exempt principal trader is connected:	
(d) Date position held/dealing undertaken:	
(e) Has the EPT previously disclosed, or is it today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. POSITIONS OF THE EXEMPT PRINCIPAL TRADER

(a) Interests and short positions in the relevant securities of the offeror or offeree to which the disclosure relates following the dealing (if any)

Class of relevant security:				
	Interests		**Short positions**	
	Number	**%**	**Number**	**%**
(1) Relevant securities owned and/or controlled:				
(2) Derivatives (other than options):				
(3) Options and agreements to purchase/sell:				
TOTAL:				

All interests and all short positions should be disclosed.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

(b) Rights to subscribe for new securities (including directors' and other executive options)

Class of relevant security in relation to which subscription right exists:	
Details, including nature of the rights concerned and relevant percentages:	

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the offeror or offeree named in 1(b), copy table 2(a) or (b) (as appropriate) for each additional class of relevant security.

3. DEALINGS (IF ANY) BY THE EXEMPT PRINCIPAL TRADER

(a) Purchases and sales

Class of relevant security	Purchase/sale	Number of securities	Price per unit

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	Nature of dealing *e.g. subscription, conversion*	Details	Price per unit (if applicable)

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(b), copy table 3(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

4. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the exempt principal trader making the disclosure and any party to the offer or any person acting in concert with a party to the offer: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the exempt principal trader making the disclosure and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

(c) Attachments

Is a Supplemental Form 8 (Open Positions) attached?	YES/NO

Date of disclosure:	
Contact name:	
Telephone number:	

Public disclosures under Rule 8 of the Code must be made to a Regulatory Information Service and must also be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8.5 (EPT/RI)

PUBLIC DEALING DISCLOSURE BY AN EXEMPT PRINCIPAL TRADER WITH RECOGNISED INTERMEDIARY STATUS DEALING IN A CLIENT-SERVING CAPACITY
Rule 8.5 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Name of exempt principal trader:	
(b) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each offeror/offeree*	
(c) Name of the party to the offer with which exempt principal trader is connected:	
(d) Date dealing undertaken:	
(e) Has the EPT previously disclosed, or is it today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. DEALINGS BY THE EXEMPT PRINCIPAL TRADER

(a) Purchases and sales

Class of relevant security	Purchases/ sales	Total number of securities	Highest price per unit paid/received	Lowest price per unit paid/received

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	Nature of dealing *e.g. subscription, conversion*	Details	Price per unit (if applicable)

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(b), copy table 2(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

3. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the exempt principal trader making the disclosure and any party to the offer or any person acting in concert with a party to the offer: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the exempt principal trader making the disclosure and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

Date of disclosure:	
Contact name:	
Telephone number:	

Public disclosures under Rule 8 of the Code must be made to a Regulatory Information Service and must also be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8.6

PRIVATE DEALING DISCLOSURE BY AN EXEMPT FUND MANAGER WITH NO INTERESTS IN SECURITIES REPRESENTING 1% OR MORE IN ANY PARTY
Rule 8.6 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Name of exempt fund manager:	
(b) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a disclosure form for each offeror/offeree*	
(c) Name of offeror/offeree with which exempt fund manager is connected:	
(d) Date dealing undertaken:	
(e) Has the EFM previously disclosed, or is it today disclosing, under the Code in respect of any other party to this offer?	YES/NO *If YES, specify which:*

2. POSITIONS OF THE EXEMPT FUND MANAGER

(a) Interests and short positions in the relevant securities of the offeror or offeree to which the disclosure relates following the dealing

Class of relevant security:				
	Interests		**Short positions**	
	Number	**%**	**Number**	**%**
(1) Relevant securities owned and/or controlled:				
(2) Derivatives (other than options):				
(3) Options and agreements to purchase/sell:				
TOTAL:				

All interests and all short positions should be disclosed.

Details of any open derivative or option positions, or agreements to purchase or sell relevant securities, should be given on a Supplemental Form 8 (Open Positions).

(b) Rights to subscribe for new securities (including directors' and other executive options)

Class of relevant security in relation to which subscription right exists:	
Details, including nature of the rights concerned and relevant percentages:	

If there are positions or rights to subscribe to disclose in more than one class of relevant securities of the same offeror or offeree named in 1(b), copy table 2(a) or (b) (as appropriate) for each additional class of relevant security.

3. DEALINGS BY THE EXEMPT FUND MANAGER

(a) Purchases and sales

Class of relevant security	Purchase/sale	Number of securities	Price per unit

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	Nature of dealing *e.g. subscription, conversion*	Details	Price per unit (if applicable)

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(b), copy table 3(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

4. OTHER INFORMATION

(a) Indemnity and other dealing arrangements

Details of any indemnity or option arrangement, or any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing entered into by the exempt fund manager making the disclosure and any party to the offer or any person acting in concert with a party to the offer: *If there are no such agreements, arrangements or understandings, state "none"*

(b) Agreements, arrangements or understandings relating to options or derivatives

Details of any agreement, arrangement or understanding, formal or informal, between the exempt fund manager making the disclosure and any other person relating to: **(i) the voting rights of any relevant securities under any option; or** **(ii) the voting rights or future acquisition or disposal of any relevant securities to which any derivative is referenced:** *If there are no such agreements, arrangements or understandings, state "none"*

(c) Attachments

Is a Supplemental Form 8 (Open Positions) attached?	YES/NO

Date of disclosure:	
Contact name:	
Telephone number:	

Private disclosures under Rule 8 of the Code must be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

FORM 8.7

PRIVATE DISCLOSURE OF DEALINGS FOR THE ACCOUNT OF NON-DISCRETIONARY INVESTMENT CLIENTS BY A PARTY TO AN OFFER OR PERSON ACTING IN CONCERT
Rule 8.7 of the Takeover Code (the "Code")

1. KEY INFORMATION

(a) Identity of the person whose dealings are being disclosed:	
(b) Name of offeror/offeree in relation to whose relevant securities this form relates: *Use a separate form for each offeror/offeree*	
(c) Status of person making the disclosure: *e.g. offeror, offeree, offeror/offeree concert party member (specify name of offeror/offeree)*	
(d) Date dealing undertaken:	

2. DEALINGS BY THE PERSON MAKING THE DISCLOSURE

(a) Purchases and sales

Class of relevant security	Purchase/sale	Number of securities	Price per unit

(b) Derivatives transactions (other than options)

Class of relevant security	Product description *e.g. CFD*	Nature of dealing *e.g. opening/closing a long/short position, increasing/reducing a long/short position*	Number of reference securities	Price per unit

(c) Options transactions in respect of existing securities

(i) Writing, selling, purchasing or varying

Class of relevant security	Product description *e.g. call option*	Writing, purchasing, selling, varying etc.	Number of securities to which option relates	Exercise price per unit	Type *e.g. American, European etc.*	Expiry date	Option money paid/ received per unit

(ii) Exercising

Class of relevant security	Product description *e.g. call option*	Number of securities	Exercise price per unit

(d) Other dealings (including subscribing for new securities)

Class of relevant security	**Nature of dealing** *e.g. subscription, conversion*	**Details**	**Price per unit (if applicable)**

The currency of all prices and other monetary amounts should be stated.

Where there have been dealings in more than one class of relevant securities of the offeror or offeree named in 1(b), copy table 2(a), (b), (c) or (d) (as appropriate) for each additional class of relevant security dealt in.

Dealings should be disclosed from the perspective of the non-discretionary clients.

Date of disclosure:	
Contact name:	
Telephone number:	

Private disclosures under Rule 8 of the Code must be emailed to the Takeover Panel at monitoring@disclosure.org.uk. The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

SUPPLEMENTAL FORM 8 (OPEN POSITIONS)

DETAILS OF OPEN OPTION AND DERIVATIVE POSITIONS, AGREEMENTS TO PURCHASE OR SELL ETC.
Note 5(i) on Rule 8 of the Takeover Code (the "Code")

1. KEY INFORMATION

Identity of person whose open positions are being disclosed:	
Name of offeror/offeree in relation to whose relevant securities the disclosure relates:	

2. OPTIONS AND DERIVATIVES

Class of relevant security	**Product description** *e.g. call option*	**Written or purchased**	**Number of securities to which option or derivative relates**	**Exercise price per unit**	**Type** *e.g. American, European etc.*	**Expiry date**

3. AGREEMENTS TO PURCHASE OR SELL ETC.

Full details should be given so that the nature of the interest or position can be fully understood:

It is not necessary to provide details on a Supplemental Form (Open Positions) with regard to contracts for differences ("CFDs") or spread bets.

The currency of all prices and other monetary amounts should be stated.

The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.

SUPPLEMENTAL FORM 8 (SBL)

DETAILS OF SECURITIES BORROWING AND LENDING AND FINANCIAL COLLATERAL ARRANGEMENTS BY PARTIES TO AN OFFER AND PERSONS ACTING IN CONCERT
Note 5(l) on Rule 8 of the Takeover Code (the "Code")

1. KEY INFORMATION

Identity of person whose positions/transactions are being disclosed:	
Name of offeror/offeree in relation to whose relevant securities this form relates:	

2. SECURITIES BORROWING AND LENDING/FINANCIAL COLLATERAL POSITIONS

Class of relevant security:		
	Number	**%**
Securities borrowed:		
Securities lent (including securities subject to a security financial collateral arrangement with right of use or a title transfer collateral arrangement):		

Details of borrowed relevant securities which have been either on-lent or sold do not need to be disclosed.

3. SECURITIES BORROWING AND LENDING/FINANCIAL COLLATERAL TRANSACTIONS

Class of relevant security	**Nature of transaction** *e.g. securities lending/borrowing, delivery/receipt of recalled securities, entering into financial collateral arrangement with right of use, entering into title transfer collateral arrangement etc.*	**Number of securities**

The Panel's Market Surveillance Unit is available for consultation in relation to the Code's dealing disclosure requirements on +44 (0)20 7638 0129.

The Code can be viewed on the Panel's website at www.thetakeoverpanel.org.uk.