

THE TAKEOVER PANEL

CODE COMMITTEE

Resolution

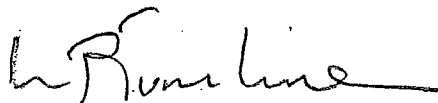
The Code Committee hereby resolves:

Code and Rules of Procedure of the Hearings Committee

The Companies Act 2006 (the "Act") was given Royal Assent on 8 November 2006. The provisions of Chapter 1 of Part 28 of the Act will be brought into force on 6 April 2007.

Pursuant to (i) section 13 of the Interpretation Act 1978 and sections 943 and 944 of the Act in relation to the United Kingdom, and in anticipation of the Act coming into force; and (ii) its common law powers in relation to the Channel Islands and the Isle of Man, the Code Committee hereby adopts and makes the rules contained in: (i) the Introduction to the Code attached to this Resolution (except for those matters set out in section 4(b) of the Introduction which are the responsibility of the Panel); (ii) the amended Code (other than the Introduction) attached to this Resolution; and (iii) the Rules of Procedure of the Hearings Committee attached to this Resolution, all with effect from 6 April 2007, subject to any amendments which the Chairman may agree.

Passed by the Code Committee on 6 March 2007



**AMENDMENTS TO THE TAKEOVER CODE TO BE MADE BY
THE CODE COMMITTEE OF THE TAKEOVER PANEL
WITH EFFECT FROM 6 APRIL 2007
AS A CONSEQUENCE OF
THE COMMENCEMENT OF PROVISIONS OF THE COMPANIES ACT 2006
AND
THE CHANGE OF NAME OF "OFEX"**

THE CITY CODE ON TAKEOVERS AND MERGERS

INTRODUCTION

1 OVERVIEW

The Panel on Takeovers and Mergers (the "Panel") is an independent body, established in 1968, whose main functions are to issue and administer the City Code on Takeovers and Mergers (the "Code") and to supervise and regulate takeovers and other matters to which the Code applies in accordance with the rules set out in the Code. It has been designated as the supervisory authority to carry out certain regulatory functions in relation to takeovers pursuant to the Directive on Takeover Bids (2004/25/EC) (the "Directive"). Its ~~Directive~~ statutory functions are set out in and under ~~The Takeovers Directive (Interim Implementation) Regulations~~ Chapter 1 of Part 28 of the Companies Act 2006 (the "Regulations Act"). Rules are set out in the Code (including this Introduction, the General Principles, the Definitions and the Rules (and the related Notes and Appendices)) and the Rules of Procedure of the Hearings Committee. These rules may be changed from time to time, and rules may also be set out in other documents as specified by the Panel. Statutory rules will not apply to the Channel Islands or the Isle of Man until the provisions of Chapter 1 of Part 28 of the Act are extended to them pursuant to the Act or equivalent statutory provision is made in those jurisdictions.

Further information relating to the Panel and the Code can be found on the Panel's website at www.thetakeoverpanel.org.uk. The Code is also available on the Panel's website.

2 THE CODE

Save for ~~sections~~ sections 2(c) and (d) (which ~~set~~ each set out a rule), this section gives an overview of the nature and purpose of the Code.

(a) Nature and purpose of the Code

The Code is designed principally to ensure that shareholders are treated fairly and are not denied an opportunity to decide on the merits of a takeover and that shareholders of the same class are afforded equivalent treatment by an offeror. The Code also provides an orderly framework within which takeovers are conducted. In addition, it is designed to promote, in conjunction with other regulatory regimes, the integrity of the financial markets.

The Code is not concerned with the financial or commercial advantages or disadvantages of a takeover. These are matters for the company and its shareholders. Nor is the Code concerned with those issues, such as competition policy, which are the responsibility of government and other bodies.

The Code has been developed since 1968 to reflect the collective opinion of those professionally involved in the field of takeovers as to appropriate business standards and as to how fairness to shareholders and an orderly framework for takeovers can be achieved. Following the implementation of the Directive by means of the Regulations Act, the rules set out in the Code ~~which are derived from the Directive~~ now have a statutory basis in relation to the United Kingdom and comply with the relevant requirements of the Directive. The rules set out in the Code will also have a statutory basis in relation to the Channel Islands and the Isle of Man when the provisions of Chapter 1 of Part 28 are extended to them pursuant to the Act or equivalent statutory provision is made in those jurisdictions.

(b) General Principles and Rules

The Code is based upon a number of General Principles, which are essentially statements of standards of commercial behaviour. These General Principles are the same as the general principles set out in Article 3 of the Directive. They apply to takeovers and other matters to which the Code applies. They are expressed in broad general terms and the Code does not define the precise extent of, or the limitations on, their application. They are applied in accordance with their spirit in order to achieve their underlying purpose.

In addition to the General Principles, the Code contains a series of rules. Although most of the rules are expressed in less general terms than the General Principles, they are not framed in technical language and, like the General Principles, are to be interpreted to achieve their underlying purpose. Therefore, their spirit must be observed as well as their letter.

(c) Derogations and Waivers

The Panel may derogate or grant a waiver to a person from the application of a rule (provided, in the case of a transaction and rule subject to the requirements of the Directive, that the General Principles are respected) either:

- (i) in the circumstances set out in the rule; or
- (ii) in other circumstances where the Panel considers that the particular rule would operate unduly harshly or in an unnecessarily restrictive or burdensome or otherwise inappropriate manner (in which case a reasoned decision will be given).

(d) Transitional provisions for offers which are not takeover bids under the Directive

In relation to any offer which is not a "takeover bid" within the meaning given in the Directive, anything done (or not done) with respect to a rule set out in the Code as in force before 6 April 2007 shall have effect from 6 April 2007 as done (or not done) with respect to that rule of the Code as in force from 6 April 2007 and any reference in the Code to a rule of the Code shall be construed as including a reference to that rule as in force before 6 April 2007.

These transitional provisions do not apply to the Channel Islands or the Isle of Man.

3 COMPANIES, TRANSACTIONS AND PERSONS SUBJECT TO THE CODE

This section (except for sections 3(d) and (e)) sets out the rules as to the companies, transactions and persons to which the Code applies.

(a) Companies

- (i) UK, Channel Islands and Isle of Man registered and traded companies

The Code applies to all offers (not falling within paragraph (iii) below) for companies and Societas Europaea (and, where appropriate, statutory and chartered companies) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man if any of their securities are admitted to trading on a regulated market in the United Kingdom or on any stock exchange in the Channel Islands or the Isle of Man.

* In the case of a UK unregistered company, the reference to "registered office" shall be read as a reference to the company's principal office in the UK.

(ii) Other companies

The Code also applies to all offers (not falling within paragraph (i) above or paragraph (iii) below) for public and private companies and Societas Europaea (and, where appropriate, statutory and chartered companies) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man and which are considered by the Panel to have their place of central management and control in the United Kingdom, the Channel Islands or the Isle of Man, but in relation to private companies only when:-

- (A) any of their securities have been admitted to the Official List at any time during the 10 years prior to the relevant date; or
- (B) dealings and/or prices at which persons were willing to deal in any of their securities have been published on a regular basis for a continuous period of at least six months in the 10 years prior to the relevant date, whether via a newspaper, electronic price quotation system or otherwise; or
- (C) any of their securities have been subject to a marketing arrangement as described in section 163(2)(b) of the Companies Act 1985 at any time during the 10 years prior to the relevant date; or
- (D) they were required to file a prospectus for the issue of securities with the registrar of companies or any other relevant authority in the United Kingdom, the Channel Islands or the Isle of Man or to have a prospectus approved by the UKLA at any time during the 10 years prior to the relevant date.

In each case, the relevant date is the date on which an announcement is made of a proposed or possible offer for the company or the date on which some other event occurs in relation to the company which has significance under the Code.

The Panel appreciates that the provisions of the Code may not be appropriate to all statutory and chartered companies referred to in paragraphs (i) and (ii) above or to all private companies falling within the categories listed in paragraph (ii) above and may accordingly apply the Code with a degree of flexibility in suitable cases.

(iii) Shared jurisdiction – UK and other EEA registered and traded companies

The Code also applies (to the extent described below) to offers for the following companies:

- (A) a company which has its registered office* in the United Kingdom whose securities are admitted to trading on a regulated market in one or more member states of the European Economic Area but not on a regulated market in the United Kingdom;
- (B) a company which has its registered office in another member state of the European Economic Area whose securities are admitted to trading only on a regulated market in the United Kingdom; and
- (C) a company which has its registered office in another member state of the European Economic Area whose securities are admitted to trading on regulated markets in more than one member state of the European Economic Area including the United Kingdom, but not on a regulated market in the member state of the European Economic Area in which it has its registered office, if:

* In the case of a UK unregistered company, the reference to "registered office" shall be read as a reference to the company's principal office in the UK.

- (I) the securities of the company were first admitted to trading only in the United Kingdom; or
- (II) the securities of the company are simultaneously admitted to trading on more than one regulated market, but not on a regulated market in the member state of the European Economic Area in which it has its registered office, on or after 20 May 2006, if the company notifies the Panel and the relevant regulatory authorities on the first day of trading that it has chosen the Panel to regulate it; or
- (III) the Panel is the supervisory authority pursuant to the second paragraph of Article 4(2)(c) of the Directive.

A company referred to in paragraphs (C)(II) or (III) must notify a Regulatory Information Service of the selection of the Panel to regulate it without delay.

The provisions of the Code which will apply to such offers shall be determined by the Panel on the basis set out in Article 4(2)(e) of the Directive. In summary, this means that:

- in cases falling within paragraph (A) above, the Code will apply in respect of matters relating to the information to be provided to the employees of the offeree company and matters relating to company law (in particular the percentage of voting rights which confers control and any derogation from the obligation to launch an offer, as well as the conditions under which the board of the offeree company may undertake any action which might result in the frustration of an offer) ("employee information and company law matters"); in relation to matters relating to the consideration offered (in particular the price) and matters relating to the offer procedure (in particular the information on the offeror's decision to make an offer, the contents of the offer document and the disclosure of the offer) ("consideration and procedural matters"), the rules of the supervisory authority of the member state determined in accordance with Article 4(2)(b) and (c) of the Directive as the relevant supervisory authority will apply; and
- in cases falling within paragraphs (B) or (C) above, the Code will apply in respect of consideration and procedural matters; in relation to employee information and company law matters, the rules of the supervisory authority in the member state where the offeree company has its registered office will apply.

(iv) Open-ended investment companies

The Code does not apply to offers for open-ended investment companies as defined in Article 1(2) of the Directive.

(b) Transactions

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

In cases falling within paragraph (a)(iii) above, "offers" means only any public offer (other than by the company itself) made to the holders of the company's securities to acquire those securities (whether mandatory or voluntary) which follows or has as its objective the acquisition of control of the company concerned.

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

References in the Code to "takeovers" and "offers" include all transactions subject to the Code as referred to in this section.

The Code does not apply to offers for non-voting, non-equity capital unless they are offers required by Rule 15.

(c) Related matters

In addition to regulating the transactions referred to in section 3(b) above, the Code also contains rules for the regulation of things done in consequence of, or otherwise in relation to, takeovers and about cases where any such takeover is, or has been, contemplated or apprehended or an announcement is made denying that any such takeover is intended.

(d) Dual jurisdiction

Takeovers and other matters to which the Code applies may from time to time be subject to the dual jurisdiction of the Panel and an overseas takeover regulator, including offers for those companies within paragraph (a)(iii) above. In such cases, early consultation with the Panel is advised so that guidance can be given on how any conflicts between the relevant rules may be resolved and, where relevant, which provisions of the Code apply pursuant to Article 4(2)(e) of the Directive.

(e) Re-registration of a public company as a private company

A public company incorporated in the United Kingdom, the Channel Islands or the Isle of Man may decide to re-register as a private company as a result of which, pursuant to section 3(a) above, the Code may no longer apply to it. If the Code would no longer apply in such circumstances and the relevant company has more than one shareholder, early consultation with the Panel is advised before it re-registers as a private company so that guidance can be given by the Panel on the appropriate disclosure to be made to its shareholders about the implications of the loss of Code protection.

(f) Code responsibilities and obligations

The Code applies to a range of persons who participate in, or are connected with, or who in any way seek to influence, intervene in, or benefit from, takeovers or other matters to which the Code applies.

The Code also applies to all advisers to such persons, and all advisers in so far as they advise on takeovers or other matters to which the Code applies. Financial advisers to whom the Code applies have a particular responsibility to comply with the Code and to ensure, so far as they are reasonably able, that their client and its directors are aware of their responsibilities under the Code and will comply with them and that the Panel is consulted whenever appropriate.

The Code also applies to any directors, employees or representatives through whom any body corporate, partnership or other entity to which the Code applies acts. The Panel expects all bodies corporate, partnerships and other entities to which the Code applies to ensure that their

relevant directors and employees receive appropriate and timely guidance in respect of the Code and will hold any such entity responsible for its directors' and employees' acts or omissions.

The Code imposes limitations on the manner in which directors can act in connection with takeovers, which may impinge on the duties that the directors of offeror and offeree companies might owe.

The Code applies in respect of the acts and omissions of any person in connection with a takeover or any other matter to which the Code applies, notwithstanding that the offeree company may since have ceased to be subject to the Code.

In this section 3(f), references to "directors" means, in relation to any body corporate, its directors and officers, in relation to any partnership, its partners, and, in relation to any other entity, those persons exercising equivalent functions on behalf of the entity concerned.

In cases of doubt, the Panel must be consulted as to the persons to whom the Code applies.

4 THE PANEL AND ITS COMMITTEES

Save for section 4(d) (which sets out a rule), this section gives an overview of the membership, functions, responsibilities and general activities of the Panel and certain of its Committees.

Details of various other Committees of the Panel are available on the Panel's website.

(a) The Panel

The Panel assumes overall responsibility for the policy, financing and administration of the Panel's functions and for the functioning and operation of the Code. The Panel operates through a number of Committees and is directly responsible for those matters which are not dealt with through one of its Committees.

The Panel comprises up to 34 members:

- (i) the Chairman, who is appointed by the Panel;
- (ii) up to two Deputy Chairmen, who are appointed by the Panel;
- (iii) up to twenty other members, who are appointed by the Panel; and
- (iv) individuals appointed by each of the following bodies:-

- The Association of British Insurers
- The Association of Investment Trust Companies
- The Association of Private Client Investment Managers and Stockbrokers
- The British Bankers' Association
- The Confederation of British Industry
- The Institute of Chartered Accountants in England and Wales
- Investment Management Association
- The London Investment Banking Association (with separate representation also for its Corporate Finance Committee and Securities Trading Committee)
- The National Association of Pension Funds.

The Chairman and the Deputy Chairmen are designated as members of the Hearings Committee. Each other Panel member appointed by the Panel under paragraphs (i) to (iii) above is

designated upon appointment to act as a member of either the Panel's Code Committee or its Hearings Committee.

Up to twelve Panel members appointed by the Panel under paragraph (iii) above are designated as members of the Code Committee. The Panel may appoint designated alternates for such members of the Code Committee. One designated alternate may act as a member of the Panel (or the Code Committee) in a relevant member's place when he is unavailable.

Up to eight Panel members appointed by the Panel under paragraph (iii) above are designated as members of the Hearings Committee. The Panel may appoint designated alternates for such members of the Hearings Committee. One designated alternate may act as a member of the Panel (or the Hearings Committee) in a relevant member's place when he is unavailable.

The Panel members appointed by the bodies under paragraph (iv) above become members of the Panel's Hearings Committee without further designation by the Panel. Each of these bodies may appoint designated alternates for its appointees. One designated alternate may act as a member of the Panel (or the Hearings Committee) in the relevant member's place when he is unavailable. In performing their functions on the Hearings Committee, these members (and their alternates) act independently of the body which has appointed them (and not as that body's agent or delegate) and exercise their own judgment as to how to perform their functions and how to vote.

Details of the Panel and its Committees, and the names of members of the Panel and the designated alternates, are available on the Panel's website.

(b) The Code Committee

The Code Committee represents a spread of shareholder, corporate, practitioner and other interests within the Panel's regulated community. Up to twelve members of the Panel are designated by the Panel as members of the Code Committee. Its membership from time to time and Terms of Reference are available on the Panel's website.

The Code Committee carries out the rule-making functions of the Panel and is solely responsible for keeping the Code (other than those matters set out in sections 1, 2(a) and (b), 4(a), (b) and (c), 5, 7, 8 and 13 of the Introduction, which are the responsibility of the Panel) under review and for proposing, consulting on, making and issuing amendments to those parts of the Code. The Code Committee's consultation procedures are set out in its Terms of Reference. Amendments to those matters set out in sections 1, 2(a) and (b), 4 (a), (b) and (c), 5, 7 and 13 of the Introduction will usually be issued by the Panel. Amendments to those matters set out in section 8 of the Introduction will be agreed by the Takeover Appeal Board and will be issued by the Panel with immediate effect.

Matters leading to possible amendment to the Code might arise from a number of sources, including specific cases which the Panel has considered, market developments or particular concerns of those operating within the markets.

Once it has agreed that a particular matter is to be pursued, the Code Committee will prepare and publish a Public Consultation Paper ("PCP") seeking the views of interested parties on the proposals and setting out the background to, reasons for and (where available) full text of the proposed amendment. Consultation periods in relation to PCPs vary depending on the complexity of the subject, but will usually be between one and two months.

Following the end of the consultation period, the Code Committee will publish its conclusions on the proposed amendment, taking account of the responses to the PCP received, together with the

final Code amendments in a Response Statement ("RS"). It is the Code Committee's policy to make copies of all non-confidential responses it receives to a PCP available on request.

In certain exceptional cases, the Code Committee might consider it necessary to amend the Code on an expedited basis, for example because a particular market development appears to the Code Committee to require that the proposed amendment be made more quickly than the usual public consultation process would permit. In such cases, the Code Committee will publish the amendment with immediate effect and without prior formal consultation, followed in due course by a PCP seeking views on the amendment, which might be later modified, or removed altogether, depending on the Code Committee's conclusions following the consultation process.

Where, in the opinion of the Code Committee, any proposed amendment to the Code either does not materially alter the effect of the provision in question or is a consequence of changes to relevant legislation or regulatory requirements, the Code Committee may publish the text of the amendment without any formal consultation process.

PCPs and RSs are available on the Panel's website.

(c) The Hearings Committee

The Hearings Committee of the Panel comprises the Chairman, up to two Deputy Chairmen, up to eight other members designated by the Panel and the individuals appointed by the bodies listed at paragraph (a)(iv) above. Its membership from time to time, Terms of Reference and Rules of Procedure are available on the Panel's website.

The principal function of the Hearings Committee is to review rulings of the Executive. The Hearings Committee also hears disciplinary proceedings instituted by the Executive when the Executive considers that there has been a breach of the Code (see section 11 below). The Hearings Committee may also be convened for hearings in certain other circumstances. The operations of the Hearings Committee are described in more detail in section 7 below.

The Hearings Committee is assisted in its proceedings by a secretary to the Hearings Committee, usually a partner in a law firm, acting as an officer of the Panel.

(d) Membership and representation restrictions

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

When acting in relation to any proceedings before the Hearings Committee or the Takeover Appeal Board, the Panel shall do so only by an officer or member of staff (or a person acting as such).

5 THE EXECUTIVE

This section gives an overview of the functions, responsibilities and general activities of the Executive.

The day-to-day work of takeover supervision and regulation is carried out by the Executive. In carrying out these functions, the Executive operates independently of the Panel. This includes, either on its own initiative or at the instigation of third parties, the conduct of investigations, the monitoring of relevant dealings in connection with the Code and the giving of rulings on the interpretation, application or effect of the Code. The Executive is available both for consultation

and also the giving of rulings on the interpretation, application or effect of the Code before, during and, where appropriate, after takeovers or other relevant transactions.

The Executive is staffed by a mixture of employees and secondees from law firms, accountancy firms, corporate brokers, investment banks and other organisations. It is headed by the Director General, usually an investment banker on secondment, who is an officer of the Panel. The Director General is assisted by Deputy Directors General, Assistant Directors General and Secretaries, each of whom is an officer of the Panel, and the various members of the Executive's permanent and seconded staff. In performing their functions, the secondees act independently of the body which has seconded them (and not as that body's agent or delegate). Further information about the membership of the Executive is available on the Panel's website.

6 INTERPRETING THE CODE

This section sets out the rules according to which the Executive issues guidance and rulings on the interpretation, application or effect of the Code.

The Executive gives guidance on the interpretation, application and effect of the Code. In addition, it gives rulings on points of interpretation, application or effect of the Code which are based on the particular facts of a case. References to "rulings" shall include any decision, direction, determination, order or other instruction made by or under rules.

(a) Interpreting the Code - guidance

The Executive may be approached for general guidance on the interpretation or effect of the Code and how it is usually applied in practice. It may also be approached for guidance in relation to a specific issue on a "no names" basis, where the person seeking the guidance does not disclose to the Executive the names of the companies concerned. In either case, the guidance given by the Executive is not binding, and parties or their advisers cannot rely on such guidance as a basis for taking any action without first obtaining a ruling of the Executive on a named basis.

In addition, the Executive may from time to time publish Practice Statements which provide informal guidance as to how the Executive usually interprets and applies particular provisions of the Code in certain circumstances. Practice Statements do not form part of the Code and, accordingly, are not binding and are not a substitute for consulting the Executive to establish how the Code applies in a particular case. Practice Statements are available on the Panel's website.

Panel Statements (see section 7(c) below), statements of the Takeover Appeal Board (see section 8(b) below) and publications of the Code Committee may also contain guidance on the interpretation, application or effect of the Code.

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

When a person or its advisers are in any doubt whatsoever as to whether a proposed course of conduct is in accordance with the General Principles or the rules, or whenever a waiver or derogation from the application of the provisions of the Code is sought, that person or its advisers must consult the Executive in advance. In this way, they can obtain a conditional ruling (on an ex parte basis) or an unconditional ruling as to the basis on which they can properly proceed and thus minimise the risk of taking action which might, in the event, be a breach of the Code. To take legal or other professional advice on the interpretation, application or effect of the Code is not an appropriate alternative to obtaining a ruling from the Executive.

In addition to giving rulings at the request of a party, the Executive may, on its own initiative, give rulings on the interpretation, application or effect of the Code where it considers it necessary or appropriate to do so.

The nature of the Executive's rulings will depend on whether or not the Executive is able to hear the views of other parties involved. If the Executive is not able to hear the views of other parties involved, it may give a conditional ruling (on an ex parte basis), which may be varied or set aside when any views of the other parties have been heard; if the Executive is able to hear the views of other parties involved, it may give an unconditional ruling. An unconditional ruling is binding on those who are made aware of it unless and until overturned by the Hearings Committee or the Takeover Appeal Board. In addition, such persons must comply with any conditional ruling given by the Executive for the purpose of preserving the status quo pending the unconditional ruling.

Rulings of the Executive, including any grant or refusal to grant a waiver or derogation from the application of any rules, may be referred to the Hearings Committee for review as set out in section 7 below.

7 HEARINGS COMMITTEE

This section gives an overview of the procedural rules which apply to the commencement of proceedings before the Hearings Committee and the procedures followed by the Hearings Committee in connection with hearings before it. The full Rules of Procedure of the Hearings Committee are available on the Panel's website.

(a) Hearings before the Hearings Committee

The Hearings Committee can be convened in the following circumstances:

- (i) if a party to a takeover or any other person affected by a ruling of the Executive and with a sufficient interest in the matter, wishes to contest a ruling of the Executive, that party or person is entitled to request that the matter be reviewed by the Hearings Committee; or
- (ii) the Executive may refer a matter for review by the Hearings Committee without itself giving a ruling where it considers that there is a particularly unusual, important or difficult point at issue; or
- (iii) the Executive may institute disciplinary proceedings before the Hearings Committee when it considers that there has been a breach of the Code or of a ruling of the Executive or the Panel; or
- (iv) in other circumstances where the Executive or the Hearings Committee considers it appropriate to do so.

The Hearings Committee can be convened at short notice, where appropriate.

(b) Time limits for applications for review by the Hearings Committee; frivolous or vexatious applications

Where a party to a takeover or any other person affected by a ruling of the Executive and with sufficient interest in the matter wishes a matter to be reviewed by the Hearings Committee, the Panel must be notified as soon as possible and, in any event (subject to the following paragraph), within such period as is reasonable in all the circumstances of the case (which shall not be longer than one month from the event giving rise to the application for review).

Where it considers necessary, the Executive may stipulate a reasonable time within which the Panel must be notified. Such time may, depending on the facts of the case, range from a few hours to the one month period referred to above. The Executive may also extend the usual one month period within which the Panel must be notified.

The Chairman (or, failing that, the chairman of the hearing as specified below) may, on behalf of the Hearings Committee, deal with applications for procedural directions or frivolous or vexatious requests that the Hearings Committee be convened without convening the Hearings Committee and without holding a hearing.

(c) Conduct of hearings before the Hearings Committee

The quorum for Hearings Committee proceedings is five. The Chairman or, where he is unavailable, one of the Deputy Chairmen will usually preside as chairman of the proceedings in question ("chairman of the hearing"), although if the Chairman and both Deputy Chairmen are unavailable, another member of the Hearings Committee will be appointed by the Chairman (or, failing that, by the other members of the Hearings Committee) to act as chairman of the hearing.

The Hearings Committee usually conducts its hearings using the procedure set out in its Rules of Procedure, but it (or the chairman of the hearing) may vary such procedure in such manner as it (or he) considers appropriate for the fair and just conduct and determination of the case.

At hearings before the Hearings Committee, the case is usually presented in person by the parties, which include the Executive, or their advisers. Although not usual, parties may, if they so wish, be represented by legal advisers. Usually, the parties are required to set out their case briefly in writing beforehand. The parties are permitted to call such witnesses as they consider necessary, with the consent of the chairman of the hearing.

Proceedings before the Hearings Committee are usually in private, although the chairman of the hearing may, at his discretion, direct otherwise. Parties may request that the hearing be held in public. Any such request is considered and ruled upon by the chairman of the hearing (or, at the discretion of the chairman, by the Hearings Committee itself). In the event of a public hearing, the Hearings Committee or the chairman of the hearing may direct that the Hearings Committee should hear part or parts of the proceedings in private and may impose such other conditions relating to the non-disclosure of information relating to the proceedings as it or he considers necessary and appropriate.

In general, all parties are entitled to be present throughout the hearing and to see all papers submitted to the Hearings Committee. Occasionally, however, a party may wish to present evidence to the Hearings Committee which is of a confidential or commercially sensitive nature. In such exceptional cases, the Hearings Committee or the chairman of the hearing may, if satisfied that such course is justified, direct that the evidence in question be heard in the absence of some, or all, of the other parties involved.

The parties must at the earliest opportunity raise with the chairman of the hearing issues concerning possible conflicts of interest for members of the Hearings Committee and any other objections in relation to the proceedings. Any such issues will be resolved by a ruling of the chairman of the hearing.

Proceedings before the Hearings Committee are informal. There are no rules of evidence. A recording is taken for the Hearings Committee's own administrative purposes, but will not be retained once the proceedings are at an end. In addition, a transcript of the hearing is usually made. A party to the hearing may request a copy of the transcript, which may be provided subject to conditions, including conditions as to its confidentiality and use.

The Hearings Committee provides a copy of its ruling to the parties in writing as soon as practicable following the hearing. As part of the ruling, the Hearings Committee may give directions regarding the effects of the Executive's ruling (if any) and/or its ruling pending the outcome of an appeal (if any).

It is the usual policy of the Hearings Committee to publish its rulings by means of a Panel Statement issued as promptly as possible, having regard to all the circumstances of the case, after the ruling has been provided in writing to the parties. In certain circumstances, the Hearings Committee may issue a Panel Statement of its ruling (without providing supporting reasons) in advance of the publication of its full ruling. The chairman of the hearing may, upon application by any party, redact matters from any Panel Statement in order to protect confidential or commercially sensitive information.

If there is, or may be, an appeal to the Takeover Appeal Board against a ruling of the Hearings Committee (see section 8 below), the Hearings Committee (or the chairman of the hearing) may suspend publication of any Panel Statement, although an interim announcement may be made in these circumstances where appropriate. If there is an appeal, publication may, at the discretion of the chairman of the hearing, be suspended until after the decision of the Takeover Appeal Board or, in particular if the appeal is upheld, withheld altogether.

Panel Statements are available on the Panel's website.

Rulings of the Hearings Committee are binding on the parties to the proceedings and on those invited to participate in those proceedings, unless and until overturned by the Takeover Appeal Board.

(d) Procedural rulings

The chairman of the hearing may give such procedural rulings as he considers appropriate for the conduct and determination of the case. This includes, for the avoidance of doubt, the ability to extend or shorten any specified time limits.

(e) Right of appeal

Any party to the hearing before the Hearings Committee (or any person denied permission to be a party to the hearing before the Hearings Committee) may appeal to the Takeover Appeal Board against any ruling of the Hearings Committee or the chairman of the hearing (including in respect of procedural directions).

Notice of appeal, including a summary of the grounds of appeal and the remedy requested, must be given within such time as is stipulated by the Hearings Committee or the chairman of the hearing (or, at the discretion of the chairman, by the Hearings Committee itself) or, in the absence of such stipulation, within two business days of the receipt in writing of the ruling of the Hearings Committee or the chairman of the hearing in question.

8 TAKEOVER APPEAL BOARD

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

(a) Status, purpose and membership of the Board

The Board is an independent body which hears appeals against rulings of the Hearings Committee. The Board's procedures are described in greater detail below.

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

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

(b) Conduct of hearings before the Board

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

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

The chairman of the hearing may, on behalf of the Board, deal with appeals relating to procedural directions of the Hearings Committee or frivolous or vexatious appeals without convening the Board and without holding an oral hearing.

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

(c) Remedies

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

9 PROVIDING INFORMATION AND ASSISTANCE TO THE PANEL AND THE PANEL'S POWERS TO REQUIRE DOCUMENTS AND INFORMATION

This section sets out the rules according to which persons dealing with the Panel must provide information and assistance to the Panel.

(a) Dealings with and assisting the Panel

The Panel expects any person dealing with it to do so in an open and co-operative way. It also expects prompt co-operation and assistance from persons dealing with it and those to whom enquiries and other requests are directed. In dealing with the Panel, a person must disclose to the Panel any information known to them and relevant to the matter being considered by the Panel (and correct or update that information if it changes). A person dealing with the Panel or to whom enquiries or requests are directed must take all reasonable care not to provide incorrect, incomplete or misleading information to the Panel.

A person is entitled to resist providing information or documents on the grounds of legal professional privilege.

Where a matter has been determined by the Panel and a person becomes aware that information they supplied to the Panel was incorrect, incomplete or misleading, that person must promptly contact the Panel to correct the position. In addition, where a determination of the Panel has continuing effect (such as the grant of exempt status or a concert party ruling), the party or parties to that determination must promptly notify the Panel of any new information unless they reasonably consider that it would not be likely to have been relevant to that determination.

(b) Power to require documents and information

~~Regulation 6~~Section 947 of the Act gives the Panel certain powers to require documents and information in the case of a transaction and rule subject to the requirements of the Directive. It provides that, where documents or information are reasonably required in connection with the exercise of its functions, the Panel may by notice in writing require any person:

- (i) to produce any documents that are specified or described in the notice; or
- (ii) to provide, in the form and manner specified in the notice, such information as may be specified or described in the notice,

within such reasonable period and at such place as is specified in the notice. It may also require any information or document so provided to be verified or authenticated in such manner as it may reasonably require. Where the Panel imposes a requirement under ~~Regulation 6, section 947 of the Act~~, the addressee must comply with that requirement. Failure to comply with any requirement is a breach of the Code.

A person is entitled to resist providing information or documents on the grounds of legal professional privilege.

10 ENFORCING THE CODE

Sections 10(a) to 10(c) set out certain rules pursuant to which the Panel enforces the Code. Section 10(e) sets out the "offer document rules" and the "response document rules" for the purposes of ~~Regulation 10, section 953 of the Act~~.

It is the practice of the Panel, in discharging its functions under the Code, to focus on the specific consequences of breaches of the Code with the aim of providing appropriate remedial or compensatory action in a timely manner. Furthermore, in respect of certain breaches of the Code, disciplinary action may be appropriate (see section 11 below). For the purposes of ~~Regulation 12(2) in the case of a transaction and rule subject to the requirements of the Directive~~section 956(2) of the Act, no contravention of any requirement imposed by or under rules shall render any transaction void or unenforceable or affect the validity of any other thing.

(a) Requirement of promptness in dealings with the Executive

If a complaint is to be made that the Code has been breached, it must be made promptly, in default of which the Executive may, at its discretion, decide not to consider the complaint. Similarly, where a person who has made a complaint to the Executive fails to comply with a deadline set by the Executive, the Executive may decide to disregard the complaint in question.

(b) Compliance rulings

If the Panel is satisfied that:

- (i) there is a reasonable likelihood that a person will contravene a requirement imposed by or under rules; or
- (ii) a person has contravened a requirement imposed by or under rules,

the Panel may give any direction that appears to it to be necessary in order:

- (A) to restrain a person from acting (or continuing to act) in breach of rules; or
- (B) to restrain a person from doing (or continuing to do) a particular thing, pending determination of whether that or any other conduct of his is or would be a breach of rules; or
- (C) otherwise to secure compliance with rules.

(c) Compensation rulings

Where a person has breached the requirements of any of Rules 6, 9, 11, 14, 15, 16 or 35.3 of the Code, the Panel may make a ruling requiring the person concerned to pay, within such period as is specified, to the holders, or former holders, of securities of the offeree company such amount as it thinks just and reasonable so as to ensure that such holders receive what they would have been entitled to receive if the relevant Rule had been complied with. In addition, the Panel may make a ruling requiring simple or compound interest to be paid at a rate and for a period (including in respect of any period prior to the date of the ruling and until payment) to be determined.

(d) Enforcement by the Courts

~~Under Regulation 11 in the case of a transaction and rule subject to the requirements of the Directive section 955 of the Act,~~ the Panel may seek enforcement by the courts. If the court is satisfied that:

- (i) there is a reasonable likelihood that a person will contravene a requirement imposed by or under rules; or
- (ii) a person has contravened a requirement imposed by or under rules or a requirement imposed under ~~Regulation 6, section 947 of the Act,~~

the court may make any order it thinks fit to secure compliance with the requirement. Any failure to comply with a resulting court order may be a contempt of court.

(e) Bid documentation rules

For the purposes of Regulation 10 in the case of a transaction and rule subject to the requirements of the Directive section 953 of the Act, the "offer document rules" and the "response document rules" are those parts of Rules 24 and 25 respectively which are set out in Appendix 6 and, in each case, Rule 27 to the extent that it requires the inclusion of material changes to, or the updating of, the information in those parts of Rules 24 or 25, as the case may be, in relation to the offer documents and offeree board circulars referred to in Rules 30.1 and 30.2 respectively and the revised offer documents and subsequent offeree board circulars referred to in Rules 32.1 and 32.6(a) respectively.

11 DISCIPLINARY POWERS

This section sets out the disciplinary rules of the Panel in connection with breaches and alleged breaches of the Code.

(a) Disciplinary action

The Executive may itself deal with a disciplinary matter where the person who is to be subject to the disciplinary action agrees the facts and the action proposed by the Executive. In any other case, where it considers that there has been a breach of the Code, the Executive may commence disciplinary proceedings before the Hearings Committee. The person concerned is informed in writing of the alleged breach and of the matters which the Executive will present to the Hearings Committee. Disciplinary actions are conducted in accordance with the Rules of Procedure of the Hearings Committee, which are available on the Panel's website.

(b) Sanctions or other remedies for breach of the Code

If the Hearings Committee finds a breach of the Code or of a ruling of the Panel, it may:

- (i) issue a private statement of censure; or
- (ii) issue a public statement of censure; or
- (iii) suspend or withdraw any exemption, approval or other special status which the Panel has granted to a person, or impose conditions on the continuing enjoyment of such exemption, approval or special status, in respect of all or part of the activities to which such exemption, approval or special status relates; or
- (iv) report the offender's conduct to a United Kingdom or overseas regulatory authority or professional body (most notably the Financial Services Authority ("FSA")) so that that authority or body can consider whether to take disciplinary or enforcement action (for example, the FSA has power to take certain actions against an authorised person or an approved person who fails to observe proper standards of market conduct, including the power to fine); or
- (v) publish a Panel Statement indicating that the offender is someone who, in the Hearings Committee's opinion, is not likely to comply with the Code. The rules of the FSA and certain professional bodies oblige their members, in certain circumstances, not to act for the person in question in a transaction subject to the Code, including a dealing in relevant securities requiring disclosure under Rule 8 (so called "cold-shouldering"). For example, the FSA's rules require a person authorised under the Financial Services and Markets Act 2000 ("FSMA") not to act, or continue to act, for any person in connection with a transaction to which the Code applies if the firm has reasonable grounds for believing

