

THE TAKEOVER PANEL

MULTI-SERVICE FINANCIAL ORGANISATIONS AND THE CODE

In recent months a number of multi-service financial organisations have been formed, for example as a result of banks acquiring firms of stockbrokers and/or jobbers, and this trend will continue until Big Bang, the advent of dual capacity on The Stock Exchange, in October. The emergence of such organisations raises some important issues for the Code.

One such issue relates to market-making, and in particular to what rules should govern trading during an offer period in the securities of the companies concerned by a market-maker which is part of the same organisation as the financial adviser to an offeror or the offeree company. The Panel's proposed rules relating to such trading after Big Bang will be published later this summer and will be brought into effect at the time of Big Bang.

A more immediate related question concerns the position of such market-makers in the period running up to Big Bang, when the new relationships of the firms in question will generally have been established but the new market operating structure will not have come into effect. During this intermediate phase the Panel will follow the line taken by The Stock Exchange of regarding the market-making activities of the business concerned as being run in a fully independent manner. Also like The Stock Exchange, the Panel will require explicit undertakings from the parties concerned that this degree of independence will indeed be maintained. On the strength of these undertakings the Panel will during this phase work on the assumption that the market-makers are not acting in concert with the financial advisers concerned and will not in such circumstances regard

either stockbrokers or jobbers concerned as an associate of the offeror or offeree company for disclosure purposes under Rule 8 of the Code.

There is, however, one exception to this general approach. Where a firm of stockbrokers is grouped with a bank and when the latter is acting as the financial adviser to an offeror, such a stockbroking firm must not act as the independent "Rule 3" financial adviser to the offeree company in the relevant take-over. This is not to say that stockbrokers connected to an offeror's financial adviser cannot act in the capacity of stockbrokers to the offeree company in the same bid; this is permitted and will continue to happen.

No doubt the continuing development of the multi-service financial organisations will give rise to other issues relating to the Code over the coming weeks, and the Panel encourages the parties concerned to consult it as soon as possible when this happens.

29 May 1986