

THE TAKEOVER PANEL

ALEXANDERS HOLDINGS PLC (now renamed Quays Group PLC)

On 4 July, Alexanders Holdings PLC (now renamed Quays Group PLC, "Alexanders") issued a circular to its shareholders seeking, among other matters, approval for the acquisition of certain assets from Orb Estates PLC ("Orb Estates"), approval for the issue of shares to Orb Estates in consideration and approval of the waiver by the Panel of the obligation under Rule 9 of the Code that would otherwise have arisen for Orb Estates to make a general offer for Alexanders.

Alexanders was advised by Corporate Synergy PLC ("Corporate Synergy").

Following the issue of the Alexanders circular, the Executive was contacted by a shareholder in Alexanders who raised a number of issues in connection with the transaction. As a result of its investigation into these issues, the Executive concluded that:

- Corporate Synergy was not sufficiently independent from Orb Estates to provide independent advice to the Alexanders board and must therefore step down as the Rule 3 adviser to Alexanders for the purposes of the transaction;
- if the transaction was to proceed, a new independent adviser must be appointed and a further circular sent to Alexanders' shareholders; and
- the annual general meeting of Alexanders' shareholders convened to consider the transaction must be adjourned pending the issue of the new circular.

On 1 August, Alexanders issued a supplemental circular to its shareholders containing advice from the new Rule 3 adviser. This circular also informed shareholders that:

- one of the directors of Alexanders was not considered by the Executive to be independent for the purposes of the transaction and would therefore no longer form part of the Alexanders board's recommendation to shareholders;
- a major shareholder in Alexanders was not considered to be independent and had undertaken not to vote on the resolution to approve the waiver of Rule 9 as a result of certain connections with the ultimate controller of Orb Estates; and
- an agreement entered into between Mr Humm, one of the directors of Alexanders, under which Mr Humm had agreed to sell his Alexanders shares, had been cancelled.

Following the publication of the supplemental circular, an appeal was made by the shareholder in Alexanders against the decision of the Executive to grant a waiver of Rule 9 of the Code. The Panel dismissed the appeal. Nonetheless, the Executive regards the need for the additional disclosures and amendments to the original circular as unsatisfactory, and believes that responsibility for this must lie to a large extent with Corporate Synergy as the financial adviser to Alexanders.

The Code places great emphasis on the importance of an offeree company obtaining competent independent advice and on the need for parties and their advisers to consult the Executive on matters involving interpretation of the Code. This is particularly important in a case involving the proposed grant of a waiver from a Rule 9 obligation.

Corporate Synergy failed adequately to consult the Executive in relation to the issue of its own independence and to the proposed share sale by Mr Humm. In the Executive's view, this conduct falls short of the standards required of advisers involved in a Code transaction and Corporate Synergy is criticised accordingly.

29 August 2002

Note: Corporate Synergy is a subsidiary of Corporate Synergy Holdings PLC which was acquired on 24 July by Mountcashel PLC (since renamed Abingdon Capital PLC).