

THE TAKEOVER PANEL

CODE COMMITTEE

RESPONSE STATEMENT 12 AND CODE AMENDMENTS

On 7 January 2003, the Code Committee published Public Consultation Paper 12. The consultation period in respect of PCP12 ended on 17 February 2003 and the Code Committee has today issued Response Statement 12 which sets out the results of the public consultation process and the final text of the proposed amendments to the Code as approved by the Code Committee. Copies of Response Statement 12 may be obtained from the Panel's website at www.thetakeoverpanel.org.uk or by telephoning the Panel on 020 7382 9026.

As a result of the public consultation process, the proposals in Public Consultation Paper 12 will be implemented without amendment. The changes to the Code set out in Response Statement 12 are contained in the Appendix to this statement and will take effect immediately. Amended pages of the Code have also been published today.

16 April 2003

APPENDIX

1. Rule 31.9

Delete existing **Rule 31.9** and replace with the following:

"31.9 OFFEREE COMPANY ANNOUNCEMENTS AFTER DAY 39

The board of the offeree company should not, except with the consent of the Panel (which should be consulted in good time), announce any material new information (including trading results, profit or dividend forecasts, asset valuations and proposals for dividend payments or for any material acquisition or disposal) after the 39th day following the posting of the initial offer document. Where a matter which might give rise to such an announcement being made after the 39th day is known to the offeree company, every effort should be made to bring forward the date of the announcement, but, where this is not practicable or where the matter arises after that date, the Panel will normally give its consent to a later announcement. If an announcement of the kind referred to in this Rule is made after the 39th day, the Panel will normally be prepared to grant an extension to "Day 46" (see Rule 32.1) and/or "Day 60" (see Rule 31.6) as appropriate.

(See also Note 3 on Rule 31.6.)"

2. Rule 31.5

Renumber the existing *Note 4* as *Note 2* and renumber the existing *Note 2* and *Note 3* accordingly.

Amend the first sentence of the new *Note 2* as follows:

"A no extension statement may be set aside only if the offeror specifically reserved the right at the time the statement was made to set it aside in the

circumstances which subsequently arise; this applies whether or not the offer was recommended at the outset."

Add a new *Note 5* as follows:

"5. *Rule 31.9 announcements*

Subject to Note 2 above, if the offeree company makes an announcement of the kind referred to in Rule 31.9 after the 39th day and after a no extension statement has been made, the offeror can choose not to be bound by that statement and to be free to extend its offer if permitted by the Panel under Rule 31.9, provided that notice to this effect is given as soon as possible (and in any event within 4 business days after the date of the offeree company announcement) and shareholders are informed in writing at the earliest opportunity."

Amend the opening words of the new *Note 3* and *Note 4* to read:

"Subject to Note 2 above,...."

3. Rule 32.2

Renumber the existing *Note 4* as *Note 2* and renumber the existing *Note 2* and *Note 3* accordingly.

Amend the first sentence of the new *Note 2* as follows:

"A no increase statement may be set aside only if the offeror has specifically reserved the right at the time the statement was made to set it aside in the circumstances which subsequently arise; this applies whether or not the offer was recommended at the outset."

Add a new *Note 5* as follows:

"5. *Rule 31.9 announcements*

Subject to Note 2 above, if the offeree company makes an announcement of the kind referred to in Rule 31.9 after the 39th day and after a no increase statement has been made, the offeror can choose not to be bound by that statement and to be free to revise its offer if permitted by the Panel under Rule 31.9, provided that notice to this effect is given as soon as possible (and in any event within 4 business days after the date of the offeree company announcement) and shareholders are informed in writing at the earliest opportunity."

Amend the opening words of the new *Note 3* and *Note 4* to read:

"Subject to Note 2 above, ..."

4. Rule 32.1, Note 1

Delete existing *Note 1* and replace with the following:

"1. Announcements which may increase the value of an offer

Where an offer involves an exchange of equity or potential equity, the announcement by an offeror of any material new information (including trading results, profit or dividend forecasts, asset valuations, merger benefit statements and proposals for dividend payments or for any material acquisition or disposal) may have the effect of increasing the value of the offer. An offeror will not, therefore, normally be permitted to make such announcements after it is precluded from revising its offer. If an announcement of a kind referred to in this Note might fall to be made during the offer period, the Panel must be consulted at the earliest opportunity and an offeror will not be permitted to make a no increase statement as defined in Rule 32.2 prior to the release of the announcement."