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The Secretary to the Code Committee  
The Takeover Panel  
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31 October 2017

Dear Sirs,

### **Statements of intention and related matters**

We welcome the opportunity to respond to the consultation on statements of intention and related matters. The Quoted Companies Alliance Legal Expert Group has examined your proposals and advised on this response. A list of members of the Expert Group is at Appendix A.

Overall, we support the proposals put forward by the Panel and agree that they strike an appropriate balance between the interests of offeror and offeree companies and offeree companies' stakeholders. We have therefore only responded to suggest certain refinements to the Panel's proposals.

### ***Responses to specific questions***

**Q1** Should Rule 24.2(a) be amended so as to require an offeror to make specific statements of intention with regard to the offeree company's research and development functions, the balance of the skills and functions of the offeree company's employees and management, and the location of the offeree company's headquarters and headquarters functions?

We question whether the phrase "any material change ... in the balance of the skills and functions of the employees and management" in the amended Rule 24.2(a)(ii) – and replicated in the new Note to Rule 2.7(c)(iv) – offers sufficient clarity to encourage specific disclosure by offerors of their intentions. We suggest that the Panel provides more clarity as to what type of disclosure an offeror should make in response to this requirement, perhaps, by way of explanatory note. Alternatively, the language could be revised to provide greater clarity and encourage specificity.

**Q2** Do you have any comments on the proposed amendments to Rules 24.2(a) and (b)?

In Rule 24.2 (a)(i), we suggest that the Panel deletes "in particular" as regards to the offeror stating its intentions for the offeree company's research and development functions. A statement regarding research and development is unlikely to be relevant to all offeree companies. We would consider it sufficient to say: "including its intentions for the offeree company's research and development functions (where applicable)".

Furthermore, as the Panel acknowledges in paragraph 7.2 of its Statement 2012/8 (referred to on page 12 of PCP2017/2) regarding a hostile offer, it may not always be possible for an offeror company to have conducted full due diligence of the offeree company so as to be in a position to give a firm, specific,

The Quoted Companies Alliance is the independent membership organisation that champions the interests of small to mid-size quoted companies.

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statement regarding its intentions to satisfy Rule 24.2 (and the new Note 1 to Rule 2.7) at the time of the offeror company's offer announcement. We suggest that it would be helpful if this could be more formally acknowledged by way of, for example, an additional sentence in Note 1 of Rule 2.7.

**Q4 Do you have any comments on the proposed amendments to Rule 2.7 and Rule 25.9?**

See our observations on Rule 24.2 in our response to Q1 and Q2.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G.M. Thorpe', with a stylized flourish at the end.

G.M. Thorpe

Chair of QCA Legal Expert Group

Quoted Companies Alliance Legal Expert Group

<b>Gary Thorpe (Chair)</b>	<b>Clyde &amp; Co LLP</b>
Maegen Morrison (Deputy Chair)	Hogan Lovells International LLP
David Davies	Bates Wells & Braithwaite LLP
Martin Kay	Blake Morgan
Paul Arathoon	Charles Russell Speechlys LLP
David Hicks	
Philippa Chatterton	CMS
Kate Francis	Dorsey & Whitney
Mark Taylor	
Jane Wang	Fasken Martineau LLP
Paul Cliff	Gateley Plc
Daniel Bellau	Hamlins LLP
Nicholas Narraway	Hewitson Moorhead
Danette Antao	Hogan Lovells International LLP
Donald Stewart	Kepstorn
Nicola Mallett	Lewis Silkin
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Sarah Hassan	Practical Law Company Limited
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