

John Dovey  
Secretary to the Code Committee  
The Takeover Panel  
One Angel Court  
London, EC2R 7HJ

Sent via email: [supportgroup@thetakeoverpanel.org.uk](mailto:supportgroup@thetakeoverpanel.org.uk)

18 February 2022

Dear John,

### **UK Finance response to the public consultation - PCP 2021/1**

UK Finance is the collective voice for the banking and finance industry. Representing around 300 firms, we act to enhance competitiveness, support customers, and facilitate innovation.

UK Finance is grateful for the opportunity to respond to this public consultation document PCP 2021/1 on the miscellaneous code amendments (the 'Consultation'). The role of the Takeover Panel (the 'Panel') and the Takeover Code (the 'Code') are vital for our members as they participate and advise clients active in mergers and acquisitions, and other activities covered by the Code. Our Corporate Finance Committee brings together these members, and we appreciate the time you have spent engaging with the Committee during the Consultation and pre-Consultation period.

#### **General comments**

UK Finance is supportive of the proposed amendments being consulted on by the Code Committee under Sections 2, 3, 4, 6, and 7 of the Consultation paper, and do not propose to raise any comments regarding these amendments.

#### **Feedback on section 5: The chain principle**

**Question 4: Should the test in limb (b) of Note 8 on Rule 9.1 be deleted such that the test in limb (a) would become the sole test for determining whether a chain principle offer is required, other than in exceptional circumstances?**

**Question 5: Should the threshold at which relative values would be considered to be 'significant' for the purposes of the test currently set out in limb (a) of Note 8 on Rule 9.1 be reduced from 50% to 30%?**

We have identified a potential unintended consequence of the amendments proposed under Section 5 of the Consultation relating to the chain principle. We set out these concerns below.

Certain sectors including mining, telecoms, and oil and gas are seeing a trend whereby certain companies are exiting their non-core operations by way of carve outs or spin-offs. These deals are led by numerous reasons including a desire of parent companies to grant a degree of independence to subsidiary companies which often have diverging growth or strategic outlook. Often in such spin-offs, the parent company is left with a minority position in the new company.

We are concerned that a standalone reading of the proposed amendments relating to note 8 on Rule 9.1 (i.e., deletion of the 'significant purpose' test and the reduction of the threshold for the 'significant interest' test from 50% to 30%) could infer that a bidder making an offer for a parent company should make an offer for the spun-off as well, given that most parent companies would retain a minority shareholding in the new company.

In light of the prevailing trend whereby companies in certain sectors are exiting their non-core operations, we think it would be helpful if the Panel could provide, as appropriate, clarity as to how the amended chain principle would apply in these circumstances.

We are happy to share with the Panel examples as to how this proposed change would impact transactions, if you would find it helpful.

If you have any questions on the information within our response, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Conor Lawlor", with a horizontal line extending to the right.

Conor Lawlor

Managing Director, Capital Markets & Wholesale  
UK Finance