AMENDMENTS MADE TO PRACTICE STATEMENTS ON 13 JUNE 2022

PRACTICE STATEMENT NO 19

RULE 19.3 – UNACCEPTABLE STATEMENTS

Rule 19.3 of the Takeover Code states as follows:

"**(a) Parties to an offer and their advisers must take care not to make statements which, while not factually inaccurate, may be misleading or may create uncertainty.**

(b) In particular, an offeror must not make a statement to the effect that it may improve its offer, or that it may make a change to the structure, conditionality or the non-financial terms of its offer, without committing itself to doing so and specifying the improvement or change.

(c) In the case of any doubt as to the application of this Rule to a proposed statement, parties to an offer and their advisers should consult the Panel.".

…

Last amended ~~Amended 19 September 2011~~13 June 2022

PRACTICE STATEMENT NO 20

RULE 2 – SECRECY, POSSIBLE OFFER ANNOUNCEMENTS AND PRE-ANNOUNCEMENT RESPONSIBILITIES

…

9. Timing of announcements

…

9.3 Furthermore, an announcement should not be delayed in order for other information to be included, for example:

(a) the summary of the provisions of Rule 8 (as required under Rule 2.4(c)(ii));

(b) details of any minimum level, or particular form, of consideration required to be disclosed under Rule 2.4(c)(iii);

(c) details of any dealing arrangements required to be disclosed under Rule 2.4(c)(iv);

(~~b~~d) details of the offeree company's and, if appropriate, the offeror's relevant securities in issue (as required under Rule 2.9); or

(~~d~~e) a confirmation that any offer will be, or is likely to be, solely in cash (see Note 1 on Rule 8 and the definition of a "cash offeror").

If, contrary to the guidance in paragraph 10.3 below, the draft announcement does not include this information, and it cannot be included without delay, a separate announcement which includes this information should be released as soon as possible thereafter.

…

Last amended ~~1 April 2019~~13 June 2022

PRACTICE STATEMENT NO 24

~~APPROPRIATE OFFERS AND PROPOSALS UNDER RULE 15~~ RULE 15 – CONVERTIBLE SECURITIES, OPTIONS AND SUBSCRIPTION RIGHTS

1. Introduction

1.1 Rule 15 of the Takeover Code requires that, when an offer is made for voting equity share capital or for other transferable securities carrying voting rights (a "voting equity offer") and the offeree company has any ~~outstanding securities which are~~ convertible securities, options or subscription rights ~~into, or which comprise options or other rights to subscribe for, securities to which the voting equity offer relates~~ ("Rule 15 securities") outstanding, the offeror must make an appropriate offer …

…

2. "Appropriate" offer or proposal

(a) "See through" value

2.1 In order to be "appropriate" in the terms of Rule 15~~(a)~~.1, …

…

(g) Equality of treatment

2.13 The ~~final~~ second sentence of Rule 15~~(a)~~.1 states that "Equality of treatment is required." …

…

3. Independent advice and views of the offeree company board

3.1 Under Rule 15~~(b)~~.2, the board of the offeree company …

3.2 The Executive expects the board of the offeree company to take appropriate steps at the outset of the voting equity offer to ensure that Rule 15~~(b)~~.2 will be complied with at the time when any Rule 15 offer or proposal is made, …

4. Publication of a Rule 15 offer or proposal

4.1 Under Rule 15~~(c)~~.3, whenever practicable, the offer or proposal should be sent to holders of Rule 15 securities at the same time as the offer document is published. …

…

5. "Exercise and accept" proposals

…

5.2 Where holders of Rule 15 securities are able to exercise their conversion, option or subscription rights prior to or upon the voting equity offer becoming or being declared unconditional, the Executive will normally regard a proposal that such holders exercise

their rights and accept the voting equity offer (an "exercise and accept" proposal) as being appropriate for the purposes of Rule 15~~(a)~~.1.

…

5.4 Where an offeror's obligations under Rule 15 are to be satisfied by way of an "exercise and accept" proposal, this fact should be stated clearly in the relevant documents issued to holders of the Rule 15 securities pursuant to Note 1 on Rule 15. In addition, the Executive regards Rule 15~~(b)~~.2 as requiring the board of the offeree company to obtain separate independent advice on the "exercise and accept" proposal and to make such advice known to the holders of Rule 15 securities, together with the board's views on the proposal.

…

Last amended ~~5 July 2021~~13 June 2022

PRACTICE STATEMENT NO 28

RULES 2.8 AND 35.1 – ENTERING INTO TALKS DURING A RESTRICTED PERIOD

…

4. Application to Rule 35.1

…

4.2 Similarly to Rule 2.8(e), Rule 35.1(e) provides that a former offeror may not take any steps in connection with a possible offer for the offeree company where knowledge of the possible offer might be extended outside those who need to know in the former offeror and its immediate advisers. In addition, paragraph (a)~~(i)~~ of Note 1 on Rule~~s~~ 35.1 ~~and 35.2~~ provides that, save in certain specified circumstances, the Panel will normally consent to setting aside the restrictions in Rule 35.1 if the board of the offeree company so agrees.

…

Last amended ~~5 July 2021~~13 June 2022

PRACTICE STATEMENT NO 29

RULE 21.2 – OFFER-RELATED ARRANGEMENTS

1. Introduction

…

1.3 This Practice Statement provides guidance on the Panel Executive's interpretation and application of Rule 21.2 in relation to:

…

(d) ~~"whitewash" transactions~~Rule 9 waivers, as envisaged by Note 3 on Rule 21.2.

…

6. Agreements relating to any existing employee incentive arrangement

…

6.3 The Executive is aware that, occasionally, the parties to an offer may wish to enter into an agreement regarding the extent to which an offeror consents to the offeree company granting new awards under the offeree company's incentive arrangements. The Executive understands that such a provision is normally intended to ensure that, to the extent that the grant of such incentive awards would constitute "frustrating action" under Rule 21.1, the offeror's consent is forthcoming so that the Panel will normally waive the restrictions that would otherwise apply under Rule 21.1 in respect of the proposed awards in accordance with ~~Note 1 on~~ Rule 21.1(c)(ii). The Executive considers that such a provision is permitted under Rule 21.2, provided that it only constitutes an agreement by the offeror to consent to the grant of the awards referred to in the provision and that it does not restrict the offeree company's ability to grant awards or to adopt any other incentive arrangements (although the Executive notes that the offeree company may nevertheless be subject to the restrictions imposed by Rule 21.1).

…

9. ~~"Whitewash" transactions~~ Rule 9 waivers

9.1 Note 3 (~~"*Whitewash" transactions*"~~) "Rule 9 waivers") on Rule 21.2 explains that the prohibition on offer-related arrangements also applies in the context of a ~~"whitewash" transaction~~ a Rule 9 waiver, i.e. a transaction involving the issue of new securities as consideration for an acquisition or a cash subscription, as referred to in Note 1 of the Notes on Dispensations from Rule 9.

…

9.5 It is not the Executive's practice to review draft agreements entered into in connection with a ~~whitewash transaction~~ Rule 9 waiver in advance of their execution in order to identify whether any provisions are not capable of benefiting from the dispensation from Rule 21.2 described above. The Executive considers that this is the responsibility of the parties to the transaction and their advisers. However, the Executive should be consulted at the earliest opportunity in all cases where there is any doubt as to whether a provision which is proposed to be included in such an agreement is capable of benefiting from such a dispensation.

9.6 In order to ensure that the parties to a ~~whitewash transaction~~ Rule 9 waiver are able to comply with any relevant direction made by the Panel, it is best practice to include in any relevant agreement(s) the clause prescribed in paragraph 7.7 above.

…

Last amended ~~5 July 2021~~13 June 2022