



THE OFFER TIMETABLE IN A COMPETITIVE SITUATION

Issued 22 December 2022

ICAEW welcomes the opportunity to comment on the consultation, *The offer timetable in a competitive situation*, published by the Takeover Panel on 19 October 2022, a copy of which is available from this [link](#).

For questions on this response please contact the Corporate Finance Faculty at CFF@icaew.com quoting REP 98/22.

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ICAEW

Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
icaew.com

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Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

ANSWERS TO SPECIFIC QUESTIONS

Q1 Should Note 2 on Rule 32.5 be amended as proposed?

1. We broadly agree with the proposed amendment to Note 2 on Rule 32.5 but believe some commentary from the Code Committee would be useful, as described below.
2. Proposed Note 2 on Rule 32.5 stipulates that Day 60 will normally be set for a date after the shareholder meetings and before the court sanction hearing. A situation could arise where the scheme's resolutions have been successfully voted through, but the court does not sanction the scheme. Shareholders will have made their decision on whether to accept or reject the competing contractual offer believing that the scheme would become effective and may be left without an offer. It would be helpful if the Response Statement on the PCP were to refer to the Panel's approach in such a situation.
3. Paragraph 2.10 of the PCP states that if the 'faster' offeror agrees and the offeree board wishes to proceed by scheme of arrangement without a Rule 21.1 vote, the Panel should first be consulted if the sanction of the scheme without such a vote would result in the competing 'slower' offer being frustrated. Can the Code Committee describe in the Response Statement the situations in which the Panel - rather than the court - would require shareholders to vote on the scheme again (whether under Rule 21.1 or otherwise)? And when it (the Panel) wouldn't.

Q2 Should:

- (a) Note 1 on Rule 31.3;***
- (b) the Note on Rule 31.4; and***
- (c) the definition of "Day 46" in Appendix 8,***

be amended as proposed and the new Note on Section 7 of Appendix 7 be introduced as proposed?

4. We agree with the proposed amendments and with the introduction of new Note 7 on Section 7 of Appendix 7.