

THE TAKEOVER PANEL

CODE COMMITTEE

Instrument 2023/1

The offer timetable in a competitive situation

Pursuant to sections 942, 943 and 944 of the Companies Act 2006, Articles 2, 3 and 4 of the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009, and sections 340A, 340B and 340C of the Companies (Guernsey) Law, 2008, and in exercise of the functions conferred on it by the Panel in paragraph 2 of its Terms of Reference, the Code Committee hereby makes this instrument containing rules.

The Takeover Code is amended, with effect from 22 May 2023, in accordance with the Appendix to this instrument.

In the Appendix, underlining indicates new text and striking-through indicates deleted text.

Chris Saul

Chair of the Code Committee

for and on behalf of the Code Committee

4 April 2023

APPENDIX

Rule 31

31.3 EXTENSIONS TO DAY 60

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NOTES ON RULE 31.3

1. *Timetable for competing firm offers*

(a) *If a competing firm offer has been announced, Day 60 for both offerors will normally set by reference to the publication of the later offer document. In addition, the Panel may extend Day 60 to allow for any auction procedure under Rule 32.5.*

(b) *If the offer timetable is suspended under Rule 31.4, Day 60 will be reset when the timetable is resumed in accordance with ~~see also~~ the Note on Rule 31.4.*

(c) *If an offeror proceeding by way of a contractual offer is in competition with an offeror proceeding by way of a scheme of arrangement, see Note 2 on Rule 32.5.*

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31.4 SUSPENSION OF OFFER TIMETABLE IF AN OFFICIAL AUTHORISATION OR REGULATORY CLEARANCE REMAINS OUTSTANDING

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NOTE ON RULE 31.4

Competing offers

(a) *If there are two or more competing offers and the offer timetable is suspended under Rule 31.4(a), the offer timetable will normally be suspended for all the offerors and will normally only resume when it is resumed by the last offeror in accordance with Rule 31.4(b) or (c).*

~~Alternatively, a~~(b) *An offeror may bring forward the unconditional date of its offer by making an acceleration statement (see Rule 31.5).*

Rule 32

32.5 COMPETITIVE SITUATIONS

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NOTES ON RULE 32.5

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2. Schemes of arrangement

(a) Where one or more of the competing offers is being implemented by way of a scheme of arrangement, the parties must consult the Panel as to the applicable timetable, including:

(i) the latest date on which either competing offeror may announce a revised offer and, if necessary, the date on which the Panel will introduce an auction procedure; and

(ii) the offer timetable thereafter, including, if relevant, Day 60.

(b) Unless the parties to the offer agree otherwise, an auction procedure will not normally be introduced under Rule 32.5 until after the last condition relating to a relevant official authorisation or regulatory clearance has been satisfied or waived by each of the offerors.

(c) Where relevant:

(i) Day 39 will normally be the seventh day prior to the last date on which final offers may be announced prior to the commencement of the auction procedure; and

(ii) Day 60 will normally be set for a date after the shareholder meetings and before the court sanction hearing in relation to the scheme. In setting such a date, the Panel will wish to ensure that shareholders will have sufficient time to make their acceptance decisions in relation to the contractual offer in the knowledge of the outcome of the shareholder meetings.

Appendix 7

APPENDIX 7

SCHEMES OF ARRANGEMENT

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7 REVISION

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NOTE ON SECTION 7

Competitive situations

In the case of a competitive situation where one or more of the offerors is proceeding by way of a scheme of arrangement, see Note 2 on Rule 32.5.

Appendix 8

APPENDIX 8

AUCTION PROCEDURE FOR THE RESOLUTION OF COMPETITIVE SITUATIONS

DEFINITIONS AND INTERPRETATION

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Day 46

~~Day 46 (as defined in the Definitions Section of the Code) of the second competing offeror's offer or, if the second competing offeror is proceeding by means of a scheme of arrangement, such date as the Panel shall determine.~~

Day 46 means:

(a) in the case of two competing contractual offers, the 14th day prior to Day 60 as determined in accordance with Note 1 on Rule 31.3 and, if relevant, the Note on Rule 31.4; or

(b) if one or more of the offerors is proceeding by way of a scheme of arrangement, such date as the Panel shall determine under Note 2 on Rule 32.5 as being the latest date on which a competing offeror may announce a revised offer prior to the commencement of the auction procedure.