

John Dovey  
Secretary to the Code Committee  
The Takeover Panel  
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Sent via email: [supportgroup@thetakeoverpanel.org.uk](mailto:supportgroup@thetakeoverpanel.org.uk)

13 January 2023

Dear John,

### **UK Finance response to the public consultations - PCP2022/3 and PCP2022/4**

UK Finance is grateful for the opportunity to respond to public consultation papers PCP 2022/3: The Offer Timetable in a Competitive Situation and PCP2022/4: Miscellaneous Code Amendments.

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

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 regarding various Code amendments including the current two consultations.

Please find attached our responses to the two consultations.

As ever, we remain at your disposal should you wish to discuss further. We look forward to continued engagement with the Panel on Code related matters.

Yours sincerely,

**Avanthi Weerasinghe**  
Principal, Capital Markets & Wholesale Policy  
UK Finance

## UK Finance response to the public consultation - PCP 2022/4 – Miscellaneous Code Amendments

**Q1: Should section 2(c) of the introduction to the Code be amended to provide greater flexibility for the Panel to grant a dispensation from a requirement of the Code in order to facilitate the rescue of a company which is in serious financial difficulty and in other exceptional circumstances?**

We understand the rationale provided by the Code Committee for this proposed amendment i.e that it offers greater flexibility to the Panel to grant a dispensation from a requirement of the Code in order to facilitate a rescue of a company in a serious financial difficulty, absence of which would lead to insolvency of the company. However, we believe that amendments to existing Code requirements should only be made where there is strong evidence demonstrating that such existing requirements do not, in practice, achieve the objectives of the Code. Therefore, we would find it helpful if the Panel could provide further examples of practical situations in which the current rules prevented the Panel from granting a dispensation from the rules to facilitate the rescue of a company in serious financial difficulty/other exceptional circumstances.

**Q2: Should Note 3 of the Notes on Dispensations from Rule 9 be amended as proposed to remove the limitations on the Panel's flexibility to waive the requirement for a mandatory offer where an urgent rescue operation is the only way to save a company in serious financial difficulty?**

Please see our response to Q1.

**Q3: Should Note 2 on Rule 2.2 be deleted as proposed?**

Yes.

**Q4: Should Note 3 on Rule 9.5 be amended as proposed so as to require an adjusted mandatory offer price to be "appropriate"?**

Yes.

**Q5: Should Note 3 on Rule 9.5 be amended as proposed in relation to the publication of a decision to adjust the mandatory offer price?**

Yes.

**Q6: Should there be a requirement for the board of the offeree company to make a recommendation to shareholders and to holders of Rule 15 securities as to the action that they should take in respect of an offer (including any alternative offers) or a Rule 15 offer or proposal? Do you have any comments on the proposed amendments to Rule 25.2 and Rule 15.2 and the related provisions of the Code?**

We believe that the proposed new requirement could be quite challenging to implement in practice. Generally, boards of target companies do not have the full details of the offeror's intentions (including its business plan) which makes it difficult for a target board to give the required recommendation.

**Q7: Should the offeree board circular be required to state details of the directors' intentions in relation to any alternative offers and, where required by the Panel, the reasons for a director's decision to elect for a particular alternative? Do you have any comments on the proposed amendments to Rule 25.4(a)?**

We do not have any comments on the proposed amendment.

**Q8: Should Note 2 on Rule 3.1, Note 2 on Rule 3.3 and Note 3 on Rule 25.2 be deleted as proposed?**

Yes.

**Q9: Should the Code be amended so that, if details of an irrevocable commitment or letter of intent are announced under Rule 2.10, the underlying irrevocable commitment or letter of intent must be published on a website by the same deadline?**

Yes