

AMENDMENTS MADE TO PRACTICE STATEMENT 31 (FORMAL SALE PROCESSES, PRIVATE SALE PROCESSES, STRATEGIC REVIEWS AND PUBLIC SEARCHES FOR POTENTIAL OFFERORS) ON 30 APRIL 2024

Unless otherwise stated, references to sections and paragraphs are references to Practice Statement 31, as amended by the Panel Executive on 30 April 2024.

1. Section 1 - Introduction

1.1 Section 1 is an updated introduction to Practice Statement 31. It refers to the application of the Takeover Code where a company wishes to initiate:

- (a) a formal sale process;
- (b) a private sale process;
- (c) a strategic review (which may or may not refer to an offer for the company as a possible outcome); or
- (d) a public search for potential offerors that is not conducted as a formal sale process (for example, by announcing that it is “seeking potential offerors” or “seeking purchasers”).

1.2 It also includes an overview of the contents of the other sections of the Practice Statement.

2. Section 2 – Relevant rules

2.1 Section 2 provides a summary of the principal provisions of the Code that are relevant to the Executive’s application of Rule 2, Rule 21.2 and Rule 21.3 where a company is undertaking a formal sale process, a private sale process, a strategic review or a public search for potential offerors. Whilst a summary of these provisions was included in various paragraphs of the previous version, the Practice Statement now summarises all the relevant provisions in the same section.

3. Section 3 - Formal sale processes

3.1 Section 3 sets out guidance in respect of formal sale processes. It is similar in substance to paragraphs 3.1 to 3.6 of the previous version of the Practice Statement.

3.2 In addition:

- (a) paragraph 3.1 introduces a definition of the “FSP dispensations”;
- (b) paragraph 3.1 states the Executive should be consulted at the earliest opportunity where a company intends to announce a formal sale process; and

- (c) paragraph 3.7 clarifies that Note 2 on Rule 2.2 will apply to a formal sale process, regardless of whether the Executive has granted the FSP dispensations, such that if rumour and speculation specifically identifies a potential offeror during the offer period, an announcement identifying the potential offeror will normally be required.

4. Section 4 - Private sale processes

4.1 Section 4 sets out new guidance in respect of private sale processes. In summary, where the Executive is satisfied that a company is genuinely initiating a private sale process, the Executive will normally grant dispensations from the requirements of Rules 2.4(a) and (b), which would apply once the company has initiated the private sale process.

4.2 If the Executive grants these dispensations in a particular case:

- (a) any voluntary announcement by the company in relation to what was until that point a private sale process will not be required to identify any potential offeror with which the company is in talks or from which an approach has been received; and

- (b) any announcement by the company required under Rule 2.2 will only be required to identify any potential offeror with which the company is in talks, or from which an approach has been received, if that potential offeror has been specifically identified in any rumour or speculation.

4.3 Paragraphs 4.11 to 4.14 provide updated guidance on converting a private sale process (or other private discussions following an approach) to a formal sale process. If a company which has been undertaking a private sale process wishes to announce a formal sale process (whether on a voluntary basis or where an announcement is required under Rule 2.2), the Executive will normally grant the FSP dispensations where it is satisfied that the board is genuinely seeking to sell the company through that process. In circumstances where an announcement is required under Rule 2.2, the Executive will normally require the company to identify any potential offeror that has been specifically identified in any rumour or speculation, but will normally grant a dispensation from Rule 2.6(a) so that any such potential offeror would not be subject to a “put up or shut up” deadline, provided that (and for so long as) it is participating in the formal sale process.

5. Section 5 – Strategic reviews and searches for potential offerors

5.1 Section 5 sets out guidance in respect of strategic reviews and public searches for potential offerors. It updates the guidance given in section 2 of the previous version of the Practice Statement.

5.2 A public search for potential offerors is now covered in the same section (and treated in the same way) as a strategic review announcement which refers to an offer. The same principles as regards the application of the relevant rules, dispensations and updates that apply to a private

sale process will apply if a company announces a strategic review which refers to an offer, or a public search for potential offerors. See paragraph 5.1 of the Practice Statement.

- 5.3 Paragraphs 5.2 and 5.3 of the Practice Statement relate to a strategic review announcement which does not refer to an offer. They are similar in substance to paragraphs 2.6 and 2.7 of the previous version of the Practice Statement. The same principles as regards the application of the relevant rules, dispensations and updates that apply to a private sale process will apply if a company makes a further announcement that commences an offer period. See paragraph 5.4 of the Practice Statement.
- 5.4 Paragraphs 5.5 and 5.6 include new guidance on converting a strategic review which refers to an offer, or a public search for potential offerors, to a formal sale process.

6. Section 6 – Companies with a majority shareholder

- 6.1 Section 6 sets out new guidance in relation to companies with a majority shareholder where the company is undertaking a formal sale process, a private sale process, a strategic review or a public search for potential offerors.

7. Section 7 – Application of Rule 21.3 and Note 1 on Rule 21.3

- 7.1 Section 7 sets out guidance for companies in respect of the application of Rule 21.3 and Note 1 on Rule 21.3 where the company is undertaking a formal sale process, a private sale process, a strategic review or a public search for potential offerors.
- 7.2 Section 7 is similar in substance to paragraphs 3.7 to 3.9 and section 4 of the previous version of the Practice Statement but also:
- (a) introduces additional content on scenarios that are not formal sale processes; and
 - (b) addresses companies seeking standstill and other conditions in these contexts.

30 April 2024