

INTRODUCTION

3 COMPANIES, TRANSACTIONS AND PERSONS SUBJECT TO THE CODE

This section (except for sections 3(d) and (e)) sets out the rules as to the companies, transactions and persons to which the Code applies.

(a) Companies

(i) *UK, Channel Islands and Isle of Man registered and traded companies*

The Code applies to all offers for companies (including, where appropriate, statutory and chartered companies and UK Societas) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man if any of their securities are admitted to trading on a UK regulated market or a UK multilateral trading facility# or on any stock exchange in the Channel Islands or the Isle of Man.

(ii) *Other companies*

The Code also applies to all offers (not falling within paragraph (i) above) for public and private companies† (and, where appropriate, statutory and chartered companies and UK Societas) which have their registered offices* in the United Kingdom, the Channel Islands or the Isle of Man and which are considered by the Panel to have their place of central management and control in the United Kingdom, the Channel Islands or the Isle of Man, but in relation to private companies only when:

- (A) any of their securities have been admitted to trading on a UK regulated market or a UK multilateral trading facility# or on any stock exchange in the Channel Islands or the Isle of Man at any time during the 10 years prior to the relevant date; or
- (B) dealings and/or prices at which persons were willing to deal in any of their securities have been published on a regular basis for a continuous period of at least six months in the 10 years prior to the relevant date, whether via a newspaper, electronic price quotation system or otherwise; or
- (C) any of their securities have been subject to a marketing arrangement as described in section 693(3)(b) of the Act at any time during the 10 years prior to the relevant date; or
- (D) they have filed a prospectus for the offer, admission to trading or issue of securities with the registrar of companies or any other relevant authority in the United Kingdom, the Channel Islands or the Isle of Man (but in the case of any other such authority only if the filing is on a public record) at any time during the 10 years prior to the relevant date.

In each case, the relevant date is the date on which an announcement is made of a proposed or possible offer for the company or the date on which

some other event occurs in relation to the company which has significance under the Code.

The Panel appreciates that the provisions of the Code may not be appropriate to all statutory and chartered companies referred to in paragraphs (i) and (ii) above or to all private companies falling within the categories listed in paragraph (ii) above and may accordingly apply the Code with a degree of flexibility in suitable cases.

(iii) Open-ended investment companies

The Code does not apply to offers for open-ended investment companies.

**In the case of a UK unregistered company, the reference to “registered office” shall be read as a reference to the company’s principal office in the UK.*

#In the case of a company whose securities are or have been admitted to trading on a UK multilateral trading facility, paragraph (i) will apply, and criterion (A) of paragraph (ii) will be satisfied, only if the company has approved trading, or requested admission to trading, of its securities on the relevant UK multilateral trading facility.

†With respect to either a company having its registered office in the Isle of Man and which is incorporated there under the Companies Act 2006 (an Act of Tynwald), or a company having its registered office in Guernsey, the company will be treated as being subject to the Code only when any of the criteria in (A) to (D) of paragraph (ii) apply.

(b) Transactions

The Code is concerned with regulating takeover bids and merger transactions of the relevant companies, however effected, including by means of statutory merger or scheme of arrangement (as defined in the Definitions Section). The Code is also concerned with regulating other transactions (including offers by a parent company for shares in its subsidiary, dual holding company transactions, new share issues, share capital reorganisations and offers to minority shareholders) which have as their objective or potential effect (directly or indirectly) obtaining or consolidating control of the relevant companies, as well as partial offers (including tender offers pursuant to Appendix 5) to shareholders for securities in the relevant companies. The Code also applies to unitisation proposals which are in competition with another transaction to which the Code applies.

The Code applies to all the above transactions at whatever stage of their implementation, including possible transactions which have not yet been announced.

References in the Code to “takeovers”, “takeover bids”, “bids” and “offers” include all transactions subject to the Code as referred to in this section.

The Code does not apply to offers for non-voting, non-equity capital unless they are offers required by Rule 15.

(c) Related matters

In addition to regulating the transactions referred to in section 3(b) above, the Code also contains rules for the regulation of things done in consequence of, or otherwise in relation to, takeovers and about cases where any such takeover is, or has been, contemplated or apprehended or an announcement is made denying that any such takeover is intended.

(d) Dual jurisdiction

Takeovers and other matters to which the Code applies may from time to time be subject to the dual jurisdiction of the Panel and an overseas takeover regulator. In such cases, early consultation with the Panel is advised so that guidance can be given on how any conflicts between the relevant rules may be resolved.

(e) Re-registration of a public company as a private company

A public company incorporated in the United Kingdom, the Channel Islands or the Isle of Man may decide to re-register as a private company as a result of which, pursuant to section 3(a) above, the Code may no longer apply to it. If the Code would no longer apply in such circumstances and the relevant company has more than one shareholder, early consultation with the Panel is advised before it re-registers as a private company so that guidance can be given by the Panel on the appropriate disclosure to be made to its shareholders about the implications of the loss of Code protection.

(f) Code responsibilities and obligations

The Code applies to a range of persons who participate in, or are connected with, or who in any way seek to influence, intervene in, or benefit from, takeovers or other matters to which the Code applies.

The Code also applies to all advisers to such persons, and all advisers in so far as they advise on takeovers or other matters to which the Code applies. Financial advisers to whom the Code applies have a particular responsibility to comply with the Code and to ensure, so far as they are reasonably able, that their client and its directors are aware of their responsibilities under the Code and will comply with them and that the Panel is consulted whenever appropriate.

The Code also applies to any directors, employees or representatives through whom any body corporate, partnership or other entity to which the Code applies acts. The Panel expects all bodies corporate, partnerships and other entities to which the Code applies to ensure that their relevant directors and employees receive appropriate and timely guidance in respect of the Code

and will hold any such entity responsible for its directors' and employees' acts or omissions.

The Code imposes limitations on the manner in which directors can act in connection with takeovers, which may impinge on the duties that the directors of offeror and offeree companies might owe.

The Code applies in respect of the acts and omissions of any person in connection with a takeover or any other matter to which the Code applies, notwithstanding that the offeree company may since have ceased to be subject to the Code.

In this section 3(f), references to "directors" means, in relation to any body corporate, its directors and officers, in relation to any partnership, its partners, and, in relation to any other entity, those persons exercising equivalent functions on behalf of the entity concerned.

In cases of doubt, the Panel must be consulted as to the persons to whom the Code applies.