

RULE 10. THE ACCEPTANCE CONDITION

10.1 REQUIREMENT FOR 50% ACCEPTANCE CONDITION

Any offer for voting equity share capital or for other transferable securities carrying voting rights which, if accepted in full, would result in the offeror holding shares carrying over 50% of the voting rights of the offeree company must include an acceptance condition that is not capable of being satisfied unless the offeror has acquired or agreed to acquire (either pursuant to the offer or otherwise) shares carrying over 50% of the voting rights.

NOTES ON RULE 10.1

1. Waiver of 50% condition

In certain exceptional cases, the Panel will consider waiving the requirements of this Rule subject to prior consultation and to appropriate safeguards. This might be appropriate where, for example, following a major change of management policy, it is desired to provide an opportunity for shareholders to dispose of their shares and where the offer is made on behalf of a group of investors who are otherwise wholly unconnected and whose purpose is not to gain control.

2. New shares

For the purpose of the acceptance condition, the offeror must take account of all shares carrying voting rights which are unconditionally allotted or issued before the acceptance condition is satisfied, whether pursuant to the exercise of conversion or subscription rights or otherwise. If in any case, for example, as a result of a rights issue, shares have been allotted in renounceable form (even if provisionally), the Panel should be consulted.

3. Information to offeror during offer period and extension of offer to new shares

Following the announcement of a firm intention to make an offer, the offeree company must, on request, provide the offeror as soon as possible with all relevant details of the issued shares (including the extent to which any such shares are held in treasury and details of any agreements to transfer or sell such shares out of treasury) and, to the extent not issued, the allotted shares and details of any conversion or subscription rights or any other rights pursuant to the exercise of which shares may be unconditionally allotted or issued during the offer period. In the case of conditionally allotted shares, the details should include the conditions and the date on which such conditions may be satisfied. In the case of rights, the details should include the number of shares which may be unconditionally allotted or issued during the offer period as a result of the exercise of such rights, identifying separately those attributable to rights which commence or expire on different dates, and the various prices at which these rights could be exercised.

The offeree company must immediately notify the offeror of any allotment or issue of shares and of the exercise of any such rights during the offer period and provide the offeror as soon as possible with all relevant details.

The offeror must make appropriate arrangements to ensure that any person to whom shares of a type to which the offer relates are unconditionally allotted or issued during the offer period will have an opportunity of accepting the offer in respect of such shares.

In cases of doubt, the Panel must be consulted.

4. Acceptances

NB 1 Attention is drawn to Note 6 below which will be relevant in determining whether an acceptance condition has been satisfied (or is capable of being satisfied) before the unconditional date.

NB 2 It is a matter for the offeror and its advisers, in particular the receiving agent, to determine whether, for shareholders within CREST, an offer can be accepted (and the acceptance withdrawn) electronically without the need for an acceptance form. If so, the procedure to be adopted must be made clear in the offer document.

An acceptance may not be counted towards the satisfaction of an acceptance condition unless:

(a) if it is to be effected by means of CREST without an acceptance form, the transfer to the relevant member's escrow account has settled in respect of the relevant number of shares on or before the unconditional date; or,

if it is to be effected by means of an acceptance form, both:

(b) it is received by the offeror's receiving agent on or before the unconditional date and the offeror's receiving agent has recorded that the acceptance and any relevant documents required by this Note have been so received or relevant escrow transfers identified; and

(c) the acceptance form is completed to a suitable standard (see below) and is:

(i) accompanied by share certificates in respect of the relevant shares and, if those certificates are not in the name of the acceptor, such other documents (eg a duly stamped transfer of the relevant shares in favour of the acceptor executed by the registered holder and otherwise completed to a suitable standard) as are required by the practice set out in the guidance published by The Chartered Governance Institute UK & Ireland (the "Chartered Governance Institute Guidance") in order to establish the right of the acceptor to become the registered holder of the relevant shares; and if an acceptance is accompanied by share certificates in respect of some but not all of the relevant shares then, subject to the other requirements of this sub-paragraph (i) being fulfilled

in respect of the shares which are covered by share certificates, the acceptance may be treated as fulfilling the requirements of this sub-paragraph (i) insofar as it relates to those covered shares; or

(ii) in the case of a holding in CREST, covered by a transfer to the relevant member's escrow account, details of which must be provided on the acceptance form; if the acceptance is covered by a transfer to escrow in respect of some but not all of the relevant holding, it may be treated as fulfilling the requirement of this sub-paragraph (ii) in respect of that part of the holding transferred to escrow; or

(iii) from a registered holder or the registered holder's personal representatives (but only up to the amount of the registered holding as at the unconditional date and only to the extent that the acceptance relates to shares which are not taken into account under another sub-paragraph of this paragraph (c)); or

(iv) certified by the offeree company's registrar.

For this purpose an acceptance form is completed to a suitable standard:

(1) where the form constitutes a transfer, if it meets the criteria (other than being duly stamped) for the registration of transfers set out in the Chartered Governance Institute Guidance; or

(2) where the form does not constitute a transfer, if it constitutes a valid and irrevocable appointment of the offeror or some person on its behalf as an agent or attorney for the purpose of executing a transfer of the type referred to in (1) above on behalf of the acceptor.

If the acceptance form is executed by a person other than the registered holder, appropriate evidence of authority (eg grant of probate or certified copy of a power of attorney) must be produced as required by the practice set out in the Chartered Governance Institute Guidance.

An acceptance which has been withdrawn must not be counted towards satisfying an acceptance condition.

5. Purchases

NB Attention is drawn to Note 6 below which will be relevant in determining whether an acceptance condition has been satisfied (or is capable of being satisfied) before the unconditional date, and also to Note 8 below which will be relevant if the offeror has borrowed any offeree company shares.

A purchase of shares by an offeror or its nominee (or in the case of a Rule 9 offer, a person acting in concert with the offeror, or its nominee) may be counted towards the satisfaction of an acceptance condition only if:

(a) the offeror or its nominee (or in the case of a Rule 9 offer, a person acting in concert with the offeror, or its nominee) is the registered holder of the shares; or

(b) a transfer of the shares in favour of the offeror or its nominee (or in the case of a Rule 9 offer, a person acting in concert with the offeror, or its nominee) executed by or on behalf of the registered holder and otherwise completed to a suitable standard (as specified in paragraph (c)(i) of Note 4 above) and accompanied by the relevant share certificates or certified by the offeree company's registrar is delivered by or on behalf of the offeror to the offeror's receiving agent on or before the last time for acceptance set out in the offeror's relevant document or announcement and the offeror's receiving agent has recorded that the transfer and accompanying documents have been so received.

A person who has agreed to sell shares to the offeror or a person acting in concert with it is not, by virtue only of the agreement, a "nominee" for the purposes of this Note.

The offeror must advise its receiving agent of any parties whose registered holdings or purchases are relevant for the purpose of the acceptance condition. The offeror's receiving agent must then certify the holding of each such party on the basis of the register (or, in relation to holdings in CREST in respect of which CREST maintains the register, the record of securities held in uncertificated form).

6. Satisfaction of the acceptance condition before the unconditional date

In determining whether an acceptance condition has been satisfied (or is capable of being satisfied) before the unconditional date, all acceptances and purchases that comply with the requirements of Note 4 and Note 5 on Rule 10.1 may be counted, other than those which fall within paragraph (c)(iii) of Note 4 or Note 8 on Rule 10.1.

7. Offeror's receiving agent's certificate

Before the acceptance condition can be satisfied or the offer can lapse as a result of the acceptance condition not having been satisfied (or being regarded as incapable of satisfaction), the offeror's receiving agent must have issued a certificate to the offeror or its financial adviser which states the number of acceptances which have been received which comply with Note 4 on Rule 10.1 and the number of shares otherwise acquired, whether before or during an offer period, which comply with Note 5 on Rule 10.1 and, in each case, if appropriate, Note 6 on Rule 10.1, but which do not fall within Note 8 on Rule 10.1.

Copies of the receiving agent's certificate must be sent to the Panel and the offeree company's financial adviser by the offeror or its financial adviser as soon as possible after it is issued.

8. Borrowed shares

Except with the consent of the Panel, shares which have been borrowed by the offeror may not be counted towards satisfying an acceptance condition.