

RULE 32. REVISION

32.1 PUBLICATION OF REVISED OFFER DOCUMENT

(a) If an offer is revised, a revised offer document, drawn up in accordance with Rule 24 and Rule 27, must be sent to shareholders of the offeree company and persons with information rights. In addition, the offeror must:

- (i) publish the revised offer document on a website in accordance with Rule 26.1; and
- (ii) announce that the revised offer document has been so published.

(b) When a revised offer document is published:

- (i) both the offeror and the offeree company must make the revised offer document readily and promptly available to their employee representatives (or, where there are no employee representatives, to the employees themselves);
- (ii) the offeror must make the revised offer document readily and promptly available to the trustees of the offeree company's pension scheme(s); and
- (iii) the offeree company must inform its employee representatives (or employees) and the trustees of its pension scheme(s) of the right of employee representatives and pension scheme trustees under Rule 32.6 to have a separate opinion on the revised offer appended to any offeree board circular published in relation to the revised offer. In addition, the offeree company must inform its employee representatives (or employees) of the offeree company's responsibility for the costs reasonably incurred by the employee representatives in obtaining advice required for the verification of the information contained in their opinion.

(c) The offer must be kept open for at least 14 days following the publication of the revised offer document. Therefore, no revised offer document may be published after Day 46 or, where the offeror has made an acceleration statement, after the date which is 14 days prior to the unconditional date.

NOTES ON RULE 32.1

1. Announcements which may increase the value of an offer

Where an offer involves an exchange of equity or potential equity, the announcement by an offeror of any material new information, including trading results, profit forecasts (including ordinary course profit forecasts), dividend forecasts, asset valuations, quantified financial benefits statements and proposals for dividend payments or for any material acquisition or disposal, may have the effect of increasing the value of the offer. An offeror will not,

therefore, normally be permitted to make such announcements after it is precluded from revising its offer. If an announcement of a kind referred to in this Note might fall to be made during the offer period, the Panel must be consulted at the earliest opportunity and an offeror will not be permitted to make a no increase statement as defined in Rule 32.2 prior to the publication of the announcement.

2. When revision is required

An offeror will normally be required to revise its offer if it, or any person acting in concert with it, acquires an interest in shares at above the offer price (see Rule 6) or it becomes obliged to make an offer in accordance with Rule 11 or to make a cash offer, or to increase an existing cash offer, under Rule 9.

3. When revision is not permissible

An offeror must not place itself in a position where it would be required to revise its offer:

- (a) after the date referred to in Rule 32.1(c); or
- (b) if it has made a no increase statement as defined in Rule 32.2.

4. Triggering Rule 9

When an offeror, which is making a voluntary offer either in cash or with a cash alternative, acquires an interest in shares which causes it to have to extend a mandatory offer under Rule 9 at no higher price than the existing cash offer, the change in the nature of the offer will not be treated as a revision (and will not be precluded by an earlier no increase statement).

See also Note 9 on Rule 9.1, Rule 9.4(c) and, in the case of a scheme of arrangement, Section 2 of Appendix 7.

32.2 NO INCREASE STATEMENTS

(a) A “no increase statement” is a statement as to the finality of an offer, including a statement that the offer will not be “increased”, “raised”, “amended”, “revised”, “improved” or “changed” and any similar expression.

(b) If an offeror (or its directors, officials or advisers) makes a no increase statement, and that statement is not withdrawn immediately if incorrect, the offeror will not be allowed subsequently to amend the terms of its offer in any way, even if the amendment would not result in an increase of the value of the offer (eg the introduction of a lower securities exchange alternative), except:

- (i) where it specifically reserved the right to do so in certain circumstances at the time the no increase statement was made and those circumstances subsequently arise; or

(ii) in wholly exceptional circumstances.

(c) If an offeror wishes to include a reservation to a no increase statement, the Panel must be consulted. See also Rule 35.1(f) and Note 1 on Rule 35.1.

(d) A no increase statement must be published in accordance with Rule 30.1.

NOTES ON RULE 32.2

1. Reservation of the right to set a no increase statement aside

(a) A no increase statement must not be subject to a reservation to set the statement aside which depends solely on subjective judgements by the offeror or its directors or the fulfilment of which is in their hands.

(b) The first document published in connection with an offer in which mention is made of the no increase statement must contain prominent reference to any reservation to set it aside (precise details of which must also be included in the document). Any subsequent mention by the offeror of the no increase statement must be accompanied by a reference to the reservation or, at the least, to the relevant sections in the document containing the details.

(c) Note 2 and Note 3 on Rule 32.2 describe examples of specific types of reservation to set a no increase statement aside. However, other types of reservation may also be made (for example, a reservation relating to the recommendation of an increased or improved offer by the board of the offeree company), provided that they comply with the requirements of this Note 1.

2. Competitive situations

If the circumstances specified in a reservation made in accordance with Rule 32.2(b)(i) relate to a competitive situation arising and such a situation arises, an offeror which wishes to set aside its no increase statement must make an announcement to this effect as soon as possible (and in any event within 4 business days after the date of the firm announcement of the competing offer).

(For the purpose of this Note, a competitive situation will normally arise following a public announcement of the existence of a new offeror or potential offeror whether publicly identified or not. Other circumstances, however, may also constitute a competitive situation.)

3. Rule 31.8 announcements

An offeror may reserve the right to set aside a no increase statement in the event of the offeree company making an announcement of the kind referred to in Rule 31.8 after Day 39 only if the no increase statement is made after that day. If such an announcement is subsequently made by the offeree company and the offeror wishes to set aside its no increase statement, the

offeror must make an announcement to this effect as soon as possible (and in any event within 4 business days after the date of the offeree company announcement).

4. Schemes of arrangement

A switch to or from a scheme of arrangement will not normally, of itself, be regarded as an amendment which would be precluded by an earlier no increase statement in relation to the value or type of consideration offered. Therefore, it is not necessary for an offeror making such a statement specifically to reserve the right to switch its offer structure.

5. Dividends

Where an offeror has made a no increase statement and a dividend (or other distribution) is subsequently paid or becomes payable by the offeree company to offeree company shareholders, the offeror will normally be required to reduce the offer consideration by an amount equal to the dividend (or other distribution) so that the overall value receivable by offeree company shareholders remains the same, unless, and to the extent that the offeror has stated that offeree company shareholders will be entitled to receive and retain all or part of a specified dividend (or other distribution) in addition to the offer consideration.

32.3 ENTITLEMENT TO REVISED CONSIDERATION

If an offer is revised, all shareholders who accepted the original offer must be entitled to the revised consideration.

32.4 NEW CONDITIONS FOR INCREASED OR IMPROVED OFFERS OR FOLLOWING A SWITCH

Subject to the prior consent of the Panel, and only to the extent necessary to implement an increased or improved offer, or a switch to or from a scheme of arrangement, the offeror may introduce new conditions (eg obtaining shareholders' approval or the admission to listing or admission to trading of new securities).

32.5 COMPETITIVE SITUATIONS

If a competitive situation continues to exist in the later stages of the offer period, the Panel will normally require revised offers to be announced in accordance with an auction procedure, the terms of which will be determined and announced by the Panel. That procedure will normally follow the auction procedure set out in Appendix 8. However, the Panel will consider applying any alternative procedure which is agreed between competing offerors and the board of the offeree company. Under any auction procedure, the Panel may set a deadline by which

any revised offer document must be sent to offeree company shareholders and persons with information rights.

NOTES ON RULE 32.5

1. Dispensation from obligation to make an offer

The Panel will normally grant a dispensation from the obligation to make a revised offer, which is lower than the final revised offer announced by a competing offeror, when the board of the offeree company consents.

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.*

32.6 THE OFFEREE BOARD'S OPINION AND THE OPINIONS OF THE EMPLOYEE REPRESENTATIVES AND THE PENSION SCHEME TRUSTEES

(a) The board of the offeree company must send to the company's shareholders and persons with information rights a circular containing its opinion on the revised offer as required by Rule 25.1, drawn up in accordance with Rule 25 and Rule 27. In addition, the offeree company must:

(i) publish the circular on a website in accordance with Rule 26.1; and

(ii) announce that the circular has been published.

(b) When the circular is published, the offeree company must make the circular readily and promptly available to its employee representatives (or, where there are no employee representatives, to the employees themselves) and to the trustees of its pension scheme(s).

(c) Where the board of the offeree company receives in good time before publication of its circular on the revised offer:

(i) an opinion from employee representatives on the effects of the revised offer on employment; or

(ii) an opinion from the trustees of any of its pension scheme(s) on the effects of the revised offer on the pension scheme(s),

any such opinion must be appended to the circular. Where any such opinion is received but not in good time before publication of the offeree board circular, the offeree company must promptly publish the opinion on a website and announce via a RIS that it has been so published, provided that it is received no later than 14 days after the date on which the offer becomes or is declared unconditional.

NOTE ON RULE 32.6

Offeree company's responsibility for costs

See Note 1 on Rule 25.9.