

RULE 35. RESTRICTIONS FOLLOWING OFFERS

35.1 DELAY OF 12 MONTHS

Except with the consent of the Panel, where an offer has been announced or made but has not become or been declared unconditional and has been withdrawn or has lapsed, neither the offeror, nor any person who acted in concert with the offeror in the course of the original offer, nor any person who is subsequently acting in concert with any of them, may within 12 months from the date on which such offer is withdrawn or lapses:

(a) announce an offer or possible offer for the offeree company (including a partial offer which could result in the offeror and persons acting in concert with it being interested in shares carrying 30% or more of the voting rights of the offeree company);

(b) acquire any interest in shares of the offeree company if the offeror or any such person would thereby become obliged under Rule 9 to make an offer;

(c) acquire any interest in, or procure an irrevocable commitment in respect of, shares of the offeree company if the shares in which such person, together with any persons acting in concert with it, would be interested and the shares in respect of which it, or they, had acquired irrevocable commitments would in aggregate carry 30% or more of the voting rights of the offeree company;

(d) make any statement which raises or confirms the possibility that an offer might be made for the offeree company;

(e) take any steps in connection with a possible offer for the offeree company where knowledge of the possible offer might be extended outside those who need to know in the offeror and its immediate advisers; or

(f) purchase, agree to purchase, or make any statement which raises or confirms the possibility that it is interested in purchasing assets which are significant in relation to the offeree company.

NOTES ON RULE 35.1

1. When consent may be given

The Panel will normally only give its consent under Rule 35.1 if:

(a) the board of the offeree company so agrees. Where the offeror made a no increase statement or an acceleration statement without a reservation of the right to set the statement aside with the agreement of the offeree board, the Panel will not normally give its consent under this paragraph (a) in relation to a new offer, or any other transaction restricted by Rule 35.1, on more

favourable terms than those available under the previous offer until after the later of:

- (i) three months from the date on which the previous offer was withdrawn or lapsed; and*
 - (ii) the end of the offer period;*
- (b) a third party (including a potential offeror which had been publicly identified prior to the date on which the previous offer was withdrawn or lapsed) announces a firm intention to make an offer for the offeree company;*
- (c) the offeree company announces a Rule 9 waiver proposal (see Note 1 of the Notes on Dispensations from Rule 9) or a reverse takeover; or*
- (d) the Panel determines that there has been a material change of circumstances.*

2. Significant asset purchases

In assessing whether assets are significant for the purpose of Rule 35.1(f), the Panel will have regard to the tests set out in Note 5 on Rule 2.8.

35.2 PARTIAL OFFERS

The restrictions in Rule 35.1 will also apply following a partial offer:

- (a) which could result in the offeror and persons acting in concert with it being interested in shares carrying not less than 30% but not holding shares carrying more than 50% of the voting rights of the offeree company whether or not the offer has become or been declared unconditional. When such an offer has become or been declared unconditional, the period of 12 months runs from that date; and**
- (b) for more than 50% of the voting rights of the offeree company which has not become or been declared unconditional.**

The restrictions in Rule 35.1 will not normally apply following a partial offer which could only result in the offeror and persons acting in concert with it being interested in shares carrying less than 30% of the voting rights of the offeree company.

35.3 DELAY OF 6 MONTHS BEFORE ACQUISITIONS ABOVE THE OFFER VALUE

Except with the consent of the Panel, if a person, together with any person acting in concert with that person, holds shares carrying more than 50% of the voting rights of a company, neither that person nor any person acting in concert with that person may, within 6 months of the closure of any previous offer made by that person to the shareholders

of that company which became or was declared unconditional, make a second offer to any shareholder in that company, or acquire any interest in shares in that company, on more favourable terms than those made available under the previous offer (see also Rule 6.2(a)). For this purpose the value of a securities exchange offer shall be calculated as at the date the offer closed. In addition, special deals with favourable conditions attached may not be entered into during this 6 months period (see also Rule 16.1).

NOTE ON RULE 35.3

Determination of price

See the Note on Rule 35.4.

35.4 RESTRICTIONS ON DEALINGS BY A COMPETING OFFEROR WHOSE OFFER HAS LAPSED

Except with the consent of the Panel, where an offer has been one of two or more competing offers and has lapsed, neither that offeror, nor any person acting in concert with that offeror, may acquire any interest in shares in the offeree company on more favourable terms than those made available under its lapsed offer until each of the competing offers has either become or been declared unconditional or has itself lapsed. For these purposes, the value of the lapsed offer shall be calculated as at the day the offer lapsed.

NOTE ON RULE 35.4

Determination of price

The price paid for any acquisition of an interest in shares will be determined in the manner set out in Note 4 on Rule 6 (other than the final paragraph of that Note).

However, where:

- (a) a call option was entered into during any period that was relevant for the purposes of Rule 6 (or Rule 9.5, where relevant) in relation to the previous or lapsed offer; and*
- (b) that call option is exercised:*
 - (i) during the six month period referred to in Rule 35.3 (in the case of Rule 35.3); or*
 - (ii) before any competing offer has either become or been declared unconditional or has itself lapsed (in the case of Rule 35.4),*

then the person will be treated as having acquired an interest in shares at the time of such exercise and, for the purposes of Rule 35.3 or Rule 35.4 (as the

case may be), the price paid will normally be treated as the amount paid on exercise of the option together with any amount paid by the option-holder on entering into the option.

Where a person acquired an interest in shares before the period referred to in paragraph (a) above as a result of any option, derivative or agreement to purchase and, during the relevant period referred to in paragraph (b) above, the person acquires any of the relevant shares, no obligation under this Rule will normally arise as a result of the acquisition of those shares. However, if the terms of the instrument have been varied in any way, or if the shares are acquired other than on the terms of the original instrument, the Panel should be consulted.