

Guidance Note

PANEL'S RECEIPT OF TAKEOVER DOCUMENTS

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**TAKEOVERS
PANEL**
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Under the Code, certain documents must be delivered to the Panel as part of a takeover or other Code-regulated transaction. This Guidance Note sets out information about the Panel's role in reviewing documents relating to transactions regulated by the Code.

1 Introduction

- 1.1 This policy outlines the Panel's approach to documents which are required to be sent to it under the provisions of the Takeovers Code. It does not cover the Panel's approach to documents which are lodged with it for specific purposes, such as the giving of Panel approval in relation to a matter. Cases of this nature might include an application for an exemption, an application for approval by the Panel of a person as an "independent adviser" or an application for Panel consent to the withdrawal of a takeover offer.
- 1.2 A number of rules in the Takeovers Code require copies of documents relating to a takeover to be sent to the Panel at the same time as they are sent to or lodged with others. However, under the Takeovers Code, the Panel is not obliged to acknowledge, review, register or approve any documents it might receive under these rules.

2 Takeover documents

- 2.1 In the case of a full or partial offer under rules 7(a) or (b) the Panel expects to receive:
 - (a) from the offeror, the takeover notice (rule 41);
 - (b) from the target company, the notice to the Licensed Market Operator (or to the offerees if target not listed) advising of receipt of the takeover notice (rule 42(1));
 - (c) from the offeror, the notice to the target company specifying the record date (rule 43(3));
 - (d) from the target company, confirmation in writing that it has complied with rule 42(2) and sent a copy of its securities register to the offeror and will make it available to the Panel upon request (rule 42(2) and clause 26 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001);
 - (e) from the offeror, the offer document sent to offerees at the time specified in rule 43(5);
 - (f) from the offeror, the despatch notice sent to the target company (rule 45);
 - (g) from the target company, the target company statement complying with rule 46;
 - (h) from the acquirer, notification of acquisitions under rule 36;
 - (i) from the offeror, any variations to the offeror's offer (rule 28); and
 - (j) from the offeror, notice that the offer has become unconditional (rule 25).
- 2.2 In addition, the Panel would appreciate receiving from the offeror a copy of the notification from the offeror to the target company under rule 48.

3 Documents for a shareholder meeting

- 3.1 In the case of an acquisition or allotment under rules 7(c) or (d) the Panel would appreciate receiving from the Code company a copy of the documents relating to shareholder approval mechanisms (rules 18-19) including the independent adviser's report.

4 Documents for a compulsory acquisition

- 4.1 In the case of a compulsory acquisition under Part 7 the Panel expects to receive:



- (a) from the dominant owner, the notice of dominant ownership under rule 51;
- (b) from the dominant owner, the acquisition notice to outstanding holders under rule 54; and
- (c) from the dominant owner, the expert determination under rule 57(5).

- 4.2 In addition, the Panel would appreciate receiving a copy of any other relevant statements made by listed companies to the Licensed Market Operator and, in the case of unlisted companies, copies of any relevant public statements or press releases.
- 4.3 The Panel will endeavour to acknowledge receipt of documents required to be sent to it as a matter of courtesy, but will not provide advice on them although it may wish to give administrative guidance from time to time. It is for the parties involved to take their own advice in relation to these documents and to assure themselves that they comply with the law. However, the Panel may, at its discretion, use or review these documents to determine whether or not there has been compliance with the Code and will, as resources allow, use these documents to assist it in monitoring takeover activity and practices.
- 4.4 If the Panel identifies possible non-compliant documents or behaviour at any time, it will make a decision on each occasion as to any action it will take, bearing in mind the circumstances of the case and the evidence then available to it.