

The Secretary to the Code Committee
The Takeover Panel
10 Paternoster Square
London EC4M 7DY

supportgroup@thetakeoverpanel.org.uk

11 June 2015

Dear Sirs,

**PCP 2015/1 – The Takeover Panel Consultation Paper issued by the Code Committee of the Panel:
Dividends**

Introduction

We are the Quoted Companies Alliance, the independent membership organisation that champions the interests of small to mid-size quoted companies. Their individual market capitalisations tend to be below £500m.

The Quoted Companies Alliance is a founder member of **EuropeanIssuers**, which represents over 9,000 quoted companies in fourteen European countries.

The Quoted Companies Alliance Legal and Corporate Finance Expert Group has examined your proposals and advised on this response. A list of members of the Expert Group is at Appendix A.

Response

We welcome the opportunity to respond to this consultation.

We consider that these proposals are sensible and do not affect indiscriminately small and mid-size quoted companies. To the extent that the changes articulate or clarify existing Panel practice, they are welcomed.

We have identified a technical drafting issue which would merit further consideration by the Takeover Panel. It is one of clarification and relates to the proposed wording for new Note 4 on Rule 2.7 (Question 1).

The last paragraph in the new note 4 to Rule 27.7 states that “If an offeror includes a term of its offer which provides that it shall be entitled to receive any dividend paid by the offeree company after a specified date, it must expressly reserve the right to reduce the offer consideration by the amount of the dividend in accordance with this Note”.

In this regard, we believe that it should be made clear that where (as is common) an offeror states, in the terms of its offer, that it will acquire the offeree company shares together with all rights attaching thereto (including any dividends) from a certain date (or equivalent wording) – implicitly saying it wishes to keep dividends after that date – that this will be caught by the relevant note.

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A similar clarification would need also to be made to the proposed new note 5 on Rule 24.3 and to paragraph 2.15 of the proposed Practice Note in Appendix C.

If this is the Takeover Panel's intention, we consider that it would be prudent (and it will become more common in practice) for most offer terms to include a reservation to decrease the consideration under the offer if a dividend is subsequently paid by the offeree. We understand that this is not common practice at the moment.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'TW', is positioned below the closing text.

Tim Ward
Chief Executive

Quoted Companies Alliance Legal Expert Group

Gary Thorpe (Chairman)	Clyde & Co LLP
Maegen Morrison (Deputy Chairman)	Hogan Lovells International LLP
David Davies	Bates Wells & Braithwaite LLP
Martin Kay	Blake Morgan
Paul Arathoon	Charles Russell Speechlys LLP
Andrew Collins	
David Hicks	
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David Fuller	CLS Holdings PLC
Mark Taylor	Dorsey & Whitney
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June Paddock	Fasken Martineau LLP
Ian Binnie	Hamlins LLP
Karish Andrews	Lewis Silkin
Nicola Green	LexisNexis
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Hilary Owens Gray	
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Quoted Companies Alliance Corporate Finance Expert Group

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Bidhi Bhoma	Shore Capital Group Ltd
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Neil Baldwin	SPARK Advisory Partners Limited
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Dalia Joseph	Stifel
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Paul Shackleton	W H Ireland Group PLC
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Ross Andrews	Zeus Capital Limited