

8. Timing and contents of documents

8.1 Availability of information

Information about companies involved in an offer must be made equally available to all shareholders as nearly as possible at the same time and in the same manner.

Notes to Rule 8.1:

1. Furnishing of information to offerors

This Rule 8.1 does not prevent the furnishing of information in confidence by an offeree company to a bona fide potential offeror or vice versa.

2. Press, television and radio interviews

Parties involved in an offer must take particular care not to release new material in interviews or discussions with the media.

3. Meetings

Subject always to Rule 34, meetings of representatives of the offeror or the offeree company or their respective advisers with shareholders of either the offeror or the offeree company, analysts, stockbrokers or others engaged in investment management or advice may take place during the offer period, provided that no material new information is forthcoming, no significant new opinions are expressed and the following provisions are observed. Except with the consent of the Executive, an appropriate representative of the financial adviser to the offeror or the offeree company must be present. That representative will be responsible for confirming in writing to the Executive, not later than 12.00 noon on the business day following the date of the meeting, that no material new information was forthcoming and no significant new opinions were expressed at the meeting.

Should there be any dispute as to whether the provisions of this Note have been complied with, the relevant financial adviser will be expected to satisfy the Executive that they have been. Financial advisers may, therefore, find it useful to record the proceedings of meetings, although this is not a requirement. The offeror or the offeree company and their respective financial advisers must ensure that no meetings are arranged without the relevant financial adviser's knowledge.

The above provisions apply to all such meetings held during an offer period wherever they take place and even if with only one person or firm. Meetings with employees in their capacity as such (rather than in

their capacity as shareholders) are not normally covered by this Note, although the Executive should be consulted if any employees hold a significant number of shares.

4. Information issued by associates (e.g. financial advisers or stockbrokers)

Rule 8.1 does not prevent the issue of circulars during the offer period to their own investment clients by brokers or advisers to any party to the transaction provided such issue has previously been approved by the Executive.

In giving to their own clients material on the companies involved in an offer, associates must bear in mind the essential point that new information must not be restricted to a small group. Accordingly, such material must not include any statements of fact or opinion derived from information not generally available.

The associate's status must be clearly disclosed.

Attention is drawn to class (2) of the definition of associate, as a result of which, for example, this Note will be relevant to stockbrokers who, although not directly involved with the offer, are associates of an offeror or the offeree company because the stockbroker is in the same group as the financial adviser to an offeror or the offeree company.

In this connection, financial advisers to an offeror or the offeree company should, after the commencement of an offer period, stop issuing research reports on the offeree company and in the case of a securities exchange offer, the offeror company, except with the Executive's prior consent. The concern is that these reports may contain profit forecast statements which require full compliance with Rule 10. The financial adviser is not required to retrieve research reports already distributed prior to the offer period but all entities within the financial adviser's group should stop distributing these old reports and they should be removed from the websites. The Executive should be consulted and it would normally regard any research reports issued within 6 months prior to the offer period as being "live".

5. Profit forecasts, asset valuations and estimates etc.

All persons involved should be fully aware of the verification and reporting obligations under the Takeovers Code in respect of profit forecasts, asset valuations and estimates of other figures key to the offer. Release of any profit forecast, asset valuation or estimate of key figures without compliance with the relevant Takeovers Code requirements may constitute a breach of the Takeovers Code, regardless of whether the forecast, valuation or estimate is withdrawn.

6. Announcements and circulars

If, notwithstanding the provisions of Notes 2, 3 and 4 to Rule 8.1, any material new information or significant new opinions are released, they must be announced *immediately* to the shareholders and the market. The Executive may also require the information to be disseminated by means of a circular to shareholders. If such new information or opinion is not capable of being substantiated as required by the Takeovers Code (e.g. a profit forecast), this must be made clear and it must be formally withdrawn in the circular or announcement.

8.2 Offer document time limit

The offer document, which must not be dated more than ~~three~~3 days prior to despatch, should normally be posted by or on behalf of the offeror within 21 days (or, in the case of a securities exchange offer, 35 days) of the date of the announcement of the terms of the offer. In an agreed offer the offeror and offeree company are encouraged to combine the offer document and the offeree board circular in a composite document to be posted within this period. The Executive's consent is required if the offer document or composite document may not be posted within this period. (See also Rules 8.4 and 15.1.)

Notes to Rule 8.2:

1. *Schemes of arrangement*

In cases of schemes of arrangement, the Executive should be consulted if an extended period is required to accommodate the Court timetable.

2. ~~Condition precedent~~Pre-conditions

The Executive's consent is required if the making of an offer is subject to the prior fulfilment of a pre-condition ~~precedent~~ and the pre-condition ~~precedent~~ cannot be fulfilled within the time periods contemplated by this Rule 8.2. Under such circumstances, the Executive will normally require that the offer document be posted within 7 days of fulfilment of the pre-condition ~~precedent~~.

3. Date of despatch

Evidence of the date of despatch, e.g. a copy of the posting certificate, must be provided to the Executive.

8.3 Contents of offer document

The offer document submitted by the offeror to the offeree company's shareholders should contain the information required by Schedule I, together with any other relevant information to enable offeree company's shareholders to reach a properly informed decision.

8.4 Timing and contents of offeree board circular

The offeree company should send to its shareholders within 14 days of the posting of the offer document a circular containing the information set out in Schedule II, together with any other information it considers to be relevant to enable its shareholders to reach a properly informed decision on the offer. The Executive's consent is required if the offeree board circular may not be posted within this period and will only be given if the offeror agrees to an extension of the first closing date (see Rule 15.1) by the number of business days in respect of which the delay in the posting of the offeree board circular is agreed.

The offeree board circular must include the views of the offeree company's board or its independent committee on the offer and the written advice of its financial adviser as to whether the offer is, or is not, fair and reasonable and the reasons therefor. Reference is made in this regard to Rule 2. If the offeree company's financial adviser is unable to advise whether the offer is, or is not, fair and reasonable the Executive should be consulted.

Note to Rule 8.4:

Preparation of circular

It is the responsibility of the offeree company's board and its advisers to start preparation of the offeree board circular as soon as an offer is announced so as to minimise the possibility of any delay in meeting this timetable. If the offeree company's board considers that all the information required may not be available in time, it must consult the Executive immediately. In any event the Executive will require that, within this timetable, a circular is sent to the shareholders of the offeree company containing all the information available at that time with a clear statement of the information not available, the reasons for the delay in producing it and when it will be available.

8.5 Subsequent documents

Documents subsequently sent to shareholders of the offeree company by either party must contain details of any material changes in information previously published by or on behalf of the relevant party during the offer period. If there have been no such changes this must be stated. In particular, the following matters must be updated:-

(a) changes or additions to material contracts;

- (b) shareholdings and dealings;
- (c) directors' emoluments;
- (d) special arrangements;
- (e) ultimate owner of securities acquired under the offer;
- (f) arrangements in relation to dealings; and
- (g) changes to directors' service contracts.

When a profit forecast has been made, documents subsequently sent to shareholders of the offeree company by the party making the forecast must comply with the requirements of Rule 10.5.

8.6 English/Chinese language

Each document is to be written in English or Chinese and shall include or be accompanied by a translation, as the case requires, in Chinese or English, unless the Executive has previously agreed to waive this requirement.

Notes to Rule 8:

1. Documents to be on display

Except with the consent of the Executive, copies of the following documents must be made available for inspection from the time the offer document or offeree board circular, as appropriate, is published until the end of the offer period. The offer document or offeree board circular must state which documents are so available and the place where inspection can be made:-

- (a) memorandum and articles of association of the offeror or offeree company or equivalent documents;
- (b) audited consolidated accounts of the offeror or the offeree company for the last 2 financial years for which these have been published;
- (c) any report, letter, valuation or other document any part of which is exhibited or referred to in any document issued by or on behalf of the offeror or the offeree company;
- (d) written consents of the financial advisers stating that they have given and not withdrawn their consent to the publication of their names in the document;

- ~~(ea)~~ where a profit forecast has been made: -
- (i) the reports of the auditors or consultant accountants and of the financial advisers;
 - (ii) the letters giving the consent of the auditors or consultant accountants and of the financial advisers to the issue of the relevant document with the report in the form and context in which it is included or, if appropriate, to the continued use of the report in a subsequent document;
- ~~(fb)~~ where an asset valuation has been made: -
- (i) the valuation certificate and associated report containing details of the aggregate valuation;
 - (ii) the letter stating that the valuer has given and not withdrawn his consent to the publication of his name in the relevant document;
- ~~(ge)~~ any document evidencing an irrevocable commitment to accept or reject an offer;
- ~~(hd)~~ where the Executive has given consent to aggregation of dealings, a full list of all dealings (see Note 4 to paragraph ~~(4)~~ of Schedule I, Note 3 to paragraph 2 of Schedule II and Note 2 to paragraph 5 of Schedule III);
- ~~(ie)~~ each material contract referred to in paragraph ~~(26)~~ of Schedule I and paragraph ~~(9)~~ of Schedule II;
- ~~(jf)~~ each service contract referred to in paragraph ~~(13)~~ of Schedule II;
- ~~(kg)~~ all derivative contracts which in whole or in part have been disclosed under Rule 22.1, paragraph ~~(4)~~ of Schedule I, ~~or~~ paragraph ~~(2)~~ of Schedule II, or paragraph 5 of Schedule III. Documents in respect of the first mentioned must be made available for inspection from the time the offer document or the offeree board circular is published or from the time of disclosure, whichever is the later; ~~and~~
- (l) documents relating to the financing arrangements for the offer where such arrangements are described in the offer document in compliance with the third sentence of paragraph 12(c) of Schedule I;
- (m) documents in relation to an inducement fee or similar arrangement; and
- ~~(nh)~~ any other document required by the Executive to be displayed.

2. Copies of documents

A copy of each document on display must, on request, promptly be made available by an offeror or offeree company to the other party and to any competing offeror or potential offeror.

3. Overseas shareholders

The Executive would not normally waive the requirements under this Rule 8 so that shareholders in an overseas jurisdiction are excluded from receiving the offer document, unless the Executive is satisfied that it would be unduly burdensome to do so in such overseas jurisdiction. For example, the Executive may grant a waiver under this Rule 8 if issuance of the offer document to particular overseas shareholders requires registration of the document as a prospectus under overseas law and the number of shareholders in such jurisdiction is relatively small. However, the Executive will be concerned to see that all material information in the offer document is made available to such shareholders.