

31. Restrictions following offers and possible offers

31.1 Delay before subsequent offer

- (a) Except with the consent of the Executive, where an offer has been announced or posted but has not become or been declared unconditional ~~in all respects~~, and has been withdrawn or has lapsed, neither the offeror nor any person who acted in concert with it in the course of the original offer, nor any person who is subsequently acting in concert with any of them, may within 12 months from the date on which such offer is withdrawn or lapses either:-
- (i) announce an offer or possible offer for the offeree company (including a partial offer which could result in the offeror holding shares carrying ~~35%~~30% or more of the voting rights of the offeree company), or
 - (ii) acquire any voting rights of the offeree company if the offeror or persons acting in concert with it would thereby become obliged under Rule 26 to make an offer.
- (b) The restrictions in this Rule 31.1 may also apply, for a period of ~~six-6~~ months, where a person, having made an announcement which, although not amounting to the announcement of an offer, raises or confirms the possibility that an offer might be made, does not announce a firm intention either to make, or not to make, an offer within a reasonable time thereafter.
- (c) Where a person makes an announcement that he does not intend to make an offer for a company, the restrictions in this Rule 31.1 will normally apply for ~~six-6~~ months unless there is a material change of circumstances or there has occurred an event which the person specified in his announcement as an event which would enable it to be set aside. Such an announcement must be as clear and unambiguous as possible. If a person intends to include in an announcement specific reservations to set it aside, he should consult the Executive in advance of issuing such an announcement.

31.2 Partial offers

- (a) The restrictions in Rule 31.1(a) also apply following a partial offer:-
- (i) for not less than ~~35%~~30% and not more than 50% of the voting rights of the offeree company whether or not the offer has become or been declared ~~wholly~~ unconditional. When such an offer has become or been declared ~~wholly~~ unconditional, the period of 12 months runs from that date;

- (ii) for more than 50% of the voting rights of the offeree company which has not become or been declared ~~wholly~~ unconditional; and
 - (iii) for less than ~~35%~~30% of the voting rights of the offeree company which has not become or been declared ~~wholly~~ unconditional.
- (b) The restrictions in Rule 31.1(b) also apply following a ~~partial~~ offer which could only result in a holding of less than ~~35%~~30% of the voting rights of the offeree company which has become or been declared wholly unconditional.
- (c) The restrictions in Rule 31.1(c) also apply where a person makes an announcement that he does not intend to make a partial offer for a company.

Notes to Rules 31.1 and 31.2:

1. Recommended and competing offers

The Executive will normally grant consent under ~~this~~ Rules 31.1 and 31.2 when:-

- (a) *the new offer is recommended by the board of the offeree company and the offeror is not, or is not acting in concert with, a director or substantial shareholder of the offeree company. Such consent will not normally be granted within 3 months of the lapsing of an earlier offer in circumstances where the offeror was prevented from revising or extending its previous offer as a result of a no increase statement or a no extension statement; or*
- (b) *the new offer follows the announcement of an offer by a third party for the offeree company.*

~~2. Conditional offers~~

~~*In cases of conditional offers the Executive may impose a time limit for fulfilment of the conditions, in default of which neither the offeror nor any person acting in concert with him may be permitted to make another offer for a period of up to 12 months.*~~

23. *Rule 31.1 (b)*

Paragraph (b) of Rule 31.1 applies irrespective of the precise wording of the announcement and the reason it was made. For example, it is relevant in the case of an announcement that a person is “considering his options” if, in all the circumstances, those options may reasonably be understood to include the making of an offer. However, the Executive envisages that this provision will only be applied occasionally and usually only if the Executive is persuaded by the potential offeree

company that the damage to its business from the uncertainty outweighs the disadvantage to its shareholders of losing the prospect of an offer.

The question as to what is “a reasonable time” has to be determined by reference to all the circumstances of the case: the stage which the offeror’s preparations had reached at the time the announcement was made is likely to be relevant.

34. Privatisation offers

In cases of unsuccessful privatisation offers, the offeror will normally be precluded from buying any shares in the offeree company within 12 months of the offer lapsing if the result would be that the listing of the offeree company’s shares on the Stock Exchange would be discontinued, unless previously approved by shareholders in accordance with the Listing Rules.

4. Transactions conditional on not incurring a general offer obligation

Where a person announces a transaction that is subject to a condition that he does not incur a general offer obligation, Rule 31.1 will apply in the following circumstances:-

(a) if such person does not reserve the right to waive the condition, Rule 31.1(c) applies;

(b) if such person reserves the right to waive the condition and does waive it, an offer obligation is incurred and Rule 31.1(a) applies;
or

(c) if such person reserves the right to waive the condition and does not waive it, Rule 31.1(c) applies.

31.3 6 months delay before acquisition above offer price

Except with the consent of the Executive, if a person, together with any person acting in concert with him, holds more than 50% of the voting rights of a company, neither that person nor any person acting in concert with him may, within 6 months ~~of the closure~~after the end of the offer period of any previous offer made by him to the shareholders of that company which became or was declared ~~wholly~~ unconditional, make a second offer to, or acquire any shares from, any shareholder in that company at a higher price than that made available under the previous offer. For this purpose the value of a securities exchange offer shall be calculated as at the day the offer became, or was declared, unconditional.

Notes to Rule 31.3:

1. *Issue of new shares*

For the avoidance of doubt the issue of new shares by placing, subscription or in exchange for assets does not need the consent of the Executive under this Rule 31.3.

2. *Convertible securities, warrants and options*

The acquisition of convertible securities, warrants or options convertible or exercisable into existing shares in a company at a price, based on the acquisition price and the relevant conversion and exercise terms, above the offer price may be relevant for the purposes of this Rule 31.3. In any such case, the Executive must be consulted.

The exercise of convertible securities, warrants or options will be considered to be an acquisition of shares for the purpose of this Rule 31.3.