IRISH TAKEOVER PANEL

CONSULTATION PAPER

DISCLOSURE OF DEALINGS AND INTERESTS IN DERIVATIVES AND OPTIONS

PROPOSALS TO AMEND THE TAKEOVER RULES

30 July 2008

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A. Introduction

It has emerged in recent years that derivative positions are increasingly being taken by potential offerors, and by speculators such as hedge funds, in respect of offeree securities prior to the announcement of, or during, a takeover. The Panel believes that the Irish Takeover Panel Act, 1997, Takeovers Rules, 2007 ("Rules") should be amended to take account of this development and to ensure that takeovers and other relevant transactions are conducted in accordance with the General Principles set out in the Schedule to the Irish Takeover Panel Act, 1997 ("Act"). It is not proposed to amend the Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2007, at this time.

Where derivatives and options give rise to the holding, whether directly or indirectly, of securities conferring not less than 30% of the voting rights in a relevant company there are currently Rule 9 implications and a mandatory bid obligation may arise. However, the disclosure regime applicable to dealings in, and holdings of, options and derivatives is limited. While "derivatives" fall within the definition of "relevant securities" in Rule 8.9 and thus are required to be disclosed during an offer period pursuant to Rules 8.1 and 8.2, the definition of "derivative" excludes products which do not include the possibility of delivery of the underlying securities. Furthermore, options and derivatives, as defined, are exempt from the calculation of the 1% ownership or control of a class of relevant securities for the purposes of Rule 8.3 disclosure. Elsewhere in the Rules, there is only limited disclosure of options and derivatives in the announcement of a firm intention to make an offer, the offer document, and the offeree board circular.

The most common form of derivative instrument in the market is a contract for differences ("CFD"). A CFD is a contract under which a person ("investor") benefits from an increase (a long CFD) or a decrease (a short CFD) in the underlying share price of a security from the reference price agreed at the time the contract is executed. CFDs are normally written by an investment bank or securities firm ("counterparty") who will usually seek to hedge their position by acquiring (in the case of a long position) or selling short (in the case of a short position) a corresponding number of the underlying securities. This hedging means that the price of the underlying securities is influenced by dealing in the derivatives. A CFD contract does not give the investor ownership of the referenced shares or, usually, any control over the voting rights of those shares. Nor, since the contract is normally cash-settled, does it create any right to take delivery of the shares in place of cash settlement. However, market practice indicates that where the counterparty acquires securities to hedge a long CFD, it will often exercise the voting rights attaching to those securities in accordance with the wishes of the investor. Subsequently, when the investor closes out the contract, which he or she may do at any stage in an open-ended contract, the counterparty eliminates its exposure by selling any shares acquired (in the case of a long position) or acquiring shares to fill its position (in the case of a short position). This again influences the price of the underlying securities. In addition, when the long investor closes out the contract, he or she has an expectation that if he or she wishes to acquire the underlying shares the counterparty is likely to deliver the shares to him or her. It is the Panel's understanding that where the counterparty has not had to acquire the shares (for example because an offsetting short CFD exists), that the investor has an expectation that the counterparty will acquire the relevant shares and deliver them to him or her.

It is clear therefore that, although the investor in a CFD possesses only an economic interest in the movement of the price of the underlying securities, he or she is able in

practice to exercise a significant degree of control over the securities held by the counterparty to hedge its position. Furthermore, the Panel is aware that on occasion long CFD investors have sought to influence the course of a bid by, for example, putting pressure on offeree boards to accept or reject an offer or by entering commitments to request physical settlement of the CFDs and to assent to the offer all securities obtained as a result of the settlement process.

Dealings in other forms of derivatives such as options and spread bets can also have a similar effect on the price of the underlying securities. An option, for example gives the purchaser of the option a right to buy or sell a specified number of securities at a fixed price. As with a CFD, the counterparty to a call option will normally hedge its exposure by acquiring the securities in the market. This may afford the purchaser of the option de facto control over the securities and influence over the outcome of a takeover similar to that of the CFD holder.

The Panel is proposing to introduce a more expansive disclosure regime which will increase the requirements to disclose dealings in derivatives referenced to, and options in respect of, relevant securities. Such a regime would recognise the potential de facto control and influence exercised by persons with long derivative or option positions. It would also facilitate market transparency and, in particular, allow market participants to understand the reasons why the prices of offeror or offeree company securities may be increasing or decreasing.

The disclosure requirements in Rule 8 currently involve disclosure of "dealings" (which term is not defined) in "relevant securities" (as defined in Rule 8.9) by certain parties to a takeover. Persons who "own or control" 1% or more of any class of relevant securities must also disclose their dealings. Elsewhere, the Rules generally require disclosure of "holdings of securities". It is proposed to make a number of substantial changes to Part A of the Rules, including the introduction of a definition of "dealing" and the concept of "interest in a relevant security" and the amendment of the definition of "relevant securities". "Interest in a relevant security" will replace "owns or controls" for the purposes of Rule 8 and will replace "holds" in the context of disclosure of holdings in Rules 2.3, 4, 8, 16, 17.1(b), 20.1, 24 and 25.3. As noted below, the term will include not just ownership or control of the relevant securities but all instances in which a person may be said to have a long position in the security. Therefore, if a person will benefit economically from an increase in the price of the security or suffer from a decrease in its price, disclosure may be required. The overall effect of the changes proposed will be to broaden significantly the range of transactions and interests which are disclosed to the market during an offer period.

It should be noted that the Rule amendments proposed in this paper relate primarily to disclosure issues under the Rules. Specifically, the amendments do not affect persons whose interests (together with the interests of persons acting in concert with them) fall into the 30% to 50% category, i.e. control issues which arise, for example, under Rules 5 and 9. The Panel will consider those issues following this consultation exercise. Addressing the control issues may require certain amendments to the Act. While this paper does not address any of the control issues, the current situation under the Rules with regard to derivatives and options will continue to apply i.e. where a person acquires control of voting rights by means of a derivative or an option, such voting rights will be aggregable for the purposes of Rule 9.

The proposed new Rules are set out in Annexe 1 while the proposed new Notes are set out in Annexe 2.

The Panel is inviting comments on this consultation paper. The Panel would also welcome any views which parties may have on whether implementation of the proposals set out in

this paper should be delayed for a specified period to enable market participants to make any necessary adjustments to their dealing and reporting systems. Comments should reach the Panel by 30 September 2008 and should be sent in writing to:

Irish Takeover Panel
Lower Ground Floor
76 Merrion Square
Dublin 2

FAX: 353 1 6789289

Alternatively, comments may be sent by email to: takeoverpanel@eircom.net

B. Amendments to Part A of the Rules

1. Definitions in Rules 2.1 and 2.2

1.1 Dealing

As noted above, it is proposed to introduce a definition of "dealing" into the Rules for the first time. Such a definition is necessary in order to set out the actions which will trigger an obligation to make a disclosure under Rule 8.1, 8.2 or 8.3. The new definition will identify such actions by reference to six specific examples (set out in sub-paragraphs (i) to (vi) of Rule 2.1) and one general provision (set out in sub-paragraph (vii) of Rule 2.1) referring to any other actions which would result in a change in the number of securities in respect of which a person has either a long or a short position.

Rule 2.1(a) will provide that the term ""dealing", in relation to relevant securities, includes the following:

> *"(i) the acquisition or disposal of such securities or of the right (whether absolute or conditional) to exercise or to control the exercise of the voting rights (if any) attaching to such securities;*
>
> *(ii) the taking, granting, acquisition, disposal, entering into, closing out, termination, exercise (by either party) or variation of an option (including a traded option contract) in respect of any such securities;*
>
> *(iii) subscribing or agreeing to subscribe for such securities;*
>
> *(iv) the exercise of conversion or subscription rights conferred by any security or any other instrument, whether in respect of new or existing relevant securities;*
>
> *(v) the acquisition of, disposal of, entering into, closing out, exercise (by either party) of any rights under or variation of, a derivative referenced, directly or indirectly, to such securities;*
>
> *(vi) entering into, terminating or varying the terms of any agreement to purchase or sell such securities; and*
>
> *(vii) any action (not included in any of the above sub-paragraphs) which results or may result, in an increase or decrease in the number of such securities in which a person is interested or in respect of which he or she has a short position;".*

A number of points may be made about this definition.

Firstly, it is broad enough to cover dealings by persons in derivatives (sub-paragraph (v)) or options (sub-paragraph (ii)). For the reasons set out in the Introduction, the Panel is of the view that the disclosure of such dealings are necessary.

Secondly, the definition of dealing includes subscribing or agreeing to subscribe for relevant securities (sub-paragraph (iii)) and entering into an agreement to purchase or sell relevant securities (sub-paragraph (vi)). The Panel believes that the disclosure of this information will be relevant to a proper understanding of a person's dealing activities and, accordingly, should be disclosed.

Thirdly, the borrowing of securities pursuant to a stock borrowing and lending transaction and the purchase of securities pursuant to a sale and repurchase ("repo") transaction involve a transfer of title to the borrower and purchaser respectively. Such a borrowing or purchase thus involves a dealing under paragraph (i) of the definition of "dealing". A new Note 5 on Rule 2.1 confirms this point.

Finally, the definition includes not just interests in relevant securities (i.e. long positions) but also short positions. It is important to note, however, that the disclosure of such short positions will be required (pursuant to Rule 8.3 described below at paragraph 5 in section C) only where a person has an aggregate gross long position of 1% or more in respect of any class of relevant securities of the company in question.

1.2 Derivative

The term "derivative" is currently defined in Rule 2.1(a) as including "any financial product the value of which in whole or in part is determined directly or indirectly by reference to the price of an underlying security but which does not include the possibility of delivery of such underlying securities". This includes only cash-settled derivatives.

In determining how broad a net to cast in terms of the derivative and option instruments to be disclosed, the Panel considered that as a broad principle disclosure should be required of products with a similar economic effect to a CFD in affording their holders a substantial degree of de facto control over the underlying shares. In seeking to define such products, however, the Panel was conscious of the need to strike an appropriate balance between conflicting concerns. On the one hand, the definition should be sufficiently clear and precise to ensure that practitioners, compliance officers and market participants would be aware of their obligations under the Rules. On the other hand, the definition should not be so technical and specific that persons would be encouraged to develop products specifically to circumvent the disclosure requirements. The Panel concluded that the definition should be a broad one including both cash-settled derivatives and physically-settled derivatives. This brings the definition into line with the definition of "interest in a relevant security" in the new Rule 2.7(a) which includes both types of derivatives. Rule 2.7(b)(i)(2) and (3) will capture cash-settled derivatives while physically-settled derivatives will be caught under 2.7(b)(i)(4) and (5).

This broad definition of "derivative" will capture a wide array of products such as CFDs, options, spread bets etc. It will also capture certain products such as derivatives referenced to a basket or index of securities which are not connected with an offer or potential offer. The disclosure of dealings in these products would not be necessary to allow shareholders contextualise the share price of the offeror or offeree. Persons dealing in such derivatives may apply to the Panel for derogations from the relevant disclosure rules. A new Note 6 on Rule 2.1 will be inserted to that effect. It will also indicate that a derivative which is referenced to a basket or index of securities will not normally be considered by the Panel to be connected with an offer if at the time of the dealing the relevant securities in the basket or index represent less than 1% of the class in issue and, in addition, less than 20% of the value of the securities in the basket or index.

1.3 Interest and Interested

A definition of "interest" and "interested" in relation to relevant securities is being introduced for the first time into the Rules. This concept relates primarily to Rules 2.5, 4, 8, 16, 17.1(b), 20.1, 24 and 25.3. Rule 2.1(a) will provide that "interest" and "interested" in relation to relevant securities will have the meaning assigned to them by Rule 2.7 of Part A which is discussed in paragraph 2 below.

1.4 Recognised Intermediary

The Rules will introduce the term "recognised intermediary" which is defined as:

"that part of the trading operations of a bank or other financial institution which has been recognised by the Panel as a recognised intermediary for the purposes of these Rules, has been notified in writing of that fact by the Panel and has not been notified by the Panel of the withdrawal of such recognition."

Such an intermediary benefits from a dispensation from the requirement under Rule 8.3(a) to (d) that a person interested in 1% or more of any class of relevant securities disclose publicly dealings in relevant securities during an offer period. However, it is important to note that this status is relevant only to the extent that the intermediary is acting in a client-serving capacity. A new Note 11(c) on Rule 2.1 will confirm this point. Therefore, dealings by an intermediary which is not acting in a client-serving capacity will not benefit from these dispensations.

As referred to in a new Note 11(a) on Rule 2.1, a financial institution seeking recognition must apply to the Panel to be granted recognised intermediary status. Applicants which have been granted recognised intermediary status by The Panel on Takeovers and Mergers in the UK will normally be granted corresponding status by the Panel. Applicants that satisfy the criteria set out in Note 11(f) on Rule 2.1 may be granted recognised intermediary status. These criteria are similar to those applied by the UK Panel with the exception that the entity must be authorised by the Financial Regulator with permission to deal as principal in Irish equities or in derivatives or options referenced to or in respect of such equities.

A new Note 11(e) on Rule 2.1 will point out that where a recognised intermediary is an exempt market-maker under the Rules, or forms part of such a market-maker, the entity will lose its recognised intermediary status if it loses its exempt market-maker status.

1.5 Relevant Securities

The term "relevant securities" is currently defined in Rule 8.9. It is proposed to replace the existing definition with a definition of the term in Rule 2.1 as follows:

> ""*relevant securities" means, in relation to an offer:*
>
> *(i) securities of the offeree which are the subject of the offer or which confer voting rights;*
>
> *(ii) equity share capital of the offeree or the offeror;*
>
> *(iii) securities of the offeror which confer on their holders substantially the same rights as are conferred by any securities to be issued by the offeror as consideration under the offer; and*
>
> *(iv) securities or any other instruments of the offeree or the offeror conferring on their holders rights to convert into or subscribe for new securities of any of the foregoing categories."*

The first three paragraphs (i) to (iii) are identical to paragraphs (a) to (c) in the current definition in Rule 8.9.

The fourth, paragraph (iv), extends the existing paragraph (d) of the definition which is restricted to "securities" of the offeree or offeror conferring rights to convert into or subscribe for securities in the first three categories of securities. Paragraph (iv) includes "any other instruments" of the offeree or offeror conferring rights to convert into or subscribe for securities in the first three categories of securities. As a new Note 13 on Rule 2.1 indicates, this reference to "other instruments" is intended to capture rights to convert into or to subscribe for new securities of an offeree or an offeror where the

rights are, for example, contained within a bilateral agreement with an offeree or an offeror. An example of such an instrument would be an employee share option plan. Such rights will be deemed to be "relevant securities".

It is also proposed that Note 13 to remind parties that Rule 2.7(e) of Part A provides that a person interested in securities or other instruments falling under paragraph (iv) of the definition of "relevant securities" is deemed to be interested in any new shares arising from the exercise of such rights only when the rights are exercised or the person acquires the new shares. This will be discussed further at paragraph 2.1.8 below.

The present paragraph (e) of the definition of relevant securities in Rule 8.9 which refers to "options (included traded options) in respect of any of the foregoing securities and derivatives referenced to any of the foregoing securities" will be deleted. Derivatives and options (other than options to subscribe for new securities) will no longer comprise "relevant securities". However, they will fall within the definition of "interest in a relevant security" and the relevant actions in relation to such derivatives and options will fall within the definition of "dealing".

It is important to note that the four categories of relevant securities in the proposed definition are not mutually exclusive. For example, ordinary shares in the offeree would fall within both paragraphs (i) and (ii). Furthermore, as a new Note 13 on Rule 2.1 explains, these categories are not synonymous with classes of relevant securities. In determining whether a disclosure obligation exists for the purpose of Rule 8.3, a person's interests are aggregated by class of relevant security. A number of different classes of relevant security may exist within each of the four categories of relevant security. For example, ordinary shares and preference shares in an offeree are separate classes, yet they both fall within paragraph (i) of the definition of relevant securities. Rule 2.7(c) provides that the number of relevant securities of a particular class in which a person is deemed to be interested will be the gross number.

1.6 Regulatory Information Service

A definition of Regulatory Information Service is being inserted into Rule 2.1(a) of Part A of the Rules. The latter will permit parties making announcements under the Rules to use one of a number of Regulatory Information Services specified by the Irish Stock Exchange or by the Panel.

1.7 Associate

The current definition of "associate" in Rule 2.2 includes in paragraph (i) a reference to a person who "owns or controls", alone or in concert with others, 5% or more of any class of relevant securities (as defined in Rule 8.9) of the offeror or offeree. A change is proposed to this definition. The reference will be to a person who is "interested" rather than "owns or controls" the securities. This is consistent with the definitional changes explained above.

2. Rule 2.7

2.1 Interests in Relevant Securities

This is one of the most significant changes proposed. Rule 2.7(a)(i) of Part A provides that a person shall be deemed to have an "interest", or to be "interested" in a relevant security only if he or she has "a long position" in the relevant security. The emphasis is on long positions, because as explained in the Introduction, it is in respect of such positions that the disclosure of de facto control and influence becomes relevant.

2.1.1 Long Position

Rule 2.7(b)(i) describes the circumstances in which a person will be deemed to have a long interest in a relevant security. These are:

"if he or she:
(1) owns that security;

(2) will be economically advantaged if the price of that security increases;

(3) will be economically disadvantaged if the price of that security decreases;

(4) has the right or option to acquire that security or to call for its delivery;

(5) is under an obligation to take delivery of that security; or

(6) has the right to exercise or control the exercise of the voting rights (if any) attaching to that security,

irrespective of:

(A) how any such ownership, advantage, disadvantage, right, option or obligation arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to purchase, option or derivative; and

(B) whether any such ownership, advantage, disadvantage, right, option or obligation is absolute or conditional and, where applicable, whether it is in the money or otherwise;

provided that a person who has received an irrevocable commitment to accept an offer (or to procure that another person accept an offer) shall not, by virtue only of sub-paragraph (4) or (5) above, be treated as having an interest in the relevant securities that are the subject of the irrevocable commitment."

Certain points should be noted. Firstly, a person will be deemed to have a long interest in an out of the money option. While such a person may not be able to exert any influence or control over relevant securities if the counterparty does not hold such securities as a hedge, disclosure of all derivatives and options will be necessary in order to make the disclosure regime as a whole viable. Secondly, the conditional nature of the interest is not relevant for the purpose of the definition. Thus a person who is party to an agreement or arrangement as a result of which they will, or might be expected to, acquire such an interest will be deemed to have an interest. This ensures, for example, that the disclosure rule may not be circumvented by a person artificially decreasing his or her interests to below the threshold before midnight with a right to renew those interests immediately afterwards (ie "bed-and-breakfasting"). Finally, although it is proposed that there will be substantial disclosure (for example, in the Rule 2.5 announcement) of the details of all relevant securities of the offeree in respect of which the offeror or any of its associates has received irrevocable commitments, an irrevocable commitment that relates only to acceptance of an offer or voting in favour of a takeover scheme will normally not in itself constitute an interest in the relevant securities which are the subject of that commitment.

2.1.2 Short Position

Rule 2.7(a)(ii) provides that, where a person has only a short position in a relevant security, he or she will be deemed not to have an "interest" in that security. However, as noted below at paragraph 5 in section C, a person who incurs a disclosure obligation

under Rule 8.1 or 8.3 will be required to disclose any short positions which they hold in respect of the relevant securities of that company.

Rule 2.7(b)(ii) describes the circumstances in which a person will be deemed to have a short position in a relevant security. These are:

"if he or she:

(1) will be economically advantaged if the price of that security decreases;

(2) will be economically disadvantaged if the price of that security increases;

(3) has the right or option to dispose of that security or to put it to another person;

(4) is under an obligation to deliver that security to another person; or

(5) is under an obligation either to permit another person to exercise the voting rights (if any) attaching to that security or to procure that such voting rights are exercised in accordance with the directions of another person,

irrespective of:

(A) how any such advantage, disadvantage, right, option or obligation arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to sell, option or derivative; and

(B) whether any such advantage, disadvantage, right, option or obligation is absolute or conditional and, where applicable, whether it is in the money or otherwise."

2.1.3 Interests of Two or More Persons

Upon the introduction of the proposed new definition of "interest in a relevant security" and the wider disclosure regime, disclosures of interests may refer to relevant securities which add up to in excess of 100% of the class of relevant securities. For example, where a person enters into a long option agreement referenced to relevant securities and the counterparty hedges its position by purchasing an equivalent number of relevant securities, both persons will be treated as interested in relevant securities of that class. This is an unavoidable consequence of the new disclosure regime. A new Note 1 will be added to Rule 2.7 to indicate this point. It will provide:

"As a result of the way in which interests in relevant securities are categorised, two or more persons may be deemed to be interested in the same securities. For example, where a shareholder grants a call option to another person, the shareholder will be interested in the shares the subject of the option as a result of sub-paragraph (1) of the types of interests in relevant securities specified in paragraph (b)(i), and the option holder will be interested in those shares as a result of sub-paragraph (4)."

As noted above at paragraph 1.4, recognised intermediaries acting in a client-serving capacity will benefit from the exemption from disclosure under Rule 8.3. This is likely to reduce the instances of multiple disclosure.

2.1.4 Proxies and Corporate Representatives

Neither a person appointed to act as a proxy to vote at a specified general or class meeting of the company nor a corporate representative authorised to act at a general or

class meeting(s) will be deemed to be interested in the relevant securities provided that person does not himself control, or direct the exercise of the voting rights attached to the relevant securities. Such a person is acting merely as an agent for the ultimate controller of the voting rights. Note 2 on Rule 2.7 will confirm this point.

2.1.5 Security Interests

The taking of security over relevant securities by equitable mortgage by a bank in the normal course of its business is unlikely to be treated as an acquisition of an "interest" in those securities provided the bank is not entitled to appropriate the relevant securities into its own name or to control exercise of the voting rights of those securities. A new Note 3 on Rule 2.7 is being added to this effect.

2.1.6 Gross Interests

The obligation to disclose dealings in relevant securities during an offer period under the amended Rule 8.3(a) will be triggered where a person has an interest in 1% or more of any class of relevant securities of the offeree or the offeror (in the case of a securities exchange offer only). In establishing whether this obligation is triggered, what will be relevant will be a person's gross interest. For example, a person who has a 3% long position and a 3.5% short position in respect of the same class of relevant securities will be required to disclose pursuant to Rule 8.3. Such a person controls 3% of the class of relevant securities even though his or her net economic position in respect of the securities is 0.5% short. Furthermore, if only the net position required disclosure, a person could avoid disclosing long positions by taking out significantly out of the money short positions.

Thus Rule 2.7(c)(i) will provide that the number of relevant securities of any class in which a person shall be deemed to have "an interest" will be the gross number resulting from the aggregation of the number of relevant securities falling within each of sub-paragraphs (1) to (6) of Rule 2.7(b)(i).

In doing this calculation, relevant securities of the class concerned should be counted only once. Thus, where a person's interest in relevant securities of that class falls within more than one of the sub-paragraphs in Rule 2.7(b)(i), that person will be deemed by Rule 2.7(c)(ii) to be interested in the number disclosed by the sub-paragraph which discloses the highest number of such securities.

Rule 2.7(c)(iii) will prohibit a person from netting off offsetting positions in any class of relevant securities unless Panel consent has been obtained. Note 6 on Rule 2.7 will explain that Panel consent will not normally be given unless the offsetting positions are in respect of the same class of relevant security and the same investment product, the terms of the offsetting positions are the same (excepting the number of securities) and the counterparty to those positions is the same in each case. In respect of the latter, the Panel will require the counterparties to be the same as otherwise the influence of the investor with the counterparty to his or her long position would not be diminished by the holding of a short position with another counterparty. Where offsetting is allowed, the investor will not have a disclosure requirement under Rule 8.3 until there is a net long position of 1% or more. The investor's position would be analogous to a purchaser who offsets purchases and sales in determining whether he or she has a physical holding of 1% or more of the relevant class.

Rule 2.7(c) will thus state as follows:

"(i) The number of relevant securities of any class in which a person shall be deemed to have an interest is, subject to sub-paragraphs (ii) and (iii), the gross number resulting

from the aggregation of the number of relevant securities of that class falling within each of sub-paragraphs (1) to (6) of paragraph (b)(i), without deduction of short positions.

(ii) If the interest of a person in relevant securities of any class falls within more than one sub-paragraph of paragraph (b)(i), he or she shall be deemed to be interested in the number of relevant securities of that class disclosed by whichever of those sub-paragraphs discloses the highest number of such securities.

(iii) Offsetting positions in respect of any class of relevant securities may not be netted off against each other except with the consent of the Panel."

2.1.7 Number of Relevant Securities Concerned

The Panel is proposing to introduce a new Rule 2.7(d) addressing certain issues in relation to the number of securities to which an agreement to purchase, option or derivative relates.

Firstly, where the number of securities in which a person is interested is variable, unless the Panel determines otherwise he or she should normally be treated as interested in the maximum possible number of securities concerned.

Secondly, where a person enters into a derivative by reference to the price of a number of securities, but subject to a multiplying factor, unless the Panel determines otherwise that person will be deemed to be interested in the number of relevant securities represented by his gross economic exposure. For example, if a person enters into a derivative referenced to 500 shares but agrees with his counterparty that changes in the price of those shares will be multiplied by a factor of two, the number of shares in which the person will be deemed to be interested is 1,000, since that is the gross number of shares to which he or she has economic exposure.

Thirdly, where a person enters into a derivative that is not referenced to a particular number of relevant securities, unless the Panel determines otherwise that person will be deemed to be interested in the gross number of securities to which he or she has long economic exposure. For example, if a person enters into a spread bet in relation to shares in a company, pursuant to which the counterparty will pay him or her €10 for each cent by which the market price of the shares in that company rises, the number of shares in which that person will be deemed to be interested is 1,000 (i.e. €10 divided by 1 cent).

Rule 2.7(d) will thus state as follows:

"(i) Where a person is interested in relevant securities by virtue of an agreement to purchase, an option or a derivative but the number of those relevant securities is not fixed, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the maximum possible number of those securities.
(ii) Where a person is interested in relevant securities by virtue of a derivative and the value of the derivative is determined by reference to the price of a number of such relevant securities multiplied by a particular factor, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the number of reference securities multiplied by that factor.
(iii) Where a person is interested in relevant securities by virtue of a derivative but the derivative is not referenced to any stated number (or maximum number) of those relevant securities, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the gross number of those securities to changes in the price of which he or she has, or may have, economic exposure."

2.1.8 New Shares

Under paragraph (iv) of the definition of "relevant securities" in Rule 2.1, securities or other instruments of the offeree or the offeror conferring on their holders rights to convert into or to subscribe for new securities of any of the other categories of relevant securities are themselves a separate category of relevant security. However, the entitlement to such convertible securities or rights to subscribe will not, of itself, constitute an "interest" in the new securities. Such an interest will arise only upon conversion or exercise.

Rule 2.7(e) will thus state:

> "*Where a person is interested in securities or other instruments conferring rights to convert into or to subscribe for new shares of a class of relevant securities, he or she shall be deemed not to be interested in any new shares that may be issued upon the exercise of those rights. The acquisition by that person of new shares when they are issued upon the exercise of those conversion or subscription rights shall be deemed to be an acquisition of an interest in the new shares*."

2.1.9 Acquisitions of Interests in Relevant Securities

Because of the changes proposed to the definitions in Rule 2.1, Rule 2.7(f) clarifies the meaning of "acquiring" an interest in relevant securities under the Rules. It will state as follows:

> "*References to a person acquiring an interest in relevant securities shall be construed to include any dealing or other transaction that results in an increase in the number of relevant securities in which that person is deemed to be interested.*"

C. Amendments to Part B of the Rules

1. Rule 2.5 – Announcement of a Firm Intention to Make an Offer

Contents of the Announcement

Rule 2.5(b) sets out the information which must be included in the announcement of a firm intention to make an offer.

At present, sub-paragraph (iii) obliges the offeror to include in the announcement details of certain holdings of securities in the offeree owned or controlled by the offeror or in respect of which the offeror has received an irrevocable commitment or holds an option to acquire. Holdings of securities in the offeree owned or controlled by a concert party of the offeror or holdings in respect of which a concert party of the offeror holds an option to acquire are also included. Sub-paragraphs (iv) and (v) provide that the announcement should include details of any options to subscribe for new securities of the offeree and details of any outstanding derivatives referenced to any securities of the offeree held by the offeror or any concert party of the offeror.

It is proposed that these sub-paragraphs be deleted and replaced with two sub-paragraphs which take account of the proposed new definitions of "relevant security" and "interest in a relevant security". Thus, the proposed new sub-paragraph (iii) will require "details of all relevant securities of the offeree in which the offeror or any person acting in concert with the offeror is interested" to be disclosed in the Rule 2.5 announcement while the proposed new sub-paragraph (iv) will require disclosure of "details of all relevant securities of the offeree" in respect of which the offeror has received an irrevocable commitment or a letter of intent. Irrevocable commitments or letters of intent received by any of the offeror's associates will also require disclosure.

It is proposed that the announcement should set out details of the relevant securities of the offeree in which the offeror and its concert parties are interested or in which they have a short position.

Rule 2.5(b) will thus contain the following two sub-paragraphs.

> *"(iii) details of all relevant securities of the offeree in which the offeror or any person acting in concert with the offeror is interested (directly or indirectly), in each case specifying the nature of the interests in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of each such person in the classes of relevant securities concerned in accordance with the applicable provisions of that rule;*
>
> *(iv) details of all relevant securities of the offeree in respect of which the offeror or any of its associates has received an irrevocable commitment or a letter of intent, including, in the case of an irrevocable commitment, the circumstances, if any, in which it will cease to be binding."*

As a consequence of the replacement of the three sub-paragraphs with two, the current sub-paragraphs (vi) to (xi) will be renumbered as sub-paragraphs (v) to (x) respectively.

At present Rule 2.5(b)(viii) provides that the announcement must include a statement that holders of 1% or more of any class of relevant securities of the offeror or offeree may have disclosure obligations under Rule 8.3. It is proposed that this will be amended to refer to the disclosure obligations of persons "interested (directly or indirectly) in" 1% or more of any class of relevant securities of the offeror or offeree. In keeping with the proposed renumbering, this will be set out in sub-paragraph (vii).

The proviso at the end of Rule 2.5(b) is also being amended to bring it into line with the new concept of "interest in a relevant security".

The proviso in Rule 2.4(b) will therefore be amended as follows:

> *"provided that if, for reasons of secrecy, it would not be considered prudent for an offeror to make enquiries for the purpose of including in such an announcement details of any relevant securities of the offeree in which persons controlling, controlled by or under the same control as one of its advisers are interested or have short positions, the offeror shall obtain the relevant details and report them to the Panel promptly following the announcement. If the Panel considers the interests or short positions concerned to be significant, it may require the offeror to make a further announcement."*

2. Mode of Announcement

The current Rule 2.9 provides that every announcement made pursuant to the Rules should be made to the Stock Exchange and the Panel. It is proposed to amend the Rule so that announcements will now be made to a Regulatory Information Service rather than to the Stock Exchange. As noted above at paragraph 1.6 in section B, a definition of Regulatory Information Service is being inserted into Rule 2.1(a) of Part A of the Rules. This will permit parties making announcements under the Rules to use one of a number of Regulatory Information Services specified by the Irish Stock Exchange or by the Panel.

3. Rule 2.10 – Announcement of Numbers of Relevant Securities in Issue

3.1 Obligation to Announce

In order to comply with the disclosure obligations proposed under Rule 8, persons will need to be aware of the exact number of relevant securities which an offeree or (in the case of a securities exchange offer) an offeror has in issue. Market sources may be inaccurate or out of date. To ensure that accurate and current information is available, the Panel proposes to impose an obligation on the offeree to announce details of all classes of relevant securities issued by the offeree, together with the number of such securities in issue. This announcement should be made by 9.00 a.m. on the business day following the commencement of the offer period. Unless it has stated that its offer is or is likely to be in cash, an offeror will be required to announce the same details relating to its relevant securities by 9.00 a.m. on the business day following any announcement identifying it as an offeror or potential offeror. To ensure that this information is kept up to date, the offeree and (where applicable) the offeror will be obliged to update this information if any subsequent changes occur during the offer period.

The obligation imposed on the offeror and offeree relates only to securities issued by the offeror and offeree respectively. There may of course be other classes of relevant securities such as derivatives or options that are not issued by either company and need not be included in the Rule 2.10 announcement.

Rule 2.10 will thus state as follows:

> *"2.10 ANNOUNCEMENT OF NUMBERS OF RELEVANT SECURITIES IN ISSUE*
>
> *(a) When an offer period commences, the offeree shall announce in accordance with Rule 2.9 as soon as practicable and, in any event, by no later than 9.00 a.m.*

on the next following business day, details of all classes of relevant securities issued by the offeree, together with the number of such securities in issue. An offeror or potential named offeror shall also announce in accordance with Rule 2.9 the same details relating to its relevant securities as soon as practicable and, in any event, by no later than 9.00 a.m. on the business day next following any announcement identifying it as an offeror or potential offeror, unless it has stated that its offer is or is likely to be solely in cash.

(b) If the information included in any announcement made under paragraph (a) changes during the offer period concerned, the offeree or the offeror, as appropriate, shall make a revised announcement as soon as practicable and, in any event, by no later than 9.00 a.m. on the business day next following such change.

(c) Every announcement referred to in this Rule shall include, where applicable, the International Securities Identification Number for each relevant security of the company making that announcement."

3.2 Options to Subscribe

One of the classes of relevant securities to be included in the Rule 2.10 announcement will be rights granted by the offeree to subscribe for new shares which on issue will themselves constitute relevant securities. This class will fall within category (iv) of the proposed new definition of "relevant security". A proposed new Note 1 on Rule 2.10 will indicate that subscription options granted under a company's incentive share option plan will normally be considered by the Panel as belonging to the same class of relevant securities. However, if there is more than one share option plan, the options granted under each plan will normally be regarded as a separate class of relevant securities.

Note 1 to Rule 2.10 will state as follows:

"The classes of relevant securities to be detailed by an offeree in the announcement include, within category (iv) of the definition of relevant securities, rights granted by the offeree to subscribe for new shares which on issue will themselves constitute relevant securities of the offeree. This will apply to subscription options granted under a company's incentive share option plan. The Panel will normally regard options granted under such a plan as belonging to the same class of relevant securities. Where a company has more than one share option plan, the options granted under each plan will normally be regarded as a separate class of relevant securities."

3.3 Treasury Shares

Where shares are redeemed, the company may decide to retain them as treasury shares. By law, the voting rights attaching to these shares are suspended for as long as the shares are in treasury. The Panel believes that these shares may thus be ignored for the purposes of the Rule 2.10 announcement. It is only shares held and in issue outside treasury that are relevant for the purposes of the announcement. A new Note 2 to Rule 2.10 will confirm this.

4. Rule 4 - Restrictions on Dealings in Securities

Four amendments are proposed to Rule 4 stemming from the proposed new concept of "interest in a relevant security" in Rule 2.7 of Part A.

At present, Rule 4.1(d) exempts from the restrictions in Rule 4 any arrangements made by an offeror with a person acting in concert with it whereby relevant securities of the

offeree are acquired during the relevant period by the person acting in concert on the basis that the offeror will bear all the risks and receive all the benefits. The "relevant period" in this context commences when the person first has reason to suppose that an offer, or an approach with a view to an offer, is contemplated and ends upon the earlier of the announcement of an offer or approach or the termination of the discussions. The Rule also requires the Rule 2.5 announcement to set out details of any such arrangements including "dealings in and holdings of relevant securities resulting therefrom". An amendment is proposed to Rule 4.1(d) to apply the Rule to arrangements concerning acquisitions of "interests in relevant securities" rather than merely acquisitions of "relevant securities".

Rule 4.2(a) prohibits an offeror or any party acting in concert with it from selling any relevant securities of the offeree during an offer period except with Panel consent and following a prior announcement of the sales. Following such an announcement, neither the offeror or any such party may acquire any relevant securities of the offeree during the offer period or revise the offer except with Panel consent. An amendment is proposed to Rule 4.2(a) to apply the Rule to "interests in relevant securities" rather than "relevant securities".

Rule 4.2(d) prohibits directors of and financial advisers to an offeror or offeree who own relevant securities of the company concerned from dealing in such securities during the offer period in a manner inconsistent with any advice which they have given to their shareholders save where Panel consent has been obtained. An amendment is proposed to this Rule to apply the restriction to directors or advisers who are "interested in relevant securities".

Rule 4.4 prohibits, without Panel consent, certain associates of the offeree from taking certain actions during the offer period. Rule 4.4(a) provides that the prohibition includes acquiring relevant securities of the offeree or dealing in options in respect of, or derivatives referenced to such securities for their own account or on behalf of discretionary clients. An amendment is proposed to prohibit such persons acquiring any interest in relevant securities for their own account or on behalf of discretionary clients.

5. Rule 8 Disclosures

5.1 Rule 8.1 and 8.2 - Dealings by Parties and by Associates

Rules 8.1(a) and (b) set out the disclosure requirements for an offeror or offeree and their associates dealing for themselves or discretionary clients. It is proposed to amend these Rules to make the disclosure obligations subject to a new Rule 8.9 (dealings not required to be disclosed) which provides that disclosure of dealings in the relevant securities of the offeror is not required in a cash offer. This is discussed further at paragraph 6 below.

By virtue of proposed amendments to Rule 8.6 (details to be included in disclosures), where a person has an obligation to disclose dealings publicly under Rule 8.1, details of all interests in relevant securities will also have to be disclosed together with details of all short positions.

Rule 8.2 set out the disclosure requirements for an offeror or offeree and their associates dealing for non-discretionary clients. As with Rule 8.1, it is proposed to amend this paragraph to make the obligation subject to Rule 8.9.

5.2 Rule 8.3 - Dealings by Persons with Interests in Relevant Securities Representing 1% or More

5.2.1 Disclosure Obligation

Rule 8.3(a) currently requires persons who own or control 1% or more of any class of relevant securities of the offeree or offeror, or as a result of any transaction will own or control 1% or more of any class, to disclose all dealings during an offer period in securities of that company of that class or in options in respect of or in derivatives referenced to securities of that company or class. For the purposes of calculating the 1%, options and derivatives are expressly excluded.

It is proposed, subject to Rule 8.9, to impose under Rule 8.3 a requirement to disclose all dealings in any relevant securities where a person is interested, or will be interested as a result of a transaction, in 1% or more of any class of relevant securities of the offeree or the offeror. This information is required to be disclosured as such dealings may be significant to the outcome of the offer. Short positions are not included in the calculation of this 1% as it is only persons with long positions who are likely to be able to exercise a significant degree of de facto control over the shares to which the derivative is referenced or which are subject of the option. Clearly, the disclosure requirement will continue to apply to persons who own or control 1% or more of any class of relevant securities as they will be deemed to have a long position in the securities pursuant to Rule 2.7(b). It is proposed that, when the 1% threshold has been reached, all dealings in relevant securities should then be disclosed. This will require disclosure of short positions also. The Panel believes that this will provide the market with a better understanding of such persons' dealings in relevant securities.

It is important to note that, in calculating the 1% threshold, persons' interests should be aggregated by class of relevant security. As noted above, the class of relevant security is not necessarily synonymous with the categories of relevant securities set out in the definition of "relevant securities" in Rule 2.1(a) of Part A of the Rules. As set out in Rule 2.7(c) of Part A , the relevant securities of any class in which a person will be deemed to have an interest is, subject to sub-paragraphs (ii) and (iii) of that Rule, the gross number resulting from the aggregation of relevant securities of that class falling within each of sub-paragraphs (1) to (6) of Rule 2.7(b)(i) (which defines a long position) without deducting short positions.

Note 4 on Rule 8.3 provides an example of how the 1% threshold should be calculated. It states:

"By way of example, a person holding 0.5% of the ordinary shares and 0.3% of the convertible bonds of an offeree and who enters into a long contract for differences referenced to 0.4% of the ordinary shares would not have to disclose that dealing as he or she would have a long position in respect of only 0.9% of one class of relevant security, i.e. ordinary shares, and 0.3% of another class of relevant security, i.e. convertible bonds. If that person then enters into a call option over a further 0.5% of the ordinary shares, this would be disclosable as he or she would then have a long position in respect of 1.4% of the ordinary share class at that time. The holding of convertible bonds would then also have to be disclosed in accordance with Rule 8.6 of Part B. A person holding 0.9% of a convertible bond of an offeree and who then acquires 0.5% of another class of convertible bond of that offeree will not have to disclose the dealing as he or she would not have a long position in respect of 1% or more of any one class of relevant security."

As noted above, in calculating a person's gross position to determine whether a disclosure obligation is triggered, short positions should not be deducted. For example, a

person who has a 2% long position and a 2.5% short position in respect of the same class of relevant securities will be required to disclose his position under Rule 8.3.

It is proposed that Rule 8.3(a) state as follows:

> *"(a) Subject to paragraphs (b) to (f) and Rule 8.9, if a person (whether or not an associate of the offeree or the offeror) is interested (directly or indirectly) in 1% or more of any class of relevant securities of the offeror or of the offeree, or as a result of a transaction will be interested (directly or indirectly) in 1% or more of any such class, all dealings during an offer period in any relevant securities of that company by such person (or any other person through whom the interest is derived) shall be publicly disclosed in accordance with Rules 8.4 to 8.6."*

5.2.2 Timing for Determination of the Interest

In general, persons who deal in derivatives and options trade in and out of positions frequently. Particularly during the course of a takeover, developments make occur very quickly and significant and rapid share price changes may encourage trading in derivatives and options referenced to or in respect of the shares of the offeree and offeror. Thus, a person's interest could increase and decrease through the 1% threshold a number of times during the course of a day. In order to avoid unnecessary disclosures and to provide clarity, it is proposed to fix a single point in time by reference to which a person should be required to evaluate his or her interest in the class of relevant securities concerned. The time proposed is midnight each day. As noted in paragraph 5.3 below, it is proposed to require disclosure for Rule 8.3 purposes to be made no later than 3.30pm on the business day following the date of the transaction. Thus persons will have sufficient time to determine their interests and make the appropriate disclosure.

It is proposed that Rule 8.3 (b) state as follows:

" A disclosure of a dealing shall not be required under Rule 8.3 unless the person dealing is interested in 1% or more of any class of relevant securities of the company concerned at midnight on the day of the dealing or was so interested at midnight on the previous business day."

Furthermore, it is proposed that a new Rule 8.6(c) be included providing as follows:

"For the purposes of Rule 8.6, the interests and short positions required to be disclosed are those existing or outstanding at midnight on the date of the dealing concerned."

5.2.3 Concert Parties / Discretionary Managers

The current Rule 8.3(b) provides that if two or more persons act in concert to acquire or control relevant securities, they will be deemed to be a single person for the purposes of the disclosure obligation in Rule 8.3(a). This means that their holdings and their acquisitions will be aggregated for the purposes of calculating the 1% threshold. The current Rule 8.3(c) regulates dealings by discretionary investment managers.

It is proposed to retain these principles but to amend the wording to reflect the new definition of "interest in a relevant security" as follows:

"(c) If two or more persons co-operate on the basis of an agreement, either express or tacit, either oral or written, to acquire for one or more of them an interest in relevant securities, they shall be deemed to be a single person for the purposes of paragraph (a).

(d) If a person manages investment accounts on a discretionary basis, he or she, and not the person on whose behalf the relevant securities concerned (or interests in such securities) are managed, shall be deemed for the purposes of paragraph (a) to be interested in those relevant securities. Except where the Panel consents otherwise, where more than one discretionary investment management operation is conducted within a group consisting of a company, any companies controlled by it and any companies under the same control as it, the interests in relevant securities of all such operations shall be deemed for the purposes of this Rule as those of a single person and shall be aggregated."

5.2.4 Recognised Intermediaries

Currently, Rule 8.3(d) provides an exemption for recognised market-makers from the disclosure requirements under Rule 8.3(a). The rationale for this exemption stems from the view that such an exemption is likely to increase the preparedness of market-makers to take on large orders and, accordingly, that it assists them in the servicing of their clients' needs. The Panel believes that it is appropriate to strike a balance between allowing intermediaries sufficient freedom to service their clients' needs and providing shareholders with adequate information about dealings which may be significant to them.

As noted in paragraph 1.4 above, the Panel proposes, in a new Rule 8.3(e), to allow trading desks which trade as principal for client-serving purposes to apply to the Panel to be granted a new status to be known as "recognised intermediary" status. Such an intermediary will benefit from certain dispensations from the requirements in Rule 8.3(a) to (d) to publicly disclose dealings by the intermediary in relevant securities during an offer period. Recognised intermediary status is relevant only to the extent that the intermediary is acting in a client-serving capacity. In engaging in such activities, financial institutions may sometimes have significant long interests in the shares of relevant companies. The proposed introduction of an exemption from the disclosure requirements referred to above will be consistent with the existing disclosure exemption for recognised market makers (which will no longer apply) and will facilitate such institutions in taking on large orders and, accordingly, in servicing their clients' needs.

It should be noted that client-serving activities refers to dealings undertaken in order to fulfil orders received from clients, to respond to a client's requests to trade or to hedge positions arising out of those activities. A new note 7 will be included in the Notes on Rule 8 as follows:

"*The acquisition of relevant securities by a financial institution for the purposes of hedging its position in relation to a CFD contract which it has written for, and at the request of, a client is regarded as a client-serving activity.*

For the avoidance of doubt, proprietary trading is not regarded as a client-serving activity."

The current Note 4 on Rule 8, which applies to market markers, will be amended so that it also applies to recognised intermediaries. Renumbered as Note 6, it will note that neither the exceptions for recognised intermediaries from disclosure under Rule 8.3 nor the exceptions for recognised market-makers under Rule 8.1 should be used to avoid or delay disclosures where, for example, the dealing is backed by a firm commitment by a person to purchase the relevant securities from the intermediary or market-maker.

Where the recognised intermediary deals in relevant securities other than in a client serving capacity, the exemption will not apply to those dealings and it must disclose all such dealings in accordance with Rule 8.3(a) to (d). However, the exemption will still apply in respect of its client-serving activities and it will not be required to aggregate or

disclose the interests in relevant securities or short positions held in a client-serving capacity.

It is not the case, however, that recognised intermediaries acting in a client-serving capacity will have no disclosure obligations. Where a recognised intermediary acting in a client-serving capacity is, or forms part of, an associate of the offeree or of an offeror (where the offeror's identity has been publicly announced), the recognised intermediary will be required to disclose in accordance with Rule 8.1. Similarly, where a recognised intermediary acting in a client-serving capacity is, or forms part of, an exempt market-maker connected with an offeror or offeree, it will be required to disclose in accordance with Rule 38.5. It is therefore proposed that Rule 8.3(e) will state as follows:

" (i) Paragraphs (a) to (d) shall not apply to a recognised intermediary acting in a client-serving capacity, but if such a recognised intermediary:

(1) is, or forms part of, an associate of the offeree; or

(2) is, or forms part of, an associate of an offeror and the identity of that offeror has been publicly announced,

the recognised intermediary shall disclose in accordance with Rule 8.1 unless it is, or forms part of, an exempt market-maker connected with an offeror or the offeree, in which case it shall disclose in accordance with Rule 38.5.

(ii) If a recognised intermediary deals in relevant securities other than in a client-serving capacity, it shall disclose all such dealings in accordance with Rule 8.3(a) to (d), provided that in making such disclosure the relevant intermediary need not aggregate or disclose details of any interests in relevant securities or of short positions which in either case it holds in a client-serving capacity."

As referred to at paragraph 1.4 in section B above, a detailed Note 11 is being added to the Notes on Rule 2.1 of Part A of the Rules which includes a statement of the matters with which the Panel will need to be satisfied prior to granting recognised intermediary status to a trading desk.

5.2.5 Duplication

It is possible that a dealing could give rise to a duty to disclose publicly under Rule 8.3 as well as Rule 8.1. To avoid duplication it is proposed adding a sub-paragraph to Rule 8.3 indicating that in such a case, disclosure under Rule 8.1 will be satisfactory.

The proposed Rule 8.3(f) will state as follows:

"A person who, but for this paragraph, would be obliged to disclose a dealing under either Rule 8.1(a) or 8.1(b)(i) and also Rule 8.3 shall cease to be obliged to disclose it under Rule 8.3 if he or she duly discloses it under Rule 8.1(a) or (as applicable) 8.1(b)(i)."

5.3 Rule 8.4 - Timing of Disclosure

Rule 8.4 currently requires disclosure by 12 noon on the business day following the date of the transaction. It is proposed to retain the same deadline for disclosure pursuant to Rules 8.1 and 8.2. However, in view of the more complicated computations that may be required in respect of derivative and option products, it is proposed to allow a slightly

longer period of time for disclosure pursuant to Rule 8.3. Thus the period for making disclosures pursuant to Rule 8.3 will be extended to 3.30 p.m. on the business day following the date of the transaction. The new Rule 8.4 will thus state:

"(a) Both public and private disclosure required by Rules 8.1 and 8.2 shall be made no later than 12.00 noon on the business day following the date of the transaction.

(b) Public disclosure required by Rule 8.3 shall be made no later than 3.30 p.m. on the business day following the date of the transaction."

5.4 Method of Disclosure

As referred to in paragraph 2 above, the Panel is introducing a definition of "Regulatory Information Service" and Rule 2.9 is being amended to require announcements made under the Rules to be made to a Regulatory Information Service and the Panel. Rule 8.5(a) is being amended to reflect these changes i.e. the reference to "to the Stock Exchange and the Panel" is being replaced with "in accordance with Rule 2.9".

5.5 Rule 8.6 - Details to be Included in Disclosures

5.5.1 Basic Informational Requirements

Rule 8.6(a) sets out the informational requirements for public disclosures. A number of detailed changes are being proposed to the Rule consistent with the new broader disclosure regime being implemented.

The Panel believes that when dealing in derivatives and options is required to be disclosed pursuant to Rule 8, all information material to the transaction should be disclosed. In the case of agreements to purchase or sell, options or derivatives, it is essential that full details are provided so that the nature of the interest position or dealing can be understood. This will allow the market make an informed assessment of the extent to which the person dealing may be able to control securities in the company.

Disclosure will be required of the details of all relevant securities of the offeree or offeror in which the person disclosing has an interest and details of all short positions of that person in the classes of relevant securities concerned. The percentage(s) of the class(es) of relevant securities which each of these interests represent must also be disclosed. This percentage will be based on the numbers of relevant securities disclosed by the offeree or offeror (where relevant) in their announcements made pursuant to Rule 2.10.

It is proposed to replace the existing Rule 8.6 (a) with the following:

"(i) Public disclosures under Rules 8.1(a) and 8.1(b)(i) shall follow the format of the specimen disclosure form (Form 8.1(a)&(b)(i)) as set out in Appendix 3. Public disclosures under Rule 8.3 shall follow the format of the specimen disclosure form (Form 8.3) as set out in Appendix 3.

(ii) A public disclosure of dealings shall include the following information:

> *(1) the total of the relevant securities concerned of an offeror or of the offeree in which the dealing took place;*

(2) the prices paid or received (in the case of an average price bargain, each underlying trade shall be disclosed);

(3) the identity of the person dealing and, if different, the person owning or controlling the interest;

(4) if the dealing is by an associate, an explanation of how that status arises (stating all of the reasons, if there are more than one);

(5) details of all relevant securities of the offeree or an offeror, as the case may be, in which the person disclosing has an interest, in each case specifying the nature of the interests concerned. Similar details of all short positions (whether conditional or absolute and whether in the money or otherwise) of that person in the classes of relevant securities concerned, including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, shall also be disclosed;

(6) the percentage or percentages of the class or classes of relevant securities concerned which each of the interests disclosed pursuant to sub-paragraph (5) above represents;

(7) if relevant, details in accordance with Rule 8.7 of any arrangements to which that Rule applies; and

(8) if the disclosure is made under Rule 8.3, a statement to that effect.

(iii) Where an offeror or any person acting in concert with it acquires any interest in relevant securities of the offeree on a specially cum or specially ex dividend basis, details of that fact shall also be disclosed.

(iv) Percentages shall be calculated by reference to the numbers of relevant securities disclosed by the offeree concerned or (where applicable) by the offeror concerned, as appropriate, in its latest announcement pursuant to Rule 2.10.

(v) In the case of agreements to purchase or sell, options or derivatives, full details shall be given so that the nature of the interest, position or dealing can be fully understood. For options, this shall include a description of the options concerned, the number of securities under option, the exercise period (or, in the case of exercise, the exercise date), the exercise price and any money paid or received. For derivatives, this shall include, at least, a description of the derivatives concerned, the number of reference securities to which they relate (when relevant), the maturity date (or, if applicable, the closing out date) and the reference price (and any fee payable on entering into the derivative).

(vi) In addition, if there exists any agreement, arrangement or understanding, formal or informal, between the person dealing and any other person relating to the voting rights conferred by any relevant securities under option or relating to the voting rights conferred by, or future acquisition or disposal of, any relevant securities to which a derivative is referenced, as the case may be, full details of such agreement, arrangement or understanding, identifying the relevant securities concerned, shall be included in the disclosure. If there is no such agreement, arrangement or understanding, that fact shall be stated. Where such an agreement, arrangement or

understanding is entered into at a later date than the derivative or option to which it relates, it shall be deemed to be a dealing in relevant securities.

(vii) For the purposes of the disclosure of dealings, a futures contract or covered warrant for which exercise includes the possibility of delivery of the underlying securities shall be treated as an option. A futures contract or covered warrant that does not include the possibility of delivery of the underlying securities shall be treated as a derivative.

(viii) If, following a public disclosure made under Rule 8, interests in relevant securities are transferred into or out of a person's management in a manner that does not constitute a dealing, a reference to the transfer shall be included in the next public disclosure made by that person under Rule 8.

(ix) A disclosure by an exempt fund manager shall specify the name of the offeror or the offeree with which it is connected and the nature of the connection."

Some minor amendments are being made to the existing Rule 8.6(b), which addresses certain matters relating to private disclosures, to reflect the fact that there will now be a specific disclosure form for private disclosures by exempt fund managers under Rule 8.1(b)(ii).

The current Rule 8 disclosure forms will be replaced with 5 new forms as follows:

(i) Rule 8.1(a) and (b)(i) – dealings by offerors, offerees or their associates for themselves or for discretionary clients;

(ii) Rule 8.1(b)(ii) – dealings by connected exempt fund managers;

(iii) Rule 8.2 - dealings by offerors, offerees or their associates for non-discretionary clients;

(iv) Rule 8.3 – dealings by persons with interests in relevant securities representing 1% or more.

(v) A supplemental form Rule 8 which will be used for the purpose of giving more detailed information in certain instances.

Copies of the proposed new forms are set out in the schedule to the proposed new Rules set out in Annexe 1.

Where an investor enters into a CFD, he or she may also enter into a side agreement entitling his or her to exercise the voting rights attaching to the securities held by the counterparty as a hedge. The agreement may also allow the investor to acquire those securities at a future date. Furthermore, where a person enters into an option to acquire existing securities, the voting rights attaching to the securities which are the subject of the option are normally retained by the holder of the securities until such time as the option is exercised. On occasion however the option agreement itself or a side agreement, arrangement or understanding may provide for the voting rights to be exercised by, or at the direction of, the party who has the benefit of the option. In both of the cases referred to above, Rule 8.6(a)(vi) will require full details of the agreements, arrangements or understandings to be included in the relevant Rule 8 disclosure so that the nature of the person's interest in the securities concerned can be properly understood. If the agreement, arrangement or understanding is not entered into at the time of the Rule 8 disclosure but is entered into at a later date than the derivative or

option to which it relates, it will be deemed to be a dealing at that time and disclosable accordingly.

The number of relevant securities in funds managed by a manager may vary from time to time purely as a result of the actions of their investment clients. For example, an investment client may transfer some or all of its funds from one manager's control in order to allow them be managed by a different fund manager. This could potentially lead to a change in the number of relevant securities managed by the fund manager who is subject to a disclosure obligation pursuant to Rule 8. In such circumstances, the Panel believes that that there is no need for such changes to be disclosed. However, Rule 8.6(a)(viii) provides that where a fund manager has already made a public Rule 8 disclosure, a reference to the transfer should be made in its next disclosure under Rule 8. That subsequent disclosure might state, for example:

> *"The variation between the resultant holding stated above and that included in our last relevant public Rule 8 disclosure which is not accounted for by the sales or purchases detailed above arises out of a transfer into or out of our funds under management."*

However, the subsequent disclosure would not need to provide full details of the change.

5.5.2 Separate but Related Dealings

It is proposed to add a new note to the Notes on Rule 8 clarifying the informational requirements where separate but related dealings are executed in a short period of time. This would arise, for example, where an investor enters into a long CFD referenced to the securities of a company with a counterparty which is subject to the disclosure requirements of Rules 8.1(a), 8.1(b)(i) or 8.3 (for example, because it is an associate of an offeror or the offeree company or because it is interested in 1% or more of the company's relevant securities). If the counterparty acquires the securities to which the CFD is referenced, two separate dealings will have been executed by the counterparty for the purposes of Rule 8. The first will be the entry into the CFD and the second will be the acquisition of the company's securities. The new Note will emphasise that details of both of these dealings must be included in the Rule 8 disclosure made in order to allow the market to understand properly the nature of the dealings.

Note 11 on Rule 8 will state as follows:

"For the avoidance of doubt, when a person transacts two or more separate but related dealings executed at or around the same time (for example, the entering into of a derivative referenced to relevant securities and the acquisition of such securities for the purposes of hedging), the disclosure must include the required information in relation to each such dealing so executed."

5.5.3 Disclosure under Other Legislation

It is proposed to update (and renumber) Note 10 on Rule 8 which refers to the possible relevance of disclosure obligations under other legislation. This Note will be updated in order to include reference to Part V of the Transparency (Directive 2004/109/EC) Regulations 2007.

6. Rule 8.9 - Dealings not Required to be Disclosed

Rule 8.3(a) currently excludes from the Rule 8.3 disclosure requirement dealings in relevant securities of the offeror in the case of an offer which is not a securities exchange offer. It is proposed to retain this exemption but to apply it more widely to an

offer or possible offer which is, or is likely to be, wholly in cash. It is also proposed to extend this exemption to Rule 8.1 and Rule 8.2 disclosure requirements.

In all such cases, the Panel believes that the nature of the consideration makes it unnecessary for the market to be informed of dealings in relevant securities of the offeror as they are not relevant to the takeover.

Rule 8.9 will thus state:

> *"Where an offeror has announced that an offer or possible offer is, or is likely to be, wholly in cash, Rules 8.1, 8.2 and 8.3 shall not require the disclosure of dealings in relevant securities of the offeror."*

7. Rule 9 – Mandatory Offer

A new note is proposed to Rule 9.1 clarifying the existing position under the Rules in relation to securities borrowing and lending transactions or repo transactions. If such a transaction entitles the borrower or purchaser to exercise or control the exercise of the voting rights conferred by the relevant securities the subject of the transaction, he or she will be deemed to have acquired voting securities for the purpose of Rule 9.1. Thus, where through these transactions the borrower or purchaser acquires or consolidates "control", as defined in the Act, a mandatory bid obligation will be incurred.

8. Rule 16 – Special Arrangements with Favourable Terms

Rule 16 prohibits the offeror or concert parties from making arrangements with shareholders or intending shareholders which involve "a dealing in, or acceptance of an offer for, or otherwise relates to, shares in the offeree" if it involves favourable terms which are not being made available to all shareholders. This Rule ensures equality of treatment of all shareholders in the offeree by preventing the offeror from reaching special arrangements with influential shareholders.

As persons with long derivative and option positions referenced to or in respect of relevant securities may be equally likely to influence the outcome of an offer, it is conceivable that the offeror may seek to reach special arrangements with such persons. The Panel believes that Rule 16 should be extended to apply to such persons.

It is thus proposed to add the following sentence to Rule 16:

"Nor may an offeror or any person acting in concert with it make any such arrangement with any person who, whilst not a shareholder or intending shareholder of the offeree, is interested in relevant securities of the offeree if there would be attached to such arrangement a term favourable to such person which is not being extended under the offer to all shareholders of the offeree."

In addition, a number of changes will be made to the Notes on Rule 16 to reflect this change.

9. Rule 17.1 – Announcement of Acceptance Levels

Rule 17 deals with the announcement of acceptance levels. Rule 17.1(a) requires an announcement to be made on the business day following the day on which an offer is due to expire, or becomes unconditional as to acceptances, or is revised or extended. It also requires that the announcement include the total numbers of securities for which acceptances have been received, securities of the offeree held before the offer period and securities of the offeree acquired or agreed to be acquired during the offer period.

It is proposed to add a new paragraph setting out further details which should be included in the announcement. This will take into account the proposed changes in Part A of the Rules and the proposed new disclosure regime. The details to be included are details of all relevant securities in the offeree in which the offeror or any person acting in concert with it is interested (directly or indirectly) and details of all short positions of each such person.

The disclosure format should adhere to the applicable provisions of Rule 8.6(a) described above at paragraph 5.4.1. The announcement should also state the percentage(s) of the class(es) of relevant securities which each of those interests represents.

10. Rules 24 and 25 - Offeror Documents and Offeree Documents

Rules 24.3 and 25.3 currently set out the holdings and dealings that must be disclosed in the offer document and the offeree board circular respectively. A number of changes are being made to reflect the proposed changes in Part A of the Rules. It is also proposed that the details of the interests and the short positions which should be disclosed in these documents should be the same as those specified in the new Rule 8.6(a).

The proposed new Rule 24.3 will state as follows:

"(a) The offer document shall state:

(i) details of all relevant securities of the offeree in which the offeror is interested (directly or indirectly), in each case specifying the nature of the interests concerned in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of the offeror in the classes of relevant securities concerned in accordance with the applicable provisions of that Rule;

(ii) the same details as in (i) above in relation to each of:

(1) the directors of the offeror;

(2) any other person acting in concert with the offeror;

(3) any person who, prior to the despatch of the offer document, has provided the offeror or any of its associates with an irrevocable commitment or letter of intent, together with the names of such persons and details of any such commitments or letters;

(4) any person with whom the offeror, or any person acting in concert with the offeror, has any arrangement to which Rule 8.7 applies;

(iii)in the case of a securities exchange offer, the same details as in sub-paragraph (i) in respect of any relevant securities of the offeror in relation to each of the persons listed in sub-paragraph (ii);

(iv)in the case of a securities exchange offer, the amount of relevant securities of the offeror which the offeror has redeemed or purchased during the period beginning 12 months prior to the commencement of the offer period and ending on the latest practicable date prior to the despatch of the offer document, together with details of each such redemption and purchase, including dates and prices.

(b) If in the case of any of the persons referred to in paragraph (a)(i), (ii) or (where applicable) (iii) there are no interests in relevant securities or short positions to be disclosed, that fact shall be stated in the offer document. This shall not apply in the case of paragraph (a)(ii)(4) if no arrangements of the kind referred to in that sub-paragraph exist.

(c) If any person referred to in Rule 24.3(a)(i) to (iii) has dealt in any of the relevant securities of the offeree (or, in the case of a securities exchange offer only, of the offeror) during the period beginning 12 months prior to the commencement of the offer period and ending with the latest practicable date prior to the despatch of the offer document, the details, including numbers of securities, dates and prices of such dealings shall be stated in the offer document in accordance with the applicable provisions of Rule 8.6(a). If no such dealings have taken place, that fact shall be stated.

(d) References to irrevocable commitments shall include the circumstances, if any, in which they will cease to be binding.

(e) In the case of a director of the offeror, the disclosure shall include all interests and short positions of any other person whose interests in the shares of the offeror would be treated as interests of that director under Chapter 1 of Part IV of the Companies Act, 1990."

Notes 1 (Aggregation) and 2 (Discretionary Clients) on Rule 24.3 will be replaced to reflect the changes in terminology in Part A.

Similarly, the proposed new 25.3 will state as follows:

"(a) The first response circular (whether recommending acceptance or rejection of the offer) shall state:

(i) details of all relevant securities of the offeror in which the offeree or any of the directors of the offeree is interested (directly or indirectly), in each case specifying the nature of the interests concerned in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of the person concerned in the classes of relevant securities concerned in accordance with the applicable provisions of that Rule;

(ii) the same details as in sub-paragraph (i) above, in respect of relevant securities of the offeree, in relation to each of:

(1) the directors of the offeree;

(2) any company which is an associate of the offeree by virtue of any of paragraphs (a), (b) and (c) of the definition of "associate";

(3) the trustees of any pension scheme (other than an industry-wide scheme) in which the offeree or any subsidiary of the offeree participates;

(4) any associate of the offeree as specified in paragraph (d) or (e) of the definition of "associate" but excluding exempt market-makers;

(5) any person who, prior to the despatch of the first response circular, has provided the offeree or any of its associates with an irrevocable commitment or letter of intent, together with the names of such persons and details of any such commitment or letters, including, in the case of a commitment, the circumstances, if any, in which it will cease to be binding;

(6) any fund manager (other than an exempt fund manager) connected with the offeree; and

(7) any person who has an arrangement to which Rule 8.7 applies with the offeree or with any person who is an associate of the offeree by virtue of any of paragraphs (a) to (g) of the definition of "associate";

(iii) in the case of a securities exchange offer, the same details as in sub-paragraph (i) above in respect of any relevant securities of the offeror in relation to each of the persons listed in sub-paragraph (ii)(2) to (7);

(iv) the amount of relevant securities of the offeree which the offeree has redeemed or purchased during the period beginning 12 months prior to the commencement of the offer period and ending on the latest practicable date prior to the despatch of the circular, together with details of any such redemption or purchase, including dates and prices; and

(v) whether the directors of the offeree intend, in respect of their own beneficial holdings of securities, to accept or reject the offer.

(b) *If in the case of any of the persons referred to in paragraph (a)(i) or (ii) there are no interests in relevant securities or short positions to be disclosed, that fact shall be stated in the circular. This shall not apply in the case of paragraph (a)(ii)(7) if no arrangements of the kind referred to in that paragraph exist.*

(c) *(i) If any person referred to in paragraph (a)(i) has dealt in any relevant securities of the offeree or the offeror during the period beginning 12 months prior to the commencement of the offer period and ending with the latest practicable date prior to the despatch of the circular, the details, including numbers of securities, dates and prices, shall be stated in the circular in accordance with the applicable provisions of Rule 8.6(a).*

(ii) If any person referred to in paragraph (a)(ii)(2) to (7) has dealt in any relevant securities of the offeree or (in the case of a securities exchange offer only) of the offeror during the period beginning with the commencement of the offer period and ending with the latest practicable date prior to the despatch of the circular, similar details shall be stated in the circular.

(iii) In all cases, if no such dealings have taken place, that fact shall be stated in the circular.

(d) *If, as part of the arrangements leading to an offer being made, some or all of the directors of the offeree resign, Rule 25.3 shall apply to them, and their interests in relevant securities and dealings shall be disclosed in the circular as if they had remained directors.*

(e) *In the case of a director of the offeree, the disclosure shall include all interests and short positions of any other person whose interests in the shares of the offeree would be treated as interests of that director under Chapter 1 of Part IV of the Companies Act, 1990.".*

11. Rule 38.5 – Disclosure of Dealings by Connected Exempt Market-Makers

Rule 38.5 provides for the disclosure of dealings in relevant securities by an exempt market-maker connected with an offeror or the offeree. The Rule is being amended to provide that where the offeror has announced that the offer or possible offer is, or is likely to be, wholly in cash, dealings in relevant securities of the offeror by such an exempt market-maker will not require disclosure. This will be consistent with the treatment of dealings in the relevant securities of the offeror under Rule 8.

A Rule 38.5 disclosure form is being introduced and will set out the specific details which are required to be disclosed (a copy of the specimen form is set out in the schedule to the proposed new Rules in Annexe 1). Consequently, it is unnecessary to refer in the Rule to the details to be disclosed and these are therefore being deleted from the Rule.

It is therefore proposed that Rule 38.5 will state as follows:

> *"Dealings in relevant securities by an exempt market-maker connected with an offeror or the offeree shall be aggregated and disclosed publicly by the market-maker in accordance with Rules 8.4(a) and 8.5(a), provided that where an offeror has announced that an offer or possible offer is, or is likely to be, wholly in cash, this Rule shall not require the disclosure of dealings in relevant securities of the offeror.*
>
> *Such disclosure shall follow the format of the specimen disclosure form (Form 38.5), as set out in Appendix 3.*
>
> In the case of dealings in options or derivatives, full details shall be given so that the nature of the dealings can be fully understood."

12. Miscellaneous

In addition to the Rule changes proposed above, it is proposed that the following Rules be changed to reflect the proposed amendments in Part A of the Rules and the proposed new disclosure regime: Rule 20.1 (Equality of Information to Shareholders), Rule 24.5 (Special Arrangements), Rule 24.8 (Ultimate Owner of Securities Acquired), Rule 26(b)(ix) (Documents to be on Display) and 27.1(b) (Material changes).

Rules 17.1(a), 17.3, 19.7(a) and (d), 41.3(d) and the replacement Rule 17 in Appendix 4 are also being amended to reflect the amendments to Rule 2.9 which will now require announcements under the Rules to be made to a Regulatory Information Service rather than the Stock Exchange.

ANNEXE 1

IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER (AMENDMENT) [(No. 2)] RULES, 200[8]

(as proposed)

1. CITATION, CONSTRUCTION AND COMMENCEMENT

1.1 These Rules may be cited as the Irish Takeover Panel Act, 1997, Takeover (Amendment) [(No. 2)] Rules, 200[8].

1.2 These Rules and the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 and 200[8], shall be construed together as one and may be cited together as the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 to 200[8].

1.3 These Rules shall come into operation on 200[8].

1.4 These Rules shall not apply to any transaction which is in being on the date on which these Rules come into operation.

2. INTERPRETATION

(a) In these Rules, the "**2007 Rules**" means the Irish Takeover Panel Act, 1997, Takeover Rules, 2007, as amended by the Irish Takeover Panel Act, 1997, Takeover (Amendment) Rules, 200[8].

(b) Unless the context otherwise requires, a reference in these Rules to a rule or an appendix shall be construed as a reference to a rule of, or (as the case may be) an appendix to the rules contained in, Part B of the 2007 Rules.

3. AMENDMENT OF PART A OF THE 2007 RULES

3.1 Rule 2.1 of Part A of the 2007 Rules is hereby amended in paragraph (a) by:

(a) the insertion of the following definition after the definition of "CREST operator":

""**dealing**", in relation to relevant securities, includes the following:

(i) the acquisition or disposal of such securities or of the right (whether absolute or conditional) to exercise or to control the exercise of the voting rights (if any) attaching to such securities;

(ii) the taking, granting, acquisition, disposal, entering into, closing out, termination, exercise (by either party) or variation of an option (including a traded option contract) in respect of any such securities;

(iii) subscribing or agreeing to subscribe for such securities;

(iv) the exercise of conversion or subscription rights conferred by any security or any other instrument, whether in respect of new or existing relevant securities;

(v) the acquisition of, disposal of, entering into, closing out, exercise (by either party) of any rights under or variation of, a derivative referenced, directly or indirectly, to such securities;

(vi) entering into, terminating or varying the terms of any agreement to purchase or sell such securities; and

(vii) any action (not included in any of the above sub-paragraphs) which results or may result in an increase or decrease in the number of such securities in which a person is interested or in respect of which he or she has a short position;";

(b) the substitution of "**derivative**" for "derivatives" in the definition of the latter expression and by the deletion from that definition of the words "but which does not include the possibility of delivery of such underlying securities";

(c) the insertion of the following definition after the definition of "holding company":

""**interest**" and "**interested**", in relation to relevant securities, have the meaning assigned to them by Rule 2.4;";

(d) the insertion of the following definition after the definition of "receiving agent's certificate":

""**recognised intermediary**" means that part of the trading operations of a bank or other financial institution which has been recognised by the Panel as a recognised intermediary for the purposes of these Rules, has been notified in writing of that fact by the Panel and has not been notified by the Panel of the withdrawal of such recognition;";

(e) the insertion of the following definition after the definition of "Regulations";

"**Regulatory Information Service**" means any regulatory information service specified for the time being as a "Regulatory Information Service" or "RIS" in the Listing Rules published by the Irish Stock Exchange or any such other regulatory information service as may be specified for the time being, either in substitution or by way of addition, by the Panel for the purposes of these Rules;"; and

(f) the substitution for the definition of "relevant securities" and "relevant security" of the following new definition:

""**relevant securities**" means, in relation to an offer:

(i) securities of the offeree which are the subject of the offer or which confer voting rights;

(ii) equity share capital of the offeree or the offeror;

(iii) securities of the offeror which confer on their holders substantially the same rights as are conferred by any securities to be issued by the offeror as consideration under the offer; and

(iv) securities or any other instruments of the offeree or the offeror conferring on their holders rights to convert into or to subscribe for new securities of any of the foregoing categories;

and "**relevant security**" shall be construed accordingly; and references to relevant securities of an offeror shall include references to securities of any holding company of that offeror and to options (including traded options) in

respect of, and derivatives referenced to, any securities of any such holding company;".

3.2 Rule 2.2 of Part A of the 2007 Rules is hereby amended by:

(a) the substitution of the following new paragraph for paragraph (i):

"(i) is interested, or together with one or more other persons acting in concert with him or her is interested, directly or indirectly, in 5% or more of any class of relevant securities of the offeror or the offeree;" and

(b) the substitution of the following new paragraph for paragraph (l):

"(l) (not falling within paragraphs (a) to (k)) directly or indirectly is interested or deals in relevant securities of an offeror or the offeree and has, in addition to his or her normal interest as an investor in securities, an interest or potential interest, whether commercial, financial or personal, in the outcome of the offer or possible offer concerned.".

3.3 Rule 2 of Part A of the 2007 Rules is hereby amended by the insertion after Rule 2.6 of the following new Rule 2.7:

"**2.7 INTERESTS IN RELEVANT SECURITIES**

(a) ***Meaning of interest in a relevant security***

In these Rules, for the purpose of determining whether a person has an "**interest in a relevant security**" or is "**interested in a relevant security**":

(i) that person shall be deemed to have an "interest", or to be "interested", in such a security if and only if he or she has a long position in that security; and

(ii) a person who has only a short position in a relevant security shall be deemed not to have an interest, nor to be interested, in that security.

(b) ***Long position and short position***

(i) A person shall be deemed to have a long position in a relevant security for the purposes of paragraph (a) if he or she:

(1) owns that security;

(2) will be economically advantaged if the price of that security increases;

(3) will be economically disadvantaged if the price of that security decreases;

(4) has the right or option to acquire that security or to call for its delivery;

(5) is under an obligation to take delivery of that security; or

(6) has the right to exercise or control the exercise of the voting rights (if any) attaching to that security,

irrespective of:

(A) how any such ownership, advantage, disadvantage, right, option or obligation arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to purchase, option or derivative; and

(B) whether any such ownership, advantage, disadvantage, right, option or obligation is absolute or conditional and, where applicable, whether it is in the money or otherwise;

provided that a person who has received an irrevocable commitment to accept an offer (or to procure that another person accept an offer) shall not, by virtue only of sub-paragraph (4) or (5) above, be treated as having an interest in the relevant securities that are the subject of the irrevocable commitment.

(ii) A person shall be deemed to have a short position in a relevant security for the purposes of paragraph (a) if he or she:

(1) will be economically advantaged if the price of that security decreases;

(2) will be economically disadvantaged if the price of that security increases;

(3) has the right or option to dispose of that security or to put it to another person;

(4) is under an obligation to deliver that security to another person; or

(5) is under an obligation either to permit another person to exercise the voting rights (if any) attaching to that security or to procure that such voting rights are exercised in accordance with the directions of another person,

irrespective of:

(A) how any such advantage, disadvantage, right, option or obligation arises and including, for the avoidance of doubt and without limitation, where it arises by virtue of an agreement to sell, option or derivative; and

(B) whether any such advantage, disadvantage, right, option or obligation is absolute or conditional and, where applicable, whether it is in the money or otherwise.

(c) ***Gross interests***

(i) The number of relevant securities of any class in which a person shall be deemed to have an interest is, subject to sub-paragraphs (ii) and (iii), the gross number resulting from the aggregation of the number of relevant securities of that class falling within each of sub-paragraphs (1) to (6) of paragraph (b)(i), without deduction of short positions.

(ii) If the interest of a person in relevant securities of any class falls within more than one sub-paragraph of paragraph (b)(i), he or she shall be deemed to be interested in the number of relevant securities of that class disclosed by whichever of those sub-paragraphs discloses the highest number of such securities.

(iii) Offsetting positions in respect of any class of relevant securities may not be netted off against each other except with the consent of the Panel.

(d) ***Number of relevant securities concerned***

(i) Where a person is interested in relevant securities by virtue of an agreement to purchase, an option or a derivative but the number of those relevant securities is not fixed, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the maximum possible number of those securities.

(ii) Where a person is interested in relevant securities by virtue of a derivative and the value of the derivative is determined by reference to the price of a number of such relevant securities multiplied by a particular factor, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the number of reference securities multiplied by that factor.

(iii) Where a person is interested in relevant securities by virtue of a derivative but the derivative is not referenced to any stated number (or maximum number) of those relevant securities, unless the Panel determines otherwise in any particular case he or she shall be deemed to be interested in the gross number of those securities to changes in the price of which he or she has, or may have, economic exposure.

(e) ***New shares***

Where a person is interested in securities or other instruments conferring rights to convert into or to subscribe for new shares of a class of relevant securities, he or she shall be deemed not to be interested in any new shares that may be issued upon the exercise of those rights. The acquisition by that person of new shares when they are issued upon the exercise of those conversion or subscription rights shall be deemed to be an acquisition of an interest in the new shares.

(f) ***Acquisitions of interests in relevant securities***

References to a person acquiring an interest in relevant securities shall be construed to include any dealing or other transaction that results in an increase in the number of relevant securities in which that person is deemed to be interested.".

4. AMENDMENT OF PART B OF THE 2007 RULES

4.1 Rule 2.4 is hereby amended by the substitution of "a person interested (directly or indirectly) in" for "a holder of".

4.2 Rule 2.5 is hereby amended in paragraph (b) by:

(a) the substitution of the following sub-paragraphs for sub-paragraphs (iii) to (v) (inclusive):

"(iii) details of all relevant securities of the offeree in which the offeror or any person acting in concert with the offeror is interested (directly or indirectly), in each case specifying the nature of the interests in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of each such person in the classes of relevant securities concerned in accordance with the applicable provisions of that rule;

(iv) details of all relevant securities of the offeree in respect of which the offeror or any of its associates has received an irrevocable commitment or a letter of intent, including, in the case of an irrevocable commitment, the circumstances, if any, in which it will cease to be binding;";

and by the renumbering of sub-paragraphs (vi) to (xi) as sub-paragraphs (v) to (x) respectively;

(b) the substitution in sub-paragraph (vii) (as so renumbered) of the words "a statement that a person interested (directly or indirectly) in" for "a statement that holders of"; and

(c) the substitution of the following new proviso for the proviso at the end of paragraph (b):

"provided that if, for reasons of secrecy, it would not be considered prudent for an offeror to make enquiries for the purpose of including in such an announcement details of any relevant securities of the offeree in which persons controlling, controlled by or under the same control as one of its advisers are interested or have short positions, the offeror shall obtain the relevant details and report them to the Panel promptly following the announcement. If the Panel considers the interests or short positions concerned to be significant, it may require the offeror to make a further announcement.".

4.3 Rule 2.9 is hereby amended by the substitution of "to a Regulatory Information Service" for "to the Stock Exchange" and the substitution of "by the Regulatory Information Service concerned" for "by the Stock Exchange" and by the deletion of ",if available,".

4.4 Rule 2 is hereby amended by the insertion after Rule 2.9 of the following new Rule 2.10, by the renumbering of existing Rule 2.10 as Rule 2.11 and by the substitution of "Rule 2.11" for "Rule 2.10" in the two places in which those words appear in existing Rule 2.10:

"**2.10 ANNOUNCEMENT OF NUMBERS OF RELEVANT SECURITIES IN ISSUE**

(a) When an offer period commences, the offeree shall announce in accordance with Rule 2.9, as soon as practicable and, in any event, by no later than 9.00 a.m. on the next following business day, details of all classes of relevant securities issued by the offeree, together with the number of such securities in issue. An offeror or potential named offeror shall also announce in accordance with Rule 2.9 the same details relating to its relevant securities as soon as practicable and, in any event, by no later than 9.00 a.m. on the business day next following any announcement identifying it as an offeror or potential offeror, unless it has stated that its offer is or is likely to be solely in cash.

(b) If the information included in any announcement made under paragraph (a) changes during the offer period concerned, the offeree or the offeror, as appropriate, shall make a revised announcement as soon as practicable and, in

any event, by no later than 9.00 a.m. on the business day next following such change.

(c) Every announcement referred to in this Rule shall include, where applicable, the International Securities Identification Number for each relevant security of the company making that announcement.".

4.5 Rule 4 is hereby amended by:

(a) the substitution in paragraph (d) of Rule 4.1 of "whereby interests in relevant securities" for "whereby relevant securities" and the substitution in the same paragraph of "all dealings, and acquisitions of interests, in relevant securities" for "all dealings in and holdings of relevant securities";

(b) the substitution in paragraph (a) of Rule 4.2 of "any interest in relevant securities" for "any relevant securities" in the two places in which those words appear and the substitution in that paragraph of "Following such an announcement" for "After making such an announcement";

(c) the substitution in paragraph (d) of Rule 4.2 of "who are interested in relevant securities" for "who own relevant securities"; and

(d) the substitution of the following new paragraph for paragraph (a) of Rule 4.4:

"(a) either for its own account or on behalf of discretionary clients, acquire any interest in relevant securities; or".

4.6 Rule 5.4 is hereby amended by the substitution of "a Regulatory Information Service" for "the Stock Exchange".

4.7 Rule 8.1 is hereby amended by:

(a) the substitution in paragraph (a) of "Subject to Rule 8.9 and except as provided" for "Except as provided" and the deletion from that paragraph of "(as defined in Rule 8.9)"; and

(b) the substitution in each of paragraphs (b)(i) and (b)(ii) of "Subject to Rule 8.9, all dealings" for "All dealings".

4.8 Rule 8.2 is hereby amended by the substitution of "Subject to Rule 8.9 and except with the consent" for "Except with the consent".

4.9 Rule 8 is hereby amended by the substitution for Rules 8.3 and 8.4 of the following new rules:

"**8.3 DEALINGS BY PERSONS WITH INTERESTS IN RELEVANT SECURITIES REPRESENTING 1% OR MORE**

(a) Subject to paragraphs (b) to (f) and Rule 8.9, if a person (whether or not an associate of the offeree or the offeror) is interested (directly or indirectly) in 1% or more of any class of relevant securities of the offeror or of the offeree, or as a result of a transaction will be interested (directly or indirectly) in 1% or more of any such class, all dealings during an offer period in any relevant securities of that company by such person (or any other person through whom the interest is derived) shall be publicly disclosed in accordance with Rules 8.4 to 8.6.

(b) A disclosure of a dealing shall not be required under Rule 8.3 unless the person dealing is interested in 1% or more of any class of relevant securities of the company concerned at midnight on the day of the dealing or was so interested at midnight on the previous business day.

(c) If two or more persons co-operate on the basis of an agreement, either express or tacit, either oral or written, to acquire for one or more of them an interest in relevant securities, they shall be deemed to be a single person for the purposes of paragraph (a).

(d) If a person manages investment accounts on a discretionary basis, he or she, and not the person on whose behalf the relevant securities concerned (or interests in such securities) are managed, shall be deemed for the purposes of paragraph (a) to be interested in those relevant securities. Except where the Panel consents otherwise, where more than one discretionary investment management operation is conducted within a group consisting of a company, any companies controlled by it and any companies under the same control as it, the interests in relevant securities of all such operations shall be deemed for the purposes of this Rule as those of a single person and shall be aggregated.

(e) (i) Paragraphs (a) to (d) shall not apply to a recognised intermediary acting in a client-serving capacity, but if such a recognised intermediary:

(1) is, or forms part of, an associate of the offeree; or

(2) is, or forms part of, an associate of an offeror and the identity of that offeror has been publicly announced,

the recognised intermediary shall disclose in accordance with Rule 8.1 unless it is, or forms part of, an exempt market-maker connected with an offeror or the offeree, in which case it shall disclose in accordance with Rule 38.5.

(ii) If a recognised intermediary deals in relevant securities other than in a client-serving capacity, it shall disclose all such dealings in accordance with Rule 8.3(a) to (d), provided that in making such disclosure the relevant intermediary need not aggregate or disclose details of any interests in relevant securities or of short positions which in either case it holds in a client-serving capacity.

(f) A person who, but for this paragraph, would be obliged to disclose a dealing under either Rule 8.1(a) or 8.1(b)(i) and also Rule 8.3 shall cease to be obliged to disclose it under Rule 8.3 if he or she duly discloses it under Rule 8.1(a) or (as applicable) 8.1(b)(i).

8.4 TIMING OF DISCLOSURE

(a) Both public and private disclosure required by Rules 8.1 and 8.2 shall be made no later than 12.00 noon on the business day following the date of the transaction.

(b) Public disclosure required by Rule 8.3 shall be made no later than 3.30 p.m. on the business day following the date of the transaction.".

4.10 Rule 8.5 is hereby amended by the substitution in paragraph (a) of "in accordance with Rule 2.9" for "to the Stock Exchange and the Panel" and by the deletion of ", if available," from paragraphs (a) and (b).

4.11 Rule 8.6 is hereby amended by the substitution for paragraph (a) of the following new paragraph:

"(a) (i) Public disclosures under Rules 8.1(a) and 8.1(b)(i) shall follow the format of the specimen disclosure form (Form 8.1(a)&(b)(i)) as set out in Appendix 3. Public disclosures under Rule 8.3 shall follow the format of the specimen disclosure form (Form 8.3) as set out in Appendix 3.

(ii) A public disclosure of dealings shall include the following information:

(1) the total of the relevant securities concerned of an offeror or of the offeree in which the dealing took place;

(2) the prices paid or received (in the case of an average price bargain, each underlying trade shall be disclosed);

(3) the identity of the person dealing and, if different, the person owning or controlling the interest;

(4) if the dealing is by an associate, an explanation of how that status arises (stating all of the reasons, if there are more than one);

(5) details of all relevant securities of the offeree or an offeror, as the case may be, in which the person disclosing has an interest, in each case specifying the nature of the interests concerned. Similar details of all short positions (whether conditional or absolute and whether in the money or otherwise) of that person in the classes of relevant securities concerned, including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, shall also be disclosed;

(6) the percentage or percentages of the class or classes of relevant securities concerned which each of the interests disclosed pursuant to sub-paragraph (5) above represents;

(7) if relevant, details in accordance with Rule 8.7 of any arrangements to which that Rule applies; and

(8) if the disclosure is made under Rule 8.3, a statement to that effect.

(iii) Where an offeror or any person acting in concert with it acquires any interest in relevant securities of the offeree on a specially cum or specially ex dividend basis, details of that fact shall also be disclosed.

(iv) Percentages shall be calculated by reference to the numbers of relevant securities disclosed by the offeree concerned or (where applicable) by the offeror concerned, as appropriate, in its latest announcement pursuant to Rule 2.10.

(v) In the case of agreements to purchase or sell, options or derivatives, full details shall be given so that the nature of the interest, position or dealing can be fully understood. For options, this shall include a description of the options concerned, the number of securities under

option, the exercise period (or, in the case of exercise, the exercise date), the exercise price and any money paid or received. For derivatives, this shall include, at least, a description of the derivatives concerned, the number of reference securities to which they relate (when relevant), the maturity date (or, if applicable, the closing out date) and the reference price (and any fee payable on entering into the derivative).

(vi) In addition, if there exists any agreement, arrangement or understanding, formal or informal, between the person dealing and any other person relating to the voting rights conferred by any relevant securities under option or relating to the voting rights conferred by, or future acquisition or disposal of, any relevant securities to which a derivative is referenced, as the case may be, full details of such agreement, arrangement or understanding, identifying the relevant securities concerned, shall be included in the disclosure. If there is no such agreement, arrangement or understanding, that fact shall be stated. Where such an agreement, arrangement or understanding is entered into at a later date than the derivative or option to which it relates, it shall be deemed to be a dealing in relevant securities.

(vii) For the purposes of the disclosure of dealings, a futures contract or covered warrant for which exercise includes the possibility of delivery of the underlying securities shall be treated as an option. A futures contract or covered warrant that does not include the possibility of delivery of the underlying securities shall be treated as a derivative.

(viii) If, following a public disclosure made under Rule 8, interests in relevant securities are transferred into or out of a person's management in a manner that does not constitute a dealing, a reference to the transfer shall be included in the next public disclosure made by that person under Rule 8.

(ix) A disclosure by an exempt fund manager shall specify the name of the offeror or the offeree with which it is connected and the nature of the connection.".

4.12 Rule 8.6 is hereby amended by:

(a) the substitution of the following new sub-paragraph for the first sub-paragraph of paragraph (b):

"(i) Private disclosure under Rule 8.1(b)(ii) by exempt fund managers connected with an offeror or the offeree shall follow the format of the specimen disclosure form (Form 8.1(b)(ii)), as set out in Appendix 3.";

(b) the insertion of "(ii)" at the beginning of the second sub-paragraph of paragraph (b) and the substitution of "in which the dealing took place" for "purchased or sold" in that sub-paragraph; and

(c) the insertion of the following new paragraph (c) after paragraph (b):

"(c) For the purposes of Rule 8.6, the interests and short positions required to be disclosed are those existing or outstanding at midnight on the date of the dealing concerned.".

4.13 Rule 8 is hereby amended by the substitution for Rule 8.9 of the following new rule:

"**8.9 DEALINGS NOT REQUIRED TO BE DISCLOSED**

Where an offeror has announced that an offer or possible offer is, or is likely to be, wholly in cash, Rules 8.1, 8.2 and 8.3 shall not require the disclosure of dealings in relevant securities of the offeror.".

4.14 Rule 16 is hereby amended by the insertion of the following separate paragraph between the first sentence and the second sentence in that rule:

"Nor may an offeror or any person acting in concert with it make any such arrangement with any person who, whilst not a shareholder or intending shareholder of the offeree, is interested in relevant securities of the offeree if there would be attached to such arrangement a term favourable to such person which is not being extended under the offer to all shareholders of the offeree.".

4.15 Rule 17.1 is hereby amended:

(a) the substitution in paragraph (a) of Rule 17.1 and in Rule 17.3 of "in accordance with Rule 2.9" for "to the Stock Exchange and the Panel; and

(b) the insertion after paragraph (a) of the following new paragraph (b) and the renumbering of existing paragraphs (b) to (f) as paragraphs (c) to (g) respectively:

"(b) An announcement under paragraph (a) shall also state details of all relevant securities of the offeree in which the offeror or any person acting in concert with it is interested (directly or indirectly), in each case specifying the nature of the interests in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of each such person in the classes of relevant securities concerned in accordance with the applicable provisions of that rule.".

4.16 Rule 19.7 is hereby amended by the substitution in paragraphs (a) and (d) of "a Regulatory Information Service" for "the Stock Exchange".

4.17 Rule 20.1 is hereby amended by:

(a) the insertion of ", or other persons interested in relevant securities," after "shareholders" in the first sentence in sub-paragraph (b)(i);

(b) the substitution of the following sentence for the second sentence in sub-paragraph (b)(i):

"Such representatives shall not put any shareholder, or any other person interested in relevant securities, of the offeree present at any such meeting under any pressure and they shall encourage all such persons to consult their professional advisers."; and

(c) the substitution in the last sentence of sub-paragraph (b)(iii) of "are interested in a significant number of relevant securities of the offeree" for "hold a significant number of shares".

4.18 Rule 24 is hereby amended by the substitution of the following new rule for existing Rule 24.3:

"**24.3 INTERESTS AND DEALINGS IN RELEVANT SECURITIES**

(a) The offer document shall state:

(i) details of all relevant securities of the offeree in which the offeror is interested (directly or indirectly), in each case specifying the nature of the interests concerned in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of the offeror in the classes of relevant securities concerned in accordance with the applicable provisions of that Rule;

(ii) the same details as in (i) above in relation to each of:

(1) the directors of the offeror;

(2) any other person acting in concert with the offeror;

(3) any person who, prior to the despatch of the offer document, has provided the offeror or any of its associates with an irrevocable commitment or letter of intent, together with the names of such persons and details of any such commitments or letters;

(4) any person with whom the offeror, or any person acting in concert with the offeror, has any arrangement to which Rule 8.7 applies;

(iii) in the case of a securities exchange offer, the same details as in sub-paragraph (i) in respect of any relevant securities of the offeror in relation to each of the persons listed in sub-paragraph (ii);

(iv) in the case of a securities exchange offer, the amount of relevant securities of the offeror which the offeror has redeemed or purchased during the period beginning 12 months prior to the commencement of the offer period and ending on the latest practicable date prior to the despatch of the offer document, together with details of each such redemption and purchase, including dates and prices.

(b) If in the case of any of the persons referred to in paragraph (a)(i), (ii) or (where applicable) (iii) there are no interests in relevant securities or short positions to be disclosed, that fact shall be stated in the offer document. This shall not apply in the case of paragraph (a)(ii)(4) if no arrangements of the kind referred to in that sub-paragraph exist.

(c) If any person referred to in Rule 24.3(a)(i) to (iii) has dealt in any of the relevant securities of the offeree (or, in the case of a securities exchange offer only, of the offeror) during the period beginning 12 months prior to the commencement of the offer period and ending with the latest practicable date prior to the despatch of the offer document, the details, including numbers of securities, dates and prices of such dealings shall be stated in the offer document in accordance with the applicable provisions of Rule 8.6(a). If no such dealings have taken place, that fact shall be stated.

(d) References to irrevocable commitments shall include the circumstances, if any, in which they will cease to be binding.

(e) In the case of a director of the offeror, the disclosure shall include all interests and short positions of any other person whose interests in the shares of

the offeror would be treated as interests of that director under Chapter 1 of Part IV of the Companies Act 1990.".

4.19 Rule 24.5 is hereby amended by the substitution of "recent holders of, or any persons interested or recently interested in, relevant securities of the offeree," for "recent holders of securities of the offeree" and by the substitution of ""**recent**" and "**recently**" refer"" for ""**recent**" refers"".

4.20 Rule 24.8 is hereby amended by the substitution of "all interests in the relevant securities of the offeree held by such persons, or a statement that no such interests are held" for "all securities of the offeree held by such persons, or a statement that no such securities are held".

4.21 Rule 25 is hereby amended by the substitution of the following new rule for existing Rule 25.3:

"**25.3 INTERESTS AND DEALINGS IN RELEVANT SECURITIES**

(a) The first response circular (whether recommending acceptance or rejection of the offer) shall state:

(i) details of all relevant securities of the offeror in which the offeree or any of the directors of the offeree is interested (directly or indirectly), in each case specifying the nature of the interests concerned in accordance with the applicable provisions of Rule 8.6(a); and details of all short positions of the person concerned in the classes of relevant securities concerned in accordance with the applicable provisions of that Rule;

(ii) the same details as in sub-paragraph (i) above, in respect of relevant securities of the offeree, in relation to each of:

(1) the directors of the offeree;

(2) any company which is an associate of the offeree by virtue of any of paragraphs (a), (b) and (c) of the definition of "associate";

(3) the trustees of any pension scheme (other than an industry-wide scheme) in which the offeree or any subsidiary of the offeree participates;

(4) any associate of the offeree as specified in paragraph (d) or (e) of the definition of "associate" but excluding exempt market-makers;

(5) any person who, prior to the despatch of the first response circular, has provided the offeree or any of its associates with an irrevocable commitment or letter of intent, together with the names of such persons and details of any such commitment or letters, including, in the case of a commitment, the circumstances, if any, in which it will cease to be binding;

(6) any fund manager (other than an exempt fund manager) connected with the offeree; and

(7) any person who has an arrangement to which Rule 8.7 applies with the offeree or with any person who is an associate of

the offeree by virtue of any of paragraphs (a) to (g) of the definition of "associate";

(iii) in the case of a securities exchange offer, the same details as in sub-paragraph (i) above in respect of any relevant securities of the offeror in relation to each of the persons listed in sub-paragraph (ii)(2) to (7);

(iv) the amount of relevant securities of the offeree which the offeree has redeemed or purchased during the period beginning 12 months prior to the commencement of the offer period and ending on the latest practicable date prior to the despatch of the circular, together with details of any such redemption or purchase, including dates and prices; and

(v) whether the directors of the offeree intend, in respect of their own beneficial holdings of securities, to accept or reject the offer.

(b) If in the case of any of the persons referred to in paragraph (a)(i) or (ii) there are no interests in relevant securities or short positions to be disclosed, that fact shall be stated in the circular. This shall not apply in the case of paragraph (a)(ii)(7) if no arrangements of the kind referred to in that paragraph exist.

(c) (i) If any person referred to in paragraph (a)(i) has dealt in any relevant securities of the offeree or the offeror during the period beginning 12 months prior to the commencement of the offer period and ending with the latest practicable date prior to the despatch of the circular, the details, including numbers of securities, dates and prices, shall be stated in the circular in accordance with the applicable provisions of Rule 8.6(a).

(ii) If any person referred to in paragraph (a)(ii)(2) to (7) has dealt in any relevant securities of the offeree or (in the case of a securities exchange offer only) of the offeror during the period beginning with the commencement of the offer period and ending with the latest practicable date prior to the despatch of the circular, similar details shall be stated in the circular.

(iii) In all cases, if no such dealings have taken place, that fact shall be stated in the circular.

(d) If, as part of the arrangements leading to an offer being made, some or all of the directors of the offeree resign, Rule 25.3 shall apply to them, and their interests in relevant securities and dealings shall be disclosed in the circular as if they had remained directors.

(e) In the case of a director of the offeree, the disclosure shall include all interests and short positions of any other person whose interests in the shares of the offeree would be treated as interests of that director under Chapter 1 of Part IV of the Companies Act 1990.".

4.22 Rule 27.1 is hereby amended by the substitution of "interests in relevant securities" for "holdings of securities".

4.23 Rule 38 is hereby amended by the substitution of the following new rule for Rule 38.5:

"**38.5 DISCLOSURE OF DEALINGS**

Dealings in relevant securities by an exempt market-maker connected with an offeror or the offeree shall be aggregated and disclosed publicly by the market-maker in accordance with Rules 8.4(a) and 8.5(a), provided that where an offeror has announced that an offer or possible offer is, or is likely to be, wholly in cash, this Rule shall not require the disclosure of dealings in relevant securities of the offeror.

Such disclosure shall follow the format of the specimen disclosure form (Form 38.5), as set out in Appendix 3.

In the case of dealings in options or derivatives, full details shall be given so that the nature of the dealings can be fully understood.".

4.24 Rule 41.3 is hereby amended by the substitution in paragraph (d) of "in accordance with Rule 2.9" for "to the Stock Exchange and the Panel".

4.25 Appendix 3 is hereby amended by the substitution for the two existing disclosure forms of the five disclosure forms in the form set out in the schedule to these Rules.

4.26 Appendix 4 is hereby amended by the substitution of "in accordance with Rule 2.9" for "to the Stock Exchange and the Panel" in (i) each of paragraphs (a), (b), (c), (d) and (e) in the deemed replacement Rule 17 set out in Section 2(4) and (ii) each of paragraphs (a) and (b) of Section 4(3).

5. SUBSTANTIAL ACQUISITION RULES

Neither section 14(2) of the Interpretation Act 2005 nor Rule 2.6(d) of Part A of the 2007 Rules (as that rule is applied to the Substantial Acquisition Rules) shall, by virtue of the making of these Rules, apply to the reference to "the Irish Takeover Panel Act 1997, Takeover Rules, 2007" contained in the definition of "Takeover Rules" in Rule 2 of the Substantial Acquisition Rules.

SCHEDULE

(*Rule 4.25)*

APPENDIX 3

DISCLOSURE FORMS

IRISH TAKEOVER PANEL FORM 8.1(a)&(b)(i)

DISCLOSURE UNDER RULE 8.1(a) AND (b)(i) OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DEALINGS BY OFFERORS, OFFEREES OR THEIR ASSOCIATES FOR THEMSELVES OR FOR DISCRETIONARY CLIENTS

1. KEY INFORMATION

Name of person dealing (Note 1)	
Company dealt in	
Class of relevant security to which the dealings being disclosed relate (Note 2)	
Date of dealing	

2. INTERESTS AND SHORT POSITIONS

(a) Interests and short positions (following dealing) in the class of relevant security dealt in (Note 3)

	Long		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

(b) Interests and short positions in relevant securities of the company, other than the class dealt in (Note 3)

Class of relevant security:	**Long**		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

3. DEALINGS (Note 4)

(a) Purchases and sales

Purchase/sale	**Number of relevant securities**	**Price per unit** (Note 5)

(b) Derivatives transactions (other than options transactions)

Product name, e.g. CFD	**Nature of transaction** (Note 6)	**Number of relevant securities** (Note 7)	**Price per unit** (Note 5)

(c) Options transactions in respect of existing relevant securities

(i) Writing, selling, purchasing or varying

Product name, e.g. call option	**Writing, selling, purchasing, varying etc.**	**Number of securities to which the option relates** (Note 7)	**Exercise price**	**Type, e.g. American, European etc.**	**Expiry date**	**Option money paid/received per unit** (Note 5)

(ii) Exercising

Product name, e.g. call option	**Number of securities**	**Exercise price per unit** (Note 5)

(d) Other dealings (including transactions in respect of new securities)(Note 4)

Nature of transaction (Note 8)	**Details**	**Price per unit (if applicable)** (Note 5)

4. OTHER INFORMATION

Agreements, arrangements or understandings relating to options or derivatives

Full details of any agreement, arrangement or understanding between the person disclosing and any other person relating to the voting rights of any relevant securities under any option referred to on this form or relating to the voting rights or future acquisition or disposal of any relevant securities to which any derivative referred to on this form is referenced. If none, this should be stated.

Is a Supplemental Form 8 attached? (Note 9) **YES/NO**

Date of disclosure	
Contact name	
Telephone number	
Name of offeree/offeror with which associated	
Specify category and nature of associate status (Note 10)	

The Notes on Form 8.1(a)&(b)(i) can be viewed on the Panel's website at *www.irishtakeoverpanel.ie*

NOTES ON FORM 8.1(a) and (b)(i)

1. Specify the owner or controller of the interest in addition to the person dealing. The naming of nominees or vehicle companies is insufficient. In the case of disclosure of dealings by fund managers on behalf of discretionary clients, the clients need not be named.

2. See the definition of "relevant securities" in Rule 2.1 of Part A of the Rules.

3. *See the definition of "interest in a relevant security" in Rule 2.7 of Part A of the Rules and see Rule 8.6(a) of Part B of the Rules. If an option over new securities is acquired or exercised, the relevant interest should be disclosed under "(1) Relevant securities". If an option over existing relevant securities is acquired or exercised, the relevant interest should be disclosed under "(3) Options and agreements to purchase/sell".*

4. See the definition of "dealing" in Rule 2.1 of Part A of the Rules.

5. For all prices and other monetary amounts, the currency must be stated. If the economic exposure to changes in the price of securities is limited, for example, by virtue of a stop loss arrangement relating to a spread bet, full details must be given.

6. If a long position has been increased or decreased as a result of the dealing, write "increased long" or"decreased long" respectively. If a short position has been increased or decreased as a result of the dealing, write "increased short" or "decreased short" respectively. If the dealing has not resulted in a long or short position being increased or reduced, give details of the variation or other dealing.

7. See Rule 2.7(d) of Part A of the Rules.

8. State type of dealing, e.g. "subscription", "conversion", exercise" etc.

9. Where there are open option positions or open derivative positions (other than CFDs), or where there is an agreement to purchase or to sell, Supplemental Form 8 must be completed.

10. See the definition of "associates" in Rule 2.2 of Part A of the Rules.

For full details of disclosure requirements, see Rule 8 of the Rules. If in doubt, consult the Panel.

References in these notes to "the Rules" are to the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 (as amended).

IRISH TAKEOVER PANEL FORM 8.1(b)(ii)

DISCLOSURE UNDER RULE 8.1(b)(ii) OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DEALINGS BY CONNECTED EXEMPT FUND MANAGERS ON BEHALF OF DISCRETIONARY CLIENTS

1. KEY INFORMATION

Name of exempt fund manager	
Company dealt in	
Class of relevant security to which the dealings being disclosed relate (Note 1)	
Date of dealing	

2. INTERESTS AND SHORT POSITIONS

(a) Interests and short positions (following dealing) in the class of relevant security dealt in (Note 2)

	Long		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

(b) Interests and short positions in relevant securities of the company, other than the class dealt in(Note 2)

Class of relevant security:	**Long**		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

3. DEALINGS (Note 3)

(a) Purchases and sales

Purchase/sale	**Number of relevant securities**	**Price per unit** (Note 4)

(b) Derivatives transactions (other than options)

Product name, e.g. CFD	**Nature of transaction** (Note 5)	**Number of relevant securities** (Note 6)	**Price per unit** (Note 4)

(c) Options transactions in respect of existing relevant securities

(i) Writing, selling, purchasing or varying

Product name, e.g. call option	**Writing, selling, purchasing, varying etc.**	**Number of securities to which the option relates** (Note 6)	**Exercise price**	**Type, e.g. American, European etc.**	**Expiry date**	**Option money paid/received per unit** (Note 4)

(ii) Exercising

Product name, e.g. call option	**Number of securities**	**Exercise price per unit** (Note 4)

(d) Other dealings (including transactions in respect of new securities) (Note 3)

Nature of transaction (Note 6)	**Details**	**Price per unit (if applicable)** (Note 4)

4. OTHER INFORMATION

Agreements, arrangements or understandings relating to options or derivatives

Full details of any agreement, arrangement or understanding between the person disclosing and any other person relating to the voting rights of any relevant securities under any option referred to on this form or relating to the voting rights or future acquisition or disposal of any relevant securities to which any derivative referred to on this form is referenced. If none, this should be stated.

Is a Supplemental Form 8 attached? (Note 8) **YES/NO**

Date of disclosure	
Contact name	
Telephone number	
Name of offeree/offeror with which connected	
Nature of connection (Note 9)	

Notes

1. See the definition of "relevant securities" in Rule 2.1 of Part A of the Rules.

2. See the definition of "interest in a relevant security" in Rule 2.7 of Part A of the Rules and see Rule 8.6(a) of Part B of the Rules.

   If an option over new securities is acquired or exercised, the relevant interest should be disclosed under "(1) Relevant securities". If an option over existing relevant securities is acquired or exercised, the relevant interest should be disclosed under "(3) Options and agreements to purchase/sell".

3. See the definition of "dealing" in Rule 2.1 of Part A of the Rules.

4. For all prices and other monetary amounts, the currency must be stated.

5. If a long position has been increased or decreased as a result of the dealing, write "increased long" or"decreased long" respectively. If a short position has been increased or decreased as a result of the dealing, write "increased short" or "decreased short" respectively. If the dealing has not resulted in a long or short

position being increased or reduced, give details of the variation or other dealing.

6. See Rule 2.7(d) of Part A of the Rules.

7. State type of dealing, e.g. "subscription", "conversion", "exercise" etc.

8. Where there are open option positions or open derivative positions (other than CFDs), or where there is an agreement to purchase or to sell, Supplemental Form 8 must be completed.

9. See the definition of "connected fund manager" in Rule 2.3 of Part A of the Rules.

For full details of disclosure requirements, see Rule 8 of the Rules. If in doubt, consult the Panel.

References in these notes to "the Rules" are to the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 (as amended).

FORM 8.2

IRISH TAKEOVER PANEL

DISCLOSURE UNDER RULE 8.2 OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DEALINGS BY OFFERORS, OFFEREES OR THEIR ASSOCIATES FOR NON-DISCRETIONARY CLIENTS

1. KEY INFORMATION

Name of entity dealing	
Company dealt in	
Class of relevant security to which the dealings being disclosed relate (Note 1)	
Date of dealing	

2. DEALINGS (Note 2)

(a) Purchases and sales

Purchase/sale	**Number of relevant securities**	**Price per unit** (Note 3)

(b) Derivatives transactions (other than options transactions)

Product name, e.g. CFD	**Nature of transaction** (Note 4)	**Number of relevant securities** (Note 5)	**Price per unit** (Note 3)

(c) Options transactions in respect of existing relevant securities

(i) Writing, selling, purchasing or varying

Product name, e.g. call option	**Writing, selling, purchasing, varying etc.**	**Number of securities to which the option relates** (Note 5)	**Exercise price**	**Type, e.g. American, European etc.**	**Expiry date**	**Option money paid/received per unit** (Note3)

(ii) Exercising

Product name, e.g. call option	**Number of securities**	**Exercise price per unit** (Note 3)

Date of disclosure	
Contact name	
Telephone number	
Name of offeree/offeror with which associated	
Specify category and nature of associate status (Note 6)	

Notes

1. *See the definition of "relevant securities" in Rule 2.1 of Part A of the Rules.*

2. *See the definition of "dealing" in Rule 2.1 of Part A of the Rules.*

3. *For all prices and other monetary amounts, the currency must be stated.*

4. *If a long position has been increased or decreased as a result of the dealing, write "increased long" or"decreased long" respectively. If a short position has been increased or decreased as a result of the dealing, write "increased short" or "decreased short" respectively. If the dealing has not resulted in a long or short position being increased or reduced, give details of the variation or other dealing.*

5. *See Rule 2.7(d) of Part A of the Rules.*

6. *See the definition of "associate" in Rule 2.2 of Part A of the Rules.*

For full details of disclosure requirements, see Rule 8 of the Rules. If in doubt, consult the Panel.

References in these notes to "the Rules" are to the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 (as amended).

IRISH TAKEOVER PANEL **FORM 8.3**

DISCLOSURE UNDER RULE 8.3 OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DEALINGS BY PERSONS WITH INTERESTS IN RELEVANT SECURITIES REPRESENTING 1% OR MORE

1. KEY INFORMATION

Name of person dealing (Note 1)	
Company dealt in	
Class of relevant security to which the dealings being disclosed relate (Note 2)	
Date of dealing	

2. INTERESTS AND SHORT POSITIONS

(a) Interests and short positions (following dealing) in the class of relevant security dealt in (Note 3)

	Long		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

(b) Interests and short positions in relevant securities of the company, other than the class dealt in (Note 3)

Class of relevant security:	**Long**		**Short**	
	Number	**(%)**	**Number**	**(%)**
(1) Relevant securities				
(2) Derivatives (other than options)				
(3) Options and agreements to purchase/sell				
Total				

3. DEALINGS (Note 4)

(a) Purchases and sales

Purchase/sale	**Number of relevant securities**	**Price per unit** (Note 5)

(b) Derivatives transactions (other than options transactions)

Product name, e.g. CFD	**Nature of transaction** (Note 6)	**Number of relevant securities** (Note 7)	**Price per unit** (Note 5)

(c) Options transactions in respect of existing relevant securities

(i) Writing, selling, purchasing or varying

Product name, e.g. call option	**Writing, selling, purchasing, varying etc.**	**Number of securities to which the option relates** (Note 7)	**Exercise price**	**Type, e.g. American, European etc.**	**Expiry date**	**Option money paid/received per unit** (Note 5)

(ii) Exercising

Product name, e.g. call option	**Number of securities**	**Exercise price per unit** (Note 5)

(d) Other dealings (including transactions in respect of new securities)(Note 4)

Nature of transaction (Note 8)	**Details**	**Price per unit (if applicable)** (Note 5)

4. OTHER INFORMATION

Agreements, arrangements or understandings relating to options or derivatives

Full details of any agreement, arrangement or understanding between the person disclosing and any other person relating to the voting rights of any relevant securities under any option referred to on this form or relating to the voting rights or future acquisition or disposal of any relevant securities to which any derivative referred to on this form is referenced. If none, this should be stated.

Is a Supplemental Form 8 attached? (Note 9) **YES/NO**

Date of disclosure	
Contact name	
Telephone number	
If a connected EFM, name of offeree/offeror with which connected	
If a connected EFM, state nature of connection (Note 10)	

The Notes on Form 8.3 can be viewed on the Panel's website at *www.irishtakeoverpanel.ie*

NOTES ON FORM 8.3

1. *Specify the owner or controller of the interest in addition to the person dealing. The naming of nominees or vehicle companies is insufficient. In the case of disclosure of dealings by fund managers on behalf of discretionary clients, the clients need not be named.*

2. *See the definition of "relevant securities" in Rule 2.1 of Part A of the Rules.*

3. *See the definition of "interest in a relevant security" in Rule 2.7 of Part A of the Rules and see Rule 8.6(a) of Part B of the Rules. If an option over new securities is acquired or exercised, the relevant interest should be disclosed under "(1) Relevant securities". If an option over existing relevant securities is acquired or exercised, the relevant interest should be disclosed under "(3) Options and agreements to purchase/sell".*

4. *See the definition of "dealing" in Rule 2.1 of Part A of the Rules.*

5. *For all prices and other monetary amounts, the currency must be stated. If the economic exposure to changes in the price of securities is limited, for example, by virtue of a stop loss arrangement relating to a spread bet, full details must be given.*

6. *If a long position has been increased or decreased as a result of the dealing, write "increased long" or "decreased long" respectively. If a short position has been increased or decreased as a result of the dealing, write "increased short" or "decreased short" respectively. If the dealing has not resulted in a long or short position being increased or reduced, give details of the variation or other dealing.*

7. *See Rule 2.7(d) of Part A of the Rules.*

8. *State type of dealing, e.g. "subscription", "conversion", exercise" etc.*

9. *Where there are open option positions or open derivative positions (other than CFDs), or where there is an agreement to purchase or to sell, Supplemental Form 8 must be completed.*

10. *See the definition of "connected fund manager" in Rule 2.3 of Part A of the Rules.*

For full details of disclosure requirements, see Rule 8 of the Rules. If in doubt, consult the Panel.

References in these notes to "the Rules" are to the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 (as amended).

IRISH TAKEOVER PANEL **FORM 38.5**

DISCLOSURE UNDER RULE 38.5 OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DEALINGS BY CONNECTED EXEMPT MARKET-MAKERS

1. KEY INFORMATION

Name of exempt market-maker	
Company dealt in	
Class of relevant security to which the dealings being disclosed relate (Note 1)	
Date of dealing	

2. DEALINGS (Note 2)

(a) Purchases and sales

Total number of relevant securities acquired	**Highest price paid** (Note 3)	**Lowest price paid** (Note 3)

Total number of securities disposed	**Highest price received** (Note 3)	**Lowest price received** (Note 3)

(b) Derivatives transactions (other than options transactions)

Product name, e.g. CFD	**Nature of transaction** (Note 4)	**Number of relevant securities** (Note 5)	**Price per unit** (Note 3)

(c) Options transactions in respect of existing relevant securities

(i) Writing, selling, purchasing or varying

Product name, e.g. call option	**Writing, selling, purchasing, varying etc.**	**Number of securities to which the option relates** (Note 5)	**Exercise price**	**Type, e.g. American, European etc.**	**Expiry date**	**Option money paid/received per unit** (Note 3)

(ii) Exercising

Product name, e.g. call option	**Number of securities**	**Exercise price per unit** (Note 3)

3. OTHER INFORMATION

Agreements, arrangements or understandings relating to options or derivatives

Full details of any agreement, arrangement or understanding between the person disclosing and any other person relating to the voting rights of any relevant securities under any option referred to on this form or relating to the voting rights or future acquisition or disposal of any relevant securities to which any derivative referred to on this form is referenced. If none, this should be stated.

Date of disclosure	
Contact name	
Telephone number	
Name of offeree/offeror with which connected	
Nature of connection (Note 6)	

The Notes on Form 38.5 can be viewed on the Panel's website at www.irishtakeoverpanel.ie

NOTES ON FORM 38.5

1. *See the definition of "relevant securities" in Rule 2.1 of Part A of the Rules.*

2. *See the definition of "dealing" in Rule 2.1 of Part A of the Rules.*

3. *For all prices and other monetary amounts, the currency must be stated.*

4. *If a long position has been increased or decreased as a result of the dealing, write "increased long" or"decreased long" respectively. If a short position has been increased or decreased as a result of the dealing, write "increased short" or "decreased short" respectively. If the dealing has not resulted in a long or short position being increased or reduced, give details of the variation or other dealing.*

5. *See Rule 2.7(d) of Part A of the Rules.*

6. *See the definition of " connected market- maker" in Rule 2.3 of Part A of the Rules.*

For full details of disclosure requirements, see Rules 8 and 38.5 of the Rules. If in doubt, consult the Panel.

References in these notes to "the Rules" are to the Irish Takeover Panel Act, 1997, Takeover Rules, 2007 (as amended).

SUPPLEMENTAL FORM 8

IRISH TAKEOVER PANEL

DISCLOSURE UNDER RULE 8.1 AND RULE 8.3 OF THE IRISH TAKEOVER PANEL ACT, 1997, TAKEOVER RULES, 2007 (AS AMENDED)

DETAILS OF OPEN POSITIONS
(This form should be attached to Form 8.1(a) & (b)(i), Form 8.1(b)(ii) or Form 8.3, as appropriate)

OPEN POSITIONS (Note 1)

Product name, e.g. call option	**Written or purchased**	**Number of relevant securities to which the option or derivative relates**	**Exercise price** (Note 2)	**Type, e.g. American, European etc.**	**Expiry date**

Notes

1. Where there are open option positions or open derivative positions (except for CFDs), full details should be given. Full details of any existing agreements to purchase or to sell must also be given on this form.

2. For all prices and other monetary amounts, the currency must be stated.

For full details of disclosure requirements, see Rule 8 of the Rules. If in doubt, consult the Panel.

ANNEXE 2

NOTES ON RULES

(as proposed)

INTRODUCTION NOTES

PARAGRAPH 6(a)

Substitute "*in accordance with Rule 2.9*" for "*to the Stock Exchange and the Panel*" and substitute "*Rule 2.11*" for "*Rule 2.10*".

NOTES ON PART A

NOTES ON RULE 2.1

New Notes 5 and 6 [renumber existing Notes 5 to 8 as Notes 7 to 10 respectively]

"5. "Dealing"

As securities borrowing and lending transactions and sale and repurchase (or "repo") transactions involve transfers of title to the securities concerned, a "borrowing"/"purchase" of relevant securities in such a transaction will normally be a dealing.

6. "Derivatives"

The term "derivative" is intentionally defined widely to encompass all types of derivative transactions. However, the Panel will consider requests for derogations so that derivative transactions that are not connected with an offer or a possible offer need not be restricted or disclosed. The Panel will not normally regard a derivative which is referenced to a basket or index of securities, including relevant securities, as connected with an offer or potential offer if at the time of dealing the relevant securities in the basket or index represent less than 1% of the class in issue and, in addition, less than 20% of the value of the securities in the basket or index."

New Note 11 [renumber existing Note 9 as Note 12]

"11. "Recognised intermediary"

(a) If any part of the trading operations of a bank or other financial institution wishes to be recognised by the Panel as a recognised intermediary, it must apply to the Panel to be granted such status. If so recognised, it will have to comply with any requirements imposed by the Panel as a condition of its granting such status.

(b) The Panel will consider granting recognised intermediary status to trading desks if they trade as principal primarily in a client-serving capacity, i.e. in order to fulfil orders received from clients, to respond to a client's requests to trade, or to hedge positions arising out of those activities. The criteria which must be satisfied in order for a desk to be granted recognised intermediary status by the Panel are set out in Note (f) below. The Panel will normally, on application, grant recognised intermediary status to those entities that have been granted the corresponding status by the Panel on Takeovers and Mergers.

(c) Recognised intermediary status is relevant solely for the purposes of Rule 8.3(e) and only to the extent that the recognised intermediary is acting in a client-serving capacity. Consequently, subject to Rule 8.3(e), a recognised intermediary will not be required to publicly disclose under Rule 8.3(a) to (d) any dealings by it in relevant securities during an offer period provided it is acting in a client-serving capacity.

(d) Any dealings by a recognised intermediary which is not acting in a client-serving capacity will not benefit from the dispensation afforded by Rule 8.3(e), with the result that all such dealings by it will be subject to the provisions of the Rules as if that dispensation did not apply.

(e) Where a recognised intermediary is, or forms part of, an exempt market maker, its recognised intermediary status will fall away if its exempt status falls away.

(f) In determining whether a desk should be granted recognised intermediary status, the Panel will need to be satisfied as to each of the following matters in respect of the desk in question:

> *(i) that the entity of which the desk forms part has been authorised by the Financial Regulator with permission (without material limitation) to deal as principal in Irish equities or in derivatives or options referenced to or in respect of such equities. Where it is based overseas, the entity must have been granted equivalent authorisation and permission by its home state regulator to deal in Irish equities or in derivatives or options referenced to it in respect of such equities;*
>
> *(ii) that where the desk deals as principal it does so primarily to fulfil orders received from clients, to respond to a client's requests to trade, or to hedge positions arising out of those dealings and not on a proprietary basis, i.e. where it deals as principal, it does so primarily in a client-serving capacity;*
>
> *(iii) that the desk is suitable for recognised intermediary status having regard to all the circumstances, including (1) the connection of the entity of which it forms part with any other person, and (2) the need to ensure that its activities will not be carried on with the purpose of assisting an offeror or offeree or any of their respective associates;*
>
> *(iv) that the desk and the entity of which it forms part have appropriate systems and compliance policies and procedures in place in order to identify, distinguish between and monitor their client-serving dealings and interests and their proprietary trading dealings and interests;*
>
> *(v) that, if the desk is part of, or if the entity of which it forms part is or is part of, a wider organisation, or is associated with any other person, the desk's links with the rest of the organisation or with such person are not likely to influence adversely the Panel's supervision of its activities or its compliance with the Rules; and*
>
> *(vi) that, if the desk is part of, or if the entity of which it forms part is or is part of, a wider organisation, or is associated with any person, which deals as principal on a proprietary basis or carries out investment company, investment management, investment advisory or collective investment or other investment fund functions, there is appropriate*

functional separation between the activities of the desk and of those other functions."

New Note 13 [renumber existing Notes 10 to 14 as Notes 14 to 18 respectively]

"13. "Relevant securities"

*It should be noted from the definition of relevant securities that, while there are only four **categories** of relevant securities in the definition, a number of different **classes** of relevant securities may exist within each category. For example, category (i) would include two such classes if the offeree has ordinary shares and preference shares and both are the subject of the offer in question. The four categories themselves are not mutually exclusive, as can be seen in the above example, where the ordinary shares of the offeree would also be equity share capital of the offeree within category (ii).*

The number of relevant securities of a particular class in which a person is deemed to be interested is normally the gross number arrived at by aggregating the number of such securities falling under each of sub-paragraphs (1) to (6) in paragraph (b)(i) (long position) of Rule 2.4 of Part A. If a person's interest in relevant securities falls within more than one of those sub-paragraphs, he or she will be deemed to be interested in the highest number determined under the relevant paragraphs.

Category (iv) of the definition of relevant securities refers to securities or other interests of the offeree or offeror conferring rights to convert into or to subscribe for new securities which, when issued, will fall within any of categories (i) to (iii). In accordance with Rule 2.4(e) of Part A, a person interested in category (iv) securities or other instruments is deemed not to be interested in any new shares that may be issued upon the exercise of such rights until such time as the right is exercised and he or she acquires the new shares.

The reference in category (iv) of the definition of relevant securities to "any other instruments" is intended to capture rights to convert into or to subscribe for new securities of an offeree or an offeror where the rights are, for example, contained within a bilateral agreement with an offeree or an offeror, including an employee share option plan. Such rights are deemed to be relevant securities and the holders of those rights will have an interest in relevant securities."

NOTES ON RULE 2.7

Insert the following new Notes after the Note on Rule 2.5:

"NOTES ON RULE 2.7

1. Interests of two or more persons

As a result of the way in which interests in relevant securities are categorised, two or more persons may be deemed to be interested in the same securities. For example, where a shareholder grants a call option to another person, the shareholder will be interested in the shares the subject of the option as a result of sub-paragraph (1) of the types of interests in relevant securities specified in paragraph (b)(i), and the option holder will be interested in those shares as a result of sub-paragraph (4).

2. Proxies and corporate representatives

A person will normally not be deemed to have an interest in relevant securities by reason only of his or her having been appointed as a proxy to vote at a specified general or

class meeting of the company concerned or having been authorised by a corporation to act as its representative at a general or class meeting or meetings.

3. Irrevocable voting commitments

An offeror or acquirer in a takeover scheme who obtains from a shareholder of the offeree or acquiree concerned an irrevocable commitment to vote at a general meeting or scheme meeting in favour of a resolution to approve or implement the offer or scheme will normally not, by reason only of that commitment, be deemed to have any interest in the shares held by that shareholder.

4. Security interests

Where a bank takes security over relevant securities by equitable mortgage in the ordinary course of its business and is not entitled to appropriate the relevant securities into its own name or to control the exercise of the voting rights conferred by the relevant securities, the bank is unlikely, in the absence of some special provision, to be deemed to have an interest in the relevant securities.

5. Other statutory or regulatory provisions

This definition of "interest" applies only in respect of the relevant provisions of the Rules. Any Panel view expressed in relation to interests in relevant securities relates only to the Rules and should not be taken as guidance on the interpretation of any other statutory or regulatory provision.

6. Gross interests

The Panel will normally not consent to offsetting positions being netted off against each other unless each of the following conditions is satisfied:

(a) those positions are in respect of the same class of relevant security;

(b) those positions are in respect of the same investment product;

(c) except for the number of securities in question, the terms of those positions are the same, for example, as to strike price and, if appropriate, exercise period; and

(d) the counterparty to those positions is the same in each case.

7. Securities borrowing/lending and sale/repurchase transactions

As securities borrowing and lending transactions and sale and repurchase (or "repo") transactions involve transfers of title to the securities concerned, the "borrower"/"buyer" will be deemed to be interested in any relevant securities that he or she "borrows"/"purchases".

8. Rules that relate to "interests in relevant securities"

The concept of interests in relevant securities is applied primarily in Rules 2.5, 4, 8, 16, 17.1(b), 20.1, 24 and 25.3 of Part B. The concept has no application in other rules, notably Rules 5, 6, 9, 10, 11 and 37 of Part B, or in the Substantial Acquisition Rules.

NOTES ON PART B

NOTES ON RULE 2

Insert the following new Notes after the Notes on Rule 2.8 and substitute "*NOTE ON RULE 2.11"* for the existing "*NOTE ON RULE 2.10*":

"*NOTES ON 2.10*

1. Options to subscribe

The classes of relevant securities to be detailed by an offeree in the announcement include, within category (iv) of the definition of relevant securities, rights granted by the offeree to subscribe for new shares which on issue will themselves constitute relevant securities of the offeree. This will apply to subscription options granted under a company's incentive share option plan. The Panel will normally regard options granted under such a plan as belonging to the same class of relevant securities. Where a company has more than one share option plan, the options granted under each plan will normally be regarded as a separate class of relevant securities.

2. Treasury shares

Only relevant securities that are held and in issue outside treasury should be included in the announcement."

NOTES ON RULE 5.1

Note 1. "Voting securities" and "rights" over voting securities

Add the following as second and third paragraphs:

"*Where, in a securities borrowing and lending transaction or a sale and repurchase (or "repo") transaction relating to voting securities of a relevant company, the "borrower" or "buyer" becomes entitled for the time being to exercise, or to control the exercise, of the voting rights conferred by the securities concerned, he or she will normally be deemed for the purposes of Rule 5.1 to hold securities conferring voting rights in that company.*

During the period between the entry into the agreement for such a transaction and the actual transfer to the "borrower" or "buyer" of the securities concerned, he or she may be deemed for the purposes of Rule 5.1 to hold rights over those securities."

NOTES ON RULE 8

Substitute the following new Notes for Note 2 [renumber existing Notes 3 and 4 as Notes 5 and 6 respectively]:

"2. Relevant securities

See the definition of "relevant securities" in Rule 2.1 and Note 13 on that rule.

3. Interests in how many relevant securities? – the calculation

The calculation of the number of relevant securities of a particular class in which a person is interested is important for the purposes of disclosure under Rule 8 and other rules such as Rules 2.5, 17.1, 24.3 and 25.3 and has special importance under Rule 8.3 (see Note 4 below).

The number of relevant securities of a particular class in which a person is deemed to be interested is normally the gross number arrived at by aggregating the number of such securities falling under each of sub-paragraphs (1) to (6) in paragraph (b)(i) (long position) of Rule 2.4 of Part A. If a person's interest in relevant securities falls within more than one of those sub-paragraphs, he or she will be deemed to be interested in the highest number determined under the relevant paragraphs.

4. Rule 8.3

In determining whether a person has a disclosure requirement under Rule 8.3, his or her interests must be aggregated by class of relevant security. If during an offer period he or she is interested in 1% or more of any class of relevant securities of the offeree or (in the case of a securities exchange offer) of the offeror or as a result of a transaction will become interested in 1% or more of any such class, he or she will be obliged to disclose all his or her dealings during the offer period in any relevant securities of that company.

By way of example, a person holding 0.5% of the ordinary shares and 0.3% of the convertible bonds of an offeree and who enters into a long contract for differences referenced to 0.4% of the ordinary shares would not have to disclose that dealing as he or she would have a long position in respect of only 0.9% of one class of relevant security, i.e. ordinary shares, and 0.3% of another class of relevant security, i.e. convertible bonds. If that person then enters into a call option over a further 0.5% of the ordinary shares, this would be disclosable as he or she would then have a long position in respect of 1.4% of the ordinary share class at that time. The holding of convertible bonds would then also have to be disclosed in accordance with Rule 8.6 of Part B. A person holding 0.9% of a convertible bond of an offeree and who then acquires 0.5% of another class of convertible bond of that offeree will not have to disclose the dealing as he or she would not have a long position in respect of 1% or more of any one class of relevant security."

Note 5 (as renumbered). Discretionary fund managers.

Amend the first sentence in the first paragraph to read:

"The principle normally applied by the Panel is that where the investment decision is made by a discretionary fund manager, it and not the person on whose behalf the fund is managed will be treated as interested in, and having dealt in, the relevant securities concerned."

Amend the second sentence in the first paragraph so that *"Rule 8.3(c)"* reads *"Rule 8.3(d)"*

Note 6 (as renumbered) Market-makers

Substitute the following new Note:

"6. Market-makers and recognised intermediaries

Where a recognised market-maker is an associate for any reason other than paragraph (i) of the definition of "associate" (see Rule 2.2 of Part A) but is not an exempt market-maker acting solely in a market-making capacity, he or she will have a disclosure obligation under Rule 8.1.

The exceptions for recognised market-makers in Rule 8.1 and for recognised intermediaries in Rule 8.3 must not be used to avoid or delay disclosure of dealings. For example, a dealing in relevant securities by such a market-maker or intermediary, backed by a firm commitment by a person to purchase the relevant securities from the

market-maker or intermediary, will be regarded as a dealing by that person. Such a commitment may be firm even if not legally binding, for example, because of market practice. Such arrangements, therefore, should not be entered into unless appropriate disclosures are to be made. In addition, if such an arrangement is entered into with an offeror or a person acting in concert with the offeror, it may mean that the market-maker or intermediary is acting in concert with the offeror, in which case normal concert party consequences would follow (such as the application of Rules 4, 5, 6, 7, 9, 11 and 24 and disclosure of dealings by the market-maker or intermediary under Rule 8.1)."

Insert the following new Note 7 after substituted Note 6 [renumber existing Notes 5, 6 and 7 as Notes 8, 9 and 10 respectively]:

"7. Rule 8.3(e): client-serving capacity of recognised intermediary

The acquisition of relevant securities by a financial institution for the purposes of hedging its position in relation to a CFD contract which it has written for, and at the request of, a client is regarded as a client-serving activity.

For the avoidance of doubt, proprietary trading is not regarded as a client-serving activity."

Note 9 (as renumbered) Method of disclosure

Substitute "*Regulatory Information Service*" for "*Stock Exchange*".

Insert the following new Note 11 after existing Note 10 (as renumbered) [renumber existing Notes 8 to 11 as Notes 12 to 15 respectively]:

"11. Separate but related dealings

For the avoidance of doubt, when a person transacts two or more separate but related dealings executed at or around the same time (for example, the entering into of a derivative referenced to relevant securities and the acquisition of such securities for the purposes of hedging), the disclosure must include the required information in relation to each such dealing so executed."

Note 14 (as renumbered) Companies Act, 1990

Substitute the following new Note:

"14. Disclosure under other legislation

In addition to the requirements to disclose under Rule 8, the requirements of Part IV of the Companies Act, 1990 (unless disapplied), Regulation 12 of the Market Abuse (Directive 2003/6/EC) Regulations 2005 and Part V of the Transparency (Directive 2004/109/EC) Regulations 2007 as to disclosure of interests and dealings in shares may be relevant."

NOTES ON RULE 9.1

New Note 11

"*11. Securities borrowing/lending and sale/repurchase transactions*

Where, in a securities borrowing and lending transaction or a sale and repurchase (or "repo") transaction relating to voting securities of a relevant company, the "borrower" or "buyer" becomes entitled for the time being to exercise, or to control the exercise, of the

voting rights conferred by the securities concerned, he or she will normally be deemed to have acquired voting securities of that company for the purposes of Rule 9.1."

Whitewash Guidance Note

Paragraph 4: Substitute the following for paragraph (h):

"(h) Rules 24.3 and 25.3 (disclosure of interests and dealings in relevant securities). Dealings should be covered for the 12 months prior to the dispatch of the circular but dealings in respect of Rule 25.3(c)(ii) need not be disclosed as there is no offer period."

Paragraph 6: Delete "*, if available,*" from sub-paragraph (c)(ii).

NOTES ON RULE 16

Note 1. Top-ups and other arrangements

In the second paragraph, substitute "*an interest in shares in the offeree is acquired"* for "*shares in the offeree are purchased*".

Note 2. Offeree shareholders' approval of certain transactions – for example, disposal of offeree assets

In the first paragraph, substitute "*a person interested in shares in the offeree*" for "*a shareholder in the offeree*".

Note 3. Finders' fees

Substitute the following new Note:

"*Rule 16 also applies to cases in which a person interested in shares of an offeree is to be remunerated for the part that he or she has played in promoting the offer. The Panel may consent to such remuneration, provided that the interest in shares is not substantial and it can be demonstrated that a person who had performed the same services in comparable circumstances, but had not at the same time been interested in shares in the offeree, would have been entitled to receive no less remuneration."*

NOTES ON RULE 24.3

Substitute the following for Notes 1 and 2:

"1. Aggregation

There may be cases where little useful purpose would be served by listing a large number of transactions. In such cases the Panel may, on an application for derogation, accept in documents some measure of aggregation of each type of dealing by a person provided that no significant dealings are thereby concealed. The following approach is normally acceptable:

> *(i) for dealings during the offer period, all acquisitions and all disposals can be aggregated;*
>
> *(ii) for dealings in the three months prior to the commencement of the offer period, all acquisitions and all disposals in that period can be aggregated on a monthly basis; and*

(iii) for dealings in the nine months prior to that period, acquisitions and disposals can be aggregated on a quarterly basis.

Acquisitions and disposals should not be netted off, the highest and lowest prices should be stated and the disclosure should distinguish between the different categories of interests in relevant securities and short positions. A full list of all dealings, together with a draft of the proposed aggregated disclosure, should be sent to the Panel, for its approval, in advance of the posting of the offer documentation and the full list of dealings should be made available for inspection (see Rule 26(b)(x)).

2. Discretionary clients

Interests in relevant securities and short positions of market makers and of the discretionary clients of fund managers connected with the offeror, unless they are exempt, and their dealings during the period beginning 12 months prior to the commencement of the offer period will need to be disclosed."

NOTE ON RULE 38.5

Substitute "*Note 3*" for "*Note 4*".