

## RULE 1. CITATION, COMMENCEMENT AND REPEAL

### 1.1 CITATION

These Rules may be cited as the Irish Takeover Panel Act, 1997, Takeover Rules, [2013](#).

### 1.2 COMMENCEMENT

These Rules shall come into operation on [6 January, 2014](#).

### 1.3 REPEAL

~~The following are hereby repealed:~~

~~(a) the [The](#) Irish Takeover Panel Act, 1997, Takeover Rules, [2007](#); [2013](#) are hereby repealed.~~

~~(b) — the Irish Takeover Panel Act, 1997, Takeover (Amendment) Rules, 2008; and~~

~~(c) — the Irish Takeover Panel Act, 1997, Takeover (Amendment No. 2) Rules, 2008.~~

### 1.4 TRANSITIONAL PROVISION

Notwithstanding their repeal, the rules referred to in Rule 1.3 shall continue to apply to all takeovers and other relevant transactions which are in being on the date on which these Rules come into operation.

## RULE 2. INTERPRETATION

### 2.1 DEFINITIONS

(a) In these Rules, the following words and expressions shall have the following meanings unless the context otherwise requires:

the “**Act**” means the Irish Takeover Panel Act, 1997;

“**acting in concert**” has the meaning assigned to it by paragraph (b)(vi);

“**affiliated person**”, in relation to another person (the “Parent”), means any undertaking in respect of which the Parent:

(i) has a majority of the shareholders’ or members’ voting rights; or

(ii) is a shareholder or member and at the same time has the right to appoint or remove a majority of the members of its board of directors; or

(iii) is a shareholder or member and alone controls a majority of the shareholders' or members' voting rights pursuant to an agreement entered into with other shareholders or members;

and for the purposes of this definition the rights of a Parent as regards voting, appointment or removal shall include the rights of any other person which is an affiliated person of the Parent and the rights of any person acting in that person's own name but on behalf of the Parent or of any affiliated person of the Parent;

**"alternative offer"** means a right granted under an offer by the offeror, or by a third party at the request of the offeror, to acceptors of the offer to elect to receive, instead of the whole or part of the basic consideration available under the offer, a consideration different from that basic consideration;

**"child"** includes a step-child and an adopted child, and "parent", "brother" and "sister" shall be construed accordingly; "company" has the meaning assigned to it by the Act;

**"civil partner"** [has the same meaning as in section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;](#)

**"cohabitant"** [has the same meaning as in section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;](#)

**"competent authority"** means the authority designated by a Member State under Article 4 of the Directive to supervise takeover bids for the purposes of the rules which it makes or introduces pursuant to the Directive; under the Regulations the Panel has been designated by the State as competent authority;

**"Competition Act"** means the Competition Act, 2002;

**"control"**, in relation to a relevant company, has the meaning assigned to it by the Act and, in relation to a company which is not a relevant company, shall have the same meaning, and "to control" and cognate words and terms, in relation to any company, shall be construed accordingly;

**"course of the offer"**, in relation to an offer, means the period commencing with the commencement of the offer period and ending at the earliest of the following:

(i) where, in the case of a proposed or possible offer, the offeror announces that the offer will not be made, the time of that announcement;

(ii) the time at which the offer ceases to be open for acceptance or lapses; and

(iii) where, in the case of an offer or possible offer the offer period relative to which is deemed (otherwise than for certain excepted purposes) to have commenced at the time of the lapse in accordance with Rule 12(b)(i) of Part B of an earlier ~~offer~~<sup>1</sup> [offer](#)<sup>1</sup> by the same offeror in respect of the same offeree, the determination of the European Commission or the competent authority concerned prohibits the concentration concerned, the time of the communication of that determination to the offeror;

and **"course of an offer"** shall be construed accordingly; **"Court"** means the High Court;

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<sup>1</sup> [See Rule 2.1\(c\) of Part A](#)

~~“CREST” means the relevant system (within the meaning of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996) of which CRESTCo Limited is the operator (within the meaning of those regulations);~~

~~“CREST operator” means the operator (within the meaning of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996) of CREST;~~

“**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;

~~1 See Rule 2.1(c) of Part A~~

- (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) the redemption or purchase of, or taking or exercising an option over, any of its own relevant securities by the offeree or an offeror; and~~

~~(viii) 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;~~

“**derivative**” includes 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;

~~“despatch”, in relation to documents and information, means sending such documents and information to holders of securities of a relevant company for purposes relating to a takeover or other relevant transaction, by statutory postal service or, with the consent of the Panel either generally or in the circumstances of a particular case, by other means (including electronic mail);~~

the “**Directive**” means Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids;

“**directors**”, in relation to a company, includes a person in accordance with whose directions or instructions any one or more of the directors of that company are accustomed to act unless such director or directors are accustomed so to act by reason only that he or she or (as the case may be) they do so on advice given by that person in a professional capacity;

“**discretionary fund manager**” means a fund manager which manages investment accounts on a discretionary basis;

“**EEA**” means the European Economic Area;

“**EEA Agreement**” means the Agreement on the EEA signed at Oporto on 2 May 1992, as amended for the time being;

“**EEA State**” means a state which is a contracting party to the EEA Agreement;

“**employee representative**” means:

(a) a representative of an independent trade union, where that trade union has been recognised by the offeror or the offeree in respect of some or all of its employees; and

(b) any other person who has been elected or appointed by employees to represent employees for the purposes of information and consultation.

“**equity share capital**” has the meaning assigned to it by section ~~155-7~~ of the Companies Act, ~~1963~~2014;

“**Euroclear System**” means the securities settlement system operated by Euroclear Bank SA/NV (or its nominee) or any replacement thereof from time to time;

“**European Merger Regulation**” means Council Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L24, 29.01.2004);

“**exempt fund manager**” means a discretionary fund manager which has been recognised by the Panel as an exempt fund manager 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;

“**exempt principal trader**” means a principal trader who is recognised by the Panel as an exempt principal trader 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;

“**final closing date**”, in relation to an offer, means (subject to any relevant extension pursuant to Rule 31.3 of Part B) the earlier of the 60th day after the day (the “60th day”) on which the initial offer document was ~~despatched~~sent and any earlier date beyond which the offeror has stated that the offer will not be extended unless it has become unconditional as to acceptances by that date and in respect of which the offeror has not withdrawn that statement in accordance with the provisions of Rule 31.5;

“**first response circular**” has the meaning ascribed to it by Rule ~~30-3~~25.1 and includes, where an offer document includes the views of the offeree board and the other information required by Rule 25 of Part B, the relevant parts of the offer document;

“**General Principles**” means the principles set out in the Schedule to the ~~Act~~2Act<sup>2</sup>;

“**holding company**” has the meaning assigned to it by section ~~155-8~~ of the Companies Act, ~~1963~~2014;

“**interest**” and “**interested**”, in relation to relevant securities, have the meaning assigned to them by Rule ~~2-6~~2.5;

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<sup>2</sup> General Principle 7 does not apply to Shared Jurisdiction Companies

~~“Irish Stock Exchange Euronext Dublin”~~ means The Irish Stock Exchange ~~Limited~~ [plc](#);

“**Member State**” means a Member State of the European Union or an EEA State;

the “**Minister**” means the Minister for ~~Jobs, Enterprise, Trade and Innovation~~ [Employment](#);

“**non-equity share capital**” means share capital which is not equity share capital;

“**offer**” means an offer within the meaning of the Act which is made generally to holders of a class of voting securities of a relevant company to acquire securities of that class, and, where the Panel is the competent authority to supervise a takeover bid in respect of a company, includes a bid in respect of that company;

~~2 General Principle 7 does not apply to Shared Jurisdiction Companies.~~

“**offer period**”, in relation to an offer, means, subject as provided below, the period commencing at the earliest of the following:

- (i) the time of the first announcement of that offer as a proposed offer or a possible offer (with or without terms);
- (ii) where the Panel determines that an offer period in respect of a relevant company has commenced or should commence, the time of that commencement specified in the announcement of that determination;
- (iii) where the Panel, being of the opinion that in the circumstances prevailing in relation to a relevant company it is appropriate so to do, directs that an offer or possible offer be announced, the time of commencement of the offer period relative to that offer specified in that direction; and
- (iv) in the case of an offer under Rule 9 or Rule 37 of Part B, the time of the transaction which gives rise (or which, subject only to the issue in the State of a governmental or regulatory authorisation, consent, approval or clearance, will give rise) to an obligation to make the offer,

and ending at the earlier of the following:

- (1) where, in the case of a proposed or possible offer, the offeror announces that the offer will not be made, the time of that announcement; and
- (2) the first closing date or, if later, the time at which the offer becomes unconditional as to acceptances or lapses, whichever first occurs;

provided that:

- (A) an announcement pursuant to Rule 2.2(f) of Part B shall be deemed, for the purposes of this definition, to be the announcement of a possible offer in respect of the relevant company concerned;
- (B) where, at the time at which the offer period relative to an offer (the “later offer”) commences, an offer period already subsists relative to another ~~offer~~<sup>3</sup> ~~offer~~<sup>3</sup> (the “earlier offer”) in respect of the same offeree, then for the purposes only of Rules 6.1, 11, ~~24.3~~<sup>(€24.4(c))</sup> and

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<sup>3,4</sup> [See Rule 2.1\(c\) of Part A.](#)

~~25.3~~[\(25.4\(c\)\)](#) of Part B the offer period relative to the later offer shall be deemed to have commenced at the same time as the offer period relative to the earlier offer; and

(C) where an offer ~~lapses~~<sup>4</sup> in accordance with Rule 12(b)(i) of Part B, an offer period (the “new offer period”) relative to any new offer or possible offer which the offeror may make or propose to make in respect of the same offeree shall be deemed to commence at the time of such lapse (except that for the purposes only of Rules 6.1, 9.4, 11, ~~24.3~~[\(24.4\(c\)\)](#), ~~25.3~~[\(25.4\(c\)\)](#) and 37(b) of Part B the new offer period shall be deemed to have commenced at the time at which the offer period relative to the lapsed offer commenced) and, if the determination of the European Commission or the competent authority concerned prohibits the concentration concerned, the new offer period, if it has not previously ended in accordance with the foregoing provisions of this definition, shall end at the time of the communication of that determination to the offeror;

~~3,4 See Rule 2.1(c) of Part A.~~

–“**offeree**” has the meaning assigned to it by the Act and, where the Panel is the competent authority to supervise a takeover bid in respect of such company, includes a company:

- (i) any transferable voting securities of which are the subject of a bid that has been made or is intended or required to be made; or
- (ii) in respect of which, or in connection with which, a person does any act in contemplation of making a bid to holders of transferable voting securities of that company;

“**offeree board**” means the board of the offeree;

“**offeror**” has the meaning assigned to it by the Act and, where the Panel is the competent authority to supervise a takeover bid in respect of a company, includes a person who makes, or intends or is required to make, a bid in respect of that company or does any act in contemplation of making such a bid;

“**opening position disclosure**” means a disclosure made in accordance with Rule 8.1(a), Rule 8.1(b), Rule 8.3(a) or Rule 38.6;

“**ordinary course profit forecast**” means a profit forecast published by the offeree or a securities exchange offeror in accordance with its established practice and as part of the ordinary course of its communications with its shareholders and the market.

“**other relevant transaction**” has the meaning assigned to it by the Act and includes the transactions specified in Rule 3.1;

the “**Panel**” means the Irish Takeover Panel (registered number 265647);

“**partial offer**” means an offer made to holders of a class of securities of a relevant company to acquire some but not all of the securities of that class;

“**parties to a takeover or other relevant transaction**” has the meaning assigned to it by the Act and includes the persons specified in Rule 3.2;

“**principal trader**” means a person who is registered as a market-maker with ~~the Irish Stock Exchange~~[Euronext Dublin](#) or the London Stock Exchange plc, or is accepted by the Panel as a

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market-maker, or is a member firm of either of such stock exchanges dealing as principal in order book securities;

**“profit estimate”** means a profit forecast for a financial period which has expired and for which audited results have not yet been published.

**“profit forecast”** means a form of words which expressly states or by implication indicates a figure or a minimum or maximum figure for the likely level of profits or losses for the current financial period and/or financial periods subsequent to that period, or contains data from which a calculation of such a figure for future profits or losses may be made, even if no particular figure is mentioned and the word “profit” is not used.

**“quantified financial benefits statement”** means either:

(a) a statement by a securities exchange offeror or the offeree quantifying any financial benefits expected to accrue to the enlarged group if the offer is successful; or

(b) a statement by the offeree quantifying any financial benefits expected to accrue to the offeree from cost saving or other measures and/or a transaction proposed to be implemented by the offeree if the offer is withdrawn or lapses.

-**“quoted security”** means a security the trading of which on a recognised market is for the time being authorised by the appropriate authority in that recognised market and **“quoted”, “unquoted”** and **“quotation”** in relation to a security shall be construed accordingly;

**“receiving agent’s certificate”** has the meaning assigned to it by Rule 10.6 of Part B;

**“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;

**“recognised market”** means a regulated market, a recognised stock exchange, a securities market specified in regulations made by the Minister for the purposes of section 2(c) of the Act and any such other securities market as the Panel may recognise as a recognised market for the purposes of this definition;

**“recognised stock exchange”** has the meaning assigned to it by the Act;

**“regulated market”** has the meaning assigned to it by the Regulations;

**“Regulations”** means the European Communities (Takeover Bids (Directive 2004/25/EC)) Regulations 2006 (S.I. No. 255 of 2006) which transposed the Directive into law, and **“Regulation”** shall be construed accordingly;

**“Regulatory Information Service” or “RIS”** 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 provided,~~ or approved for use, by the regulated market on which the relevant financial instruments are admitted to trading 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;

**“relevant company”** has the meaning assigned to it by the Act and includes a company which, by virtue of Regulation 4(3), is to be regarded as a relevant company for the purposes of the application of the Act;

**“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;

**“reverse takeover transaction”** means a transaction entered into by a relevant company whereby the relevant company acquires securities of another company, a business or assets of any kind and pursuant to which the relevant company will or may be obliged to increase by more than 100% its existing issued share capital that confers voting rights, and references to the entry by a relevant company into a reverse takeover transaction shall be construed accordingly;

**“rights”**, in the context of rights over securities, means an interest in such securities (where **“interest”** has the same meaning as in the definition of “interest in a security” in the Act);

**“Rules”** means these rules in their present form as set out in Parts A and B hereof or with and subject to any amendment to them for the time being in force;

**“securities exchange offer”** means an offer under which the consideration includes securities of a company (the “issuer”) other than loan stock or loan notes where such stock or notes are offered as an alternative to cash consideration (unless such stock or notes confer on their holders either substantially the same rights as are conferred by any other securities of the issuer for the time being in issue or the right to convert into or to subscribe for any such other securities or any equity share capital of the issuer);

**“security”** has the meaning assigned to it by the Act;

**“share”** means (subject to paragraph ~~(b)(vii)~~(vi)) a share in the share capital of a company and includes capital stock of a company;

**“shareholder”** has the meaning assigned to it by the Act;

**“Stock Exchange”** means, in relation to a relevant company, the recognised stock exchange or (as the case may be) the securities market (being a securities market specified in regulations made by the Minister for the purposes of section 2(c) of the Act) on which securities of that company are quoted; where securities of a relevant company are quoted on more than one such recognised stock exchange or securities market, “Stock Exchange”, in relation to that company, means each of those exchanges and markets on which the securities are quoted;

“**subsidiary**” has the meaning assigned to it by section ~~155 of 7~~of the Companies Act, ~~1963~~2014;

“**substantial acquisition of securities**” has the meaning assigned to it by Rule 3 of the Substantial Acquisition Rules;

“**Substantial Acquisition Rules**” means the Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, ~~2007~~[ ];

“**takeover**” has the meaning assigned to it by the Act;

“**takeover bid**” or “**bid**” has the meaning assigned to it by the Regulations;

“**takeover scheme of arrangement**” or “**takeover scheme**” means a compromise or arrangement between a relevant company and its members or any class of them which is made or proposed to be made pursuant to section ~~201~~450 of the Companies Act, ~~1963~~2014 and which constitutes a takeover of that company;

“**tender offer**” means an invitation made by a person by public advertisement to holders of a class of securities of a relevant company to tender securities of that company, up to a stated number, for purchase by that person, on terms stipulated in the advertisement;

“**transferable voting security**” means, in relation to a company, a voting security which is transferable;

“**unconditional as to acceptances**”, in relation to an offer, shall be construed in accordance with Rule 10.6 of Part B;

“**voluntary offer**” means an offer which is not an offer under Rule 9 or Rule 37 of Part B;

“**voting right**” has the meaning assigned to it by the Act;

“**voting security**”, in relation to a company, means a security conferring voting rights in that company;

“**website notification**” means a document sent in either hard copy form or electronic form to a person to whom a document, an announcement or any information is required to be sent, giving such person notice of the publication of the document, announcement or information on a website and providing details of the relevant website.

(b) In these Rules:

(i) references to purchases or other acquisitions of shares shall include, where relevant, purchases or other acquisitions of shares assented to an offer;

(ii) for the avoidance of doubt, references to securities acquired or held by persons acting in concert or by persons acting in concert with another person shall include references to securities acquired or (as the case may be) held by any one or more of such persons;

(iii) a company shall be deemed to be an “associated company” of another company if that other company owns or controls 20% or more of the equity share capital of the first- mentioned company;

(iv) a “competitive situation” shall be deemed to arise in relation to an existing offer by any person (1) if an announcement is made of a proposed or possible offer (with or without terms) by

another person, whether named or not, in respect of the same offeree or (2) if the Panel so determines in any other circumstances in any particular case;

~~(v) — a service contract of a person with a company shall be deemed to have more than 12 months to run if the contract~~

~~(1) — has a term of which more than 12 months remain unexpired,~~

~~(2) — may be terminated by the employing company (otherwise than for cause) only on more than 12 months' notice or~~

~~(3) — contains a provision for predetermining compensation on its termination of an amount exceeding 12 months' salary;~~

~~(vi)(v)~~ without prejudice to Rule 3.3 of Part A, a reference to acting in concert shall, in relation to a takeover bid, be construed in accordance with the meaning assigned to the expression “persons acting in concert” by Regulation 8(2) and shall, in relation to a takeover (not being a bid) or other relevant transaction, be construed in accordance with the meaning assigned to the expression “acting in concert” by the Act;

~~(vii)(vi)~~ where the context so requires, references to shares (except in the expressions share capital, equity share capital and non- equity share capital) shall include securities other than shares;

~~(viii)(vii)~~ references to **irrevocable commitments** and **letters of intent** include, respectively, irrevocable commitments and letters of intent:

(1) to accept or not to accept (or to procure that any other person accept or not accept) an offer; or

(2) to vote (or to procure that any other person vote) in favour of or against a resolution of an offeror or the offeree (or of its shareholders) in the context of an offer, including a resolution to approve or to give effect to a takeover scheme;

(viii) references to a document, an announcement or any information being sent in “electronic form” mean that it is:

(1) sent by means of electronic equipment for the processing or storage of data; and

(2) entirely transmitted and conveyed by wire, radio, optical or other electromagnetic means, provided that the sender reasonably considers that the form in which it is sent, and the means by which it is sent, will enable the recipient to read and retain a copy of it; and

(ix) references to a document, an announcement or any information being sent in “hard copy form” mean that it is sent in a paper copy or similar form capable of being read.

(c) References to an offer in:

(i) the expression “an earlier offer” in paragraph (iii) of the definition of “course of the offer” in Rule 2.1(a) of Part A;

(ii) the expression “another offer” in paragraph (B), and the expression “where an offer lapses” in paragraph (C), of the definition of “offer period” in Rule 2.1(a) of Part A;

(iii) the expression “competing offer” in subparagraphs ~~(iv)(2)(iii)(2)~~ and ~~(iv)(3)(iii)(3)~~ of Rule 5.2(a) of Part B; and

(iv) Rule ~~20.2~~ 20.3 of Part B,

shall be construed to include references to a takeover scheme and accordingly associated references in those sub- paragraphs, paragraphs or rule to “offeree”, “offeree board”, “offeror” and the “first closing date” of an offer shall be construed as references to, respectively, the relevant company to which the takeover scheme relates, the board of that company, the person or persons expected to acquire control of that company by virtue of the scheme and the date of the meeting of shareholders of that company summoned or to be summoned under section ~~201~~ 450 of the Companies Act, ~~1963~~ 2014, to vote in respect of the scheme.

~~(d) — Neither section 14(2) of the Interpretation Act 2005 nor Rule 2.6(d) of Part A of the Irish Takeover Panel Act, 1997, Takeover Rules, 2007, as originally enacted (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.~~

## 2.2 CONNECTED FUND MANAGERS AND CONNECTED PRINCIPAL TRADERS

For the purposes of these Rules, a fund manager or principal trader shall be deemed to be connected with an offeror or an offeree (as the case may be) if the fund manager or principal trader is controlled by, controls or is under the same control as:

- (a) the offeror;
- (b) the offeree;
- (c) any bank or any financial or other professional adviser (including a stockbroker) which is acting in relation to the offer or possible offer concerned for the offeror or the offeree (not being a bank which is engaged only in the provision to the offeror or the offeree, as the case may be, of normal commercial banking services or in such activities in connection with the offer as confirming that cash is available, handling acceptances and other registration work); or
- (d) an investor in a consortium formed for the purpose of making an offer;

and “connected fund manager”, “connected principal trader” and cognate expressions are to be construed accordingly.

## 2.3 DATE, DAY AND TIME

In these Rules, unless the context otherwise requires:

- (a) a reference to the date of an event shall be construed as referring to the time of occurrence of that event on the day on which it occurs;
- (b) a reference, in connection with a takeover or other relevant transaction, to a business day shall be construed as referring to a day on which the primary market (as defined in paragraph (d)) on which relevant securities of the relevant company concerned are quoted is open for the transaction of business;
- (c) where a period of time is expressed to begin on or be calculated from or after a particular day or event, that day or (in the case of an event) the day on which that event occurs shall be deemed to be excluded from such period, and, where a period of time is expressed to end on or be calculated to a particular day or event, that day or (in the case of an event) the day on which that event occurs shall be deemed to be included in such period; provided that the foregoing provisions

of this paragraph (c) shall not apply to the definition of an “offer period” or of the “course of the offer” or to any period of time which is expressed or calculated in any way by reference to an offer period; and

(d) where, in relation to a takeover or other relevant transaction, a Rule requires compliance by a specified time and there are time-zone differences or variations in trading days between the securities markets concerned, such compliance shall, so far as is practicable, be by reference to the primary market on which relevant securities of the relevant company concerned are quoted, and actions required relative to other markets shall be timed as nearly as is practicable to the time of corresponding actions on the primary market. In case of doubt regarding the requirements of this paragraph (d) in the circumstances of a particular case, the person responsible for compliance shall consult the Panel. For the purposes of this paragraph “primary market” means:

(i) if the relevant securities of the relevant company concerned are quoted on ~~the Irish Stock Exchange~~ [Euronext Dublin](#): ~~the Irish Stock Exchange~~ [Euronext Dublin](#); or

(ii) if such securities are not quoted on ~~the Irish Stock Exchange~~ [Euronext Dublin](#):

(A) the securities market specified in regulations made by the Minister for the purposes of section 2(c) of the Act on which such securities are quoted; or

(B) if such securities are quoted on two or more of the securities markets so specified:

(1) that one of those securities markets on which the relevant company is generally recognised as having its primary quotation; or

(2) if the relevant company is not generally recognised as having its primary quotation on one only, or on any, of those securities markets, that one of those securities markets on which relevant securities of the relevant company were first quoted.

#### ~~2.4 — DESPATCH OR MAKING AVAILABLE ON A WEBSITE OF DOCUMENTS OR INFORMATION~~

~~(a) — Where the Rules, or the Panel in the exercise of its functions, require the despatch or the making available on a website of documents or information to holders of securities of a relevant company, the requirement shall not be deemed unfulfilled by reason only of the non-receipt by or the non-accessibility to any holder of such material due to:~~

~~(i) — the registered address of such holder being in a country or territory outside the EEA to which the transmission or delivery of the material is precluded by the laws of a Member State or of such country or territory;~~

~~(ii) — despatch to only one of registered joint holders;~~

~~(iii) — a bona fide error in the registered address of such holder; or~~

~~(iv) — failure by postal or other carriers to effect delivery due to circumstances outside the control of the party obliged to despatch the relevant material;~~

~~provided that where the person responsible for the despatch or making available of the relevant material knows that it has not been or will not be delivered or made available to 3% or more in number of the addressees or to addressees representing in aggregate 3% or more in value of any~~

~~class of security the subject of an offer, that person shall consult the Panel, which may specify further action to be taken.~~

~~(b) — For the purposes of the Rules, the date of despatch of documents or information shall be construed to mean the time when the relevant material is passed by the sender into the control of the service provider concerned.~~

#### 2.52.4 GENERAL

In these Rules, unless the context otherwise requires:

- (a) words in the singular shall include the plural and vice versa;
- (b) words importing the masculine, feminine or neuter gender shall include each of the other genders;
- (c) a reference to a Part shall be construed as referring to a Part of these Rules; a reference to a Rule or an Appendix shall be construed as referring to a Rule or (as the case may be) an Appendix contained in the Part of these Rules in which the reference occurs; a reference in a Rule, a sub-Rule or an Appendix to a paragraph shall be construed as referring to a paragraph of that Rule, sub-Rule or (as the case may be) Appendix; and a reference to a subparagraph shall be construed as referring to a subparagraph of the paragraph in which the reference occurs;
- (d) a reference to a statute or statutory provision shall be construed as if it referred also to that provision as for the time being amended or re-enacted;
- (e) the word “person” shall include any body of persons corporate or incorporate; and
- (f) A reference to an association or organisation of or representing members of a profession shall be construed to include successors to such association or organisation and such other associations or organisations as may be designated by the Panel from time to time for that purpose, either as substitutes for or additions to such association or organisation; and references to a publication issued by such an association or organisation shall be construed to include such other publications as may be designated by the Panel from time to time for that purpose, either as substitutes for or additions to such publication.

No heading placed at the head or beginning of a Part, Rule, sub-Rule, Appendix or provision or a group of Rules or provisions to indicate the subject, contents or effect of such Part, Rule, sub-Rule, Appendix or provision or group shall be taken to be part of these Rules or be considered in relation to the construction or interpretation of these Rules or any portion of them.

#### 2.62.5 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 that 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 directly or indirectly:

(1) owns that security; or

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

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

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

to the extent that none of subparagraphs (1) to (4) above applies to that person, if he or she:

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

(6) will be economically disadvantaged if the price of that security decreases,

irrespective of:

(A) how any such ownership, right, option, obligation, advantage or disadvantage 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, right, option, obligation, advantage or disadvantage 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 (2) or (3) 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 directly or indirectly:

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

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

(3) 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, or, to the extent that none of subparagraphs (1) to (3) above applies to that person, if he or she:

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

(5) will be economically disadvantaged if the price of that security increases,

irrespective of:

(A) how any such right, option, obligation, advantage or disadvantage 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 right, option, obligation, advantage or disadvantage 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 subparagraphs (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 subparagraph 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.

### RULE 3. SPECIFICATIONS AND PRESUMPTIONS

#### 3.1 OTHER RELEVANT ~~TRANSACTIONS~~<sup>5</sup>TRANSACTIONS<sup>5</sup>

The following shall be “**relevant transactions**” for the purposes of the Act:

- (a) a substantial acquisition of securities;
- (b) a partial offer or tender offer relating to voting securities of a relevant company which, if accepted in full in the case of a partial offer or if subscribed in full in the case of a tender offer, might result in the offeror under the partial offer or (as the case may be) the purchaser under the tender offer and any parties acting in concert with it holding in the aggregate less than 30% of the voting rights in that company;
- (c) a reverse takeover transaction (not being a takeover of the relevant company which enters into the reverse takeover transaction);
- (d) an agreement or transaction made between two companies, at least one of which is a relevant company, and relating to the acquisition of voting securities in that relevant company, whereby such companies become associated wholly or partly by virtue of the shareholders, collectively or otherwise, of each of the companies acquiring the right to participate directly or indirectly in voting at general meetings of the other company or to influence in any respect the result of voting at such general meetings (not being a takeover of the relevant company concerned);
- (e) an agreement or transaction whereby or in consequence of which the aggregate percentage of the voting rights in a relevant company conferred by securities held by any person, or any persons acting in concert, who control the company is or may be increased;
- (f) an agreement or transaction in relation to the acquisition of voting securities of a relevant company which is prohibited by Rule 5 of Part B (not being a takeover of the relevant company); and
- (g) any offer to acquire voting securities of a relevant company (not being an offer specified above or a takeover of the relevant company).

#### 3.2 PARTIES TO A TAKEOVER OR OTHER RELEVANT TRANSACTION

The following persons shall be “parties to a takeover or other relevant transaction” for the purposes of the definition of that expression in the Act, in addition to those persons specified as such in section 1 of the Act;

- (a) an underwriter of an offer;

~~5 Rule 3.1 is not applicable to Shared Jurisdiction Companies.~~

- (b) a person acting as receiving agent to an offer;
- (c) a person acting as registrar of an offeree;

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<sup>5</sup> [Rule 3.1 is not applicable to Shared Jurisdiction Companies.](#)

- (d) a person who is privy to confidential price-sensitive information concerning an offer or contemplated offer;
- (e) holders of securities, and persons interested in relevant securities, of an offeror or an offeree;
- (f) in the case of a reverse takeover transaction or contemplated reverse takeover transaction: the relevant company which enters or contemplates entering into the reverse takeover transaction; the directors of that company; holders of securities of that company; the persons to whom shares in such a company are issued or to be issued pursuant to the reverse takeover transaction; and the directors of any of the above-mentioned persons which is a company;
- (g) in the case of a substantial acquisition of securities or contemplated substantial acquisition of securities: the person, or persons acting in concert, making or contemplating making the substantial acquisition of securities; the directors of any of the above-mentioned persons which is a company; the relevant company securities of which are or are to be the subject of the substantial acquisition of securities; the directors of that company; and persons from whom securities the subject of the substantial acquisition of securities are or are to be acquired;
- (h) in the case of a tender offer or contemplated tender offer, the person, or persons acting in concert, seeking or proposing to seek to acquire securities pursuant to the tender offer; the directors of any of the above-mentioned persons which is a company; the relevant company securities of which are or are to be the subject of the tender offer; the directors of that company; and holders of securities to whom the tender offer is or is to be addressed;
- (i) in the case of an agreement or transaction or proposed agreement or transaction of the kind specified in paragraph (d) of Rule 3.1 or which, but for the fact that it constitutes a takeover, would be an agreement or transaction or proposed agreement or transaction of that kind: the companies which become or contemplate becoming associated by such an agreement or transaction; the directors of each such company; and holders of securities of each such company;
- (j) in the case of an agreement or transaction or a proposed agreement or transaction of the kind specified in paragraph (e) of Rule 3.1: the person, or persons acting in concert, who are referred to in that paragraph; the directors of any of the above-mentioned persons which is a company; the relevant company which is referred to in that paragraph; and the directors of that company;
- (k) in the case of a takeover scheme of arrangement: the relevant company concerned; the holders of securities of that company who are or will be affected by the takeover scheme; the directors of that company; the person or persons who have acquired or are expected to acquire control of that company by virtue of the takeover scheme; any person acting in concert with that person or with any of those persons; the directors of any of the above-mentioned persons which is a company; and any person who, in connection with the takeover scheme, initiates or takes any other step in any proceedings in the Court under section [201-450](#) of the Companies Act, [1963-2014](#) or otherwise;
- (l) in the case of an agreement or transaction or contemplated agreement or transaction of the kind specified in paragraph (f) of Rule 3.1: the person, or persons acting in concert, making or entering into or contemplating making or entering into the agreement or transaction; the directors of any of the above-mentioned persons which is a company; the relevant company, securities of which are or are to be the subject of the agreement or transaction; the directors of that company; and holders of such securities;

(m) a person acting in concert with the offeree, the directors of the offeree, the holders of securities of the offeree or the directors of the offeror; and

(n) any person acting as an adviser to any of the persons specified in paragraphs (a) to (m) in relation to the takeover or other relevant transaction concerned.

### 3.3 ACTING IN CONCERT

(a) For all purposes of these Rules, a person and each of its affiliated persons shall be deemed to be acting in concert, all with each other.

(b) For all purposes of these Rules and without prejudice to paragraph (a), the persons described in each of the following paragraphs shall be presumed to be acting in concert with other persons described in the same paragraph as respects a takeover or other relevant transaction until the contrary is established to the satisfaction of the Panel:

(i) a company, its holding company, its subsidiaries and subsidiaries of its holding company, every associated company of any of the foregoing companies, and every company of which any of the foregoing companies is an associated company: all with each other;

(ii) a company, and each company with which the first mentioned company is presumed in accordance with subparagraph (i) to be acting in concert, with (1) each of the directors of the first mentioned company; (2) the spouse, [civil partner, cohabitant](#), parents, brothers, sisters and children of each such director; (3) the trustees of every trust (including a discretionary trust) of which any such director or any such member of his or her family is a beneficiary or a potential beneficiary; and (4) every company which is controlled by any one or more of such directors, such members of their families and the trustees of all such trusts;

(iii) a company, and each company with which it is presumed in accordance with subparagraph (i) to be acting in concert, with the trustees of every pension scheme (other than an industry-wide scheme) in which the first mentioned company participates;

(iv) a fund manager (including an exempt fund manager) and persons controlling, controlled by or under the same control as such fund manager with any other person (including a collective investment scheme) where such fund manager manages investments on a discretionary basis on behalf of such other person, in respect of the relevant investment accounts;

(v) a financial or other professional adviser (including a stockbroker) and, subject to Rule 7.2(b) of Part B, persons controlling, controlled by or under the same control as such adviser (except in any such case in the capacity of an exempt fund manager or exempt principal trader) with such adviser's client; provided that, in the case of an adviser which is a partnership, the presumption shall apply to those partners and professional staff who are actively engaged in relation to the transaction concerned or who are customarily engaged in the affairs of the relevant client or who have been engaged in those affairs within the period of two years prior to the commencement of the relative offer period in the case of an offer or to the time of the transaction in any other case;

(vi) during the course of an offer in respect of a relevant company, or whilst the directors of a relevant company have reason to believe that an offer in respect of that company may be made in the near future, or whilst a relevant company is in the course of redeeming or purchasing its own voting securities, or whilst the directors of a relevant company propose that that company redeem or purchase its own voting securities: directors of the company with (1) each other;

(2) the spouse, [civil partner, cohabitant](#), parents, brothers, sisters and children of each such director; (3) the trustees of every trust (including a discretionary trust) of which any such director or any such member of his or her family is a beneficiary or a potential beneficiary; and (4) every company which is controlled by any one or more of such directors, such members of their families and the trustees of all such trusts;

(vii) an individual; the spouse, [civil partner, cohabitant](#), parents, brothers, sisters and children of such individual; the trustee of every trust (including a discretionary trust) of which such individual or any such member of his or her family is a beneficiary or a potential beneficiary; and every company which is controlled by any one or more of such individual, such members of his or her family and the trustees of all such trusts: all with each other;

[\(viii\) persons who, as part of a single transaction or a linked series of transactions, sell assets \(other than quoted securities\) to a relevant company in consideration for the issue of new shares in the relevant company to them: with each other.](#)

#### RULE 4. DISAPPLICATION OF CERTAIN RULES

Rule 3.1 in Part A and Rule 3.2, Rule 5, Rule 7.2, paragraph (b) in Rule 9.1, Rule 14, Rule 15, Rule 36 (to the extent that such Rule relates to partial offers that will not constitute takeover bids), Rule 37, Rules 39 to 41 (inclusive) and Appendix 4 in Part B shall apply only in the case of companies which fall within the definition of “relevant company” in section 2 of the Act (as that section has effect apart from the operation of Regulation 4).

#### RULE 5. STATUS OF APPENDICES

Appendices 1 to 4 below are appendices to, and form part of, the Rules contained in Part B.