

**IRISH TAKEOVER PANEL ACT, 1997,
SUBSTANTIAL ACQUISITION RULES, 2022¹**

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¹The Substantial Acquisition Rules do not apply to Shared Jurisdiction Companies

RULE 1. CITATION, COMMENCEMENT AND REPEAL**1.1 CITATION**

These Rules may be cited as the Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2022.

1.2 COMMENCEMENT

These Rules shall come into operation on 22 July 2022.

1.3 REPEAL

The Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2007 are hereby repealed.

1.4 TRANSITIONAL PROVISION

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

RULE 2. INTERPRETATION

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

“**Rules**” means these rules in their present form or with and subject to any amendment to them for the time being in force;

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

“**Takeover Rules**” means the Irish Takeover Panel Act, 1997, Takeover Rules, 2022.

(b) All terms which are used but not defined in these Rules and which are defined in the Takeover Rules shall have in these Rules the meanings assigned to them in the Takeover Rules unless the context otherwise requires.

(c) Rules 2.3, 2.4 and 3.3 of Part A of the Takeover Rules and Rule 30.4 of Part B of the Takeover Rules shall apply to these Rules as if they were incorporated in these Rules.

**RULE 3. SPECIFICATION: SUBSTANTIAL
ACQUISITION OF SECURITIES**

(a) An acquisition or a series of acquisitions by a person of voting securities of a relevant company or of rights over voting securities of that company shall be regarded, for the purposes of the Act, as a substantial acquisition of securities if:

(i) any voting securities so acquired by that person and the voting securities the subject of any rights so acquired by that person confer in the aggregate 10% or more of the voting rights in the company; and

(ii) any voting securities so acquired by that person and the voting securities the subject of any rights so acquired by that person, when aggregated with any voting securities already held by that person and any voting securities over which that person already holds rights, confer 15% or more, but less than 30%, of the voting rights in the company; and

(iii) in the case of a series of acquisitions of securities, all of such acquisitions are made within a period of 7 days;

provided that neither the acquisition of new voting securities, of securities convertible into new voting securities or of rights to subscribe for new voting securities (other than the purchase of rights arising pursuant to a rights issue), nor the acquisition of new or existing voting securities, or of rights over such securities, under an established share option scheme nor the acquisition of existing voting securities by the exercise of an option, shall be treated as an acquisition of voting securities or rights over voting securities for the purposes of Rule 3 but so that this proviso shall be without prejudice to the subsequent aggregability, for the purposes of Rule 3, of such securities as securities held by the person who so acquired them.

(b) For the purposes of these Rules:

(i) any two or more persons who are acting in concert shall together be deemed to constitute one person and accordingly every acquisition by, and every holding of, such persons or any of them of voting securities of the relevant company concerned or of rights over voting securities of that company shall be aggregated with every other such acquisition by or (as the case may be) holding of such persons or any of them and shall be deemed to be an acquisition by, or (as the case may be) a holding of, one person provided that the foregoing provisions of this subparagraph (i) shall not prevent an acquisition of securities by a person from a person or persons acting in concert with such first mentioned person from being a substantial acquisition of securities by such person if, in the absence of those provisions, such acquisition would be a substantial acquisition of securities by such person;

(ii) no voting security shall be counted more than once in any aggregation under these Rules;

(iii) if a person manages investment accounts on a discretionary basis, securities acquired or held for such accounts shall be treated as acquired or (as the case may be) held by that person and not by the persons on whose behalf the holdings of securities are managed; and

(iv) a discretionary fund manager shall be presumed (until the contrary is established to the satisfaction of the Panel) to be acting in concert with any company controlling, controlled by or under the same control as the fund manager.

RULE 4. RESTRICTION ON ACQUISITIONS

(a) Except as permitted by Rule 5 and subject to paragraph (b), no person shall make a substantial acquisition of securities.

(b) (i) Paragraph (a) shall not apply to a substantial acquisition of securities by a person whose business is dealing in securities (in this paragraph (b) referred to as a “dealer”) from a single holder of securities (within the meaning of Rule 5) if the dealer makes the substantial acquisition of securities with the intention of selling to persons who are not persons acting in concert with the dealer, before 12.00 noon on the following business day:

(1) such number of the voting securities, or of the rights over voting securities, comprised in the substantial acquisition of securities as will reduce the aggregate percentage of the voting rights in the company concerned conferred by the remainder of those voting securities and by the voting securities the subject of the remainder of those rights to less than 10%; or

(2) (if the voting securities, and the voting securities the subject of the rights, held by the dealer immediately prior to the substantial acquisition of securities confer in the aggregate less than 15% of the voting rights in the company concerned), such number (if lesser) of the voting securities, or of the rights over voting securities, comprised in the substantial acquisition of securities as will reduce the aggregate percentage of the voting rights in the company conferred by the remainder of those voting securities and by the voting securities the subject of the remainder of those rights to less than 15%.

A dealer which makes a substantial acquisition of securities shall disclose it to the Panel immediately after it is made, but the securities so acquired shall not be taken into account for the purposes of Rule 6 provided that the dealer disposes, in accordance with the terms of the preceding sentence and before the stipulated time, of the requisite amount of voting securities or rights over voting securities to persons who are not persons acting in concert with the dealer. If the dealer does not do so, it shall immediately consult the Panel, which may require the dealer to disclose the acquisition pursuant to Rule 6; the Panel may also require the dealer to reduce its holding of voting securities, or of rights over voting securities, of the company concerned as soon as is practicable and may impose restrictions on further acquisitions by the dealer of securities of that company and on the exercise by the dealer of the voting rights in that company conferred by the securities held by it.

(ii) If a dealer purchases a portfolio of securities without knowledge of its contents and thereby inadvertently makes a substantial acquisition of securities, the dealer shall consult the Panel immediately, and paragraph (a) shall not apply to such substantial acquisition of securities nor shall the voting securities or rights over voting securities comprised in such substantial acquisition of securities be taken into account for the purposes of Rule 6 provided that before 12.00 noon on the following business day the dealer disposes to persons who are not acting in concert with it of:

(1) such number of the voting securities, or of the rights over voting securities, comprised in the substantial acquisition of securities as will reduce the aggregate percentage of the voting rights in the company concerned conferred by the remainder of those voting securities and by the voting securities the subject of the remainder of those rights to less than 10%; or

(2) (if the voting securities, and the voting securities the subject of the rights, held by the dealer immediately prior to the purchase of the portfolio confer in the aggregate less than 15% of the voting rights in the company concerned), such number (if lesser) of the voting securities, or of the rights over voting securities, comprised in the substantial acquisition of securities as will reduce the aggregate percentage of the voting rights in the company conferred by the remainder of those voting securities and by the voting securities the subject of the remainder of those rights to less than 15%.

If the dealer does not do so, it shall immediately consult the Panel, which may require the dealer to disclose the purchase pursuant to Rule 6; the Panel may also require the dealer to reduce its holding of voting securities, or of rights over voting securities, of the company concerned as soon as is practicable and may impose restrictions on further acquisitions by the dealer of securities of that company and on the exercise by the dealer of the voting rights in that company conferred by the securities held by it.

RULE 5. EXCEPTIONS TO RESTRICTION

(a) The restriction in Rule 4(a) does not apply to a substantial acquisition of securities by a person:

(i) from a single holder of securities, if it is the only acquisition of voting securities, or of rights over voting securities, of the company concerned made by that person within any period of 7 days; or

(ii) pursuant to a tender offer in accordance with Rule 7; or

(iii) immediately before that person announces a firm intention to make an offer in respect of the company concerned, provided that the offer will be publicly recommended for acceptance by, or the acquisition is made with the agreement of, the offeree board and the acquisition is conditional upon the announcement of the offer; or

(iv) after that person has announced a firm intention to make an offer in respect of the company concerned.

(b) For the purposes of paragraph (a)(i) and subject to paragraph (c), acquisitions of voting securities, or of rights over voting securities, of a relevant company from two or more persons shall be regarded as an acquisition from a single holder of securities if but only if:

(i) one of such persons is a spouse, civil partner, cohabitant, parent, brother, sister or child of the other such person or, as the case may be, of each of the other such persons; or

(ii) one of such persons is (1) a subsidiary, (2) the holding company or (3) a subsidiary of a body corporate which is the holding company, of the other such person or, as the case may be, of each of the other such persons.

(c) Except with the consent of the Panel, a principal trader shall not be considered to be a single holder of securities for the purposes of paragraph (a)(i).

RULE 6. DISCLOSURE

(a) Subject to paragraph (b) and as provided below, a person who acquires voting securities, or rights over voting securities, of a relevant company shall disclose that acquisition and that person's total holdings of voting securities, and rights over voting securities, of the company, by electronic mail to the company and the Panel and to a Regulatory Information Service not later than 12.00 noon on the business day following the date of the acquisition if:

(i) the voting rights in the company conferred by any voting securities already held by that person and by any voting securities over which that person already holds rights confer in the aggregate less than 15% of the voting rights in the company and that percentage is increased, or subject only to the issue in the State of a governmental or regulatory authorisation, consent, approval or clearance will be increased, to or beyond 15% when aggregated with the voting rights conferred by the voting securities, or by the voting securities the subject of the rights, so acquired by that person; or

(ii) the voting rights in the company conferred by any voting securities already held by that person and by any voting securities over which that person already holds rights confer in the aggregate 15% or more but less than 30% of the voting rights in the company and that percentage is increased, or subject only to the issue in the State of a governmental or regulatory authorisation, consent, approval or clearance will be increased, to or beyond any whole percentage figure when aggregated with the voting rights conferred by the voting securities, or by the voting securities the subject of the rights, so acquired by that person;

provided that this paragraph (a) shall not apply to the acquisition of new voting securities, of securities convertible into new voting securities or of rights to subscribe for new voting securities (other than the purchase of rights arising pursuant to a rights issue), the acquisition of new or existing voting securities, or of rights over such securities, under an established share option scheme or the acquisition of existing voting securities by the exercise of an option, but so that this proviso shall be without prejudice to the subsequent aggregability, for the purpose of Rule 6, of such securities as securities held by the person who so acquired them.

The disclosure shall distinguish between acquisitions and existing holdings of voting securities and rights over voting securities and shall specify the nature of any such rights and number and type of voting securities in each case. Where an option over existing voting securities is acquired, the disclosure shall specify the period of the option or its expiry date.

Disclosure under this paragraph (a) shall follow the format of Form SAR 6 in the Appendix to these Rules.

(b) Paragraph (a) shall not apply to a substantial acquisition of securities which falls within Rule 5(a)(i), (iii) or (iv).

RULE 7. TENDER OFFERS**7.1 SUBSTANTIAL ACQUISITIONS OF SECURITIES MADE BY TENDER OFFER**

- (a) The maximum number of securities of a relevant company that are the subject of any tender offer shall not be such as would, if the tender offer were subscribed in full, result in the person who seeks to purchase securities under the tender offer and persons acting in concert with it (in Rule 7 collectively referred to as the “buyer”) holding voting securities or rights over voting securities which securities would confer in the aggregate 30% or more of the voting rights in that company on the date on which the tender offer closes.
- (b) Rules 7.2 to 7.6 shall apply only to a tender offer which, if subscribed in full, would constitute a substantial acquisition of securities by the buyer.
- (c) Securities acquired under a tender offer shall be treated, for the purposes of these Rules, as having been acquired on the date on which the tender offer closes.

7.2 PROCEDURE AND APPROVAL

- (a) A person who publishes a tender offer (whether it is made on the Stock Exchange or elsewhere) shall do so by paid advertisement in two Irish national daily newspapers and shall notify the Panel, the Stock Exchange and the relevant company securities of which are the subject of the tender offer (in Rule 7 referred to as the “company concerned”) of the information specified in Rule 7.3 at least 7 days before the day on which the tender offer closes.
- (b) Subject to paragraph (c), the buyer shall treat all holders of securities who tender on equal terms.
- (c) A tender offer shall be for cash only but may be at a fixed price or a maximum price; top-up arrangements are not permitted.
- (i) Fixed price: if the tenders exceed the number of securities sought, the tenders shall be scaled down pro rata.
- (ii) Maximum price: if the tender offer is over-subscribed, the striking price for the offer shall be the lowest price at which the number of securities sought is met and all who tender at or below the striking price shall receive that price. Where appropriate, tenders made at the striking price shall be scaled down pro rata or balloted.

If the tender offer is under-subscribed, all persons who tender shall receive the same price (the maximum or fixed price, as the case may be), except where fewer securities are tendered than the percentage below which the tender is void.

(d) The entire content and publication programme of the advertisement shall be subject to the prior approval of the Stock Exchange if the tender offer is made through the Stock Exchange and otherwise shall be subject to the prior approval of the Panel.

(e) In every case the buyer shall supply the Stock Exchange or, as the case may be, the Panel with copies of the final text and format of the advertisements as previously approved, no later than the time they are given to the newspapers.

(f) Except with the consent of the Panel, a person shall not publish a tender offer for securities of a company during an offer period relative to an offer in respect of that company.

7.3 DETAILS OF TENDER OFFER ADVERTISEMENTS

(a) The advertisement of a tender offer, which shall constitute a firm offer, shall include the particulars set out below:

- (i) the name of the buyer;
- (ii) the name of the broker or other agent acting for the buyer;
- (iii) the name of the company concerned;
- (iv) the maximum number of securities and the corresponding proportion of voting capital offered for;
- (v) a statement that, if tenders totalling less than 1% of the voting rights of the company concerned are received, the tender offer will be void. Alternatively, the buyer may, subject to any applicable Stock Exchange approval, indicate a higher percentage below which the tender offer will be void;
- (vi) a statement that, subject to subparagraph (v), a tender by a holder of securities will be irrevocable;
- (vii) the fixed or maximum price (as the case may be);
- (viii) the buyer's present holding of securities of the company concerned (including securities not conferring voting rights), specifying the number and type of securities;
- (ix) the closing day and time for the tender offer; and
- (x) the arrangements for tendering securities and for delivery and settlement (on a basis approved in advance by the Stock Exchange or the Panel as appropriate).

(b) A tender offer shall not be subject to any condition other than a condition on the terms set out in subparagraph (a)(v).

(c) If a buyer wishes to make a statement about its future intentions, such statement shall be contained in the advertisement of the tender offer and shall be explicit and unambiguous. The buyer shall consult the Panel in advance with regard to any such statement.

(d) If a buyer so wishes, a statement may be made comparing the value of the tender offer with the market value of the securities the subject of the tender offer.

(e) The advertisement shall be restricted to the items above together with any information required by law or by any rule of a regulatory authority, or by a ruling or direction of the Panel.

7.4 CIRCULATION OF TENDER OFFER AND OTHER DOCUMENTS

(a) Subject to compliance with applicable law, a buyer, or any person acting for it, may send copies of the tender announcement to all holders of the class of securities of the company concerned. The buyer shall submit a copy of any such circular to the Panel and, where made through the Stock Exchange, the Stock Exchange no later than the time at which it is sent to such holders.

(b) The company concerned shall send the Panel no later than the time at which it is sent a copy of any document sent by it to holders of its securities in connection with the tender offer.

7.5 ANNOUNCEMENT OF THE RESULT OF A TENDER OFFER

The buyer shall announce the result of a tender offer by 8.00 a.m. on the business day following the close of the tender offer.

7.6 PROHIBITION OF FURTHER TRANSACTIONS DURING A TENDER OFFER

Other than pursuant to the tender offer, a buyer shall not acquire or dispose of any securities of the company concerned between the time of announcement of the tender offer and the time when the result of the tender offer is announced.

RULE 8. PERSONS ACTING IN CONCERT

(a) Where any obligation (including, without limitation, the obligation under Rule 4 not to make a substantial acquisition of securities and the disclosure obligation under Rule 6) is imposed by the Rules on a person (in this paragraph (a) referred to as the “**obligor**”) and by virtue of Rule 3 two or more persons who are acting in concert are together deemed to constitute the obligor, each of the persons acting in concert shall be bound by that obligation and it shall be the duty of each of them to ensure that such obligation is fulfilled.

(b) Where the aggregate voting rights (the “**relevant voting rights**” for the purposes of Rule 8) attributable to securities held, and to securities in respect of which rights are held, by two or more persons who are acting in concert, and who are together deemed under Rule 3 to constitute one person, confer 15% or more but less than 30% of the voting rights in a relevant company, such persons shall notify to the company any disposals by them or any of them of voting securities or rights over voting securities that result in the relevant voting rights decreasing below any whole percentage level as if they were parties to a share acquisition agreement to which section 1055 of the Companies Act, 2014 refers and as if the company were the “**target company**” for the purposes of that sub-section. Such persons shall at the same time disclose such disposal by electronic mail to the company and the Panel and to a Regulatory Information Service.

RULE 9. STATUS OF APPENDIX

The Appendix below is an appendix to, and forms part of, these Rules.

**APPENDIX
DISCLOSURE FORM**

FORM SAR 6

IRISH TAKEOVER PANEL

Date of disclosure.....

**DISCLOSURE UNDER RULE 6 OF THE IRISH TAKEOVER PANEL
ACT, 1997, SUBSTANTIAL ACQUISITION RULES, 2002 ("SARs")**

Date of Acquisition

Acquisition in (name of company)

(1) Class of voting securities (e.g. ordinary shares)	Number of voting securities/rights over voting securities acquired	If rights over voting securities acquired, as opposed to the securities themselves specify nature of rights
..... securities securities
..... rights
(2) Resultant total holding of voting securities (and % of total voting securities) in issue	Resultant total holding of rights over voting securities (and % of total voting securities in issue)	Total percentage
.....(%)(%)(%)

(3) Party making disclosure

(4) (a) Name of person acquiring securities or rights over securities

.....

and, if different, beneficial owner

(b) Names of any other persons acting in concert (see SAR 3)

.....

Signed, for and on behalf of the party named in (3) above

.....

(Also print name of signatory)

Telephone and extension number

Note 1. Under SAR 3, the holdings of and acquisitions by persons acting in concert must be aggregated and treated as a holding of or acquisition by one person. SAR 8(b) requires persons who must aggregate holdings to disclose certain disposals.

For full details of the SARs disclosure requirements, see Rules 4, 6 and 8(b) of the SARs. If in doubt, consult the Panel.

SUBSTANTIAL ACQUISITION RULES

INTRODUCTION

1 BACKGROUND

The Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2022 (the “SARs”) are made by the Irish Takeover Panel (the “Panel”) pursuant to the provisions of section 8(2) of the Irish Takeover Panel Act, 1997 (the “Act”) and have been approved by the Minister for Enterprise, Trade and Employment as required by the Act. This Introduction and the Notes on the SARs do not constitute a part of the SARs as such nor do they constitute a legal interpretation of the SARs. The SARs are administered by the Panel together with the Irish Takeover Panel Act, 1997, Takeover Rules, 2022 (the “Takeover Rules”). The Panel Executive is available for consultation on the application of the SARs, and rulings and directions relative to the SARs will be given by the Panel on application by interested parties or on its own initiative.

The SARs do not apply to those relevant companies that fall within the Panel’s jurisdiction solely as a result of the Regulations.

2. SCOPE OF THE SARs

Subject to certain exceptions, the SARs restrict the speed with which a person may increase a holding of voting securities, and rights over voting securities, of a relevant company to an aggregate of between 15% and 30% of the voting rights of a relevant company as defined in the Act. The SARs also require accelerated disclosure of acquisitions of voting securities, or rights over voting securities, relating to such holdings.

The SARs do not apply to an acquisition of securities of a relevant company by a person:

(a) who has announced a firm intention to make an offer under the Takeover Rules for the company concerned. A person who makes such an announcement is subject to the Takeover Rules, and not to the SARs, in respect of acquisitions during the course of the offer; or

(b) which results in his or her holding voting securities or rights over voting securities which when aggregated with any voting securities, and any voting securities the subject of rights, held by parties acting in concert with him or her, carrying 30% or more of the voting rights of the company. Such a person will be subject to the provisions of Rule 5 of the Takeover Rules and will, if appropriate, be obliged to make a mandatory offer under Rule 9 of the Takeover Rules.

3. PROCEDURES

The procedures of the Panel in relation to administration of the SARs are similar to those set out in the introduction to the Takeover Rules.

4. TENDER OFFERS

Certain tender offers come within the scope of the SARs, and Rule 7 of the SARs governs these offers.

**NOTES ON THE IRISH TAKEOVER PANEL ACT, 1997, SUBSTANTIAL
ACQUISITION RULES, 2022**

These Notes do not constitute a part of the SARs nor do they constitute a legal interpretation of the SARs. These Notes are intended merely to provide an indication for practitioners as to some of the considerations to which the Panel may have regard in the application of the SARs. In particular, these Notes should in no way be interpreted as prescribing the circumstances in which any discretion of the Panel under the Act will or may be exercised. The Panel emphasises that nothing in these Notes is intended in any way to restrict or fetter the manner in which any of its discretionary powers is exercised.

NOTES ON RULE 3

1. *“Acting in concert” (Act definition), “rights” over voting securities and “voting securities”.*

See Notes 1, 15 and 18 on Rule 2.1 of Part A of the Takeover Rules.

2. *The 7 day period - aggregation*

(a) It is necessary for a person, before making an acquisition of voting securities of a relevant company, or of rights over such securities, on any day, to identify and aggregate the acquisitions of such securities of that company made by him or her (or persons acting in concert with him or her) in the preceding 6 days with the acquisition about to be made and any other acquisitions already made by him or her on that day. If the aggregate would represent less than 10% of the total voting rights, the proposed acquisition may be made; if the percentage would be 10% or more and, when aggregated with the voting rights attributable to the voting securities, and the voting securities the subject of rights, already held by him or her (or persons acting in concert with him or her), would be 15% or more but less than 30% of the total voting rights, the proposed acquisition may not be made unless it falls within one of the exceptions permitted by Rule 5.

(b) The thresholds of 10%, 15% and 30% in the SARs relate to voting securities and also to rights over voting securities, even where such rights do not confer control of the votes attaching to the securities concerned.

3. *Issued share capital*

Calculations must be made by reference to the voting rights attributable to the securities of the company concerned in issue at the time of the acquisition.

4. *Investment managers*

The Panel will normally accept that a fund manager forming part of a group of companies is not acting in concert with any company controlling, controlled by or under the same control as the fund manager if it is established to the Panel's satisfaction that the fund manager is operating independently and without regard to the interests of any other part of the group (for example, where, in an offer, the fund manager would have exempt status for the purposes of the Takeover Rules).

NOTE ON RULE 4*Persons acting in concert*

Subject to the proviso in Rule 3(b)(i), such persons are deemed to be one person, and each of them is subject to the restriction imposed by Rule 4. (See Rules 3 and 8(a) and Note 2 on Rule 5.)

NOTES ON RULE 5

1. *When 30% or more is held*

The Substantial Acquisition Rules are not relevant to an acquisition by a person of voting securities or rights over voting securities if the voting rights conferred by the voting securities so acquired or by the voting securities the subject of the rights so acquired, when aggregated with the voting rights conferred by any voting securities, and by the voting securities the subject of any rights, already held by that person or persons acting in concert with that person, would amount to 30% or more of the total voting rights in the company.

2. *Single holder of securities*

The holdings of two or more holders of securities acting in concert who are deemed by Rule 3 to be one person will not be considered to be the holding of a single holder for the purposes of Rule 5(a)(i) unless the holders concerned fall within Rule 5(b).

For the purposes of Rule 5(b)(i), the Panel will normally consent to the inclusion in family holdings of securities held by a company wholly owned and controlled by qualifying family members, or by trustees of a trust whose beneficiaries are all qualifying family members. The Panel should be consulted in any such case.

NOTES ON RULE 6

1. *Persons acting in concert*

Where such persons are deemed by Rule 3 to be one person, each of them is bound by the disclosure obligation. (See Rules 3 and 8(a).)

2. *Redemption or purchase*

Following a redemption or purchase by a company of its own securities, Rule 6(a) will apply to subsequent acquisitions by a person on the basis of the voting rights attributable to the securities of the company concerned in issue at the time of the acquisition (i.e. after taking into account the redemption or purchase).

3. *Rule 6(b)*

Where disclosure of acquisitions of securities is not required under the provisions of Rule 6(b), there may be a requirement for disclosure under the Takeover Rules.

NOTES ON RULE 7

NOTE ON RULE 7.1

Maximum number of shares

Calculations of the maximum number of shares that are the subject of the offer must be made by reference to the voting rights attributable to the securities of the company concerned in issue at the time of the announcement of the tender offer; if, however, it is known at the time of the announcement that by the closing date of the tender the issued share capital will have changed, this must also be taken into account.

NOTE ON RULE 7.2

If the company is the subject of an offer

If a tender offer is proposed for shares in a company which is the subject of an offer under the Takeover Rules, the matters considered by the Panel may include the following:

- (i) extension of the offer period in respect of the offer under the Takeover Rules;*
- (ii) circulation of the tender advertisement to all shareholders; and*
- (iii) disclosure of positions and dealings by the person making the tender offer and any persons acting in concert with that person in the manner set out in Rule 8 of Part B of the Takeover Rules.*

NOTES ON RULE 7.3

1. *Void tenders*

Subject to any applicable Stock Exchange approval, the buyer will be allowed to specify in its tender offer a percentage higher than 1% below which the tender will be void.

2. *Future offers*

If a buyer makes a statement which states or implies that it does not intend to make an offer in respect of the company concerned, he or she will not normally be permitted by the Panel to send such an offer to shareholders within 6 months of the date of the statement, unless an offer in respect of that company is announced by a third party within that period.

3. *Limit on contents of tender advertisements and other information*

The limit on the amount of information permissible in tender advertisements is strictly enforced; no form of argument or persuasion is allowed. Consequently, neither the buyer nor its advisers may make any statement or otherwise make public any information in connection with the tender offer which is not already contained in the tender offer advertisement itself. Furthermore, no private or public release by the buyer of relevant information not in the public domain is permitted.

NOTE ON RULE 7.6

Persons acting in concert

This prohibition also applies to persons acting in concert with the person seeking to purchase securities under the tender offer.