

PCP 2024/1 Companies to which the Takeover Code applies

16 July 2024



Introduction

1. The views set out in this response have been prepared by a Joint Working Party of the Company Law Committees of the City of London Law Society (**CLLS**) and the Law Society of England and Wales (the **Law Society**).
2. The CLLS represents approximately 17,000 City lawyers through individual and corporate membership, including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multijurisdictional legal issues. The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees.
3. The Law Society is the professional body for solicitors in England and Wales, representing over 170,000 registered legal practitioners. It represents the profession to Parliament, Government and regulatory bodies in both the domestic and European arena and has a public interest in the reform of the law.
4. The Joint Working Party is made up of senior and specialist corporate lawyers from both the CLLS and the Law Society who have a particular focus on issues relating to takeovers.

FOR FURTHER INFORMATION PLEASE CONTACT:

Chris Pearson (chris.pearson@nortonrosefulbright.com)

Response

5. We agree that a review of the application of the Code is timely and support the goal of providing greater clarity and certainty as to the companies which fall within the Panel's jurisdiction and reducing the regulatory burden on unlisted public and private companies.

Q1 Should the scope of the Code be narrowed to apply only to a company which is "UK-listed" or which was "UK-listed" at any time during the three years prior to the relevant date?

6. Yes – we agree with this proposal.

Q2 Do you agree that the "run-off" period for a company which ceases to be UK-listed should be three years?

7. Yes. We also note that the removal of the residency test would mean that a company (other than a transition company) would continue to be subject the Code for the relevant period following delisting notwithstanding any changes to the composition of the company's board, which we believe would be beneficial for investors and provide greater certainty and clarity as to the company's Code status.

Q3 Should the Panel have the ability, where appropriate, to grant a waiver from the application of some or all of the provisions of the Code in respect of a company which has ceased to be "UK-listed"?

8. Yes. We agree that there may be circumstances in which it is inappropriate or unduly onerous to apply the Code in full and that the Panel should therefore retain the flexibility to grant waivers.

Q4 Do you have any comments on the proposed new section 3(a) of the Introduction?

9. We have one minor drafting suggestion on the wording of paragraph 3(a)(ii) as marked below (amended so that it also cross-refers to paragraph 3(a)(v) "*Companies to which the Code does not apply*").

"...any company (not falling within paragraph (i) above or paragraphs s (iii) or (v) below)

10. It would also be helpful if any additional guidance could be provided on what the Panel would consider to be "significant" in the context of the reference (in paragraphs 3(a)(ii) and 3(a)(iii)) to some other event in relation to the company "*which has significance under the Code*".

Q5 Should the new section 3(e) of the Introduction with regard to the cancellation of admission to trading be introduced as proposed?

11. Yes.

Q6 Do you have any comments on the minor and consequential amendments?

12. No.

Q7 Should the transitional arrangements be introduced as proposed?

13. Yes – we agree with the proposed approach to transitional arrangements.

Q8 Do you agree that the length of the transitional period should be three years?

14. Yes.

Q9 Do you have any comments on the proposed new section 3(a)(iii) of the Introduction or the new Transitional Appendix?

15. No.