ICAEW
REPRESENTATION 91/26

TAKEOVER PANEL MISCELLANEOUS CODE AMENDMENTS (PCP 2026_1)

Issued 2 October 2026

ICAEW welcomes the opportunity to comment on *Miscellaneous Code Amendments* (PCP 2026/1), published by the Code Committee of the Takeover Panel on 9 July 2026, copies of which are available from this link.

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ANSWERS TO SPECIFIC QUESTIONS

Q1 Should Note 5 on the definition of "acting in concert" be amended so as to apply only to an agreement which restricts a person from reducing the number of shares in a company in which it is interested, and not also to other types of agreement?

1. We agree that Note 5 on the definition of "acting in concert" should be amended as proposed.

Q2 Where a person interested in shares in a company has entered into an agreement with the company, and/or its directors, which requires the person to vote the shares in which it is interested (or to procure that the shares are voted) as the board recommends to shareholders on any resolution relating to the appointment and/or removal of directors, should the Panel normally consider the person and the directors to be acting in concert?

2. While we understand the purpose, we think that a blanket approach to such voting arrangements could raise issues. For example, we would not expect an agreement by a shareholder to support a one-off board appointment or a commitment by a shareholder to support resolutions which ensure that the company remains compliant with relevant corporate governance codes, to trigger a presumption of concertedness.
3. Given the unusual nature of such defensive concert parties, we suggest that a more proportionate response might be to expand on areas of concern in the Panel's Response Statement and to consider such agreements on a case-by-case basis.

Q3 Should the definition of "reverse takeover" be amended as proposed, and the Note on reverse takeover be deleted as proposed, to clarify that a reverse takeover includes any acquisition where a Code company may issue more than 100% of its voting equity share capital as consideration?

4. We agree that the definition should be amended as proposed. However, we think it would be helpful to include, within the Code, clarification that the Panel Executive applies Rule 3.2, Note 8 on Rule 21.1, Rule 21.2(b)(v) and Note 3 on Rule 21.3 only to a reverse takeover that involves an offer by a Code company for another Code company.

Q4 Should Note 4 on Rule 21.3 be amended as proposed to extend the application of Rule 21.3 to a reverse takeover in competition with an offer, other than one to which Note 3 on Rule 21.3 or Section 1(c) of Appendix 1 applies?

5. We agree with the proposed amendment.

Q5 Should (i) the definition of "UK multilateral trading facility or UK MTF" and the # note in section 3 of the Introduction to the Code be deleted, and a new definition of "UK primary MTF" be introduced, as proposed and (ii) Rule 24.3(a) in relation to AIM and the AQSE Growth Market, and Rule 28.5(b) in relation to the AIM Rules for Issuers and the AQSE Growth Market Rules for Issuers, be amended as proposed?

6. We agree with the proposed amendments.

Q6 Should Rule 2.6(c) be amended as proposed to delete the factors to be taken into account by the Panel when deciding whether to consent to the extension of a "put up or shut up" deadline and the requirement for the offeree board to comment on those matters in an announcement of a new deadline?

7. We agree with the proposal to remove from Rule 2.6(c) the factors to be taken into account by the Panel and the requirement for the offeree board to comment on those matters in an announcement of a new deadline.

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Q7 Should Note 1 on Rule 9.1 (Coming together to act in concert) be simplified and shortened as proposed?

8. We agree with the proposal regarding Note 1 on Rule 9.1.

Q8 Should Note 2 on Rule 9.1 (Collective shareholder action) be amended as proposed, including (i) removing the duplication of the board control-seeking factors, on the basis that they are guidance as to how the Executive applies Rule 9.1 and are already included in Practice Statement 26 and (ii) moving the investment trust paragraph and the concert party break-up factors into Practice Statement 26?

9. We agree with the proposed amendment to Note 2 on Rule 9.1.

Q9 Should Note 3 on Rule 9.1 (Directors of a company) be deleted as proposed?

10. We agree that Note 3 on Rule 9.1 should be deleted as proposed.

Q10 Should Note 4 on Rule 9.1 (Acquisition of interests in shares by members of a group acting in concert) be deleted and replaced by the proposed new Note 3 on Rule 9.1 (Transfers of interests in shares between members of a concert party), the new Note 4 on Rule 9.1 (Acquisitions from third parties where a concert party holds more than 50% of the voting rights) and, in relation to the consideration to be offered, the new Note 2(d) on Rule 9.5?

11. We agree.

Q11 Should Note 5 on Rule 9.1 (Employee benefit trusts) be amended as proposed?

12. We support the effort to simplify Note 5 on Rule 9.1. Where the Panel Executive is satisfied that the trustees of an employee benefit trust (EBT) are third party professional trustees (eg which would not include directors of the Code company) who are clearly acting independently of the directors and/or controller of the company to which the EBT relates (Note 5(c)(i)), we might question the relevance (or at least the weight) of some of the factors set out in Note 5(c)(ii)-(vii). Would the independence of such trustees not be the primary factor to consider? Does the Code Committee agree? If so, it might be helpful to clarify this in the Note.

Q12 Should Note 6 on Rule 9.1 (Vendor of part only of an interest in shares) be deleted and replaced by the proposed new Note 6 (Sale of part of an interest in shares)?

13. We observe that the wording “The Panel **will be concerned to see** whether in such circumstances the vendor is acting in concert with the purchaser” in Note 6 on Rule 9.1 has been replaced with “the Panel **may wish to consider** whether the vendor and the purchaser are acting in concert” (emphasis added). Is the amended language intended to reflect a change in approach by the Panel when considering a vendor concert party or a change to the standard of proof required for such an investigation to take place?

Q13 Should Note 7 on Rule 9.1 (Placings and other arrangements) be amended as proposed?

14. We agree with the proposed amendment.

Q14 Should Note 10 on Rule 9.1 (Convertible securities, warrants and options) be simplified and shortened as proposed?

15. We think that the Code Committee could consider the inclusion in Note 10 of circumstances in which a Rule 9 waiver in respect of the exercise of rights could be granted ex post facto. This will help avoid unwritten rules on this matter.

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Q15 Should Note 17 on Rule 9.1 (Changes in the nature of a person's interest) be amended as proposed?

16. We agree with the proposed amendment.

Q16 Should Note 2 on Rule 16.1, Rule 16.2(a) and Note 3 on Rule 16.2 be amended as proposed to require the independent adviser to state that the terms of the transaction or the arrangements (as applicable) are fair and reasonable "so far as shareholders are concerned"?

17. We agree Note 2 on Rule 16.1, Rule 16.2(a) and Note 3 on Rule 16.2 should be amended as proposed.

Q17 Should Note 7 and Note 9 on Rule 21.1 be amended as proposed so that, in respect of a potential offeror which has not been publicly identified during an offer period, the restrictions in Rule 21.1(a) will apply until 5.00 pm on the seventh day following the date on which the latest approach is unequivocally rejected?

18. We agree Note 7 and Note 9 on Rule 21.1 should be amended as proposed.

Q18 Should the requirement in Rule 28.7(a)(ii) for a party to an offer to remove forecasts by connected investment analysts be deleted as proposed?

19. We agree with the proposal to delete the requirement in Rule 28.7(a)(ii).

Q19 Should Rule 28.7(c)(ii) be amended as proposed to include a requirement to state whether an organisation whose forecasts have been included in a consensus forecast is a connected firm?

20. We agree with the proposed amendment to Rule 28.7(c)(ii).

Q20 Should Note 1(a) on Rule 35.1 be amended as proposed to clarify that the Panel will not normally give its consent in relation to the restrictions in Rule 35.1(f) (which relate to significant asset transactions) until three months after an offer has been withdrawn or has lapsed (or, if later, the end of the offer period) where the former offeror made a no increase statement or an acceleration statement without a reservation of the right to set the statement aside with the agreement of the offeree board?

21. We agree with the proposed amendment to Note 1(a) on Rule 35.1.

Q21 Should the requirement in Rule 30.5(c) to inform advisers to all other parties to the offer of the publication of a document etc. outside normal business hours be deleted as proposed?

22. We agree with the proposal to delete the requirement in Rule 30.5(c).

Q22 Should a cross-reference to Note 2 on Rule 31.3 be introduced into Rule 32.1(c) to make clear that an offer may be revised after Day 46 in certain circumstances?

23. We agree with the proposed cross-reference to Note 2 on Rule 31.3 into Rule 32.1(c).

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