

Rules of the Takeover Appeal Board

These Rules of the Takeover Appeal Board (the "Board") set out the rules, procedures and practices by which appeals to the Board are to be conducted.

These Rules are produced by the Board, published on the Board's website (www.thetakeoverappealboard.org.uk) and may be amended by the Board from time to time.

Introduction

- (1) The Board is constitutionally independent of the Panel on Takeovers and Mergers (the "Panel").
- (2) The Chairman and Deputy Chairman of the Board are appointed by the Master of the Rolls. They will usually have held high judicial office. References in these Rules to "the Deputy Chairman" shall include any additional Deputy Chairman who may be appointed by the Master of the Rolls.
- (3) Other members of the Board, who will usually have relevant knowledge and experience of takeovers and the City Code on Takeovers and Mergers (the "Code"), are appointed by the Chairman (or, failing that, the Deputy Chairman) of the Board after consultation with the existing members of the Board.
- (4) The names of the members of the Board and the Board's contact details are available on the Board's website (www.thetakeoverappealboard.org.uk).
- (5) The functions of the Board are to hear and determine appeals against rulings of the Hearings Committee of the Panel (the "Hearings Committee"), to make such directions (if any) to the Hearings Committee, the Panel or the Panel Executive (the "Executive") as the Board considers appropriate for giving effect to its decisions and to make such procedural rulings in connection with the performance of its other functions as it considers appropriate.
- (6) The Board, when hearing appeals from the Hearings Committee, shall ensure that appeals in respect of rulings on the interpretation, application or effect of the Code are conducted according to law.
- (7) References to a "hearing" shall mean, unless the context requires otherwise, a hearing of the Board and shall include a hearing to determine

preliminary or procedural matters, and references to the "chairman of a hearing" shall be construed accordingly.

- (8) References to "rulings" shall include any decision, direction, determination, order or other instruction made under these Rules (as appropriate) and any ruling made by the chairman of any hearing in accordance with these Rules (including procedural directions) shall be a ruling of the Board.
- (9) References to "business day" shall mean a day on which the London Stock Exchange is open for the transaction of business.

1. Appeals to the Board

- 1.1 Any party to a hearing before the Hearings Committee (or any person denied permission to be a party to a hearing before the Hearings Committee) (an "Appellant") may appeal to the Board against any ruling of the Hearings Committee by lodging a Notice of Appeal, as prescribed by these Rules. A person who has been denied permission to be a party to the hearing before the Hearings Committee may only appeal, and lodge a Notice of Appeal in respect of, the ruling of the Hearings Committee denying permission for such person to be a party to such hearing before the Hearings Committee.
- 1.2 The Appellant must lodge a Notice of Appeal with the Board, and simultaneously notify the other parties to the hearing of the Hearings Committee, (i) within such reasonable time as is stipulated by the chairman of the hearing before the Hearings Committee or by the Hearings Committee itself; or (ii) in the absence of such stipulation, within two business days of the receipt in writing by the Appellant of the ruling of the Hearings Committee or of the chairman of the hearing in question. A Notice of Appeal shall record the ruling or part of the ruling against which the appeal is made, the grounds and basis of the appeal and the remedy requested. It shall also exhibit any evidence upon which the Appellant relies.
- 1.3 The Board shall be deemed to be notified of a Notice of Appeal under paragraph 1.2 received by email at secretary@thetakeoverappealboard.org.uk, unless the Board has previously directed the parties to notify it in another manner or by another means. After such notice is received, the Secretary appointed under paragraph 2.3 below shall notify all parties to the appeal, and (at the discretion of the Secretary or the chairman of the hearing) any other interested parties to the appeal, of the contact details to be used for subsequent communications.

- 1.4 When a Notice of Appeal is lodged or purported to be lodged, a member of the Board shall act as "chairman of the hearing". Where the Chairman is available, he or she shall act as chairman of the hearing. Where the Chairman is unavailable, the Deputy Chairman shall act as chairman of the hearing. Where neither the Chairman nor the Deputy Chairman is available, the Chairman (or, failing that, the other members of the Board) shall appoint one of the members who is available to act as chairman of the hearing.
- 1.5 The chairman of a hearing on a preliminary or procedural matter may be a different person from the person who subsequently acts as chairman of the hearing in relation to the main proceedings or in relation to a hearing on another preliminary or procedural matter.
- 1.6 The chairman of the hearing shall be responsible for determining whether a Notice of Appeal has been validly lodged and any other procedural issues arising from or in connection with the lodging or purported lodging of a Notice of Appeal, including any question as to the grounds and basis of the appeal. The chairman of the hearing may refer such matters to the Board at his or her discretion.
- 1.7 The chairman of the hearing (or the Board) may designate any person as a "party to a hearing before the Hearings Committee" for the purposes of paragraph 1.1 (whether a party to a takeover, a person affected by a ruling of the Executive, the Executive or otherwise) or otherwise as a "party" to the appeal.
- 1.8 Any ruling made by the chairman of the hearing in accordance with these Rules (including procedural directions) shall be a decision of the Board.
- 1.9 The chairman of a hearing may deal with:
 - (a) appeals relating to procedural directions of the Hearings Committee;
 - (b) appeals that he or she considers to have no reasonable prospect of success; and
 - (c) any of the matters referred to in paragraph 1.6 above,without convening the Board. In such cases, the chairman of the hearing

may determine the appeal or matter without an oral hearing. In relation to such appeals and matters, paragraph 2.1 below does not apply.

- 1.10 Any ruling of the Hearings Committee shall stand pending determination of any appeal, unless otherwise directed by the Hearings Committee or by the chairman of the hearing before the Hearings Committee or, where a Notice of Appeal has been lodged or purported to be lodged, the chairman of the hearing.

2. Proceedings before the Board

- 2.1 The quorum for any hearing of the Board is three members of the Board.
- 2.2 No member of the Board may be, at the same time, a member of the Code Committee of the Panel, nor may a member of the Board formerly have been a member of the Code Committee. No member of the Board may be, at the same time, a member of the Hearings Committee or an officer or member of staff of the Panel. Members of the Board proposing to attend a hearing of the Board must, prior to the start of the hearing, raise with the chairman of the hearing (appointed in accordance with paragraph 1.4 above) any issues concerning possible conflicts of interest or any appearance of bias.
- 2.3 The chairman of the hearing shall appoint a third party, usually a partner in a law firm, to act as secretary to the hearing (the "Secretary"), to perform such functions as the chairman of the hearing may direct. The Secretary must not have participated in any way in the proceedings under appeal or in the matter at issue in the appeal and must be free from conflict of interest and the appearance of bias. Unless otherwise directed by the chairman of the hearing, communications between the Board and the parties shall be conducted through the Secretary in such manner as the Secretary may direct.
- 2.4 The chairman of the hearing (or the Board) may obtain such external legal or such other independent professional advice, and may seek to secure the attendance at its proceedings of such third parties with relevant experience and expertise, as he or she (or the Board) considers appropriate.
- 2.5 Hearings shall be conducted at the offices of the Panel or at such other place, and at such time, as the chairman of the hearing (or the Board) may direct. The Board shall be convened upon such notice as the chairman of the hearing decides at his or her discretion. The Board may be convened at short notice, where necessary, and no specific notice period is required.

- 2.6 The chairman of the hearing (or the Board) may give such procedural directions as he or she (or the Board) considers appropriate for the fair and just conduct and determination of the appeal, including the extension or shortening of any specified time limits (including any time limits set out in these Rules) and the variation or disapplication of any of these Rules. A party may apply to the chairman of the hearing for procedural directions at any time during the proceedings or, in relation to any specified time limit, at any time following the lodging of a Notice of Appeal in accordance with these Rules. Any such application must be made in writing. In such cases, the chairman of the hearing may determine the application or request without an oral hearing.
- 2.7 The Board may draw such adverse inferences as it deems proper from any failure of a party to an appeal to comply in full and on time with any procedural direction, and may take such action as it considers appropriate in relation to such failure. In particular, it may, where it considers appropriate, treat such a party as no longer being interested in pursuing the appeal (which may result in the dismissal of the appeal) or refuse such a party any further participation in the appeal. In particular, in disciplinary matters, the Board may draw such adverse inferences as it deems proper from any failure by an Appellant to attend any hearing or from the choice by the Appellant to remain silent at the hearing.
- 2.8 Save for the circumstances set out in paragraph 1.9 above, appeals shall be by way of a rehearing of those matters contested in the appeal.
- 2.9 Proceedings shall be conducted on an informal basis.
- 2.10 A party must raise with the chairman of the hearing any issues concerning possible conflicts of interest or the appearance of bias in relation to members of the Board or the Secretary and any other objections in relation to the composition of the Board proposed for a hearing, or otherwise, at the earliest opportunity. Any such issues or objections shall be considered and ruled upon by the chairman of the hearing.
- 2.11 Without prejudice to the generality of paragraph 2.6 above, the chairman of the hearing may direct any party, at a time and place and in a manner as directed to: (i) submit written statement(s) of case, setting out the grounds and basis of the party's position (including any cross-appeal) and the remedy requested (if any), and exhibiting any evidence upon which the party relies; (ii) produce to the Board and/or to any other party any document or information or other item relevant to the proceedings; (iii) call

any person to attend, or give evidence at, the hearing; and/or (iv) notify the Board of any procedural issue which it wishes to raise in the proceedings.

- 2.12 Proceedings before the Board shall be held in private, unless the chairman of the hearing, at his or her discretion, directs otherwise. Any party may request that the hearing be held in public and such a request shall be considered and ruled upon by the chairman of the hearing (or, at the discretion of the chairman of the hearing, by the Board itself).
- 2.13 The chairman of the hearing (or the Board) may, upon the application of any party, and if satisfied that it is appropriate in the circumstances, direct that certain confidential or commercially sensitive evidence be heard in the absence of one or more of the parties to the proceedings. Save as otherwise provided in these Rules, or as directed by the chairman of the hearing (or the Board), all parties will be entitled to be present throughout the hearing and to see all papers submitted to the Board.
- 2.14 In the event of a public hearing, the chairman of the hearing (or the Board) may direct that the Board shall hear part or parts of the proceedings in private.
- 2.15 The chairman of the hearing (or the Board) may impose such conditions in relation to the proceedings as he or she (or the Board) considers appropriate (including in relation to the non-disclosure of information relating to the proceedings).
- 2.16 The case shall be presented by the parties or their advisers. Parties may, if they so wish, be represented by legal advisers. Failure by a party to attend a hearing or be represented at a hearing shall not prevent the Board or the chairman of a hearing proceeding in the absence of that party.
- 2.17 Any party may, subject to the consent of the chairman of the hearing, call witnesses at the hearing. If any party wishes to call a witness, it must inform the chairman of the hearing in advance and, if so directed by the chairman of the hearing, must produce an appropriate witness statement. Witnesses may be cross-examined by any other party and any member of the Board. The Board may at any time ask any question of any party or witness.
- 2.18 A recording of the hearing shall be made for administrative purposes, but will not be retained once the hearing and any related matters have come to an end. A transcript of the hearing will also be made. Any party to the hearing may request a copy of the transcript, and such a request shall be

considered and ruled upon by the chairman of the hearing who may impose conditions as to its confidentiality and use.

3. Decisions of the Board

- 3.1 The Board's deliberations shall be conducted in the absence of the parties. Decisions of the Board shall be by majority vote with each member of the Board present having one vote; where necessary the chairman of the hearing shall have a casting vote.
- 3.2 The Board may confirm, vary, set aside, annul or replace the contested ruling of the Hearings Committee, and may also remit the matter to the Hearings Committee with such directions (if any) as the Board (or the chairman of the hearing) considers appropriate for giving effect to its (or his or her) decision. For the avoidance of doubt, in an appeal in respect of a disciplinary matter, the Board may impose any sanction available to the Hearings Committee.
- 3.3 The Board will provide a copy of its decision in writing to the parties as soon as practicable following the hearing.
- 3.4 The Board shall (unless the Board or the chairman of the hearing decides otherwise) publish its decision and reasons in a public statement on the Board's website (www.thetakeoverappealboard.org.uk) as promptly as possible, after the decision has been provided in writing to the parties. The Board (or the chairman of the hearing) may, upon application by any party or at its (or his or her) own discretion, redact matters from the public statement in order to protect confidential or commercially sensitive information. The Board may issue a public statement of its decision (without providing reasons) in advance of the publication of the full decision.
- 3.5 The validity of any acts or proceedings of the Board (or the chairman of the hearing) shall not be affected by any vacancy among the membership of the Board or by any defect in the appointment of any Board member (including the chairman of the hearing).

Adopted by the Takeover Appeal Board on 12 April 2006 and amended on 21 July 2011 and 2 May 2017