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| MODULE | TMA: Takeovers, Mergers and Acquisitions |
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TAKEOVERS, MERGERS & ACQUISITIONS MODULE

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TMA-A.1 Purpose

Executive Summary

- TMA-A.1.1 Module TMA is organised as a set of general principles and rules on takeovers, mergers, and share repurchases offers. The Module provides an orderly framework within which take-overs, mergers or acquisitions are to be conducted and sets forth special requirements relating to timing and mode of offer, announcements, documentaton and disclosure of adequate information to enable shareholders to make an informed decision as to the merits of an offer relating to a takeover, merger or acquisition.
- TMA-A.1.2 The general principles contained in the Module represent the overarching principles relevant to takeovers, mergers and share repurchases. In addition to the general principles, each chapter contains a series of rules, some of which are effectively expansions of the general principles and examples of their application and others are rules of procedure designed to govern specific types of takeovers, mergers or share repurchases.
- TMA-A.1.3 Although the rules are expressed in more detailed language than the general principles, they like the general principles, should be interpreted keeping in view the underlying purpose. Also, the general principles may apply to situations not specifically covered by any rule.
- TMA-A.1.4 The CBB may modify or relax the application of a rule if it considers that in the specific circumstances of the case, strict application of a rule would operate in an unnecessarily restrictive or unduly burdensome, or otherwise inappropriate manner.
- TMA-A.1.5 The Module also seeks to ensure that the shareholders in the company subject to a takeover are given sufficient information, advice and time to consider and decide on the offer and in some instances an option to relinquish their holdings. The Module seeks to achieve fair treatment by requiring equality of treatment of shareholders of publicly listed companies which are targets in a takeover, merger or acquisition as defined herein.
- TMA-A.1.6 Since the primary purpose of Module TMA is to facilitate fair treatment for all shareholders of publicly listed companies affected by TMA, it is not concerned with the financial or commercial advantages or disadvantages of a takeover, merger or acquisition which are matters for the company and its shareholders to decide on.

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TMA-A.1 Purpose (continued)

Legal Basis

- TMA-A.1.7 Article 3 of the Central Bank of Bahrain and Financial Institutions Law (the “CBB Law”) states that the objectives of the CBB are to, *inter alia*, develop the financial sector and enhance confidence therein and protect the interests of depositors and customers of financial institutions, and enhance the Kingdom’s credibility as an international financial centre.
- TMA-A.1.8 Parts 2 and 4 of the CBB Law empower the CBB to lay down rules for licencees, listed companies and others who undertake capital market and/or securities-related activity in the Kingdom;
- TMA-A.1.9 Article 38(a) of the CBB Law empowers the Governor of the CBB to issue Directives to ensure the implementation of the CBB Law, any regulations issued in accordance with that Law and the achievement of the objectives of the CBB.
- TMA-A.1.10 These rules are issued by way of a legally-binding Directive.
- TMA-A.1.11 Article (3) of Decree No. 64 of 2006 with respect to promulgating the Central Bank of Bahrain and Financial Institutions Law (CBB Law) states that the provisions of the Commercial Companies Law (CCL) issued by Decree No. 21 of 2001 shall apply on all matters that are not stipulated in the CBB Law.
- TMA-A.1.12 Following is also list of relevant Articles of the CBB Law that apply to persons covered by Module TMA:

| Circular/ other references | Provision | Subject |
|----------------------------|--------------------------------|--|
| CBB Law 2006 | Article 99-100 and Article 105 | Restrictions of publishing market information and the use and disclosure of insider information. |
| CBB Law 2006 | Article 167 | Penalty for violating Article 100. |
| CBB Law 2006 | Article 106 | The offence of market manipulation. |
| CBB Law 2006 | Article 168 | Penalty for violating Article 106. |
| CBB Law 2006 | Article 163 | Penalty for concealing documents and information or providing false or misleading information or statements. |
| CBB Law 2006 | Article 128 | Imposing restrictions on licensees and listed companies. |
| CBB Law 2006 | Article 132 | Public censure on breaches committed by licensees and listed companies. |
| CBB Law 2006 | Article 52-56 | Nature and limits of control, procedures that must be undertaken and the regulations and conditions for granting approval of control |
| CBB Law 2006 | Article 162 | Penalty for violating Article 52-58. |



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TMA-A.1 Purpose (continued)

Role of the CBB

- TMA-A.1.13 The Capital Markets Supervision (CMS) Directorate at the CBB undertakes the responsibility for matters relating to take-overs, mergers, acquisitions as well as share repurchases and monitors related dealings. It is available for consultation and to give rulings on all matters to which the TMA Module applies.
- TMA-A.1.14 While the CBB will respond to questions on interpretation of the Modules, it should not be expected to answer purely hypothetical questions, or give provisional directives (e.g. when the parties with an interest in such directives cannot be identified).
- TMA-A.1.15 Parties should be aware that consultations with the CBB will not result in provisional directives and, where the Modules require parties to consult, they are not precluded from seeking formal directives whenever a directive is sought despite the fact that the process starts as a consultation.
- TMA-A.1.16 While the CBB may sometimes see fit to issue a directive under the TMA Module of its own volition, a directive is more often requested by an interested party. A directive by the CBB normally involves a consideration of all relevant information in relation to the application and a more thorough analysis than that permissible under a consultation. In some cases the CBB may find it necessary to convene an informal meeting or hear the views of other interested parties before making a directive. The CBB requires prompt co-operation from those to whom enquiries are directed so that decisions may be both properly informed and given as speedily as possible. Directives may initially be conveyed to parties orally but will always be confirmed in writing in time.



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TMA-A.2 Module History

TMA-A.2.1 This Module was first issued in December 2008. It is numbered as version 01. All subsequent changes to this Module are annotated with a sequential version number: UG-3 provides further details on Rulebook maintenance and version control.

Superseded Requirements

TMA-A.2.2 This Module supersedes the following provisions contained in circulars or other regulatory instruments:

| Circular/ other references | Provision | Subject |
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TMA-A.3 Interaction With Other Modules

- TMA-A.3.1 All market participants including investors, issuers, exchanges, brokerage firms and other market intermediaries should refer to Module MAE (Markets and Exchanges) which sets forth the CBB requirements for the operating of and licensing requirements of a licensed exchange or a licensed market operator.
- TMA-A.3.2 All market participants must comply with the Anti-Money Laundering and Combating Financial Crime (AML and CFC) Module, in addition to other laws, rules and regulations related to AML and CFC.
- TMA-A.3.3 Market participants must read the inspection provisions of this with the Inspection (Module INS) Module.
- TMA-A.3.4 Market participants must read the inspection and investigation provisions of this Module with the Market Surveillance, Investigation and Enforcement (Module MIE) Module.
- TMA-A.3.5 Market participants must also read the Dispute Resolution (Module DIR) Module and Investor Protection (Module INP) Module.
- TMA-A.3.6 Market participants must also read the Prohibition of Market Abuse and Manipulation Module (Module MAM) and the CBB's Disclosure Standards which provides detailed rules and guidance regarding insider trading, the prohibition of abuse of inside information, reporting by insiders and provisions relating to the disclosure of information respectively.
- TMA-A.3.7 Issuers, Lead Managers, Underwriters, Legal Advisers, experts and other persons involved in the process of offering of securities, preparation of offering documents and listing of securities must read the Offering Module and the Listing Module.
- TMA-A.3.8 Licensees will be subject to and must comply with the controller regulations of the CBB Rulebook in respect of the eligibility to be a controller in terms of those regulations.



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TMA-B.1 Scope

- TMA-B.1.1** Module TMA applies to persons (“relevant persons”) involved in, engaging in or intending to engage in an offer for, takeover or merger or acquisition of a controlling interest in a company whose primary listing of its ordinary equity securities is on a licensed exchange in the Kingdom of Bahrain.
- TMA-B.1.2 The Module applies to take-overs, mergers and acquisitions affecting:
- Bahrain domiciled publicly listed company whose ordinary voting equity securities are listed on a licensed exchange in Bahrain are the potential targets for takeovers, mergers and acquisitions; or
 - Overseas company whose primary listing of its ordinary voting equity securities is on a licensed exchange in Bahrain.
- TMA-B.1.3 Module TMA applies, *inter alia*, to offers of public companies with a primary listing of their equity securities on the licensed exchange. It is generally the nature of the offeree company, the potential offeree company, or the company in which control may change or be consolidated that is relevant. There are also circumstances, specified in the Module, in which it is necessary to consider the treatment of the offeror’s shareholders in order to carry out the objectives of these requirements.
- TMA-B.1.4 The TMA Module is concerned with offers for, and take-overs and mergers of, all relevant companies, however effected. These include partial offers, offers by a parent company for shares in its subsidiary and certain other transactions where control of a company is to be obtained or consolidated. References to “takeovers” and “offers” include, where appropriate, all such transactions, including share repurchases by mandatory offer as described below.
- TMA-B.1.5 The TMA Module will not require holders of securities of 30% or more in a listed company at the effective date of this Module to make an offer under this Module. However, such holders shall comply with the requirements of this Module if they plan to increase their existing holdings by any methods as per the requirements of this Module.
- TMA-B.1.6 The Module is applicable to listed public companies, but unlisted companies shall also comply when such offeror company or offeree company:
- Makes an offer for any listed company.
 - Is an Associate, affiliate, subsidiary, or holding of any listed company.
 - Seeks or may seek listing on the Exchange whether as public shareholding company or closed company.
 - Executes the proposed offer which will result directly or indirectly in changing or consolidating the controlling interest in the company.
- TMA-B.1.7 Module TMA does not apply to offers for non-voting, non-equity capital unless specifically stated in this Module.
- TMA-B.1.8 Share repurchases by mandatory offer will be considered to be offers and the requirements of Module TMA will apply, *mutatis mutandis*, to such share repurchases.



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TMA-B.1 Scope (continued)

Exemptions

TMA-B.1.9

Module TMA does not apply to offers of equity securities for the following:

- (a) Offers for non-voting, non-equity capital unless required by this Module;
- (b) An exempted share repurchase;
- (c) An offer document filed with the CBB under Module OFS or LIR for the sole purpose of issuing or listing securities that are convertible to equity securities and do not confer, directly or indirectly, a voting right to the holder of such securities;
- (d) The relevant person has or had, at any time, financial instruments that are convertible to equity securities and do not confer, directly or indirectly, a voting right;
- (e) The relevant person is not subject to Module TMA under CBB Law;
- (f) An exempt fund manager or an exempt principal trader recognized as such by the CBB for the purposes of the Module;
- (g) Acquisition of a controlling interest pursuant to an underwriting agreement subject to the timeline of the disposal of such acquisition being approved by the CBB.

TMA-B.1.10

An exempted share repurchase means a share repurchase that falls in one of the following categories:

- (a) An approved employee share repurchase;
- (b) A share repurchase made in accordance with the terms and conditions attached to the shares being repurchased which either permit or require such share repurchase without the prior agreement of the owners of the shares;
- (c) A share repurchase made by a company at the request of the owners of the shares repurchased in accordance with the terms and conditions attached to the shares which provide the owners of the shares a right to require the company to effect such share repurchase; and
- (d) A share repurchase that is required by the law of the jurisdiction in which the offeror is incorporated or otherwise established.

TMA-B.1.11

An “exempt fund manager” is a person who manages investment accounts on a discretionary basis and is recognised by the CBB as an exempt fund manager for the purposes of this Module

TMA-B.1.12

An "exempt principal trader" is a principal trader who is recognised by the CBB as an exempt principal trader for the purposes of this Module.



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TMA-B.1 Scope (continued)

Compliance Responsibility

TMA-B.1.13 Each director of an offeror and of the offeree company as well as those acting in concert has a responsibility to ensure, so far as he is reasonably able, that the requirements of this Module are complied with in the conduct of transactions which are the subject of the TMA Module.

TMA-B.1.14 The role and responsibility of brokers, financial and other professional advisers is of particular importance, and it is part of their responsibility to use all reasonable efforts, subject to any relevant requirements of professional conduct, to ensure that their clients understand, and abide by, the requirements of the Module, and co-operate to that end with the CBB.

TMA-B.1.15 The primary responsibility for ensuring compliance with the Module rests with parties involved in a take-over, merger, acquisition, or share repurchase and their professional advisers as follows:

- (a) Persons or groups of persons who seek to gain or consolidate control of companies that are subject to the Module; and
- (b) Their brokers and other professional advisers; or parties who otherwise participate in, act in concert or are connected with, transactions to which the Module applies.

TMA-B.1.16 In addition, any other person who issues an announcement or advertisement to shareholders in connection with a take-over, merger, acquisition or share repurchase must comply with the standards and rules herein and especially ensure they consult with the CBB prior to releasing any public information.

Penalty for Non Compliance

TMA-B.1.17 Without prejudice to any greater penalty prescribed under the Penal Code or any other law, including the relevant provisions of the CBB Law, any person who breaches any of the provisions of this module shall be liable to a fine and such other restrictions and prohibitions the CBB may choose to impose under the CBB Law.



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TMA-B.2 Definitions

For the purpose of this Module, the following terms will have the meanings assigned hereunder:

- TMA-B.2.1 **Acquisition of equity securities/voting rights:** Acquisition of voting rights includes the exercise of control or direction over voting rights other than by way of a revocable proxy given for no or nominal consideration for the purpose of one meeting of shareholders only.
- TMA-B.2.2 **Acting in concert:** Persons acting in concert comprise persons who, pursuant to an agreement or understanding (whether formal or informal), actively co-operate to obtain or consolidate “control” (as defined below) of a company through the acquisition by any of them of voting rights of the company. Without prejudice to the general application of this definition, persons falling within each of the following classes will be presumed to be acting in concert with others in the same class unless the contrary is established:
- (a) a company, its parent, its subsidiaries, its fellow subsidiaries, associated companies of any of the foregoing, and companies of which such companies are associated companies;
 - (b) a company with any directors (together with their connected persons, related trusts and companies controlled by any of the directors, their connected persons or related trusts) of it or of its parent, subsidiaries or fellow subsidiaries;
 - (c) a company with any of its pension funds, provident funds and employee stock option plans;
 - (d) a fund manager (including an exempt fund manager) with any investment company, mutual fund, unit trust or other person, whose investments such fund manager manages on a discretionary basis, in respect of the relevant investment accounts. For the purpose of this Module, investments mean the holding collectively or individually of 30% or more of the securities of an offeror who intends acquiring 30% or more of the securities of an offeree;
 - (e) a financial or other professional adviser (including a stockbroker) with its client in respect of the shareholdings of the adviser and persons controlling, controlled by or under the same control as the adviser (except in the capacity of an exempt principal trader);
 - (f) directors of a company (together with their connected persons, related trusts and companies controlled by such directors, their connected persons and related trusts) which is subject to an offer or where the directors have reason to believe a bona fide offer for their company may be imminent;
 - (g) partners;
 - (h) an individual (including any person who is accustomed to act in accordance with the instructions of the individual) with his connected persons, related trusts and companies controlled by him, his connected persons or related trusts; and
 - (i) a person, other than an authorized financial institution within the meaning of the CBB Law lending money in the ordinary course of business, providing finance or financial assistance (directly or indirectly) to any person (or a person acting in concert with such a person) in connection with an acquisition of voting rights (including any direct or indirect refinancing of the funding of the acquisition).



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TMA-B.2 Definitions (continued)

- TMA-B.2.3** ***Associate:*** The term associate will cover all persons acting in concert with an offeror. It is also intended to apply to a wider range of persons (who may not be acting in concert) and will cover all persons who directly or indirectly own or deal in the relevant securities of an offeror or the offeree company in an offer and who have (in addition to their normal interests as shareholders) an interest or potential interest, whether commercial, financial or personal, in the outcome of the offer. Without prejudice to the generality of the foregoing, the term associate normally includes the following:
- (a) an offeror's or the offeree company's parent, subsidiaries and fellow subsidiaries, and their associated companies, and companies of which such companies are associated companies;
 - (b) any bank and financial and other professional adviser (including a stockbroker) to an offeror, the offeree company or any company in (a), including persons controlling, controlled by or under the same control as such banks, financial and other professional advisers;
 - (c) the directors (together with their connected persons, related trusts and companies controlled by any of the directors, their connected persons or related trusts) of an offeror, the offeree company or any company in (a);
 - (d) the pension funds, provident funds and employee share schemes of an offeror, the offeree company or any company in (a);
 - (e) any investment company, unit trust or other person whose investments an associate manages on a discretionary basis, in respect of the relevant investment accounts;
 - (f) a person who owns or controls 10% or more of any class of relevant securities issued by an offeror or the offeree company, including a person who as a result of any transaction owns or controls 10% or more. When two or more persons act pursuant to an agreement or understanding (formal or informal) to acquire or control such securities, they will be deemed to be a single person for the purpose of this Module. Such securities managed on a discretionary basis by an investment management group will, unless otherwise agreed by the CBB, also be deemed to be those of a single person; and
 - (g) a company having a material trading arrangement with an offeror or the offeree company.
- TMA-B.2.4** ***Associated company:*** A company shall be deemed to be an associated company of another company if one of them owns or controls 20% or more of the voting rights of the other or if both are associated companies of the same company.
- TMA-B.2.5** ***Cash purchases:*** For the purpose of this Module, cash purchases include contracts or arrangements where the consideration consists of a debt instrument capable of being paid off in less than 3 years.
- TMA-B.2.6** ***Connected persons:*** in relation to an individual means:
- (a) the individual's spouse and his/her son, adopted son, stepson, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister, under his/her guardianship or control; or
 - (b) a firm or corporation in which the individual or any of the persons mentioned in sub-paragraph (a) has control of not less than 10% of the voting power in the firm or corporation, whether such control is exercised individually or jointly;



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TMA-B.2 Definitions (continued)

Connected persons in relation to a firm or corporation means another firm or corporation in which the first-mentioned firm or corporation has control of not less than 10% of the voting power in that other firm or corporation.

- TMA-B.2.7 **Connected Fund Manager and Connected Principal Trader:** A fund manager or principal trader will be connected with an offeror or the offeree company, as the case may be, if the fund manager or principal trader controls, is controlled by or is under the same control as:
- (a) an offeror;
 - (b) the offeree company;
 - (c) any bank or financial or other professional adviser (including a stockbroker) to an offeror or the offeree company; or
 - (d) an investor in a consortium formed for the purpose of making an offer.
- TMA-B.2.8 **Control:** Unless the context otherwise requires, control shall for the purposes of this Module be deemed to mean a holding, or aggregate holdings, of 30% or more of the voting rights of a company, irrespective of whether that holding or holdings gives de facto control.
- TMA-B.2.9 **Convertible securities:** Unless the context otherwise requires, convertible securities means securities convertible or exchangeable into new shares or existing shares in a company.
- TMA-B.2.10 **Derivative:** Derivative includes any financial product whose value in whole or in part is determined directly or indirectly by reference to the price of an underlying security or securities whether or not it includes the possibility of delivery of such underlying security or securities.
- TMA-B.2.11 **Directors:** Directors include persons in accordance with whose instructions the directors or a director are accustomed to act.
- TMA-B.2.12 **Directive:** Directive includes any directive, waiver, consent, decision, confirmation or other determination in writing under the Modules by the CBB.
- TMA-B.2.13 **Disclosure Standards:** The Disclosure Standards issued under Circular ODG/407/03 and as updated from time to time.
- TMA-B.2.14 **Document:** Unless the context otherwise requires, document includes any announcement, advertisement or document issued or published by any party to an offer or possible offer in connection with such offer or possible offer. For this purpose, parties to an offer or possible offer include all offerors, the offeree company, shareholders of an offeror or the offeree company and any persons acting in concert with any of them. Document also includes any announcement, advertisement or document issued or published by any person in connection with a transaction:
- (a) where a directive is sought that no offer obligation arises;
 - (b) which is stated to be conditional on no such offer obligation arising; or
 - (c) which is stated to be conditional on a directive being given that no such offer obligation arises.



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TMA-B.2 Definitions (continued)

- TMA-B.2.15 **Employee Share Repurchase:** Employee share repurchase means a share repurchase made by an offeror from one or more of its current or former employees, or the current or former employees of a subsidiary of the offeror, in accordance with an employee share option scheme which has been approved by shareholders of the offeror in general meeting.
- TMA-B.2.16 **Exempt Fund Manager:** An exempt fund manager is a person who manages investment accounts on a discretionary basis and is recognised by the CBB as an exempt fund manager for the purposes of this Module.
- TMA-B.2.17 **Exempt Principal Trader:** An exempt principal trader is a person who trades as a principal in securities, particularly the relevant securities assented to by the CBB, and is recognised by the CBB as an exempt principal trader for the purposes of this Module.
- TMA-B.2.18 **Exempt Share Repurchase:** Exempt share repurchase means a share repurchase that falls into one of the following categories:
- an approved employee share repurchase;
 - a share repurchase made in accordance with the terms and conditions attached to the shares being repurchased which either permit or require such share repurchase without the prior agreement of the owners of the shares;
 - a share repurchase made by a company at the request of the owners of the shares repurchased in accordance with the terms and conditions attached to the shares which provide the owners of the shares a right to require the company to effect such share repurchase; and
 - a share repurchase that is required by the law of the jurisdiction in which the offeror is incorporated or otherwise established.
- TMA-B.2.19 **Mandatory Offer:** An offer for the remaining outstanding shares of an offeree company made by a shareholder, whether individually or along with persons acting in concert on the acquisition of control of such offeree company or such other threshold stipulated in this Module.
- TMA-B.2.20 **Merger:** for the purposes of this Module means the combination of two or more companies through the acquisition of an equity stake.
- TMA-B.2.21 **Offer:** Offer includes takeover and merger transactions however effected, including schemes of arrangement which have similar commercial effect to takeovers and mergers, partial offers, and offers by a parent company for shares in its subsidiary and (where appropriate) share repurchases by mandatory offer.
- TMA-B.2.22 **Offeree:** means a listed company to whom an offer has been submitted under this Module.
- TMA-B.2.23 **Offeror:** Offeror includes companies wherever incorporated and individuals wherever resident, governments, not-for-profit organizations, individuals or any other juridical person. In relation to share repurchases, offeror means a company engaged in, or considering engaging in, a share repurchase in respect of its own shares.



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TMA-B.2 Definitions (continued)

- TMA-B.2.24** ***Offer Period:*** Offer period for the purpose of this Module shall mean the period starting from the date when an announcement is made of a proposed or possible offer, with or without terms, until whichever is the latest of:
- (a) the date when the offer closes for acceptances;
 - (b) the date when the offer lapses;
 - (c) the time when an offeror announces that the possible offer will not proceed;
 - (d) the date when an announcement is made of the withdrawal of a proposed offer;
 - (e) where the offer contains a possibility to elect for alternative forms of consideration, the latest date for making such election; or
 - (f) where there are two or more offers or possible offers outstanding, the closure of an offer period in respect of one offer or possible offer does not affect the termination of any other offer or possible offer.
- TMA-B.2.25** ***Offer Document:*** For the purpose of take-overs, mergers, acquisitions and share repurchases, includes both Appendix C and Appendix D and any other information required to be included in the terms of this Module.
- TMA-B.2.26** ***Options:*** Unless the context otherwise requires, options means options to subscribe or purchase new shares or existing shares in a company.
- TMA-B.2.27** ***Partial Offer:*** A partial offer is an offer with the consent of the CBB to all shareholders to acquire a portion of the remaining outstanding shares of the offeree company.
- TMA-B.2.28** ***Professional Adviser:*** means for the purpose of this Module, an independent financial institution or other entity specialising in corporate finance who meets the eligibility requirements and is authorised to act as a professional adviser by the CBB.
- TMA-B.2.29** ***Receiving Bank:*** means Settlement Bank used to settle the transaction taking place on the licensed exchange, or any other bank designated for this purpose with the consent of the CBB.
- TMA-B.2.30** ***Relevant person:*** Shall mean the offeror and offeree companies, their shareholders, directors and any other principal officers of offeror and offeree as well as persons acting in concert with them in relation to an offer covered by Module TMA.
- TMA-B.2.31** ***Rights Over Shares:*** Includes any rights acquired by a person under an agreement to purchase, or an option to acquire, shares, options, warrants, convertible securities or voting rights (or control of any of them), or any irrevocable commitment to accept an offer.
- TMA-B.2.32** ***Securities Exchange Offer:*** Means an offer in which the consideration includes securities of the offeror or any other company.
- TMA-B.2.33** ***Share Repurchase:*** Means a purchase of shares, or an offer to purchase, redeem or otherwise acquire shares of an offeror made by an offeror, including a scheme of arrangement or other form of reorganisation that consists in whole or in part of such an offer.



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| MODULE | TMA: | Takeovers, Mergers & Acquisitions |
| CHAPTER | TMA-B: | Scope of Application |

TMA-B.2 Definitions (continued)

- TMA-B.2.34 **Share Repurchase by Mandatory Offer:** Share repurchase by mandatory offer means a share repurchase effected by way of an offer made by an offeror to all holders of shares of a class of shares of the offeror.
- TMA-B.2.35 **Standstill Agreement:** An Agreement between a company, or the directors of a company, and a shareholder which restrict the shareholder or the directors from either offering for, or accepting an offer for, the shares of the company or from increasing or reducing shareholdings, may be relevant for the purpose of this definition.
- TMA-B.2.36 **Take-over:** means an acquisition of control in a company.
- TMA-B.2.37 **Voluntary Offer:** An offer in the event that a person, or persons acting in concert, does not incur an obligation to make a mandatory offer as under TMA-3.1, but has made a takeover offer for the voting shares of the offeree company.
- TMA-B.2.38 **Voting Rights:** Voting rights means all the voting rights currently exercisable at a general meeting of a company.
- TMA-B.2.39 **Warrants:** Unless the context otherwise requires, warrants means rights to subscribe or purchase new shares or existing shares in a company.



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| MODULE | TMA: Takeovers, Mergers & Acquisitions |
| CHAPTER | TMA-1: General Principles |

TMA-1 General Principles

TMA-1.1

The Spirit of the Module: All relevant persons involved in offers should comply and be aware of the spirit as well as the letter of the general principles and rules contained in this Module. The general principles and the spirit of the Module TMA will apply in areas or circumstances not covered by any specific Rule.

TMA-1.2

Equal Treatment to all Shareholders: All relevant persons including any persons acting in concert in relation to an offer must treat all holders of each class of securities of an offeree company in a fair and equitable manner demonstrating no bias to a single, group or class of shareholders.

TMA-1.3

Duties of Directors with Personal Interests: Directors of an offeror and the offeree company must always, in advising their shareholders, act only in their capacity as directors and not have regard to their personal or family shareholdings or to their personal relationships with the companies. They should only consider the shareholders' interests taken as a whole when they are giving advice to shareholders. Directors of the offeree company should give careful consideration before they enter into any commitment with an offeror which would restrict their freedom to advise their shareholders. Such commitments may give rise to conflicts of interest or result in a breach of the directors' fiduciary duties.

TMA-1.4

Minority interests must be protected: Oppression of minority or non-controlling shareholders is not acceptable in any case. Therefore, rights of control should be exercised in good faith in the context of protecting minority shareholders.

TMA-1.5

Information to All Shareholders: During the course of an offer, or when an offer is in contemplation, neither an offeror, nor the offeree company, nor any of their respective advisers may furnish information to some shareholders which is not made available to all shareholders. This principle does not apply to the furnishing of information in confidence by the offeree company to a bona fide potential offeror or vice versa.

TMA-1.6

Standards of Care in Documents: All relevant persons including any persons acting in concert in relation to an offer must, as with a prospectus act with due skill, care and diligence in relation to all matters connected with an offer including but not limited to matters relating to standards of research and analysis, public announcements, documentation, information being given to shareholders and the appointment of advisers, among others.



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| CHAPTER | TMA-1: | General Principles |

TMA-1 General Principles (continued)

TMA-1.7 Announcements: An offeror should announce an offer only after careful and responsible consideration. The same applies to making acquisitions which may lead to an obligation to make a mandatory offer. In either case the offeror and its advisers should be satisfied that it can and will continue to be able to implement the offer in full.

TMA-1.8 Sufficient Information and Time to Shareholders: Shareholders should be given sufficient information, advice and time to reach an informed decision on an offer. No relevant information should be withheld. All documents must, as in the case with a prospectus, be prepared with the highest possible degree of care, responsibility and accuracy.

TMA-1.9 Full and Prompt Disclosure and Prevention of a False Market: All relevant persons including any persons acting in concert in relation to an offer should ensure that all information provided in offer, announcements and related documentation is clear, fair and not misleading, and appropriate to the information needs of the readers. All persons concerned with offers should make full and prompt disclosure of all relevant information and take every precaution to avoid the creation or continuance of a false market. Relevant persons and their independent professional advisers involved in an offer covered by this Module must take care that statements are not made which may mislead shareholders or the market.

TMA-1.10 No Frustration of Bona Fide Offer: At no time after a bona fide offer has been communicated to the board of the offeree company, or after the board of the offeree company has reason to believe that a bona fide offer might be imminent, may the board of the offeree company take any action in relation to the affairs of the company, without the approval of shareholders in a general meeting, which could effectively result in any bona fide offer being frustrated or in the shareholders being denied an opportunity to decide on its merits.

TMA-1.11 Secrecy before Announcements: At any time before the offer or during the offer, the management of all relevant persons including any persons acting in concert in relation to an offer and professional advisers must maintain secrecy and confidentiality of the offer.

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| MODULE | TMA: | Takeovers, Mergers & Acquisitions |
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TMA-1 General Principles (continued)

TMA-1.12

Limitation On Directors' Actions: The boards of an offeror and the offeree company and their respective advisers and associates have a duty to act in the best interests of the shareholders of the offeror and offeree company respectively, and these General Principles and the Rules may impinge on the freedom of action of boards and persons involved in offers. They must, therefore, accept that there are limitations, in connection with transactions which are the subject of the Modules, on the manner in which the pursuit of those interests can be carried out.

Each director of an offeror and of the offeree company has a responsibility to ensure, so far as he is reasonably able, that this Module is complied with in the conduct of transactions which are the subject of this Module.

TMA-1.13

Acquisition or Consolidation of Control: If control of a company changes or is acquired or is consolidated, a mandatory offer to all other shareholders is required. Where an acquisition is contemplated as a result of which a person may incur such an obligation, he must, before making the acquisition, ensure that he can and will continue to be able to implement such an offer.

TMA-1.14

Appointment Of Professional Independent Adviser(s): An offeree board which receives an offer or is approached with a view to an offer being made, should in the interest of its shareholders, seek professional advice by a professional independent adviser(s).

TMA-1.15

Co-operation with the CBB: All parties concerned with transactions subject to this Module are required to co-ordinate and co-operate to the fullest extent with the CBB's Capital Markets Supervision Directorate, and to provide all relevant information.

TMA-1.16

Validity of CBB Approval: Where a transaction requires CBB prior approval, any execution or part thereof must take place within a period of 90 days (including any applicable lock-up period) from the date of the approval, unless otherwise stipulated in writing by the CBB.

TMA-1.17

Transactions to be concluded on a Licensed Exchange: Any transaction concluded in terms of this Module shall be executed on the relevant licensed exchange.

Any transaction of 5% or more in a listed company shall be executed on the relevant licensed exchange.



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| MODULE | TMA: | Takeovers, Mergers & Acquisitions |
| CHAPTER | TMA-2: | Rules |

TMA-2.1 Communication of the Offer

TMA-2.1.1 An offer must be put forward in the first instance to the board of directors (the “board”) of the offeree company in writing.

Identity of Offeror

TMA-2.1.2 If the offer or an approach with a view to an offer being made is not made by the ultimate offeror or potential offeror, the identity of that person must be disclosed at the outset to the board of the offeree company. When that person is a company, the identity of its ultimate controlling shareholder(s) and the identity of its ultimate parent company, or, where there is a listed company in the chain between such company and its ultimate parent company, the identity of such listed company must be disclosed.

Seriousness of Offeror

TMA-2.1.3 The board of the offeree company when approached is entitled to be satisfied that the offeror is, or will be, in a position to implement the offer in full. An offeror, upon receiving a request from the board of the offeree company, must provide reasonable information to verify that the offeror is, or will be, in a position to implement the offer in full.

Confidentiality

TMA-2.1.4 The CBB considers that the details relating to takeovers, mergers, acquisitions and share repurchases to be inside information. The confidentiality of the offer before an announcement must be maintained and all persons in possession of confidential information, and particularly price-sensitive information, concerning an offer or contemplated offer must treat that information as secret and may only pass it to another person if it is necessary to do so and if the other person understands the need for secrecy. All such persons (as insiders) must conduct themselves so as to avoid any chance of an accidental leak of information.



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TMA-2.2 Independent Advice and Shareholder Approval

Appointment of Advisors by Offeree

TMA-2.2.1

Independent advice should be obtained as to whether or not the offer is in the interests of the shareholders.

A board which receives an offer, or is approached with a view to an offer being made, should, in the interests of shareholders, appoint a professional independent adviser to advise the board as to whether the offer is, or is not, fair and reasonable. Such advice, including reasons, should be obtained in writing and such written advice should be made known to shareholders by including it in the offeree board circular along with the recommendation of the offeree company's board regarding acceptance of the offer.

If any of the directors of an offeree company is faced with a conflict of interest, the offeree company's board should be notified of his/their interest and shall not vote on the resolution to be adopted in regards of the offer, and if possible, establish an independent committee of the board to discharge the board's responsibilities in relation to the offer. The board must announce the appointment of the independent adviser in the initial announcement of the offer or possible offer, or as soon thereafter as the appointment is made.

TMA-2.2.2 Professional independent advice is of vital importance in cases where the offer is a management buy-out or similar transaction, or is being made by the existing controlling shareholder or group shareholders of the company. The independent adviser should highlight factors regarding any uncertainty about financial information in the most recently published accounts, or interim figures of the offeree company which they consider important. This could include a qualified audit report, a material provision or contingent liability or doubt over the real value of a substantial asset, including a subsidiary company.

TMA-2.2.3 When it is not possible to give a recommendation or there is a divergence of views amongst board members and the independent advisor as to the merits of the offer or recommendation being made, then it must be drawn to the shareholders attention. An explanation must be given, including the arguments for acceptance or rejection, emphasising the important factors. Written advice must be made available and known to shareholders by including it in the offeree board circular along with the recommendations of the board regarding the offer.

TMA-2.2.4 The requirement for professional independent advice does not apply to partial offers which could not result in the offeror and persons acting in concert with it holding shares carrying 30% or more of the voting rights of the offeree company.



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TMA-2.2 Independent Advice and Shareholder Approval (continued)

Unqualified Independent Adviser(s)

- TMA-2.2.5 The CBB will not regard it appropriate to appoint any person who is in the same group as the professional adviser (including a stockbroker) to an offeror or the offeree company or who has, or had, a significant connection, financial or otherwise, with either an offeror or the offeree company, or the controlling shareholder(s) of either of them, of a kind likely to create, or to create the perception of, a conflict of interest, or reasonably likely to affect the objectivity of his advice.

Advice To Independent Shareholders

- TMA-2.2.6 If there are shareholders who are not independent because they have an interest in the proposed offer other than their interest as a shareholder of the offeror or the offeree company, as the case may be, such conflict of interest must be declared and made clear to the other shareholders. The independent adviser should endeavour to represent the best interests of the offeror or the offeree company, respectively, by concerning itself only with the interests of the independent shareholders.

Independent Committee

- TMA-2.2.7 Members of an independent committee of a company's board of directors (established to discharge the board's responsibilities in relation to the offer) should consist of directors of the company who have no direct or indirect interest in any offer or possible offer for consideration by the independent committee other than, in the case of a director of the offeree company, as a shareholder of the offeree company.

For this purpose, it is presumed that employees of an offeree company that is an associated company of the offeror have an indirect interest in an offer and are therefore not independent. The same presumption is applicable to employees, directors, agents, partners, connected persons and affiliates of any person that exercises control or direction over the business and operations of any offeror or the offeree company respectively if such person has a direct or indirect interest in the offer. For such purpose an affiliate is a person which controls, is controlled by, or is under common control with, the person in question.

If it is not possible to form an independent committee, responsibility for representing the interests of any independent shareholders shall reside primarily with the independent professional adviser. In case of doubt the CBB should be consulted.

Shareholder Votes To Be Conducted By Way Of A Poll

- TMA-2.2.8 Whenever this Module requires a matter to be approved by shareholders or any class or group thereof in general meeting the vote must be conducted by way of a poll. The results of the poll must be announced.



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TMA-2.2 Independent Advice and Shareholder Approval (continued)

Approval Of Delistings By Independent Shareholders

- TMA-2.2.9 If after a proposed offer the offeree company is transferred into a closed company, or the shares of the offeree company are to be delisted from the Exchange, neither the offeror nor any persons acting in concert with the offeror may vote at the meeting, if required, of the offeree company's shareholders. The resolution to approve the transfer of the company and the delisting must be subject to:
- approval by at least 75% of the votes attaching to the disinterested shares that are cast either in person or by proxy at a duly convened meeting of the holders of the disinterested shares;
 - the number of votes cast against the resolution being not more than 10% of the votes attaching to all disinterested shares; and
 - the offeror being entitled to exercise, and exercising, its rights of compulsory acquisition.

Board Of Offeror Company

- TMA-2.2.10 Where an offeror is a listed company, and the offer being made is a reverse takeover or when the directors of the offeror are faced with a conflict of interest, the board of the offeror must obtain professional independent advice as to whether the making of the offer is in the interests of the offeror's shareholders. The advice must be obtained before announcing an offer or revised offer. The offer or revised offer must also be made subject to the approval of the shareholders of the offeror in a general meeting.

The advice must be in writing and sent to the shareholders with the notice of the meeting. If an offeror considers that these requirements should not apply, where for example the offer is not material to the offeror, it may apply to the CBB for a waiver of these requirements.

Offers For Companies That Control The Offeror

- TMA-2.2.11 Where an offeror is a listed company, and it or a subsidiary thereof proposes to make an offer for another company that, together with any persons acting in concert with the offeree company, controls, directly or indirectly, the offeror, the offeror's board should establish an independent committee to assess the proposed offer and the CBB should be consulted.

Conflicting views

- TMA-2.2.12 If the board of the offeree company is split in its views on an offer, the minority should provide their views and these should be recorded in the minutes of the meeting. CBB will require the offeree to circulate these views.
- TMA-2.2.13 If a director has a conflict of interest, he should not be joined with the rest of the board in the expression of their views on the offer. The conflict must be explained to the shareholders.



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TMA-2.3 Announcement of Offer or Possible Offer

Announcement to be Made by Offeror

TMA-2.3.1 Except in the case of a mandatory offer where any of the circumstances occurring in TMA-2.3.10, a brief announcement that a potential offeror is considering making an offer must be made after obtaining permission from the CBB.

TMA-2.3.2 Although the primary responsibility for making an announcement after the board of the offeree company has been approached lies with the offeree company, there may be circumstances where the actions of the offeror or persons acting with it give rise to an obligation on the part of an offeror or potential offeror to make an announcement. The offeror or potential offeror should, therefore, keep a close watch on the offeree company's share price and volume for signs of unusual movement.

Announcements To Be Made By Potential Vendor

TMA-2.3.3 The potential vendor must make an announcement when there are negotiations or discussions between a potential offeror and the holder, or group of holders, of shares carrying 20% or more of the voting rights of the company and the company is subject to rumour or speculation about a possible offer or there is unusual movement in its share price or in the volume of share turnover, and there are reasonable grounds for concluding that it is the potential vendor's actions which have led to the situation.

Suspension Of Trading

TMA-2.3.4 When an announcement is required under this TMA-2.3 the listed company(ies) being the offeror or the offeree company, as the case may be, should notify the CBB and the Licensed Exchange immediately that an announcement is imminent and if there is any possibility that an uninformed market for shares of the offeror or the offeree company could develop prior to publication of the announcement, serious consideration should be given to requesting a suspension of trading in such shares pending publication of the announcement. A potential offeror must not attempt to prevent the board of the offeree company from making an announcement or requesting the licensed Exchange to grant a temporary suspension of trading at any time the board thinks appropriate. The CBB or the Licensed Exchange may, at their discretion and irrespective of whether or not there is a request, suspend trading temporarily on the shares of a listed company being an offeree or offeror.



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TMA-2.3 Announcement of Offer or Possible Offer (continued)

Announcements Of Certain Purchases

- TMA-2.3.5 Acquisitions of voting rights of the offeree company by an offeror or by any person acting in concert with the offeror may give rise to an obligation to make a cash offer, to increase an offer or to make a mandatory offer. Immediately after any acquisition giving rise to any such obligation, an announcement must be made, stating the number of shares acquired and the price paid, together with the information required (to the extent that it has not previously been announced).
- TMA-2.3.6 CBB should be consulted if an offeror is wishing to approach a wider group, for example in order to arrange financing for the offer, whether through equity or debt, or to organize a consortium to make the offer.
- TMA-2.3.7 Where the offeror or offeree does not make an announcement when obliged to do so in terms of this Module, the CBB may, without prejudice to any further action imposed by the CBB, instruct the offeror and the offeree to make an announcement in accordance with this Module and the offeror or offeree must comply with the time stipulated in the instruction.

Publication of an Announcement about an Offer or Possible Offer (Appendix B)

- TMA-2.3.8** When an offer or possible offer is announced, the announcement must be in accordance with Appendix B and be sent to the Licensed Exchange and published in two local daily Arabic, or Arabic and English language newspapers in Bahrain.
- TMA-2.3.9 The language used in announcements should clearly and concisely reflect the position being described. In particular, the word "agreement" should be used with the greatest care. Statements should be avoided which may give the impression that persons have committed themselves to certain courses of action (e.g. accepting in respect of their own shares) when they have not in fact done so.
- TMA-2.3.10 An offeror or potential offeror must make an announcement under the following conditions:
- (a) Before an approach has been made to the offeree company, the offeree company is in the subject of rumour or speculation about a possible offer.
 - (b) There is unusual movement in the company's share price or in the volume of share turnover, and there are reasonable grounds for concluding that it is the actions of the potential offeror or persons acting in concert with it through inadequate security, which have led to the situation.



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TMA-2.3 **Announcement of Offer or Possible Offer**
(continued)

- (c) When negotiations or discussions are about to be extended to include more than a very restricted number of persons; outside those who need to know in the companies concerned and their immediate advisors.
- (d) Immediately upon acquisition of voting rights which gives rise to an obligation to make a mandatory offer. The announcement that an obligation has arisen should not be delayed due to information being obtained, additional information can be the subject of a later supplementary announcement.

Announcement to be Made by Offeree

TMA-2.3.11

Following an approach to the board of the offeree company which may or may not lead to an offer, the primary responsibility for making an announcement will normally rest with the board of the offeree company. The offeree company must, therefore, keep a close watch on its share price and volume.

The board of the offeree company must make an announcement to the Licensed Exchange and market and inform its shareholders immediately upon the occurrence of the following conditions:

- (a) A firm intention to make an offer has been notified to the board of the offeree company from an authorised source, irrespective of the attitude of the board of the offeree company.
- (b) When following an approach to the offeree company, where there is a firm intention to make an offer or not, the offeree company is the subject of rumour or speculation about a possible offer or there is unusual movement in its share price or in the volume of share turnover.
- (c) When negotiations or discussions about a potential offer are about to be extended to include more than a very restricted number of persons.
- (d) When the board of a company is aware that there are negotiations or discussions between a potential offeror and the holder, or group of holders of shares carrying 20% or more of the voting rights of a company.
- (e) When the board of a company is seeking potential offerors, and
 - (i) The company is the subject of rumor or speculation about a possible offer, or there is unusual movement in its share price or a significant increase in the volume of share turnover; or
 - (ii) More than a very restricted number of potential purchasers or offeror are about to be approached.



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TMA-2.3 Announcement of Offer or Possible Offer (continued)

TMA-2.3.12 When a proposed offer is conditional on acceptances or undertakings to accept by one or more shareholders, the proposed announcement must include a statement by those shareholders who have accepted or undertaken to accept the offer, whether such acceptances or undertakings are revocable, and if so, the conditions under which such acceptances or undertakings may be revoked.

Firm Intention to Make an Offer by Offeror

TMA-2.3.13 An offeror must announce a firm intention to make an offer where such offeror has every reason to believe that it can and will continue to be able to implement the offer.

TMA-2.3.14 The announcement of a firm intention to make an offer must state the following:

- (a) Terms of the offer;
- (b) Identity of the offeror and, where the offeror is a company, the identity of its ultimate controlling shareholder and the identity of its ultimate parent company, or where there is a listed company in the chain between such company and its ultimate parent company, the identity of such listed company;
- (c) Details of any existing holding of shares and rights over shares in the offeree company:
 - (i) Which the offeror owns or over which it has control or direction;
 - (ii) Which is owned or controlled or directed by any person acting in concert with the offeror;
 - (iii) In respect of which the offeror or any person acting in concert with it has received an irrevocable commitment to accept the offer; and
 - (iv) In respect of which the offeror or any person acting in concert with it holds convertible securities, warrants or options;
- (d) Details of any outstanding derivative in respect of securities in the offeree company entered into by the offeror or any person acting in concert with it;
- (e) All conditions (including normal conditions relating to acceptance, listing and change in capital) to which the offer is subject; and
- (f) Details of any arrangement (whether by way of option, indemnity or otherwise) in relation to shares of the offeror or the offeree company and which might be material to the offer. Details of any relevant securities of the offeree company in which the offeror or any person acting in concert with it has an interest or has a right to subscribe. In each case, the nature of the interests or rights concerned needs to be specified;



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TMA-2.3 Announcement of Offer or Possible Offer (continued)

- (g) Details of any relevant securities of the offeree company which the offeror or any person acting in concert with it has borrowed or lent, save for any borrowed shares which have been either on-lent or sold;
- (h) All conditions (including normal conditions relating to acceptances, admission to listing, admission to trading and increase of capital) to which the offer or the posting of it is subject;
- (i) Details of any agreements or arrangements to which the offeror is party which relate to the circumstances in which it may or may not invoke or seek to invoke a pre-condition or the consequences of its doing so, including details of any break fees payable as a result; and
- (j) Details of any arrangement for the payment of an inducement fee or similar arrangement.

TMA-2.3.15 Where the offer is for cash, or includes an element of cash, the announcement must include a statement that the professional adviser, or another appropriate third party, have taken all reasonable steps to convince themselves that sufficient resources are available to the offeror to satisfy the full implementation and acceptance of the offer.

TMA-2.3.16 Except with the consent of the CBB, if an incorrect or misleading statement is made in an announcement by the potential offeror, or on behalf of the potential offeror, or its directors, or officials or advisors, and not immediately withdrawn, then the potential offeror will be bound by the statement if an offer for the offeree company is subsequently made.

TMA-2.3.17 Except with the consent of the CBB, where the incorrect or misleading statement concerned relates to the price of a possible offer (or a particular exchange ratio in the case of a proposed securities exchange offer), the potential offeror will not be allowed subsequently to make an offer for the offeree company at a lower price (taking the price of any securities concerned at the date of announcement of the firm intention to make the offer), unless there has occurred an event which the potential offeror specified in the statement as an event which would enable it to be set aside.



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TMA-2.3 Announcement of Offer or Possible Offer (continued)

Preconditions

TMA-2.3.18 Any pre-conditions included in an announcement to making a possible offer must be agreed in advance by the CBB and clearly state whether or not the pre-conditions must be satisfied before an offer can be made or whether they are waived.

Announcement of the Progress of the Offer

TMA-2.3.19 Until a firm intention to make an offer has been notified a brief announcement by a potential offeror or the offeree company that talks are taking place or that a potential offeror is considering making an offer will normally satisfy the obligations under this TMA-2.3.

If following the announcement of a possible offer no further announcement has been made in respect of that offer or possible offer within one month, an announcement must be made setting out the progress of the talks or the consideration of a possible offer. This obligation continues, and announcements will be required monthly, until announcement of firm intention to make an offer or of a decision not to proceed with an offer. When talks are terminated or a potential offeror decides not to proceed with an offer an announcement must be made to that effect.

Statements of Intention Not to Make an Offer

TMA- 2.3.20 A person making a statement that he does not intend to make an offer for a company must make a statement to the market that is very clear and unambiguous.

TMA- 2.3.21 Except with the consent of CBB, unless there has been a material change of circumstances or an event has occurred which the person specified in his statement as an event which would enable it to be set aside, neither the person making the statement, nor any person acting in concert with him, nor any person who is subsequently acting in concert with either of them, may within six months from the date of the statement:

- Announce an offer or possible offer for the offeree company, including a partial offer;
- Acquire any interest in shares of the offeree company if any such person is obliged under TMA-3.1 to make a mandatory offer;



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**TMA-2.3 Announcement of Offer or Possible Offer
(continued)**

- (c) Acquire any interest, or procure an irrevocable commitment in respect of, shares of the offeree company if the shares in which such person, together with any persons acting in concert with him, would be interested and the shares in respect of which he, or they, had acquired irrevocable commitments would in aggregate carry 30% or more of the voting rights of the offeree company;
- (d) Make any statement which raises or confirms the possibility that an offer might be made for the offeree company; or
- (e) Proceed with actions to make a possible offer, for the offeree company, where knowledge of the possible offer might be extended outside the potential offeror and immediate advisors.

TMA- 2.3.22 Failure to comply with this rule may lead to the period of six months set out to be extended.

TMA- 2.3.23 Any person considering issuing a statement of an intention not to make an offer should consult CBB; particularly when specific reservations are to be included or to be set aside.

TMA- 2.3.24 Restrictions imposed by TMA-2.3.21 on statements made will apply to any persons acting in concert with the person making the statement. Unless clear in the statement or at the time of the statement, the restrictions will not apply to the persons acting in concert and that they are continuing to consider making an offer.

TMA- 2.3.25 When a person is announcing in a statement an intention of not making an offer, CBB will take into account the manner of any public reporting following the statement. Advisors should advise the directors and officials of companies of the implications of TMA-2.3.21.



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TMA-2.4 No Frustrating Action

TMA-2.4.1

Once a bona-fide offer has been communicated to the board of an offeree company or the board of an offeree company has reason to believe that a bona-fide offer may be imminent, no action which could effectively result in an offer being frustrated, or in the shareholders of the offeree company being denied an opportunity to decide on the merits of an offer, shall be taken by the board of the offeree company in relation to the affairs of the company without the approval of the shareholders of the offeree company in general meeting. In particular the offeree company's board must not, without such approval, do or agree to do the following:

- (a) Issue any shares;
- (b) Create, issue or grant, or permit the creation, issue or grant of, any convertible securities, options or warrants in respect of shares of the offeree company;
- (c) Other than during the normal course of business, sell, dispose of or acquire assets of a material amount;
- (d) Enter into contracts, including service contracts, otherwise than in the ordinary course of business; or
- (e) Cause the offeree company or any subsidiary or associated company to purchase or redeem any shares in the offeree company or provide financial assistance for any such purchase.

TMA-2.4.2 Where the offeree company is under a prior contractual obligation to take any such action, or where there are other special circumstances, the CBB must be consulted at the earliest opportunity.



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TMA-2.5 No Withdrawal of an Offer

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| TMA- 2.5.1 | Except with the consent of the CBB, following an announcement of a firm intention to make an <u>offer</u> , the <u>offeror</u> cannot withdraw the <u>offer</u> and must continue to implement it unless the <u>offer</u> is subject to the fulfilment of a specified condition and the condition has not been met. |
| TMA- 2.5.2 | A change in general economic, industrial or political circumstances will not justify failure to proceed with an announced <u>offer</u> , unless circumstances of an exceptional and specific nature arise. |
| TMA- 2.5.3 | If a competitor has posted a higher <u>offer</u> to the one already made by the first <u>offeror</u> , the CBB may consent to the withdrawal of the announced <u>offer</u> . This should not carry any additional conditions other than those necessary for the implementation of such announced <u>offer</u> . |
| TMA- 2.5.4 | If an <u>offeror</u> is permitted to withdraw from an <u>offer</u> , or an <u>offer</u> is waived because of non-fulfilment of a condition, the <u>offeror</u> will be required to make an announcement giving reasons for the withdrawal. |
| TMA- 2.5.5 | The CBB may seek to hear views of the <u>offeree</u> company and its advisors, prior to consenting to a withdrawal of an announced <u>offer</u> . |



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TMA 2.6 Information To Offeror(s)

TMA-2.6.1 Upon signing a confidentiality agreement to give access to any due diligence material, any information, including particulars of shareholders, given to one offeror or potential offeror must be furnished equally and promptly to any other bona fide offeror or potential offeror.

TMA-2.6.2 If the offer or potential offer is a management buy-out or similar transaction, the information which this Rule requires to be given to a competing or potential offeror is:

- (a) the information generated by the offeree company (including the management of the offeree company acting in their capacity as such) which is passed to external providers or potential providers of finance (whether equity or debt) to the offeror or potential offeror; and
- (b) any other information that is material in the context of making an offer insofar as the board of the offeree company is aware that the management is in possession of such information.

This, however, does not include providing information on the offeree company's trade and business secrets. The CBB expects the directors of the offeree company who are involved in making the offer to cooperate with the independent directors of the offeree company and its advisers in the assembly of information.

TMA-2.6.3 The information related to an offer should be provided by the offeree company to the ultimate offeror or potential offeror, the identity of which must be disclosed to the directors of the offeree company.



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TMA 2.7 Timing and Content of Documents

Equality of Information to Shareholders

TMA-2.7.1 All offeree company shareholders must be given sufficient information and advice about an offer. Information must be made equally available to all shareholders, at the earliest and in the same manner to enable them to reach an informed decision about the offer.

TMA-2.7.2 Shareholders must, in accordance with Appendix C, be given all the facts necessary to make an informed judgment on the merits or demerits of an offer. Such facts require accurate and fair presentation and must be given to the shareholders early enough to enable them to make a decision in good time. The obligation of the offeror in these respects towards the shareholders of the offeree company is no less than the offeror's obligation towards its own shareholders. In particular, whether or not the offer consideration is cash, information should be given about the offeror.

TMA-2.7.3 The offer document must include a heading stating: *“If you are in doubt about any aspect of this offer, you should consult a licensed securities dealer or licensed institution in securities, a bank manager, solicitor or attorney, professional accountant, or other professional advisor.”*

TMA-2.7.4 No new material must be released in meetings, interviews or discussions with the media. If any new information is made public as a result of meetings, interviews or discussions with the media, then a circular must be sent to shareholders and where appropriate newspaper space.

Subsequent Documents

TMA-2.7.5 Documents subsequently sent to shareholders of the offeree company must contain details of any material changes in information previously submitted or published by or on behalf of either party during the offer period. If there have been no such changes this must be stated. In particular, the following matters must be updated:

- (a) changes or additions to material contracts;
- (b) shareholdings and dealings;
- (c) changes to directors' service contracts;
- (d) special arrangements;
- (e) ultimate owner of securities acquired under the offer; and
- (f) arrangements in relation to dealings.

Offer Document Time Limit

TMA-2.7.6 The offer document should be sent to the offeree company by or on behalf of the offeror within 21 calendar days of the date of the announcement of the terms of the offer.

The CBB's consent is required if the offer document may not be posted within this period.



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TMA 2.7 Timing and Content of Documents (continued)

Timing And Contents Of Offeree Board Circular

TMA-2.7.7 The offeree company should send to all its shareholders within a maximum period 21 calendar days from the receiving date of the offer document, the circular containing the information in Appendix D and the information set out in Appendix C, together with any other information it considers to be relevant to enable its shareholders to reach an informed decision on the offer. The CBB's consent is required if the offeree board circular (Appendix D) may not be posted within this period.

The offeree board circular, to be attached to the offer document in accordance with Appendix D, must include the views of the offeree company's board or its independent committee on the offer and the written advice of its professional adviser as to whether the offer is, or is not, fair and reasonable and the reasons thereof.

TMA-2.7.8 If the circular (Appendix D) is not issued by the professional advisor, then it should include a statement that the professional advisor has given and not withdrawn his consent to the issue of the circular, including his recommendation.

Prospectus Standard

TMA-2.7.9 Each document issued or statement made in relation to an offer or possible offer or during an offer period must, as is the case with a prospectus, satisfy the highest standards of accuracy and the information given must be adequately and fairly presented. This applies whether the offeror, the offeree company, or any of their advisors or agents issues the document, advertisement, or announcement.

Those who issue or make any such document or statement must ensure that it remains accurate and up-to-date throughout the offer period, and must notify shareholders of any material changes as soon as possible.

Directors' Responsibility Statement

TMA-2.7.10 All documents should state on the inside cover page that: All directors of the company issuing the document, whose names appear therein, jointly and severally accept full responsibility for the accuracy of information contained in the document. To the best of the knowledge and belief of the directors, who have taken all reasonable care to ensure that such is the case, the information contained in the document is in accordance with the facts and contains no omissions likely to affect the importance and completeness of the document.

TMA-2.7.11 If it is proposed that any director be excluded from the Director's Responsibility Statement, the CBB's consent is required. Such consent is given only in exceptional circumstances and in such cases the omission and the reasons for it must be stated in the document to which the Director's Responsibility Statement applies.



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TMA 2.7 Timing and Content of Documents (continued)

TMA-2.7.12 The directors of the offeree company should comment on the statement in the offer document regarding the offeror's intentions in respect of the offeree company and its employees.

Arabic/English Language

TMA-2.7.13 Each document is to be written in Arabic and/ or English and shall include or be accompanied by a translation, as the case requires, in Arabic or English, unless the CBB has previously agreed to waive this requirement.

Documents to be on Display

TMA-2.7.14

Except with the consent of CBB, the following documents must be available for inspection from the time that the offer document or the offeree board circular is published, until the end of the offer period. The offer document and the offeree board circular must state which documents are available and where, and the place where inspection can be made:

- (a) Memorandum and articles of association of the offeror or the offeree company or equivalent documents;
- (b) Audited consolidated accounts of the offeror or the offeree company for the last two financial years for which these have been published in accordance with the International Financial Reporting Standards (IFRS);
- (c) All service contracts of offeree company directors;
- (d) Any report, letter, valuation or other document any part of which is exhibited or referred to in any document issued by or on behalf of the offeror or the offeree company;
- (e) Written consents of the professional advisers ;
- (f) All material contracts in relation to the offer;
- (g) Where a profit forecast has been made, the reports of the auditors or consultant accountants and of the professional advisers in addition to the letters giving the consent of the auditors or consultant accountants and of the professional advisers to the issue of the relevant document with the report in the form and context in which it is included or, if appropriate, to the continued use of the report in a subsequent document;
- (h) Where an asset valuation has been made, the valuation certificate and associated report containing details of the aggregate valuation, in addition to a letter stating that the valuer has given and not withdrawn his consent to the publication of his name in the relevant document;
- (i) Any document evidencing an irrevocable commitment or a letter of intent which has been procured by the offeror or offeree company (as appropriate) or any of their respective associates;



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- (j) Where CBB has given consent to aggregation of dealings, a full list of all dealings;
- (k) Documents relating to the financing arrangements for the offer or a detailed statement from the professional advisor indicating that they have taken all reasonable steps to convince themselves that sufficient resources are available to implement the offer;
- (l) Documents relating to the payment of an inducement fee or similar arrangement;
- (m) Any agreements or arrangements, or, if not reduced to writing, a memorandum of all the terms of such agreements or arrangements, disclosed in the offer document; and
- (n) Any agreements or arrangements, or, if not reduced to writing, a memorandum of the terms of such agreements or arrangements.



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TMA- 2.8 The Offeree's Director Responsibilities

TMA-2.8.1

The board of directors of the offeree company must ensure that proper arrangements are in place to enable it to monitor to ensure that:

- (a) the board is provided promptly with copies of all documents and announcements issued by or on behalf of their company which bear on the offer; the board receives promptly details of all dealings in relevant securities made by their company or its associates and details of any agreements, understandings, guarantees, expenditure (including fees) or other obligations entered into or incurred by or on behalf of their company in the context of the offer which do not relate to routine administrative matters;
- (b) those directors or committee members appointed in terms of TMA-2.2.7 undertaking daily responsibilities for the offer are in a position to justify to the board all their actions and proposed courses of action; and
- (c) the opinions of advisers are available to the board;
- (d) the possible temporary insiders are identified and that the offeree company complies with its Policy of Insiders.

TMA-2.8.2 The procedures identified in TMA-2.8.1 should be followed, and board meetings should be held, whenever necessary throughout the offer in order to ensure that all directors remain updated with events and with actions taken.

TMA-2.8.3 The CBB expects the directors to co-operate with it in connection with its enquiries. The level of co-operation needed involves providing, promptly on request, copies of minutes of board meetings and other information in their possession, or in the possession of an offeror or the offeree company as appropriate, which may be relevant to the enquiry.

TMA-2.8.4 Directors who believe they may encounter any conflicts of interest should consult the CBB on whether it is appropriate for them to assume responsibility for any recommendations on the offer that the board may make to shareholders.

TMA-2.8.5

Where directors (including their connected persons, related trusts and companies controlled by such directors, connected persons and related trusts) or shareholders or groups of shareholders acting collectively holding effective control, whether represented on the board or not, sell shares to a purchaser, as a result of which the purchaser is required to make an offer under TMA-3.1 (Mandatory Offer), the vendors must ensure that as a condition of the sale the purchaser undertakes his obligations in accordance with TMA-3.1.



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TMA- 2.8 The Offeree's Director Responsibilities

Resignation Of Directors Of Offeree Company

TMA-2.8.6 Once a bona-fide offer has been communicated to the board of the offeree company or the board of the offeree company has reason to believe that a bona-fide offer is imminent, except with the consent of the CBB, the directors of an offeree company or any of its subsidiaries should not resign until the first closing date of the offer, or the date when the offer becomes or is declared unconditional, whichever is the later.

Resignation of directors of the offeree company should be made in accordance with the offeree company's Memorandum and Articles of Association.

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TMA-2.9 Profit Forecast and Other Financial Information

TMA-2.9.1 The directors are responsible for ensuring that the profit forecasts are compiled with the highest standards, presentation and accuracy to shareholders in an offer. Financial advisors must ensure that the directors are preparing the forecasts with sufficient explanation on how the projection was calculated, taking into account all the assumptions and risk of failure in the projected result. Such project must be examined and reported on by independent reporting accountants, experts, or consultants in accordance with the applicable international standard (International Standard on Assurance Engagement – ISAE).

TMA-2.9.2 Profit forecasts provided by the offeror and/or the offeree must include:

- A profit forecast for the current financial year. If the forecast year is less than three months of the current financial year, then the period of the forecast will be the current financial year and the next immediate financial year;
- The assumptions, in addition to the commercial assumptions, on which the forecasts are based must be included in documents sent to offeree shareholders with regards to an offer;
- A statement with the consent of the relevant advisors, including the consultant accountant and professional advisor, that they have given and not withdrawn their consent to the publication of the profit forecast;
- A statement by the directors that the forecast remains valid for the purpose of their offer and that the professional advisors and accountants who reported the forecast agree that their reports continue to apply;
- The accounting policies and calculations of the forecasts which have been examined and reports by the auditors, consultant accountants or any other professional advisor of the offeror or the offeree;
- When a profit forecast is made in relation to a period in which trading has already commenced, any previously published profit figures in respect of any expired part of that trading period, together with comparable figures for the same part of the preceding year.

TMA-2.9.3 When income from land and buildings is a material element in a forecast, that part of the forecast should normally be examined and reported on by an independent valuer. Exceptional items should also be examined and reported on with special care.

TMA-2.9.4 Except with the consent of the CBB, any profit forecast which has been made before the commencement of the offer period must be examined, reproduced and reported on in the document sent to shareholders.

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TMA-2.9 Profit Forecast and Other Financial Information (continued)

TMA-2.9.5 Exceptionally, the CBB may accept that, because of the uncertainties involved, it is not possible for a forecast previously made to be reported on in accordance with this Module nor for a revised forecast to be made. In these circumstances, the CBB would insist on shareholders being given a full explanation as to why the requirements of this Module were not capable of being met.

Publication of Reports

TMA-2.9.6 When a profit forecast is made during an offer period, any documents sent to shareholders must include the forecast reports. The reports must include a statement that consent has been given and has not been withdrawn to the circulation to shareholders.

TMA-2.9.7 If a company's forecast is published first in a press announcement, it must be repeated in full, together with the reports, in the documents sent to shareholders. The reports must include a statement that consent has been given and have not been withdrawn to the publication.

Continuing Validity Of Forecast

TMA-2.9.8 When a company includes a forecast in a document, any document subsequently sent out by that company in connection with that offer must, contain a statement by the directors that the forecast remains valid for the purpose of the offer and that the professional advisers and accountants who reported on the forecast have indicated that they have no objection to their reports continuing to apply.

Statements Which Will Be Treated As Profit Forecasts

TMA-2.9.9 When no particular figure is mentioned or even if the word "profit" is not used, certain forms of words may constitute a profit forecast, particularly when considered in context. Examples are "profits will be somewhat higher than last year" and "performance in the second half-year is expected to be similar to our performance and results in the first half-year" (when interim figures have already been published). Whenever a form of words puts a floor under, or a ceiling on, the likely profits of a particular period or contains the data necessary to calculate an approximate figure for future profits, it will be treated by the CBB as a profit forecast which must be reported on. In cases of doubt, the CBB should be consulted in advance.

TMA-2.9.10 Where the financial statements have not been declared, an estimate of profit for a period which has already expired should be treated as a profit forecast.

TMA-2.9.11 A dividend forecast is not normally considered to be a profit forecast unless, for example, it is accompanied by an estimate as to dividend cover.

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TMA-2.9 Profit Forecast and Other Financial Information (continued)

TMA-2.9.12 The CBB must be consulted in advance if a profit warranty is to be published in connection with an offer as it is likely to be regarded as a profit forecast.

When A Forecast Relates To A Period Which Has Commenced

TMA-2.9.13 Whenever a profit forecast is made in relation to a period which has already commenced, any previously published profit figures in respect of any expired part of that period, together with comparable figures for the same part of the preceding year, must be stated.

Merger Benefits Statements In Securities Exchange Offers

TMA-2.9.14 In a securities exchange offer, a quantified statement about the expected financial benefits of a proposed takeover or merger is deemed to be a profit forecast statement for the purpose of this TMA-2.9. In addition to satisfying the existing standards of information and requirements under the TMA Module, a person issuing such a statement must provide:

- (a) the basis of the belief (including sources of information) supporting the statement;
- (b) an analysis and explanation of the constituent elements sufficient to enable shareholders to understand the relative importance of these elements; and
- (c) a base figure for any comparison drawn.



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TMA-2.10 Asset Valuation

TMA-2.10.1 When a valuation of assets is given in connection with an offer, it should be supported by the opinion of a named independent valuer who has no connection with other parties to the transaction. Asset valuations by a professionally qualified independent valuer shall be provided when asset values are a particularly significant factor in assessing the relevant take over or merger transaction.

TMA-2.10.2 Valuation of assets documents provided by the offeror or the offeree must include:

- (a) The professional qualifications and address of the independent valuer;
- (b) The basis of valuation;
- (c) The opinion of the independent valuer supporting the valuation;
- (d) The effective date at which the assets were valued. If a valuation is not current, the valuer must state that a current valuation would not be materially different and if this statement cannot be made, the valuation must be updated;
- (e) A statement with the consent of the valuer that he has given and not withdrawn his consent to the use of his valuation report.

TMA-2.10.3 Valuation report addressed to shareholders must be made available for inspection together with an associated report containing details of the aggregate valuation. Where CBB is satisfied that such disclosure may be commercially disadvantageous to the company concerned, it will allow the report to be in a summarized form.

Basis Of Valuation

TMA-2.10.4 In any valuation of an asset or business the basis of valuation must be clearly stated. Only in exceptional circumstances should it be qualified and in that event the valuer must explain the meaning of the words used. The material assumptions made in a valuation must be stated in the valuation.

TMA-2.10.5 For non-specialised properties, the basis of valuation will normally be open market value. A property which is occupied for the purposes of the business will be valued at existing use value.

TMA-2.10.6 In the case of land currently being developed or with immediate development potential, in addition to giving the open market value in the state existing at the date of valuation, the valuation should include:-

- (a) the value after the development has been completed;
- (b) the estimated total cost, including carrying charges, of completing the development and the anticipated dates of completion and of letting or occupation; and
- (c) a statement whether planning or other regulatory consent has been obtained and, if so, the date thereof and the nature of any conditions attaching to the consent which affect the value.



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However, the value of the property should also be given as a net of any charges, levy, tax, etc.



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TMA-2.10 Asset Valuation (continued)

Opinion And Consent Letters

- TMA-2.10.7 Standards of care; A valuation must be made with due care and consideration by the valuer or professional adviser making the valuation.
- TMA-2.10.8 The opinion of the valuer must be contained in the document. In the case of a property valuation, the document containing the valuation must contain a summary of the valuation setting out the address sufficient to identify each property and the valuation of each property.
- TMA-2.10.9 When the valuer withdraws its written consent, the document must state such fact.
- TMA-2.10.10 Where a valuation of assets is given in any document addressed to shareholders, the full valuation report must be made available for inspection.

Waiver In Certain Circumstances

- TMA-2.10.11 The CBB may be prepared exceptionally to waive strict compliance with the requirement of the opinion of an independent valuer to support an asset valuation, in certain companies, in particular property companies, which are the subject of an unexpected offer may find difficulty in obtaining such opinion within the required time. The CBB will only do this where the interests of shareholders are fully protected.



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TMA-2.11 Issuance Of Documents

Filing Of Documents For Comments

TMA-2.11.1

All documents must be filed with the CBB for comment prior to release or publication and must not be released or published until the CBB has confirmed within 15 days that it has no further comments thereon. The final printed copies of the document must be filed with the CBB.

Publication Of Documents

TMA-2.11.2

All announcements in respect of listed companies must be made in accordance with the requirements of the Disclosure Standards. All announcements in respect of unlisted companies must be circulated to their shareholders.

Advertisements

TMA-2.11.3

The publication of advertisements during an offer period is prohibited unless the advertisement falls within one of the categories listed below. In addition, except where the advertisement falls within category (a), it must be cleared with the CBB. The categories are as follows:

- (a) product advertisements not bearing on an offer or possible offer (where there could be any doubt, the CBB must be consulted);
- (b) corporate image advertisements not bearing on an offer or possible offer;
- (c) other advertisements giving information, the publication of which by advertisement is required by the CBB.



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TMA-2.12 Offers For More Than One Class Of Equity Shares

TMA-2.12.1

Where a company has more than one class of equity share capital, a comparable offer must be made for each class whether such capital carries voting rights or not. The comparable offer or proposal for each class of share capital required should normally be subject to similar conditions. Such a scheme should be considered at separate meetings for each class of the equity share capital, if required by law or the company's Memorandum and Articles of Association.



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TMA-2.13 Appropriate Offers For Convertibles

Offeree Companies With Convertible Securities

TMA-2.13.1

Where an offer is made for equity share capital and the offeree company has convertible securities outstanding, the offeror must make an appropriate offer or proposal to the holders of the convertible securities to ensure that their interests are safeguarded. Holders of convertible securities should be treated equally.

Professional Independent Advice

TMA-2.13.2

The board of the offeree company must obtain professional independent advice in writing on the offer or proposal to the holders of convertible securities and the substance of such advice must be made known to all holders of its securities, together with the board's views on the offer or proposal.

Dispatch Of Appropriate Offers

TMA-2.13.3 Whenever practicable the offer or proposal should be dispatched to the holders of convertible securities at the same time that the offer document is posted to other shareholders, but if this is not practicable the CBB should be consulted and the offer or proposal should be dispatched as soon as possible thereafter.

Conditions Of Appropriate Offers

TMA-2.13.4 The offer or proposal required by TMA-2.13.1 must be made conditional on the offer for equity share capital becoming or being declared unconditional and should not normally be subject to any other conditions. It may, however, be put by way of a scheme to be considered at a meeting of the holders of convertible securities in accordance with the Memorandum and Articles of Association and/or offer documents in respect of such securities, as the case may be.

Warrants, Options And Subscription Rights

TMA-2.13.5 The provision of this TMA-2.13.1 applies also when an offeree company has warrants, options or subscription rights outstanding in respect of any class of equity share capital (including non-transferable options), with the appropriate amendments.



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TMA-2.14 Offer Timetable

Offer To Remain Open For 15 Days

TMA-2.14.1

Where a conditional offer becomes or is declared unconditional, it should remain open for acceptance for not less than 15 calendar days thereafter.

Offering Period

TMA-2.14.2 Where an offer document and the offeree board circular are distributed on different dates, the offer must initially be open for acceptance for at least 15 calendar days following the date on the later date in respect of which the document is posted.

In any announcement of an extension of an offer, the next closing date must be stated.

Final Day Rule

TMA-2.14.3 Except with the consent of the CBB, an offer (whether revised or not) may not become or be declared unconditional as to acceptances after the official working hours on the 60th day after the day the initial offer document was posted. The CBB's consent will normally be granted only if a competing offer has been announced (in which case both or all offerors will normally be bound by the timetable established by the posting of the competing offer document which is posted later).

The consent of the CBB, in such cases, will only be given in very exceptional circumstances.

Compulsory Acquisition

TMA-2.14.4 Where an offeror has stated in the offer document its intention to avail itself of any powers of compulsory acquisition, the offer may not remain open for acceptance for more than 90 days from the posting of the offer document, unless the offeror has by that time become entitled to exercise such powers of compulsory acquisition, in which event it must do so without delay.

Time For Fulfillment Of All Other Conditions

TMA-2.14.5 Except with the consent of the CBB, all conditions must be fulfilled or the offer must lapse within 15 calendar days of the first closing date or of the date the offer becomes or is declared unconditional as to acceptances, whichever is the later.



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TMA-2.15 Revised And Alternative Offers

Offer Open For 15 Calendar Days After Revision

TMA-2.15.1

If, in the course of an offer, the offeror revises its terms, all offeree company shareholders, whether or not they have already accepted the offer, will be entitled to the revised terms. A revised offer must be kept open for at least 15 calendar days following the date on which the revised offer document is posted. Therefore, no revised offer document may be posted in the 15 calendar days ending on the last day the offer is able to become unconditional as to acceptances.

New Conditions For Improved Offers

TMA-2.15.2 An offeror may introduce new improved conditions to be attached to a revised offer, but only to the extent necessary to implement the revised offer and subject to the consent of the CBB.

Reintroduction Of Alternative Offers

TMA-2.15.4 Where a firm statement has been made that an alternative offer will not be extended or reintroduced, neither that alternative, nor any substantially similar alternative, may be extended or reintroduced. Where, however, such a statement has not been made and an alternative offer has closed, an offeror will not be precluded from reintroducing that alternative at a later date. Reintroduction constitutes a revision of the offer and is, therefore, subject to the requirements of, and only permitted as provided in, this TMA-2.15.

TMA-2.15.5 CBB must be consulted if a competitive situation continues to exist in the later stages of the offer period. CBB will normally consider applying a procedure to resolve the situation which is agreed between competing offerors and the board of the offeree company.



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TMA 2.16 Acceptors' Right to Withdraw

TMA-2.16.1

An acceptor will be entitled to withdraw his acceptance after 14 days from the first closing date of the offer, if the offer has not become unconditional as to acceptances by that date. Such entitlement to withdraw will be exercisable until the offer becomes unconditional as to acceptances. However, on the 60th day (or any date beyond which the offeror has stated that its offer will not be extended) the final time for the withdrawal must coincide with the final time for the lodgement of acceptances.



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TMA-2.17 Statements During Course of Offer

TMA-2.17.1 Information, documents, advertisements or statements issued during an offer period must not be misleading and must be of the highest standard and accuracy. This is whether the information is issued directly by the offeror, offeree or by the advisors. All parties and their advisers are responsible for ensuring that any release of information abides with this rule.

TMA-2.17.2 Any parties of an offer or potential offer and their advisors must take care not to issue any statements which, while not factually inaccurate, may mislead shareholders and the market and cause uncertainty. Statements regarding an offeror improving his offer without committing itself to doing so must not be made.

TMA-2.17.3 Documents issued to shareholders or advertisements published in relation to an offer by, or on behalf of, the offeror or the offeree company, must state where appropriate, that the directors of the offeror and/or the offeree company accept full responsibility for the information contained in the documents and advertisements, to the best of their knowledge, that the information contained in the document or advertisement is in accordance with the facts and that it contains no omissions likely to affect the importance and consistencies of the document.

No Extension Statements

TMA-2.17.4 If statements in relation to the duration of an offer such as “the offer will not be extended beyond a specified date unless it is unconditional as to acceptances” (“no extension statements”) are included in documents sent to offeree company shareholders, or are made by or on behalf of an offeror, its directors, officials or advisers, and not withdrawn immediately if incorrect, only in extremely exceptional circumstances will the offeror be allowed subsequently to extend its offer beyond the stated date except where the right to do so has been specifically reserved.

No Increase Statements

TMA-2.17.5 If statements in relation to the value or type of consideration such as “the offer will not be further increased” or “our offer remains at BHD X per share and it will not be raised” (“no increase statements”) are included in documents sent to offeree company shareholders, or are made by or on behalf of an offeror, its directors, officials or advisers, and not withdrawn immediately if incorrect, only in extremely exceptional circumstances will the offeror be allowed subsequently to amend the terms of its offer in any way even if the amendment would not result in an increase of the value of the offer (e.g. the introduction of a lower paper alternative) except where the right to do so has been specifically reserved.

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TMA-2.17 Statements During Course of Offer (continued)

TMA-2.17.6 An offeror or offeree company must not make statements about the level of support received from shareholders or other persons, unless they have clearly stated their intentions to the offeror or offeree company, or advisors, as appropriate. CBB will require statements made to be verified, which could include the shareholder confirming their support in writing to the offeror or its advisors, which will then be treated as a letter of intent/consent, as the case may be.

TMA-2.17.7 Shareholders must not be pressured by any means or by any party involved in an offer to accept or reject such offer through information, documents, advertisements or statements.

Advertisements

TMA-2.17.8 Any advertisements published in terms of the Module should obtain the prior approval of the CBB. The publication of advertisements in relation to an offer is prohibited, specifically when it is concerning information that is controversial. Advertisements which do not relate to the offer or potential offer will be allowed if they fall within the following categories:

- (a) Product advertisements not having an affect on an offer or potential offer, CBB must be consulted if there is any doubt;
- (b) Corporate image advertisements not having an affect on an offer or potential offer;
- (c) Advertisements in relation to non-controversial information about an offer, such as the value of an offer or closing dates;
- (d) Advertisements in relation to preliminary or interim results;
- (e) Advertisements comprising a tender offer;
- (f) Advertisements including notices relating to Court schemes; or
- (g) Advertisements published with the specific prior consent of CBB.

TMA-2.17.9 Any forms connected with an offer, including acceptance forms, withdrawal forms, proxy cards must not be published in newspapers or any form of advertisement.



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TMA-2.17 **Statements During Course of Offer (continued)**

Telephone Campaigns

TMA-2.17.10 Except with the consent of CBB, campaigns relating to contacting shareholders or persons interested in the offer by telephone may be conducted only by the financial advisor and his staff, who are fully aware of the responsibilities and requirements of this module. Information passed to such persons must be accurate, already published and not misleading. Persons contacted must not be pressured and must be encouraged to consult their advisors.

TMA-2.17.11 Prior to a telephone campaign with a view to gathering irrevocable commitments in connection with an offer, CBB must be consulted, and may permit those called to be informed of details of a proposed offer which may not have been publicly announced.



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TMA-2.18 Announcement of Result of Offer

Timing and Contents

TMA-2.18.1 An offeror must publish an announcement on the day on which the offer will expire, or becomes or is declared unconditional as to acceptances, or is revised or extended.

TMA-2.18.2 The offeror must also forward such announcement to the CBB and the licensed exchange and offeree company and publish an announcement on the website of the licensed exchange no later than 09:00 on the business day following the day of the abovementioned announcement date.

TMA-2.18.3 The announcement must state the number of shares and rights over shares:

- (a) for which acceptances of the offer have been received;
- (b) held, controlled, or directed by the offeror or persons acting in concert with it before the offer period; and
- (c) acquired or agreed to be acquired during the offer period by the offeror or any persons acting in concert with it.

TMA-2.18.4 The announcement must include a prominent statement of the total numbers of shares which the offeror may count towards the satisfaction of its acceptance condition and must specify the percentages of each class of relevant securities represented by these figures. CBB should be consulted if the offeror wishes to make any other statement about acceptance levels in any announcement made.

TMA-2.18.5 The offeror must send copies of the certificate issued by the designated receiving bank to the CBB, BSE and the offeree company's financial advisor as soon as possible after it is issued.

TMA-2.18.6 If statements are made during an offer by an offeror or its advisors, either orally or written, about level of acceptances of the offer or number or percentages of shareholders who have accepted the offer, then an immediate announcement must be made.

TMA-2.18.7 Companies whose securities are not admitted to listing or trading that are a party to the offer will normally not be required to make a public announcement, however it will be required to inform all shareholders about the result of the offer.

TMA-2.18.8 When the offeree company has the intention to make an announcement on the level of withdrawals of acceptance of an offer, CBB must be consulted before any announcement is made.



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TMA-2.18 Announcement of Result of Offer (continued)

Consequences of Failure to Announce

TMA-2.18.9 If the offeror fails to make an announcement about the results of an offer, without CBB's consent, the CBB may then grant acceptors the right of withdrawal from the offer.

TMA-2.18.10 If the offeror is unable to comply with any of the requirements of TMA-2.18, within the time limit granted, the CBB will consider requesting the Exchange to suspend dealings in the offeree company's shares and, where appropriate, in the offeror's shares until the relevant information and documents are provided.

TMA-2.18.11 If an offeror has been declared unconditional as to acceptance, but the offeror fails to comply with any of the requirements of TMA-2.18 by 3:30pm on the relevant day, any acceptor will be immediately entitled to withdraw his acceptance.

TMA-2.18.12 This right of withdrawal may be terminated not less than 8 days after the relevant date in the case that the offeror confirms that the offer is still unconditional as to acceptances and complies with TMA-2.18.



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TMA-2.19 Settlement of Consideration and Share Transfer

Timing Of Acquisition And Payment

TMA-2.19.1 Shares represented by acceptances in any offer shall not be accepted the offeror until the offer has become or has been declared unconditional. Such shares shall be paid by the offeror in accordance with the terms of payment as stipulated in the offer document.

Withdrawn Or Lapsed Offers

TMA-2.19.2 If an offer is withdrawn or lapses, the offeror must, as soon as possible but in any event within 7 calendar days thereof, post the share certificates or transfer documents lodged with acceptance forms to, or make such share certificates or transfer documents available for collection by, those offeree company shareholders who accepted the offer.



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TMA- 2.20 Restrictions on Dealings Before and During the Offer

Restrictions on Dealings before the Offer

- TMA-2.20.1** No dealings of any kind in the securities of the offeree company (including convertible securities, warrants, options and derivatives in respect of such securities) may be transacted by any person, not being the offeror, who is engaged in the offer and who has confidential price-sensitive information concerning an actual or contemplated offer or revised offer between the time when there is reason to suppose that an approach or an offer or revised offer is contemplated and the announcement of the approach, the offer, the revised offer, or of the termination of the discussions where an announcement of the offer has been made public.
- TMA-2.20.2 Such restrictions do not apply to persons acting in concert with an offeror in respect of dealings where the securities of such dealings are excluded from the offer or where there are no-profit arrangements in place.
- TMA-2.20.3** No person who is engaged in the offer and who has access to the price-sensitive information may deal in securities of the offeror except where the proposed offer is not price-sensitive in relation to such securities.
- TMA-2.20.4** No person who is engaged in the offer and who has access to the price-sensitive information may make any recommendations to any other person as to dealing in the relevant securities.
- TMA-2.20.5 CBB must be consulted before acquisitions of interests in offeree company securities are made by offeror or persons acting in concert. If there are existing interests in such securities, it will be necessary to satisfy the CBB that they were acquired before the consortium was formed.
- TMA-2.20.6 CBB will regard a person to have access to confidential price-sensitive information concerning an offer or contemplated offer if any of the following applies:
- (a) A director or employee of one of the companies concerned or engaged in the offer;
 - (b) A professional adviser to one of the companies concerned or engaged in the proposed offer;
 - (c) In a position to have received and has actually received information through a confidential relationship;
 - (d) Connected persons and companies controlled by the offeror and those described in (a), (b) and (c).



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TMA- 2.20 Restrictions on Dealings Before and During the Offer (continued)

No-profit arrangement

TMA-2.20.7 Arrangements made by a potential offeror with a person acting in concert, where securities in the offeree company are acquired by the person acting in concert and the offeror will bear all the risks and receive all the benefits are not prohibited by TMA-2.20.1. Arrangements which have benefits or potential benefits to the person acting in concert, beyond normal expenses and carrying costs, are normally prohibited. In cases of doubt, CBB should be consulted.

Restrictions on Dealings During an Offer

TMA-2.20.8 The offeror and persons acting in concert with it must not sell any securities in the offeree company during the offer period except with the prior consent of the CBB, after 24 hour's advance notice by public announcement of the intention to sell.

TMA-2.20.9 The CBB will not provide its consent for the sale of securities by an offeror and persons acting in concert with it where a mandatory offer is being made.

TMA-2.20.10 After an announcement of an intention to sell the securities of the offeree company has been made, neither the offeror nor persons acting in concert with it can make further purchases and only in exceptional circumstances will the CBB allow the offeror to raise the offer price.

TMA-2.20.11 Subject to TMA-2.20.8 in respect of the conditions applicable, the sale of any shares in the offeree company must not be below the offer price.

TMA-2.20.12 An offeror or other persons shall be restricted from dealing or procuring other persons to deal, if the offeror has been supplied by the offeree company with confidential price sensitive information during offer discussions.

TMA-2.20.13 The consent of the CBB is not required for placing or underwriting arrangements made during an offer in order to achieve the minimum public shareholding to maintain the listing of the offeree company's shares provided that such arrangements are not effective prior to the date when the offer becomes or is declared unconditional. If an offeror wishes to make such arrangements in order to hold less than 75% (or such percentage as may be relevant in the event that the licensed Exchange has accepted that a percentage other than 20% of the offeree company's shares needs to be in public hands to maintain the listing of the offeree company's shares) of the offeree company's shares, the consent of the CBB is required.



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TMA- 2.20 Restrictions on Dealings Before and During the Offer (continued)

TMA-2.20.14 Directors and professional advisers to a company who have interests in securities in that company that is party to an offer, must not deal in such securities contrary to any advice they have given to shareholder, or which it can be reasonably assumed that they were associated, without giving a 24 hours advance public notice of their intentions with an explanation.

Restriction On Dealings By Offeror During Non-Cash Offers

TMA-2.20.15 Where the consideration under an offer includes securities of the offeror or a person acting in concert with it, neither the offeror nor any person acting in concert with it may deal in any such securities during the offer period.

Restrictions on Dealings by a Competing Offeror

TMA-2.20.16 Except with the consent of the CBB, where two competing offers have been made and one of the offers has lapsed, then neither that offeror nor any person acting in concert with that offeror may acquire any interest in shares in the offeree company at a price higher than that made available under its lapsed offer.

TMA-2.20.17 TMA-2.20.16 shall not apply where each of the competing offers has either been declared unconditional in all respects; or has itself lapsed.

TMA-2.20.18 For the purpose of TMA-2.20.16, the price of the lapsed offer shall be calculated as at the day the offer lapsed.

Dealings after Termination of Discussions

TMA-2.20.19 If following an announcement that offer discussions are taking place, or that an approach or offer is being contemplated, discussions are then terminated or the offeror then decides not to proceed with an offer, an announcement of the position should take place before any dealings in securities of the offeree company take place by any person privy to confidential information.

Dealings in Offeree Company Securities by Certain Offeree Company Associates

TMA-2.20.20 During the offer period, professional advisers or stockbrokers (or any person controlling, controlled by or under the same control as any such adviser or stockbroker) to an offeree company (or any of its parents, subsidiaries or fellow subsidiaries, or their associated companies or companies of which such companies are associated companies) must not, except with the consent of CBB:



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TMA- 2.20 **Restrictions on Dealings Before and During the Offer (continued)**

- (a) Purchase offeree company securities or deal in convertible securities, warrants, options or derivatives in respect of such securities for its own account or for its discretionary clients;
- (b) Make any loan to a person to assist in making any such purchases; or
- (c) Enter into any indemnity or option arrangement or any arrangement, agreement or understanding, formal or informal, or in any other nature, which may be an inducement for a person to retain, deal or refrain from dealing in relevant securities of the offeree company.

TMA- 2.20.21 TMA-2.20.20 does not apply to fund managers and principal traders that are exempt by CBB who are dealing for any of their investment accounts managed on a discretionary basis.

Gathering Irrevocable Commitments

TMA-2.20.22 Any person proposing to contact a private individual or a corporate shareholder with the aim of obtaining an irrevocable commitment must consult CBB in advance.



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TMA-2.21 Disclosure of Dealings during Offer Period

TMA- 2.21.1 Dealings in relevant securities by an offeror or the offeree company, and by any associates, for their own account during an offer period must be publicly disclosed.

Dealings By Parties And By Associates For Themselves Or For Discretionary Clients

TMA-2.21.2 Dealings in relevant securities by an offeror or the offeree company, and by any associates, for the account of discretionary investment clients during an offer period must be publicly disclosed.

TMA-2.21.3 Except with the consent of the CBB, dealings in relevant securities during an offer period for the account of discretionary investment clients by an associate which is an exempt fund manager connected with an offeror or the offeree company must be privately disclosed. If, however, the exempt fund manager is an associate by virtue of sub-paragraph (f) of the definition of associate, the exempt fund manager must disclose publicly, in addition to disclosing privately.

Dealings By Parties And By Associates For Non-Discretionary Clients

TMA-2.21.4 Except with the consent of the CBB, dealings in relevant securities during an offer period by an offeror or the offeree company, and by any associates, for the account of non-discretionary investment clients (other than an offeror, the offeree company and any associates) must be privately disclosed.

Discretionary Accounts

TMA-2.21.5 If a person manages investment accounts on a discretionary basis, relevant securities so managed will be treated, for the purpose of this rule, as controlled by that person and not by the person on whose behalf the relevant securities are managed. Except with the consent of the CBB, where more than one discretionary investment management operation is conducted in the same group, relevant securities controlled by all such operations will be treated for the purpose of this rule as those of a single person and must be aggregated.

Connected Exempt Principal Traders

TMA-2.21.6 Dealings in relevant securities by an exempt principal trader connected with an offeror or the offeree company should be aggregated and disclosed to the licensed Exchange not later than 09.00 a.m. on the business day following the date of the transactions.

In the case of dealings in options or derivatives, full details should be given so that the nature of the dealings can be fully understood.



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TMA-2.21 **Disclosure of Dealings during Offer Period**
(continued)

- TMA-2.21.7 For the purposes of TMA-2.21, the disclosure shall consider the following:
- (a) Disclosure shall be made no later than 9 am on the business day following the date of the transaction. CBB should be consulted on any practical difficulties.
 - (b) In the case of a public disclosure, dealings should be disclosed in writing to all offerors and the offeree company or their respective professional advisers while also disclosing to the CBB and also, in respect of dealings in listed securities, to the licensed exchange.
 - (c) The disclosure shall include the following:
 - (i) The total number of securities purchased or sold
 - (ii) Prices paid or received. In the case of an average price bargain each underlying trade should be disclosed.
 - (iii) Identity of the associate or any other person dealing if different from the owner or controller.
 - (iv) If dealing with an associate, an explanation of how that status arises.
 - (v) If disclosure is made by a 5 percent shareholder or group of shareholders, a statement to that effect.
 - (vi) The resultant total number of relevant securities owner or controlled by the associate and percentage which it represents.
 - (vii) If relevant, details of any arrangements required in the context of indemnity and other arrangements.



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TMA-2.22 When Cash Offer Required

TMA-2.22.1

Except with the CBB's consent, a cash offer is required where:-

- (a) the offeror and any person acting in concert with it has bought for cash during the offer period and within 3 months prior to its commencement, an interest in shares of any class under offer in the offeree company carrying 10% or more of the voting rights of that class; or
- (b) in the view of the CBB there are circumstances which render such a course necessary.

The offer for each class of shares must be in cash or accompanied by cash and/or securities at not less than the highest price paid by the offeror or any person acting in concert with it for shares of the class during the offer period and within 3 months prior to the commencement.



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TMA-2.23 Purchases at Above Offer Price

Highest Price Paid

TMA-2.23.1 If an offeror or any person acting in concert with it buys securities in the offeree company at above the offer price (being the then current value of the offer during the offer period), it must increase its offer to not less than the highest price paid for any securities so acquired.

TMA-2.23.2 Subscription for new securities at a price above the offer price will be treated as a purchase for the purposes of TMA-2.23.1.

Acquisitions before Announcement of a Firm Intention to Make an Offer

TMA-2.23.3 The offer to the holders of shares of the same class shall not be on less favourable terms, when an offeror or any person acting in concert with it has acquired an interest in shares in the offeree company:

- (a) Within the three month period prior to the commencement of the offer period; or
- (b) During the period, if any, between an announcement made by the offeror and the commencement of the offer period.

Acquisitions after Announcement of a Firm Intention to Make an Offer

TMA-2.23.4 After an announcement of a firm's intention to make an offer and before the offer closes for acceptance, an offeror or any person acting in concert with it acquires any interest in shares at above the offer price, it shall increase its offer to not less than the highest price paid for the interest in shares acquired in such circumstances.

TMA-2.23.5 Immediately after the acquisition of shares at above the offer price, the offeror must announce that a revised offer will be made in accordance with this section. This announcement must state the number of shares concerned and the price paid.

Offers Involving a Further Issue Of Listed Securities

TMA-2.23.6 If the offer involves a further issue of securities of a class already listed on a licensed exchange, the current value of the offer on a given day should normally be established by reference to the weighted average traded price of board lots (excluding special bargains and odd lots) of such securities traded during the immediately preceding trading day. If the offer involves a combination of cash and securities and further purchases of the offeree company's shares oblige the offeror to increase the value of the offer, the offeror must endeavour, as far as practicable, to effect such increase while maintaining the same ratio of cash to securities as is represented by the offer.



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TMA-2.24 Provision for Escrow

TMA-2.24.1 The offeror shall as and by way of security for performance of his obligations under this module, deposit in an escrow account a sum equivalent to 100% of the consideration payable in cash under the offer before the date of execution of the transaction.

TMA-2.24.2 The total consideration payable under the public offer shall be calculated assuming full acceptances.

TMA-2.24.3 The escrow account can be maintained either as a cash deposit with a CBB licenced bank; or as a bank guarantee in favour of the professional adviser.

Payment of Consideration

TMA-2.24.4 For the amount of consideration payable in cash, the offeror shall prior to the execution date of the transaction, open an account with a licensed bank and deposit the entire sum payable to the shareholders as consideration for acceptances received and accepted. The amount to be so deposited shall be the relevant total from the escrow account.

TMA-2.24.5 In respect of consideration payable by way of exchange of securities, the offeror shall ensure that the securities are actually issued and dispatched to the shareholders within a period of 7 calendar days from the date of the execution of the transaction.



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TMA-2.25 No Special Deals or Arrangements With Selected Shareholders

- TMA-2.25.1** Except with the CBB's consent, the offeror or persons acting in concert with it may not make any arrangements with selected shareholders; and may not deal or enter into arrangements to deal; or make purchases or sales of shares of the offeree company; or enter into arrangements concerning acceptance of an offer either during an offer or when one is reasonably in contemplation, if there are favourable conditions attached which are not being extended to all shareholders.
- TMA-2.25.2 An arrangement with special conditions attached includes any arrangement where there is a promise to make good to a vendor of shares any difference between the sale price and the price of any subsequent successful offer, revised offer or successful competing offer. An irrevocable commitment to accept an offer combined with an option to put the shares to the offeror should the offer fail will also be regarded as such an arrangement.
- TMA-2.25.3 Two-tier offers where shareholders who accept the offer before a stipulated cut-off date would receive a higher consideration than those who accept the offer after the cut-off date will be regarded as arrangements with special conditions. A two-tier offer that offers to pay a higher offer price if a certain level of acceptances is reached will not be regarded as an arrangement with special conditions if the higher offer price is payable to all accepting shareholders.
- TMA-2.25.4 TMA-2.25.1 also covers cases where a shareholder in an offeree company is to be remunerated for playing a part in promoting an offer. The CBB will normally consent to such remuneration, provided that the shareholding is not substantial and it can be demonstrated that a person who had performed the same services, but had not at the same time been a shareholder, would be entitled to receive no less remuneration.
- TMA-2.25.5 The CBB should be consulted if the management of the offeree company is to remain financially interested in the business after the offer is completed. The methods by which this may be achieved vary but the principle which the CBB is concerned to safeguard is that the risks as well as the rewards associated with an equity shareholding should apply to the management's retained interest.



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TMA-3.1 Mandatory Offer

Conditions for a Mandatory Offer

TMA- 3.1.1

A mandatory offer is required when:

- (a) Any person acquires, whether by series of transactions over a period of time or not, 30% or more of the voting rights of a company;
- (b) Two or more persons are acting in concert and they collectively hold less than 30% of the voting rights of a company, and any one or more of them acquires voting rights which increases to 30% or more of the voting rights of the company; and
- (c) Any person, or together with persons acting in concert with him, is interested in shares which in total carry not less than 30% of the voting rights of a company but does not hold shares carrying more than 50% of such voting rights and such person, or any person acting in concert with him acquires additional shares carrying more than 1% of the voting rights in any period of 6 months.

TMA- 3.1.2

The person making the mandatory offer is required to extend offers, to all holders of each class of equity share capital of the company, whether the class carries voting rights or not, and also to the holders of any class of voting non-equity share capital in which such person, or persons acting in concert with him, hold shares.

TMA-3.1.3

Offers for different classes of equity share capital must be comparable; CBB should be consulted in advance in such cases.

Placing and other arrangements

TMA 3.1.4

The CBB may waive the requirement if it is satisfied that such person has made arrangements prior to the acquisition to reduce his voting shares below 30% for example by placing shares. The shares shall not, however, be placed to a party acting in concert with the acquirer.

TMA- 3.1.5

An agreement between a shareholder and financial institutions and lending institutions, where the shareholder borrows money for the acquisition of shares which gives rise to an obligation under TMA- 3.1.1 will not normally result in such institution becoming a concert party.

TMA-3.1.6

An offer will not be required under TMA-3.1.1 where control of the offeree company is acquired as a result of a voluntary offer made in accordance with Module TMA to all the holders of voting equity share capital and other transferable securities carrying voting rights.



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TMA-3.1 Mandatory Offer (continued)

TMA-3.1.7 If a person acquires shares other than through trading on the licensed exchange (exempted transaction) which makes the aggregate number of shares carrying voting rights in which he is interested to 30% or more then the CBB must be consulted.

TMA-3.1.8 If a person borrows or lends shares he will be treated as holding the voting rights of such shares save for any borrowed shares which he has either on-lent or sold. CBB must be consulted in such cases before borrowing shares when taken together with shares he or any person acting in concert is interested in and shares already borrowed or lent by him or any person acting in concert would result in a mandatory offer.

Conditions and Consents

TMA- 3.1.9 Except with the consent of CBB:

- (a) An offeror shall not include any other condition in a mandatory offer other than the condition that the offer is subject to the offeror having received acceptances which would result in the offeror and all persons acting in concert with the offeror holding in aggregate more than 50% of the voting shares to which the takeover offer relates.
- (b) No acquisition of any interest in shares which would give rise to a requirement for a mandatory offer may be made, if it is dependent on the passing of a resolution at any meeting of the shareholders of the offeror or upon any other conditions, consents or arrangements.

Nature of Consideration

TMA-3.1.10 The consideration to be paid, or provided, for the acquisition of the voting shares to which the mandatory offer relates shall consist solely of cash, securities, or a combination thereof at not less than the highest price paid by the offeror or any person acting in concert with it for shares of that class of the offeree company during the offer period and within 3 months prior to its commencement.

TMA-3.1.11 The cash offer, securities or a combination thereof for the purpose of TMA-3.1.10 must remain open after the offer has become or is declared unconditional for not less than 14 days thereafter.

TMA- 3.1.12 When directors sell shares to an offeror which result in the offeror having to make a mandatory offer, the directors must ensure that the offeror fulfils his obligation under this Module.



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TMA-3.1 Mandatory Offer (continued)

TMA-3.1.13 Such directors must not resign, except with the consent of CBB, from the board of directors until the first closing date of the takeover offer or the date when the takeover offer becomes or is declared unconditional as to acceptances, whichever is the later.

TMA-3.1.14 Until the offer document has been posted, no offeror, or persons acting in concert, may be appointed to the board of the offeree company or any of its subsidiaries, or exercise or procure the exercise of the votes attaching to any shares in the offeree company.

Whitewash Resolution/Exemption from Mandatory Offer

TMA- 3.1.15 Relevant persons in an offer subject to the mandatory offer requirement may apply to the CBB to waive the obligation under the procedure set out for mandatory offers, if the mandatory offer is required as a result of:

- (a) Issuing new securities as consideration for an acquisition, cash injection or subsidiary loan; or
- (b) Fulfilment of obligations in respect of underwriting the issue of securities.

TMA-3.1.16 The CBB may waive the obligation if there is an independent vote at a shareholders meeting of the offeree company (the whitewash resolution). For this purpose “independent vote” means a vote by shareholders who are not involved in, or interested in, the transaction in question.

TMA-3.1.17 The waiver will be subject to the following conditions:

- (a) The whitewash resolution is separate from other resolutions;
- (b) The offeror, parties acting in concert, and parties not independent from them shall abstain from voting on the whitewash resolution;
- (c) The offeror, and parties acting in concert, have not acquired and will not acquire any shares or instruments convertible into options, in respect of shares of the offeree company:
 - (i) During the period between the proposal announcement and the date shareholders approve the whitewash resolution; and
 - (ii) In the 6 months prior to the announcement of the proposal to issue new securities but subsequent to negotiations, discussions or the reaching of understandings or agreements with the directors of the company in relation to such issue;
- (d) An independent professional adviser shall be appointed by the offeree company to provide its independent shareholders with advice on the whitewash resolution;
- (e) The offeree company shall provide a circular to shareholders giving the particulars, at a minimum, information included in Appendix A.
- (f) The offeror obtains the CBB's approval in advance.

TMA-3.1.18 The CBB waiver cannot be transferred or assigned to another person.



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TMA-3.1 Mandatory Offer (continued)

TMA-3.1.19 In the case of underwriting or placing of offeree company securities, the CBB must be furnished with details of all proposed underwriters or places.

TMA-3.1.20 An announcement must be made by the offeree company giving the result of the meeting and the number and percentage of offeree company shares that the offeror has become entitled to as a result subsequent to the meeting at which the proposals are considered by shareholders.

TMA-3.1.21 Immediately following the approval of the proposals at the shareholders' meeting, the offeror will be free to acquire shares in the offeree company, subject to provisions under Module TMA.

Prompt Registration Of Transfers

TMA-3.1.22 The board and officials and registrars of an offeree company should use their best endeavours to ensure the prompt registration of transfers during an offer period so that shareholders can freely exercise their voting and other rights.



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TMA-3.2 Partial Offer

CBB's Consent Required

TMA-3.2.1 CBB's consent is required for any partial offer. CBB will normally grant consent in the case of an offer which could not result in the offeror and persons acting in concert with it being interested in shares carrying 30% or more of the voting rights of a company.

TMA-3.2.2 Consent will not normally be granted in the case of an offer which could result in the offeror holding not less than 30%, and which must result in a holding of not more than 50% of the voting rights of a company.

Acquisition Prior to the Offer

TMA-3.2.3 In the case of an offer which could result in the offeror and persons acting in concert with it holding 30% or more, but which must result in their holding less than 100%, of the voting rights of a company, such consent will not normally be granted if the offeror or persons acting in concert with it have acquired, selectively or in significant numbers, voting rights in the offeree company during the 6 months preceding the application for consent or if voting rights have been acquired at any time after the partial offer was reasonably in contemplation.

Acquisitions During and After the Offer

TMA-3.2.4 The offeror and persons acting in concert with it must not acquire any interest in shares in the offeree company during the offer period.

TMA-3.2.5 The offeror or any person acting in concert with the offeror, or any person who is subsequently acting in concert with any of them in the course of the partial offer, must not acquire any interest in shares during the 12 month period following the end of the offer period, except with the consent of CBB.



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TMA-3.2 Partial Offer (continued)

Offer for Between 30% and 50%

TMA-3.2.6 Any offer which could result in the offeror holding 30% or more of the voting rights of a company must normally be conditional, not only on the specified number of acceptances being received, but also on approval of the offer, signified by means of a separate box on the form of acceptance, being given by shareholders holding over 50% of the voting rights not held by the offeror and persons acting in concert with it. This requirement may be waived if over 50% of the voting rights of the offeree company are held by one independent shareholder who has indicated his approval.

Control Position Warning

TMA-3.2.7 In the case of partial offer which could result in the offeror holding more than 50% of the voting rights of the offeree company, then this must be included in a prominent manner in the offer document.

TMA-3.2.8 Where an offer made for a company with more than one class of equity share capital could result in the offeror and persons acting in concert with it being interested in shares carrying 30% or more of the voting rights, a comparable offer must be made for each class.

Precise Number Of Shares To Be Stated

TMA-3.2.9 A partial offer must be made for a precise number of shares, such number must be stated, and the offer may not be declared unconditional as to acceptances unless acceptances are received for not less than that number.

Pro Rata Entitlement

TMA-3.2.10 Partial offers must be made to all shareholders of the class and arrangements must be made for those shareholders who wish to do so to accept in full for the relevant percentage of their holdings. Shares tendered in excess of this percentage must be accepted by the offeror from each shareholder in the same proportion as the number tendered to the extent necessary to enable him to obtain the total number of shares for which he has offered.

TMA-3.2.11 A shareholder must not appoint a person as his proxy to vote in respect of his shares in the offeree company; or to exercise any other rights; or to take any other action in relation to those shares unless the appointment is under the following conditions:

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TMA-3.2 Partial Offer (continued)

- (a) The offer is unconditional in all respects;
- (b) The votes are to be cast as far as possible to satisfy any outstanding condition to the offer, where relevant;
- (c) The appointment ceases to be valid if the acceptance is withdrawn; and
- (d) The appointment only applies to shares assented to the offer.

TMA-3.2.12 The terms for the appointment of a proxy must be set out in the offer document.



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TMA-3.3 Voluntary Offer

TMA-3.3.1 A voluntary offer is a take-over offer for the voting shares of a company made by a person when he has not incurred an obligation to make a mandatory offer for the offeree company under TMA-3.1.1.

TMA-3.3.2 A voluntary offer must be conditional upon the offeror receiving acceptances in respect of voting rights which, together with voting rights acquired or agreed to be acquired before or during the offer, will result in the offeror and person acting in concert with it holding more than 50% of the voting rights.

TMA-3.3.3 A voluntary offer must not be made subject to conditions whose fulfilment depends on the subjective interpretation or judgement by the offeror or lies in the offeror's hands.

TMA-3.3.4 Normal conditions, such as level of acceptance, approval of shareholders for the issue of new shares and listing, may be attached without reference to the CBB. The CBB should be consulted where other conditions would be attached.

TMA-3.3.5 Where any condition states that the approval of a regulatory authority is required and where such approval is given subject to certain terms and conditions which substantially change the terms and circumstances of the offer, the offeror may, with the consent of the CBB, be permitted to withdraw its offer.

TMA-3.3.6 If during an offer period of a non-mandatory offer, the offeror is obliged under TMA-3.1.1 to make a mandatory offer, CBB should be consulted in advance. Under such circumstances, the offeror is required to make an announcement.

TMA-3.3.7 Voluntary offers made must, in respect of each class of equity securities involved, be in cash or securities or a combination thereof at not less than the highest price paid by the offeror or any person acting in concert with it for voting rights of the offeree company during the offer period and within 3 months prior to its commencement.

Pre-Condition in Firm Offer Announcements and Offer Conditions

TMA-3.3.8 An offer must not normally be subject to conditions or pre-conditions which depend solely on subjective judgements by the directors of the offeror or of the offeree company (as the case may be) or the fulfilment of which is in their hands.

TMA-3.3.9 The CBB may be prepared to accept an element of subjectivity in certain circumstances especially in cases involving official authorisations or regulatory clearances, the granting of which may be subject to additional material obligations for the offeror or the offeree company (as the case may be).



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TMA-3.3 Voluntary Offer (continued)

- TMA-3.3.10 Such conditions must not be waivable and the CBB must be consulted in advance; and
- (a) in exceptional cases, the CBB may be prepared to accept a pre-condition relating to financing either in addition to another pre-condition permitted by TMA-3.3.12(a) or otherwise; for example where, due to the likely period required to obtain any necessary material official authorisation or regulatory clearance, it is not reasonable for the offeror to maintain committed financing throughout the offer period, in which case:
 - (i) the financing pre-condition must be satisfied (or waived), or the offer must be withdrawn, within 21 days after the satisfaction (or waiver) of any other pre-condition or pre-conditions permitted by TMA-3.3.12(a); and
 - (ii) the offeror and its professional adviser must confirm in writing to the CBB before announcement of the offer that they are not aware of any reason why the offeror would be unable to satisfy the financing pre-condition within that 21 day period.

Acceptability of Pre-Conditions

- TMA-3.3.11** Except with the consent of the CBB, an offer must not be announced subject to a pre-condition unless the pre-condition involves:
- (a) a material official authorization; or
 - (b) a regulatory clearance; and
 - (c) the offer is publicly recommended by the board of the offeree company; or
 - (d) the CBB is satisfied that it is likely to prove impossible to obtain the authorisation or clearance within the timetable.

The CBB must be consulted in advance if a person proposes to include a pre-condition to which the posting of the offer will be subject.

- TMA-3.3.12 An offer must not normally be made subject to a condition or pre-condition relating to financing. However the offer may be made subject to a condition or pre-condition relating to financing, where the offeror proposes to finance the cash consideration by an issue of new securities and as a result of which the offer must be made subject to any condition required as a matter of law or regulatory requirement, in order to issue such securities or to have them listed or admitted to trading. Conditions which will normally be considered necessary for such purposes include:
- (a) the passing of any resolution necessary to create or allot the new securities and/or to allot the new securities on a non-pre-emptive basis (if relevant); and
 - (b) where the new securities are to be admitted to listing or to trading on any licensed exchange or market, any necessary listing or admission to trading condition.



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TMA-3.3 Voluntary Offer (continued)

Invoking Conditions and Pre-Conditions

TMA-3.3.13 An offeror should not invoke any condition or pre-condition so as to cause the offer not to proceed, to lapse or to be withdrawn unless the circumstances which give rise to the right to invoke the condition or pre-condition are of material significance to the offeror in the context of the offer. The acceptance condition is not subject to this provision.

TMA-3.3.14 Following the announcement of a firm intention to make an offer, an offeror should use all reasonable efforts to ensure the satisfaction of any conditions or pre-conditions to which the offer is subject.

Invoking Offeree Protection Conditions

TMA-3.3.15 An offeree company should not invoke, or cause or permit the offeror to invoke, any condition to an offer unless the circumstances which give rise to the right to invoke the condition are of material significance to the shareholders in the offeree company in the context of the offer.



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TMA-3.4 Compulsory Acquisitions and Delisting

TMA-3.4.1 A shareholder already holding or controlling 95% or more of the voting rights has to compulsorily offer to acquire the remaining voting rights within 3 months from the date of acquisition of 95% or more.

TMA-3.4.2 On the acquisition of the remaining shares in a compulsory acquisition, the offeree company must refer to TMA-2.2.9 and apply to the CBB to delist in terms of Module LIR.

TMA-3.4.3 The consideration to be paid, or provided, for the acquisition of the voting shares to which the voluntary offer relates shall consist solely of cash, securities, or a combination thereof at not less than the highest price paid by the offeror or any person acting in concert with it for shares of that class of the offeree company during the offer period and within 3 months prior to its commencement.



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TMA-3.5 Scheme of Arrangement or Capital Re-Organisation

TMA-3.5.1 Except with the consent of the CBB, any person seeking to use a scheme of arrangement or capital reorganisation to acquire (or privatise) a company, the scheme or capital reorganisation may only be implemented if, in addition to satisfying any approval requirements imposed by law:

- (a) the scheme or the capital reorganisation is approved by at least two thirds of the votes that are cast either in person or by proxy by disinterested shareholders at a duly convened meeting of the holders of the disinterested shares; and
- (b) the number of votes cast against the resolution to approve the scheme or the capital reorganisation at such meeting is not more than 10% of the voting rights held by disinterested shareholders.

Costs of Scheme of Arrangement

TMA-3.5.2 Where a scheme of arrangement is proposed by a person to acquire (or privatise) a company and the proposal is either not recommended by the independent committee of the offeree company's board or is not recommended as fair and reasonable by the professional adviser to the independent committee, all expenses incurred by the offeree company in connection with the proposal shall be borne by the person seeking to acquire (or privatise) the offeree company.



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TMA-3.6 Restrictions Following an Offer

Delay of 12 Months Before a Subsequent Offer

TMA-3.6.1

Except with the consent of the CBB, where an offer has been announced or posted but has not become or been declared wholly unconditional and has been withdrawn or has lapsed, neither the offeror, nor any person who acted in concert with the offeror in the course of the original offer, nor any person who is subsequently acting in concert with any of them, may within 12 months from the date on which such offer is withdrawn or lapses either:

- Announce an offer or possible offer for the offeree company (including a partial offer which could result in the offeror and persons acting in concert with it being interested in shares carrying 30% or more of the voting rights of the offeree company);
- Acquire any interest in shares of the offeree company if the offeror or any such person would thereby become obliged to make an offer as per TMA-3.1;
- Acquire any interest in, or procure an irrevocable commitment in respect of, shares of the offeree company if the shares in which such person, together with any persons acting in concert with him, would be interested and the shares in respect of which he, or they, had acquired irrevocable commitments would in aggregate carry 30% or more of the voting rights of the offeree company;
- Make any statement which raises or confirms the possibility that an offer might be made for the offeree company; or
- Take any steps in connection with a possible offer for the offeree company where knowledge of the possible offer might be extended outside those who need to know in the offeror and its immediate advisers.

Restrictions on a Partial Offer

TMA-3.6.2

The restrictions in TMA-3.6.1 will also apply following a partial offer:

- Which could result in the offeror and persons acting in concert with it being interested in shares carrying not less than 30% but not holding shares carrying more than 50% of the voting rights of the offeree company whether or not the offer has become or been declared wholly unconditional. When such an offer has become or been declared wholly unconditional, the period of 12 months runs from that date; and
- For more than 50% of the voting rights of the offeree company which has not become or been declared wholly unconditional.



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TMA-3.6 Restrictions Following an Offer (continued)

TMA-3.6.3 The restrictions in TMA-3.6.1 will not normally apply following a partial offer which could only result in the offeror and persons acting in concert with it being interested in shares carrying less than 30% of the voting rights of the offeree company.

Delay of 6 Months

TMA-3.6.4 Except with the consent of the CBB, if a person, together with any person acting in concert with him, holds shares carrying more than 50% of the voting rights of a company, neither that person nor any person acting in concert with him may, within 6 months of the closure of any previous offer made by him to the shareholders of that company which became or was declared wholly unconditional, make a second offer to any shareholder in that company, or acquire any interest in shares in that company, on more favourable terms than those made available under the previous offer. For this purpose the value of a securities exchange offer shall be calculated as at the date the offer closed. In addition, special deals with favourable conditions attached may not be entered into during this 6 months period.

Restrictions on Dealings by a Competing Offeror

TMA-3.6.5 Except with the consent of the CBB, where an offer has been one of two or more competing offers and has lapsed, neither that offeror, nor any person acting in concert with that offeror, may acquire any interest in shares in the offeree company on more favourable terms than those made available under its lapsed offer until each of the competing offers has either been declared unconditional in all respects or has itself lapsed. For these purposes, the value of the lapsed offer shall be calculated as at the day the offer lapsed.



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TMA-4.1 Share Repurchases

Increase in Shareholding Deemed to be Acquisitions

- TMA-4.1.1 If as a result of a share repurchase a shareholder's proportionate interest in the voting rights of the repurchasing company increases, such increase will be treated as an acquisition of voting rights for purposes of this Module.
- TMA-4.1.2 As a result, a shareholder, or group of shareholders acting in concert, could obtain or consolidate control of a repurchasing company and thereby become obliged to make a mandatory offer. If so the CBB should be consulted at the earliest opportunity.
- TMA-4.1.3 In the case of a share repurchase by mandatory offer the CBB will treat an application for a waiver from the requirement to make a mandatory offer as if it were an application for a whitewash waiver. The CBB will normally grant such a waiver if:
- (a) the TMA Module implications of the share repurchase are disclosed in the repurchasing company's offer document;
 - (b) the share repurchase is approved in accordance with applicable shareholder approval requirements by those shareholders who could not become obliged to make a mandatory offer as a result of the share repurchase; and
 - (c) for the purpose of TMA-4.1, dealings in relevant securities include share repurchases of the relevant securities of a repurchasing company.

Shareholders' Approval

- TMA-4.1.4 During the course of an offer, or even before the date of the offer if the board of the offeree company has reason to believe that a bona fide offer might be imminent, no redemption or purchase by the offeree company of its own securities may, except in pursuance of a contract entered into earlier, be effected without the approval of the shareholders at a general meeting. The notice convening the meeting must include information about the offer or anticipated offer. Where an obligation or other special circumstance exists without a formal contract, the CBB must be consulted and its consent to proceed without a shareholders' meeting obtained.

Disclosure

- TMA-4.1.5 For the purpose of TMA-4.1 dealings in relevant securities include the purchase of, or taking or exercising an option over, any of its own relevant securities by the offeree company. Shares repurchased by the offeree company are not considered outstanding for the purposes of voting, dividend or earnings per share calculations. Shares repurchased (treasury shares) shall not be shown in the financial statements of the offeree company as a direct deduction from the outstanding shares or paid up share capital but should be represented as a deduction from other reserves and retained earnings. Therefore, listed companies shall not be entitled to repurchase its own shares unless it has sufficient distributable reserves or retained earnings. The total amount of securities of the relevant class remaining in issue following the redemption or purchase must also be disclosed.

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TMA-4.1 Share Repurchases (continued)

Disclosure In The Offeree Board Circular

- TMA-4.1.6 The offeree board circular must state the amount of relevant securities of the offeree company which the offeree company has purchased during the period commencing 6 months prior to the offer period and ending with the latest practicable date prior to the posting of the document, and the details of any such redemptions and purchases, including dates and prices

Redemption Or Purchase Of Securities By The Offeror Company

- TMA-4.1.7 The offer document must state (in the case of a securities exchange offer only) the amount of relevant securities of the offeror which the offeror has purchased during the period commencing 6 months prior to the offer period and the details of any such purchases, including dates and prices.

Repurchase Limit

- TMA-4.1.8 A company listed on a licensed exchange may repurchase its own shares, after obtaining shareholder approval up to a maximum of 10%
- TMA-4.1.9 The shares repurchase can be used by the company for the purpose of:
- (a) Employee Stock Option Plan;
 - (b) capital reorganisation schemes;
 - (c) reselling such shares in order to support its share price and liquidity on a licensed exchange;
- or for any other purpose with CBB approval
- TMA-4.1.10 If the shares repurchased are not utilized for the abovementioned purpose for a period of 12 months without the consent of the CBB, such shares shall be considered redeemed and must be resold within the specified period.



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**Appendix TMA-A:
Information to be Included Supporting a Whitewash Resolution**

- (a) Details of the proposed issue of new securities or convertibles;
- (b) The dilution effect of issuing the new shares, or upon the exercise or conversion of the convertibles to be issued, to existing holders of voting rights;
- (c) The number and percentage of voting rights in the offeree company and the number of instruments convertible into, rights to subscribe for and option in respect of shares in the offeree company (other than the convertibles to be issued) held by the offeror and its concert parties as at the latest practicable date;
- (d) The number and percentage of voting rights to be issued to the offeror, or to be acquired by the offeror upon the exercise or conversion of the convertibles to be issued;
- (e) Where the proposal could result in the offeror holding shares carrying over 49% of the voting rights of the offeree company, there must be reference to this fact and to the fact that the offeror will be free to acquire further shares without incurring any obligation under TMA-3.1 to make a mandatory offer;
- (f) That shareholders, by voting for the whitewash resolution, are waiving their rights to a mandatory offer from the offeror at the highest price paid by the offeror and persons acting in concert with it for the shares of the offeree company in the past 6 months prior to the commencement;
- (g) That shareholders voting for the whitewash resolution could be foregoing the opportunity to receive a mandatory offer from another person who may be discouraged from making a mandatory offer due to the potential dilution effect of the convertibles;



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Appendix TMA-B: Information Contents of the Public Announcement of Offer

The public announcement made by an offeror or offeree shall contain the following particulars:

- (a) The issued and paid up share capital of the offeree company, the number of fully paid up and partly paid up shares;
- (b) The total number and percentage of shares proposed to be acquired by the offeror
- (c) The minimum offer price for each fully paid-up or partly paid up share;
- (d) Mode of payment of consideration;
- (e) The identity of the offeror(s) and in case the offeror is a company or companies, the identity of the management and, or the persons having control over such company(ies) and the group, if any, to which the company(ies) belong;
- (f) The existing holding, if any, of the offeror in the shares of the offeree, including holdings of persons acting in concert with him;
- (g) The existing shareholding, if any, of the merchant banker in the offeree;
- (h) Salient features of the agreement, such as
 - i. the date,
 - ii. the name of the seller,
 - iii. the price at which the shares are being acquired,
 - iv. the manner of payment of the consideration and
 - v. the number and percentage of shares in respect of which the offeror has entered into the agreement to acquire the shares or
 - vi. the consideration, monetary or otherwise, for the acquisition of control over the offeree company, as the case maybe;
- (i) The highest and the average price paid by the offeror or persons acting in concert with him for acquisition, if any, of shares of the offeree company made by him during the twelve month period prior to the date of public announcement;
- (j) Object and purpose of the acquisition of the shares and future plans, if any, of the offeror for the target company, including disclosures whether the offeror proposes to dispose of or otherwise encumber any assets of the offeree in the succeeding two years, except in the ordinary course of business of the offeree;
- (k) Where the future plans are set out, the public announcement shall also set out how the offeror propose to implement such future plans. The offeror shall not sell, dispose of or otherwise encumber any substantial asset of the offeree except with the prior approval of the shareholders.
- (l) The date by which individual letters of offer would be posted to each of the shareholders;
- (m) The date of opening and closure of the offer and the manner in which and the date by which the acceptance or rejection of the offer would be communicated to the shareholders;
- (n) The date by which the payment of consideration would be made for the shares in respect of which the offer has been accepted;
- (o) Disclosure to the effect that firm arrangement for financial resources required to implement the offer is already in place, including details regarding the sources of the funds whether domestic, i.e. from banks, financial institutions, or otherwise;



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Appendix TMA-B:

Information Contents of the Public Announcement of Offer (continued)

- (p) Regulatory and statutory approvals, if any, required to be obtained for the purpose of acquiring the shares under the Commercial Company Law 2001 and/or any other applicable laws;
- (q) Whether the offer is subject to a minimum level of acceptance from the shareholders; and
- (r) Such other information as is essential for the shareholders to make an informed decision in regard to the offer.



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Appendix TMA-C: Offer Document for Takeovers, Mergers and Acquisitions

Offer and Offeror

The following details of the offeror must be included in the offer document:

- (a) Name and address of the offeror and any financial advisor or other person making the offer on behalf of the offeror, and the principal members of the offeror's concert group;
- (b) The place of incorporation, a description of their capital structures, group structures, business and assets accompanied by a structural chart depicting the structure of the company.
- (c) If the offeror or persons acting in concert is a company, then the identity of the ultimate controlling shareholders, and the names of the directors and the directors of their ultimate parent companies, or where there is a listed company in the chain between such companies and their ultimate parent companies, the directors of such listed company;
- (d) A statement as to whether or not any securities acquired in pursuance of the offer will be transferred to any other persons, including the names of the persons of any such arrangement. Additionally, the terms and conditions of such arrangement.
- (e) CBB may at its discretion waive the above stated requirement (d)
- (f) Offeror's intentions for the future of the company

Details regarding the offeror's intentions for the future of the company must be included in the offer document:

- (a) Continuation of the business of the offeree company;
- (b) Strategic plans for the offeree company, and its repercussions on employment;
- (c) Any major changes to be introduced in the business, including redeployment of the fixed assets of the offeree company;
- (d) Long term commercial justification for the proposed offer;
- (e) Continued employment of the employees and management of the offeree company and of its subsidiaries.

Shareholdings and Dealings

The following details of the offeror's shareholding in the offeree company and other material information must be included in the offer document:

- (a) The shareholdings of the offeror in the offeree company;
- (b) In the case of securities exchange offers the shareholdings in the offeror and in the offeree company:
 - (i) in which directors of the offeror are interested;
 - (ii) which any persons acting in concert with the offeror own or control and the names of such persons;
- (c) by any persons who, prior to the posting of the offer document, have committed themselves to accept or reject the offer and the names of such persons;
- (d) owned or controlled by a person with whom the offeror or any person acting in concert with the offeror has any arrangements involving rights over shares, and any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing.
- (e) Dealings in offeror's shareholding during 6 months prior to offer period including prices, dates and volume.

All conditions of the offer must be stated, including:

- (a) The price and other considerations to be paid for the securities.

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Appendix TMA-C: Offer Document for Takeovers, Mergers and Acquisitions (continued)

- (b) Whether the offer is conditional upon acceptances being received in respect of a minimum number and the last day on which the offer can become unconditional to acceptances. This must include particulars of all documents required, and procedures to be followed for acceptances of an offer.
- (c) A statement by the offeror regarding the intentions of availing of any powers of compulsory acquisition.

Market Prices of Offeree Company

The closing price of the securities of the offeree company which are listed on the licensed Exchange, and are subject of the offer must be included in the offer document, as they stand:

- (a) On the latest practicable date prior to publication of the offer document;
- (b) On the last business day prior to the date of the initial announcement, if any; and
- (c) on the last business day prior to the date of the announcement of a firm intention to make an offer;
- (d) At the end of each of the calendar months during the period commencing 6 months prior to the commencement of the offer period and ending on the latest practicable date prior to the posting of the offer document.

If any of the securities of the offeree company which are subject of the offer are not listed, any information available as to the number and price of transactions which have taken place during the period stated above should be stated along with the source.

The highest and lowest closing market prices with the relevant dates during the period commencing 6 months prior the commencement of the offer period and ending on the latest practicable date prior to the posting of the offer document must be included in the offer document.

Comparisons issued by the offeror between the value of the offer and previous prices of the offeree company's securities, then a comparison between the current value of the offer and the price of the offeree company's securities on the last business day prior to the commencement of the offer period must be included.

Information should also be provided for securities of the offeror if the consideration for the offer involves such securities.

Offeror's Business

Except with the consent of CBB, the following must be included in the offer document for all types of offers:

- (a) The nature of the offeror's business, its principal activities and its financial and trading prospects;
- (b) Details of the last 3 financial years for which the information has been published, turnover, net profit or loss before and after taxation, the charge for tax (where applicable), extraordinary items, minority interests, the amount absorbed by dividends and earnings and dividends per share;
- (c) A statement of the assets and liabilities shown in the last published audited accounts;
- (d) If provided in the last published audited accounts, a cash flow statement and any other primary statement shown;



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Appendix TMA-C: Offer Document for Takeovers, Mergers and Acquisitions (continued)

- (e) All material changes in the financial or trading position or outlook of the offeror, following the last published audited accounts or a statement that there are no material changes;
- (f) Significant accounting policies together with any points from the notes to the relevant published accounts which are of major relevance to an appreciation of the figures;
- (g) If, due to a change in an accounting policy, figures are not comparable to a material extent, this should be disclosed and the approximate amount of the resultant variation should be stated;
- (h) Except for cash offer seeking to privatize the offeree company, all offer documents must contain a description of how the offer is to be financed and the source of the finance. The principal lenders or arrangers of such finance must be named.
- (i) If any arrangements are made where the offeror intends that the payment of interest on repayment of or security for any liability will depend to an extent on the business of the offeree company, then a description of the arrangements must be included.

Financial Information

Where the offer includes an element of cash or any other asset except new securities to be issued by the offeror company, then an independent financial advisor must include a confirmation that sufficient resources are available to satisfy full implementation of the offer.

When an offer involves issuance of unlisted securities, the value of such securities estimated by an advisor, including the assumptions and method used to arrive at that value must be stated.

The offer document must contain a statement to the effect that settlement of the consideration to which any shareholder is entitled under the offer will be implemented in full in accordance with the terms of the offer.

Arrangements

If any arrangement involving rights over shares, any indemnity arrangement, and any agreement or understanding, formal or informal, relating to relevant securities which may be an inducement to deal or refrain from dealing exist between the offeror or any person acting in concert should be stated, otherwise it should be stated that no such arrangements have been made.

The following regarding any arrangements or agreements made between the offeror and another party should be included in the offer document:

- (a) Details of compensation arrangements to be given to any directors of the offeree company in connection with the offer.
- (b) A statement to whether any agreement, arrangement or understanding, including any compensation agreement exists; including its details, in connection with the offer, between the offeror or any person acting in concert with it and the directors or shareholders of the offeree company.



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**Appendix TMA-C:
Offer Document for Takeovers, Mergers and Acquisitions (continued)**

Offering of Securities

The offeror company should include the following in the offer document when the offeror is offering its securities in exchange for the securities of the offeree company:

- (a) The nature of its business and its financial and trading prospects.
- (b) The date and country of its incorporation.
- (c) The address of its head office
- (d) The authorized and issued share capital and the rights of the shareholders in respect of capital, dividends and voting.
- (e) A precise description of the rights of the holders of the securities, including as to ranking for dividends and capital.
- (f) Details of shares issued and shares repurchased starting the end of the last financial year of the offeror.
- (g) Details of options, warrants and conversion rights affecting shares in the offeror.
- (h) Details of any reorganisation of capital during the 2 financial years previous to the commencement of the offer period.
- (i) Details of any bank overdrafts or loans, or other similar transactions, mortgages, charges, guarantees or other material contingent liabilities of the offeror and any of its subsidiaries, or, if there are no such liabilities, a statement to that effect. Details should be not more than 3 months preceding the latest practicable date prior to the posting of the document.
- (j) Details of any material litigation to which the offeror is, or may become, a party.
- (k) Details of every material contract entered into 2 years prior to the commencement of the offer period.
- (l) When and how the documents of title to the securities will be issued.
- (m) The effect of the offer on the directors of the offeror. If there will be no effect, this must be stated.
- (n) The effect of full acceptance of the offer upon the offeror's assets, liabilities, profits and business which may be significant for a proper appraisal of the offer. This does not require a profit forecast to be made.

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Appendix TMA-D: Offeree Board Circular

The offeree board circular must include the following regarding the view of the board:

- The names of the directors of the offeree company;
- The recommendation of the directors as to whether they accept or reject the offer, or a statement that the directors are unable to make a recommendation, in addition to their reasons for giving the recommendation or for making no recommendation;
- A copy of the written advice of the offeree company's financial advisors.

Shareholdings and Dealings

The document of the offeree company advising its shareholders on an offer (whether recommending acceptance or rejection of the offer) must state:

- The shareholdings of the offeree company in the offeror;
- The shareholdings in the offeree company and in the offeror in which directors of the offeree company are interested;
- The shareholdings in the offeree company and in the offeror (in the case of a securities exchange offer only):
 - owned or controlled by the independent professional adviser to the offeree company; or
 - by funds whose investments are managed by the adviser on a discretionary basis
- whether the directors of the offeree company intend, in respect of their own beneficial shareholdings, to accept or reject the offer.

If in any of the above categories there are no shareholdings, then this fact should be stated. Where the persons mentioned above have dealt for value in shares during the six months prior to the offer period, the same should be disclosed (whether there is an existing holding or not).

The above disclosure details must include dates and prices of the transaction.

Share Capital of Offeree Company

The following information about the offeree should be disclosed:

- the authorised and issued capital, and the rights of the shareholders in respect of capital, dividends and voting;
- the number of shares issued since the end of the last financial year; and
- details of options, warrants and conversion rights affecting shares in the offeree company.

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Appendix TMA-D: Offeree Board Circular (continued)

Financial Information

The offeree circular must include the following information about the offeree company:-

- (a) The financial information of the last 3 financial years for which the information has been published, turnover, net profit or loss before and after taxation, the charge for tax, extraordinary items, exceptional items, minority interests, the amount absorbed by dividends, and earnings and dividends per share;
- (b) A statement of the assets and liabilities shown in the last published audited accounts;
- (c) A cash flow statement if provided in the last published audited accounts;
- (d) Any other primary statement shown in the last published audited accounts;
- (e) All material changes in the financial or trading position or outlook of the offeree company subsequent to the last published audited accounts or a statement that there are no known material changes;
- (f) Details relating to items referred to (a) above in respect of any interim statement or preliminary announcement made since the last published audited accounts;
- (g) Significant accounting policies together with any points from the notes to the relevant published accounts which are of major relevance to an appreciation of the information contained above (a) to (f); and
- (h) Details of any qualification contained in the auditors' report in respect of each of the last 3 financial years or a statement that there is no such qualification.
- (i) Where, because of a change in accounting policy, figures are not comparable to a material extent, this should be disclosed and the approximate amount of the resultant variation should be stated.

Director's Service Agreements

The offeree board circular must contain particulars of all service contracts of any director:

- (a) Which, have been entered into or amended within 6 months before the commencement of the offer period;
- (b) Which are continuous contracts with a notice period of 12 months or more; or
- (c) Which are fixed term contracts with more than 12 months to run irrespective of the notice period.

The particulars must be given of the earlier contracts, if any, which have been replaced or amended as well as the current contracts. If no disclosures are required to be made under this paragraph, this should be stated.