

PCP 2005/4: Proposed Abolition of the Rules Governing Substantial Acquisition of Shares.

Consultation paper issued by the Code Committee of the Panel on Takeovers and Mergers

A response by

The National Association of Pension Funds

27 January 2006

- 1 The NAPF is the leading voice of workplace pension provision in the UK. Some 10 million working people are currently in NAPF Member schemes, while around 5 million pensioners are receiving valuable retirement income from such schemes. NAPF Member schemes hold assets of around £750bn, and account for over one sixth of investment in the UK stock market.

Preamble

- 2 The NAPF has always fully supported the Panel's aim of achieving a pragmatic balance between providing an orderly framework within which takeovers are conducted, including the prompt and accurate disclosure of dealings, and a desire not to fetter the securities markets unnecessarily through excessive restrictions. Disclosure underpins market transparency which, in turn, constitutes a fundamental protection for shareholders and others who deal in the UK securities markets. It also enables shareholders to assess and take into account the market impact of dealings in relevant securities by persons who have, or may have, an interest in the outcome of an offer.
- 3 The NAPF supports the Panel's approach to share dealing which is to aim to create a permissive environment that focuses on certain consequences which may flow from particular dealings rather than seeking to prohibit them altogether. The Panel's review of the continued relevancy of the rules governing the substantial acquisition of shares is a welcome review of the relevancy of existing rules which is supported by the NAPF.
- 4 The NAPF's replies to the individual questions posed in the consultative document are as follows:

Q1 Do you agree that the SARs should be abolished?

- 5 The NAPF supports the abolition of the SARs and agrees that a person should not be restricted from acquiring shares, and existing shareholders should not be restricted from selling shares, in circumstances where control of a company is not passing or is not being consolidated.

Q2 Do you agree that, if the SARs are abolished, the provisions of the Code and the SARs relating to tender offers should be retained?

- 6 The NAPF strongly supports the retention of the provisions of the Code and the SARs relating to tender offers.
- 7 It is important in these circumstances that all shareholders in the company whose shares are being offered for should be treated fairly, that the Panel is

able to regulate general offers and any competing tender offers, and that there is a regulatory overview of tender offers for shares in companies admitted to trading on either AIM or OFEX.

Q3 Do you agree with the text of the proposed new appendix 5 and with the other proposed amendments to the Code?

- 8 The NAPF supports the tender offer provisions of the SARs being included in the new Appendix 5 to the Code and with the other proposed amendments.