



TAKEOVERS, MERGERS & ACQUISITIONS MODULE



MODULE:	TMA: Takeovers, Mergers & Acquisitions
Table of Contents	

		Date Last Changed
TMA-A	Introduction	
	TMA-A.1 Purpose	10/2019
	TMA-A.2 Module History	01/2022
	TMA-A.3 [This Section has been deleted]	10/2019
TMA-B	Scope of Application	
	TMA-B.1 Scope	10/2019
	TMA-B.2 [This Section has been deleted]	10/2019
TMA-1	General Principles	
TMA-2	Rules	
	TMA-2.1 Communication of the Offer	10/2019
	TMA-2.2 Independent Advice and Shareholder Approval	xx/2023
	TMA-2.3 Announcement of Offer or Possible Offer	01/2022
	TMA-2.4 No Frustrating Action	10/2019
	TMA-2.5 No Withdrawal of an Offer	12/2008
	TMA-2.6 Information to Offerors	10/2019
	TMA-2.7 Timing and Contents of Documents	01/2022
	TMA-2.8 The Offeree's Director Responsibilities	01/2022
	TMA-2.9 Profit Forecast and other Financial Information	10/2019
	TMA-2.10 Asset Valuation	10/2019
	TMA-2.11 Issuance of Documents	01/2022
	TMA-2.12 Offers for More than One Class of Equity Shares	10/2019
	TMA-2.13 Appropriate Offers for Convertibles	10/2019
	TMA-2.14 Offer Timetable	01/2022
	TMA-2.15 Revised and Alternative Offers	10/2019
	TMA-2.16 Acceptors' Right to Withdraw	10/2019
	TMA-2.17 Statements During Course of Offer	10/2019
	TMA-2.18 Announcement of Result of Offer	10/2019
	TMA-2.19 Settlement of Consideration and Share Transfer	01/2022
	TMA-2.20 Restrictions on Dealings Before and During the Offer	01/2022
	TMA-2.21 Disclosure of Dealings During the Offer Period	10/2019
	TMA-2.22 When Cash Offer Required	10/2019
	TMA-2.23 Purchases at Above Offer Price	10/2019
	TMA-2.24 [This Section has been deleted]	10/2019
	TMA-2.25 No Special Deals or Arrangements with Selected Shareholders	10/2019
	TMA-2.26 Proxies	10/2019



MODULE:

TMA: Takeovers, Mergers & Acquisitions

Table of Contents

		Date Last Changed
TMA-3	Types of Offer	
	TMA-3.1 Mandatory Offer	10/2019
	TMA-3.2 Partial Offer	10/2019
	TMA-3.3 Voluntary Offer	10/2019
	TMA-3.4 Compulsory Acquisitions and Delisting	01/2022
	TMA-3.5 [This Section has been deleted]	10/2019
	TMA-3.6 Restrictions Following an Offer	10/2019
TMA-4	Share Repurchases	
	TMA-4.1 Share Repurchases	10/2019
Appendices		
Appendix TMA-A	This Appendix has been moved to Part B of the CBB Rulebook Volume 6]	10/2019
Appendix TMA-B	This Appendix has been moved to Part B of the CBB Rulebook Volume 6]	10/2019
Appendix TMA-C	This Appendix has been moved to Part B of the CBB Rulebook Volume 6]	10/2019
Appendix TMA-D	This Appendix has been moved to Part B of the CBB Rulebook Volume 6]	10/2019



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

TMA-2.2 Independent Advice and Shareholder Approval

Appointment of Advisors by Offeree

TMA-2.2.1

~~Independent advice must 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, must, in the interests of shareholders, appoint an independent professional adviser to advise the board as to whether the financial terms of the offer is, or is not, fair and reasonable. Such advice, including reasons, must be obtained in writing and made known to shareholders by including it in the offeree board circular along with the recommendation of the offeree company's board regarding acceptance and voting, where applicable, of the offer.

~~If any of the directors of an offeree company is faced with a conflict of interest, the offeree company's board must be notified of his/their interest and must 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 professional adviser in the initial announcement of the offer or possible offer, or as soon thereafter as the appointment is made.

TMA-2.2.1A

For the purposes of Paragraph TMA-2.2.1, the offeree company's board, prior to appointment of an independent professional adviser, must ensure that the independent professional adviser has sufficient experience and a satisfactory work record in corporate finance or in a related field over the period of at least the past 5 years.

TMA-2.2.1B

For the purposes of Paragraph TMA-2.2.1A, a professional adviser is considered to have the relevant corporate finance experience if it has provided advice for any of the following:

- a) IPOs;
- b) Mergers and acquisitions involving listed companies;
- c) Fund-raising exercise through the capital market by listed companies; and/or
- d) Restructuring exercises involving listed companies.

TMA-2.2.2

[This Paragraph was deleted in October 2019].



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

TMA-2.2 Independent Advice and Shareholder Approval (continued)

TMA-2.2.3

When it is not possible to give a recommendation or there is a divergence of views amongst board members, **and or between offeree board and the professional advisor,** as to the merits of the offer or recommendation being made, then it must be **stated in the offeree board circular and an explanation given, including the arguments for the recommendation to shareholders with regards to acceptance or rejection of the offer. The views of any directors who are in a minority must also be included in the offeree board circular.** ~~drawn to the shareholders attention. A written advice (as mentioned in TMA-2.2.1) must be made available and known to shareholders, including the arguments for acceptance or rejection, emphasising the important factors.~~

TMA-2.2.3A

If a director has a conflict of interest, he must not be joined with the rest of the board in the expression of their views on the offer. The conflict must be disclosed, in the offeree board circular, to the shareholders.

TMA-2.2.4 [This Paragraph was deleted in October 2019].

In-Eligible Professional Adviser(s)

TMA-2.2.5

A person shall not be appointed as an independent professional adviser if the person is a related company to the offeror or offeree or who has, or had, a significant connection, financial or otherwise, with either the 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.

TMA-2.2.5A For the purposes of Paragraph TMA-2.2.5, a professional adviser would not generally be considered independent if the professional adviser:

- (a) holds voting rights in the offeror or the offeree at any time during the preceding 12 months from the beginning of the offer period. While determining the voting rights, shares held under trust arrangement, discretionary managed funds or other form of non-beneficial ownership by the professional adviser in the offeror or offeree company are not to be taken into consideration;
- (b) provides or has provided any audit and/or review services during the preceding 12 months from the beginning of the offer period;
- (c) has a business relationship with the offeror or the offeree, at any time during the preceding 12 months from the beginning of the offer period that contributes to more than 10 per cent in revenue or profit of the adviser, based on the latest financial statements;



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

TMA-2.2 Independent Advice and Shareholder Approval (continued)

- (d) has a representative on the board of the offeror or the offeree;
- (e) has a representative from either the offeror or the offeree on its board;
- (f) is or will be involved in the financing of the offer;
- (g) is a substantial creditor of either the offeror or the offeree, based on the latest financial statements; or
- (h) has a financial interest in the outcome of the offer other than as outlined in paragraphs TMA-2.2.5A(a)–(g) above.

TMA-2.2.5B For the purposes of Paragraph TMA-2.2.5A(g), a professional adviser would be considered to be a “substantial creditor”, if:

- (a) the loan (including hire purchase, leasing, corporate bonds and Islamic financing) extended by the professional adviser to the offeror or the offeree represents more than 10 per cent of the loan outstanding in the offeror or the offeree; or
- (b) the loan (including hire purchase, leasing, corporate bonds and Islamic financing) extended by the professional adviser to the offeror or the offeree represents more than 10 per cent of the latest audited shareholders’ funds of the professional adviser; or
- (c) the professional adviser is a lead banker in a syndicated loan (including Islamic financing) extended to the offeror or the offeree, at any time during the period of 12 months preceding the beginning of the offer period.

TMA-2.2.5C Paragraph TMA-2.2.1 requires the professional adviser to have a sufficient degree of independence to ensure that the advice given is proper and objective. Accordingly, in certain circumstances it may not be appropriate for a professional adviser who has had a recent advisory relationship with an offeror or offeree to give advice. In such cases, the CBB should be consulted. Also, **a A** professional adviser may conduct functions such as corporate finance, lending, stockbroking, fund management and corporate advisory activities on a day-to-day basis quite separately within the same organisation, but it is necessary for the professional adviser to satisfy the CBB that it arranges its affairs to ensure that there is total and effective segregation of those operations (Chinese wall), and those operations are conducted without regard for the interests of other parts of the same organisation or of its clients.

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 professional adviser must 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. [This Paragraph was deleted in xx 2023]~~



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

TMA-2.2 Independent Advice and Shareholder Approval (continued)

Independent Committee

TMA-2.2.6A If any of the directors of an offeree company is faced with a conflict of interest, the offeree company's board must be notified of his/their interest and must 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. If it is not possible to form an independent committee, responsibility for representing the interests of independent shareholders must reside primarily with the professional adviser. In case of doubt the CBB must be consulted.

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) must consist of non-executive 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. If it is not possible to form an independent committee, responsibility for representing the interests of any independent shareholders must reside primarily with the professional adviser. In case of doubt the CBB must 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.

TMA-2.2.9 [This Paragraph was deleted in January 2022].



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

TMA-2.2 Independent Advice and Shareholder Approval (continued)

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

For the purposes of TMA-2.2.10, a conflict of interests will exist, for instance, where there are significant cross shareholdings between an offeror and the offeree company, where there are a number of directors common to both companies, or where a common controlling shareholder in both companies is a director of or has a nominee director in either company.

~~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 must 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 must provide their views and these must 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 must 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.~~