

Panel Restricts Reach of UK Takeover Code

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As reported in our [prior bulletin](#), on 24 April 2024 the Code Committee of the Takeover Panel (the “**Panel**”) launched a public consultation (PCP 2024/1, the “**Consultation**”) on a proposed new simplified jurisdictional framework to narrow the scope of companies to which the UK Takeover Code (the “**Code**”) applies.

On 6 November 2024, the Panel published its response statement (RS 2024/1, the “**Response Statement**”), which confirms the adoption of a slightly amended revised framework with effect from 3 February 2025. The new regime is significantly more streamlined than previously, and we expect that market participants and practitioners will welcome the greater certainty it will provide. However, investors and companies affected by the changes will need to be aware of the transitional arrangements in place for two years from the implementation date.

In with the new...

Following positive responses to the Consultation, the Panel has now confirmed that from 3 February 2025 the Code will (subject to the transitional arrangements summarised below) apply only to companies (whether public or private) which:

- have their registered office in the UK, the Channel Islands or the Isle of Man; and
- have (or have had at any time during the previous two years) any of their shares or securities admitted to trading on:
 - a UK regulated market (i.e., the Main Markets of the London Stock Exchange or the Aquis Stock Exchange);
 - a UK multilateral trading facility (i.e., AIM or the Aquis Growth Market); or
 - a stock exchange in the Channel Islands or the Isle of Man (i.e., The International Stock Exchange).

Note that the two-year “look-back” period being adopted is actually shorter than the three years proposed by the Consultation. The Panel has made the change in response to feedback on the Consultation. Otherwise, the new framework is as the Panel had proposed earlier this year.

And out with the old...

By way of reminder, the current regime is somewhat more opaque (with occasionally surprising results). In particular, in addition to companies currently listed in the UK, Channel Islands or Isle of Man (each

referred to in this section as a “**Panel Jurisdiction**”), the following companies are currently subject to the Code if they are considered by the Panel to have their “place of central management and control” in a Panel Jurisdiction:

- any public company which is registered, but not listed, in a Panel Jurisdiction (including those which are registered in a Panel Jurisdiction but listed solely on an overseas exchange such as the NYSE or Nasdaq); and
- any private company registered in a Panel Jurisdiction:
 - which was previously listed in a Panel Jurisdiction up to ten years prior to the relevant date;
 - which has had published, on a regular basis for any continuous six-month period in the last ten years, dealings in its securities, or prices at which any persons were willing to deal in its securities, whether via a newspaper, electronic price quotation system or otherwise;
 - whose securities have not been listed in a Panel Jurisdiction, but have been subject to a marketing arrangement on a recognised investment exchange in a Panel Jurisdiction at any time in the previous ten years; or
 - which has filed a prospectus for the offer, admission to trading or issue of securities with a relevant authority in a Panel Jurisdiction at any time in the previous ten years.

These companies will now be out of scope unless they satisfy the new criteria. The “place of central management and control” of a company depends on the residency of its directors—if the majority of the company’s directors are resident in a Panel Jurisdiction, then the test will normally be satisfied. This so-called “residency test” does not form part of the new regime.

Transitional arrangements

In order to give affected companies (and their investors) time to adjust, companies that would (or might) previously have been subject to the Code by virtue of the limbs described in the section immediately above but are out of scope under the new framework (“**Transition Companies**”) will remain subject to the existing regime (including the residency test), and so potentially subject to the Code, for a transitional period of two years from the date the proposed changes are implemented. This is a shorter period than the three years proposed by the Consultation. Transition Company status is determined as immediately prior to the implementation date of 3 February 2025, but whether the Code actually applies to a Transition Company is determined on the facts on the relevant date during the transition period. From 3 February 2027, the transition period will end and only the new regime will apply.

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