

Guidance Note

Schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993

20 February 2017

Background	3
The Panel’s approach	3
No-objection statements	4
The Panel’s role	4
How to apply for a no-objection statement	4
Engage an independent adviser	4
Early contact with the Panel is essential	5
Apply for a no-objection statement and send supporting documents to the Panel	6
Complex or novel issues	6
Voting	7
Voting intentions of promoter	7
Voting agreements – Rule 6 of the Code - associates	7
Panel’s procedure for giving the no-objection statement	8
Letter of intention	8
No-objection statement	9
Panel Court appearances	10
Objection by a shareholder	10
General matters	11
Option holders	11
Offers of scrip	11
Third parties	11
Fees	11
Publication history	12
Schedule A- Information required for no-objection statement application	13
I. General	13
II. Notice of meeting	14
III. Explanatory memorandum	14
IV. Final stage in application	14
Schedule B – Template form of Deed Poll	16
Schedule C – Template Letter of Intention	18
Schedule D – Template No-objection Statement	18

Background

1. Schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993 (“schemes”) are statutory Court-approved procedures that allow the reorganisation of the rights and obligations of shareholders and companies. Schemes involving Code companies are regulated under sections 236A and 236B of the Companies Act.
2. The section 236A and 236B schemes provisions were introduced to better align the schemes procedure under the Companies Act with the protections for shareholders under the Takeovers Code. The schemes provisions also align New Zealand’s Code company reconstruction law more closely with the Australian regime.
3. Under section 236A, the Court cannot approve a scheme that affects the voting rights of a Code company unless:¹
 - (a) it is satisfied that the shareholders of the Code company will not be adversely affected by the use of a scheme rather than the Code to effect the change involving the Code company; or
 - (b) the Court is presented with a no-objection statement from the Panel.
4. Under section 236A the Court is entitled to rely on the no-objection statement to approve a scheme. However, the Court does not have to approve a scheme merely because the Court has been presented with a Panel no-objection statement.

The Panel’s approach

5. The Panel views schemes as a legitimate and valuable means for undertaking corporate transactions in New Zealand. The ability to carry out corporate transactions under a Companies Act process, rather than under the Code, provides economically sensible commercial flexibility.
6. The Takeovers Act and the Code set out the rules for disclosure of information and equitable treatment for all shareholders involved in Code-regulated transactions. It is these rules that guide the Panel’s consideration of the extent to which a scheme proposal may or may not adversely affect shareholders. The Panel does not consider the fact that a transaction is being effected by the use of a scheme rather than a takeover as an adverse effect in itself.
7. The Panel encourages potential applicants for a no-objection statement to undertake early engagement with the Panel executive. The Panel’s staff are happy to discuss draft proposals and review early drafts of documents on a confidential basis, in much the same way as the Panel’s staff review draft Code transaction documents.

¹ “*affects the voting rights*”, in respect of an arrangement or amalgamation, means an arrangement or amalgamation that involves a change in the relative percentage of voting rights held or controlled by one or more shareholders.

No-objection statements

8. The Panel will consider applications for a no-objection statement on a case-by-case basis. The Panel is not required under the Companies Act to provide a no-objection statement and a scheme applicant is not required to apply for a no-objection statement. The Panel will consider providing a no-objection statement only at the request of an applicant.
9. The purpose of the Panel's no-objection statement is to signal to the Court that the Panel is satisfied that the shareholders are not adversely affected by the use of the schemes provisions rather than the Code.
10. When considering whether to give a no-objection statement, the Panel will have regard to the Code's disclosure requirements and the extent to which any separate interest classes of shareholders have been adequately identified under a scheme proposal. As with takeovers under the Code, the Panel will express no views on the merits of a scheme.

The Panel's role

11. The Panel's role in a scheme is to assist the Court by:
 - (a) reviewing scheme documents to ensure that appropriate information is placed before shareholders and that interest classes of shareholders have been adequately identified; and
 - (b) helping to ensure that matters that are relevant to the Court's decision are properly brought to the Court's attention.
12. In New Zealand, unopposed schemes are often considered by the Court 'on the papers', and there is no actual hearing. The Panel is not averse to this practice provided that, for schemes that fall within section 236A of the Companies Act, the Panel has given a no-objection statement.
13. The Panel may make submissions to the Court in relation to a scheme proposal whether or not it has given a no-objection statement. However, it will be less likely that the Panel would wish to make submissions or formally intervene in the Court process if it has given a no-objection statement.
14. It is likely that the Panel *would* wish to appear and make submissions to the Court if it has not provided a no-objection statement.

How to apply for a no-objection statement

Engage an independent adviser

15. In most cases, the Panel will provide a no-objection statement only for scheme proposals that are accompanied by an independent adviser's report. This independent adviser's report would be expected to be similar to a Code rule 21 report and, if necessary, a rule 22 report, on the merits of the transaction for each class of

shareholders, and for each interest class of those shareholders, who will be asked to vote on the scheme.²

16. The independent adviser must be approved by the Panel for the purposes of providing the report. Full details of the Panel's policy and practice on approvals for independent advisers and reviewing independent adviser reports are contained in the *Guidance Note on Independent Advisers and the Takeovers Code*, which is available on the Panel's website www.takeovers.govt.nz.

Early contact with the Panel is essential

17. Under section 236A of the Companies Act, the applicant for final Court orders for a scheme under section 236(1) of the Companies Act must notify the Panel of the application at the same time as filing the application in Court.
18. However, to ensure that the Panel has had time to review the scheme documents and consider whether it would give a no-objection statement, the applicant for the scheme should provide draft scheme documents and any supporting material to the Panel well in advance of the application to the Court for *initial* orders under section 236(2) of the Companies Act.³
19. When making an application to the Panel, the applicant must specify the dates by which the applications for initial Court orders and final Court orders are intended to be filed. The Panel will do its best to meet reasonable timeframes.
20. If the Panel has not had adequate time to consider the scheme documentation, the Panel would be unlikely to give a no-objection statement. If no application for a no-objection statement has been made, or if the Panel does not intend to issue a no-objection statement to an applicant, the Panel may seek to be heard at the initial Court proceedings. There, the Panel may object to the scheme or ask the Court to make orders on the information for shareholders or on the identification of interest classes of shareholders, etc.
21. A scheme applicant and, if relevant, the scheme's promoter, should contact the Panel executive early in the process to agree the disclosures that should be made in the scheme documents.
22. The first step in determining the disclosures is a clause-by-clause analysis of the extent to which the disclosures required by Schedules 1 and 2 of the Code and rule 15 or rule 16 of the Code can be made – whether exactly as set out in the Code, or

² The Panel may waive the requirement to have an independent adviser's report in some circumstances. For example, a scheme may exclude a class of shares with a tiny percentage of the company's voting rights, and this may "*affect the voting rights*" of the Code company in a very minimal way. In such cases the Panel may consider the effect to be so small that it would not require an independent adviser's report as a pre-requisite to providing a no-objection statement.

³ This Guidance Note refers to both the scheme applicant, which will usually be the relevant Code company, and the "promoter" of the scheme. The promoter may be an acquirer of the Code company's voting rights (where a takeover is undertaken as a scheme), or may be a person or persons seeking a merger with the Code company. In some cases, the promoter may be the Code company itself, or some other person benefitting from the scheme. Where there is more than one promoter involved, the reference to "promoter" should be read to include all the promoters.

modified to better match the terms and the parties to the proposed scheme. An explanation should be provided to the executive of why the modification or omission of a Code clause is necessary or desirable. Repetition and irrelevant Code-like language should be avoided. The Panel's goal is that shareholders are provided with full disclosure, in appropriate and readily-understandable language.

Apply for a no-objection statement and send supporting documents to the Panel

23. The information that the Panel expects to receive in an application for a no-objection statement is listed in Schedule A to this Guidance Note.

Complex or novel issues

24. An application for a no-objection statement should carefully explain any complex or novel issues, or areas of uncertainty, concerning the scheme or its impact on shareholders. Any difficult or novel questions of law or other relevant matters on which expert advice has been obtained that may be relevant to the Panel's consideration of the application for a no-objection statement should also be included. The better the Panel understands the issues, the more readily it will be able to decide whether or not it objects to the scheme.

Interest classes

25. Under the common law, and in accordance with section 236A of the Companies Act, a scheme must be considered and voted on at separate meetings by each interest class affected by the scheme. The requisite voting threshold needs to be achieved in each interest class if the scheme is to succeed.
26. When a scheme involves separate interest classes, the Panel expects the division of classes to be clearly disclosed in the scheme documents, together with an explanation of why the divisions have been drawn.
27. The interest classes are to be determined in accordance with Schedule 10 of the Companies Act as a starting point.⁴ Schedule 10 sets out the common law principles for the division of shareholders into interest classes.
28. Schedule 10 provides:

"...an interest class may be determined in accordance with the following principles:

- (a) *shareholders whose rights are so dissimilar that they cannot sensibly consult together about a common interest are in different interest classes:*
- (b) *shareholders whose rights are sufficiently similar that they can consult together about a common interest are in the same interest class:*
- (c) *the issue is similarity and dissimilarity of shareholders' legal rights against the company (not similarity or dissimilarity of any interest not derived from legal rights against the company):*

⁴ In *Re New Zealand Oil & Gas Limited* [2015] NZHC 39 at [13] – [19].

(d) *if the rights of different shareholders will be different under a proposed arrangement or amalgamation, then those shareholders are in different interest classes.”*

29. The key message is that classes for voting on a scheme are determined by taking into account the rights and obligations of shareholders and the effect of the scheme on them. Accordingly, if the scheme would result in a different legal effect for a group of shareholders, that group of shareholders should likely be considered as a different interest class for the purposes of voting on the scheme. However, the Panel will not be aiming to have different interest classes identified unnecessarily.

Voting

30. The voting requirements must be disclosed in the scheme documents, consistently with the requirements of section 236A(4) of the Companies Act.
31. For the purposes of section 236A(4), the Code company's shareholders may only approve the scheme by a resolution approved by a majority of 75% or more of the votes of the shareholders in each interest class entitled to vote and voting on the question (“the shares voted at the meeting”).
32. The resolution must also be approved by a simple majority of all of the eligible voting rights. At a practical level, valid votes by proxy or representative should be included for counting the shares voted at the meeting. If the number of valid votes cast approving the scheme, taken together, equate to more than 50% of the Code company’s total voting rights, then the voting threshold for approving the resolution has been met (if the 75% threshold has also been met by each interest class).

Voting intentions of promoter

33. If any promoter under the proposed scheme is a shareholder of the Code company, and would be eligible to vote at the scheme shareholder meeting(s), a statement of the voting intentions of the promoter and its associates will be required by the Panel. This statement must be enforceable by the Panel by way of deed poll. A standard form deed poll is attached as Schedule B to this Guidance Note.

Voting agreements – Rule 6 of the Code - associates

34. A scheme promoter may wish to enter into voting agreements prior to undertaking the scheme. The promoter would need to take care not to breach the Code’s 20% threshold in rule 6, since a voting agreement necessarily confers an element of control over voting rights. A public statement may provide a mechanism for declaring voting intentions where a voting agreement cannot be entered into because it would result in the acquirer breaching rule 6 of the Code.
35. Whether any voting agreement results in creating an association between the parties would depend on the terms of the agreement. In this regard, the Panel’s views on lock-up agreements and association under the Code provide a relevant analogy.
36. A voting agreement for a scheme will not, on its own, result in an assumed association between parties to the agreement. A voting agreement would not be likely

to cause an association if it was concluded on commercial, arm's length terms. The legal relationship between the parties to the agreement would need to cease at the conclusion of the scheme meeting. There would need to be no ongoing covenants between the parties (under the agreement or otherwise).

37. The Panel will assess whether the terms of a voting agreement may give rise to a potential association in the context of a proposed scheme, on a case-by-case basis.⁵ Note that a voting agreement with a person who is involved in the design or negotiation of the scheme would likely be treated by the Panel as a voting agreement with an associate.
38. Relationships of association between the parties to a proposed voting agreement may exist irrespective of the voting agreement. All associated parties must take care not to breach rule 6 of the Code. The Panel can provide preliminary guidance as to whether a proposed voting agreement is likely to give rise to a relationship of association between the parties to the voting agreement.
39. Even if parties are, or become, associates (whether through a voting agreement or due to other circumstances), the principles discussed above regarding interest classes will determine the interest class to which each such party belongs. In other words, being an associate, *per se*, does not influence the interest class to which a shareholder will belong.
40. While there is a statutory exemption from the Code in section 236B of the Companies Act, the scheme transaction remains subject to the Code up until the Court makes a final order, under section 236(1), that the scheme is binding on the Code company. Any non-compliance with the Code up until such a final order is made may be addressed by the Panel taking enforcement action under section 32 of the Takeovers Act 1993.⁶

Panel's procedure for giving the no-objection statement

Letter of intention

41. The Panel recognises that the scheme applicant may want to give an indication at the initial Court hearing of the Panel's views on the scheme. If the Panel has been satisfied with the draft scheme documentation, and with the identification of the interest classes of shareholders, it will be likely to have no objection to the scheme. The Panel will provide a letter prior to the initial hearing ("letter of intention") for the applicant to produce to the Court indicating that the Panel is minded to issue a no-objection statement on the basis of the information considered by the Panel at that stage.
42. The letter of intention is likely to be in a form similar to that set out in Schedule C of this Guidance Note.

⁵ See the section on lock-up agreements in the Guidance Note on Control and Association.

⁶ Section 32(1) of the Takeovers Act 1993 provides:

The Panel may, at any time, if it considers that a person may not have acted or may not be acting or may intend not to act in compliance with the takeovers Code, after giving that person such written notice of the meeting as the Panel considers appropriate in the circumstances, but in no case exceeding 7 days, hold a meeting for the purpose of determining whether to exercise its powers under this section.

43. The Panel's position set out in the letter of intention may change if the scheme's circumstances change. The Panel's position *will* change if a person engages in misleading or deceptive conduct, or in conduct that is likely to mislead or deceive, in relation to the scheme. Rule 64 of the Code applies to conduct in relation to a proposed scheme, until such time as section 236B of the Companies Act applies (i.e. final Court orders are given), exempting the transaction from the Code.⁷

No-objection statement

44. When providing a no-objection statement, the primary question the Panel will consider is whether shareholders will be adversely affected by the transaction being implemented by a scheme rather than by a takeover under the Code. The Panel does not consider the fact that a transaction is being effected by the use of a scheme rather than a takeover as an adverse effect in itself.
45. The Panel will state in writing that it has no objection to a scheme if an applicant satisfies the Panel that:⁸
- (a) all material information relating to the scheme proposal has been disclosed;
 - (b) the standard of disclosure to all shareholders has been equivalent to the standard that would be required by the Code in a Code-regulated transaction;
 - (c) the interest classes of shareholders were adequately identified; and
 - (d) the other matters referred to in this Guidance Note have been addressed, and there are no other reasons (excluding matters going to the merits or otherwise of the scheme) to oppose the scheme.
46. If the Panel provides a no-objection statement it will be issued to the applicant just prior to the filing for the second Court hearing, at which the Court makes final orders regarding the scheme (usually to approve the scheme and give effect to it). This ensures that the Panel has had an opportunity to observe the entire scheme process and satisfy itself that there have been no material changes to the information it considered in advance of the hearing for initial Court orders.
47. The Panel's no-objection statement is likely to be in a form similar to that set out in Schedule D of this Guidance Note.

⁷ *Code Word 22*, which is available on the Panel's website (www.takeovers.govt.nz), discusses how the Panel applies rule 64.

Rule 64 of the Code provides that :

- (1) A person must not engage in conduct that is—
 - (a) conduct in relation to any transaction or event that is regulated by the Code; and
 - (b) misleading or deceptive or likely to mislead or deceive.
- (2) A person must not engage in conduct that is—
 - (a) incidental or preliminary to a transaction or event that is or is likely to be regulated by the Code;
 and
 - (b) misleading or deceptive or likely to mislead or deceive.

⁸ The Panel will have been satisfied of these matters in respect of the draft documents and information, for the giving of the letter of intention.

Panel Court appearances

48. If the Panel does not give a letter of intention in relation to the scheme, and the Panel objects to the scheme, the Panel would likely seek to be heard at the initial Court hearing and possibly also the final Court hearing.
49. The Panel may also seek to appear before the Court, regardless of whether or not it objects to the scheme, if:
 - (a) there are issues that the Panel considers should be raised before, or addressed by, the Court;
 - (b) it has become aware of conduct that may breach rule 64 of the Code or section 44 of the Takeovers Act;⁹ or
 - (c) it has concerns about the conduct of the scheme meetings.
50. The Panel will ordinarily not appear at the second hearing if it has no objection to the scheme.

Objection by a shareholder

51. Under the Companies Act, shareholders are entitled to make submissions to the Court on the scheme whether or not a no-objection statement is given.
52. A shareholder or other interested party may submit an objection to the Panel. The Panel may consider such an objection when determining whether to provide a no-objection statement.
53. The Panel will treat applications for a no-objection statement in confidence, so this situation would only be likely to arise where the scheme promoter or Code company has published that a no-objection statement is being sought, or after the initial hearing when the scheme documents have been sent to shareholders (including any letter of intention from the Panel).
54. The Panel may seek the scheme applicant's and/or promoter's views on any objections the Panel has received from shareholders or third parties, and the identity of the complainant may be kept confidential if that were considered appropriate or necessary in the circumstances.

⁹ Section 44 of the Takeovers Act provides:

(1) A person must not—

- (a) furnish information, produce a document, or give evidence to the Panel or a member, officer, or employee of the Panel knowing it to be false or misleading; or
- (b) attempt to deceive or knowingly mislead the Panel or a member, officer, or employee of the Panel in relation to any matter before it.

General matters

Option holders

55. The Panel considers that the information that option holders require when considering whether or not to approve a scheme should be of the same standard as the information provided to shareholders.

Offers of scrip

56. Where the scheme involves securities as consideration, the shareholders should be provided with sufficient information about the securities to allow them to decide how they will vote on the resolutions put before them. The independent adviser's report will need to consider the merits of the scrip consideration, and may include a valuation particularly if the scrip offered is not listed and frequently traded. The Panel would expect to review drafts of any disclosure documents for the scrip consideration at the time a no-objection statement was applied for.

Third parties

57. Some schemes are part of transactions that depend on the actions of third parties, for example, scheme consideration may be issued by an entity that is not otherwise a party to the scheme.
58. The Panel would expect that third parties in these situations should be made legally bound to fulfil their obligations. For example, the Panel may request that a third party become contractually bound to provide the relevant benefits.
59. Depending on the significance of the third party arrangements to the scheme, the scheme applicant or promoter may need to submit relevant documentation to the Panel for its consideration and, in certain cases, explain the arrangements in the explanatory memorandum for shareholders.

Fees

60. Under the Takeovers (Fees) Regulations 2001 the Panel is able to charge for certain aspects of its work, including the processing of no-objection statement applications.
61. The usual hourly rates, set out in the Fee Regulations, apply for the time of staff and Panel members for considering a no-objection statement application. Applicants will be billed monthly.

Publication history

This is the third edition of the Guidance Note and is current as at **19 December 2016**.

The third edition, released on 19 December 2016, was a reorganisation and simplification of the information in the previous Guidance Note, and also changed the interest class/voting requirements relating to promoters and their associates.

The second edition, released on 20 October 2015, included an update to the Template form of Deed Poll (see Schedule B of the Guidance Note).

The first edition was published on 17 February 2015.

Schedule A- Information required for no-objection statement application**I. General**

An application for a no-objection statement should include the following information:

- (a) who is applying;
- (b) the anticipated filing dates for initial Court orders and final Court orders;
- (c) the names of any Panel members who may be conflicted in relation to the application;
- (d) an overview of the terms of the proposed scheme and its effects on the holders and controllers of voting securities in the subject Code company;
- (e) copies of relevant supporting documents, such as any voting agreements, (whether executed or in draft), company constitutions, shareholder agreements, etc.
- (f) the criteria and the date for determining:
 - (i) the persons who are to participate in the scheme;
 - (ii) the persons who are entitled to vote at the meeting(s) of scheme participants;
 - (iii) the division of shareholders into interest classes, and the reasons for the division(s); and
 - (iv) the persons who will be bound by the scheme if it is approved by the Court;
- (g) a draft notice of meeting (see II, below);
- (h) a draft explanatory memorandum (see III below) that contains or is accompanied by:
 - (i) the disclosures contained in Schedules 1 and 2 and rules 15 and 16 of the Code that would apply, whether in whole or in part, and 'modified' as necessary, to the scheme proposal;
 - (ii) a report from an independent adviser who is approved by the Panel for the purpose of writing the report;
- (i) if applicable, any securities law disclosure document; and
- (j) a list identifying the location in the draft explanatory memorandum of the disclosures referred to in paragraph I(h)(i), above.

II. Notice of meeting

The Panel would expect the notice of meeting sent to shareholders to fairly and fully inform the recipients by including:

- (a) the proper business of the meeting;
- (b) the scheme proposed for each class of security that is subject to the scheme; and
- (c) if applicable, a deed poll declaring the voting intentions of the promoter and its associates, in the form set out in Schedule B of this Guidance Note.

III. Explanatory memorandum

The Panel would expect the explanatory memorandum for shareholders to contain the following information:

- (a) a clear introduction;
- (b) a summary of the transaction;
- (c) a proposed timetable for completion of the scheme;
- (d) the reasons for the scheme being undertaken;
- (e) a statement regarding whether a no-objection statement from the Panel has been applied for;
- (f) the information described in section I(h) above;
- (g) particulars of the key documents relating to the scheme, including any conditions that need to be met for the scheme to take effect;
- (h) a clear description of the statutory voting thresholds;
- (i) the rights of shareholders to object to the scheme; and
- (j) disclosure of any voting agreement relating to the scheme, for each shareholder party to the agreement (if entered into before finalising the scheme documents).

IV. Final stage in application

Before giving a no-objection statement, the Panel requires:

- (a) marked-up versions showing all changes to scheme documents (including to any report by an independent adviser who has been approved by the Panel in relation to the scheme) as between the draft documents, provided to the Panel at the issuing of the letter of intention, and the final documents the shareholders received; and
- (b) assurance that all material information, including any additional, or changed, voting agreements entered into after finalising the scheme documents, has

been communicated in writing to the shareholders entitled to vote on the scheme.

Schedule B – Template form of Deed Poll

[Template subject to amendment by the Panel relating to particular scheme]

This DEED POLL is made on the [date] day of [month] 20[XX]

BY [Promoter] ("short name")

[Associate of Promoter] ("short name")

IN FAVOUR OF THE TAKEOVERS PANEL AND ALL PARTIES AFFECTED BY THE PROPOSED PART 15 SCHEME OF ARRANGEMENT OR AMALGAMATION INVOLVING [short description of proposed transaction]

BACKGROUND

This deed poll is made in relation to a proposed scheme of arrangement or amalgamation made under Part 15 of the Companies Act 1993 involving [description of proposed transaction] ("proposed transaction").

[Short name of promoter] is the promoter of the proposed transaction. [Short name of associate of promoter] is associated with [short name of promoter] for the purposes of the Takeovers Code.

The Takeovers Panel requires a statement, enforceable by the Panel by way of deed poll, of the voting intentions of [short name of promoter or associate] in relation to the proposed transaction.

BY THIS DEED POLL [Short name of promoter or associate] agrees that:

- (a) it holds [X number] shares with voting rights attached in [name of the company] which is subject to the proposed scheme of arrangement or amalgamation; and
- (b) it will vote in favour of the proposed transaction [X number] shares, or such greater number, being all of the shares with voting rights attached that are held in [name of the company] by [name of promoter or associate] at the record date for the meeting called to consider and approve the proposed transaction.

The provisions of this document constitute promises intended to confer benefits on the Takeovers Panel and all parties affected by the proposed transaction, pursuant to the Contracts (Privity) Act 1982.

Notwithstanding any other provision of this deed poll, this deed poll may be varied or revoked by agreement between [short name of promoter or associate] and the Takeovers Panel, without the approval of any other person on whom this deed poll confers a benefit.

[Note: This provision is to be summarised in the meeting materials so as to ensure compliance with Section 6 Contracts (Privity) Act 1982.]

This deed is governed by and shall be construed in accordance with New Zealand law.

SIGNED AS A DEED POLL

[Short name of promoter or associate] hereby acknowledges the terms of this deed poll and agrees to be bound by them.

Signed by:

Signature of Director
Name of Director

Schedule C – Template Letter of Intention

Letter of Intention

[Explanation of specific scheme]

We refer to the scheme of arrangement between [insert name of company] and its [shareholders / option holders / specify particular class of shareholders or option holders]. [insert further details of the scheme of arrangement if necessary] (“scheme of arrangement”).

The Takeovers Panel has formed an initial view, based on the information that has been provided to the Panel, that it intends at this stage to issue a no-objection statement in respect of the above scheme of arrangement prior to the second Court hearing.

The Panel expresses no view on the merits of the scheme of arrangement.

This advice is given having regard to the Panel’s policy on schemes of arrangement as set out in the Panel’s Guidance Note “Schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993”, dated 14 December 2016.

Yours faithfully

Schedule D – Template No-objection Statement

[Further explanation of specific scheme]

We refer to the [scheme of arrangement] between [insert name of company] and its [shareholders/option holders/specify particular class of shareholders or option holders]. [insert further details of the scheme of arrangement if necessary] (“scheme of arrangement”).

The Takeovers Panel has no-objection to the scheme of arrangement, based on the information that has been provided to the Panel.

The Panel has considered the disclosures made by the parties to the scheme of arrangement, the process and the rights and protections relevant interest groups would have had if the scheme of arrangement were conducted under the Takeovers Code.

The Panel expresses no view on the merits of the scheme of arrangement.

This advice is given having regard to the Panel’s policy on schemes of arrangement as set out in the Panel’s Guidance Note “Schemes of arrangement and amalgamations under Part 15 of the Companies Act 1993”, dated 14 December 2016.

Yours faithfully