

PRE-EMPTION GUIDELINES

These guidelines relate to issues of equity securities for cash other than on a pro rata rights issue basis.

1 Shareholders' approval

- 1.1 The London Stock Exchange will continue to require listed companies to obtain shareholders' approval annually for a special resolution to disapply pre-emptive rights.
- 1.2 The Investment Committees of the ABI and the NAPF ("the IPCs") will advise their members (subject to 4 below) to approve a resolution for an annual disapplication, provided it is restricted to an amount of shares not exceeding 5% of issued ordinary share capital shown by the latest published annual accounts, adjusted where appropriate for subsequent increases in ordinary share capital arising from capitalization of reserves.
- 1.3 During the monitoring period, in order to enable a company to have an equity issue of an appropriate size, the IPCs will advise their members not to oppose proposals for issues where part of the issue is offered on a pre-emptive basis to shareholders and the balance is offered for cash to non shareholders ("combination issues"), provided that the non pre-emptive issue does not represent more than 5% of issued ordinary share capital as defined above. In this context a company is not constrained by the price of a non pre-emptive issue from offering existing shareholders the issue at a greater discount.

2 Cumulative limits on exercise of "disapplication entitlement"

- 2.1 A company will be expected to observe cumulative limits of the extent to which it uses its disapplication entitlement in any rolling three year period. Although the full annual disapplication entitlement set out above may be sanctioned each year at the AGM, a company should not without prior consultation with the IPCs make use of more than 7½% of issued ordinary share capital shown by the latest published annual accounts by way of non pre-emptive issues for cash in any rolling three year period. (See Pre-emption statement 1 for method of calculating the cumulative 7½%).
- 2.2 A company should regard the timing for the initial three year period as the three years immediately preceding the date of the issue in question.

3 Discounts

- 3.1 The amount of the discount (or its equivalent), at which equity is issued for cash other than to shareholders, is a major concern to shareholders and the Pre-emption Group will keep this matter under review. Initially, the Guideline for companies and their advisers, is that they should seek to restrict the discount to a maximum of 5% of the middle of the best bid and offer prices immediately prior to the announcement of an issue or proposed issue.

- 3.2 In general terms, "discount" is defined as the aggregate of (a) the amount by which the offering price differs from the market price, and (b) underwriters' gross spread and/or sponsors' fees. Third party expenses other than sponsors' and underwriters' expenses, are excluded. In the case of issues of a new class of deferred equity in the form of convertibles, warrants or other deferred equity, the amount of the opening market price above the issue price will be regarded as part of the discount.
- 3.3 It is emphasised that this discount refers to non pre-emptive issues for cash. There is no question of limiting the discount in a fully pre-emptive issue.
- 3.4 Where the issuing arrangements involve a long marketing period, and consequently a pricing date subsequent to the announcement date of the proposed issue, the Guideline of a maximum 5% discount refers to the time and date of the pricing rather than the time and date of the announcement of the issue. In such circumstances, the IPCs wish to emphasise their concern that where the market price has reacted adversely to the news of a forthcoming issue, thereby creating the potential for a significant transfer of value, directors should have regard to this in deciding whether or not to proceed.

4 Monitoring

- 4.1 Immediately prior to each issue a company or its sponsors should supply The London Stock Exchange with information (Pre-emption Statement 1) which illustrates the discount which is projected and a further report (Pre-emption Statement 2) following the issue giving details of the actual opening discount. Information lodged on these statements with The London Stock Exchange will not be a determining factor as to whether or not the securities will be listed. Companies should publish the particulars required under the Exchange's continuing obligations in their annual report and accounts and in addition the IPCs will expect details of the terms of issues during the past year to be given including net proceeds, the projected discount as described above and the actual "opening discount". The London Stock Exchange monitors the content of annual reports and accounts and will look for this report and related explanation where relevant.
- 4.2 It should be noted, that where terms of an issue fall outside these guidelines, the IPCs will expect the sponsors to write to the chairman of the issuing company immediately after the issue. The IPCs anticipate that the Chairman will wish to explain the reasons for the issue terms in the company's next annual report.
- 5 The IPCs are likely to recommend their members to oppose annual disapplications by a company which has an unsatisfactory record in complying with the Guidelines.

6 Issues beyond the annual pre-emption disapplication

- 6.1 These will always require shareholders' prior authority at an EGM. Prior consultation procedures are available with the IPCs to determine likely shareholder reaction to specific proposals.
- 6.2 Where a company does not seek an annual disapplication but wishes to seek shareholder approval on an "ad hoc" basis, prior consultation with IPCs is not necessary if the disapplication to be considered at the EGM is within the scope of the guidelines above.

[7 Forms

Sponsors should obtain from the Primary Markets Division of the London Stock Exchange, the necessary forms for completion and submission, (Pre-emption Statement Nos. 1 and 2).]

NB - References in the Guidelines to the London Stock Exchange now relate to the Financial Services Authority as UK Listing Authority. Copies of Pre-emption Statement forms 1 and 2 are available via these links :

[Pre-emption 1](#)

[Pre-emption 2](#)

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