

SCHEDULE 2: PART III

GUIDANCE ON RECOMMENDATION BY AN INDEPENDENT ADVISER

1. Pursuant to Parts I and II of Schedule 2, the independent advice circular should include comments and advice on the fairness and reasonableness of the relevant take-over offer or exemption proposal. In this regard, a recommendation on a take-over offer or proposal made by an independent adviser must contain adequate information and be meaningful and useful to assist shareholders of offeree companies in making an informed decision as to the merits of the take-over offer or proposal as follows:
 - (a) In relation to a take-over offer, the term 'fair and reasonable' should generally be analysed as two distinct criteria i.e. whether the offer is 'fair'; and whether the offer is 'reasonable', rather than as a composite term; and
 - (b) Where evaluating exemptions from mandatory offers, the term 'fair and reasonable' may be considered on a holistic basis.
2. In considering whether a take-over offer can be considered 'fair', the independent adviser should assess if the offer price or value of consideration is equal to or greater than the value of the securities that are the subject of the take-over offer, based on the following criteria:
 - (a) If the offer price (or value of consideration) is equal to or higher than the market price and is also equal to or higher than the value of the securities of the offeree, the take-over offer is considered as 'fair'; and
 - (b) If the offer price (or value of consideration) is equal to or higher than the market price, but is lower than the value of the securities of the offeree, the take-over offer is considered as 'not fair'.
3. The independent adviser should not consider the percentage holding of the offeror or its associates in the offeree when making the above comparison, but should instead value the securities assuming 100 per cent of the offeree is being acquired.
4. In considering whether a take-over offer is 'reasonable', the independent adviser should take into consideration matters other than the valuation of the securities that are the subject of the take-over offer. Generally, a take-over offer would be considered 'reasonable' if it is 'fair'. Nevertheless, an independent adviser may also recommend for shareholders to accept the take-over offer despite it being 'not fair', if the independent adviser is of the view that there are sufficiently strong reasons to accept the offer in the absence of a higher bid and such reasons should be clearly explained.
5. The independent adviser should take into consideration all relevant factors in evaluating whether an offer is 'reasonable' including, but not limited to, the following:

- (a) The existing shareholding of the offeror and persons acting in concert with the offeror in the offeree and their ability to pass special resolutions or control the assets of the offeree;
 - (b) Any other significant shareholding in the offeree, other than (a) above;
 - (c) The liquidity of the market in the offeree's securities;
 - (d) The expected market price if the take-over offer is unsuccessful; and
 - (e) The likelihood and value of alternative offers or competing offers before the close of the take-over offer.
6. In the event the independent adviser concludes that a take-over offer is 'not fair but reasonable', the independent adviser must clearly explain the following:
- (a) What is meant by 'not fair but reasonable';
 - (b) How has the independent adviser reached to this conclusion; and
 - (c) The course of action that the shareholders are recommended to take pursuant to the conclusion.

Schemes of arrangement

7. Where a take-over offer is effected by way of a scheme, the analysis or evaluation should be conducted in the same manner as for a take-over offer.

Exemptions from mandatory offer obligations

8. In evaluating exemptions from mandatory offer obligations resulting from transactions involving the issuance of new securities or when a company purchases its own voting shares, a holistic approach should be taken in assessing whether the exemption is fair and reasonable and whether non-interested shareholders should vote for or against the exemption.
9. The independent adviser should discuss the purpose and effect of the exemption, that is, the substance of the transaction, particularly when the proposed exemption involves transactions that will result in the obtaining or consolidation of control. In such cases, the independent adviser should identify the advantages and disadvantages of the exemption to non-interested shareholders to enable them to decide on the proposed exemption. The independent adviser should also conclude whether the proposed exemption is 'fair and reasonable'.
10. Benefits of the exemption to the non-interested shareholders may include, but are not limited to the following:
- (a) Long-term profit outlook of the offeree with the injection of additional capital;

- (b) Improved gearing of the offeree as a result of any reduction in debt;
- (c) Improved cashflow of the offeree as a result of the injection of working capital; or
- (d) Advantages of raising funds through equity as compared to other alternative financing avenues.

Assessing consideration other than cash

- 11. If the offeror is offering listed or non-listed securities as consideration for the take-over, the independent adviser should examine the value of that consideration and compare it against the valuation of the offeree's securities.
- 12. Such a comparison should be made based on the value of the securities being offered as consideration (allowing for a minority discount) while the offeree should be valued in the manner as provided for in paragraph 3 above. This reflects the fact that the offeror is obtaining or increasing control of the offeree and that the offeree shareholders will receive securities constituting minority interests.
- 13. If the independent adviser uses market price as a measure of the value of the consideration offered, the independent adviser must justify the use of market price and comment on:
 - (a) The depth of the market for those securities;
 - (b) The volatility of the market price; and
 - (c) The effect of the take-over offer on the price.

Valuation methodologies

- 14. In assessing the fairness and reasonableness of a takeover offer or proposal, the independent adviser should exercise due care, skill and professional judgment in selecting the most appropriate valuation methodology or methodologies to be used in its analysis and this must be supported by reasonable grounds and logical assumptions. Generally, the independent adviser should undertake the following before reaching a conclusion and making a recommendation to the shareholders of the offeree:
 - (a) Select the most appropriate valuation methodology or methodologies and where possible, to consider more than one valuation methodology;
 - (b) Where more than one valuation methodology is used, to state whether emphasis should be placed on a particular methodology and the reasons for the same;

- (c) Compare the results derived from using the different methodologies and comment on any differences; and
 - (d) Justify its choice of methodology or methodologies and describe the methods used in the report.
15. Methodologies that are generally appropriate to be considered by the independent adviser include, but are not limited to, the following:
- (a) Discounted cash flow method;
 - (b) Price earnings multiple valuation;
 - (c) Market value;
 - (d) Asset-based approach; and
 - (e) Any precedent offers received by the offeree or its subsidiaries.

The independent adviser should ensure that the choice of methodology is appropriate given the circumstances of the offer.

Assumptions

- 16. The independent adviser's recommendation should be based on reasonable assumptions.
- 17. The independent adviser should disclose all material assumptions on which the recommendation is based. This would allow shareholders to assess the reasonableness of the recommendation and the associated uncertainties.
- 18. The assumptions disclosed should be specific and clear. Where possible, the independent adviser should explain the reasons for adopting such assumptions. General assumptions that are not relevant to the subject of the valuation should be excluded.
- 19. Assumptions relating to specific future economic conditions (e.g. inflation rates, exchange rates, commodity prices) and the manner in which they affect the valuation should be discussed.
- 20. If changes in any of the key assumptions are likely to materially impact the valuation (e.g. changes in the exchange rate or interest rate assumptions), the independent adviser should consider including a sensitivity analysis which sets out the impact of such changes.

Range of values

21. As the values of securities are subject to uncertainty and volatility, placing a precise value on such securities may not provide users with sufficient information for informed decision making. As such, the independent adviser should express the results of its valuation as a range of values.
22. The range of values should be as narrow as possible. If the independent adviser is unable to provide a narrow range due to uncertainty, the independent adviser should explain the factors that create the uncertainty and explain how its opinion is still relevant despite the uncertainty.
23. In the event that the independent adviser chooses to exclude certain values in establishing the range of values, the independent adviser should clearly explain its reasons for doing so.

Reasonable basis to rely on information

24. The independent adviser should form its opinion based on reasonable grounds. It should perform such analysis and make such due enquiries of the information on which it relied on in arriving at its opinion as is reasonable in the circumstances. The more material the information is to the independent adviser's conclusion, the greater the need for the independent adviser to be satisfied that the information is not materially inaccurate.
25. Where the independent adviser intends to rely on the work of another expert in forming its opinion, the independent adviser should:
 - (a) Assess the qualification, expertise, experience and credibility of the expert;
 - (b) Understand the expert's scope of engagement;
 - (c) Evaluate the reasonableness of the methodologies and key assumptions adopted by the expert; and
 - (d) Review the reasonableness of the results derived by the expert, wherever possible.

Prospective financial information

26. The independent adviser should only include prospective financial information if there is a reasonable justification for that information.
27. The independent adviser should make due inquiries to satisfy itself that the potential financial information was prepared on a reasonable basis. It should also ensure that adequate disclosures are made to enable shareholders to assess the reasonableness

of the methodologies and assumptions adopted including, but not limited to, the following:

- (a) Any limitations of the information and the reasons for its inclusion;
- (b) Key assumptions used and justification for adopting the key assumptions; and
- (c) Specific period to which the information relates and the basis for selecting the said period.