

UK Takeovers: New Panel guidance on stub equity offers

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The Takeover Panel has published a new Practice Statement on unlisted share alternatives, commonly referred to as “stub equity” offers. This update summarises the key points from the statement for bidders and their advisers.

The first half of 2025 has been a busy period for Main Market and AIM takeovers, with 37 firm offers announced already (for context, a total of 56 firm offers were announced during the whole of 2024, 57 in 2023 and 46 in 2022). One of the noticeable trends of these firm offers is that, as was the case in 2024, share and share alternative consideration remains popular compared to previous years, comprising 30% of the firm offers announced so far.

Against the backdrop of this deal activity, on 3 July 2025 the Takeover Panel issued new [Practice Statement 36](#) setting out how it interprets and applies the Takeover Code’s provisions that relate to an unlisted share alternative. An unlisted share alternative or ‘stub equity’ offer typically comprises an offer to target shareholders of unlisted securities in the ‘bidco’ as an alternative to cash, providing target shareholders with the opportunity to remain invested in the target.

The key points for bidders from the new Practice Statement are as follows:

- **A bidder that wishes to discuss a stub equity alternative with a target shareholder should be mindful of the rules governing the equality of information between shareholders.** Depending on the circumstances, the Code may require any material new information communicated to a target shareholder to be announced, any document shared with them in a meeting to be published on a website, and for any meetings to be chaperoned by the bidder’s financial adviser.
- **Only in limited situations can a bidder exclude a target shareholder from receiving stub equity.** Restrictions may be permissible where: (i) overseas laws or regulations result in a significant risk of civil, regulatory or criminal exposure if the offer is made to shareholders in a particular jurisdiction, (ii) if a person is sanctioned, or (iii) if law or regulation restricts a person from holding more than a certain amount of bidco’s share capital. However, neither reputational harm nor excluding competitors are permissible restrictions, nor would, of themselves (i.e. without the above legal or regulatory risks), a sponsor’s KYC, other compliance procedures or fund documentation terms.
- **The rights and restrictions attaching to stub equity are for the bidder to decide, but particular shareholders can’t receive special deals with favourable conditions.** A preferential exit opportunity offered by a bidder to a specific shareholder that is not offered to all shareholders is a clear example of this. This is key for a bidder bear in mind, particularly where a primary reason for offering a stub equity alternative is to encourage a large shareholder to commit to its offer. However, subject to consultation, the Panel may permit certain proportionate governance rights (e.g. director appointment rights, reserved matter consent rights and information rights) being granted to any shareholder that holds at least a specified percentage of shares in bidco, even if it is apparent that a particular target shareholder will be the eventual holder of such rights on closing.
- **Minimum and maximum thresholds are permitted.** A bidder may specify a maximum number of bidco shares that may be elected for (e.g. 40% of bidco’s share capital), with excess elections scaled back pro rata. A bidder can also set a minimum number of bidco shares that must be taken up before anyone receives the stub equity alternative (e.g. 3% of bidco’s share capital). However, an individual minimum numerical threshold (e.g. the need to elect for at least

100 shares or shares worth at least £1,000) is not permitted, as this may not be viable for all shareholders.

- **Arrangements that effectively dilute the share exchange ratio must be disclosed.** A readily understandable exchange ratio on a “per-target share basis” (e.g. 1 bidco share for 1 target share) must be stated by the bidder. In addition, any arrangements which would result in a target shareholder’s eventual bidco shareholding being diluted such that it ends up with fewer shares than expected based on the exchange ratio, need to be disclosed. This includes a cash subscription for bidco shares by another bidder group company in order for bidco to be put in funds to discharge its offer related fees and expenses.
- **The estimated value of the unlisted shares must be set out in the offer document by an appropriate adviser (normally the bidder’s financial adviser).** The adviser must explain how the estimate of value per unlisted share relates to each share in the target, and set out the estimated total enterprise value and the implied total equity value of bidco (which is particularly relevant if bidco is leveraged).
- **Shareholder representatives and nominee structures for smaller holders are unlikely to be permitted.** The Panel is unlikely to regard terms that provide for a particular shareholder as able to act as a ‘shareholder representative’ (with the power to make decisions or waive rights on behalf of minority shareholders) as permitted on the basis it does not afford all shareholders equivalent treatment. Nor, for the same reason, will the Panel permit bidders to impose a nominee trust structure on certain shareholders below a certain percentage holding (as sponsors often do with smaller employee shareholders), although imposing the structure on all electing shareholders is permissible.
- **The documentation governing the relationship between bidco’s shareholders must be made publicly available.** Along with the other documentation relating to the offer, any shareholders’ or investment agreement and articles of association will need to be uploaded on the microsite established in connection with the offer from the time the offer document is published.

The detail in the new Practice Statement is helpful and welcome for both bidders and practitioners. The principles underpinning the Panel’s guidance are, however, relatively simple, and any bidder implementing a stub equity offer should keep them in mind. Consultation with the Panel early on is important, there must be equivalent treatment of target shareholders (i.e. no special deals or favorable conditions), and target shareholders must be given adequate disclosure to enable them to make informed decisions about the bidco shares they will be rolling into.

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