

# Pre-Emption Group

## The Pre-Emption Group publishes Monitoring Report and good practice template resolutions to assist companies

Pre-emption PN

5 May 2016

The Pre-Emption Group has released a monitoring report looking at implementation of the Statement of Principles, which were updated in 2015 to reflect market changes.

The report shows that over the course of the first year the revised principles were generally adhered to and reinforces the importance of open dialogue and engagement between investors and the companies to which they have allocated their capital.

After considering the findings of this report, the Pre-Emption Group has decided to assist companies by publishing a template resolution outlining good practice in requests for disapplication. This template recommends companies propose two separate resolutions to cover the disapplications envisaged by the Statement of Principles.

- The first resolution requests a five per cent disapplication to be used on an unrestricted basis.
- The second resolution, to be put forward by companies when appropriate, requests authority to disapply in cases when boards consider the use to be for the purposes of an acquisition or specified capital investment in accordance with the Statement of Principles.

When an additional five per cent disapplication authority is used, investors would expect companies to disclose in the relevant placing announcement the circumstances that have led to its use and detail the consultation process undertaken by the company.

Companies are encouraged to consider using the draft template resolution at their next meeting, however, the PEG would expect companies to use this template for meetings held from 1 August 2016.

The Statement of Principles provides a framework for early and effective dialogue between a company and its shareholders. However, companies should note that consultation on the basis on which disapplication is sought must be specific and unequivocal to be considered appropriate.

The Statement of Principles is supported by the Pensions and Lifetime Savings Association and The Investment Association as representatives of asset owners and investment managers. The Statement of Principles is clear that companies that do not comply with its spirit and letter are likely to find their shareholders less inclined to approve subsequent requests for disapplication. Moving forward, the Pre-Emption Group expects continued improvement in disclosures on the disapplication of pre-emption rights and increased levels of engagement between shareholders and investors.

### Notes to editors:

1. The Pre-Emption Guidelines were originally published in 1987 to provide guidance on disapplying pre-emption rights. A review of the impact of pre-emption rights in 2004, carried out by Lord Paul Myners, recommended that the guidelines be updated to reflect developments in the market. As a result, the Pre-Emption Group issued a new

Statement of Principles in 2006 and a revised edition in 2008.

2. The Financial Reporting Council (FRC), as Secretariat, decided to reform the Pre-Emption Group in 2015 under the Chairmanship of Mr Robert Swannell. The Pre-Emption Group considered market changes, developments in best practice and whether consequential revisions to the Statement of Principles were appropriate and issued a revised Statement of Principles in March 2015.
3. The Pre-Emption Group would like to thank the Company Law Committee of the City of London Law Society for its support in drafting the template resolution.
4. The FRC is responsible for promoting high quality corporate governance and reporting to foster investment. We set the UK Corporate Governance and Stewardship Codes as well as UK standards for accounting, auditing and actuarial work. We represent UK interests in international standard-setting. We also monitor and take action to promote the quality of corporate reporting and auditing. We operate independent disciplinary arrangements for accountants and actuaries; and oversee the regulatory activities of the accountancy and actuarial professional bodies.
5. All Press enquiries should be directed to:
  - Peter Timberlake, Head of Communications, on telephone: 020 7492 2397/ 07768 502332, or email: [p.timberlake@frc.org.uk](mailto:p.timberlake@frc.org.uk).
  - Rita Carolan, Communications Manager, on telephone: 020 7492 2307/ 07428 149096 or email: [r.carolan@frc.org.uk](mailto:r.carolan@frc.org.uk).
  - Alana Sinnen, Communications Manager, on telephone: 020 7492 2395/ 07949 005526 or email: [a.sinnen@frc.org.uk](mailto:a.sinnen@frc.org.uk).