

INDEPENDENT ADVICE CIRCULAR IN CORPORATE EXERCISES: REVISITING THE LAW ON FAIRNESS OPINION

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ABSTRACT

Independent advice circulars are required in a broad range of corporate transactions. The advice circulars are extensively used in takeovers and mergers of companies. The board of directors of the target company is required to appoint an independent adviser to prepare the independent advice circular, in order to assist the shareholders of the target company in making their decision in relation to the takeover offer. Malaysia has taken an approach similar to its Australian counterpart by not treating the term fair and reasonable as a composite term. This current approach which treats the term fair and reasonable disjunctively has raised concern especially where the adviser concludes that the offer is “not fair” but “reasonable.” This paper examines the current approach which the advisers must adopt in preparation of the advice circular. It explains the possible issues this new approach may encounter. References are made to the

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Australian experience and literature in dealing with preparation of the independent advice circular. An empirical study must be conducted in Malaysia in order to determine whether the current approach has indeed improved the quality of the advice circular.

Keywords: Independent adviser, Independent advice circular, fairness opinion, takeovers, mergers.

KORPORAT: MENKAKI SEMULA UNDANG-UNDANG BERHUBUNG PENASIHAT BERKECUALI DAN PANDANGAN ADIL

ABSTRAK

Pekeliling nasihat berkecuali diperlukan dalam pelbagai transaksi korporat. Pekeliling nasihat digunakan secara meluas dalam penggabungan dan pengambilalihan syarikat-syarikat. Lembaga Pengarah kepada syarikat sasaran dikehendaki melantik sebuah badan penasihat berkecual bagi menyediakan pekeling nasihat berkecuali, bertujuan membantu pemegang-pemegang saham syarikat sasaran dalam membuat keputusan berhubung dengan tawaran pengambilalihan. Malaysia telah mengambil pendekatan serupa dengan rakan sejawatnya Australia dengan tidak menjadikan terma adil dan munasabah sebagai syarat komposit. Pendekatan semasa yang mengambil terma adil dan munasabah secara bertentangan telah menimbulkan kebimbangan terutamanya apabila badan penasihat membuat rumusan bahawa sesuatu tawaran itu adalah 'tidak adil' tetapi 'munasabah.' Kertas ini meneliti peranan badan penasihat berkecuali dan menghuraikan pendekatan semasa yang mesti diambil oleh badan penasihat dalam penyediaan dokumen pekeling nasihat. Ia menjelaskan isu-isu yang mungkin dihadapi dalam menggunakan pendekatan baru. Rujukan dibuat kepada cara penulisan dan pengalaman Australia dalam menguruskan penyediaan pekeling nasihat. Kajian berdasarkan pemerhatian perlu dijalankan di Malaysia untuk menentukan sama ada pendekatan yang

*digunakan kini telah meningkatkan kualiti dokumen
pekeliling nasihat.*

Kata kunci: Penasihat Berkecuali, Pekeliling Nasihat Berkecuali, pandangan adil, pengambilalihan, penggabungan.

INTRODUCTION

The use of advisers' circular in corporate exercises is increasing in Malaysia. Independent advice circular are currently required in a broad range of corporate transactions. Advice circulars are extensively used in takeovers, mergers and schemes of arrangement. In a takeover or merger of companies, the board of directors of the target company is required to appoint an independent adviser to prepare the independent advice circular in order to assist the shareholders in making their decision in relation to the offer. Listed companies that are targets of a disposal of all or substantially all of its assets that may affect its listing status is required to appoint an independent adviser to objectively assess the merits of the deal for the benefit of the shareholders.

In order to improve the quality of the advice circular in relation to takeover and merger offers, Malaysia has taken an approach similar to its Australian counterpart by not treating the term "fair and reasonable" as a composite term. The regulatory bodies, the Securities Commission and the Stock Exchange, decided to decouple the term and define what "fair" and "reasonable" means. As a result of the decoupling of the terms "fair" and "reasonable," shareholders may find an offer to be "fair" and "reasonable;" "not fair" but "reasonable" and "not fair" and "not reasonable." Of late, the Minority Shareholders Watchdog Group (MSWG) voiced out its concern over the increasing number of "not fair but reasonable" recommendations.¹

This paper will elaborate on the current approach which the advisers should adopt in preparation of the advice circular. It further explains the possible issues this approach may encounter. In reviewing

¹ See Presenna Nambiar, "Investors cry foul over "independent" advice. April 8 2013 www.mia.org.my/new/news_details.asp?tid=6&rid.

the whole issue, this paper will discuss the Australian experience in dealing with the ‘fairness opinion.’

INDEPENDENT ADVICE CIRCULARS IN TAKEOVERS AND MERGERS OF COMPANIES

Takeovers and mergers occur where a company buys over another company or merges with another company. There are many rationales underlying takeovers and mergers of companies. The key principle behind the takeover of a company is to create shareholder value over and above that of the sum of the two companies. It is possible that the reasoning behind takeovers and mergers is that two companies together are more valuable than two separate companies.

The appointment of an independent adviser does not require the prior approval of the Securities Commission. To ensure that the adviser is indeed independent, the adviser is given three days upon being appointed to declare its independence from any conflict of interest situation or any potential conflict of interest to the securities Commission.² Before the amendments made to the Malaysian Code on Takeovers and Mergers 2010 (the Code) in 2010, the appointment of an adviser requires prior approval from the Securities Commission. This placed an extra burden on the Commission who, prior to approving the appointment of an adviser, had to assess on its independence.

An independent advice circular aims to assess an offer and give recommendation to the shareholders of the company concerned. In a share exchange offer, the advice circular assists the investors prior to agreeing to a corporate proposal suggested by their directors. The advice circular aims at protecting investors in the market place, by providing unbiased comments, suggestions and recommendations to the investors in relation to a proposed takeover offer. The advice circular will also be issued to investors pursuant to corporate proposals or transactions, in order for them and their respective advisers to make an informed assessment and to assist them to decide whether or not to vote for the corporate exercise.

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Section 15(11) Malaysian Code on Takeovers and Mergers 2010.

The disclosure of information plays an important role in the working of an efficient market. Its importance in the enhancement of market efficiency and accountability to shareholders and investors is highlighted by Leigh Masel, the first chairperson of the National Companies and Securities Commission (Australia) in the following passage:³

“Disclosure of material information has become one of the traditional techniques which is utilised both in the administration of company law and the regulation of securities market, and is the kernel of both corporate accountability and the concept of the fair and efficient securities market.”

Once a bidder company decides to takeover another company, the former will normally engage a team, consisting of an investment bank that acts as their principal adviser, solicitors and valuers among others, to conduct a due diligence exercise on the target company. Before commencing the due diligence exercise, the target company will be given a document requisition list, requesting relevant documents for the team to peruse and review. The due diligence team will normally visit the target company once these documents are made available by the latter’s representatives. All the relevant documents reviewed by the team will be collated and included in the due diligence report. The documents will include all material information, i.e. information that will assist the bidder company in ascertaining whether or not the target company is worth acquiring.

The Malaysian Code on Takeovers and Mergers 2010 requires that the board of the target company appoint an independent adviser to provide comments, opinions, information and recommendation on a takeover offer in an independent advice circular.⁴ The independent adviser

³ Masel L, *The National Companies and Securities Commission and the Capital Markets*, Canberra 2 June 1981, NCSC Published Paper 16, cited in Laurie McDonald, Grant Moodie, Ian Ramsay, Jon Webster, *Experts’ Reports in Corporate Transactions*, 2003 The Federation Press at 1.

⁴ Section 15 of the Malaysian Code on Takeovers and Mergers 2010.

must issue the independent advice circular to the board of the target company, its shareholders and holders of the convertible securities of the target within ten days from the date the offer document was dispatched to the target shareholders.

The advice circular is very important to the shareholders of the target company, especially the minority shareholders, as it assists them to determine the real value of their shares. It further assists the board of the target company to determine whether or not to recommend the takeover offer to their shareholders.⁵ In view of its importance to a wide range of parties involved in a takeover, an advice circular must be prepared in a simple, clear and useful manner. An adviser should keep in mind the different classes of readers of the circular. The shareholders in a company will consist of both sophisticated as well as unsophisticated market participants.

Does an advice circular bring new information to the market? It has been argued by Matolcsy that in an efficient market, all relevant information is fully reflected in share prices.⁶ Thus an expert can bring no new information of relevance to the market. However, Matolcsy's argument fails to recognise that a compilation of the information in a form that focuses on the key points, and written from a different perspective is often useful to many investors.⁷ Regardless of whether that information is new or not, the adviser is required to do more than to present or 'bring' it to the market; the expert is required to sift, analyse and assess it in accordance with prescribed criteria.⁸ Those criteria may require the adviser to determine whether the proposal in question is fair and reasonable and to express the reasons for that opinion.

It is of utmost importance that the circular provides unbiased advice and comments to the shareholders of the target company for the offer that they are presented with by the bidder company. The

⁵ Mushera Ambaras Khan, *A Guide to Malaysian Takeovers and Mergers Law*, 2013 Sweet & Maxwell, p. 90.

⁶ Matolcsy ZP, "The evaluation of independent expert's advice on takeover offers": An economic-finance perspective" *Australian Business Law Review*, 10 (1981) 99 at 100.

⁷ Laurie McDonald et al, *Experts' Reports in Corporate Transactions*, above note 3 at 15.

⁸ Above, note 7 at 15.

shareholders have the right to sell their shares at the best price available to them and it is incumbent upon the adviser to produce a report that is thorough, concise, and unbiased. The adviser must refrain from giving advice in favour of the target company or the bidder company, and must always strive to provide the shareholders the best possible advice, independent of other factors related to the corporate exercise.

In practice, the adviser will have separate meetings with the board of directors of the target company to discuss the takeover exercise. Sometimes, the adviser will attend the due diligence team meeting, and observe the matters discussed therein, particularly with regard to the due diligence team's findings upon reviewing the relevant documents. The advice circular will be a separate report altogether based on enquiries made by the adviser, to the persons in charge of the target company, and to a certain extent, based on the due diligence report. Independent advice circular is also required for a reverse takeover and it must be circulated to the shareholders of the bidder. Similar to the shareholders of the target company, the shareholders of the bidder company must also be given a fair opportunity to obtain an informed assessment as to the viability of the takeover, so that they can decide whether or not to agree to the acquisition.

A recommendation on a takeover offer made by an independent adviser must contain adequate information and be meaningful and useful to the shareholders of the target companies in making an informed decision as to the merits of the takeover offer. The advisers shall be responsible for all of their comments, opinions, information and recommendations contained in their circular issued to either the bidder shareholders or target shareholders. They have to obtain the consent of the Securities Commission in relation to the disclosure made in the document prior to issuing the advice circulars. When the Commission's consent is obtained for the contents of the advice circular, the independent adviser shall include in the circular a statement that the circular has been approved by the Securities Commission.

FAIRNESS OPINION

There are many aspects of the offer which the circular must address in evaluating the offer. These include, among others, the rationale for the offer, the financial evaluation of the offer, the overview and prospects of

the industry in which the target group operates, the financial performance and the prospects of the target company and any other relevant matter. The Code requires that the adviser evaluate the 'reasonableness' of an offer;⁹ however it has been a common practice for the advisers to provide their advice on the basis of evaluating whether the offer is 'fair and reasonable.' The Securities Commission espoused the Australian approach which does not treat 'fair and reasonable' as a composite term; on the contrary, the terms 'fair' and 'reasonable' are considered to indicate two different meanings. In Malaysia, currently the term 'fair' offer is strictly tied up with the value of the offer while 'reasonable' offer takes into consideration other factors. Therefore, to evaluate on the fairness of an offer, the adviser shall assess if the offer price or value of the consideration is equal or greater than the value of the securities that are subject to the takeover offer. Where 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 target company, then the offer is considered fair. In contrast, where the offer price or the value of the consideration is equal to or higher than the market price, but is lower than the value of the securities of the target company, the takeover offer is considered as not fair.

Generally, a takeover offer that is considered fair is also considered to be a reasonable offer. In determining the reasonableness of the offer, the independent adviser is to consider matters other than the value of the securities. The adviser may recommend the shareholders to accept the takeover offer despite it being 'not fair,' if the adviser is of the view that there are sufficiently strong reasons to accept the offer in the absence of a higher bid. There are a number of factors which the adviser can take into account in determining the reasonableness of an offer. These include the existing shareholding the bidder and its concert party have in the target company, their ability to pass special resolutions or control the assets of the target company and any other significant shareholding in the target. The liquidity of the market in the target's securities is also an important factor to be considered. Further, the adviser may look at the expected market price if the takeover offer is unsuccessful

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Second Schedule, Malaysian Code on Takeovers and Mergers 2010.

and the likelihood and value of competing offers before the closure of the takeover offer.

In Australia, the Corporations Act prescribes a ‘fair and reasonable’ test for an expert report required under s 636(2) of the Act. In addition, where the bidder’s voting power is 30 percent or more, or where there is a common directorship between the bidder and the target, the expert report must state whether the takeover offers are fair and reasonable.¹⁰ According to *Australian Securities and Investment Commission Regulatory Guides*, the ‘fair and reasonable’ test also applies to takeover acquisitions approved by target shareholders under s 611, where the expert must provide an opinion on whether the proposal is ‘fair and reasonable’ to the non-associated shareholders.

An offer is ‘fair’ if the value of the offer price or consideration is equal to or greater than the value of the securities that are the subject of the offer.¹¹ This comparison must be made assuming 100% ownership of the target company. In his or her opinion on the fairness of an offer, the expert should not consider the percentage holding of the bidder or its associates in the target company.¹² On the other hand, reasonableness is treated as a much broader concept than fairness and is to be determined by reference to a number of extraneous factors which shareholders might consider before accepting the offer and after having had regard to the range of values provided in satisfaction of the fairness criterion.¹³ An offer is ‘reasonable’ if it is fair.¹⁴ It may also be ‘reasonable’ if, despite not being ‘fair’ but after considering other significant factors, shareholders should accept the offer in the absence of any higher bid before the closure of the offer.

The expert should always include a statement that the target’s decision whether to accept an offer may be influenced by his or her

¹⁰ S. 640(1) the Corporations Act.

¹¹ RG 111.11 (Regulatory Guide 111) Australian Securities and Investment Commission, March 2011.

¹² RG 111.11 (Regulatory Guide 111) Australian Securities and Investment Commission, March 2011.

¹³ Laurie McDonald et al, *Experts’ Reports in Corporate Transactions*, above note 3 at 37.

¹⁴ RG 111.12 (Regulatory Guide 111) Australian Securities and Investment Commission, March 2011.

particular circumstances (for example taxation) and if an target is in doubt he or she should consult an independent adviser. An expert might consider when deciding whether target should accept the offer:

- (a) the bidder's pre-existing entitlement to shares in the target company;
- (b) other significant shareholding blocks in the target company;
- (c) the liquidity of the market in the target's securities;
- (d) taxation losses, cash flow or other benefits through achieving 100% ownership of the target company;
- (e) any special value of the target to the bidder, such as particular technology, the potential to write off outstanding loans from the target, etc;
- (f) the likely market price if the offer is unsuccessful; and
- (g) the value to an alternative bidder and likelihood of an alternative offer being made.¹⁵

Some Australian commentators have questioned whether it is appropriate to read the terms fair and reasonable disjunctively as Australian Securities and Investment Commission has done in the policy statement.¹⁶ It was argued that it is difficult to find the source of the view that the term fair and reasonable should be treated as two separate and distinct concepts. Commentators in both academic and commercial circles have been highly critical of the distinction.¹⁷ The 'mixed' or 'divided' forms of conclusion, according to Professor Eddey, offer no clear guidance to ordinary shareholders or investors and the disjunctive interpretation has no basis

¹⁵ RG 111.13 (Regulatory Guide 111) Australian Securities and Investment Commission, March 2011.

¹⁶ Laurie McDonald et al, *Experts' Reports in Corporate Transactions*, 2003 The Federation Press at 42.

¹⁷ *Ibid* at 43.

in the legislation itself or in the general usage.¹⁸ One prominent practitioner and commentator, Green, commented that “what an ordinary shareholder makes of a conclusion that the offers are ‘fair but not reasonable’ or ‘not fair but reasonable’ is anybody’s guess.”¹⁹

INDEPENDENT ADVICE CIRCULARS FOR OTHER CORPORATE EXERCISES

Presently, appointment of an adviser is required in various corporate proposals which are major disposals, related-party transactions and withdrawals of listing. An independent advice circular is required where a corporation disposes all or substantially all of its assets which may result in the listed corporation being no longer suitable for continued listing on Bursa Securities. In related-party transactions where the percentage ratio is 5 percent or more, an independent adviser is to be appointed to comment in the corporate exercise. Similarly, in a voluntary withdrawal of listing by a listed issuer, an independent adviser is also required.

ROLES OF INDEPENDENT ADVISER IN PRIVATISATION

The Code imposes an obligation upon the target company’s independent financial adviser to confirm that, in its opinion, the terms of the proposed privatization are fair and reasonable. A majority in number of the target company’s independent minority shareholders present and voting in person or by proxy at the meeting ordered by the relevant court, and representing at least 75 percent in value of the shares voted at the meeting, must approve the scheme of arrangement. A majority of the target company’s shareholders in a general meeting must pass a special resolution to approve

¹⁸ *Ibid* at 43; citing Eddey PH, “Independent Expert’s Reports in Takeover Bids,” Departmental Paper, School of Economics and Financial Studies, Macquarie University, New South Wales.

¹⁹ Green J, “Are Fairness Reports Worth It?” *Companies and Securities Bulletin*, 94 (1991) 2 at 4.

and implement the scheme of arrangement. The relevant court of the relevant jurisdiction must sanction the scheme of arrangement. Where the scheme involve cancellation or reduction scheme, approval must be obtained from the court for the reduction of the share capital of the target company. The target company must comply with the procedures under the law for reducing the capital of the company, and must obtain any consent or authorisation required by regulation, or under any of its loan or finance agreements.

CONFLICT OF INTEREST

It is very probable that a person who is able to give expert advice is likely to have some form of earlier or existing associations with the parties involved in a transaction.²⁰ “Independent” means that the view of the adviser has to be free from any external influence, other than putting the interests of minority shareholders at the heart of the advice.²¹ The independence of an adviser determines to a great extent the role and effectiveness of an advice circular. An adviser must be independent at the time of appointment and must continue to remain independent. Where conflicts of interest arise, the adviser will no longer be independent, which could greatly diminish the value of the circular. In the Practice Notes to the Code, the possible conflict of interest situations are named, in order to make it clear for the adviser involved where to avoid accepting appointment as an adviser to the proposal, so that advisers stay independent throughout the process.

Conflict of interest may arise in the following situations:²²

- a) When an independent adviser holds 10% or more of the voting shares or voting rights in the bidder or the target at any time

²⁰ Loh Siew Cheang, *Corporate Powers Controls, Remedies and Decision-making*, Malayan Law Journal Sdn Bhd Kuala Lumpur, Butterworths Asia 1996, pp. 415-416.

²¹ Risen Jayaseelan, *Better Independent Advice Free From Influence Please*, Thursday February 7, 2013.

²² Para 1.4, Practice Notes 15, Malaysian Code on Takeovers and Mergers 2010.

during the last 12 months from the beginning of the offer period. Usually in such a circumstance they are more likely to be in favour of the company. If the independent adviser has voting shares in the bidder or target company, there is a possibility that the advice in their circular to the shareholders will be biased.

- b) When the independent adviser has a business relationship with the bidder or the target at any time during the last 12 months from the beginning of the offer period, that contributes to more than 10% in revenue or profit of that adviser. When one has business ties with another, they could be more inclined towards protecting the business relationship and would not risk any situation that would jeopardize the same. Likewise if the independent adviser has any business ties with the bidder or target company, and such business contributes to more than 10% in profit for the independent adviser, the advice circular to shareholders will most likely be in favour of the company they have ties with.
- c) When the adviser has a representative on the board of directors of the bidder or the target. With a representative on the board of directors of either the bidder or the target company, the independent adviser will probably have some conflict of issues to deal with given that their advice would somewhat have to satisfy the interest of their representative on the board of either companies.
- d) When the adviser has a representative from either the bidder or the target on the board of directors of the independent advisers. On the other hand, where there is a representative of either company on the board of directors of the adviser, the need to avoid the conflict of interest would be of the utmost importance.
- e) When the independent adviser is involved in the financing of the takeover offer. Where the independent adviser stands to gain something, be it profit or projects, their advice circular may end up not being independent advice. There is a possibility that the advice circular will be more in favour of the takeover's success rather than to protect the shareholders' interests.

- f) When the independent adviser is a substantial creditor of either the bidder or the target, based on the latest audited accounts or the latest management accounts, if the latest audited accounts is more than six months;
- g) When the independent adviser has a financial interest in the outcome of the takeover offer;
- h) When the independent adviser is the main adviser in the planning, acquisition, disposal or restructuring of the bidder or the target at any time during the period of 12 months prior to the beginning of the offer period.

In *re Dorman, Long & Co. Ltd.*,²³ at common law, it was held that the advisers engaged by a company to give advice must disclose their interests in the company or the transaction itself so as to give a fair warning to the shareholders that the advice may not be truly independent. In the context of the Malaysian Takeovers and Mergers Code, if the Commission is satisfied that an adviser is 'independent', this does not absolve the adviser from disclosing facts which are relevant to the question of independence at common law. In *Darvall v North Sydney Brick and Tile Co Ltd.*,²⁴ the court observed that whenever advisers are retained, the substance of the advice must be disclosed to shareholders beforehand and an explanation at the meeting will not cure the defect.

There may be occasions when the directors dissent from or disagree with the views of an independent adviser. The directors must be prepared to explain its decision to the shareholders. From *Gething & Ors v Kilner & Ors.*,²⁵ it seems that in the absence of bad faith, it is sufficient if the directors merely state the conclusion of the independent adviser and its contrary view without explaining the reasons for the view, of the independent adviser or reasons for contrary views of directors.

²³ [1934] 1 Ch 635.

²⁴ [1988] 14 ACLR 717.

²⁵ [1972] 1 All ER 1166.

DEFENCES FOR THE INDEPENDENT ADVISER

As mentioned earlier, the independent adviser is responsible for its statements made in the advice circular. In preparing the advice circular, the independent adviser will have to rely on information provided by the companies concerned, the statements made by their directors and relevant personnel. Their report will take into account all these information, however it is their obligation not to offer their advice solely based on the statements, but use their expertise and make necessary enquiries.

In the *Best Practice Guide in Relation to Independent Advice Letters*, the independent adviser is expected to undertake due enquiries and exercise its due care, skill and professional skepticism, so as to ensure that the information relied on by the independent adviser is reasonable, accurate, complete and free from material omission.²⁶ The independent adviser should make additional enquiries if there is any ambiguity on the reliability, accuracy and completeness of the said information.²⁷ In addition, it should document any grounds/circumstances that led it to question the reliability, accuracy and completeness of the information. In preparing their advice, it is important that every single detail be recorded and supported with the relevant supporting documents. If the independent adviser finds that the information is questionable, they have the obligation to request for further clarification from the company together with documents evidencing the same.

The independent adviser should make relevant disclosures in relation to the information relied on in preparing the independent advice circular.²⁸ This is to enable shareholders to assess the reliance to be placed on the independent adviser's opinion.

Relevant disclosures may include, but are not limited to—

- a) the sources of information relied on in preparing the independent circular;

²⁶ Item 3.4.1, *Best Practice Guide in Relation to Independent Advice Letters*, Securities Commission Malaysia & Bursa Malaysia Securities Berhad, December 2012.

²⁷ Item 3.4.2, above note 27.

²⁸ Item 3.4.3., above note 27.

- b) the independent adviser's confirmation that the information used is reasonable, accurate, complete and free from material omission; and
- c) whether any interested party to the corporate proposal has refused to provide reasonable access to information or explanation, if the information or the explanation may influence the independent adviser's opinion.

CONCLUSION

An independent adviser plays a paramount role in safeguarding the interests of shareholders, given that the independent adviser is responsible for advising the shareholders. Typically, an independent adviser is required to comment as to whether the proposed transaction is fair and reasonable in so far as the shareholders are concerned. The independent adviser must validate its opinion with the reasons for the key assumptions made and the factors taken into account in arriving at its opinion. The adviser must also take all the necessary steps to satisfy that it has a reasonable basis for its comments and advice to shareholders.

The current approach in Malaysia which treat the term fair and reasonable disjunctively has raised concern especially where the adviser concludes that the offer is "not fair but reasonable."²⁹ In Australia too there has been criticism over the treatment of the term fair and reasonable. In Malaysia, perhaps an empirical research can give an answer to the question whether the current approach has indeed improved the quality of the advice circular.

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See for example takeover offers by Tradewinds (M) Bhd, Bandar Raya Developments Bhd, Asia Pacific Land Bhd and Mahajaya Bhd, reported in *The Star*, *Starbiz*, January 29 2013. The advice circular concludes that the offer is "not fair but reasonable."