

Statement on Takeover Panel 'Cold-Shouldering'

- On 10 January 2017, The Panel on Takeovers and Mergers published a statement on their website on the 'cold-shouldering' of Arthur Leonard Robert Morton and John Benjamin Garner:
<http://www.thetakeoverpanel.org.uk/wp-content/uploads/2017/01/2017-1.pdf>. 'Cold-shouldering' effectively means that no FCA-regulated entity can act for these individuals on any transaction subject to the Takeover Code.
- On 21 December 2016 the Takeover Panel Hearings Committee ('the Committee') ruled that during an investigation by the Executive of the Takeover Panel ('the Executive') into a potential breach by Mr Morton of an obligation to announce a mandatory offer under Rule 9 of The City Code on Takeovers and Mergers ('the Code'), Messrs Morton and Garner breached section 9(a) of the Introduction to the Code. They did this by separately and on repeated occasions providing information to the Executive which they knew to be incorrect and misleading.
- The Committee ruled that Messrs Morton and Garner are persons who in their opinion are not likely to comply with the Code and that the ruling and subsequent 'cold-shouldering' should apply for six years and two years respectively, from the date of the ruling (21 December 2016).
- Following this ruling, we would like to draw your attention to the provisions of MAR 4.3 (Support of the Takeover Panel's functions), which relate to 'cold-shouldering'. In particular, MAR 4.3.1R, states that a firm must not act, or continue to act, for any person in connection with a transaction to which Takeover Code applies if the firm has reasonable grounds for believing that the person in question, or his principal, is not complying or is not likely to comply with the Code. Under MAR4.3.2G, if a person is named in a ruling of the Committee, we expect a firm to comply with MAR4.3.1R by not acting or continuing to act for that person. See MAR 4.3 for further information: <https://www.handbook.fca.org.uk/handbook/MAR/4/3.html>.
- Given this, we would like to remind all regulated firms that they should not deal with the two individuals mentioned above, or their principals, on any transactions to which the Takeover Code applies. We also expect regulated firms to inform all approved persons at their firms that they should not deal with these individuals on such transactions.
- Regulated firms need to be aware that we take all regulatory breaches very seriously and a breach of MAR 4.3 may leave a firm and any individuals involved open to Enforcement action.
- We thank you for your compliance in this matter.

If you have further questions, please contact the Firm Contact Centre on 0300 500 0597 or firm.queries@fca.org.uk.