



Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018

Pursuant to sections 45 and 45A(3) of the Takeovers Act 1993, the Takeovers Panel, being satisfied of the matters set out in section 45(6) of that Act, gives the following notice.

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Notice

- 1 **Title**
This notice is the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018.
- 2 **Commencement**
This notice comes into force on 26 February 2018.
- 3 **Principal notice**
This notice amends the Takeovers Code (Class Exemptions) Notice (No 2) 2001 (the **principal notice**).
- 4 **New clause 25F inserted (Exemptions relating to period within which target company statement must be sent)**
After clause 25E, insert:

25F Exemptions relating to period within which target company statement must be sent

- (1) Every person is exempted from rule 46(1)(a)(ii)(A) of the Code.
- (2) The exemption in subclause (1) is subject to the conditions that,—
 - (a) within 14 days after it receives the despatch notice, the target company must—
 - (i) make the statement referred to in rule 46(1)(a)(i) of the Code available in a prominent position on its Internet site; and
 - (ii) include a prominent direct link to the statement on the Internet site's home page; and
 - (b) the target company must continue to make the statement and link available as referred to in paragraph (a) until the end of the offer period; and
 - (c) as soon as practicable after the statement is first made available under paragraph (a), the target company must send the statement to each e-shareholder; and
 - (d) within 3 days after the statement is first made available under paragraph (a), the target company must send the statement to all other persons recorded in the target company's financial products register (as at the record date) as being holders of financial products to which the offer relates.
- (3) Every person that is relying on subclause (1) is also exempted from—
 - (a) rule 46(1)(b)(ii) of the Code to the extent that it requires the copy of the statement that must be delivered to the Registrar of Companies for registration to be so delivered immediately on sending the statement to the persons referred to in rule 46(1)(a)(ii) of the Code; and
 - (b) rule 47(1) of the Code to the extent that it requires the copy of the statement that must be given or sent to the Panel to be so given or sent at the same time as it is sent under rule 46 of the Code and in hard copy and (if possible) in electronic form.
- (4) The exemptions in subclause (3) are subject to the condition that, immediately on the statement being first made available under subclause (2)(a), a copy of the statement is—
 - (a) delivered to the Registrar of Companies for registration; and
 - (b) sent to the Panel in electronic form.
- (5) In this clause, **e-shareholder** means a person who—
 - (a) is recorded in the target company's financial products register (as at the record date) as being a holder of financial products to which the offer relates; and

- (b) has made a notification to the target company under section 391(3A) of the Companies Act 1993 that applies to the statement referred to in rule 46(1)(a)(i) of the Code.

Dated at Auckland this 20th day of February 2018.

R A Coupe,
Chairperson.

Statement of reasons

This notice, which comes into force on 26 February 2018, amends the Takeovers Code (Class Exemptions) Notice (No 2) 2001 (the **principal notice**) to include an exemption from rule 46(1)(a)(ii)(A) of the Takeovers Code.

Rule 46(1)(a)(ii)(A) requires a target company, within 14 days after it receives a despatch notice, to send a target company statement to its shareholders. The exemption is on the condition that the statement is instead made available on the company's Internet site within that 14-day period. The target company must then also send the statement to its shareholders (as soon as practicable in the case of shareholders who receive documents electronically or within 3 further days in any other case).

The notice includes consequential exemptions from rules 46(1)(b)(ii) and 47(1) of the Takeovers Code to clarify the time for compliance under those rules.

The Takeovers Panel considers it appropriate to grant the exemptions, and considers the exemptions to be consistent with the objectives of the Takeovers Code, because the exemptions will—

- increase confidence and integrity in the takeovers market by increasing the time available to target companies and independent advisers to prepare a target company statement and an independent adviser's report; and
- support an efficient takeovers market by ensuring that the target company statement is accessible within 14 days of the takeover offer being despatched.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 26 February 2018.

This notice is administered by the Takeovers Panel.