

Reprint
as at 1 May 2017



**Takeovers Code (Eastern Bay Energy Trust) Exemption
Notice 2013**
(SR 2013/52)

Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2013: revoked (applying to acts or omissions occurring on or after 30 April 2013), on the close of 30 April 2017, by clause 3.

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

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Notice

1 Title

This notice is the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2013.

2 Application

This notice applies to acts or omissions occurring on or after 30 April 2013.

3 Revocation

This notice is revoked on the close of 30 April 2017.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint. Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Takeovers Panel.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Takeovers Act 1993

Code means the Takeovers Code under the Act

control percentage means the percentage of voting rights in Horizon that a person holds or controls or is deemed to hold or control

Eastern Bay means the Eastern Bay Energy Trust established by deed of trust dated 1 August 1994

Horizon means Horizon Energy Distribution Limited

trust deed means the Bay of Plenty Electricity Consumer Trust deed of trust in force on 22 August 2002.

- (2) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption from rule 6(1) of Code

Every person who is appointed a trustee of Eastern Bay in accordance with the trust deed is exempted from rule 6(1) of the Code in respect of any increase in that person's control percentage resulting from the appointment.

Dated at Auckland this 18th day of March 2013.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[Seal]

D O Jones,
Chairperson.

Statement of reasons

This notice applies to acts or omissions occurring on or after 30 April 2013 and is revoked on 30 April 2017.

The Takeovers Panel (the **Panel**) has granted an exemption from rule 6(1) of the Takeovers Code (the **Code**) to a person who is appointed as a trustee of the Eastern Bay Energy Trust (**Eastern Bay**) if the appointment will result in the person being deemed to hold or control (by the operation of rule 6(2)(b) of the Code) an increased

percentage of voting rights in Horizon Energy Distribution Limited (**Horizon**). Eastern Bay is a shareholder of Horizon.

This notice is on substantially the same terms as the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2007, which expired on 30 September 2012.

The Panel considers that the exemption is appropriate and consistent with the objectives of the Code because—

- the trustees of Eastern Bay exercise control over that trust's voting rights in Horizon in their capacity as trustees of Eastern Bay and subject to their duties and obligations under the trust deed and at law;
- the cost of obtaining the approval of the non-associated shareholders of Horizon to the appointment of a trustee of Eastern Bay is not justified when that appointment will not in substance represent any change in the control of Eastern Bay's voting rights in Horizon;
- the shareholders of Horizon will not be disadvantaged in not having the opportunity to vote on the appointment of the new trustees at a meeting of shareholders, as it would have no real effect on those shareholders.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 March 2013.

Reprints notes

1 *General*

This is a reprint of the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2013 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2013 (SR 2013/52): clause 3