# Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2017

Pursuant to section 45 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 (No 2) 2017.

**2 Commencement**

This notice comes into force on 12 June 2017.

**3 Principal notice**

This notice amends the Takeovers Code (Class Exemptions) Notice (No 2) 2001 (the **principal notice**).

**4 New clauses 25D and 25E inserted**

After clause 25C, insert:

**25D Exemption relating to additional information contained in takeover notice that is erroneous or outdated**

Every person is exempted from rule 44(1)(d)(iii) of the Code to the extent that it relates to information—

(a) that is erroneous or outdated; or

(b) that it is reasonable to omit in consequence of the omission of information to which paragraph (a) applies.

**25E Exemption relating to variation of terms and conditions contained in takeover notice**

(1) Every person is exempted from rule 44(1)(b) of the Code in respect of a variation to correct an obvious technical error that is minor in nature.

(2) The exemption is subject to the conditions that—

(a) the person has requested the prior written approval of the directors of the target company for the variation; and

(b) the directors of the target company have not, within 1 working day of the request being made, given their prior written approval for the variation under rule 44(1)(b)(ii); and

(c) the Panel has given its prior written approval for the variation.

Dated at Auckland this 29th day of May 2017.

Richard Andrew Coupe,
Chairperson.

## Statement of reasons

This notice, which comes into force on 12 June 2017, amends the Takeovers Code (Class Exemptions) Notice (No 2) 2001 (the **principal notice**) to insert 2 new exemptions.

### *Rule 44(1)(d)(iii)*

This notice inserts an exemption from rule 44(1)(d)(iii) of the Takeovers Code into the principal notice. Rule 44(1)(d)(iii) requires a takeover offer to contain any additional information that was contained in the takeover notice under rule 41(4) of the Takeovers Code. *New clause 25D* grants an exemption where any of the additional information is erroneous or outdated, or where it is reasonable to omit any of the additional information in consequence of the omission of other additional information that is erroneous or outdated.

The Takeovers Panel considers it appropriate to grant the exemption in *new clause 25D*, and considers the exemption to be consistent with the objectives of the Takeovers Code, because the exemption will—

- increase confidence and integrity in the takeovers market by encouraging offerors to include additional information in takeover notices; and
- support an efficient takeovers market by ensuring that erroneous, outdated, and potentially misleading information is not included in takeover offers.

### *Rule 44(1)(b)*

This notice inserts an exemption from rule 44(1)(b) of the Takeovers Code into the principal notice. Rule 44(1)(b) requires an offer to be on the same terms and conditions as those contained in the draft offer document accompanying the takeover notice.

*New clause 25E* grants an exemption in respect of variations to the terms and conditions contained in the draft offer document accompanying the takeover notice to correct obvious technical errors that are minor in nature.

The Takeovers Panel considers it appropriate to grant the exemption in *new clause 25E*, and considers the exemption to be consistent with the objectives of the Takeovers Code, because the exemption—

- supports the efficiency of the Takeovers Code by ensuring that takeover notices do not need to be reissued on account of obvious technical errors of a minor nature; and
- overcomes an anomaly in the Takeovers Code that could allow target company directors to not give their prior written approval for a variation to correct an obvious technical error of a minor nature; and
- would be available only in the rare circumstance that target company directors do not give their prior written approval for a variation to correct an obvious technical error of a minor nature.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 1 June 2017.
This notice is administered by the Takeovers Panel.

Wellington, New Zealand:
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