Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2002

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).

Contents

1	Title	4	Interpretation
2	Application	5	Exemption from rule 6(1) of Code
3	Expiry		

Notice

1 Title

This notice is the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2002.

2 Application

This notice applies to acts or omissions occurring on or after 1 August 2002.

3 Expiry

This exemption expires on the close of 31 July 2007.

4 Interpretation

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

Act means the Takeovers Act 1993

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

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 17th day of October 2002.

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

[L.S.]

J. C. King,
Chairperson.

Statement of reasons of Takeovers Panel

This notice applies to acts or omissions occurring on or after 1 August 2002, and expires on 31 July 2007.

The Takeovers 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.

The Takeovers Panel considers that it is appropriate to grant the exemption because a person who, as a trustee of Eastern Bay, exercises control over voting rights in Horizon—

- does so in the capacity of trustee of Eastern Bay; and
- is subject to duties and obligations arising under the deed of trust of the Bay of Plenty Electricity Consumer Trust and at law.

The Takeovers Panel considers that the exemption is consistent with the objectives of the Code because the cost of obtaining the approval of shareholders of Horizon other than Eastern Bay or its associates to the appointment of a trustee of Eastern Bay is not justified when the appointment would not, in substance, represent any change in the control of Eastern Bay's shares in Horizon.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 October 2002.
This notice is administered by the Takeovers Panel.