TAKEOVERS PANEL
TE PAE WHITIMANA

Takeovers, n.d.

GUIDANCE
TAKEOVERS CODE OVERVIEW

The Takeovers Code governs transactions and events that impact on the voting rights attaching to the shares owned by shareholders of "Code companies". Code companies are New Zealand-registered companies that are listed on the NZX or have 50 or more shareholders and 50 or more share parcels.

The Code divides levels of voting control in a Code company into different thresholds and prescribes the methods available to increase voting control.

The Takeovers Code at a Glance

Level of Voting rights owned		Code compliant methods of increase
	Up to 20%	• No restrictions, increase by any means.
	20% – 50%	• A takeover offer, being: › a full offer conditional on reaching more than 50%; or › a partial offer conditional on reaching more than 50%; or › a partial offer to go to a lower percentage approved by shareholders. • An allotment of new shares, with shareholders' approval. • An acquisition of an existing parcel of shares, with shareholders' approval. • A buyback by the Code company of some of its own shares, with shareholders' approval.
	More than 50%, but less than 90%	• A takeover offer, being: › a full offer; or › a partial offer. • An allotment of new shares, with shareholders' approval. • An acquisition of an existing parcel of shares, with shareholders' approval. • Acquisitions of up to 5% of the Code company's shares over any 12-month period ("creeping"). • A buyback by the Code company of some of its own shares, with shareholders' approval.
	90% or more	• If a person becomes a dominant owner through a transaction under the Code, they must either: › compulsorily acquire all remaining shares; or › voluntarily acquire any shares the remaining shareholders. • If already at 90% or more, by any means.

The rules of the Code ensure that shareholders will be given accurate and up-to-date information by a takeover offeror for their company's shares and also by the Code company's directors. The disclosure requirements are quite prescriptive. They cover past share trading in the company by the offeror and also by the board and management of the company. They also require disclosure of any relationships, arrangements or agreements between the offeror and the company's directors or senior managers, all material financial information, etc.

The Code company's directors must, for every Code-regulated transaction, obtain for the company's shareholders an independent adviser's report on the merits of the transaction. The company's directors are also required to make a recommendation to the shareholders about how the shareholders should respond to the transaction.

The Code ensures that all shareholders, no matter what their size or influence, have equal, informed opportunities to participate in major share transactions. For example, for a vote at a shareholders' meeting regarding whether a person can increase their control percentage in the company, only the 'disinterested' shareholders get to participate in the vote.

Neither the Panel nor the Code makes decisions about the merits of a transaction for shareholders. Shareholders must decide for themselves, because what may be a good investment outcome for one shareholder may not be good for another.