


TAKEOVERS PANEL
ANNUAL REPORT 2020

Facilitating a fair, open and efficient takeovers market



**TAKEOVERS
PANEL**
TE PAE WHITIMANA



Te whakawhiti mana i runga i te tika

Transferring power and control
according to what is good and right



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Laid before the House of Representatives pursuant to sections 150-157 of the Crown Entities Act 2004.



Our values

Integrity

Acting fairly, honestly
and with transparency

Pragmatic

Ensuring effective
outcomes for
stakeholders

Responsive

Being available
and responsive to
stakeholders

Efficient

Achieving outcomes
in a timely manner

> 2020 at a glance

13

Transactions

The number of Code-regulated transactions and Code company schemes of arrangement over the year.

Public enquiries

90

Stakeholder engagements

31

100%

Overall satisfaction with the Panel's processes, timeliness and publications



Report of the Chair and Chief Executive

We are pleased to present the annual report of the Takeovers Panel for the 2019/2020 year.

Who we are

The Takeovers Panel is an independent Crown entity established under the Takeovers Act 1993 to administer and enforce the Takeovers Code. The Minister of Commerce and Consumer Affairs is the Panel's responsible Minister. Background information on the Panel and the Code is set out below in the section *About the Panel*.

Where we fit in

To build a sustainable and inclusive business environment, investors, large and small, who invest in the capital markets in New Zealand need to be confident that the markets are well-regulated, and that they have the right information in order to make their investment decisions.

The Panel and the Code play a key role by ensuring that investors in publicly listed and widely held companies are provided with appropriate and timely information to make informed decisions about a change in the control of those companies.

The integrity of New Zealand's capital markets is supported by robust regulatory systems, the ethical standards of market participants, and by the agencies that regulate them. Key regulators in New Zealand's capital markets are the Financial Markets Authority, NZX Limited, the Commerce Commission, and the Takeovers Panel. Each has a different focus and purpose, and they all contribute to supporting the integrity of the markets so that investors can be confident that regulated transactions occur in an appropriate and transparent fashion.

Through its role as a regulator in the capital markets, the Panel contributes to the Government's high-level economic goal of building a resilient, adaptable, productive and inclusive economy.

Our strategic goals

Contributing to the outcome of transparent and equitable takeovers processes

The Panel plays an important role in strengthening the integrity of the capital markets because it regulates changes of control in publicly listed and widely held companies, known as "Code companies".¹

This activity is subject to the Takeovers Code when it involves a person increasing their shareholding in a Code company to more than 20% of the company's total voting rights.²

The Panel is focused on contributing to the following outcomes over the medium term:



maintaining an efficient takeovers market



reducing transaction costs for Code companies and their investors



increasing confidence in the integrity of the takeovers market

¹ A Code company is a New Zealand registered company that -

- has quoted voting securities (e.g., ordinary shares) on a licensed market's trading market (e.g., the NZX Main Board); or
- has 50 or more shareholders with voting rights and 50 or more share parcels and has either:
 - total assets of at least \$30 million at the end of the most recent accounting period; or
 - total revenue of at least \$15 million in the most recent accounting period.

² Under the Code's fundamental rule, rule 6, a person with less than 20% of the voting rights in a Code company cannot increase to more than 20% (taking into account also the percentage held or controlled by any associates), or if they already have more than 20%, cannot increase at all, unless they use one of the Code's mechanisms set out in rule 7 (e.g., making a takeover offer to all other shareholders, or making an acquisition or receiving an allotment that is approved at a meeting of the company's shareholders).



The integrity of New Zealand's capital markets is supported by robust regulatory systems, the ethical standards of market participants, and by the agencies that regulate them.

The Panel contributes to these outcomes by providing services aimed at ensuring that Code-regulated transactions are conducted in a way that is transparent and equitable. The Panel's Statement of Performance, on pages 42 to 46, sets out the services that the Panel provided over the year.

Making an impact under the Takeovers Code

Enforcing the Takeovers Code is the Panel's primary focus and Code-regulated transactions are actively monitored by the Panel executive.

The Panel's services aim to achieve the following impacts:



100% compliance with the Code by Code companies and by those who acquire shares in them



takeovers law being efficient, with improved information for shareholders, and the Panel being an effective regulator



shareholders, acquirers, and their advisers being well informed about the role of the Code and of the Panel

The most significant part of the Panel's enforcement resources goes to the Panel executive's review of Code-regulated documents and schemes of arrangement documents while they are still in draft. This practice is valued by the practitioners who advise those with obligations under the Code. This informal review process aims to achieve resolution of potential non-compliance before it arises, thus improving efficiency and ensuring Code-compliant disclosure for investors in Code companies.

The Panel's other key roles of improving public understanding of takeovers law and of undertaking policy development are also important areas of service delivery by the Panel.

COVID impact

Effect on transactions

When the COVID-19 pandemic began in March 2020 there were a number of Code-regulated transactions and schemes of arrangement transactions that had been announced or had started. As a direct result of the pandemic, several transactions that had been announced were withdrawn. These Code-regulated transactions and schemes of arrangement transactions have since been renegotiated, although on different terms and conditions than had been originally agreed.

Looking forward, the Panel anticipates that there may be a reduction in the number of Code-regulated and schemes transactions in the near term, but that activity may return to previous levels in the medium term.

Effect on the Panel

Prior to the COVID-19 pandemic, the Panel had in place a comprehensive risk management plan as well as detailed procedures and technology to enable staff to work remotely. This plan was fully implemented when COVID-19 pandemic Alert Level Four commenced. As a result, the Panel held board and division meetings via video conference and the Panel staff worked remotely throughout the lockdown period.

The Panel maintained full capacity to carry out its objectives over this period, and Panel staff maintained full productivity. This included promptly addressing the various novel and complicated compliance issues that arose as a direct result of the withdrawn or delayed transactions. In addition, the Panel approved an urgent temporary class exemption to provide increased flexibility for Code companies to raise capital in compliance with the Code, during this volatile time for the capital markets.

Operating environment

The Panel manages its resources flexibly between its highest priority activity of enforcement, and its policy and public education activities. Policy and public education functions are important, but ensuring that all transactions are dealt with promptly takes priority. In terms of the Panel's performance framework on page 26, these activities are depicted under the respective impacts of Enforcement, Efficiency and Knowledge.



Achievements for the reporting year

Enforcement

Overall, transaction activity was lower in the first part of the year compared with the previous year, and then faced significant disruption in the second half of the year when the COVID-19 pandemic began in March 2020.

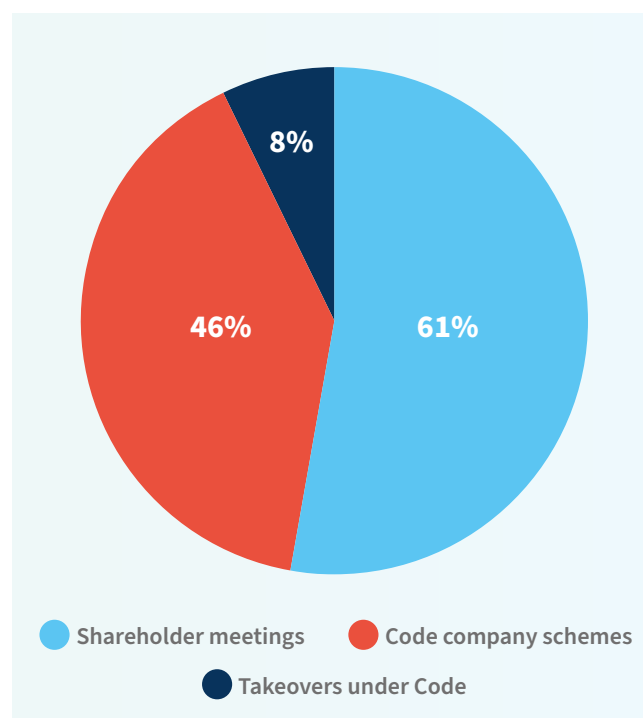
There were seven Code-regulated transactions during the 2019/2020 year, compared with 19 in the 2018/2019 year. Six of these transactions were acquisitions or allotments of parcels of shares approved by shareholders at a meeting of the Code company, and one was a takeover.

In addition, there were six transactions structured as schemes of arrangement under the Companies Act. Three of the six schemes were abandoned before a final application was made to the Panel for a no-objection statement. Two of these schemes were abandoned as a result of the COVID-19 pandemic.³ Together with the Code-regulated transactions, the Panel monitored a total of 13 transactions (compared with 23 in 2018/2019).

The greater flexibility of the regulatory requirements for schemes of arrangement, as compared with more prescriptive rules under the Code, has seen Code company schemes used more frequently for complex transaction structures.

The Panel has noted an increase in scheme-related activity following the implementation of the Code company schemes provisions in the Companies Act in 2014. The Panel's role in schemes is principally to ensure that the Code company's shareholders receive a level of disclosure equal to that which they would have received in a takeover regulated by the Code, and to determine appropriate interest classes for shareholder voting on schemes (interest classes are not a factor that applies in Code-regulated takeovers). Early engagement with the Panel executive was integral to helping applicants meet the standards of disclosure required by the Panel for the Code company schemes.⁴

Transaction by type during 2019/2020



The Panel's other enforcement work during the 2019/2020 year included conducting four preliminary investigations. Three of those investigations were concluded without the need for formal enforcement proceedings. One investigation is ongoing.⁵ The Panel did not hold a hearing under section 32 of the Takeovers Act (none held in 2018/2019).

The Panel has a Memorandum of Understanding with NZX Limited and with the Financial Markets Authority to facilitate the exchange of information and to improve the coordination of capital markets regulation.

³ Both schemes were subsequently relaunched, albeit on different terms.

⁴ An applicant can apply to the Panel for a statement in writing that the Panel has no objection to the proposed scheme (a no-objection statement). The applicant presents the no-objection statement to the Court as part of the process for seeking the Court's approval of the scheme.


⁵ In August 2020, the Panel commenced a section 32 meeting as the investigation began in the 2019/2020 year. The outcome of that meeting has yet to be determined.

Efficiency – policy work and exemptions

The Panel worked closely with the Panel’s monitoring agency, Ministry for Business, Innovation and Employment (**MBIE**), to carry forward the Panel’s recommendations for amendments to the Takeovers Act and the Code made in March 2017. Most of the Panel’s recommended amendments came into force in October 2018 through regulations made to amend the Code.

Amendments to the Takeovers Act came into force in January 2020. Among the amendments were changes to the definition of ‘Code company’ in the Takeovers Act and the Code. For unlisted companies, financial thresholds have been included in the definition of Code company. Unlisted companies now must also have either annual revenue of at least \$15 million in the most recently completed accounting period or total assets of at least \$30 million as at the last day of the most recent accounting period. This means that unlisted companies with 50 or more shareholders and 50 or more share parcels that do not meet either the asset or revenue threshold are not subject to the Code. This amendment will reduce compliance costs for those companies that are widely held, but that do not meet the new asset or revenue thresholds.

There are two final recommendations yet to be implemented. The first is for legislative amendments to give the Panel the power to publish Code-regulated documents on its website. This will facilitate electronic access to information by the public. The second recommendation is for a further amendment to the definition of unlisted Code company to remove the term ‘share parcels’ to align with section 199 of the Companies Act 1993.⁶ The Panel is working with MBIE officials to ensure these recommendations are included in a future bill.



Unlisted companies with 50 or more shareholders and 50 or more share parcels that do not meet either the asset or revenue threshold are no longer subject to the Code.

The Panel completed two policy projects during the year.

The first was a review of rule 7(e) of the Code (the **creep rule**) to consider whether the creep rule should apply where a person holds or controls less than 50% of the voting rights in a Code company. This review was in response to a recommendation of the Capital Markets 2029 report initiated by the NZX and the Financial Markets Authority. The outcome of the review was that the Panel agreed that the creep rule was working as intended and no recommendation of law reform would be pursued.

The second project involved a review of the Panel’s policy on ‘last and final statements’. As a result of that review, the Panel approved a class exemption for ‘voting intention statements’ in schemes of arrangement.⁷

The Panel approved two additional class exemptions during the year. One was for trustees of charitable trusts, which will assist those trusts to avoid unnecessary compliance costs for routine changes of trustees. The other class exemption was a temporary class exemption to facilitate the raising of capital by Code companies in the months following the onset of the COVID-19 pandemic.

The Panel also approved two individual exemptions during the year.

⁶ Joint holders of shares will be counted as a single shareholder.

⁷ Takeovers Code (Voting Agreements for Schemes of Arrangement) Exemption Notice 2020.

Knowledge – public education work

The Panel prepares a Stakeholder Engagement Plan each year to ensure it takes a planned approach to engaging with stakeholders to inform and educate them about the Code and the role of the Panel. The Panel continued to focus on increasing awareness and understanding of the Code among stakeholders.

The Chief Executive and General Counsel met individually with interested market participants to provide information about the Panel and changes to the Code, and to receive feedback for the Panel. In addition, the Panel executive presented to the Institute of Directors leading directors' group.

The Panel continued to invite stakeholders to attend a portion of its board meetings for informal discussions and to allow for direct stakeholder feedback to Panel members.

The Panel revised and updated four of its Guidance Notes and approved two new Guidance Notes, including one explaining how the Panel's new temporary COVID-19 class exemption would operate to facilitate the raising of capital by Code companies.

The Panel's administration – economy and efficiency

> The Panel's operating income

Consistent with prior years, the Panel's funding for the financial year was provided mostly by Parliament, being \$1,494,000 (Vote Commerce: Non Departmental Output – Administration of the Takeovers Code). In addition, the Panel received third-party income of c.\$210,000 for its chargeable activities (c.\$208,000 in 2018/2019), including fee income from independent adviser approval applications, exemption applications, and no-objection statement applications.

The Panel maintains robust controls on spending and a strong focus on internal efficiency to enable it to generally maintain a break-even position on its operating expenditure.⁸

> Resources

The Panel used slightly less resource than had been forecast on transactional work (50% of resource forecast, 48% expended). Resource used for processing Code company schemes was above budget (14% forecast, 23% expended). This was a result of more schemes, and more complex and novel issues arising from those schemes, than anticipated. Some of the novel issues arose as a result of transactions being abandoned because of the COVID-19 pandemic.

The Panel expended more resource than forecast on policy projects (10% forecast, 15% expended). This was largely as a result of the work involving the COVID-19 class exemption. Given the sudden onset of the COVID-19 pandemic, this work was unexpected and unplanned, and was also complex in nature. This had a flow-on effect on the resources available for public education work (26% forecast, 14% expended).

Panel members and the executive committed 12,853 hours of time to Panel work over the year, which was higher than the 11,549 hours in the previous year.

The Panel's resources consist of the 11 Panel members and the executive team of eight staff, and also software, office equipment and furniture.

> Outputs

Utilising its income and resources, over the 2019/2020 financial year the Panel provided the outputs described in the Statement of Performance on pages 42 to 46.

⁸ The most non-predictable factor for the Panel's annual financial position is whether it holds section 32 meetings and, if so, whether the outcome of a meeting enables the Panel to make cost recovery orders against any parties.

Cost effectiveness of Panel

► Impacts and outcomes

The Panel's work contributes to the following outcomes:

- reducing transaction costs for domestic and international investors; and
- increasing confidence in the integrity of New Zealand's takeovers market.

As one of a number of regulators active in this wide area of the capital markets, the Panel's contribution at the outcome level cannot realistically be measured.

However, the Panel does measure the impact it has in the segment of the takeovers market that is regulated by the Code. The Panel's progress on these strategic aims is described under the section on pages 26 to 30, *Measuring the Panel's Performance – Impacts and Outcomes*. As this annual report indicates, the Panel is a well-respected and cost-effective service provider.

► Results of Panel's online survey

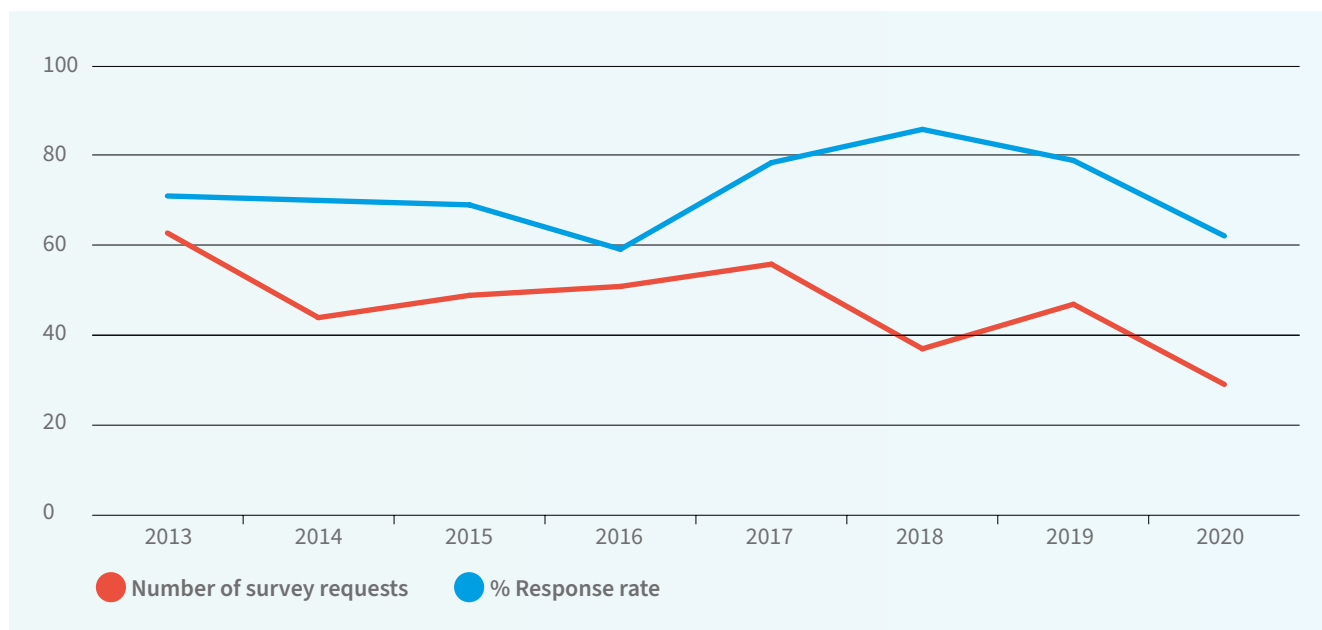
The Panel operates an online survey to collect data regarding its performance from legal practitioners and independent advisers who advise Code companies and those involved in Code-regulated transactions. The data in the table below shows consistently high levels of satisfaction with the Panel's publications and processes, and with the professionalism and timeliness of the Panel's work.

Over the 2019/2020 year, the Panel sent 29 survey requests (47 in 2018/2019). Each request was sent shortly after the practitioner's or adviser's involvement with the Panel reached its conclusion. The Panel received 18 responses, which is a response rate of 62% (37 responses, 79% response rate in 2018/2019). The number of survey requests sent this year was lower than last year as a result of fewer transactions closing in the period.



There were a number of transactions that did not proceed because of the COVID-19 pandemic, but even if those transactions had proceeded, the overall number of transactions would still have been lower compared with last year. The responses continued to indicate a high level of satisfaction with the Panel's work. 100% of respondents were satisfied with the Panel executive's processes and professionalism (100% in 2018/2019). All respondents found the Panel's publications overall to be useful (100% in 2018/2019).

Summary of Online Survey Results⁹ – Year to 30 June



Overall satisfaction – Year to 30 June



⁹ Data based on voluntary survey responses from lawyers and independent advisers who advised on a transaction. Links to the survey are sent at the completion of each transaction. Survey responses are collected using SurveyMonkey.

Our people

Panel members

The Panel comprises 11 members who are required to be qualified or experienced in business, law or accounting. One of the members is also a member of the Australian Takeovers Panel, appointed under a reciprocal arrangement made between the governments of Australia and New Zealand. The Chair of the New Zealand Panel sits as a member of the Australian Takeovers Panel under the same arrangement.

Executive team

The Panel's executive team of specialist lawyers and administrative support performed ably throughout the year, working closely with the Panel members to maintain an effective relationship.

Acknowledgements

We thank the members of the Panel for their dedication and willingness to take part in Panel work, often at very short notice, and the executive team for their commitment and professionalism during the past year.

Finally, the Panel also wishes to acknowledge the willing assistance of market participants in their dealings with the Panel, and acknowledges and thanks the Minister of Commerce and Consumer Affairs and MBIE officials for their constructive support of the Panel during the year.



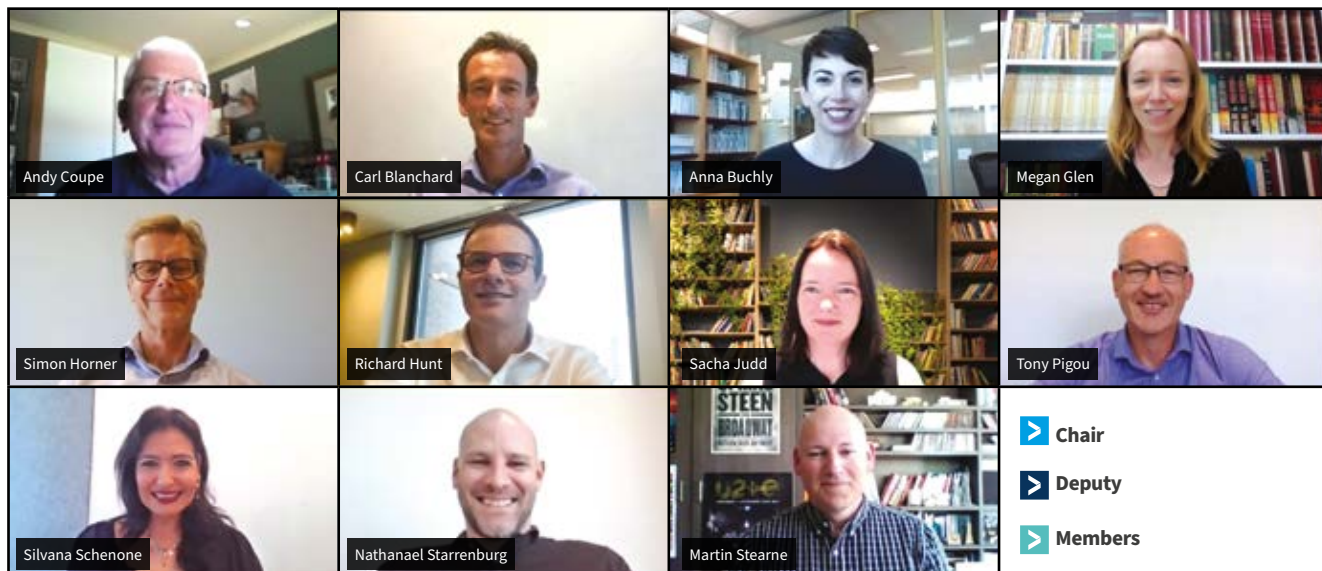
▶ Andy Coupe
Chair



▶ Andrew Hudson
Chief Executive

Members of the Takeovers Panel

AS AT 30 JUNE 2020



> Andy Coupe

Professional company director with extensive experience in public market takeovers and capital markets.

Appointed to the Panel in 2008.
Appointed Chair from 1 October 2016.

> Carl Blanchard

Partner, Infrastructure and Mergers and Acquisitions at PwC New Zealand. Former Head of Direct Investments at the Accident Compensation Corporation.

Appointed to the Panel in 2011.
Appointed Deputy Chair from 1 October 2016.

> Anna Buchly

Partner and Chair at Bell Gully, specialising in mergers, acquisitions, capital markets and joint ventures, with international experience advising clients in Dubai and Sydney.

Appointed to the Panel in 2019.

> Megan Glen

Manager, Direct Investments at the NZ Super Fund. Former investment banker in New York and New Zealand with experience in merger and acquisition transactions and securities offerings.

Appointed to the Panel in 2019.

> Simon Horner

Partner at Mayne Wetherell with extensive experience in mergers and acquisitions, and securities offerings.

Appointed to the Panel in 2011.

> Richard Hunt

Principal of Fort Street Advisers based in Sydney. A market leader in mergers and acquisitions, equity capital market and debt capital market transactions.

Appointed to the Panel as the Australian Takeovers Panel's representative in 2014.

> Sacha Judd

Managing Director, Hoku Group. Formerly Partner at Buddle Findlay, specialising in corporate and securities law, and takeovers.

Appointed to the Panel in 2015.

> Tony Pigou

Corporate adviser and consultant. Experienced adviser on takeovers, merger and acquisition transactions, and equity capital markets. Former New Zealand head of investment banking and equity capital markets for major international investment banks.

Appointed to the Panel in 2013.

> Silvana Schenone

Partner at MinterEllisonRuddWatts, specialising in mergers and acquisitions, and equity capital markets. Extensive experience advising on corporate and securities law matters in Chile, New York and New Zealand.

Appointed to the Panel in 2016.

> Nathanael Starrenburg

Director of specialist corporate law firm, Harnos Horton Lusk Limited. Specialises in public and private mergers and acquisitions, securities offerings and other equity capital markets transactions.

Appointed to the Panel in 2016.

> Martin Stearne

Corporate consultant, member of NZX Listing sub-committee and investment committee of Impact Enterprise Fund. Former investment banker with experience in equity capital markets and takeovers. Chair of Capital Markets 2029 review committee.

Appointed to the Panel in 2019.

Governance and Disclosures





Governance Report and Additional Disclosures

The Board of the Panel

A meeting of all Panel members is a meeting of the board for the purposes of the Crown Entities Act. The Panel has six board meetings a year. All Panel members work part-time for the Panel. They are paid at an hourly rate or daily rate, depending on the type of work being done. These rates are set annually by the Remuneration Authority.

The Panel sets the organisation's strategic goals and reviews management's performance. It is responsible for appointing the Chief Executive, setting his or her annual KPIs, monitoring his or her performance during the year and reviewing that performance at the end of the year. The Panel also sets the Chief Executive's remuneration, including an 'at risk' component linked to achieving KPIs.

Committees

The Panel has an Audit and Risk Committee, chaired by Carl Blanchard. The other two members are Andy Coupe and Tony Pigou. The Committee reviews and makes recommendations to the full Panel about the Panel's external reporting documents, financial forecasts and budgets, and risk management planning.

The Panel also has a Human Resources and Remuneration Committee, chaired by Andy Coupe. The other two members are Carl Blanchard and Silvana Schenone. The Committee reviews and makes recommendations to the full Panel about the Panel's Workplace Bullying and Harassment Policy, reviews and makes recommendations to the full Panel about remuneration policy, monitors the performance of the Chief Executive, reviews and makes recommendations about the remuneration of the Chief Executive, and ensures that appropriate professional development and succession plans are in place.

The Panel does not have a large enough staff to operate a separate internal audit process. However, strict separation of personnel is maintained between the banking, payments, and authorisation processes.

Divisions of the Panel

When exercising its statutory powers, the Panel usually meets by a division of members. A division must be constituted with at least three Panel members. The Chair appoints a division of non-conflicted members for each matter, as it arises. Divisions consider applications for exemption and for approvals to act as an independent adviser, enforcement issues, etc.



Panel meetings

Panel member participation in Panel meetings, division meetings, and committee meetings over the 2019/2020 year was as follows:

Member	Panel meetings (6 during year)	Division meetings (25 during year) ¹⁰	Audit and Risk Committee (7 during year)	Human Resources Committee (2 during year)
Andy Coupe	6 of 6	23	7	2
Carl Blanchard	6 of 6	23	7	2
Anna Buchly	5 of 6	8		
Megan Glen	3 of 6 ¹¹	2		
Simon Horner	6 of 6	12		
Richard Hunt	6 of 6	2		
Sacha Judd	6 of 6	11		
Tony Pigou	5 of 6	7	7	
Silvana Schenone	5 of 6	13		2
Nathanael Starrenburg	6 of 6	4		
Martin Stearne	5 of 6	12		

¹⁰ The Panel held two meetings of the full Panel to consider the COVID-19 class exemption. These have been recorded as division meetings because the meetings were convened solely to consider the class exemption, not to consider any governance matters.

¹¹ Ms Glen was on parental leave until January 2020.

Dealing with conflicts of interest

The ability to act by division ensures that conflicted members do not form part of the Panel when dealing with matters in respect of which they have an interest. When matters are being dealt with that involve the full Panel, members who have an interest do not participate in the part of the meeting that relates to that matter, nor do they receive the board papers about that matter. The Panel maintains an Interests Register for recording members' interests in accordance with the Crown Entities Act.

Where an enforcement matter before the Panel involves a Panel member, either as a legal adviser to a person the subject of a Panel inquiry, or as a corporate representative of a company that is the subject of an inquiry, the member is not permitted to appear before the Panel. Alternative representation must be sought to represent the person or the company.

Where an enforcement matter before the Panel involves a Panel member, either as a legal adviser to a person the subject of a Panel inquiry, or as a corporate representative of a company that is the subject of an inquiry, the member is not permitted to appear before the Panel.

Delegations

In 2019, the Panel delegated authority to the Chief Executive to approve the issue of no-objection statements in respect of schemes of arrangement for applications that involve immaterial changes in voting control (as defined by the delegation).

In June 2020, a further delegation was made to the Chief Executive to approve the issue of no-objection statements. The delegation is in respect of schemes for which the Panel has issued a letter of intention where there have been no changes to the terms of the relevant scheme in any material respect, no changes to the disclosure provided to shareholders (other than immaterial consequential changes), and no changes to the composition of interest classes or any other relevant matters.

In 2011, the Panel delegated authority to the Chair and Chief Executive to accept on behalf of the Panel enforceable undertakings given to the Panel under section 31T of the Takeovers Act.

In 2009, the Panel delegated authority to the Chief Executive to approve independent advisers under the Code for applications that are 'straightforward' (as defined by the delegation). This authority was updated and re-delegated in April 2016 to extend to straightforward adviser applications for Code company schemes.

Planning

The Panel's main planning documents are the Statement of Intent and Statement of Performance Expectations. The Panel develops a strategic plan each year and keeps its business plans under review.

Directions issued by the Minister and Whole of Government Directions

The Panel was not given any directions under any enactment by the Minister during the year. As an independent Crown entity, the Panel cannot be directed to give effect to government policy. However, it is subject to Whole of Government Directions that do not affect its independence.

Permission to act when interested

There were no occasions during the year when permission was given to a member, in terms of section 68(6) of the Crown Entities Act, to act in a matter despite being interested in that matter.

No invalid acts

There were no acts of the Panel during the year that were invalid under section 19 of the Crown Entities Act. Accordingly, there were no Panel transactions that were invalid, but enforced in reliance on section 20 of that Act.



Obligations to be a good employer

The Panel operates good employer policies and an equal employment opportunities programme. As with the Panel's governance and operational policies, these employee policies are reviewed regularly and are readily available to the Panel's employees through the Staff Handbook. The Panel values its employees and provides a supportive and stimulating work environment. The Panel has eight employees, equating to 7.8 FTEs.

Leadership, accountability and culture

Panel management is committed to leading by example. All staff participate in organisational decisions that impact on them. The Panel has a comprehensive Staff Handbook which sets out the organisation's expectations for professional and collegial behaviour, including a Staff Code of Conduct.

Recruitment, selection and induction

Employment decisions are based on merit. The Panel aims to be inclusive and it values diversity. The small size of the legal team and the specialised field of work means candidates must have appropriate tertiary qualifications and are selected on the basis of their academic record and their ability to work well within the team. In this context, diversity is a further positive element that candidates bring to the selection criteria.

As at 30 June 2020, the Panel's staff comprised five women and three men. Three of the Panel's eight staff were aged 40 or younger, three were in the 41 to 50 age bracket and two were over 50. The ethnicity and disability profile of the staff, together with the break-down of their work categories, is shown in the table overleaf.

Employee characteristics as 30 June 2020

Work category	Māori	Pākehā/European		Pasifika	Asian	Other ethnicity	Disability
		Full time	Part time				
Professionals	1	2	1		1	1	
Administration Officers		1					
Managers		1					
Total	1	4	1	0	1	1	0

Employee development, promotion and exit

All staff have regular mentoring and support from management and are encouraged to support each other in a strong team-based culture. All staff have formal annual performance appraisals. The Panel makes internal promotions based on merit and recruits externally where positions cannot be filled internally. The Panel ensures all employees attend training and development opportunities in accordance with the Panel's Training and Development Policy. All leaving staff are offered an exit interview.

Flexibility and work design

The Panel accommodates flexible working arrangements to the extent possible. Staff can utilise remote access for their work computers to work from home as needed. This accommodates family and personal needs and also contributes to the Panel's Business Continuity Plan.

Remuneration, recognition and conditions

Staff salaries are reviewed by the Chief Executive annually, taking into account individual performance, movements of salary in the public and private sectors for comparable positions or experience, and any advice or directions from government relevant to remuneration setting.

The gender pay gap of the Panel executive for the 2019/2020 year was 59% in favour of men. This compares with 65% in favour of men the previous year. The use of the median figure for establishing the gender pay gap in such a small organisation as the Panel can produce significant swings and is particularly impacted by the respective roles of men and women on the Panel executive. In the 2019/2020 year, the Chief Executive and General Counsel, the two roles with the highest salaries, were held by men. This affected the Panel's gender pay gap.

Harassment and bullying prevention

The Panel has a Workplace Bullying and Harassment Policy. This policy encourages employees to take action against any form of workplace bullying or harassment. The Panel has zero tolerance for bullying and harassment.

Safe and healthy environment

The Panel promotes a positive and inclusive work environment. Staff have access to help when it is needed through an Employee Assistance Programme that provides confidential professional advice and counselling. The Staff Handbook includes advice on emergency procedures, and the usual office health and safety equipment is on site, as well as emergency provisions for disaster management.

About Us



> About the Panel

The Takeovers Code came into force on 1 July 2001. Prior to the Code's introduction, New Zealand had been one of the few market economies without a modern takeovers regime.

Functions and powers

The main functions and powers of the Panel are set out in the Takeovers Act. In summary, they are:

- To keep takeovers law and practice under review and to recommend to the Minister of Commerce and Consumer Affairs any changes to the law that the Panel considers necessary
- To consider applications for schemes of arrangement under Part 15 of the Companies Act and indicate whether the Panel has any objection to them
- To investigate any act or omission for the purpose of exercising its enforcement powers or making applications to the Court:
 - › issuing summonses, taking evidence on oath and accepting enforceable undertakings
 - › issuing restraining orders and making determinations
 - › applying to the High Court for permanent orders and for penalties

- To promote public understanding of the law and practice relating to takeovers
- To grant exemptions from compliance with provisions of the Code

Under the Code, the Panel has the power to approve independent advisers and appoint independent experts.

As with other modern takeovers regimes, New Zealand's Code regulates the process of certain share transactions in the companies that are subject to the Code. These transactions then occur in an orderly fashion and all shareholders are subject to, and benefit from, transparent rules.



The Panel and the Code ensure transparent and equitable takeover processes

The role of the Panel and of the Code is to ensure that all shareholders in Code companies have a fair opportunity to participate in control-change transactions such as takeovers, allotments, and acquisitions of parcels of shares. The Code also ensures that shareholders have adequate information to assist their decision-making for these transactions.

The Code achieves this through its two main purposes of transparency and equitable processes.

Transparency is achieved through the disclosures that potential acquirers have to make to shareholders, and the advice that shareholders are given by the Code company's directors and by an independent adviser.

The equitable processes are supported by the Code because the Code requires equality of takeover offer terms and conditions for shareholders and mandates timeframes under which the steps of a takeover must occur. For shareholder meetings to approve allotments and acquisitions, the Code ensures that only 'disinterested' shareholders can approve the resolution; the allottee or acquirer and their associates are not allowed to vote to approve the resolution.

The Panel focuses a significant proportion of its resources on ensuring that the Code is complied with by investors in Code companies and by Code companies themselves. But compliance is not limited to these parties. Rule 64 of the Code, the 'truth in takeovers' rule that prohibits misleading or deceptive conduct in relation to Code-regulated transactions, applies to every person, including financial advisers and the media.

The Code achieves its role through its two main purposes of transparency and equitable processes.



The Panel has strong enforcement powers under the Takeovers Act, including the power (under section 32 of the Act) to hold hearings, take evidence under oath and make confidentiality orders. The Panel also has the power to issue temporary restraining orders that prevent share transactions from being undertaken. It can issue permanent orders requiring persons to publish statements or preventing persons from publishing statements. When exercising its enforcement powers, the Panel acts judicially, as a tribunal.

If the Panel's own enforcement actions are not sufficient to remedy a breach of the Code, the Panel can take action through the High Court to obtain permanent orders.

In cases where persons have committed serious breaches of the Code that materially prejudice shareholders or other parties, or that are likely to materially damage the integrity or reputation of New Zealand's securities markets, the Panel may apply to the High Court for a pecuniary penalty against the person in breach. A pecuniary penalty can be up to \$500,000 against an individual or \$5,000,000 against a body corporate, for each breach of the Code.

The Panel's public education work contributes to improving the public's understanding of capital markets so that they have the skills and knowledge to make informed decisions about control-change transactions that affect them. The Panel's law reform function is aimed at ensuring the Code provides optimal protections for shareholders while operating efficiently and effectively as the capital markets innovate.

The Panel's approach facilitates integrity in the takeovers market

In the first few years of the Code's operation, the Panel held a significant number of section 32 meetings. The Panel's published determinations, setting out full explanations of the matters considered at the meetings, have established the Panel's interpretation of the Code on a number of specific fact situations. The Panel also publishes Guidance Notes and articles on how it interprets and enforces the Code.


Following amendments to the Companies Act in 2014 relating to Code company schemes, the Panel has gained experience monitoring different types of transactions structured as schemes of arrangement. As a consequence, the Panel has developed its guidance on Code company schemes with the aim of maintaining the flexibility of schemes, but to also ensure that shareholders have appropriate information, that interest classes are appropriately identified, and that other protections available to shareholders in schemes are appropriate.

This published material, together with the informal assistance that is regularly offered to practitioners by the Panel executive, and the Panel's reputation as a decisive regulator, have all combined to create an environment under which it is now rare that the Panel needs to hold a formal enforcement hearing. This environment is supported by the generally cooperative nature of New Zealand's takeovers practitioners.

Most potential breaches of the Code are found and resolved while documents are still in draft. When an actual breach occurs, it is often voluntarily remedied in accordance with Panel policy (usually requiring a prompt sale of the shares acquired in breach and in some cases, for listed companies, an announcement to the market).

Section 32 meetings are relatively expensive. The Panel's full costs for holding them have in the past been up to approximately \$250,000, and the costs could be higher depending on the complexity of the matter and the number of witnesses. The parties' own costs would likely be at least as much as the Panel's.

The graph on page 29 shows the number of section 32 meetings that have been held since the Code came into force.



Most potential breaches of the Code are found and resolved while documents are still in draft.

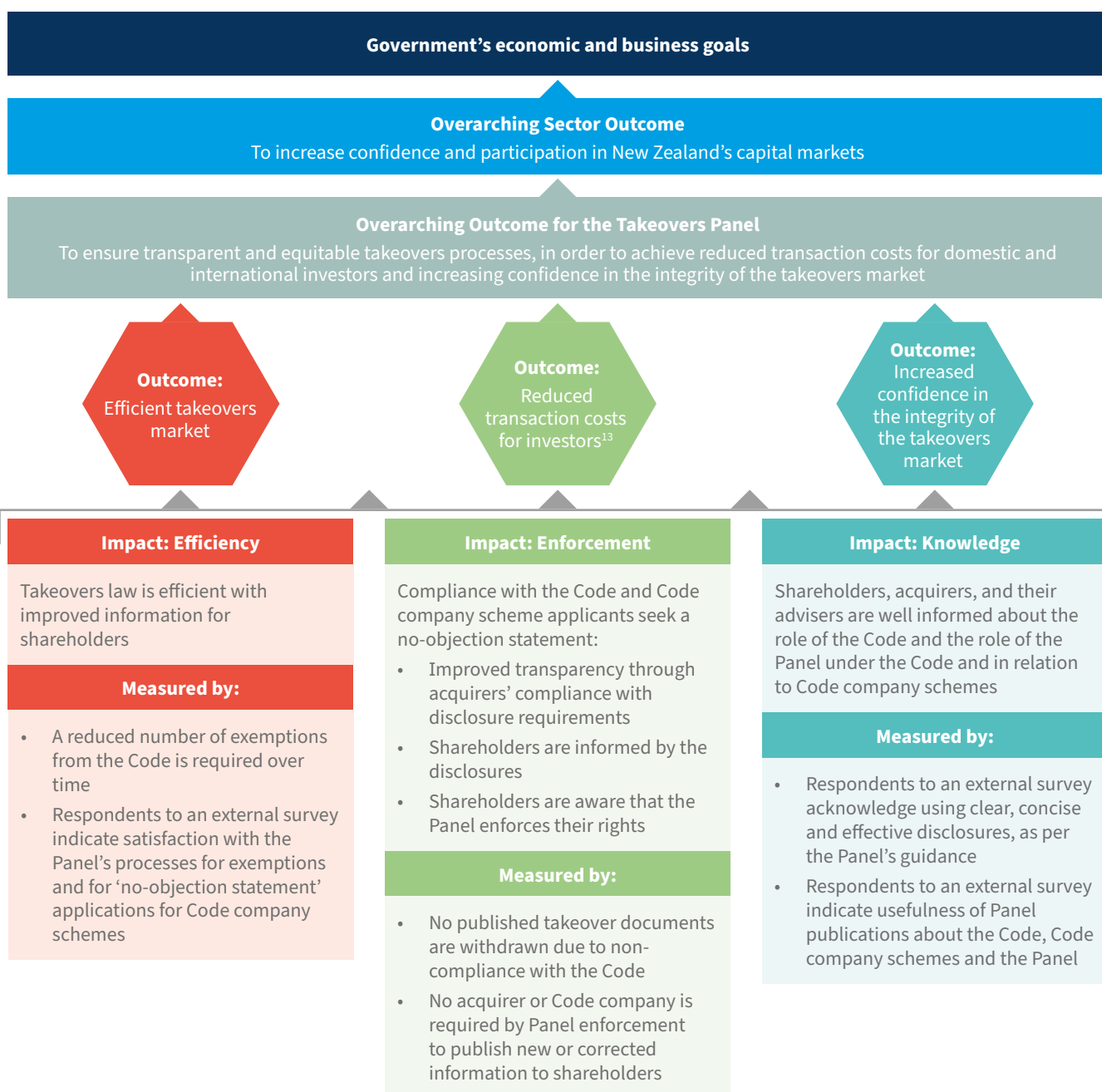
Performance





Measuring the Panel's Performance – Impacts and Outcomes

In the Panel's 2017/2018 – 2021 Statement of Intent, the Panel identified three outcomes to which it contributes through the impacts the Panel expects to have in the takeovers market. The Panel also described how it would measure its achievement of the three impacts that its services are designed to attain. This is depicted below:¹²



¹² The Performance Framework was updated in the Panel's Statement of Intent for 2017/2018 – 2021 to take into account the Panel's role in Code company schemes.

¹³ The transaction costs for investors include access to information about potential and current investments. The Panel's services contribute to the reduction of transaction costs for investors by ensuring access to information about Code-regulated transactions and about investors' rights and obligations as shareholders of Code companies.

Efficiency impact

The Panel's policy function of reviewing takeovers law and market practice and recommending changes to the law is aimed at improving the efficiency and effectiveness of takeovers law. Exemptions can also contribute to an efficient market by, when appropriate, modifying the Code to better meet the circumstances of transactions.

The Panel measures the achievement of the efficiency impact by the extent to which there is a reduction in the number of exemptions granted.

This measure is chosen because amendments to the Code as a result of the Panel's policy work should result in there being a reduction in the number of exemptions granted that relate to the application of the Code to market practice. In addition, the class exemptions of a general nature that the Panel periodically grants are often designed to streamline compliance where it is recognised that the same type of individual exemption has been granted repeatedly for a recurring set of circumstances.¹⁴

Although there will be some volatility relating to market specific or transaction specific circumstances (as evidenced in the 2010 and 2017 years in the graph on page 28), the granting in 2010 of the class exemption from rule 7(d) and rule 16(b) has, from 2011, broadly reduced the number of exemptions and exemption notices.¹⁵ The increased use of schemes of arrangement as a transaction structure has also reduced the number of exemptions granted by the Panel. Schemes are a flexible transaction structure carried out under the Companies Act, often for more complex transactions, and do not require exemption relief from the rules of the Code.

The volatility in the number of exemptions granted arises because an application for exemption can cover several different aspects of a transaction that require exemptions from the Code and can be required for any number of applicants. It is relatively common for the Panel to grant exemptions from several rules and to several persons in response to an application.¹⁶ Multiple exemptions granted to multiple persons are then reflected in an exemption notice which gives effect to the Panel's decision to grant the exemptions. For these reasons, the graph shows fewer exemption notices than the number of exemptions granted.

A second measure of the Panel's efficiency is the level of satisfaction of advisers and other people who engage with the Panel on Code exemption applications and on no-objection statement applications for Code company schemes. The data on page 12 show that the Panel's processes and professionalism are rated highly by stakeholders who complete the Panel's online survey.

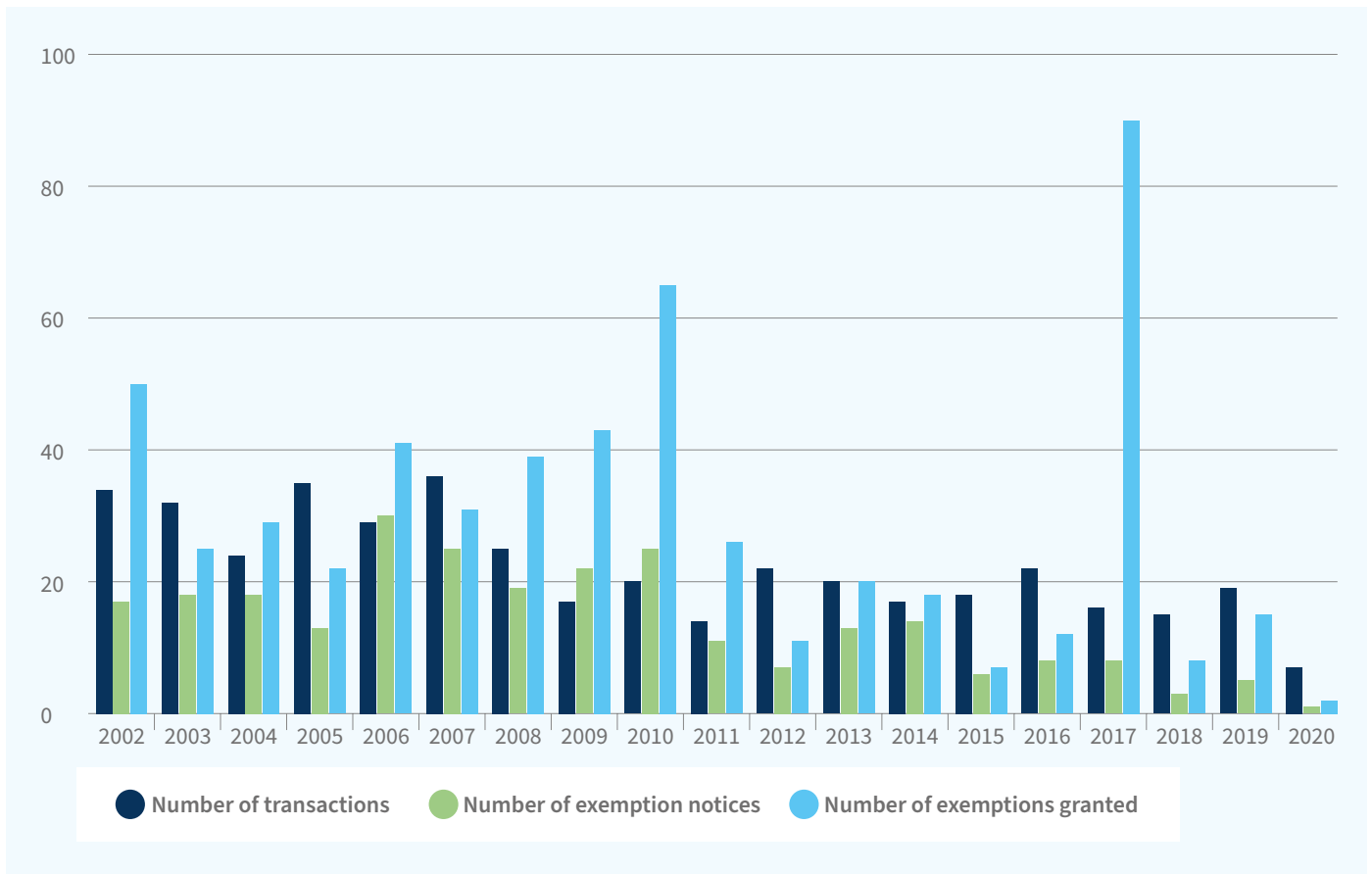
As with other modern takeovers regimes, New Zealand's Code regulates the process of certain share transactions in the companies that are subject to the Code. These transactions then occur in an orderly fashion and all shareholders are subject to, and benefit from, transparent rules.

¹⁴ For the purposes of measuring the impact, exemptions to amend previously granted exemptions are not counted.

¹⁵ Exemptions from rule 7(d) and rule 16(b) of the Code were one of the most commonly granted exemptions.

¹⁶ In 2017, a single exemption application resulted in an exemption for 81 applicants who had each potentially inadvertently breached a rule of the Code. The result was a very high number of exemptions granted in comparison to the number of exemption notices.

Number of exemptions granted to 30 June



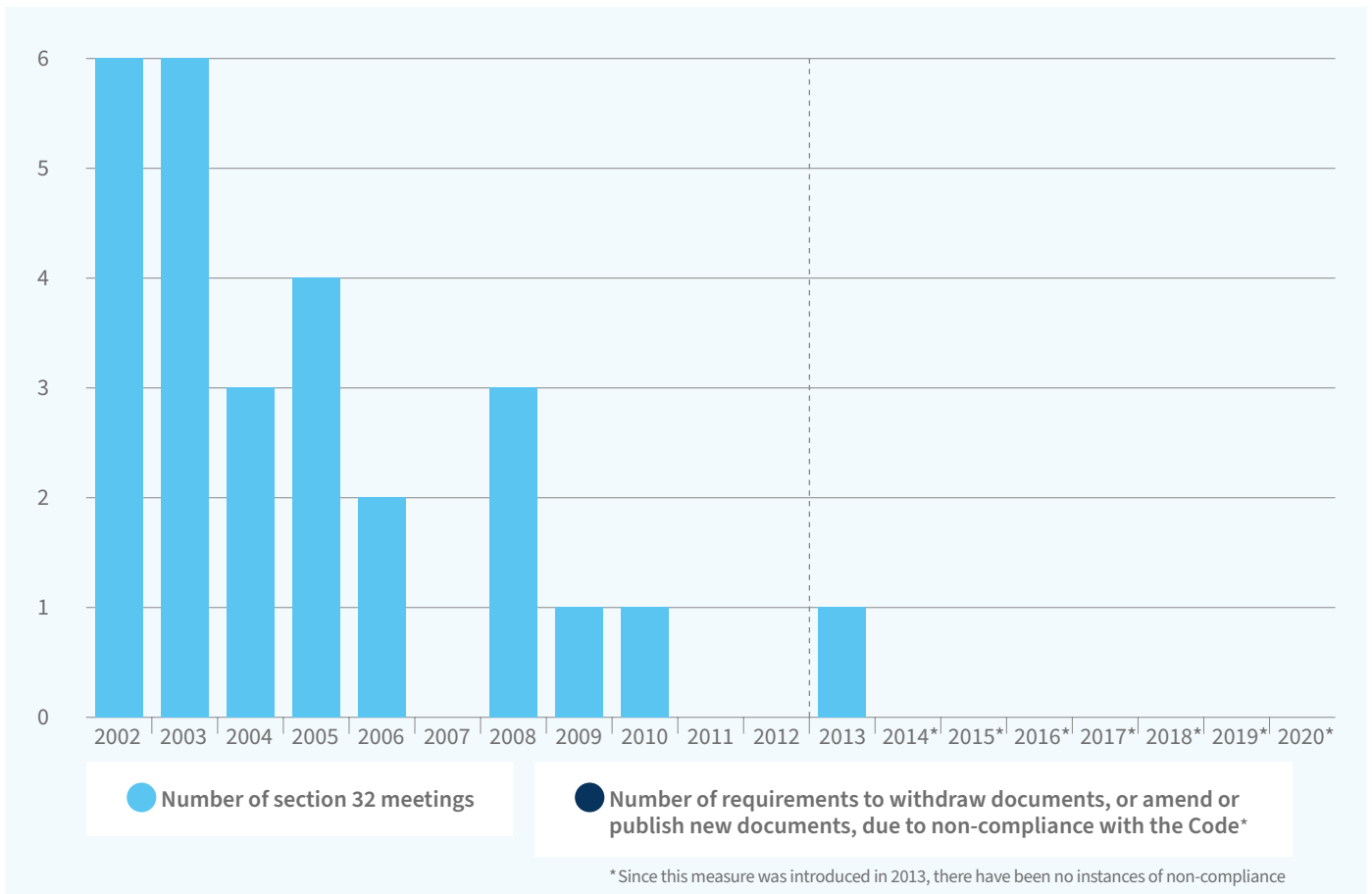
Enforcement impact

The highest priority for the Panel’s resources goes to responding to Code-regulated transactions as they occur. Code-regulated transactions are monitored, and an important part of this occurs through the Panel executive reviewing Code-related documents in draft and giving informal assistance on how to comply with the Code.

This practice, which began around 2005, has contributed to the reduction in formal hearing processes (see the graph below). The Panel aims for 100% compliance with the Code so that shareholders, especially small shareholders, are protected from unfair practices and all shareholders have a transparent and appropriate process under which they make decisions about Code-regulated transactions.

The Panel measures the achievement of this impact by there being no Code-regulated documents required to be withdrawn under a section 32 enforcement action, due to non-compliance with the Code. A related measure is that no acquirer or Code company is required under a section 32 enforcement action to publish new or corrected information to shareholders. The Panel’s view is that this impact is already achieved to a very high level. The graph below records it as a formal measure, beginning with the 2013 year.

Number of section 32 meetings and, from 2013, number of withdrawals of documents or publications of information – to 30 June



Knowledge impact

The Panel's function of promoting public understanding of takeovers law and practice is aimed at all sectors of the takeovers market. The Panel uses its publication *CodeWord* to communicate its views on topical takeovers matters. The Panel's website provides ready access to the Panel's decisions, Guidance Notes, and other useful information.

Holding meetings with legal and financial advisers and giving presentations are other methods used by the Panel to raise awareness about the Code and about the Panel's role as a regulator.

The Panel's services for the promotion of public understanding contribute to better informed shareholders, thus reducing their transaction costs. The Panel measures the achievement of this impact in two ways.

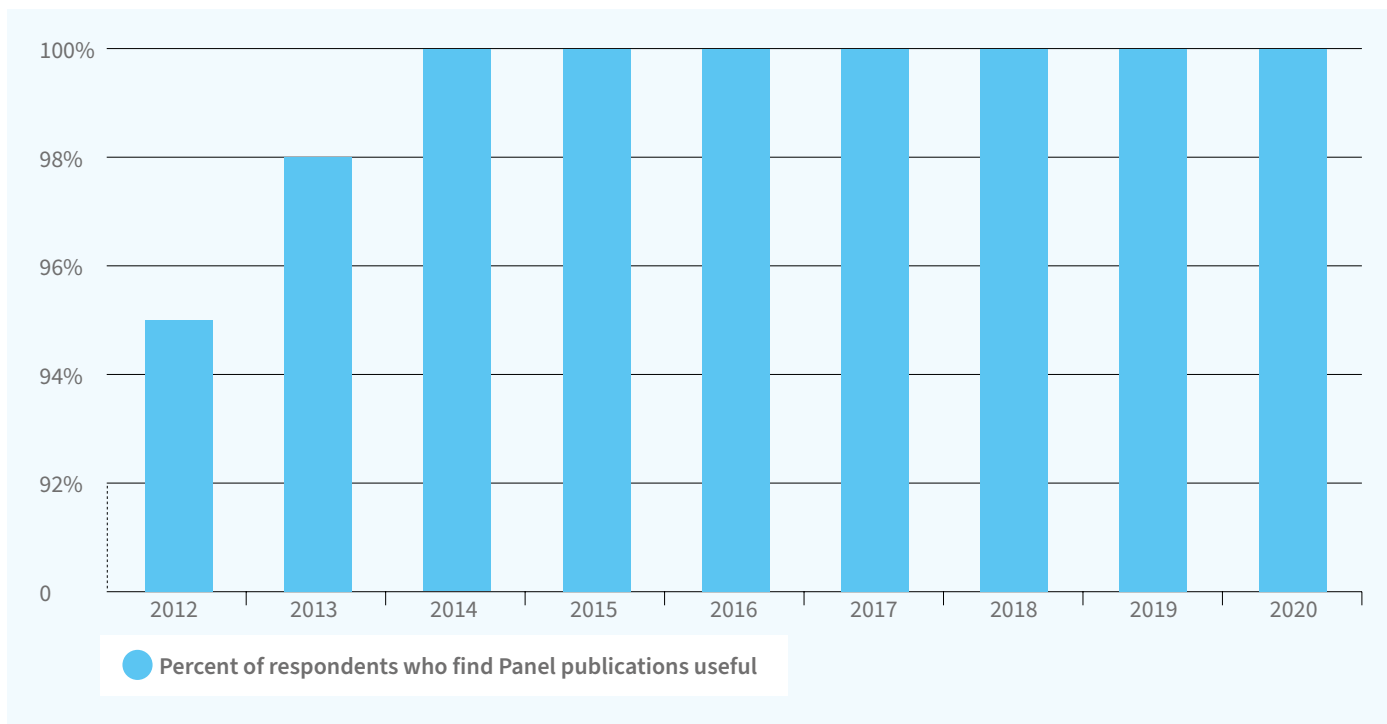
The first measure relates to the Panel's processes that are aimed at ensuring that Code companies and their advisers use clear, concise and effective disclosure when providing information to shareholders.

In 2018/2019, 94% of the Panel's stakeholders that completed the Panel's online survey acknowledged applying the Panel's guidance to use clear, concise and effective disclosure in their communications with shareholders.

In 2019/2020, 87% of the Panel's stakeholders acknowledged applying the Panel's guidance to use clear, concise and effective disclosure. Those that did not apply the Panel's guidance commented that they used the Financial Market Authority's drafting guidance instead or that they needed to explain technical matters.

The second measure relates to how well the Panel informs takeover practitioners and advisers about the Code. The goal of this impact is that at least 90% of the respondents to the Panel's online survey indicate that they find the Panel's publications useful.

Takeovers practitioners who find Panel publications useful¹⁷ – to 30 June



¹⁷ Data based on voluntary survey responses from lawyers and independent advisers who advised on a transaction. Links to the survey are sent at the completion of each transaction. Survey responses are collected using Survey Monkey.

Financial Report





Statement of Responsibility

We acknowledge responsibility for the preparation of these financial statements and Statement of Performance and for the judgements used in them.

We are responsible for any end-of-year performance information provided by the Panel under section 19A of the Public Finance Act 1989.

We acknowledge responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the Panel's financial and non-financial reporting.

In our opinion these annual financial statements and Statement of Performance fairly reflect the financial position as at 30 June 2020 and the operations of the Takeovers Panel for the year ended 30 June 2020.

This annual report was approved by the Panel on 27 November 2020.

Signed on behalf of the Panel by:

Andy Coupe

Chair
Takeovers Panel
27 November 2020

Carl Blanchard

Chair
Audit and Risk Committee
27 November 2020



Statement of Financial Performance

FOR THE YEAR ENDED 30 JUNE 2020

Budget* 2020 \$		Actual 2020 \$	Actual 2019 \$
	Revenue – operating		
1,494,000	Government grant – baseline funding	1,494,000	1,494,000
24,000	Interest	27,850	26,938
181,000	Application fees and costs recoverable	210,182	208,305
0	Other revenue	0	20,000
1,699,000	Total operating revenue	1,732,032	1,749,243
	Revenue – litigation fund		
17,000	Interest	16,858	19,564
17,000	Total litigation fund revenue	16,858	19,564
1,716,000	Total revenue	1,748,890	1,768,807
	Operating expenditure		
757,000	Services and supplies	700,859	789,356
938,000	Personnel costs	979,185	889,014
1,695,000	Total operating expenditure	1,680,044	1,678,370
0	Expenditure – litigation fund	18,388	0
1,695,000	Total expenditure	1,698,432	1,678,370
21,000	Net surplus	50,458	90,437
	This is comprised of:		
4,000	Operating surplus	51,988	70,873
17,000	Litigation surplus	(1,530)	19,564
21,000		50,458	90,437

*Budget figures are unaudited

Explanations of major variances against budget are provided in note 16.

The Statement of Accounting Policies and Notes form an integral part of, and should be read in conjunction with, these financial statements.

Statement of Financial Position

AS AT 30 JUNE 2020

Budget* 2020 \$		Notes	Actual 2020 \$	Actual 2019 \$
Current assets				
234,000	Bank accounts and cash – operations		172,390	143,991
122,000	Bank accounts and cash – litigation fund	3	110,538	122,204
870,000	Short term deposits – operations		948,336	924,111
602,000	Short term deposits – litigation fund	3	608,807	585,047
3,000	Interest receivable – operating		7,328	3,972
8,000	Interest receivable – litigation fund	3	430	7,441
72,000	Debtors and prepayments		161,405	98,658
1,911,000	Total current assets		2,009,234	1,885,424
Non-current assets				
37,000	Property, plant and equipment	7	41,366	53,298
37,000	Total non-current assets		41,366	53,298
1,948,000	Total assets		2,050,600	1,938,722
Current liabilities				
65,000	Creditors and accrued expenses		82,134	57,633
50,000	Employee entitlements		79,627	42,708
115,000	Total current liabilities		161,761	100,341
Equity				
150,000	Capital contribution		150,000	150,000
951,000	Operating funds		1,025,677	973,689
732,000	Litigation fund	3	713,162	714,692
1,833,000	Total equity	8	1,888,839	1,838,381
1,948,000	Total equity and liabilities		2,050,600	1,938,722

*Budget figures are unaudited

The Statement of Accounting Policies and Notes form an integral part of, and should be read in conjunction with, these financial statements.



Statement of Cash Flows

FOR THE YEAR ENDED 30 JUNE 2020

Budget* 2020 \$		Actual 2020 \$	Actual 2019 \$
Cash flows from operating activities			
Cash was received from:			
1,494,000	Government grant – operations	1,494,000	1,494,000
185,000	Application fees and costs recoverable	136,433	228,097
39,000	Interest	48,363	47,499
0	Other revenue	0	20,000
2,000	Goods and Services Tax (net)	2,085	790
Cash was applied to:			
(510,000)	Suppliers	(461,754)	(607,033)
(1,132,000)	Employees and members	(1,136,401)	(1,076,880)
78,000	Net cash flows from operating activities	82,726	106,473
Cash flows from investing and financing activities			
Cash was applied to:			
(19,000)	Payments to acquire property, plant and equipment	(47,985)	(49,493)
(63,000)	Payments to purchase investments	(18,008)	(147,091)
(82,000)	Net cash flows from investing and financing activities	(65,993)	(196,584)
(4,000)	Net increase/(decrease) in cash	16,733	(90,111)
360,000	Add opening cash	266,195	356,306
356,000	Closing cash	282,928	266,195

*Budget figures are unaudited

The Statement of Accounting Policies and Notes form an integral part of, and should be read in conjunction with, these financial statements.



Notes to the Financial Statements

FOR THE YEAR ENDED 30 JUNE 2020

1. STATEMENT OF ACCOUNTING POLICIES

Reporting entity

The Takeovers Panel is a body corporate established by the Takeovers Act 1993.

The Panel's primary function is the regulation of share transactions involving Code companies.

Sources of funding

The Panel is funded by the appropriation of money by Parliament, and the payment of fees by the users of its services and parties to its enforcement actions. It is responsible for the allocation of the money. It sets priorities with care and reviews them continually to ensure that the money is put to the best value for its use.

Basis of preparation

Statement of compliance

The Panel applies Public Benefit Entity Simple Format Reporting – Accrual (Public Sector) and is eligible to do so with total operating expenses below \$2 million. These condensed financial statements have been prepared in compliance with NZ Generally Accepted Accounting Practice (NZ GAAP). All transactions are reported using the accrual basis of accounting and on the assumption that the Panel is a going concern.

Basis of measurement

The accounting principles recognised as appropriate for the measurement and reporting of results and financial position on a historical cost basis have been applied.

Functional and presentational currency

These financial statements are presented in New Zealand dollars (\$) which is the Panel's functional currency.

Use of estimates and judgements

The process of applying accounting policies requires the Panel to make judgements, estimates and assumptions that affect the reported amounts of assets, liabilities, income and expenses. The estimates and associated assumptions are based on past experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Changes in accounting policy

There have been no changes in accounting policy during the 2019/2020 financial year.

Significant accounting policies

Significant accounting policies set out below have been applied consistently to all periods presented in these financial statements.

a. Bank accounts and cash

Bank accounts and cash balances comprise cash on hand, held in cheque or savings accounts, and deposits held at call with banks that form part of the Panel's day-to-day cash management.

b. Term deposits

This category includes all term deposits.

c. Trade and other receivables

Debtors and other receivables are initially measured at the amount owed. Impairment is recorded when it is likely that the amount owed will not be collected, in which case the loss is recorded as a bad debt expense.

d. GST

All items in the financial statements are exclusive of GST with the exception of trade and other receivables and trade and other payables, which are stated with GST included.

The statement of cash flows has been prepared on a net GST basis. That is, cash receipts and payments are presented exclusive of GST. A net GST presentation has been chosen to be consistent with the presentation of the statement of comprehensive income and statement of financial position. The net GST component of operating activities reflects the net GST paid to and received from the Inland Revenue Department. The GST component has been presented on a net basis as the gross amounts would not provide meaningful information for financial statement purposes.

e. Trade and other payables

Creditors and other payables are initially measured at the amount owing. If an invoice has not been received, an accrual for an estimate of the amount to be paid will be recorded.

f. Income tax

The Panel is exempt from income tax under the Income Tax Act 2007.

g. Revenue recognition

The government grant is recognised as revenue when earned and is reported in the financial period to which it relates. Revenue from application fees and costs recoverable is recognised when the relevant services are provided or when the Panel has made the relevant determination under section 32 of the Takeovers Act.

Interest is recorded as revenue as it is earned during the period.

h. Litigation fund

Interest revenue and expenditure on approved litigation fund matters are reported as revenue and expenditure of the Panel in the financial period in which they were derived or incurred. Reimbursements from the Crown to top up the fund are reported as income in the period to which the Panel's claim for reimbursement relates. The balance of the fund is disclosed as a component of equity in the statement of financial position.

i. Property, plant and equipment

Property, plant and equipment are shown at cost or deemed cost less depreciation, and less any impairment losses. The following classes of property, plant and equipment have been depreciated over their economic lives on the following basis:

Office furniture 8.5 – 10.5 percent straight line
Office equipment 17.5 – 40 percent straight line

Intangible assets – Computer software that is not integral to the operation of the hardware is recorded as an intangible asset and amortised on a straight line basis over a period of three years.

j. Short term employee benefits

Employee costs payable represent the Panel's liability for employee annual leave entitlements and salaries accrued up to balance date. This has been calculated on an accrued entitlement basis which involves recognising the undiscounted amount of short term employee benefits expected to be paid in exchange for service that an employee has already rendered. This is calculated at current remuneration rates.

k. Cost allocation policy

For the purposes of the statement of performance direct costs are charged directly to outputs. Indirect costs are allocated on the basis of direct labour hours spent on each output.

2. BUDGET FIGURES

The budget figures are those approved by the Panel on 13 May 2019 and published in the Panel's Statement of Performance Expectations 2019/2020. The budget figures are prepared in accordance with NZ GAAP and are consistent with the accounting policies adopted by the Panel for the preparation of the financial statements but have not been audited.

3. LITIGATION FUND

The litigation fund is to be used for litigation costs that are incurred by the Panel as it enforces compliance with the Takeovers Code or with the Companies Act for Code company schemes, or responds to litigation brought against it. In the year to which this report relates, the Panel approved use of the litigation fund for costs involved in the Panel's investigation of potential Code non-compliance. As a result of this investigation the Panel called a section 32 meeting in August 2020.

A summary of the movements in the fund during the year is as follows:

	2020 \$	2019 \$
Opening balance	714,692	695,128
Interest received	16,428	12,123
Interest accrued	430	7,441
Interest revenue	16,858	19,564
Expenditure on approved litigation	(18,388)	0
Closing balance	713,162	714,692
This is comprised of:		
Bank accounts and cash		
– Call account	110,538	122,204
– Short term deposits	608,807	585,047
Interest receivable	430	7,441
Accounts payable	(6,613)	0
	713,162	714,692

4. APPLICATION FEES AND COSTS RECOVERABLE

Part 2 of the Takeovers Regulations 2000 (**Fees Regulations**) enables the Panel to recover costs with respect to applications received for various approvals, for exemptions, and for certain enforcement actions pursuant to the Takeovers Act. Below is an analysis of the amounts:

	2020	2019
	\$	\$
Exemptions	39,202	44,897
Approvals	17,321	32,298
Enforcement	0	0
Schemes	153,659	131,110
Total	210,182	208,305

5. SERVICES AND SUPPLIES

	2020	2019
	\$	\$
Members' fees	194,135	196,366
Rent	149,000	146,525
Other	357,724	446,465
Total services and supplies	700,859	789,356

6. PERSONNEL COSTS

	2020	2019
	\$	\$
Salaries	950,197	861,631
Employer contributions to defined contribution plans	27,404	25,594
Contractors	0	0
ACC	1,584	1,789
Total personnel costs	979,185	889,014

7. PROPERTY, PLANT AND EQUIPMENT

	Office equipment \$	Office furniture \$	Software \$	Total \$
Cost or valuation				
Balance at 1 July 2018	111,912	47,036	134,878	293,826
Balance at 30 June 2019	119,660	40,871	163,586	324,117
Balance at 1 July 2019	119,660	40,871	163,586	324,117
Additions	9,868	0	8,140	51,416
Disposals	(4,859)	0	0	(21,125)
Balance at 30 June 2020	124,669	40,871	171,726	337,266
Accumulated depreciation				
Balance at 1 July 2018	(93,954)	(37,242)	(126,280)	(257,476)
Balance at 30 June 2019	(98,683)	(34,246)	(137,890)	(270,819)
Balance at 1 July 2019	(98,683)	(34,246)	(137,890)	(270,819)
Depreciation	(14,165)	(1,704)	(13,218)	(32,546)
Elimination on disposal	4,006	0	0	19,203
Balance at 30 June 2020	(108,842)	(35,950)	(151,108)	(270,819)
Carrying amounts:				
At 30 June & 1 July 2019	20,977	6,625	25,696	53,298
At 30 June 2020	15,827	4,921	20,618	41,366

8. ACCUMULATED FUNDS

The Panel seeks to maintain sufficient equity to enable it to manage its ongoing operations and obligations. Surplus funds are invested having regard to the cash flow profile of future commitments. There have been no material changes in the

Panel's management of equity during the period compared with the previous period.

The Panel is not subject to any externally imposed equity requirements.

At 30 June 2020	Opening balance	Surplus/(deficit)	Closing balance
Capital contributed by owners	150,000	0	150,000
Accumulated operating surpluses/(deficits)	973,689	51,988	1,025,677
Accumulated litigation surpluses/(deficits)	714,692	(1,530)	713,692
Total	1,838,381	50,458	1,888,839
At 30 June 2019	Opening balance	Surplus/(deficit)	Closing balance
Capital contributed by owners	150,000	0	150,000
Accumulated operating surpluses/(deficits)	902,816	70,873	973,689
Accumulated litigation surpluses/(deficits)	695,128	19,564	714,692
Total	1,747,944	90,437	1,838,381

9. COMMITMENTS

The Panel has the following non-cancellable operating lease commitments. These amounts are the total of minimum future lease payments under the Panel's non-cancellable operating leases.

	2020 \$	2019 \$
Not later than one year	149,000	149,000
Later than one year and not later than five years	471,833	173,833 ¹⁸
Later than five years	0	0
	620,833	322,833

The Panel signed a deed of extension and variation of lease on its office accommodation lease agreement for a further six years from 1 September 2018. Under a deed of extension and variation of lease the Panel committed to pay rental of \$149,000 (plus GST) per annum from 1 October 2018 to 31 August 2024.

The Panel had no capital commitments at balance date (2019 – no commitments).

10. CONTINGENT LIABILITIES

There were no contingent liabilities at balance date (2019 – no contingent liabilities).

11. CONTINGENT ASSETS

There were no contingent assets at balance date (2019 – no contingent assets).

12. RELATED PARTY TRANSACTIONS

Related party disclosures have not been made for transactions with related parties that are within the normal supplier or client/recipient relationship on terms and conditions no more or less favourable than those that it is reasonable to expect the Panel would have adopted in dealing with the party at arms' length in the same circumstances. Further, transactions with other government agencies (for example, government departments and Crown entities) are not disclosed as related party transactions when they are consistent with the normal operating arrangements between government agencies and undertaken on the normal terms and conditions for such transactions.

Boardroom facilities and hospitality for three of the Panel's board meetings were provided by Bell Gully (1), Deutsche Craigs (1), and MinterEllisonRuddWatts (1).

13. EMPLOYEE REMUNERATION

Key personnel comprise the members of the Panel and the senior management staff.

During the year, the number of employees of the Panel, not being members, who received remuneration and other benefits in excess of \$100,000 were:

	2020	2019
\$270,000-\$279,999	1	0
\$260,000-\$269,999	0	1
\$210,000-\$259,999	0	0
\$200,000-\$209,999	1	0
\$190,000-\$199,999	0	1
\$110,000-\$189,000	0	0
\$100,000-\$109,999	1	1
	3	3

14. BOARD MEMBERS' REMUNERATION

Members are remunerated on the basis of time spent on the work of the Panel, including time spent on Panel division and committee meetings. The Panel has a professional indemnity insurance policy to provide cover for members and employees of the Panel.

Members' fees:

	2020 \$	2019 \$
R.A. Coupe (<i>Chair</i>)	42,636	46,857
C.G. Blanchard (<i>Deputy Chair</i>)	26,442	25,071
M.M. Beattie (<i>retired 1 February 2019</i>)	0	4,018
A.E. Buchly (<i>appointed 1 February 2019</i>)	14,654	7,407
M.D. Glen ¹⁹ (<i>appointed 20 May 2019</i>)	0	0
S.M. Horner	21,423	18,017
R.A. Hunt	12,614	12,592
S.H. Judd	15,326	14,904
A.G. Pigou	12,463	14,217
S.G. Schenone	16,984	16,428
N.W. Starrenburg	13,719	18,067
M.W. Stearne (<i>appointed 1 February 2019</i>)	17,874	6,726
T.J. Symmans (<i>retired 1 February 2019</i>)	0	2,109
R.F. Wallis (<i>retired 20 May 2019</i>)	0	9,952
Total	194,135	196,366

¹⁸ The amounts for 2019 reflected the lease commitments to August 2021. The amounts for 2020 reflect the lease commitments to August 2024.

¹⁹ In consultation with her employer, the Guardians of New Zealand Superannuation, Ms Glen declined to receive Panel member fees.

15. SUBSEQUENT EVENTS

There were no material events subsequent to balance date that would affect the interpretation of the financial statements and/or the performance information (2019 – no material subsequent events).

16. BUDGET VARIANCES

Significant variances from budget were:

Revenue

Total operating revenue was \$33,000 higher than budgeted, with the following key variances:

- Revenue from monitoring schemes of arrangement was \$65,000 higher than budgeted
- Revenue from exemptions was \$9,000 lower than budgeted
- Revenue from approvals was \$27,000 lower than budgeted

These variances were primarily a result of there being more schemes than forecast, and fewer Code-regulated transactions than forecast.

Overall revenue was not affected by the COVID-19 pandemic. The Panel continued operations at full capacity throughout this period.

Expenditure

Total operating expenditure for the year was \$15,000 lower than budgeted, with the following key variances for services and supplies expenditure and personnel expenditure:

Services and Supplies	\$56,000 lower than budget	
Training and memberships	\$39,000 lower than budget	Lower spending on training was the result of COVID-19 related cancellations
Travel and accommodation	\$16,000 lower than budget	Lower spending on travel was due to travel restrictions related to COVID-19. More meetings were held by way of video conference
Consultants and legal costs	\$18,000 lower than budget	Lower spending on review of exemption notices
Computer costs	\$33,000 higher than budget	Higher spending on computer costs due to spending on updates to the Panel's IT assets
Personnel	\$41,000 higher than budget	Higher than budget due to low staff turnover and legal staff being paid more to reflect their higher levels of experience

Spending on consultants and legal costs from the Litigation Fund was higher than budget because the Panel approved use of the Litigation Fund in respect of a potential enforcement matter. This was not budgeted for.



Statement of Performance

FOR THE YEAR ENDED 30 JUNE 2020

PERFORMANCE STANDARDS AND MEASURES FOR THE OUTPUTS OF THE PANEL

The delivery of the Panel's services is funded under Vote Commerce and Consumer Affairs Non-Departmental Output Class – *Administration of the Takeovers Code*.

The end-of-year performance information for the Panel's appropriations includes:

- an assessment of what has been achieved with the appropriation in the financial year;
- a comparison of the actual expenses or capital expenditure incurred in relation to the appropriation in the financial year with the expenses or capital expenditure that were appropriated or forecast to be incurred;²⁰ and
- the cost of service for each output class.

	2018/19	2018/19	2019/20
Assessment of Performance	Budgeted Standard	Estimated Actual	Budget Standard
Enforcement of Takeovers Code and of Schemes of Arrangement involving Code companies – percentage of practitioners satisfied overall with process and with professionalism of the Panel executive.	90%	90%	90%

Actual 2019/20 \$000	Main Estimates 2019/20 \$000	Supplementary Estimates 2019/20 \$000
\$1,494	\$1,494	\$1,494

As shown on pages 43 to 44 below, more than 90% of practitioners are satisfied overall with the process and professionalism of the Panel executive.

	2018/19	2018/19	2019/20
Assessment of Performance	Budgeted Standard	Estimated Actual	Budget Standard
Ensuring adequate funding is available from time to time for the Takeovers Panel to undertake civil proceedings under the Takeovers Act 1993 or in relation to the Takeovers Code, which is unpredictable in both occurrence and extent.	Litigation is undertaken with respect to eligible cases, according to criteria as set out in the funding agreement	Litigation is undertaken with respect to eligible cases, according to criteria as set out in the funding agreement	Litigation is undertaken with respect to eligible cases, according to criteria as set out in the funding agreement

Actual 2019/20 \$000	Main Estimates 2019/20 \$000	Supplementary Estimates 2019/20 \$000
\$18	\$200	\$200

As shown in the Panel's financial statements, the Panel maintains a Litigation Fund to enable it to undertake civil proceedings under the Takeovers Act or Takeovers Code. No proceedings were required to be undertaken over 2019/2020.²¹

²⁰ See the Statement of Financial Performance on page 33.

²¹ As a result of an investigation commenced this year, the Panel called a section 32 enforcement hearing in August 2020.

OUTPUT 1: Services for transactions under Takeovers Code

The consideration of applications for approval to act as an independent adviser or expert or for an exemption from compliance with the Code; the monitoring and enforcement of Code compliance in all Code-regulated transactions.

The Panel used its approval resources to consider applications, including from firms seeking to be approved to act as independent advisers for Code-regulated transactions or events.

The Panel used its exemption resources to consider exemption applications as they arose, and to consider class exemptions (which may be developed on the Panel's own initiative or may be applied for by parties to Code-regulated transactions or events).

The Panel used its enforcement resources to:

- Provide assistance to those with Code obligations to understand their obligations and understand the Panel's likely approach to enforcing the Code
- Maintain 'soft' enforcement by Panel staff reviewing draft documents so that they complied with the principles of the Code, enabling most compliance issues to be easily resolved
- Encourage drafters of Code-regulated documents to apply the Panel's guidance on clear, concise and effective drafting

The Panel used no resources to take formal enforcement action, including holding hearings under section 32 of the Takeovers Act or taking Court proceedings for permanent or punitive orders.

Actual performance against planned performance standards and performance measures for 2019/2020

Performance Measures	Performance Standards		
	Forecast 2019/2020	Actual 2019/2020	Actual 2018/2019
Quantity²²			
Draft documents reviewed, including for clear, concise and effective drafting as set out in the Guidance Notes relating to Code documents, and the percentage of enforcement resources spent on 'soft' enforcement	14-16 taking 80% of resources	7 taking 95% of resources ²³	18 taking 88% of resources ²⁴
Quality			
The Regulations Review Committee does not recommend disallowance of any Panel exemptions	0 disallowed	0 disallowed	0 disallowed
Applicants (exemptions and advisers) are satisfied with the Panel's process, as indicated by an external survey ²⁵	At least 90% of respondents	100% of respondents	100% of respondents
Legal advisers (takeovers and shareholder meetings) are satisfied with the processes for the reviewing of draft meeting and takeover documents as indicated by an external survey	At least 90% of respondents	100% of respondents	100% of respondents
Timeliness			
Applicants are satisfied with the timeliness of the Panel's decisions regarding approval and exemption applications, as indicated by an external survey	At least 90% of respondents	100% of respondents	100% of respondents
Revenue	\$858,000 50% of forecast revenue	\$839,467 48% of actual revenue	\$813,651 46% of actual revenue
Cost	\$847,000 50% of forecast expenditure	\$815,247 48% of actual expenditure	\$772,050 46% of actual expenditure

²² The number of applications received is entirely market-driven. The inclusion of estimated quantities is to provide contextual information. This year the number of Code transactions was lower than forecast and lower than last year. However, the Panel monitored an increased number of schemes of arrangement. This may be one reason for the reduced number of Code-regulated transactions. The COVID-19 pandemic also had an impact.

²³ One further takeover was notified to the Panel, but abandoned by the Code company before draft documents were provided to the Panel for review. The Panel was advised that this transaction was abandoned because of the effects of the COVID-19 pandemic.

²⁴ As in previous years, the focus of the Panel's enforcement resources was aimed at review of draft documents to help ensure compliance with the Code before parties have committed themselves to final published versions. This normally results in little resource having to be focused on final documents.

²⁵ All survey data in this statement of performance are based on voluntary survey responses from lawyers and independent advisers who advised on a transaction. Links to the survey are sent at the completion of each transaction. Survey responses are collected using SurveyMonkey.

OUTPUT 2: Services under Companies Act for Code company schemes

The Panel responds to notifications of schemes of arrangement being undertaken under the Companies Act that involve Code companies (Code company schemes) and considers applications for no-objection statements. The Panel issues letters of intention and no-objection statements in accordance with the Panel's published guidance and procedures.

The Panel used its Code company schemes resources to:

- Engage with practitioners on their draft proposals for undertaking a Code company scheme
- Assess the adequacy of scheme documents for shareholders and the proposed voting procedures as against its published policy for the giving of a no-objection statement
- Encourage drafters of scheme documents to apply the Panel's guidance on clear, concise and effective disclosure
- Consider whether to give a no-objection statement or whether to appear in the High Court to object to a Code company scheme
- Approve independent advisers for Code company schemes

Actual performance against planned performance standards and performance measures for 2019/2020:

Performance Measures	Performance Standards		
	Forecast 2019/2020	Actual 2019/2020	Actual 2018/2019
Quantity²⁶			
Review of draft scheme documents including checking for clear, concise and effective drafting as set out in the Panel's <i>Guidance Note on Schemes of Arrangement</i>	100% of 3-5 scheme notifications	100% of 6 scheme notifications ²⁷	4 of 4 scheme notifications ²⁸
Quality			
Applicants are satisfied with process for no-objection statements as indicated by an external survey	100% of respondents	100% of respondents	100% of respondents
Timeliness			
Applicants are satisfied with timeliness of Panel's decision, as indicated by an external survey	90% of respondents	100% of respondents	100% of respondents
Revenue	\$240,000 14% of forecast revenue	\$402,245 ²⁹ 23% of actual revenue	\$265,321 15% of actual revenue
Cost	\$237,000 14% of forecast expenditure	\$390,639 ²⁹ 23% of actual expenditure	\$251,756 15% of actual expenditure

²⁶ The number of notifications received is entirely market driven. The inclusion of estimated quantities is to provide contextual information.

²⁷ Six scheme applications were received by the Panel. One was discontinued before draft scheme documents were provided to the Panel. This was for reasons unrelated to the COVID-19 pandemic. Two further applications were withdrawn. The Panel was advised that the two applications were withdrawn as a direct result of the COVID-19 pandemic. One of those was withdrawn prior to review of draft documents, and one was withdrawn after the Panel had reviewed the documents and indicated it was minded to provide a no-objection statement, but prior to the application for a no-objection statement.

²⁸ Four scheme applications were received by the Panel. The Panel reviewed draft scheme documents for the four applications. One scheme application was withdrawn after review of draft documents, but prior to the application to the Panel for a no-objection statement.

²⁹ Revenue derived from, and the cost of providing, these services was higher than forecast because the schemes applications involved a higher than anticipated number of complex and novel issues, including issues arising from the withdrawal of transactions because of the effect of the COVID-19 pandemic.

OUTPUT 3: Review takeovers law and practice; Recommend any necessary law changes

Ensuring that the provisions of the Takeovers Code and other takeovers law are effective and relevant, as assessed by review of law and practice, undertaking policy development (policy projects), and recommending amendments to takeovers law as necessary.

The Panel used its policy resources to monitor market practice and undertake policy projects that arose in response to market practices. Resources were used to continue one ongoing policy project: implementation of technical amendments to the Takeovers Act. In addition, resources were used to complete a review of rule 7(e) of the Code and a review of the Panel's enforcement policy in respect of 'last and final statements'.

Actual performance against planned performance standards and performance measures for 2019/2020:

Performance Measures	Performance Standards		
	Forecast 2019/2020	Actual 2019/2020	Actual 2018/2019
Quantity			
Policy projects that arise out of market practice	3 projects commenced 3 projects completed	2 projects commenced 2 projects completed ³⁰ 1 project continuing ³¹	1 project commenced 1 project completed 1 project continuing
Quality			
Every policy project that involves a recommendation of law reform meets the Panel's quality assurance criteria (as demonstrated by performance checklists)	100% of the time	No policy project involved a recommendation of law reform	No policy project involved a recommendation of law reform
Timeliness			
Recommendations to the Minister (if any) sent to Ministry within 10 working days of Panel approval of the recommendations	100% of the time	No recommendations were sent to the Minister	No recommendations were sent to the Minister
Revenue (Funded by government grant and other income, except fees)	\$172,000 10% of forecast revenue	\$262,334 ³² 15% of actual revenue	\$106,128 6% of actual revenue
Cost	\$170,000 10% of forecast expenditure	\$254,765 ³² 15% of actual expenditure	\$100,702 6% of actual expenditure

30 The Panel's policy projects this year were a review of rule 7(e) of the Code (the creep rule) to consider whether the creep rule should apply where a person holds or controls less than 50% of the voting rights in a Code company and a review of the Panel's policy on 'last and final statements'.

31 The policy development processes for the technical amendments project were completed in 2017. Last year, the Panel worked with MBIE officials to bring into force amendment regulations to amend the Code. In the current year, the Panel worked with MBIE officials to enact recommended changes to the definition of Code company in the Takeovers Act through the Regulatory Systems (Economic Development) Amendment Act 2019. These amendments came into force in January 2020. Finally, the Panel is working with MBIE officials to ensure an amendment to facilitate the Panel's publication of Code-regulated documents on its website and an amendment to remove reference to 'share parcels' from the definition of Code company are included in a future bill.

32 The revenue and cost amounts were higher than forecast because of unplanned work required to approve a temporary class exemption to facilitate capital raising in the months following the commencement of the COVID-19 pandemic.

OUTPUT 4: Public Understanding

Inform and educate shareholders, directors and other key stakeholders about the Code and relevant law and respond to public enquiries.

The Panel used its public understanding resources to:

- Undertake informal engagements with market practitioners, company directors, market commentators, and other key stakeholders
- Disseminate educational information about itself and the Code
- Enhance the Panel's website to inform stakeholders and the market
- Deal with public enquiries about Code matters

Actual performance against planned performance standards and performance measures for 2019/2020:

Performance Measures	Performance Standards		
	Forecast 2019/2020	Actual 2019/2020	Actual 2018/2019
Quantity			
CodeWord issues published	2	2	2
Public enquiries responded to	80-100	90	95
Engagements with stakeholders as per Stakeholder Engagement Plan	30-40 individual 4 seminars	30 individual 1 seminar ³³	34 individual 10 seminars ³⁴
Quality			
Market participants found the Panel's published documents, including updates and amendments to those documents made from time to time, were useful, as indicated by an external survey	At least 90% of respondents	100% of respondents	100% of respondents
Market participants found the website useful to a considerable or high degree, as indicated by an external survey	At least 90% of respondents	100% of respondents	95% of respondents
A Stakeholder Engagement Plan was approved by the Panel	Will be achieved	Achieved	Achieved
Timeliness			
Information is published on the website within 10 working days of final Panel sign-off	100% of the time	100% of the time	100% of the time
Public enquiries are responded to within 3 working days of receipt	100% of the time	100% of the time	100% of the time
Revenue (Funded by government grant and other income except fees)	\$446,000 26% of forecast revenue	\$244,844 14% of actual revenue	\$583,706 33% of actual revenue
Cost	\$441,000 26% of forecast expenditure	\$237,781 ³⁵ 14% of actual expenditure	\$553,862 33% of actual expenditure

33 Fewer seminars were held than anticipated. The COVID-19 pandemic contributed to this outcome, because the pandemic restricted the Panel's ability to engage in person with market participants.

34 Focusing on providing information about the Code and the Panel to a wide audience, a total of 10 seminars were presented, including two market update evenings hosted by the Panel, attended by c.100 practitioners and other interested parties in total. In addition, seminars were presented to legal practitioners, two branches of the Institute of Directors, the Overseas Investment Office, the NZX and to journalists.

35 Expenditure on public understanding was lower than budgeted because more time was spent on policy projects as a result of the COVID-19 pandemic. This left less time available for public understanding matters. In addition, the COVID-19 pandemic complicated the Panel's ability to engage with market participants.

Independent Auditor's Report

TO THE READERS OF THE TAKEOVERS PANEL'S FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION FOR THE YEAR ENDED 30 JUNE 2020

The Auditor-General is the auditor of the Takeovers Panel (the Panel). The Auditor-General has appointed me, Karen Young, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the performance information, including the performance information for appropriations, of the Panel on his behalf.

Opinion

We have audited:

- the financial statements of the Panel on pages 33 to 41, that comprise the statement of financial position as at 30 June 2020, the statement of financial performance and statement of cash flows for the year ended on that date, and the notes to the financial statements including a summary of significant accounting policies and other explanatory information; and
- the performance information of the Panel on pages 26 to 30 and 42 to 46.

In our opinion:

- the financial statements of the Panel on pages 33 to 41:
 - › present fairly, in all material respects:
 - its financial position as at 30 June 2020; and
 - its financial performance and cash flows for the year then ended; and
 - › comply with generally accepted accounting practice in New Zealand in accordance with the Public Benefit Entity Simple Format Reporting – Accrual (Public Sector) and
- the performance information on pages 26 to 30 and 42 to 46:
 - › presents fairly, in all material respects, the Panel's performance for the year ended 30 June 2020, including:
 - for each class of reportable outputs:
 - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and
 - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and
 - what has been achieved with the appropriations; and
 - the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.
 - › complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 27 November 2020. This is the date at which our opinion is expressed.

The basis for our opinion is explained below, and we draw attention to the impact of COVID-19 on the Panel. In addition, we outline the responsibilities of the Members of the Takeovers Panel and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

Emphasis of matter – Impact of COVID-19

Without modifying our opinion, we draw attention to the disclosures about the impact of Covid-19 on the Panel as set out in Note 16 on page 41 to the financial statements and pages 42 to 46 of the performance information.

Basis for our opinion

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of the Members of the Takeovers Panel for the financial statements and the performance information

The Members of the Takeovers Panel are responsible on behalf of the Panel for preparing financial statements and performance information that are fairly presented and comply with generally accepted accounting practice in New Zealand. The Members of the Takeovers Panel are responsible for such internal control as they determine is necessary to enable them to prepare financial statements and performance information that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements and the performance information, the Members of the Takeovers Panel are responsible on behalf of the Panel for assessing the Panel's ability to continue as a going concern. The Members of the Takeovers Panel are also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Panel, or there is no realistic alternative but to do so.

The Members of the Takeovers Panel's responsibilities arise from the Crown Entities Act 2004 and the Public Finance Act 1989.

Responsibilities of the auditor for the audit of the financial statements and the performance information

Our objectives are to obtain reasonable assurance about whether the financial statements and the performance information, as a whole, are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of these financial statements and the performance information.

For the budget information reported in the financial statements and the performance information, our procedures were limited to checking that the information agreed to the Panel's statement of performance expectations.

We did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the financial statements and the performance information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Panel's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Members of the Takeovers Panel.
- We evaluate the appropriateness of the reported performance information within the Panel's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Members of the Takeovers Panel and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Panel's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based

on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Panel to cease to continue as a going concern.

- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Members of the Takeovers Panel regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Members of the Takeovers Panel are responsible for the other information. The other information comprises the information included on pages 1 to 48, but does not include the financial statements and the performance information, and our auditor's report thereon.

Our opinion on the financial statements and the performance information does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

In connection with our audit of the financial statements and the performance information, our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the financial statements and the performance information or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Independence

We are independent of the Panel in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1: International Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Panel.

Karen Young

Karen Young
Audit New Zealand
On behalf of the Auditor General
Wellington, New Zealand





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**TAKEOVERS
PANEL**

TE PAE WHITIMANA

Te Kāwanatanga o Aotearoa
New Zealand Government