

HALF YEAR REPORT

► For the period ended 31 December 2023



**TAKEOVERS
PANEL**
TE PAE WHITIMANA



Contents

1	Financial Report	3
	Statement of responsibility	3
	Summary of performance to date	3
	The Panel's financial position and outlook	4
	Cost allocation	6
2	Statement of Financial Performance	7
3	Statement of Financial Position	8
4	Statement of Cash Flows	8
5	Notes to the Financial Statements	9
	Note 1 Statement of accounting policies	10
	Note 2 Budget figures	11
	Note 3 Litigation fund	12
	Note 4 Accumulated funds	12
	Note 5 Budget variances	12
6	Projected Level of Operation for the Rest of the Financial Year	13



1 Financial Report

Status

The financial statements in this report have not been reviewed or audited by the Panel's auditors, Baker Tilly New Zealand.

This report refers to comparison figures from the Panel's 2023 Annual Report. Audit of the Panel's financial statements for the year ending 30 June 2023 which has been published. The comparison figures used in this report have not been reviewed or audited by Audit New Zealand.

Statement of responsibility

These financial statements have been prepared for the purpose of the 31 December 2023 Half Year Report of the Takeovers Panel to the Minister of Commerce and Consumer Affairs. They are not prepared for any other purpose and should not be relied upon for any other purpose.

In the course of preparing these financial statements the Panel has complied with NZ GAAP. The budget of the Takeovers Panel for the year ending 30 June 2024 is included in these statements.

Summary of performance to date

Under the Panel's 2023/2024 Statement of Performance Expectations, the Panel is required, in the period up to 30 June 2024, to produce services related to the following outputs:

Output 1: Services for transactions under the Code

Output 2: Services under the Companies Act 1993 for Code company schemes

Output 3: Review takeovers law and practice; recommend any necessary law changes

Output 4: Public understanding

Overview of the Panel's outputs for the first six months of the year

Members and the executive committed 4,603 hours of time to Panel work in the first six months of the year, which was lower than the 4,827 committed in the equivalent period last year. Of the outputs listed below, Output 3 involved the greatest resource commitment of 55% by cost.

The Panel's work related to the outputs as follows (with the equivalent measures for the same period last year in brackets):

Output 1

The Panel reviewed documents for three Code-regulated transactions (i.e., takeovers and shareholder meetings) (3). The Panel commenced two preliminary investigations into possible breaches of the Code (2) and commenced zero formal investigations (0). There were no section 32 meetings held during the six months (0).

The Panel processed six requests for approval of independent advisers during the six months (6). The Panel also processed one individual exemption application during the six months (2).

Output 2

The Panel reviewed one Code company scheme of arrangement (1) and gave one no-objection statement (0) in accordance with the procedure set out in its published guidance.



Output 3

The Panel continued working closely with the Ministry of Business, Innovation and Employment (MBIE) to implement the Panel's April 2022 recommendations for amendments to the Code and the Takeovers Act and other legislation, as well as the last of the Panel's 2017 recommendations. The Panel continued its review of schemes of arrangement under the Companies Act.

Output 4

The Panel published one edition (0) of its periodic news bulletin, *CodeWord*, and updated three guidance notes (0). The Panel continued to provide public understanding services, including individual stakeholder meetings. The Panel continued to maintain and enhance its website and online profile.

The Panel's financial position and outlook

The Panel's operating revenue for the six months, at \$851,252, was \$33,764 or approximately 4% higher than budget, while operating expenditure for the six months, at \$922,404, was \$50,954 or approximately 6% higher than budget. The Panel also earned interest income of \$20,263 on litigation fund deposits and incurred \$0 in litigation fund expenses. The overall result for the Panel for the six months was made up of an operating deficit of \$71,153 and a surplus for the litigation fund of \$20,263. The Panel budgeted an operating deficit of \$53,962 and a surplus of \$7,002 in the litigation fund for the six months. The Panel's operating expenses were higher than budgeted mainly because of a number of unbudgeted one-off expenses, including professional fees paid for advice on a proposed review of the application fees that the Panel charges third parties. One of the aims of the fees review is to ensure that they remain fit for purpose given the period of time that has elapsed since fee levels were last considered, which should result in increased revenue in future years.

A summary of the figures to date is as follows:

	JUL - DEC 2023 \$	JUL - DEC 2022 \$	JUL - DEC 2023 OVERALL BUDGET \$
Operating revenue	851,252	819,807	817,488
Operating expenditure	922,816	824,275	871,450
Operating surplus/(deficit)	(71,564)	(4,468)	(53,962)
Litigation revenue	20,263	6,465	7,002
Litigation expenditure	-	18,352	-
Litigation fund surplus/(deficit)	20,263	(11,887)	7,002
Net surplus/(deficit)	(51,301)	(16,354)	(46,960)



The following summarises the Panel's completed actions and the allocations of resources for the half year to 31 December 2023:

Quantity of Work	Actual 6 months to 31 Dec 2023	Actual 6 months to 31 Dec 2022	Actual 12 months to 30 Jun 2023	Budget 12 months to 30 Jun 2024
Services for transactions				
Draft documents reviewed for Code-regulated transactions	3	3	6	4-6
Section 32 meetings held	0	0	0	0
Services under Companies Act for Code company schemes				
Draft scheme documents reviewed	1	1	2	2-4
Review takeovers law and practice				
Policy projects that arise out of market practice	3 continuing	0 commenced 1 completed 2 continuing	3 continuing	1 commenced 1 completed 2 continuing
Public understanding				
Guidance Notes updated or published	3	0	0	2
Engagement with stakeholders per Stakeholder Engagement Plan	16 individual 0 seminars	4 individual 2 seminars	27 individual 4 seminars	15-30 individual 2 seminars
Public enquiries responded to	19	22	39	30-35



Cost allocation

	Actual 6 months to 31 Dec 2023		Actual 6 months to 31 Dec 2022		Actual 12 months to 30 Jun 2023		Budget 12 months to 30 Jun 2024	
	\$	%	\$	%	\$	%	\$	%
Code transactions	244,466	27	412,153	49	640,100	37	891,000	50
Schemes	110,877	12	92,524	11	250,922	14	141,000	8
Law and policy	507,513	55	243,927	29	682,644	39	510,000	29
Public understanding	59,960	6	92,524	11	177,969	10	231,000	13
Cost allocation	922,816	100	841,128	100	1,751,635	100	1,773,000	100



2 Statement of Financial Performance

For the 6 months ended 31 December 2023

	Notes	Actual 6 months to 31 Dec 2023 \$	Actual 6 months to 31 Dec 2022 \$	Budget 6 months to 31 Dec 2023 \$
Revenue - operating				
Government grant baseline funding		747,000	747,000	747,000
Application fees and costs recoverable		42,534	58,800	45,492
Other income		28,616	-	-
Interest income		33,102	14,008	24,996
Total Revenue - operating		851,252	819,807	817,488
Revenue - litigation fund				
Interest		20,263	6,465	7,002
Total Revenue - litigation		20,263	6,465	7,002
Total revenue		871,514	826,273	824,490
Operating expenditure				
Services and supplies		437,240	347,274	363,954
Personnel costs		485,575	477,002	507,496
Total operating expenditure		922,816	824,275	871,450
Expenditure - litigation fund				
Experts - Litigation		-	18,352	-
Total expenditure		922,816	842,627	871,450
Net profit surplus/(deficit)		(51,301)	(16,354)	(46,960)
This is comprised of:				
Operating surplus /(deficit)		(71,564)	(4,468)	(53,962)
Litigation surplus /(deficit)		20,263	(11,887)	7,002
TOTAL		(51,301)	(16,354)	(46,960)



3 Statement of Financial Position

As at 31 December 2023

	Notes	Actual as at 31 Dec 2023 \$	Actual as at 30 June 2023 \$	Budget as at 30 June 2024 \$
Assets				
Current assets				
Bank accounts - operations		135,247	322,765	81,000
Bank accounts - litigation		294,435	285,675	469,000
Short term deposits - operations		1,030,337	1,003,972	1,055,000
Short term deposits - litigation		586,981	571,846	283,000
Interest Receivable -operations		11,523	9,300	5,000
Interest receivable - litigation		5,753	4,620	2,000
Debtors and prepayments		114,078	89,435	124,000
Total Current assets		2,178,353	2,287,621	2,019,000
Non current assets				
Property, plant and equipment		62,087	73,463	42,000
Total Non current assets		62,087	73,463	42,000
Total Assets		2,240,441	2,361,084	2,061,000
Liabilities				
Current liabilities				
Creditors and accrued expenses		70,423	78,474	115,000
Employee entitlements		36,792	98,494	71,000
Total Current liabilities		107,215	176,968	186,000
Total Liabilities		107,215	176,968	186,000
Equity				
Capital contribution		150,000	150,000	150,000
Operating fund		1,116,319	1,169,288	971,000
Litigation fund		866,907	864,828	754,000
Total Equity		2,133,226	2,184,116	1,875,000
Total liabilities and equity		2,240,441	2,361,084	2,061,000



4 Statement of Cash Flows

For the 6 months ended 31 December 2023

	Notes	Actual 6 months to 31 Dec 2023 \$	Actual 6 months to 31 Dec 2022 \$	Budget 12 months to 30 Jun 2024 \$
Cash flow				
Cash flows from operating activities				
Cash was received from:				
Government grant - operations		747,000.00	747,000.00	1,494,000.00
Application fees & costs recoverable		12,531.00	16,085.00	471,000.00
Interest		50,017.00	17,521.00	13,000.00
Other Income		28,615.00	184,742.00	-
GST		10,784.00	18,240.00	-
Cash was applied to:				
Suppliers		(330,643.00)	(316,407.00)	(444,000.00)
Employees and members		(656,613.00)	(671,592.00)	(1,179,000.00)
GST		-	-	(56,000.00)
Net cash flows from operating activities		(138,309.00)	(4,411.00)	299,000.00
Cash flows from investing and financing activities				
Cash was received from:				
Receipts from sale of property, plant and equipment		1,050.00	-	-
Cash was applied to:				
Payments to purchase investments		(41,500.00)	(13,069.00)	(533,000.00)
Payments to acquire property, plant and equipment		-	(4,138.00)	(25,000.00)
Total Cash flows from investing and financing activities		(40,450.00)	(17,207.00)	(558,000.00)
Net increase/(decrease) in cash		(178,759.00)	(21,618.00)	(259,000.00)
Opening cash		608,440.00	808,740.00	769,000.00
Closing cash		429,682.00	787,122.00	510,000.00
This is represented by				
Bank accounts and cash - operations		135,247.00	225,546.00	-
Bank accounts and cash - litigation		294,435.00	561,576.00	-
TOTAL		429,682.00	787,122.00	-



5 Notes to the Financial Statements

For the period ended 31 December 2023

1. Statement of accounting policies

Reporting entity

The financial statements presented here are for the entity Takeovers Panel, a body corporate established by the Takeovers Act 1993.

Nature of business

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

Basis of preparation

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 an historical cost basis have been applied.

Functional and presentational currency

These financial statements are presented in New Zealand dollars (\$) which is the entity'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

All accounting policies were applied consistently during the 6 months since June 2023 and no changes have been made.

Significant accounting policies

(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 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 1993. Interest is recorded as revenue as it is earned during the period.

(h) Litigation fund

Interest income 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 (if any) 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

2. Budget figures

The budget figures are those approved by the Panel on 4 May 2023 and published in the Panel's Statement of Performance Expectations 2023/2024. 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 interim financial statements.



3. Litigation fund

	6 months to 31 Dec 2023 \$	6 months to 31 Dec 2022 \$	12 months to 30 Jun 2023 \$
Opening balance	866,907	840,944	864,829
Interest received	14,510	5,138	22,223
Interest accrued	5,753	1,328	4,620
Expenditure on approved litigation	-	(18,352)	(24,764)
Closing balance	887,170	829,057	866,907
This is comprised of:			
Call account	294,435	561,576	285,675
Short term deposits	586,981	267,692	571,846
Cash to be transferred	-	-	4,766
Interest receivable	5,753	1,328	4,620
Accounts payable	-	(1,539)	-
Closing balance	887,170	829,057	866,907

4. Accumulated funds

	Opening balance \$	Surplus / (deficit) \$	Closing balance \$
At 31 December 2023			
Capital contributed by owners	150,000	-	150,000
Accumulated operating surpluses/(deficits)	1,167,209	(71,153)	1,096,056
Accumulated litigation surpluses/(deficits)	866,907	20,263	887,170
Total at 31 December 2023	2,184,116	(50,890)	2,133,226
At 31 December 2022			
Capital contributed by owners	150,000	-	150,000
Accumulated operating surpluses/(deficits)	1,217,628	(4,468)	1,213,160
Accumulated litigation surpluses/(deficits)	840,944	(11,887)	829,057
Total at 31 December 2022	2,208,572	(16,354)	2,192,217

5. Budget variances

Significant variances from budget were:

Revenue

The Panel's operating revenue for the six months, at \$851,252, was \$33,764 or approximately 4% higher than budget. The key variance from budget was revenue from other income, which was \$28,616 higher than budgeted. This was



unbudgeted income from NZX RegCo for a staff secondment. In addition, interest income was also higher than budget because of higher than expected interest rates.

Expenditure

Total operating expenditure for the period was \$922,404, which was \$50,954 or approximately 6% higher than budget. The key variances from budget were:

- Printing and publications expenditure was \$15,207 above budget. This related to higher than budget expense for the Panel's Annual Reports. Because of delays in the Panel's audit for FY2022, the Panel incurred some of the costs for its 2022 Annual Report as well as its 2023 Annual Report in the period.
- Experts' fees were \$28,826 above budget. This variance was primarily as a result of fees paid for advice on a proposed review of the application fees that the Panel charges third parties. One of the aims of the fees review is to ensure that they remain fit for purpose given the period of time that has elapsed since fee levels were last considered, which should result in increased revenue in future years.
- Salaries were \$21,921 below budget. This was a result of staff turnover.
- Training and memberships were \$25,146 above budget with majority of that coming from leadership development training for the Chief Executive.

Net operating surplus/(deficit)

The Panel recorded an operating deficit of \$71,153 when a deficit of \$53,962 had been budgeted.

6 Projected Level of Operation for the Rest of the Financial Year

Over the remainder of the financial year, the Panel will continue to carry out its responsibilities for administration of the Code and reviewing schemes of arrangement involving Code companies. The level of Code-regulated and Companies Act-regulated schemes activity has been similar to the previous year, and activity is expected to remain steady over the second half of the year.

The Panel intends to maintain its current complement of seven staff. Currently all positions are filled. The Panel's strong co-regulatory relationships with NZX Limited and the Financial Markets Authority will be maintained through regular engagements between the respective teams.

The Panel will continue to focus more resources on policy and law projects. The Panel updated its market guidance on schemes of arrangement, independent advisers and misleading and deceptive conduct and continued to work with MBIE officials to move its 2022 recommendations for law reform forward. The Panel will continue to progress these law reform recommendations. The Panel intends to make law reform recommendations in respect of schemes of arrangement in the first half of 2024. The Panel will also continue to focus on public understanding services through ongoing meetings with stakeholders, public speeches and presentations, and market updates.

The Panel receives consistently positive feedback from takeovers practitioners and market participants about its responsiveness and approachability, as well as about the value of its published guidance. The Panel receives this feedback through its stakeholder engagement and through its online survey. The Panel intends to continue to rise to the challenge of meeting the market's high expectations.