

Takeovers Panel Annual Report

FOR THE YEAR ENDED 30 JUNE 2009 ■



■ *www.takeovers.govt.nz*

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



Contents

FUNCTIONS AND POWERS OF THE PANEL	4
CHAIRMAN'S REVIEW	5
MEMBERS OF THE TAKEOVERS PANEL	9
CHIEF EXECUTIVE OFFICER'S REPORT	11
ACHIEVEMENT OF THE PANEL'S NON-FINANCIAL GOALS	11
Framework of the Code and review of market practices	
Enforcement of the Code	
The granting of exemptions	
The approval function	
Promoting public understanding of the law and practice relating to takeovers	
International liaison	
ACHIEVEMENT OF THE PANEL'S FINANCIAL GOALS	14
OTHER MATTERS	14
Panel support services	
Relations with Ministry of Economic Development	
CONCLUSION	15
ADDITIONAL DISCLOSURES	16
Directions issued by the Minister	
Obligations to be a good employer	
Permission to act when interested	
FINANCIAL REPORT	17
Sources of funding	
Statement of responsibility	
Statement of financial performance	
Statement of financial position	
Statement of movements in equity	
Statement of cash flows	
Notes on financial statements	
STATEMENT OF SERVICE PERFORMANCE	33
AUDIT REPORT	40
EXECUTIVE OF THE PANEL	42
How to contact us	

FUNCTIONS AND POWERS OF THE PANEL

The functions of the Takeovers Panel are set out in section 8 of the Takeovers Act 1993 and section 14 of the Crown Entities Act 2004. In summary, the Panel's functions are:

- > To keep under review the law relating to takeovers of specified companies and to recommend to the Minister any changes to that law it considers necessary;
- > For the purposes of its review of the law, to keep under review practices relating to takeovers of specified companies;
- > To investigate any act or omission or practice for the purpose of exercising its powers under the enforcement provisions of the Act;
- > To make determinations and orders and make applications to the Court under the enforcement provisions of the Act;
- > To co-operate with any overseas regulator and for that purpose to communicate to that regulator information obtained by the Panel in the performance of its functions and powers which the Panel considers may assist that regulator in the performance of its functions;
- > To promote public understanding of the law and practice relating to takeovers;
- > Any functions that are incidental and related to, or consequential on, the other functions set out above.

In exercising its functions and powers the Panel must comply with the principles of natural justice.

The Panel is a body corporate and is a separate legal entity from its members, officers, employees and the Crown (section 15 Crown Entities Act).

The Panel's main powers are set out in Parts 3 and 4 of the Takeovers Act 1993 and section 17 of the Crown Entities Act. In summary, these powers of the Panel are:

- > To issue summonses and to take evidence on oath;
- > To carry out inspections and obtain evidence at the request of overseas regulators;
- > To make confidentiality orders;
- > To accept undertakings that are enforceable by the Courts;
- > To inspect documents, and to authorise the Registrar of Companies or any other person to undertake inspections;
- > To grant exemptions from the Code;
- > To enforce the Takeovers Code by:
 - making determinations on whether a person is complying with the Code;
 - issuing restraining orders and compliance orders; and
 - applying for Court orders;
- > To do anything that a natural person of full age and capacity may do, for the purpose of performing the Panel's functions (e.g., making applications to Court in respect of matters that are relevant to its functions and powers).

The main statutory powers dealing with the Panel's governance, operation, reporting and financial obligations are set out in the Crown Entities Act.

Under the Takeovers Code the Panel has powers to approve independent advisers and appoint independent experts.

This annual report was approved by the Takeovers Panel on 13 August 2009.



D O Jones
Chairman



C G Giffney
Deputy Chairman

Chairman's Review

The global financial turmoil has had a significant effect on the market for corporate control in New Zealand. The number of new takeovers in the past year has been the lowest since the Code came into force in July 2001. However, this fall-off in transactional activity has given the Panel the opportunity to put more resources into policy work, including the publication of discussion papers on upstream takeovers of code companies and a review of the buybacks class exemption. The Panel has also given guidance to the market on a number of important Code-related issues. The Panel has made a number of administrative changes in response to the Government's "value for money" initiatives and is progressively implementing the decisions made under its 2007 review of its governance arrangements. These matters are touched on below along with a brief review of the past year.

■ UPSTREAM TAKEOVERS

The most significant of the Panel's policy work during the year has been the review of the operation of the Code in relation to upstream takeovers. The issue was highlighted by BG Group plc's attempted takeover in Australia of Origin Energy Limited, which has a majority shareholding in Contact Energy Limited, a New Zealand code company. If that takeover had been successful it would have resulted in BG Group obtaining control of Origin's holding in Contact, an acquisition of control that would have required compliance with the provisions of the Code.

Before beginning its Origin takeover bid BG Group applied for an exemption from the Panel to enable it to proceed with that bid. The Panel approved the exemption sought but ultimately it was not formally granted because the takeover did not proceed. The exemption would have required BG Group to make a follow-on offer for Contact had its offer for Origin proceeded. Among other issues raised by the exemption was the process for determining the offer price for any follow-on offer made for Contact.

The Panel published a discussion paper in May 2009 putting forward for market comment several options for dealing with the problems associated with upstream takeovers, ranging from a complete exemption for the downstream acquisition of control, provided the upstream takeover is for a company listed on an exchange in a reputable jurisdiction, through to various possible class exemptions related to the purpose and value of the acquisition, and to maintaining the status quo where each case for an exemption is treated on its merits.

The Panel is currently analysing the submissions received. It expects to publish the outcome of its deliberations in the first quarter of the 2009/2010 year.

■ ENFORCEMENT ACTIONS

Enforcement work is the largest of the Panel's outputs. Major enforcement activity during the year concerned:

- > David M Knott/Rubicon Limited - in relation to issues arising from the casting of votes by various investment funds managed by Mr Knott in favour of a partial takeover offer made by those funds for Rubicon Limited.
- > Cynotech Holdings Limited/Allan Hawkins/CBD Solutions Limited - in relation to the acquisition of Cynotech shares by CBD Solutions while that company was an associate of Hawkins and his interests.



D O Jones
Chairman

■ DAVID M KNOTT / RUBICON LIMITED

In June 2009 the Panel held a meeting under section 32 of the Takeovers Act 1993 in relation to the partial takeover of Rubicon by various funds controlled by Mr Knott. The Panel determined that Dorset Asset Management, a company controlled by Mr Knott, had not complied with rule 64 of the Code by voting shares owned by Knott Funds in favour of the partial takeover offer made by those funds for Rubicon. This was the first occasion on which the Panel had formally considered a matter in relation to rule 64 of the Code.

Rule 64 prohibits misleading or deceptive conduct in relation to Code-regulated transactions or events. The conduct of voting the Knott-owned shares was misleading because votes cast by an offeror cannot be counted in a vote under rule 10 of the Code (which is required in order for such a partial offer to succeed) and the fact that the shares had been voted was not advised to Rubicon. The shares were held through a series of nominees and it was impossible for the share registrar to identify the beneficial owner of these shares when they were voted for or against the takeover.

The Panel was satisfied that the conduct was inadvertent and arose from omissions by various parties to accurately carry out Mr Knott's instruction to not vote the shares in favour of the partial offer. The Panel's decision explained, however, that non-compliance with rule 64 did not require that there be an intention to mislead or deceive, only that a representative person could have been misled or deceived by the action in question.

The Panel decided not to seek any remedies against Dorset Asset Management because the behaviour was inadvertent and no one appeared to have been directly harmed by it.

■ CYNOTECH HOLDINGS LIMITED / ALLAN HAWKINS / CBD SOLUTIONS LIMITED

In February 2009 a market announcement was made by Cynotech Holdings that CBD Solutions Limited had given an enforceable undertaking to the Panel that a parcel of Cynotech Holdings shares that it held, representing 2.99% of the voting rights in the company, would be sold by early April 2009. CBD Solutions is a company which at that time was controlled by the legal advisers to Cynotech Holdings and whose original purchase of the shares was funded by loans from subsidiaries of Cynotech Holdings.

The market announcement noted the Panel's view that CBD Solutions may have been an associate of Mr Hawkins and his interests. It also noted the Panel's view that CBD Solutions may not have complied with the Code when it acquired the parcel of Cynotech Holdings shares, because Mr Hawkins and his interests already held more than 20% of the voting rights in Cynotech Holdings.

This was an example where the Panel achieved a satisfactory solution for possible non-compliance with the Code without incurring the expense of a formal meeting of the Panel under section 32 of the Act.

■ REVIEW OF LAW

One of the functions of the Panel is to keep the law under review. An example that relates to a significant policy area for review is the Panel's current review of upstream takeovers discussed above. Another example is the Panel's recommendations to the Minister in 2008 in relation to schemes of arrangement. Progress on this matter has been affected by the change of Government and there is no firm timetable for progressing the Panel's recommendations.

In addition, the Panel reviews anomalies or areas of uncertainty which may arise in relation to the Code and exemptions under the Code on a continuous basis. The current review of the buybacks class exemption is in this category. The Panel is also currently working on a range of technical amendments to the law, the need for which has come to light in the course of Code transactions over the last few years.

■ GUIDANCE

Improving public understanding of takeovers law is an important function of the Panel. The Panel achieves this through engaging with market participants in person, participating in industry seminars, the publication of *Code Word* on a periodic basis, the maintenance of an up-to-date and comprehensive website and the publication of guidance notes. In the last year the Panel has published three guidance notes:

- > In December 2008 the Panel published a guidance note on the recovery of takeovers expenses by target companies under rule 49 of the Code.
- > In June 2009 two guidance notes were published. The first explained the application of the various timing rules contained in many rules of the Code. The second explained the application of rule 7(e), known as the “creep” rules, where joint holders and controllers of shares are involved.

As part of its communication with and guidance to the market, the Panel held a meeting in Auckland in May 2009 attended by some 60 market participants. The Panel took the opportunity to explain some of its recent activities and listened to feedback from those attending.

■ ARRANGEMENTS WITH SECURITIES COMMISSION

Until recently the Panel had obtained all of its executive and support services from the Securities Commission under a memorandum of understanding. Following the undertaking of a governance review in 2007, and discussions with the Commission and the Ministry, and having regard to the needs of both organisations, the Panel decided it should move towards operating on a stand-alone basis. As a consequence, the Panel became the employer of all its full-time staff during 2008 and plans to relocate to its own premises on 1 September 2009. The Panel continues to enjoy the support of the Commission under its memorandum of understanding and records its gratitude to the Commission for its assistance and support over this period and during its relocation.

■ EXECUTIVE TEAM

The Panel's executive team continues to be led by Kerry Morrell as the Chief Executive Officer with Margaret Bearsley as General Counsel.

During 2008 the four existing Commission staff who were working full-time on Panel matters accepted employment offers from the Panel and became employees from 1 September 2008.

With the pending relocation to its own premises the Panel is employing an Accountant/Administrator who will take over functions that are currently carried out for the Panel by Commission employees.

■ PANEL MEMBERS

The Panel is a committee of the market. The Panel has 11 members who are required to be qualified or experienced in business, law or accounting. Members are variously lawyers, company directors, sharebrokers, investment bankers, accountants or financial advisers. Included in that number is a member of the Australian Takeovers Panel under a reciprocal arrangement made between the governments of Australia and New Zealand. Under that arrangement, the Chairman of the New Zealand Panel sits as a member of the Australian Takeovers Panel.

The term of office of the Panel's Deputy Chairman, Alastair Lawrence, expired in September 2008. Mr Lawrence had been a Panel member since 1993 and was not seeking reappointment to the Panel. Current member, Colin Giffney, was appointed to succeed Mr Lawrence as Deputy Chairman. Messrs Andy Coupe and Murdo Beattie, both investment bankers, were appointed to the Panel on 25 September 2008 for five year terms.

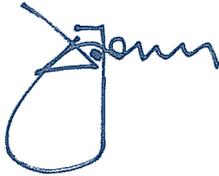
■ RELATIONSHIP WITH AUSTRALIAN PANEL

The reciprocal arrangement with the Australian Panel has been very beneficial once more. The Panel has been able to draw on Australian experiences when looking at cross-border consequences of takeovers affecting code companies. Additionally the Panel has been able to consult with the Australian Panel in developing its consultation paper on upstream takeovers.

■ APPRECIATION

My thanks go to the members of the Panel for their dedication, skills and willingness to take part in Panel work, often at very short notice. I thank Kerry Morrell and Margaret Bearsley and the other staff members for their commitment and highly professional work during the past year. I also acknowledge and thank the Ministers of successive governments and officials from the Ministry of Economic Development for their constructive support of the Panel during the year.

I believe 2008-2009 has been a year when the Panel has proved itself responsive to the changing international market environment by putting a greater emphasis on policy development work. We have kept market participants well informed on matters which affect them, including the Panel's views on takeovers law. We will continue to do so in future.

A handwritten signature in blue ink, appearing to read 'D O Jones', with a stylized flourish extending to the right.

D O Jones
Chairman

Members of the Takeover Panel



CHAIRMAN DAVID JONES

Lawyer. Partner of Jones Young, Barristers and Solicitors, Auckland, specialising in mergers and acquisitions and corporate law. Personal adviser to the Minister of Justice on the company law reform programme 1991. Member of the Company Law Monitoring Group 1993. Member of the Panel from its inception as an advisory group. Member of the Australian Takeovers Panel.



DEPUTY CHAIRMAN COLIN GIFFNEY

Specialist corporate adviser. Principal of Giffney & Jones. NZX Adviser and a founding Member of the Market Surveillance Panel. Appointed to the Panel in 2001.



ANDY COUPE

Investment Banker. Consultant at UBS New Zealand, with very extensive transaction experience in both investment banking and capital markets. Appointed to the Panel in 2008.



MURDO BEATTIE

Investment Banker. Partner of the investment banking firm of Cameron Partners Limited. Specialises in advising corporates on merger and acquisition transactions. Appointed to the Panel in 2008



PIP GREENWOOD

Lawyer. Partner of Russell McVeagh and Chair of the Auckland Corporate Advisory Group. Specialising in securities offerings, mergers and acquisitions, takeovers and general corporate advisory work. Former member of the NZX Legal & Regulatory Advisory Board and Chairperson of NZX Unit Trust and Managed Fund Working Group. Appointed to the Panel in 2006.



KEVIN O'CONNOR

Company Director, Wellington-based. Director of Utilico Emerging Markets Limited, and a range of private companies and charitable organisations. Former Chairman of the Market Surveillance Panel of the New Zealand Stock Exchange. Member of the Panel since 1994.



DAVID QUIGG

Lawyer. Partner of Quigg Partners, barristers and solicitors of Wellington, specialising in mergers and acquisitions, takeovers and corporate law. Lecturer in takeovers and mergers and acquisitions law for the Institute of Directors. Member of the Wellington Committee of the Institute of Directors. Appointed to the Panel in 2001.



PETER SCOTT

Investment banker, based in Melbourne. Vice Chairman, Investment Banking, of UBS AG in Australia and a member of the Australian Takeovers Panel since 2002. Appointed to the Panel as the Australian Panel's representative in 2008.



SUE SUCKLING

Independent company director and business consultant. South Island based. Chair of the New Zealand Qualifications Authority, Barker Fruit Processors Limited, ECL Group, HSR Governance Limited, and a director of Restaurant Brands Limited. Appointed to the Panel in 2002.



KEITH TAYLOR

Director and consultant. Wellington-based. Former Group Managing Director of Tower Limited. Deputy Chairman of the Earthquake Commission, Director of Reserve Bank of New Zealand, New Zealand Qualifications Authority, Gough Gough & Hamer Limited, Government Superannuation Fund Authority and a range of private companies and charitable organisations. Appointed to the Panel in 2006.



JOHN WALLER

Independent company director. Auckland-based. Former Partner of PricewaterhouseCoopers. Chairman of BNZ and the Eden Park Redevelopment Board. Independent director of National Australia Bank Limited, Fonterra Co-operative Group Limited, Alliance Group Limited, Sky Network Television Limited, Donaghys Limited and Haydn & Rollett Limited. Appointed to the Panel in 2006.

Chief Executive Officer's Report

The Panel's overall objective is to be an effective and efficient regulator of takeovers enforcing a Takeovers Code that provides for equal treatment of shareholders and a transparent takeover process. While doing this it aims to be respected by market participants and to foster confidence in the integrity of our markets. The Panel believes it achieved that objective in 2008/2009 by its performance in the areas described below.

ACHIEVEMENT OF THE PANEL'S NON-FINANCIAL GOALS

Framework of the Code and review of market practices

In its policy review work the Panel seeks to improve the efficiency of the Code.

The most significant new policy work during the year concerned upstream takeovers. This is where control of a downstream code company changes through the acquisition of a controlling shareholder of the code company rather than through the acquisition of shares in the code company itself. The issue arose in the unsuccessful takeover BG Group plc launched for Origin Energy Limited in 2008 which, if it had not been withdrawn, could have resulted in a change of control of Contact Energy Limited. The Panel issued a discussion paper in April 2009 setting out several options for dealing with the problems arising from upstream takeovers. The Panel is currently analysing the submissions on its discussion paper.

Another significant policy issue for the Panel is the review of the law governing schemes of arrangement and amalgamations under the Companies Act as it applies to the change of control of code companies. This review was undertaken in 2007/2008 at the request of the then Minister of Commerce and the Panel made recommendations to her in May 2008. No response to the Panel's proposals was received before the General Election. The Panel is currently awaiting a response to its recommendations from the present Minister.

Following significant changes to the Code on both 1 July 2007 and 29 February 2008 the Panel has now started working on a further set of technical amendments to the Code.

Since the Panel made no recommendations for law changes to the Minister during the year and the Panel has yet to receive a response to the Panel's law reform proposals for schemes, it was not possible to objectively measure the Panel's policy review work for the year.

Enforcement of the Code

In its work enforcing the Code the Panel aims to improve the level of market compliance with the Code. The purpose of enforcement is to ensure that market participants can be confident that they are operating in a well-regulated market. The Panel's main enforcement powers are under section 32 of the Takeovers Act.

The Panel held one section 32 meeting during the year. This was the first formal action taken by the Panel under the "market manipulation" provisions of the Code which came into force in February 2008. It concerned the partial takeover for Rubicon Limited and the exercise of voting rights for that offer by various investment funds managed by Mr David M Knott. Those funds had made the takeover offer and should not have voted their shares.

In other cases issues were resolved without the need for the Panel to exercise its formal powers. In the case of Cynotech Holdings Limited, CBD Solutions Limited and Mr Allan Hawkins and his associated interests, the Panel did not hold a formal section 32 meeting. After obtaining various documents under summons and corresponding with the parties concerned, the Panel accepted enforceable undertakings from CBD Solutions that it would sell a parcel of Cynotech Holdings shares it owned within a relatively short period to non-associated parties.

CBD Solutions is a company owned and controlled by a partner and consultant of Lowndes Associates, legal advisers to Cynotech Holdings.

There were no Court challenges to the Panel's enforcement actions.

At a detailed level the Panel aims to review all formal takeover documents, often at a draft stage. This contributes to a high level of compliance with the law by the time documents are formally sent to shareholders. The Panel also actively reviewed notices of meeting and reports where Code transactions were being put to a company meeting for approval by shareholders under the Code.

There was a significantly reduced number of takeover notices received during the year (4) compared to last year (12). It is the lowest number of takeover notices received by the Panel in any one year since the Code came into force.

There were 13 code company meetings over the year, the same as in 2007/2008, that considered transactions requiring approval under the Code.

The Panel reviewed all documents relating to takeovers and company meetings and followed up all instances of non-compliance with the law arising from those reviews.

In the broader field of enforcement the Panel has a policy to intervene where a scheme of arrangement involving the change of control of code companies comes before the Courts. The Panel was informed of one such scheme during the year. After discussions with the promoters of the scheme and the review of some of the scheme documentation the Panel decided that it would not seek to be heard in the Court proceedings required for the scheme.

The Panel is confident that its enforcement activities are improving levels of compliance with takeovers law.

The granting of exemptions

The exemption function aims to improve the functioning of the takeovers market by alleviating unintended or unreasonable consequences arising from strict application of the Code, or by allowing otherwise legitimate, but Code non-compliant, transactions to proceed in ways that are consistent with the objectives of the Code.

The Panel has granted a range of exemptions during the year. It has also declined a number of exemptions, although fewer than in some previous years. One of the most significant exemptions considered during the year related to BG Group plc's attempted takeover of Origin Energy Limited. This would have been an upstream takeover of Contact Energy Limited had it proceeded.

In exercising its exemption function the Panel aims to meet the timing needs of the market. In the past year it achieved this in all instances. Some exemption applications are processed within one week. Other applications may take many weeks to process, often because of their complexity and the need to obtain additional information from applicants.

Twenty-nine applications for individual exemption were processed during the year, with no applications for class exemptions (25 and 2 in 2007/2008). The increased number of exemption applications occurred despite the much lower level of takeover activity. A number of exemptions were the by-product of enforcement enquiries where inadvertent breaches of the Code had occurred in the past. Another factor is that there were the same number of code transactions requiring shareholder approval as in the previous year, and some of these transactions need code exemptions to proceed.

During the year the Panel has undertaken a review of the class exemption for buybacks. A discussion paper outlining a number of issues and options was issued by the Panel in May 2009 and the executive is currently analysing the submissions received on the paper.

Overall the Panel is of the view that the responsible exercise of its exemption powers is contributing to a more efficient market.

The approval function

The Panel is required to approve the appointment of independent advisers for takeovers and other transactions effected under the Code. Through its approval function the Panel aims to improve the quality of advice given to recipients of takeover offers and to shareholders entitled to vote on Code-related acquisitions and allotments.

The Panel applies criteria relating to both competence and independence in deciding whether to approve advisers to prepare reports under the Code. The Panel's objective is to review all adviser reports in draft form before they are sent to shareholders, to assess their quality and to see if they adequately address relevant Code and merits issues.

During the year the Panel processed 23 applications for approval as independent advisers, of which two were declined. This was a lower number of applications than the previous year (37), reflecting the reduced level of takeover activity in the final months of the financial year.

The Panel aims to process 80% of these applications within three working days of receiving a complete application. It achieved this in 85% of cases through the year.

Late in the year, as part of its "value for money" initiatives, the Panel decided to delegate approval of straightforward independent adviser applications to me as Chief Executive or, in my absence, to the Panel's General Counsel. This will speed up the time for processing quite a number of applications, reduce the Panel's costs, and lower compliance costs for applicants.

The Panel did not process any applications from target companies for approval under rule 39 of the Code to undertake defensive tactics during the course of a takeover compared with two last year.

One of the Panel's important objectives is to improve the quality of information given to shareholders involved in Code takeovers and transactions. The Panel measures its impact on the quality of adviser reports by the proxy measure of the number of comments it makes on each draft adviser report. The more Panel comments there are the less complete is the report. The aim is to reduce the number of Panel comments to two per report which the Panel believes is an acceptable standard.

In the 2008/2009 year 66% of draft reports reviewed by the Panel executive had two or fewer comments on them. In 2007/2008 only 47% of the reports reviewed by the Panel had two or fewer comments made on them. The average number of Panel comments on each report in 2008/2009 was 2.3 comments per report, down from 3.3 comments in 2007/2008.

Promoting public understanding of the law and practice relating to takeovers

In the past year the Panel has published two editions of its newsletter *Code Word*. The December 2008 issue included the Panel's Guidance Note on the recovery of various takeover expenses by target companies from offerors under rule 49(2) of the Code. The June 2009 edition included Guidance Notes from the Panel on the many timing rules in the Code, and on the application of rule 7(e) of the Code (the "creep" rule) for joint holders or controllers of voting rights.

The Panel aims to publish information about significant changes to the law within a month of those changes occurring. There have been no significant changes to takeovers law in the past year so this objective has not been tested.

The Panel also keeps its website up to date with a complete record of all its exemptions, policies, publications and important enforcement decisions.

The Panel is continuing its practice of seeking feedback from the market about its performance. The Panel arranged a feedback meeting in Auckland in May 2009 attended by some 60 lawyers, independent advisers and merchant bankers, along with five members of the Panel and three from the executive.

The Panel is also continuing with its practice of inviting market participants to join members during breaks in their regular meetings. However, because, as a “value for money” measure, the Panel is halving the number of physical meetings it holds, there are now fewer opportunities to meet the market in this way. In the course of their day to day business activities Panel members make a point of seeking feedback from market participants on relevant issues of the day. This has proved a successful means of keeping in touch with different areas of the market.

The number of enquiries received from the market, at 106 for the year, is around half the level of enquiries dealt with in 2007/2008.

The Panel is confident that the resources it is putting into promoting public understanding of takeovers law is improving the public’s knowledge of takeovers law.

International liaison

Through its international activities the Panel aims to improve the level of co-operation and understanding between international takeovers regulators.

The Panel’s Chairman is a member of the Australian Takeovers Panel and Peter Scott, a member of the Australian Panel, is a member of the New Zealand Panel.

These arrangements and visits help promote a greater level of understanding between the trans-Tasman takeovers regulators.

■ **ACHIEVEMENT OF THE PANEL’S FINANCIAL GOALS**

The main measure by which the Panel’s financial performance can be judged was described in last year’s Statement of Intent as the achievement of ongoing financial viability.

For the year ended 30 June 2009 the Panel recorded an operating surplus of \$10,204, resulting in operating funds of \$308,415 at year end. This is a viable position. It excludes the monies in the litigation fund, which are not available to meet the Panel’s operating needs. The Panel has therefore met its main financial objective for the year.

The financial outcome for the year was an operating result that was very close to \$125,000, better than expected. A significant contributor to this improvement was the reduction of \$88,000 in the cost of services purchased from the Securities Commission over the course of the year. Reflecting the reduced level of transactional activity, third-party operating income was nearly \$109,000 lower than forecast, while non-Commission related operating expenditure was over \$142,000 less than expected. The largest contributor to the lower non-Commission operating costs were members’ fees at over \$121,000 below the forecast level.

■ **OTHER MATTERS**

Panel support services

The Panel is now the employer of all of its full-time staff. The Panel’s two most senior employees transferred from the Securities Commission to the Panel in April/May 2008. The process of change was complete when, on 1 September 2008, the remaining four Panel staff then employed by the Commission became employees of the Panel.

The relocation also means that the Panel has to separate its records from the Securities Commission’s IT system and set up its own IT infrastructure. The Panel went through a competitive closed tender process before choosing the suppliers to be involved in this work.

The Panel’s physical relocation to its own premises, expected to be on 1 September 2009, will mean that the Panel’s change to a stand-alone entity will be complete. The Panel has secured space in Solnet House, on The Terrace in Wellington, which is currently being fitted out to meet the Panel’s requirements.

Relations with Ministry of Economic Development

The Ministry of Economic Development is the Panel's monitoring department. It is also the principal adviser to the Minister of Commerce on policy issues concerning takeovers law.

The Panel executive maintains good working relationships with staff in both the monitoring and policy development areas of the Ministry. These relationships ensure that the two organisations have a good understanding of each other's point of view and are able to work effectively and co-operatively to achieve good outcomes.

■ CONCLUSION

This has been a significant year for the Panel and the executive team with the Panel becoming the employer of its remaining full-time staff. The coming year will mark another milestone with the Panel's physical relocation to its own premises during the early part of the year.

In general terms the Panel has met its financial and non-financial objectives in the past year.

I am grateful for the dedication and support of the executive team, who have at times worked under considerable pressure during this year. They have also responded to the challenge of undertaking an increased amount of policy work as transactional work has slowed. We have all appreciated the leadership and support of the Panel during the year.



K.G. Morrell
Chief Executive Officer

Additional Disclosures

■ DIRECTIONS ISSUED BY THE MINISTER

The Panel has not been given any directions under any enactment by the Minister of Commerce during the course of the past year. Because the Panel is an independent Crown entity for the purposes of the Crown Entities Act the Minister is constrained in his ability to give the Panel any formal directions.

■ OBLIGATIONS TO BE A GOOD EMPLOYER

The Panel is now the employer of its own staff but is not yet in its own premises. The Panel is in the course of establishing its own programme to be a good employer. This is expected to be finalised on the Panel's relocation to its own premises. In the meantime the Panel's staff have participated in aspects of the Commission's good employer policy.

■ PERMISSION TO ACT WHEN INTERESTED

There were no occasions during the year when the Chairman of the Panel gave permission 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.



Financial Report

■ SOURCES OF FUNDING

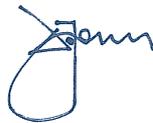
The Panel is funded by the appropriation of money by Parliament and the payment of fees by the users of its services, and parties to its enforcement actions. It is responsible for the allocation of the money. It sets priorities with care and reviews them continually to ensure that the money is used to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

■ STATEMENT OF RESPONSIBILITY

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

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 reporting.

In our opinion these annual financial statements and Statement of Service Performance fairly reflect the financial position as at 30 June 2009 and the operations of the Takeovers Panel for the year ended 30 June 2009.



D O Jones
Chairman

13 August 2009



K J O'Connor
Chairman, Audit Committee

13 August 2009

STATEMENT OF FINANCIAL PERFORMANCE*for the year ended 30 June 2009*

<i>Budget</i> 2009 \$		<i>Note</i>	<i>Actual</i> 2009 \$	<i>Actual</i> 2008 \$
REVENUE - OPERATING				
1,494,000	Government grant – baseline funding		1,494,000	1,444,000
21,000	Interest		17,150	21,715
451,000	Application fees and costs recoverable	5	342,310	571,986
-	Other income		6,466	788
<u>1,966,000</u>	Total operating income		<u>1,859,926</u>	<u>2,038,489</u>
Revenue – litigation fund				
-	Government grant		-	-
-	Recovery of costs		-	-
58,600	Interest		47,409	58,722
<u>58,600</u>	Total litigation fund income		<u>47,409</u>	<u>58,722</u>
<u>\$2,024,600</u>	Total income		<u>\$1,907,335</u>	<u>\$2,097,211</u>
OPERATING EXPENDITURE				
17,000	Audit fees		13,115	11,099
-	Audit fees – IFRS transition		-	5,500
33,000	Communication charges		27,209	35,285
-	Amortisation		2,715	-
400,000	Members' fees	21	278,454	397,275
31,100	Printing and stationery		25,879	34,351
110,000	Consultants and legal		138,561	320,384
44,700	Services and supplies		38,431	32,259
70,000	Travel and accommodation		39,587	71,105
783,000	Personnel costs	11	782,422	149,963
591,600	Securities Commission services	3	503,349	1,026,778
<u>2,080,400</u>	Total operating expenditure		<u>1,849,722</u>	<u>2,083,999</u>
20,000	Expenditure – litigation fund	4	-	-
<u>\$2,100,400</u>	Total expenditure		<u>\$1,849,722</u>	<u>\$2,083,999</u>
<u>\$(75,800)</u>	Net surplus (deficit)		<u>\$57,613</u>	<u>\$13,212</u>
THIS IS COMPRISED OF				
(114,400)	Operating surplus (deficit)		10,204	(45,510)
<u>38,600</u>	Litigation fund surplus / (deficit)		<u>47,409</u>	<u>58,722</u>
<u>\$(75,800)</u>			<u>\$57,613</u>	<u>\$13,212</u>

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

STATEMENT OF FINANCIAL POSITION

as at 30 June 2009

Budget 2009 \$		Note	Actual 2009 \$	Actual 2008 \$
CURRENT ASSETS				
142,286	Cash and cash equivalents – operations		146,536	174,624
446,595	Cash and cash equivalents – litigation fund		489,802	461,044
105,228	Term deposits – operations		115,252	107,979
321,800	Term deposits – litigation fund		311,228	290,770
-	Interest receivable – operating		445	947
5,575	Interest receivable – litigation fund		1,933	3,740
142,579	Trade and other receivables	13	134,041	168,862
-	Prepayments		41,103	18,516
999	GST receivable		4,198	-
<u>1,165,062</u>	Total current assets		<u>1,244,538</u>	<u>1,226,482</u>
NON-CURRENT ASSETS				
-	Computer software		11,285	-
-	Total non-current assets		<u>11,285</u>	<u>-</u>
<u>\$1,165,062</u>	Total assets		<u>\$1,255,823</u>	<u>\$1,226,482</u>
CURRENT LIABILITIES				
64,369	Trade and other payables	15	86,689	132,393
-	Employee entitlements	14	57,756	28,552
-	GST payable		-	11,772
<u>64,369</u>	Total current liabilities		<u>144,445</u>	<u>172,717</u>
Equity				
326,723	Operating funds		308,415	298,211
773,970	Litigation fund	4	802,963	755,554
<u>1,100,693</u>	Total equity		<u>1,111,378</u>	<u>1,053,765</u>
<u>\$1,165,062</u>	Total equity and liabilities		<u>\$1,255,823</u>	<u>\$1,226,482</u>

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

STATEMENT OF MOVEMENTS IN EQUITY*for the year ended 30 June 2009*

<i>Budget</i> 2009 \$		<i>Note</i>	<i>Actual</i> 2009 \$	<i>Actual</i> 2008 \$
	EQUITY AT START OF YEAR			
441,123	Operating funds		298,211	343,721
735,370	Litigation fund		755,554	696,832
<u>\$1,176,493</u>	Equity at start of year		<u>\$1,053,765</u>	<u>\$1,040,553</u>
(114,400)	Operating surplus (deficit)		10,204	(45,510)
38,600	Litigation fund surplus (deficit)		47,409	58,722
(75,800)	Total recognised revenues and expenses		57,613	13,212
(75,800)	Increase (reduction) in equity		57,613	13,212
<u>\$1,100,693</u>	Equity at end of year		<u>\$1,111,378</u>	<u>\$1,053,765</u>
	COMPRISING:			
326,723	Operating funds		308,415	298,211
773,970	Litigation fund		802,963	755,554
<u>\$1,100,693</u>	Equity at end of year		<u>\$1,111,378</u>	<u>\$1,053,765</u>

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

STATEMENT OF CASH FLOWS*for the year ended 30 June 2009*

<i>Budget</i> 2009		<i>Actual</i> 2009	<i>Actual</i> 2008
\$	<i>Note</i>	\$	\$
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash was provided from:			
1,494,000		1,494,000	1,444,000
-		-	-
451,000		377,131	463,192
81,158		66,868	79,657
-		6,466	788
-		-	10,689
Cash was disbursed to:			
(2,079,113)		(880,301)	(1,473,143)
-		(1,005,793)	(507,997)
-		(15,970)	-
<u>(52,955)</u>	7	<u>42,401</u>	<u>17,186</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Cash was provided from:			
-		-	-
Cash was applied to:			
-		(14,000)	-
<u>(38,600)</u>		<u>(27,731)</u>	<u>(29,718)</u>
<u>(38,600)</u>		<u>(41,731)</u>	<u>(29,718)</u>
(91,555)		670	(12,532)
<u>680,436</u>		<u>635,668</u>	<u>648,200</u>
<u>\$588,881</u>	8	<u>\$636,338</u>	<u>\$635,668</u>

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

NOTES TO THE FINANCIAL STATEMENTS*for the year ended 30 June 2009***NOTE 1 STATEMENT OF ACCOUNTING POLICIES****REPORTING ENTITY**

The Takeovers Panel is a body corporate established by the Takeovers Act 1993. The financial statements presented here are prepared pursuant to section 154 of the Crown Entities Act 2004. The Panel is an independent Crown entity for legislative purposes and a public benefit entity for the purposes of complying with Generally Accepted Accounting Practices in New Zealand (NZ GAAP).

The financial statements of the reporting entity, the Panel, for the year ended 30 June 2009 were authorised for issue by the Panel on 4 August 2009.

The Panel's primary function is the regulation of corporate takeovers in New Zealand.

BASIS OF PREPARATION*Statement of compliance*

These financial statements have been prepared in accordance with NZ GAAP. They comply with New Zealand equivalents to International Financial Reporting Standards (NZ IFRS) and other applicable Financial Reporting Standards, as appropriate for public benefit entities.

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.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

Standards, amendments and interpretations issued that are not yet effective and have not been early adopted

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Panel, include:

NZ IAS 1 Presentation of Financial Statements (revised 2007) replaces NZ IAS 1 Presentation of Financial Statements (issued 2004) and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. The statement of comprehensive income will enable readers to analyse changes in equity resulting from non-owner changes separately from transactions with the Crown in its capacity as "owner". The revised standard gives the Panel the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). The Panel intends to adopt this standard for the year ending 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

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

Significant accounting policies

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

- a Cash and cash equivalents

Cash and cash equivalents comprise cash balances on hand, held in bank accounts and short-term deposits that form part of the Panel's day-to-day cash management. They are short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in values. They are held for the purpose of meeting short-term cash commitments and have short maturities of three months or less.
- b Term Deposits

This category only includes term deposits with maturities greater than three months. These deposits are loans and receivables under NZ IFRS. Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Loans and receivables are recognised initially at fair value plus transaction costs and subsequently measured at amortised cost using the effective interest rate method.
- c Trade and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method, less any provision for impairment.
- 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 financial performance 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 fair value and subsequently measured at amortised cost using the effective interest method.
- f Financial instruments

A financial instrument is recognised when the Panel becomes party to a financial contract. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

Financial instruments comprise trade and other receivables, cash and cash equivalents, term deposits and trade and other payables.
- g Income Tax

The Panel is exempt from income tax under the Income Tax Act 2004.
- h Revenue Recognition

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 income is recognised as it accrues, based on the effective interest rate inherent in the respective financial instrument. The effective interest rate exactly discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this rate to the principal outstanding to determine interest income each period.
- i Cost allocation policy

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

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

j Litigation fund

Interest income and expenditure on approved litigation fund matters are reported as income 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.

k Impairment

The Panel considers at each reporting date whether there is any indication that a non-financial asset may be impaired. If any such indication exists, the asset's recoverable amount is estimated.

Given that the future economic benefits of the Panel's assets are not directly related to the ability to generate net cash flows, the value in use of these assets is measured on the basis of depreciated replacement cost.

At each balance date financial assets such as receivables are assessed for impairment. Trade and other receivables are individually assessed for impairment. This assessment is also made with reference to previous experience with debtors. The recoverable amount is the present value of the estimated future cash flows.

An impairment loss is recognised in the statement of financial performance whenever the carrying amount of an asset exceeds its recoverable amount. Any reversal of impairment losses is also recognised in the income statement.

l Short term employee benefits

Employee entitlements 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.

m 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.

n Contingent assets and contingent liabilities

Contingent liabilities are disclosed if the possibility that they will crystallise is not remote. Contingent assets are disclosed if it is probable that the benefits will be realised.

o Superannuation schemes

Obligations for contributions to KiwiSaver are accounted for as defined contribution superannuation schemes and are recognised as an expense in the statement of financial performance as incurred.

p Changes in accounting policy

There have been no changes in accounting policies since the date of the last audited financial statements.

NOTE 2 BUDGET FIGURES

The budget figures are those approved by the Panel on 30 June 2008 and published in the Panel's Statement of Intent 2008-2011. The budget figures are prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Panel for the preparation of the financial statements.

NOTE 3 SECURITIES COMMISSION SERVICES

Although the Panel is an independent Crown entity, up until August 2009 it has not had its own premises or equipment. These services have been provided by the Securities Commission in terms of an agreement negotiated between the Panel and the Commission on an arm's length basis. From 1 September 2009 the Panel is relocating to its own premises and is acquiring its own IT systems, furniture and fittings.

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

TAKEOVERS PANEL

The Panel has been paying the Commission an overhead contribution in respect of the staff the Panel employs and an overhead and salary contribution for the Securities Commission staff utilised by the Panel on a part-time basis. The Panel pays the Commission on the basis of the hours worked by the staff on Panel business. Payments totalled \$503,349 for the year (2008 \$1,026,778).

Prior to April 2008 all Panel staff were employees of the Commission. Progressively from April to September 2008 all full-time staff engaged in Panel work became Panel employees.

The payments to the Securities Commission are paid in advance at the start of each quarter and are reconciled to actual usage at the end of the quarter. The amount due to the Commission at 30 June 2009 was \$8,796 (2008 \$6,052). This is included in Trade and other payables in the Statement of Financial Position.

NOTE 4 LITIGATION FUND

The Panel operates a litigation fund started with an appropriation of \$675,000 (GST not applicable) made by Parliament several years ago. The fund is to be used for litigation costs that are incurred by the Panel as it enforces compliance with the Takeovers Code or responds to litigation brought against it. In the 2006/07 Output Agreement with the Minister the scope of the litigation fund was widened to include involvement in Court proceedings under the scheme of arrangement or amalgamation provisions of the Companies Act affecting Code companies. It is being held on short term deposit.

Parliament made a further appropriation of \$500,000 (GST inclusive) for the year ended 30 June 2009 to top-up the fund to the set level of \$675,000. The Panel has not had to draw from this appropriation during the year.

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

	2009 \$	2008 \$
Government grant received	-	-
Recovery of costs	-	-
Interest received	45,476	54,982
Interest accrued	1,933	3,740
Expenditure on approved litigation	-	-
Surplus (deficit) for the year	47,409	58,722
Opening balance	755,554	696,832
Closing balance	<u>\$802,963</u>	<u>\$755,554</u>

This is comprised of:

Cash and cash equivalents

- Call account	28,157	26,651
- Short term deposits	461,645	434,393
Term deposits	311,228	290,770
Interest receivable	1,933	3,740
	<u>\$802,963</u>	<u>\$755,554</u>

NOTE 5 APPLICATION FEES AND COSTS RECOVERABLE

The Takeovers (Fees) Regulations 2001 enable the Panel to recover costs with respect to applications received for various approvals, for exemptions, and for certain enforcement action pursuant to the Takeovers Act. An analysis of the amounts received for the year ended 30 June 2009 is as follows:

TAKEOVERS PANEL

	2009	2008
	\$	\$
Exemptions	221,544	234,181
Approvals	38,433	78,281
Enforcement – section 32	82,333	259,524
Total	<u>\$342,310</u>	<u>\$571,986</u>

NOTE 6 MANAGEMENT OF EQUITY

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.

NOTE 7 RECONCILIATION OF STATEMENT OF FINANCIAL PERFORMANCE WITH STATEMENT OF CASH FLOWS

	2009	2008
	\$	\$
Net surplus (deficit)	57,613	13,212
Movement in non cash items		
Depreciation / amortisation	2,715	-
Movement in working capital:		
Increase (decrease) in creditors	(28,272)	110,134
(Increase) decrease in receivables and prepayments	10,345	(106,160)
	<u>(15,212)</u>	<u>3,974</u>
Net cash flows from operating activities	<u>\$42,401</u>	<u>\$17,186</u>

NOTE 8 CASH FLOWS

Investing activities

Investing activities are those activities relating to the movements in short term deposits. The cash flows relating to the Panel's investing activities are reported on a gross basis in the statement of cash flows. The amounts involved are held in term deposits which are rolled over frequently through the year.

Financing activities

Financing activities are those activities relating to changes in the equity structure of the Panel.

Operating activities

Operating activities for the purposes of the Statement of Cash Flows include all activities other than investing and financing activities. Activities funded from the litigation fund are included in this category.

Cash

This means cash balances on hand, held in bank accounts, and short term deposits in which the Panel invests as part of its day-to-day cash management.

The closing balance of cash reported in the Statement of Cashflows is comprised of:

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

TAKEOVERS PANEL

	2009	2008
	\$	\$
Cash and cash equivalents – operations		
- Cash	146,536	174,624
- Short term deposits	-	-
Cash and cash equivalents – litigation fund		
- Cash	28,157	26,651
- Short term deposits	461,645	434,393
Closing cash balance	<u>\$636,338</u>	<u>\$635,668</u>

NOTE 9 CATEGORIES OF FINANCIAL ASSETS AND LIABILITIES

The carrying amounts of financial assets and liabilities in each of the NZ IAS 39 categories are as follows:

	2009	2008
	\$	\$
LOANS AND RECEIVABLES		
Cash and cash equivalents	636,338	635,668
Trade and other receivables	136,419	173,549
GST receivable	4,198	-
Term deposits	426,480	398,749
Total loans and receivables	<u>\$1,203,435</u>	<u>\$1,207,966</u>
FINANCIAL LIABILITIES MEASURED AT AMORTISED COST		
Trade and other payables	86,689	132,393
GST payable	-	11,772
Employee entitlements	57,756	28,552
Total financial liabilities measured at amortised cost	<u>\$144,445</u>	<u>\$172,717</u>

NOTE 10 FINANCIAL INSTRUMENTS

Credit risk

Credit risk represents the risk that a counterparty will default on its contractual obligations to the Panel. Financial instruments which potentially subject the Panel to credit risk consist of bank balances, bank term deposits, interest receivable, and trade and other receivables. The maximum exposure to credit risk at the reporting date is the carrying amount of those instruments as detailed below.

There is limited credit risk for the Panel because most of the financial assets are the Panel's cash or investments. These are deposits with Bank of New Zealand which is a registered bank in New Zealand and is rated by Moody's Aa2, Standard & Poors AA as at 31 March 2009. The credit risk is also minimised as the deposits are subject to the provisions of the Government's deposit guarantee scheme that expires in October 2010.

The Panel does not require collateral or security to support financial instruments.

Other than the balances with the BNZ, there are no concentrations of credit risk.

Fair values

All financial instruments are recognised in the Statement of Financial Position and are stated at carrying amounts. Given their short term nature, the carrying amounts are considered a reasonable approximation of their fair values. There has been no change from the previous period in the Panel's exposure to risks, how they arise or the Panel's objectives, policies and processes for managing the risk and the methods used to measure the risks.

Liquidity risk

Liquidity risk represents the Panel's ability to meet its contractual obligations associated with financial liabilities. The Panel evaluates its liquidity requirements on an ongoing basis by preparing quarterly budget analyses which are used to manage the timing of investment

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

TAKEOVERS PANEL

maturity with payments due. The Panel's creditors are mainly those reported as trade and other payables. The Panel aims to pay these within normal commercial terms: that is, by the 20th of the month, if not earlier.

Currency risk

The Panel does not hold any overseas securities or deposits and is therefore not exposed to any currency risk.

Market risk

The only market risk that the Panel is subject to is interest rate risk. Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates.

Fair value interest rate risk is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates. The Panel's exposure to fair value interest rate risk is limited to its bank deposits which are held at fixed rates of interest.

Cash flow interest rate risk is the risk that the cash flows from a financial instrument will fluctuate because of changes in market interest rates. The Panel's exposure to cash flow interest rate risk is limited to its bank deposits which are held at fixed rates of interest.

Details are as follows:

	Effective Interest Rate	Total \$	Maturities 3 months or less \$	Maturities greater than 3 months \$
2009				
Cash and cash equivalents – operations				
- Current account	0.00%	87,199	87,199	-
- Call account	3.15%	59,337	59,337	-
Term deposits	3.20%	115,252	-	115,252
		<u>\$261,788</u>	<u>\$146,536</u>	<u>\$115,252</u>
Cash and cash equivalents – litigation fund				
- Call account	3.15%	28,157	28,157	-
- Short term deposits	3.50%	461,645	461,645	-
Term deposits	3.20%	311,228	-	311,228
		<u>\$801,030</u>	<u>\$489,802</u>	<u>\$311,228</u>
2008				
Cash and cash equivalents - operations				
- Current account	0.00%	70,135	70,135	-
- Call account	4.35%	104,489	104,489	-
Term deposits	8.21%	107,979	-	107,979
		<u>\$282,603</u>	<u>\$174,624</u>	<u>\$107,979</u>
Cash and cash equivalents – litigation fund				
- Call account	8.00%	26,651	26,651	-
- Short term deposits	8.09%	434,393	434,393	-
Term deposits	8.27%	290,770	-	290,770
		<u>\$751,814</u>	<u>\$461,044</u>	<u>\$290,770</u>

The Panel's interest rate risk is limited to interest on call accounts and term investments, the maturities of which are shown above.

Sensitivity analysis

As at 30 June 2009, if the floating interest rate on call deposits had been 100 basis points higher or lower, with all other variables held constant, the surplus/(deficit) for the year would have been \$875 (2008 \$1,311) higher or lower.

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

NOTE 11 PERSONNEL COSTS

	2009 \$	2008 \$
Salaries	746,912	148,817
Employer contributions to defined contribution plans	9,631	1,146
Training	2,804	-
Recruitment	13,425	-
Memberships and subscriptions	9,650	-
Total personnel costs	<u>\$782,422</u>	<u>\$149,963</u>

NOTE 12 INCOME FROM FINANCIAL ASSETS

	2009 \$	2008 \$
LOANS AND RECEIVABLES		
Interest – operations	17,150	21,715
Interest – litigation fund	47,409	58,722
Total interest income from loans and receivables	<u>\$64,559</u>	<u>\$80,437</u>

NOTE 13 TRADE AND OTHER RECEIVABLES

	2009 \$	2008 \$
Trade receivables	134,041	168,862
Total trade and other receivables	<u>\$134,041</u>	<u>\$168,862</u>

The status of trade and other receivables as at 30 June 2009 is as follows:

	Total \$	Not past due \$	Up to 30 days past due \$	Over 30 days past due \$
2009				
Gross receivables	134,041	108,357	13,931	11,753
Impairment	-	-	-	-
	<u>\$134,041</u>	<u>\$108,357</u>	<u>\$13,931</u>	<u>\$11,753</u>
2008				
Gross receivables	168,862	73,141	57,709	38,012
Impairment	-	-	-	-
	<u>\$168,862</u>	<u>\$73,141</u>	<u>\$57,709</u>	<u>\$38,012</u>

NOTE 14 EMPLOYEE ENTITLEMENTS

	2009 \$	2008 \$
Accrued salaries and wages	34,475	5,944
Annual leave	23,281	22,608
Total employee entitlements	<u>\$57,756</u>	<u>\$28,552</u>

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

NOTE 15 TRADE AND OTHER PAYABLES

	2009	2008
	\$	\$
Trade payables	69,779	90,342
Securities Commission services	8,796	6,052
Accrued expenses	8,114	35,999
Total trade and other payables	<u>\$86,689</u>	<u>\$132,393</u>

NOTE 16 COMMITMENTS

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

	2009	2008
	\$	\$
Not later than one year	109,674	-
Later than one year and not later than five years	526,416	-
Later than five years	153,538	-
	<u>\$789,628</u>	<u>-</u>

The Panel has entered into a 6 year operating lease agreement for its new premises commencing 1 September 2009. This lease gives the Panel the right to renew the lease for 6 years subject to a mutually agreed redetermination of the lease rental.

The Panel had no capital commitments at balance date. (2008 - no commitments)

NOTE 17 CONTINGENT LIABILITIES

There were no contingent liabilities at balance date. (2008 - no contingent liabilities).

NOTE 18 CONTINGENT ASSETS

There were no contingent assets at balance date. (2008 - no contingent assets).

NOTE 19 TRANSACTIONS WITH RELATED PARTIES*Transactions with other entities within the Crown*

The Panel is an independent Crown entity for the purposes of the Crown Entities Act 2004. The Crown is its major source of revenue.

The Panel has entered into a number of transactions with other entities within the Crown on an arm's length basis. Where those parties are acting in the course of their normal dealings with the Panel, related party disclosures have not been made for transactions of this nature.

The Panel has a special relationship with the Securities Commission, another independent Crown Entity and therefore also a related party. This is referred to in Note 3 above.

Transactions with suppliers

The Panel has processed a number of exemption and adviser applications from firms where a member of the Panel was a partner in the firm. Those applications were processed and invoiced using the Panel's standard procedures.

Mr J.A. Waller, Member of the Panel, was appointed as Chairman of the Bank of New Zealand during the year. The Panel has had banking facilities with the Bank since it received its own funding in 2000. The facilities are provided on normal commercial terms.

Mr J.A. Waller, Member of the Panel, was a partner of PriceWaterhouseCoopers until December 2008. The Panel did not conduct any transactions with the firm during the year. (2008 - \$14,175)

Mr R.A. Coupe, Member of the Panel, and Mr P.J.M. Scott, Member of the Panel, are employees of UBS New Zealand and UBS AG Australia respectively. The Panel utilised the video-conferencing facilities during 2 meetings of the Panel. The Panel was invoiced \$220.80 for these services. No related party debts have been written off or forgiven during the year.

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

NOTE 20 KEY MANAGEMENT PERSONNEL COMPENSATION

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

	2009 \$	2008 \$
Short term employee benefits:		
- Members' fees	278,454	397,275
- Senior management team remuneration	<u>398,973</u>	<u>134,754</u>
	<u>\$677,427</u>	<u>\$532,029</u>

Employee remuneration

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:

	Number of Employees 2009 \$	Number of Employees 2008 \$
230,001 to 240,000	1	-
220,001 to 230,000	-	-
210,001 to 220,000	-	-
200,001 to 210,000	-	-
190,001 to 200,000	-	-
180,001 to 190,000	-	-
170,001 to 180,000	-	-
160,001 to 170,000	1	-
150,001 to 160,000	-	-
140,001 to 150,000	<u>1</u>	<u>-</u>
	<u>3</u>	<u>-</u>

NOTE 22 BOARD MEMBER REMUNERATION

Members are remunerated on the basis of time spent on the work of the Panel. Members' fees for the year ended 30 June 2009 were:

	2009 \$	2008 \$
D.O. Jones (Chairman)	95,038	168,808
C.G. Giffney (Deputy Chairman)	35,689	36,077
M.M. Beattie	10,695	-
R.A. Coupe	16,554	-
P.M. Greenwood	11,017	18,023
A. Lawrence	10,148	23,112
K.J. O'Connor	26,817	43,688
D.J. Quigg	22,487	34,294
P.J.M. Scott	3,160	-
S. Suckling	23,964	43,398
K. Taylor	18,370	21,101
J.A. Waller	<u>4,515</u>	<u>8,774</u>
Total	<u>\$278,454</u>	<u>\$397,275</u>

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

NOTE 22 COMPUTER SOFTWARE

	2009	2008
	\$	\$
Cost	-	-
Accumulated amortisation	-	-
Opening book value	-	-
Additions	14,000	-
Disposals	-	-
Amortisation	(2,715)	-
Closing book value	11,285	-
Cost	14,000	-
Accumulated amortisation	(2,715)	-
	<u>\$11,285</u>	<u>-</u>

NOTE 23 SUBSEQUENT EVENTS

The Panel entered into commitments to purchase computer hardware, software, and support of approximately \$120,000 in July 2009 in relation to its relocation. There were no other material events subsequent to balance date that would affect the interpretation of the financial statements or the performance of the Panel. (2008 – no subsequent events).

NOTE 24 BUDGET VARIANCES

Significant variances from budget were:

Income

Total operating income was \$106,074 lower than budgeted, primarily because of the lower than expected level of recoveries from approvals work and enforcement action (1 section 32 meeting was held during the year).

Expenditure

Total operating expenditure for the year was \$230,678 lower than budgeted, primarily because of lower than expected expenditure on Members' fees and Securities Commission services. This was attributed to the lower than expected level of enforcement activity and increased policy and review work, both requiring reduced Member hours, and a reduction in the rate charged by the Securities Commission.

Net operating surplus

The Panel recorded an operating surplus of \$10,204 when a deficit of \$114,400 had been expected. This is a result of the lower than expected expenditure partially offset by lower than expected income.

NOTE 25 PROFESSIONAL INDEMNITY INSURANCE

The Panel has effected a professional indemnity insurance policy to provide cover for Members of the Panel, employees of the Panel, and employees of the Securities Commission working for the Panel as the Panel performs its duties and statutory functions.

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

STATEMENT OF SERVICE PERFORMANCE

For the year ended 30 June 2009

PERFORMANCE STANDARDS AND MEASURES FOR THE OUTPUTS OF THE PANEL

OUTPUT 1: RECOMMENDATIONS FOR CHANGES TO TAKEOVERS LAW:

- > To keep under review the law relating to takeovers and to recommend to the Minister of Commerce changes as appropriate;
- > To keep under review practices relating to takeovers of specified code companies for the purpose of recommending changes to the law.

Impact:

Improvements in the efficiency of the Code through the making of recommendations to the Minister of Commerce to achieve changes to the Code and takeovers law more generally. These improvements will enhance the effectiveness of the Code in promoting economic growth and the Panel in administering the Code's provisions.

Activities and actions to include:

- > reviewing the provisions of takeovers law;
- > identifying areas of the Code which require correction or would benefit from improvement;
- > reviewing the practices relating to the takeover of code companies;
- > developing policy papers, guidance notes and practice notes on issues arising under the Code and its administration;
- > developing a further discussion paper, at the request of the Minister of Commerce, on the interaction between the provisions of company law and takeovers law as they apply to schemes of arrangement and amalgamations effected under parts 13 and 15 of the Companies Act 1993 using the Government's regulatory impact analysis framework, receiving and reviewing public submissions on the discussion paper, and making recommendations to the Minister;
- > developing proposals for public comment on proposed recommendations to the Minister, as necessary;
- > making recommendations to the Minister for changes to that law, where appropriate.

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009:

	FORECAST	ACTUAL
<i>Quantity and Quality</i>		
Keep the Takeovers Code and the Takeovers Act 1993 under review and recommending amendments to the Code as necessary. Participate as required on projects and reviews.	The Panel will comply with its obligations under the Takeovers Act 1993 and with other relevant legislation. It will aim to ensure that the provisions of the Code are effective and relevant to market practice. It will base its work on accurate research into, and analysis of, the existing law and practice. It aims to achieve 95% acceptance of its proposals by the Minister.	Panel's proposals for changes to the law relating to schemes of arrangement affecting code companies, which were made in May 2008, remain under consideration by the Minister. There were no proposals for law change made to the Minister in 2008/2009.
Keep under review practices relating to takeover activities.	Continuous	Continuous
Inquiries into market practice with a view to recommending amendments to the Takeovers Code and to the Panel's policies and publishing proposed changes to the Code and Panel policies for public comment.	2	1 (The consequences of upstream takeovers on changes of control for code companies)
<i>Timeliness</i>		
Recommendations for amendments to the Code will be made promptly.	1 per year	No recommendations were made.
Complete inquiry work promptly.	Review work to be based on accurate research into, and review of, existing practices, including feedback from market participants.	Review work met this requirement.
Revenue:	Nil	Nil
Cost:	\$291,260	\$321,975

OUTPUT 2: APPROVALS:

The approval of the appointment of independent advisers, where required under Rules 18, 21 or 22 of the Code or by the terms of an exemption granted, and the appointment of independent experts where required by Rule 57 of the Code.

Impact:

The improvement in the quality of advice and independent adviser reports to recipients of takeover offers and to shareholders entitled to vote to approve Code-related allotments and acquisitions. Such improvements will further ensure the equal treatment of shareholders and a transparent takeovers process.

Activities and actions to include:

- > processing applications from advisers for approval under the Code;
- > ensuring that appointed advisers are both independent and competent to do the job required;
- > assessing, where necessary, previous work of advisers to determine their experience and competence;
- > reviewing draft independent advisers' reports and making suggestions for improvement;
- > meeting with advisers on an ongoing basis to discuss and obtain feedback on any issues and concerns;
- > appointing independent experts where required under the compulsory acquisition provisions of the Code;
- > processing applications for consent to withdraw offers, and in relation to approval of defensive tactics.

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009.

	FORECAST	ACTUAL
<i>Quantity and Quality</i>		
Applications for approval of independent advisors and independent experts.	35	23
Applications for consent to withdrawal of offers, and in relation to defensive tactics.	2	0
Applications processed in accordance with the law, the Panel's published policies, the rules of natural justice and having regard to feedback from market participants.	100%. Reduce Panel comments to 2 per report.	66% of 15 reports reviewed had 2 or less comments.
<i>Timeliness</i>		
Within 3 working days of receipt of complete application.	To be achieved in 80% of cases.	Achieved in 85% of cases.
Revenue (from fees):	\$80,000	\$38,433
Cost:	\$135,225	\$106,363

OUTPUT 3: EXEMPTIONS:

The granting of individual and class exemptions for Code events where relief from the Code's requirements is appropriate and consistent with the purpose, intent and objectives of the Code.

Impact:

The improvement in the functioning of the Code as the regulatory mechanism for corporate takeovers and the improvement in the functioning of the market by removing impediments in the Code or by providing a framework within which transactions can be undertaken. Proper functioning of the Code and market will result in a takeovers market that has the confidence of market participants, both domestic and international.

Activities and actions to include:

- > considering applications for individual exemptions from the Code;
- > considering applications for class exemptions from the Code;
- > issuing exemption notices for individual exemptions;
- > issuing exemption notices for class exemptions;
- > gazetting the exemption notices;
- > publishing guidance notes to explain the policies being applied by the Panel in relation to various types of exemption.

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009¹:

	FORECAST	ACTUAL
<i>Quantity and Quality</i>		
Applications for individual exemptions from the Takeovers Code.	30 – 35	29
Class exemptions from the Takeovers Code.	2 – 4	0
Applications processed in accordance with the law, the rules of natural justice and having regard to feedback from market participants.	100% acceptance or endorsement by market participants and the media.	2 applicants (7%) did not accept Panel decision. No media comment observed.
<i>Timeliness</i>		
Within timeframe agreed with applicants.	100%	100%
Revenue (from fees):	\$221,000	\$221,543
Cost:	\$395,275	\$534,226

OUTPUT 4: ENFORCEMENT:

To maintain oversight of takeover activity in New Zealand and to intervene, where necessary, in accordance with the Panel's statutory powers.

Impact:

The improvement in the standard of compliance with the Takeovers Code and facilitation of the operation of the takeovers market. Non-compliance with the Code is undesirable as it results in unequal treatment of shareholders and a non-transparent takeover process.

Activities and actions to include:

- > reviewing all main takeover offer documents;
- > reviewing Code-related meeting documents;
- > convening formal meetings to exercise the Panel's enforcement powers under sections 32 and 35 of the Code;
- > making applications to the Court to seek orders from the Courts, as necessary;
- > investigating possible Code breaches;
- > investigating complaints by shareholders and other principal parties to a transaction;
- > monitoring NZX company announcements, media and other public information for transactions with Code implications;
- > accepting enforceable undertakings from the party or parties in breach of the Code;
- > issuing determinations and Panel decisions;
- > seeking to be heard in Court proceedings involving the change of control of code companies being effected through the scheme of arrangement provisions of the Companies Act.

¹ Although characterised as "planned", the number of exemption applications is similar to those for the current year but the final outcome is dependent on the level of market activity

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009²:

	FORECAST	ACTUAL
<i>Quantity and Quality</i>		
Review of offer documents.	24	4
Review of meeting documents.	18	13
Section 32 meetings.	6	1
Section 35 actions.	2	0
Investigation of possible Code breaches.	30	11
Involvement in Court proceedings in relation to schemes of arrangement affecting code companies.	2	1 (Did not seek to appear in Court).
Documents reviewed for compliance with the law. Remedial action initiated to correct deficiencies.	90% of all potential documents.	100% reviewed.
Action taken in accordance with the law.	100% with no Court challenges or Court endorsement, where challenged.	No court challenges.
Meetings conducted in accordance with the law and the rules of natural justice.	100%	100% (Self assessment)
<i>Timeliness</i>		
Complete enforcement work within timeframes specified in the Takeovers Act 1993.	100%	100%
Comply with Court-ordered timetables for legal proceedings under the Companies Act involving code companies	100%	N/A
Revenue (from fees):	\$150,000	\$82,333
Cost:	\$1,040,200	\$692,065

OUTPUT 5: PUBLIC UNDERSTANDING:

To promote public understanding of the law and practice relating to takeovers.

Impact:

The improvement in public understanding of takeovers law over time, in particular, the improvement in the public's knowledge of the provisions of the Code. Improving public understanding and knowledge of the Code will enhance the public's confidence in the transparency of the takeovers process and in the public's confidence in the integrity of the market.

Activities and actions to include:

- > publishing the Panel's occasional newsletter, *Code Word* to explain changes to the Code and the Act and key Panel enforcement and exemption decisions;
- > publishing practice notes and guidance notes to inform the market about the Panel's decisions and policies, to assist market participants to relate to the Panel and to explain how the Panel interprets various rules of the Code;
- > improving the market's understanding of takeover matters and Panel activities through public speeches about the Code at relevant conferences and other meetings;
- > receiving feedback from market participants about the Panel's performance through meetings with market participants to both gauge the effectiveness of the Panel in dealing with its stakeholders and to explain issues which have arisen;

² Although characterised as "planned", the number of offer documents and meeting documents reviewed by the Panel is similar to those for the current year but the outcome is dependent on the level of market activity

TAKEOVERS PANEL

- > visiting the most active legal and advisory firms to obtain direct feedback;
- > holding group meetings with other interested market participants;
- > maintaining a website that is kept up-to-date with all Panel decisions, news releases, speeches, discussion papers, practice notes;
- > communicating with affected shareholders through telephone and correspondence explaining the application of the Code in particular circumstances;
- > assisting the media with background information to ensure that the public receives accurate reports on issues of public interest.

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009:

	FORECAST	ACTUAL
<i>Quantity, Quality and Timelines</i>		
Publish a publication designed to provide information about the Takeovers Code and relevant law.	3 times a year, with publication within 1 month of significant changes to the law affecting takeovers.	2 times, each time within 1 month of significant changes.
Issue policy statements, guidance notes and commentaries on current issues.	3 times a year.	3 times
Interface with the market through public and private meetings.	10 meetings a year.	6 meetings
Provide news media with relevant information about the Panel and the Takeovers Code.	Continuous.	Continuous.
Maintain a website with relevant information about the Takeovers Code and Takeovers Act 1993 and activities of the Panel.	All relevant material posted promptly to the website, within 5 working days of the event or decision. ^a	100% of events or decisions.
Receive miscellaneous enquiries from members of the public and professional firms.	Receive 200 enquiries. Respond to enquiries within 3 working days.	105 enquiries received. Responded within 3 days in 99% of cases.
Revenue (from fees):	Nil	Nil
Cost:	\$208,040	\$186,167

OUTPUT 6: INTERNATIONAL LIAISON:

To enhance and improve co-operation and liaison with overseas takeovers regulators on matters of mutual interest.

Impact:

The improvement in the level of cooperation, liaison and understanding between the Panel and other international takeovers regulators. Such improvements enhance international investors' and overseas takeovers regulators' confidence in the New Zealand market and enhance the Panel's administration of the Code's provisions.

Activities and actions to include:

- > continuing the high level of contact with the Australian Takeovers Panel through the Panel Chairman's membership on the Australian Panel and membership of the New Zealand Panel by a member of the Australian Panel;
- > continuing to maintain the good working relationships with the relevant staff of the Australian Panel and of the Australian Securities and Investments Commission by Members of the Panel and executive;
- > continuing to support the Australian Panel's promotion of the informal group of international takeovers regulators by attending the group's conferences;
- > co-operating, on request, with overseas takeovers regulators on various regulatory matters within the Panel's powers.

PLANNED PERFORMANCE STANDARDS AND PERFORMANCE MEASURES FOR 2008/2009:

	FORECAST	ACTUAL
<i>Quantity and Quality</i>		
Liaise with comparable overseas bodies, particularly in Australia, to improve the administration and enforcement of takeovers law, and to promote international understanding of New Zealand's laws.	Respond to enquiries from overseas bodies within 5 working days.	1 received, responded to in 5 working days.
Maintain reciprocal membership between Australian and New Zealand Takeovers Panels.	Maintain 1 Australian Panel member on New Zealand Panel and 1 New Zealand Panel member on Australian Panel.	New Australian member appointed 23/6/08.
Prepare to host conference of regulators in New Zealand in 2010.	Undertake initial planning for conference in 2010, including seeking funding.	In view of fiscal constraints Panel decided to withdraw its informal offer to host conference in 2010.
<i>Timeliness</i>		
Panel representatives to meet regularly with overseas bodies.	1 time per year	0
Revenue (from fees):	Nil	Nil
Cost:	\$10,400	\$8,925

AUDIT REPORT

TO THE READERS OF THE TAKEOVERS PANEL'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

AUDIT NEW ZEALAND
Mana Arotake Aotearoa

The Auditor-General is the auditor of the Takeovers Panel (the Panel). The Auditor-General has appointed me, Robert Cox, using the staff and resources of Audit New Zealand, to carry out the audit on his behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Panel for the year ended 30 June 2009.

UNQUALIFIED OPINION

In our opinion:

- > The financial statements of the Panel on pages 18 to 32:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Panel's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date.
- > The statement of service performance of the Panel on pages 33 to 39:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 13 August 2009, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Members of the Panel and the Auditor, and explain our independence.

BASIS OF OPINION

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- > determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- > verifying samples of transactions and account balances;
- > performing analyses to identify anomalies in the reported data;
- > reviewing significant estimates and judgements made by the Members of the Panel;
- > confirming year-end balances;
- > determining whether accounting policies are appropriate and consistently applied; and
- > determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

RESPONSIBILITIES OF THE MEMBERS OF THE PANEL AND THE AUDITOR

The Members of the Panel are responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Panel as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Panel's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Members of the Panel's responsibilities arise from the Crown Entities Act 2004.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Crown Entities Act 2004.

INDEPENDENCE

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Panel.



Robert Cox
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Matters Relating to the Electronic Presentation of the Audited Financial Statements and Statement of Service Performance

This audit report relates to the financial statements and statement of service performance of the Takeovers Panel for the year ended 30 June 2009 included on the Takeovers Panel's website. The Members of the Takeovers Panel are responsible for the maintenance and integrity of the Takeovers Panel's website. We have not been engaged to report on the integrity of the Takeovers Panel's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance as well as the related audit report dated 13 August 2009 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial information may differ from legislation in other jurisdictions.

Executive of the Takeover Panel



KERRY MORRELL
Chief Executive Officer



ROGER MARWICK
Communications Manager
(until 31 August 2009)



MARGARET BEARSLEY
General Counsel



NIGEL BRUNSDON
Accountant & IT Administrator
(until 31 August 2009)



JENNIFER FAWCETT
Solicitor



GAYLE STEERE
Personal Assistant to the
Chief Executive Officer



MATTHEW TOLAN
Solicitor



HILARY FLEMING
Accountant/Administrator
(from 1 September 2009)



TOM BARNES
Solicitor

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