

**Reprint
as at 1 August 2009**



**Takeovers Code (Eastern Hi Fi
Group Limited) Exemption Notice
2009**

(SR 2009/11)

Takeovers Code (Eastern Hi Fi Group Limited) Exemption Notice 2009:
expired, on 1 August 2009, by clause 3.

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

Contents

	Page
1 Title	2
2 Application	2
3 Expiry	2
4 Interpretation	2
5 Exemption from rule 7(d) of Code in respect of rights issue	3
6 Exemption from rule 16(b) of Code in respect of notice of meeting	3
7 Condition of exemptions in clauses 5 and 6 relating to notice of meeting	3

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This notice is administered by the Takeovers Panel.

8	Further conditions of exemptions in clauses 5 and 6 relating to notice of meeting	4
9	Application of exemption in clause 5	4

Notice

1 Title

This notice is the Takeovers Code (Eastern Hi Fi Group Limited) Exemption Notice 2009.

2 Application

This notice applies to acts or omissions occurring on or after 1 February 2009.

3 Expiry

This notice expires on the close of 31 July 2009.

4 Interpretation

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

Act means the Takeovers Act 1993

Code means the Takeovers Code under the Act

EHF means Eastern Hi Fi Group Limited

meeting means the meeting of the shareholders of EHF that is to be held on or about 25 February 2009 to consider, amongst other things, whether to approve, for the purposes of rule 7(d) of the Code, the allotments of voting securities to James Ian Urquhart pursuant to the rights issue and the supplementary placement

notice of meeting means the notice of meeting to be sent to the shareholders of EHF in respect of the meeting

rights issue means the rights issue to be conducted by EHF under a prospectus to be registered following the meeting

supplementary placement means the allotment to James Ian Urquhart of the number of voting securities that, in addition to the number of voting securities allotted to him under the rights issue, would be required to fully convert the loan of \$1 million

provided by him to the company pursuant to a loan agreement dated 12 December 2008

voting security means a voting security in EHF.

- (2) In this notice, a reference to a person increasing voting control is a reference to the person becoming the holder or controller of an increased percentage of the voting rights in EHF.
- (3) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption from rule 7(d) of Code in respect of rights issue
James Ian Urquhart is exempted from rule 7(d) of the Code in respect of any increase in his voting control as a result of the allotment of voting securities to him under the rights issue and the supplementary placement to the extent that rule 7(d) requires the notice of meeting to comply with rule 16(b) of the Code.

6 Exemption from rule 16(b) of Code in respect of notice of meeting
EHF is exempted from rule 16(b) of the Code in respect of the notice of meeting.

7 Condition of exemptions in clauses 5 and 6 relating to notice of meeting

- (1) The exemptions in clauses 5 and 6 are subject to the condition that the notice of meeting contains, or is accompanied by, the following particulars:
 - (a) the maximum number of voting securities that could be allotted to James Ian Urquhart under the rights issue and the supplementary placement:
 - (b) the maximum number of voting securities that could be allotted to James Ian Urquhart under the rights issue and the supplementary placement, expressed as a percentage of the total voting securities on issue after those allotments:
 - (c) the maximum percentage of the total voting securities that could be held or controlled by James Ian Urquhart

- after the allotment of voting securities under the rights issue and the supplementary placement:
- (d) the maximum percentage of the total voting securities that could be held or controlled by James Ian Urquhart and his associates after the allotment of voting securities under the rights issue and the supplementary placement.
- (2) The matters referred to in subclause (1)(a) to (d) must be calculated on the basis that there are no changes to the total number of voting securities on issue between the date of the notice of meeting and the expiry of this notice other than as a result of the rights issue and the supplementary placement.

8 Further conditions of exemptions in clauses 5 and 6 relating to notice of meeting

The exemptions in clauses 5 and 6 are subject to the further conditions that—

- (a) the notice of meeting contains, or is accompanied by,—
 - (i) full particulars of the rights issue and the supplementary placement; and
 - (ii) a summary of the terms and conditions of the exemptions granted under this notice; and
- (b) the notice of meeting displays, in a prominent position, a disclaimer stating that by exempting James Ian Urquhart from rule 7(d) of the Code, and EHF from rule 16(b) of the Code, the Takeovers Panel is—
 - (i) neither endorsing nor supporting the accuracy or reliability of the contents of the notice of meeting; and
 - (ii) not implying it has a view on the merits of the proposed allotment of voting securities to James Ian Urquhart under the rights issue or the supplementary placement; and
- (c) the form of the notice of meeting is approved by the Takeovers Panel.

9 Application of exemption in clause 5

The exemption in clause 5 does not apply—

- (a) if there is an increase in the voting control of James Ian Urquhart, except as a result of an allotment of voting

securities under the rights issue or the supplementary placement, before completion of the rights issue or the supplementary placement (whichever is the later):

- (b) to an increase in the voting control of James Ian Urquhart as a result of an allotment of voting securities under the rights issue or the supplementary placement if, immediately after the completion of the allotment, the total percentage of voting securities held or controlled by James Ian Urquhart is greater than the maximum percentage of voting securities that could be held or controlled by James Ian Urquhart as disclosed in the notice of meeting in accordance with clause 7(1)(c).

Dated at Auckland this 10th day of February 2009.

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

[Seal]

Colin Glenn Giffney,
Chairperson.

Statement of reasons

This notice applies to acts or omissions occurring on or after 1 February 2009 and expires on 31 July 2009.

The Takeovers Panel (the **Panel**) has granted exemptions for—

- James Ian Urquhart from rule 7(d) of the Takeovers Code (the **Code**) to the extent that rule 7(d) requires the notice of meeting to be in accordance with rule 16(b) of the Code in respect of

any increase in the percentage of voting rights held in Eastern Hi Fi Group Limited (**EHF**) under a proposed rights issue and supplementary placement; and

- EHF from rule 16(b) of the Code in respect of the notice of meeting.

James Ian Urquhart holds shares representing 19.68% of the voting rights in EHF and has provided a loan of \$1 million to EHF.

EHF proposes to undertake a 2 for 1 rights issue. James Ian Urquhart wishes to participate in the rights issue with the goal of converting his loan to EHF shares by taking up his entitlement under the rights issue and any shortfall in subscriptions if the rights issue is undersubscribed. If any undersubscription under the rights issue is insufficient for James Ian Urquhart to fully convert his loan, there is proposed to be a supplementary placement to him of the number of shares that would be required to fully convert the loan.

Depending on the level of participation by other shareholders in EHF, the rights issue may result in an allotment to James Ian Urquhart that increases his voting control in EHF above 20%. Shareholder approval is to be sought for such an allotment under rule 7(d) of the Code. The numbers and percentages required to be disclosed in the notice of meeting under rule 16(b) of the Code will not be known at the time the notice of meeting is prepared due to uncertainties in the level of participation in the rights issue. However, the maximum numbers and percentages will be known.

The Panel has granted these exemptions on conditions that require the maximum percentage to which James Ian Urquhart could increase his voting control to be disclosed in the notice of meeting. The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because—

- it is impossible for the actual number of voting securities to be allotted and the relevant percentages required by rule 16(b) of the Code to be stated in the notice of meeting since these numbers and percentages are dependent on a number of factors that will not be known with certainty until after the notice of meeting is prepared:
- all non-associated shareholders will have an opportunity to vote on the potential allotment of voting securities to James

Ian Urquhart as a result of the rights issue and the exercise of options:

- if the non-associated shareholders approve the potential maximum allotment of voting securities to James Ian Urquhart, then, by implication, the shareholders also approve any lesser percentage of voting rights that may be allotted to James Ian Urquhart under the rights issue:
 - the rights issue will be conducted pursuant to a registered prospectus. The ability for shareholders to subscribe for securities that others cannot take up and thus provide adequate funding to ensure a company's growth is an acknowledged method of raising capital in New Zealand, and the Panel should facilitate these arrangements by granting appropriate exemptions where necessary.
-

**Takeovers Code (Eastern Hi Fi Group
Limited) Exemption Notice 2009**

Reprinted as at
1 August 2009

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 12 February 2009.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Takeovers Code (Eastern Hi Fi Group Limited) Exemption Notice 2009. The reprint incorporates all the amendments to the notice as at 1 August 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/legislation/reprints.shtml>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, *see* <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint
(most recent first)***

Takeovers Code (Eastern Hi Fi Group Limited) Exemption Notice 2009: clause
3
