

**Reprint
as at 6 November 2008**



**Takeovers Code (Mike Pero
Mortgages Limited) Exemption
Notice 2006**

(SR 2006/277)

Takeovers Code (Mike Pero Mortgages Limited) Exemption Notice 2006: re-
voked, on 6 November 2008, by clause 3 of the Regulations Revocation Order
2008 (SR 2008/367).

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 Interpretation	2
4 Exemption from rule 35 of Code	2
5 Conditions of exemption in clause 4	2
6 Exemption from rule 56 of Code	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.

The Takeovers Code (Mike Pero Mortgages Limited) Exemption Notice 2006 is administered by the Takeovers Panel.

Notice

1 Title

This notice is the Takeovers Code (Mike Pero Mortgages Limited) Exemption Notice 2006.

2 Application

This notice applies to acts or omissions occurring on or after 18 August 2006.

3 Interpretation

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

Act means the Takeovers Act 1993

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210)

despatch notice means the notice required to be sent by MPMH under rule 45 of the Code in relation to the MPMH offer

Liberty means Liberty Financial Limited

Mike Pero means Mike Pero Mortgages Limited

MPMH means MPMH Limited

MPMH offer means an offer to be made by MPMH for all—

- (i) voting securities; and
- (ii) options to acquire voting securities

NZF means New Zealand Finance Holdings Limited

voting securities means the voting securities in Mike Pero.

(2) 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.

4 Exemption from rule 35 of Code

MPMH, Liberty, NZF, and Forbar Custodians Limited (to the extent that it holds voting securities as nominee for Liberty) are exempted from rule 35 of the Code in respect of the MPMH offer.

5 Conditions of exemption in clause 4

The exemption in clause 4 is subject to the conditions that—

- (a) the MPMH offer is made on or before 29 September 2006; and
- (b) Liberty, NZF, and Forbar Custodians Limited (to the extent that it holds voting securities as nominee for Liberty) accept the MPMH offer within 5 working days from the date of the despatch notice; and
- (c) none of MPMH, Liberty, or NZF, nor any other person acting jointly or in concert with any of them, disposes of any equity securities in Mike Pero during the offer period, other than to—
 - (i) MPMH; or
 - (ii) an offeror under another offer that is made under the Code.

6 Exemption from rule 56 of Code

MPMH, Liberty, NZF, and Forbar Custodians Limited (to the extent that it holds voting securities as nominee for Liberty) are exempted from rule 56 of the Code in respect of the MPMH offer to the extent that rule 56(2) requires the following to be included in calculating the percentage of acceptances of the offer or the equity securities that were the subject of the offer:

- (a) the acceptances of the MPMH offer by Liberty, NZF, and Forbar Custodians Limited (to the extent that it holds voting securities as nominee for Liberty); and
- (b) the voting securities in Mike Pero held or controlled by Liberty and NZF.

Dated at Wellington this 18th day of August 2006.

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

[Seal]

David J Quigg,
Member.

Statement of reasons

This notice applies to acts or omissions occurring on or after 18 August 2006.

New Zealand Finance Holdings Limited (**NZF**) holds or controls 74.7% of the shares in Mike Pero Mortgages Limited (**Mike Pero**). Liberty Financial Limited (**Liberty**) holds or controls 19.9% of the shares in Mike Pero.

On 26 June 2006, Liberty and NZF entered into a 50/50 joint venture agreement to acquire all the equity securities in Mike Pero through their newly incorporated joint venture company MPMH Limited (**MPMH**). Liberty and NZF have also entered into a business co-operation agreement in respect of the future business activities of Mike Pero that they will operate as part of their joint venture.

The Takeovers Panel (the **Panel**) has exempted MPMH, Liberty, and NZF from compliance with rule 35 of the Takeovers Code (the **Code**).

Rule 35 prevents the offeror, and persons acting jointly or in concert with the offeror, from disposing of any target company securities during the offer period other than to a competing bidder. The exemption granted by the Panel enables Liberty and NZF to accept the offer that is to be made by their joint venture company, and this will enable the offer to meet the Code's minimum acceptance condition. Because of the size of their holdings, MPMH, Liberty, and NZF will become dominant owners under the Code when Liberty and NZF accept the offer by MPMH. They will then be able to compulsorily acquire the outstanding securities in Mike Pero.

In order to ensure that the Code's compulsory acquisition price determination process in rules 56 and 57 works as intended, the Panel has exempted MPMH, Liberty, and NZF from rule 56 to the extent that, for the purposes of determining the consideration payable under compulsory acquisition, the shares held or controlled and the acceptances

given by Liberty and NZF for the offer by MPMH would otherwise be included in—

- the acceptances of the offer; and
- the voting securities that were the subject of the offer.

As a result of this exemption, rule 57 of the Code may apply to the compulsory acquisition, depending on the level of acceptances of the takeover offer by the 5.4% minority shareholders in Mike Pero. The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions from rules 35 and 56 of the Code because—

- they facilitate the utilisation of a special purpose company for making the takeover offer and for compulsorily acquiring the outstanding securities, and the use of such companies is accepted market practice; and
- they preserve the integrity of the compulsory acquisition price determination process encapsulated in rules 56 and 57 of the Code.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 7 September 2006.

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 (Mike Pero Mortgages Limited) Exemption Notice 2006. The reprint incorporates all the amendments to the notice as at 6 November 2008, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

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)*

Regulations Revocation Order 2008 (SR 2008/367): clause 3
