

# The Takeovers Code and Share Buybacks

The company wants to buy some of its own shares back



The Takeovers Code applies to **Code Companies** – these are New Zealand registered companies that have:

- listed shares trading on the NZX, or
- 50 or more Shareholders and 50 or more Parcels of shares

## The company buying back its own shares

If a Code Company offers to buy some of its own shares back from all of the Shareholders (or from just one or two Shareholders) this can cause the percentage of share ownership of some Shareholders to increase. The increase happens because the shares acquired by the company get cancelled or lose their Voting Rights, leaving fewer Voting Rights in existence. This increases the Voting Rights percentage of the shares that are still owned by Shareholders.

The buyback is an Acquisition and it might cause a Change of Control of the ownership of the company's shares. That would mean the Takeovers Code has to be complied with.

If the buyback causes a Shareholder (together with their Associates) to increase their shareholding at any level above 20% of the Voting Rights in the company then usually the other Shareholders will be asked by the company to approve this increase at a Shareholders' meeting. The Takeovers Code sets out the information that has to be given to all Shareholders to help them to decide how to vote on the Resolution.

## How does this affect you?

The company must send every Shareholder a notice of meeting that describes how many shares the company is proposing to buy back. The notice of meeting also must describe the increase in the Voting Rights percentage of the Shareholder who might increase above 20% because of the buyback.

Shareholders will get to vote on the Resolution. You can vote for or against the Resolution about the Shareholder who might increase above 20%. The Shareholder named in the Resolution and the Associates of the Shareholder cannot vote on the Resolution about their increase.

If the increase is not approved by a majority by the Shareholders who vote on the Resolution, the person cannot increase their Voting Rights percentage.

## How will you decide? Who will advise you?

You will receive advice to help you decide what to do:

- The directors of the Code Company will make a recommendation to Shareholders about how to vote on the Resolution for the buyback.
- You will also receive advice from an independent adviser about the merits of the buyback. That adviser will have been approved by the Takeovers Panel as being independent from the company and independent from the person who wants to increase their shareholding.

This Fact-Sheet explains the Takeovers Code in a simplified way. It should not be relied upon as providing a legal explanation. It does not give financial advice. Investors should not rely on it for understanding all of their rights and obligations under the Takeovers Code. Investors should take their own legal and financial advice from a qualified professional.



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