

Takeovers Code (Fronde Systems Group Limited) Exemption Notice 2022

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel, being satisfied of the matters set out in section 45(6) of that Act, gives the following notice.

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Notice

1 Title

This notice is the Takeovers Code (Fronde Systems Group Limited) Exemption Notice 2022.

2 Application

This notice applies to acts or omissions occurring on or after 9 September 2022.

3 Revocation

This notice is revoked on 7 December 2022.

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

Fronde means Fronde Systems Group Limited

Fronde shares means fully paid ordinary shares in Fronde

Seisma means LVP Tech NZ Bidco Limited

Seisma offer means the full takeover offer dated 9 September 2022 made by Seisma for all of the Fronde shares

(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.

5 Exemption from rule 24(2)(b) of the Code

Seisma is exempted from rule 24(2)(b) of the Code in respect of the Seisma offer to the extent that rule 24(2)(b) requires the Seisma offer to close later than 11.59 pm on 7 October 2022.

Dated at Auckland this 22nd day of September 2022.



Carl Blanchard
Chair

Statement of Reasons

This notice applies to acts or omissions occurring on or after 9 September 2022.

Fronde Systems Group Limited (**Fronde**) is a code company.

On 9 September 2022, LVP Tech NZ Bidco Limited (**Seisma**) made a full takeover offer to acquire all of the fully paid ordinary shares in Fronde (the **Seisma offer**). The offer period as stated in the offer document expires on 7 October 2022. As at the date of the Seisma offer, the stated offer period was 20 working days from the date of the Seisma offer, the minimum period permitted under rule 24(2)(b) of the Code.

On 12 September 2022, the New Zealand Government announced a one-off public holiday to be held in New Zealand on Monday 26 September 2022 in light of the passing of Queen Elizabeth II (**Queen Elizabeth Memorial Day**).

In order to give effect to Queen Elizabeth Memorial Day, Parliament passed the Queen Elizabeth II Memorial Day Act 2022 (the **Act**) on 21 September 2022 and came into effect on 22 September 2022.

Under the Act, Queen Elizabeth Memorial Day is deemed to not be a “working day” for the purposes of calculating time under the Takeovers Code (the **Code**). Consequently, as of 22 September 2022, the offer period as stated in the offer document became 19 working days – 1 working day shorter than the minimum offer period permitted under rule 24(2)(b) of the Code (notwithstanding that the offer period was compliant with rule 24(2)(b) on the date of the offer).

The Takeovers Panel (the **Panel**) has granted an exemption from rule 24(2)(b) of the Code to allow expiry of the offer period at 11.59 pm on 7 October 2022 as stated in the offer document and initially permitted by the Code.

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because (in summary):

- as at the date of the Seisma offer, the offer period was compliant with rule 24(2)(b) of the Code;
- the offer period becoming in breach of the Code is an exceptional event entirely outside of the control of Seisma, being due solely to the introduction of a one-off public holiday in memorial of the death of Queen Elizabeth II;

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- shareholders will still have what the Panel considers to be sufficient time and means (taking into account all of the relevant circumstances) to consider and accept the offer. Specifically:
 - shareholders will have 9 working days after the Queen Elizabeth Memorial Day within which to consider the offer and accept it should they wish to do so; and
 - as the offer permits online acceptances, shareholders will be able to accept the offer on Queen Elizabeth Memorial Day despite it not being a working day;
 - in all of the relevant circumstances, the Panel does not consider that granting the exemption would prejudice Fronde's shareholders in any material way and that:
 - shareholders would still be treated fairly (see section 20(1)(c) of the Takeovers Act); and
 - shareholders would still be allowed to decide for themselves the merits of a takeover offer (see section 20(1)(e) of the Takeovers Act); and
 - given the exceptional circumstances, the exemption will maintain a proper relation between the costs of compliance with the Code and the benefits resulting from it (see section 20(1)(f) of the Takeovers Act).

Date of Notification in the *Gazette*: 29 September 2022
