

**Reprint
as at 4 November 2011**



**Takeovers Code (Class
Exemptions) Notice (No 2)
2001**

(SR 2001/170)

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).

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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.

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Notice

1 Title

This notice is the Takeovers Code (Class Exemptions) Notice (No 2) 2001.

2 Commencement

This notice comes into force on 1 July 2001.

3 Interpretation

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

Act means the Takeovers Act 1993

additional voting rights, in relation to any person who has increased voting control, means the portion of the voting rights in a code company held or controlled by the person that corresponds to the person's increase in voting control

aggregate associate increase, in respect of any person whose control percentage has decreased in the manner referred to in clause 6(1) or clause 9(1) or clause 10(1) (the **relevant decrease**) and whose voting control is subsequently increased (the **relevant increase**), means,—

- (a) if the aggregate of the control percentages of the person and the person's associates after the relevant decrease was less than 20%, the increase (if any) in the aggregate of the control percentages of the person's associates after the relevant decrease and before the relevant increase; and
- (b) if the aggregate of the control percentages of the person and the person's associates after the relevant decrease was equal to or greater than 20%, zero

allotment includes the issue of voting securities by a code company and the sale, transfer, or other disposal of treasury stock by a code company

beneficiary,—

- (a) in relation to a nominee company, means a person for whom the nominee company acts in the ordinary course of business as a nominee company; and
- (b) in relation to a bare trustee of a trust, means a beneficiary of the trust; and
- (c) in relation to a broker, means a person for whom the broker acts in the ordinary course of business as a broker

broker has the same meaning as in section 77A of the Financial Advisers Act 2008

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

control percentage means the percentage of voting rights in a code company that a person holds or controls

corporate representative means a person who is appointed by a body corporate that holds voting securities in a code company to attend, on behalf of the body corporate, 1 or more meetings of holders of voting securities in the code company

group means a body corporate and its wholly-owned subsidiaries

group parent means a body corporate that is a member of a group and is not a wholly-owned subsidiary of another body corporate

lender means a person whose ordinary business includes the lending of money or the provision of financial services (including the holding of security interests on behalf of lenders)

non-associate, in relation to a person, means any other person who is not an associate of the person

receiver has the same meaning as in section 2(1) of the Receiverships Act 1993

security interest has the same meaning as in section 17(1)(a) of the Personal Property Securities Act 1999

treasury stock means voting securities or securities that, but for the suspension of voting rights attached to them, would be voting securities issued by a code company and held by the code company

upstream party, in relation to a person, means any other person who directly or indirectly has effective control over the person.

- (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 a code company.
- (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.

Clause 3(1) **beneficiary** paragraph (c): substituted, on 29 July 2011, by clause 4(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

Clause 3(1) **broker**: inserted, on 29 July 2011, by clause 4(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

Clause 3(1) **sharebroker**: revoked, on 29 July 2011, by clause 4(3) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

Clause 3(1) **underwriter**: revoked, on 27 May 2004, by clause 6(a) of the Takeovers Code (Professional Underwriters) Exemption Notice 2004 (SR 2004/138).

Part 1

Exemptions for certain acquisitions of voting securities

4 Exemption for buyback approved by shareholders

- (1) Every person who increases voting control as a result of the acquisition by a code company of its own voting securities is exempted from rule 6(1) of the Code in respect of that increase in voting control.
- (2) The exemption is subject to the conditions in Schedule 1.

Clause 4: substituted, on 29 November 2010, by clause 4 of the Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010 (SR 2010/451).

5 Exemption for buyback that is not approved by shareholders: increased voting control eliminated within 6 months after increase

(1) Every person who increases voting control as a result of the acquisition by a code company of its own voting securities is exempted from rule 6(1) of the Code in respect of that increase in voting control.

(2) The exemption is subject to the condition that—

(a) the person's increase in voting control is not exempted from rule 6(1) of the Code by clause 4; and

(b) the control percentage of the person is decreased within 6 months after the increase in the person's voting control to, or below, either—

(i) the control percentage of the person immediately before the increase in the person's voting control; or

(ii) if—

(A) the person's control percentage immediately before the increase in the person's voting control was more than 50%, the maximum control percentage to which the person would have been entitled under rule 7(e) of the Code at the time of the decrease had the increase not occurred; or

(B) the aggregate of the control percentages of the person and the person's associates immediately before that increase was less than 20%, 20% less the aggregate of the control percentages of the person's associates at the time of the decrease; and

(c) the additional voting rights of the person are not exercised before that decrease.

6 Exemption for increased voting control within 6 months after buyback reduced control percentage

(1) Every person whose control percentage is, or has been, decreased as a result of the acquisition by a code company of its own voting securities is exempted from compliance with rule

6(1) of the Code in respect of any increase in the person's voting control after that decrease.

(2) The exemption is subject to the condition that—

- (a) the increase in the person's voting control occurs within 6 months after the decrease of the person's control percentage; and
- (b) the increase in the person's voting control does not result in the person's control percentage exceeding the lesser of—
 - (i) the percentage that exceeds by 5 the control percentage of the person immediately before the increase in the person's voting control, less any aggregate associate increase; or
 - (ii) the control percentage of the person immediately before its decrease, less any aggregate associate increase.

Part 2

Exemptions for certain allotments of voting securities

7 Exemption for public offer of voting securities

[Revoked]

Clause 7: revoked, on 19 May 2006, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2006 (SR 2006/126).

8 Exemption for allotments pursuant to pro rata offer: increased voting control eliminated within 6 months after increase

(1) Every person who increases voting control as a result of an allotment of voting securities by a code company is exempted from rule 6(1) of the Code in respect of that increase in voting control.

(2) The exemption is subject to the condition that—

- (a) the allotment is made pursuant to—
 - (i) an offer of voting securities that is made pro rata to all holders of a class of voting securities in the code company, and in respect of which each person, the allotment to whom of voting securities

resulted in the increase, or part of the increase, in voting control (an **allottee**),—

- (A) acquired no more than the allottee's pro rata share of the securities offered; or
- (B) if the allottee is a nominee company, bare trustee of a trust, or broker, acting for a beneficiary whose increase in voting control resulted in the person's increase (or part of the person's increase) in voting control, acquired on behalf of the beneficiary no more than the beneficiary's pro rata share of the securities offered to the allottee; or

- (ii) a scheme for the reinvestment of dividends in return for voting securities or the issue of voting securities instead of dividends that is available on the same terms to all holders of the relevant class of voting securities in the code company; and

- (b) the control percentage of the person is decreased within 6 months after the increase in the person's voting control to, or below, either—
 - (i) the control percentage of the person immediately before the increase in the person's voting control; or
 - (ii) if—
 - (A) the control percentage of the person immediately before the increase in the person's voting control was more than 50%, the maximum control percentage to which the person would have been entitled under rule 7(e) of the Code at the time of the decrease had the increase not occurred; or
 - (B) the aggregate of the control percentages of the person and the person's associates immediately before that increase was less than 20%, 20% less the aggregate of the control percentages of the person's associates at the time of the decrease; and

(c) the additional voting rights of the person are not exercised before that decrease.

Clause 8(2)(a)(i)(B): amended, on 29 July 2011, by clause 5 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

9 Exemption for increased voting control within 6 months after allotments pursuant to pro rata offer reduced control percentage

(1) Every person whose control percentage is, or has been, decreased as a result of an allotment of voting securities by a code company is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control after the decrease.

(2) The exemption is subject to the condition that—

(a) the allotment was made pursuant to—

(i) an offer of voting securities made pro rata to all holders of a class of voting securities in the code company; or

(ii) a scheme for the reinvestment of dividends in return for voting securities or the issue of voting securities instead of dividends that is available on the same terms to all holders of the relevant class of voting securities in the code company; and

(b) the increase in the person's voting control occurs within 6 months after the decrease of the person's control percentage; and

(c) the increase in the person's voting control does not result in the person's control percentage exceeding the control percentage of the person immediately before its decrease, less any aggregate associate increase.

10 Exemption for increased voting control within 6 months after allotments pursuant to non-pro rata offer reduced control percentage

(1) Every person whose control percentage is, or has been, decreased as a result of an allotment of voting securities by a code company is exempted from rule 6(1) of the Code in re-

spect of any increase in the person's voting control after the decrease.

(2) The exemption is subject to the condition that—

- (a) the allotment was not made pursuant to—
 - (i) an offer of the kind described in clause 9(2)(a)(i); or
 - (ii) a scheme of the kind described in clause 9(2)(a)(ii); and
- (b) the increase in the person's voting control occurs within 6 months after the decrease of the person's control percentage; and
- (c) the increase in the person's voting control does not result in the person's control percentage exceeding the lesser of—
 - (i) the percentage that exceeds by 5 the control percentage of the person immediately before the increase in the person's voting control, less any aggregate associate increase; or
 - (ii) the control percentage of the person immediately before its decrease, less any aggregate associate increase.

10A Rule 16(b) exemption

(1) In relation to an increase in voting control resulting from the allotment of voting securities under a specified transaction,—

- (a) every person is exempted from rule 7(d) of the Code to the extent that that rule requires compliance with rule 16(b) of the Code; and
- (b) every person who issues a notice of meeting containing the proposed resolution to approve the specified transaction is exempted from rule 16(b) of the Code.

(2) The exemptions are subject to the conditions in Schedule 2.

(3) For the purpose of subclause (1) and Schedule 2, **specified transaction** means any transaction of a kind referred to in sub-clause (4) that is identified in a notice of meeting containing a proposed resolution to approve the transaction; and if there is more than 1 such transaction referred to in the notice of meeting, means each of those transactions.

(4) The kinds of transactions that can be specified transactions are as follows:

- (a) a rights issue;
- (b) an underwriting arrangement (where the Takeovers Code (Professional Underwriters) Exemption Notice 2004 is not relied on);
- (c) the conversion of options and other convertible securities.

Clause 10A: inserted, on 29 November 2010, by clause 5 of the Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010 (SR 2010/451).

Part 3 Miscellaneous exemptions

11 Exemption for lenders and receivers

- (1) Every person who is a lender, an upstream party of a lender, or a receiver appointed by a lender is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that the increase in the person's voting control results only from the lender or the receiver (as the case may be) holding or controlling voting rights pursuant to the terms of a security interest that—
 - (a) is held by the lender, or secures obligations owed to the lender that arise, in the ordinary course of the lender's business of lending money or providing other financial services; and
 - (b) was granted and is held in relation to a bona fide transaction for the lending of money or the provision of financial services that does not have a collateral purpose of enabling a person to increase the person's voting control otherwise than in compliance with the Code.

12 Exemption for persons whose associates include lenders or receivers

- (1) Every person, an associate of whom is exempted by clause 11 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that—

- (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
- (b) the person does not control the associate's additional voting rights.

13 Exemption for proxies

- (1) Every person who is, or is an upstream party of, a person appointed to be a proxy for another person to vote at a meeting of holders of voting securities of a code company is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that—
 - (a) the increase in the person's voting control results only from the person's appointment as a proxy for a meeting (including any reconvened meeting following an adjournment of the meeting) after notice of that meeting has been given; and
 - (b) no consideration is provided, directly or indirectly, by, or on behalf of, the person or any associate of the person to, or for, the benefit of the appointor or any associate of the appointor in connection with the person's appointment as proxy.

14 Exemption for persons whose associates include proxies

- (1) Every person, an associate of whom is exempted by clause 13 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that—
 - (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
 - (b) the person does not control the associate's additional voting rights.

15 Exemption for corporate representatives

(1) Every person who is appointed by resolution of the directors or other governing body of a body corporate to act as its representative at a meeting of holders of voting securities of a code company is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the increase in the person's voting control results only from the person's appointment as a corporate representative; and
- (b) no consideration is provided, directly or indirectly, by, or on behalf of, the person or any associate of the person to, or for, the benefit of the appointor or any associate of the appointor in connection with the person's appointment as corporate representative.

16 Exemption for persons whose associates include corporate representatives

(1) Every person, an associate of whom is exempted by clause 15 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
- (b) the person does not control the associate's additional voting rights.

17 Exemption for brokers

(1) Every person who is, or is an upstream party of, a broker is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the increase in the person's voting control results only from the broker acting for a beneficiary in the ordinary course of business as a broker; and
- (b) the person is not the beneficiary, or an upstream party of the beneficiary; and

(c) the broker exercises the additional voting rights only at the direction of the beneficiary.

Clause 17: substituted, on 29 July 2011, by clause 6 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

18 Exemption for persons whose associates include brokers

(1) Every person, an associate of whom is exempted by clause 17 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
- (b) the person does not control the associate's additional voting rights.

Clause 18 heading: amended, on 29 July 2011, by clause 7 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262).

19 Exemption for underwriters

[Revoked]

Clause 19: revoked, on 27 May 2004, by clause 6(b) of the Takeovers Code (Professional Underwriters) Exemption Notice 2004 (SR 2004/138).

20 Exemption for executors, trustees, and administrators

(1) Every person who is, or is an upstream party of, an executor, trustee, or administrator of the estate of a deceased person is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that the increase in the person's voting control results only from—

- (a) the transmission of any property to the person in accordance with the terms of the will; or
- (b) the transmission of any property to the person in accordance with any applicable law relating to intestacy.

21 Exemption for persons whose associates include executors, trustees, or administrators

- (1) Every person, an associate of whom is exempted by clause 20 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that—
 - (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
 - (b) the person does not control the associate's additional voting rights.

22 Exemption for beneficiaries of wills and intestacies

- (1) Every person who is a beneficiary of a deceased person's estate is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that the increase in the person's voting control results only from the transfer of property to the person in accordance with—
 - (a) the terms of the will and the person is named, either directly or by reference to a class of persons, as a beneficiary in the will; or
 - (b) any applicable law on intestacy.

23 Exemption for nominee companies and bare trustees of trusts

- (1) Every person who is a nominee company or a bare trustee of a trust is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (2) The exemption is subject to the condition that—
 - (a) the increase in the person's voting control results only from the person holding voting rights for a beneficiary—
 - (i) in the ordinary course of its business as a nominee company; or
 - (ii) as a bare trustee of a trust; and
 - (b) the person does not control the voting rights.

24 Exemption for persons whose associates include nominee companies or bare trustees

(1) Every person, an associate of whom is exempted by clause 23 from rule 6(1) of the Code, is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the increase in voting control by the person would comply with rule 6(1)(a) of the Code if the associate's additional voting rights were held and controlled by a non-associate of the person; and
- (b) the person does not control the associate's additional voting rights.

25 Exemption for transfers within wholly-owned groups

(1) Every person who is a member of a group is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.

(2) The exemption is subject to the condition that—

- (a) the person's increase in voting control results from a transfer of voting securities in—
 - (i) a code company from a member of the group to another member of the group; or
 - (ii) a member of the group, other than the group parent, from a member of the group to another member of the group; and
- (b) the group parent has control of the voting securities in the code company before and after the transfer.

26 Exemption for certain oversubscribed partial offers

(1) Every offeror who makes a partial offer is exempted from rules 12 and 13 of the Code in respect of voting securities that are identified in a certificate that—

- (a) complies with clause 4 of Schedule 3; and
- (b) is provided to the offeror by an offeree who is a custodian (as defined in clause 1 of Schedule 3).

(2) The exemption is subject to the conditions in Schedule 3.

Clause 26: substituted, on 12 August 2011, by clause 4 of the Takeovers Code (Class Exemptions—Partial Offers) Amendment Notice 2011 (SR 2011/271).

27 Revocation

The Takeovers Code (Class Exemptions) Notice 2001 (SR 2001/133) is revoked.

Schedule 1

Conditions of buyback exemption

cl 4

Schedule 1: added, on 29 November 2010, by clause 6 of the Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010 (SR 2010/451).

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1 Interpretation

In this schedule, unless the context otherwise requires,—

annual report includes any concise annual report

approved maximum number means the maximum number of the Company's own voting securities that the Company could acquire under the buyback, and is the number required to be disclosed under clause 3(c)(i)

approved maximum percentage means the maximum percentage of voting securities on issue that person P could hold or control after the buyback, and is the percentage required to be disclosed under clause 3(c)(iii)

buyback means the acquisition by the Company of its own voting securities, whether the buyback is achieved by a single acquisition or a series of acquisitions

buyback exemption means the exemption granted by clause 4 of this notice

buyback period means the period starting on the date of the meeting that approves the buyback, and ending on the date

on which the Company completes the acquisition or series of acquisitions required for the buyback

calculation date means the date, identified in the notice of meeting referred to in clause 3, used for determining the matters referred to in clause 4

Company means the code company that is acquiring its own voting securities under the buyback

other-means increase means an increase in voting control in the Company that is effected by a means other than the buyback

person P means a person who holds or controls voting securities and is relying on the buyback exemption

person P's exempt associates means the class of persons who are associates of person P and who are also relying on the buyback exemption in relation to the buyback

voting security means a voting security in the Company.

2 Shareholder resolution to approve buyback

- (1) A buyback effected in reliance on the buyback exemption must be approved by ordinary resolution of the shareholders of the Company.
- (2) Neither person P nor any associate of person P may vote in favour of any resolution concerning the buyback that relates to person P's increase in voting control.
- (3) If a buyback is pursuant to a non-pro rata offer to shareholders, neither the seller (being a person who accepts a non-pro rata offer) nor any associate of the seller may vote in favour of the resolution.

3 Notice of meeting to approve buyback

The notice of meeting containing the proposed resolution to approve the buyback must contain, or be accompanied by, the following:

- (a) full particulars of the buyback;
- (b) a statement of the name of person P;
- (c) the following particulars of the voting securities that may, if the resolution is carried, be acquired by the Company under the buyback:

- (i) the maximum number (the **approved maximum number**) of its own voting securities that the Company could acquire under the buyback;
- (ii) the percentage of all voting securities on issue that the approved maximum number represents;
- (iii) the maximum percentage (the **approved maximum percentage**) of all voting securities on issue that person P could hold or control if the Company acquired the approved maximum number of voting securities;
- (iv) the maximum percentage of all voting securities on issue that person P and person P's associates, excluding person P's exempt associates, could hold or control, in aggregate, if the Company acquired the approved maximum number of voting securities;
- (v) the maximum percentage of all voting securities on issue that person P and all person P's associates could hold or control, in aggregate, if the Company acquired the approved maximum number of voting securities;
- (d) the consideration for the buyback, or the manner in which the consideration will be determined, and when it will be payable;
- (e) the reasons for the buyback;
- (f) a statement to the effect that the increase in person P's voting control that would result from the buyback would, if approved, be permitted as an exception to rule 6(1) of the Code in reliance on the buyback exemption in clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001;
- (g) a report from an independent adviser, in relation to the buyback, that complies with rule 18 of the Code as if—
 - (i) references in that rule to an acquisition under rule 7(c) of the Code were references to the buyback by the Company made in accordance with the buyback exemption; and

- (ii) the references to a notice of meeting were references to the notice of meeting referred to in this clause;
- (h) a statement by the directors of the Company, in relation to the buyback, that complies with rule 19 of the Code as if the reference in that rule to an acquisition under rule 7(c) of the Code were a reference to the buyback by the Company made in accordance with the buyback exemption;
- (i) the assumptions on which the particulars referred to in paragraph (c) are based, which must include the assumptions referred to in clause 4;
- (j) the calculation date.

4 Assumptions

The following assumptions must be applied for the purposes of providing the particulars of voting securities, as specified in clause 3(c):

- (a) that the number of voting securities in the Company is the number of voting securities on issue on the calculation date;
- (b) that there is no change in the total number of voting securities on issue between the calculation date and the end of the buyback period, other than as a result of the buyback;
- (c) that person P does not participate in the buyback;
- (d) that the Company acquires the approved maximum number of its own voting securities;
- (e) any other assumptions that are reasonably necessary to ensure that shareholders are provided with the material information required for them to be able to determine whether to approve the resolution.

5 Restriction on increase above approved maximum percentage

During the buyback period, person P must not hold or control a percentage of the voting securities that exceeds the approved maximum percentage of voting securities, except as a result of an other-means increase that complies with clause 9.

6 Standard provisions consistent with rule 19A of Code

(1) At the same time that the notice of meeting containing the proposed resolution is sent to shareholders of the Company, the Company must send to the Panel, in hard copy and (if possible) in electronic form, a copy of the notice and any documents accompanying it that relate to the meeting.

(2) If, before the meeting to approve the buyback, a person publishes or sends to shareholders of the Company a statement or information that relates to the meeting but that was not required by the Code to be published or sent, the person must send to the Panel, in hard copy and (if possible) in electronic form, a copy of that statement or information.

7 Annual report disclosures for long-term buybacks

If the buyback takes place over a period of more than 12 months, every annual report of the Company issued during the buyback period must include the following matters, in a prominent position:

(a) a summary of the terms of the buyback, as approved at the meeting at which shareholder approval of the buyback was given;

(b) a statement, as at the end of the financial year to which the report relates, of—

- (i) the number of voting securities on issue acquired by the Company under the buyback; and
- (ii) the number of voting securities on issue that are held or controlled by person P, and the percentage of all voting securities on issue that that number represents; and
- (iii) the percentage of all voting securities on issue that are held or controlled, in aggregate, by person P and person P's associates; and
- (iv) the maximum percentage of all voting securities on issue that could be held or controlled by person P if the Company acquires the approved maximum number of voting securities; and
- (v) the maximum percentage of all voting securities on issue that would be held or controlled, in aggregate, by person P and person P's associates

if the Company acquires the approved maximum number of voting securities:

- (c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

8 Internet site disclosures for long-term buybacks

- (1) This condition applies only if—
 - (a) the buyback takes place over a period of more than 12 months; and
 - (b) the Company has an Internet site.
- (2) Following the issue of the first annual report during the buyback period and up to the issue of the first annual report after the end of the buyback period, the Company must disclose on its Internet site the information required under clause 7 to be disclosed in an annual report.
- (3) During the buyback period and up to the issue of the first annual report after the end of the buyback period, the Company must—
 - (a) announce on its Internet site any aggregate increase of 1% or more in the voting securities held or controlled by person P since the date of the last disclosure under this paragraph or, where no prior disclosure has been made, since the date of the first aggregate increase of 1% or more in the voting securities held or controlled by person P; and
 - (b) maintain every such announcement on its Internet site in a prominent position.
- (4) The announcement referred to in subclause (3)(a) must be made as soon as the Company is aware, or ought to be aware, that the relevant increase has occurred.

9 Other-means increases

- (1) During the buyback period, person P must not increase its voting control in the Company by way of an other-means increase unless the other-means increase—
 - (a) is by an acquisition of voting securities approved in accordance with rule 7(c) of the Code; or
 - (b) is by an allotment of voting securities approved in accordance with rule 7(d) of the Code; or

(c) is permitted by another exemption granted by the Panel.

(2) If approval of the Company's shareholders is required under subclause (1)(a) or (b), the notice of meeting containing the resolution to approve the other-means increase must contain or be accompanied by the following:

- (a) a summary of the terms of the buyback, as approved at the meeting at which shareholder approval of the buyback was given;
- (b) a statement, as at the date of the notice of meeting containing the resolution to approve the other-means increase, of the following particulars:
 - (i) the numbers and percentages referred to in clause 7(b);
 - (ii) the maximum percentage of all voting securities on issue that could be held or controlled by person P after the other-means increase and completion of the buyback;
 - (iii) the maximum percentage of all voting securities on issue that could be held or controlled by person P and person P's associates after the other-means increase and completion of the buyback;
- (c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

(3) If an other-means increase is approved by shareholders in accordance with this clause, the reference in clause 5 to the approved maximum percentage must be taken to be a reference to the approved maximum percentage adjusted to take account of the other-means increase.

10 Change of control in person P

(1) During the buyback period, there must be no change of control in person P that results in another person becoming the holder or controller of an increased percentage of the voting rights in the Company unless the change of control in person P—

- (a) is by an acquisition of voting securities in person P approved by an ordinary resolution of the Company in accordance with rule 7(c) of the Code; or

- (b) is by an allotment of voting securities in person P approved by an ordinary resolution of the Company in accordance with rule 7(d) of the Code; or
- (c) is permitted under another exemption granted by the Panel.

(2) If approval of the Company's shareholders is required under subclause (1)(a) or (b), the notice of meeting containing the resolution to approve the change of control must contain or be accompanied by the following information:

- (a) a summary of the terms of the buyback, as approved at the meeting at which shareholder approval of the buyback was given;
- (b) a statement, as at the date of the notice of meeting containing the resolution to approve the change of control, of the numbers and percentages referred to in clause 7(b);
- (c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

Schedule 2

Conditions of rule 16(b) exemption

cl 10A

Schedule 2: added, on 29 November 2010, by clause 6 of the Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010 (SR 2010/451).

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1 Interpretation

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

allotment means the allotment of voting securities under a specified transaction; and, where the specified transaction involves allotments that will occur over a period of time, means all of those allotments

allotment period means the period starting on the date of the meeting that approves a specified transaction, and ending on the date of the last allotment under the specified transaction

annual report includes any concise annual report

approved maximum number means, in relation to a specified transaction, the maximum number of voting securities that could be allotted to person P under the specified transaction, and is the number required to be disclosed under clause 2(c)(i)

approved maximum percentage means, in relation to a specified transaction, the maximum percentage of all voting securities on issue that person P could hold or control on completion of the specified transaction, and is the percentage figure required to be disclosed under clause 2(c)(iii)

calculation date means the date, identified in the notice of meeting referred to in clause 2, used for determining the matters referred to in clause 3

combined specified transactions means the class of all specified transactions that are identified in a notice of meeting containing a proposed resolution to approve those transactions

Company means the code company whose voting securities are to be allotted under a specified transaction

other-means increase means an increase in voting control in the Company that is effected by a means other than an allotment under a specified transaction

person P means an allottee under a specified transaction who is relying on the rule 16(b) exemption

person P's exempt associates means the class of persons who are associates of person P who are also relying on the rule 16(b) exemption in relation to the specified transaction

rule 16(b) exemption means the exemption granted by clause 10A of this notice

specified transaction has the meaning given in clause 10A(4) of this notice

voting security means a voting security in the Company.

(2) If person P or any of person P's exempt associates is relying on the rule 16(b) exemption in relation to more than 1 specified transaction, a reference in this schedule to the specified transaction is a reference to each of those specified transactions.

2 Notice of meeting to approve specified transaction

The notice of meeting containing the proposed resolution to approve the specified transaction (as referred to in rule 16 of the Code) must contain, or be accompanied by, the following:

- (a) full particulars of the specified transaction;
- (b) a statement of the name of person P;
- (c) the following particulars of the voting securities to be allotted under the specified transaction:
 - (i) the maximum number of voting securities that could be allotted to person P under the specified transaction (the **approved maximum number**):

- (ii) that number expressed as a percentage of all voting securities on issue after the allotment under the specified transaction;
- (iii) the potential maximum percentage (the **approved maximum percentage**) of all voting securities on issue that could be held or controlled by person P on completion of the specified transaction;
- (iv) the maximum percentage of all voting securities on issue that person P and person P's associates, excluding person P's exempt associates, could hold or control in aggregate on completion of the specified transaction;
- (v) the maximum percentage of all voting securities on issue that person P and all person P's associates could hold or control in aggregate on completion of the specified transaction;
- (d) if there is more than 1 specified transaction, the particulars of voting securities referred to in paragraph (c) as if references to the specified transaction were references to the combined specified transactions;
- (e) a statement, in addition to the statement required by rule 16(f) of the Code, that the disclosures made in the notice of meeting have been modified in reliance on the exemption set out in clause 10A of the Takeovers Code (Class Exemptions) Notice (No 2) 2001;
- (f) the assumptions on which the particulars referred to in paragraphs (c) and (d) are based, which must include the assumptions referred to in clause 3(2);
- (g) the calculation date.

3 Assumptions

- (1) The assumptions set out in subclause (2) must be applied for the purpose of providing the particulars of the specified transaction and, if necessary, of the combined specified transactions, as those particulars are specified in clause 2(c).
- (2) The assumptions are as follows:
 - (a) that the number of voting securities is the number of voting securities on issue on the calculation date;

- (b) that there is no change in the total number of voting securities on issue between the calculation date and the end of the allotment period, other than as a result of the specified transaction;
- (c) that, in relation to clause 2(c)(i) to (iii), person P is allotted the approved maximum number under the specified transaction, as follows:
 - (i) in the case of a rights issue, person P takes up all of its rights and no other person takes up their rights;
 - (ii) in the case of the conversion of convertible securities, person P converts all of its securities and no other holder of convertible securities converts theirs;
 - (iii) in the case of an underwriting arrangement, person P is allotted the approved maximum number of securities under the arrangement;
- (d) that, in relation to clause 2(c)(iv), person P and each of person P's associates who is not an exempt associate are allotted the maximum number of voting securities under the specified transaction in the manner described in paragraph (c)(i) to (iii) (which must be read as if the references to person P were references to person P together with each of person P's associates who is not an exempt associate);
- (e) that, in relation to clause 2(c)(v), person P and each of person P's associates are allotted the maximum number of voting securities under the specified transaction in the manner described in paragraph (c)(i) to (iii) (which must be read as if the references to person P were references to person P together with all person P's associates);
- (f) any other assumptions that are reasonably necessary to ensure that shareholders are provided with the material information required for them to be able to determine whether to approve the resolution.

Schedule 2 clause 3(2)(d): substituted, on 4 November 2011, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2011 (SR 2011/406).

Schedule 2 clause 3(2)(e): substituted, on 4 November 2011, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2011 (SR 2011/406).

4 Restriction on increase above approved maximum percentage

Until the end of the allotment period, person P must not hold or control a percentage of voting securities that exceeds the approved maximum percentage, except as a result of an other-means increase that complies with clause 7.

5 Annual report disclosures for ongoing allotments

- (1) If allotments under a specified transaction, or under combined specified transactions, occur over a period of more than 12 months, every annual report of the Company issued during the allotment period, and the first annual report issued after the end of the allotment period, must include the matters set out in subclause (2) in a prominent position.
- (2) The matters to be included in annual reports are as follows:
 - (a) a summary of the terms of the specified transaction, as approved at the meeting at which approval for the allotment of voting securities under the specified transaction was given;
 - (b) a statement, as at the end of the financial year to which the report relates, of—
 - (i) the number of voting securities allotted to person P under the specified transaction; and
 - (ii) the number of voting securities on issue that are held or controlled by person P, and the percentage of all voting securities on issue that that number represents; and
 - (iii) the percentage of all voting securities on issue that are held or controlled, in aggregate, by person P and person P's associates; and
 - (iv) the maximum percentage of all voting securities on issue that could be held or controlled by person P on completion of the specified transaction and, if there is more than 1 specified transaction under which allotments could yet be made,

on completion of all those specified transactions; and

(v) the maximum percentage of all voting securities on issue that could be held or controlled, in aggregate, by person P and person P's associates on completion of the specified transaction and, if there is more than 1 specified transaction under which allotments could yet be made, on completion of all those specified transactions:

(c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

6 Internet site disclosures for ongoing allotments

(1) This condition applies only if—

(a) allotments under the specified transaction, or under combined specified transactions, occur over a period of more than 12 months; and

(b) the Company has an Internet site.

(2) Following the issue of the first annual report during the allotment period and up to the issue of the first annual report after the end of the allotment period, the Company must disclose on its Internet site the information required under clause 5 to be disclosed in an annual report.

(3) During the allotment period and up to the issue of the first annual report after the end of the allotment period, the Company must—

(a) announce on its Internet site any aggregate increase of 1% or more in the voting securities held or controlled by person P since the date of the last disclosure under this paragraph or, where no prior disclosure has been made, since the date of the first aggregate increase of 1% or more in the voting securities held by person P; and

(b) maintain every such announcement on its Internet site in a prominent position.

(4) The announcement referred to in subclause (3)(a) must be made as soon as the Company is aware, or ought to be aware, that the relevant increase has occurred.

7 Other-means increases

(1) During the allotment period, person P must not increase its voting control in the Company by way of an other-means increase unless the other-means increase—

- (a) is by an acquisition of voting securities approved in accordance with rule 7(c) of the Code; or
- (b) is by an allotment of voting securities approved in accordance with rule 7(d) of the Code; or
- (c) is permitted by another exemption granted by the Panel.

(2) If approval of the Company's shareholders is required under subclause (1)(a) or (b), the notice of meeting containing the resolution to approve the other-means increase must contain or be accompanied by the following:

- (a) a summary of the terms of the specified transaction, as approved at the meeting at which approval for the allotment of voting securities under the specified transaction was given;
- (b) a statement, as at the date of the notice of meeting containing the resolution to approve the other-means increase, of the following particulars:
 - (i) the numbers and percentages referred to in clause 5(2)(b);
 - (ii) the maximum percentage of all voting securities on issue that could be held or controlled by person P after the other-means increase and completion of the specified transaction and, if there is more than 1 specified transaction under which allotments could yet be made, on completion of all those specified transactions;
 - (iii) the maximum percentage of all voting securities on issue that could be held or controlled by person P and person P's associates after the other-means increase and completion of the specified transaction and, if there is more than 1 specified transaction under which allotments could yet be made, on completion of all those specified transactions;
- (c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

(3) If an other-means increase is approved by shareholders in accordance with this clause, the reference in clause 4 to the approved maximum percentage must be taken to be a reference to the approved maximum percentage adjusted to take account of the other-means increase.

8 Change of control in person P

(1) During the allotment period, there must be no change of control in person P that results in another person becoming the holder or controller of an increased percentage of voting rights in the Company unless the change of control in person P—

- (a) is by an acquisition of voting securities in person P approved by an ordinary resolution of the Company in accordance with rule 7(c) of the Code; or
- (b) is by an allotment of voting securities in person P approved by an ordinary resolution of the Company in accordance with rule 7(d) of the Code; or
- (c) is permitted under another exemption granted by the Panel.

(2) If approval of the Company's shareholders is required under paragraph (a) or (b), the notice of meeting containing the resolution to approve the change of control must contain or be accompanied by the following information:

- (a) a summary of the terms of the specified transaction, as approved at the meeting at which approval for the allotment of voting securities under the specified transaction was given;
- (b) a statement, as at the date of the notice of meeting containing the resolution to approve the change of control, of the numbers and percentages referred to in clause 5(2)(b);
- (c) a statement of the assumptions on which the particulars referred to in paragraph (b) are based.

Schedule 3

Conditions of exemption for certain oversubscribed partial offers

Schedule 3: added, on 12 August 2011, by clause 5 of the Takeovers Code (Class Exemptions—Partial Offers) Amendment Notice 2011 (SR 2011/271).

1 Interpretation

In this schedule, unless the context otherwise requires,—

custodian means an offeree under a partial offer that is—

- (a) a trustee corporation or nominee company that holds voting securities by reason of acting, directly or indirectly, on behalf of a client in the ordinary course of the trustee corporation's or nominee company's business; or
- (b) a person who holds voting securities as the bare trustee of a trust to which the voting securities are subject

relevant client means a client of a custodian on whose behalf, directly or indirectly, and through whatever arrangements, the custodian holds voting securities

voting security means a voting security in the target company.

2 Offer document

The offer document must include—

- (a) a statement that, if the offer is accepted in respect of more voting securities than are sought by the offeror, the offeror intends to rely on the exemption in clause 26 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001; and
- (b) the specified summary set out in clause 3; and
- (c) a request that any offeree who holds voting securities as a custodian provides, no later than the close of the last day of the offer period, a certificate that complies with clause 4 to—
 - (i) the offeror; and
 - (ii) the person who administers the target company's share register.

3 Content of specified summary

The specified summary must be as follows:

“The exemption in clause 26 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 addresses anomalies that can arise under the scaling formulas contained in rules 12 and 13 of the Code. The formulas apply when a partial offer for voting securities in a target company is oversubscribed.

“The scaling formulas do not take into account the underlying beneficial ownership of voting securities. They treat any trustee corporation, nominee company, or bare trustee recorded on the share register (a **custodian**) as a single offeree, even though a custodian may hold voting securities on behalf of multiple beneficial owners.

“As a result, the scaling formulas can produce materially different scaling outcomes for beneficial owners of voting securities who hold securities through a custodian compared with the outcomes that would be achieved if the beneficial owners held their voting securities directly.

“The exemption in clause 26 of the notice enables the offeror to avoid these anomalies by, in effect, scaling acceptances relating to beneficial owners who hold their voting securities through a custodian on the same basis as beneficial owners who hold their voting securities directly.

“Under this offer, the offeror has volunteered to rely on the exemption in clause 26. The effect of the exemption will be that beneficial owners who have accepted for more than the specified percentage of voting securities sought by the offeror under the offer may have fewer of their voting securities taken up under the scaling process than if the exemption did not apply.”

4 Requirements of certificate

A certificate provided under clause (2)(c) must—

- (a) state the date of the certificate; and
- (b) include a statement that the offeree holds voting securities as a custodian on behalf of relevant clients; and
- (c) state the total number and class of voting securities that are held by the offeree on behalf of relevant clients; and

- (d) state the number of relevant clients on whose behalf the offeree holds those voting securities; and
- (e) identify as **Pool A**—
 - (i) the number of relevant clients who have not accepted any voting securities under the offer, along with the number and class of voting securities held by the custodian on behalf of each such relevant client; and
 - (ii) the number of relevant clients who have accepted the offer for the specified percentage, or any smaller percentage, of voting securities that are held by the custodian on behalf of each such relevant client, along with the number and class of voting securities that are held by the custodian on behalf of each such relevant client and to which the acceptance relates; and
- (f) identify as **Pool B** the number of relevant clients who have accepted the offer in relation to more than the specified percentage of voting securities that are held by the custodian on behalf of each such relevant client, along with the number and class of voting securities that are held by the custodian on behalf of each such relevant client and to which that acceptance relates; and
- (g) state the total number of voting securities and acceptance in each of Pool A and Pool B.

5 Offeror's obligations on receiving certificate

- (1) An offeror who receives a certificate that complies with clause 4 must,—
 - (a) in relation to Pool A, take up all the voting securities accepted; and
 - (b) in relation to Pool B, take up all the voting securities accepted, as if each relevant client in pool B were an offeree, in accordance with rules 12 and 13 of the Code.
- (2) Subclause (1) does not require an offeror to take up voting securities directly from a relevant client, but the offeror must instead take up the voting securities from the custodian that provided the certificate.

Dated at Wellington this 27th day of June 2001.

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

[Seal]

J C King,
Chairperson.

Statement of reasons of Takeovers Panel

Note: The following statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2011
- Takeovers Code (Class Exemptions—Partial Offers) Amendment Notice 2011
- Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011
- Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010

The Takeovers Panel has granted exemptions for certain classes of persons, transactions, and offers from compliance with rule 6(1) of the Takeovers Code. These exemptions, which are set out in this notice, come into force on 1 July 2001. The terms and conditions of the exemptions are designed to ensure that the underlying purpose and intent of the Code is fulfilled.

The exemption in *clause 4* is appropriate and is consistent with the objectives of the Code because it closely mirrors the shareholder approval mechanism, which is an exception to the fundamental rule, set out in rules 7(c) and 15 of the Code.

The exemption in *clause 5* is appropriate because transactions of this type can inadvertently lead to a breach of the fundamental rule. However, the conditions of exemption ensure that the policy of the Code is complied with. The exemption is consistent with the objectives of the Code because the attaching conditions require that any increase in voting control is eliminated (wholly or, in some cases, in part only) within 6 months and that the additional voting rights are not exercised before that elimination.

The exemption in *clause 6* is appropriate and is consistent with the objectives of the Code because the strict application of the Code would be unduly harsh on shareholders if a buyback results in a decrease in their voting control and they are not able to top-up. The attaching conditions restrict the top-ups to certain levels to be reached within 6 months of the decrease.

The exemption in *clause 7* is appropriate because it facilitates initial public offers by companies that only become code companies as a consequence of such an offer. The exemption is consistent with the objectives of the Code because the attaching conditions ensure that it applies only to an offer that is effectively a preliminary step to a company becoming a code company.

The exemption in *clause 8* is appropriate because transactions of this type can inadvertently lead to a breach of the fundamental rule. However, the conditions of exemption ensure that the policy of the Code is complied with. The exemption is consistent with the objectives of the Code because the attaching conditions require that any increase in voting control is eliminated (wholly or, in some cases, in part only) within 6 months and that the additional voting rights are not exercised before that elimination.

The exemption in *clause 9* is appropriate and is consistent with the objectives of the Code because the strict application of the Code would be unduly harsh on shareholders if an allotment results in a decrease in their voting control and they are not able to top-up. The attaching conditions restrict the top-ups to certain levels to be reached within 6 months of the decrease.

The exemption in *clause 10* is appropriate and is consistent with the objectives of the Code because the strict application of the Code would be unduly harsh on shareholders if an allotment results in a decrease in their voting control and they are not able to top-up. The

attaching conditions restrict the top-ups to certain levels to be reached within 6 months of the decrease.

The exemption in *clause 11* is appropriate because it ensures that lenders and receivers are able to hold security interests that include voting securities. This exemption is consistent with the objectives of the Code because it is limited by the attaching conditions to bona fide financial transactions that do not have a collateral purpose of enabling a person to increase the person's voting control otherwise than in compliance with the Code. The Code will still apply to dispositions of shares on the enforcement of the security.

The exemption in *clause 12* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 11* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is a lender or receiver, who has the benefit of an exemption under *clause 11*.

The exemption in *clause 13* is appropriate because it facilitates an essential feature of corporate democracy in respect of the voting of shares. The exemption is consistent with the objectives of the Code because the attaching conditions limit the exemption to the usual situation where shareholders require a proxy to vote on their behalf.

The exemption in *clause 14* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 13* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is a proxy, who has the benefit of an exemption under *clause 13*.

The exemption in *clause 15* is appropriate because it facilitates an essential feature of corporate democracy in respect of the voting of shares by companies. The exemption is consistent with the objectives of the Code because the attaching conditions limit the exemption to the usual situation where a company requires a corporate representative to vote on its behalf.

The exemption in *clause 16* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 15* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is a corporate representative, who has the benefit of an exemption under *clause 15*.

The exemption in *clause 17* is appropriate because transactions of this type can inadvertently lead to a breach of the fundamental rule. However, the conditions of exemption ensure that the policy of the Code is complied with. This exemption is consistent with the objectives of the Code because the attaching conditions require that the additional voting rights are controlled by the beneficial owner of the shares.

The exemption in *clause 18* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 17* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is a share-broker, who has the benefit of an exemption under *clause 17*.

The exemption in *clause 19* is appropriate because transactions of this type can inadvertently lead to a breach of the fundamental rule. However, the conditions of exemption ensure that the policy of the Code is complied with. The exemption is consistent with the objectives of the Code because the attaching conditions require that any increase in voting control is eliminated (wholly or, in some cases, in part only) within 6 months and that the additional voting rights are not exercised before that elimination.

The exemption in *clause 20* is appropriate because the transmission of property to executors, trustees, or administrators in accordance with the terms of a will or on an intestacy may otherwise be in breach of the fundamental rule of the Code. This exemption is consistent with the objectives of the Code because the person or persons to whom the property is transmitted are, in effect, only representing the deceased person.

The exemption in *clause 21* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 20* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is an executor, trustee, or administrator, who has the benefit of an exemption under *clause 20*.

The exemption in *clause 22* is appropriate because persons who inherit property under a will or on an intestacy may otherwise be in breach of the fundamental rule of the Code. This exemption is consistent with the objectives of the Code because the Code is not intended to inhibit the inheriting of property under a will or on an intestacy.

The exemption in *clause 23* is appropriate because transactions of this type can inadvertently lead to a breach of the fundamental rule. However, the conditions of exemption ensure that the policy of the Code is complied with. The exemption is consistent with the objectives of the Code because the attaching conditions require that the additional voting rights are controlled by the beneficial owner of the shares.

The exemption in *clause 24* is appropriate and is consistent with the objectives of the Code because it is consequential to the exemption in *clause 23* and without it those exempted would be unnecessarily penalised. It is limited to a person, an associate of whom is a nominee company or bare trustee, who has the benefit of an exemption under *clause 23*.

The exemption in *clause 25* is appropriate because it facilitates normal intra-group transactions. This exemption is consistent with the objectives of the Code because the attaching conditions ensure that there is no change in the ultimate control of the voting rights.

The exemption in *clause 26* is appropriate and is consistent with the objectives of the Code because it reduces costs and enhances efficiency. The attaching conditions ensure that the purpose and intent of rule 47 will still be fulfilled.

Note: The preceding statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2011
- Takeovers Code (Class Exemptions—Partial Offers) Amendment Notice 2011
- Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011
- Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010

Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2007

(SR 2007/158)

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).

Notice

1 Title

This notice is the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2007.

2 Commencement

This notice comes into force on 1 July 2007.

6 Transitional provision

- (1) The principal notice continues in force, as if clause 26 had not been revoked, in respect of an offer if a takeover notice had been sent to the target company before 1 July 2007.
- (2) In subclause (1), **offer**, **takeover notice**, and **target company** have the same meaning as in rule 3(1) of the Takeovers Code.

Dated at Auckland this 12th day of June 2007.

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

Reprinted as at
4 November 2011

**Takeovers Code (Class Exemptions)
Notice (No 2) 2001**

[Seal]

D O Jones,
Chairperson.

Date of notification in *Gazette*: 21 June 2007.

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Notes

1 *General*

This is a reprint of the Takeovers Code (Class Exemptions) Notice (No 2) 2001. The reprint incorporates all the amendments to the notice as at 4 November 2011, 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 that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

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/editorial-conventions/> or Part 8 of the *Tables of New Zealand 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 (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2011 (SR 2011/406)

Takeovers Code (Class Exemptions—Partial Offers) Amendment Notice 2011 (SR 2011/271)

Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2011 (SR 2011/262)

Takeovers Code (Class Exemptions—Buybacks and Rule 16(b)) Amendment Notice 2010 (SR 2010/451)

Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2006 (SR 2006/126)

Takeovers Code (Professional Underwriters) Exemption Notice 2004 (SR 2004/138): clause 6

Reprinted as at
4 November 2011

**Takeovers Code (Class Exemptions)
Notice (No 2) 2001**

Notes
