



## Takeovers Code (The Todd Corporation Limited) Exemption Notice 2011

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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### Notice

- 1 Title**  
This notice is the Takeovers Code (The Todd Corporation Limited) Exemption Notice 2011.
- 2 Application**  
This notice applies to acts or omissions occurring on or after 19 July 2011.
- 3 Expiry**  
This notice expires on the close of 18 July 2016.
- 4 Interpretation**  
(1) In this notice, unless the context otherwise requires,—

**Act** means the Takeovers Act 1993

**clause 14 of the constitution** means clause 14.1 of the constitution of The Todd Corporation as in force on 4 May 2011, or any renumbered but otherwise identical clause in the constitution of The Todd Corporation after that date

**Code** means the Takeovers Code under the Act

**The Todd Corporation** means The Todd Corporation Limited.

- (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 The Todd Corporation.
- (3) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

## **5 Exemption from rule 6(1) of Code**

Every person is exempted from rule 6(1) of the Code in respect of any increase in that person's voting control as a result of a transfer of voting securities in The Todd Corporation effected under clause 14 of the constitution.

## **6 Conditions of exemption**

The exemption is subject to the conditions that—

- (a) the maximum number of voting securities that may be transferred under clause 14 of the constitution and the provisions of this exemption in any 12-month period is the number of voting securities that carry in the aggregate not more than 20% of the total voting rights in The Todd Corporation at the commencement of the 12-month period; and
- (b) any transfer of voting securities in The Todd Corporation that is effected under clause 14 of the constitution and the provisions of any other exemption granted in respect of The Todd Corporation by the Takeovers Panel is not taken into account for the purposes of the aggregate 20% limitation in paragraph (a); and

- (c) the wording in clause 14 of the constitution remains unchanged.

Dated at Christchurch this 18th day of July 2011.

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

[Seal]

S H Suckling,  
Member.

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### Statement of reasons

This notice, which applies to acts or omissions occurring on or after 19 July 2011, expires on 18 July 2016.

This notice exempts any person, subject to conditions, from rule 6(1) of the Takeovers Code (the **Code**) in respect of that person becoming the holder or controller of an increased percentage of voting rights in The Todd Corporation Limited (**The Todd Corporation**) as a result of a transfer of shares effected under clause 14.1 of the constitution of The Todd Corporation (as in force on 4 May 2011) (**clause 14 of the constitution**).

All the recipients of transfers under clause 14 of the constitution of The Todd Corporation are members of a single extended family or represent interests associated with that single extended family (**in-ter-family transfers**). Owing to the family relationship, and because the family members are undertaking transactions involving voting rights in the family's investment vehicle, it is arguable that all shareholders of The Todd Corporation are associates as that term is used

in the Code. Without this exemption, inter-family transfers would be impracticable.

Inter-family transfers allow the transfer of shares in the family investment vehicle between family interests.

The Takeovers Panel (the **Panel**) has put in place restrictions on the transfer of shares that may take place in any 12-month period to limit the possibility of a change of control occurring without using one of the mechanisms of the Code. However, the Panel has excluded from that limit any transactions separately exempted by the Panel.

This notice effectively replaces the Takeovers Code (The Todd Corporation Limited) Exemption Notice 2007.

The Panel considers that it is appropriate to grant the exemption from clause 6(1) of the Code because—

- all the recipients of transfers under clause 14 of the constitution are members of a single extended family, or represent interests associated with that single extended family, undertaking transactions involving voting rights in the family's investment vehicle and therefore are all probably associates for the purposes of the Code. As such, the mechanisms provided in the Code for approval of increased shareholdings through transfers of shares are unworkable; and
- the transactions covered by the exemption are confined to those that take place under clause 14 of the constitution, the principal purpose of which is to facilitate transfers of shares between family interests; and
- the exemption is conditional on clause 14 of the constitution remaining unchanged. If clause 14 of the constitution is amended, transfers of The Todd Corporation's shares cannot occur in reliance on this exemption, and The Todd Corporation will need to seek a new exemption; and
- there are restrictions on the transfer of shares that may take place in any 12-month period to limit the possibility of a change of control occurring without using one of the mechanisms of the Code.

The Panel considers that the exemption is consistent with the objectives of the Code because—

- it retains all the requirements of the Code except in relation to inter-family transactions in limited circumstances; and

- it avoids unnecessary compliance costs that would be incurred if the exemption were not granted.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 21 July 2011.  
This notice is administered by the Takeovers Panel.

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