

**Reprint
as at 15 March 2019**



**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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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Takeovers Panel.

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[Revoked]

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[Revoked]

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), 9(2), or 10(2) (the **relevant decrease**) and whose voting control is subsequently increased (the **relevant increase**), means,—

(a) in clauses 6, 9(3)(b)(i), and 10,—

- (i) 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

- (ii) 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; and
- (b) in clause 9(3)(b)(ii),—
 - (i) if the aggregate of the control percentages of the person and the person's associates immediately before the first allotment made under the offer was less than 20%, the increase (if any) in the aggregate of the control percentages of the person's associates after the first allotment and before the relevant increase; and
 - (ii) if the aggregate of the control percentages of the person and the person's associates immediately before the first allotment 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 under the Act

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

overseas shareholder means a shareholder whose last known address, as recorded in the code company's financial products register, is an address outside New Zealand

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) **aggregate associate increase**: replaced, on 17 February 2017, by clause 4(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

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) **Code**: replaced, on 29 October 2018, by clause 4 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

Clause 3(1) **overseas shareholder**: inserted, on 17 February 2017, by clause 4(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

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).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Clause 3A: inserted, on 15 September 2017, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017 (LI 2017/266).

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 12 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 12 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.

Clause 5 heading: amended, on 15 March 2019, by clause 4(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

Clause 5(2)(b): amended, on 15 March 2019, by clause 4(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

6 Exemption for increased voting control within 12 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 12 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.

Clause 6 heading: amended, on 15 March 2019, by clause 5(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

Clause 6(2)(a): amended, on 15 March 2019, by clause 5(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

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 or scheme: increased voting control eliminated within 12 months after increase

- (1) This clause applies if a code company makes an allotment of voting securities pursuant to—
 - (a) an offer of voting securities that is made pro rata to all holders of a class of voting securities in the code company; or
 - (b) 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.
- (2) Every person who increases voting control as a result of the allotment is exempted from rule 6(1) of the Code in respect of that increase in voting control.

- (3) The exemption is subject to—
- (a) conditions A, B, and C, if the allotment is pursuant to an offer of the kind described in subclause (1)(a); or
 - (b) conditions B and C, if the allotment is pursuant to a scheme of the kind described in subclause (1)(b).
- (4) Condition A is that 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.
- (5) Condition B is that the control percentage of the person is decreased within 12 months after the increase in the person's voting control to, or below, either—
- (a) the control percentage of the person immediately before the increase in the person's voting control; or
 - (b) if—
 - (i) 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
 - (ii) 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.
- (6) Condition C is that the additional voting rights of the person are not exercised before the condition B decrease.

Clause 8: replaced, on 17 February 2017, by clause 5 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

Clause 8 heading: amended, on 15 March 2019, by clause 6(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

Clause 8(5): amended, on 15 March 2019, by clause 6(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

8A Exemption for allotments pursuant to offer with accelerated features but otherwise pro rata: increased voting control eliminated within 12 months after increase

- (1) This clause applies if a code company makes an allotment of voting securities pursuant to an offer that is—
 - (a) made by a series of offers with accelerated features; but
 - (b) in all other respects, made pro rata to all holders of a class of voting securities.
- (2) Every person who increases voting control as a result of the allotment is exempted from rule 6(1) of the Code in respect of that increase in voting control.
- (3) The exemption is subject to conditions A, B, and C in clause 8(4) to (6) (but *see* subclause (4) of this clause in applying condition B).
- (4) If, under the terms of the offer, 1 or more persons are allotted voting securities up to 2 months earlier than other persons, references in condition B to a control percentage or percentages immediately before the increase in voting control must be read as references to a control percentage or percentages immediately before the first allotment is made under the offer.
- (5) In this clause, **accelerated features** means 1 or more of the following is a feature of the offer that is made by the series of offers:
 - (a) it is made to 1 or more persons (**earlier recipients**) before it is made to other persons (**later recipients**):
 - (b) earlier recipients are given less time to accept the offer than is given to later recipients:
 - (c) its terms provide for 1 or more earlier recipients to be allotted voting securities on a date or dates up to 2 months earlier than the date for allotment of all other securities under the offer:
 - (d) under its terms, 1 or more (but not all) recipients may trade rights to be allotted the voting securities.

Clause 8A: inserted, on 17 February 2017, by clause 6 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

Clause 8A heading: amended, on 15 March 2019, by clause 7 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

8B Exemption for allotments pursuant to certain offers with excluded overseas shareholders: increased voting control eliminated within 12 months after increase

- (1) This clause applies if a code company makes an allotment of voting securities pursuant to an offer that would be of the kind described in clause 8(1)(a) or 8A(1) except that—
 - (a) the offer is not made to 1 or more overseas shareholders; or

- (b) the terms of the offer prevent 1 or more overseas shareholders from accepting their pro rata share of the rights or securities offered.
- (2) Except as set out in subclause (6), every person who increases voting control as a result of the allotment is exempted from rule 6(1) of the Code in respect of that increase in voting control.
- (3) The exemption is subject to—
 - (a) the condition that the terms of the offer comply with subclause (4); and
 - (b) conditions A, B, and C in clause 8(4) to (6) (but *see* subclause (5) of this clause in applying condition B).
- (4) The terms of the offer must include statements to the effect—
 - (a) that the code company—
 - (i) has appointed an NZX trading and advising firm, or a related company of an NZX trading and advising firm, to, as soon as practicable and consistent with the terms of the offer, sell the relevant rights or the voting securities to which the relevant rights relate; and
 - (ii) will ensure that each excluded overseas shareholder is paid that shareholder's pro rata share of the net proceeds of those sales; and
 - (b) that, to the best of the code company's knowledge, the appointed NZX trading and advising firm or related company (as relevant) is not being prosecuted for any offence.
- (5) In applying condition B, if, under the terms of the offer, 1 or more persons are allotted voting securities up to 2 months earlier than other persons, references in condition B to a control percentage or percentages immediately before the increase in voting control must be read as references to a control percentage or percentages immediately before the first allotment is made under the offer.
- (6) The exemption in subclause (2) does not apply to an increase in voting control acquired pursuant to the rights or voting securities sold by the appointed NZX trading and advising firm or related company.
- (7) In this clause,—

excluded overseas shareholders means, in respect of an offer, the 1 or more overseas shareholders—

 - (a) to whom the offer is not made; or
 - (b) who are prevented by the terms of the offer from accepting their pro rata share of the rights or voting securities offered

NZX trading and advising firm means an NZX Trading and Advising Firm within the meaning of the NZX Participant Rules made by NZX Limited

relevant rights means, in respect of an offer, the aggregate pro rata share of rights or voting securities that the excluded overseas shareholders—

- (a) would have been offered (in addition to, and not as a portion of, those rights or securities offered to the shareholders who received the offer) had the offer been of the kind described in clause 8(1)(a) or 8A(1); or
- (b) are prevented from accepting by the terms of the offer

rights means rights to acquire voting securities.

Clause 8B: replaced, on 15 September 2017, by clause 5 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017 (LI 2017/266).

Clause 8B heading: amended, on 15 March 2019, by clause 8 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

8C Exemption for allotments pursuant to certain scheme with excluded overseas shareholders: increased voting control eliminated within 12 months after increase

- (1) This clause applies if a code company makes an allotment of voting securities pursuant to a scheme that would be of the kind described in clause 8(1)(b) except that the terms of the scheme exclude 1 or more overseas shareholders from participating in the scheme.
- (2) Every person who increases voting control as a result of the allotment is exempted from rule 6(1) of the Code in respect of that increase in voting control.
- (3) The exemption is subject to conditions B and C in clause 8(5) and (6).

Clause 8C: inserted, on 17 February 2017, by clause 6 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

Clause 8C heading: amended, on 15 March 2019, by clause 9 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

9 Exemption for increased voting control within 12 months after allotments pursuant to clauses 8 to 8C offer or scheme result in reduced control percentage

- (1) This clause applies if a code company makes an allotment of voting securities pursuant to—
 - (a) an offer or a scheme of the kind described in clause 8(1); or
 - (b) an offer of the kind described in clause 8A(1); or
 - (c) an offer of the kind described in clause 8B; or
 - (d) a scheme of the kind described in clause 8C(1).
- (2) Every person whose control percentage is, or has been, decreased as a result of the allotment is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control after the decrease.
- (3) The exemption is subject to the condition that—

- (a) the increase in the person's voting control occurs within 12 months after the decrease of the person's control percentage; and
 - (b) either—
 - (i) 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; or
 - (ii) in the case of an offer with accelerated features, if, pursuant to the terms of that offer, some voting securities are allotted on a date or dates up to 2 months earlier than the date for allotment of all other voting securities under the offer, 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 the first allotment made under the offer, less any aggregate associate increase.
- (4) In subclause (3)(b)(ii), **accelerated features** has the same meaning as in clause 8A(5) (*see*, in particular, clause 8A(5)(c)).

Clause 9: replaced, on 17 February 2017, by clause 7 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

Clause 9 heading: amended, on 15 March 2019, by clause 10(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

Clause 9(1)(c): replaced, on 15 September 2017, by clause 6 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017 (LI 2017/266).

Clause 9(3)(a): amended, on 15 March 2019, by clause 10(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

10 Exemption for increased voting control within 12 months after allotments pursuant to other kind of offer or scheme result in reduced control percentage

- (1) This clause applies if a code company makes an allotment of voting securities other than an allotment pursuant to an offer or a scheme of one of the kinds described in clause 9(1)(a) to (d).
- (2) Every person whose control percentage is, or has been, decreased as a result of the allotment is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control after the decrease.
- (3) The exemption is subject to the condition that—
 - (a) the increase in the person's voting control occurs within 12 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.

Clause 10: replaced, on 17 February 2017, by clause 7 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17).

Clause 10 heading: amended, on 15 March 2019, by clause 11(1) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

Clause 10(3)(a): amended, on 15 March 2019, by clause 11(2) of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

10A Rule 16(b) exemption

[Revoked]

Clause 10A: revoked, on 1 June 2013, by regulation 35 of the Takeovers Code Approval Amendment Regulations 2013 (SR 2013/120).

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.

25A Exemption for transfers involving group headed by 1 natural person

- (1) This clause applies if 1 natural person (the **principal**) holds or controls all the voting rights in 1 or more bodies corporate.
- (2) Every person who is a member of the relevant group (*see* subclause (6)) is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (3) The exemption is subject to conditions A and B.
- (4) Condition A is that the person's increase in voting control results from a transfer from a member of the relevant group to another member of the relevant group of voting securities in—
 - (a) a code company; or
 - (b) a member of the relevant group.

- (5) Condition B is that the principal has control of the voting securities in the code company before and after the transfer referred to in subclause (4).
- (6) In this clause, **relevant group** means the principal and the 1 or more bodies corporate referred to in subclause (1).

Clause 25A: inserted, on 1 June 2015, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2015 (LI 2015/123).

25B Exemption for transfers involving group headed by 2 or more persons including at least 1 natural person

- (1) This clause applies if—
 - (a) 2 or more persons (the **principals**), taken together, hold or control all the voting rights in 1 or more bodies corporate; and
 - (b) at least 1 principal (*see* subclause (6)) is a natural person.
- (2) Every person who is a member of the relevant group (*see* subclause (6)) is exempted from rule 6(1) of the Code in respect of any increase in the person's voting control.
- (3) The exemption is subject to conditions A and B.
- (4) Condition A is that the person's increase in voting control results from a transfer from a member of the relevant group to another member of the relevant group of voting securities in—
 - (a) a code company; or
 - (b) a member of the relevant group that is not a principal.
- (5) Condition B is that—
 - (a) the principals, taken together, have control of the voting securities in the code company before and after the transfer referred to in subclause (4); and
 - (b) that transfer does not cause any change in any principal's share of that control.
- (6) In this clause,—

principal means a person included in the principals

relevant group means the principals and the 1 or more bodies corporate referred to in subclause (1).

Clause 25B: inserted, on 1 June 2015, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2015 (LI 2015/123).

25C Exemptions relating to information given to regulatory bodies

[Revoked]

Clause 25C: revoked, on 29 October 2018, by clause 5 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

25D Exemption relating to additional information contained in takeover notice that is erroneous or outdated

[Revoked]

Clause 25D: revoked, on 29 October 2018, by clause 6 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

25E Exemption relating to variation of terms and conditions contained in takeover notice

[Revoked]

Clause 25E: revoked, on 29 October 2018, by clause 7 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

25F Exemptions relating to period within which target company statement must be sent

- (1) Every person is exempted from rule 46(1)(a)(ii)(A) of the Code.
- (2) The exemption in subclause (1) is subject to the conditions that,—
 - (a) within 10 working days after it receives the despatch notice, the target company must—
 - (i) make the statement referred to in rule 46(1)(a)(i) of the Code available in a prominent position on its Internet site; and
 - (ii) include a prominent direct link to the statement on the Internet site's home page; and
 - (b) the target company must continue to make the statement and link available as referred to in paragraph (a) until the end of the offer period; and
 - (c) as soon as practicable after the statement is first made available under paragraph (a), the target company must send the statement to each e-shareholder; and
 - (d) within 3 working days after the statement is first made available under paragraph (a), the target company must send the statement to all other persons recorded in the target company's financial products register (as at the record date) as being holders of financial products to which the offer relates.
- (3) Every person that is relying on subclause (1) is also exempted from—
 - (a) rule 46(1)(b)(ii) of the Code to the extent that it requires the copy of the statement that must be delivered to the Registrar of Companies for registration to be so delivered immediately on sending the statement to the persons referred to in rule 46(1)(a)(ii) of the Code; and
 - (b) rule 47(1) of the Code to the extent that it requires the copy of the statement that must be given or sent to the Panel to be so given or sent at the same time as it is sent under rule 46 of the Code and in hard copy and (if possible) in electronic form.

- (4) The exemptions in subclause (3) are subject to the condition that, immediately on the statement being first made available under subclause (2)(a), a copy of the statement is—
- (a) delivered to the Registrar of Companies for registration; and
 - (b) sent to the Panel in electronic form.
- (5) In this clause, **e-shareholder** means a person who—
- (a) is recorded in the target company's financial products register (as at the record date) as being a holder of financial products to which the offer relates; and
 - (b) has made a notification to the target company under section 391(3A) of the Companies Act 1993 that applies to the statement referred to in rule 46(1)(a)(i) of the Code.

Clause 25F: inserted, on 26 February 2018, by clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018 (LI 2018/17).

Clause 25F(2)(a): amended, on 29 October 2018, by clause 8(1) of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

Clause 25F(2)(d): amended, on 29 October 2018, by clause 8(2) of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

26 Exemption for certain oversubscribed partial offers

[Revoked]

Clause 26: revoked, on 1 June 2013, by regulation 35 of the Takeovers Code Approval Amendment Regulations 2013 (SR 2013/120).

27 Revocation

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

Schedule 1AA

Transitional, savings, and related provisions

cl 3A

Schedule 1AA: inserted, on 15 September 2017, by clause 7 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017 (LI 2017/266).

Part 1

Provision relating to Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017

1 Transitional provision relating to offers made before amendments commence

Clauses 8B and 9(1)(c), as in force immediately before the amendments made by clauses 5 and 6 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017, continue to apply in relation to offers that are made before the commencement of those amendments as if those amendments had not been made.

Part 2

Provision relating to Takeovers Code (Class Exemptions) Amendment Notice 2018

Schedule 1AA Part 2: inserted, on 29 October 2018, by clause 9 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

2 Transitional provision relating to matters before commencement

- (1) Clauses 25C to 25E, as in force immediately before the commencement of the Takeovers Code (Class Exemptions) Amendment Notice 2018, continue to apply as if that notice had not been made to offers that are made before that commencement.
- (2) Clause 25F, as in force immediately before the commencement of the Takeovers Code (Class Exemptions) Amendment Notice 2018, continues to apply as if that notice had not been made to offers in respect of which the despatch notice is received before that commencement.

Part 3

Provision relating to Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019

Schedule 1AA Part 3: inserted, on 15 March 2019, by clause 12 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47).

3 Transitional provision relating to matters before commencement

- (1) In this clause, **notice** means the Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019.
- (2) Clauses 5 and 8 to 8C, as in force immediately before the commencement of the notice, continue to apply, as if the notice had not been made, to increases in voting control occurring before that commencement.
- (3) Clauses 6, 9, and 10, as in force immediately before the commencement of the notice, continue to apply, as if the notice had not been made, to decreases in voting control occurring before that commencement.

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 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 a copy of that statement or information.

Schedule 1 clause 6(1): amended, on 29 October 2018, by clause 10 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

Schedule 1 clause 6(2): amended, on 29 October 2018, by clause 10 of the Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210).

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

[Revoked]

cl 10A

Schedule 2: revoked, on 1 June 2013, by regulation 35 of the Takeovers Code Approval Amendment Regulations 2013 (SR 2013/120).

Schedule 3

Conditions of exemption for certain oversubscribed partial offers

[Revoked]

cl 26(2)

Schedule 3: revoked, on 1 June 2013, by regulation 35 of the Takeovers Code Approval Amendment Regulations 2013 (SR 2013/120).

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 2019**
- **Takeovers Code (Class Exemptions) Amendment Notice 2018**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2017**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2015**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2015**
- **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 exemp-

tion 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 sharebroker, 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 2019**
- **Takeovers Code (Class Exemptions) Amendment Notice 2018**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2017**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017**

- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 2) 2015**
- **Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2015**
- **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**

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 29 June 2001.

Reprints notes

1 *General*

This is a reprint of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2019 (LI 2019/47)
Takeovers Code (Class Exemptions) Amendment Notice 2018 (LI 2018/210): Part 1
Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2018 (LI 2018/17)
Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice (No 3) 2017 (LI 2017/266)
Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2017 (LI 2017/17)
Takeovers Code (Class Exemptions) Notice (No 2) 2001 Amendment Notice 2015 (LI 2015/123)
Takeovers Code Approval Amendment Regulations 2013 (SR 2013/120): regulation 35
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