

**Reprint
as at 1 June 2011**



**Takeovers Code (Utilico Limited)
Exemption Notice (No 2) 2007**

(SR 2007/267)

Takeovers Code (Utilico Limited) Exemption Notice (No 2) 2007: revoked, on 1 June 2011, by clause 3 of the Takeovers Code (Revocation of Exemptions) Notice 2011 (SR 2011/191).

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).

Contents

		Page
1	Title	1
2	Application	2
3	Interpretation	2
4	Exemption	3

Notice

1 Title

This notice is the Takeovers Code (Utilico Limited) Exemption Notice (No 2) 2007.

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.

2 Application

This notice applies to acts or omissions occurring on or after 1 June 2007.

3 Interpretation

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

Act means the Takeovers Act 1993

approval means the approval granted by the shareholders of Infratil Limited on 8 August 2005 under clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 allowing an increase in the percentage of voting securities held or controlled by UIT, Utilico NZ Limited, and the associates in aggregate by a maximum of 3.13% and individually by a pro rata share of 3.13%, above the percentage held or controlled by those shareholders immediately before the commencement of the share buyback programme

associates means—

- (a) H.R.L. Morrison & Co Group Limited; and
- (b) the trustees of the HRL Morrison Family Trust created by deed of trust dated 27 April 1994; and
- (c) the trustees of the JML Trust created by deed of trust dated 29 June 1994; and
- (d) Duncan Paul Saville

Code means the Takeovers Code under the Act

share buyback programme means the programme in accordance with the approval for the acquisition by Infratil Limited of up to 21.5 million ordinary shares in Infratil Limited referred to in resolution 4a of the notice of meeting for the annual meeting of Infratil Limited's shareholders held on 8 August 2005

UIT means Utilico Investment Trust PLC, a company incorporated in the United Kingdom

Utilico means Utilico Limited, a company incorporated in Bermuda.

(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 Infratil Limited.

- (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.

4 Exemption

Utilico is exempted from rule 6(1) of the Code in respect of any increase in its voting control as a result of the share buy-back programme to the extent that UIT would have been able to increase its voting control as a result of the share buyback programme.

Dated at Auckland this 3rd day of September 2007.

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

[Seal]

D O Jones,
Chairperson.

Statement of reasons

This notice applies to acts or omission occurring on or after 1 June 2007.

The Takeovers Code (Utilico Limited) Exemption Notice 2007 exempts Utilico Limited from rule 6(1) of the Takeovers Code (the **Code**) in respect of any increase in the percentage of voting rights in Infratil Limited held or controlled by Utilico Limited as a result of the acquisition of all the assets of Utilico Investment Trust PLC (**UIT**) pursuant to a scheme of reconstruction under the Insolvency Act 1986 (UK) (the **scheme**).

At an annual meeting of Infratil Limited held on 8 August 2005 Infratil Limited shareholders approved a buyback programme (the **buyback programme**) under clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001, on the basis that UIT, Utilico NZ Limited, and certain shareholders associated with UIT could increase their aggregated control percentage by a maximum of 3.13%, which would increase their total aggregated control percentage to 31.89% of Infratil Limited (the **approval**).

Utilico Limited has now acquired all of the assets of UIT in accordance with the scheme and in reliance on the Takeovers Code (Utilico Limited) Exemption Notice 2007, and has now become the holder or controller of all of the voting rights in Infratil Limited that UIT had held before the scheme.

Utilico Limited is governed by the same investment objectives, investment manager, and team as UIT operated under at the time of the approval.

As Utilico Limited was not specifically named in the approval, if Utilico Limited were to become the holder or controller of an increased percentage of voting rights in Infratil Limited as a result of the buyback programme, Utilico Limited could not rely on the approval for the purposes of the exemption under clause 4 of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 and would be in breach of rule 6(1) of the Code.

The Takeovers Panel has granted an exemption from rule 6(1) of the Code for Utilico Limited in respect of it becoming the holder or controller of an increased percentage of voting rights in Infratil Limited as a result of Infratil Limited acquiring its own shares in accordance with the terms and conditions of the buyback programme to the extent that UIT would have been able to increase its voting control as a result of the buyback programme.

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

- shareholders have already voted on and approved the buyback programme on the basis that UIT may increase its voting control as a result of the buyback programme:
- the transfer of Infratil Limited shares, held directly and indirectly by UIT, to Utilico Limited has not resulted in an effective change of control of the voting rights in Infratil Limited:

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

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 13 September 2007.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Takeovers Code (Utilico Limited) Exemption Notice (No 2) 2007. The reprint incorporates all the amendments to the notice as at 1 June 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 (Revocation of Exemptions) Notice 2011 (SR 2011/191):
clause 3
