



Securities Act (Brambles Limited) Exemption Notice 2006

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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Notice

1 Title

This notice is the Securities Act (Brambles Limited) Exemption Notice 2006.

2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

3 Expiry

This notice expires on the close of 31 December 2011.

4 Interpretation

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

Act means the Securities Act 1978

BIL means Brambles Industries Limited, a company incorporated in Australia

BIP means Brambles Industries plc, a company incorporated in the United Kingdom

Brambles means Brambles Limited, a company incorporated in Australia

divested employee means an employee of the business divested by BIL or BIP on or before the unification of the dual listed companies structure between those 2 companies who held securities under the BIL 1998 Employees Option Plan as at the date of divestment

eligible person means—

- (a) an employee of Brambles or any of its subsidiaries;
- (b) a director of Brambles or any of its subsidiaries

employee share purchase scheme means—

- (a) an employee share purchase scheme—
 - (i) under which eligible persons or divested employees may acquire specified securities; and
 - (ii) that is established under the laws of Australia;
- (b) a regional variation of that scheme if regional variations are permitted by the scheme

information memorandum means, in relation to the schemes of arrangement in respect of BIL and BIP, the document prepared in compliance with section 412 of the Corporations Act 2001 (Aust) dated 13 September 2006 and registered with the Australian Securities and Investments Commission

published financial statements means financial statements that are published, issued, or prepared in accordance with the laws of Australia

Regulations means the Securities Regulations 1983

relevant half-year report means Brambles' half-year financial report published between the commencement of this notice and the specified date

specified date means the first date by which Brambles has produced both—

- (a) its second annual report; and
- (b) its second published financial statements

specified security means—

- (a) a share in Brambles; or
- (b) a right or option to acquire a share in Brambles.

- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemption from sections 37, 37A, 38A, and 51 to 54B of Act and from Regulations (except regulation 8)

Brambles and every person acting on its behalf are exempted from sections 37, 37A, 38A, and 51 to 54B of the Act and from the Regulations (except regulation 8) in respect of specified securities offered under an employee share purchase scheme, including specified securities offered to replace securities issued under the BIL 1998 Employees Option Plan or the BIL 2004 Performance Share Plan.

6 Condition of exemptions relating to allotment

The exemptions in clause 5 are subject to the condition that the specified securities are allotted only to the following persons:

- (a) persons who are eligible persons or divested employees at the time of allotment of the specified securities;
- (b) in the case of specified securities that are allotted on the exercise of rights or options to acquire specified securities, persons who are eligible persons or divested employees at the time of allotment of those rights or options.

7 Condition of exemptions relating to listing and quotation of Brambles' shares

The exemptions in clause 5 are subject to the condition that—

- (a) Brambles is listed on a securities exchange in Australia and the shares in Brambles are quoted or approved for quoting by a securities exchange in Australia; or
- (b) an application for quotation has been made and at the time of the offer Brambles has complied with all requirements of the Australian securities exchange relating to the application for quotation that it is required to comply with at that time.

8 Condition of exemptions that other disclosure made

(1) The exemptions in clause 5 are subject to the condition that, before subscription, the person to whom the offer is made has received—

- (a) the following information (which may be in 1 or more documents):
 - (i) the information memorandum relating to the unification of the dual listed companies structure between BIL and BIP; and
 - (ii) the current rules of the employee share purchase scheme under which the offer is made or a summary of those rules; and
 - (iii) the terms of the offer in New Zealand; or
- (b) a notice stating—
 - (i) that the information described in paragraph (a) is available on an internet or intranet site operated by or on behalf of Brambles; and
 - (ii) the address of that site; and
 - (iii) that the information will be sent, free of charge, to the person to whom the offer is made on request, and how and to whom that request may be made.

(2) The exemptions in clause 5 are subject to the further condition that the information described in subclause (1)(a) is received by the Registrar of Companies before the date of allotment.

9 Condition of exemptions that specified securities are offered in overseas jurisdiction

The exemptions in clause 5 are subject to the further condition that, at the time of the offer, specified securities are also offered, or have previously been offered, under the employee share purchase scheme in the jurisdiction in which that scheme is established.

10 Condition of exemptions that allotments occur within particular time

The exemptions in clause 5 are subject to the further condition that the specified securities are allotted—

- (a) before the specified date; or
- (b) on the exercise of rights or options to acquire specified securities that have been allotted before the specified date.

11 Condition of exemptions relating to half-year report

- (1) In respect of any allotments of specified securities allotted after the date on which Brambles publishes a relevant half-year report (but before the specified date), the exemptions in clause 5 are subject to the further condition that the allottee has received—

- (a) the relevant half-year report; or
- (b) a notice stating—
 - (i) that the report described in paragraph (a) is available (or will be available once published) on an internet or intranet site operated by or on behalf of Brambles; and
 - (ii) the address of that site; and
 - (iii) that the information will be sent (once available), free of charge, to the person to whom the offer is made on request, and how and to whom that request may be made.

- (2) The exemptions in clause 5 are subject to the further condition that the report described in subclause (1)(a) is received by the Registrar of Companies before the date of allotment.

12 Condition of exemptions relating to annual report and published financial statements

- (1) In respect of any allotments of securities after the specified date, the exemptions in clause 5 are subject to the further condition that the allottee has received—
- (a) Brambles' most recent annual report and its most recent published financial statements; or
 - (b) a notice stating—
 - (i) that the information described in paragraph (a) is available on an internet or intranet site operated by or on behalf of Brambles; and
 - (ii) the address of that site; and
 - (iii) that the information will be sent, free of charge, to the person to whom the offer is made on request, and how and to whom that request may be made.
- (2) In respect of any allotments of specified securities allotted after the specified date, the exemptions in clause 5 are subject to the further condition that the information described in sub-clause (1)(a) is received by the Registrar of Companies before the date of allotment.

13 Condition of exemptions that annual report provided to Commission

- (1) The exemptions in clause 5 (other than the exemptions from sections 37 and 37A of the Act) are subject to the further condition, in respect of specified securities offered after 31 March in a calendar year, that Brambles has sent to the Commission a written report, for the preceding calendar year, that states—
- (a) each employee share purchase scheme under which Brambles offered specified securities in New Zealand that year; and
 - (b) for each scheme—
 - (i) the number of specified securities allotted to eligible persons in New Zealand in that year and the amount of money paid by them; and
 - (ii) the total number of specified securities allotted since 1 January 2001 to eligible persons in New Zealand and the total amount of money paid by them; and

- (iii) the number of specified securities allotted to persons in other jurisdictions in that year and the amount of money paid by them; and
 - (iv) the total number of specified securities allotted since 1 January 2001 to persons in other jurisdictions and the total amount of money paid by them; and
 - (c) for each employee share purchase scheme, whether Brambles intends to continue to offer specified securities in New Zealand in reliance on the exemptions granted by this notice.
- (2) This condition applies only in respect of specified securities offered after 31 March 2007.

Dated at Wellington this 29th day of November 2006.

The Common Seal of the Securities Commission was affixed in the presence of:

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 December 2011, exempts Brambles Limited (**Brambles**) and every person acting on its behalf, subject to conditions, from sections 37, 37A, 38A, and 51 to 54B of the Securities Act 1978 and the Securities Regulations 1983 (except regulation 8) in relation to securities offered by Brambles under employee share purchase schemes.

The Securities Commission considers that it is appropriate to grant the exemptions because—

- the exemptions are based on the policy of the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002 (the **OESPS exemption**) but recognises the particular divestment and unification process being undertaken

by Brambles Industries Limited (**BIL**) and Brambles Industries plc (**BIP**):

- Brambles is incorporated in Australia and will be listed on the Australian Stock Exchange and the London Stock Exchange. The exemption is consistent with the OESPS exemption in that it recognises that issuers incorporated in certain jurisdictions, and whose shares are listed on an exchange in certain jurisdictions, are already subject to an appropriate level of regulation in respect of offers of shares to employees. The costs of producing a prospectus and investment statement to comply with New Zealand law may preclude offers being extended to New Zealand employees:
- the Commission considers it appropriate in this case that the exemption also applies to a limited number of former New Zealand employees who will receive replacement rights and options over shares in Brambles under the unification process. The former employees already hold rights and options under a BIL employee share scheme. As a result of the unification between BIL and BIP, these former employees' existing rights and options will be cancelled and replaced with rights and options over shares in Brambles. The Commission considers it appropriate for an exemption to be granted to maintain the position of these former employees. The former employees will receive the same level of information as continuing employees and the conditions of exemption provide for these former employees to have access to sufficient information about Brambles before allotment of the securities:
- appropriate substitute information for the most recent annual report and published financial statements of Brambles, including pro forma financial information about Brambles and its half-year report, will be available to employees and the former employees until Brambles produces its 2007 annual report and financial statements.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 1 December 2006.
This notice is administered by the Securities Commission.
