



# Takeovers Code (Utilico Limited) Exemption Notice 2007

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

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## Notice

### 1 Title

This notice is the Takeovers Code (Utilico Limited) Exemption Notice 2007.

### 2 Application

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

### 3 Expiry

This notice expires on the close of 30 November 2007.

### 4 Interpretation

- (1) In this notice, unless the context otherwise requires,—
- acquisition** means the acquisition by Utilico Limited of all of the assets of UIT pursuant to the scheme of reconstruction

**Act** means the Takeovers Act 1993

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

**overseas UIT shareholders** means holders of UIT shares whose addresses on the UIT share register are in a jurisdiction other than the United Kingdom or New Zealand

**scheme of reconstruction** means the scheme of reconstruction under section 110 of the Insolvency Act 1986 (UK) described in the scheme proposal with a date of or about 14 May 2007

**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 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.

## 5 Exemption

Utilico is exempted from rule 6(1) of the Code in respect of any increase in its voting control in Infratil Limited and Utilico International Limited as a result of the acquisition.

## 6 Condition

The exemption is subject to the condition that immediately following the acquisition the shares in Utilico are held by the former shareholders of UIT in the same percentages as those shareholders held shares in UIT immediately before the scheme of reconstruction, except for variations in those percentages not exceeding 1% of the total issued ordinary shares in UIT that result from overseas UIT shareholders receiving cash rather than Utilico shares under the scheme of reconstruction.

Dated at Auckland this 12th day of June 2007.

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

[Seal]

D O Jones,  
Chairperson.

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### Statement of reasons

This notice applies to acts or omissions occurring on or after 1 June 2007 and expires on 30 November 2007.

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

UIT holds and controls 9.16% of the shares in Infratil. UIT also holds and controls all of the shares in Utilico NZ Limited, which in turn holds 10.24% of the shares in Infratil. UIT is associated with a number of other Infratil shareholders and the aggregated percentage of voting rights in Infratil held or controlled by UIT and its associates is 28.26%.

UIT holds and controls 16.4% of the shares in Utilico International. UIT is associated with 2 other Utilico International shareholders and the aggregated percentage of voting rights in Utilico International held or controlled by UIT and its associates is 55.21%.

UIT is proposing to reorganise its structure by re-domiciling to Bermuda. Pursuant to a voluntary winding up of UIT and a scheme of reconstruction under United Kingdom law, assets of UIT, including its shares in Utilico NZ Limited, Infratil, and Utilico International, will be transferred to Utilico.

As a result of the scheme of reconstruction, Utilico will become the holder or controller of an increased percentage of voting rights in Infratil and Utilico International that, when aggregated with the

voting rights held by its associates, exceeds 20% of the total rights in each of Infratil and Utilico International.

Utilico will continue to be governed by the same investment objectives, investment manager, and investment team as UIT operated at the time of the approval of the scheme of reconstruction.

Holders of shares in UIT will, in substitution for their UIT shares, receive the same percentage holdings of shares in Utilico, with the exception of some UIT shareholders with addresses in jurisdictions other than the United Kingdom or New Zealand. If the board of Utilico is not satisfied that the issue of shares to persons in a jurisdiction other than the United Kingdom or New Zealand can be completed in compliance with the laws of that jurisdiction, the UIT shareholders in that jurisdiction will not receive Utilico shares. Instead, the Utilico shares which would otherwise have been allotted to them will be sold on-market and the proceeds paid to them.

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

- the acquisition under the scheme of reconstruction will not result in an effective change of control of Infratil or Utilico International;
- shareholders in Infratil and Utilico International will not be disadvantaged by not having the opportunity to vote on the proposed transaction as the proposed transaction will have no real effect on those shareholders;
- the exemption avoids unnecessary compliance costs that would be incurred if it were not granted.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

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

This notice is administered by the Takeovers Panel.

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