

**Reprint
as at 1 February 2011**



**Takeovers Code (Open Country
Dairy Limited) Exemption Notice
2010**

(SR 2010/202)

Takeovers Code (Open Country Dairy Limited) Exemption Notice 2010:
expired, on 1 February 2011, by clause 3.

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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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.

Notice

1 Title

This notice is the Takeovers Code (Open Country Dairy Limited) Exemption Notice 2010.

2 Application

This notice applies to acts or omissions occurring on or after 19 July 2010.

3 Expiry

This notice expires on the close of 31 January 2011.

4 Interpretation

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

Act means the Takeovers Act 1993

Code means the Takeovers Code under the Act

takeover offer means Talley's Group Limited's proposed full takeover offer for the remaining equity securities in AFFCO Holdings Limited that it does not already hold.

(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 Open Country Dairy 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.

5 Exemptions from rule 6(1) of Code

(1) Talley's Group Limited is exempted from rule 6(1) of the Code in respect of any increase in its voting control resulting from acceptances under the takeover offer.

(2) Subclause (3) applies if, immediately after the acquisition of equity securities in AFFCO Holdings Limited as a result of acceptances under the takeover offer, Talley's Group Limited holds or controls 90% or more of the voting rights in AFFCO Holdings Limited.

- (3) Talley's Group Limited is exempted from rule 6(1) of the Code in respect of any increase in its voting control resulting from any acquisition of equity securities in AFFCO Holdings Limited in accordance with Part 7 of the Code.

Dated at Auckland this 15th day of July 2010.

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 omissions occurring on or after 19 July 2010 and expires on 31 January 2011.

The Takeovers Panel (the **Panel**) has granted an exemption from rule 6(1) of the Takeovers Code (the **Code**) for Talley's Group Limited (**Talley's**) in respect of any increase in Talley's voting control of Open Country Dairy Limited (**Open Country**) resulting from an increase in its shareholding in AFFCO Holdings Limited (**AFFCO**) as a consequence of acceptances under Talley's full takeover offer for AFFCO.

AFFCO is a code company and holds or controls 35.45% of the voting rights in Open Country. Open Country is an unlisted code company.

Talley's holds or controls 52.83% of the voting rights in AFFCO. Talley's also holds or controls 17.04% of the voting rights in Open Country.

Talley's is proposing to make a full takeover offer for the remaining equity securities in AFFCO that it does not already hold. This takeover may increase the extent to which Talley's shares with AFFCO, its associate, in the holding or control of AFFCO's voting rights in Open Country. Consequently, Talley's may be deemed, under rule 6(2)(c) of the Code, to have become the holder or controller of an increased percentage of voting rights in Open Country as a result of acceptances of its takeover offer for AFFCO.

The Panel has also granted an exemption from rule 6(1) of the Code for Talley's in respect of any increase in Talley's voting control of Open Country resulting from a compulsory acquisition of equity securities in AFFCO under Part 7 of the Code (if, immediately after the acquisition of equity securities under the takeover offer, Talley's is the dominant owner of AFFCO).

The Panel considers that it is appropriate and consistent with the objectives of the Code to grant the exemptions because—

- any increase in the percentage of voting rights in Open Country that are controlled by Talley's would be a consequence of a takeover of AFFCO by Talley's; and
- that takeover is not being undertaken for the purpose of gaining control of voting rights in Open Country; and
- the exemptions are consistent with the Panel's policy for exemptions in respect of upstream acquisitions.

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Notes

1 *General*

This is a reprint of the Takeovers Code (Open Country Dairy Limited) Exemption Notice 2010. The reprint incorporates all the amendments to the notice as at 1 February 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 (Open Country Dairy Limited) Exemption Notice 2010:
clause 3
