



Takeovers Code (Open Country Dairy Limited) Exemption Notice 2010

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	1
3 Expiry	1
4 Interpretation	1
5 Exemptions from rule 6(1) of Code	2

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.

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

Date of notification in *Gazette*: 22 July 2010.

This notice is administered by the Takeovers Panel.
