



Takeovers Code (Burns Philp Finance New Zealand Limited) Exemption Notice 2006

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 (Burns Philp Finance New Zealand Limited) Exemption Notice 2006.
- 2 Application**
This notice applies to acts or omissions occurring on or after 1 September 2006.
- 3 Expiry**
This notice expires on the close of 31 March 2007.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires,—
 - Act** means the Takeovers Act 1993
 - Code** means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210).

- (2) 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 from rule 6(1) of Code

Rank Group Australia Pty Limited is exempted from rule 6(1) of the Code in respect of any increase in the percentage of voting rights in Burns Philp Finance New Zealand Limited held or controlled by it as a result of its acquisition of securities issued by Burns, Philp & Company Limited.

Dated at Auckland this 18th day of September 2006.

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

[Seal]

David O Jones,
Deputy Chairperson.

Statement of reasons

This notice applies to acts and omissions occurring on or after 1 September 2006 and expires on 31 March 2007.

The Takeovers Panel has granted an exemption from rule 6(1) of the Takeovers Code (the **Code**) to Rank Group Australia Pty Limited (**Rank Australia**) in respect of it becoming the holder or controller of voting rights in Burns Philp Finance New Zealand Limited (**BPFNZ**) as the result of acquiring shares in Burns, Philp & Company Limited (**BPC**).

On 22 August 2006 Rank Australia announced that it intended to make a takeover offer for all of the shares in BPC, an Australian company. At that time, 57.59% of the shares in BPC were held by other subsidiaries of Rank Australia's parent company, Rank Group Limited. The other subsidiaries are called Millstreet Investments Limited (**Millstreet**) and Kintron Developments Limited (**Kintron**).

BPFNZ is a wholly owned subsidiary of BPC. BPFNZ is a code company as it is a party to a listing agreement with New Zealand Exchange Limited in respect of capital notes.

As majority shareholders of BPC, Millstreet and Kintron control the voting rights in BPFNZ.

If Rank Australia acquires shares in BPC, it will be joining Millstreet and Kintron in the control of the voting rights in BPFNZ. By virtue of rule 6(2)(b) of the Code, Rank Australia would be deemed to become the holder or controller of an increased percentage of voting rights in BPFNZ in breach of the fundamental rule.

The Takeovers Panel considers that the exemption from rule 6(1) of the Code is appropriate and consistent with the objectives of the Code for the following reasons:

- the acquisition will not result in any actual change of control of the voting securities in BPFNZ;
- BPFNZ is a code company solely by virtue of being the issuer of capital notes that are subject to a listing agreement with New Zealand Exchange Limited;
- all voting securities of BPFNZ are controlled by BPC;
- there are no shareholders in BPFNZ requiring the protection of the Code in respect of any change of control of BPC;
- BPC is not a code company. The protection of BPC's shareholders is a matter for the jurisdiction of the country where it is registered or has its primary listing.

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

Date of notification in *Gazette*: 28 September 2006.

This notice is administered by the Takeovers Panel.
