



ASIC

Australian Securities &
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RIGHTS OF REVIEW

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**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 601QA(1)(a), 911A(2)(1)
and 1020F(1)(a) — Exemption**

Enabling provisions

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under paragraphs 601QA(1)(a), 911A(2)(1) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*).

Exemptions

2. Toll Holdings Limited ACN 006 592 089 (*Toll*) does not have to comply with:
 - (a) section 601ED of the Act in relation to the Sale Facility or the Related Purchase Facility; and
 - (b) Divisions 2 to 5 of Part 7.9 of the Act in relation to an interest in the Sale Facility or the Related Purchase Facility; and
 - (c) The requirement to hold an Australian financial services licence for the provision of the following financial services:
 - (i) dealing in an interest in the Sale Facility or the Related Purchase Facility; and
 - (ii) the provision of general advice in relation to an interest in the Sale Facility or the Related Purchase Facility.
3. To avoid doubt, to the extent Toll invites a person to make an offer to sell a Virgin Blue Share through the Sale Facility, Toll does not have to comply with Division 5A of Part 7.9 of the Act.

Where relief applies

4. The exemptions in paragraphs 2 and 3 apply in relation to the Sale Facility or the Related Purchase Facility where those facilities satisfy all of the following:
 - (a) the financial products that may be sold or purchased (as applicable) through the facility are Virgin Blue Shares that are admitted to quotation on the licensed market operated by ASX;
 - (b) for the Sale Facility—under the terms of the facility:
 - (i) the Virgin Blue Shares of participating holders to be sold through the facility are pooled; and

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- (ii) a broker sells the Virgin Blue Shares in the ordinary course of trading on the licensed market operated by ASX; and
 - (iii) the proceeds of the sale net of expenses (to the extent (if any) that they are not met by Toll) are distributed to participating holders; and
 - (iv) each participating holder is paid their proportion of the proceeds of sale as soon as practicable and, in any event, within 8 weeks after the date on which Toll received the participating holder's election to participate in the facility;
- (c) for the Related Purchase Facility—under the terms of the facility:
- (i) the money of the participating holders to be used to purchase Virgin Blue Shares through the facility is pooled; and
 - (ii) a broker purchases the Virgin Blue Shares in the ordinary course of trading on the licensed market operated by ASX; and
 - (iii) the broker may deduct from the money referred to in subparagraph (i) expenses of purchasing the Virgin Blue Shares (to the extent (if any) that they are not met by Toll); and
 - (iv) each participating holder is allocated their proportion of the Virgin Blue Shares purchased; and
 - (v) each participating holder has transferred to them the Virgin Blue Shares allocated to them as soon as practicable and, in any event, within 8 weeks after the date on which Toll received the participating holder's election to participate in the Facility; and
 - (vi) each participating holder may purchase Virgin Blue Shares through the facility (aggregated with Virgin Blue Shares that were purchased through any previous facility) for consideration totalling no more than \$5,000 in any consecutive 12 month period.

Conditions for relief

5. In order to rely on the exemptions in subparagraphs 2(a) or (b) or paragraph 3, Toll must:

- (a) give or send to each person who has been invited to participate in the Sale Facility or the Related Purchase Facility, a document which complies with paragraph 6, by:
 - (i) giving the document to the holder personally;
 - (ii) sending the document:

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- (A) by post to the address for the person in the register of members of Toll or an alternative address (if any) nominated by the person; or
 - (B) to the fax number or electronic address (if any) nominated by the person; and
 - (b) take reasonable steps to ensure that neither the Sale Facility nor the Related Purchase Facility is operated during any period where a control transaction has been publicly proposed and has not ended; and
 - (c) take reasonable steps to ensure that where the Related Purchase Facility is made available in conjunction with the Sale Facility, a participating holder can only participate in either, but not both, of the facilities.
6. The document referred to in subparagraph 5(a):
- (a) must contain the following statements and information:
 - (i) a statement that the Sale Facility and the Related Purchase Facility are open until the expiry date set out in the document, which cannot be more than 12 months after the date of the document; and
 - (ii) information about the minimum and maximum number (if any) of Virgin Blue Shares a participating holder can sell or purchase through the Sale Facility or the Related Purchase Facility; and
 - (iii) a statement that the market price of Virgin Blue Shares is subject to change from time to time; and
 - (iv) information about how to obtain up-to-date information on the market price of Virgin Blue Shares; and
 - (v) information about any expenses relating to the sale or purchase of Virgin Blue Shares that will be paid by the participating holders; and
 - (vi) information about:
 - (A) for the Sale Facility—how the proceeds of sale of Virgin Blue Shares sold through the facility will be allocated between participating holders; and
 - (B) for a Related Purchase Facility—how the Virgin Blue Shares purchased through the facility will be allocated between participating holders; and
 - (vii) a statement that:

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- (A) for the Sale Facility—the amount of money received by a participating holder for a Virgin Blue Share that is sold through the facility may be more or less than the actual price that is received by the broker for that Virgin Blue Share; and
 - (B) for the Related Purchase Facility—the amount of money that is paid by a participating holder for a Virgin Blue Share that is acquired through the facility may be more or less than the actual consideration that is paid by the broker for that Virgin Blue Share; and
 - (viii) information about any other significant characteristics or features of the Sale Facility and the Related Purchase Facility or of the rights and obligations of persons who elect to participate in those facilities; and
 - (ix) information about any alternatives that the person may have to participating in the Sale Facility or the Related Purchase Facility; and
- (b) must be worded and presented in a clear, concise and effective manner; and
- (c) may be given in printed or electronic form and, if given in electronic form, must, as far as practicable, be given in a way that will allow the person to print or save a copy of it; and
- (d) may be made up of 2 or more separate documents that are given at the same time and by the same means.

Exclusion from reliance

7. Toll is excluded from relying on paragraph 2(c) of this instrument if it becomes aware of matters that give it reason to believe that it has failed in a material respect to comply with a condition of this instrument and does not give full particulars of the failure to ASIC in writing within 15 business days after becoming so aware.

Interpretation

8. In this instrument:

ASX means ASX Limited ACN 008 624 691.

broker means a participant of the licensed market operated by ASX with whom, or with whose related body corporate, Toll has entered arrangements for the operation of the Sale Facility or Related Purchase Facility.

control transaction means a transaction or proposed transaction that affects the control, or potential control, of Toll or Virgin Blue Holdings Limited ACN

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100 686 226 excluding the in specie distribution by Toll of Virgin Blue Shares announced by Toll to ASX on 14 July 2008.

facility has a meaning affected by section 762C of the Act.

Invitation means a document that sets out an invitation to participate in the Sale Facility or the Related Purchase Facility, the terms and conditions of those facilities and any other information required by paragraph 6 of this instrument, that is substantially the same as the document provided to ASIC on 1 August 2008.

licensed market has the meaning given by section 761A of the Act.

participating holder means a person who:

- (a) Holds or is entitled to be transferred a Virgin Blue Share as a result of the distribution of the Virgin Blue Share to the person as a dividend paid by Toll; and
- (b) has elected to participate in the Sale Facility or the Related Purchase Facility.

register of members means the register of members required to be set up and maintained by Toll under section 169 of the Act.

Related Purchase Facility means a facility operated by Toll made available in conjunction with the Sale Facility, through which a participating holder can acquire, by way of transfer, additional Virgin Blue Shares in accordance with the Invitation.

Sale Facility means a facility operated by Toll through which a participating holder can sell a Virgin Blue Share in accordance with the Invitation.

Virgin Blue Share means a fully paid ordinary share in Virgin Blue Holdings Limited ACN 100 686 226.

This instrument takes effect upon gazettal.

Dated this 4th day of August 2008



signed by Nirangjan Nagarajah
as a delegate of the Australian Securities and Investments Commission