



## Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2010

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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### Notice

- 1 Title**  
This notice is the Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2010.
- 2 Commencement**  
This notice comes into force on the day after the date of its notification in the *Gazette*.
- 3 Expiry**  
This notice expires on the close of 31 December 2010.

#### **4 Interpretation**

- (1) In this notice, unless the context otherwise requires,—
- 1983 regulations** means the Securities Regulations 1983
- 2009 regulations** means the Securities Regulations 2009
- Act** means the Securities Act 1978
- class notice** means a notice specified in the Schedule
- exempted person** means a person that, under the terms of a class notice, is exempted from any provision of the 1983 regulations
- specified securities** means securities that are offered by an exempted person under a prospectus that is registered—
- (a) on or after 1 July 2010; but
- (b) before the close of 31 December 2010.
- (2) Any term or expression that is defined in the Act or the 2009 regulations and used, but not defined, in this notice has the same meaning as in the Act or the 2009 regulations.

#### **5 Exemptions from various parts of Securities Regulations 2009**

Every exempted person and every person acting on its behalf is exempted from Parts 1 to 4 and Schedules 1 to 14 of the 2009 regulations in respect of the specified securities.

#### **6 Conditions**

- (1) The exemptions in clause 5 are subject to the conditions that—
- (a) the offer of the specified securities must be made in accordance with—
- (i) at least 1 exemption from a provision of the 1983 regulations contained in a class notice; and
- (ii) the Act and the 1983 regulations (as in force immediately before the commencement of this notice), but subject to any exemptions from the provisions of the Act or the 1983 regulations granted under section 5(5) of the Act; and
- (b) the terms and conditions in the class notice referred to in paragraph (a)(i) that relate to the exemptions that are being relied on in respect of the specified securities must be complied with; and

- (c) the registered prospectus for the offer of the specified securities must include a statement to the effect that the 1983 regulations apply to the offer subject to a class notice.
- (2) For the purposes of subclause (1)(c), the statement—
  - (a) must name the class notice referred to in that paragraph; and
  - (b) may include additional information about an exemption granted under section 5(5) of the Act that is necessary to ensure that the statement is not misleading.

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**Schedule**  
**Class notices**

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Securities Act (Co-operative Companies) Exemption Notice 2002  
Securities Act (Employee Share Purchase Schemes—Listed Companies) Exemption Notice 2006  
Securities Act (Employee Share Purchase Schemes—Unlisted Companies) Exemption Notice 2005  
Securities Act (Financial Institutions) Exemption Notice 2007  
Securities Act (Friendly Societies) Exemption Notice 2002  
Securities Act (Industrial and Provident Societies) Exemption Notice 2002  
Securities Act (Stock and Station Agents) Exemption Notice 2002  
Securities Act (Takeovers) Exemption Notice 2001

Dated at Wellington this 29th day of June 2010.

The Common Seal of the Securities Commission was affixed in the presence of:

[Seal]

J Diplock,  
Chairperson.

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### **Statement of reasons**

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 31 December 2010.

This notice relates to the transition from the Securities Regulations 1983 (the **1983 regulations**) to the Securities Regulations 2009 (the **2009 regulations**).

A small number of existing class exemption notices identified in the *Schedule* of this notice (the **class notices**) contain exemptions from the 1983 regulations. To enable issuers to continue to rely on those exemptions, this notice gives exemptions from various parts of the 2009 regulations on the conditions that the relevant offer is made in accordance with the 1983 regulations and the terms and conditions of the relevant class notice.

The Securities Commission (the **Commission**) considers that it is appropriate to grant the exemptions for the following reasons:

- the 2009 regulations provide for the revocation of the 1983 regulations on the close of 30 June 2010. The 2009 regulations apply to offers of securities made after this date except in limited circumstances provided for by the transitional and application provisions of the 2009 regulations;
- the Commission granted exemptions by means of the Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2009 (the **2009 notice**) to provide for certain exemptions from provisions of the 2009 regulations where exemptions are available from equivalent provisions of the 1983 regulations. These exemptions were provided in respect of

situations where the 2009 regulations have not introduced significantly different or additional requirements. The notice also granted equivalent exemptions in the case of exemptions from all of the requirements of the 1983 regulations or of a particular schedule of those regulations:

- some provisions of the 2009 regulations are loosely equivalent to provisions of the 1983 regulations but prescribe significantly different or additional requirements to those in the 1983 regulations. The 2009 notice does not provide exemptions from those provisions of the 2009 regulations. The class notices, however, include exemptions from those provisions of the 1983 regulations. Any exemption granted from those provisions of the 1983 regulations needs to be considered in the context of its circumstances to determine whether exemptions from any equivalent provisions in the 2009 regulations are appropriate:
  - more time is required to consider and consult on whether to grant similar exemptions from the 2009 regulations to those that are currently available from the 1983 regulations under the class notices. The exemptions in this notice address the difficulties issuers may have in complying with the 2009 regulations without being able to rely on similar exemptions from provisions of the 2009 regulations to those that are provided by the class notices:
  - in all cases, the class notices are only able to be relied on by an entity meeting particular incorporation criteria or by an entity engaging in a specifically defined transaction that involves an offer of securities to the public. In each case, the relevant class exemption provides a package of exemptions subject to conditions that are appropriate for the entity or to facilitate the transaction. In these circumstances, the class exemptions are not able to be incidentally relied on in the context of a more general offer of securities to the public as a means to enable an issuer to continue to provide disclosure compliant with the 1983 regulations (when the 2009 regulations would otherwise apply).
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**Securities Act (Transition to Securities  
Regulations 2009) Exemption Notice 2010**

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

Date of notification in *Gazette*: 30 June 2010.

This notice is administered by the Securities Commission.

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