



Securities Act (BT Funds Management (NZ) Limited) 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 (BT Funds Management (NZ) Limited) 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 2012.

4 Interpretation

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

Act means the Securities Act 1978

agreements means the registry services agreement and the services agreement

BT means BT Funds Management (NZ) Limited

excluded provisions means the provisions set out in the Schedule that are excluded from the copies of the agreements that must be delivered to the Registrar of Companies in accordance with the Act and the Regulations

MMc means MMc Limited

registry services agreement means the Registry Services Supply Agreement between BT and TEL dated 11 February 2010

Regulations means the Securities Regulations 2009

services agreement means the Services Agreement between BT and MMc dated 11 March 2010

specified securities means units in a unit trust or interests in a superannuation scheme or group investment fund of which BT is the issuer

TEL means Trustees Executors Limited.

(2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemption from regulation 18(1)(a) of Regulations

BT and every person acting on its behalf are exempted from regulation 18(1)(a) of the Regulations in respect of the specified securities in so far as that regulation requires a prospectus that contains an offer of the specified securities to have attached to it or be accompanied by a copy of the agreements.

6 Condition of exemption in clause 5

The exemption in clause 5 is subject to the condition that the prospectus that contains the offer of the specified securities that is delivered to the Registrar of Companies—

- (a) has attached to it or is accompanied by a copy of the agreements without the excluded provisions; and
- (b) states that the excluded provisions have been excluded from the copies of the agreements delivered to the Registrar of Companies; and
- (c) states why the excluded provisions have been excluded; and
- (d) contains a statement of the general nature of the excluded provisions; and
- (e) states—
 - (i) that copies of the agreements without the excluded provisions may be inspected during the currency of the prospectus on request and without any fee by any person; and
 - (ii) when and where in New Zealand those copies may be inspected; and
- (f) contains a prominent statement to the effect that the directors of BT warrant that the exclusion of the excluded provisions from the agreements does not make the prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances.

7 Exemption from clause 19(c) of Schedule 4 and clause 13(d) of Schedule 6 of Regulations

BT and every person acting on its behalf are exempted from clause 19(c) of Schedule 4 of the Regulations and clause 13(d) of Schedule 6 of the Regulations in respect of the specified securities in so far as those clauses apply to the agreements.

8 Condition of exemption in clause 7

The exemption in clause 7 is subject to the condition that the prospectus that contains the offer of the specified securities that is delivered to the Registrar of Companies states—

- (a) that copies of the agreements without the excluded provisions may be inspected during the currency of the prospectus on request and without any fee by any person; and
- (b) when and where in New Zealand those copies may be inspected.

Schedule
Provisions excluded from copies of
agreements

r 4

Provisions excluded from copy of registry
services agreement

Clause 15.2

Clause 15.3

The percentage figure in clause 15.4

Clause 16

The dollar figure in clause 31.1(a)

The "Price (\$)" column of the tables in Schedule 5

Reference to clause 16 in the Table of Contents

Provisions excluded from copy of services
agreement

Clause 6

The dollar figure in clause 7.1

Clause 8

The "Cost p.a." column of the table in Schedule 4

References to clauses 6 and 8 in the Table of Contents

Dated at Wellington this 28th day of June 2010.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after its notification in the *Gazette* and expires on 31 December 2012, exempts BT Funds Management (NZ) Limited (**BT**) from certain provisions of the Securities Regulations 2009, subject to conditions, in respect of offers of units in unit trusts and interests in a superannuation scheme and a group investment fund of which BT is the issuer.

The exemptions entitle BT to exclude some commercially sensitive information from the copies of 2 material contracts that are attached to the registered prospectus. The contracts are a Registry Services Supply Agreement between BT and Trustees Executors Limited (**TEL**) and a Services Agreement between BT and MMc Limited (**MMc**).

The Securities Commission considers that it is appropriate to grant the exemptions because—

- the exemptions meet the criteria stated in the Securities Commission's Exemption Policy Note for "Applications to Exclude Commercially Sensitive Information from Material Contracts" (the Exemption Policy Note can be viewed on the Commission's website at <http://www.sec-com.govt.nz/exemptions/exemption-policy.shtml>); and
- the detriment to the commercial interests of BT, TEL, and MMc by the disclosure of the excluded provisions would outweigh any benefit to prospective investors from their disclosure; and
- directors of BT must warrant that the non-disclosure of the excluded provisions does not make the registered prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances; and

- the prospectus must state that information has been excluded from the agreements in question, the reasons why that information has been excluded, and the general nature of the material information that has been excluded.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 1 July 2010.
This notice is administered by the Securities Commission.
