



Securities Act (AMP NZ Office 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 (AMP NZ Office Limited) Exemption Notice 2010.
- 2 Commencement**
This notice comes into force on 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,—

Act means the Securities Act 1978

allotment means the transfer of specified securities to eligible unit holders in consideration for the redemption of units held by those unit holders

allotment date means the date on which the allotment occurs

AMPNZO group means AMP NZ Office Limited and all its subsidiaries

AMPNZO Ltd means AMP NZ Office Limited

corporatisation proposal means the package of proposals that includes the redemption of units in the trust and the allotment of specified securities to eligible unit holders

eligible unit holder means a unit holder whose address in the unit register is shown as being in New Zealand, Australia, Hong Kong, Switzerland, the United Kingdom, or any of the following states of the United States of America: California, Connecticut, Illinois, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Texas, and Washington

management contract means the management services agreement to be dated on or about 3 August 2010 between AMPNZO Ltd and AMP Haumi Management Limited relating to the management of the business of AMPNZO Ltd

manager means AMP Haumi Management Limited as manager of the trust

meeting date means the date of the meeting of unit holders held to approve the corporatisation proposal

notice date means the date, as notified to NZX Limited, on which the notice of meeting is sent to unit holders

NZSX means the securities market operated by NZX Limited under that name

NZSX listing rules means the listing rules of NZSX, and includes any waivers from those rules

prospectus means the registered prospectus for the offer of specified securities

Regulations means the Securities Regulations 2009

specified securities means the ordinary shares in AMPNZO Ltd to be allotted to eligible unit holders under the corporatisation proposal

trust means the unit trust called AMP NZ Office Trust, established under a trust deed dated 13 November 1997 (as amended)

trust-controlled entity means—

- (a) any company the shares in which are owned by the trustee; and
- (b) any subsidiary of a company referred to in paragraph (a)

trust group means the trust and all trust-controlled entities

trustee means Perpetual Trust Limited as trustee of the trust

unit means a unit in the trust

unit holder means, at any time, a person shown on the unit register as being a holder of 1 or more units at that time

unit register means the register of units kept by the manager in accordance with section 51(1)(d) of the Act.

- (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 Exemptions from sections 34(2)(a) and 37A(1)(a) of Act and regulation 5(1)(a) of Regulations

AMPNZO Ltd, the manager, and every person acting on behalf of either or both of them are exempted from sections 34(2)(a) and 37A(1)(a) of the Act and regulation 5(1)(a) of the Regulations in respect of the specified securities.

6 Conditions relating to exemptions in clause 5

The exemptions in clause 5 are subject to the conditions that—

- (a) the prospectus contains—
 - (i) all the information, statements, and other matters specified in the Schedule; and

- (ii) a statement to the effect that AMPNZO Ltd will take steps to ensure that the specified securities are listed immediately after allotment; and
- (b) no allotment of specified securities is made unless, before the meeting date, a copy of the prospectus, and a copy of any memorandum to the prospectus that is registered under section 43 of the Act after the notice date but before the meeting date, has been sent to—
 - (i) every person who, on the notice date, is an eligible unit holder; and
 - (ii) every person who, after the notice date but before the meeting date, becomes an eligible unit holder; and
- (c) it is a term of the offer that the manager sends, as soon as practicable and without charge, a prospectus to any eligible unit holder that requests a copy of the prospectus; and
- (d) any advertisement published by AMPNZO Ltd or the manager in relation to the corporatisation proposal includes a statement that the prospectus will be provided to any eligible unit holder on request and without charge; and
- (e) if the Commission gives a notice under clause 10, the allotment does not occur until after—
 - (i) the expiry of the period specified in the notice; or
 - (ii) the notice is revoked; and
- (f) at the time of the allotment, AMPNZO Ltd is a public issuer; and
- (g) the units in the trust remain listed until the allotment date; and
- (h) a copy of the management contract is attached to, or accompanies, the prospectus delivered to the Registrar for registration under the Act.

7 Exemption for trustee from sections 37, 37A, 38A, 41, and 43 of Act and regulations 30 to 34 of Regulations

- (1) The trustee and every person acting on its behalf (but not AMPNZO Ltd) are exempted from sections 37, 37A, and 38A

of the Act and regulations 30 to 34 of the Regulations in respect of the specified securities.

- (2) The trustee and every person acting on its behalf are exempted, in respect of the specified securities, from sections 41 and 43 of the Act, to the extent that those sections require a prospectus, or any memorandum of amendments to the prospectus, to be signed by the trustee's directors.

8 Exemptions from regulation 26 of Regulations

AMPNZO Ltd, the manager, and every person acting on behalf of either or both of them are exempted from regulation 26 of the Regulations in respect of the specified securities.

9 Conditions of exemptions in clause 8

- (1) The exemptions in clause 8 are subject to the following conditions:
 - (a) any advertisement relating to the specified securities must not state the amount of assets, or net assets, of any person or persons, other than the total assets, or net assets, of the AMPNZO group or the trust group;
 - (b) any advertisement relating to the specified securities must not state the amount of the total assets of the AMPNZO group or the trust group without also stating, with equal prominence, the amount of the total liabilities of the AMPNZO group or the trust group, as the case may be;
 - (c) any advertisement relating to the specified securities must not state the amount of the net assets, or the amounts of the total assets and total liabilities, of the trust group unless it complies with subclause (2).
- (2) An advertisement may state the amounts referred to in subclause (1)(c) if—
 - (a) the amounts shown appear in the most recent audited statement of financial position of the trust, and that statement is dated no earlier than 18 months before the date of distribution of the advertisement; and
 - (b) the advertisement states—
 - (i) the date of the statement of financial position; and

- (ii) that the amounts have been calculated as at that date; and
 - (iii) that the amounts have been taken from audited financial statements.
- (3) Subclause (1) does not prevent an advertisement from containing or referring to—
 - (a) a statement of financial position for the trust that complies with generally accepted accounting practice; or
 - (b) a summary statement of financial position for the trust prepared in accordance with FRS-43.

10 Notice requiring allotment to be delayed

- (1) The notice referred to in clause 6(e) is a written notice given by the Commission to the manager, before the allotment date, that—
 - (a) requires the allotment to be delayed for a period specified in the notice; and
 - (b) is given because the Commission is of the opinion that—
 - (i) information has been disclosed in the prospectus that has not previously been publicly disclosed by the manager under its disclosure obligations in respect of the trust, and that information is adverse to AMPNZO Ltd and material to the offer of the specified securities contained in the prospectus; or
 - (ii) information has been disclosed by the manager under its disclosure obligations in respect of the trust between the date of the prospectus and the allotment date, and that information is adverse to AMPNZO Ltd and material to the offer of the specified securities contained in the prospectus; or
 - (iii) there has been a failure by the manager to comply with its disclosure obligations in respect of the trust at any time during the previous 12 months.
- (2) The Commission may revoke a notice given under this clause before the expiry of the period specified in it if the Commission is satisfied, on the grounds that the market has been adequately

informed and investors have been given sufficient time to consider all disclosures, that the notice should no longer delay the allotment.

Schedule

cl 6(a)(i)

Matters required to be stated or contained in prospectus

1 Information at front of prospectus

- (1) A statement on the front page that clearly identifies the prospectus as being a prospectus for the issue of specified securities as consideration for the redemption of units in the trust.
- (2) A statement to the effect that, as a result of an exemption granted under the Act, the prospectus contains information similar to that which would be provided in a simplified disclosure prospectus (modified as necessary, given that the specified securities are issued by AMPNZO Ltd rather than the trust).
- (3) A statement to the effect that—
 - (a) the manager is subject to a disclosure obligation in respect of the trust that requires it to notify certain material information to NZX Limited for the purpose of that information being made available to participants in NZSX; and
 - (b) AMPNZO Ltd will (once the specified securities are listed) be subject to a disclosure obligation that will require it to notify certain material information to NZX Limited for the purpose of that information being made available to participants in NZSX.

2 Names, addresses, and other information

- (1) The name of AMPNZO Ltd, and the address of its registered office.
- (2) The name of every director of AMPNZO Ltd.
- (3) The name and address of the manager as promoter of the specified securities.

3 Experts and underwriter

- (1) The names, addresses, and qualifications of any experts named in the prospectus.
- (2) If the offer of securities is underwritten, the name and address of any underwriter.

4 Main terms of offer

- (1) A brief description of the specified securities.
- (2) A statement as to whether there is any maximum number or amount of the specified securities and, if so, the number or amount.
- (3) The consideration to be provided for the specified securities.
- (4) A statement as to how eligible unit holders will be allotted specified securities.

5 Relationship with listed securities

A description of the ranking of the specified securities (in respect of AMPNZO Ltd) as compared with units (in respect of the trust) in respect of—

- (a) a liquidation of AMPNZO Ltd or the trust (as the case may be); and
- (b) the payment of dividends.

6 Preliminary and issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

7 Returns

- (1) The following information about the returns to allottees from the specified securities:
 - (a) a brief description of the nature of the returns;
 - (b) a brief description of the key factors that determine the returns:

- (c) a statement as to whether or not an amount of returns, quantifiable as at the specified date and enforceable by allottees, has been promised and, if so, the amount or a description of how that amount can be calculated:
- (d) a statement as to which of the following (if any) will, or is likely to, affect the returns:
 - (i) taxes or duties:
 - (ii) reserves or retentions.
- (2) The dates on which, or frequency with which, the returns from the specified securities will be due and paid, or, if there are no such dates or frequency or the dates or frequency are unknown, a statement to that effect.
- (3) If payment of all or any of the returns from the specified securities will or may be withheld until a particular date or for a particular period, a statement to that effect and a brief description of the circumstances that may produce this result.
- (4) The name of the person legally liable to pay the returns.

8 Consequences of insolvency

- (1) A statement as to whether or not allottees will or may be liable to pay money to any person as a result of the insolvency of AMPNZO Ltd and, if so, a brief description of the liability.
- (2) A brief description of any claims on the assets of AMPNZO Ltd that will or may rank ahead of claims of allottees in the event of AMPNZO Ltd being put into liquidation.
- (3) A brief description of any claims on the assets of AMPNZO Ltd that will or may rank equally with the claims of allottees in the event of AMPNZO Ltd being put into liquidation.

9 Alteration of securities

- (1) A brief description of any right of an allottee, AMPNZO Ltd, or any other person to—
 - (a) alter the amount of moneys payable by an allottee, including a brief description of any continuing obligation of the allottee to pay that amount; or
 - (b) otherwise alter the terms of any specified security.

- (2) If any charges on any of those alterations are payable by an allottee to AMPNZO Ltd or the manager, or to an associated person of either of them, a statement of those charges.

10 Early termination

- (1) A brief description of any right of AMPNZO Ltd, an allottee, or any other person to terminate, cancel, surrender, or otherwise make or obtain payment of the returns from the specified securities, other than as described in clause 7.
- (2) If any of the following charges on any of those payments are payable by an allottee to AMPNZO Ltd or the manager, or to an associated person of either of them, a statement of the charges:
- (a) early termination charges:
 - (b) switching or sale charges (including the difference between any buying and selling prices for the specified securities).

11 Right to sell securities

- (1) A statement as to whether or not an allottee is entitled to sell the allottee's interest in a specified security to another person and, if so, whether, in the opinion of AMPNZO Ltd, there is an established market for those sales.
- (2) If any charges on any such sale are payable by an allottee to AMPNZO Ltd or the manager, or to an associated person of either of them, a statement of those charges.

12 Other terms of offer and specified securities

All terms of the offer, and all terms of the specified securities, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

13 Information available under the trust's disclosure obligation

- (1) Particulars of the disclosed information that are sufficient to identify that information (for example, the title of a document and its date of notification to NZX Limited).
- (2) A statement to correct or update the disclosed information if it is misleading in the context of the offer.
- (3) In this clause, **disclosed information** means information, notified to NZX Limited by the manager in respect of the trust in accordance with the NZSX listing rules, that is material to the offer of specified securities.

14 Financial statements

- (1) A reference to the latest financial statements for the trust that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date on which the latest financial statements referred to in subclause (1) have been notified by the trust to NZX Limited in accordance with the NZSX listing rules.
- (3) If AMPNZO Ltd so wishes, the latest financial statements referred to in subclause (1).

15 Additional interim financial statements

- (1) A reference to interim financial statements for the trust if—
 - (a) those statements are for a period from or after the date of the financial statements contained or referred to in the prospectus under clause 14; and
 - (b) those statements have been prepared in accordance with NZ IAS 34 (but need not be audited); and
 - (c) those statements have been notified by the trust to NZX Limited in accordance with the NZSX listing rules.
- (2) If AMPNZO Ltd so wishes, the interim financial statements referred to in subclause (1).
- (3) If interim financial statements are contained or referred to in the prospectus under this clause, statements as to—
 - (a) the date on which the interim financial statements were notified by the trust to NZX Limited; and

- (b) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 14; and
- (c) all transactions (if any) that are material related party transactions under generally accepted accounting practice and that were entered into or were being performed in the period of the interim financial statements.

16 Access to information and statements

- (1) A statement—
 - (a) to the effect that the disclosed information identified under clause 13(1), and the financial statements and any interim financial statements contained or referred to in the prospectus under clauses 14 and 15,—
 - (i) are filed on a public register at the Companies Office of the Ministry of Economic Development and are available for public inspection (including at www.business.govt.nz/companies); and
 - (ii) will be made available on request, and free of charge, by the manager and AMPNZO Ltd; and
 - (b) explaining how the request under paragraph (a)(ii) should be made.
- (2) A statement of the times and places in New Zealand where a copy of the management contract may, on payment of any fee, be inspected by a person who so requests.

17 Other material matters

- (1) In relation to the management contract,—
 - (a) its date; and
 - (b) the names of the parties to it; and
 - (c) its general nature.
- (2) Particulars of any material matters relating to the offer of specified securities (other than matters elsewhere set out in the prospectus, in the disclosed information identified under clause 13, or in the financial statements or interim financial statements referred to in the prospectus under clauses 14 and 15, and contracts entered into in the ordinary course of business of the issuing group).

- (3) In subclause (2), **contracts entered into in the ordinary course of business of the issuing group** includes the following:
- (a) contracts entered into by the manager in the ordinary course of business as manager of the trust;
 - (b) contracts entered into by the trustee in the ordinary course of business as trustee of the trust;
 - (c) contracts entered into by any trust-controlled entity in the ordinary course of business of that trust-controlled entity;
 - (d) contracts entered into by any company in the AMPNZO group—
 - (i) in the ordinary course of business of that company; or
 - (ii) as a result of the novation of, or the assignment of any rights under, any contract referred to in paragraphs (a) to (c) to that company; or
 - (iii) in substitution or as a replacement for any contract referred to in paragraphs (a) to (c):
 - (e) any amendments to any contract referred to in paragraphs (a) to (d).

18 Directors' statement

A statement by the directors of the manager to the effect that, in their opinion, after due enquiry by them, the trust is in compliance with the requirements of the continuous disclosure provisions that apply to it.

Dated at Wellington this 27th day of July 2010.

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

[Seal]

David Mayhew,
Member.

Statement of reasons

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

The notice relates to a corporatisation proposal relating to AMP NZ Office Trust (the **trust**), a unit trust with units quoted on the NZSX. The proposal is a package of measures that includes the allocation of specified securities in new company called AMP NZ Office Limited (**AMPNZO Ltd**) to certain holders of units in the trust, in consideration for the redemption of those units.

The manager of the trust is AMP Haumi Management Limited (the **manager**), and its trustee is Perpetual Trust Ltd (the **trustee**).

This notice exempts AMPNZO Ltd and the manager from sections 34(2)(a) and 37A(1)(a) of the Securities Act 1978 and from regulations 5(1)(a) and 26 of the Securities Regulations 2009, subject to conditions. It also exempts the trustee from sections 37, 37A, 38A, 41, and 43 of the Securities Act 1978 and from regulations 30 to 34 of the Securities Regulations 2009.

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

- the simplified disclosure prospectus regime enables listed issuers that are subject to continuous disclosure obligations to offer securities to the public using a single offer document. The trust is listed on the NZSX. AMPNZO Ltd is a new company that will replace the trust under the corporatisation proposal. Subject to certain conditions and approvals, the trust's assets will be transferred to AMPNZO Ltd. Certain unit hold-

ers in the trust will become shareholders in AMPNZO Ltd. However, AMPNZO Ltd is not currently listed and is not currently subject to a disclosure obligation. AMPNZO Ltd is therefore not able to use a simplified disclosure prospectus to offer equity securities to the existing unit holders under the proposed corporatisation:

- the exemptions enable AMPNZO Ltd to use a prospectus similar to a simplified disclosure prospectus, tailored to reflect that the trust is the current listed entity and that financial information about the trust is most relevant to a unit holder's decision on the corporatisation proposal. Allowing the use of a prospectus that is similar to a simplified disclosure prospectus will ensure that unit holders have available to them all material information necessary on which to make an informed decision about the offer of AMPNZO Ltd shares:
- the exemption enables AMPNZO Ltd to allot shares under the corporatisation proposal despite the fact that some unit holders may not have received the form of simplified disclosure prospectus. An allotment of shares may occur as a result of the unit holder vote. In these circumstances, the allotment process does not allow AMPNZO Ltd to be certain that every unit holder received the form of simplified disclosure prospectus. The conditions require AMPNZO Ltd to take steps to minimise the number of unit holders who may not receive the form of simplified disclosure prospectus. This is consistent with the policy of previous exemptions the Commission has granted in respect of amalgamations and reconstructions:
- under regulation 26(1) of the Securities Regulations 2009, any advertisement in connection with the corporatisation would only be permitted to state the total assets or net assets of the issuing group (AMPNZO Ltd and any subsidiaries). The exemption recognises that information about the assets of the trust is relevant to unit holders and facilitates advertising for the corporatisation:
- the exemptions for the trustee recognise that the trustee as an offeror of previously allotted securities would be subject to disclosure obligations and liability as an issuer under the Securities Act 1978. The exemption relieves the trustee as a technical issuer from disclosure obligations and provides that the

trustee's directors are not required to sign and take responsibility for the prospectus for AMPNZO Ltd shares, which is prepared by the manager.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 July 2010.
This notice is administered by the Securities Commission.
