



## Securities Act (Taxation Changes Affecting Investment Statement Disclosures) 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 (Taxation Changes Affecting Investment Statement Disclosures) 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 1 July 2011.

**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.
- (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 regulation 7A(1) and (4) of 1983 regulations and regulations 19(1) and 21 of 2009 regulations**

Every issuer and every person acting on behalf of an issuer are exempted from the following regulations in respect of information that must be disclosed in an investment statement because of changes to tax rates arising from any provision of the Taxation (Budget Measures) Act 2010:

- (a) regulation 7A(1) and (4) of the 1983 regulations;  
(b) regulations 19(1) and 21 of the 2009 regulations.

**6 Conditions of exemptions in clause 5**

The exemptions in clause 5 are subject to the conditions that any supplementary information necessary to update the investment statement—

- (a) must have been distributed to investors when the exemption is relied on; and  
(b) must be set out in a style and format that are consistent with the investment statement in such a way that the supplementary information can be clearly identified as relating to particular questions addressed in the investment statement.

Dated at Wellington this 24th day of August 2010.

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

[Seal]

N O Todd,  
Member.

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### **Statement of reasons**

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 1 July 2011, exempts issuers from regulation 7A(1) and (4) of the Securities Regulations 1983 (the **1983 regulations**) and regulations 19(1) and 21 of the Securities Regulations 2009 (the **2009 regulations**) in relation to information that must be disclosed in an investment statement because of changes to tax rates arising from the Taxation (Budget Measures) Act 2010. The exemptions are subject to conditions.

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

- some investment statements include specific information about tax rates and their effect on potential returns and fees. Changes to tax rates provided for in the Taxation (Budget Measures) Act 2010 may mean that such information should be updated:
- additionally, it is possible that in some cases the effect of the tax changes may require information to be disclosed to ensure that the existing disclosure in the investment statement is not false or misleading in a material particular, so that the ongoing allotment of the securities is not prevented in terms of section 37A(1)(b) of the Securities Act 1978:
- this transitional exemption allows any relevant information about the changes to be provided by means of a supplementary document for a limited period so that issuers are not required

to immediately redesign, reprint, and redistribute investment statements:

- any changes arising from tax rate changes are likely to relate to the impact on returns and fees and be relatively discrete. The conditions of the exemptions require the supplementary information necessary to update the investment statement to have been distributed to investors when the exemption is relied on, and require that the information be set out in a style and format that are consistent with the existing investment statement so that the information can be clearly identified as relating to particular questions addressed in the existing investment statement:
  - for this reason, in cases where the supplementary information is information applicable to particular securities described in an existing investment statement, but is not information required to be disclosed to ensure the existing disclosure is not false or misleading in a material particular, the exemption enables issuers to distribute the supplementary information without having to simultaneously provide the existing investment statement:
  - no exemption, however, is provided from section 37A(1)(b) of the Securities Act 1978, so no securities may be allotted if the existing investment statement is known to be false or misleading in a material particular by reason of failing to refer, or give proper emphasis, to adverse circumstances. Accordingly, in the event that any changes render an existing investment statement materially misleading then either a new investment statement will need to be prepared and distributed before securities are allotted or the existing investment statement will need to be distributed with the supplementary document so that when they are read together the requirements of section 37A(1)(b) are met. The exemptions from the ordering requirements of regulation 21 of the 2009 regulations and regulation 7A(4) of the 1983 regulations avoid the need for immediate redesign and reprinting of the existing investment statement.
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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 26 August 2010.  
This notice is administered by the Securities Commission.

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