



# Securities Markets Amendment Act 2002

Public Act 2002 No 44  
Date of assent 26 November 2002  
Commencement see section 2

## Contents

1	Title	15	New Part 2 heading substituted
2	Commencement		<b>Part 2</b>
3	Title repealed		<b>Disclosure</b>
4	Name of principal Act changed	16	New subparts 1 and 2 inserted
5	Interpretation		Subpart 1—Continuous disclosure
6	Meaning of relevant interest		by public issuers
7	Relevant interests to be disregarded in certain cases		<i>Purpose of this subpart</i>
8	New section 6B inserted	19A	Purpose of this subpart
	6B Act binds the Crown		<i>Continuous disclosure obligation</i>
9	Exceptions to section 7	19B	Public issuers must disclose
10	Exceptions to section 9		in accordance with listing
11	Shareholders may require public issuer to obtain legal advice		rules if continuous disclosure
12	Proceedings by shareholders		listing rules apply
13	New sections 18A to 18E inserted	19C	Public issuers must disclose
	18A Commission may exercise public issuer's right of action		in accordance with regula-
	18B Requirements for Commis- sion exercising public issuer's right of action		tions if continuous disclosure
	18C Procedural requirements for leave to exercise public issuer's right of action	19D	What are continuous disclo- sure provisions
	18D Powers of Court for proceed- ings exercising public issuer's right of action	19E	What is material information
	18E Proceedings must not be settled, compromised, or dis- continued without approval	19F	What information is generally available to the market
14	Distribution of amount recovered by public issuer from insider		<i>Enforcement by Commission</i>
		19G	Commission may make orders requiring disclosure or corrective statements
		19H	Notice and submissions on Commission's orders

- 19I Limited notice and submissions for urgent orders
- 19J Offence for failure to comply with Commission orders
- Enforcement—Civil remedies*
- 19K Court may make orders requiring disclosure or corrective statements
- 19L Court may impose pecuniary penalties
- 19M Court may make compensatory orders
- 19N Court may order payment of costs
- 19O General provisions as to Court's orders
- 19P Persons entitled to appear before Court
- Regulations requiring continuous disclosure*
- 19Q Regulations requiring continuous disclosure
- 19R Requirements for regulations replacing continuous disclosure listing rules
- 19S Ongoing requirements for continuous disclosure regulations
- Subpart 2—Disclosure of relevant interests by directors and officers of public issuers
- Directors' and officers' disclosure obligations*
- 19T Directors and officers of public issuers must disclose relevant interests and dealings in relevant interests
- 19U What disclosure required
- 19V Form and method of disclosure
- 19W Disclosure obligation applies for 6 months after ceasing to hold office
- Exemptions*
- 19X Exemptions for directors or officers of co-operative companies
- 19Y Exemptions granted by Commission or regulations
- Interests register*
- 19Z Public issuer must keep interests register

- 19ZA Inspection and copying of interests register
- Enforcement—Civil remedies*
- 19ZB Commission may make orders requiring disclosure
- 19ZC Notice, submissions, and opportunity to be heard and represented on Commission's orders
- Enforcement—Offences*
- 19ZD Offence for failure to comply with directors' and officers' disclosure obligation
- 19ZE Offence for failure to comply with Commission orders
- 19ZF Offence relating to interest register

- 17 New subpart 3 heading inserted
- Subpart 3—Disclosure of interests of substantial security holders in public issuers
- 18 Section 35A repealed
- 19 Regulations for purpose of this Part of this Act
- 20 New Part 2B inserted

**Part 2B**  
**Securities exchanges**

- Subpart 1—Registration, conduct, and control of exchanges
- Restrictions on activities relating to securities exchanges unless registered under this subpart*
- 36A No holding out as securities exchange unless registered under this subpart
- 36B No operation of securities markets unless registered under this subpart (if restriction applies)
- 36C Power to apply and remove restriction on operating securities markets
- 36D Criteria and process for applying restriction on operating securities markets
- 36E Power to exempt securities markets from this Part
- Registration of exchanges*
- 36F Registration of exchanges

*Conduct rules of registered exchanges*

- 36G Registered exchange must operate securities markets with conduct rules that include required matters and have effect
- 36H Required matters for conduct rules
- 36I When conduct rules have no effect
- 36J Registered exchange must provide proposed new conduct rules and changes to Minister
- 36K Disallowance process applies unless approval process applied
- 36L Disallowance process for proposed conduct rules and changes
- 36M Effect of disallowance
- 36N Determination on whether or not to apply approval process to proposed conduct rules and changes
- 36O Approval process for proposed conduct rules and changes
- 36P Registered exchange must not operate new securities market if proposed conduct rules or changes not approved
- 36Q Conduct rules must be available for public inspection
- 36R Application of Acts relating to regulations to conduct rules

*Control limits for registered exchanges*

- 36S Power to impose control limits on registered exchanges
- 36T Control limit not to be exceeded
- 36U Effect of exceeding control limit
- 36V Application for approval to exceed control limit
- 36W Revocation or amendment of approval

*Overseas exchanges*

- 36X Overseas exchanges
- 36Y Revocation or amendment of authorisation
- 36Z Offence for breach of terms or conditions of authorisation

*Enforcement of prohibition of certain statements relating to exchanges*

36ZA Commission may make orders prohibiting statements relating to exchanges or requiring corrective statements

36ZB Notice, submissions, and opportunity to be heard and represented on Commission's orders

36ZC Offence for contravening prohibition order

Subpart 2—Monitoring of securities markets

*Notification of disciplinary actions and suspected contraventions*

36ZD Registered exchange must notify Commission of disciplinary actions and suspected contraventions

36ZE When notification required

36ZF Details and method of notification

*Disclosure of material information*

36ZG Registered exchange must give Commission material information given to market participants

36ZH When disclosure of material information required

36ZI Form and method of disclosure

*Waiver of notification and disclosure obligations*

36ZJ Waiver of notification and disclosure obligations

*General information and assistance provisions*

36ZK Registered exchange must give Commission or Takeovers Panel other information and assistance on request

36ZL Power to disclose further information

*Notice and submissions on continuous disclosure determinations*

36ZM Registered exchange must give notice and have regard to submissions on continuous disclosure determinations

36ZN Limited notice and submissions for urgent determinations

	<i>Directions to exchanges</i>		
	36ZO Commission may give directions to registered exchanges		43 Evidence not otherwise admissible
	36ZP Grounds for continuous disclosure direction		44 Commission may exercise powers under Securities Act 1978
	36ZQ Grounds for other directions		45 Actions of other persons on behalf of registered exchanges
	36ZR Notice, opportunity for exchange to act, and submissions before Commission gives directions		46 Protection for acting on Commission directions
	36ZS Limited notice and submissions for urgent continuous disclosure directions		47 Protection from liability for registered exchanges and others
	36ZT Notice and opportunity to be heard and represented after Commission gives direction		48 Exemptions granted by Commission
	36ZU Effect of directions to exchanges		49 Regulations
	36ZV Provisions as to directions	25	Part IV repealed
	<i>Contracting out or modification of continuous disclosure process requirements</i>	26	Repeals of registration and rule requirements for stock exchanges under Sharebrokers Act 1908
	36ZW Contracting out or modification of continuous disclosure process requirements	27	Amendments to conduct rule requirements under New Zealand Stock Exchange Restructuring Act 2002
	<i>Offence</i>	28	Amendments to control limit requirements under New Zealand Stock Exchange Restructuring Act 2002
	36ZX Offence	29	Amendment to registration requirement under New Zealand Stock Exchange Restructuring Act 2002
21	Interpretation of terms used in this Part	16	Registered exchange
22	New sections 37A to 37D inserted	30	Other consequential amendments
	37A No holding out as futures exchange unless authorised under this Part	31	Transitional provision relating to change of title of principal Act
	37B No operation of futures markets unless authorised under this Part (if restriction applies)	32	Transitional provision relating to securities exchange provisions
	37C Power to apply and remove restriction on operating futures markets	33	Additional transitional provisions relating to New Zealand Stock Exchange
	37D Criteria and process for applying restriction on operating futures markets		
23	Regulations for purposes of this Part		
24	New Part 4 inserted		
	<b>Part 4</b>		
	<b>Miscellaneous</b>		
42	Jurisdiction of Courts in New Zealand		

---

**Schedule**

**Consequential amendments to Securities Markets Act 1988 and other enactments**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Securities Markets Amendment Act 2002.
- (2) In this Act, the Act that was previously called the Securities Amendment Act 1988 is called “the principal Act”.

**2 Commencement**

- (1) Except as provided in subsection (2), this Act comes into force on 1 December 2002.
- (2) Subpart 2 of Part 2 of the principal Act (as inserted by section 16 of this Act) comes into force on a date to be appointed by the Governor-General by Order in Council.

**3 Title repealed**

The Title of the principal Act is repealed.

**4 Name of principal Act changed**

- (1) After the commencement of this section, the principal Act is called the Securities Markets Act 1988.
- (2) Section 1 of the principal Act is consequentially amended by repealing subsection (1), and substituting the following subsection:  
“(1) This Act is the Securities Markets Act 1988.”

**5 Interpretation**

- (1) Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:  
“**business rules** means the rules made by a securities exchange that govern the conduct of—  
“(a) business on securities markets operated by the securities exchange;  
“(b) persons authorised to undertake trading activities on those securities markets  
“**chief executive** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act  
“**conduct rules** means the business rules and the listing rules of a securities exchange

“**continuous disclosure direction** has the meaning set out in section 36ZP

“**continuous disclosure exemption** means,—

“(a) if section 19C does not apply to an exchange, an exemption or waiver of a continuous disclosure provision or provisions of the registered exchange’s listing rules; or

“(b) if section 19C applies to an exchange, an exemption from a provision or provisions of regulations made under section 19Q that apply to that exchange

“**continuous disclosure obligation** means section 19B or section 19C (whichever is applicable)

“**continuous disclosure provisions** has the meaning set out in section 19D

“**control**, in subpart 1 of Part 2B, has the meaning set out in section 36S

“**co-operative company** means a company that is registered as a co-operative company under the Co-operative Companies Act 1996

“**directors’ and officers’ disclosure obligation** means any of sections 19T to 19V

“**document** means any record of information; and includes—

“(a) anything on which there is writing or any image; and

“(b) information recorded by means of any article or device (for example, a disk) from which information is capable of being reproduced with or without the aid of any other article or device; and

“(c) material subsequently derived from information recorded by that means

“**generally available to the market** has the meaning set out in section 19F

“**holding company** has the same meaning as in sections 5 and 6 of the Companies Act 1993

“**listed**, in relation to securities of a public issuer, means securities of the issuer that are approved for trading on the relevant registered exchange’s market (and, for the avoidance of doubt, securities do not cease to be listed merely because trading in those securities is suspended)

“**listing rules** means the rules made by a securities exchange that relate to—

“(a) the governance of the persons who are parties to listing agreements with the securities exchange; and

“(b) the entry into, and revocation of, those listing agreements

“**material information** has the meaning set out in section 19E

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**non-listed securities** means securities that are not listed

“**officer**, for the purposes of Part 2, in relation to a public issuer,—

“(a) means a person, however designated, who is concerned or takes part in the management of the public issuer’s business; but

“(b) excludes any class or classes of persons that are declared by regulations not to be officers for the purposes of this Act

“**operate**, in relation to a securities market, includes control the operation of that market

“**registered exchange** means,—

“(a) a body corporate registered under section 36F:

“(b) a body corporate that is treated as if it were registered as a registered exchange under section 36X(3):

“(c) a subsidiary of a registered exchange if the subsidiary operates a securities market

“**registered exchange’s market** means a securities market operated by a registered exchange

“**relevant interest** has the meaning set out in section 5

“**securities exchange** means a body corporate that operates a securities market

“**securities market** means a market, exchange, or other facility for trading securities

“**subsidiary** has the same meaning as in sections 5 and 6 of the Companies Act 1993

“**transacting shareholder** has the same meaning as in section 4 of the Co-operative Companies Act 1996

“**voting right**, in subpart 1 of Part 2B, has the meaning set out in section 36S”.

- (2) Section 2 of the principal Act is amended by repealing the definition of the term **Court**, and substituting the following definition:

“**Court** means, in relation to any matter, the Court before which the matter is to be determined”.

- (3) Section 2 of the principal Act is amended by repealing the definition of the term **stock exchange**.
- (4) Section 2 of the principal Act is amended by adding, as subsections (2) and (3), the following subsections:

“(2) In this Act,—

“(a) a person is an **associated person** of another person if—

“(i) they are acting jointly or in concert; or

“(ii) either person acts, or is accustomed to act, in accordance with the wishes of the other person; or

“(iii) they are related bodies corporate within the meaning of section 5(7); or

“(iv) either person is able, directly or indirectly, to exert a substantial degree of influence over the activities of the other; or

“(v) they are both, directly or indirectly, under the control of the same person; but

“(b) a director of a company or other body corporate is not an associated person of that company or body corporate merely because he or she is a director of that company or body corporate.

- “(3) Any term or expression that is defined in the Securities Act 1978 and used, but not defined, in this Act has the same meaning as in the Securities Act 1978.”

## 6 Meaning of relevant interest

- (1) Section 5(1) of the principal Act is amended by inserting, after the words “voting security” in the first place where they occur, the words “or other security”.



- (2) Section 5(1)(a) to (f), (2), (3), and (4) of the principal Act is amended by omitting the word “voting” from each place where it occurs.

#### **7 Relevant interests to be disregarded in certain cases**

- (1) Section 6(1) of the principal Act is amended by inserting, after the words “voting security” in the first place where they occur, the words “or other security”.
- (2) Section 6(1)(f) of the principal Act is amended by omitting the word “voting”.

#### **8 New section 6B inserted**

The principal Act is amended by inserting, after section 6A, the following section:

##### **“6B Act binds the Crown**

This Act binds the Crown.”

#### **9 Exceptions to section 7**

Section 8 of the principal Act is amended by adding the following subsections:

- “(4) An insider is not liable under section 7 in relation to the insider buying or selling non-listed securities in a co-operative company if—
- “(a) the insider is a transacting shareholder of the company; and
  - “(b) the insider buys or sells the securities in the ordinary course of business.
- “(5) For the avoidance of doubt and for the purposes of subsection (4), an insider is not acting outside the ordinary course of business merely because the insider buys or sells non-listed securities in the company in connection with the buying or selling of a business or business assets.”

#### **10 Exceptions to section 9**

Section 10 of the principal Act is amended by adding the following subsections:

- “(2) An insider is not liable under section 9 in relation to advising or encouraging any person to buy or sell non-listed securities in a co-operative company if—

- “(a) the person is a transacting shareholder of the company;  
and
  - “(b) the person buys or sells the securities in the ordinary course of business.
- “(3) An insider is not liable under section 9 in relation to communicating information or causing information to be disclosed to any person knowing or believing that the person will, or is likely to, buy or sell non-listed securities in a co-operative company if—
- “(a) the person is a transacting shareholder of the company;  
and
  - “(b) the person buys or sells the securities in the ordinary course of business.
- “(4) For the avoidance of doubt and for the purposes of subsections (2) and (3), a person is not acting outside the ordinary course of business merely because the person buys or sells non-listed securities in the company in connection with the person buying or selling a business or business assets.”

## **11 Shareholders may require public issuer to obtain legal advice**

Section 17 of the principal Act is amended by inserting, after subsection (1), the following subsection:

- “(1A) The Commission must give its approval under subsection (1) if it is satisfied that—
- “(a) there is a serious issue to be determined in relation to the question of whether or not the public issuer has a cause of action against the insider; and
  - “(b) the barrister or solicitor who is to provide the opinion is independent and suitably qualified.”

## **12 Proceedings by shareholders**

- (1) Section 18 of the principal Act is amended by omitting the heading, and substituting the heading “**Shareholders may exercise public issuer’s right of action**”.
- (2) Section 18 of the principal Act is amended by adding the following subsection:
- “(6) The Court may make an order requiring the public issuer or the directors to provide information or assistance in relation to a proceeding brought or taken over under this section.”

**13 New sections 18A to 18E inserted**

The principal Act is amended by inserting, after section 18, the following sections:

**“18A Commission may exercise public issuer’s right of action**

- “(1) The Commission may exercise a public issuer’s right of action against an insider in accordance with section 18B if it considers that it is in the public interest to do so.
- “(2) In conducting proceedings under this section, the Commission must act in the public interest, but (subject to that duty) may take into account the interests of the public issuer.

**“18B Requirements for Commission exercising public issuer’s right of action**

- “(1) The Commission may commence proceedings under section 18A without the leave of the Court only if—
- “(a) the public issuer or another person has not yet commenced proceedings in exercise of that right of action; and
  - “(b) the Commission gives written notice of its intention to bring proceedings to the public issuer; and
  - “(c) within 10 working days of the Commission giving that notice, the public issuer does not—
    - “(i) commence proceedings in exercise of that right of action; or
    - “(ii) give written notice to the Commission that it objects to the Commission bringing the proceedings or controlling the conduct of the proceedings.
- “(2) The Commission may, with the leave of the Court,—
- “(a) commence proceedings under section 18A if the public issuer objects under subsection (1)(c)(ii); or
  - “(b) take over proceedings under section 18A if proceedings have been commenced by the public issuer or another person in exercise of that right of action.
- “(3) The Court must give leave if it is satisfied that it is in the public interest for—
- “(a) the proceedings to be brought or continued; and
  - “(b) the Commission, rather than the public issuer or other person, to control the conduct of the proceedings.

**“18C Procedural requirements for leave to exercise public issuer’s right of action**

- “(1) An applicant for leave under section 18 or section 18B must serve notice of an application for leave,—
- “(a) under section 18, on the public issuer; and
  - “(b) under section 18B, on the public issuer and, if another person is controlling the conduct of proceedings, on that person.
- “(2) In relation to that application for leave, the public issuer and any other person who is controlling the conduct of proceedings—
- “(a) may appear and be heard; and
  - “(b) must inform the Court whether or not the public issuer or other person intends to bring, continue, or discontinue proceedings.

**“18D Powers of Court for proceedings exercising public issuer’s right of action**

- “(1) The Court may make any order it thinks fit in relation to proceedings brought or taken over under section 18 or section 18A, including (without limitation) giving directions for the conduct of the proceedings.
- “(2) If the Commission proposes to commence proceedings under section 18A, the Court may grant interim relief on the application of the Commission, whether or not the Commission has given the required notice, obtained leave, or satisfied any other requirements for its exercise of a public issuer’s right of action.
- “(3) The Court may grant that interim relief on the conditions it thinks fit, including (without limitation) conditions as to the giving of notice or making of an application for leave.

**“18E Proceedings must not be settled, compromised, or discontinued without approval**

- “(1) A public issuer must not settle, compromise, or discontinue any proceedings that it has commenced against an insider without the approval of the Court.
- “(2) A person must not settle, compromise, or discontinue any proceedings that it has commenced or taken over under section 18 or section 18A without the approval of the Court.”

**14 Distribution of amount recovered by public issuer from insider**

(1) Section 19 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) Subsection (1) applies regardless of—

“(a) whether or not proceedings have been commenced; or

“(b) whether the money recovered from the insider is recovered by means of a judgment, a settlement, or a compromise; or

“(c) whether the right of action is exercised by the public issuer, a member of the public issuer, a person who was a member of the public issuer, or the Commission.”

(2) Section 19(2)(a)(i) of the principal Act is amended by omitting the word “also”.

(3) Section 19(2)(a) of the principal Act is amended by adding the following subparagraph:

“(v) the Commission.”

(4) Section 19 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) The Court must distribute the amount recovered in the following order of priority:

“(a) if the proceedings were conducted (in whole or part) by the Commission, in paying its costs in conducting the proceedings; and

“(b) then, if a person other than the public issuer has obtained a judgment against the insider (or satisfies the Court that the person could obtain judgment in a claim against the insider) in relation to the same transaction, in satisfying that judgment (or claim); and

“(c) then, as the Court thinks fit, to or among any of the persons referred to in subsection (2) or in accordance with subsection (4).”

(5) Section 19(4) of the principal Act is amended by omitting the words “prepared by the public issuer and”.

**15 New Part 2 heading substituted**

The principal Act is amended by repealing the Part II heading, and substituting the following Part heading:

**“Part 2  
“Disclosure”.**

**16 New subparts 1 and 2 inserted**

The principal Act is amended by inserting, after the Part 2 heading (as substituted by section 15), the following subparts:

**“Subpart 1—Continuous disclosure by public issuers*****“Purpose of this subpart*****“19A Purpose of this subpart**

- “(1) The purpose of this subpart is to provide for appropriate continuous disclosure by public issuers of material information that is not generally available to the market.
- “(2) The following criteria are relevant to the implementation of that purpose (without limiting other relevant criteria):
- “(a) providing an appropriate level of protection for investors:
  - “(b) seeking to maintain the integrity and international competitiveness of the New Zealand listed markets:
  - “(c) ensuring that the benefits resulting from the continuous disclosure regime justify the costs, including the following costs:
    - “(i) the value that a public issuer gives up if the information is not kept confidential; and
    - “(ii) compliance costs for public issuers and registered exchanges in disclosing the information:
  - “(d) ensuring reasonable consistency and predictability in the application of the continuous disclosure regime:
  - “(e) avoiding unfair advantages resulting from inappropriate disclosure of information to some, but not all, investors:
  - “(f) recognising the importance to the New Zealand listed markets of attracting and retaining public issuers:
  - “(g) recognising the desirability of an effectively functioning framework of co-regulation of listed markets by registered exchanges and the Commission:
  - “(h) recognising the importance of maintaining international best practices for continuous disclosure in listed markets:
  - “(i) any principles applying to the co-ordination of business law between Australia and New Zealand set out in any agreement or memorandum of understanding between the Governments of New Zealand and Australia.

*“Continuous disclosure obligation*

**“19B Public issuers must disclose in accordance with listing rules if continuous disclosure listing rules apply**

- “(1) A public issuer must notify information in accordance with the continuous disclosure provisions of the listing rules of a registered exchange if—
- “(a) the public issuer is a party to a listing agreement with that exchange; and
  - “(b) the public issuer has information that those continuous disclosure provisions require it to notify; and
  - “(c) the information is material information that is not generally available to the market; and
  - “(d) no regulations under section 19Q declare that section 19C applies to that exchange.
- “(2) Subsection (1) does not affect or limit the situations in which action can be taken (other than under this Act) for a failure to comply with provisions of the listing rules of a registered exchange.

**“19C Public issuers must disclose in accordance with regulations if continuous disclosure regulations apply**

A public issuer must notify information in accordance with the continuous disclosure provisions of regulations made under section 19Q if—

- “(a) regulations under section 19Q declare that this section applies to a registered exchange; and
- “(b) the public issuer is a party to a listing agreement with that exchange; and
- “(c) the public issuer has information that those continuous disclosure provisions require it to notify; and
- “(d) the information is material information that is not generally available to the market.

**“19D What are continuous disclosure provisions**

For the purposes of this Act, **continuous disclosure provisions** means provisions that require a public issuer that is a party to a listing agreement with a registered exchange to notify information about events or matters as they arise for the purpose of that information being made available to participants in the registered exchange’s market.

**“19E What is material information**

- “(1) For the purposes of this Act, **material information**, in relation to a public issuer, is information that—
- “(a) a reasonable person would expect, if it were generally available to the market, to have a material effect on the price or value of listed securities of the public issuer; and
  - “(b) relates to particular securities, a particular public issuer, or particular public issuers, rather than to securities generally or public issuers generally.
- “(2) For the purposes of subsection (1), a reasonable person would be taken to expect information to have a material effect on the price or value of listed securities of a public issuer if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to buy or sell those listed securities.
- “(3) For the avoidance of doubt, subsection (2) does not limit what information a reasonable person would expect to have that effect.

**“19F What information is generally available to the market**

- “(1) For the purposes of this Act, information is **generally available to the market** if—
- “(a) it is information that—
    - “(i) has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in relevant securities; and
    - “(ii) since it was made known, a reasonable period for it to be disseminated among those persons has expired; or
  - “(b) it is likely that persons who commonly invest in relevant securities can readily obtain the information (whether by observation, use of expertise, purchase from other persons, or any other means); or
  - “(c) it is information that consists of deductions, conclusions, or inferences made or drawn from either or both of the kinds of information referred to in paragraphs (a) and (b).



- “(2) In this section, **relevant securities** means securities of a kind the price or value of which might reasonably be expected to be affected by the information.

*“Enforcement by Commission*

**“19G Commission may make orders requiring disclosure or corrective statements**

- “(1) The Commission may make an order under subsection (2)—
- “(a) if it is satisfied that a public issuer has contravened a continuous disclosure obligation or a term or condition of a continuous disclosure exemption; and
  - “(b) in accordance with sections 19H and 19I.
- “(2) The Commission may order the public issuer—
- “(a) to disclose information in accordance with the order for the purpose of securing compliance with that continuous disclosure obligation or the term or condition of that continuous disclosure exemption:
  - “(b) to publish, at the public issuer’s own expense, in the manner and at the times specified in the order, corrective statements that are specified in, or are to be determined in accordance with, the order.
- “(3) The order may be made on the terms and conditions the Commission thinks fit.
- “(4) The Commission may vary the order in the same way as it may make the order under this section.
- “(5) The Commission may revoke the order or suspend the order on the terms and conditions it thinks fit.
- “(6) The order is subject to appeal only in accordance with Part 3 of the Securities Act 1978.

**“19H Notice and submissions on Commission’s orders**

- “(1) An order may be made under section 19G only if—
- “(a) the Commission gives the public issuer concerned and the relevant registered exchange at least 24 hours’ written notice before making the order of—
    - “(i) the nature of the alleged contravention; and
    - “(ii) the proposed terms of the order; and
    - “(iii) the reasons for the proposed order; and
  - “(b) the Commission gives those persons an opportunity to make written submissions within that notice period; and

- “(c) the Commission has regard to any written submissions made to it within that notice period.
- “(2) If an order is made under section 19G, the Commission—
  - “(a) must, as soon as reasonably practicable, give written notice to the public issuer concerned and the relevant registered exchange of—
    - “(i) the terms of the order; and
    - “(ii) the reasons for the order; and
  - “(b) may also give notice to any other person of those matters.

**“19I Limited notice and submissions for urgent orders**

If the Commission thinks it necessary or desirable in the public interest for the order to be made more urgently than section 19H permits,—

- “(a) it may give less than 24 hours’ notice before it makes the order and the notice and submissions may be oral, not written; but
- “(b) it must include in that notice the reasons for acting urgently and must otherwise comply with that section.

**“19J Offence for failure to comply with Commission orders**

- “(1) Every person who contravenes an order made under section 19G commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.
- “(2) No person may be convicted of an offence against subsection (1) if—
  - “(a) the person proves that the contravention occurred without the person’s knowledge of the order; or
  - “(b) the contravention was in respect of matters that, in the Court’s opinion, were immaterial or the Court thinks that the contravention, in the circumstances of the case, ought reasonably to be excused.

*“Enforcement—Civil remedies*

**“19K Court may make orders requiring disclosure or corrective statements**

- “(1) The Court may make an order under subsection (2), on the application of the Commission or any other person, if it is satisfied that a public issuer has contravened a continuous

disclosure obligation or a term or condition of a continuous disclosure exemption.

“(2) The Court may order—

“(a) the public issuer to disclose information in accordance with the order for the purpose of securing compliance with that continuous disclosure obligation or the term or condition of that continuous disclosure exemption:

“(b) the public issuer to publish, at the public issuer’s own expense, in the manner and at the times specified in the order, corrective statements that are specified in, or are to be determined in accordance with, the order:

“(c) for the purpose of securing compliance with any other order under this section, a person to do or refrain from doing a specified act.

**19L Court may impose pecuniary penalties**

“(1) The Court may make an order under subsection (2), on the application of the Commission, if it is satisfied that a public issuer has contravened a continuous disclosure obligation or a term or condition of a continuous disclosure exemption.

“(2) The Court may order the public issuer to pay to the Crown the pecuniary penalty that the Court determines to be appropriate, but not exceeding \$300,000.

“(3) In determining an appropriate penalty under this section, the Court must have regard to all relevant matters, including—

“(a) the purpose of this subpart and the criteria stated in section 19A; and

“(b) the nature and extent of the contravention; and

“(c) the nature and extent of any loss or damage suffered by any person as a result of the contravention; and

“(d) the circumstances in which the contravention took place; and

“(e) whether or not the person has previously been found by the Court in proceedings under this subpart to have engaged in any similar conduct.

“(4) The proceedings under this section are civil proceedings, and the usual rules of the Court and rules of evidence for civil proceedings apply (including the standard of proof).

“(5) An application under subsection (1) may be made at any time within 3 years after the date on which the matter giving rise to

the contravention was discovered or ought reasonably to have been discovered.

**“19M Court may make compensatory orders**

- “(1) The Court may make an order under subsection (2) if it is satisfied, on the application of the Commission or any other person, that—
- “(a) a public issuer has contravened a continuous disclosure obligation or a term or condition of a continuous disclosure exemption; and
  - “(b) a person has suffered, or is likely to suffer, loss or damage because of the contravention.
- “(2) The Court may make any order it thinks just to compensate an aggrieved person in whole or in part for the loss or damage, or to prevent or reduce that loss or damage, including an order (without limitation) to—
- “(a) direct the public issuer to pay to the aggrieved person the amount of the loss or damage:
  - “(b) direct the public issuer to refund money or return property to the aggrieved person:
  - “(c) if a contract has been entered into between the public issuer and the aggrieved person,—
    - “(i) vary the contract or any collateral arrangement as specified in the order and, if the Court thinks fit, declare the contract or arrangement to have had effect as so varied on and after a date before the order was made, as specified in the order:
    - “(ii) cancel the contract and, if the Court thinks fit, declare the cancellation to have had effect on and after a date before the order was made, as specified in the order:
    - “(iii) require the public issuer to take any action the Court thinks fit to reinstate the parties as nearly as may be in their former positions:
  - “(d) for the purpose of securing compliance with any other order under this section, direct a person to do or refrain from doing a specified act.
- “(3) The Court may make an order under this section whether or not the aggrieved person is a party to the proceedings.
- “(4) An application under subsection (1) may be made at any time within 3 years after the date on which the loss or damage, or

the likelihood of loss or damage, was discovered or ought reasonably to have been discovered.

**“19N Court may order payment of costs**

If the Commission brings proceedings under this subpart and the Court makes any order against a person under this subpart, the Court may also order that person to pay the Commission’s costs and expenses in conducting the proceedings.

**“19O General provisions as to Court’s orders**

“(1) Before making an order under this subpart, the Court may direct the person making the application for the order to—

“(a) give notice of the application to those persons the Court thinks fit:

“(b) publish notice of the application in the manner the Court thinks fit.

“(2) An order under this subpart may be made on the terms and conditions the Court thinks fit.

“(3) The Court may revoke, vary, or suspend an order made under this subpart on the terms and conditions the Court thinks fit.

**“19P Persons entitled to appear before Court**

The following persons are entitled to appear and be heard at the hearing of an application to the Court under this subpart:

“(a) the applicant:

“(b) the public issuer:

“(c) a person who alleges that he or she has suffered, or is likely to suffer, loss or damage because of an alleged contravention:

“(d) the Commission:

“(e) the relevant registered exchange:

“(f) a person directed to be given notice of the application:

“(g) with the leave of the Court, any other person.

*“Regulations requiring continuous disclosure*

**“19Q Regulations requiring continuous disclosure**

“(1) The Governor-General may, on the recommendation of the Minister in accordance with section 19R or section 19S, make regulations for the purpose of providing, under section 19C,

for continuous disclosure by public issuers of material information that is not generally available to the market.

- “(2) Those regulations may—
- “(a) declare that section 19C applies to a registered exchange:
  - “(b) contain requirements for the purpose of requiring public issuers that are parties to listing agreements with that exchange to notify information about events or matters as they arise (being material information that is not generally available to the market) for the purpose of that information being made available to participants in the registered exchange’s market:
  - “(c) determine the form in which, how, and when that information must be made available to participants in the registered exchange’s market, or provide who may determine any of these matters:
  - “(d) determine the form of, method of, and any additional details required with, the notification of that information, or provide who may determine any of these matters:
  - “(e) exempt (on terms and conditions, if any) persons, classes of persons, information, and classes of information from compliance with any provision or provisions of the regulations:
  - “(f) provide for a specified person to exempt (on terms and conditions, if any) persons, classes of persons, information, and classes of information from compliance with any provision or provisions of the regulations, and to vary and revoke those exemptions:
  - “(g) provide for a specified person or persons to carry out functions under the regulations, and the powers and procedures of that person or persons:
  - “(h) require fees and charges to be paid in connection with the performance or exercise of a function or power referred to in paragraph (f) or paragraph (g), and prescribing those fees and charges or a means by which they may be calculated or ascertained:
  - “(i) provide for transitional provisions.
- “(3) A failure to comply with section 19R(3) or section 19S(2)(b) to (d) does not invalidate any regulations made under this section.

**“19R Requirements for regulations replacing continuous disclosure listing rules**

- “(1) This section applies if the Minister proposes to recommend regulations to declare that section 19C applies to a registered exchange.
- “(2) The Minister may make a recommendation under section 19Q if the Minister—
- “(a) has had regard to the purpose of this subpart, the criteria stated in section 19A, and any other matters he or she considers relevant; and
  - “(b) is satisfied that, over time, the continuous disclosure provisions of the registered exchange’s listing rules, or the registered exchange’s administration of those provisions, has not achieved the purpose of this subpart.
- “(3) The Minister must, before making that recommendation,—
- “(a) give at least 3 months’ written notice of the proposed recommendation, and of the Minister’s reasons for his or her opinion under subsection (2)(b), to—
    - “(i) the Commission; and
    - “(ii) the relevant registered exchange; and
    - “(iii) any other persons that the Minister thinks are representative of the interests of persons likely to be substantially affected by the proposal; and
  - “(b) have regard to any submissions made by those persons within the notice period given; and
  - “(c) give at least 14 days’ written notice to the persons in paragraph (a), and in the *Gazette*, before making the recommendation of his or her decision to do so and of the Minister’s reasons for his or her opinion under subsection (2)(b).

**“19S Ongoing requirements for continuous disclosure regulations**

- “(1) This section applies if the Minister proposes to recommend regulations to amend, revoke, or replace regulations made under section 19Q.
- “(2) The Minister must, before making a recommendation under section 19Q,—
- “(a) have regard to the purpose of this subpart, the criteria stated in section 19A, and any other matters he or she considers relevant; and

- “(b) give written notice of the proposed recommendation to—
  - “(i) the Commission; and
  - “(ii) the relevant registered exchange; and
  - “(iii) any other persons that the Minister thinks are representative of the interests of persons likely to be substantially affected by the proposal; and
- “(c) have regard to any submissions made by those persons within the notice period given; and
- “(d) give at least 14 days’ written notice to the persons in paragraph (b), and in the *Gazette*, before making the recommendation of his or her decision to do so.

### “Subpart 2—Disclosure of relevant interests by directors and officers of public issuers

#### “*Directors’ and officers’ disclosure obligations*

#### “19T **Directors and officers of public issuers must disclose relevant interests and dealings in relevant interests**

- “(1) A director or officer of a public issuer who has a relevant interest in a security of the public issuer or a related body corporate must disclose that fact, in accordance with section 19U, within 5 trading days of this section becoming applicable as a result of—
  - “(a) the listing of the public issuer; or
  - “(b) the person’s appointment as a director or officer; or
  - “(c) the commencement of this section.
- “(2) A director or officer of a public issuer who acquires or disposes of a relevant interest in a security of the public issuer or a related body corporate must disclose that fact, in accordance with section 19U, within 5 trading days of the acquisition or disposal.
- “(3) This section is subject to sections 19U to 19Y.

#### “19U **What disclosure required**

- “(1) The director or officer must disclose the relevant interest, acquisition, or disposal—
  - “(a) to the registered exchange with which the public issuer is listed; and
  - “(b) in the interests register of the public issuer kept under this subpart.



“(2) The director or officer must also disclose, as required by regulations made under section 49, any further matters relating to the relevant interest, acquisition, or disposal required by those regulations.

**“19V Form and method of disclosure**

The director or officer must disclose the relevant interest, acquisition, or disposal in accordance with any regulations made under section 49 (which may govern the form and method of the disclosure).

**“19W Disclosure obligation applies for 6 months after ceasing to hold office**

A person is treated as a director or officer for the purposes of this subpart for 6 months after that person ceases to be a director or officer, and must continue to comply with this subpart for that period.

*“Exemptions*

**“19X Exemptions for directors or officers of co-operative companies**

“(1) A director or officer of a co-operative company who has a relevant interest in a non-listed security of that company does not have to disclose that fact under section 19T if—

“(a) the director or officer is a transacting shareholder of the company; and

“(b) the interest was acquired by the director or officer in the ordinary course of business.

“(2) A director or officer of a co-operative company who acquires or disposes of a relevant interest in a non-listed security of that company does not have to disclose that fact under section 19T if—

“(a) the director or officer is a transacting shareholder of the company; and

“(b) the director or officer acquires or disposes of the interest in the ordinary course of business.

“(3) For the avoidance of doubt and for the purposes of subsections (1) and (2), a person is not acting outside the ordinary course of business merely because the person acquires or disposes of non-listed securities in the company in connection with the person acquiring or disposing of a business or business assets.

**“19Y Exemptions granted by Commission or regulations**

The directors' and officers' disclosure obligations are subject to any exemptions granted by the Commission under section 48 or provided in regulations made under section 49.

*“Interests register***“19Z Public issuer must keep interests register**

- “(1) A public issuer must keep an interests register for disclosures under this subpart.
- “(2) The interests register must be kept in New Zealand at—
- “(a) the registered office of the public issuer; or
  - “(b) the office of the public issuer's share registrar; or
  - “(c) the principal place of business of the public issuer.
- “(3) The interests register may be the same interests register as that kept under section 189(1)(c) of the Companies Act 1993.
- “(4) This section and section 19ZA do not derogate from the Companies Act 1993.

**“19ZA Inspection and copying of interests register**

- “(1) The interests register must be kept open for inspection by any person.
- “(2) The interests register must be open for inspection between the hours of 9 am and 5 pm on each working day during the inspection period.
- “(3) In subsection (2), **inspection period** means the period commencing on the third working day after the day on which notice of intention to inspect is served on the public issuer by the person concerned and ending with the eighth working day after the day of service.
- “(4) A person may require a copy of, or extract from, an interests register to be sent to him or her—
- “(a) within 5 working days after he or she has made a request in writing for the copy or extract; and
  - “(b) if he or she has paid a reasonable copy and administration fee determined by the public issuer.

Compare: 1993 No 105 ss 217, 218

*“Enforcement—Civil remedies***“19ZB Commission may make orders requiring disclosure**

- “(1) The Commission may make an order under subsection (2)—
- “(a) if it is satisfied that a person has contravened a directors’ and officers’ disclosure obligation or a term or condition of an exemption from a directors’ and officers’ disclosure obligation; and
  - “(b) in accordance with section 19ZC.
- “(2) The Commission may order the person to disclose information in accordance with the order for the purpose of securing compliance with that directors’ and officers’ disclosure obligation or the term or condition of that exemption.
- “(3) The order may be made on the terms and conditions the Commission thinks fit.
- “(4) The Commission may vary the order in the same way as it may make the order under this section.
- “(5) The Commission may revoke the order or suspend the order on the terms and conditions it thinks fit.
- “(6) The order is subject to appeal only in accordance with Part 3 of the Securities Act 1978.

**“19ZC Notice, submissions, and opportunity to be heard and represented on Commission’s orders**

- “(1) An order may be made under section 19ZB only if—
- “(a) the Commission gives the person to whom the order is directed at least 48 hours’ written notice before making the order of—
    - “(i) the nature of the alleged contravention; and
    - “(ii) the proposed terms of the order; and
    - “(iii) the reasons for the proposed order; and
  - “(b) the Commission gives that person an opportunity to—
    - “(i) make written submissions within that notice period; and
    - “(ii) have the matter determined following a meeting of the Commission within that notice period; and
    - “(iii) be heard and represented by counsel at that meeting; and
  - “(c) the Commission has regard to any written submissions made to it within that notice period and written or oral submissions made at that meeting.

- “(2) If an order is made under section 19ZB, the Commission—
- “(a) must, as soon as reasonably practicable, give written notice to the person to whom the order is directed of—
    - “(i) the terms of the order; and
    - “(ii) the reasons for the order; and
  - “(b) may also give notice to any other person of those matters.

*“Enforcement—Offences*

**“19ZD Offence for failure to comply with directors’ and officers’ disclosure obligation**

- “(1) Every person who is aware or ought reasonably to be aware of information that the person is required to disclose under section 19T, and who fails to disclose that information in accordance with a directors’ and officers’ disclosure obligation, commits an offence.
- “(2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$30,000.

**“19ZE Offence for failure to comply with Commission orders**

- “(1) Every person who contravenes an order made under section 19ZB commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.
- “(2) No person may be convicted of an offence against subsection (1) if—
- “(a) the person proves that the contravention occurred without the person’s knowledge of the order; or
  - “(b) the contravention was in respect of matters that, in the Court’s opinion, were immaterial or the Court thinks that the contravention, in the circumstances of the case, ought reasonably to be excused.

**“19ZF Offence relating to interest register**

- “(1) If a person fails, without reasonable excuse, to provide a copy of, or extract from, an interests register in accordance with a request under section 19ZA, the person commits an offence.
- “(2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$5,000.”

**17 New subpart 3 heading inserted**

The principal Act is amended by inserting, before section 20, the following heading:

“Subpart 3—Disclosure of interests of substantial security holders in public issuers”.

**18 Section 35A repealed**

The principal Act is amended by repealing section 35A (which relates to evidence not otherwise admissible).

**19 Regulations for purpose of this Part of this Act**

(1) Section 36(1) of the principal Act is amended by omitting the words “in accordance with the recommendation of the Commission”, and substituting the words “on the recommendation of the Minister in accordance with subsection (6)”.

(2) Section 36 of the principal Act is amended by repealing subsection (6), and substituting the following subsection:

“(6) The Minister must consult with the Commission before making a recommendation under subsection (1).”

**20 New Part 2B inserted**

The principal Act is amended by inserting, after Part 2, the following Part:

**“Part 2B  
“Securities exchanges**

“Subpart 1—Registration, conduct, and control  
of exchanges

*“Restrictions on activities relating to securities exchanges  
unless registered under this subpart*

**“36A No holding out as securities exchange unless registered under this subpart**

“(1) No person may, in connection with carrying on business in New Zealand,—

“(a) use a style or title including the words ‘stock exchange’ or ‘securities exchange’; or

“(b) state or imply, or permit a statement or implication, that—

“(i) the person is a registered securities exchange or authorised securities exchange; or

“(ii) a securities market that the person operates is regulated under New Zealand law.

“(2) Subsection (1) does not apply to—

“(a) a registered exchange; or

“(b) a subsidiary of a registered exchange.

“(3) Every person who acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

**“36B No operation of securities markets unless registered under this subpart (if restriction applies)**

“(1) No person to whom this section applies may operate a securities market in New Zealand unless that person is—

“(a) a registered exchange; or

“(b) a subsidiary of a registered exchange.

“(2) Every person who acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

**“36C Power to apply and remove restriction on operating securities markets**

“(1) The Minister may, by notice in the *Gazette*,—

“(a) declare, in accordance with section 36D, that section 36B applies to a person:

“(b) declare that section 36B ceases to apply to a person.

“(2) The notice may include any exemption granted under section 36E.

**“36D Criteria and process for applying restriction on operating securities markets**

“(1) The Minister may declare that section 36B applies to a person only if he or she is satisfied that the result of that section not applying to the person is likely to be detrimental to—

“(a) the integrity or effectiveness of securities markets in New Zealand; or

“(b) the confidence of investors in securities markets in New Zealand.

- “(2) The Minister must, before making the declaration,—
- “(a) give at least 2 months’ written notice of the proposed declaration, and of the Minister’s reasons for his or her opinion under subsection (1), to—
    - “(i) the person to whom it is proposed to apply section 36B; and
    - “(ii) the Commission; and
    - “(iii) any other persons that the Minister thinks are representative of the interests of persons likely to be substantially affected by the proposed declaration; and
  - “(b) have regard to any submissions made by those persons within the notice period given; and
  - “(c) before making the declaration, give at least 14 days’ written notice to the persons referred to in paragraph (a), and in the *Gazette*, of his or her intention to do so and of the reasons for his or her opinion under subsection (1).
- “(3) A failure to comply with subsection (2) does not invalidate any notice published under section 36C.

**“36E Power to exempt securities markets from this Part**

- “(1) The Minister may, by notice in the *Gazette*, exempt a securities market, or class of securities markets, from any provision or provisions of this Part.
- “(2) The exemption may be on any terms or conditions that the Minister thinks fit.
- “(3) The exemption has effect according to its tenor.
- “(4) In determining whether or not to grant an exemption, the Minister must seek the advice of the Commission.
- “(5) The Minister may vary an exemption in the same way as the exemption may be granted under this section.
- “(6) The Minister may, by notice in the *Gazette*, revoke an exemption granted under this section.

*“Registration of exchanges*

**“36F Registration of exchanges**

- “(1) Any body corporate may apply to become a registered exchange by delivering to the chief executive—

- “(a) an application for registration in the form, and containing the information, required by the chief executive; and
  - “(b) a copy of the proposed conduct rules for securities markets to be operated by the body corporate; and
  - “(c) any fees required by regulations made under section 49 and evidence of payment to the Commission of the fees, charges, or costs required to be paid to it by those regulations.
- “(2) The chief executive must register the body corporate as a registered exchange, by entering the name of the body corporate in a register, after—
- “(a) receipt of the documents and fees referred to in subsection (1); and
  - “(b) approval of the proposed conduct rules under section 36O.

*“Conduct rules of registered exchanges*

**“36G Registered exchange must operate securities markets with conduct rules that include required matters and have effect**

- “(1) A registered exchange must operate each of its securities markets in accordance with conduct rules for that market that—
- “(a) include the required matters set out in section 36H; and
  - “(b) have effect under section 36I.
- “(2) A registered exchange that acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

**“36H Required matters for conduct rules**

Conduct rules for a securities market must—

- “(a) include rules (**listing rules**) that—
  - “(i) require each person whose securities are listed on that market to be a party to a listing agreement with the registered exchange; and
  - “(ii) relate to the governance of those persons; and
  - “(iii) relate to the entry into, and revocation of, those listing agreements; and



- “(b) include rules (**business rules**) that govern the conduct of—
  - “(i) business on that market; and
  - “(ii) persons authorised to undertake trading activities on that market.

**“36I When conduct rules have no effect**

A conduct rule, or part of a conduct rule, has no effect in contract or for the purposes of section 36G if—

- “(a) it has not been—
  - “(i) provided to the chief executive on registration and approved under section 36O; or
  - “(ii) subsequently provided to the Minister under section 36J; or
- “(b) it has been provided to the Minister under section 36J but a period of 15 working days has not expired after it was received by the Minister; or
- “(c) it has been disallowed under section 36L; or
- “(d) the Minister has applied the approval process to it under section 36N and it has not been approved.

**“36J Registered exchange must provide proposed new conduct rules and changes to Minister**

- “(1) A registered exchange must provide a proposed new conduct rule or a proposed change to an existing conduct rule to the Minister before making that rule or change.
- “(2) A **change**, in relation to a conduct rule for the purposes of this subpart, includes an amendment to, and a revocation or cancellation of, the conduct rule.

**“36K Disallowance process applies unless approval process applied**

- “(1) The disallowance process in section 36L applies to a proposed new conduct rule or change provided to the Minister under section 36J.
- “(2) However, the Minister may, under section 36N, apply the approval process under section 36O instead.

**“36L Disallowance process for proposed conduct rules and changes**

- “(1) The Minister may, by notice in the *Gazette* within 40 working days after receiving a proposed conduct rule or change under section 36J, disallow all or part of that proposed rule or change.
- “(2) The Minister must not disallow all or part of the proposed conduct rule or change unless the Minister is satisfied that—
- “(a) it is in the public interest to do so; or
  - “(b) the proposal affects the continuous disclosure provisions of the listing rules and the changed continuous disclosure provisions do not achieve the purpose of subpart 1 of Part 2 (after having regard to that purpose, the criteria stated in section 19A, and any other matters that he or she considers relevant).
- “(3) In determining whether or not to disallow all or part of the proposed conduct rule or change, the Minister must seek the advice of the Commission.

**“36M Effect of disallowance**

- “(1) A conduct rule or a change to a conduct rule (or part of a rule or change) that is disallowed has no effect in contract or for the purposes of section 36G on and from—
- “(a) the date of the notice in the *Gazette*; or
  - “(b) any later date specified for this purpose in that notice.
- “(2) A disallowance does not affect the validity of anything done before the disallowance takes effect.

**“36N Determination on whether or not to apply approval process to proposed conduct rules and changes**

- “(1) The approval process in section 36O applies to a proposed new conduct rule or change if—
- “(a) the Minister is satisfied that the proposal relates to a securities market that is not operated by the registered exchange under its existing conduct rules (a **new securities market**); and
  - “(b) the Minister is satisfied it is in the public interest to apply the approval process; and
  - “(c) the Minister applies the approval process by written notice to the registered exchange within 15 working

days after receipt of the proposed conduct rule or change under section 36J.

- “(2) Before applying the approval process, the Minister must have regard to—
- “(a) the integrity and effectiveness of securities markets in New Zealand; and
  - “(b) the confidence of investors in securities markets in New Zealand; and
  - “(c) the extent of the difference between existing securities markets operated by the registered exchange and the new securities market; and
  - “(d) the extent of the difference between the existing conduct rules and the proposed new conduct rules or changes.
- “(3) In determining whether or not to apply the approval process, the Minister must seek the advice of the Commission.
- “(4) The notice applying the approval process must describe the new securities market referred to in subsection (1)(a).

**“36O Approval process for proposed conduct rules and changes**

- “(1) The Governor-General may, by Order in Council on the recommendation of the Minister, approve a proposed conduct rule or change provided under section 36F or section 36J.
- “(2) The Minister must recommend that a proposed conduct rule or change be approved unless the Minister is satisfied that—
- “(a) it is not in the public interest to do so; or
  - “(b) the listing rules for the securities market to which the proposed conduct rule or change relates do not achieve the purpose of subpart 1 of Part 2 (after having regard to that purpose, the criteria stated in section 19A, and any other matters that he or she considers relevant).
- “(3) In determining whether or not to recommend that the proposed conduct rules or changes be approved, the Minister must seek the advice of the Commission.

**“36P Registered exchange must not operate new securities market if proposed conduct rules or changes not approved**

“(1) A registered exchange must not operate a securities market described in a notice given under section 36N unless the proposed conduct rules or changes to which that notice relates are approved under section 36O.

“(2) A registered exchange that acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

**“36Q Conduct rules must be available for public inspection**

“(1) A registered exchange that operates a securities market must ensure that a copy of the conduct rules for that market are available for public inspection, free of charge and during normal office hours, at the office of that registered exchange.

“(2) A registered exchange that fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

**“36R Application of Acts relating to regulations to conduct rules**

To avoid doubt, conduct rules are not regulations for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989 or for any other purpose.

*“Control limits for registered exchanges*

**“36S Power to impose control limits on registered exchanges**

“(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations imposing, altering, or revoking a control limit (which is the highest percentage of voting rights in the body corporate that may be held or controlled by any person) for a body corporate that—

“(a) is, or may be, a registered exchange; or

“(b) is a holding company of a body corporate referred to in paragraph (a).

- “(2) A control limit does not apply to a body corporate before its registration, or its subsidiary’s registration, as a registered exchange.
- “(3) The Minister must not make a recommendation for the purposes of subsection (1) unless he or she has consulted the body corporate and is satisfied that it is in the public interest to do so.
- “(4) For the purposes of this section and the rest of the subpart—
- “**control**, in relation to a voting right, means having, directly or indirectly, effective control of the voting right
- “**voting right** means a currently exercisable right to cast a vote at meetings of members or shareholders of a body corporate, not being a right to vote that is exercisable only in 1 or more of the following circumstances:
- “(a) during a period in which a payment or distribution (or part of a payment or distribution) in respect of the security that confers the voting right is in arrears or some other default exists:
- “(b) on a proposal that affects rights attached to the security that confers the voting right:
- “(c) during the liquidation of the body corporate:
- “(d) in respect of a special, immaterial, or remote matter that is inconsequential to control of the body corporate.

**“36T Control limit not to be exceeded**

- “(1) No person may hold or control voting rights in a body corporate that exceed any control limit for that body corporate that applies under regulations made under section 36S(1) except in accordance with an approval under section 36V.
- “(2) For the purposes of this section, voting rights held or controlled by an associated person of a person must be treated as voting rights held or controlled by that person.
- “(3) Subsection (1) does not apply to any voting rights in a body corporate held or controlled by a person to the extent that those rights were held or controlled by that person before the control limit was imposed or decreased, as the case may be.

**“36U Effect of exceeding control limit**

- “(1) Every person who contravenes section 36T(1) must—
- “(a) take the steps that are necessary to ensure that the person is no longer in contravention of that subsection at the end of 90 days after the date of first contravention; and
  - “(b) while he or she contravenes that subsection, not exercise or control the exercise of any voting rights that exceed the control limit.
- “(2) Every person who contravenes subsection (1)(a) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 for each day or part of a day during which the contravention continues.
- “(3) An exercise of voting rights by or under the control of a person in contravention of subsection (1)(b) is of no effect, and must be disregarded by the person responsible for counting the votes concerned.

**“36V Application for approval to exceed control limit**

- “(1) A person may apply to the chief executive for approval for any person or class of persons to exceed a control limit for a body corporate that applies under regulations made under section 36S.
- “(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, approve an application under subsection (1) and specify the terms and conditions (if any) applying to the approval.
- “(3) The Minister may not make a recommendation for the purposes of subsection (2) unless,—
- “(a) if the body corporate is not the applicant or 1 of the applicants for the approval, he or she has consulted the body corporate on the application at least 30 days before making the recommendation; and
  - “(b) he or she is satisfied that it is in the public interest to make the recommendation.
- “(4) An approval granted under subsection (2)—
- “(a) may have retrospective effect; but
  - “(b) is of no effect if any term or condition of the approval has not been complied with.

- “(5) An approval granted under subsection (2) is for the purposes of the control limit only, and not for the purposes of any other enactment.

**“36W Revocation or amendment of approval**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- “(a) revoke an approval granted under section 36V; or
  - “(b) vary, revoke, or suspend any term or condition of such an approval.
- “(2) The Minister may not make a recommendation for the purposes of subsection (1) unless—
- “(a) he or she has consulted the person to whom the approval was granted and the body corporate concerned; and
  - “(b) he or she is satisfied that it is in the public interest to make the recommendation.

*“Overseas exchanges*

**“36X Overseas exchanges**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- “(a) authorise a body corporate to, in connection with carrying on business in New Zealand, do the things otherwise prohibited by section 36A(1); and
  - “(b) specify the terms and conditions (if any) applying to the authorisation.
- “(2) The Minister may not make a recommendation for the purposes of subsection (1) unless he or she is satisfied that it is in the public interest to do so, having regard to the regulatory regime that applies to that body corporate in any other country in connection with its operation of a securities market.
- “(3) For the purposes of this Act and any other enactment (other than sections 36F to 36W), every body corporate that is authorised under subsection (1) must be treated as if it were registered as a registered exchange under section 36F.

**“36Y Revocation or amendment of authorisation**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—

- “(a) revoke an authorisation granted under section 36X(1);  
or
  - “(b) vary, revoke, or suspend any term or condition of such an authorisation.
- “(2) The Minister may not make a recommendation for the purposes of subsection (1) unless—
- “(a) he or she has consulted the body corporate concerned;  
and
  - “(b) he or she is satisfied that it is in the public interest to make the recommendation.

**“36Z Offence for breach of terms or conditions of authorisation**

Every person who acts in contravention of a term or condition of an authorisation granted under section 36X commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

*“Enforcement of prohibition of certain statements relating to exchanges*

**“36ZA Commission may make orders prohibiting statements relating to exchanges or requiring corrective statements**

- “(1) The Commission may make an order under subsection (2)—
- “(a) if it is satisfied that a person has acted in contravention of section 36A(1); and
  - “(b) in accordance with section 36ZB.
- “(2) The Commission may make an order—
- “(a) prohibiting or restricting the making of any statement or distribution of any document by, or on behalf of, that person for the purpose of preventing further contravention of that section by that person;
  - “(b) directing that person to publish, at that person’s own expense, in the manner and at the times specified in the order, corrective statements that are specified in, or are to be determined in accordance with, the order.
- “(3) The order may be made on the terms and conditions that the Commission thinks fit.
- “(4) The Commission may vary the order in the same way as it may make the order under this section.



- “(5) The Commission may revoke the order or suspend the order on the terms and conditions it thinks fit.
- “(6) The order is subject to appeal only in accordance with Part 3 of the Securities Act 1978.

**“36ZB Notice, submissions, and opportunity to be heard and represented on Commission’s orders**

- “(1) An order may be made under section 36ZA only if—
  - “(a) the Commission gives the person to whom the order is directed at least 7 days’ written notice before making the order of—
    - “(i) the nature of the alleged contravention; and
    - “(ii) the proposed terms of the order; and
    - “(iii) the reasons for the proposed order; and
  - “(b) the Commission gives that person an opportunity to—
    - “(i) make written submissions within that notice period; and
    - “(ii) have the matter determined following a meeting of the Commission within that notice period; and
    - “(iii) be heard and represented by counsel at that meeting; and
  - “(c) the Commission has regard to any written submissions made to it within that notice period and written or oral submissions made at that meeting.
- “(2) If an order is made under section 36ZA, the Commission—
  - “(a) must, as soon as reasonably practicable, give written notice to the person to whom the order is directed of—
    - “(i) the terms of the order; and
    - “(ii) the reasons for the order; and
  - “(b) in the case of an order prohibiting or restricting the making of statements or distribution of documents, must give that person an opportunity to be heard and represented by counsel at a meeting of the Commission after the order is made; and
  - “(c) may also give notice to any other person of the matters in paragraph (a).

**“36ZC Offence for contravening prohibition order**

- “(1) Every person who contravenes an order made under section 36ZA commits an offence and is liable on summary conviction to a fine not exceeding \$30,000.

- “(2) It is a defence to a charge under subsection (1) if the defendant proves that the statement was made, or document was distributed,—
- “(a) without the defendant’s knowledge; or
  - “(b) without the defendant’s knowledge of the order.

## “Subpart 2—Monitoring of securities markets

### “*Notification of disciplinary actions and suspected contraventions*

#### “36ZD Registered exchange must notify Commission of disciplinary actions and suspected contraventions

A registered exchange must notify the Commission, in accordance with sections 36ZE and 36ZF, if—

- “(a) the exchange takes any disciplinary action for a contravention of its conduct rules against any person:
- “(b) the exchange knows or suspects that a person has committed, is committing, or is likely to commit a significant contravention of—
  - “(i) the exchange’s conduct rules; or
  - “(ii) this Act, the Securities Act 1978, the Takeovers Act 1993, or any enactment made under any of those Acts.

#### “36ZE When notification required

The registered exchange must give the notice under section 36ZD immediately after taking the disciplinary action or knowing or suspecting the person has committed, is committing, or is likely to commit the significant contravention.

#### “36ZF Details and method of notification

- “(1) The notice under section 36ZD must include—
- “(a) the person’s name and contact details; and
  - “(b) if it relates to a disciplinary action, the grounds for, nature of, and reasons for the action taken; and
  - “(c) if it relates to a known or suspected contravention, the facts supporting the registered exchange’s view and to which obligation the known or suspected contravention relates; and
  - “(d) any other information required by regulations under section 49 or by the Commission under section 36ZK.

- “(2) The registered exchange must give the notice in the form and by the method required by any regulations made under section 49.

*“Disclosure of material information*

**“36ZG Registered exchange must give Commission material information given to market participants**

If a registered exchange makes material information available to participants, or any class of participants, of a securities market operated by the exchange, the exchange must also give that information to the Commission in accordance with sections 36ZH to 36ZJ.

**“36ZH When disclosure of material information required**

The registered exchange must give the information under section 36ZG to the Commission immediately after giving it to market participants.

**“36ZI Form and method of disclosure**

The registered exchange must give the information under section 36ZG to the Commission in the same form and by the same method as it gives that information to market participants.

*“Waiver of notification and disclosure obligations*

**“36ZJ Waiver of notification and disclosure obligations**

- “(1) Sections 36ZD to 36ZI do not apply to the extent that the Commission—
- “(a) waives its entitlement to any notice or information or class or classes of notices or information; or
  - “(b) agrees with the registered exchange a different time, form, or method of notification or disclosure.
- “(2) A waiver or agreement under this section must be in writing.

*“General information and assistance provisions*

**“36ZK Registered exchange must give Commission or Takeovers Panel other information and assistance on request**

- “(1) A registered exchange must give to the Commission or the Takeovers Panel (or any person authorised by the Commission or Takeovers Panel) information, assistance, and access to the exchange’s facilities if the Commission or Takeovers Panel reasonably requests it to carry out its functions.
- “(2) The Commission or Takeovers Panel must require that information, assistance, or access by notice in writing to the registered exchange.

**“36ZL Power to disclose further information**

- “(1) A registered exchange may provide to the Commission any information that the exchange considers may assist the Commission in the performance of the Commission’s functions.
- “(2) A registered exchange may provide to the Takeovers Panel any information that the exchange considers may assist the Takeovers Panel in the performance of its functions.

*“Notice and submissions on continuous disclosure determinations*

**“36ZM Registered exchange must give notice and have regard to submissions on continuous disclosure determinations**

- “(1) This section and section 36ZN apply to a determination by a registered exchange if—
- “(a) the determination exempts from, waives, or determines the meaning of a continuous disclosure provision of its listing rules (or varies or revokes a determination of that kind); and
  - “(b) that continuous disclosure provision relates to material information that is not generally available to the market; and
  - “(c) no regulations under section 19Q declare that section 19C applies to that exchange.
- “(2) The registered exchange must—
- “(a) give the Commission no less than 2 trading days’ written notice before making the determination of—
    - “(i) the proposed terms of the determination; and

- “(ii) the reasons for the proposed determination; and
- “(b) have regard to any written submissions made to it by the Commission within that notice period; and
- “(c) must, as soon as reasonably practicable after making the determination, give written notice to the Commission of—
  - “(i) the terms of the determination; and
  - “(ii) the reasons for the determination.
- “(3) A failure to comply with this section or section 36ZN does not affect the validity of a determination.

**“36ZN Limited notice and submissions for urgent determinations**

If the registered exchange thinks it necessary or desirable in the public interest for a determination to be made more urgently than section 36ZM(2) permits,—

- “(a) it may give less than 2 trading days’ notice before it makes the determination and the notice and submissions may be oral, not written; but
- “(b) it must include in that notice the reasons for acting urgently and must otherwise comply with that subsection.

*“Directions to exchanges*

**“36ZO Commission may give directions to registered exchanges**

- “(1) The Commission may give a direction under subsection (2) in accordance with sections 36ZP to 36ZT.
- “(2) The Commission may, for up to 21 days,—
  - “(a) direct a registered exchange to suspend trading of the securities, or a class of securities, of 1 or more public issuers; or
  - “(b) give the registered exchange any other direction in relation to that trading.
- “(3) For the avoidance of doubt, the Commission may not use its power to direct the registered exchange to amend the conduct rules or direct the registered exchange on the making of a determination on the conduct rules.
- “(4) The direction is subject to appeal only in accordance with Part 3 of the Securities Act 1978.

**“36ZP Grounds for continuous disclosure direction**

- “(1) A direction on the grounds in this section is a **continuous disclosure direction**.
- “(2) A direction may be given under section 36ZO in accordance with sections 36ZR to 36ZT if the Commission—
- “(a) has regard to the purpose of subpart 1 of Part 2, the criteria stated in section 19A, and any other matters it considers relevant; and
  - “(b) is satisfied that 1 of the following grounds applies:
    - “(i) a public issuer has contravened a continuous disclosure obligation or a term or condition of a continuous disclosure exemption; or
    - “(ii) a determination by a registered exchange to which section 36ZM applies does not achieve the purpose of subpart 1 of Part 2; or
    - “(iii) the registered exchange’s administration of the continuous disclosure provisions of its listing rules does not achieve the purpose of subpart 1 of Part 2 (and section 19C does not apply to the exchange); or
    - “(iv) if section 19C applies to a registered exchange, a continuous disclosure exemption (other than an exemption contained in regulations) does not achieve the purpose of subpart 1 of Part 2; or
    - “(v) if section 19C applies to a registered exchange, the administration of the continuous disclosure provisions of regulations does not achieve the purpose of subpart 1 of Part 2; and
  - “(c) is also satisfied that the direction is necessary or desirable in the public interest to protect people trading the securities or the class of securities and that there is no more appropriate course of action to address the situation.

**“36ZQ Grounds for other directions**

A direction may also be given under section 36ZO in accordance with sections 36ZR to 36ZT if the Commission is satisfied that—

- “(a) the direction is necessary in the public interest to protect people trading the securities, or the class of securities, of 1 or more public issuers; but

“(b) it is not a matter to which the purpose of subpart 1 of Part 2 is relevant.

**“36ZR Notice, opportunity for exchange to act, and submissions before Commission gives directions**

“(1) A direction may be given under section 36ZO only if—

“(a) the Commission has given written notice to the registered exchange and public issuer or issuers concerned of—

“(i) its opinion that the requirements of section 36ZP or section 36ZQ are satisfied; and

“(ii) the proposed terms of the direction; and

“(iii) the reasons for its opinion; and

“(b) after receiving the Commission’s notice, the registered exchange does not take, within the reasonable period stated in the notice,—

“(i) in the case of a proposed direction to suspend trading of the securities, action to prevent that trading; or

“(ii) in any other case, any other action that, in the Commission’s view, is adequate to address the situation raised in the advice; and

“(c) the Commission has had regard to any written submissions made to it by the registered exchange and public issuer or issuers concerned within that notice period; and

“(d) the Commission still considers that it is appropriate to give the direction to the registered exchange.

“(2) A **reasonable period** in subsection (1)(b) is, in the case of a continuous disclosure direction, 2 trading days (or any longer time the Commission wishes to allow) and, in the case of any other direction, any longer time that is reasonable in the circumstances.

**“36ZS Limited notice and submissions for urgent continuous disclosure directions**

If the Commission thinks it necessary or desirable in the public interest for a continuous disclosure direction to be made more urgently than section 36ZR permits,—

- “(a) it may give less than 2 trading days’ notice before it gives the direction and the notice and submissions may be oral, not written; but
- “(b) it must include in that notice the reasons for acting urgently and must otherwise comply with that section.

**“36ZT Notice and opportunity to be heard and represented after Commission gives direction**

If a direction is given under section 36ZO, the Commission—

- “(a) must, as soon as reasonably practicable, give written notice to the registered exchange and public issuer or issuers concerned of—
  - “(i) its opinion that the requirements of section 36ZP or section 36ZQ are satisfied; and
  - “(ii) the terms of the direction; and
  - “(iii) the reasons for its opinion; and
- “(b) must give those persons an opportunity to be heard and represented by counsel at a meeting of the Commission after the direction is given; and
- “(c) may also give notice to any other person of the matters in paragraph (a).

**“36ZU Effect of directions to exchanges**

- “(1) A direction under section 36ZO has effect for the period specified in it (which may be up to 21 days) and, during that period, the registered exchange must comply with the direction and must not allow any trading to take place contrary to it.
- “(2) If the registered exchange fails to comply with the direction or the Commission considers that the direction should have effect for a period longer than 21 days, it may apply to the Court for, and the Court may make, an order that the registered exchange comply with the direction for the period that the Court thinks fit.

**“36ZV Provisions as to directions**

- “(1) The Commission may vary a direction under section 36ZO in the same way as it may make that direction.
- “(2) The Commission may revoke a direction under section 36ZO by giving written notice to the registered exchange.



*“Contracting out or modification of continuous disclosure process requirements*

**“36ZW Contracting out or modification of continuous disclosure process requirements**

- “(1) The Commission and a registered exchange may, by agreement in writing, contract out of, or modify, any of the requirements of sections 36ZM, 36ZN, and 36ZR to 36ZT.
- “(2) For that purpose, the registered exchange may agree to waive or modify obligations under those sections that are owed to public issuers that are parties to listing agreements with the exchange.

*“Offence*

**“36ZX Offence**

- “(1) A registered exchange commits an offence if it intentionally or recklessly—
- “(a) fails to give a notice, provide information, give assistance, or provide access as required by or under this subpart; or
  - “(b) contravenes section 36ZM; or
  - “(c) fails to comply with a direction under section 36ZO.
- “(2) A registered exchange that commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$30,000.”

**21 Interpretation of terms used in this Part**

- (1) Section 37(1) of the principal Act is amended by repealing the definition of **authorised futures exchange**, and substituting the following definition:
- “authorised futures exchange** means—
- “(a) a body corporate that is declared by the Commission to be an authorised futures exchange for the purposes of this Part;
  - “(b) a subsidiary of an authorised futures exchange if the subsidiary conducts a market or exchange in New Zealand for trading in futures contracts.”
- (2) Section 37(8) of the principal Act is amended by inserting, after the word “may”, the words “, on the terms and conditions (if any) that it thinks fit”.

(3) Section 37 of the principal Act is amended by inserting, after subsection (8), the following subsection:

“(8A) A notice under subsection (8) may include any authorisation given under section 38.”

## **22 New sections 37A to 37D inserted**

The principal Act is amended by inserting, after section 37, the following sections:

### **“37A No holding out as futures exchange unless authorised under this Part**

“(1) No person may, in connection with carrying on business in New Zealand,—

“(a) use a style or title including the words ‘futures exchange’ or ‘futures market’; or

“(b) state or imply, or permit a statement or implication, that—

“(i) the person is an authorised futures exchange; or

“(ii) a market or exchange in New Zealand that the person conducts for trading in futures contracts is regulated under New Zealand law.

“(2) Subsection (1) does not apply to—

“(a) an authorised futures exchange; or

“(b) a subsidiary of an authorised futures exchange.

“(3) Every person who acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

### **“37B No operation of futures markets unless authorised under this Part (if restriction applies)**

“(1) No person to whom this section applies may conduct a market or exchange in New Zealand for trading in futures contracts unless that person is—

“(a) an authorised futures exchange; or

“(b) a subsidiary of an authorised futures exchange.

“(2) Every person who acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 for every day or part of a day during which the contravention occurs.

**“37C Power to apply and remove restriction on operating futures markets**

- “(1) The Minister may, by notice in the *Gazette*,—
- “(a) declare, in accordance with section 37D, that section 37B applies to a person:
  - “(b) declare that section 37B ceases to apply to a person:
  - “(c) exempt a market or exchange for trading in futures contracts, or a class of markets or exchanges of that kind, from the declaration.
- “(2) An exemption under subclause (1)(c) may be on any terms or conditions that the Minister thinks fit.
- “(3) An exemption has effect according to its tenor.
- “(4) In determining whether or not to grant an exemption, the Minister must seek the advice of the Commission.
- “(5) The Minister may vary an exemption in the same way as the exemption may be granted under this section.
- “(6) The Minister may, by notice in the *Gazette*, revoke an exemption granted under this section.

**“37D Criteria and process for applying restriction on operating futures markets**

- “(1) The Minister may declare that section 37B applies to a person only if he or she is satisfied that the result of that section not applying to the person is likely to be detrimental to—
- “(a) the integrity or effectiveness of futures markets in New Zealand; or
  - “(b) the confidence of investors in futures markets in New Zealand.
- “(2) The Minister must, before making the declaration,—
- “(a) give at least 2 months’ written notice of the proposed declaration, and of the Minister’s reasons for his or her opinion under subsection (1), to—
    - “(i) the person to whom it is proposed to apply section 37B; and
    - “(ii) the Commission; and
    - “(iii) any other persons that the Minister thinks are representative of the interests of persons likely to be substantially affected by the proposed declaration; and

- “(b) have regard to any submissions made by those persons within the notice period given; and
  - “(c) before making the declaration, give at least 14 days’ written notice to the persons referred to in paragraph (a), and in the *Gazette*, of his or her intention to do so and of the reasons for his or her opinion under subsection (1).
- “(3) A failure to comply with subsection (2) does not invalidate any notice published under section 37C.”

### **23 Regulations for purposes of this Part**

- (1) Section 41(1) of the principal Act is amended by omitting the words “in accordance with the recommendation of the Commission”, and substituting the words “on the recommendation of the Minister in accordance with subsection (2)”.
- (2) Section 41(1) of the principal Act is amended by adding the following paragraph:
  - “(g) providing for the Commission to carry out functions under the regulations, and its powers and procedures in doing so.”
- (3) Section 41 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) Without limiting subsection (1), regulations made under that subsection may also apply to persons acting on behalf of an authorised futures exchange in the same way that they apply to the authorised futures exchange.”
- (4) Section 41 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

“(2) The Minister must consult with the Commission before making a recommendation under subsection (1).”

### **24 New Part 4 inserted**

The principal Act is amended by inserting, after section 41, the following Part:

## **“Part 4 “Miscellaneous**

### **“42 Jurisdiction of Courts in New Zealand**

The High Court has exclusive jurisdiction to hear and determine proceedings in New Zealand under this Act, other than proceedings for offences against this Act.

### **“43 Evidence not otherwise admissible**

In the exercise of its jurisdiction under this Act, the Court may receive in evidence any statement, document, or information that would not be otherwise admissible that may in its opinion assist it to deal effectively with the matter.

Compare: 1988 No 234 s 35A

### **“44 Commission may exercise powers under Securities Act 1978**

“(1) The Commission may exercise any of its powers under the Securities Act 1978 in performing its functions under this Act, and Part 3 of that Act applies to its decisions and proceedings under this Act.

“(2) This section is for the avoidance of doubt.

### **“45 Actions of other persons on behalf of registered exchanges**

“(1) If a person acts on behalf of a registered exchange,—

“(a) this Act applies to that person in the same way as it would apply to the registered exchange if it were acting itself (with any necessary modifications); and

“(b) the registered exchange is also responsible under this Act for the acts of the person as if it were acting itself (with any necessary modifications).

“(2) Subsection (1) applies except as expressly provided by this Act.

### **“46 Protection for acting on Commission directions**

A registered exchange, or an officer or employee of a registered exchange, is not liable for any act done or omitted to be done by that person in compliance with a direction by the Commission under section 36ZO.

**“47 Protection from liability for registered exchanges and others**

- “(1) A registered exchange is not liable for anything it may do or fail to do in the course of the exercise or intended exercise of its functions or duties under Part 2 or Part 2B, unless it is shown that it acted in bad faith or without reasonable care.
- “(2) An officer, an employee, or a person acting on behalf of a registered exchange is not liable for anything he or she may do or say or fail to do or say in the course of the exercise or intended exercise of the registered exchange’s functions or duties under Part 2 or Part 2B, unless it is shown that he or she acted in bad faith.

**“48 Exemptions granted by Commission**

- “(1) The Commission may, in its discretion and on the terms and conditions (if any) that it thinks fit, by notice in the *Gazette*,—
- “(a) exempt any class of persons or class of relevant interests, acquisitions, or disposals from compliance with any directors’ and officers’ disclosure obligation or obligations:
- “(b) exempt any person or class of persons from compliance with any provision or provisions of subpart 3 of Part 2 or of regulations made under section 36.
- “(2) The exemption has effect according to its tenor.
- “(3) The Commission’s reasons for granting an exemption (including why the exemption is appropriate) must be notified in the *Gazette* together with the exemption.
- “(4) However, the Commission may defer notifying or not notify the reasons for granting an exemption if the Commission is satisfied that it is proper to do so on the ground of commercial confidentiality.
- “(5) The Commission may vary the exemption in the same way as it may grant the exemption under this section.
- “(6) The Commission may revoke the exemption by notice in the *Gazette*.

**“49 Regulations**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister in accordance with subsection (3), make regulations for the purpose of—

- “(a) declaring any class or classes of persons not to be officers for the purposes of this Act:
  - “(b) prescribing further matters relating to a relevant interest, or acquisition or disposal of a relevant interest, that must be disclosed by directors and officers under subpart 2 of Part 2, which may include (without limitation):
    - “(i) the nature of the relevant interest:
    - “(ii) the number and class of securities to which the relevant interest relates or related:
    - “(iii) the date of the disclosure obligation becoming applicable, or the date of the acquisition or disposal:
    - “(iv) the consideration paid or received for the acquisition or disposal:
    - “(v) details as to the circumstances in which the acquisition or disposal occurred:
    - “(vi) the date of the last disclosure by the director or officer:
  - “(c) determining when the disclosure in paragraph (b) is required (including by requiring disclosure only on request) and prescribing the form of or for, and the method of, that disclosure:
  - “(d) exempting (on terms and conditions, if any) classes of persons or classes of relevant interests, acquisitions, or disposals from compliance with any directors’ and officers’ disclosure obligation or obligations:
  - “(e) requiring information to be provided in a notice under section 36ZD:
  - “(f) prescribing fees and charges to be paid for the purposes of this Act, or a means by which fees and charges may be calculated or ascertained:
  - “(g) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- “(2) Without limiting subsection (1)(f), regulations made under that paragraph may—
- “(a) authorise the Commission to require payment of fees and charges—
    - “(i) in connection with the exercise by the Commission of any power or function conferred on it by or under this Act:

- “(ii) on an application to the Commission to exercise any power or function conferred on it by or under this Act:
- “(iii) from a person for advice provided by the Commission to the Minister on the exercise of the Minister’s powers or functions in connection with that person under this Act:
- “(b) authorise the Commission to require payment of any costs incurred by the Commission.
- “(3) The Minister must consult with the Commission before making a recommendation under subsection (1).”

## **25 Part IV repealed**

The principal Act is amended by repealing Part IV.

## **26 Repeals of registration and rule requirements for stock exchanges under Sharebrokers Act 1908**

The following enactments are repealed:

- (a) sections 9 to 11 of the Sharebrokers Act 1908;
- (b) section 7 of the Sharebrokers Amendment Act 1981.

## **27 Amendments to conduct rule requirements under New Zealand Stock Exchange Restructuring Act 2002**

- (1) Section 11 of the New Zealand Stock Exchange Restructuring Act 2002 is amended by repealing subsection (1)(b).
- (2) Section 11 of the New Zealand Stock Exchange Restructuring Act 2002 is amended by repealing subsection (5), and substituting the following subsection:
  - “(5) Conduct rules that are approved under subsection (2) must be treated as—
    - “(a) having been approved under section 36O of the Securities Markets Act 1988 on the restructuring day; and
    - “(b) having effect in contract and for the purposes of section 36G of that Act on the restructuring day, in place of the conduct rules previously in effect for the purposes of that section.”
- (3) Section 11 of the New Zealand Stock Exchange Restructuring Act 2002 is amended by repealing subsections (6) to (10), (12), and (13).



**28 Amendments to control limit requirements under New Zealand Stock Exchange Restructuring Act 2002**

- (1) Section 10(1)(d) of the New Zealand Stock Exchange Restructuring Act 2002 is amended by omitting the words “section 12(3)”, and substituting the words “section 36T of the Securities Markets Act 1988”.
- (2) Section 12(1) of the New Zealand Stock Exchange Restructuring Act 2002 is amended by inserting, after the words “control limit”, the words “under section 36S of the Securities Markets Act 1988”.
- (3) Section 12 of the New Zealand Stock Exchange Restructuring Act 2002 is amended by repealing subsections (2) to (7).

**29 Amendment to registration requirement under New Zealand Stock Exchange Restructuring Act 2002**

The New Zealand Stock Exchange Restructuring Act 2002 is amended by repealing section 16, and substituting the following section:

**“16 Registered exchange**

On the restructuring day, the Secretary must register the vesting entity as a registered exchange under section 36F of the Securities Markets Act 1988.”

**30 Other consequential amendments**

The enactments specified in the Schedule are amended as set out in that schedule.

**31 Transitional provision relating to change of title of principal Act**

Unless the context otherwise requires, every reference to the principal Act in any enactment, document, or other thing must be read as if the word “Amendment” were omitted, and the word “Markets” substituted.

**32 Transitional provision relating to securities exchange provisions**

- (1) Unless the context otherwise requires, every reference to a stock exchange registered under the Sharebrokers Act 1908 in any enactment, document, or other thing must be read as a

reference to a registered exchange (within the meaning of section 2(1) of the principal Act).

- (2) Unless the context otherwise requires, every reference to a member of a stock exchange registered under the Sharebrokers Act 1908 in any enactment, document, or other thing must be read as a reference to a person authorised to undertake trading activities on a registered exchange's market (within the meaning of section 2(1) of the principal Act).

### 33 Additional transitional provisions relating to New Zealand Stock Exchange

- (1) The NZSE must be treated as having been registered as a registered exchange under section 36F of the principal Act on the commencement of this section.
  - (2) The NZSE rules and the listing rules of the NZSE in force on the commencement of this section (the **existing conduct rules**) must be treated as—
    - (a) having been approved under section 36O of the principal Act on the commencement of this section; and
    - (b) having effect in contract and for the purposes of section 36G of the principal Act on the commencement of this section.
  - (3) Any Order in Council that imposes a control limit in respect of the Company under section 12(2) of the New Zealand Stock Exchange Restructuring Act 2002 must, on and from the commencement of this section, be treated as having been made under section 36S of the principal Act.
  - (4) Section 36G of the principal Act applies only to the official list of the NZSE or vesting entity, and not to any other securities market operated by the NZSE or vesting entity, until the date appointed under subsection (5).
  - (5) The Governor-General may, by Order in Council, appoint a date for the purposes of subsection (4).
  - (6) In this section, **Company**, **NZSE**, **NZSE rules**, and **vesting entity** have the same meanings as in section 4(1) of the New Zealand Stock Exchange Restructuring Act 2002.
-

s 30

## Schedule

### Consequential amendments to Securities Markets Act 1988 and other enactments

#### Part 1

##### Securities Markets Act 1988 (1988 No 234)

Omit from the definition of the term **Commission** in section 2 the words “principal Act” and substitute the words “Securities Act 1978”.

Omit from the definition of the term **public issuer** in section 2 the words “stock exchange” in each place where they occur and substitute in each case the words “registered exchange”.

Omit from the definition of the term **trading day** in section 2 the words “stock exchange” and substitute the words “registered exchange’s market”.

Omit from section 6(1) the words “Part 2 of this Act” and substitute the words “subpart 3 of Part 2”.

Repeal section 6(1)(b)(i) and substitute:

“(i) is a person authorised to undertake trading activities on a registered exchange’s market; or”.

Repeal section 20(1)(b) and substitute:

“(b) every registered exchange by which the securities of the public issuer are listed.”

Repeal section 20(3)(b) and substitute:

“(b) every registered exchange by which the securities of the public issuer are listed.”

Omit from section 21(1)(b) the words “this Part of this Act” and substitute the words “this subpart”.

Repeal section 21(1)(d) and substitute:

“(d) every registered exchange by which the securities of the public issuer are listed.”

Repeal section 21(3)(b) and substitute:

“(b) every registered exchange by which the securities of the public issuer are listed.”

Repeal section 22(1)(b) and substitute:

“(b) every registered exchange by which the securities of the public issuer are listed.”

Omit from section 24 the words “this Part of this Act” and substitute the words “this subpart”.

Part 1—*continued*

Omit from section 26(3) the words “this Part of this Act” and substitute the words “this subpart”.

Omit from section 27 the words “this Part of this Act” in both places where they occur and substitute in each case the words “this subpart”.

Omit from the heading to section 27 the word “Part” and substitute the word “subpart”.

Omit from section 35 the words “this Part of this Act” and substitute the words “this subpart”.

Omit from section 36(1)(a) and (2)(d) and the heading to section 36 the words “this Part of this Act” and substitute in each case the words “this subpart”.

Part 2  
Other Acts

**Chateau Companies Act 1977** (1977 No 4)

Omit from section 9(2)(e) the words “member of a registered stock exchange” and substitute the words “person authorised to undertake trading activities on a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Companies Act 1993** (1993 No 105)

Repeal section 61(7) and substitute:

“(7) Nothing in subsections (5) and (6) applies to an offer to a shareholder by a company if—

“(a) the company is a party to a listing agreement with a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988); and

“(b) the offer is to acquire fewer of the shares quoted on the registered exchange’s market than is the minimum holding of shares in the company determined by that exchange.”

Omit from section 147(1)(b) the words “member of” and substitute the words “person authorised to undertake trading activities on”.

Omit from section 149(6) the word “Amendment” and substitute the word “Markets”.

Omit from section 382(1)(c) the word “Amendment” and substitute the word “Markets”.

Omit from section 383(1)(d) the word “Amendment” and substitute the word “Markets”.

Part 2—*continued***Companies Act 1993** (1993 No 105)—*continued*

Omit from clauses (h) and (i) of the Fourth Schedule the words “stock exchange registered under the Sharebrokers Act 1908” and substitute in each case the words “registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Dairy Industry Restructuring Act 2001** (2001 No 51)

Omit from section 102(3)(a) the words “stock exchange registered in New Zealand” and substitute the words “registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

Omit from section 102(3)(b) the words “that stock exchange” and substitute the words “that registered exchange’s market”.

**Electricity Industry Reform Act 1998** (1988 No 88)

Omit from section 9(2) the word “Amendment” and substitute the word “Markets”.

Omit from section 12(1)(a)(ii) the word “Amendment” and substitute the word “Markets”.

Omit from section 19(1)(b) the words “member of” and substitute the words “person authorised to undertake trading activities on”.

Omit from section 70(2)(h) the word “Amendment” and substitute the word “Markets”.

**Fisheries Act 1996** (1996 No 88)

Omit from section 56(2) the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Insolvency Act 1967** (1967 No 54)

Omit from section 72(2)(e) the words “member of a registered stock exchange” and substitute the words “person authorised to undertake trading activities on a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Investment Advisers (Disclosure) Act 1996** (1996 No 104)

Omit from the definition of **voting security** in section 2(1) the word “Amendment” and substitute the word “Markets”.

**Local Government Act 1974** (1974 No 66)

Omit from section 594F(3) the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s

Part 2—*continued*

**Local Government Act 1974** (1974 No 66)—*continued*

market (within the meaning of section 2(1) of the Securities Markets Act 1988”).

Omit from section 594G the words “the New Zealand Stock Exchange (or any other stock exchange)” and substitute the words “any stock exchange”.

Omit from section 594X the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Maori Reserved Land Amendment Act 1997** (1997 No 101)

Omit from section 8(5)(c) and (e) the word “Amendment” and substitute in each case the word “Markets”.

**Mackelvie Trust Act 1958** (1958 No 2 (P))

Omit from section 7(2) the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

Omit from section 7(3) the words “member of the Auckland Stock Exchange” and substitute the words “person authorised to undertake trading activities on a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Methodist Charitable and Educational Trusts Act 1911**

(1911 No 1 (L))

Omit from section 30(1)(e) the words “listed on the New Zealand Stock Exchange” and substitute the words “that is party to a listing agreement with a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

Omit from section 30(1)(f) the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Mutual Insurance Act 1955** (1955 No 23)

Omit from section 35(5)(b) the words “any stock exchange in New Zealand” and substitute the words “a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

Part 2—*continued***National Heart Foundation of New Zealand Empowering Act 1970** (1970 No 3 (P))

Omit from section 3(1) the words “Stock Exchanges affiliated to the Stock Exchange Association of New Zealand” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**New Zealand Stock Exchange Restructuring Act 2002**

(2002 No 1 (P))

Repeal Schedules 1 and 2.

**Personal Property Securities Act 1999** (1999 No 126)

Omit from the definition of **futures contract** in section 16(1) the word “Amendment” and substitute the word “Markets”.

**Port Companies Act 1988** (1988 No 91)

Omit from section 13 the words “the New Zealand Stock Exchange” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Public Trust Act 2001** (2001 No 100)

Omit from section 66(2)(b) the words “registered member of” and substitute the words “person authorised to undertake trading activities on”.

**Sale of Liquor Act 1989** (1989 No 63)

Omit from section 200(1A) the words “in New Zealand”.

**Securities Transfer Act 1991** (1991 No 119)

Repeal paragraph (a) of the definition of **authorised transaction** in section 2 and substitute:

“(a) a person authorised to undertake trading activities on a stock exchange’s market; or”.

Omit from paragraph (b) of the definition of **securities** in section 2 the words “a stock exchange” and substitute the words “a stock exchange’s market”.

Repeal the definition of **stock exchange** in section 2 and substitute:

“**stock exchange’s market** means a registered exchange’s market within the meaning of section 2(1) of the Securities Markets Act 1988”.

Omit from the definition of **stock exchange transaction** in section 2 the words “member of a stock exchange” and substitute the words

Part 2—*continued***Securities Transfer Act 1991** (1991 No 119)—*continued*

“person authorised to undertake trading activities on a stock exchange’s market”.

**Sharebrokers Act 1908** (1908 No 176)

Omit from paragraph (b) of the definition of **sharebroker** in section 2 the word “Amendment” and substitute the word “Markets”.

Omit from section 6(1)(c) the word “Amendment” and substitute the word “Markets”.

**St John’s College Trusts Act 1972** (1972 No 6 (P))

Omit from section 11(1)(c) the words “stock exchanges affiliated to the Stock Exchange Association of New Zealand” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**State-Owned Enterprises Act 1986** (1986 No 124)

Omit from section 18(4) and (5) the word “Amendment” and substitute in each case the word “Markets”.

**Takeovers Act 1993** (1993 No 107)

Omit from the definition of **public issuer** in section 2(1) the words “stock exchange” in each place where they occur and substitute in each case the words “registered exchange”.

Insert in section 2(1), in their appropriate alphabetical order:

“**registered exchange** has the meaning set out in section 2(1) of the Securities Markets Act 1988

“**registered exchange’s market** has the meaning set out in section 2(1) of the Securities Markets Act 1988”.

Repeal the definition of **stock exchange** in section 2(1).

Omit from section 35(1)(b) the words “a stock exchange, that stock exchange” and substitute the words “a registered exchange’s market, that registered exchange”.

Omit from section 35(3)(a) the words “a stock exchange, that stock exchange” and substitute the words “a registered exchange’s market, that registered exchange”.

**Trustee Companies Act 1967** (1967 No 35)

Omit from section 31(1)(b) the words “registered member of” and substitute the words “person authorised to undertake trading activities on”.



Part 2—*continued*

**Wellington Methodist Charitable and Educational Trusts Act 1916** (1916 No 13 (L))

Omit from section 31(1)(b) the words “stock exchanges affiliated to the Stock Exchange Association of New Zealand” and substitute the words “a registered exchange’s market (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

Part 3  
Regulations

**Building Societies Regulations 1989** (SR 1989/33)

Omit from regulation 31(b)(v) the words “listed on the New Zealand Stock Exchange” and substitute the words “that are parties to listing agreements with a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Companies Act 1993 Regulations 1994** (SR 1994/118)

Omit from form 14 in the First Schedule the words “stock exchange registered under the Sharebrokers Act 1908” in both places where they occur and substitute in each case the words “registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988)”.

**Futures Industry (Client Funds) Regulations 1990**  
(SR 1990/227)

Omit from the definition of **Act** in regulation 2(1) the word “Amendment” and substitute the word “Markets”.

Omit from clause 4(c) of form 5 in the Schedule the word “Amendment” and substitute the word “Markets”.

**Securities (Fees) Regulations 1998** (SR 1998/461)

Omit from regulation 3(2)(c) and (d) the word “Amendment” and substitute in each case the word “Markets”.

Omit from regulation 4(d) and (e) the word “Amendment” and substitute in each case the word “Markets”.

**Securities Regulations 1983** (SR 1983/121)

Revoke the definition of **trading exchange** in regulation 2(1).

Omit from the definition of **voting security** in regulation 2(1) the word “Amendment” and substitute the word “Markets”.

Insert in regulation 2(1), in their appropriate alphabetical order:

Part 3—*continued***Securities Regulations 1983** (SR 1983/121)—*continued*

“**registered exchange** means a registered exchange within the meaning of section 2(1) of the Securities Markets Act 1988

“**registered exchange’s market** means a securities market operated by a registered exchange”.

Omit from the heading to regulation 23 the words “**stock exchange**” and substitute the words “**registered exchange’s market**”.

Omit from regulation 23(1)(a) the words “by a trading exchange” and substitute the words “on a registered exchange’s market”.

Omit from regulation 23(1)(b) the words “the Stock Exchange Association of New Zealand” and substitute the words “the registered exchange”.

Omit from regulation 23(2) the words “the Stock Exchange Association of New Zealand” in the first place where they occur and substitute the words “a registered exchange”.

Omit from regulation 23(2) the words “the Stock Exchange Association of New Zealand” in the second place where they occur and substitute the words “[*name of registered exchange*]”.

Omit from regulation 23(2) the words “the Association” in both places where they occur and substitute in each case the words “[*name of the registered exchange*]”.

Omit from regulation 23(3) the words “the Stock Exchange Association of New Zealand” in the first place where they occur and substitute the words “a registered exchange”.

Omit from regulation 23(3) the words “the Stock Exchange Association of New Zealand” in the second place where they occur and substitute the words “[*name of registered exchange*]”.

Omit from regulation 23(3) the words “the Association” and substitute the words “[*name of the registered exchange*]”.

Omit from clause 31(b)(iv) of the First Schedule the words “listed on a trading exchange” and substitute the words “that are parties to listing agreements with a registered exchange.”

Omit from clause 24(b)(v) of the Second Schedule the words “listed on a trading exchange” and substitute the words “that are parties to listing agreements with a registered exchange”.

Omit from clause 28(b)(iii) of the Third Schedule the words “listed on a trading exchange” and substitute the words “that are parties to listing agreements with a registered exchange”.

Part 3—*continued***Securities (Substantial Security Holders) Regulations 1997**

(SR 1997/110)

Omit from the definition of Act in regulation 2 the word “Amendment” and substitute the word “Markets”.

Omit from regulation 10(1)(g) the words “stock exchange” and substitute the words “registered exchange’s market”.

Omit from regulation 10(4) the words “stock exchange transactions” in both places where they occur and substitute in each case the words “transactions on registered exchanges”.

Omit from the heading to regulation 14 the words “**stock exchange**” and substitute the words “**registered exchange**”.

Omit from regulation 14(b) the words “stock exchange transaction” and substitute the words “transaction on a registered exchange’s market”.

Omit from regulation 16(1)(d) the words “stock exchange” in both places where they occur and substitute in each case the words “registered exchange”.

Omit from the heading to form 1 in the Schedule the word “*Amendment*” and substitute the word “*Markets*”.

Omit from clause 1 of the notes to form 1 in the Schedule the words “**Stock Exchange**” and substitute the words “**Registered exchange**”.

Omit from clause 1 of the notes to form 1 in the Schedule the words “the New Zealand Stock Exchange, or any other stock exchange registered under the Sharebrokers Act 1908, on which” and substitute the words “the registered exchange by which”.

Omit from clause 6 of the notes to form 1 in the Schedule the word “Amendment” and substitute the word “Markets”.

Omit from clause 7 of the notes to form 1 in the Schedule the words “stock exchange” in the first place where they occur and substitute the words “registered exchange’s market”.

Omit from clause 7 of the notes to form 1 in the Schedule the words “stock exchange transactions” and substitute the words “transactions on registered exchanges”.

Omit from clause 7 of the notes to form 1 in the Schedule the words “New Zealand Stock Exchange” in both places where they occur and substitute in each case the words “a registered exchange’s market”.

Omit from clause 8 of the notes to form 1 in the Schedule the words “stock exchange transaction” and substitute the words “transaction on a registered exchange’s market”.

Part 3—*continued***Securities (Substantial Security Holders) Regulations 1997**  
(SR 1997/110)—*continued*

Omit from clause 9(b) of the notes to form 1 in the Schedule the words “Part II of the Securities Amendment Act 1988” and substitute the words “subpart 3 of Part 2 of the Securities Markets Act 1988”.

Omit from the heading to form 2 in the Schedule the word “*Amendment*” and substitute the word “*Markets*”.

Omit from clause 3 of form 2 in the Schedule the word “*Amendment*” and substitute the word “*Markets*”.

Omit from the heading to form 3 in the Schedule the word “*Amendment*” and substitute the word “*Markets*”.

Omit from clause 2 of form 3 in the Schedule the word “*Amendment*” and substitute the word “*Markets*”.

**Takeovers Code Approval Order 2000** (SR 2000/210)

Omit from the definition of **code company** in clause 3(1) of the Schedule the words “the Stock Exchange” in each place where they occur and substitute in each case the words “a registered exchange”. Insert in clause 3(1) of the Schedule, in its appropriate alphabetical order:

“**registered exchange** has the meaning set out in section 2(1) of the Securities Markets Act 1988

“**registered exchange’s market** has the meaning set out in section 2(1) of the Securities Markets Act 1988”.

Revoke the definition of the term **Stock Exchange** in clause 3(1) of the Schedule.

Revoke clause 25(5)(c) of the Schedule and substitute:

“(c) the registered exchange (if any voting securities of the target company are quoted on the registered exchange’s market).”

Revoke clause 26(2)(c) of the Schedule and substitute:

“(c) the registered exchange (if any voting securities of the target company are quoted on the registered exchange’s market).”

Revoke clause 28(1)(d) of the Schedule and substitute:

“(c) the registered exchange (if any voting securities of the target company are quoted on the registered exchange’s market).”

Revoke clause 42(1) of the Schedule and substitute:

Part 3—*continued***Takeovers Code Approval Order 2000 (SR 2000/210)**—  
continued

“(1) Immediately on receipt of a takeover notice, the target company must,—

“(a) if its voting securities are quoted on a registered exchange’s market, inform the registered exchange in writing that a takeover notice has been received; or

“(b) if its voting securities are not quoted on a registered exchange’s market, do all that is reasonably practicable to ensure that all persons who will be offerees under the offer are informed in writing that the takeover notice has been received.”

Omit from clause 45(1)(b) of the Schedule the words “Stock Exchange” and substitute the words “registered exchange”.

Omit from clause 45(2) of the Schedule the words “Stock Exchange” and substitute the words “registered exchange’s market”.

Revoke clause 46(a)(ii)(C) of the Schedule and substitute:

“(C) the registered exchange (if the voting securities of the target company or the offeror are quoted on the registered exchange’s market); and”.

Revoke clause 51 of the Schedule and substitute:

**“51 Notification of dominant ownership**

If a person becomes a dominant owner in a code company, that person must immediately send a written notice of that fact to the code company, the Panel, and the registered exchange (if any voting securities of the code company are quoted on the registered exchange’s market).”

Revoke clause 54(2)(a) of the Schedule and substitute:

“(a) sent immediately to the code company, the Panel, and the registered exchange (if the voting securities of the code company are quoted on the registered exchange’s market); and”.

Revoke clause 57(5) of the Schedule and substitute:

“(5) Immediately on receipt of the expert determination, the dominant owner must send a copy of the expert determination to

Part 3—*continued***Takeovers Code Approval Order 2000** (SR 2000/210)—  
continued

the Panel and to the registered exchange (if any voting securities of the target company are quoted on the registered exchange's market)."

Omit from clause 4 of Schedule 1 of the Schedule the words "a member of the New Zealand Stock Exchange" and substitute the words "a person authorised to undertake trading activities by [*name of registered exchange*]".

Omit from clause 4 of Schedule 1 of the Schedule the words "the member of the New Zealand Stock Exchange" and substitute the words "the person authorised to undertake trading activities by [*name of registered exchange*]".

Omit from clause 18(1) of Schedule 1 of the Schedule the words "Stock Exchange" and substitute the words "registered exchange's market".

Omit from clause 18(3) of Schedule 1 of the Schedule the words "Stock Exchange" in both places where they occur and substitute in each case the words "registered exchange".

Omit from the definitions of **annual report** and **half-yearly report** in clause 18(6) of Schedule 2 of the Schedule the words "on the Stock Exchange" and substitute in each case the words "on the registered exchange's market".

Omit from paragraph (a) of the definition of **annual report** in clause 18(6) of Schedule 2 of the Schedule the words "by the Stock Exchange" and substitute the words "by the registered exchange".

Omit from paragraph (a) of the definition of **half-yearly report** in clause 18(6) of Schedule 2 of the Schedule the words "of the Stock Exchange" and substitute the words "of the registered exchange".

---

**Legislative history**

19 November 2002	Divided from Securities Markets and Institutions Bill (Bill 170–2), third reading
26 November 2002	Royal assent

---

This Act is administered in the Ministry of Economic Development.

---