

1966/96



**THE CAPITAL ISSUES (OVERSEAS) REGULATIONS 1965,
AMENDMENT NO. 1**

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 15th day of June 1966

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Reserve Bank of New Zealand Act 1964, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Capital Issues (Overseas) Regulations 1965, Amendment No. 1, and shall be read together with and deemed part of the Capital Issues (Overseas) Regulations 1965* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

2. Borrowing or raising money in New Zealand by overseas persons—The principal regulations are hereby amended by inserting, after regulation 3, the following regulation:

“3A. (1) Except with the consent of the Minister, it shall not be lawful—

“(a) For any overseas person, or any person acting as trustee or agent for or on behalf of any overseas person, to borrow money in New Zealand; or

“(b) For any company or body corporate, being an overseas person, to raise money in New Zealand by the issue, whether in New Zealand or elsewhere, of any shares in that company or body corporate; or

“(c) For any company or body corporate, being an overseas person, to make any call in respect of any shares issued by that company or body corporate to a person ordinarily resident in New Zealand.

“(2) For the purposes of this regulation, the expression ‘overseas person’ means —

“(a) Any person not ordinarily resident in New Zealand; or

“(b) Any company or body corporate that is incorporated outside New Zealand, or any company within the meaning of the Companies Act 1955 that is for the purposes of that Act a subsidiary of any company or body corporate incorporated outside New Zealand; or

“(c) Any company within the meaning of the Companies Act 1955 in which shares are held by overseas persons, if those shares, in the aggregate, carry the right to exercise or control the exercise of 25 percent or more of the voting power at any general meeting of the company.

“(3) Without limiting the generality of any provision of these regulations, a person shall be deemed for the purposes of this regulation to borrow money in New Zealand if—

“(a) The money is borrowed in New Zealand on the security of property outside New Zealand; or

“(b) The person, being a person carrying on any business, sells any land or interest in land outside New Zealand to a person ordinarily resident in New Zealand on terms providing a right for the vendor or any nominee of the vendor to continue in possession or to resume or take possession of the land or any part thereof (whether under a lease or otherwise) and also providing a right for the vendor or any nominee of the vendor to repurchase the land or any part thereof.

“(4) Nothing in this regulation shall prevent or affect in any way any transaction in respect of—

“(a) An advance made by any bank within the meaning of the Banking Act 1908 in good faith and in the ordinary course of business and on such security as the bank usually requires; or

“(b) A deposit accepted in good faith and in the ordinary course of business—

“(i) By any trading bank within the meaning of the Reserve Bank Act 1964; or

“(ii) By any private savings bank within the meaning of the Private Savings Banks Act 1964; or

“(iii) By any company or body corporate whose principal business is the financing or discounting of hire purchase agreements or credit sale agreements within the meaning of the Hire Purchase and Credit Sales Stabilisation Regulations 1957*, if the deposit is to be used for the purposes of financing or discounting such transactions; or

*S.R. 1957/170 (Reprinted with Amendments Nos. 1-5: S.R. 1963/149)

Amendment No. 6: S.R. 1963/226

Amendment No. 7: S.R. 1964/41

Amendment No. 8: *Revoked*

Amendment No. 9: S.R. 1965/76

Amendment No. 10: S.R. 1965/144

Amendment No. 11: S.R. 1966/29

“(iv) By any company or body corporate carrying on business as a stock and station agent, if the deposit is to be used for the purposes of making finance available to or providing credit for its customers; or

“(v) By any person for the time being authorised by the Reserve Bank of New Zealand to receive money on deposit as a short-term money market dealer.

“(5) Nothing in this regulation shall apply to any transaction entered into by or in respect of any person if the amount borrowed or raised, or, as the case may be, the amount called up, in that transaction, together with the total of all other amounts borrowed, raised, or called up by or in respect of the same person in all other transactions to which this regulation applies within one year immediately preceding the first transaction, does not exceed £10,000.”

3. Issue of prospectus, etc.—Regulation 4 of the principal regulations is hereby amended by adding the following subclause as subclause (2):

“(2) It shall not be lawful for any person to issue, for circulation in New Zealand, any prospectus or other document offering for subscription or publicly offering for sale any shares in or securities of any company or body corporate that is an overseas person within the meaning of regulation 3A hereof, unless the prospectus or document includes a statement that the consent of the Minister has been obtained to the issue of the shares or securities or, as the case may require, that the consent of the Minister is not required to the issue of the shares or securities.”

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Capital Issues (Overseas) Regulations 1965, and deal with the borrowing or raising of money in New Zealand by overseas persons.

Regulation 2: This regulation inserts a new regulation 3A in the principal regulations. Subclause (1) of the new regulation provides that, except with the consent of the Minister of Finance, it is not lawful for any overseas person, or any trustee or agent for an overseas person, to borrow money in New Zealand, or for any company or body corporate, being an overseas person, to raise money in New Zealand by the issue of shares or to make any call on shares issued to a person ordinarily resident in New Zealand. This provision is subject to the exemptions mentioned below.

Subclause (2) defines an “overseas person” as being a person not ordinarily resident in New Zealand (that term being defined in regulation 2 of the principal regulations), or a company or body corporate that is incorporated outside New Zealand or is a New Zealand subsidiary of any such company or body corporate, or a New Zealand company in which 25 percent or more of the voting power is controlled by overseas persons.

Subclause (3) includes within the meaning of borrowing in New Zealand a transaction whereby the money is borrowed in New Zealand on the security of property outside New Zealand; and also a sale of land outside New Zealand, by a person carrying on business, to a person ordinarily resident in New Zealand, on terms allowing the vendor to stay in possession or resume possession and also allowing him to repurchase the land.

Subclause (4) (a) exempts any transaction in respect of an advance made by a bank in good faith and in the ordinary course of business.

Subclause (4) (b) exempts any transaction in respect of a deposit accepted in good faith and in the ordinary course of business by a trading bank or a private savings bank; or by a company or body corporate whose principal business is the financing or discounting of hire purchase or credit sales transactions, if the deposit is to be used for those purposes; or by a company or body corporate carrying on business as a stock and station agent, if the deposit is to be used for making finance available to or providing credit for its customers; or by an authorised short-term money market dealer.

Subclause (4) exempts any transaction if the total of all amounts borrowed, raised, or called up in that transaction and in all other such transactions by or in respect of the same person within the immediately preceding year does not exceed £10,000.

Regulation 3: The effect of this amendment is to forbid the issue, for circulation in New Zealand, of a prospectus or like document offering shares or securities of a company or body corporate that is an overseas person, unless it states either that the Minister's consent has been obtained or that such consent is not required.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: Supplement 16 June 1966.
These regulations are administered in the Treasury.