



## Securities Act (New Co-op Capital Notes Issue) Exemption Notice 2001

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice.

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### Notice

#### 1 Title

This notice is the Securities Act (New Co-op Capital Notes Issue) Exemption Notice 2001.

#### 2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

#### 3 Expiry

This notice expires on the close of 28 February 2002.

#### 4 Interpretation

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

**Act** means the Securities Act 1978

**capital notes** means the unsecured subordinated capital notes offered by new co-op

**Fonterra** means Fonterra Co-operative Group Limited

**FRS–29** means Financial Reporting Standard No 29 (Prospective Financial Information), approved under the Financial Reporting Act 1993

**Kiwi** means Kiwi Co-operative Dairies Limited

**Kiwi group** means Kiwi and its subsidiaries

**new co-op** means the amalgamated company under the amalgamation that occurs if Fonterra, Kiwi, and New Zealand Dairy amalgamate under Part XIII of the Companies Act 1993

**new co-op group** means new co-op and its subsidiaries

**New Zealand Dairy** means The New Zealand Co-operative Dairy Company Limited

**New Zealand Dairy group** means New Zealand Dairy and its subsidiaries; but does not include the NZDB group

**NZDB** means the New Zealand Dairy Board

**NZDB group** means NZDB and its subsidiaries

**Regulations** means the Securities Regulations 1983.

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

## 5 Exemptions

New co-op and every person acting on its behalf are exempted from regulation 12(1)(c) of the Regulations and clauses 8, 16 to 32, and 36(1)(f) and (g) of the Second Schedule of the Regulations in respect of capital notes.

## 6 Conditions

The exemptions are subject to the conditions that—

- (a) the registered prospectus for the capital notes contains—
- (i) an unaudited pro forma statement of financial position for new co-op and for the new co-op group as at 1 June 2001, prepared in accordance with the basis of presentation and assumptions contained in that prospectus; and
  - (ii) a financial statement in summary form for the 5 consecutive accounting periods up to and including the accounting period ended 31 May 2001 for each of the Kiwi group, the New Zealand Dairy

- group, and the NZDB group that includes the matters specified in clause 7(3) of the Second Schedule of the Regulations; and
- (iii) prospective statements of financial position, financial performance, and cash flows that comply with FRS-29 for new co-op and for the new co-op group for the period ended, and as at, 31 May 2002; and
  - (iv) a copy of a report from a qualified auditor that—
    - (A) specifies whether the amounts stated in the summary financial statements have been correctly taken from the audited consolidated financial statements of each of New Zealand Dairy (excluding NZDB), Kiwi, and NZDB; and
    - (B) includes a statement in the following form: “In our opinion, the unaudited pro forma statements of financial position for Fonterra and for Fonterra Co-operative Group as at 1 June 2001, and set out on pages [*specify pages*], have been properly compiled on the basis of the presentation and assumptions adopted by the directors, as set out in note [*specify note number*].”; and
    - (C) includes a statement in the form required by clause 36(2) of the Second Schedule of the Regulations; and
- (b) any pro forma financial statements contained in any advertisement relating to the capital notes—
- (i) are extracted from the unaudited pro forma financial statements contained in the registered prospectus for the capital notes; and
  - (ii) states that they are unaudited.

Dated at Wellington this 10th day of October 2001.

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

[L.S.]

J. Diplock,  
Chairperson.

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**Explanatory note**

*This note is not part of the notice, but is intended to indicate its general effect.*

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on the close of 28 February 2002.

This notice exempts the new company to be formed under the amalgamation of Kiwi Co-operative Dairies Limited, The New Zealand Co-operative Dairy Company Limited, and a predecessor company called Fonterra Co-operative Group Limited, subject to conditions, from regulation 12(1)(c) of the Securities Regulations 1983 and clauses 8, 16 to 32, and 36(1)(f) and (g) of the Second Schedule of those regulations in the case of offers of capital notes to the public.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 11 October 2001.

This notice is administered in the Securities Commission.

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