



**SECURITIES ACT (ADVERTISEMENTS CONTAINING
INVESTMENT ADVICE) EXEMPTION NOTICE 1997**

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

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Advertisements Containing Investment Advice) Exemption Notice 1997.

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

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

“The Act” means the Securities Act 1978:

“Registered superannuation scheme” has the same meaning as in section 2 of the Superannuation Schemes Act 1989:

“The Regulations” means the Securities Regulations 1983.

(2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

3. Application—(1) This notice applies to an advertisement that—

(a) Is distributed to a person who is a customer or client of the issuer or of a related body corporate of the issuer of the securities; and

(b) Contains advice about the offer of the securities together with—

(i) Financial information; or

(ii) Other information—

that is personal to the person to whom the advertisement is distributed; and

(c) Is prepared by an employee of the issuer of the securities or by an employee of a related body corporate of the issuer whose job involves giving investment advice to customers or clients of the issuer or of related bodies corporate of the issuer.

(2) This notice does not apply to an advertisement—

(a) That contains or refers to an offer of an interest in a registered superannuation scheme; or

- (b) That contains an offer of a life insurance policy issued or to be issued by an authorised life insurance company in accordance with its authorisation—

and that contains prospective financial information that relates to the person to whom that advertisement is distributed.

4. Issuers of advertisements containing investment advice exempt from regulation 17 of the Securities Regulations 1983—

(1) Every issuer and every person acting on behalf of the issuer are exempted from compliance with regulation 17 of the Regulations in respect of the distribution of any advertisement to which this notice applies.

- (2) That exemption is subject to the conditions that—

- (a) Apart from the advice about the offer of the securities and financial or other information that is personal to the person to whom the advertisement is distributed, the information, statements, certificates, and other matters contained in the advertisement are also contained in—

(i) A current registered prospectus or, if the issuer is a registered bank, a current disclosure statement, relating to the offer of the securities; or

(ii) An authorised advertisement relating to the offer of the securities that complies with regulation 17 of the Regulations:

- (b) If the advertisement contains prospective financial information, the advertisement states the assumptions on which that prospective financial information is based; and

- (c) If the advertisement contains prospective financial information, other than prospective financial information that is personal to the person to whom the advertisement is distributed, that prospective financial information and a statement of the assumptions on which it is based are contained in—

(i) A current registered prospectus or, if the issuer is a registered bank, a current disclosure statement, relating to the offer of the securities; or

(ii) An authorised advertisement relating to the offer of the securities that complies with regulation 17 of the Regulations.

Dated at Wellington this 15th day of July 1997.

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

[L.S.]

E. H. ABERNETHY,
Chairman.

EXPLANATORY NOTE

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

This notice, which comes into force on the day after the date of its notification in the *Gazette*, exempts the issuers of securities and persons acting on their behalf, subject to conditions, from regulation 17 of the Securities Regulations 1983 in the case of advertisements for securities containing investment advice that is customer or client specific.

Regulation 17 prohibits the distribution of an advertisement containing an offer of securities unless a certificate that complies with the regulation has been completed at the time the advertisement is distributed.

The notice will enable financial institutions and other issuers of securities to give investment advice that involves offers of securities issued by them or by related companies based on personal information about those customers or clients.

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

Date of notification in *Gazette*: 17 July 1997.

This notice is administered in the Securities Commission.