



Securities Act (Fletcher Challenge Limited) 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 (Fletcher Challenge Limited) 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 31 December 2001.
- 4 Interpretation**

 - (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
arrangement means the proposal to separate the Building, Forests, and Energy Divisions of Fletcher Challenge by means

of a scheme of arrangement to be approved by the shareholders of Fletcher Challenge and the High Court of New Zealand in accordance with section 236 of the Companies Act 1993 and under which proposal the Energy Division of Fletcher Challenge is to be sold to Shell Overseas Holdings Limited and Apache Corporation and the Building Division is to be separated as a stand-alone publicly listed company called Fletcher Building Limited

First Schedule means the First Schedule of the Regulations

Fletcher Building means Fletcher Building Limited

Fletcher Building Capital Notes Information Memorandum means the information memorandum prepared for holders of Fletcher Challenge Industries Limited capital notes explaining the effect of the arrangement and containing an investment statement and prospectus for the specified debt securities

Fletcher Building Information Memorandum means the information memorandum prepared for holders of Fletcher Challenge Building shares explaining the effect of the arrangement and containing an investment statement and prospectus relating to Fletcher Building shares

Fletcher Building shares means the shares in the capital of Fletcher Building to be issued under the arrangement pursuant to the investment statement and prospectus contained in the Fletcher Building Information Memorandum

Fletcher Challenge means Fletcher Challenge Limited

Fletcher Challenge Building shares means the shares in the capital of Fletcher Challenge issued in respect of the Building Division of that company

Fletcher Challenge Energy shares means the shares in the capital of Fletcher Challenge issued in respect of the Energy Division of that company

group means Fletcher Building and all its subsidiaries in respect of the periods since they became subsidiaries

Regulations means the Securities Regulations 1983

Rubicon means Rubicon Limited

Rubicon investment statement and prospectus means the investment statement and prospectus relating to Rubicon shares

Rubicon shares means the shares in the capital of Rubicon to be issued under the arrangement pursuant to the Rubicon investment statement and prospectus

Second Schedule means the Second Schedule of the Regulations

special meeting of shareholders means the special meeting of Fletcher Challenge shareholders to be called to consider and, if thought fit, pass the required resolutions to approve the arrangement

specified debt securities means capital notes issued by Fletcher Building to be issued under, or offered conditional upon, the arrangement.

- (2) For the purposes of this notice, the terms **accounting period**, **balance date**, and **financial statements** have the same meaning as in section 2(1) of the Financial Reporting Act 1993.
- (3) 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 Exemption from section 37A(1)(a) of Act

- (1) Fletcher Building, Rubicon, Fletcher Challenge, and every person acting on behalf of any of them are exempted from section 37A(1)(a) of the Act in respect of Fletcher Building shares and Rubicon shares.
- (2) The exemption is subject to the conditions that—
 - (a) Fletcher Challenge sends to the recorded address of every holder of Fletcher Challenge Building shares or Fletcher Challenge Energy shares, whose name is recorded (as at the relevant record date) in the Fletcher Challenge share register as being entitled to receive notice of the special meeting of shareholders,—
 - (i) in the case of a holder of Fletcher Challenge Building shares, a copy of the Fletcher Building Information Memorandum; and
 - (ii) in the case of a holder of Fletcher Challenge Energy shares, a copy of the Rubicon investment statement and prospectus:
 - (b) Fletcher Challenge instructs its share registrar to send to any person acquiring Fletcher Challenge Building shares or Fletcher Challenge Energy shares after the

- relevant record date for the entitlement to receive notice of the special meeting of shareholders but before the date of that special meeting,—
- (i) in the case of Fletcher Challenge Building shares, a copy of the Fletcher Building Information Memorandum; and
 - (ii) in the case of Fletcher Challenge Energy shares, a copy of the Rubicon investment statement and prospectus:
- (c) Fletcher Challenge will, on receipt of a request from a holder of Fletcher Challenge Building shares or a holder of Fletcher Challenge Energy shares before the date of the special meeting of shareholders, send without charge,—
- (i) in the case of a holder of Fletcher Challenge Building shares, a copy of the Fletcher Building Information Memorandum; and
 - (ii) in the case of a holder of Fletcher Challenge Energy shares, a copy of the Rubicon investment statement and prospectus:
- (d) any advertisement published by Fletcher Challenge in relation to the arrangement includes a statement that the Fletcher Building Information Memorandum and Rubicon investment statement and prospectus are available from Fletcher Challenge for holders of Fletcher Challenge Building shares and holders of Fletcher Challenge Energy shares, respectively, on request and without charge.

6 Exemption from section 37A(1)(c) of Act

- (1) Fletcher Building, Fletcher Challenge, and every person acting on behalf of either of them are exempted from section 37A(1)(c) of the Act in respect of Fletcher Building shares and the specified debt securities.
- (2) The exemption is subject to the conditions that—
 - (a) no allotment of Fletcher Building shares is made if the date of allotment would be more than 12 months after the date of the statement of financial position contained, or referred to, in the Fletcher Building Information Memorandum in accordance with the Regulations:

- (b) no allotment of specified debt securities is made if the date of allotment would be more than 12 months after the date of the statement of financial position contained, or referred to, in the Fletcher Building Capital Notes Information Memorandum in accordance with the Regulations.

7 Exemption from clause 10(1)(c) of First Schedule

- (1) Fletcher Building, Rubicon, Fletcher Challenge, and every person acting on behalf of any of them are exempted from clause 10(1)(c) of the First Schedule in respect of Fletcher Building shares and Rubicon shares.
- (2) The exemption is subject to the conditions that—
 - (a) either 1 of the following occurs:
 - (i) the Fletcher Building shares or Rubicon shares, as the case may be, are quoted or approved for quotation on the New Zealand Stock Exchange; or
 - (ii) an application has been made to the New Zealand Stock Exchange for quotation of the Fletcher Building shares or Rubicon shares, as the case may be, and at the time of the offer of those shares, the relevant issuer has complied with all the requirements of the New Zealand Stock Exchange relating to the application with which it must comply at that time:
 - (b) each of the Fletcher Building Information Memorandum and the Rubicon investment statement and prospectus describes the risk and special trade factors that are not likely to be known or anticipated by the general public relating to Fletcher Building and Rubicon, respectively:
 - (c) the Fletcher Building Information Memorandum contains—
 - (i) audited reconstituted financial statements that have been prepared for the Building Division of Fletcher Challenge on a stand-alone basis as at 30 June 1999 and 30 June 2000; and

- (ii) a statement identifying significant differences, if any, between those audited reconstituted financial statements and the audited financial statements previously prepared for the Building Division of Fletcher Challenge as at those dates:
- (d) in relation to the issue of the Rubicon shares only, both the Rubicon investment statement and prospectus contain, in the place where the information required by clause 10(1)(c) of the First Schedule would otherwise have been set out, a statement of Rubicon's reasons for not providing that information.

8 Exemption from clause 11(3) of First Schedule

- (1) Rubicon, Fletcher Challenge, and every person acting on behalf of either of them are exempted from clause 11(3) of the First Schedule in respect of Rubicon shares.
- (2) The exemption is subject to the condition that the Rubicon investment statement and prospectus contain a pro forma statement of financial position for Rubicon as at the day after the date of implementation of the arrangement and that such statement is prepared on a basis consistent with the Regulations.

9 Exemption from clauses 7(6), 24(b)(iii), and 32 of Second Schedule

- (1) Fletcher Building, Fletcher Challenge, Fletcher Challenge Industries Limited, and every person acting on behalf of any of them are exempted from clauses 7(6), 24(b)(iii), and 32 of the Second Schedule in respect of the specified debt securities.
- (2) The exemptions are subject to the conditions that—
 - (a) the financial statement in summary form required by clause 7 of the Second Schedule contains, for each accounting period and other periods specified in clause 7(3)(a) of that schedule, the following additional matters:
 - (i) a statement of the amount of the consolidated operating surplus or deficit of the group excluding any amounts derived by the use of the equity method of accounting; and

- (ii) a statement of the amount of the consolidated equity of the group excluding any amounts derived by the use of the equity method of accounting:
- (b) the financial statements required by clauses 16 to 32 of the Second Schedule contain—
 - (i) a statement of the operating surplus or deficit of the group excluding amounts derived by using the equity method of accounting for, as the case may be, the most recently completed accounting period or the interim accounting period; and
 - (ii) a statement of the total equity and aggregate amount of investments of the group excluding amounts derived by using the equity method of accounting as at, as the case may be, the most recent balance date or the last day of the interim accounting period.

Dated at Wellington this 24th day of January 2001.

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 comes into force on the day after the date of its notification in the *Gazette* and expires on 31 December 2001.

This notice relates to a proposed arrangement to separate the Building, Forests, and Energy Divisions of Fletcher Challenge Limited by means of a scheme of arrangement to be approved by the shareholders of that company and the High Court of New Zealand in accordance with Part XV of the Companies Act 1993. Under the proposed arrangement, the Energy Division of Fletcher Challenge is to be sold

to Shell Overseas Holdings Limited and Apache Corporation and the Building Division is to be separated as a stand-alone publicly listed company called Fletcher Building Limited.

This notice exempts the issuers of securities relating to the proposed arrangement, subject to conditions, from certain provisions of the Securities Act 1978 and the Securities Regulations 1983.

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

Date of notification in *Gazette*: 25 January 2001.

This notice is administered in the Securities Commission.
