



Securities Act (Contact Energy Limited) Exemption Notice 2003

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 (Contact Energy Limited) Exemption Notice 2003.

- 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 October 2008.

- 4 **Interpretation**
 - (1) In this notice, unless the context otherwise requires,—
 - Act** means the Securities Act 1978
 - broker** means any NZX Firm (as defined in Rule 1.1 of the New Zealand Exchange Limited Business Rules) appointed by Contact from time to time for the purposes of the share top-up plan
 - Contact** means Contact Energy Limited

dividend has the same meaning as in section 53 of the Companies Act 1993

eligible person means a person who, at 5 pm on the date specified by Contact for determining entitlement to the relevant dividend, is—

- (a) the registered holder of 5 000 or fewer specified securities that are the same class as the securities offered under the share top-up plan; and
- (b) not a director of Contact or an associated person (as defined in Rule 1.3.1 of the NZX Listing Rules) of a director of Contact; and
- (c) a resident of a country that has not been excluded by Contact from the application of the share top-up plan to avoid any risk of breaching the laws of that country

NZSX means the securities market (as defined in the Securities Markets Act 1988) operated by New Zealand Exchange Limited known as the NZSX or the New Zealand Stock Market

participating securities holder means an eligible person who—

- (a) has elected to participate in the share top-up plan; and
- (b) whose participation in the share top-up plan has not been terminated in accordance with the terms of that plan

Regulations means the Securities Regulations 1983

relevant specified security means a specified security to which this notice applies

share top-up plan means a plan under which relevant specified securities are to be sold only to eligible persons

specified security means an equity security issued by Contact.

- (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 Application of notice

This notice applies to specified securities that—

- (a) have been previously allotted; and

- (b) are to be sold by the broker under the share top-up plan to an eligible person in consideration for directing Contact to pay the purchase price for the securities from all dividends declared by Contact and payable to that person.

6 Exemption from sections 37 and 37A of Act and from Regulations (except regulation 8)

Contact, the broker, and every person acting on behalf of either or both of them are exempted from sections 37 and 37A of the Act and the Regulations (except regulation 8) in respect of the relevant specified securities.

7 Conditions of exemption

- (1) The exemption in clause 6 is subject to the condition that, before an eligible person elects to acquire relevant specified securities, that person receives a document that contains—
 - (a) an offer of relevant specified securities under the share top-up plan; and
 - (b) a description of the share top-up plan and its terms and conditions; and
 - (c) a statement that there is available from Contact (or Contact's share registrar), on request and free of charge, a copy of the most recent annual report and financial statements (that comply with the Financial Reporting Act 1993) of Contact.
- (2) The exemption in clause 6 is subject to the further condition that the share top-up plan contains provisions requiring that—
 - (a) the purchase price of the relevant specified securities is the volume weighted average sale price at which specified securities of the same class are traded in on-market transactions on the NZSX over a period specified in the share top-up plan (of not less than 3 days on which the NZSX is open for trading) after 5 pm on the date specified by Contact for determining entitlement to the relevant dividend; and
 - (b) at the time the purchase price of the relevant specified securities is set, Contact and the broker have no information that is not publicly available that would, or would be likely to, have a material adverse effect on the

- realisable price of the securities if the information were publicly available; and
- (c) every eligible person is given a reasonable opportunity to elect to participate in the share top-up plan; and
 - (d) the relevant specified securities transferred to a participating securities holder under the share top-up plan have attached to them the same rights, and are transferred for the same purchase price, as securities of the same class transferred to other participating securities holders; and
 - (e) if, for any reason, any participating securities holder does not receive all or any of the relevant specified securities to which that participating securities holder is entitled under the share top-up plan, Contact will pay to the participating securities holder the difference between the portion of the dividend received by the participating securities holder in relevant specified securities (if any) and the dividend the participating securities holder would have received had the holder not elected to participate in the share top-up plan; and
 - (f) Contact must, within 28 days of receiving a written notice from a participating securities holder that requests the termination of the holder's participation in the share top-up plan, terminate the holder's participation in the share top-up plan; and
 - (g) no brokerage or commission costs are payable by participating securities holders in relation to any relevant specified securities to which those holders are entitled under the share top-up plan.
- (3) The exemption in clause 6 is subject to the further condition that a description of the share top-up plan and its terms and conditions is included in Contact's annual report and placed on Contact's website, together with a statement that there is available from Contact (or Contact's share registrar), on request and free of charge, a copy of the terms and conditions of the share top-up plan.

Dated at Wellington this 29th day of October 2003.

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

[L.S.]

F. R. S. Clouston,
Member.

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*, and expires on 31 October 2008, exempts Contact Energy Limited (**Contact**) and the NZX Firm that it appoints to act as its broker from sections 37 and 37A of the Securities Act 1978 and from all of the Securities Regulations 1983 other than regulation 8.

The notice concerns a dividend reinvestment plan under which certain shareholders of Contact can choose to convert the dividends to be paid to them by Contact into shares in Contact. Under the plan, there will be no new issue of shares in Contact. Instead, Contact's broker will purchase Contact shares that have previously been allotted and then transfer those shares to participating shareholders.

The exemption is subject to a number of conditions, including the following:

- every eligible shareholder must be informed about the plan and given a right to participate in it; and
 - the documentation for the plan must contain provisions concerning (amongst other things) the manner in which the purchase price of the shares is to be determined, the nature of the shares that are to be allotted, the return of dividend payments in certain circumstances, and the rights of participating shareholders; and
 - a description of the plan and its terms and conditions must be included in Contact's annual report and placed on its website.
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**Securities Act (Contact Energy Limited)
Exemption Notice 2003**

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

Date of notification in *Gazette*: 30 October 2003.

This notice is administered in the Securities Commission.
