



THE SECURITIES ACT (BANKS) EXEMPTION NOTICE 1995

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 (Banks) Exemption Notice 1995.

(2) Except as provided in subclause (3) of this clause, this notice shall come into force on the 1st day of January 1996.

(3) Clause 6 of this notice shall come into force on the close of the 30th day of June 1996.

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

“The Act” means the Securities Act 1978:

“Bank” means a registered bank within the meaning of section 2 of the Reserve Bank of New Zealand Act 1989:

“New Zealand division” in relation to an overseas bank, means the business of the bank carried on in or from New Zealand:

“Overseas bank” means a person named in the First Schedule to this notice:

“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—This notice applies to every registered bank that has published a disclosure statement under section 81 of the Reserve Bank of New Zealand Act 1989.

4. Banks exempt from regulations 14 (1) and 17 of Securities Regulations 1983 in respect of offers of debt securities—(1) Subject to subclauses (2) and (3) of this clause, every bank, and every person acting on its behalf, are exempted from compliance with the provisions of regulation 14 (1) of the Regulations in respect of any offer of debt securities of which the bank is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject, in the case of a bank, other than an overseas bank, to the condition that the aggregate amount of any debt securities that are secured by a mortgage or charge created by the bank over any of its assets and that rank or will,

after the allotment of the debt securities referred to in subclause (1) of this clause, rank in priority to such debt securities, is not material in the context of the bank's overall business.

(3) The exemption granted by subclause (1) of this clause is subject, in the case of an overseas bank, to the condition that the aggregate amount of any debt securities that are secured by a mortgage or charge created by the overseas bank over any of the assets of the bank relating to its New Zealand division and that rank, or will, after the allotment of the debt securities referred to in subclause (1) of this clause, rank in priority to such debt securities, is not material in the context of the overseas bank's New Zealand division.

(4) Subject to subclauses (5) and (7) of this clause, every bank which, and every other person who, distributes an advertisement to the public containing an offer of debt securities of which the bank is the issuer, are exempted from compliance with the provisions of regulation 17 of the Regulations in respect of the distribution of that advertisement.

(5) The exemption granted by subclause (4) of this clause is subject to the condition that a certificate that complies with subclause (6) of this clause has been completed in respect of the advertisement at the time that the advertisement is distributed to the public.

(6) A certificate for the purposes of subclause (5) of this clause shall be in the form set out in the Fourth Schedule to the Regulations and shall be signed by 2 persons being—

- (a) Directors of the bank; or
- (b) Executive officers of the bank authorised by the directors of the bank to sign such certificates; or
- (c) A director and an executive officer of the bank who is authorised by the directors of the bank to sign such certificates.

(7) The exemption granted by subclause (4) of this clause is, in the case of a bank, subject to the condition that the certificate is held by the bank for at least 12 months from the date of the last distribution of the advertisement to which it relates.

(8) Nothing in subclauses (4) to (7) of this clause limits or affects regulation 17 (3) of the Regulations.

5. Application of Securities Act 1978 and Securities Regulations 1983 limited to overseas banks in respect of New Zealand business—(1) Every overseas bank, and every person acting on its behalf, are exempted from compliance with the provisions of the Act and the Regulations in so far as those provisions require, in their application, any advertisement that contains an offer of debt securities to the public for subscription made by the overseas bank to contain information, statements, or other matters other than in relation to the New Zealand division of the overseas bank.

(2) For the purposes of subclause (1) of this clause—

- (a) The New Zealand division of an overseas bank shall be treated as the only business carried on by the bank; and
- (b) The property, rights, assets and liabilities relating to the New Zealand division shall be treated as the only property, rights, assets and liabilities of the overseas bank.

6. Revocations—The notices specified in the Second Schedule to this notice are hereby revoked.

SCHEDULES

FIRST SCHEDULE

Westpac Banking Corporation.
Banque Indosuez.

SECOND SCHEDULE
NOTICES REVOKED

Notice	Statutory Regulations Serial Number
The Securities Act (Banks) Exemption Notice 1988	S.R. 1988/141
The Securities Act (Banks) Exemption Notice 1988, Amendment No. 1	S.R. 1988/197
The Securities Act (Banks) Exemption Notice 1988, Amendment No. 2	S.R. 1988/334
The Securities Act (Banks) Exemption Notice 1988, Amendment No. 4	S.R. 1990/11
The Securities Act (Banks) Exemption Notice 1988, Amendment No. 5	S.R. 1991/56
The Securities Act (Banks) Exemption Notice 1988, Amendment No. 6	S.R. 1993/188

Dated at Wellington this 17th day of November 1995.

The Common Seal of the Securities Commission was hereunto 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 exempts registered banks from compliance with regulations 14 (1) and 17 of the Securities Regulations 1983. It also exempts advertisements containing offers of debt securities by certain overseas banks from the requirements of the Securities Act 1978 and the Securities Regulations 1983 to contain information relating to the bank's overseas business.

Section 81 of the Reserve Bank of New Zealand Act 1989 requires registered banks to publish disclosure statements containing information that is prescribed by Order in Council under that section. Section 5 (2c) of the Securities Act 1978 will, on its coming into force on 1 July 1996, exempt registered banks from the prospectus and trust deed requirements of that Act. The banks will remain subject to the advertising requirements of the Act and the Securities Regulations 1983. Orders in Council made under section 81 prescribing the information that must be published come into force on 1 January 1996. Banks will be required to publish their first disclosure statements under that section not later than 30 June 1996.

Banks that comply with the new disclosure requirements will, by virtue of the Securities Act (Banks) Exemption Notice (No. 2) 1995, be exempt from the prospectus and trust deed requirements of the Securities Act 1978. That exemption will apply until section 5 (2c) comes into force and exempts all registered banks from those requirements.

Banks that do not comply with the new disclosure requirements will, until they comply, remain subject to the prospectus requirements and to the Securities Act (Banks) Exemption Notice 1988.

The application of this notice is accordingly limited, initially, to those banks that comply with the new disclosure requirements.

Clause 2 provides that, except for *clause 6*, the notice comes into force on 1 January 1996. *Clause 6*, which revokes the Securities Act (Banks) Exemption Notice 1988, comes into force on the close of 30 June 1996.

Clause 3 provides that the notice applies to registered banks that comply with section 81 of the Reserve Bank of New Zealand Act 1989.

Clause 4 continues the exemption for registered banks from regulations 14 (1) and 17 of the Securities Regulations 1983.

Clause 5 continues the exemption contained in clause 12 of the existing notice for overseas banks.

Clause 6, which comes into force on the close of 30 June 1996, revokes the Securities Act (Banks) Exemption Notice 1988.

The Securities Act (Banks) Exemption Notice 1988 contains an exemption from certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in respect of promissory notes, bills of exchange, and negotiable debt securities where the bank is liable otherwise than as the issuer. The Securities Act (Commercial Bill Dealers) Exemption Notice 1995, which replaces the Securities Act (Commercial Bill Dealers) Exemption Notice 1988, exempts all registered banks from the prospectus and trust deed requirements in respect of those securities. It also continues the exemption contained in clause 9 of the Securities Act (Banks) Exemption Notice 1988 from regulations 14 (1) and 17 of the Securities Regulations 1983.

As with this notice, the Securities Act (Commercial Bill Dealers) Exemption Notice 1995 applies, initially, to banks that comply with the new disclosure requirements. The Securities Act (Banks) Exemption Notice 1988 (including the exemptions in Part II relating to promissory notes, bills of exchange, and negotiable debt securities) will continue to apply to banks that continue to be subject to the prospectus requirements 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*: 23 November 1995.

This notice is administered in the Securities Commission.