



Securities Act (NZ Farming Systems Uruguay Limited) Exemption Notice 2006

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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Notice

- 1 Title**
This notice is the Securities Act (NZ Farming Systems Uruguay Limited) Exemption Notice 2006.

2 Commencement

This notice comes into force on its notification in the *Gazette*.

3 Expiry

This notice expires on the close of 30 June 2007.

4 Interpretation

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

Act means the Securities Act 1978

farms means the identified farm businesses that the offer document states NZ Farming intends to acquire

FRS-42 means the financial reporting standard known as Financial Reporting Standard No 42, approved under the Financial Reporting Act 1993

NZ Farming means NZ Farming Systems Uruguay Limited

NZX means New Zealand Exchange Limited

offer means the offer to the public of shares in NZ Farming in accordance with the offer document

offer document means the combined prospectus and investment statement in relation to the offer that is, or will be, registered on or about 3 November 2006

PGG Investments means PGG Wrightson Investments Limited

Regulations means the Securities Regulations 1983

shares means ordinary shares in NZ Farming.

(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 Exemption from regulation 23 of Regulations

NZ Farming and every person acting on its behalf are exempted, in respect of the offer, from regulation 23 of the Regulations.

6 Conditions of exemption in clause 5

The exemption in clause 5 is subject to the conditions that—

(a) the offer document contains no statement referring to the listing or intended listing of the shares on a market

operated by NZX, other than a statement that has been approved by NZX; and

- (b) the offer document contains a prominent warning that if for any reason the shares are not listed on a securities market, there will be no established market for the shares, they will only be able to be traded privately, and this will limit an investor's ability to sell their shares.

7 Exemption from clauses 10(1)(c) and 11(3)(f) and (g) of Schedule 1 of Regulations

NZ Farming and every person acting on its behalf are exempted, in respect of the offer, from clauses 10(1)(c) and 11(3)(f) and (g) of Schedule 1 of the Regulations.

8 Condition of exemptions in clause 7

- (1) The exemptions in clause 7 are subject to the condition that the offer document states or contains,—
 - (a) in respect of any farm or farms to be acquired from a party related to NZ Farming, the price or consideration paid or provided by the related party when it purchased the property; and
 - (b) the price or other consideration to be paid or provided by NZ Farming for each of the farms on the acquisition of the farms; and
 - (c) a copy of a valuation report by an independent valuer in respect of each of the farms that contains the information specified in Schedule 1 and is dated not more than 2 weeks before the date of the offer document; and
 - (d) a prospective pro forma statement of financial position for NZ Farming as at the close of the offer—
 - (i) compiled as if at that date—
 - (A) 100 000 000 shares had been allotted; and
 - (B) NZ Farming had completed the purchase of the farms that the offer document states NZ Farming intends to acquire; and
 - (ii) that contains the information required in a prospective statement of financial position under FRS-42; and
 - (iii) that includes any items material to an investor's understanding of the financial position of NZ Farming as at the close of the offer based on the

- assumptions disclosed with the prospective pro forma statement of financial position; and
- (iv) subject to this notice, that complies with FRS-42; and
 - (e) a statement of the reasons of the directors of NZ Farming why it is reasonable, in their opinion, to present the prospective pro forma statement of financial position as at the close of the offer on the assumption that 100 000 000 shares will be allotted; and
 - (f) a prominent statement to the effect that the prospective statement of financial position as at the close of the offer that is contained in the offer document is a prospective pro forma statement of financial position and is not the actual statement of financial position for NZ Farming; and
 - (g) prospective statements of financial position for NZ Farming as at 30 June 2007 and 30 June 2008; and
 - (h) a prospective statement of cash flows for NZ Farming that complies with clause 10(2) of Schedule 1 of the Regulations, for each of the following periods:
 - (i) the period of 7 months ending on 30 June 2007; and
 - (ii) the period of 12 months ending on 30 June 2008; and
 - (i) a prospective statement of financial performance for NZ Farming for each of the following periods:
 - (i) the period of 7 months ending on 30 June 2007; and
 - (ii) the period of 12 months ending on 30 June 2008; and
 - (j) a prominent statement by the directors of NZ Farming setting out the reasons why the information required under clause 11(3)(f) of Schedule 1 of the Regulations cannot be provided and the effect of this; and
 - (k) a prominent statement by the directors of PGG Investments to the effect that the directors warrant that no external valuations were sought and no other financial information was available regarding the historical performance of the farms when they were purchased by PGG Investments, and that the decisions by PGG

Investments to purchase the farms were based on internal business case analysis; and

- (1) a statement of the material information available to PGG Investments in preparing the internal business case analysis referred to in paragraph (k).
- (2) If a valuation report referred to in subclause (1)(c) is a summary of another valuation, the offer document must refer to that valuation, and NZ Farming must make a copy of that valuation available on request free of charge.

9 Exemption from clause 42(2) of Schedule 1 of Regulations

NZ Farming and every person acting on its behalf are exempted, in respect of the offer, from clause 42(2) of Schedule 1 of the Regulations.

10 Conditions of exemption in clause 9

The exemption in clause 9 is subject to the condition that the offer document contains a copy of a report by a qualified auditor that—

- (a) is signed by the auditor in the name of the auditor or the auditor's firm; and
- (b) states whether the amounts stated in the prospective pro forma statement of financial position for NZ Farming as at the close of the offer,—
 - (i) subject to this notice, comply with FRS-42; and
 - (ii) comply with the disclosure required by this notice; and
 - (iii) have been derived from relevant valuations in respect of each of the properties to be acquired; and
 - (iv) so far as the accounting policies and calculations are concerned, have been properly compiled in accordance with the assumptions made or adopted by NZ Farming set out on the relevant pages of the offer document and are presented on a basis consistent with the accounting policies set out on the relevant pages of the offer document that were used in the preparation of the prospective pro forma statement of financial position; and

- (c) contains a statement in the form set out in Schedule 2 in relation to the prospective statements of financial position, cash flows, and performance referred to in clause 8(1)(g) to (i); and
 - (d) if the prospective pro forma statement of financial position as at the close of the offer does not comply with the requirements of paragraph (b), states how it does not comply.
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cl 8(1)(c)

Schedule 1

Matters to be specified in valuer's report

1 Name and address of valuer

The name and address of the valuer and a brief description of the valuer's qualifications.

2 Statement by independent valuer

A statement that the valuation report is made by the valuer as an independent valuer.

3 Purpose of report

A statement that the valuer is making the valuation report for the purposes of its inclusion in the offer document for use by prospective subscribers for the shares.

4 Description of property

A description of the property and, if new buildings and improvements are proposed in respect of the property, confirmation that the plans and specifications have been inspected by the valuer.

5 Covenants, etc, in respect of property

A list of any covenants, conditions, restrictions, easements, and any other estates or interests that appear on the certificate of title in respect of the property as at the date of the valuer's report.

6 Present use of property

The present use of the property.

7 Compliance with regional or district plan rules

- (1) The nature of any regional or district plan rules, existing use rights, resource consents, or other statutory requirements relating to the property.
- (2) Whether the intended use of the property by NZ Farming complies with the rules, rights, consents, or other statutory requirements referred to in subclause (1).

8 Official value

The most recent official valuation of the property.

9 Valuer's opinion as to capital value of property

The opinion of the valuer as to the capital value of the property and the date of, and basis for, that capital value free of charges.

10 Basis of valuation

The basis upon which the valuer's valuation of the property is made and any assumptions used in making the valuation, including any of the following matters disclosed by any statutory authority that are material for the purposes of the valuation report:

- (a) information identifying each (if any) special feature or characteristic of the land concerned, including, but not limited to, potential erosion, avulsion, falling debris, subsidence, slippage, alluvion, or inundation, or likely presence of hazardous contaminants, being a feature or characteristic that is known to the statutory authority;
- (b) information on private and public stormwater and sewerage drains as shown in the statutory authority's records;
- (c) information relating to any rates owing in relation to the property;
- (d) information concerning any authorisation, consent, certificate, notice, order, or requisition affecting the land concerned or any building on the land previously issued by the statutory authority;
- (e) information relating to the use to which that land may be put and conditions attached to that use:

- (f) information which, in terms of any enactment, has been notified to the statutory authority having the power to classify land or buildings for any purpose:
- (g) such other information concerning the property as the statutory authority considers, at its discretion, to be relevant.

11 Income from property

The amount of operating income net of any operating expenses that the property can reasonably be expected to produce on an annual basis under the conditions prevailing at the date of the valuer's report.

12 Other material matters relating to property

Any other matters concerning the property that the valuer considers to be material according to the standards usually applied by registered valuers in conducting valuations of property.

13 Consent to distribution of report

A statement that the valuer has consented to the distribution of the valuer's report to prospective subscribers for the shares and that, as at the date of the report, the valuer has not withdrawn that consent.

cl 10(c)

Schedule 2
**Contents of statement in relation to prospective
financial information**

In our opinion, the prospective financial information set out on [*specify page numbers of the offer document*], so far as the accounting policies and calculations are concerned,—

- (a) has been properly compiled in accordance with the assumptions made or adopted by the directors of NZ Farming Systems Uruguay Limited set out on [*specify pages of the offer document*]; and
- (b) is presented on a basis consistent with the accounting policies to be adopted by NZ Farming Systems Uruguay Limited, those accounting policies being materially the same as the accounting policies set out on [*specify pages of the offer document*] that were used in the preparation of the prospective pro forma statement of financial position as at the close of the offer.

Dated at Wellington this 2nd day of November 2006.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on its notification in the *Gazette* and expires on 30 June 2007, exempts NZ Farming Systems Uruguay Limited (**NZ Farming**), subject to conditions, from regulation 23 of the Securities Regulations 1983 (the **Regulations**) and clauses 10(1)(c), 11(3)(f) and (g), and 42(2) of Schedule 1 of the Regulations.

The Securities Commission considers that it is appropriate to grant the exemptions because—

- NZ Farming is unable to comply with the requirements of clause 11(3)(f) of Schedule 1 of the Regulations due to the unavailability of certain historical financial information. The conditions of the exemption require NZ Farming to provide potential investors with the best available financial information in relation to the properties to be acquired. In addition, the conditions require the directors of PGG Wrightson Investments Limited (**PGG Investments**), the promoter of the offer, to warrant that no information was available when PGG Investments acquired the properties, and require the directors of NZ Farming to state why NZ Farming cannot comply with the requirements of clause 11(3)(f):
- the exemption will allow the prospective financial information required to be aligned to NZ Farming's normal accounting period. This means the prospective financial information will be more easily comparable to financial statements that are produced by NZ Farming. This will make the information of more use to investors:
- an offer document is normally required to provide a separate figure for the net tangible asset backing per unit of the securities being offered if there is no statement of financial position in the offer document. As the conditions of the exemption require a pro forma balance sheet for NZ Farming, this will provide (pro forma) the information required to calculate the net tangible asset backing per unit of the securities being offered:
- strict compliance with regulation 23 of the Regulations in this case could result in material information about the intention to list the securities and the ability of subscribers to on-sell their securities not being provided to potential investors:
- the relevant offer document or any advertisement relating to the securities being offered must not contain a statement

referring to the listing or intended listing of the securities on a market operated by New Zealand Exchange Limited (**NZX**) other than a statement that has been approved by NZX:

- the exemption from clause 42(2) of Schedule 1 of the Regulations allows an auditor's report that is tailored to the prospective financial information for NZ Farming to be provided in the offer document.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 3 November 2006.
This notice is administered by the Securities Commission.
