



**SECURITIES ACT (ENVESTRA LIMITED) EXEMPTION NOTICE
1997**

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

NOTICE

1. Title, commencement, and expiry—(1) This notice may be cited as the Securities Act (Envestra Limited) Exemption Notice 1997.

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

(3) This notice expires on the close of 30 September 1997.

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

“The Act” means the Securities Act 1978:

“Company” means Envestra Limited:

“Lodged” means lodged under the law of a State or Territory of Australia; and “lodgment” has a corresponding meaning:

“Registered” means registered under the law of a State or Territory of Australia; and “registration” has a corresponding meaning:

“The Regulations” means the Securities Regulations 1983:

“Specified securities” means linked equity and debt securities—

(a) That are offered to the public on the basis that both the equity and the debt securities must be applied for simultaneously; and

(b) For which application has been made for linked admission to the official list of the Australian Stock Exchange.

(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. Meaning of “Australian prospectus”—For the purposes of this notice, the term “Australian prospectus” means a document—

(a) That contains—

(i) An offer of specified securities by the company, being specified securities of which it is the issuer; or

(ii) An offer of specified securities that have previously been allotted by the company, being an offer by the holders of those securities; and

- (b) That, with the exception of the statements that are included in, or that accompany, the document pursuant to clause 4 (4), is identical to a prospectus dated 21 July 1997 containing an offer of the specified securities lodged or registered with the Australian Securities Commission; and
- (c) By means of which it is lawful under the law of any State or Territory of Australia to make an offer of those specified securities to the public; and
- (d) That contains no statement referring to listing or intended listing on the New Zealand Stock Exchange other than a statement that has been approved by the New Zealand Stock Exchange; and
- (e) A copy of which has been deposited with the Registrar of Companies at Wellington together with a copy of—
 - (i) The certificate of incorporation of the company;
 - (ii) The memorandum and articles of association or other documents, statutes, or instruments constituting or defining the constitution of the company;
 - (iii) Every document to which clause 4 (4) (a) applies;
 - (iv) Any certificate or other document evidencing lodgment or registration of the prospectus;
 - (v) Any document containing the statements required by clause 4 (4);
 - (vi) A certificate signed by the solicitor to the company that, as at the date of the certificate, all the terms and conditions of this notice have been complied with.

4. Envestra Limited and others exempt from compliance with sections 33, 38, and 38A of the Securities Act 1978 and regulation 23 of the Securities Regulations 1983 in respect of offers of certain securities—(1) The company and every person acting on its behalf are exempted from sections 33, 38, and 38A of the Act and regulation 23 of the Regulations in respect of any offer of specified securities of which the company is the issuer.

(2) Every person who is the holder of specified securities that have been previously allotted by the company and every person acting on behalf of that holder are exempted from sections 33, 38, and 38A of the Act and regulation 23 of the Regulations in respect of any offer of such securities.

(3) The exemptions are subject to the condition that—

- (a) The offer is made in, or accompanied by, an Australian prospectus; or
- (b) The offer is made in an advertisement (other than an Australian prospectus) that—
 - (i) Refers to an Australian prospectus that relates to all the securities referred to in the advertisement and states the date and place of lodgment or registration of that prospectus; and
 - (ii) States that allotments of the securities shall be made in the manner specified in the Australian prospectus and in the manner prescribed under the law of the State or Territory of Australia in accordance with which the Australian prospectus is lodged or registered; and

(iii) Specifies the place or places at which an Australian prospectus may be obtained, or contains a coupon or coupons to be completed by any person who wishes to be sent an Australian prospectus, or both; and

(iv) States that the offer contained in the advertisement is authorised or instigated by or on behalf of the company or prepared with the co-operation of, or by arrangement with, the company; and

(v) Complies with the provisions of the Act and the Regulations relating to advertisements (other than provisions compliance with which is exempted by subclause (1) or subclause (2)) and, for the purposes of this subparagraph, references in those regulations to the expression “registered prospectus” must be construed as references to an Australian prospectus; and

(vi) Contains no statement referring to listing or intended listing of the securities on the New Zealand Stock Exchange other than a statement that has been approved by the New Zealand Stock Exchange.

(4) The exemptions are subject to the further conditions that—

(a) The Australian prospectus contains, or is accompanied by a document that contains, a statement that the following documents may be inspected at the office of the Registrar of Companies at Wellington:

(i) A copy of any material contract referred to in the Australian prospectus; or

(ii) If the contract is not in writing, a copy of any memorandum containing particulars of the contract; or

(iii) If an exemption or declaration has been granted by the Australian Securities Commission under section 1084 of the Australian Corporations Law, a copy of any memorandum containing particulars of the material contract prepared pursuant to that exemption or declaration; and

(b) The Australian prospectus contains, or is accompanied by a document that contains, prominent statements—

(i) That investors should satisfy themselves as to the tax implications of investing in the specified securities; and

(ii) That investing in the securities of the company may carry with it a currency exchange risk; and

(iii) That the financial reporting requirements applying in New Zealand and those applying to the company may be different and the financial statements of the company may not be compatible in all respects with financial statements prepared in accordance with the Securities Act 1978 and the Financial Reporting Act 1993; and

(iv) That—

(A) The offer and allotment of the specified securities will be governed by the Australian prospectus and will be made in accordance with the law of the State or Territory of Australia under which the Australian prospectus has been registered or lodged; and

(B) The company may not be subject in all respects to New Zealand law; and

(v) That the contract in respect of the specified securities may not be enforceable in New Zealand courts; and

(vi) That the Australian prospectus has not been registered in New Zealand under and in accordance with New Zealand law and may not contain all the information that a New Zealand registered prospectus is required to contain; and

(vii) Of the general nature and effect of any exemption, order, or declaration that may have been granted by the Australian Securities Commission in respect of the offer of the specified securities; and

(viii) That it is not a condition of this notice that the company be listed on the New Zealand Stock Exchange and that if the company is not listed on the New Zealand Stock Exchange, New Zealand resident investors may not have access to information concerning the company in the same way as investors have in relation to an issuer listed on the New Zealand Stock Exchange.

(5) The exemptions are subject to the further condition that at the same time as offers of the specified securities are made or are open for acceptance in New Zealand, offers of the specified securities are also made or are open for acceptance in Australia pursuant to the Australian prospectus.

(6) The exemptions are subject to the further condition that a trustee qualified under section 1052 of the Australian Corporations Law is appointed in respect of any specified securities that are debt securities.

5. Envestra Limited and others exempted from sections 37 and 37A of the Securities Act 1978 in respect of offers of certain securities—(1) The company and every person acting on its behalf are exempted from sections 37 and 37A of the Act in respect of any offer of specified securities of which the company is the issuer made in an Australian prospectus.

(2) Every person who is the holder of specified securities that have previously been allotted by the company and every person acting on behalf of that holder are exempted from sections 37 and 37A of the Act in respect of any offer of specified securities made in an Australian prospectus.

6. Envestra Limited exempted from sections 51 to 54 of the Securities Act 1978 in respect of certain securities—The company and every person acting on its behalf are exempted from sections 51 to 54 of the Act in respect of any specified securities offered to the public for subscription or purchase by means of an Australian prospectus.

7. Envestra Limited and others exempted from certain provisions of the Securities Regulations 1983 in respect of offers of certain securities—(1) The company and every person acting on its behalf are exempted from regulations 11 to 18, 21, and 22 of the Regulations in respect of any offer of specified securities of which the company is the issuer made in an Australian prospectus.

(2) Every person who is the holder of specified securities that have been previously allotted by the company and every person acting on behalf of that holder are exempted from regulations 11 to 18, 21, and 22 of the Regulations in respect of any offer of specified securities made in an Australian prospectus.

(3) Nothing in subclause (1) or subclause (2) applies to an advertisement referred to in clause 4 (3) (b).

Dated at Wellington this 30th 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 Envestra Limited and other persons from compliance with certain provisions of the Securities Act 1978 and the Securities Regulations 1983.

The notice applies to linked equity and debt securities offered to the public for subscription in an Australian prospectus registered with the Australian Securities Commission on 21 July 1997 and for which application has been made for linked admission to the Australian Stock Exchange.

The notice is substantially the same as the Securities Act (Australian Issuers) Exemption Notice 1996. That notice, however, applies only to equity securities. This notice applies to the linked equity and debt securities and exempts the company and other persons from the trustee and trust deed requirements of the Securities Act 1978 applying to the debt securities.

In essence, the notice enables offers of the securities to be made in accordance with Australian law.

The notice expires on 30 September 1997.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 31 July 1997.
This notice is administered in the Securities Commission.