



**THE SECURITIES ACT (CONTRIBUTORY MORTGAGE)
REGULATIONS (FARROW MORTGAGE CORPORATION
LIMITED) EXEMPTION NOTICE 1990**

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 (Contributory Mortgage) Regulations (Farrow Mortgage Corporation Limited) Exemption Notice 1990.

(2) This notice shall come into force on the 1st day of January 1991.

(3) This notice shall expire with the close of the 31st day of December 1991 and shall be deemed to have been revoked as at the close of that day.

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

“The Act” means the Securities Act 1978:

“Company” means Farrow Mortgage Corporation Limited:

“Nominee company” in relation to the company, means a company that acts as a nominee for the contributors to a contributory mortgage in relation to the management of which the company acts:

“Nominee mortgage” in relation to the company, means a contributory mortgage held in the name of a nominee company as a mortgagee:

“The Regulations” means the Securities Act (Contributory Mortgage) Regulations 1988.

(2) Any term or expression which is not defined in this notice, but which is defined in the Act or the Regulations, shall have the meaning given to it by the Act or the Regulations.

3. Company exempt from certain provisions of Securities Act (Contributory Mortgage) Regulations 1988—(1) Subject to this clause, the company is exempted from compliance with the provisions of regulations 9 (a), (d), and (e), 12, and 14 of the Regulations.

(2) The exemption granted by subclause (1) of this clause is subject to the following terms and conditions:

- (a) That the company shall not, on or after the 1st day of January 1991,—
- (i) Offer any interest in a contributory mortgage to the public for subscription; or
 - (ii) Accept any contribution from any person; or
 - (iii) Extend the period of, or renew, a contributory mortgage;
- (b) That any money received by the company or by the company's nominee company in repayment of any principal sum or by way of interest in respect of a contributory mortgage, in relation to the management of which the company acts as a broker, shall be held in trust for the contributors entitled thereto, and shall be paid promptly to—
- (i) The contributors; or
 - (ii) The company in reimbursement for any payment made by the company to or on behalf of a contributor for which the company is entitled to be reimbursed; or
 - (iii) Any other person in accordance with a written instruction given by the contributor to the company that specifies the amount of the payment and the person to whom the payment is to be made:
- (c) That the company continues to act as a broker in respect of every contributory mortgage, in relation to the management of which it acts as a broker, unless,—
- (i) In the case of a nominee mortgage,—
 - (A) A person who is registered under the Regulations as a broker has agreed to act as a broker in respect of the management of that contributory mortgage; and
 - (B) All the contributors having an interest in the contributory mortgage agree in writing to that person acting as broker in respect of that contributory mortgage; and
 - (C) The company delivers to that person all books and documents in its control, or in the possession or under the control of its nominee company, relating to the contributory mortgage, including without limitation—
 - (AA) The securities and documents referred to in regulation 30 (3) (a) of the Regulations;
 - (BB) A copy of the accounts required to be kept under regulation 38 of the Regulations; and
 - (D) The company causes to be paid to that person all money held by its nominee company on behalf of the contributors to that contributory mortgage; and
 - (E) The company delivers to that person a memorandum of transfer (registrable under the Land Transfer Act 1952) transferring the interest of its nominee company in the contributory mortgage to that person's nominee company; or
 - (ii) In the case of a contributory mortgage, not being a nominee mortgage,—
 - (A) All the contributors having an interest in the contributory mortgage agree in writing that the company shall not be required to act as a broker in

- the management of the interests of those contributors;
and
- (B) The company delivers to a person designated in writing by all the contributors to the contributory mortgage all securities and documents referred to in regulation 30 (3) (a) of the Regulations in the possession of the company or under its control; and
- (C) The company pays to the contributors to the contributory mortgage all money held by the Company, or under its control, on behalf of those contributors:
- (d) That the provisions of regulation 32 of the Regulations, insofar as they apply to nominee mortgages to which the Regulations apply and to the interests of contributors in those mortgages, are complied with, subject to subclause (3) of that regulation, in relation to every nominee mortgage to which this notice applies and any interest of a contributor in that mortgage:
- (e) That the company ensures that no memorandum of priority or other document is executed enabling a prior or *pari passu* charge to be created in respect of land charged with a nominee mortgage, in relation to the management of which the company acts as a broker, without the written consent of all the contributors to the mortgage:
- (f) That the company gives written notice, within 14 days after becoming aware of the registration of the charge or encumbrance, to all the contributors to a nominee mortgage, in relation to the management of which the company acts as a broker, of any charge or encumbrance (being a charge or encumbrance which can be registered without a memorandum of priority or other document signed by the mortgagee) which is registered in respect of land which is charged with that mortgage and which has, or may have, priority over, or rank equally with, that mortgage:
- (g) That the company shall ensure that no nominee mortgage, in relation to the management of which it acts as a broker, and no collateral security is discharged (whether wholly or partly) unless—
- (i) All the contributors consent; or
 - (ii) All money secured by the mortgage has been paid to the company or the contributors; or
 - (iii) The discharge is a partial discharge, the mortgage authorises partial releases to be given, specifies any conditions on which partial releases may be given, and those conditions are complied with:
- (h) That without limiting the application of regulations 34, 36, 38, and 39 of the Regulations to the company, the provisions of those regulations, insofar as they relate to a broker's nominee company to which the Regulations apply, are complied with in relation to the company's nominee company.

Dated at Wellington this 18th day of December 1990.

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

[L.S.]

P. D. McKENZIE,
Chairman.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice continues, for a further 12 months, the exemption from certain requirements of the Securities Act (Contributory Mortgage) Regulations 1988 conferred on Farrow Mortgage Corporation Limited by the Securities Act (Contributory Mortgage) Regulations (Specified Brokers) Exemption Notice 1988.

The notice exempts the company from the obligation to register as a contributory mortgage broker and establish and operate a nominee company. It is a condition of the exemption that the company does not, on or after 1 January 1991, offer interests in contributory mortgages to the public for subscription or accept contributions for investment in contributory mortgages. The exemption is also subject to conditions which ensure that the company complies with requirements of the Regulations in relation to the management of existing contributory mortgages.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 20 December 1990.
This notice is administered in the Securities Commission.