



THE SECURITIES REGULATIONS 1983, AMENDMENT NO. 2

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 27th day of November 1995

Present:

THE RIGHT HON. DON MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 70 (1) of the Securities Act 1978, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and in accordance with a recommendation of the Securities Commission, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Securities Regulations 1983, Amendment No. 2, and shall be read together with and deemed part of the Securities Regulations 1983* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of January 1996.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Disclosure statement”, in relation to debt securities the issuer of which is a registered bank, means a disclosure statement

published by the registered bank under section 81 of the Reserve Bank of New Zealand Act 1989:

“Registered bank” has the same meaning as in section 2 (1) of the Reserve Bank of New Zealand Act 1989:”.

(2) Regulation 2(1) of the principal regulations is hereby further amended by revoking the definition of the term “specified date”, and substituting the following definition:

“‘Specified date’ means,—

“(a) In relation to a prospectus, the date the prospectus is delivered in registrable form to the Registrar for registration under section 42 of the Act:

“(b) In relation to a disclosure statement, the date on which the disclosure statement is published in accordance with an Order in Council made under section 81 of the Reserve Bank of New Zealand Act 1989:”.

3. Advertisements to be consistent with prospectus or disclosure statement—The principal regulations are hereby amended by revoking regulation 9, and substituting the following regulation:

“9. No advertisement shall contain any information, sound, image, or other matter that is inconsistent with any registered prospectus or disclosure statement referred to in the advertisement.”

4. Profit forecasts—The principal regulations are hereby amended by revoking regulation 15, and substituting the following regulation:

“15. No advertisement shall contain a profit forecast unless the advertisement refers to a registered prospectus or a disclosure statement and the profit forecast is also contained in the registered prospectus or disclosure statement.”

5. Restrictions on distribution of certain advertisements—

(1) Regulation 17 (3) (a) (vi) of the principal regulations is hereby amended by omitting the words “subsections (2) to (4)”, and substituting the words “subsections (2A), (2B), (3), and (4)”.

(2) Regulation 17 (3) (a) of the principal regulations is hereby amended by revoking subparagraph (vii), and substituting the following subparagraphs:

“(vii) In the case of an advertisement relating only to debt securities the issuer of which is a registered bank that has published a disclosure statement under section 81 of the Reserve Bank of New Zealand Act 1989, the information and matters specified in paragraphs (a) and (b) of section 38AA of the Act; and

“(viii) In the case of an advertisement to which neither subparagraph (vi) nor subparagraph (vii) of this paragraph applies, the information and matters specified in paragraphs (a) to (c) of section 38 of the Act:”.

6. Regulation relating to authorised trustee investments revoked—The principal regulations are hereby amended by revoking regulation 19.

7. Interest rates and taxation of interest—Regulation 21 (2) of the principal regulations is hereby amended by inserting, after the word

“prospectus”, in both places where it appears, the words “or disclosure statement”.

8. Mortgage debentures—Regulation 22 (d) of the principal regulations is hereby amended by inserting, after the word “prospectus”, in both places where it appears, the words “or disclosure statement”.

9. Fourth Schedule amended—The Fourth Schedule to the principal regulations is hereby amended by revoking subparagraph (ii) of paragraph (c), and substituting the following subparagraph:

“(ii) Is inconsistent with the registered prospectus*/disclosure statement*/registered prospectus and disclosure statement* referred to in the advertisement.”

10. Transitional provisions—Nothing in the principal regulations (as amended by these regulations) shall apply to any registered bank that has not published a disclosure statement under section 81 of the Reserve Bank of New Zealand Act 1989 and the provisions of the principal regulations (as in force immediately before the commencement of these regulations) shall continue to apply to any such registered bank.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 January 1996, make a number of consequential changes to the Securities Regulations 1983 as a result of the coming into force, on that date, of Orders in Council under section 81 of the Reserve Bank of New Zealand Act 1989. Those orders prescribe new disclosure requirements for registered banks in relation to offers of debt securities in place of the prospectus requirements of the Securities Act 1978. Advertisements that contain or refer to offers of debt securities issued by registered banks will still be required to comply with the Securities Regulations 1983.

The regulations amend Parts II and III of, and the Fourth Schedule to, the principal regulations relating to advertisements so that, in effect, they apply in relation to advertising of debt securities by registered banks in the same way as they apply in relation to advertising of all other securities.

The Orders in Council come into force on 1 January 1996. Registered banks will be required to publish their first disclosure statements not later than 30 June 1996.

Section 181 (8) of the Reserve Bank of New Zealand Act 1989 enacts a new section 5 (2c) of the Securities Act 1978. Section 5 (2c) exempts registered banks from the prospectus and trust deed requirements of the Securities Act 1978. That exemption comes into force on 1 July 1996. On that date all registered banks will be in a position to comply with the new disclosure requirements.

Before the exemption comes into force, registered 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. Banks that do not comply with the new disclosure requirements will continue to be subject to the prospectus requirements until they comply with the disclosure requirements.

The application of these regulations is accordingly limited initially to those registered banks that comply with section 81 of the Reserve Bank of New Zealand Act 1989. The

principal regulations, as in force before 1 January 1996, will continue to apply to registered banks until they comply with the new disclosure requirements.

Registered banks that comply with the new disclosure requirements will be exempt from the prospectus and trust deed requirements and will be subject to the Securities Regulations 1985 as amended by these regulations.

Until they comply with the new disclosure requirements, other registered banks will continue to be subject to the prospectus requirements and the Securities Regulations 1983 as in force before the amendments made by these regulations.

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These regulations are administered in the Ministry of Commerce.