

**Reprint
as at 1 July 2011**



**Deposit Takers (Forsyth Barr Cash
Management Limited) Exemption
Notice 2010**

(SR 2010/441)

Deposit Takers (Forsyth Barr Cash Management Limited) Exemption Notice 2010: expired, on 1 July 2011, by clause 3.

Pursuant to section 157G of the Reserve Bank of New Zealand Act 1989, the Reserve Bank of New Zealand gives the following notice (to which is appended a statement of reasons of the Bank).

Contents

		Page
1	Title	2
2	Commencement	2
3	Expiry	2
4	Interpretation	2
5	Exemption from governance requirements	2
6	Exemption from capital ratio requirements	2
7	Exemption from related party exposures requirements	2
8	Exemption from liquidity requirements	3
9	Conditions of exemptions in clauses 5 to 8	3

Notice

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This notice is administered by the Reserve Bank of New Zealand.

1 Title

This notice is the Deposit Takers (Forsyth Barr Cash Management Limited) Exemption Notice 2010.

2 Commencement

This notice comes into force on 1 December 2010.

3 Expiry

This notice expires on the close of 30 June 2011.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—
Act means the Reserve Bank of New Zealand Act 1989
allot has the same meaning as in section 2(1) of the Securities Act 1978
FBCML means Forsyth Barr Cash Management Limited
subscriber has the same meaning as in section 2(1) of the Securities Act 1978.
- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

5 Exemption from governance requirements

FBCML is exempted from section 157L of the Act.

6 Exemption from capital ratio requirements

- (1) FBCML is exempted from sections 157T and 157U of the Act.
- (2) The trustee in respect of the debt securities of FBCML is exempted from section 157T of the Act in respect of those securities.

7 Exemption from related party exposures requirements

- (1) FBCML is exempted from sections 157X and 157Y of the Act.
- (2) The trustee in respect of the debt securities of FBCML is exempted from section 157X of the Act in respect of those securities.

8 Exemption from liquidity requirements

- (1) FBCML is exempted from sections 157ZA and 157ZB of the Act.
- (2) The trustee in respect of the debt securities of FBCML is exempted from section 157ZA of the Act in respect of those securities.

9 Conditions of exemptions in clauses 5 to 8

The exemptions in clauses 5 to 8 are subject to the conditions that FBCML—

- (a) must not allot any debt security on or after 1 February 2011 unless the subscriber has, before subscription, received written notification that FBCML is in the process of winding down its debt security products and is exempted, until 30 June 2011, from—
 - (i) the governance requirements in section 157L of the Act; and
 - (ii) the capital ratio requirements in sections 157T and 157U of the Act; and
 - (iii) the related party exposures requirements in sections 157X and 157Y of the Act; and
 - (iv) the liquidity requirements in sections 157ZA and 157ZB of the Act; and
- (b) must, by the close of 30 June 2011, either—
 - (i) repay the money owing in respect of every debt security issued pursuant to an offer of debt securities to the public; or
 - (ii) cease to be under an obligation to repay the money referred to in subparagraph (i).

Dated at Wellington this 22nd day of November 2010.

Grant Spencer,
Deputy Governor.

Statement of reasons

This notice, which comes into force on 1 December 2010 and expires on 30 June 2011, exempts, subject to conditions, Forsyth Barr Cash Management Limited (**FBCML**) from the following sections of the Reserve Bank of New Zealand Act 1989 (the **Act**):

- section 157L (governance requirements); and
- sections 157T and 157U (capital ratio requirements); and
- sections 157X and 157Y (related party exposures requirements); and
- sections 157ZA and 157ZB (liquidity requirements).

The Reserve Bank of New Zealand, after taking into account the principles set out in section 157F of the Act and satisfying itself as to the matters set out in section 157G(2), considers it appropriate to grant the exemptions because—

- the additional direct and indirect costs of complying with the governance, capital ratio, related party exposures, and liquidity requirements on a short-term basis are unduly onerous and burdensome in the circumstance. The relevant circumstance is that FBCML has undertaken to wind down its debt security products by 30 June 2011:
- the exemptions allow FBCML sufficient time to work through an appropriate process to change its business so that it no longer meets the definition of a non-bank deposit taker and will therefore not need to comply with the non-bank deposit taker requirements:
- the exemptions apply only until the close of 30 June 2011 and therefore are not broader than is reasonably necessary to address the matters that gave rise to them. The exemptions recognise that FBCML needs time to adapt its current business model to reflect the new regulatory environment.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
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Notes

1 *General*

This is a reprint of the Deposit Takers (Forsyth Barr Cash Management Limited) Exemption Notice 2010. The reprint incorporates all the amendments to the notice as at 1 July 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Deposit Takers (Forsyth Barr Cash Management Limited) Exemption Notice 2010 (SR 2010/441): clause 3
