

**Reprint
as at 1 April 2016**



**Futures Contracts (The Bank of New York Mellon)
Exemption Notice 2011
(SR 2011/117)**

Futures Contracts (The Bank of New York Mellon) Exemption Notice 2011: expired, on the close of 31 March 2016, by clause 3.

Pursuant to section 48(1)(d) of the Securities Markets Act 1988, 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 Futures Contracts (The Bank of New York Mellon) Exemption Notice 2011.

2 Commencement

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

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint. Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Financial Markets Authority.

3 Expiry

This notice expires on the close of 31 March 2016.

4 Interpretation

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

Act means the Securities Markets Act 1988

Bank of New York Mellon means The Bank of New York Mellon, a bank chartered under the laws of the State of New York, United States of America and having its principal place of business at One Wall Street, New York, New York, United States of America

Regulations means the Futures Industry (Client Funds) Regulations 1990.

- (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 regulations 3(1) and 24 of Regulations

The Bank of New York Mellon and every person acting on its behalf are exempted from regulations 3(1) and 24 of the Regulations.

6 Condition of exemptions

The exemptions in clause 5 are subject to the condition that neither the Bank of New York Mellon nor any other person on its behalf holds for, or receives from or on behalf of, any client any client money or client property in the course of carrying on business as a dealer.

Dated at Wellington this 19th day of April 2011.

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

[Seal]

D W Mayhew,
Member.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 March 2016, exempts The Bank of New York Mellon (a dealer under the Futures Industry (Client Funds) Regulations 1990) from the following provisions of those regulations:

- regulation 3(1) (which requires a dealer to establish and maintain 1 or more client bank accounts);
- regulation 24 (which requires a dealer to ensure that its client records are audited).

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

- The Bank of New York Mellon is not permitted to hold client funds or client property in relation to its futures dealings. Accordingly, there is no regulatory benefit in requiring The Bank of New York Mellon to maintain a client bank account or to have the client bank accounts audited; and
- the prohibition on holding client funds or client property in relation to futures dealing provides an adequate safeguard for preserving client money and client property.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 April 2011.

Reprints notes

1 *General*

This is a reprint of the Futures Contracts (The Bank of New York Mellon) Exemption Notice 2011 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Futures Contracts (The Bank of New York Mellon) Exemption Notice 2011 (SR 2011/117): clause 3