

**Reprint
as at 1 December 2016**



**Futures Contracts (iPredict Limited) Declaration and
Exemption Notice 2008**

(SR 2008/285)

Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008: expired, on the close of 30 November 2016, by clause 3.

Pursuant to sections 37(7) and 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).

Contents

	Page
1 Title	2
2 Commencement	2
3 Expiry	2
4 Interpretation	2
<i>Declaration</i>	
5 Application of Part 3 of Act to specified agreements and specified rights	4
<i>Exemption from compliance with Futures Industry (Client Funds) Regulations 1990</i>	
6 Exemption	4
7 Conditions of exemption	4

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.

Notice

1 Title

This notice is the Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008.

2 Commencement

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

3 Expiry

This notice expires on the close of 30 November 2016.

Clause 3: amended, on 31 October 2013, by clause 4 of the Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice (No 2) 2013 (SR 2013/448).

4 Interpretation

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

Act means the Securities Markets Act 1988

clearing house means Predictions Clearing Limited

market—

(a) means the market that has been, or will be, established by the market provider for the purposes of trading specified futures contracts; and

(b) includes a sponsored market

market provider means iPredict Limited

participant means any person who has an account with the market provider for the purposes of trading specified futures contracts

participant's contribution limit, in respect of a participant, means—

(a) \$2,500 in any period of 6 months; and

(b) a cumulative total of \$10,000, calculated as the total of all contributions paid by the participant less the total of all amounts reimbursed by the market provider

participants' funds account means a call deposit account with a registered bank that is established and maintained by the clearing house for the purposes of the market

participation agreement means an agreement between the participant, the market provider, and the clearing house under which the market provider allows the participant to trade on the market and the participant agrees to be bound by the rules of the market

specified agreement means an agreement—

- (a) under which a participant has a contingent or an actual right to be paid, by the clearing house from funds held in the participants' funds account, at a specified future date, an amount that depends on 1 or more political, business, economic, sociological, or demographic events or circumstances; and
- (b) under which that payment may not exceed the total amount payable by participants for the acquisition from the market provider of a bundle of specified agreements of which the specified futures contract forms a part; and
- (c) in respect of which a participant's right referred to in paragraph (a) is able to be traded on the market; and
- (d) the terms of which are publicly available on an Internet site maintained by, or on behalf of, the market provider at all reasonable times

specified future date includes a date that is described by referring to the day, or number of days (including, to avoid doubt, the number of working or other specified type of days) after, a specified future act or event happens or circumstance occurs

specified futures contract means—

- (a) a specified agreement;
- (b) a specified right

specified right means the right of a participant under paragraph (a) of the definition of specified agreement (whether held by the participant who is a party to that specified agreement or by another participant)

sponsor means the person on whose behalf, or by arrangement with whom, the market provider establishes a sponsored market

sponsored market means a market established by the market provider on behalf of, or by arrangement with, a sponsor—

- (a) to meet specific information or research needs of the sponsor; and
- (b) on which the only specified futures contracts able to be traded relate to 1 or more business projects or financial indicators of the sponsor; and
- (c) in respect of which the sponsor, for the purposes of trading by any participant, may only contribute sponsor's contributions that do not exceed the sponsor's contribution limit

sponsor's contribution means, in respect of a participant, an amount that a sponsor of a sponsored market certifies to the market provider—

- (a) has been or will be provided to the participant in a specified period for the purposes of trading exclusively on that sponsor's sponsored market; and
- (b) will not be deducted from, or be taken into account in determining, the amount of any salary, bonus, benefit, or other entitlement payable to that

participant by or on behalf of that sponsor or any related party of that sponsor

sponsor's contribution limit, in respect of a participant, means \$1,000 in any period of 6 months.

- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the meaning given to it by the Act.

Clause 4(1) **participant's contribution limit**: substituted, on 1 April 2011, by clause 4 of the Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice 2011 (SR 2011/85).

Declaration

5 Application of Part 3 of Act to specified agreements and specified rights

- (1) Every specified agreement is declared to be an agreement to which Part 3 of the Act applies.
- (2) Every specified right is declared to be a right to which Part 3 of the Act applies.

Exemption from compliance with Futures Industry (Client Funds) Regulations 1990

6 Exemption

The market provider, the clearing house, and every person acting on behalf of either or both of them are exempted from compliance with the Futures Industry (Client Funds) Regulations 1990 in respect of the market.

7 Conditions of exemption

The exemption in clause 6 is subject to the conditions that —

- (a) the market provider must—
- (i) prohibit every participant from trading on the market with funds credited to his or her account that are not from one of the following sources:
 - (A) a payment made to the clearing house by the participant for his or her own benefit; or
 - (B) a payment made to the clearing house as a sponsor's contribution; or
 - (C) trading activities on the market:
 - (ii) ensure that, if the clearing house becomes aware that a payment other than a payment of a kind referred to in subparagraph (i)(A) to (C) has been credited to a participant's account, the amount of that payment is refunded as soon as practicable; and
- (b) the market provider must—

- (i) prohibit every participant from paying more than the participant's contribution limit for the credit of his or her account with the clearing house; and
- (ii) ensure that, as soon as practicable, the clearing house refunds any amount paid by the participant for the credit of his or her account with the clearing house in excess of the participant's contribution limit; and
- (c) the market provider must—
 - (i) prohibit every sponsor from paying sponsor's contributions to a total of more than the sponsor's contribution limit for the credit of a participant's account with the clearing house; and
 - (ii) ensure that, as soon as practicable, the clearing house refunds any amount paid by a sponsor for the credit of a participant's account with the clearing house in excess of the sponsor's contribution limit; and
- (d) all funds paid to the clearing house for credit of participants' accounts with the clearing house must be held on trust for participants in the participants' funds account until withdrawn from that account in accordance with the terms and conditions of participation in the market; and
- (e) the financial statements of the clearing house must be audited at least once a year, after 2008, by a qualified auditor (within the meaning of section 2C of the Securities Act 1978); and
- (f) the market provider must ensure that each participant is a party to a participation agreement; and
- (g) the terms and conditions of each participation agreement must—
 - (i) prohibit a participant from having more than 1 account with the market provider, whether directly or indirectly (including through any company or other legal entity that the participant directly or indirectly controls); and
 - (ii) prohibit a participant from acting on behalf of any other individual, company, or other legal entity; and
 - (iii) require a participant, before the participant purchases a specified futures contract, to have sufficient funds in the participant's account with the clearing house to pay for the specified futures contract in full (whether the purchase is from the clearing house or from another participant); and
 - (iv) provide that, if a participant sells a specified futures contract that the participant does not then hold, the clearing house must freeze the maximum amount payable under the specified futures contract in, or deduct the maximum amount payable under the specified futures contract from, the participant's account with the clearing

house until the amount payable under that specified futures contract has been determined; and

- (v) be available to the participant on an Internet site maintained by, or on behalf of, the market provider at all reasonable times.

Clause 7: amended, on 1 April 2011, by clause 5 of the Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice 2011 (SR 2011/85).

Dated at Wellington this 26th day of August 2008.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

Note: The following statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice 2011
- Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice (No 2) 2013

Under this notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 August 2013,—

- every specified agreement and every specified right (as each of those terms is defined in the notice) is declared to be an agreement to which Part 3 of the Securities Markets Act 1988 (the **Act**) applies; and
- the provider of a market for the trading of futures contracts (**iPredict Limited**) and an associated clearing house are exempted from the Futures Industry (Client Funds) Regulations 1990 in respect of the market.

The term **futures contract** is defined in section 37(1) of the Act to include an agreement or a right declared by the Securities Commission to be an agreement or a right to which Part 3 of the Act applies. The declaration, and the separate authorisation to be granted by the Securities Commission to iPredict Limited under section 38(1) of

the Act to carry on the business of dealing in futures contracts, means that every specified agreement and every specified right is an authorised futures contract (within the meaning of section 37(1) of the Act) and that trading in them is regulated under the Act and not the Securities Act 1978 or the Gambling Act 2003.

The Securities Commission considers that it is appropriate to make the declaration for the following reasons:

- the agreements to be traded on the proposed market have characteristics of a futures contract similar to those in paragraph (b) or (c) of the definition of futures contract in section 37(1) of the Act, in that they are valued according to a future outcome, with that value being established at the time of their commencement, and they are settled by payment of money according to that outcome, rather than by delivery of any goods; the rights to be traded are similar to those in paragraph (d) of the definition of futures contract in section 37(1) of the Act in that they are rights to assume, at a specified price or value or within a time, rights and obligations under those agreements:
- the declaration provides legal certainty about the regulatory treatment of these agreements and rights, and the separate authorisation includes terms and conditions that provide appropriate controls on the operation of the market as a small-scale research and educational facility. The market is not intended for investment purposes.

The Securities Commission considers that it is appropriate to grant the exemption because market participants' funds must be held in a trust account, and will be audited annually. The conditions of the exemption and authorisation require that no participant can enter into a futures contract unless that person has sufficient cleared funds to pay for the contract in advance. There will be no ongoing margin obligations. In addition, the maximum amount of money that any market participant can invest is limited to \$2,000 per annum. The Securities Commission is satisfied that these matters provide adequate alternative safeguards for preserving client money.

Note: The preceding statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice 2011
- Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice (No 2) 2013

Reprints notes

1 *General*

This is a reprint of the Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008 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 (iPredict Limited) Declaration and Exemption Amendment Notice (No 2) 2013 (SR 2013/448)

Futures Contracts (iPredict Limited) Declaration and Exemption Amendment Notice 2011 (SR 2011/85)

Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008 (SR 2008/285): clause 3