

**Version
as at 1 December 2014**



**Futures Contracts (IG Markets Limited) Notice 2009
(SR 2009/278)**

Futures Contracts (IG Markets Limited) Notice 2009: revoked, on 1 December 2014, pursuant to section 4(1)(b) of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Pursuant to section 37(7) of the Securities Markets Act 1988, the Securities Commission gives the following notice.

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Notice

1 Title

This notice is the Futures Contracts (IG Markets Limited) Notice 2009.

2 Commencement

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

3 Interpretation

- (1) In this notice, unless the context otherwise requires,—
Act means the Securities Markets Act 1988

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Financial Markets Authority.

authorised futures dealers notice means the Authorised Futures Dealers (IG Markets Limited) Notice 2009 that is made under section 38 of the Act and published in the *Gazette*

IG Markets means IG Markets Limited, a company incorporated in England and registered as a foreign company in Australia

specified product means a contract for difference—

- (a) in respect of shares or other securities that are offered by IG Markets under a product disclosure statement that complies with the authorised futures dealers notice; and
 - (b) to which IG Markets is a party; and
 - (c) under the terms of which it is contemplated or understood that the obligations of the parties may be satisfied other than by actual delivery of underlying securities; and
 - (d) that is offered to persons in New Zealand by IG Markets under the terms of the contract for difference and in accordance with the terms of the authorised futures dealers notice.
- (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.

4 Application of Part 3 of Act to specified products

Every specified product is declared to be an agreement to which Part 3 of the Act applies.

Dated at Wellington this 25th day of September 2009.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, declares that certain products offered by IG Markets Limited (the **products**)

are agreements to which Part 3 of the Securities Markets Act 1988 applies. The products are particular kinds of contracts for difference in respect of shares and other securities.

Part 3 of the Securities Markets Act 1988 is about futures contracts. The definition of “futures contracts” includes agreements that the Securities Commission declares, under section 37(7) of that Act, to be agreements to which Part 3 applies. The declaration in this notice means that the products described in it are treated as futures contracts for the purposes of Part 3 of the Act.

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

- the products are settled otherwise than by delivery, which is a key characteristic of commodity futures contracts under New Zealand law. This means that the parties’ obligations under the contract can be met by some means other than physical delivery of the commodity that is the subject of the contract, in this case the shares or securities. The obligation that each party to the contract has is met, in practice, by payment of a settlement amount by one party to the other. This amount is the difference between the agreed price for the contract and the actual market price of that commodity on the date that the futures contract expires or is settled or is closed out:
- the products are also synthetic in nature, because although the contract is valued by reference to a share or other securities, it does not confer any right on the buyer to ever receive the shares or securities. The value of the contract at any time is determined by the difference between the price of the underlying shares or securities when the contract was entered into and the actual price of the shares or securities at the time of valuation:
- because the products are synthetic and settled otherwise than by delivery, the disclosure requirements (about IG Markets) under the Securities Act 1978 do not provide the best regulatory solution for the product:
- the declaration provides certainty in the market because, although the products have the characteristics of a futures contract, there is doubt about whether under New Zealand law various derivative products (in particular those where the underlying asset is a company share or security) should be treated as securities (which are regulated under the Securities Act 1978) or as futures contracts (which are regulated under the Securities Markets Act 1988):
- the declaration enables the products to be regulated in the same manner as futures contracts under New Zealand law.

Notes

1 *General*

This is a consolidation of the Futures Contracts (IG Markets Limited) Notice 2009 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 4(1)(b)