

**Version  
as at 1 January 2023**



**Financial Markets Conduct (Irrigation Companies)  
Exemption Notice 2018  
(LI 2018/2)**

Financial Markets Conduct (Irrigation Companies) Exemption Notice 2018: revoked, on the close of 31 December 2022, by clause 3.

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

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**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.**

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## Notice

### 1 Title

This notice is the Financial Markets Conduct (Irrigation Companies) Exemption Notice 2018.

### 2 Commencement

This notice comes into force on 19 January 2018.

### 3 Revocation

This notice is revoked on the close of 31 December 2022.

### 4 Interpretation

- (1) In this notice, unless the context otherwise requires,—  
**Act** means the Financial Markets Conduct Act 2013

**irrigation—**

- (a) means the practice of causing water to flow on or spread over or under the surface of land or of retaining water on or under the surface of land; and
- (b) includes draining land to remove water that is injurious to or in excess of the requirements of the owner or lessee of the land

**irrigation company** has the meaning set out in clause 5

**Regulations** means the Financial Markets Conduct Regulations 2014

**specified equity securities**, in relation to a company, means equity securities that—

- (a) can be held only by persons who are, or who immediately after the issue or sale will be, transacting shareholders in the company; and
- (b) are not convertible

**transacting shareholder** has the meaning set out in clause 6.

- (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.
- (3) Regulation 9 of the Regulations applies, with all necessary modifications, to a warning statement required under this notice and to a statement required under clause 18, 21, or 23.
- (4) Regulations 9 to 12 and 33 of the Regulations apply, with all necessary modifications, to the information that is required to be contained in the PDS under this notice and to the offer document referred to in clause 15(a).

## **5 Meaning of irrigation company and co-operative principles**

- (1) In this notice, **irrigation company** means a company, other than a co-operative company,—
  - (a) whose principal activity is managing and operating, under co-operative principles, infrastructure to effect irrigation; and
  - (b) whose shares are limited to specified equity securities; and
  - (c) whose constitution binds it to the matters in paragraphs (a) and (b).
- (2) For the purposes of subclause (1)(a), **co-operative principles**, in relation to a company, means operating by doing 1 or more of the following things:
  - (a) supplying or providing goods or services, or both, to its shareholders;
  - (b) supplying rights (other than returns) to its shareholders;
  - (c) entering into any other commercial transaction with its shareholders.
- (3) For the purposes of this clause, a company may carry on its principal activity in 1 or more of the following ways:
  - (a) directly:

- (b) through a subsidiary of the company:
- (c) by arranging for another person to carry on the activity.

## **6 Meaning of transacting shareholder**

- (1) In this notice, **transacting shareholder**, in relation to a company, means a shareholder in that company who—
  - (a) does 1 or more of the following things:
    - (i) acquires goods or services from the company:
    - (ii) acquires rights (other than returns) from the company:
    - (iii) enters into any other commercial transaction with the company:
    - (iv) has incurred an obligation to do anything referred to in any of subparagraphs (i) to (iii); or
  - (b) having ceased to do anything referred to in paragraph (a)(i) to (iii), is, in the reasonable opinion of the directors of the company, likely to resume doing it.
- (2) For the purposes of subclause (1), a shareholder may do, with the company, 1 or more of the things referred to in 1 or more of the following ways:
  - (a) directly:
  - (b) through a subsidiary of the company:
  - (c) with another person that the company has arranged to carry on the activity.

### *Exemptions available regardless of annual revenue or aggregate per shareholder capital investment*

## **7 Application of exemptions in clauses 8 and 10**

The exemptions in clauses 8 and 10 apply to an irrigation company in respect of a PDS for an offer of specified equity securities of which the irrigation company is the issuer.

## **8 Exemptions in respect of certain information in PDS**

- (1) Every irrigation company is exempted from clauses 5 and 12 of Schedule 3 of the Regulations.
- (2) Every irrigation company is exempted from clause 20 of Schedule 3 of the Regulations to the extent that it requires the PDS to include information that—
  - (a) is not material information; and
  - (b) relates to specified equity securities held by a director, proposed director, senior manager, or proposed senior manager.

## **9 Condition of exemptions in clause 8**

- (1) Each exemption in clause 8(1) is subject to the condition that the PDS must contain the information that is set out in Schedule 1 of this notice under a number that corresponds with the number of the exempted clause of Schedule 3 of the Regulations, in place of the information required by the exempted clause.
- (2) *See also* clause 12(1).

## **10 Exemptions in respect of certain financial information in PDS**

- (1) Every irrigation company is exempted from clause 38 of Schedule 3 of the Regulations.
- (2) Subclause (3) applies to an irrigation company that reasonably considers that, in the table under clause 35 of Schedule 3 of the Regulations, other financial measures of earnings or distributions are likely to be more useful information for investors than EBITDA, net profit, or dividends.
- (3) The irrigation company is exempted from clause 35(1)(b) to (d) of Schedule 3 of the Regulations.

## **11 Conditions of exemptions in clause 10**

- (1) The exemption in clause 10(3) is subject to the conditions that—
  - (a) the table prepared under clause 35 of the Regulations must contain the other financial measures of earnings or distributions that the irrigation company reasonably considers are likely to be more useful to investors (the **substituted information**); and
  - (b) the substituted information must comply with the rules set out in clause 39 of Schedule 3 of the Regulations as if the substituted information was—
    - (i) information prepared under clause 35 of Schedule 3 of the Regulations; and
    - (ii) substituted information under clause 39(g) of Schedule 3 of the Regulations; and
  - (c) the irrigation company must, to the extent applicable, comply with the Regulations in respect of the substituted information as if the substituted information were information referred to in clause 35(1) of the Regulations (for example, unless the PDS is a continuous PDS, the irrigation company must ensure that the substituted information is not incorporated by reference in the table under clause 35 of the Regulations).
- (2) *See also* clause 12(1).

## **12 Other consequential matters relating to exemptions in clauses 8 and 10**

- (1) Each exemption in clauses 8 and 10 is subject to the condition that the content of the PDS must be amended as a consequence of the information that is

required to be contained in the PDS under the conditions of the exemption (for example, relevant cross-references and headings must be amended).

- (2) Every irrigation company is exempted from regulation 23(1) of the Regulations to the extent necessary to make the consequential amendments to the PDS referred to in subclause (1).
- (3) The exemption in subclause (2) is subject to the condition that the irrigation company must reasonably consider that the consequential amendments are not broader than is reasonably necessary to comply with subclause (1).

*Exemptions available depending on annual revenue and aggregate per shareholder capital investment*

**13 Application of exemptions in clauses 14 and 16**

- (1) The exemptions in clauses 14 and 16 apply to an irrigation company in respect of an offer of specified equity securities of which the irrigation company is the issuer.
- (2) However, the exemptions in clauses 14 and 16 do not apply in respect of specified equity securities to which clause 20 of Schedule 4 of the Act applies (in this case, *see* clause 17 of this notice).

**14 Exemption from Part 3 of Act for specified equity securities**

- (1) Every irrigation company (A) is exempted from Part 3 of the Act if,—
  - (a) at the time at which the offer is made, no person holds specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person; and
  - (b) for every investor, the amount payable on acceptance of the offer plus the amounts previously paid or payable by the investor for specified equity securities of A that are held by the investor add up to \$5,000 or less.
- (2) The exemption in subclause (1) stops applying if 1 or more persons hold specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person.
- (3) In this clause,—
  - (a) a reference to specified equity securities held by a person or an investor includes all specified equity securities held by associated persons of the person or investor:
  - (b) a reference to amounts paid or payable by a person or an investor for specified equity securities—
    - (i) includes amounts paid or payable for specified equity securities by associated persons of the person or investor:
    - (ii) includes amounts that may be or may become payable:

- (iii) does not include any fees or charges.

## 15 Conditions of exemption in clause 14

The exemption in clause 14 is subject to the conditions that—

- (a) A must not accept an application for the specified equity securities from, or issue or transfer the specified equity securities to, an investor unless,—
  - (i) before the application was made, an offer document for the offer was given to the investor; and
  - (ii) the offer document contained all the information set out in Schedule 2 of this notice in relation to the offer that is applicable; and
- (b) A must ensure that a warning statement in the following form is included, in a prominent position, at the front of every document provided to the investor that contains the key terms of the offer (including the offer document referred to in paragraph (a)):

### “Warning

New Zealand law normally requires people who offer financial products to give information about themselves and the products to investors before they invest. They also have to provide ongoing financial information about themselves and the products to investors. This information is designed to help investors make informed decisions.

The usual rules do not apply to this offer because there is an exemption where the total amount to be invested by each investor in shares in an eligible irrigation company is \$5,000 or less (including in any shares already held). The exemption recognises that shares in these irrigation companies are, for the shareholders, more like a membership than an investment.

As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.”

## 16 Exemptions from parts of Part 4 of Act for specified equity securities

- (1) Every irrigation company (A) is exempted from sections 218 and 227 of the Act and regulation 108 of the Regulations if,—
  - (a) at the time at which the offer is made, no person holds specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person; and
  - (b) for every investor, the amount payable on acceptance of the offer plus the amounts previously paid or payable by the investor for specified

equity securities of A that are held by the investor add up to \$5,000 or less.

- (2) The exemption in subclause (1) stops applying if 1 or more persons hold specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person.
- (3) In this clause,—
  - (a) a reference to specified equity securities held by a person or an investor includes all specified equity securities held by associated persons of the person or investor:
  - (b) a reference to amounts paid or payable by a person or an investor for specified equity securities—
    - (i) includes amounts paid or payable for specified equity securities by associated persons of the person or investor:
    - (ii) includes amounts that may be or may become payable:
    - (iii) does not include any fees or charges.

## 17 Exemptions for specified equity securities offered under Securities Act 1978

- (1) An exemption granted by this clause—
  - (a) applies to an irrigation company (**A**) in respect of specified equity securities, of which A is the issuer, to which clause 20 of Schedule 4 of the Act applies (the **relevant securities**); but
  - (b) only applies to A if, at the commencement date of this notice, no person holds specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person.
- (2) A is exempted (in respect of the relevant securities) from—
  - (a) subpart 4 of Part 3 of the Act:
  - (b) sections 218 and 227 of the Act and regulation 108 of the Regulations.
- (3) The exemptions in subclause (2) stop applying if 1 or more persons hold specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person.
- (4) In this clause,—
  - (a) a reference to specified equity securities held by a person includes all specified equity securities held by associated persons of the person:
  - (b) a reference to amounts paid or payable by a person for specified equity securities—
    - (i) includes amounts paid or payable for specified equity securities by associated persons of the person:
    - (ii) includes amounts that may be or may become payable:



- (iii) does not include any fees or charges.

## **18 Condition of exemptions in clause 17**

- (1) The exemptions in clause 17 are subject to the condition that, no later than 3 months after the commencement date of this notice, A sends to each holder of 1 or more relevant securities (at the holder's last known address) a written notice containing, in a prominent position, a statement in the following form:

“You hold [*description of relevant securities*] in [*name of irrigation company*]. These shares were offered to shareholders under the Securities Act 1978.

After [*specify the effective date*], the shares became subject to ongoing requirements under the Financial Markets Conduct Act 2013 (the **FMC Act**). However, an exemption notice called the Financial Markets Conduct (Irrigation Companies) Exemption Notice 2018 (the **exemption notice**) now applies. The effect of the exemption notice is that the standard regime of the FMC Act relating to ongoing disclosure, governance, and financial reporting will not apply to these shares.

As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

If you would like any further information, please contact [*contact details of irrigation company*].”

- (2) For the purposes of this clause, **relevant securities** has the meaning set out in clause 17(1).

## **19 Application of exemptions in clauses 20 and 22**

The exemptions in clauses 20 and 22 apply to the following accounting periods of an irrigation company that relies on the exemption:

- (a) an accounting period of the irrigation company that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if the exemption is granted before the financial statements or group financial statements for that period would, but for the exemption, be required to be delivered to the Registrar for lodgement under section 461H of the Act; and
- (b) subsequent accounting periods.

## **20 Exemption from financial reporting if particular investor investment does not exceed \$5,000**

- (1) Every irrigation company (A) is exempted from Part 7 of the Act with respect to a particular accounting period if, at all times when A is an FMC reporting entity during that period, A is an FMC reporting entity only by virtue of specified equity securities issued by A being regulated products.

- (2) The exemption in subclause (1) does not apply if 1 or more persons holds, at any time during the accounting period, specified equity securities of A for which an amount of more than \$5,000 in total is paid or payable by the person.
- (3) In this clause,—
- (a) a reference to specified equity securities held by a person includes all specified equity securities held by associated persons of the person:
  - (b) in relation to specified equity securities, a reference to amounts paid or payable by a person for specified equity securities—
    - (i) includes amounts paid or payable for specified equity securities by associated persons of the person:
    - (ii) includes amounts that may be or may become payable:
    - (iii) does not include any fees or charges.

## 21 Condition of exemption in clause 20

The exemption in clause 20 is subject to the condition that A must ensure that a statement in the following form is included, in a prominent position, at the front of every document provided to an investor that contains A's financial statements or group financial statements or summary financial statements for that accounting period:

“You hold [*describe specified equity securities*] in [*name of irrigation company*].

The usual financial reporting and audit requirements under the Financial Markets Conduct Act 2013 (the **FMC Act**) do not apply to [*irrigation company's name*] for [*relevant accounting period*] because there is an exemption where the total amount invested by each investor in shares of an eligible irrigation company is \$5,000 or less.

As a result, these shares may be subject to the financial reporting and audit requirements of the Companies Act 1993 and the information provided in this document may not contain all the financial information usually required to be provided to shareholders for [*relevant accounting period*].

If you would like any further information, please contact [*contact details of irrigation company*].”

## 22 Exemption from financial reporting if revenue does not exceed \$2 million

Every irrigation company (A) is exempted from Part 7 of the Act with respect to a particular accounting period if—

- (a) A is an FMC reporting entity only by virtue of specified equity securities issued by A being regulated products; and
- (b) the total revenue of A and its subsidiaries (if any) for that accounting period (as determined in accordance with GAAP) does not exceed \$2 million.

## 23 Condition of exemption in clause 22

The exemption in clause 22 is subject to the condition that A must ensure that a statement in the following form is included, in a prominent position, at the front of every document provided to an investor that contains A's financial statements or group financial statements or summary financial statements for that accounting period:

“You hold [*describe specified equity securities*] in [*name of irrigation company*].

The Financial Markets Conduct Act 2013 (the **FMC Act**) applies to [*name of irrigation company*]. However, the usual financial reporting and audit requirements under the FMC Act do not apply to [*irrigation company's name*] for [*relevant accounting period*] because there is an exemption for issuers of shares in eligible irrigation companies where the irrigation company group's annual revenue is \$2 million or less.

As a result, these shares may be subject to the financial reporting and audit requirements of the Companies Act 1993 and the information provided in this document may not contain all the financial information usually required to be provided to shareholders for [*relevant accounting period*].

If you would like any further information, please contact [*contact details of irrigation company*].”

## Schedule 1

### Replacement information under corresponding number to exempted clause of Schedule 3 of Regulations

cl 9(1)

#### 5 What is this?

The KIS must contain a statement in the following form:

“This is an offer of [*name of specified equity securities (for example, ordinary shares)*]. [*Name of specified equity securities*] give you a stake in the ownership of [*name of irrigation company*]. You could receive a return reflecting the performance of [*name of irrigation company*] through [*specify mechanism for receiving returns (for example, rebates)*].

If [*name of irrigation company*] runs into financial difficulties and is wound up, you will be paid only after all creditors [*\*and holders of preference shares*] have been paid. You may lose some or all of your investment.”

\*Omit the words “and holders of preference shares” if those words are inapplicable or may be false, misleading, deceptive, or confusing.

#### 12 Key risks affecting this investment

(1) The KIS must include a statement in the following form:

“*[Name of irrigation company]* considers that the most significant risk factors that could affect the returns received from holding these *[name of specified equity securities]* are: *[briefly summarise the most significant risk factors that the irrigation company considers may affect the returns]*.”

- (2) The brief summary under subclause (1) must include particulars that make it clear why each circumstance is of particular significance in relation to the particular irrigation company or the particular specified equity securities (as compared to other issuers or equity securities).
- (3) The KIS must include a statement in the following form after the statement in subclause (1):

“This summary does not cover all of the risks of investing in *[name of specified equity securities]*. You should also read *[references to section 8 of the PDS (risks to [name of issuing group]’s business and plans) and to other places in the PDS that describe risk factors (for example, risks arising for investors from the nature of the product)]*.”

## Schedule 2

### Contents of offer document

cl 15(a)

#### Offer document summary

The offer document must have sections that are headed up and ordered, and contain the information that must be contained under each heading, as follows:

#### 1 What is this?

The offer document must contain a statement in the following form:

“This is an offer of *[name of specified equity securities (for example, ordinary shares of ABC Limited)]*. *[Name of specified equity securities]* give you a stake in the ownership of *[name of irrigation company]*.

You may receive a return reflecting the performance of *[name of irrigation company]* through *[specify mechanism for receiving returns (for example, rebates)]*.

If *[name of irrigation company]* runs into financial difficulties and is wound up, you will be paid only after all creditors *[\*and holders of preference shares]* have been paid. You may lose some or all of your investment.”

\*Omit the words “and holders of preference shares” if those words are inapplicable or may be false, misleading, deceptive, or confusing.

**2 About [name of issuing group]**

The offer document must contain a brief description of the issuing group's business.

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**Example**

ABC Limited is an irrigation company providing irrigation services to fruit growers in XYZ region.

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**3 Purpose of this offer**

The offer document must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for).

**4 Key terms of the offer**

- (1) The offer document must contain the key terms of the offer briefly summarised in a table, including—
  - (a) a brief description of the specified equity securities being offered (for example, ordinary shares); and
  - (b) the fixed price of, or other fixed consideration for, the specified equity securities (if any) or the (fixed or indicative) range within which that price or consideration may be fixed (if any); and
  - (c) the intended dates on which the offer opens and closes; and
  - (d) the number or amount of the specified equity securities being offered and the percentage of the total specified equity securities of the same class on issue that that number or amount will represent immediately after the issue or sale; and
  - (e) if a holder of the specified equity securities will or may be liable to make further payments or to pay fees or charges relating to those securities, a brief description of the nature of the liability, fees, or charges.
- (2) Subclause (3) applies if either or both of the following apply:
  - (a) the specified equity securities will not be issued or transferred unless applications for a minimum number of those securities are received (the **minimum number**):
  - (b) there is a maximum number of specified equity securities being offered (the **maximum number**).
- (3) The information under subclause (1)(d) must be disclosed on the basis of the minimum number or the maximum number (or both), as the case may be.
- (4) Subclause (1)(d) does not apply to a continuous issue disclosure document.
- (5) In subclause (4), **continuous issue disclosure document** means an offer document that relates to specified equity securities that the irrigation company, in the ordinary course of its business, continuously offers.

## 5 How you can get your money out

- (1) The offer document must include whichever of the following statements best applies:
  - (a) “[Name of irrigation company] does not intend to quote these [name of specified equity securities] on a licensed market in New Zealand but they will be able to be traded on the [describe established market for trading]. This means you may be able to sell them on [name of established market] if there are interested buyers. You may get less than you invested. The price will depend on the demand for the [name of specified equity securities].”
  - (b) “[Name of irrigation company] does not intend to quote these [name of specified equity securities] on a market licensed in New Zealand, and there is no other established market for trading them. This means that you may not be able to sell your [name of specified equity securities].”
  - (c) “These [name of specified equity securities] cannot be sold or transferred.”
- (2) The offer document must contain a description of the ability to redeem the specified equity securities (if any).

## 6 Key drivers of returns

The offer document must give a brief summary of what the irrigation company considers to be—

- (a) the current and future aspects of the issuing group’s business that have, or may have, the most impact on the financial performance of the business; and
- (b) the key strategies and plans for those aspects of the business.

## 7 Key risks affecting this investment

- (1) The offer document must include a statement in the following form:

“[Name of irrigation company] considers that the most significant risk factors that could affect the returns received from holding these [name of specified equity securities] are: [briefly summarise the most significant risk factors that the irrigation company considers may affect the returns].

This summary does not cover all the risks of investing in [name of specified equity securities].”
- (2) The brief summary under subclause (1) must include particulars that make it clear why each circumstance is of particular significance in relation to the particular irrigation company or the particular specified equity securities (as compared to other issuers or equity securities).

## 8 *[Name of issuing group's]* financial information

The offer document must include a statement in the following form:

“Under the terms of the Financial Markets Conduct (Irrigation Companies) Exemption Notice 2018, on which this offer relies, no financial information regarding [*name of irrigation company*] is required to be provided.”

Dated at Auckland this 9th day of January 2018.

Nick Kynoch,  
General Counsel.

### Statement of reasons

This notice comes into force on 19 January 2018 and is revoked on the close of 31 December 2022.

This notice exempts certain irrigation companies operating under co-operative principles (an **eligible irrigation company**) from—

- certain disclosure requirements under Schedule 3 of the Financial Markets Conduct Regulations 2014 (the **Regulations**) in respect of the PDS for an offer of specified equity securities of which the irrigation company is the issuer. These particular exemptions apply regardless of the revenue of the irrigation company or aggregate per shareholder capital investment value, and provide eligible irrigation companies with similar relief to that provided under the Regulations to co-operative companies:
- in respect of any specified equity securities where the aggregate per shareholder capital investment in the specified equity securities of that issuer is \$5,000 or less,—
  - disclosure requirements under Part 3 of the Financial Markets Conduct Act 2013 (the **FMC Act**):
  - under Part 4 of the FMC Act, the requirement to have the register of specified equity securities audited and the requirement to retain copies of documents for 7 years:
- in respect of any specified equity securities that were offered under the Securities Act 1978 (the **relevant securities**), where the aggregate per shareholder capital investment in specified equity securities of that issuer is \$5,000 or less,—
  - ongoing disclosure requirements under subpart 4 of Part 3 of the FMC Act:

- under Part 4 of the FMC Act, the requirement to have the register of the relevant securities audited and the requirement to retain copies of documents for 7 years:
- financial reporting and auditing requirements under Part 7 of the FMC Act in relation to an accounting period where the aggregate per shareholder capital investment in the specified equity securities of that issuer held at all times during that period is \$5,000 or less:
- financial reporting and auditing requirements under Part 7 of the FMC Act in relation to any accounting period where the revenue of the issuer (plus the revenue of any subsidiaries) is \$2 million or less for that accounting period.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the FMC Act, considers it appropriate to grant the exemptions because—

- the exemptions are only available to those irrigation companies that exhibit key features of co-operative companies. Specifically,—
  - the company’s principal purpose is to enable shareholders to transact business with the company, or obtain goods, services, or rights (other than returns) from the company; and
  - the company’s shares are limited to specified equity securities, which are non-convertible shares that can only be held by transacting shareholders; and
- the exemptions include exemptions from disclosure obligations. Investors in specified equity securities will typically have significant knowledge about the eligible irrigation company and the irrigation services to be provided; and
- larger irrigation companies that have key features of a co-operative company will be able to utilise similar disclosure relief to that provided in the Regulations for co-operative companies. This will significantly reduce costs for these irrigation companies, particularly given that much of the accounting and financial information required to be disclosed is not relevant to an offer of specified equity securities in an irrigation company or is difficult and costly for irrigation companies to supply; and
- the reduced, tailored disclosure and financial reporting obligations will enable eligible irrigation companies to provide relevant information to investors in specified equity securities in a cost-effective way that is appropriate to the nature of the business while maintaining appropriate investor protections; and
- for smaller eligible irrigation companies, compliance costs for financial reporting and auditing obligations are disproportionately high when compared to revenue and outweigh any benefit to investors in specified equity securities. There is a risk that these compliance costs might affect an eligible irrigation company’s ability to deliver benefits to holders of specified equity securities; and



- there is no expectation of financial return from ownership of specified equity securities. Transacting benefits obtained by holders of specified equity securities are not in the nature of typical equity returns and are irrespective of any profits made by the irrigation company. Additionally, the small investment and low revenue tests ensure that the financial risk to investors is low; and
- the financial reporting and auditing requirements of the Companies Act 1993 will continue to apply, which will require eligible irrigation companies to prepare financial statements in accordance with generally accepted accounting practice and have those statements audited unless shareholders agree otherwise; and
- for these reasons, the FMA is satisfied that the exemptions are desirable in order to promote the purposes of the FMC Act, specifically avoiding unnecessary compliance costs while continuing to ensure the provision of timely, accurate, and understandable financial information to assist decision making by investors; and
- the FMA is satisfied that the exemptions are not broader than reasonably necessary to address the matters that gave rise to them, given that the exemptions are limited to eligible irrigation companies whose shareholding is limited to specified equity securities and whose principal activity, as stated in their constitutions, is to manage and operate, under co-operative principles, shared infrastructure to effect irrigation. Further, much of the relief would be limited to those irrigation companies with an aggregate per shareholder capital investment of \$5,000 or less, or revenue of \$2 million or less, for the relevant financial reporting period.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 11 January 2018.

## Notes

### **1** *General*

This is a consolidation of the Financial Markets Conduct (Irrigation Companies) Exemption Notice 2018 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 Conduct (Irrigation Companies) Exemption Notice 2018 (LI 2018/2): clause 3