

Reprint
as at 1 June 2015



Financial Reporting Act (Kiwi Capital Management Limited) Exemption Notice 2010

(SR 2010/143)

Financial Reporting Act (Kiwi Capital Management Limited) Exemption Notice 2010: expired, on 1 June 2015, by clause 3.

Pursuant to section 4B of the Financial Reporting Act 1993, 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 Financial Reporting Act (Kiwi Capital Management Limited) Exemption Notice 2010.

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 May 2015.

4 Application

An exemption granted by this notice applies to the following accounting periods of Kiwi Capital Management Limited:

- (a) the accounting period ending on 30 June 2010; and
- (b) subsequent accounting periods.

5 Interpretation

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

Act means the Financial Reporting Act 1993

specified debt securities means perpetual callable non-cumulative preference shares being offered to the public by Kiwi Capital Securities Limited in an offer that opened on 8 April 2010.

- (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.

6 Exemption from section 4(1)(ba) of Act

Kiwi Capital Management Limited is exempt from being an issuer under section 4(1)(ba) of the Act in respect of the specified debt securities.

7 Conditions of exemption in clause 6

The exemption in clause 6 is subject to the following conditions:

- (a) the annual financial statements registered by Kiwi Capital Securities Limited must include statements advising investors—
 - (i) to refer to the financial statements of Kiwibank Limited in order to obtain the information required to evaluate the underlying risk of their investments; and
 - (ii) that the repayment of the specified debt securities is not guaranteed by Kiwibank Limited, New Zealand Post Limited, or any other person; and
- (b) Kiwi Capital Securities Limited must pay all the proceeds raised by the offer of the specified debt securities to Kiwi Capital Management Limited as a perpetual loan; and
- (c) Kiwi Capital Management Limited must use all the money paid as that perpetual loan to subscribe for perpetual non-cumulative preference shares to be issued by Kiwibank Limited to Kiwi Capital Management Limited; and

- (d) Kiwi Capital Management Limited's activities must at all times until the close of 31 May 2015 be limited to the matters referred to in paragraphs (b) and (c) and to actions that are consequential on those matters.

Dated at Wellington this 8th day of June 2010.

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

[Seal]

N O Todd,
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 the close of 31 May 2015, exempts Kiwi Capital Management Limited from being an issuer under section 4(1)(ba) of the Financial Reporting Act 1993 (the **Act**).

Kiwi Capital Management Limited would, but for this notice, be an issuer because it is to be a recipient of money from a conduit issuer (within the meaning of section 4A of the **Act**) by virtue of receiving 10% or more of the money to be raised by its wholly owned subsidiary, Kiwi Capital Securities Limited, by the issue of specified debt securities.

The Securities Commission considers that it is appropriate to grant the exemption for the following reasons:

- the conduit issuer provisions of the **Act** were introduced to require public reporting by entities that have the effective use of funds raised from the public;
- investors in the specified debt securities will not be disadvantaged by the exemption. Kiwi Capital Securities Limited (the issuer of the specified debt securities) is subject to reporting requirements under the **Act** as an issuer. Kiwi-bank Limited (the ultimate recipient of the funds from the offer of the specified debt securities) is subject to full and regular disclosure under the **Act** and the Reserve Bank of New Zealand Act 1989, and Kiwi Capital Management Limited will still be subject to the **Act** as a reporting entity;
- the annual financial statements registered by Kiwi Capital Securities Limited will include statements advising investors to refer to the financial statements of

Kiwibank Limited to enable them to obtain the information required to evaluate the underlying risk of their investments, and of the fact that the specified debt securities are not guaranteed by Kiwibank Limited, New Zealand Post Limited, or any other person.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 10 June 2010.

Reprints notes

1 *General*

This is a reprint of the Financial Reporting Act (Kiwi Capital Management Limited) Exemption Notice 2010 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*

Financial Reporting Act (Kiwi Capital Management Limited) Exemption Notice 2010 (SR 2010/143): clause 3