

**Reprint
as at 1 March 2009**



**Securities Act (Investment Adviser
Information) Exemption Notice
2008**

(SR 2008/47)

Securities Act (Investment Adviser Information) Exemption Notice 2008: expired, on 1 March 2009, by clause 3.

Pursuant to the Securities Act 1978, 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
5 Exemption from clause 1(1) of Schedule 3D of Regulations	2
6 Condition	2

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This notice is administered by the Securities Commission.

3

Schedule
**Alternative information at front of investment
statement**

Notice

- 1 Title**
This notice is the Securities Act (Investment Adviser Information) 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 28 February 2009.
- 4 Interpretation**

 - (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
Regulations means the Securities Regulations 1983.
 - (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 clause 1(1) of Schedule 3D of Regulations**
Every issuer and every person acting on its behalf are exempted, in respect of an investment statement dated on or after 29 February 2008, from clause 1(1) of Schedule 3D of the Regulations to the extent that it requires the statement set out at the front of the investment statement to contain the heading **Choosing an investment adviser** and all of the words below that heading.
- 6 Condition**
The exemption in clause 5 is subject to the condition that, in place of the heading **Choosing an investment adviser** and all of the words below that heading, the statement required by

clause 1(1) of Schedule 3D of the Regulations contains the heading and words set out in the Schedule.

Schedule
**Alternative information at front of
investment statement**

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Engaging an investment adviser

An investment adviser must give you a written statement that contains information about the adviser and his or her ability to give advice. You are strongly encouraged to read that document and consider the information in it when deciding whether or not to engage an adviser.

Tell the adviser what the purpose of your investment is. This is important because different investments are suitable for different purposes, and carry different levels of risk.

The written statement should contain important information about the adviser, including—

- relevant experience and qualifications, and whether dispute resolution facilities are available to you; and
- what types of investments the adviser gives advice about; and
- whether the advice is limited to investments offered by 1 or more particular financial institutions; and
- information that may be relevant to the adviser's character, including certain criminal convictions, bankruptcy, any adverse findings by a court against the adviser in a professional capacity, and whether the adviser has been expelled from, or prohibited from joining, a professional body; and
- any relationships likely to give rise to a conflict of interest.

The adviser must also tell you about fees and remuneration before giving you advice about an investment. The information about fees and remuneration must include—

- the nature and level of the fees you will be charged for receiving the advice; and
- whether the adviser will or may receive a commission or other benefit from advising you.

An investment adviser commits an offence if he or she does not provide you with the information required.

Dated at Wellington this 26th day of February 2008.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 28 February 2009.

The notice exempts issuers who make an offer of securities in respect of an investment statement dated on or after 29 February 2008 from the requirement in clause 1(1) of Schedule 3D of the Securities Regulations 1983 (**clause 1(1)**) to contain the prescribed information in the investment statement concerning investment advisers. Instead, the investment statement must contain information that is consistent with recent changes to the law relating to investment advisers' disclosure obligations.

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

- as of 29 February 2008, the law prescribing investment advisers' disclosure obligations will change:

- amendments to clause 1(1) that reflect that change have been recommended by the Commission and will come into force on a date yet to be ascertained:
- in the interim, there is a group of issuers who will provide investment statements to investors that are required to contain the prescribed out-of-date clause 1(1) information. Although this is not materially misleading, some issuers have indicated that they would like to provide investors with accurate information about investment advisers' disclosure obligations before the amendments to clause 1(1) come into force. The effect of the exemption is that issuers may choose to voluntarily include the new statement instead of the existing statement.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 28 February 2008.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 General**

This is a reprint of the Securities Act (Investment Adviser Information) Exemption Notice 2008. The reprint incorporates all the amendments to the notice as at 1 March 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/legislation/reprints.shtml>
or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Securities Act (Investment Adviser Information) Exemption Notice 2008 (SR 2008/47): clause 3
