

Reprint  
as at 11 December 2015



**Securities Act (Australia and New Zealand Banking  
Group Limited—Australian Bank Accounts) Exemption  
Notice 2010**  
(SR 2010/453)

Securities Act (Australia and New Zealand Banking Group Limited—Australian Bank Accounts) Exemption Notice 2010: expired, on 11 December 2015, 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).

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**Notice**

**1 Title**

This notice is the Securities Act (Australia and New Zealand Banking Group Limited—Australian Bank Accounts) Exemption Notice 2010.

**2 Commencement**

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

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**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 10 December 2015.

### 4 Interpretation

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

**Act** means the Securities Act 1978

**ANZ** means Australia and New Zealand Banking Group Limited, a company incorporated in Australia

**call account** means an account opened with ANZ by a subscriber in New Zealand for specified securities

**call debt security** means a debt security under which—

- (a) the security holder has a right to demand repayment of the principal sum in full at any time; and
- (b) the issuer has an obligation to repay the principal sum in full not later than 1 working day after such a demand is made; and
- (c) the rate of interest payable or any other benefit provided does not alter as a result of the demand being made; and
- (d) no fee or other amount is payable as a result of the principal sum not having been held by the issuer for a particular period of time

**investment grade credit rating** means a credit rating—

- (a) of BBB– or better by Standard & Poor’s or by Fitch Ratings; or
- (b) of Baa3 or better by Moody’s Investors Service

**Regulations** means the Securities Regulations 2009

**specified securities** means call debt securities offered by ANZ in New Zealand of which ANZ is the issuer.

- (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 section 33(1)(b) of Act

ANZ and every person acting on its behalf are exempted from section 33(1)(b) of the Act in respect of any advertisement relating to the specified securities.

### 6 Exemption from regulation 24 of Regulations

ANZ and every person acting on its behalf are exempted from regulation 24 of the Regulations in respect of an advertisement for specified securities.

### 7 Conditions of exemptions

- (1) The exemptions in clauses 5 and 6 are subject to the following conditions:

- (a) at the time the offer of specified securities is made and at the time of the allotment of the specified securities, ANZ must—
    - (i) be licensed or authorised by the central banking authority of the Commonwealth of Australia to carry on banking business in that jurisdiction; and
    - (ii) be a registered bank (as defined in the Act) in New Zealand; and
    - (iii) have an investment grade rating for its long-term senior unsecured obligations, and that credit rating must be available on the Internet site of ANZ:
  - (b) any advertisement in New Zealand for the specified securities must state—
    - (i) that the most recent published financial statements, annual report, and capital adequacy and risk disclosures of ANZ are publicly available; and
    - (ii) the Internet site where those documents can be obtained free of charge:
  - (c) at the time a call account is opened with ANZ, ANZ must provide the subscriber with a description of the terms and conditions and the fees and charges relating to the call account:
  - (d) at the time a call account is opened with ANZ and before the first allotment of specified securities to the subscriber in that account, the information specified in subclause (2) must be given to the subscriber.
- (2) The information referred to in subclause (1)(d), which must be set out under the heading “Important Information for New Zealand Depositors”, is as follows:
- (a) the name and address of ANZ:
  - (b) that ANZ is a company incorporated in Australia and therefore may not be subject in all respects to New Zealand law:
  - (c) that the call account with ANZ will be operated under the laws of the Commonwealth of Australia:
  - (d) that the call account is denominated in Australian dollars and may carry with it a currency risk:
  - (e) the Internet site where the most recent published financial statements, annual report, and capital adequacy and risk disclosures of ANZ can be obtained free of charge:
  - (f) the following, which must be set out under the subheading “Agreement as to Jurisdiction”:
    - (i) that, in respect of a dispute concerning the specified securities, ANZ—

- (A) agrees to submit to the non-exclusive jurisdiction of the New Zealand courts; and
- (B) has instructed the New Zealand agent for service referred to in subparagraph (iii) to accept service on behalf of ANZ; and
- (C) agrees that the statement is an agreement with each customer for the purposes of section 389(1)(e) of the Companies Act 1993:
  - (ii) that, despite the statements in subparagraph (i), the contract in respect of the securities may not always be enforceable in New Zealand courts:
  - (iii) the name and address for service of the person in New Zealand who has been appointed by ANZ to accept service in New Zealand of any document on its behalf.

Dated at Wellington this 7th day of December 2010.

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

[Seal]

Neville 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 10 December 2015, relates to an offer by Australia and New Zealand Banking Group Limited (ANZ) of call debt securities. The offer is to be made in New Zealand, but the call debt securities will be issued in Australia and the call accounts will be Australian accounts.

ANZ is a company registered in Australia and is also a registered bank in New Zealand.

As a registered bank, under section 33(1)(b) of the Securities Act 1978 (the **Act**) ANZ must make offers of securities in an authorised advertisement. Under regulation 24 of the Securities Regulations 2009, the advertisement must not be inconsistent with the disclosure statement, made pursuant to section 81 of the Reserve Bank of

New Zealand Act 1989, relating to the securities. This notice exempts ANZ from section 33(1)(b) of the Act and regulation 24, subject to conditions.

The disclosure statement produced by ANZ relates to ANZ's New Zealand business as a registered bank. However, in relation to the issue of the call debt securities referred to in this notice, it is information in relation to the Australian business of ANZ that is relevant to the investment, rather than information about ANZ's New Zealand business.

The Securities Commission considers that it is appropriate to grant the exemptions because—

- the Australian call debt securities to be offered by ANZ are transactional deposits, similar to call accounts offered by registered banks in New Zealand; and
- ANZ is licensed or otherwise authorised by the central banking authority in the Commonwealth of Australia to carry on banking business in that jurisdiction; and
- depositors at ANZ would have access to financial and other information about the Australian operations of ANZ that would allow them to assess the risks of opening such overseas call accounts and the financial strength of ANZ.

## Reprints notes

### **1**    *General*

This is a reprint of the Securities Act (Australia and New Zealand Banking Group Limited—Australian Bank Accounts) 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*

Securities Act (Australia and New Zealand Banking Group Limited—Australian Bank Accounts) Exemption Notice 2010 (SR 2010/453): clause 3