

Reprint
as at 1 July 2008

**Securities Act (ING (NZ)
Administration Pty Limited)
Exemption Notice 2005**

(SR 2005/38)

Securities Act (ING (NZ) Administration Pty Limited) Exemption Notice 2005:
expired, on 1 July 2008, 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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Note

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

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

This notice is administered by the Securities Commission.

1 Title

This notice is the Securities Act (ING (NZ) Administration Pty Limited) Exemption Notice 2005.

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 30 June 2008.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—
ING means ING (NZ) Administration Pty Limited, a company incorporated in Australia
Regulations means the Securities Regulations 1983
specified participatory securities means units in an Australian unit trust constituted under a master trust deed poll dated on or about 1 July 2003 and executed by ING.
- (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 7(5) of Schedule 3 of Regulations, and clause 4(1)(a) of Schedule 7 of Regulations

ING and every person acting on its behalf are exempted, in respect of the specified participatory securities, from—

- (a) clause 7(5) of Schedule 3 of the Regulations; and
- (b) clause 4(1)(a) of Schedule 7 of the Regulations.

Dated at Wellington this 28th day of February 2005.

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

J Diplock,
Chairperson.

[LS]

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 30 June 2008, exempts ING (NZ) Administration Pty Limited (ING) from—

- clause 7(5) of Schedule 3 of the Securities Regulations 1983 (the Regulations). This means ING does not have to include a prospective statement of cash flows in its registered prospectus; and
- clause 4(1)(a) of Schedule 7 of the Regulations. This means ING does not have to hold annual meetings to consider the unit trust's financial statements.

The Securities Commission considers that it is appropriate to grant the exemption from clause 7(5) of Schedule 3 of the Regulations because the unit trust's fund invests in market securities for which meaningful forecasts are very difficult to achieve.

The Commission considers that it is appropriate to grant the exemption from clause 4(1)(a) of Schedule 7 of the Regulations because—

- Australian unit trusts appear to be more akin to a New Zealand unit trust than they are to other participatory schemes. New Zealand unit trusts are not subject to an equivalent obligation; and
- the costs of holding a meeting to approve the financial statements appear to outweigh the benefits to unit holders; and
- the statutory supervisor and holders of one-tenth or more of the issued units are still able to call a meeting under clause 4(1)(a) and clause 4(2) of Schedule 7 of the Regulations to give opinions or directions in relation to the exercise of the statutory supervisor's powers; and
- the exemption is in accordance with previous Commission decisions.

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Notes**1 General**

This is an eprint of the Securities Act (ING (NZ) Administration Pty Limited) Exemption Notice 2005. It incorporates all the amendments to the Securities Act (ING (NZ) Administration Pty Limited) Exemption Notice 2005 as at 1 July 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 4 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

**3 List of amendments incorporated in this eprint
(most recent first)**
