

Reprint  
as at 1 December 2015



**Securities Act (Registered Banks Futures Contracts)  
Exemption Amendment Notice 2011**  
(SR 2011/239)

Securities Act (Registered Banks Futures Contracts) Exemption Amendment Notice 2011: revoked, on 1 December 2015, pursuant to clause 3(b) of the Securities Act (Revocation of Certain Futures Contracts Exemptions) Notice 2015 (LI 2015/234).

Pursuant to sections 70B and 70D of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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**Notice**

**1 Title**

This notice is the Securities Act (Registered Banks Futures Contracts) Exemption Amendment Notice 2011.

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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.**

**2 Commencement**

This notice comes into force on 1 July 2011.

**3 Principal notice amended**

This notice amends the Securities Act (Registered Banks Futures Contracts) Exemption Notice 2007.

**4 Interpretation**

Clause 4(1) is amended by revoking the definition of **Regulations** and substituting the following definition:

**Regulations** means the Securities Regulations 2009

**5 Exemptions**

Clause 5(b) is amended by omitting “regulation 8” and substituting “regulation 23”.

**6 New Schedule substituted**

The Schedule is revoked and the Schedule set out in the Schedule of this notice substituted.

**7 Transitional provision**

- (1) A registered bank may, for the purposes of clause 7(1)(c) of the principal notice, include at the front of a disclosure document a statement in the form set out in either of the following if the disclosure statement is dated before 1 August 2011:
  - (a) the Schedule of the principal notice as in force before 1 July 2011; or
  - (b) the Schedule of the principal notice as substituted by this notice.
- (2) However, a disclosure document provided to a person for the purposes of the principal notice after 31 December 2011 must include at the front of the disclosure document a statement in the form set out in the Schedule of the principal notice as substituted by this notice.

## Schedule New Schedule substituted

cl 6

### Schedule Form of disclosure information that must be included at front of disclosure document

cl 7(1)(c)

**Important information:** The information in this section is required under the Securities Act (Registered Banks Futures Contracts) Exemption Notice 2007.

Decisions to enter into derivative or futures contracts are very important. They often have significant consequences. Read all documents carefully. Ask questions. Seek independent advice before committing yourself.

#### Choosing a product

When deciding whether to enter into a derivative or futures contract, consider carefully the information under the following headings that can be found on the pages noted below:

*[Table of contents to be included here, including headings to assist the reader to identify the information that is disclosed for the purpose of complying with clause 7(1)(e) of the exemption notice]*

In addition to the information in this document, important information can be found in the current disclosure statement of [*registered bank's name to be included here*] that is published pursuant to the Reserve Bank of New Zealand Act 1989. You are entitled to a copy of that disclosure statement on request.

#### Financial advisers can help you make financial decisions

Using a financial adviser cannot prevent you from losing money, but it should help you make better decisions about entering into derivative or futures contracts.

Tell the financial adviser what your purpose in entering into derivative or futures contracts is. This is important because different derivative and futures contracts are suitable for different purposes.

A person advising you on derivative or futures contracts should be either—

- an entity that is authorised to carry on the business of dealing in futures contracts (**authorised futures dealer**), including an employee of the authorised futures dealer; or
- a financial adviser.

Financial advisers are regulated by the Financial Markets Authority to varying levels, depending on the type of adviser and the nature of the services they provide. Some financial advisers are only allowed to provide advice on a limited range of products.

When seeking or receiving advice on derivative or futures contracts, you should check—

- the type of adviser you are dealing with:
- the services the adviser can provide you with:
- the products the adviser can advise you on.

A financial adviser who provides you with personalised financial adviser services may be required to give you a disclosure statement covering these and other matters. When dealing with an authorised futures dealer, you should ask about these matters. You should also ask your adviser about how he or she is paid and any conflicts of interest he or she may have.

Financial advisers (or the financial service provider they work for) and authorised futures dealers should have a complaints process in place and must also belong to a dispute resolution scheme if they provide services to retail clients. So if there is a dispute over a service that has been provided, you can ask someone who is independent to resolve it.

Most financial advisers (or the financial service provider they work for) and authorised futures dealers must also be registered on the financial service providers register. You can search for information about registered financial service providers at <http://www.fspr.govt.nz>

You can also complain to the Financial Markets Authority if you have concerns about the behaviour of an authorised futures dealer or a financial adviser.

#### **The Financial Markets Authority regulates conduct in financial markets**

The Financial Markets Authority regulates conduct in New Zealand's financial markets. The Financial Markets Authority's main objective is to promote and facilitate the development of fair, efficient, and transparent financial markets.

For more information about investing and financial advisers, go to <http://www.fma.govt.nz>

Dated at Wellington this 28th day of June 2011.

Sean Hughes,  
Chief Executive.

### **Statement of reasons**

This notice, which comes into force on 1 July 2011, amends the Securities Act (Registered Banks Futures Contracts) Exemption Notice 2007 by—

- updating references to the Securities Regulations 1983 with references to the Securities Regulations 2009; and
- amending the information that must be included in a disclosure document under the principal notice in line with the requirements in the Financial Advisers Act 2008 that will come into force on 1 July 2011.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers it appropriate to amend the principal notice because—

- the principal notice was granted in conjunction with a futures dealer authorisation under the Securities Markets Act 1988 (the **authorisation notice**). The principal notice and the authorisation notice together provide clarity as to the regulatory treatment of certain derivative products and give registered banks greater certainty about their obligations when offering and dealing in these products:
- the principal notice also assists members of the public who may wish to subscribe for these derivative products by requiring registered banks relying on it to provide investors with a disclosure document that is aimed at the prudent but non-expert investor, and that clearly explains the products being offered and the risks and potential benefits of acquiring these products:
- the disclosure document must contain a prescribed statement containing information about choosing an investment adviser. The legal requirements imposed on financial advisers change on 1 July 2011. It is appropriate to update the prescribed statement to reflect these new legal requirements:
- the principal notice, as amended, will not cause significant detriment to subscribers for the securities to which the exemptions relate. Rather, subscribers who are members of the public will receive tailored disclosure that is more appropriate for the products being offered than an investment statement would be:
- the principal notice, as amended, is not broader than is reasonably necessary to address the matters that gave rise to the exemptions because the exemptions are limited to classes of contracts for which the standard Securities Act 1978 disclosure is not appropriate, and the conditions provide for alternative disclosure that is more appropriate for derivative products.

## Reprints notes

### **1** *General*

This is a reprint of the Securities Act (Registered Banks Futures Contracts) Exemption Amendment Notice 2011 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 (Revocation of Certain Futures Contracts Exemptions) Notice 2015 (LI 2015/234): clause 3(b)