

**Reprint
as at 1 December 2012**



**Securities Act (Fonterra
Co-operative Group Limited)
Exemption Notice 2003**

(SR 2003/397)

Securities Act (Fonterra Co-operative Group Limited) Exemption Notice 2003:
expired, on 1 December 2012, by clause 3.

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice.

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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 Financial Markets Authority.

Notice

1 Title

This notice is the Securities Act (Fonterra Co-operative Group Limited) Exemption Notice 2003.

2 Commencement

This notice comes into force on 1 January 2004.

3 Expiry

This notice expires on the close of 30 November 2012.

Clause 3: amended, on 21 September 2007, by clause 3 of the Securities Act (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277).

4 Interpretation

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

Act means the Securities Act 1978

capital notes has the same meaning as in section 5(1) of the Dairy Industry Restructuring Act 2001

Fonterra means Fonterra Co-operative Group Limited

Fonterra group means Fonterra and its subsidiaries

Regulations means the Securities Regulations 1983

specified debt securities means debt securities offered by Fonterra to supplying shareholders

specified equity securities means equity securities offered by Fonterra to supplying shareholders

supplying shareholder means any person who is, or is to be, a supplying shareholder of Fonterra within the meaning of Part 3 of the Co-operative Companies Act 1996.

(2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the meaning given to it by the Act or the Regulations.

Clause 4(1) **Fonterra constitution**: revoked, on 21 September 2007, by clause 3 of the Securities Act (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277).

5 Exemptions

- (1) Fonterra and every person acting on its behalf are exempted from—
- (a) section 37A(1)(a) of the Act in respect of specified equity securities and specified debt securities; and
 - (b) section 37A(1)(c) of the Act in respect of specified equity securities and specified debt securities; and
 - (c) *[Revoked]*
 - (d) section 54 of the Act in respect of specified equity securities and specified debt securities (other than capital notes); and
 - (e) clauses 1(4), 4 to 9, 11 to 20, 22 to 38, and 40 to 42 of Schedule 1 of the Regulations in respect of specified equity securities; and
 - (f) clauses 5 to 11, 15 to 32, and 34 to 36 of Schedule 2 of the Regulations in respect of specified debt securities.
- (2) However,—
- (a) the exemption from clause 40 of Schedule 1 of the Regulations does not apply to a first offer to the public of a class of equity securities of Fonterra; and
 - (b) the exemption from clause 34 of Schedule 2 of the Regulations does not apply to a first offer to the public of a class of debt securities of Fonterra.

Clause 5(1)(c): revoked, on 21 September 2007, by clause 3 of the Securities Act (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277).

6 Condition that securities allotted only to supplying shareholders

The exemptions in clause 5 are subject to the condition that the securities are allotted only to persons who are, or after allotment will be, supplying shareholders of Fonterra.

7 Conditions about investment statement

The exemption in clause 5(1)(a) is subject to the conditions that—

- (a) an investment statement is sent to every person who requests it, within 5 working days of receipt by Fonterra of the request; and

- (b) an investment statement is sent to every person who applies to become a supplying shareholder within 5 working days of receipt of the application; and
- (c) the investment statement is available on Fonterra's website; and
- (d) the investment statement contains a reasonably prominent statement that every applicant for securities who did not receive an investment statement before applying for the securities may, within 10 working days of the date on which the investment statement is sent to the applicant, withdraw their application by written notice to Fonterra.

8 Condition that directors' statement must be attached to investment statement

- (1) The exemptions in clause 5(1)(b), (e), and (f) are subject to the condition that every copy of the investment statement that is sent or made available more than 9 months after the date of Fonterra's most recent statement of financial position registered under the Financial Reporting Act 1993 has attached to it (or contained in it) a statement—
 - (a) that is dated 9 months after the date of that statement of financial position; and
 - (b) that is signed by each of Fonterra's directors (or his or her agent who has been authorised in writing).
- (2) The statement must contain the following matters:
 - (a) particulars of any material matters relating to the offer of securities other than—
 - (i) matters set out elsewhere in the investment statement, registered prospectus, or most recent financial statements; and
 - (ii) contracts entered into in the ordinary course of business; and
 - (b) a statement as to whether, after due inquiry by them in relation to the period between the date of the most recent statement of financial position and the date of the directors' statement referred to in this clause, there have, in their opinion, arisen any circumstances that materially adversely affect—

- (i) Fonterra's trading and profitability; or
- (ii) the value of Fonterra's assets; or
- (iii) Fonterra's ability to pay its liabilities due within the next 12 months.

9 Conditions about financial statements

The exemption in clause 5(1)(b) is subject to the conditions that—

- (a) a copy of the most recent audited consolidated financial statements of Fonterra and the Fonterra group, being financial statements that comply with the Financial Reporting Act 1993, is attached to, or contained in, every copy of the registered prospectus sent to a person under section 54B of the Act; and
- (b) a copy of the interim financial statements for the most recently completed financial half-year of the Fonterra group, being interim financial statements that comply with the Financial Reporting Act 1993, is attached to, or contained in, every copy of the registered prospectus sent to a person under section 54B of the Act if the specified equity securities or specified debt securities are offered more than 9 months after the date of the most recent audited financial statements of the Fonterra group.

Clause 9: amended, on 21 September 2007, by clause 3 of the Securities Act (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277).

10 Condition about statement of shareholding in lieu of certificate evidencing securities

The exemption in clause 5(1)(d) is subject to the condition that Fonterra sends to each supplying shareholder annually a written statement that sets out—

- (a) the class or classes of specified equity securities and specified debt securities (other than capital notes) held by that shareholder; and
- (b) the number of securities in each class held by that shareholder.

11 Class notice does not apply

The Securities Act (Co-operative Companies) Exemption Notice 2002 (SR 2002/403) does not apply to Fonterra in respect of specified equity securities or specified debt securities.

Dated at Wellington this 16th day of December 2003.

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

[Seal]

M Chen,
Member.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 18 December 2003.

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Notes

1 *General*

This is a reprint of the Securities Act (Fonterra Co-operative Group Limited) Exemption Notice 2003. The reprint incorporates all the amendments to the notice as at 1 December 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

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/editorial-conventions/> or Part 8 of the *Tables of New Zealand 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 (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277): clause 3

Securities Act (Fonterra Co-operative Group Limited) Exemption Notice 2003 (SR 2003/397): clause 3
