

Reprint
as at 1 April 2011

Securities Act (Takeovers)
Exemption Amendment Notice
2004

(SR 2004/393)

Securities Act (Takeovers) Exemption Amendment Notice 2004: revoked, on 1 April 2011, pursuant to clause 20 of the Securities Act (Takeovers) Exemption Notice 2011 (SR 2011/63).

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.

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Notice

1 Title

- (1) This notice is the Securities Act (Takeovers) Exemption Amendment Notice 2004.
- (2) In this notice, the Securities Act (Takeovers) Exemption Notice 2001 (SR 2001/217) is called the “principal notice”.

2 Commencement

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

3 Interpretation

- (1) Clause 4(1) of the principal notice is amended by omitting from the definitions of **annual report**, **half-yearly report**, and **interim report** the words “equity security holders of the issuer”, and substituting in each case the words “holders of

securities of the issuer that are quoted on a securities market operated by New Zealand Exchange Limited”.

- (2) Clause 4(1) of the principal notice is amended by revoking the definition of **Exchange**, and substituting the following definition:

“**Exchange** means any securities market operated by New Zealand Exchange Limited.”.

- (3) Clause 4(1) of the principal notice is amended by revoking the definition of **listed company**, and substituting the following definitions:

“**listed company** means a company that is a party to a listing agreement with New Zealand Exchange Limited

“**listed unit trust** means a unit trust if the manager of that trust is a party to a listing agreement with New Zealand Exchange Limited under which the securities of the trust are, or are to be, quoted”.

- (4) Clause 4(1) of the principal notice is amended by revoking the definition of **quoted securities**, and substituting the following definition:

“**quoted securities** means equity securities, debt securities, or units in a unit trust that—

“(a) are issued by a listed company or by a manager of a listed unit trust: and

“(b) have been quoted on the Exchange continuously for at least 12 months before the making of a code offer or belong, or will when issued belong, to a class of equity securities, debt securities, or units in a unit trust that has been quoted on the Exchange continuously for at least 12 months before the making of a code offer: and

“(c) are offered as consideration or part consideration for a code offer”.

- (5) Clause 4(1) of the principal notice is amended by revoking the definition of **unquoted securities**, and substituting the following definition:

“**unquoted securities** means equity securities, debt securities, or units in a unit trust, other than quoted securities, that are offered as consideration or part consideration for a code offer”.

4 New Part 2 heading substituted

The principal notice is amended by revoking the Part 2 heading, and substituting the following heading:

**“Part 2
“Exemption from regulation 3(1), (2),
and (4) of Securities Regulations 1983 for
quoted securities”.**

5 Application of this Part

Clause 5 of the principal notice is amended by omitting the words “that are equity securities or debt securities and that are offered as consideration or part consideration for a code offer”.

6 New clause 7A inserted

The principal notice is amended by inserting, after clause 7, the following clause:

“7A Exemption from Schedule 3A of Securities Regulations 1983 for issuers of quoted units in unit trust

Every issuer and every person acting on its behalf are exempted from regulation 3(4) of the Regulations in the case of quoted securities that are units in a unit trust”.

7 Conditions

Clause 8 of the principal notice is amended by inserting, after the words “The exemptions”, the words “in this Part”.

8 New Part 3 heading substituted

The principal notice is amended by revoking the Part 3 heading, and substituting the following heading:

**“Part 3
“Exemption from certain provisions of
Schedule 1, Schedule 2, and Schedule**

3A of Securities Regulations 1983 for unquoted securities”.

9 Application of this Part

Clause 9 of the principal notice is amended by omitting the words “that are equity securities or debt securities and that are offered as consideration or part consideration for a code offer”.

10 Conditions

Clause 11(1) of the principal notice is amended by omitting the expression “clause 5”, and substituting the words “[specify clause or paragraph reference]”.

11 Conditions

Clause 13(1) of the principal notice is amended by omitting the expression “clause 5”, and substituting the words “[specify clause or paragraph reference]”.

12 New clauses 13A and 13B inserted

The principal notice is amended by inserting, after clause 13, the following clauses:

“13A Exemption from certain provisions of Schedule 3A of Securities Regulations 1983 for issuers of unquoted units in unit trust

Every issuer and every person acting on its behalf are exempted from the following provisions of Schedule 3A of the Regulations in the case of unquoted securities that are units in a unit trust:

“(a) clause 1(6):

“(b) clause 9(3)(b) to the extent that that paragraph relates to the target company.

“13B Conditions

“(1) The exemption from clause 1(6) of Schedule 3A of the Regulations is subject to the condition that the registered prospectus for the unquoted securities contains the following statement:

“ ‘Information about the price or other consideration to be paid or provided for the securities is contained in [specify clause or

paragraph reference] of the takeover offer document for this offer.’

- “(2) The exemption from clause 9(3)(b) of Schedule 3A of the Regulations is subject to the conditions that—
- “(a) the registered prospectus for the unquoted securities contains all the information required under clause 9(3)(c) to (e) of that schedule relating to the target company that is within the knowledge, possession, or control of the issuer and that is not already contained in the offer document; and
 - “(b) the registered prospectus for the unquoted securities specifies the information required under clause 9(3)(c) to (e) of that schedule relating to the target company that is contained in the offer document together with cross-references; and
 - “(c) the registered prospectus for the unquoted securities specifies the information required under clause 9(3)(c) to (e) of that schedule relating to the target company that is not contained in the registered prospectus or the offer document and states the reasons for not including that information in those documents.
- “(3) The exemptions from clauses 1(6) and 9(3)(b) of Schedule 3A of the Regulations are subject to the condition that the registered prospectus for the offer of unquoted securities accompanies the takeover notice when it is provided to the target company under rule 41 of the Code.”

13 Heading to Part 4 amended

The principal notice is amended by omitting the words “equity and debt” from the heading to Part 4.

14 Application of this Part

Clause 14 of the principal notice is amended by omitting the words “quoted and unquoted equity and debt securities that are offered as consideration or part consideration for a code offer”, and substituting the words “quoted securities and unquoted securities”.

15 Exemption from clauses 1(1) and 5 of Schedule 3D of Securities Regulations 1983 for issuers of quoted and unquoted equity and debt securities

- (1) The heading to clause 15 of the principal notice is amended by omitting the words “equity and debt”.
- (2) Clause 15(1) of the principal notice is amended by omitting the words “quoted or unquoted equity or debt securities”, and substituting the words “quoted securities or unquoted securities”.
- (3) Clause 15(2) of the principal notice is amended by omitting the words “quoted and unquoted equity or debt securities”, and substituting the words “quoted securities or unquoted securities”.

16 Conditions

Clause 16(2) of the principal notice is amended by omitting from paragraphs (a) and (c) the words “quoted or unquoted equity or debt securities”, and substituting in each case the words “quoted securities or unquoted securities”.

Dated at Wellington this 9th day of November 2004.

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

[Seal]

CAN Beyer,
Member.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the Gazette, amends the Securities Act (Takeovers) Exemption Notice 2001 (the “principal notice”).

The principal notice exempts issuers of quoted and unquoted equity and debt securities offered as consideration or part of the consideration for a takeover under the Takeovers Code from compliance with certain provisions of the Securities Regulations 1983.

This notice extends the exemptions in the principal notice to apply to issuers offering quoted and unquoted units in a unit trust. The notice also updates the definition of **Exchange**.

The Securities Commission considers that it is appropriate to extend the exemptions in the principal notice to quoted and unquoted units in a unit trust because—

- units in a unit trust that are offered as consideration for a scrip offer are subject to disclosure requirements similar to those for debt or equity securities: and
- if issuers of units in a unit trust are able to take advantage of the exemptions in the principal notice, there will be a decrease in the duplication of information to be provided by those issuers and, therefore, a reduction in compliance costs.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in Gazette: 11 November 2004.

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 - 2 About this eprint
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Notes

1 *General*

This is an eprint of the Securities Act (Takeovers) Exemption Amendment Notice 2004. The eprint incorporates all the amendments to the notice as at 1 April 2011. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 20 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

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

Securities Act (Takeovers) Exemption Notice 2011 (SR 2011/63): clause 20
