

**Reprint  
as at 1 November 2014**



**Securities Act (Meridian Energy  
Limited) Exemption Notice 2009**

(SR 2009/327)

Securities Act (Meridian Energy Limited) Exemption Notice 2009: expired, on  
1 November 2014, 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 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.**

## Notice

### 1 Title

This notice is the Securities Act (Meridian Energy Limited) Exemption Notice 2009.

### 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 31 October 2014.

### 4 Interpretation

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

**Act** means the Securities Act 1978

**consolidated financial statements** means, at any date, the latest publicly available consolidated financial statements of the Meridian group, prepared—

- (a) in accordance with generally accepted accounting practice; and
- (b) on a basis consistent with the most recent audited consolidated financial statements of the Meridian group that have been presented to the House of Representatives, or published, under section 17 of the State-Owned Enterprises Act 1986

**guaranteeing group**, in relation to an offer of the specified debt securities, means the group comprising—

- (a) Meridian; and
- (b) every guaranteeing subsidiary

**Meridian** means Meridian Energy Limited

**Meridian group** means, at any time, Meridian and each of its subsidiaries and its associates (as determined in accordance with generally accepted accounting practice) at that time

**non-guaranteeing subsidiary**, in relation to an offer of the specified debt securities, means a subsidiary of Meridian that is not a guaranteeing subsidiary

**pro forma statement** means an unaudited pro forma statement showing the consolidated assets, less the consolidated liabilities, of the guaranteeing group as at the relevant date

**prospectus** means a registered prospectus for the offer of the specified debt securities

**Regulations** means the Securities Regulations 2009

**relevant date** means,—

- (a) for the purposes of clauses 6 and 8, the date of the most recent statement of financial position of the Meridian group; and
- (b) for the purposes of clause 10, the date of the most recent annual or half-yearly consolidated financial statements that are available when the request referred to in clause 10 is made

**specified debt securities**—

- (a) means the debt securities of which Meridian is the issuer that are issued after the commencement of this notice; and
  - (b) for the purposes of clauses 9 and 10, include debt securities offered under the Securities Act (Meridian Energy Limited) Exemption Notice 2008.
- (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 certain requirements relating to financial statements in prospectus**

Meridian and every person acting on its behalf are exempted, with respect to the specified debt securities, from clauses 8, 17, 18, and 22 of Schedule 2 of the Regulations to the extent that those clauses require information, statements, and other matters to be in respect of the group.

## **6 Conditions of exemptions in clause 5**

- (1) The exemptions in clause 5 are subject to the following conditions:
  - (a) the prospectus must contain the information, statements, and other matters referred to in clauses 8, 17,

and 22 of Schedule 2 of the Regulations applied as if references to the group were references to the Meridian group:

- (b) the financial statements for the Meridian group in respect of which information, statements, and other matters are included in the prospectus under paragraph (a) must have been included in audited financial statements that have been presented to the House of Representatives in accordance with section 17(2) of the State-Owned Enterprises Act 1986 or published in accordance with section 17(2A) of that Act:
- (c) if the prospectus includes an interim statement of financial position for the purposes of clause 18 of Schedule 2 of the Regulations,—
  - (i) the interim statement of financial position must comply with that clause applied as if references to the group were references to the Meridian group; and
  - (ii) the prospectus must include the information, statements, and other matters referred to in that clause applied as if references to the group were references to the Meridian group; and
  - (iii) the interim financial statements included in the prospectus must have been included in a half-yearly report that has been presented to the House of Representatives in accordance with section 17(4) of the State-Owned Enterprises Act 1986:
- (d) if a certificate is delivered to the Registrar for registration under section 37A(1A) of the Act in respect of the prospectus, the interim statement of financial position required by section 37A(1A)(d) of the Act must—
  - (i) comply with clause 18 of Schedule 2 of the Regulations applied as if references to the group were references to the Meridian group; and
  - (ii) have been included in a half-yearly report that has been presented to the House of Representatives in accordance with section 17(4) of the State-Owned Enterprises Act 1986:
- (e) the prospectus must contain the following:

- (i) a statement to the effect that the information, statements, and other matters that are contained or referred to in the prospectus under paragraphs (a) to (c) relate to the Meridian group rather than the guaranteeing group:
  - (ii) a statement listing or describing the members of the guaranteeing group as at the relevant date:
  - (iii) a pro forma statement for the guaranteeing group:
  - (iv) a statement by the directors of Meridian of the aggregate amount of the total tangible assets of all the non-guaranteeing subsidiaries (excluding balances with other members of the Meridian group) as at the relevant date, and a statement that, on that date, this is not more than 20% of the total tangible assets of the Meridian group (excluding balances with other members of the Meridian group):
  - (v) a statement by the directors of Meridian of the aggregate amount of the consolidated profit or loss before interest and tax of all the non-guaranteeing subsidiaries for the accounting period ending on the relevant date, and a statement that this is not more than 10% of the aggregate consolidated profit or loss before interest and tax of the Meridian group for that period:
  - (vi) a statement by the directors of Meridian that they consider that the information, statements, and other matters referred to in paragraphs (a) to (c), when read together with the pro forma statement, provide a reasonable basis to assess the financial position of the guaranteeing group in relation to the specified debt securities.
- (2) The exemptions in clause 5 are subject to the further condition that, on the specified date and on any date on which a certificate is delivered to the Registrar for registration under section 37A(1A) of the Act in respect of the prospectus, the directors of Meridian are satisfied that—
- (a) the aggregate amount of the total tangible assets of all the non-guaranteeing subsidiaries (excluding balances

with other members of the Meridian group) is not material in comparison with the amount of total tangible assets of the Meridian group (excluding balances with other members of the Meridian group), given the level of total tangible assets permitted to remain outside the guaranteeing group as set out in subclause (1)(e)(iv); and

- (b) the aggregate amount of consolidated profit or loss before interest and tax of all non-guaranteeing subsidiaries for their most recently completed accounting period is not material in comparison with the amount of consolidated profit or loss before interest and tax of the Meridian group for that period, given the level of profit or loss permitted to remain outside the guaranteeing group as set out in subclause (1)(e)(v).

**7 Exemption from certain requirements relating to referring to assets in advertisements**

Meridian and every person acting on its behalf are exempted from regulation 26 of the Regulations with respect to advertisements for the specified debt securities.

**8 Conditions of exemption in clause 7**

The exemption in clause 7 is subject to the following conditions:

- (a) every advertisement for the specified debt securities that states the amount of assets, or net assets, of any person must comply with regulation 26 of the Regulations applied as if references to the borrowing group or group were references to the Meridian group:
- (b) every advertisement for the specified debt securities that states the amount of assets, or net assets, of any person must—
  - (i) contain a statement to the effect that the amount of the net assets, or the amounts of the total assets and total liabilities, stated in the advertisement refer to the amount of the net assets, or the amounts of the total assets and total liabilities, of

the Meridian group rather than the guaranteeing group:

- (ii) state the amount of the net assets, or the amounts of the total assets and total liabilities, of the guaranteeing group as at the relevant date, being in each case an amount or amounts derived from the pro forma statement contained in the prospectus:
- (iii) refer to this notice and contain a statement to the effect that more information on the exemptions in this notice is set out in the prospectus.

**9 Exemption from certain requirements relating to requests under section 54B(1) of Act**

Meridian and every person acting on its behalf are exempted from section 54B(1) of the Act to the extent that that provision requires Meridian to provide, at the request of a holder of specified debt securities, the most recent annual or half-yearly financial statements and other documents referred to in regulation 44(d)(ii) of the Regulations.

**10 Conditions of exemption in clause 9**

- (1) The exemption in clause 9 is subject to the condition that Meridian must, after receiving a request from a holder of specified debt securities for a copy of any documents referred to in regulation 44(d)(ii) of the Regulations, send to the holder—
  - (a) a copy of the most recent annual or half-yearly consolidated financial statements together with all documents that are required by any enactment or rule of law to be incorporated in, be attached to, or accompany those financial statements:
  - (b) a statement to the effect that the consolidated financial statements and other documents referred to in paragraph (a) are those of the Meridian group and not those of the guaranteeing group:
  - (c) a statement listing or describing the members of the guaranteeing group as at the relevant date:
  - (d) a pro forma statement for the guaranteeing group:
  - (e) a statement by the directors of Meridian of the aggregate amount of the total tangible assets of all the

- non-guaranteeing subsidiaries (excluding balances with other members of the Meridian group) as at the relevant date, and a statement that, on that date, this is not more than 20% of the total tangible assets of the Meridian group (excluding balances with other members of the Meridian group):
- (f) a statement by the directors of Meridian of the aggregate amount of the consolidated profit or loss before interest and tax of all the non-guaranteeing subsidiaries for the accounting period ending on the relevant date, and a statement that this is not more than 10% of the aggregate consolidated profit or loss before interest and tax of the Meridian group for that period:
  - (g) a statement by the directors of Meridian that they consider that the consolidated financial statements and other documents referred to in paragraph (a), when read together with the pro forma statement, provide a reasonable basis to assess the financial position of the guaranteeing group in relation to the specified debt securities.
- (2) The exemption in clause 9 is subject to the further condition that, on the date the consolidated financial statements and other documents referred to in subclause (1) are sent to the holder of specified debt securities, the directors of Meridian are satisfied that—
- (a) the aggregate amount of the total tangible assets of all the non-guaranteeing subsidiaries (excluding balances with other members of the Meridian group) is not material in comparison with the amount of total tangible assets of the Meridian group (excluding balances with other members of the Meridian group), given the level of total tangible assets permitted to remain outside the guaranteeing group as set out in subclause (1)(e); and
  - (b) the aggregate amount of consolidated profit or loss before interest and tax of all non-guaranteeing subsidiaries for their most recently completed accounting period is not material in comparison with the amount of consolidated profit or loss before interest and tax of the Meridian group for that period, given the level of profit or loss



permitted to remain outside the guaranteeing group as set out in subclause (1)(f).

- (3) The exemption in clause 9 is subject to the further condition that, when sending consolidated financial statements and other documents under subclause (1), Meridian—
- (a) must not require payment of any fee; and
  - (b) must comply with section 54B(2) of the Act.

## **11 Revocation**

The Securities Act (Meridian Energy Limited) Exemption Notice 2008 (SR 2008/436) is revoked.

Dated at Wellington this 27th day of October 2009.

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

[Seal]

J Diplock,  
Chairperson.

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## **Statement of reasons**

This notice, which comes into force on the day after its notification in the *Gazette* and expires on 31 October 2014, exempts Meridian Energy Limited (**Meridian**), subject to conditions, from—

- clauses 8, 17, 18, and 22 of Schedule 2 of the Securities Regulations 2009 to the extent that those clauses require financial statements and other matters to be in respect of the group

that comprises Meridian and its guaranteeing subsidiaries (the **guaranteeing group**); and

- regulation 26 of the Regulations (which relates to statements of assets in advertisements for securities); and
- section 54B(1) of the Securities Act 1978 to the extent that that provision requires Meridian to send, on the request of a security holder, a copy of certain annual or half-yearly financial statements.

This notice replaces the Securities Act (Meridian Energy Limited) Exemption Notice 2008. The main differences between that notice and this notice are as follows:

- this notice provides exemptions from the Securities Regulations 2009 rather than the Securities Regulations 1983;
- the policy of this notice is extended to cover interim financial statements;
- this notice provides a new exemption from regulation 26 of the Regulations.

The Securities Commission considers that it is appropriate to grant the exemptions for the following reasons:

- the exemptions that allow Meridian to use its consolidated group financial statements in its prospectus are of a similar effect to the exemptions granted to Meridian from provisions of the Securities Regulations 1983;
- Meridian does not currently prepare financial statements for the guaranteeing group. Preparing these financial statements would impose a significant cost, given the size of the group;
- the conditions of the exemptions require Meridian to provide prospective investors and security holders with financial information about the Meridian group (which comprises Meridian, its subsidiaries, and its associates), and significant financial information that is available to Meridian about the guaranteeing group. Further, restrictions are imposed on variations permitted between assets and profits or losses of the Meridian group and the guaranteeing group. In these circumstances, prospective investors and security holders will not be materially disadvantaged in assessing the ability of the guaranteeing group to meet the obligations due under the debt securities:

- it is appropriate that any statements about assets or net assets that are made in advertisements for the debt securities align with the financial information contained in the prospectuses for those securities.

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Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 29 October 2009.

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## Reprints notes

### **1** *General*

This is a reprint of the Securities Act (Meridian Energy Limited) Exemption Notice 2009 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 (Meridian Energy Limited) Exemption Notice 2009 (SR 2009/327): clause 3

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