

**Reprint
as at 1 October 2012**



**Securities Act (Banks) Exemption
Notice 2002**

(SR 2002/305)

Securities Act (Banks) Exemption Notice 2002: expired, on 1 October 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 Securities Commission.

Notice

1 Title

This notice is the Securities Act (Banks) Exemption Notice 2002.

2 Commencement

This notice comes into force on 1 October 2002.

3 Expiry

This notice expires on the close of 30 September 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

address means a postal or electronic address; and includes a Post Office box address, document exchange box number, fax number, and email address

bank means a registered bank within the meaning of section 2(1) of the Reserve Bank of New Zealand Act 1989

New Zealand division, in relation to an overseas bank, means the business of the bank carried on in or from New Zealand

overseas bank means a bank that is an overseas person licensed or authorised by the central banking authority of a country other than New Zealand to carry on banking business in that country

overseas person means—

(a) a body corporate incorporated outside New Zealand:

(b) an unincorporated body having its head office or principal place of business outside New Zealand

Regulations means the Securities Regulations 1983.

(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 section 37A(1)(a) of Act

Every bank and every person acting on its behalf are exempted from section 37A(1)(a) of the Act in respect of any debt securities offered by the bank and of which the bank is the issuer.

6 Conditions of exemption in clause 5

- (1) The exemption in clause 5 is subject to the condition that the bank must not allot a debt security unless the bank or any person acting on its behalf has sent an investment statement relating to the debt security, at least 3 working days before the subscriber subscribes for the debt security, to—
 - (a) an address specified by the subscriber for this purpose; or
 - (b) the last address of the subscriber known to the bank.
- (2) The exemption in clause 5 is subject to the further condition that, if an investment statement relating to the debt security is sent by—
 - (a) fax, the fax machine has generated a record of the transmission of the investment statement to the fax machine of the recipient; or
 - (b) other electronic means, the machine used to transmit the investment statement has not generated a record that the investment statement has failed to be transmitted.

7 Exemption from regulation 14(1) of Regulations

Every bank and every person acting on its behalf are exempted from regulation 14(1) of the Regulations in respect of any debt securities offered by the bank and of which the bank is the issuer.

8 Conditions of exemption in clause 7

- (1) The exemption in clause 7 is subject, in the case of a bank other than an overseas bank, to the condition that the aggregate amount of any debt securities that are secured by a mortgage or charge created by the bank over any of its assets and that rank or that will rank, after the allotment of the debt securities referred to in clause 7, in priority to those debt securities is not material in the context of the bank's overall business.

- (2) The exemption in clause 7 is subject, in the case of an overseas bank, to the condition that the aggregate amount of any debt securities that are secured by a mortgage or charge created by the overseas bank over any of the assets of the bank relating to its New Zealand division and that rank or that will rank, after the allotment of the debt securities referred to in clause 7, in priority to those debt securities is not material in the context of the overseas bank's New Zealand division.

9 Exemption from regulation 17 of Regulations

Every bank that, and every other person who, distributes an investment statement or other advertisement to the public relating to debt securities of which the bank is the issuer are exempted from regulation 17 of the Regulations in respect of the distribution of that advertisement.

10 Conditions of exemption in clause 9

- (1) The exemption in clause 9 is subject to the condition that the bank, at the time that the advertisement is distributed to the public, has completed a certificate relating to the advertisement that complies with subclause (2).
- (2) That certificate must be in the form set out in Schedule 4 of the Regulations and must be signed by 2 persons, being—
- (a) directors of the bank; or
 - (b) executive officers of the bank authorised by the directors of the bank to sign those certificates; or
 - (c) a director and an executive officer of the bank who is authorised by the directors of the bank to sign those certificates.
- (2A) Despite subclauses (1) and (2), if the advertisement refers to a Crown guarantee, the bank is relying on the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008 (the **2008 notice**) or the Securities Act (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010 (the **2010 notice**), and the certificate that relates to the advertisement complies with the condition in clause 7(5) of the 2008 notice or clause 7(5) or (6) of the 2010 notice, the certificate does not need to be in the form set out in Schedule 4 of the Regulations to the extent that the form requires certification

that the advertisement does not contain any matter that is inconsistent with the disclosure statement referred to in the advertisement.

- (3) The exemption in clause 9 is, in the case of a bank, subject to the condition that the bank holds the certificate for at least 12 months from the date of the last distribution of the advertisement to which it relates.
- (4) Nothing in clause 9 and subclauses (1) to (3) of this clause limits or affects regulation 17(3) of the Regulations except that, in the case of an advertisement for which a certificate has been completed in accordance with this clause, the reference in regulation 17(3)(c) of the Regulations to subclause (2) of that regulation must be read as a reference to subclause (2) of this clause.

Clause 10(2A): substituted, on 21 May 2010, by clause 13(2) of the Securities Act (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010 (SR 2010/120).

11 Exemption from clauses 16 and 17(1) of Schedule 3D of Regulations

Every bank and every person acting on its behalf are exempted from clauses 16 and 17(1) of Schedule 3D of the Regulations in respect of any debt securities of which the bank is the issuer.

12 Condition of exemption in clause 11

The exemption in clause 11 is subject to the condition that each investment statement for the debt securities contains—

- (a) a statement to the effect that enquiries and complaints about the debt securities can be made at any branch of the bank; and
- (b) descriptions of the officers or employees at branches of the bank to whom enquiries or complaints can be made.

13 Application of Act and Regulations to overseas banks limited to New Zealand business

- (1) Every overseas bank and every person acting on its behalf are exempted from the provisions of the Act and the Regulations in so far as those provisions require any investment statement or other advertisement that relates to debt securities of which

the overseas bank is the issuer to contain information, statements, or other matters that do not relate to the New Zealand division of the overseas bank.

- (2) For the purposes of subclause (1),—
- (a) the New Zealand division of an overseas bank must be treated as the only business carried on by the bank; and
 - (b) the property, rights, assets, and liabilities relating to the New Zealand division must be treated as the only property, rights, assets, and liabilities of the overseas bank.

Dated at Wellington this 17th day of September 2002.

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

[Seal]

J Diplock,
Chairperson.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 19 September 2002.

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Notes

1 *General*

This is a reprint of the Securities Act (Banks) Exemption Notice 2002. The reprint incorporates all the amendments to the notice as at 1 October 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 (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010 (SR 2010/120): clause 13

Securities Act (Extension of Term, Amendment, and Revocation of Certain Exemptions) Exemption Notice 2007 (SR 2007/277): clause 3

Securities Act (Banks) Exemption Notice 2002 (SR 2002/305): clause 3
