

**Reprint  
as at 1 December 2016**



## **Securities Act (Brokers) Exemption Notice 2012**

(SR 2012/289)

Securities Act (Brokers) Exemption Notice 2012: revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct Regulations 2014 (LI 2014/326).

Pursuant to section 70B 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).

### **Contents**

	Page
1 Title	1
2 Commencement	1
3 Expiry	1
4 Interpretation	1
3 Issuers exempted from regulation 30 of Regulations	2

### **Notice**

**1 Title**

This notice is the Securities Act (Brokers) Exemption Notice 2012.

**2 Commencement**

This notice comes into force on 1 October 2012.

**3 Expiry**

This notice expires on the close of 30 September 2017.

**4 Interpretation**

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

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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.**

**Act** means the Securities Act 1978

**broker** has the same meaning as in section 77A of the Financial Advisers Act 2008

**Regulations** means the Securities Regulations 2009.

- (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.

### **3 Issuers exempted from regulation 30 of Regulations**

Every issuer and every person acting on its behalf are exempted from regulation 30 of the Regulations in respect of any advertisement distributed by a broker on behalf of that issuer.

Dated at Wellington this 24th day of September 2012.

Sue Brown,  
Head of Primary Regulatory Operations.

### **Statement of reasons**

This notice, which comes into force on 1 October 2012 and expires on 30 September 2017, replaces the Securities Act (Sharebrokers) Exemption Notice 1984 (the **1984 notice**).

This notice exempts an issuer from regulation 30 of the Securities Regulations 2009 in respect of advertisements distributed on its behalf by a broker. Regulation 30 requires a certificate in relation to an advertisement.

The provisions of the 1984 notice have been carried forward with little change of substance. However, changes have been made to—

- refer to a broker (as defined in the Financial Advisers Act 2008) rather than a sharebroker; and
- refer to the Securities Regulations 2009 (rather than the Securities Regulations 1983).

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 grant the exemption because,—

- where a broker underwrites or is otherwise associated with the issue or the issuer, an offer of securities that is made in a broker's letter may be an advertisement (as defined in the Securities Act 1978). Accordingly, without an exemption, any such letter could not be distributed without prior submission to the is-

suer for review and the completion of an advertisement certificate. In providing relief from this requirement, the 1984 notice recognised that this is an impractical impediment to brokers communicating with their clients and the responsibilities brokers already have in relation to their clients:

- despite minor changes introduced by the Securities Regulations 2009 to advertising requirements, without an exemption, a certificate would still be required in these circumstances. Accordingly, this exemption continues to be required and remains appropriate in light of the policy of the notice:
- changes made in this notice also recognise the repeal of the Sharebrokers Act 1908 and the alternative relevance of the Financial Advisers Act 2008:
- given the limited application of the notice to advertisements distributed by brokers on behalf of an issuer, and the obligations imposed on brokers to their clients, the Financial Markets Authority considers that the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption and will not cause significant detriment to subscribers.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 27 September 2012.

## Reprints notes

### **1** *General*

This is a reprint of the Securities Act (Brokers) Exemption Notice 2012 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*

Financial Markets Conduct Regulations 2014 (LI 2014/326): Schedule 1 clause 26