

Reprint
as at 31 August 2008

**Securities Act (Onesource Holdings
N.Z. Limited and Leasing Solutions
Holdings Limited) Exemption
Notice 2006**

(SR 2006/223)

Securities Act (Onesource Holdings N.Z. Limited and Leasing Solutions Holdings Limited) Exemption Notice 2006: expired, on 31 August 2008, 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 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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1 Title

This notice is the Securities Act (Onesource Holdings N.Z. Limited and Leasing Solutions Holdings Limited) Exemption Notice 2006.

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 30 August 2008.

4 Interpretation

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

Act means the Securities Act 1978

eligible person means, in relation to each of Leasing and Onesource,—

- (a) an employee or director of the company or of any of its subsidiaries; or
- (b) a person who provides personal services (other than as an employee) principally to the company or any of its subsidiaries; or
- (c) a relative (as defined in the Act) or a de facto partner of a person described in paragraph (a) or (b); or

- (d) a trustee for a person described in paragraph (a), (b), or (c)

employee share purchase scheme means a scheme established by Leasing and Onesource under which eligible persons may acquire specified equity securities issued by those companies

FRS-24 means the financial reporting standard known as Financial Reporting Standard No 24 (Interim Financial Statements) that has been approved under the Financial Reporting Act 1993

Leasing means Leasing Solutions Holdings Limited

NZ IAS 34 means the financial reporting standard known as the New Zealand Equivalent to International Accounting Standard 34 (Interim Financial Reporting) that has been approved under the Financial Reporting Act 1993

Onesource means Onesource Holdings N.Z. Limited

Regulations means the Securities Regulations 1983

specified equity securities means any interest in or right to a stapled share offered under the employee share purchase scheme

stapled share means—

- (a) an ordinary share in Leasing stapled to an ordinary share in Onesource; or
- (b) an ordinary share in Onesource stapled to an ordinary share in Leasing.
- (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 Exemptions from section 37A(1)(c) of Act and clauses 1(3) and (4), 4 to 20, 22 to 38, and 40 to 42 of Schedule 1 of Regulations

Leasing and Onesource, any of their subsidiaries, a trustee of those companies' employee share purchase scheme, and any person acting on their behalf, are exempted from the following provisions in respect of specified equity securities:

- (a) section 37A(1)(c) of the Act; and

- (b) clauses 1(3) and (4), 4 to 20, 22 to 38, and 40 to 42 of Schedule 1 of the Regulations.

6 Condition that equity securities allotted only to eligible persons

The exemptions in clause 5 are subject to the condition that the specified equity securities are allotted only to the following persons:

- (a) persons who are eligible persons at the time of allotment of the equity securities;
- (b) in the case of equity securities that are allotted on the exercise of rights or options to acquire shares, persons who are eligible persons at the time of allotment of those rights or options.

7 Condition that information sent to subscribers

The exemptions in clause 5 are subject to the condition that, before a person referred to in clause 6 subscribes for specified equity securities, each of Leasing and Onesource provide that person with the following information in relation to itself:

- (a) a copy of the most recent audited consolidated financial statements of the company's issuing group that comply with the Financial Reporting Act 1993; and
- (b) if the specified equity securities are offered more than 9 months after the date of the most recent audited consolidated financial statements of the company's issuing group, a copy of interim financial statements for the most recently completed financial half-year of the company's issuing group that complies with FRS-24 or NZ IAS 34; and
- (c) the most recent annual report of the company, which includes or is accompanied by a statement setting out the following matters:
 - (i) particulars of entries in the interests register concerning directors of the company made during the accounting period to which the report relates; and
 - (ii) the date of, names of the parties to, and general nature of any material contract (excluding a contract entered into in the ordinary course of busi-

- ness) entered into by a member of the company's issuing group at any time in the 2 years preceding a date not more than 20 working days before the date of circulation of the annual report; and
- (iii) a brief description of any legal proceedings or arbitrations concerning the company's issuing group that are pending at a date not more than 20 working days before the date of circulation of the annual report and that might have a material adverse effect on the company's issuing group; and
 - (iv) a statement by 2 directors of the company as to whether, after inquiry by them in relation to the period between the date of the latest statement of financial position attached to, or contained in, the annual report and a date not more than 20 working days before the date of circulation of the annual report, there have, in their opinion, arisen any circumstances that materially adversely affect the company's issuing group's—
 - (A) trading or profitability; or
 - (B) asset value; or
 - (C) ability to pay liabilities due within the next 12 months.

8 Condition about sale arrangements

The exemptions in clause 5 are subject to the condition that the investment statement relating to the specified equity securities must contain a description of the arrangements under which persons who hold specified equity securities can sell those securities (before and after they cease to be eligible persons).

9 Condition that terms of employee share purchase scheme available

The exemptions in clause 5 are subject to the condition that the investment statement relating to the specified equity securities contains—

- (a) a brief description of the terms of the employee share purchase scheme; and
- (b) a statement of the place or places where the terms of the employee share purchase scheme are available free of charge to a person who is able to acquire securities under the scheme.

10 Condition that there is either established market or repurchase offer by Leasing and Onesource

The exemptions in clause 5 are subject to the condition that either—

- (a) there is an established market for the specified equity securities; or
- (b) Leasing and Onesource each offer to repurchase the specified equity securities issued by itself under the Companies Act 1993 from eligible persons when they cease to be eligible persons (as long as at that time the company repurchasing the specified equity securities satisfies the solvency test set out in section 4 of the Companies Act 1993).

11 Condition of cap on specified equity securities

- (1) The exemptions in clause 5 are subject to the condition that—
 - (a) the number of specified equity securities allotted by Leasing and Onesource respectively in any 12-month period is capped at 5% of the ordinary shares of the company; and
 - (b) the total number of specified equity securities in Leasing or Onesource held by persons referred to in clause 6 is capped at 15% of the ordinary shares of the company.
- (2) Calculations of the number of specified equity securities for the purposes of subclause (1) must exclude the specified equity securities of the company allotted to or held by or on behalf of directors of the company and any other person who—
 - (a) is, at the commencement of any year, a wealthy or experienced person under section 5 of the Act; or
 - (b) would not be regarded as a member of the public under the Act.

12 Further condition of exemptions from clause 1(3) and (4) of Schedule 1 of the Regulations

The exemptions in clause 5 from clause 1(3) and (4) of Schedule 1 of the Regulations are subject to the further condition that the registered prospectus states—

- (a) the cap on the specified equity securities that can be allotted under the employee share purchase scheme; and
- (b) the formula or method by which the price or consideration for the specified equity securities will be determined.

13 Conditions as to business activity, board membership, and share ownership

The exemptions in clause 5 are subject to the following condition that, at any time that specified equity securities are offered or allotted in reliance on this notice,—

- (a) the principal business activity of Leasing and its subsidiaries is providing financing for sales by Onesource and its subsidiaries; and
- (b) the majority of each of the boards of Leasing and Onesource are the same persons; and
- (c) each shareholder in each of Leasing and Onesource on commencement of this notice must hold beneficially not less than 70% of the shares in each of the companies that that person held on commencement of this notice.

Dated at Wellington this 14th day of August 2006.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice comes into force on the day after its notification in the *Gazette* and expires on 30 August 2008.

The notice exempts the Leasing Solutions Holdings Limited (**Leasing**) and Onesource Holdings N.Z. Limited (**Onesource**) (subject to conditions) in respect of equity securities issued by those companies that are offered under the employee share purchase scheme from section 37A(1)(c) of the Securities Act 1978 and from clauses 1(3) and 1(4), 4 to 20, 22 to 38, and 40 to 42 of Schedule 1 of the Securities Regulations 1983. The effect is to allow the companies to use an evergreen prospectus.

The Securities Commission considers it appropriate to grant a class exemption for the companies' employee share purchase scheme because—

- the Commission's policy on employee share purchase schemes exemptions recognises that the circumstances of employee share purchase scheme offers differ from many (other offers in that they involve an ongoing scheme for the distribution of securities to persons who have a relationship with the issuer:
- the business operations, management, and ownership of the Leasing and Onesource group are significantly interdependent. The relationship of the employees of the group with the 2 issuers is therefore comparable to that of the employees of a subsidiary of an issuer to the issuer. The notice can only be (relied on while this remains the case. Allowing these employees to participate in a scheme offered jointly by the 2 issuers fits within the Commission's policy on employee share purchase schemes exemptions:
- the conditions of the exemptions require that the level and nature of the disclosure and the entry and exit arrangements for participants are appropriate for the employee share purchase scheme:
- the exemptions help minimise compliance costs for the issuers offering the scheme on a continuous basis.

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Notes

1 General

This is an eprint of the Securities Act (Onesource Holdings N.Z. Limited and Leasing Solutions Holdings Limited) Exemption Notice 2006. It incorporates all the amendments to the Securities Act (Onesource Holdings N.Z. Limited and Leasing Solutions Holdings Limited) Exemption Notice 2006 as at 31 August 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 4 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

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