

**Reprint  
as at 1 April 2011**



**Securities Act (Carbon Logic  
Limited) Exemption Notice 2007**

(SR 2007/93)

Securities Act (Carbon Logic Limited) Exemption Notice 2007: expired, on 1 April 2011, 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 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.

**The Securities Act (Carbon Logic Limited) Exemption Notice 2007 is administered by the Securities Commission.**

## Notice

### 1 Title

This notice is the Securities Act (Carbon Logic Limited) Exemption Notice 2007.

### 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 March 2011.

### 4 Interpretation

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

**Act** means the Securities Act 1978

**Carbon** means Carbon Logic Limited

**initial offer period** means the period referred to in clause 6(a)(ii)

**initial subscription price** means the price for any subscription for specified securities in the initial offer period

**offer document** means the combined prospectus and investment statement in relation to the offer of the specified securities

**Regulations** means the Securities Regulations 1983

**specified securities** means 150 000 000 redeemable preference shares in Carbon to be offered to the public and selected institutions

**subsequent subscription price** means the price for any subscription for specified securities after the initial offer period.

(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 clause 1(4) of Schedule 1 of Regulations

Carbon and every person acting on its behalf are exempted from clause 1(4) of Schedule 1 of the Regulations in respect of the specified securities.

**6 Conditions of exemption in clause 5**

The exemption in clause 5 is subject to the conditions that—

- (a) the offer document—
  - (i) states the initial subscription price; and
  - (ii) states the initial offer period; and
  - (iii) describes the procedure for fixing the subsequent subscription price; and
  - (iv) states when the subsequent subscription price is expected to be fixed; and
  - (v) states how an investor may ascertain the subsequent subscription price; and
  - (vi) describes how subscriptions for the specified securities must be paid by subscribers; and
  - (vii) states how any overpayments of the subsequent subscription price will be treated, and describes the procedure for refunding overpayments; and
  - (viii) describes how subscriptions for the specified securities will be held by Carbon pending allotment of the specified securities; and
- (b) if the offer document or an advertisement relating to the offer of the specified securities refers to this notice or to the exemption granted by clause 5, that offer document or advertisement also states that—
  - (i) it is not the function of the Securities Commission to approve investments or the terms of offers of securities; and
  - (ii) the Securities Commission has not expressed a view about investment in the specified securities or the terms of the offer of the specified securities.

**7 Exemption from clause 10(1)(c) of Schedule 1 of Regulations**

Carbon and every person acting on its behalf are exempted from clause 10(1)(c) of Schedule 1 of the Regulations in respect of the specified securities.

**8 Conditions of exemption in clause 7**

The exemption in clause 7 is subject to the conditions that—

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- (a) the offer document contains, in the place where the prospective statement of cash flows required by clause 10(1)(c) of Schedule 1 of the Regulations would otherwise be set out,—
- (i) a prominent statement to the effect that investors should regard investment in Carbon as high risk; and
  - (ii) a prominent statement to the effect that the directors of Carbon believe that they are unable to provide a meaningful prospective statement of cash flows and a statement of the directors' reasons for forming that view; and
- (b) the offer document contains at the front of the "*What returns will I get?*" section a prominent statement to the effect that Carbon believes that it is unable to reliably predict future returns and that, therefore, investors should rely on their own judgement or on independent advice as to the likely level of returns.

Dated at Wellington this 30th day of March 2007.

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

[Seal]

C A N Beyer,  
Member.

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### **Statement of reasons**

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 March 2011, exempts Carbon Logic Limited (**Carbon**) from clauses 1(4) and 10(1)(c) of Schedule 1 of the Securities Regulations 1983. Clause 1(4) requires the registered prospectus to state the price or other consideration to be paid or provided for the securities being offered. Clause 10(1)(c) requires the registered prospectus to include a 1-year prospective statement of cash flows.

The Securities Commission considers that it is appropriate to grant the exemptions because—

- the securities being offered are redeemable preference shares, but the investment will operate closer in substance to a managed fund than an ordinary offer of equity securities. In particular, transfers of shares following the initial offer will be offered at a price determined by reference to the net asset value of the fund, rather than at a fixed price:
- the conditions of the exemptions require Carbon to provide descriptions of the pricing mechanism for the securities. The conditions also require Carbon to clearly set out for investors the reasons why no prospective financial information is provided, and to warn investors of the high risk nature of the investment. The information required by the conditions should enable investors to make informed decisions:
- Carbon has not yet determined the precise make-up of its investment portfolio. For this reason, the provision of prospective financial information by Carbon would be highly speculative and may be of little relevance to potential investors:
- the directors of Carbon must still give a general description of their plans under clause 10(1)(a) of Schedule 1 of the Securities Regulations 1983.

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**Notes****1 General**

This is a reprint of the Securities Act (Carbon Logic Limited) Exemption Notice 2007. The reprint incorporates all the amendments to the notice as at 1 April 2011, 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 (Carbon Logic Limited) Exemption Notice 2007 (SR 2007/93):  
clause 3

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