

**Reprint
as at 1 April 2013**



**Securities Act (Building Societies)
Exemption Notice 2002**

(SR 2002/319)

Securities Act (Building Societies) Exemption Notice 2002: revoked, on 1 April 2013, by clause 18 of the Securities Act (Building Societies) Exemption Notice 2013 (SR 2013/56).

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice.

Contents

	Page
1 Title	2
2 Commencement	2
3 Expiry	2
4 Interpretation	2
5 Exemption for specified participatory securities defined in clause 4(2)(a)	4
6 Conditions of exemption under clause 5(2)	4
7 Exemptions for specified participatory securities defined in clause 4(2)(b)	5
8 Conditions of exemption under clause 7(2)	6
8A Conditions of exemption under clause 7(3)	6
9 Exemption relating to debt securities	8
10 Condition of exemption under clause 9	8
11 Exemption relating to receipt of investment statements	8
12 Conditions of exemption under clause 11	8
13 Exemption relating to register of securities	9

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 Financial Markets Authority.

14	Condition of exemptions under clause 13	9
15	Exemption relating to certificates	9
16	Condition of exemption under clause 15	10
17	Notice ceases to apply to certain building societies on date of conversion to company	10
	Schedule	10
	Designated building societies	

Notice

1 Title

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

2 Commencement

This notice comes into force on 1 October 2002.

3 Expiry

This notice expires on the close of 31 March 2013.

Clause 3: amended, on 28 September 2012, by clause 3 of the Securities Act (Extension of Term, Amendment, and Transitional Provision) Exemption Notice 2012 (SR 2012/294).

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

building society has the same meaning as in section 2(1) of the Building Societies Act 1965

building society share means a share issued or to be issued by a building society under section 11 of the Building Societies Act 1965

continuous issue means an issue of debt securities or specified participatory securities of a kind that are continuously offered by a designated building society to the public for subscription

designated building society means a building society named in the Schedule and that has, as its principal business, the provision of any or all of the services listed in subparagraphs (i) to (x) (except subparagraph (viii)) of section 9A(1)(a) of the Building Societies Act 1965

Regulations means the Securities Regulations 1983

rights prospectus means a registered prospectus issued by a designated building society that relates only to an offer of specified participatory securities made by the society to persons who already hold specified participatory securities or preference shares of the society, whether or not the offer is renounceable in favour of any other person.

- (2) In this notice, unless the context otherwise requires, **specified participatory security** means,—
- (a) in clauses 5 and 6, a building society share; but does not include a share that—
 - (i) carries the right to payment of a dividend from the annual surplus or accumulated reserves of the building society; and
 - (ii) is irredeemable or redeemable only at the option of the building society; and
 - (iii) entitles the holder to participate in the assets of the building society on liquidation after the payment of all its other liabilities; and
 - (b) in the definition of rights prospectus and clauses 7 to 8A, a building society share that—
 - (i) carries the right to payment of a dividend from the annual surplus or accumulated reserves of the building society; and
 - (ii) is irredeemable or redeemable only at the option of the building society; and
 - (iii) entitles the holder to participate in the assets of the building society on liquidation after the payment of all its other liabilities; and
 - (c) in all other places where the term appears, a building society share.
- (3) 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.

Clause 4(1) **rights prospectus**: added, on 21 September 2007, by clause 5(1) of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

Clause 4(2)(b): amended, on 21 September 2007, by clause 5(2) of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

5 Exemption for specified participatory securities defined in clause 4(2)(a)

- (1) In this clause and in clause 6, **specified participatory security** has the meaning set out in clause 4(2)(a).
- (2) Every designated building society and every person acting on its behalf are exempted from sections 33(3) and 53 to 53F of the Act and regulations 3(3), 7A(1), and 14(2) of the Regulations in respect of any specified participatory securities offered by the building society in the course of carrying on its principal business.

6 Conditions of exemption under clause 5(2)

The exemptions in clause 5(2) are subject to the conditions—

- (a) that the building society has appointed a person as a trustee in respect of the specified participatory securities; and
- (b) that both the building society and that person have signed a trust deed relating to the securities, which applies as if the specified participatory securities were debt securities; and
- (c) that the provisions of the Act and the Regulations relating to trust deeds are complied with; and
- (d) that the trust deed is, at the date of allotment of the specified participatory securities, in full force and effect; and
- (e) that the building society complies with sections 53 to 53F of the Act in all respects as if the specified participatory securities were debt securities; and
- (f) that every registered prospectus that relates to the specified participatory securities contains all of the information, statements, certificates, and other matters specified in Schedule 2 of the Regulations that are applicable

- in all respects as if the specified participatory securities were debt securities; and
- (g) that every investment statement that relates to the specified participatory securities contains all of the information, statements, and other matters specified in Schedule 3D of the Regulations that are applicable in all respects as if the specified participatory securities were debt securities; and
 - (h) that, if at the time that the offer is made the aggregate amount of any obligations of the building society that are secured by a mortgage or charge created by the society over any of its assets and that rank or will rank, after the allotment of the specified participatory securities, before those securities is material in the context of the society's overall business, no advertisement refers to those securities without also stating either that the securities are unsecured or the nature and ranking in point of security of the securities.

7 Exemptions for specified participatory securities defined in clause 4(2)(b)

- (1) In this clause and in clauses 8 and 8A, **specified participatory security** has the meaning set out in clause 4(2)(b).
- (2) Every designated building society and every person acting on its behalf are exempted from sections 33(3) and 53 to 53F of the Act and regulations 3(3) and 7A(1) of the Regulations in respect of any specified participatory securities offered by the building society in the course of carrying on its principal business.
- (3) Every designated building society and every person acting on its behalf are exempted from sections 33(3) and 53 to 53F of the Act and regulations 3(3) and 7A(1) of the Regulations in respect of specified participatory securities offered under a rights prospectus.

Clause 7 heading: amended, on 21 September 2007, by clause 6(1) of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

Clause 7(1): amended, on 21 September 2007, by clause 6(2) of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

Clause 7(3): added, on 21 September 2007, by clause 6(3) of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

8 Conditions of exemption under clause 7(2)

The exemption in clause 7(2) is subject to the conditions—

- (a) that the designated building society complies with sections 53 to 53F of the Act as if the specified participatory securities were equity securities; and
- (b) that every registered prospectus that relates to the specified participatory securities contains—
 - (i) all of the information, statements, certificates, and other matters specified in Schedule 1 of the Regulations that are applicable as if the specified participatory securities were equity securities; and
 - (ii) a description, and (where practicable) quantification, of all liabilities (including potential and contingent liabilities) that a person will or may incur as a holder of specified participatory securities; and
- (c) that every investment statement that relates to the specified participatory securities contains all of the information, statements, and other matters specified in Schedule 3D of the Regulations that are applicable as if the specified participatory securities were equity securities.

Clause 8(a): amended, on 21 September 2007, by clause 7 of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

8A Conditions of exemption under clause 7(3)

The exemption in clause 7(3) is subject to the conditions—

- (a) that the designated building society complies with sections 53 to 53F of the Act as if the specified participatory securities were equity securities; and
- (b) that a copy of the most recent annual financial statements of the designated building society laid before the designated building society at its annual general meeting in accordance with section 91(2) of the Building Societies Act 1965, and a copy of all reports required

by that Act to be annexed or attached to those financial statements,—

- (i) have previously been given or sent to the persons who were, at the time those financial statements were given or sent, holders of specified participatory securities or preference shares of the designated building society; or
 - (ii) are attached to every rights prospectus given or sent to any person under the Act; and
- (c) that all of the following matters are stated or contained in every rights prospectus:
- (i) the matters specified in clauses 1, 9, 19(1), and 21 of Schedule 1 of the Regulations as if the specified participatory securities were equity securities:
 - (ii) the date of the statement of financial position included in the financial statements referred to in paragraph (b):
 - (iii) the place or places where copies of the financial statements and reports referred to in paragraph (b) can be obtained free of charge by any person to whom an offer of specified participatory securities is made:
 - (iv) a statement by the directors of the designated building society as to whether, after due inquiry by them in relation to the period between the date referred to in subparagraph (ii) and the specified date, there have, in their opinion, arisen any circumstances that materially adversely affect—
 - (A) the trading or profitability of the designated building society; or
 - (B) the value of its assets; or
 - (C) the ability of the designated building society to pay its liabilities due within the next 12 months; and
- (d) that every investment statement that relates to the specified participatory securities contains all of the information, statements, and other matters specified in Schedule

3D of the Regulations that are applicable as if the specified participatory securities were equity securities.

Clause 8A: inserted, on 21 September 2007, by clause 8 of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

9 Exemption relating to debt securities

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

10 Condition of exemption under clause 9

The exemption in clause 9 is subject to the condition that the aggregate amount of any obligations of the building society that are secured by a mortgage or charge created by the society over any of its assets and that rank or will rank, after the allotment of the debt securities, before those securities is not material in the context of the society's overall business.

11 Exemption relating to receipt of investment statements

Every designated building society and every person acting on its behalf are exempted from section 37A(1)(a) of the Act in respect of any offer of debt securities or specified participatory securities made as part of a continuous issue.

12 Conditions of exemption under clause 11

- (1) The exemption in clause 11 is, in respect of any allotment of a debt security or specified participatory security made as part of a continuous issue, subject to the condition that the building society must not make the allotment unless the building society (or a person acting on its behalf) has, at least 3 working days before the subscriber subscribes for the debt security or specified participatory security, sent an investment statement relating to the debt security or specified participatory security—
- (a) to an address specified by the subscriber for this purpose; or
 - (b) to the last address of the subscriber known to the building society.

- (2) The exemption in clause 11 is subject to the further condition that, if an investment statement relating to the debt security or specified participatory security is sent—
- (a) by fax, the fax machine has generated a record of the transmission of the investment statement to the fax machine of the recipient; or
 - (b) by 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.

13 Exemption relating to register of securities

Every designated building society is exempted from section 52(1) and (3) of the Act in respect of specified participatory securities registered on the register kept by that building society under section 51(1)(c) of the Act.

14 Condition of exemptions under clause 13

- (1) The exemption from section 52(1) of the Act in clause 13 is subject to the condition that the register is, except when duly closed (but subject to any reasonable restrictions that the building society may impose, so that not less than 2 hours in each day is allowed for inspection), open to the inspection of any holder of specified participatory securities entered on the register, or the representative of the holder, in respect of the securities of that holder, without fee.
- (2) The exemption from section 52(3) of the Act in clause 13 is subject to the condition that, on payment by any holder of specified participatory securities of the fee prescribed for the purposes of section 52(4) of the Act, the building society provides to that holder a copy of that part of the register kept under section 51(1)(c) of the Act that relates to specified participatory securities of that holder.

15 Exemption relating to certificates

Every designated building society is exempted from section 54 of the Act in respect of debt securities and specified participatory securities issued by that building society.

16 Condition of exemption under clause 15

The exemption in clause 15 is subject to the condition that the building society sends, or causes to be sent, to the security holder at any time on request and at least once every 6 months a written statement that properly evidences the nature and ownership of the security.

17 Notice ceases to apply to certain building societies on date of conversion to company

- (1) The exemptions in this notice cease to apply to Canterbury Building Society on and after the date on which Canterbury Building Society becomes converted into a company under Part 7A of the Building Societies Act 1965.
- (2) The exemptions in this notice cease to apply to Southern Cross Building Society on and after the date on which Southern Cross Building Society becomes converted into a company under Part 7A of the Building Societies Act 1965.

Clause 17: added, on 29 October 2010, by clause 4 of the Securities Act (Building Societies) Exemption Amendment Notice 2010 (SR 2010/389).

Schedule

cl 4(1)

Designated building societies

Canterbury Building Society
Combined Building Society
Hastings Building Society
Heretaunga Building Society
Loan and Building Society
Napier Building Society (Permanent)
Nelson Building Society
Southern Cross Building Society
Southland Building Society
Wairarapa Building Society

Schedule : amended, on 29 October 2010, by clause 5 of the Securities Act (Building Societies) Exemption Amendment Notice 2010 (SR 2010/389).

Schedule: amended, on 21 September 2007, by clause 9 of the Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR 2007/279).

Reprinted as at
1 April 2013

**Securities Act (Building Societies)
Exemption Notice 2002**

Dated at Wellington this 27th day of September 2002.

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

[Seal]

L A J Kavanagh,
Member.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 30 September 2002.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 General**

This is a reprint of the Securities Act (Building Societies) Exemption Notice 2002. The reprint incorporates all the amendments to the notice as at 1 April 2013, 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 (Building Societies) Exemption Notice 2013 (SR 2013/56):
clause 18

Securities Act (Extension of Term, Amendment, and Transitional Provision)
Exemption Notice 2012 (SR 2012/294): clause 3

Securities Act (Building Societies) Exemption Amendment Notice 2010 (SR
2010/389)

Securities Act (Building Societies) Exemption Amendment Notice 2007 (SR
2007/279)