

**Reprint
as at 1 November 2015**



**Securities Act (King Solomon Mines Limited) Exemption
Notice 2011
(SR 2011/2)**

Securities Act (King Solomon Mines Limited) Exemption Notice 2011: expired, on 1 November 2015, 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 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.

Notice

1 Title

This notice is the Securities Act (King Solomon Mines Limited) Exemption Notice 2011.

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 October 2015.

4 Interpretation

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

Act means the Securities Act 1978

ASX means ASX Group as incorporated in Australia

Corporations Act means the Corporations Act 2001 of the Commonwealth of Australia

custodian means a holder of securities of the same class as the specified securities—

(a) that—

(i) is a trustee corporation or a nominee company; and

(ii) holds those securities by reason only of acting for another person in the ordinary course of business of that trustee corporation or nominee company; or

(b) that holds those securities by reason only that the person is a bare trustee of a trust to which the securities are subject

King Solomon means King Solomon Mines Limited

private placement means the placement of securities of the same class as the specified securities by means of an offer in respect of which offer documents are not required to be disclosed to investors under the Corporations Act pursuant to either or both of subsections (8) and (11) of section 708 of that Act

Regulations means the Securities Regulations 2009

share purchase plan means a share purchase plan that complies with clause 5

specified securities means equity securities that are to be—

(a) issued by King Solomon under a share purchase plan to existing holders of securities issued by King Solomon; and

(b) listed on a securities market operated by ASX

subscription price means the subscription price for the specified securities.

- (2) References in this notice to dollar amounts are amounts denominated in Australian dollars.
- (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.

5 Requirements for share purchase plan

- (1) For the purposes of this notice, a share purchase plan must comply with the following requirements:
 - (a) the right to subscribe for the specified securities must be offered to all security holders holding securities of the same class as the specified securities, except a security holder in a jurisdiction outside New Zealand who is excluded by King Solomon to avoid a risk of breaching the law in that jurisdiction; and
 - (b) the right to subscribe for the specified securities must be offered on the same terms and conditions to all the security holders to whom the offer is made; and
 - (c) the right to subscribe for the specified securities must not be renounceable; and
 - (d) the specified securities issued under the share purchase plan to security holders of the same class must enjoy the same rights—
 - (i) as each other; and
 - (ii) as the securities that qualify a security holder to subscribe for the specified securities; and
 - (e) the subscription price must be equal to or less than the lower of the following:
 - (i) the average end-of-day market price of securities of the same class as the specified securities during a period specified in the share purchase plan that falls within the period of 30 days immediately before either—
 - (A) the date of the offer to subscribe for the specified securities; or
 - (B) the date of the issue of the specified securities; and
 - (ii) the lowest price paid by investors in a private placement (if the offer under the share purchase plan is made at the same time as, or within 30 days after, a private placement); and
 - (f) the subscription price must be fixed before allotment of the specified securities; and
 - (g) the subscription price must be disclosed in accordance with clause 9(2) before allotment of the specified securities; and

- (h) in any 12-month period, the total issue price of the specified securities issued to a security holder must not be more than A\$15,000.
- (2) Despite subclause (1)(h), King Solomon may issue to a custodian in any 12-month period specified securities the total issue price of which is more than A\$15,000 if—
 - (a) the custodian certifies the following in writing to King Solomon:
 - (i) that the custodian holds securities of the same class as the specified securities directly or indirectly as a custodian for beneficial owners; and
 - (ii) the number of those beneficial owners; and
 - (iii) in respect of each of the beneficial owners, how many specified securities the beneficial owner, or its agent, has instructed the custodian to accept on behalf of that beneficial owner; and
 - (iv) that the custodian undertakes not to accept on behalf of any of those beneficial owners for which it acts directly or indirectly as a custodian, in any 12-month period, specified securities the total issue price of which is more than A\$15,000; and
 - (b) King Solomon is reasonably satisfied that in any 12-month period the total issue price of the specified securities issued to any beneficial owner is not more than A\$15,000, whether those specified securities are issued—
 - (i) through any custodian; or
 - (ii) if the beneficial owner is also a security holder, in the beneficial owner's own right as a security holder.

6 Exemptions from sections 37 and 37A of Act and Regulations (except regulation 23)

King Solomon and every person acting on its behalf are exempted from sections 37 and 37A of the Act and the Regulations (except regulation 23) in respect of the specified securities.

7 Exemptions do not apply if trading in any securities of King Solomon has been suspended for 5 trading days or more within previous 12 months

Clause 6 does not apply in respect of any securities of King Solomon if, at any time within the 12-month period before the offer is first made under the share purchase plan, trading in any securities of King Solomon on a securities market operated by ASX has been suspended for a total period of 5 trading days or more (whether the trading has been suspended on 1 or more occasions).

8 Exemptions do not apply if King Solomon is subject to determination that is in force under Corporations Act

Clause 6 does not apply in respect of any securities of King Solomon if, at the time of the offer, a determination under any of section 708AA(3), 708A(2), 1012DAA(3), or 1012DA(2) of the Corporations Act is in force in relation to King Solomon.

9 Conditions of exemptions

- (1) The exemptions in clause 6 are subject to the condition that a person who subscribes for specified securities must, before subscribing, have received a document that—
 - (a) is signed by each of the directors of King Solomon or his or her agent authorised in writing; and
 - (b) contains the offer to subscribe for specified securities under the share purchase plan; and
 - (c) describes the procedure for fixing the subscription price; and
 - (d) specifies the subscription price if the subscription price was fixed before the document is sent to the person; and
 - (e) states when the subscription price was or will be fixed; and
 - (f) describes when and how payment of the subscription moneys is to be made; and
 - (g) describes the relationship between the subscription price and the market price of the specified securities; and
 - (h) warns that the market price of the specified securities may change between the date of the offer and the date when the specified securities are allotted, and describes the effect this would have on the price or value of the specified securities that a subscriber would receive; and
 - (i) states that a subscriber may obtain from King Solomon, free of charge and on request, King Solomon's most recent annual report and financial statements.
- (2) The exemptions in clause 6 are subject to the condition that,—
 - (a) in the case of the subscription price being fixed before the document referred to in subclause (1) is sent, King Solomon must, as soon as practicable after the document is sent, supply to ASX a statement that complies with subclause (3) for the purpose of that statement being made available to participants in the securities market operated by ASX on which the specified securities are listed; or
 - (b) in any other case, King Solomon must, as soon as practicable after the subscription price has been fixed, supply to ASX a statement that complies with subclause (3) for the purpose of that statement being made

available to participants in the securities market operated by ASX on which the specified securities are listed.

- (3) For the purposes of subclause (2), the statement must—
- (a) specify the subscription price; and
 - (b) be signed by each of the directors of King Solomon or his or her agent authorised in writing; and
 - (c) certify that when the subscription price was fixed, King Solomon had no information not publicly available that would, or would be likely to, have a material effect on the market price of the specified securities if the information were publicly available.
- (4) The exemptions in clause 6 are subject to the condition that King Solomon must not allot the specified securities if, when the subscription price is fixed, King Solomon has information not publicly available that would, or would be likely to, have a material effect on the market price of the specified securities if the information were publicly available.

Dated at Wellington this 1st day of February 2011.

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

[Seal]

D W Mayhew,
Member.

Statement of reasons

This notice comes into force on the day after its notification in the *Gazette* and expires on 31 October 2015.

The notice applies to the offer of specified securities by King Solomon Mines Limited (**King Solomon**) under a share purchase plan. It exempts King Solomon, subject to conditions, from sections 37 and 37A of the Securities Act 1978 and from the Securities Regulations 2009 (other than regulation 23). One of the conditions of the exemptions is that King Solomon must provide investors with an offer document that contains details of the share purchase plan.

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

- the notice extends similar exemptions to King Solomon, which is a New Zealand company and an ASX listed issuer, to those that are available to other ASX listed issuers and NZX listed issuers under the Securities Act (NZX—Share and Unit Purchase Plans) Exemption Notice 2010 and the Securities Act (Overseas Companies) Exemption Notice 2002 class exemption notices:
- the exemptions are limited in the amount that can be raised from a shareholder in any 12-month period, so that any significant fund-raising will require full offer documents:
- the exemptions will reduce compliance costs for King Solomon:
- the condition that the exemptions do not apply if the Australian Securities and Investments Commission has made a determination that King Solomon has contravened the requirements of the Australian Corporations Act 2001 is appropriate to ensure that, when making an offer under a share purchase plan, King Solomon has made full and timely disclosure, so that investors can be more confident that the market is fully informed about the shares on offer and that there is a reliable market price for those shares:
- the conditions of the exemptions require that investors receive certain important information about the offer. Since offers under the exemptions can be made only to existing shareholders, and because King Solomon is subject to the continuous disclosure requirements of the Australian Corporations Act 2001 and the ASX Listing Rules, investors will have access to key relevant information on which to base their investment decision.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 3 February 2011.

Reprints notes

1 *General*

This is a reprint of the Securities Act (King Solomon Mines Limited) Exemption Notice 2011 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*

Securities Act (King Solomon Mines Limited) Exemption Notice 2011 (SR 2011/2): clause 3