

**Reprint
as at 21 May 2010**



**Securities Act (New Zealand
Deposit Guarantee Scheme)
Exemption Notice 2008**

(SR 2008/388)

Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008: revoked, on 21 May 2010, by clause 14 of the Securities Act (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010 (SR 2010/120).

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.

This notice is administered by the Securities Commission.

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Notice

- 1 Title**
This notice is the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008.
- 2 Commencement**
This notice comes into force on its notification in the *Gazette*.
- 3 Expiry**
This notice expires on the close of 12 October 2010.
- 4 Interpretation**
(1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
bank means a registered bank within the meaning of section 2(1) of the Reserve Bank of New Zealand Act 1989
Crown guarantee means a guarantee given under the deposit guarantee scheme
deposit guarantee scheme means the New Zealand deposit guarantee scheme announced by or on behalf of the Crown on or about 12 October 2008 relating to guarantees to be given by the Minister of Finance on behalf of the Crown in respect of certain financial institutions under section 65ZD of the Public Finance Act 1989
Regulations means the Securities Regulations 1983
specified financial institution means a person that is a party to a deed of guarantee entered into under the deposit guarantee scheme under which certain obligations of that person are guaranteed by the Crown

specified security means a security in respect of which the Crown has given a guarantee under the deposit guarantee scheme.

- (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 regulations 9 and 11 of Regulations

Every specified financial institution, and every person acting on its behalf, is exempted, in respect of an advertisement for specified securities that refers to the Crown guarantee, from regulations 9 and 11 of the Regulations.

6 Conditions of exemptions in clause 5

The exemptions in clause 5 are subject to the conditions that—

- (a) the advertisement must comply with regulations 9 and 11 of the Regulations in respect of matters other than the reference to the Crown guarantee; and
- (b) if there is a registered prospectus relating to the specified securities, a memorandum of amendments containing amendments required to update the prospectus as a result of the Crown guarantee must be delivered to the Registrar of Companies within 5 working days of the date on which the issuer becomes a specified financial institution; and
- (c) the reference to the Crown guarantee in the advertisement must be in the following form: “[*name of issuer*] has a guarantee under the New Zealand deposit guarantee scheme”; and
- (d) in the case of advertisements other than investment statements, any other information contained in the advertisement concerning the Crown guarantee must be limited to—
 - (i) a statement to the effect that further information about the deposit guarantee scheme is available, free of charge and at all reasonable times, on the Internet site maintained by, or on behalf of, the Treasury; and

- (ii) any other information or statement that is necessary to avoid misleading or confusing investors about the application of the Crown guarantee (whether in respect of the issuer or any products of the issuer); and
- (e) the advertisement must not contain any information, sound, image, or other matter that is inconsistent with information published about the deposit guarantee scheme on the Internet site maintained by, or on behalf of, the Treasury.

7 Exemptions from regulation 17 of Regulations

- (1) Every specified financial institution, and every person acting on its behalf, is exempted, in respect of an advertisement for specified securities that refers to the Crown guarantee, from regulation 17(1) of the Regulations.
- (2) However, the exemption in subclause (1) applies only if either—
 - (a) the only difference between the advertisement and another advertisement in respect of which a certificate that complies with regulation 17(2) of the Regulations or clause 10 of the Securities Act (Banks) Exemption Notice 2002 has been completed is that reference to the Crown guarantee; or
 - (b) regulation 17(3) of the Regulations would apply if the advertisement did not refer to the Crown guarantee.
- (3) The exemption in subclause (1) is subject to the condition that,—
 - (a) in the case of an advertisement other than an investment statement, the reference to the Crown guarantee complies with the conditions in clause 6(c) to (e);
 - (b) in the case of an advertisement that is an investment statement, the investment statement must contain, or be accompanied by, the information and statements referred to in clause 9(a).
- (4) Every specified financial institution, and every person acting on its behalf, is exempted, in respect of an advertisement for specified securities that refers to the Crown guarantee, from regulation 17(2) of the Regulations to the extent that that pro-

- vision requires certification that the advertisement does not contain any matter that is inconsistent with,—
- (a) in the case of a bank, the disclosure statement referred to in the advertisement; or
 - (b) in the case of a financial institution that is not a bank, the registered prospectus referred to in the advertisement.
- (5) The exemption in subclause (4) is subject to the condition that,—
- (a) in the case of an advertisement other than an investment statement, the certificate that is completed in respect of the advertisement certifies that the reference in the advertisement to the Crown guarantee complies with the conditions in clause 6(c) to (e) and that, in all other respects, the advertisement does not contain any matter that,—
 - (i) in the case of a bank, is inconsistent with the disclosure statement referred to in the advertisement; or
 - (ii) in the case of a financial institution that is not a bank, is inconsistent with the registered prospectus for the securities:
 - (b) in the case of an advertisement that is an investment statement, the certificate that is completed in respect of the advertisement certifies that the advertisement contains, or is accompanied by, the information and statements referred to in clause 9(a) and that, in all other respects, the advertisement does not contain any matter that,—
 - (i) in the case of a bank, is inconsistent with the disclosure statement referred to in the advertisement; or
 - (ii) in the case of a financial institution that is not a bank, is inconsistent with the registered prospectus for the securities.

Clause 7(3): substituted, on 28 November 2008, by clause 4(1) of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008 (SR 2008/439).

Clause 7(5): substituted, on 28 November 2008, by clause 4(2) of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008 (SR 2008/439).

8 Exemption in respect of certain matters required in registered prospectus

- (1) Every specified financial institution, and every person acting on its behalf, is exempted, in respect of any registered prospectus that refers to the Crown guarantee, from clause 4(2) of Schedule 2 of the Regulations.
- (2) The exemption in subclause (1) applies in the case of specified securities that are debt securities and specified securities that are treated as debt securities for the purpose of disclosure under Schedule 2 of the Regulations.

9 Conditions of exemption in clause 8

The exemption in clause 8 is subject to the conditions that—

- (a) the registered prospectus for the specified securities must contain the following information and statements:
 - (i) a statement that “[*name of issuer*] has a guarantee under the New Zealand deposit guarantee scheme”; and
 - (ii) a statement to the effect that further information about the deposit guarantee scheme is available, free of charge and at all reasonable times, on the Internet site maintained by, or on behalf of, the Treasury; and
 - (iii) a statement to the effect that the most recent audited statement of financial position of the Crown is available, free of charge and at all reasonable times, on the Internet site maintained by, or on behalf of, the Treasury; and
 - (iv) any other information or statement that is necessary to avoid misleading or confusing investors about the application of the Crown guarantee (whether in respect of the issuer or any products of the issuer); and
- (b) the registered prospectus must not contain any information, sound, image, or other matter that is inconsistent with information published about the deposit guarantee scheme on the Internet site maintained by, or on behalf of, the Treasury.

10 Exemptions from other provisions of Act and Regulations

Every specified financial institution, and every person acting on its behalf, is exempted, in respect of specified securities, from—

- (a) regulation 7A(4) of the Regulations in respect of information that must be disclosed in an investment statement about the deposit guarantee scheme; and
- (b) clause 10 of Schedule 3D of the Regulations to the extent that it requires information about the Crown guarantee; and
- (c) clause 20 of Schedule 3D of the Regulations to the extent that the provision requires the investment statement for those securities to state that financial statements of the Crown are available on request from the issuer; and
- (d) section 54B(1) of the Act to the extent that the provision requires the specified financial institution, on request, to send, or cause to be sent, to a security holder the financial statements of the Crown.

Clause 10(a): substituted, on 28 November 2008, by clause 5 of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008 (SR 2008/439).

11 Condition of exemptions in clause 10

The exemptions in clause 10 are subject to the condition that any investment statement for the specified securities that is distributed after the issuer becomes a specified financial institution must contain, or be accompanied by, the information and statements referred to in clause 9(a).

12 Consequential amendments to Securities Act (Audiovisual Advertisements) Exemption Notice 2002

- (1) This clause amends the Securities Act (Audiovisual Advertisements) Exemption Notice 2002.
- (2) Clause 5(d) is amended by inserting “or the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008” after “but for this notice”.
- (3) Clause 7 is amended by adding the following subclause as subclause (2):

“(2) If the advertisement refers to the Crown guarantee (within the meaning of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008), the exemptions in clause 6 are also subject to the conditions set out in clause 6(b) to (e) of that notice.”

**13 Consequential amendment to Securities Act (Banks)
Exemption Notice 2002**

(1) This clause amends the Securities Act (Banks) Exemption Notice 2002.

(2) Clause 10 is amended by inserting the following subclause after subclause (2):

“(2A) Despite subclauses (1) and (2), if the advertisement refers to the Crown guarantee (within the meaning of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008) and the certificate that relates to the advertisement complies with the condition in clause 7(5) of that notice, the certificate does not need to be in the form set out in Schedule 4 of the Regulations to the extent that the form requires certification that the advertisement does not contain any matter that is inconsistent with the disclosure statement referred to in the advertisement.”

Dated at Wellington this 17th day of October 2008.

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

[Seal]

N O Todd,
Member.

Statement of reasons

Note: The following statement of reasons should be read in conjunction with the statement of reasons appended to the:

- **Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008**

This notice comes into force on its notification in the *Gazette* and expires on the close of 12 October 2010.

The notice exempts financial institutions that are a party to a deed of guarantee entered into with the Crown under the New Zealand deposit guarantee scheme from certain provisions of the Securities Act 1978 and the Securities Regulations 1983, in order to facilitate the operation of that deposit guarantee scheme.

The Securities Commission considers that the exemptions are appropriate because the New Zealand deposit guarantee scheme has been introduced by the Government to maintain public confidence in New Zealand's financial system and to maintain the confidence of general public depositors in relevant New Zealand financial institutions. Securities law contains specific rules concerning advertising and disclosure of guarantees. The exemptions facilitate prompt and simple disclosure to investors about any issuer's coverage under the scheme. The exemptions also encourage the delivery of standardised information about the scheme in order to avoid investor confusion about the scheme and its application to any issuer. The conditions of the exemptions require issuers to advise investors about their coverage under the scheme, refer investors to an authoritative source of information about the scheme, and prevent descriptions of the scheme that are inconsistent with official descriptions.

Note: The preceding statement of reasons should be read in conjunction with the statement of reasons appended to the:

- **Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008**

Securities Act (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010

(SR 2010/120)

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).

Notice

1 Title

This notice is the Securities Act (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010.

2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

15 Transitional provision

- (1) This clause applies to any specified security (within the meaning of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008) offered to the public in a registered prospectus, or under a disclosure statement, dated on or before the date on which this notice comes into force.
- (2) An offer and allotment of a security to which this clause applies may, until 12 October 2010, be made in accordance with either—
 - (a) this notice; or
 - (b) the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008 as in force immediately before that notice was revoked as if that notice had not been revoked.
- (3) An advertisement for a security to which this clause applies may be distributed on or before 12 October 2010 in accordance with either—
 - (a) this notice; or

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**Securities Act (New Zealand Deposit
Guarantee Scheme) Exemption Notice 2008**

- (b) the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008 as in force immediately before that notice was revoked as if that notice had not been revoked.

Dated at Wellington this 18th day of May 2010.

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

[Seal]

J Diplock,
Chairperson.

Date of notification in *Gazette*: 20 May 2010.

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Notes**1 General**

This is a reprint of the Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Notice 2008. The reprint incorporates all the amendments to the notice as at 21 May 2010, 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 (Crown Retail Deposit Guarantee Schemes) Exemption Notice 2010 (SR 2010/120): clause 14

Securities Act (New Zealand Deposit Guarantee Scheme) Exemption Amendment Notice 2008 (SR 2008/439)
