

**Reprint  
as at 17 June 2005**



**Futures Contracts (NZFOX Share  
Options) Notice 2005**

(SR 2005/160)

Pursuant to section 37(7) of the Securities Markets Act 1988, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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**Notice**

- 1 Title**  
This notice is the Futures Contracts (NZFOX Share Options) Notice 2005.

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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.**

**2 Commencement**

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

**3 Interpretation**

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

**Act** means the Securities Markets Act 1988

**NZFOX share option** means an option—

- (a) to acquire or dispose of equity securities quoted on a securities market operated by New Zealand Exchange Limited; and
- (b) that is traded on Sydney Futures Exchange subject to the contract specifications and rules of Sydney Futures Exchange; and
- (c) the offer of which is arranged or facilitated by New Zealand Exchange Limited

**Sydney Futures Exchange** means Sydney Futures Exchange Limited, a company incorporated in Australia.

(2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the meaning given to it by the Act.

**4 Application of Part 3 of Act to NZFOX share options**

Every NZFOX share option is declared to be an option to which Part 3 of the Act applies.

Dated at Wellington this 14th day of June 2005.

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

[Seal]

J Diplock,  
Chairperson.

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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*, declares NZFOX share options to be options to which Part 3 of the Securities Markets Act 1988 applies.

The term futures contract is defined by section 37(1) of the Securities Markets Act 1988 to include an option declared by the Securities Commission to be an option to which Part 3 of the Act applies.

Under section 38 of that Act, no person may carry on the business of dealing in futures contracts unless that person is, or is a member of a class of persons that is, authorised by the Securities Commission to carry on the business of dealing in futures contracts.

The Securities Commission considers that it is appropriate to make the declaration because—

- NZFOX share options are third party options created independently of the issuer of the listed securities and are able to be settled otherwise than by delivery. As the NZFOX share options are synthetic in nature and created independently of the issuer of the listed securities, the disclosure requirements (about the issuer of the listed securities) in terms of the Securities Act 1978 do not provide the best regulatory solution for the NZFOX share options:
- the declaration provides certainty in the market as, although the NZFOX share options appear to have most of the characteristics of a futures contract, there is some doubt as to whether they fall entirely within the definition of a futures contract in the Securities Markets Act 1988:
- the declaration enables the buying and selling of the NZFOX share options in New Zealand to be regulated in the same manner as futures contracts under New Zealand law:

- the NZFOX share options will be traded in accordance with the rules of Sydney Futures Exchange Limited, which is an authorised futures exchange under New Zealand law.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 16 June 2005.

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## **Notes**

### **1 *General***

This is a reprint of the Futures Contracts (NZFOX Share Options) Notice 2005. The reprint incorporates all the amendments to the notice as at 17 June 2005, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

### **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/legislation/reprints.shtml>  
or Part 8 of the *Tables of 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)*

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