

**Reprint
as at 1 January 2009**



**Securities Act (Marlin Global
Limited) Exemption Notice 2007**

(SR 2007/285)

Securities Act (Marlin Global Limited) Exemption Notice 2007: expired, on 1 January 2009, 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 (Marlin Global Limited) Exemption Notice 2007 is administered by the Securities Commission.

Notice

1 Title

This notice is the Securities Act (Marlin Global 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 December 2008.

4 Interpretation

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

Act means the Securities Act 1978

issuer means Marlin Global Limited

Regulations means the Securities Regulations 1983

specified securities means ordinary shares and warrants to subscribe for ordinary shares in the issuer offered to the public by the issuer.

(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 10(1)(c) of Schedule 1 of Regulations

The issuer 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.

6 Conditions of exemption

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

(a) either—

(i) the specified securities are quoted, or approved for quotation, on a securities market operated by New Zealand Exchange Limited; or

- (ii) an application has been made to New Zealand Exchange Limited for quotation of the specified securities on a securities market operated by New Zealand Exchange Limited and, at the time of the offer of the specified securities, the issuer has complied with all the requirements of New Zealand Exchange Limited relating to the application with which it must comply at that time; and
- (b) the registered prospectus relating to the offer of the specified securities 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 the issuer as high risk; and
 - (ii) a prominent statement to the effect that the directors of the issuer 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
- (c) the investment statement relating to the offer of the specified securities contains at the front of the "What returns will I get?" section a prominent statement to the effect that the issuer 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 21st day of September 2007.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after its notification in the *Gazette* and expires on 31 December 2008, exempts Marlin Global Limited from clause 10(1)(c) of Schedule 1 of the Securities Regulations 1983, which is the requirement that a registered prospectus must provide a prospective statement of cash flows.

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

- Marlin Global Limited is an investment company whose business is more akin to that of a managed fund investing in market instruments than a traditional company. Because the company has not yet determined the precise make-up of its investment portfolio, any prospective financial information provided by it would be highly speculative and may be of little relevance to potential investors:
- the condition that the prospectus contains a statement of Marlin Global Limited's reasons for not providing the prospective statement of cash flows, and an acknowledgement that the investment is high risk, requires that potential investors are informed that certain information is not included and why, and that their attention is drawn to the nature of the investment:
- the directors of Marlin Global Limited must still give a brief description of their plans under clause 10(1)(a) of Schedule 1 of the Securities Regulations 1983.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 27 September 2007.

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Notes

1 *General*

This is a reprint of the Securities Act (Marlin Global Limited) Exemption Notice 2007. The reprint incorporates all the amendments to the notice as at 1 January 2009, 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)***

Securities Act (Marlin Global Limited) Exemption Notice 2007 (SR 2007/285):
clause 3
