



Deposit Takers (Orange Finance Limited) Exemption Notice 2012

Pursuant to section 157G of the Reserve Bank of New Zealand Act 1989, the Reserve Bank of New Zealand gives the following notice (to which is appended a statement of reasons of the Bank).

Contents

	Page
1 Title	1
2 Commencement	1
3 Expiry	1
4 Interpretation	2
5 Exemption from credit rating requirement	2
6 Exemption from certain governance requirements	2
7 Exemption from capital ratio requirements	2
8 Exemption from related party exposures requirements	2
9 Exemption from liquidity requirements	2
10 Conditions of exemptions in clauses 5 to 9	2

Notice

- 1 Title**
This notice is the Deposit Takers (Orange Finance Limited) Exemption Notice 2012.
- 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 July 2012.

4 Interpretation

- (1) In this notice, **Act** means the Reserve Bank of New Zealand Act 1989.
- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

5 Exemption from credit rating requirement

Orange Finance Limited is exempted from section 157I of the Act.

6 Exemption from certain governance requirements

Orange Finance Limited is exempted from section 157L(1) and (3) of the Act.

7 Exemption from capital ratio requirements

- (1) Orange Finance Limited is exempted from sections 157T and 157U of the Act.
- (2) The trustee in respect of the debt securities of Orange Finance Limited is exempted from section 157T of the Act in respect of those securities.

8 Exemption from related party exposures requirements

- (1) Orange Finance Limited is exempted from sections 157X and 157Y of the Act.
- (2) The trustee in respect of the debt securities of Orange Finance Limited is exempted from section 157X of the Act in respect of those securities.

9 Exemption from liquidity requirements

- (1) Orange Finance Limited is exempted from sections 157ZA and 157ZB of the Act.
- (2) The trustee in respect of the debt securities of Orange Finance Limited is exempted from section 157ZA of the Act in respect of those securities.

10 Conditions of exemptions in clauses 5 to 9

- (1) The exemptions in clauses 5 to 9 are subject to the following conditions:

- (a) no debt securities may be offered for subscription by, or on behalf of, Orange Finance Limited; and
 - (b) Orange Finance Limited must ensure that any Internet site maintained by or on behalf of Orange Finance Limited displays, at all reasonable times and at no cost to the public, a notice to the effect that Orange Finance Limited is exempted, on the basis that it is in moratorium and does not accept any subscriptions from the public for debt securities, from—
 - (i) the requirement in section 157I of the Act to have a credit rating; and
 - (ii) the governance requirements in section 157L(1) and (3) of the Act; and
 - (iii) the capital ratio requirements in sections 157T and 157U of the Act; and
 - (iv) the related party exposures requirements in sections 157X and 157Y of the Act; and
 - (v) the liquidity requirements in sections 157ZA and 157ZB of the Act; and
 - (c) Orange Finance Limited must not disclose an assessment of its creditworthiness that is in substance a credit rating (whether called a rating, grading, scoring, ranking, or by any other name) issued by an agency that is not approved by the Bank under section 157J of the Act.
- (2) References in this clause to debt securities do not include debt securities in respect of which the only persons in New Zealand who are able, under the terms of the offer of the securities, to subscribe for the securities are all or any of the following:
- (a) eligible persons referred to in section 5(2CC) of the Securities Act 1978;
 - (b) persons referred to in section 3(2)(a) of the Securities Act 1978.

Dated at Wellington this 22nd day of May 2012.

Grant Spencer,
Deputy Governor.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, exempts Orange Finance Limited from certain prudential requirements of the Reserve Bank of New Zealand Act 1989 (the **Act**). Orange Finance Limited was previously exempted from those requirements under the Deposit Takers (Moratorium) Exemption Notice 2009. That notice ceased to apply to Orange Finance Limited on 31 July 2011. However, Orange Finance Limited remains in a moratorium under its trust deed until 31 July 2012. Entities that have previously issued debt securities to members of the public, but that are now in a moratorium approved by their stockholders and have not yet paid all of their depositors, are deposit takers under section 157C(1) and (3) of the Act. This notice exempts Orange Finance Limited from certain prudential requirements of the Act until the close of 31 July 2012.

The Reserve Bank of New Zealand (the **Bank**), after taking into account the principles set out in section 157F of the Act, and satisfying itself as to the matters set out in section 157G(2) of the Act, considers it appropriate to grant the exemption because—

- the Bank is satisfied that the exemption is consistent with the maintenance of a sound and efficient financial system, in that Orange Finance Limited is an entity in moratorium that will be prevented from accepting deposits from the public:
- existing depositors have agreed not to withdraw their deposits until they fall due under the arrangement. Obtaining a credit rating, maintaining a minimum capital ratio, ensuring the trust deed includes a maximum limit on exposures to related parties, the governance requirements in section 157L(1) and (3) of the Act, and the liquidity requirements would impose additional direct and indirect costs which are unduly onerous and burden-

some to Orange Finance Limited, because these requirements are not likely to provide material additional benefits to depositors:

- the exemption expires on the date that Orange Finance Limited's moratorium ends under its trust deed and is conditional on Orange Finance Limited not issuing any further debt securities to the general public, but at the same time it does not preclude the possibility of investment, for example by a wealthy or experienced investor, that may assist Orange Finance Limited; therefore the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 24 May 2012.

This notice is administered by the Reserve Bank of New Zealand.
