

**Reprint
as at 1 December 2016**



**Securities Act (Estates and Interests in Australian Land)
Exemption Amendment Notice 2012
(SR 2012/293)**

Securities Act (Estates and Interests in Australian Land) Exemption Amendment Notice 2012: revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct Regulations 2014 (LI 2014/326).

Pursuant to sections 70B and 70D of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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Notice

1 Title

This notice is the Securities Act (Estates and Interests in Australian Land) Exemption Amendment Notice 2012.

2 Commencement

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

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.

3 Principal notice

This notice amends the Securities Act (Estates and Interests in Australian Land) Exemption Notice 2002 (the **principal notice**).

4 Clause 3 amended (Expiry)

In clause 3, replace “2012” with “2017”.

5 Clause 4 amended (Interpretation)

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

6 Clause 5 amended (Exemption)

In clause 5, replace “sections 33(2) and (3), 37, 37A, and 51 to 54B of the Act and the Regulations (except regulation 8)” with “Part 2 of the Act and the Regulations”.

Dated at Wellington this 24th day of September 2012.

Sue Brown,
Head of Primary Regulatory Operations.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends the Securities Act (Estates and Interests in Australian Land) Exemption Notice 2002 (the **2002 notice**) by—

- extending its expiry to 30 September 2017;
- updating the notice to refer to the Securities Regulations 2009 (rather than the Securities Regulations 1983);
- extending the exemptions to include the whole of Part 2 of the Securities Act 1978 (the **Act**) and the Securities Regulations 2009 in their entirety.

The Financial Markets Authority, after satisfying itself of the matters set out in section 70B(2) of the Act, considers that it is appropriate to amend the principal notice because—

- the 2002 notice already grants broad exemptions from the Act and from the Securities Regulations 1983 (except the regulation that prohibits advertisements from being misleading). This recognises that, in the absence of the exemptions, offers of estates and interests in Australian land for which a certificate of title is issued would need to comply with the disclosure requirements of the Act and of regulations made under the Act. This would be inconsistent with the position that applies to offers of estates and interests in New Zealand land

for which a certificate of title can be issued. As is the case with these offers of estates and interests in New Zealand land, the Financial Markets Authority considers it is appropriate that these transactions be regulated by relevant fair trading and real estate law, rather than securities law. Accordingly, the Financial Markets Authority considers that the exemptions are appropriate; and

- the exemptions in this notice have been in place for a number of years and the policy reasons explained above remain valid and relevant. Accordingly, the exemptions generally remain appropriate in light of the policy of the notice. However, the Financial Markets Authority recognises that the statutory exemption for estates and interests in New Zealand land is a complete exemption from all of the requirements of Part 2 of the Act. The Financial Markets Authority therefore considers it appropriate to extend the scope of the exemptions for these estates and interests in Australian land to an exemption from all of Part 2 of the Act. This will better align the exemption with the statutory exemption for estates and interests in New Zealand land. The Financial Markets Authority also considers that the extended exemption is appropriate given its view that these transactions should not be regulated by securities law and the fact that the Financial Markets Authority does not exercise any regulatory oversight over these offers of estates and interests in Australian land; and
- given the replacement of the Securities Regulations 1983 with the Securities Regulations 2009, it is appropriate to update the references to the regulations; and
- given the limited application of the notice to estates and interests in Australian land for which a certificate of title is issued and the application of general fair trading and real estate law to those transactions, the Financial Markets Authority considers that the notice, as extended, will not cause significant detriment to subscribers and is not broader than is reasonably necessary to address the matters that gave rise to the exemptions.

Reprints notes

1 *General*

This is a reprint of the Securities Act (Estates and Interests in Australian Land) Exemption Amendment Notice 2012 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*

Financial Markets Conduct Regulations 2014 (LI 2014/326): Schedule 1 clause 26