

**Securities Act (Overseas Employee
Share Purchase Schemes)
Exemption Amendment Notice
2005**

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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Notice

1 Title

- (1) This notice is the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Amendment Notice 2005.
- (2) In this notice, the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002 (SR 2002/329) is called “the principal notice”.

2 Commencement

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

3 Interpretation

Clause 4(1) of the principal notice is amended by revoking the definition of **specified security**, and substituting the following definition:

“**specified security** means, in relation to an exempt overseas issuer;—

“(a) a share or common stock in the exempt overseas issuer:

“(b) an interest in a scheme—

“(i) the issuer of which is—

“(A) the exempt overseas issuer; or

“(B) a company incorporated in a specified overseas jurisdiction that is a wholly owned subsidiary of the exempt overseas issuer; and

“(ii) which, in accordance with the documents constituting or defining the constitution of the exempt overseas issuer and the scheme, may only be transferred, issued, redeemed, or acquired together with a specified number of the securities in paragraph (a); and

“(iii) which is quoted or approved for quoting on the same securities exchange as the securities in paragraph (a):

“(c) a right or option to acquire a security in paragraph (a) or paragraph (b):

“(d) an interest in, or a right under a trust to, a security in paragraph (a) or paragraph (b):

“(e) an interest in, or a right under a trust to, a right or option in paragraph (c)”.

4 New clause 5 substituted

The principal notice is amended by revoking clause 5, and substituting the following clause:

“5 Exemption for specified securities

“(1) This clause applies to—

“(a) an exempt overseas issuer:

“(b) a company incorporated in a specified overseas jurisdiction that is a wholly owned subsidiary of an exempt overseas issuer:

- “(c) a holder or offeror of specified securities previously allotted by a person in paragraph (a) or paragraph (b):
- “(d) a person acting on behalf of a person in paragraph (a) or paragraph (b) or paragraph (c).
- “(2) Every person to whom this clause applies is exempted from sections 33(2), 33(3), 37, 37A, 38A, and 51 to 54B of the Act and the Regulations (except regulation 8) in respect of specified securities offered under the exempt overseas issuer’s employee share purchase scheme.”

5 Condition of exemptions for specified securities and savings scheme securities that they are allotted only to eligible persons

Clause 7 of the principal notice is amended by revoking paragraph (b), and substituting the following paragraph:

- “(b) in the case of specified securities that are allotted on the exercise of rights or options to acquire specified securities, persons who are eligible persons at the time of allotment of those rights or options.”

Dated at Wellington this 3rd day of October 2005.

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

[Seal]

C A N Beyer,
Member.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends 3 clauses of the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002 (the principal notice). The purpose of the amendments is to extend the principal notice to include the offer and allotment by an exempt overseas issuer or its wholly owned subsidiary of participatory securities that are “stapled” to equity securities.

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

- the principal notice recognises that the cost of producing a prospectus and investment statement to comply with New Zealand law may preclude offers of securities being made to New Zealand employees by overseas issuers. Extending the principal notice to allow overseas employee share purchase schemes to also include an offer of participatory securities that are stapled to equity securities of an exempt overseas issuer or its wholly owned subsidiary is consistent with the objective of reducing compliance costs for overseas employee share purchase schemes:
- the extension is limited to situations where there is ready access to information about the stapled participatory and equity securities.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 October 2005.
This notice is administered by the Securities Commission.
