

Securities Act (Charitable and Religious Purposes) Exemption Amendment Notice 2007

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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- 1 Title**
This notice is the Securities Act (Charitable and Religious Purposes) Exemption Amendment Notice 2007.
- 2 Commencement**
This notice comes into force on the day after the date of its notification in the *Gazette*.
- 3 Principal notice amended**
This notice amends the Securities Act (Charitable and Religious Purposes) Exemption Notice 2003.
- 4 Interpretation**
Clause 4(1) is amended by adding the following definition:

“**school board of trustees** has the same meaning as in section 7(1)(d) of the Crown Entities Act 2004.”

5 New clause 5 substituted

Clause 5 is revoked and the following clause substituted:

“5 Exemption for debt securities

“(1) Subject to subclause (2), every charitable organisation and every person acting on its behalf are exempted from sections 33(2), 37, and 37A of the Act and regulation 17 of the Regulations in respect of any debt securities.

“(2) The exemption in subclause (1) from section 33(2) of the Act does not apply in respect of an issuer that offers debt securities for allotment to school boards of trustees on the basis of an approval granted by the Ministers of Education and Finance under the Crown Entities Act 2004 that is conditional upon the charitable organisation complying with section 33(2) of the Act or otherwise having a trust deed and trustee under the Act.”

Dated at Wellington this 4th day of April 2007.

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

CAN Beyer,
Member.

[Seal]

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 (Charitable and Religious Purposes) Exemption Notice 2003 (the **2003 notice**). The effect of the amendment is to exclude the exemption in clause 5 from section 33(2) of the Securities Act 1978 (the **Act**) in the case of charitable organisations that offer debt securities for allotment to a school board of trustees and the requisite approval under the Crown Entities Act 2004 is conditional upon compliance by the charitable organisation with section 33(2) of the Act or is conditional upon the charitable organisation having a trust deed and trustee under the Act.

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

- the 2003 notice exempts charitable organisations from the requirements to have a trust deed and appoint a trustee under the Act. The exemption applies to debt securities allotted to any person. However, under the Crown Entities Act 2004 school boards of trustees are limited in the investments they can make. Generally, a charitable organisation can only accept a subscription from a school board of trustees if the charitable organisation has Ministerial approval under the Crown Entities Act 2004:
- the Commission has been advised that Ministerial approval for charitable organisations to receive subscriptions from school boards of trustees may require that those securities have a registered trust deed and be monitored by a trustee. In circumstances where approvals are given on this basis, the amendment to this notice ensures that these trustee requirements are required by law, that the basis of any trustee appointment and the trustee's powers are certain, and that the requirements are legally enforceable:
- the amendment is made at the request of a charitable organisation which is seeking to be approved to issue debt securities to school boards of trustees.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 12 April 2007.
