

**Reprint
as at 29 March 2013**



**Financial Reporting Act (Overseas
Companies) Exemption Notice
2007**

(SR 2007/275)

Financial Reporting Act (Overseas Companies) Exemption Notice 2007:
revoked, on 29 March 2013, by clause 8 of the Financial Reporting Act
(Overseas Companies) Exemption Notice 2013 (SR 2013/60).

Pursuant to section 35A of the Financial Reporting Act 1993, 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.

This notice is administered by the Financial Markets Authority.

Notice

1 Title

This notice is the Financial Reporting Act (Overseas Companies) 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 March 2013.

Clause 3: amended, on 28 September 2012, by clause 3 of the Financial Reporting Act (Extension of Term) Exemption Notice 2012 (SR 2012/296).

4 Application

An exemption granted by this notice applies to the following accounting periods of an exempt issuer:

- (a) an accounting period of the exempt issuer that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if,—
 - (i) in the case of copies of financial statements or group financial statements for that period that are required to be delivered for registration under section 18 of the Act, the exemption is granted before those documents are required to be delivered for registration under that section; or
 - (ii) in any other case, the exemption is granted before the financial statements or group financial statements for that period are required to be completed; and
- (b) subsequent accounting periods.

5 Interpretation

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

Act means the Financial Reporting Act 1993

exempt issuer means an issuer that—

- (a) is incorporated in a specified jurisdiction; and

- (b) has specified financial statements prepared in respect of it; and
- (c) has offered or offers securities to the public in New Zealand in reliance on—
 - (i) the Securities Act (Overseas Companies) Exemption Notice 1983; or
 - (ii) the Securities Act (Overseas Companies) Exemption Notice 1984; or
 - (iii) the Securities Act (Overseas Companies) Exemption Notice 1986; or
 - (iv) the Securities Act (Overseas Companies) Exemption Notice (No 2) 1986; or
 - (v) the Securities Act (Overseas Companies) Exemption Notice 1993; or
 - (vi) the Securities Act (Overseas Companies) Exemption Notice 1995; or
 - (vii) the Securities Act (Overseas Companies) Exemption Notice 1997; or
 - (viii) the Securities Act (Overseas Companies) Exemption Notice 2002 (or a notice that, with or without modification, replaces or corresponds to that notice); and
- (d) has not offered and does not offer securities to the public in New Zealand otherwise than in reliance on 1 or more of the notices referred to in paragraph (c)

International Financial Reporting Standards means—

- (a) International Financial Reporting Standards and International Accounting Standards that have been issued or adopted by the International Accounting Standards Board in accordance with the constitution of the International Accounting Standards Committee Foundation; and
- (b) final interpretations by the International Financial Reporting Interpretations Committee approved by the International Accounting Standards Board in accordance with that constitution

overseas GAAP, in relation to an exempt issuer, means the accounting practice, principles, and standards of the specified

jurisdiction in which the exempt issuer is incorporated, as specified in the third column of the Schedule

overseas legislation, in relation to an exempt issuer, means the legislation of the specified jurisdiction in which the exempt issuer is incorporated, as specified in the second column of the Schedule

specified financial statements, in relation to an exempt issuer, means the financial statements and any group financial statements that are required to be prepared in respect of the exempt issuer in accordance with the laws of the specified jurisdiction in which the exempt issuer is incorporated (including the overseas legislation)

specified jurisdiction means a jurisdiction specified in the first column of the Schedule.

- (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.

Clause 5(1) **International Financial Reporting Standards**: inserted, on 31 October 2008, by clause 4 of the Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2008 (SR 2008/420).

6 Exemptions for directors of exempt issuers

Every director of an exempt issuer is exempted from sections 10(1), 11, 13 to 15, and 18 of the Act in respect of the exempt issuer.

7 Conditions

The exemptions in clause 6 are subject to the conditions that—

- (a) the exempt issuer, in relation to its specified financial statements, complies with the laws of the specified jurisdiction in which it is incorporated that relate to the preparation, content, auditing, and public filing of those statements (including the overseas legislation); and
- (b) the specified financial statements of the exempt issuer comply with the overseas GAAP; and
- (c) if, in complying with the overseas GAAP, the specified financial statements do not give a true and fair view of the matters to which they relate, the directors of the ex-

empt issuer add information and explanations that will
give a true and fair view of those matters.

Schedule
Overseas legislation and GAAP of
specified jurisdictions

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Specified jurisdiction	Overseas legislation	Overseas GAAP
United States of America	the Securities Exchange Act of 1934 (US) and the Code of Federal Regulations (US)	Generally accepted accounting practice in the United States of America
United Kingdom	the Companies Act 1985 (UK) and the Companies Act 2006 (UK)	Generally accepted accounting principles in the United Kingdom or international accounting standards (within the meaning of Regulation (EC) No 1606/2002)
Australia	the Corporations Act 2001 (Aust)	Australian equivalents to International Financial Reporting Standards

Schedule: amended, on 31 October 2008, by clause 5 of the Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2008 (SR 2008/420).

Dated at Wellington this 18th day of September 2007.

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

[Seal]

J Diplock,

Chairperson.

Statement of reasons

Note: The following statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- **Financial Reporting Act (Extension of Term) Exemption Notice 2012**
- **Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2012**
- **Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2008**

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 30 June 2012, exempts the directors of certain issuers incorporated in the United States of America and the United Kingdom from various provisions of the Financial Reporting Act 1993 (the **Act**).

The effect of the exemptions is to provide relief to the directors of issuers incorporated in those jurisdictions that have offered or offer securities in New Zealand under the Securities Act (Overseas Companies) Exemption Notice 2002 or other overseas companies notices that correspond to that notice (the **overseas companies securities notices**) from the preparation, content, auditing, and filing requirements of the Act. These exemptions are granted on the conditions that the issuer prepares and publicly files financial statements that they are required to prepare under the financial reporting requirements of their respective jurisdictions.

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

- there will not be any significant detriment to subscribers in New Zealand as the exemptions only apply to issuers that already have New Zealand shareholders, and where those persons did not become shareholders as a result of a public offer in New Zealand. Investors in these issuers will already be familiar with the format of financial reports prepared by these issuers:

- the exemption from the filing requirement recognises that overseas companies that are issuers only under the overseas companies securities notices have a comparatively minor association with New Zealand securities law, which does not justify the imposition of an ongoing obligation to file accounts in New Zealand:
- the Securities Commission has had regard to the financial reporting and audit requirements that must be complied with by United Kingdom and United States issuers that relied or rely on the overseas companies securities notices. The exemptions are limited to issuers that must comply with the financial reporting and audit requirements set out in the Companies Act 1985 (UK) and the Companies Act 2006 (UK) or the Securities Exchange Act of 1934 (US) and the Code of Federal Regulations (US), as the case may be:
- the exemptions address the particular circumstances of offers made under the overseas companies securities notices, which involves only transitory contact by overseas companies as issuers with New Zealand and provides relief from the ongoing financial reporting requirements triggered by the allotment of securities under those notices. The application of the exemptions is limited to overseas companies that are issuers by reason only of reliance on the overseas companies securities notices, and so it is not broader than is reasonably necessary to address the difficulties identified:
- the Securities Commission has named the United States of America and the United Kingdom as specified jurisdictions in the *Schedule* of this notice, taking into account the financial reporting obligations on listed companies (under law and any applicable stock exchange rules), the legal standing and enforcement of these obligations, and whether these financial reporting obligations provide New Zealand securities holders with adequate financial information about companies in which they invest, including public availability of financial reports prepared under the rules and laws of the relevant jurisdiction.

Note: The preceding statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:

- **Financial Reporting Act (Extension of Term) Exemption Notice 2012**

- **Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2012**
 - **Financial Reporting Act (Overseas Companies) Exemption Amendment Notice 2008**
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Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 20 September 2007.

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Notes

1 *General*

This is a reprint of the Financial Reporting Act (Overseas Companies) Exemption Notice 2007. The reprint incorporates all the amendments to the notice as at 29 March 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

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/editorial-conventions/> or Part 8 of the *Tables of New Zealand 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)*

Financial Reporting Act (Overseas Companies) Exemption Notice 2013
(SR 2013/60): clause 8

Financial Reporting Act (Extension of Term) Exemption Notice 2012
(SR 2012/296): clause 3

Financial Reporting Act (Overseas Companies) Exemption Amendment Notice
2008 (SR 2008/420)
