



Securities Act (Southland Building Society) Exemption Notice 2008

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**
 This notice is the Securities Act (Southland Building Society) Exemption Notice 2008.
- 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 30 September 2013.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—
- Act** means the Securities Act 1978
- redeemable shares** means redeemable shares that—
- (a) are offered to the public by SBS; and
 - (b) for the purposes of the Act, consist of participatory securities and debt securities
- Regulations** means the Securities Regulations 1983
- SBS** means Southland Building Society, a building society registered under the Building Societies Act 1965.
- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemption from sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of Act and regulation 14(2) of Regulations

SBS and every person acting on SBS's behalf are exempted from sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of the Act and regulation 14(2) of the Regulations in respect of the redeemable shares to the extent that the redeemable shares consist of participatory securities.

6 Condition of exemptions in clause 5

The exemptions in clause 5 are subject to the condition that the investment statement relating to the offer of the redeemable shares (which is required to the extent that the redeemable shares consist of debt securities) clearly explains—

- (a) the nature of the redeemable shares; and
- (b) the rights of purchasers of the redeemable shares that arise from those redeemable shares to the extent that they consist of participatory securities.

7 Application of clause 5

An exemption in clause 5 only applies if SBS is a registered bank at the time when the exemption is relied upon.

Dated at Wellington this 1st day of October 2008.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice comes into force on the day after its notification in the *Gazette* and expires on 30 September 2013. It exempts Southland Building Society (**SBS**) from sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of the Securities Act 1978 (the **Act**) and regulation 14(2) of the Securities Regulations 1983, subject to specified conditions.

SBS offers redeemable shares (**redeemable shares**) to the public. When SBS does so, it is offering an instrument that consists of a participatory security and a debt security.

If SBS becomes a registered bank, section 5(2C) of the Act applies to it, meaning that certain specified sections of the Act do not apply to SBS in respect of the redeemable shares to the extent that they consist of debt securities. However, other provisions of the Act continue to apply to SBS in respect of the redeemable shares to the extent that they consist of participatory securities. The exemptions in this notice relate to the redeemable shares to the extent that they consist of participatory securities, and are granted to SBS in order to ensure that SBS's compliance obligations in relation to the redeemable shares do not go beyond those of other registered banks.

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

- the redeemable shares issued by SBS consist of debt securities in that holders deposit money and have a right to be repaid. However, holders of redeemable shares also obtain additional rights, such as the right to share in the surplus assets of SBS upon liquidation. This means it is arguable that holders of redeemable shares also receive a participatory security in terms of the Act:
- the exemptions in this notice remove SBS's obligations in respect of the participatory securities that are issued to subscribers as an ancillary part of the redeemable shares. The debt securities, however, remain. SBS is required to comply with all of the provisions of the Act and the Securities Regulations 1983 in respect of those debt securities (subject to any available exemptions):
- the Act provides exemptions for registered banks that issue debt securities, thereby recognising their special nature as issuers regulated by the Reserve Bank of New Zealand. The Securities Commission has consulted with the Reserve Bank of New Zealand regarding this exemption notice. The effect of the exemptions is to achieve consistency between the regulatory treatment of deposits issued by SBS and those issued by other registered banks.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 7 October 2008.
This notice is administered by the Securities Commission.
