

**Reprint
as at 1 January 2016**



**Securities Act (Goodman Fielder New Zealand Limited)
Exemption Notice 2010
(SR 2010/347)**

Securities Act (Goodman Fielder New Zealand Limited) Exemption Notice 2010: expired, on 1 January 2016, by clause 3(2).

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).

Contents

	Page
1 Title	2
2 Commencement	2
3 Expiry	2
4 Interpretation	2
5 Exemption from regulation 26 of Regulations	3
6 Conditions of exemption in clause 5	3
7 Exemption from certain requirements relating to requests under section 54B(1) of Act	4
8 Conditions of exemption in clause 7	4
9 Exemption from section 33(1) of Act <i>[Expired]</i>	6
10 Condition of exemption in clause 9 <i>[Expired]</i>	6
11 Exemption from regulation 30(2) of Regulations <i>[Expired]</i>	6
12 Condition of exemption in clause 11 <i>[Expired]</i>	6

Schedule

Certificate in respect of advertisements

[Expired]

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.

Notice

1 Title

This notice is the Securities Act (Goodman Fielder New Zealand Limited) Exemption Notice 2010.

2 Commencement

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

3 Expiry

- (1) Clauses 9 to 12 and the Schedule expire on the close of 31 March 2011.
- (2) The rest of this notice expires on the close of 31 December 2015.

4 Interpretation

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

Act means the Securities Act 1978

consolidated financial statements means, at any date, the most recent publicly available consolidated audited financial statements of the Goodman Fielder group, prepared in accordance with Australian generally accepted accounting principles

Goodman Fielder group means, at any time, Goodman Fielder Limited and each of its subsidiaries and associates (as determined in accordance with Australian generally accepted accounting principles at the time)

guaranteeing group, in relation to an offer of specified debt securities, means the group comprising—

- (a) Goodman Fielder New Zealand Limited; and
- (b) Goodman Fielder Limited, and every subsidiary of Goodman Fielder Limited, to the extent that Goodman Fielder Limited or the subsidiary, as the case may be,—
 - (i) is unconditionally liable (whether or not jointly or severally with Goodman Fielder New Zealand Limited or any other person) to repay the specified debt securities or is liable to repay the specified debt securities subject only to the condition that Goodman Fielder New Zealand Limited or any other person has failed to do so; and
 - (ii) agrees to submit to the jurisdiction of the New Zealand courts in the event of a dispute regarding the specified debt securities

non-guaranteeing subsidiary, in relation to an offer of specified debt securities, means a subsidiary of Goodman Fielder New Zealand Limited or Goodman Fielder Limited that is not a member of the guaranteeing group

pro forma statement means an unaudited pro forma statement showing the consolidated assets, less the consolidated liabilities, of the guaranteeing group as at the relevant date, prepared in accordance with Australian generally accepted accounting principles

prospectus means the full registered prospectus for an offer of specified debt securities

Regulations means the Securities Regulations 2009

relevant date means,—

- (a) for the purposes of clause 6, the date of the most recent annual or half-yearly statement of financial position of the Goodman Fielder group; and
- (b) for the purposes of clause 8, the date of the most recent annual or half-yearly consolidated financial statements that are available when a request under section 54B(1) of the Act is made, as referred to in clause 8

specified debt securities means debt securities of which Goodman Fielder New Zealand Limited is the issuer, and that are guaranteed by Goodman Fielder Limited and 1 or more of its subsidiaries, and that are issued after this notice comes into force.

- (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 regulation 26 of Regulations

Goodman Fielder New Zealand Limited and every person acting on its behalf are exempted from regulation 26 of the Regulations with respect to any advertisement for the specified debt securities.

6 Conditions of exemption in clause 5

The exemption in clause 5 is subject to the following conditions:

- (a) to the extent that an advertisement for the specified debt securities states the amount of total assets, or net assets, of the borrowing group, the advertisement must comply with regulation 26 of the Regulations in respect of those statements:
- (b) to the extent that an advertisement for the specified debt securities states the amount of total assets, or net assets, of any person other than the borrowing group, the advertisement must comply with regulation 26 of the Regulations in respect of those statements as if references to the borrowing group or group were references to the Goodman Fielder group:
- (c) every advertisement for the specified debt securities that states the amount of total assets, or net assets, of any person other than the borrowing group must—

- (i) contain a statement to the effect that the amount of the net assets, or the amounts of the total assets and total liabilities, stated in the advertisement refer to the amount of the net assets, or the amounts of the total assets and total liabilities, of the Goodman Fielder group rather than the guaranteeing group:
- (ii) state the amount of the net assets, or the amounts of the total assets and total liabilities, of the guaranteeing group as at the relevant date, being in each case an amount or amounts derived from the pro forma statement contained in the prospectus:
- (iii) refer to this notice and contain a statement to the effect that more information on the exemptions in this notice is set out in the prospectus.

7 Exemption from certain requirements relating to requests under section 54B(1) of Act

Goodman Fielder New Zealand Limited and every person acting on its behalf are exempted from section 54B(1) of the Act to the extent that that provision requires Goodman Fielder New Zealand Limited to provide, at the request of a holder of specified debt securities, the most recent annual or half-yearly financial statements and other documents referred to in regulation 44(d)(ii) of the Regulations.

8 Conditions of exemption in clause 7

- (1) The exemption in clause 7 is subject to the condition that Goodman Fielder New Zealand Limited must, after receiving a request from a holder of specified debt securities for a copy of any documents referred to in regulation 44(d)(ii) of the Regulations, send to the holder—
 - (a) a copy of the most recent annual or half-yearly financial statements of the member of the guaranteeing group to which the request relates (provided that company is required to prepare annual or half-yearly financial statements (as the case may be) under applicable law), along with a copy of all documents that are required by any enactment or rule of law to be incorporated in, be attached to, or accompany those financial statements; or
 - (b) if no financial statements are provided under paragraph (a) in respect of the member of the guaranteeing group to which the request relates because the relevant company is not required to prepare financial statements under applicable law,—
 - (i) a copy of the most recent annual or half-yearly consolidated financial statements of the Goodman Fielder group (together with a copy of the audit report on those financial statements, if they are required to be audited under applicable law) and all documents that are required by any enactment or rule of law to be incorpor-

- ated in, be attached to, or accompany those financial statements;
and
- (ii) a statement prepared by the auditor of the Goodman Fielder group that describes the principal differences between Australian generally accepted accounting principles and New Zealand generally accepted accounting practice; and
 - (iii) a statement to the effect that the consolidated financial statements and other documents referred to in subparagraph (i) are those of the Goodman Fielder group and not those of the guaranteeing group; and
 - (iv) a statement listing and describing the members of the guaranteeing group as at the relevant date; and
 - (v) a statement of the net tangible assets of each member of the guaranteeing group as at the relevant date; and
 - (vi) a pro forma statement for the guaranteeing group; and
 - (vii) a statement by the directors of Goodman Fielder New Zealand Limited of the aggregate amount of the total tangible assets of all the non-guaranteeing subsidiaries (excluding balances with other members of the Goodman Fielder group) as at the relevant date, and a statement that, on that date, that amount is not more than 15% of the total tangible assets of the Goodman Fielder group (excluding balances with other members of the Goodman Fielder group); and
 - (viii) a statement by the directors of Goodman Fielder New Zealand Limited of the aggregate amount of the consolidated profit or loss before interest and tax of all the non-guaranteeing subsidiaries for the accounting period ending on the relevant date (excluding balances with other members of the Goodman Fielder group), and a statement that that amount is not more than 10% of the aggregate consolidated profit or loss before interest and tax of the Goodman Fielder group for that period (excluding balances with other members of the Goodman Fielder group); and
 - (ix) a statement by the directors of Goodman Fielder New Zealand Limited that they consider that the consolidated financial statements and other documents referred to in subparagraph (i), when read together with the pro forma statement, provide a reasonable basis to assess the financial position of the guaranteeing group in relation to the specified debt securities.
- (2) The exemption in clause 7 is subject to the further condition that, on the date that consolidated financial statements and other documents referred to in sub-clause (1)(b) are sent to the holder of the specified debt securities, the directors of Goodman Fielder New Zealand Limited are satisfied that—

- (a) the aggregate amount of the total tangible assets of all the non-guaranteeing subsidiaries (excluding balances with other members of the Goodman Fielder group) is not material in comparison with the amount of total tangible assets of the Goodman Fielder group (excluding balances with other members of the Goodman Fielder group), given the level of total tangible assets permitted to remain outside the guaranteeing group as set out in subclause (1)(b)(vii); and
 - (b) the aggregate amount of consolidated profit or loss before interest and tax of all non-guaranteeing subsidiaries for their most recently completed accounting period is not material in comparison with the amount of consolidated profit or loss before interest and tax of the Goodman Fielder group for that period, given the level of profit or loss permitted to remain outside the guaranteeing group as set out in subclause (1)(b)(viii).
- (3) The exemption in clause 7 is subject to the further condition that, when sending financial statements and other documents to the securities holder under subclause (1), Goodman Fielder New Zealand Limited—
- (a) must not require payment of any fee; and
 - (b) must comply with section 54B(2) of the Act.

9 Exemption from section 33(1) of Act

[Expired]

Clause 9: expired, on 1 April 2011, by clause 3(1).

10 Condition of exemption in clause 9

[Expired]

Clause 10: expired, on 1 April 2011, by clause 3(1).

11 Exemption from regulation 30(2) of Regulations

[Expired]

Clause 11: expired, on 1 April 2011, by clause 3(1).

12 Condition of exemption in clause 11

[Expired]

Clause 12: expired, on 1 April 2011, by clause 3(1).

Schedule Certificate in respect of advertisements

[Expired]

cl 12

Schedule: expired, on 1 April 2011, by clause 3(1).

Dated at Wellington this 29th day of September 2010.

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

[Seal]

N O Todd,
Member.

Statement of reasons

This notice comes into force on the day after its notification in the *Gazette* and different provisions expire on different dates, the latest being 31 December 2015.

This notice exempts Goodman Fielder New Zealand Limited from certain requirements of the Securities Act 1978 and the Securities Regulations 2009.

The exemptions relate to debt securities issued by Goodman Fielder New Zealand Limited and guaranteed by a guaranteeing group comprising Goodman Fielder New Zealand Limited, its parent Goodman Fielder Limited, and some (but not all) of Goodman Fielder Limited's subsidiaries.

The notice exempts Goodman Fielder New Zealand Limited, subject to conditions, from certain requirements relating to references to the guaranteeing group in—

- advertisements for the debt securities; and
- information provided to persons who request it.

The normal requirements relating to advertisements include a reference to the assets of the guaranteeing group. No financial statements are prepared for that particular group. The conditions of the exemption require the information to be given about the assets of the Goodman Fielder group instead, along with certain other information.

The notice also provides an exemption in respect of pre-prospectus advertising.

The Securities Commission considers that it is appropriate to grant the exemptions for the following reasons:

- Goodman Fielder Limited does not currently prepare half-yearly financial statements for any guarantor (other than itself) and does not currently prepare financial statements for the guaranteeing group. Annual financial statements are not published for all members of the guaranteeing group. Preparing those financial statements would impose significant cost, given the size of the group:
- the conditions of the exemptions require Goodman Fielder New Zealand Limited to provide security holders with financial information about the Goodman

Fielder group and significant financial information that is available about the guaranteeing group. Restrictions are imposed on variations permitted between the assets and earnings of the Goodman Fielder group and the guaranteeing group. In those circumstances, security holders will not be materially disadvantaged in assessing the ability of the guaranteeing group to meet the obligations due under the specified debt securities:

- when requests are received for information, the conditions of the exemptions require the directors of Goodman Fielder New Zealand Limited to be satisfied that the assets and earnings of the guaranteeing group are within the variations permitted at the time that the information is sent to the security holder:
- it is appropriate that any statements about assets or net assets that are made in advertisements for the specified debt securities align with the financial information contained in the prospectuses for those securities:
- the exemption allows Goodman Fielder Limited to use the financial statements already prepared in accordance with Australian generally accepted accounting practices. Those financial statements have been accepted under section 14(5) of the Financial Reporting Act 1993 as complying with section 14 of the Financial Reporting Act 1993 and every applicable financial reporting standard. The financial statements have been accepted on the basis that they comply with Australian law, the requirements of which are substantially the same as those of the Financial Reporting Act 1993:
- section 5(2CA) of the Act permits issuers to make pre-prospectus statements about an intended offer in order to gauge potential investor interest in the offer. In this case, a statement in a pre-prospectus document that includes a brief description of Goodman Fielder New Zealand Limited (including that it is a wholly owned subsidiary of Goodman Fielder Limited) and the nature of the business of the company and the Goodman Fielder group guarantors (including the brands, trade marks, and logos that the company or any member of the guaranteeing group owns, manages, or uses) will provide additional relevant information about the offer:
- the pre-prospectus information is limited in nature and is not permitted to address the merits of the offer:
- a regulation 30 certificate must still be completed by Goodman Fielder New Zealand Limited; the exemption simply permits this to be drafted in a format that is slightly different from that contained in Schedule 14 of the Securities Regulations 2009.

Reprints notes

1 *General*

This is a reprint of the Securities Act (Goodman Fielder New Zealand Limited) Exemption Notice 2010 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*

Securities Act (Goodman Fielder New Zealand Limited) Exemption Notice 2010 (SR 2010/347): clause 3