

**Reprint  
as at 1 December 2016**



**Securities Act (Audiovisual Advertisements) Exemption  
Notice 2012  
(SR 2012/287)**

Securities Act (Audiovisual Advertisements) Exemption Notice 2012: revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct Regulations 2014 (LI 2014/326).

Pursuant to section 70B of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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**Notice**

**1 Title**

This notice is the Securities Act (Audiovisual Advertisements) Exemption Notice 2012.

**2 Commencement**

This notice comes into force on 1 October 2012.

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**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.**

### 3 Expiry

This notice expires on the close of 30 September 2017.

### 4 Interpretation

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

**Act** means the Securities Act 1978

**audio media** means audio accessed from the Internet (for example, audio webcasts and audio podcasts)

**Regulations** means the Securities Regulations 2009

**video media** means video accessed from the Internet (for example, video webcasts and video podcasts).

- (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 Application of notice

This notice applies to an advertisement that—

- (a) is distributed to any person by means of radio, television, film, audio media, or video media; and
- (b) contains or refers to an offer of debt securities to the public for subscription; and
- (c) specifies an electronic or other address, a telephone number, or an Internet site for the purpose of obtaining an investment statement relating to those debt securities; and
- (d) complies with, or would but for reliance on this notice comply with, all applicable provisions of the Act and the Regulations.

### 6 Exemptions

- (1) Every issuer and every person acting on its behalf are exempted, in the case of any advertisement to which this notice applies, from—
- (a) regulation 25(1)(a) and (b) of the Regulations; and
  - (b) regulation 27(1) of the Regulations; and
  - (c) regulation 38 of the Regulations to the extent that regulation 38 requires an advertisement that states the rate or rates of returns that may be earned by holding securities to state any minimum amount or amounts of the securities that would have to be held in order to earn that rate or those rates.
- (2) The exemption in subclause (1)(b) does not apply if the advertisement states or implies that the debt securities are secured.

## **7 Condition**

The exemptions in clause 6 are subject to the condition that written information contained in an advertisement distributed by means of film, television, or video media must be displayed clearly and prominently, and for a reasonably sufficient time for the information to be read.

Dated at Wellington this 24th day of September 2012.

Sue Brown,  
Head of Primary Regulatory Operations.

### **Statement of reasons**

This notice, which comes into force on 1 October 2012 and expires on 30 September 2017, replaces the Securities Act (Audiovisual Advertisements) Exemption Notice 2002 (the **2002 notice**).

The notice exempts persons offering debt securities to the public in audiovisual advertisements from compliance with a number of the requirements of the Securities Regulations 2009 relating to the advertising of securities.

The provisions of the 2002 notice have been carried forward with little change of substance. However, changes have been made to—

- extend the notice to cover audio or video media accessed from the Internet (for example, webcasts and podcasts); and
- refer to the Securities Regulations 2009 (rather than the Securities Regulations 1983).

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers it appropriate to grant the exemptions because—

- the 2002 notice addresses the pragmatic limitations of radio, television, and film advertising when providing certain detailed information, by requiring investors' attention to be drawn to where those investors can access an investment statement with fuller information;
- changes introduced by the Securities Regulations 2009 did not attempt to tailor disclosure and conduct requirements to the extensive range of circumstances to which securities law requirements apply and so have not tailored the detailed requirements of advertisements in those media to address those pragmatic limitations. In these circumstances, the exemptions continue to be required;
- the extension to cover audio and video accessed from the Internet recognises the increased use by issuers of these new communication options. The Finan-

cial Markets Authority considers that the pragmatic limitations of advertising by radio, television, and film are shared by advertisements distributed by audio and video accessed from the Internet, and that the same relief is therefore appropriate:

- given the limited application of the notice to advertisements in media in which pragmatic limitations on advertisement content arise, and the requirement that investors' attention be drawn to the investment statement, the Financial Markets Authority considers that the exemptions, as extended, will not cause significant detriment to subscribers and are not broader than is reasonably necessary to address the matters that gave rise to the exemptions.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 27 September 2012.

## **Reprints notes**

### **1     *General***

This is a reprint of the Securities Act (Audiovisual Advertisements) Exemption Notice 2012 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***

Financial Markets Conduct Regulations 2014 (LI 2014/326): Schedule 1 clause 26