

Securities Act (Credit Unions) Exemption Notice 2000

(SR 2000/9)

Securities Act (Credit Unions) Exemption Notice 2000: expired, on 1 January 2005, by clause 3(2).

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice.

Contents

		Page
1	Title	1
2	Commencement	1
3	Expiry	2
4	Interpretation	2
5	Exemption	2
6	Condition relating to certificates	2
7	Condition relating to trust deed	3
	3 Meetings	3
8	Securities Act (Credit Unions) Exemption Notice (No 2) 1997 not applicable [<i>Expired</i>]	3

Notice

- 1 Title**
This notice is the Securities Act (Credit Unions) Exemption Notice 2000.
- 2 Commencement**
This notice comes into force on the day after the date of its notification in the *Gazette*.

Note

This notice is administered by the Securities Commission.

3 Expiry

- (1) Clause 8 expires on the close of 31 December 2001.
- (2) The rest of this notice expires on the close of 31 December 2004.

Clause 3(1): amended, on 31 October 2001, by clause 3 of the Securities Act (Credit Unions) Exemption Notice 2000 Amendment Notice (No 2) 2001 (SR 2001/324).

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
credit union means a credit union within the meaning of section 2 of the Friendly Societies and Credit Unions Act 1982
Regulations means the Securities Regulations 1983.
- (2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

5 Exemption

Every credit union and every person acting on the credit union's behalf are exempted, in respect of debt securities of which the credit union is the issuer, from—

- (a) section 37A(1)(d) of the Act and clauses 1(3) and 11 of Schedule 2 of the Regulations;
- (b) sections 51 and 52 of the Act;
- (c) section 54 of the Act;
- (d) regulation 24 of the Regulations, in so far as that regulation deems clauses 1(2) and 3 of Schedule 5 of the Regulations to be contained in the trust deed relating to the debt securities.

6 Condition relating to certificates

The exemption granted by clause 5(c) is subject to the condition that the credit union sends, or causes to be sent, to each holder of debt securities of which the credit union is the issuer, at any time on request and at least once every 6 months, a written statement that properly evidences the amount, nature, and ownership of all debt securities allotted by the credit union,

whether before or after the date on which this notice comes into force, and held by the securities holder.

7 Condition relating to trust deed

The exemption granted by clause 5(d) is subject to the condition that the trust deed relating to the debt securities contains the following clauses, in substitution for clauses 1(2) and 3 of Schedule 5 of the Regulations:

- “(2) The trustee must exercise reasonable diligence to ascertain whether or not the assets of the borrowing group that are or may be available, whether by way of security or otherwise, are sufficient or likely to be sufficient for the credit union to meet its obligations to its members in accordance with—
- “(a) the rules of the credit union; and
 - “(b) the terms of the issue of the debt securities.

“3 Meetings

- “(1) At the request in writing of the trustee or of not less than one-tenth of the number of members of the credit union, the issuer must summon a meeting of the members of the credit union for the purpose of—
- “(a) considering the financial statements of the issuer for its last preceding financial year; or
 - “(b) giving directions to the trustee in relation to the exercise of its powers.
- “(2) Every meeting summoned under subclause (1) must be summoned by sending by post a notice, specifying the time and place of the meeting, to every member of the credit union at his or her last known address not later than 14 days before the date of the proposed meeting. The meeting must be held under the chairmanship of a person nominated by the trustee or such other person as may be appointed in that behalf by the members of the credit union present at the meeting.”

**8 Securities Act (Credit Unions) Exemption Notice (No 2)
1997 not applicable**

[Expired]

Clause 8: expired, on 1 January 2002, by clause 3(1).

Dated at Wellington this 22nd day of February 2000.

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

[Seal]

E H Abernethy,
Chairman.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 31 December 2004 (except *clause 8*, which expires on 30 April 2001). This notice is intended to replace the Securities Act (Credit Unions) Exemption Notice (No 2) 1997 (the **1997 notice**) when it expires on 30 April 2001.

This notice exempts, subject to conditions, credit unions issuing debt securities from various provisions of the Securities Act 1978 and the Securities Regulations 1983.

The main differences between this notice and the 1997 notice are that this notice—

- does not continue the current exemption from section 33(2) of the Act, which requires a trustee and a trust deed in relation to debt securities; and
- does not require 6-monthly auditing of financial statements (the annual auditing provision in section 53E(1) of the Act will apply).

Until 30 April 2001, both this notice and the 1997 notice will be in force and credit unions will be able to choose between them. How-

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**Securities Act (Credit Unions) Exemption
Notice 2000**

ever, *clause 8* provides that nothing in the 1997 notice applies to debt securities issued by a credit union in reliance on any exemption granted by this notice.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 February 2000.
