

**Reprint
as at 1 December 2014**



Securities Regulations 2009

(SR 2009/230)

Securities Regulations 2009: revoked, on 1 December 2014, by section 5(o) of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 24th day of August 2009

Present:

His Excellency the Governor-General in Council

Pursuant to sections 70, 70AA, 70A, 74, and 78 of the Securities Act 1978, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Commerce in accordance with sections 70(3), 74, and 78 of that Act, makes the following regulations.

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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.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

- 1 Title**
These regulations are the Securities Regulations 2009.
- 2 Commencement**
These regulations come into force on 1 October 2009.
- 3 Overview**
 - (1) Part 1 contains provisions relating to prospectuses that must be registered in relation to securities that are offered to the public (being either full prospectuses, short form prospectuses, or simplified disclosure prospectuses). Schedules 1 to 12 pre-

scribe different requirements for the content of prospectuses depending on the type of security involved and the type of prospectus that is registered.

- (2) Part 2 contains provisions relating to the content of investment statements that must be received by subscribers before subscribing for securities that are offered to the public. Schedule 13 sets out the matters that must be contained in investment statements. (Parts 3 and 4 also apply because investment statements are advertisements.)
- (3) Part 3 contains provisions relating to advertisements in connection with offers of securities to the public.
- (4) Part 4 contains certain restrictions on the content of registered prospectuses and advertisements.
- (5) Part 5 relates to the content of—
 - (a) trust deeds, which relate to debt securities offered to the public (*see* section 33(2)(a) of the Act); and
 - (b) deeds of participation, which relate to participatory securities offered to the public (*see* section 33(3)(a) of the Act); and
 - (c) trust deeds for unit trusts and KiwiSaver schemes.
- (6) Part 6 contains miscellaneous provisions, including a provision that prescribes documents and information that may be requested by a security holder from an issuer, a provision prescribing the rate of interest on subscriptions to be repaid, a provision revoking the Securities Regulations 1983 on 30 June 2010, and transitional and application provisions (that provide for these regulations to apply to an offer of securities unless the Securities Regulations 1983 apply in certain circumstances).
- (7) Subclauses (1) to (6) are only a guide to the general scheme and effect of these regulations.

Regulation 3(5)(b): amended, on 1 October 2011, by regulation 4 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 3(5)(c): added, on 1 October 2011, by regulation 4 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

4 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
1983 regulations means the Securities Regulations 1983

accounting period has the same meaning as in section 5(1) of the Financial Reporting Act 2013 (applied as if references to an entity were to an issuing group, a borrowing group, a group, a body corporate, a business, or a scheme, as the case may be)

Act means the Securities Act 1978

address means,—

- (a) in the case of an individual, both—
 - (i) an address (not being a post office box address, document exchange box number, fax number, or other similar postal address) in New Zealand at which the person can be contacted; and
 - (ii) the city, town, or district (whether in New Zealand or elsewhere) in which the principal residence of the individual is situated:
- (b) in any other case, both—
 - (i) an address (not being a post office box address, document exchange box number, fax number, or other similar postal address) in New Zealand at which the person can be contacted; and
 - (ii) the address, if that address is different from the address referred to in subparagraph (i), of the person's principal place of business in New Zealand (if any) or, if the person does not have a place of business in New Zealand, the address of the person's principal place of business outside New Zealand

administration manager,—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to any other superannuation scheme, has the same meaning as in section 2(1) of the Superannuation Schemes Act 1989; and
- (c) in relation to a unit trust, means the person (if any) to whom the unit trustee or manager has contracted some or all of the administration of the trust

balance date has the same meaning as in section 41 of the Financial Reporting Act 2013 (applied as if references to a specified entity or entity were references to an issuing group,

a borrowing group, a group, a body corporate, a business, or a scheme, as the case may be)

borrowing group, in relation to an offer of debt securities, means the issuer of the securities and all guaranteeing subsidiaries at the specified date

call building society share has the meaning set out in regulation 46(2)

call debt security has the meaning set out in regulation 46(1)

continuous disclosure provisions has the same meaning as in section 19D of the Securities Markets Act 1988

crime involving dishonesty has the same meaning as in section 2(1) of the Crimes Act 1961

custodian does not include a bare trustee

date of the investment statement means the date stated in an investment statement for the purposes of section 38E(1)(b) of the Act

disclosure statement, in relation to debt securities the issuer of which is a registered bank, means a disclosure statement published by the registered bank under section 81 of the Reserve Bank of New Zealand Act 1989

FRS-42 means the financial reporting standard known as Financial Reporting Standard No 42 (Prospective Financial Statements) that has effect under the Financial Reporting Act 2013

FRS-43 means the financial reporting standard known as Financial Reporting Standard No 43 (Summary Financial Statements) that has effect under the Financial Reporting Act 2013

generally accepted accounting practice means generally accepted accounting practice within the meaning of either of the following:

- (a) section 3 of the Financial Reporting Act 1993 as in force before its repeal (applied as if references to an entity were references to an issuing group, a borrowing group, a group, a body corporate, a business, or a scheme, as the case may be):
- (b) section 8 of the Financial Reporting Act 2013

generally available to the market has the same meaning as in section 4 of the Securities Markets Act 1988

group means,—

- (a) in relation to an offer of equity securities, the issuer, and all former subsidiaries of the issuer in respect of the periods during which they were such subsidiaries, and all present subsidiaries of the issuer in respect of the periods since they became such subsidiaries;
- (b) in relation to an offer of debt securities, the issuer and all guaranteeing subsidiaries in respect of the periods since they became such subsidiaries

guaranteeing subsidiary, in relation to an offer of debt securities, means a subsidiary of the issuer that—

- (a) is unconditionally liable (whether or not jointly or severally with the issuer or any other person) to repay the securities; or
- (b) is liable to repay the securities subject only to the condition that the issuer or any other person has failed to do so

holding company—

- (a) has the same meaning as in section 5 of the Companies Act 1993; and
- (b) includes an association of persons whether incorporated or not that has a subsidiary by virtue of section 19 of the Financial Reporting Act 2013

investment manager—

- (a) in relation to a KiwiSaver scheme, has the same meaning as in section 4(1) of the KiwiSaver Act 2006; and
- (b) in relation to any other superannuation scheme, has the same meaning as in section 2(1) of the Superannuation Schemes Act 1989; and
- (c) in relation to a unit trust, means the person (if any) to whom the unit trustee or manager has contracted the investment of some or all of the funds of the trust

issuer—

- (a) has the same meaning as in the Act; but
- (b) in the case of an offer of previously allotted securities referred to in section 6(2) or (3) of the Act, means—
 - (i) the original allotter of the securities (except in regulations 30 to 34):

- (ii) in regulations 30 to 34, both the original allotter of the securities and the offeror of the securities

issuing group, in relation to an offer of equity securities, means the issuer of the securities and all subsidiaries of the issuer at the specified date

licensed market—

- (a) has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013; and
- (b) includes, in respect of any action, event, or circumstances occurring or existing before 1 December 2014, a registered market within the meaning of section 2(1) of the Securities Markets Act 1988 (as in force immediately before that date)

licensed market operator—

- (a) has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013; and
- (b) includes, in respect of any action, event, or circumstances occurring or existing before 1 December 2014, a registered exchange within the meaning of section 2(1) of the Securities Markets Act 1988 (as in force immediately before that date)

listed—

- (a) has the same meaning as quoted (as defined in section 6(1) of the Financial Markets Conduct Act 2013); and
- (b) includes, in respect of any action, event, or circumstances occurring or existing before 1 December 2014, listed within the meaning of section 2(1) of the Securities Markets Act 1988 (as in force immediately before that date)

listed issuer—

- (a) has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013; and
- (b) includes, in respect of any action, event, or circumstances occurring or existing before 1 December 2014, a public issuer within the meaning of section 2(1) of the Securities Markets Act 1988 (as in force immediately before that date)

market operator means the person who operates, or controls the operation of, a securities market

material information has the same meaning as in section 3 of the Securities Markets Act 1988

NZ IAS 34 means the financial reporting standard known as the New Zealand Equivalent to International Accounting Standard 34 (Interim Financial Reporting) that has effect under the Financial Reporting Act 2013

prospective financial information means information about future financial performance, future financial position, future cash flows, or future movements in equity based on assumptions about future events and courses of action

remuneration includes—

- (a) salary, wages, allowances, gratuities, and other payments (whether as bonuses or not) in return for services; and
- (b) benefits and other emoluments (whether in money or not) in return for services

returns, in relation to a security, includes payments of any kind, whether in the nature of capital, income, benefits, or otherwise

securities market has the same meaning as in section 2(1) of the Securities Markets Act 1988

specified date means,—

- (a) in relation to a prospectus, the date the prospectus is delivered in registrable form to the Registrar for registration under section 42 of the Act;
- (b) in relation to a disclosure statement, the date on which the disclosure statement is published in accordance with an Order in Council made under section 81 of the Reserve Bank of New Zealand Act 1989

subsidiary has the same meaning as in section 5(1) of the Financial Reporting Act 2013

term life insurance policy has the meaning set out in regulation 45.

(2) Subclause (3) applies—

- (a) if securities are paid up (whether in whole or in part) or allotted as part of an arrangement involving—

- (i) the transfer of property or the provision of services to an issuer (or, in the case of a scheme, to a scheme); and
 - (ii) the exchange of cash or cheques or other negotiable instruments; and
 - (b) whether or not the paying up or allotment, the transfer or provision, and the exchange take place at the same time.
- (3) The securities, for the purposes of these regulations and to the extent of the value of the property or services, must be treated as being paid up or allotted in consideration of the transfer of the property or the provision of the services, and accordingly must be treated as being paid up or allotted as paid up (either fully or partly, as the case may be) otherwise than in cash.
- (4) For the purposes of these regulations, securities are of the same class if—
- (a) those securities have attached to them identical rights, privileges, limitations, and conditions (including, in the case of debt securities, the same redemption date); and
 - (b) in the case of debt securities, the borrowing group is the same in respect of those securities.
- (5) Subclause (4)(b) does not limit subclause (4)(a).
- (6) If these regulations require summary, prospective, interim, or other financial statements to comply with a particular financial reporting standard, the standard must be complied with—
- (a) regardless of whether or not it would otherwise apply to the financial statements;
 - (b) with all necessary modifications, if it would not otherwise apply to the financial statements.

Compare: SR 1983/121 r 2

Regulation 4(1) **accounting period**: amended, on the close of 30 November 2014, by regulation 4(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **administration manager**: substituted, on 1 July 2011, by regulation 4(1) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 4(1) **balance date**: replaced, on the close of 30 November 2014, by regulation 4(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **date of the investment statement**: inserted, on 1 July 2011, by regulation 4(2) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 4(1) **FRS-42**: amended, on the close of 30 November 2014, by regulation 4(3) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **FRS-43**: amended, on the close of 30 November 2014, by regulation 4(4) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **generally accepted accounting practice**: replaced, on the close of 30 November 2014, by regulation 4(5) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **holding company**: amended, on the close of 30 November 2014, by regulation 4(6) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **investment manager**: substituted, on 1 July 2011, by regulation 4(3) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 4(1) **licensed market**: inserted, on the close of 30 November 2014, by regulation 4(10) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **licensed market operator**: inserted, on the close of 30 November 2014, by regulation 4(10) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **listed**: replaced, on the close of 30 November 2014, by regulation 4(10) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **listed issuer**: inserted, on the close of 30 November 2014, by regulation 4(10) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **NZ IAS 34**: amended, on the close of 30 November 2014, by regulation 4(7) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **public issuer**: revoked, on the close of 30 November 2014, by regulation 4(8) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **registered exchange**: revoked, on the close of 30 November 2014, by regulation 4(8) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **registered exchange's securities market**: revoked, on 1 July 2011, by regulation 4(6) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 4(1) **registered market**: revoked, on the close of 30 November 2014, by regulation 4(8) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(1) **subsidiary**: amended, on the close of 30 November 2014, by regulation 4(9) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 4(6): amended, on the close of 30 November 2014, by regulation 4(11) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

4A Financial Reporting Act 1993 continues to apply despite repeal

- (1) The Financial Reporting Act 1993 continues to apply as if it had not been repealed by the Financial Reporting Act 2013 for the purposes of any provision of these regulations that refers to the Financial Reporting Act 1993.
- (2) *See* sections 55 and 56 of the Financial Reporting Act 2013 (which are transitional provisions relating to the continuing application of the Financial Reporting Act 1993).

Regulation 4A: replaced, on the close of 30 November 2014, by regulation 5 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

4B Financial statements may be prepared in accordance with GAAP under Financial Reporting Act 2013

- (1) If these regulations require or permit financial statements for an issuing group, a borrowing group, a group, a body corporate, a business, or a scheme to comply with, and be registered under, the Financial Reporting Act 1993 (or to be prepared and audited as if they were to be registered under that Act) or otherwise make a similar reference to financial statements, the financial statements may be financial statements that are—
 - (a) prepared in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013); and
 - (b) audited by a qualified auditor in accordance with applicable auditing and assurance standards (within the meaning of section 5 of the Financial Reporting Act 2013).
- (2) The financial statements referred to in subclause (1) may be used instead of, or in addition to, financial statements that comply with, and are registered under, the Financial Reporting Act 1993 (or are prepared and audited as if they were to be registered under that Act).
- (3) Subclause (1) permits a prospectus to contain a reference to financial statements prepared and audited as referred to in subclause (1)(a) and (b) only if the prospectus—
 - (a) contains a copy of those financial statements (in which case, the prospectus need not specify a date of registration); or

- (b) specifies the date of lodgement of the financial statements under the Financial Markets Conduct Act 2013 (rather than a date of registration).

Examples

ABC Limited is making an offer of shares to the public.

Summary financial statements

Clause 9 of Schedule 1 requires the amounts in summary financial statements in the prospectus to be taken from financial statements for 5 consecutive periods, being financial statements that complied with and were registered under the Financial Reporting Act 1993.

This regulation allows the amounts for any 1 or more of those periods to be taken from financial statements prepared in accordance with generally accepted accounting practice under the Financial Reporting Act 2013.

Annual financial statements

Clause 23 of Schedule 1 requires the prospectus to contain certain information relating to financial statements.

Rather than referring to financial statements for the group or including financial statements for the group prepared and audited as if they were to be registered under the Financial Reporting Act 1993, ABC Limited may refer to or include financial statements prepared in accordance with generally accepted accounting practice under the Financial Reporting Act 2013.

-
- (4) A reference in these regulations to an auditor's report that is registered under the Financial Reporting Act 1993 includes an auditor's report that is lodged under the Financial Markets Conduct Act 2013.
- (5) A reference in these regulations to financial statements that comply with, and are registered under, the Financial Reporting Act 1993 includes financial statements that comply with, and are registered under, that Act in accordance with section 55 of the Financial Reporting Act 2013.

Regulation 4B: inserted, on the close of 30 November 2014, by regulation 5 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Part 1 **Prospectuses**

Full registered prospectus

5 Matters to be contained in full registered prospectus

- (1) Every registered prospectus that relates to an offer of—
- (a) equity securities must contain all of the information, statements, and other matters specified in Schedule 1 that are applicable:
 - (b) debt securities must contain all of the information, statements, and other matters specified in Schedule 2 that are applicable:
 - (c) participatory securities must contain all of the information, statements, and other matters specified in Schedule 3 that are applicable:
 - (d) units in a unit trust must contain all of the information, statements, and other matters specified in Schedule 4 that are applicable:
 - (e) life insurance policies must contain all of the information, statements, and other matters specified in Schedule 5 that are applicable:
 - (ea) interests in a KiwiSaver scheme other than a restricted scheme must contain all of the information, statements, and other matters specified in Schedule 5A that are applicable:
 - (f) interests in any other superannuation scheme must contain all of the information, statements, and other matters specified in Schedule 6 that are applicable.
- (2) Subclause (1)(a), (b), and (d) are subject to regulations 6 to 11.

Compare: SR 1983/121 r 3

Regulation 5(1)(ea): inserted, on 1 July 2011, by regulation 5(1) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 5(1)(f): amended, on 1 July 2011, by regulation 5(2) of the Securities Amendment Regulations 2011 (SR 2011/226).

*Short form prospectus for offers to existing
security holders*

- 6 Short form prospectus may be used instead of full registered prospectus for offers to existing security holders**
- (1) Regulation 5 does not apply in respect of a registered prospectus if—
- (a) the prospectus relates only to—
 - (i) an offer of equity securities or convertible securities made by the issuer of the securities to persons who already hold equity securities or convertible securities of the issuer; or
 - (ii) an offer of debt securities (not being convertible securities or other securities that may be converted into equity securities) made by the issuer of the securities to persons who already hold equity securities, convertible securities, or debt securities of the issuer; or
 - (iii) an offer of units in a unit trust made by the manager of the unit trust to persons who already hold units in the unit trust or securities that are convertible into units in the unit trust; and
 - (b) the prospectus instead complies with the requirements set out in regulation 7; and
 - (c) the issuer of the securities is a company; and
 - (d) in the case of an offer of—
 - (i) equity securities, convertible securities, or debt securities, the requirements in subclause (3) or (4) (or both) are satisfied;
 - (ii) units in a unit trust, the requirements in subclause (3) are satisfied.
- (2) Subclause (1)(a) applies whether or not the offer is renounceable in favour of any other person (and, if the offer is renounceable, the prospectus may also relate to an offer of the securities to persons in whose favour an offer to which subclause (1)(a) applies has been renounced).
- (3) For the purposes of subclause (1)(d), the requirements are that a copy of the latest financial statements, together with a copy of the auditor's report on those statements,—

- (a) have previously been sent to the persons who were, at the time those financial statements were sent, holders of the same class of securities as that held by the persons to whom the offer is being made; or
 - (b) are attached to every registered prospectus given or sent to any person under the Act.
- (4) For the purposes of subclause (1)(d), the requirements are that—
 - (a) a notice under section 209(1)(b) of the Companies Act 1993 (being a notice that refers to an annual report that includes the latest financial statements) has previously been sent to the persons who were, at the time that notice was sent, holders of the same class of securities as that held by the persons to whom the offer is being made; and
 - (b) every registered prospectus given or sent to any person under the Act contains, or is accompanied by,—
 - (i) another notice containing the statements specified in section 209(3) of the Companies Act 1993 with necessary modifications, including that the statements required by section 209(3)(a) and (d)(i) must refer to the period of the offer rather than to within 15 working days of receiving the notice; and
 - (ii) a statement that the annual report includes the latest financial statements.
- (5) In this regulation,—
 - convertible securities** means debt securities that will be converted, or are or will become convertible at the option of the security holder, into equity securities of the issuer of the debt securities
 - latest financial statements**—
 - (a) means, in the case of an offer of equity securities or debt securities, financial statements for the group for the relevant accounting period that comply with, and have been registered under, the Financial Reporting Act 1993 (or that are prepared and audited as if they were to be registered under that Act):

- (b) means, in the case of an offer of convertible securities,—
- (i) financial statements for the borrowing group for the relevant accounting period that comply with, and have been registered under, the Financial Reporting Act 1993 (or that are prepared and audited as if they were to be registered under that Act); and
 - (ii) financial statements for the group comprising the issuer and all of its subsidiaries for the relevant accounting period that comply with, and have been registered under, the Financial Reporting Act 1993 (or that are prepared and audited as if they were to be registered under that Act):
- (c) means, in the case of an offer of units in a unit trust, whichever of the following are the most recent:
- (i) the most recent financial statements of the unit trust made available under sections 11 to 11B of the Unit Trusts Act 1960:
 - (ii) financial statements of the unit trust for the relevant accounting period that comply with, and have been registered under, the Financial Reporting Act 1993 (or that are prepared and audited as if they were to be registered under that Act)

relevant accounting period means—

- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
- (b) if the issuer or unit trust (as the case may be) has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

Compare: SR 1983/121 r 4(1)

Regulation 6(5) **latest financial statements** paragraph (c)(i): amended, on 31 August 2012, by section 6(2) of the Unit Trusts Amendment Act 2012 (2012 No 69).

7 Requirements for short form prospectus

For the purposes of regulation 6(1)(b), a registered prospectus that relates to an offer of—

- (a) equity securities must contain all of the information, statements, and other matters specified in Schedule 7 that are applicable;
- (b) debt securities must contain all of the information, statements, and other matters specified in Schedule 8 that are applicable;
- (c) units in a unit trust must contain all of the information, statements, and other matters specified in Schedule 9 that are applicable.

Simplified disclosure prospectus for listed issuers

Heading: amended, on the close of 30 November 2014, by regulation 6 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

8 Simplified disclosure prospectus for listed issuers

- (1) Regulations 9 to 11 provide for the use of a simplified disclosure prospectus by a person who is subject to a disclosure obligation.
- (2) Regulations 9 to 11 do not apply to an offer of any renewal or variation referred to in the definitions of debt security, equity security, and unit in the Act.

Regulation 8 heading: amended, on the close of 30 November 2014, by regulation 7 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

9 Simplified disclosure prospectus for offers of securities of same class as listed securities

Regulation 5 does not apply in respect of a registered prospectus if—

- (a) the prospectus relates only to an offer of equity securities, debt securities, or units in a unit trust made by the issuer of the securities; and
- (b) the prospectus instead contains all of the information, statements, and other matters specified in Schedule 10 that are applicable; and

- (c) the securities are of the same class as securities that are listed at the time of the offer; and
- (d) the prospectus contains a statement to the effect that the issuer will take steps to ensure that the securities are, immediately after allotment, listed; and
- (e) the issuer of the securities—
 - (i) is a company; and
 - (ii) is a listed issuer; and
 - (iii) is not prohibited from using a simplified disclosure prospectus by a prohibition order.

Regulation 9(e)(ii): amended, on the close of 30 November 2014, by regulation 8 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

10 Simplified disclosure prospectus for offers of securities that rank equally with, or in priority to, listed securities

Regulation 5 does not apply in respect of a registered prospectus if—

- (a) the prospectus relates only to an offer of equity securities or debt securities made by the issuer of the securities; and
- (b) the prospectus instead contains,—
 - (i) in the case of an offer of equity securities, all of the information, statements, and other matters specified in Schedule 11 that are applicable;
 - (ii) in the case of an offer of debt securities, all of the information, statements, and other matters specified in Schedule 12 that are applicable; and
- (c) the securities meet the requirements in regulation 11; and
- (d) the issuer of the securities—
 - (i) is a company; and
 - (ii) is a listed issuer; and
 - (iii) is not prohibited from using a simplified disclosure prospectus by a prohibition order.

Regulation 10(d)(ii): amended, on the close of 30 November 2014, by regulation 9 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

11 Requirements for securities for purposes of regulation 10

- (1) For the purposes of regulation 10(c),—

- (a) if the securities are equity securities (other than securities referred to in paragraph (b)), the securities must, in each of the following circumstances, rank equally with, or in priority to, 1 or more of the other equity securities of the issuer that are listed at the time of the offer:
 - (i) a liquidation of the issuer:
 - (ii) the payment of a dividend:
- (b) if the securities are options to subscribe for equity securities, those equity securities to which the options relate are securities of the kind specified in paragraph (a):
- (c) if the securities are debt securities, the securities must, in a liquidation of the issuer, rank equally with, or in priority to,—
 - (i) 1 or more other debt securities of the issuer that are listed at the time of the offer; or
 - (ii) 1 or more equity securities of the issuer that are listed at the time of the offer; or
 - (iii) in the case of securities offered for the purposes of a unit trust, the units in the unit trust that are listed at the time of the offer:
- (d) if the securities are convertible securities that will be converted, or are or will become convertible, into equity securities, the securities must meet the requirements in paragraph (c) and those equity securities must, in each of the following circumstances, rank equally with, or in priority to, 1 or more of the other equity securities of the issuer that are listed at the time of the offer:
 - (i) a liquidation of the issuer:
 - (ii) the payment of a dividend:
- (e) if the securities are convertible securities that will be converted, or are or will become convertible, into units in a unit trust,—
 - (i) the securities must meet the requirements in paragraph (c); and
 - (ii) those units must be of the same class as units in the unit trust that are listed at the time of the offer; and
 - (iii) the prospectus must contain a statement to the effect that the issuer will take steps to ensure that

those units are, immediately after the conversion, listed.

- (2) If the debt securities are offered for the purposes of a unit trust, the reference to a liquidation of the issuer in subclause (1)(c) and clause 5 of Schedule 12 must be treated as a reference to the winding up of the trust on its termination.
- (3) In this regulation,—
- convertible securities** means debt securities that will be converted, or are or will become convertible,—
- (a) into equity securities of the issuer of the debt securities; or
- (b) in the case of debt securities offered for the purposes of a unit trust, into units in the unit trust
- dividend** has the same meaning as in section 53(1) of the Companies Act 1993.

Further provisions relating to content of all registered prospectuses

12 Prospectus must contain additional information if otherwise misleading

If a statement required to be included in a registered prospectus would be misleading if additional information were not also included, the prospectus must also contain that additional information.

Compare: SR 1983/121 r 5(1)

13 Valuation information

- (1) If a valuation is included or referred to in a registered prospectus, the prospectus must state—
- (a) the method of valuation; and
- (b) the date of the valuation; and
- (c) the identity of the valuer; and
- (d) the existence and nature of any relationship (other than that of valuer) that the valuer has with, or interest that the valuer has in, the issuer or in any associated persons of the issuer; and
- (e) the existence and nature of any interest that the valuer has in the property being valued; and

- (f) the existence and nature of any relationship that the valuer has with any other person who has a material interest in the property being valued.
- (2) If a valuation to which subclause (1) applies consists only of the expression of an opinion by the directors, the registered prospectus must state that fact.
Compare: SR 1983/121 r 5(2), (3)

14 Prospective financial information

If prospective financial information is included in a registered prospectus, the prospectus must contain a statement of the principal assumptions on which the prospective financial information is based.

Compare: SR 1983/121 r 5(4)

15 Periods during which group, body corporate, business, or scheme not in existence

- (1) If these regulations require any information, statement, certificate, or other matter relating to an issuing group, a borrowing group, a group, a body corporate, a business, or a scheme for a stated period, the information, statement, certificate, or other matter need not relate to any part of the stated period during which no part of the group, body corporate, business, or scheme was in existence.
- (2) Subclause (1) applies despite regulations 5 to 10.
Compare: SR 1983/121 r 5(5)

16 Prospectus must contain index in certain cases

If the matters required to be stated or contained in a registered prospectus under any of Schedules 1 to 12 are not set out in the prospectus in the same order as they appear in the schedule, the prospectus must contain an index showing the page of the prospectus on which each of those matters appears.

Compare: SR 1983/121 r 5(6)

17 Restrictions imposed by Part 4 on content of registered prospectus

Nothing in this Part limits Part 4.

Compare: SR 1983/121 r 6

*Documents to be attached to all prospectuses
delivered for registration*

18 Documents to be attached to prospectus delivered for registration

- (1) Every prospectus delivered to the Registrar for registration under the Act must have attached to it or be accompanied by—
- (a) a copy of any material contract disclosed under clause 17 of Schedule 1, clause 10 of Schedule 2, clause 14 of Schedule 3, clause 14 of Schedule 4, clause 9 of Schedule 5, clause 11 of Schedule 5A, or clause 9 of Schedule 6, or, if the contract is not in writing, a document giving full particulars of the contract; and
 - (b) if a contract referred to in paragraph (a) is wholly or partly in a foreign language, a correct translation of the contract in English; and
 - (c) if a copy of an auditor's report is required to be contained in the prospectus under clause 28 of Schedule 1, clause 22 of Schedule 2, clause 25 of Schedule 3, clause 18 of Schedule 4, clause 12 of Schedule 5, clause 14 of Schedule 5A, or clause 12 of Schedule 6,—
 - (i) the signed report; and
 - (ii) a statement, dated not earlier than 7 days before the specified date and signed by the auditor (either in his or her own name or that of his or her firm), that he or she consents to the report appearing in the prospectus in the form in which it appears; and
 - (d) if regulation 6 applies to the prospectus, copies of the latest financial statements referred to in that regulation together with a copy of the auditor's report on those statements; and
 - (e) if Schedule 5 applies to the prospectus, specimen copies of life insurance policies to which the prospectus relates; and
 - (f) if Schedule 5A or 6 applies to the prospectus, a copy of the trust deed for the superannuation scheme to which the prospectus relates (incorporating or together with all amendments to the trust deed) except that—

- (i) the copy of the trust deed need not include any provision of the trust deed that is information about an identifiable security holder or prospective investor; and
 - (ii) this paragraph does not apply in respect of a prospectus if a copy of the trust deed (incorporating or together with all amendments to the trust deed) has already been registered by, or filed with, the Registrar; and
- (g) if any of Schedules 10 to 12 apply to the prospectus, copies of—
- (i) the disclosed information as defined in clause 6 of Schedule 10, clause 14 of Schedule 11, or clause 15 of Schedule 12 (as the case may be); and
 - (ii) the financial statements and any interim financial statements referred to in clauses 7 and 8 of Schedule 10, clauses 15 and 16 of Schedule 11, or clauses 16 and 17 of Schedule 12 (as the case may be).
- (2) Subclause (1)(a) and (b) do not apply in respect of a contract if the copy or document, and translation, has already been registered by, or filed with, the Registrar.

Compare: SR 1983/121 r 7

Regulation 18(1)(a): amended, on 1 July 2011, by regulation 6(1) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 18(1)(c): amended, on 1 July 2011, by regulation 6(2) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 18(1)(f): amended, on 1 July 2011, by regulation 6(3) of the Securities Amendment Regulations 2011 (SR 2011/226).

Part 2

Investment statements

19 Matters to be contained in investment statement

- (1) Every investment statement must contain, in a succinct manner, all of the information, statements, and other matters specified in Schedule 13 that are applicable to the securities to which the investment statement relates.

- (2) Subclause (1) applies in addition to the other requirements set out in the Act.
- (3) An investment statement may state that additional information about a matter specified in Schedule 13 is set out in a registered prospectus (or, in the case of a registered bank, a disclosure statement).
- (4) Nothing in this regulation or regulations 20 and 21 limits the information, statements, or other matters that may be contained in an investment statement.

Compare: SR 1983/121 r 7A(1), (2), (5)

20 Investment statement not required to refer to matter that is not applicable

If a matter specified in Schedule 13 is not applicable to the securities to which an investment statement relates, the investment statement is not required to refer to that matter and, in particular, is not required to state that the matter is not applicable.

Compare: SR 1983/121 r 7A(3)

21 Information, statements, and other matters must be set out under question

- (1) All information, statements, and other matters specified under an italicised question set out in Schedule 13 that are required to be contained in an investment statement in respect of a security must be set out together in the investment statement under that question.
- (2) Despite subclause (1), an investment statement may, rather than repeating contact details, contain a cross-reference to the statement of those contact details elsewhere in the investment statement.

Compare: SR 1983/121 r 7A(4)

22 Requirements for advertisements and restrictions on content of advertisements in Parts 3 and 4

Nothing in this Part limits Part 3 or 4.

Part 3

Advertisements

- 23 Advertisements must not contain misleading information**
An advertisement must not contain any information, sound, image, or other matter that is likely to deceive, mislead, or confuse with regard to any particular that is material to the offer of securities contained or referred to in the advertisement.
Compare: SR 1983/121 r 8

- 24 Advertisements must be consistent with investment statement, prospectus, or disclosure statement**
An advertisement must not contain any information, sound, image, or other matter that is inconsistent with any investment statement, registered prospectus, or disclosure statement for the securities to which the advertisement relates.
Compare: SR 1983/121 r 9

- 25 Advertisements that refer to guarantees must contain certain information**
- (1) An advertisement must not state or imply that the securities to which it relates are guaranteed by any person without also stating—
 - (a) the name of the guarantor; and
 - (b) the nature and amount of the guarantee; and
 - (c) whether or not the guarantee is secured and, if so, the nature and amount of the security.
 - (2) However, subclause (1)(b) and (c) do not apply if the Crown is the guarantor and its guarantee—
 - (a) is unconditional; or
 - (b) is subject only to the condition that the issuer or any other person has failed to repay the securities.

Compare: SR 1983/121 r 11

- 26 Assets**
- (1) An advertisement must not—
 - (a) state the amount of assets, or net assets, of any person or persons, other than the total assets, or net assets, of the issuing group, borrowing group, scheme, life insurance

- company, or mortgagor under a contributory mortgage (as the case may be), or of a guarantor of the securities to which the advertisement relates; or
- (b) state the amount of the total assets of an issuing group, borrowing group, scheme, life insurance company, mortgagor under a contributory mortgage, or guarantor without also stating with equal prominence the amount of the total liabilities of that group, scheme, company, mortgagor, or guarantor; or
 - (c) state the amount of the net assets, or the amounts of the total assets and total liabilities, of an issuing group, borrowing group, scheme, life insurance company, mortgagor under a contributory mortgage, or guarantor, except as provided in subclause (2).
- (2) The advertisement may state the amounts referred to in subclause (1)(c) if—
- (a) the amounts shown appear in—
 - (i) the most recent audited statement of financial position of the group, scheme, life insurance company, mortgagor, or guarantor and that statement is dated no earlier than 18 months before the date of distribution of the advertisement; or
 - (ii) an interim statement of financial position of the group, scheme, life insurance company, mortgagor, or guarantor contained in the registered prospectus or accompanying a certificate registered in relation to the prospectus under section 37A(1A) of the Act; and
 - (b) the advertisement states the date of the statement of financial position, states that the amounts have been calculated as at that date, and states whether the amounts have been taken from audited or unaudited financial statements.
- (3) Subclause (1) does not prevent an advertisement from containing or referring to—
- (a) a statement of financial position that complies with generally accepted accounting practice; or
 - (b) a summary statement of financial position prepared in accordance with FRS-43.

- (3A) This regulation does not apply in respect of an annual or a quarterly disclosure statement (including its data file) that is made publicly available under the KiwiSaver (Periodic Disclosure) Regulations 2013.
- (4) In this regulation, **guarantor** means, in relation to securities, a person (other than the issuer of the securities) who—
- (a) is unconditionally liable (whether or not jointly or severally with the issuer or any other person) to repay the securities; or
 - (b) is liable to repay the securities subject only to the condition that the issuer or any other person has failed to do so.

Compare: SR 1983/121 r 12

Regulation 26(3A): inserted, on 1 July 2013, by regulation 44(2) of the Kiwi-Saver (Periodic Disclosure) Regulations 2013 (SR 2013/47).

27 Unsecured and secured securities

- (1) An advertisement must not refer to any debt securities (other than securities the issuer of which is the Crown) without also stating either that the securities are unsecured or the nature and ranking in point of security of the securities.
- (2) An advertisement must not state or imply that securities are secured, other than by use of the word “secured” accompanied by a statement of the nature and ranking in point of security of the securities.

Compare: SR 1983/121 r 14

28 Restrictions on distribution of advertisements containing prospective financial information

An advertisement must not contain prospective financial information unless—

- (a) the advertisement also contains a statement of the principal assumptions and method of calculation in accordance with which the information is calculated; or
- (b) the advertisement refers to a registered prospectus for the securities to which it relates and either—
 - (i) the prospective financial information is also contained in the prospectus; or

- (ii) in the case of an advertisement that contains prospective financial information that is personal to a person to whom the advertisement is distributed, the prospectus sets out the principal assumptions and method of calculation in accordance with which the information is calculated.

Compare: SR 1983/121 r 15

29 Restrictions imposed by Part 4 on content of advertisements

Nothing in this Part limits Part 4.

Compare: SR 1983/121 r 16

30 Certificate required for certain advertisements

- (1) An advertisement must not be distributed to the public unless a certificate that complies with subclause (2) has been completed in respect of the advertisement at the time at which the advertisement is distributed.
- (2) A certificate for the purposes of subclause (1) must be in the form set out in Schedule 14 and must be signed,—
 - (a) if the issuer is the Crown, by a person authorised by a Minister of the Crown to sign certificates of that kind;
 - (b) if the issuer has only 1 director, by that director or by his or her agent authorised in writing;
 - (c) if the issuer has 2 or more directors, by at least 2 persons, each of whom must be a director or an agent of a director authorised in writing.

Compare: SR 1983/121 r 17(1), (2)

31 Certificate not required in certain cases

Regulation 30(1) does not apply—

- (a) in respect of an authorised advertisement that contains all of the following information that is applicable, but no other information:
 - (i) the name, address, and other contact details of the issuer and the logo customarily used by the issuer; and

- (ii) a description of the securities being offered, a description of the terms of the offer, and a brief description of any rights or privileges attaching to the securities; and
 - (iii) the rate or rates of interest (if any) that may be earned by holding the securities being offered; and
 - (iv) the information specified in regulations 25, 27, and 38 (which relate to guarantees, unsecured and secured securities, rates of returns, and taxation of returns); and
 - (v) the names of the principal stockbroker to, and the underwriter of, the offer; and
 - (vi) a description, or the amounts or rates, of the fees and charges payable by a subscriber for the securities; and
 - (vii) the information specified in section 38 of the Act:
- (ab) in respect of a document, information, or other matter required to be made publicly available under section 54C of the Act that is an advertisement only by reason of section 2A(2)(c) of the Act:
 - (ac) in respect of an annual or a quarterly disclosure statement (including its data file) that is made publicly available under the KiwiSaver (Periodic Disclosure) Regulations 2013:
 - (b) in respect of an advertisement if it is the same as another advertisement in respect of which a certificate that complies with regulation 30(2) has been completed except for either or both of the following differences:
 - (i) a rate or rates of interest shown in one of the advertisements differs from a rate or rates of interest shown in the other advertisement:
 - (ii) the advertisement contains prospective financial information personal to a person to whom the advertisement is distributed calculated in accordance with assumptions and a method of calculation stated in both advertisements.

Compare: SR 1983/121 r 17(3)

Regulation 31(ab): inserted, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Regulation 31(ac): inserted, on 1 July 2013, by regulation 44(3) of the Kiwi-Saver (Periodic Disclosure) Regulations 2013 (SR 2013/47).

32 Certificate must be held for at least 12 months

- (1) Every certificate completed in respect of an advertisement for the purposes of regulation 30 must be held by or on behalf of the issuer of the securities to which the advertisement relates for at least 12 months from the date of the last distribution of the advertisement.
- (2) If an issuer fails to comply with subclause (1), the issuer, and every principal officer of the issuer, commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- (3) It is a defence to a charge against a principal officer under subclause (2) if the defendant proves that the disposal of the certificate by the issuer took place without his or her knowledge or against his or her advice.

Compare: SR 1983/121 r 17(4), (5), (8)

Regulation 32(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

33 Certain persons commit offence if they publish, broadcast, or distribute contravening advertisement

- (1) Every person commits an offence who knows, or ought reasonably to know, that a certificate that complies with regulation 30(2) has not been completed in respect of an advertisement and,—
 - (a) being a proprietor of a newspaper or magazine, distributes the advertisement to the public in contravention of regulation 30(1) by means of the newspaper or magazine; or
 - (b) being a person that controls the content of an Internet site, distributes the advertisement to the public in contravention of regulation 30(1) by means of the Internet site; or
 - (c) being a person that controls the content of an audio or visual service provided to subscribers of the service by means of telecommunications, distributes the advertisement to the public in contravention of regulation 30(1) by means of that service; or

- (d) being a broadcaster (within the meaning of the Broadcasting Act 1989), distributes the advertisement to the public in contravention of regulation 30(1) by means of a broadcasting station operated by that person; or
 - (e) being a person that exhibits films to the public (within the meaning of the Films, Videos, and Publications Classification Act 1993), distributes the advertisement to the public in contravention of regulation 30(1) by means of the exhibition of a film.
- (2) Subclause (1) does not limit regulation 34.
- (3) Every person who commits an offence against this regulation is liable on conviction to a fine not exceeding \$5,000.

Compare: SR 1983/121 r 17(6), (8)

Regulation 33(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

34 Issuers and principal officers commit offence if they distribute contravening advertisement

- (1) If an advertisement is distributed to the public in contravention of regulation 30(1), the issuer, and every principal officer of the issuer, commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- (2) It is a defence to a charge under subclause (1) if—
- (a) the defendant proves that the advertisement was distributed without his or her knowledge or against his or her advice; or
 - (b) the defendant is a principal officer and he or she proves that, at the time the advertisement was so distributed, he or she had reasonable grounds to believe, and did believe, that a certificate that complied with regulation 30(2) had been completed in respect of the advertisement.
- (3) Subclause (1) does not limit regulation 33.

Compare: SR 1983/121 r 17(7), (8)

Regulation 34(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 4

Restrictions on content of registered prospectuses and advertisements

35 Shareholders' names

A registered prospectus or an advertisement must not state or imply that a person is, or intends to become, a member or shareholder of the issuer of the securities to which it relates without also stating whether or not the securities are guaranteed by that person.

Compare: SR 1983/121 r 18

36 Statements as to safety or risk

A registered prospectus or an advertisement must not state or imply that investment in the securities to which it relates is safe or free from risk.

Compare: SR 1983/121 r 20

37 Statements as to approval by FMA or Registrar

A registered prospectus or an advertisement must not state or imply that it, or the offer of securities to which it relates, has been approved by the FMA or Registrar.

Regulation 37 heading: amended, on 1 May 2011, by section 84(4) of the Financial Markets Authority Act 2011 (2011 No 5).

Regulation 37: amended, on 1 May 2011, by section 84(4) of the Financial Markets Authority Act 2011 (2011 No 5).

38 Rates of returns and taxation of returns

- (1) A registered prospectus or an advertisement must not state the rate or rates of returns that may be earned by holding securities unless the prospectus or advertisement states any minimum amount or amounts of the securities that would have to be held, and any minimum period or periods during which the securities would have to be held, in order to earn that rate or those rates.
- (2) An advertisement must not refer to any tax advantages in holding the securities referred to in the advertisement unless a registered prospectus or disclosure statement that is referred to in the advertisement sets out a full statement of those advantages.

- (3) A registered prospectus must not refer to any liability for taxation of returns payable in respect of a security unless the registered prospectus makes it clear that the liability is that prescribed by current enactments.
- (4) In this regulation, **returns**—
 - (a) means interest or other payments in the nature of income; but
 - (b) does not include any payment in the nature of capital.Compare: SR 1983/121 r 21

39 Statements about trading securities on securities markets

- (1) A registered prospectus or an advertisement must not state or imply, except as permitted under this regulation, that—
 - (a) the securities to which it relates are or will be tradeable on a securities market; or
 - (b) an application has been or will be made to enable the securities to be traded on a securities market; or
 - (c) a securities market is regulated under New Zealand law, unless that securities market is a licensed market.
- (2) If the securities have not been approved for trading on a licensed market, the registered prospectus must contain a statement to this effect (unless the securities are life insurance policies or interests in a superannuation scheme).
- (3) If the securities are or will be tradeable on a securities market or an application has been or will be made to enable the securities to be traded on a securities market, a registered prospectus or an advertisement may contain any statement about trading the securities on that market or the application that is approved by the market operator.
- (4) If a registered prospectus or an advertisement contains a statement under subclause (3), the prospectus or advertisement must also state whether or not the securities market is a licensed market.

Regulation 39(1)(c): amended, on the close of 30 November 2014, by regulation 10 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 39(1)(c): amended, on 1 July 2011, by regulation 7(1) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 39(2): amended, on the close of 30 November 2014, by regulation 10 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 39(2): amended, on 1 July 2011, by regulation 7(2) of the Securities Amendment Regulations 2011 (SR 2011/226).

Regulation 39(4): amended, on the close of 30 November 2014, by regulation 10 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Regulation 39(4): amended, on 1 July 2011, by regulation 7(3) of the Securities Amendment Regulations 2011 (SR 2011/226).

Part 5

Content of trust deeds and deeds of participation

Trust deeds

39A Contents of trust deeds

- (1) Every trust deed required for the purposes of the Act and relating to debt securities must include provisions specifying the matters set out in Schedule 14A.
- (2) Subclause (1) does not limit the provisions that may be contained in a trust deed required for the purposes of the Act and relating to debt securities.

Regulation 39A: inserted, on 1 October 2011, by regulation 5 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

40 Clauses deemed to be contained in trust deeds

- (1) Clauses 1 to 3E of Schedule 15 are deemed to be contained in every trust deed required for the purposes of the Act and relating to debt securities.
- (2) In addition, clauses 4 to 10 of Schedule 15 are deemed to be contained in every trust deed referred to in subclause (1) for an issuer that,—
 - (a) in the ordinary course of business, continuously offers debt securities to the public for subscription; and
 - (b) carries on the business of lending money or providing financial services; and
 - (c) is not—
 - (i) a building society (within the meaning of section 2(1) of the Building Societies Act 1965); or
 - (ii) a credit union (within the meaning of section 2 of the Friendly Societies and Credit Unions Act 1982); or

- (iii) a co-operative company registered under Part 2 or 3 of the Co-operative Companies Act 1996.
- (3) Subclause (4) applies if—
 - (a) clauses 4 to 10 of Schedule 15 (or clauses 4 to 11 of Schedule 5 of the Securities Regulations 1983) have, at any time, been deemed to be contained in a trust deed; and
 - (b) after that time, the issuer ceases to be a person that meets the requirements in subclause (2)(a) or (b) (or both); and
 - (c) the issuer is not in receivership or liquidation or subject to statutory management.
- (4) Clauses 4 to 10 of Schedule 15 are, and continue to be, deemed to be contained in the trust deed.
- (5) *[Revoked]*
- (6) *See also the clauses in Schedule 3 of the Securities (Moratorium) Regulations 2009, which are also deemed to be contained in every trust deed required for the purposes of the Act relating to debt securities (whether or not the trust deed was registered before the date of commencement of those regulations), where those regulations apply.*

Compare: SR 1983/121 r 24

Regulation 40(1): amended, on 1 October 2011, by regulation 6(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 40(2): amended, on 1 October 2011, by regulation 6(2) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 40(3)(a): amended, on 1 October 2011, by regulation 6(3) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 40(4): substituted, on 1 October 2011, by regulation 6(4) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 40(5): revoked, on 1 October 2011, by regulation 6(5) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Regulation 40(6): added, on 31 January 2010, by regulation 10 of the Securities (Moratorium) Regulations 2009 (SR 2009/395).

Deeds of participation

41 Contents of deeds of participation

- (1) Every deed of participation required for the purposes of the Act and relating to participatory securities must include provisions specifying the matters set out in Schedule 16.

- (2) Subclause (1) does not limit the provisions that may be contained in a deed of participation required for the purposes of the Act and relating to participatory securities.

Compare: SR 1983/121 r 25

42 Clauses deemed to be contained in deeds of participation

The clauses set out in Schedule 17 are deemed to be contained in every deed of participation required for the purposes of the Act and relating to participatory securities.

Compare: SR 1983/121 r 26

Application of provisions

Heading: substituted, on 1 October 2011, by regulation 7 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

42A Application of regulation 39A

- (1) Regulation 39A applies whether or not the trust deed was registered before 1 October 2011.
- (2) However, if a trust deed is registered before 1 October 2011, regulation 39A only applies to the trust deed on and after 1 October 2012.
- (3) Subclause (2) does not prevent a trust deed from specifying the matters set out in Schedule 14A before 1 October 2012.

Regulation 42A: inserted, on 1 October 2011, by regulation 7 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

43 Regulations 40 to 42 apply regardless of when deed is registered

Regulations 40 to 42 apply whether or not the trust deed or deed of participation was registered before the date on which this regulation comes into force.

Regulation 43 heading: amended, on 1 October 2011, by regulation 8 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Trust deeds for unit trusts and KiwiSaver schemes

Heading: inserted, on 1 October 2011, by regulation 9 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

43A Clauses deemed to be contained in trust deeds for unit trusts

- (1) This regulation applies to every unit trust in which units have been allotted, whether before or after the commencement of this regulation, pursuant to an offer of securities to the public.
- (2) The following clauses are deemed to be contained in the trust deed for a unit trust to which this regulation applies:
 - “1 The unit trustee must exercise reasonable diligence to ascertain whether or not any breach of the terms of the deed or of the terms of the offer of the units in the unit trust has occurred.
 - “2 The unit trustee must do all the things that it is empowered to do to cause any breach of the terms referred to in clause 1 to be remedied (except if it is satisfied that the breach will not materially prejudice the interests of the holders of the units).”

Regulation 43A: inserted, on 1 October 2011, by regulation 9 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

43B Clauses deemed to be contained in trust deeds for KiwiSaver schemes (other than restricted KiwiSaver schemes)

- (1) This regulation applies to every KiwiSaver scheme other than a restricted KiwiSaver scheme.
- (2) The following clauses are deemed to be contained in the trust deed for a KiwiSaver scheme to which this regulation applies:
 - “1 The KiwiSaver trustee must exercise reasonable diligence to ascertain whether or not any breach of the terms of the deed or of the terms of the offer of the interests in the KiwiSaver scheme has occurred.
 - “2 The KiwiSaver trustee must do all the things that it is empowered to do to cause any breach of the terms referred to in clause 1 to be remedied (except if it is satisfied that the breach will not materially prejudice the interests of the holders of the interests in the KiwiSaver scheme).”

Regulation 43B: inserted, on 1 October 2011, by regulation 9 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

43C Provisions apply regardless of when deed is entered into
Regulations 43A and 43B apply whether or not the trust deed for a unit trust or KiwiSaver scheme was entered into before the date on which this regulation comes into force.

Regulation 43C: inserted, on 1 October 2011, by regulation 9 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Part 6

Miscellaneous provisions

Request disclosure

- 44 Information to be disclosed by issuers on request**
The documents, information, and other matters that may be requested by a security holder from an issuer under section 54B of the Act are as follows:
- (a) a copy of the most recent annual report of the issuer (or, if the issuer is a manager or superannuation trustee, the scheme) that is required to be prepared under the Companies Act 1993 or that is otherwise sent, or required to be sent, by the issuer to persons entitled by any enactment or rule of law to receive an annual report of the issuer or scheme:
 - (b) a copy of the most recent financial statements of the issuer (or, if the issuer is a manager or superannuation trustee, the scheme) required to be registered under the Financial Reporting Act 1993 or lodged under the Financial Markets Conduct Act 2013, together with a copy of the auditor's report on those statements:
 - (c) a copy of any deed of trust or deed of participation relating to the securities held by the security holder (incorporating or together with all amendments to the deed), except that the copy of the deed need not include information about any identifiable security holder or prospective investor:
 - (d) a copy of—
 - (i) any guarantee of payment of any money owing in respect of the securities held by the security holder; and

- (ii) the most recent annual or half-yearly financial statements of the guarantor (or, at the option of the issuer, if a guarantor is a member of a guaranteeing group, the most recent annual or half-yearly financial statements of the group) together with all documents that are required by any enactment or rule of law to be incorporated in, be attached to, or accompany those financial statements:
- (e) a copy of the most recent prospectus relating to securities of the kind held by the security holder, together with copies of any documents registered under the Act for the purpose of extending the period during which allotments may be made under the prospectus:
- (f) a copy of the most recent investment statement relating to securities of the kind held by the security holder:
- (g) if prospective information about returns on the securities held by the security holder was contained in any prospectus, disclosure statement, or advertisement, a comparison (if practicable, in the same form and for the same period as the prospective information) of the actual returns against the prospective returns:
- (h) if prospective financial information about the issuer (or, if the issuer is a manager or superannuation trustee, the scheme) was contained in any prospectus, disclosure statement, or advertisement, a comparison (if practicable, in the same form and for the same period as the prospective financial information) of the actual results against the prospective financial information:
- (i) if any of Schedules 10 to 12 apply to the prospectus, copies of—
 - (i) the disclosed information as defined in clause 6 of Schedule 10, clause 14 of Schedule 11, or clause 15 of Schedule 12 (as the case may be); and
 - (ii) the financial statements and any interim financial statements referred to in clauses 7 and 8 of Schedule 10, clauses 15 and 16 of Schedule 11,

or clauses 16 and 17 of Schedule 12 (as the case may be).

Compare: SR 1983/121 r 23A

Regulation 44(b): amended, on the close of 30 November 2014, by regulation 11 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Definitions relevant to certain exemptions

45 Exemption for term life insurance policies

- (1) For the purposes of the Act, **term life insurance policy** means a life insurance policy—
- (a) under which an amount (other than an amount not exceeding the sum of the premiums paid to the issuer) is payable only if during the term of the policy the life insured dies or becomes ill or disabled; and
 - (b) that is for a specified term that is less than the life expectancy of the life insured (measured in accordance with generally accepted actuarial practice) at the time the policy is issued.
- (2) For the purposes of the Act, a term life insurance policy is not a life insurance policy or a security.

Compare: SR 1983/121 r 2A

46 Meaning of call debt security and call building society share

- (1) For the purposes of section 5(2D)(a) of the Act, **call debt security** means a debt security under which—
- (a) the security holder has a right to demand repayment of the principal sum in full at any time; and
 - (b) the issuer has an obligation to repay the principal sum in full not later than 1 working day after the demand is made; and
 - (c) the rate of interest payable or any other benefit provided does not alter as a result of the demand being made; and
 - (d) no fee or other amount is payable as a result of the principal sum not having been held by the issuer for a particular period of time.
- (2) For the purposes of section 5(2D)(b) of the Act, **call building society share** means a share issued by a building society under which—

- (a) the shareholder has a right to demand repayment of the value of the share in full at any time; and
- (b) the building society has an obligation to repay the value of the share in full not later than 1 working day after the demand is made; and
- (c) the rate of dividend or interest payable or any other benefit provided does not alter as a result of the demand being made; and
- (d) no fee or other amount is payable as a result of the principal sum not having been held by the issuer for a particular period of time.

Compare: SR 1983/121 r 2B

Prescribed rate of interest

47 Prescribed rate of interest

The rate of interest payable under sections 37(6), 37A(7), and 43H(1) of the Act is 10% per annum.

Compare: SR 1983/121 r 27A

Regulation 47: amended, on 1 July 2011, by regulation 8 of the Securities Amendment Regulations 2011 (SR 2011/226).

Revocation

48 Securities Regulations 1983 revoked

- (1) The Securities Regulations 1983 (SR 1983/121) are revoked on the close of 30 June 2010.
- (2) However, the following are revoked on the commencement of these regulations:
 - (a) the definitions of **call building society share**, **call debt security**, and **term life insurance policy** in regulation 2(1) of the Securities Regulations 1983;
 - (b) regulations 2A and 2B, Parts 3A to 5, and Schedules 5 to 8 of the Securities Regulations 1983.

49 Consequential amendments

The regulations specified in Schedule 18 are amended in the manner indicated in that schedule.

Transitional and application provisions

- 50 These regulations apply unless Securities Regulations 1983 apply in accordance with transitional provisions**
These regulations apply to an offer of securities unless the 1983 regulations apply in accordance with regulations 51 to 56.
- 51 Securities Regulations 1983 continue to apply if prospectus registered before commencement of these regulations**
If securities are offered in a prospectus that is registered before 1 October 2009, the 1983 regulations continue to apply to the offer of those securities under that prospectus.
- 52 Issuer may elect to comply with Securities Regulations 1983 instead of these regulations if prospectus registered before 30 June 2010**
- (1) If securities are offered in a prospectus that is registered on or after 1 October 2009 but before the close of 30 June 2010, the 1983 regulations apply to the offer of those securities under that prospectus only if the issuer makes an election under subclause (2).
 - (2) For the purposes of subclause (1), an issuer may elect for the 1983 regulations to apply to an offer of securities by including a statement in the prospectus to the effect that the 1983 regulations apply to the offer.
 - (3) The statement may include additional information about an applicable exemption granted under section 5(5) of the Act that is necessary to ensure that the statement is not misleading.
- 53 Securities Regulations 1983 apply if no prospectus is required, unless issuer elects otherwise**
- (1) If no registered prospectus is required for an offer of securities, the 1983 regulations apply to any offer of those securities that is made before the close of 30 June 2010 unless the issuer makes an election, under subclause (2), for these regulations to apply.

- (2) For the purposes of subclause (1), an issuer may elect for these regulations to apply to an offer of securities made after a particular date by—
- (a) giving to the Commission, before that date, a notice to the effect that these regulations apply to the offer of the securities made after that date; and
 - (b) including a copy of that notice on an Internet site maintained by, or on behalf of, the issuer at all reasonable times during the period between that date and the earlier of the close of the offer or the close of 30 June 2010.

54 Transitional provisions that apply after revocation of Securities Regulations 1983

If, before the revocation of the 1983 regulations, those regulations apply to an offer of securities in a prospectus, those securities may continue to be offered under that prospectus and, for that purpose, those regulations continue to apply as if they had not been revoked.

55 These regulations and Securities Regulations 1983 are alternative means of compliance

- (1) If, in accordance with regulations 50 to 54,—
- (a) these regulations apply to an offer of securities, the 1983 regulations do not apply to the offer;
 - (b) the 1983 regulations apply to an offer of securities, these regulations do not apply to the offer.
- (2) Subclause (1) is subject to subclauses (3) to (6).
- (3) Regulations 44 and 47 (which relate to information to be disclosed by issuers on request and the prescribed rate of interest) apply regardless of whether the 1983 regulations or these regulations apply to the offer.
- (4) Part 5 (which relates to the content of trust deeds and deeds of participation) applies to debt securities or participatory securities (as the case may be) regardless of whether the 1983 regulations or these regulations apply to the offer.
- (5) If, in accordance with regulations 51 to 54, the 1983 regulations apply to an offer of securities, the issuer may elect, in accordance with subclause (6), that the following

provisions of these regulations apply to an advertisement that relates to the securities (instead of the corresponding provisions of the 1983 regulations):

- (a) Part 3 and Schedule 14 (which relate to advertisements):
 - (b) Part 4 (to the extent that it relates to restrictions on the content of advertisements).
- (6) For the purposes of subclause (5), an issuer may elect that Parts 3 and 4 apply to an advertisement—
- (a) by completing a certificate in the form set out in Schedule 14 in respect of the advertisement; or
 - (b) if a certificate is not required in respect of the advertisement, by giving to the Commission, before the distribution of the advertisement, a notice to the effect that those Parts apply to the advertisement.

56 Transitional and application provisions subject to exemption

Regulations 50 to 55 are subject to any exemption granted under section 5(5) of the Act.

Schedule 1

Full prospectus for equity securities

r 5(1)(a)

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General requirements

1 Main terms of offer

- (1) The name of the issuer, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) A brief description of the securities being offered.
- (3) A statement as to whether there is any maximum number or amount of the securities being offered and, if so, the number or amount.
- (4) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.

2 Name and address of offeror

If, under section 6 of the Act (which relates to previously allotted securities), the issuer is not the offeror,—

- (a) the name of the offeror; and
- (b) the address of the offeror's registered office (or, if it does not have a registered office, its address) in New Zealand; and
- (c) the net amount of the consideration received or to be received by the issuer in respect of the original allotment of the securities.

3 Details of incorporation of issuer

If the issuer is a body corporate,—

- (a) the statute or other authority by or under which the issuer is incorporated or registered; and
- (b) the date of incorporation; and
- (c) the date of registration in New Zealand (if that date is different from the date of incorporation); and
- (d) the registered number (if any); and
- (e) the place (if any) in New Zealand where a public file relating to the incorporation or registration of the issuer is kept.

4 Principal subsidiaries of issuer

In respect of each subsidiary the amount of whose total tangible assets exceeds 5% of the amount of the total tangible assets of the issuing group,—

- (a) the name of the subsidiary; and
- (b) the proportion of its issued capital held by members of the issuing group.

5 Names, addresses, and other information

- (1) The name and address of every director of the issuer.
- (2) In respect of every director who is an employee of the issuer, or of an associated person of the issuer, the position held by him or her.
- (3) The name and address of every promoter of the securities.
- (4) If the issuer, a director of the issuer, or a promoter has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of a crime involving dishonesty, prohibited from acting as a director of a company, or

placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect and the name and any alternative or former name or names of the issuer, director, or promoter concerned.

- (5) The names of the issuer's secretary (if any), its auditors, and the securities registrar (if it is not the issuer).
- (6) The names of any solicitors and other professional advisers (other than employees of the issuer or of an associated person) that are involved in the preparation of the prospectus.
- (7) The names, addresses, and qualifications of any experts named in the prospectus.
- (8) If the offer of securities is underwritten, the name and address of any underwriter.

6 Restrictions on directors' powers

Any restrictions on the powers of the directors of the issuer that are in force at the specified date under,—

- (a) in the case of a company (other than an overseas company), the company's constitution; and
- (b) in any other case, the documents or instruments constituting or defining the constitution of the issuer.

7 Substantial equity security holders of issuer

- (1) The names of the persons who are the registered holders of the 10 largest holdings of equity securities of the issuer at a date not earlier than 30 days before the specified date, and the amounts of their respective holdings.
- (2) A statement as to whether or not the persons specified under subclause (1) undertake any liability in respect of the securities being offered.

8 Description of activities of issuing group

- (1) A brief description of the activities of the members of the issuing group during the 5 years preceding the specified date.
- (2) A brief description of the nature and use of the principal assets held by members of the issuing group.
- (3) A statement as to—

- (a) whether the principal assets referred to in subclause (2) are owned or held under lease; and
- (b) whether or not those assets are subject to obligations in favour of another person that modify or restrict the issuer's ability to deal with the assets.

9 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the group for—
 - (a) each of the 5 consecutive accounting periods preceding the date of the statement of financial position contained or referred to in the prospectus under clause 23; and
 - (b) the period of any interim financial statements set out in the prospectus under clause 24.
- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The summary financial statements must comply with FRS-43.
- (4) However, the summary financial statements are not required to comply with the requirements in FRS-43 that relate to any of the following:
 - (a) a comparison of, and explanations for major variances between, prospective and historical financial statements;
 - (b) events occurring after the balance date of a period;
 - (c) comparative information for any period before the periods referred to in subclause (1).

10 Prospects and forecasts

- (1) A statement as to the trading prospects of the issuing group, together with any material information that may be relevant to those trading prospects.
- (2) The statement required by subclause (1) must include a description of all special trade factors and risks that—

- (a) are not mentioned elsewhere in the prospectus; and
 - (b) are not likely to be known or anticipated by the general public; and
 - (c) could materially affect the prospects of the issuing group.
- (3) If the purpose of the offer of securities is expressed as being to provide finance for a particular capital project,—
- (a) a brief description of the project; and
 - (b) an indication of the expected financial benefits of the project.

11 Provisions relating to initial flotations and minimum subscription

- (1) In the case of the first offer to the public of equity securities of the issuer,—
- (a) a brief description of the plans that the directors of the issuer, and the directors of any other member of the issuing group, have in respect of the issuing group during the year commencing on the specified date, including the sources of finance that will be required for the plans; and
 - (b) a statement as to whether or not the proceeds of the offer of securities may, despite the stated directors' plans, be applied for any other purpose; and
 - (c) a prospective statement of financial position, a prospective statement of financial performance, and a prospective statement of cash flows for the issuing group in relation to,—
 - (i) in the case of a listed issuer, each of the following periods:
 - (A) the accounting period ending on the next balance date after the specified date;
 - (B) either the accounting period, or the interim accounting period, that is subsequent to the period referred to in subsubparagraph (A);
 - (ii) in the case of any other issuer, each of the following periods:

- (A) the accounting period ending on the next balance date after the specified date:
 - (B) the accounting period that is subsequent to the period referred to in subsubparagraph (A).
- (2) The prospective financial statements required by subclause (1)(c) must be prepared in accordance with FRS-42.
- (3) However, prospective financial statements are not required under subclause (1)(c) in relation to an accounting period (or interim accounting period) referred to in that paragraph if,—
 - (a) in the opinion of the directors of the issuer, after due enquiry by them, prospective financial statements for that period would be likely to deceive or mislead with regard to any particular that is material to the offer of securities (for example, because it is not practicable to formulate reasonable assumptions on which to base the statements); and
 - (b) the prospectus contains a statement to this effect together with a statement of the directors' reasons for their opinion.
- (4) In subclause (1)(c) and (3), **interim accounting period**, in relation to a listed issuer, means a period ending 6 months after the balance date of the listed issuer.
- (5) For the purposes of section 37(2) of the Act, the minimum amount that, in the opinion of the directors, must be raised by the issue of the securities in order to provide the sums (or, if any part is to be met in any other manner, the balance of the sums) required to be provided in respect of each of the following matters:
 - (a) the purchase price of any property purchased or to be purchased that is to be met in whole or in part out of the proceeds of the offer:
 - (b) any preliminary expenses payable by the issuer, and any commission payable to any person in consideration of his or her agreeing to subscribe for, or of his or her procuring or agreeing to procure subscriptions for, any of the securities:
 - (c) working capital:

- (d) the repayment of any money borrowed by the issuer in respect of any of the matters specified in paragraphs (a) to (c).

Schedule 1 clause 11(1)(c)(i): amended, on the close of 30 November 2014, by regulation 12(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 1 clause 11(4): amended, on the close of 30 November 2014, by regulation 12(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

12 Acquisition of business or subsidiary

- (1) This clause does not apply in respect of a business, subsidiary, or body corporate if—
 - (a) the prospectus contains or refers to a statement of financial position under clause 23; and
 - (b) the consideration paid or payable, or proposed to be paid, for the acquisition of the business, subsidiary, or body corporate is not more than one-fifth of the amount of the total tangible assets shown in that statement of financial position.
- (2) If a member of the issuing group acquired a business, or a member of the issuing group became a subsidiary of the issuer, at any time in the 2 years preceding the specified date, the following information and statements:
 - (a) the name of the member;
 - (b) a brief description of the activities of the business, or of the business carried on by the subsidiary, in the course of the period that began 5 years before the specified date and ended on the date on which the business was acquired, or the member became a subsidiary, as the case may be;
 - (c) summary financial statements (if practicable, in tabular form) for the business or subsidiary in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) (which apply with any necessary modifications).
- (3) If a member of the issuing group acquired a business, or became a subsidiary of the issuer, at any time in the specified period, or if the prospectus contains a statement to the effect that a member of the issuing group intends to acquire a busi-

ness or to acquire equity securities that will result in a body corporate becoming a subsidiary of the issuer, the following information and statements:

- (a) the name of the member of the issuing group:
 - (b) the amount of the consideration paid or payable, or proposed to be paid, for the business, subsidiary, or body corporate:
 - (c) a brief description of the business, or of the business carried on by the subsidiary or body corporate, in the course of the 5 years before the specified date:
 - (d) summary financial statements (if practicable, in tabular form) for the business, subsidiary, or body corporate in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) (which apply with any necessary modifications):
 - (e) either—
 - (i) a reference to the latest financial statements for the business, subsidiary, or body corporate that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business, subsidiary, or body corporate prepared in accordance with generally accepted accounting practice for the relevant accounting period:
 - (f) if, by virtue of clause 22, the prospectus does not contain or refer to a statement of financial position of the group, the net tangible asset backing per unit of the securities being offered as at the date of the statement of financial position contained or referred to in the prospectus under paragraph (e) calculated in accordance with the assumption that the business, subsidiary, or body corporate had been acquired, and all the securities offered had been allotted and the subscriptions received, before that date.
- (4) In subclause (3),—

relevant accounting period means—

- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
- (b) if the business, subsidiary, or body corporate has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date

specified period means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

13 Securities paid up otherwise than in cash

In respect of all equity and participatory securities that, within the 5 years preceding the specified date, have been allotted by a member of the issuing group to a person who is not a member of the issuing group, or that have been subscribed for and are to be so allotted, as fully or partly paid up otherwise than in cash, the following particulars:

- (a) a description (sufficient to identify it) of each class of security:
- (b) in respect of each class of security, the extent to which the securities are paid up otherwise than in cash:
- (c) in respect of each class of security, a description of the consideration for which the securities have been allotted or are to be allotted.

14 Options to subscribe for securities of issuing group

(1) If an option to subscribe for securities of any member of the issuing group is granted to, or is proposed to be granted to, any person by or on behalf of that member of the issuing group, the following information:

- (a) in respect of each class of the securities that are under option:
 - (i) a description of the class of securities:
 - (ii) the total number of securities:
 - (iii) the subscription price of each security:

- (iv) the consideration (if any) given or to be given for each option and the expiry date of the option:
- (b) the total number of each class of securities under option to, or for the benefit of, each of the following classes of persons:
 - (i) the principal officers of the issuer or of any subsidiary of the issuer:
 - (ii) the employees of the issuer or of any subsidiary of the issuer.
- (2) Subclause (1)(b) does not apply if the option is granted or is proposed to be granted on the same terms and on a pro rata basis to all holders of securities of the same class as those to which the option relates.

15 Appointment and removal of directors

- (1) The method by which a director of the issuer may be appointed or may be removed from, or otherwise vacate, office, if that method is materially different from that specified in sections 153 to 157(1)(a) to (d) of the Companies Act 1993, unless—
 - (a) the issuer is a party to a listing agreement with a licensed market operator and that method is the same as the method specified in the listing rules of the relevant licensed market; and
 - (b) the prospectus names the licensed market and contains a statement to the effect that the method of appointment, removal, or vacation of office of directors of the issuer is the same as that contained in the listing rules of that licensed market.
- (2) If any person (other than the members of the issuer in general meeting or directors of the issuer acting as a board to fill a casual vacancy) has the right to appoint a director or directors of the issuer,—
 - (a) the name of the person; and
 - (b) the name of each director who has been appointed by the person; and
 - (c) a statement as to whether or not the person has the right to vote in the election of other directors of the issuer.

Schedule 1 clause 15(1)(a): replaced, on the close of 30 November 2014, by regulation 12(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 1 clause 15(1)(b): replaced, on the close of 30 November 2014, by regulation 12(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

16 Interested persons

- (1) If any specified person is entitled to remuneration for services (other than directors' fees), or to recover expenses, in respect of the issuer or any of its subsidiaries, particulars of—
 - (a) the nature of the services or expenses; and
 - (b) if remuneration or expense recovery is from the issuer or any subsidiary of the issuer, whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in the issuer or any of its subsidiaries, or in any contract or arrangement entered into on behalf of or in respect of the issuer or any of its subsidiaries, that—
 - (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
 - (b) is material to either or both of the person who has the interest and the issuer or any of its subsidiaries.
- (3) If more than 10% of the value of the assets of the issuer (calculated in accordance with generally accepted accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any associated person of the issuer, any promoter of the securities being offered, or any associated person of a promoter was the issuer, a description of those securities.
- (4) In this clause, **specified person**—
 - (a) means a director or proposed director of the issuer, a promoter of the securities being offered, or an associated person of any of them; and
 - (b) in the case of an offer of previously allotted securities referred to in section 6(2) or (3) of the Act, includes the offeror, the securities holder at the time of the offer, and an associated person of either of them.

17 Material contracts

In relation to every material contract entered into by any member of the issuing group at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the member),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

18 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the issuing group.

19 Preliminary and issue expenses

- (1) Particulars of any issue expenses, including—
 - (a) their amount or estimated amount; and
 - (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.
- (2) If the date on which the issuer commenced business is less than 2 years before the specified date, particulars of any preliminary expenses of the issuer, including their amount or estimated amount.

20 Restrictions on issuing group

- (1) Particulars of any restrictions on the ability of any member of the issuing group to make a distribution, being restrictions that result from any undertaking given, or contract or deed entered into, by the issuer or any of its subsidiaries.
- (2) Brief particulars of any restrictions on the ability of any member of the issuing group to borrow, being restrictions that result from any undertaking given, or contract or deed entered into, by the issuer or any of its subsidiaries.

21 Other terms of offer and securities

All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

Requirements in respect of financial statements

22 Financial statements requirements apply only if member of group has commenced business

- (1) Clauses 23 and 24 apply only if, before the specified date, a member of the group has commenced business and—
 - (a) has acquired an asset; or
 - (b) has incurred a debt.
- (2) If clause 23 applies, financial statements for the group must be contained or referred to in the prospectus in accordance with that clause.

23 Financial statements

- (1) A reference to the latest financial statements for the group that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (3) If no financial statements for the group have been registered under the Financial Reporting Act 1993, financial statements for the group prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the issuer has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

24 Additional interim financial statements

- (1) If the directors of the issuer consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the group.
- (2) If an interim statement of financial position is included, the following statements for the group:
 - (a) an interim statement of financial performance; and
 - (b) an interim statement of cash flows; and
 - (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 23; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
 - (a) in accordance with NZ IAS 34 (but need not be audited); and
 - (b) for the period from the date of the financial statements contained or referred to in the prospectus under clause 23 and ending on a stated date that is no more than 9 months after the date of those financial statements.

Miscellaneous requirements**25 Places of inspection of documents**

The times and places in New Zealand where the following documents or copies of the following documents (and, if they are wholly or partly in a foreign language, a correct translation of the documents in English) may, on payment of any fee, be inspected by a person who so requests:

- (a) the constitution or other documents or instruments constituting or defining the constitution of the issuer;
- (b) the financial statements for the group referred to in clause 23(1):

- (c) any material contract disclosed under clause 17:
- (d) if the issuer was incorporated outside New Zealand, the statute or other authority by or under which the issuer was incorporated.

26 Other material matters

Particulars of any material matters relating to the offer of securities (other than matters elsewhere set out in the prospectus or in the financial statements referred to in the prospectus under clause 23(1), and contracts entered into in the ordinary course of business of a member of the issuing group).

27 Directors' statement

A statement by the directors of the issuer as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the trading or profitability of the issuing group;
- (b) the value of its assets;
- (c) the ability of the issuing group to pay its liabilities due within the next 12 months.

28 Auditor's report

- (1) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating—
 - (a) the work done by the auditor; and
 - (b) the scope and limitations of the audit; and
 - (c) the existence of any relationship (other than that of auditor) that the auditor has with, or any interests that the auditor has in, the issuer or any of its subsidiaries; and
 - (d) whether the auditor has obtained all information and explanations that he or she has required; and
 - (e) whether, in the auditor's opinion, as far as appears from an examination of them, proper accounting records have been kept by the group; and

- (f) whether or not, in the auditor's opinion, the financial statements contained or referred to in the prospectus under clause 23,—
 - (i) subject to these regulations, comply with generally accepted accounting practice; and
 - (ii) give a true and fair view of the matters to which they relate, taking into account information or explanations of the kind referred to in section 14(2) of the Financial Reporting Act 1993 (if any); and
 - (g) if the statements referred to in paragraph (f) do not so comply or give a true and fair view, the respects in which they do not; and
 - (h) whether the amounts stated under clauses 9 and 12(2) and (3) have been taken from audited financial statements, and whether or not the amounts have been correctly taken.
- (2) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:
- “In our (*or my*) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the issuer set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted by the issuer (*or group*).”
- (3) If financial statements are referred to in the prospectus under clause 23(1), a report under this clause is not required to contain information of the kinds referred to in subclause (1)(a) to (g) to the extent that that information is contained in a report by a qualified auditor that is registered under the Financial Reporting Act 1993.
- (4) If subclause (3) applies and the report under this clause does not contain any of that information, the date of the auditor's report on the financial statements, and a statement as to whether or not the report was qualified or referred to a fundamental uncertainty in any respect and, if so, explaining what the qualification or fundamental uncertainty was.

Schedule 1 clause 28(4): amended, on the close of 30 November 2014, by regulation 12(3) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 2
Full prospectus for debt securities

r 5(1)(b)

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General requirements

1 Main terms of offer

- (1) The name of the issuer, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) A brief description of the securities being offered.
- (3) The maximum amount of the securities being offered (excluding any amount that may result from the replacement of securities redeemed after the specified date).
- (4) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.

2 Name and address of offeror

If, under section 6 of the Act (which relates to previously allotted securities), the issuer is not the offeror,—

- (a) the name of the offeror; and
- (b) the address of the offeror's registered office (or, if it does not have a registered office, its address) in New Zealand; and
- (c) the net amount of the consideration received or to be received by the issuer in respect of the original allotment of the securities.

3 Details of incorporation of issuer

If the issuer is a body corporate,—

- (a) the statute or other authority by or under which the issuer is incorporated or registered; and
- (b) the date of incorporation; and
- (c) the date of registration in New Zealand (if that date is different from the date of incorporation); and
- (d) the registered number (if any); and
- (e) the place (if any) in New Zealand where a public file relating to the incorporation or registration of the issuer is kept.

4 Guarantors

- (1) The name of each guaranteeing subsidiary.
- (2) If the prospectus or an advertisement relating to the securities offered states or implies that any person (other than a guaranteeing subsidiary) guarantees the repayment of the securities offered (in whole or in part) or the payment of any interest or other money to holders of the securities, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person to holders of the securities:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person (excluding any assets that are also assets of the borrowing group), together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (3)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and the issuer are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (3) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
 - (a) the figure given for the amount of the person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for the person's net tangible assets has not been taken from an audited statement of financial position.

5 Names, addresses, and other information

- (1) The name and address of every director of the issuer.
- (2) In respect of every director who is an employee of the issuer, or of an associated person of the issuer, the position held by him or her.
- (3) The name and address of every promoter of the securities.
- (4) If the issuer, a director of the issuer, or a promoter has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of a crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect and the name and any alternative or former name or names of the issuer, director, or promoter concerned.
- (5) The names of the issuer's secretary (if any), its auditors, and the securities registrar (if it is not the issuer).
- (6) The names of any solicitors and other professional advisers (other than employees of the issuer or of an associated person) that are involved in the preparation of the prospectus.
- (7) The names, addresses, and qualifications of any experts named in the prospectus.
- (8) If the offer of securities is underwritten, the name and address of any underwriter.
- (9) The name and address of the trustee.

6 Restrictions on directors' powers

Any restrictions on the powers of the directors of the issuer that are in force at the specified date under,—

- (a) in the case of a company (other than an overseas company), the company's constitution; and
- (b) in any other case, the documents or instruments constituting or defining the constitution of the issuer.

7 Description of activities of borrowing group

- (1) A brief description of the activities of the members of the borrowing group during the 5 years preceding the specified date.
- (2) A brief description of the nature and use of the principal assets that are held by members of the borrowing group and

that are charged as security for the securities offered under the prospectus.

- (3) A statement as to whether or not the principal assets referred to in subclause (2) are subject to obligations in favour of another person that modify or restrict the borrowing group's ability to deal with the assets.

8 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the group for—
 - (a) each of the 5 consecutive accounting periods preceding the date of the statement of financial position contained or referred to in the prospectus under clause 17; and
 - (b) the period of any interim financial statements set out in the prospectus under clause 18.
- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The summary financial statements must comply with FRS-43.
- (4) However, the summary financial statements are not required to comply with the requirements in FRS-43 that relate to any of the following:
 - (a) a comparison of, and explanations for major variances between, prospective and historical financial statements;
 - (b) events occurring after the balance date of a period;
 - (c) comparative information for any period before the periods referred to in subclause (1).

9 Acquisition of business or subsidiary

- (1) This clause does not apply in respect of a business, subsidiary, or body corporate if—
 - (a) the prospectus contains or refers to a statement of financial position under clause 17; and

- (b) the consideration paid or payable, or proposed to be paid, for the acquisition of the business, subsidiary, or body corporate is not more than one-fifth of the amount of the total tangible assets shown in that statement of financial position.
- (2) If a member of the borrowing group acquired a business, or became a subsidiary of the issuer, at any time in the 2 years preceding the specified date, the following information and statements:
 - (a) the name of the member:
 - (b) a brief description of the activities of the business, or the business carried on by the subsidiary, in the course of the period that began 5 years before the specified date and ended on the date on which the business or the subsidiary was acquired:
 - (c) summary financial statements (if practicable, in tabular form) for the business or the subsidiary in respect of the 5 accounting periods preceding the specified date that comply with clause 8(2) to (4) (which apply with any necessary modifications).
- (3) If a member of the borrowing group acquired a business, or became a subsidiary of the issuer, at any time in the specified period, or if the prospectus contains a statement to the effect that a member of the borrowing group intends to acquire a business or to acquire equity securities that will result in a body corporate becoming a subsidiary of the issuer, the following information and statements:
 - (a) the name of the member:
 - (b) the amount of the consideration paid or payable, or proposed to be payable, for the business, subsidiary, or body corporate:
 - (c) a brief description of the business, or the business carried on by the subsidiary or body corporate, in the course of the 5 years before the specified date:
 - (d) summary financial statements (if practicable, in tabular form) for the business, subsidiary, or body corporate in respect of the 5 accounting periods preceding the specified date that comply with clause 8(2) to (4) (which apply with any necessary modifications):

- (e) either—
 - (i) a reference to the latest financial statements for the business, subsidiary, or body corporate that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business, subsidiary, or body corporate prepared in accordance with generally accepted accounting practice for the relevant accounting period:
 - (f) if, by virtue of clause 16, the prospectus does not contain or refer to a statement of financial position of the group, the net tangible asset backing per dollar of the securities being offered as at the date of the statement of financial position contained or referred to in the prospectus under paragraph (e) calculated in accordance with the assumption that the business, subsidiary, or body corporate had been acquired, and all the securities offered had been allotted and the subscriptions received, before that date.
- (4) In subclause (3),—
- relevant accounting period** means—
- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the business, subsidiary, or body corporate has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date
- specified period** means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

10 Material contracts

In relation to every material contract entered into by any member of the borrowing group at any time in the 2 years preceding

the specified date (not being a contract entered into in the ordinary course of business of that member),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

11 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the borrowing group.

12 Issue expenses

Particulars of any issue expenses, including—

- (a) the amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

13 Ranking of securities

- (1) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security ahead of the securities being offered.
- (2) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security equally with the securities being offered.

14 Provisions of trust deed and other restrictions on borrowing group

- (1) In respect of the trust deed relating to the securities being offered,—
 - (a) the date of the trust deed:

- (b) particulars of the parties to the trust deed that are sufficient to identify the trust deed:
 - (c) brief particulars of any terms of the trust deed that impose limitations relating to—
 - (i) the creation of new mortgages or charges ranking in point of security ahead of, or equally with, any mortgage or charge securing the securities being offered; or
 - (ii) any ratio of liabilities, or of any class of liabilities, to assets, or to any class of assets, of the issuer:
 - (d) if there are no terms of the kind described in paragraph (c), a statement to that effect:
 - (e) brief particulars of the duties stated by the trust deed to be those of the trustee.
- (2) Brief particulars of any restrictions on the ability of any member of the borrowing group to borrow that—
- (a) result from any undertaking given, or contract or deed entered into, by the member; and
 - (b) are not set out elsewhere in the prospectus.
- (3) A statement by the trustee that—
- (a) the offer of securities complies with any relevant provisions of the trust deed; and
 - (b) the trustee does not guarantee the repayment of securities or payment of interest on the securities.

15 Other terms of offer and securities

- (1) All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—
- (a) any terms implied by law; or
 - (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.
- (2) However, the prospectus is not required to state the rate or rates of interest that may be earned by holding the securities if the prospectus contains—
- (a) a statement to the effect that the interest rate or rates that may be earned by holding the securities being offered

- will be those set by the issuer at any particular time or from time to time, as the case may be; and
- (b) a statement of the method by which the interest rate or rates may be ascertained.

Requirements in respect of financial statements

16 Financial statements requirements apply only if member of group has commenced business

- (1) Clauses 17 and 18 apply only if, before the specified date, a member of the group has commenced business and—
 - (a) has acquired an asset; or
 - (b) has incurred a debt.
- (2) If clause 17 applies, financial statements for the group must be contained or referred to in the prospectus in accordance with that clause.

17 Financial statements

- (1) A reference to the latest financial statements for the group that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (3) If no financial statements for the group have been registered under the Financial Reporting Act 1993, financial statements for the group that are prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the issuer has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

18 Additional interim financial statements

- (1) If the directors of the issuer consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the group.
- (2) If an interim statement of financial position is included, the following statements for the group:
 - (a) an interim statement of financial performance; and
 - (b) an interim statement of cash flows; and
 - (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 17; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
 - (a) in accordance with NZ IAS 34 (but need not be audited); and
 - (b) for the period from the date of the financial statements contained or referred to in the prospectus under clause 17 and ending on a stated date that is not more than 9 months after the date of those financial statements.

Miscellaneous requirements

19 Places of inspection of documents

The times and places in New Zealand where the following documents or copies of the following documents (and, if they are wholly or partly in a foreign language, a correct translation of the documents in English) may, on payment of any fee, be inspected by a person who so requests:

- (a) the constitution or other documents or instruments constituting or defining the constitution of the issuer;
- (b) the financial statements for the group referred to in clause 17(1):

- (c) any material contract disclosed under clause 10:
- (d) if the issuer was incorporated outside New Zealand, the statute or other authority by or under which the issuer was incorporated.

20 Other material matters

Particulars of any material matters relating to the offer of securities (other than matters elsewhere set out in the prospectus or in the financial statements referred to in the prospectus under clause 17(1), and contracts entered into in the ordinary course of business of a member of the borrowing group).

21 Directors' statement

A statement by the directors of the issuer as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the trading or profitability of the borrowing group;
- (b) the value of its assets;
- (c) the ability of the borrowing group to pay its liabilities due within the next 12 months.

22 Auditor's report

- (1) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating—
 - (a) the work done by the auditor; and
 - (b) the scope and limitations of the audit; and
 - (c) the existence of any relationship (other than that of auditor) that the auditor has with, or any interests that the auditor has in, the issuer or any of its guaranteeing subsidiaries; and
 - (d) whether the auditor has obtained all information and explanations that he or she has required; and
 - (e) whether, in the auditor's opinion, as far as appears from an examination of them, proper accounting records have been kept by the group; and

- (f) whether or not, in the auditor's opinion, the financial statements contained or referred to in the prospectus under clause 17,—
 - (i) subject to these regulations, comply with generally accepted accounting practice; and
 - (ii) give a true and fair view of the matters to which they relate, taking into account information or explanations of the kind referred to in section 14(2) of the Financial Reporting Act 1993 (if any); and
 - (g) if the statements referred to in paragraph (f) do not so comply or give a true and fair view, the respects in which they do not; and
 - (h) whether the amounts stated under clauses 8, 9(2) and (3), and 13 have been taken from audited financial statements, and whether or not the amounts have been correctly taken.
- (2) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:
- “In our (*or my*) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the issuer set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted by the issuer (*or group*).”
- (3) If financial statements are referred to in a prospectus under clause 17(1), a report under this clause is not required to contain information of the kinds referred to in subclause (1)(a) to (g) to the extent that that information is contained in a report by a qualified auditor that is registered under the Financial Reporting Act 1993.
- (4) If subclause (3) applies and the report under this clause does not contain any of that information, the date of the auditor's report on the financial statements, and a statement as to whether or not the report was qualified or referred to a fundamental uncertainty in any respect and, if so, explaining what the qualification or fundamental uncertainty was.

Schedule 2 clause 22(4): amended, on the close of 30 November 2014, by regulation 13 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 3
Full prospectus for participatory securities

r 5(1)(c)

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General requirements

1 Main terms of offer

- (1) The name of the offeror, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) A brief description of the securities being offered.
- (3) A statement as to whether there is any maximum number or amount of the securities being offered and, if so, the number or amount.
- (4) A statement as to whether there is any nominal value of the securities being offered and, if so, the nominal value.
- (5) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.

2 Names, addresses, and other information

- (1) The name and address of the manager and (if the manager is a body, whether corporate or unincorporated) every director of the manager.
- (2) In respect of every director who is an employee of the manager, or of an associated person of the manager, the position held by him or her.
- (3) The name and address of every promoter of the securities.
- (4) If the manager, a director of the manager, or a promoter has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of a crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect and the name and any alternative or former name or names of the manager, director, or promoter concerned.
- (5) The names of the manager's secretary (if any), the auditors, and the securities registrar (if it is not the manager).
- (6) The names of any solicitors and other professional advisers (other than employees of the manager or of an associated person) that are involved in the preparation of the prospectus.

- (7) The names, addresses, and qualifications of any experts named in the prospectus.
- (8) If the offer of securities is underwritten, the name and address of any underwriter.

3 Statutory supervisor

- (1) The name of the statutory supervisor for the scheme.
- (2) A statement to the effect that the statutory supervisor does not guarantee the repayment of the securities or the payment of interest on the securities.

4 Description of scheme and development of scheme

- (1) A description of the scheme.
- (2) A description of the development of the scheme during the 5 years preceding the specified date.
- (3) A brief description of the nature and use of the principal assets used for the purposes of the scheme.
- (4) A statement as to—
 - (a) whether the principal assets referred to in subclause (3) are owned or held under lease and by whom; and
 - (b) whether or not those assets are subject to obligations in favour of another person that modify or restrict the manager's ability to deal with the assets.

5 Subscriber's liability

A description, and (if practicable) quantification, of all liabilities (including potential and contingent liabilities) that a person will or may incur as a holder of participatory securities relating to the scheme.

6 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the scheme for—
 - (a) each of the 5 consecutive accounting periods preceding the date of the statement of financial position contained or referred to in the prospectus under clause 20; and
 - (b) the period of any interim financial statements set out in the prospectus under clause 21.

- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The summary financial statements must comply with FRS-43.
- (4) However, the summary financial statements are not required to comply with the requirements in FRS-43 that relate to any of the following:
 - (a) a comparison of, and explanations for major variances between, prospective and historical financial statements;
 - (b) events occurring after the balance date of a period;
 - (c) comparative information for any period before the periods referred to in subclause (1).

7 Plans, prospects, and forecasts

- (1) A brief description of the plans that the manager has in respect of the scheme for the year commencing on the specified date, including the sources of finance that will be required for the plans.
- (2) A statement as to the prospects of the scheme, together with any material information that may be relevant to those prospects.
- (3) The statement required by subclause (2) must include a description of all special trade factors and risks that—
 - (a) are not mentioned elsewhere in the prospectus; and
 - (b) are not likely to be known or anticipated by the general public; and
 - (c) could materially affect the prospects of the scheme.
- (4) In the case of a scheme that has not commenced business, or has commenced business within 6 months of the specified date,—
 - (a) a feasibility study of the scheme stating—
 - (i) all assumptions on which it is based; and

- (ii) the proposed distribution of any gross earnings of the scheme between the promoters, managers, and holders of participatory securities relating to the scheme; and
- (b) if a reference is made in the prospectus to proposed (or expected) earnings or a rate of return, the reference must be accompanied by prospective financial information showing—
 - (i) the method of calculation of the stated earnings or rate of return; and
 - (ii) the period of time expected to elapse before the stated earnings are, or the expected rate of return is, achieved.
- (5) A prospective statement of financial position, a prospective statement of financial performance, and a prospective statement of cash flows for the scheme in relation to each of the following periods:
 - (a) the accounting period ending on the next balance date after the specified date;
 - (b) the accounting period that is subsequent to the period referred to in paragraph (a).
- (6) The prospective financial statements required by subclause (5) must be prepared in accordance with FRS-42.
- (7) However, prospective financial statements are not required under subclause (5) in relation to an accounting period referred to in that subclause if,—
 - (a) in the opinion of the directors of the manager, after due enquiry by them, prospective financial statements for that period would be likely to deceive or mislead with regard to any particular that is material to the offer of securities (for example, because it is not practicable to formulate reasonable assumptions on which to base the statements); and
 - (b) the prospectus contains a statement to this effect together with a statement of the directors' reasons for their opinion.

8 Minimum subscription

For the purposes of section 37(2) of the Act, the minimum amount that, in the opinion of the directors of the manager, must be raised by the issue of the securities in order to provide the sums (or, if any part is to be met in any other manner, the balance of the sums) required to be provided in respect of each of the following matters:

- (a) the purchase price of any property purchased or to be purchased that is to be met in whole or in part out of the proceeds of the offer:
- (b) any preliminary expenses and commission payable in whole or in part out of the proceeds of the offer:
- (c) working capital:
- (d) the repayment of any money borrowed in respect of any of the matters specified in paragraphs (a) to (c).

9 Guarantors

- (1) If the prospectus or an advertisement relating to the scheme states or implies that any person guarantees the repayment of the securities offered (in whole or in part) or the payment of any interest or other money to holders of the securities, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person to holders of the securities:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (2)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:

- (g) if the person and the manager are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of that person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for that person's net tangible assets has not been taken from an audited statement of financial position.

10 Acquisition of business or equity securities

- (1) This clause does not apply in respect of any business or equity securities if—
- (a) the prospectus contains or refers to a statement of financial position under clause 20; and
 - (b) the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets shown in that statement of financial position.
- (2) If a business or equity securities have been acquired for the purposes of the scheme at any time in the 2 years preceding the specified date, the following information and statements:
- (a) a brief description of the activities of the business, or the business carried on by the issuer of those equity securities, in the course of the period that began 5 years before the specified date and ended on the date on which the business, or equity securities, were acquired:
 - (b) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 6(2) to (4) (which apply with any necessary modifications).
- (3) If a business or equity securities were acquired for the purposes of the scheme at any time in the specified period, or if the

prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired for the purpose of the scheme, the following information and statements:

- (a) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities:
- (b) a brief description of the business, or of the business carried on by the issuer of those equity securities, in the course of the 5 years before the specified date:
- (c) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 6(2) to (4) (which apply with any necessary modifications):
- (d) either—
 - (i) a reference to the latest financial statements for the business or the issuer of those equity securities that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business or the issuer of those equity securities prepared in accordance with generally accepted accounting practice for the relevant accounting period.

(4) In subclause (3),—

relevant accounting period means—

- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
- (b) if the business or the issuer of the equity securities has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date

specified period means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

11 Securities paid up otherwise than in cash

In respect of all participatory securities relating to the scheme that, within the 5 years preceding the specified date, have been allotted, or have been subscribed for and are to be allotted, as fully or partly paid up otherwise than in cash, the following particulars:

- (a) a description (sufficient to identify it) of each class of security:
- (b) in respect of each class of security, the extent to which the securities are paid up otherwise than in cash:
- (c) in respect of each class of security, a description of the consideration for which the securities have been allotted or are to be allotted.

12 Options to subscribe for securities of scheme

(1) If an option to subscribe for securities relating to the scheme is granted to, or is proposed to be granted to, any person by or on behalf of a manager or promoter of the scheme, the following information:

- (a) in respect of each class of the securities that are under option:
 - (i) a description of the class of securities:
 - (ii) the total number of securities:
 - (iii) the subscription price of each security:
 - (iv) the consideration (if any) given or to be given for each option and the expiry date of the option:
- (b) the total number of each class of securities under option to, or for the benefit of, each of the following classes of persons:
 - (i) the promoters and managers of the scheme:
 - (ii) if a promoter or manager is a body corporate or unincorporate, the directors and principal officers of the promoter or manager or of any subsidiary of the promoter or manager:
 - (iii) the employees of a promoter or manager of the scheme and, if a promoter or manager is a body corporate or unincorporate, the employees of any subsidiary of the promoter or manager.

- (2) Subclause (1)(b) does not apply if the option is granted or is proposed to be granted on the same terms and on a pro rata basis to all holders of securities of the same class as those to which the option relates.

13 Interested persons

- (1) If any specified person is entitled to remuneration for services, or to recover expenses, in respect of the scheme, particulars of—
- (a) the nature of the services or expenses; and
 - (b) if remuneration or expense recovery is from the scheme, whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in the scheme, or in any contract or arrangement entered into on behalf of or in respect of the scheme, that—
- (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
 - (b) is material to either or both of the person who has the interest and the scheme.
- (3) If more than 10% of the value of the assets of the scheme (calculated in accordance with generally accepted accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any specified person was the issuer, a description of those securities.
- (4) In this clause, **specified person**—
- (a) means the manager, a promoter of the scheme, or an associated person of either of them; and
 - (b) in the case of an offer of previously allotted securities referred to in section 6(2) or (3) of the Act, includes the offeror, the securities holder at the time of the offer, or an associated person of either of them.

14 Material contracts

In relation to every material contract entered into in respect of the scheme at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the scheme),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

15 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the scheme.

16 Issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

17 Summary of terms of deed of participation

- (1) The date of the deed of participation for the scheme and the dates of all amendments to the deed (or, if the deed and some or all of the amendments to it have been consolidated, the date of the consolidation and the dates of all amendments since the consolidation).
- (2) A summary of the principal terms of the deed of participation for the scheme (including any amendments).

18 Other terms of offer and securities

All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

Requirements in respect of financial statements

19 Financial statements requirements apply only if scheme has commenced business

- (1) Clauses 20 and 21 apply only if, before the specified date, the scheme has commenced business and—
 - (a) an asset has been acquired by the scheme; or
 - (b) a debt has been incurred in respect of the scheme.
- (2) If clause 20 applies, financial statements for the scheme must be contained or referred to in the prospectus in accordance with that clause.

20 Financial statements

- (1) A reference to the latest financial statements for the scheme that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (3) If no financial statements for the scheme have been registered under the Financial Reporting Act 1993, financial statements for the scheme prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the scheme has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

21 Additional interim financial statements

- (1) If the directors of the issuer consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the scheme.
- (2) If an interim statement of financial position is included, the following statements for the scheme:
 - (a) an interim statement of financial performance; and
 - (b) an interim statement of cash flows; and

- (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 20; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
 - (a) in accordance with NZ IAS 34 (but need not be audited); and
 - (b) for the period from the date of the financial statements contained or referred to in the prospectus under clause 20 and ending on a stated date that is no more than 9 months after the date of those financial statements.

Miscellaneous requirements

22 Places of inspection of documents

The times and places where the following documents or copies of the following documents may, on payment of any fee, be inspected by a person who so requests:

- (a) the financial statements for the scheme referred to in clause 20(1);
- (b) any material contract disclosed under clause 14.

23 Other material matters

Particulars of any material matters relating to the offer of securities (other than matters elsewhere set out in the prospectus or in the financial statements referred to in the prospectus under clause 20(1), and contracts entered into in the ordinary course of business of the scheme).

24 Manager's statement

A statement by the manager (or, if the manager is a body corporate or unincorporate, by the directors of that body) as to

whether, in his or her or their opinion, after due enquiry by him or her or them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the profitability or activities of the scheme;
- (b) the value of its assets;
- (c) the ability of the scheme to pay its liabilities due within the next 12 months.

25 Auditor's report

- (1) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating—
 - (a) the work done by the auditor; and
 - (b) the scope and limitations of the audit; and
 - (c) the existence of any relationship (other than that of auditor) that the auditor has with, or any interests that the auditor has in, the scheme; and
 - (d) whether the auditor has obtained all information and explanations that he or she has required; and
 - (e) whether, in the auditor's opinion, as far as appears from an examination of them, proper accounting records have been kept by the scheme; and
 - (f) whether or not, in the auditor's opinion, the financial statements contained or referred to in the prospectus under clause 20,—
 - (i) subject to these regulations, comply with generally accepted accounting practice; and
 - (ii) give a true and fair view of the matters to which they relate, taking into account information or explanations of the kind referred to in section 14(2) of the Financial Reporting Act 1993 (if any); and
 - (g) if the statements referred to in paragraph (f) do not so comply or give a true and fair view, the respects in which they do not; and
 - (h) whether the amounts stated under clauses 6 and 10(2) and (3) have been taken from audited financial state-

ments, and, whether or not the amounts have been correctly taken.

- (2) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:

“In our (*or my*) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the issuer set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted in respect of the scheme.”

- (3) If financial statements are referred to in a prospectus under clause 20(1), a report under this clause is not required to contain information of the kinds referred to in subclause (1)(a) to (g) to the extent that that information is contained in a report by a qualified auditor that is registered under the Financial Reporting Act 1993.
- (4) If subclause (3) applies and the report under this clause does not contain any of that information, the date of the auditor's report on the financial statements, and a statement as to whether or not the report was qualified or referred to a fundamental uncertainty in any respect and, if so, explaining what the qualification or fundamental uncertainty was.

Schedule 3 clause 25(4): amended, on the close of 30 November 2014, by regulation 14 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 4

r 5(1)(d)

Full prospectus for units in unit trusts

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1 Description of unit trust

- (1) The name of the unit trust.
- (2) The year and place of establishment of the unit trust.
- (3) The duration of the unit trust.
- (4) A brief description of the units being offered.
- (5) A statement as to whether there is any maximum number or amount of units in the unit trust and, if so, the number or amount.
- (6) The price or other consideration to be paid or provided for the units, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.
- (7) The amount, or maximum amount, of the fees payable or deductions that will be made (if any) for purchasing or selling units and the time or times at which the fees or deductions will be payable or made.
- (8) If the offer of units is made only during a particular period, the opening and closing dates of the offer.

2 Managers and promoters

- (1) The name and address of the manager of the unit trust, and the name and address of every director of the manager.
- (2) If the manager is a subsidiary, the name of its ultimate holding company.
- (3) The names of all other unit trusts managed by the manager.
- (4) The name of every promoter (if any) of the unit trust.
- (5) The name of any administration manager or investment manager of the unit trust.
- (6) If any person specified in subclause (7) has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect including the name and any alternative or former name or names of the manager, promoter, or director concerned.
- (7) The persons are—
 - (a) the manager, administration manager, investment manager, or promoter of the unit trust:
 - (b) if any manager, administration manager, investment manager, or promoter of the unit trust is a body corporate or unincorporate, any director of that manager or promoter.

3 Registrar, custodian, auditors, advisers, and experts

- (1) The names of any registrar, custodian, and auditors of the unit trust.
- (2) The names of any solicitors and other professional advisers (other than employees of the manager or of any associated person) that are involved in the preparation of the prospectus.
- (3) The names, addresses, and qualifications of any experts named in the prospectus.

Schedule 4 clause 3 heading: amended, on 1 July 2011, by regulation 9 of the Securities Amendment Regulations 2011 (SR 2011/226).

4 Independence of unit trustee and any custodians

A statement as to whether or not the unit trustee and any custodians are independent of the manager of the unit trust and of any promoter, administration manager, and investment manager and, if not, a description of the relationship between the unit trustee or custodian and the manager, promoter, administration manager, or investment manager.

5 Unit trustee

- (1) The name and address of the unit trustee of the unit trust and, if the unit trustee is a body corporate, of every director of the trustee.
- (2) If the unit trustee is a body corporate, the statute or other authority under which the unit trustee was incorporated or registered, and the date and country of incorporation or registration.
- (3) If the unit trustee is a subsidiary, the name and country of incorporation of its ultimate holding company.
- (4) A description of the extent, if any, to which the unit trustee is indemnified by the unit trust.
- (5) A statement as to whether or not the unit trustee guarantees the repayment of the units or the payment of any earnings on the units.

6 Description of unit trust and its development

- (1) The date of the trust deed for the unit trust, and the dates of all amendments to the deed (or, if the deed and some or all of the amendments to it have been consolidated, the date of the consolidation and the dates of all amendments since the consolidation).
- (2) A summary of the principal terms of the trust deed for the unit trust (including any amendments).
- (3) A description of any restrictions on investment of the funds of the unit trust, to the extent not included in the summary under subclause (2).
- (4) A brief description of the investment and other material activities of, and any material developments relating to, the unit trust during the 5 years preceding the specified date.

- (5) A description of the investment objectives and policy for the unit trust, and of the means by which changes can be made to those objectives and that policy.
- (6) A description of the investment performance of the unit trust during each of the 5 years preceding the specified date, and, if any performance data is set out in the prospectus, the basis on which the data has been calculated.
- (7) A description of the policy regarding distributions from the unit trust.
- (8) A statement of any undertakings to unit holders about return of capital.

7 Unit holder liability

A statement as to whether any liabilities (including contingent liabilities) may be incurred by unit holders in relation to the unit trust (other than in respect of the purchase price of units) and, if so, whether there are any limitations on those liabilities.

8 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the unit trust for—
 - (a) each of the 5 consecutive accounting periods preceding the date of the statement of financial position contained or referred to in the prospectus under clause 18(1) or (3)(a); and
 - (b) the period of any interim financial statements set out in the prospectus under clause 18(3)(b).
- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The summary financial statements must comply with FRS-43.
- (4) However, the summary financial statements are not required to comply with the requirements in FRS-43 that relate to any of the following:

- (a) a comparison of, and explanations for major variances between, prospective and historical financial statements:
- (b) events occurring after the balance date of a period:
- (c) comparative information for any period before the periods referred to in subclause (1).

9 Minimum subscription

For the purposes of section 37(2) of the Act, the minimum amount that, in the opinion of the directors of the manager, must be raised by the issue of the securities in order to provide the sums (or, if any part is to be met in any other manner, the balance of the sums) required to be provided in respect of each of the following matters:

- (a) the purchase price of any property purchased or to be purchased that is to be met in whole or in part out of the proceeds of the offer:
- (b) any preliminary expenses and commission payable in whole or in part out of the proceeds of the offer:
- (c) working capital:
- (d) the repayment of any money borrowed in respect of any of the matters referred to in paragraphs (a) to (c).

10 Guarantors

- (1) If the prospectus or an advertisement relating to the unit trust states or implies that any person guarantees the payment of any money payable from the unit trust, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person in respect of that money:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualifications in the audi-

- tor's report in respect of the statement of financial position (subject to subclause (2)):
- (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and the manager are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of that person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for that person's net tangible assets has not been taken from an audited statement of financial position.

11 Acquisition of business or equity securities

- (1) This clause does not apply in respect of—
- (a) any business or equity securities if the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets shown in the financial statements referred to in clause 18(1); or
 - (b) any equity securities that are quoted on a securities market.
- (2) If a business or equity securities have been acquired for the purposes of the unit trust at any time in the 2 years preceding the specified date, the following information and statements:
- (a) a description of the activities of the business, or the business carried on by the issuer of those equity securities, in the course of the period that began 5 years before the specified date and ended on the date on which the business, or equity securities, were acquired:

- (b) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 8(2) to (4) (which apply with any necessary modifications).
- (3) If a business or equity securities were acquired for the purposes of the unit trust at any time in the specified period, or if the prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired for the purposes of the unit trust, the following information and statements:
- (a) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities:
 - (b) a description of the business, or of the business carried on by the issuer of those equity securities, in the course of the 5 years before the specified date:
 - (c) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 8(2) to (4) (which apply with any necessary modifications):
 - (d) either—
 - (i) a reference to the latest financial statements for the business or the issuer of those equity securities that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business or the issuer of those equity securities prepared in accordance with generally accepted accounting practice for the relevant accounting period.
- (4) In subclause (3),—
- relevant accounting period** means—
- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or

- (b) if the business or the issuer of the equity securities has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date

specified period means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

12 Options and units paid up otherwise than in cash

- (1) If options to subscribe for units have been or are to be issued, a description of the options.
- (2) If units have been or are to be issued for a consideration other than cash, a statement of the number of units, the non-cash consideration, and the extent to which the units are, or are to be, so paid up.

13 Interested persons

- (1) If any specified person is entitled to remuneration for services, or to recover expenses, in respect of the unit trust, particulars of—
 - (a) the nature of the services or expenses; and
 - (b) if remuneration or expense recovery is from the unit trust, whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in the unit trust, or in any contract or arrangement entered into on behalf of or in respect of the unit trust, that—
 - (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
 - (b) is material to either or both of the person who has the interest and the unit trust.
- (3) If more than 10% of the value of the assets of the unit trust (calculated in accordance with generally accepted accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any specified person was the issuer, a description of those securities.

- (4) In this clause, **specified person** means the unit trustee, the manager, or any administration manager, investment manager, custodian, or promoter of the unit trust (or any associated person of any of them).

14 Material contracts

In relation to every material contract entered into in respect of the unit trust at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the unit trust),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

15 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the unit trust.

16 Issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

17 Other terms of offer and units

All terms of the offer, and all terms of the units being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

18 Financial statements and auditor's report

- (1) A reference to the latest financial statements for the unit trust that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date of the auditor's report on those financial statements, and a statement as to whether or not the report referred to a fundamental uncertainty or was qualified in any respect and, if so, explaining what the fundamental uncertainty or qualification was.
- (3) If the issuer so wishes,—
 - (a) the latest financial statements referred to in subclause (1) and the auditor's report on those statements; and
 - (b) interim financial statements for the unit trust prepared as at a later date (not being more than 9 months after the balance date of the financial statements referred to in subclause (1)) in accordance with NZ IAS 34 (that need not be audited) and statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under subclause (1) or paragraph (a); and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (4) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating whether the amounts stated under clauses 8 and 11(2) and (3) have been taken from audited financial statements and whether or not the amounts have been correctly taken.
- (5) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:

“In our (*or* my) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the as-

sumptions made or adopted by the manager set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted in respect of the unit trust.”

19 Places of inspection of documents

The times and places where copies of the following documents may, on payment of any fee, be inspected by a person who so requests:

- (a) the trust deed for the unit trust and any amendments to the deed;
- (b) the financial statements for the unit trust referred to in clause 18(1);
- (c) any material contract disclosed under clause 14;
- (d) the latest annual report for the unit trust.

20 Other material matters

Particulars of any material matters relating to the unit trust (other than matters elsewhere set out in the prospectus or in the financial statements referred to in clause 18(1), and contracts entered into in the ordinary course of business of the unit trust).

21 Manager’s statement

A statement by the directors of the manager as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the value of the unit trust’s assets relative to its liabilities (including contingent liabilities);
- (b) the ability of the unit trust to pay its debts as they become due in the normal course of business.

22 Unit trustee’s statement

A statement by the unit trustee stating, in respect of the accounting period referred to in clause 18(1), whether or not, in the unit trustee’s opinion, the manager has managed the unit

trust during that period in accordance with the provisions of the trust deed and of the offer of units.

Schedule 5 r 5(1)(e)
Full prospectus for life insurance policies
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1 Description of company

- (1) The name of the life insurance company, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) If the life insurance company is a body corporate,—
 - (a) the statute or other authority by or under which the company is incorporated or registered; and
 - (b) the date and country of incorporation; and
 - (c) the date of registration in New Zealand (if that date is different from the date of incorporation); and
 - (d) the registered number (if any); and
 - (e) the place (if any) in New Zealand where a public file relating to the incorporation or registration of the company is kept.

- (3) A brief description of the principal activities of the life insurance company and, to the extent not included in subclause (2), of the insurance and investment activities of, and of any material development relating to, the company during the 5 years preceding the specified date.

2 Description of policies

- (1) A brief description of the types of life insurance policies to which the prospectus relates.
- (2) In respect of each of those types of policy, a description of the principal terms set out in the specimen policy document for the policy.

3 Limitations on liability or returns

- (1) If the returns to holders of any of the life insurance policies to which the prospectus relates are in any circumstances calculated by reference to the returns on a particular group of assets, a statement to this effect and a brief description of the circumstances and of that group of assets.
- (2) If the liability of the life insurance company to satisfy its obligations under any of the life insurance policies to which the prospectus relates (as distinct from calculating the returns on the policies) is limited in whole or in part to a particular group of assets (a **fund**) (whether the fund or the limitation is created by statute, by contract, or otherwise), a statement to this effect and a description of each of those funds.
- (3) Subclause (4) applies if—
 - (a) all the assets of the life insurance company are liable to satisfy the obligations under some of the life insurance policies to which the prospectus relates; and
 - (b) only the assets of 1 or more funds are liable to satisfy all or a part of the company's obligations under other life insurance policies to which the prospectus relates.
- (4) The references in subclauses (6) and (7) and clauses 5, 7, 8, 12, 13, and 15 to financial statements, actuarial reports, auditor's reports, or assets or liabilities of, or acquisitions by, the company must be read as references to financial statements,

actuarial reports, auditor's reports, or assets or liabilities of, or acquisitions by, both the company and each of those funds.

- (5) If the liability of the life insurance company to satisfy its obligations under each of the life insurance policies to which the prospectus relates is limited in whole or in part to the assets of 1 or more funds, references in subclauses (6) and (7) and clauses 5, 7, 8, 12, 13, and 15 to financial statements, actuarial reports, auditor's reports, or assets or liabilities of, or acquisitions by, the company must be read as references to financial statements, actuarial reports, auditor's reports, or assets or liabilities of, or acquisitions by, each of those funds.
- (6) If any liabilities of the life insurance company rank in point of security ahead of its liabilities under any of the life insurance policies to which the prospectus relates, a statement to this effect and a description of those liabilities that rank ahead.
- (7) If the use of any assets of the life insurance company or of a fund to satisfy the obligations of the life insurance company under any of the life insurance policies to which the prospectus relates is limited or restricted in any way, a statement to this effect and a description of the limitation or restriction.

4 Issuer, directors, promoters, auditors, and advisers

- (1) The name and address of every director of the life insurance company.
- (2) In respect of every director who is an employee of the life insurance company, or of any associated person of the life insurance company, the position held by him or her.
- (3) The name of every promoter of any of the life insurance policies.
- (4) If the life insurance company, any director of the life insurance company, or any promoter has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect including the name and any alternative or former name or names of the company, director, or promoter concerned.

- (5) The names of any auditors, and of any solicitors and other professional advisers (other than employees of the life insurance company or of any associated person) and actuaries involved in the preparation of the prospectus.
- (6) The names, addresses, and qualifications of any experts named in the prospectus.

5 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the life insurance company for—
 - (a) each of the 5 consecutive accounting periods preceding the date of the statement of financial position contained or referred to in the prospectus under clause 12(1) or (3)(a); and
 - (b) the period of any interim financial statements contained in the prospectus under clause 12(3)(b).
- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The summary financial statements must comply with FRS-43.
- (4) However, the summary financial statements are not required to comply with the requirements in FRS-43 that relate to any of the following:
 - (a) a comparison of, and explanations for major variances between, prospective and historical financial statements;
 - (b) events occurring after the balance date of a period;
 - (c) comparative information for any period before the periods referred to in subclause (1).

6 Guarantors

- (1) If the prospectus or an advertisement relating to any of the life insurance policies to which the prospectus relates states or implies that any person (other than the life insurance company)

guarantees the payment of any money payable under any of the policies, the following matters in respect of each of those persons:

- (a) the name of the person;
 - (b) a description, and (if practicable) quantification, of the liability of the person in respect of that money;
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge;
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (2));
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets;
 - (f) whether the financial statements of the person are available for inspection and, if so, where;
 - (g) if the person and the life insurance company are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of the person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for the person's net tangible assets has not been taken from an audited statement of financial position.

7 Acquisition of business or equity securities

- (1) This clause does not apply in respect of—
 - (a) any business or equity securities if the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets

- shown in the financial statements referred to in clause 12(1); or
- (b) any equity securities that are quoted on a securities market.
- (2) If a business or equity securities have been acquired by the life insurance company at any time in the 2 years preceding the specified date, the following information and statements:
- (a) a description of the activities of the business, or the business carried on by the issuer of those equity securities, in the course of the period that began 5 years before the specified date and ended on the date on which the business, or equity securities, were acquired:
 - (b) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 5(2) to (4) (which apply with any necessary modifications).
- (3) If a business or equity securities were acquired by the life insurance company at any time in the specified period, or if the prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired by the company, the following information and statements:
- (a) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities:
 - (b) a description of the business, or of the business carried on by the issuer of those equity securities, in the course of the 5 years before the specified date:
 - (c) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 5(2) to (4) (which apply with any necessary modifications):
 - (d) either—
 - (i) a reference to the latest financial statements for the business or the issuer of those equity securities that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those state-

- ments, and the date of registration (and, if the issuer so wishes, those financial statements); or
- (ii) audited financial statements for the business or the issuer of those equity securities prepared in accordance with generally accepted accounting practice for the relevant accounting period.
- (4) In subclause (3),—
- relevant accounting period** means—
- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
- (b) if the business or the issuer of the equity securities has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date
- specified period** means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

8 Interested persons

- (1) If any specified person is entitled to remuneration for services, or to recover expenses, in respect of any of the life insurance policies to which the prospectus relates, particulars of—
- (a) the nature of the services or expenses; and
- (b) whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in any contract or arrangement entered into on behalf of or in respect of the life insurance company that relates to, or affects the assets liable to satisfy the obligations under, any of the life insurance policies to which the prospectus relates that—
- (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
- (b) is material to either or both of the person who has the interest and the company.
- (3) If more than 10% of the value of the assets of the life insurance company (calculated in accordance with generally accepted

accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any specified person was the issuer, a description of those securities.

- (4) In this clause, **specified person** means any associated person of the life insurance company, any promoter of any of the life insurance policies to which the prospectus relates, or any associated person of such a promoter.

9 Material contracts

In relation to every material contract entered into by the life insurance company at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the company),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

10 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the life insurance company or 1 or more of its funds whose assets are available to meet liabilities in respect of life insurance policies offered in the prospectus.

11 Other terms of offer and policies

All terms of the offer, and all terms of the life insurance policies being offered, not elsewhere set out in the prospectus, other than—

- (a) any term that relates to any amounts payable by or to an identifiable person; or
- (b) any terms implied by law; or
- (c) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

12 Financial statements and actuarial and auditor's reports

- (1) A reference to the latest financial statements for the life insurance company that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date of the auditor's report on those financial statements, and a statement as to whether or not the report referred to a fundamental uncertainty or was qualified in any respect and, if so, explaining what the fundamental uncertainty or qualification was.
- (3) If the issuer so wishes,—
 - (a) the latest financial statements referred to in subclause (1) together with the auditor's report on those statements; and
 - (b) interim financial statements for the life insurance company prepared as at a later date (not being more than 9 months after the balance date of the financial statements referred to in subclause (1)) in accordance with NZ IAS 34 (that need not be audited) and statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under subclause (1) or paragraph (a); and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (4) The date of the latest appointed actuary's report in respect of the life insurance company that has been prepared under section 78 of the Insurance (Prudential Supervision) Act 2010, and the period to which the report relates.
- (5) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating whether the amounts stated under clauses 5 and 7(2) and (3) have been taken from audited financial statements and whether or not the amounts have been correctly taken.

- (6) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:

"In our (*or* my) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the issuer set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted by the issuer."

Schedule 5 clause 12(4): substituted, on 1 February 2011, by section 241(2) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

13 Places of inspection of documents

The times and places where copies of the following documents may, on payment of any fee, be inspected by a person who so requests:

- (a) a specimen policy document for any of the life insurance policies to which the prospectus relates:
- (b) the financial statements and appointed actuary's report referred to in clause 12:
- (c) any material contract disclosed under clause 9:
- (d) the latest annual report of the life insurance company.

Schedule 5 clause 13(b): amended, on 1 February 2011, by section 241(2) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

14 Other material matters

Particulars of any material matters relating to the life insurance company, any of the separate funds referred to under clause 3, or any of the policies to which the prospectus relates (other than matters elsewhere set out in the prospectus or in the financial statements referred to in clause 12(1), and contracts entered into in the ordinary course of business of the company).

15 Directors' statement

A statement by the directors of the life insurance company as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements

contained or referred to in the prospectus and the specified date:

- (a) the value of the company's assets relative to its liabilities (including contingent liabilities):
- (b) the ability of the company to pay its debts as they become due in the normal course of business.

Schedule 5A

r 5(1)(ea)

Full prospectus for KiwiSaver schemes

Schedule 5A: inserted, on 1 July 2011, by regulation 10 of the Securities Amendment Regulations 2011 (SR 2011/226).

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1 Description of scheme

- (1) The name of the scheme.
- (2) A brief description of the scheme and the interests being offered.
- (3) The year and place of establishment of the scheme.

Full prospectus for KiwiSaver schemes—*continued*

2 Managers and promoters

- (1) The name and address of the manager of the scheme, and the name and address of every director of the manager.
- (2) If the manager is a subsidiary, the name of its ultimate holding company.
- (3) The names of all other KiwiSaver schemes managed by the manager.
- (4) The name of every promoter (if any) of the scheme.
- (5) The name of any administration manager or investment manager of the scheme.
- (6) If any person specified in subclause (7) has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect including the name and any alternative or former name or names of the manager, promoter, or director concerned.
- (7) The persons are—
 - (a) the manager, administration manager, investment manager, or promoter of the scheme:
 - (b) if any manager, administration manager, investment manager, or promoter of the scheme is a body corporate or unincorporate, any director of that manager or promoter.

3 Registrar, custodian, auditors, advisers, and experts

- (1) The names of any registrar, custodian, and auditors of the scheme.
- (2) The names of any solicitors and other professional advisers (other than employees of the manager or of any associated person) that are involved in the preparation of the prospectus.
- (3) The names, addresses, and qualifications of any experts named in the prospectus.

Full prospectus for KiwiSaver schemes—*continued***4 Independence of KiwiSaver trustee and any custodians**

A statement as to whether or not the KiwiSaver trustee and any custodians are independent of the manager of the scheme and of any promoter, administration manager, and investment manager and, if not, a description of the relationship between the KiwiSaver trustee or custodian and the manager, promoter, administration manager, or investment manager.

5 KiwiSaver trustee

- (1) The name and address of the KiwiSaver trustee of the scheme and of every director of the trustee.
- (2) The statute or other authority under which the KiwiSaver trustee was incorporated or registered, and the date and country of incorporation or registration.
- (3) If the KiwiSaver trustee is a subsidiary, the name and country of incorporation of its ultimate holding company.
- (4) A description of the extent, if any, to which the KiwiSaver trustee is indemnified by the scheme.
- (5) A statement as to whether or not the KiwiSaver trustee guarantees the payment of any money to members of the scheme.

6 Description of scheme and its development

- (1) The date of the trust deed for the scheme, and the dates of all amendments to the deed (or, if the deed and some or all of the amendments to it have been consolidated, the date of the consolidation and the dates of all amendments since the consolidation).
- (2) A summary of the principal terms of the trust deed for the scheme (including any amendments).
- (3) A description of the following, to the extent that they are not included in the summary under subclause (2):
 - (a) any conditions of entry of members to the scheme, and termination of membership of the scheme:
 - (b) any restrictions on investment of the assets of the scheme:

Full prospectus for KiwiSaver schemes—*continued*

- (c) the rights and obligations of employers (if any) in regard to the scheme.
- (4) A brief description of the investment and other material activities of, and any material developments relating to, the scheme during the 5 years preceding the specified date.
- (5) A statement as to whether or not the scheme has separate funds for the purposes of section 9A of the Financial Reporting Act 1993 or section 461A of the Financial Markets Conduct Act 2013 and, if so, a description of the funds.
- (6) A statement as to whether any liabilities (including contingent liabilities) may be incurred by members in relation to the scheme (other than in respect of contributions payable under the scheme) and, if so, whether there are any limitations on those liabilities.
- (7) A description of the investment objectives and policy for the scheme (or, if the scheme has more than 1 fund, for each fund of the scheme), and of the means by which changes can be made to those objectives and that policy.
- (8) A description of the investment performance of the scheme (or, if the scheme has more than 1 fund, of each fund of the scheme) during each of the 5 years preceding the specified date, and the basis upon which the performance information has been calculated.

Schedule 5A clause 6(5): amended, on the close of 30 November 2014, by regulation 15 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

7 Summary financial statements

- (1) Summary financial statements (if practicable, in tabular form) in respect of the scheme.
- (2) The amounts in the summary financial statements required by subclause (1) must be taken from the financial statements for each relevant period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if the financial statements had been registered.

Full prospectus for KiwiSaver schemes—*continued*

- (3) The amounts that appear in the summary financial statements required by subclause (1) must include,—
- (a) in respect of both the accounting period referred to in clause 14(1) and each of the 4 consecutive accounting periods preceding that period (if any), the following amounts:
- (i) contributions (distinguishing between those made by or on behalf of members, those made by employers, and those made by the Crown):
 - (ii) transfers to the scheme:
 - (iii) total investment revenues:
 - (iv) net gains or losses on investments:
 - (v) other revenues:
 - (vi) permitted withdrawals (as defined in section 4(1) of the KiwiSaver Act 2006):
 - (vii) transfers to other schemes:
 - (viii) investment expenses:
 - (ix) management expenses, including those related to general administration and trustees' remuneration:
 - (x) total interest expense:
 - (xi) audit fees:
 - (xii) other expenses:
 - (xiii) operating result or change in net assets before taxation:
 - (xiv) the total provided for, or credited by way of, taxation:
 - (xv) if the equity method of accounting has been used, surpluses or deficits that have resulted from using that method:
 - (xvi) operating result or change in net assets:
 - (xvii) total members' accumulations at the beginning and at the end of the period:
 - (xviii) other distributions (specify); and
- (b) as at the end of each such period, the following amounts:
- (i) total assets:
 - (ii) total tangible assets:
 - (iii) total liabilities:

Full prospectus for KiwiSaver schemes—*continued*

- (iv) net assets available to pay benefits.
- (4) In respect of the amounts stated in the summary financial statements required by subclause (1),—
 - (a) a description of the nature of any item that is of such incidence and size, or of such a nature, that its disclosure is necessary to explain the performance of the scheme:
 - (b) a description (and, if practicable, quantification) of the effect on the amounts of any material changes in the activities of the scheme that occurred, and of any material changes in the accounting policies used, during the periods to which the amounts relate.
- (5) A statement as to whether or not the amounts stated in the summary financial statements required by subclause (1) have been taken from audited financial statements.
- (6) If the amounts stated in the summary financial statements required by subclause (1) have been taken from audited financial statements but the auditor's report referred to a fundamental uncertainty or was qualified, a statement to this effect explaining what the fundamental uncertainty or qualification was.

8 Guarantors

- (1) If the prospectus or an advertisement relating to the scheme states or implies that any person guarantees the payment of any money payable from the scheme, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person in respect of that money:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualification in the auditor's report in respect of the statement of financial position (subject to subclause (2)):

Full prospectus for KiwiSaver schemes—*continued*

- (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and the manager are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of that person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for that person's net tangible assets has not been taken from an audited statement of financial position.

9 Acquisition of business or equity securities

- (1) This clause does not apply in respect of—
- (a) any business or equity securities if the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets shown in the financial statements referred to in clause 14(1); or
 - (b) any equity securities that are quoted on a securities market.
- (2) If a business or equity securities have been acquired for the purposes of the scheme at any time in the 2 years preceding the specified date, the following information and statements:
- (a) a description of the activities of the business, or the business carried on by the issuer of those equity securities, in the course of the period that began 5 years before the specified date and ended on the date on which the business or equity securities were acquired:

Full prospectus for KiwiSaver schemes—*continued*

- (b) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) of Schedule 1 (which apply with any necessary modifications).
- (3) If a business or equity securities were acquired for the purposes of the scheme at any time in the specified period, or if the prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired for the purposes of the scheme, the following information and statements:
 - (a) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities:
 - (b) a description of the business, or of the business carried on by the issuer of those equity securities, in the course of the 5 years before the specified date:
 - (c) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) of Schedule 1 (which apply with any necessary modifications):
 - (d) either—
 - (i) a reference to the latest financial statements for the business or the issuer of those equity securities that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business or the issuer of those equity securities prepared in accordance with generally accepted accounting practice for the relevant accounting period.
- (4) In subclause (3),—

Full prospectus for KiwiSaver schemes—*continued*

relevant accounting period means—

- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
- (b) if the business or the issuer of the equity securities has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date

specified period means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

10 Interested persons

- (1) If any specified person is entitled to remuneration for services, or to recover expenses, in respect of the scheme, particulars of—
 - (a) the nature of the services or expenses; and
 - (b) if remuneration or expense recovery is from the scheme, whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in the scheme, or in any contract or arrangement entered into on behalf of or in respect of the scheme, that—
 - (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
 - (b) is material to the person who has the interest, or to the scheme, or to both.
- (3) If more than 10% of the value of the assets of the scheme (calculated in accordance with generally accepted accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any specified person was the issuer, a description of those securities.
- (4) In this clause, **specified person** means the KiwiSaver trustee, the manager, or any administration manager, investment man-

Full prospectus for KiwiSaver schemes—*continued*

ager, custodian, or promoter of the scheme (or any associated person of any of them).

11 Material contracts

In relation to every material contract entered into in respect of the scheme at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the scheme),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

12 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the scheme.

13 Other terms of offer and scheme

All terms of the offer, and all terms of the scheme being offered, not elsewhere set out in the prospectus, other than—

- (a) any term that relates to any amounts payable by or to an identifiable person; or
- (b) any terms implied by law; or
- (c) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

14 Financial statements and auditor's report

- (1) A reference to the latest financial statements for the scheme that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date of the auditor's report on those financial statements, and a statement as to whether or not the report referred to a fundamental uncertainty or was qualified in any respect and,

Full prospectus for KiwiSaver schemes—*continued*

if so, explaining what the fundamental uncertainty or qualification was.

- (3) If the issuer so wishes,—
 - (a) the latest financial statements referred to in subclause (1) and the auditor’s report on those statements; and
 - (b) interim financial statements for the scheme prepared as at a later date (not being more than 9 months after the balance date of the financial statements referred to in subclause (1)) in accordance with NZ IAS 34 (that need not be audited) and statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under subclause (1) or paragraph (a); and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (4) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating whether the amounts stated under clauses 7 and 9(2) and (3) have been taken from audited financial statements and whether or not the amounts have been correctly taken.
- (5) If the prospectus contains prospective financial information, the auditor’s report must contain a statement in the following form:

“In our (*or my*) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the manager set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted in respect of the scheme.”

Full prospectus for KiwiSaver schemes—*continued*

15 Places of inspection of documents

The times and places where copies of the following documents may, on payment of any fee, be inspected by a person who so requests:

- (a) the trust deed for the scheme and any amendments to the deed;
- (b) the financial statements for the scheme referred to in clause 14(1);
- (c) any material contract disclosed under clause 11;
- (d) the latest annual report for the scheme.

16 Other material matters

Particulars of any material matters relating to the scheme, other than—

- (a) matters elsewhere set out in the prospectus or in the financial statements referred to in clause 14(1); and
- (b) contracts entered into in the ordinary course of business of the scheme.

17 Manager's statement

A statement by the directors of the manager as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the value of the scheme's assets relative to its liabilities (including contingent liabilities);
- (b) the ability of the scheme to pay its debts as they become due in the normal course of business.

18 KiwiSaver trustee's statement

A statement by the KiwiSaver trustee stating, in respect of the accounting period referred to in clause 14(1), whether or not, in the KiwiSaver trustee's opinion, the manager has managed the scheme during that period in accordance with the pro-

Full prospectus for KiwiSaver schemes—*continued*

visions of the trust deed and of the offer of interests in the scheme.

Schedule 6
Full prospectus for superannuation
schemes
Contents

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1 Description of scheme

- (1) The name of the scheme.
- (2) A brief description of the kind of scheme being offered.
- (3) The year and place of establishment of the scheme.

2 Superannuation trustees

- (1) The name and address of every superannuation trustee of the scheme.

- (2) If a superannuation trustee of the scheme is a body corporate or unincorporate, the name and address of every director of the superannuation trustee.
- (3) If the superannuation trustee is a body corporate, the statute or other authority under which the superannuation trustee is incorporated or registered, and the date and country of incorporation or registration.
- (4) If the superannuation trustee is a subsidiary, the name and country of incorporation of its ultimate holding company.
- (5) If the superannuation trustee, or a director of the superannuation trustee, has, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect including the name and any alternative or former name or names of the superannuation trustee or director concerned.
- (6) A description of the extent, if any, to which the superannuation trustees are indemnified by the scheme.
- (7) A statement as to whether or not each superannuation trustee is independent of every administration manager, investment manager, and promoter of the scheme and, if not, a description of the relationship between the superannuation trustee and manager or promoter.

3 Managers, promoters, auditors, and advisers

- (1) The name and address of every administration manager and investment manager (if any) of the scheme.
- (2) The name of every promoter (if any) of the scheme.
- (3) If any of the persons specified in subclause (4) have, during the 5 years preceding the specified date, been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company, or placed in statutory management, voluntary administration, liquidation, or receivership, a statement to that effect including the name and any alternative or former name or names of the manager, promoter, or director concerned.

- (4) The persons are—
 - (a) any administration manager, investment manager, or promoter of the scheme; and
 - (b) if any administration manager, investment manager, or promoter of the scheme is a body corporate or unincorporate, any director of the manager or promoter.
- (5) The names of—
 - (a) any registrar, custodian, and auditors of the scheme; and
 - (b) any solicitors and other professional advisers (other than employees of the superannuation trustee or an administration manager or investment manager for the scheme or of any person associated with the superannuation trustee or such a manager) and actuaries involved in the preparation of the prospectus.
- (6) The names, addresses, and qualifications of any experts named in the prospectus.

4 Description of scheme and its development

- (1) The date of the trust deed for the scheme, and the dates of all amendments to the deed (or, if the deed and some or all of the amendments to it have been consolidated, the date of the consolidation and the dates of all amendments since the consolidation).
- (2) A summary of the principal terms of the trust deed for the scheme (including any amendments).
- (3) A description of the following, to the extent not included in the summary under subclause (2):
 - (a) any conditions of entry of members to the scheme, and termination of membership of the scheme:
 - (b) any restrictions on investment of the assets of the scheme:
 - (c) the rights and obligations of employers (if any) in regard to the scheme.
- (4) A brief description of the investment and other activities of, and any material developments relating to, the scheme during the 5 years preceding the specified date.
- (5) A statement as to whether any liabilities (including contingent liabilities) may be incurred by members in relation to the

scheme (other than in respect of contributions payable under the scheme) and, if so, whether there are any limitations on those liabilities.

- (6) A description of the investment objectives and policy for the scheme (or, if the scheme has more than 1 fund, for each fund of the scheme), and of the means by which changes can be made to those objectives and that policy.
- (7) A description of the investment performance of the scheme (or, if the scheme has more than 1 fund, of each fund of the scheme) during each of the 5 years preceding the specified date, and the basis upon which the performance information has been calculated.

5 Summary of financial statements

- (1) A financial statement in summary form (and, if practicable, in tabular form) in respect of the scheme.
- (2) The amounts in the financial statement required by subclause (1) must be taken from the financial statements for each relevant period that complied with and were registered under the Financial Reporting Act 1993. If financial statements have not been registered, the amounts must be those that would have appeared in financial statements if those financial statements had been registered.
- (3) The amounts that appear in the financial statement required by subclause (1) must include,—
 - (a) in respect of both the accounting period referred to in clause 12(1) and each of the 4 consecutive accounting periods preceding that period (if any), the following amounts:
 - (i) contributions distinguishing between those made by members and those made by employers or other sponsors:
 - (ii) total investment revenues:
 - (iii) net gains or losses on investments:
 - (iv) other revenues:
 - (v) benefits paid:
 - (vi) investment expenses:

- (vii) management expenses, including those related to general administration and trustees' remuneration:
- (viii) total interest expense:
- (ix) other expenses:
- (x) operating result or change in net assets before taxation and extraordinary items:
- (xi) the total provided for, or credited by way of, taxation:
- (xii) if the equity method of accounting has been used, surpluses or deficits that have resulted from using that method:
- (xiii) operating result or change in net assets before extraordinary items:
- (xiv) the total of extraordinary items (net of taxation):
- (xv) operating result or change in net assets after extraordinary items:
- (xvi) allocation to members' accounts:
- (xvii) transfers to reserves:
- (xviii) other distributions (specify); and
- (b) as at the end of each such period, the following amounts:
 - (i) total assets:
 - (ii) total tangible assets:
 - (iii) liabilities other than liabilities for accrued benefits:
 - (iv) net assets available to pay benefits:
 - (v) liabilities for accrued benefits (taken from the latest actuarial valuation of those liabilities available at the end of the period concerned) and the date as at which those liabilities were calculated.
- (4) In respect of the amounts stated in the financial statement required by subclause (1),—
 - (a) a description of the nature of any item that is of such incidence and size, or of such a nature, that its disclosure is necessary to explain the performance of the scheme:
 - (b) a description (and if practicable, quantification) of the effect on those amounts of any material changes in the activities of the scheme that occurred, and of any mater-

ial changes in the accounting policies used, during the periods to which the amounts relate.

- (5) A statement as to whether or not the amounts stated in the financial statement required by subclause (1) have been taken from audited financial statements.
- (6) If the amounts stated in the financial statement required by subclause (1) have been taken from audited financial statements but the auditor's report referred to a fundamental uncertainty or was qualified, a statement to this effect explaining what the fundamental uncertainty or qualification was.

6 Guarantors

- (1) If the prospectus or an advertisement relating to the scheme states or implies that any person guarantees the payment of any money payable from the scheme, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person in respect of that money:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (2)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and a superannuation trustee are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
 - (a) the figure given for the amount of the person's net tangible assets in the prospectus must be that as at a date

- stated in the prospectus (being a date not earlier than 6 months before the specified date); and
- (b) the prospectus must include a statement to the effect that the figure for the person's net tangible assets has not been taken from an audited statement of financial position.

7 Acquisition of business or equity securities

- (1) This clause does not apply in respect of—
 - (a) any business or equity securities if the consideration paid or payable, or proposed to be paid, for the acquisition of the business or equity securities is not more than one-fifth of the amount of the total tangible assets shown in the financial statements referred to in clause 12(1); or
 - (b) any equity securities that are quoted on a securities market.
- (2) If a business or equity securities were acquired for the purposes of the scheme at any time in the 2 years preceding the specified date, the following information and statements:
 - (a) a description of the activities of the business, or the business carried on by the issuer of those equity securities, in the course of the period that began 5 years before the specified date and ended on the date on which the business, or equity securities, were acquired:
 - (b) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) of Schedule 1 (which apply with any necessary modifications).
- (3) If a business or equity securities were acquired for the purposes of the scheme at any time in the specified period, or if the prospectus contains a statement to the effect that it is intended that a business or equity securities will be acquired for the purposes of the scheme, the following information and statements:
 - (a) the amount of the consideration paid or payable, or proposed to be paid, for the business or equity securities:

- (b) a description of the business, or of the business carried on by the issuer of those equity securities, in the course of the 5 years before the specified date:
 - (c) summary financial statements (if practicable, in tabular form) for the business or the issuer of those equity securities in respect of the 5 accounting periods preceding the specified date that comply with clause 9(2) to (4) of Schedule 1 (which apply with any necessary modifications):
 - (d) either—
 - (i) a reference to the latest financial statements for the business or the issuer of those equity securities that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration (and, if the issuer so wishes, those financial statements); or
 - (ii) audited financial statements for the business or the issuer of those equity securities prepared in accordance with generally accepted accounting practice for the relevant accounting period.
- (4) In subclause (3),—
- relevant accounting period** means—
- (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the business or the issuer of the equity securities has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date

specified period means the period between the date of the latest statement of financial position contained or referred to in the prospectus and the specified date.

8 Interested persons

- (1) If any specified person is entitled to remuneration for services, or to recover expenses, in respect of the scheme, particulars of—

- (a) the nature of the services or expenses; and
 - (b) if recovery of the remuneration or expenses is from the scheme, whether or not the amount of remuneration or expenses is limited and, if so, the limits.
- (2) Particulars of any direct or indirect material interest in the scheme or in any contract or arrangement entered into on behalf or in respect of the scheme that—
 - (a) any specified person has, or has had at any time during the 5 years preceding the specified date; and
 - (b) is material to either or both of the person who has the interest and the scheme.
- (3) If more than 10% of the value of the assets of the scheme (calculated in accordance with generally accepted accounting practice) was, at any time during the 2 years preceding the specified date, represented directly or indirectly by any securities of which any specified person was the issuer, a description of those securities.
- (4) In this clause, **specified person** means a superannuation trustee or any administration manager, investment manager, custodian, or promoter of the scheme (or any associated person of any of them).

9 Material contracts

In relation to every material contract entered into in respect of the scheme at any time in the 2 years preceding the specified date (not being a contract entered into in the ordinary course of business of the scheme),—

- (a) its date; and
- (b) the names of the parties to it; and
- (c) its general nature.

10 Pending proceedings

A brief description of any legal proceedings or arbitrations that—

- (a) are pending at the specified date; and
- (b) may have a material adverse effect on the scheme.

11 Other terms of offer and scheme

All terms of the offer, and all terms of the scheme being offered, not elsewhere set out in the prospectus, other than—

- (a) any term that relates to any amounts payable by or to an identifiable person; or
- (b) any terms implied by law; or
- (c) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

12 Financial statements and actuarial and auditor's reports

(1) A reference to the latest financial statements for the scheme that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration, and either—

- (a) the date of the auditor's report on those financial statements, and a statement as to whether or not the auditor's report referred to a fundamental uncertainty or was qualified in any respect and, if so, explaining what the fundamental uncertainty or qualification was; or
- (b) if those financial statements are not required to be audited because of section 13(2) of the Superannuation Schemes Act 1989,—
 - (i) the date of the auditor's report on the latest financial statements of the administration manager for the scheme; and
 - (ii) a statement as to whether or not the auditor's report referred to a fundamental uncertainty or was qualified in any respect that relates to the financial statements of the scheme and, if so, explaining what the fundamental uncertainty or qualification was.

(2) If the issuer so wishes,—

- (a) the latest financial statements referred to in subclause (1) together with a copy of the auditor's report on those statements (except if those statements are not required to be audited because of section 13(2) of the Superannuation Schemes Act 1989); and

- (b) interim financial statements for the scheme prepared as at a later date (not being more than 9 months after the balance date of the financial statements referred to in subclause (1)) in accordance with NZ IAS 34 (that need not be audited) and statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under subclause (1) or paragraph (a); and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The date of the latest actuarial report (if any) for the scheme that has been sent to the FMA under the Superannuation Schemes Act 1989, and the period or date to which that report relates.
- (4) A copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating whether the amounts stated under clauses 5 and 7(2) and (3) have been taken from audited financial statements and whether or not the amounts have been correctly taken.
- (5) If the prospectus contains prospective financial information, the auditor's report must contain a statement in the following form:

“In our (*or my*) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by the superannuation trustee set out on [*specify pages*] of this prospectus and is presented on a basis consistent with the accounting policies normally adopted in respect of the scheme.”

Schedule 6 clause 12(3): amended, on 1 May 2011, by section 85(2) of the Financial Markets Authority Act 2011 (2011 No 5).

13 Places of inspection of documents

The times and places where copies of the following documents may, on payment of any fee, be inspected by a person who so requests:

- (a) the trust deed for the scheme and any amendments to the deed;
- (b) the financial statements referred to in clause 12;
- (c) the actuarial report referred to in clause 12(3) (if any);
- (d) any material contract disclosed under clause 9;
- (e) the latest annual report for the scheme prepared in accordance with the Superannuation Schemes Act 1989.

14 Other material matters

Particulars of any material matters relating to the scheme (other than matters elsewhere set out in the prospectus or in the financial statements referred to in clause 12(1), and contracts entered into in the ordinary course of business of the scheme).

15 Superannuation trustees' statement

A statement by the superannuation trustees (or, if a superannuation trustee is a body corporate or unincorporate, by the directors of that body) as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the latest financial statements contained or referred to in the prospectus and the specified date:

- (a) the value of the scheme's assets relative to its liabilities (including contingent liabilities);
 - (b) the ability of the scheme to pay its debts as they become due in the normal course of business.
-

Schedule 7
Short form prospectus for equity securities

r 7(a)

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1 Main terms of offer

- (1) The name of the issuer, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) A brief description of the securities being offered.
- (3) A statement as to whether there is any maximum number or amount of the securities being offered and, if so, the number or amount.
- (4) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.

2 Prospects and forecasts

- (1) A statement as to the trading prospects of the issuing group, together with any material information that may be relevant to those trading prospects.
- (2) The statement required by subclause (1) must include a description of all special trade factors and risks that—
 - (a) are not mentioned elsewhere in the prospectus; and
 - (b) are not likely to be known or anticipated by the general public; and
 - (c) could materially affect the prospects of the issuing group.

- (3) If the purpose of the offer of securities is expressed as being to provide finance for a particular capital project,—
- (a) a brief description of the project; and
 - (b) an indication of the expected financial benefits of the project.

3 Issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

4 Other terms of offer and securities

All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

5 Financial statements

- (1) The date of the statement of financial position included in the latest financial statements referred to in regulation 6.
- (2) The place or places where copies of the latest financial statements and auditor's report referred to in regulation 6 can be obtained free of charge by any person to whom the offer is made.

6 Additional interim financial statements

- (1) If the directors of the issuer consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the group.
- (2) If an interim statement of financial position is included, the following statements for the group:
 - (a) an interim statement of financial performance; and

- (b) an interim statement of cash flows (except that a statement of cash flows need not be included if it is not required by an applicable financial reporting standard within the meaning of section 5(1) of the Financial Reporting Act 2013); and
 - (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the latest financial statements referred to in regulation 6; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
- (a) in accordance with NZ IAS 34 (but need not be audited); and
 - (b) for the period from the date of the latest financial statements referred to in regulation 6 and ending on a stated date that is no more than 9 months after the date of those financial statements.

Schedule 7 clause 6(2)(b): amended, on the close of 30 November 2014, by regulation 16 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

7 **Directors' statement**

A statement by the directors of the issuer as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the statement of financial position included in the latest financial statements referred to in regulation 6 and the specified date:

- (a) the trading or profitability of the issuing group;
 - (b) the value of its assets;
 - (c) the ability of the issuing group to pay its liabilities due within the next 12 months.
-

r 7(b)

Schedule 8
Short form prospectus for debt securities
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1 Main terms of offer

- (1) The name of the issuer, and the address of its registered office (or, if it does not have a registered office, its address) in New Zealand.
- (2) A brief description of the securities being offered.
- (3) The maximum amount of the securities being offered (excluding any amount that may result from the replacement of securities redeemed after the specified date).
- (4) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.

2 Guarantors

- (1) The name of each guaranteeing subsidiary.
- (2) If the prospectus or an advertisement relating to the securities offered states or implies that any person (other than a guaranteeing subsidiary) guarantees the repayment of the securities offered (in whole or in part) or the payment of any interest or other money to holders of the securities, the following matters in respect of each of those persons:
 - (a) the name of the person:

- (b) a description, and (if practicable) quantification, of the liability of the person to holders of the securities:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person (excluding any assets that are also assets of the borrowing group), together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (3)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and the issuer are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (3) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of the person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for the person's net tangible assets has not been taken from an audited statement of financial position.

3 Issue expenses

Particulars of any issue expenses, including—

- (a) the amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

4 Ranking of securities

- (1) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security ahead of the securities being offered.
- (2) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security equally with the securities being offered.

5 Provisions of trust deed and other restrictions on borrowing group

- (1) In respect of the trust deed relating to the securities being offered,—
 - (a) the date of the trust deed;
 - (b) particulars of the parties to the trust deed that are sufficient to identify the trust deed;
 - (c) brief particulars of any terms of the trust deed that impose limitations relating to—
 - (i) the creation of new mortgages or charges ranking in point of security ahead of, or equally with, any mortgage or charge securing the securities being offered; or
 - (ii) any ratio of liabilities, or of any class of liabilities, to assets, or to any class of assets, of the issuer;
 - (d) if there are no terms of the kind described in paragraph (c), a statement to that effect;
 - (e) brief particulars of the duties stated by the trust deed to be those of the trustee.
- (2) Brief particulars of any restrictions on the ability of any member of the borrowing group to borrow that—
 - (a) result from any undertaking given, or contract or deed entered into, by the member; and
 - (b) are not set out elsewhere in the prospectus.
- (3) A statement by the trustee that—

- (a) the offer of securities complies with any relevant provisions of the trust deed; and
- (b) the trustee does not guarantee the repayment of securities or payment of interest on the securities.

6 Other terms of offer and securities

- (1) All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—
 - (a) any terms implied by law; or
 - (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.
- (2) However, the prospectus is not required to state the rate or rates of interest that may be earned by holding the securities if the prospectus contains—
 - (a) a statement to the effect that the interest rate or rates that may be earned by holding the securities being offered will be those set by the issuer at any particular time or from time to time, as the case may be; and
 - (b) a statement of the method by which the interest rate or rates may be ascertained.

7 Financial statements

- (1) The date of the statement of financial position included in the latest financial statements referred to in regulation 6.
- (2) The place or places where copies of the latest financial statements and auditor's report referred to in regulation 6 can be obtained free of charge by any person to whom the offer is made.

8 Additional interim financial statements

- (1) If the directors of the issuer consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the group.
- (2) If an interim statement of financial position is included, the following statements for the group:
 - (a) an interim statement of financial performance; and

- (b) an interim statement of cash flows (except that a statement of cash flows need not be included if it is not required by an applicable financial reporting standard within the meaning of section 5(1) of the Financial Reporting Act 2013); and
- (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the latest financial statements referred to in regulation 6; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
 - (a) in accordance with NZ IAS 34 (but need not be audited); and
 - (b) for the period from the date of the latest financial statements referred to in regulation 6 and ending on a stated date that is no more than 9 months after the date of those financial statements.

Schedule 8 clause 8(2)(b): amended, on the close of 30 November 2014, by regulation 17 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

9 Directors' statement

A statement by the directors of the issuer as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the statement of financial position included in the latest financial statements referred to in regulation 6 and the specified date:

- (a) the trading or profitability of the borrowing group;
- (b) the value of its assets;
- (c) the ability of the borrowing group to pay its liabilities due within the next 12 months.

Schedule 9
Short form prospectus for units in unit trust

r 7(c)

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1 Description of unit trust

- (1) The name of the unit trust.
- (2) The year and place of establishment of the unit trust.
- (3) The duration of the unit trust.
- (4) A brief description of the units being offered.
- (5) A statement as to whether there is any maximum number or amount of units in the unit trust and, if so, the number or amount.
- (6) The price or other consideration to be paid or provided for the units, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.
- (7) The amount, or maximum amount, of the fees payable or deductions that will be made (if any) for purchasing or selling units and the time or times at which the fees or deductions will be payable or made.
- (8) If the offer of units is made only during a particular period, the opening and closing dates of the offer.

2 Description of unit trust and its development

- (1) The date of the trust deed for the unit trust, and the dates of all amendments to the deed (or, if the deed and some or all

of the amendments to it have been consolidated, the date of the consolidation and the dates of all amendments since the consolidation).

- (2) A summary of the principal terms of the trust deed for the unit trust (including any amendments).
- (3) A description of any restrictions on investment of the funds of the unit trust, to the extent not included in the summary under subclause (2).
- (4) A brief description of the investment and other material activities of, and any material developments relating to, the unit trust during the 5 years preceding the specified date.
- (5) A description of the investment objectives and policy for the unit trust, and of the means by which changes can be made to those objectives and that policy.
- (6) A description of the investment performance of the unit trust during each of the 5 years preceding the specified date, and, if any performance data is set out in the prospectus, the basis on which the data has been calculated.
- (7) A description of the policy regarding distributions from the unit trust.
- (8) A statement of any undertakings to unit holders about return of capital.

3 Unit holder liability

A statement as to whether any liabilities (including contingent liabilities) may be incurred by unit holders in relation to the unit trust (other than in respect of the purchase price of units) and, if so, whether there are any limitations on those liabilities.

4 Guarantors

- (1) If the prospectus or an advertisement relating to the unit trust states or implies that any person guarantees the payment of any money payable from the unit trust, the following matters in respect of each of those persons:
 - (a) the name of the person;
 - (b) a description, and (if practicable) quantification, of the liability of the person in respect of that money:

- (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person, together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (2)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:
 - (g) if the person and the manager are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (2) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of that person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for that person's net tangible assets has not been taken from an audited statement of financial position.

5 Issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

6 Other terms of offer and units

All terms of the offer, and all terms of the units being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or

- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

7 Financial statements

- (1) The date of the statement of financial position included in the latest financial statements referred to in regulation 6.
- (2) The place or places where copies of the latest financial statements and auditor's report referred to in regulation 6 can be obtained free of charge by any person to whom the offer is made.

8 Additional interim financial statements

- (1) If the directors of the manager consider it necessary or desirable (after having regard to section 37A(1)(c) of the Act), an interim statement of financial position for the unit trust.
- (2) If an interim statement of financial position is included, the following statements for the unit trust:
 - (a) an interim statement of financial performance; and
 - (b) an interim statement of cash flows (except that a statement of cash flows need not be included if it is not required by an applicable financial reporting standard within the meaning of section 5(1) of the Financial Reporting Act 2013); and
 - (c) statements as to—
 - (i) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the latest financial statements referred to in regulation 6; and
 - (ii) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.
- (3) The interim financial statements must be prepared—
 - (a) in accordance with NZ IAS 34 (but need not be audited); and

- (b) for the period from the date of the latest financial statements referred to in regulation 6 and ending on a stated date that is no more than 9 months after the date of those financial statements.

Schedule 9 clause 8(2)(b): amended, on the close of 30 November 2014, by regulation 18 of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

9 Manager's statement

A statement by the directors of the manager as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the statement of financial position included in the latest financial statements referred to in regulation 6 and the specified date:

- (a) the value of the unit trust's assets relative to its liabilities (including contingent liabilities):
- (b) the ability of the unit trust to pay its debts as they become due in the normal course of business.

Schedule 10

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Simplified disclosure prospectus for offers of securities of same class as listed securities

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1 Information at front of simplified disclosure prospectus

- (1) A statement on the front page that clearly identifies the prospectus as being a simplified disclosure prospectus for an offer of securities of the same class as certain listed securities of the issuer.
- (2) A statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a licensed market operator for the purpose of that information being made available to participants in the licensed market that is operated by that operator.

Schedule 10 clause 1(2): amended, on the close of 30 November 2014, by regulation 19(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

2 Names, addresses, and other information

- (1) The name of the issuer, and the address of its registered office.
- (2) The name of every director of the issuer.
- (3) The name and address of every promoter of the securities being offered.
- (4) In the case of an offer of debt securities, the name and address of the trustee.
- (5) In the case of an offer of units in a unit trust,—
 - (a) the name of any administration manager or investment manager of the unit trust; and
 - (b) the names of any registrar or custodian of the unit trust; and
 - (c) the name and address of the unit trustee of the unit trust and, if the unit trustee is a body corporate, of every director of the trustee.

3 Experts and underwriter

- (1) The names, addresses, and qualifications of any experts named in the prospectus.
- (2) If the offer of securities is underwritten, the name and address of any underwriter.

4 Terms of offer and securities

- (1) A brief description of the securities being offered.

- (2) In the case of an offer of—
- (a) equity securities or units in a unit trust, a statement as to whether there is any maximum number or amount of the securities being offered and, if so, the number or amount;
 - (b) debt securities, the maximum amount of the securities being offered (excluding any amount that may result from the replacement of securities redeemed after the specified date).
- (3) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.
- (4) The following information relating to the money payable by a subscriber to the issuer or any associated person in respect of the securities:
- (a) the person to whom, and the manner in which, payments are to be or may be made;
 - (b) if the subscriber is required to make payments on specified dates or at a specified frequency, the payment dates or frequency and the consequences of failing to make the payments.
- (5) All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—
- (a) any terms implied by law; or
 - (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.
- (6) However, in the case of an offer of debt securities, the prospectus is not required to state the rate or rates of interest that may be earned by holding the securities if the prospectus contains—
- (a) a statement to the effect that the interest rate or rates that may be earned by holding the securities being offered will be those set by the issuer at any particular time or from time to time, as the case may be; and
 - (b) a statement of the method by which the interest rate or rates may be ascertained.

5 Relationship with listed securities

- (1) A statement to the effect that the securities being offered are of the same class as securities previously issued by the issuer that are listed securities.
- (2) A brief description of those listed securities.
- (3) The name of the licensed market on which the listed securities are listed.
- (4) A statement that describes the relationship between the price or other consideration to be paid or provided for the securities and the market price of those listed securities.
- (5) A statement that warns that the market price of those listed securities may change between the date of the offer and the date when the securities are allotted, and describes the effect that this would have on the price or value of the securities that a subscriber would receive.

Schedule 10 clause 5(3): amended, on the close of 30 November 2014, by regulation 19(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

6 Information available under issuer's disclosure obligation

- (1) Particulars of the disclosed information that are sufficient to identify that information (for example, the title of a document and its date of notification to a licensed market operator).
- (2) A statement to correct or update the disclosed information if it is misleading in the context of the offer.
- (3) If the issuer has material information that is not generally available to the market but the issuer is not required to notify that information to the licensed market operator in accordance with the listing rules for the licensed market that is operated by that operator and that information, or part of it, is information that is likely to assist a prudent but non-expert person to decide whether or not to subscribe for the securities, a statement of that information or that part.
- (4) In this clause,—
disclosed information means information, notified by the issuer to a licensed market operator in accordance with the listing rules for the licensed market that is operated by that operator, that is material to the offer of securities and that is noti-

fied on or after the date on which the latest financial statements have been notified by the issuer to the operator in accordance with those listing rules

latest financial statements means the financial statements or interim financial statements for the group or the unit trust (as the case may be) that are the most recent at the specified date.

Schedule 10 clause 6(1): amended, on the close of 30 November 2014, by regulation 19(3) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 10 clause 6(3): amended, on the close of 30 November 2014, by regulation 19(4) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 10 clause 6(4) **disclosed information**: replaced, on the close of 30 November 2014, by regulation 19(5) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

7 Financial statements

- (1) A reference to the latest financial statements for the group or the unit trust (as the case may be) that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date on which the latest financial statements referred to in subclause (1) have been notified by the issuer to a licensed market operator in accordance with the listing rules for the licensed market that is operated by that operator.
- (3) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (4) If no financial statements for the group have been registered under the Financial Reporting Act 1993, financial statements for the group that are prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the issuer has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

Schedule 10 clause 7(2): replaced, on the close of 30 November 2014, by regulation 19(6) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

8 Additional interim financial statements

- (1) A reference to interim financial statements for the group or the unit trust (as the case may be) if—
 - (a) those statements are for a period from or after the date of the financial statements contained or referred to in the prospectus under clause 7; and
 - (b) those statements have been prepared in accordance with NZ IAS 34 (but need not be audited); and
 - (c) those statements have been notified by the issuer to a licensed market operator in accordance with the listing rules of the relevant licensed market.
- (2) If the issuer so wishes, the interim financial statements referred to in subclause (1).
- (3) If interim financial statements are contained or referred to in the prospectus under this clause, statements as to—
 - (a) the date on which the interim financial statements were notified by the issuer to the licensed market operator; and
 - (b) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 7; and
 - (c) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.

Schedule 10 clause 8(1)(c): replaced, on the close of 30 November 2014, by regulation 19(7) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 10 clause 8(3)(a): amended, on the close of 30 November 2014, by regulation 19(8) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

9 Access to information and statements

A statement—

- (a) to the effect that the disclosed information identified under clause 6(1), and the financial statements and any interim financial statements contained or referred to in the prospectus under clauses 7 and 8,—
- (i) are filed on a public register at the Companies Office of the Ministry of Economic Development and are available for public inspection (including at www.companies.govt.nz); and
- (ii) will be made available on request, and free of charge, by the issuer; and
- (b) explaining how the request under paragraph (a)(ii) should be made.

10 Directors' statement

A statement by the directors of the issuer to the effect that, in their opinion, after due enquiry by them, the issuer is in compliance with the requirements of the continuous disclosure provisions that apply to it.

Schedule 11

r 10(b)(i)

Simplified disclosure prospectus for offers of equity securities that rank equally with, or in priority to, listed securities

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1 Information at front of simplified disclosure prospectus

- (1) A statement on the front page that clearly identifies the prospectus as being a simplified disclosure prospectus for an offer of equity securities that rank equally with, or in priority to, certain listed securities of the issuer (or of options to subscribe for equity securities of that kind).
- (2) A statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a licensed market operator for the purpose of that information being made available to participants in the licensed market that is operated by that operator.

Schedule 11 clause 1(2): amended, on the close of 30 November 2014, by regulation 20(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

2 Names, addresses, and other information

- (1) The name of the issuer, and the address of its registered office.
- (2) The name of every director of the issuer.
- (3) The name and address of every promoter of the securities being offered.

3 Experts and underwriter

- (1) The names, addresses, and qualifications of any experts named in the prospectus.
- (2) If the offer of securities is underwritten, the name and address of any underwriter.

4 Main terms of offer

- (1) A brief description of the securities being offered.

- (2) A statement as to whether there is any maximum number or amount of the securities being offered and, if so, the number or amount.
- (3) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.
- (4) The following information relating to the money payable by a subscriber to the issuer or any associated person in respect of the securities:
 - (a) the person to whom, and the manner in which, payments are to be or may be made;
 - (b) if the subscriber is required to make payments on specified dates or at a specified frequency, the payment dates or frequency and the consequences of failing to make the payments.

5 Relationship with listed securities

- (1) A description of the ranking of the securities as compared with each of the issuer's other equity securities that are listed in respect of—
 - (a) a liquidation of the issuer; and
 - (b) the payment of dividends.
- (2) If the securities are options to subscribe for equity securities, the reference to the ranking of securities in subclause (1) must be treated as a reference to the ranking of those equity securities.

6 Preliminary and issue expenses

- (1) Particulars of any issue expenses, including—
 - (a) their amount or estimated amount; and
 - (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.
- (2) If the date on which the issuer commenced business is less than 2 years before the specified date, particulars of any preliminary

expenses of the issuer, including their amount or estimated amount.

7 Returns

- (1) The following information about the returns to subscribers from the securities:
 - (a) a brief description of the nature of the returns:
 - (b) a brief description of the key factors that determine the returns:
 - (c) a statement as to whether or not an amount of returns, quantifiable as at the specified date and enforceable by subscribers, has been promised and, if so, the amount or a description of how that amount can be calculated:
 - (d) a statement as to which of the following (if any) will, or is likely to, affect the returns:
 - (i) taxes or duties:
 - (ii) reserves or retentions.
- (2) The dates on which, or frequency with which, the returns from the securities will be due and paid or, if there are no such dates or frequency or the dates or frequency are unknown, a statement to that effect.
- (3) If payment of all or any of the returns from the securities will or may be withheld until a particular date or for a particular period, a statement to that effect and a brief description of the circumstances that may produce this result.
- (4) The name of the person legally liable to pay the returns.

8 Consequences of insolvency

- (1) A statement as to whether or not subscribers will or may be liable to pay money to any person as a result of the insolvency of the issuer and, if so, a brief description of the liability.
- (2) A brief description of any claims on the assets of the issuer that will or may rank ahead of claims of subscribers in the event of the issuer being put into liquidation.
- (3) A brief description of any claims on the assets of the issuer that will or may rank equally with the claims of subscribers in the event of the issuer being put into liquidation.

9 Alteration of securities

- (1) A brief description of any right of a subscriber, the issuer, or any other person to—
 - (a) alter the amount of moneys payable by a subscriber, including a brief description of any continuing obligation of the subscriber to pay that amount; or
 - (b) otherwise alter the terms of any security.
- (2) If any charges on any of those alterations are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of those charges.

10 Early termination

- (1) A brief description of any right of the issuer, a subscriber, or any other person to terminate, cancel, surrender, or otherwise make or obtain payment of the returns from the securities, other than as described in clause 7.
- (2) If any of the following charges on any of those payments are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of the charges:
 - (a) early termination charges:
 - (b) switching or sale charges (including the difference between any buying and selling prices for the securities).

11 Right to sell securities

- (1) A statement as to whether or not a subscriber is entitled to sell the subscriber's interest in a security to another person and, if so, whether, in the opinion of the issuer, there is an established market for those sales.
- (2) If any charges on any such sale are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of those charges.

12 Financing of projects

- If the purpose of the offer of securities is expressed as being to provide finance for a particular capital project,—
- (a) a brief description of the project; and

- (b) an indication of the expected financial benefits of the project; and
- (c) a statement as to whether or not the proceeds of the issue of securities may, despite the stated purpose, be applied for other purposes.

13 Other terms of offer and securities

All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—

- (a) any terms implied by law; or
- (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.

14 Information available under issuer's disclosure obligation

- (1) Particulars of the disclosed information that are sufficient to identify that information (for example, the title of a document and its date of notification to a licensed market operator).
- (2) A statement to correct or update the disclosed information if it is misleading in the context of the offer.
- (3) In this clause, **disclosed information** means information, notified by the issuer to a licensed market operator in accordance with the listing rules for the licensed market that is operated by that operator, that is material to the offer of securities.

Schedule 11 clause 14(1): amended, on the close of 30 November 2014, by regulation 20(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 11 clause 14(3): replaced, on the close of 30 November 2014, by regulation 20(3) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

15 Financial statements

- (1) A reference to the latest financial statements for the group that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date on which the latest financial statements referred to in subclause (1) have been notified by the issuer to a licensed

market operator in accordance with the listing rules for the licensed market that is operated by that operator.

- (3) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (4) If no financial statements for the group have been registered under the Financial Reporting Act 1993, financial statements for the group that are prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the issuer has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

Schedule 11 clause 15(2): replaced, on the close of 30 November 2014, by regulation 20(4) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

16 Additional interim financial statements

- (1) A reference to interim financial statements for the group if—
 - (a) those statements are for a period from or after the date of the financial statements contained or referred to in the prospectus under clause 15; and
 - (b) those statements have been prepared in accordance with NZ IAS 34 (but need not be audited); and
 - (c) those statements have been notified by the issuer to a licensed market operator in accordance with the listing rules of the relevant licensed market.
- (2) If the issuer so wishes, the interim financial statements referred to in subclause (1).
- (3) If interim financial statements are contained or referred to in the prospectus under this clause, statements as to—
 - (a) the date on which the interim financial statements were notified by the issuer to the licensed market operator; and
 - (b) all material changes (if any) in matters contained in the interim financial statements from the matters contained

- in the financial statements contained or referred to in the prospectus under clause 15; and
- (c) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.

Schedule 11 clause 16(1)(c): replaced, on the close of 30 November 2014, by regulation 20(5) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 11 clause 16(3)(a): amended, on the close of 30 November 2014, by regulation 20(6) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

17 Access to information and statements

A statement—

- (a) to the effect that the disclosed information identified under clause 14(1), and the financial statements and any interim financial statements contained or referred to in the prospectus under clauses 15 and 16,—
- (i) are filed on a public register at the Companies Office of the Ministry of Economic Development and are available for public inspection (including at www.companies.govt.nz); and
- (ii) will be made available on request, and free of charge, by the issuer; and
- (b) explaining how the request under paragraph (a)(ii) should be made.

18 Other material matters

Particulars of any material matters relating to the offer of securities (other than matters elsewhere set out in the prospectus, in the disclosed information identified under clause 14, or in the financial statements or interim financial statements referred to in the prospectus under clause 15 or 16, and contracts entered into in the ordinary course of business of a member of the issuing group).

19 Directors' statement

A statement by the directors of the issuer to the effect that, in their opinion, after due enquiry by them, the issuer is in

compliance with the requirements of the continuous disclosure provisions that apply to it.

r 10(b)(ii)

Schedule 12
**Simplified disclosure prospectus for offers
of debt securities that rank equally with,
or in priority to, listed securities**

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1 Information at front of simplified disclosure prospectus

- (1) A statement on the front page that clearly identifies the prospectus as being a simplified disclosure prospectus for an offer of debt securities that rank equally with, or in priority to, certain listed securities of the issuer.

- (2) A statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a licensed market operator for the purpose of that information being made available to participants in the licensed market that is operated by that operator.

Schedule 12 clause 1(2): amended, on the close of 30 November 2014, by regulation 21(1) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

2 Names, addresses, and other information

- (1) The name of the issuer, and the address of its registered office.
- (2) The name of every director of the issuer.
- (3) The name and address of every promoter of the securities being offered.
- (4) The name and address of the trustee.

3 Experts and underwriter

- (1) The names, addresses, and qualifications of any experts named in the prospectus.
- (2) If the offer of securities is underwritten, the name and address of any underwriter.

4 Main terms of offer

- (1) A brief description of the securities being offered.
- (2) The maximum amount of the securities being offered (excluding any amount that may result from the replacement of securities redeemed after the specified date).
- (3) The price or other consideration to be paid or provided for the securities being offered, if this is a fixed amount. If the price or other consideration is not a fixed amount, a description of the manner by which that amount is fixed.
- (4) The following information relating to the money payable by a subscriber to the issuer or any associated person in respect of the securities:
 - (a) the person to whom, and the manner in which, payments are to be or may be made:
 - (b) if the subscriber is required to make payments on specified dates or at a specified frequency, the payment dates

or frequency and the consequences of failing to make the payments.

5 Relationship with listed securities and ranking of securities

- (1) A description of the ranking of the securities as compared with each of the issuer's other securities that are listed in respect of a liquidation of the issuer.
- (2) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security ahead of the securities being offered.
- (3) The aggregate amount (as at the date of the latest statement of financial position contained or referred to in the prospectus) of any securities that are secured by a mortgage or charge over any of the assets of the borrowing group and that rank in point of security equally with the securities being offered.

6 Issue expenses

Particulars of any issue expenses, including—

- (a) their amount or estimated amount; and
- (b) in respect of any commission payable,—
 - (i) the rate of commission; and
 - (ii) the persons or classes of persons to whom the commission is payable.

7 Returns

- (1) The following information about the returns to subscribers from the securities:
 - (a) a brief description of the nature of the returns:
 - (b) a brief description of the key factors that determine the returns:
 - (c) a statement as to whether or not an amount of returns, quantifiable as at the specified date and enforceable by subscribers, has been promised and, if so, the amount or a description of how that amount can be calculated:
 - (d) a statement as to which of the following (if any) will, or is likely to, affect the returns:

- (i) taxes or duties:
 - (ii) reserves or retentions.
- (2) The dates on which, or frequency with which, the returns from the securities will be due and paid or, if there are no such dates or frequency or the dates or frequency are unknown, a statement to that effect.
- (3) If payment of all or any of the returns from the securities will or may be withheld until a particular date or for a particular period, a statement to that effect and a brief description of the circumstances that may produce this result.
- (4) The name of the person legally liable to pay the returns.

8 Guarantors

- (1) The name of each guaranteeing subsidiary.
- (2) If the prospectus or an advertisement relating to the securities offered states or implies that any person (other than a guaranteeing subsidiary) guarantees the repayment of the securities offered (in whole or in part) or the payment of any interest or other money to holders of the securities, the following matters in respect of each of those persons:
 - (a) the name of the person:
 - (b) a description, and (if practicable) quantification, of the liability of the person to holders of the securities:
 - (c) a statement as to whether the liability of the person is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
 - (d) the amount of the net tangible assets of the person as shown in the most recent audited statement of financial position of the person (excluding any assets that are also assets of the borrowing group), together with a statement of any fundamental uncertainty or qualifications in the auditor's report in respect of the statement of financial position (subject to subclause (3)):
 - (e) whether there are any contingent liabilities that could materially affect those net tangible assets:
 - (f) whether the financial statements of the person are available for inspection and, if so, where:

- (g) if the person and the issuer are associated persons, a statement to that effect and particulars of the nature of the relationship.
- (3) If there is no audited statement of financial position of the person dated within 18 months of the specified date,—
- (a) the figure given for the amount of the person's net tangible assets in the prospectus must be that as at a date stated in the prospectus (being a date not earlier than 6 months before the specified date); and
 - (b) the prospectus must include a statement to the effect that the figure for the person's net tangible assets has not been taken from an audited statement of financial position.

9 Provisions of trust deed and other restrictions on borrowing group

- (1) In respect of the trust deed relating to the securities being offered,—
- (a) the date of the trust deed;
 - (b) particulars of the parties to the trust deed that are sufficient to identify the trust deed;
 - (c) brief particulars of any terms of the trust deed that impose limitations relating to—
 - (i) the creation of new mortgages or charges ranking in point of security ahead of, or equally with, any mortgage or charge securing the securities being offered; or
 - (ii) any ratio of liabilities, or of any class of liabilities, to assets, or to any class of assets, of the issuer;
 - (d) if there are no terms of the kind described in paragraph (c), a statement to that effect;
 - (e) brief particulars of the duties stated by the trust deed to be those of the trustee.
- (2) Brief particulars of any restrictions on the ability of any member of the borrowing group to borrow that—
- (a) result from any undertaking given, or contract or deed entered into, by the member; and
 - (b) are not set out elsewhere in the prospectus.

- (3) A statement by the trustee that—
 - (a) the offer of securities complies with any relevant provisions of the trust deed; and
 - (b) the trustee does not guarantee the repayment of securities or payment of interest on the securities.

10 Consequences of insolvency

- (1) A statement as to whether or not subscribers will or may be liable to pay money to any person as a result of the insolvency of the issuer and, if so, a brief description of the liability.
- (2) A brief description of any claims on the assets of the issuer that will or may rank ahead of claims of subscribers in the event of the issuer being put into liquidation.
- (3) A brief description of any claims on the assets of the issuer that will or may rank equally with the claims of subscribers in the event of the issuer being put into liquidation.

11 Alteration of securities

- (1) A brief description of any right of a subscriber, the issuer, or any other person to—
 - (a) alter the amount of moneys payable by a subscriber, including a brief description of any continuing obligation of the subscriber to pay that amount; or
 - (b) otherwise alter the terms of any security.
- (2) If any charges on any of those alterations are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of those charges.

12 Early termination

- (1) A brief description of any right of the issuer, a subscriber, or any other person to terminate, cancel, surrender, or otherwise make or obtain payment of the returns from the securities, other than as described in clause 7.
- (2) If any of the following charges on any of those payments are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of the charges:
 - (a) early termination charges:

- (b) switching or sale charges (including the difference between any buying and selling prices for the securities).

13 Right to sell securities

- (1) A statement as to whether or not a subscriber is entitled to sell the subscriber's interest in a security to another person and, if so, whether, in the opinion of the issuer, there is an established market for those sales.
- (2) If any charges on any such sale are payable by a subscriber to the issuer, a promoter, or an associated person of the issuer or promoter, a statement of those charges.

14 Other terms of offer and securities

- (1) All terms of the offer, and all terms of the securities being offered, not elsewhere set out in the prospectus, other than—
 - (a) any terms implied by law; or
 - (b) any terms set out in a document that—
 - (i) is registered with a public official; and
 - (ii) is available for public inspection; and
 - (iii) is referred to in the prospectus.
- (2) However, the prospectus is not required to state the rate or rates of interest that may be earned by holding the securities if the prospectus contains—
 - (a) a statement to the effect that the interest rate or rates that may be earned by holding the securities being offered will be those set by the issuer at any particular time or from time to time, as the case may be; and
 - (b) a statement of the method by which the interest rate or rates may be ascertained.

15 Information available under issuer's disclosure obligation

- (1) Particulars of the disclosed information that are sufficient to identify that information (for example, the title of a document and its date of notification to a licensed market operator).
- (2) A statement to correct or update the disclosed information if it is misleading in the context of the offer.
- (3) In this clause, **disclosed information** means information, notified by the issuer to a licensed market operator in accordance

with the listing rules for the licensed market that is operated by that operator, that is material to the offer of securities.

Schedule 12 clause 15(1): amended, on the close of 30 November 2014, by regulation 21(2) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 12 clause 15(3): replaced, on the close of 30 November 2014, by regulation 21(3) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

16 Financial statements

- (1) A reference to the latest financial statements for the group that comply with, and have been registered under, the Financial Reporting Act 1993, the accounting period covered by those statements, and the date of registration.
- (2) The date on which the latest financial statements referred to in subclause (1) have been notified by the issuer to a licensed market operator in accordance with the listing rules for the licensed market that is operated by that operator.
- (3) If the issuer so wishes, the latest financial statements referred to in subclause (1).
- (4) If no financial statements for the group have been registered under the Financial Reporting Act 1993, financial statements for the group that are prepared and audited as if they were to be registered under that Act for—
 - (a) the most recently completed accounting period in respect of which the financial statements have been prepared; or
 - (b) if the issuer has not completed its first accounting period, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the specified date.

Schedule 12 clause 16(2): replaced, on the close of 30 November 2014, by regulation 21(4) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

17 Additional interim financial statements

- (1) A reference to interim financial statements for the group if—
 - (a) those statements are for a period from or after the date of the financial statements contained or referred to in the prospectus under clause 16; and

- (b) those statements have been prepared in accordance with NZ IAS 34 (but need not be audited); and
 - (c) those statements have been notified by the issuer to a licensed market operator in accordance with the listing rules of the relevant licensed market.
- (2) If the issuer so wishes, the interim financial statements referred to in subclause (1).
- (3) If interim financial statements are contained or referred to in the prospectus under this clause, statements as to—
- (a) the date on which the interim financial statements were notified by the issuer to the licensed market operator; and
 - (b) all material changes (if any) in matters contained in the interim financial statements from the matters contained in the financial statements contained or referred to in the prospectus under clause 16; and
 - (c) all transactions (if any) that are material related party transactions under generally accepted accounting practice and were entered into or were being performed in the period of the interim financial statements.

Schedule 12 clause 17(1)(c): replaced, on the close of 30 November 2014, by regulation 21(5) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

Schedule 12 clause 17(3)(a): amended, on the close of 30 November 2014, by regulation 21(6) of the Securities Amendment Regulations (No 2) 2014 (LI 2014/339).

18 Access to information and statements

A statement—

- (a) to the effect that the disclosed information identified under clause 15(1), and the financial statements and any interim financial statements contained or referred to in the prospectus under clauses 16 and 17,—
 - (i) are filed on a public register at the Companies Office of the Ministry of Economic Development and are available for public inspection (including at www.companies.govt.nz); and
 - (ii) will be made available on request, and free of charge, by the issuer; and

- (b) explaining how the request under paragraph (a)(ii) should be made.

19 Other material matters

Particulars of any material matters relating to the offer of securities (other than matters elsewhere set out in the prospectus, in the disclosed information identified under clause 15, or in the financial statements or interim financial statements referred to in the prospectus under clause 16 or 17, and contracts entered into in the ordinary course of business of a member of the borrowing group).

20 Directors' statement

A statement by the directors of the issuer to the effect that, in their opinion, after due enquiry by them, the issuer is in compliance with the requirements of the continuous disclosure provisions that apply to it.

Schedule 13

r 19

Matters required in investment statements

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Important information for investors

1 Information at front of investment statement

- (1) A statement in the following form (to be set out at the front of the investment statement):

“Important information

(The information in this section is required under the Securities Act 1978.)

Investment decisions are very important. They often have long-term consequences. Read all documents carefully. Ask questions. Seek advice before committing yourself.

Choosing an investment

When deciding whether to invest, consider carefully the answers to the following questions that can be found on the pages noted below:

Page

What sort of investment is this?

Who is involved in providing it for me?

How much do I pay?

What are the charges?

What returns will I get?

What are my risks?

Can the investment be altered?

How do I cash in my investment?

Who do I contact with inquiries about my investment?

Is there anyone to whom I can complain if I have problems with the investment?

What other information can I obtain about this investment?

In addition to the information in this document, important information can be found in the current registered prospectus for the investment. You are entitled to a copy of that prospectus on request.

The Financial Markets Authority regulates conduct in financial markets

The Financial Markets Authority regulates conduct in New Zealand's financial markets. The Financial Markets Authority's main objective is to promote and facilitate the development of fair, efficient, and transparent financial markets.

For more information about investing, go to <http://www.fma.govt.nz>

Financial advisers can help you make investment decisions

Using a financial adviser cannot prevent you from losing money, but it should be able to help you make better investment decisions.

Financial advisers are regulated by the Financial Markets Authority to varying levels, depending on the type of adviser and

the nature of the services they provide. Some financial advisers are only allowed to provide advice on a limited range of products.

When seeking or receiving financial advice, you should check—

- the type of adviser you are dealing with:
- the services the adviser can provide you with:
- the products the adviser can advise you on.

A financial adviser who provides you with personalised financial adviser services may be required to give you a disclosure statement covering these and other matters. You should ask your adviser about how he or she is paid and any conflicts of interest he or she may have.

Financial advisers must have a complaints process in place and they, or the financial services provider they work for, must belong to a dispute resolution scheme if they provide services to retail clients. So if there is a dispute over an investment, you can ask someone independent to resolve it.

Most financial advisers, or the financial services provider they work for, must also be registered on the financial service providers register. You can search for information about registered financial service providers at <http://www.fspr.govt.nz>

You can also complain to the Financial Markets Authority if you have concerns about the behaviour of a financial adviser.

- (2) Subclause (3) applies if the investment statement—
- (a) contains only the information required by the Act and these regulations; and
 - (b) states the questions set out in italics in the statement in subclause (1); and
 - (c) sets out those questions in the same order as in that statement; and
 - (d) complies with regulation 21.
- (3) The investment statement is not required to include either the questions in italics, or the words “When deciding whether to invest, consider carefully the answers to the following questions that can be found on the pages noted below:”, in the statement in subclause (1).

- (4) If the investment statement relates to securities for which a registered prospectus is not required, the paragraph in the statement in subclause (1) referring to a registered prospectus must be omitted.
- (5) If, as a result of subclauses (3) and (4), no information is required to be included in the investment statement under the heading **Choosing an investment**, that heading must be omitted.
- (6) If the investment statement relates to a fixed-term deposit product offered by a registered bank, the heading **Financial advisers can help you make investment decisions** and the information under that heading must be omitted.
- (6A) If the investment statement relates to a category 2 product (as defined in section 5 of the Financial Advisers Act 2008), the heading **Financial advisers can help you make investment decisions** and the information under that heading may be omitted.
- (7) If the investment statement relates to interests in an employer superannuation scheme (as defined in section 5C of the Act) for which no prospectus has been prepared, a statement in the following form must be included at the end of the statement required by subclause (1):

“Warning—restricted disclosure

The law requires that persons considering whether to join a superannuation scheme must be supplied on request with a prospectus about that scheme.

However, employer superannuation schemes have been exempted from this requirement.

You should be aware that in choosing to become a member of this superannuation scheme you may be doing so on the basis of more limited information than is generally available to investors making important decisions about investments. However, every prospective member of this scheme has a right, under the Superannuation Schemes Act 1989, to request to receive certain information about the scheme (including a copy of the trust deed).”

Schedule 13 clause 1(1): amended, on 1 July 2011, by regulation 14(1) of the Securities Amendment Regulations 2011 (SR 2011/226).

Schedule 13 clause 1(6): amended, on 1 July 2011, by regulation 14(2) of the Securities Amendment Regulations 2011 (SR 2011/226).

Schedule 13 clause 1(6A): inserted, on 1 July 2011, by regulation 14(3) of the Securities Amendment Regulations 2011 (SR 2011/226).

What sort of investment is this?

2 Description of securities

A brief description of the securities being offered.

Who is involved in providing it for me?

3 Names and addresses

- (1) If the securities being offered are equity securities or life insurance policies, the following information in respect of the securities:
 - (a) the name, and address as at the date of the investment statement, of the issuer:
 - (b) the names of the directors of the issuer as at the date of the investment statement.
- (2) If the securities being offered are debt securities, the following information in respect of the securities:
 - (a) the names, and addresses as at the date of the investment statement, of—
 - (i) the issuer:
 - (ii) any trustee:
 - (b) the names of the directors of the issuer as at the date of the investment statement.
- (3) If the securities being offered are participatory securities, the following information in respect of the securities:
 - (a) the name of the participatory scheme:
 - (b) the names, and addresses as at the date of the investment statement, of—
 - (i) the manager:
 - (ii) the statutory supervisor (if any):
 - (c) the names of the directors of the manager as at the date of the investment statement.
- (4) If the securities being offered are units in a unit trust, or interests in a KiwiSaver scheme other than a restricted scheme, the following information in respect of the securities:

- (a) the name of the unit trust or the scheme (as the case may be):
 - (b) the names, and addresses as at the date of the investment statement, of—
 - (i) the manager and the administration manager (if any):
 - (ii) the unit trustee or the KiwiSaver trustee (as the case may be):
 - (c) the names of the directors of the manager as at the date of the investment statement.
- (5) If the securities being offered are interests in a superannuation scheme other than a superannuation scheme to which subclause (4) applies, the following information in respect of the securities:
- (a) the name of the scheme:
 - (b) the names, and addresses as at the date of the investment statement, of—
 - (i) the superannuation trustees of the scheme:
 - (ii) the administration manager (if any).
- (6) In all cases, the following information in respect of the securities:
- (a) the name of any promoter who is, as at the date of the investment statement, a promoter under paragraph (b) but not paragraph (a) of the definition of promoter in section 2(1) of the Act:
 - (b) the name, and address as at the date of the investment statement, of any other promoter.
- (7) If a name (in the case of a director) or an address is required to be stated as at the date of the investment statement, a statement sufficient to make security holders and prospective investors aware—
- (a) that the name or address may change; and
 - (b) of where and how the current name or address may be obtained.

Schedule 13 clause 3: substituted, on 1 July 2011, by regulation 14(4) of the Securities Amendment Regulations 2011 (SR 2011/226).

4 Activities

A brief description of,—

- (a) if there is a scheme, the nature of the scheme and how long the scheme has been in operation:
- (b) in any other case, the principal activities carried on by the issuer and an indication of how long the issuer has been carrying on those activities.

How much do I pay?

5 Money payable by subscribers

- (1) The following information relating to the money payable by a subscriber to the issuer or any associated person in respect of the securities:
 - (a) a description of the sums payable; and whether or not the subscriber is required to make those payments:
 - (b) the person to whom, and the manner in which, payments are to be or may be made:
 - (c) if the subscriber is required to make payments on specified dates or at a specified frequency, the payment dates or frequency and the consequences of failing to make the payments.
- (2) If the money, or the minimum or maximum sum of money, referred to in subclause (1) can, at the date of the investment statement, be expressed as a dollar amount (or as a percentage of another dollar amount identified with reference to the security), a statement of the dollar amount (or of the percentage and a description of the other dollar amount).
- (3) If the money, or the minimum or maximum sum of money, referred to in subclause (1) cannot, at the date of the investment statement, be expressed as a dollar amount (or as a percentage of another dollar amount identified with reference to the security), a statement describing any procedure for calculating the amounts of that money during the period the investment statement is current.

6 Cooling-off period

If there is a cooling-off period in respect of the securities, a statement of the terms on which a subscriber may cancel the securities.

What are the charges?

7 Types of charges

- (1) A statement as to which of the following types of charges are or may be payable to the issuer or a promoter, or an associated person of the issuer or promoter, or (if there is a scheme) the scheme, by a subscriber (whether directly or indirectly, including by deduction):
 - (a) entry charges:
 - (b) trustee, administration, or management charges:
 - (c) expenses or overhead charges:
 - (d) charges or expenses relating to goods or services that the subscriber is required to obtain:
 - (e) early termination charges:
 - (f) switching or sale charges (including the difference between any buying and selling prices for the securities):
 - (g) alteration charges:
 - (h) other charges.
- (2) A statement as to which of the types of charges specified in subclause (1) are or may be payable by the issuer or, if there is a scheme, from the scheme to a promoter, administration manager, or investment manager or an associated person of the issuer, promoter, administration manager, or investment manager, being charges that will or may affect the amount of the returns to subscribers.
- (3) A brief description of any practices of the issuer or any associated person in relation to charges that will or may affect the amount of the returns to subscribers.
- (4) A brief description of the rights of the issuer or any other person to alter any of the charges applicable to the securities.

8 Amount of charges

- (1) If a charge, or the minimum or maximum amount of a charge, referred to in clause 7(1) can, at the date of the investment statement, be expressed as a dollar amount (or as a percentage of another dollar amount), a statement of the dollar amount (or of the percentage and a description of the other dollar amount).
- (2) If a charge, or the minimum or maximum amount of a charge, referred to in clause 7(1) cannot, at the date of the investment

statement, be expressed as a dollar amount (or as a percentage of another dollar amount), a statement describing how the charge will be calculated and what procedure is available to the subscriber to ascertain the amount at the time of, and following, the subscription.

What returns will I get?

9 Returns

- (1) The following information about the returns to subscribers from the securities:
 - (a) a brief description of the nature of the returns:
 - (b) a brief description of the key factors that determine the returns:
 - (c) a statement as to whether or not an amount of returns, quantifiable as at the date of the investment statement and enforceable by subscribers, has been promised and, if so, the amount or a description of how that amount can be calculated:
 - (d) a statement as to which of the following (if any) will, or is likely to, affect the returns (in addition to any of the charges referred to in clause 7):
 - (i) taxes or duties:
 - (ii) reserves or retentions.
- (2) The dates on which, or frequency with which, the returns from the securities will be due and paid or, if there are no such dates or frequency or the dates or frequency are unknown, a statement to that effect.
- (3) If payment of all or any of the returns from the securities will or may be withheld until a particular date or for a particular period, a statement to that effect and a brief description of the circumstances that may produce this result.
- (4) The name of the person legally liable to pay the returns.

10 Guarantee of securities

If the investment statement states that there is a guarantor of the securities, the following information:

- (a) the name of the guarantor:
- (b) the nature and amount of the guarantee:

- (c) whether or not the guarantee is subject to conditions and, if so, the principal conditions:
- (d) whether or not the guarantee is secured by a mortgage or other charge and, if so, the nature and amount of the charge:
- (e) if the guarantor and the issuer are associated persons, a statement to that effect and the nature of the relationship.

What are my risks?

11 Risks

- (1) A brief description of the principal risks of—
 - (a) the money paid by a subscriber not being recovered in full by the subscriber:
 - (b) a subscriber not receiving the returns referred to in clause 9:
 - (c) a subscriber being required to pay more money in respect of a security than that disclosed in clause 5 or 12.
- (2) If it is reasonably foreseeable that, on termination of any security at any time, a subscriber will have received, in total, less than the amount paid to the issuer or an associated person for the security, a statement to this effect and a brief description of the circumstances that may produce this result.

12 Consequences of insolvency

- (1) A statement as to whether or not subscribers will or may be liable to pay money to any person as a result of the insolvency of the issuer (or, if there is a scheme, the scheme) and, if so, a brief description of the liability.
- (2) A brief description of any claims on the assets of the issuer (or, if there is a scheme, the scheme) that will or may rank ahead of claims of subscribers in the event of the issuer or scheme being put into liquidation or wound up.
- (3) A brief description of any claims on the assets of the issuer (or, if there is a scheme, the scheme) that will or may rank equally with the claims of subscribers in the event of the issuer or scheme being put into liquidation or wound up.

Can the investment be altered?

13 Alteration of securities

- (1) A brief description of any right of a subscriber, the issuer, or any other person to—
 - (a) alter the amount of moneys payable by a subscriber, including a brief description of any continuing obligation of the subscriber to pay that amount; or
 - (b) otherwise alter the terms of any security.
- (2) If any charges are payable by a subscriber on any of those alterations, a reference to the information given under clause 7(1)(g).

How do I cash in my investment?

14 Early termination

- (1) A brief description of any right of the issuer, a subscriber, or any other person to terminate, cancel, surrender, or otherwise make or obtain payment of the returns from the securities, other than as described in clause 9.
- (2) If any charges are payable by a subscriber on any of those payments, a reference to the information given under clause 7(1)(e) or (f).

15 Right to sell securities

- (1) A statement as to whether or not a subscriber is entitled to sell the subscriber's interest in a security to another person and, if so, whether, in the opinion of the issuer, there is an established market for those sales.
- (2) If any charges are payable by a subscriber on any such sale, a reference to the information given under clause 7(1)(f).

Who do I contact with inquiries about my investment?

16 Inquiries about securities

The names or descriptions of officers, employees, or agents of the issuer to whom inquiries about the securities can be made, and the contact details of those people (which must include an address and a business telephone number).

*Is there anyone to whom I can complain if I
have problems with the investment?*

17 Complaints about securities

- (1) The names or descriptions of officers, employees, or agents of the issuer to whom complaints about the securities can be made, and the contact details of those people (which must include an address and a business telephone number).
- (2) If complaints about the securities can be made to a trustee or statutory supervisor, or an industry body, a statement to this effect and the contact details of those people (which must include an address and a business telephone number).
- (3) A statement as to whether complaints about the securities can be made to an approved dispute resolution scheme and, if so, the contact details of the scheme (which must include an address and a business telephone number).

Schedule 13 clause 17: substituted, on 1 July 2011, by regulation 14(5) of the Securities Amendment Regulations 2011 (SR 2011/226).

*What other information can I obtain about this
investment?*

18 Prospectus and financial statements

- (1) A statement—
 - (a) to the effect that other information about the securities or the issuer (or, if there is a scheme, the scheme), or both, is contained or referred to in a prospectus and in financial statements of, or relating to, the issuer or scheme; and
 - (b) describing where a copy of the prospectus and of the most recent financial statements of, or relating to, the issuer (or, if there is a scheme, the scheme) can be obtained, free of charge; and
 - (c) to the effect that the prospectus, and financial statements and other documents of, or relating to, the issuer (or, if there is a scheme, the scheme), are filed on a public register at the Companies Office of the Ministry of Economic Development and available for public inspection (including at www.companies.govt.nz).

- (2) For the purposes of subclause (1) and the heading of this clause,—
- (a) if no prospectus is required for the securities, references to the prospectus should be disregarded:
 - (b) if the securities are debt securities issued by a registered bank, substitute “disclosure statement” for “prospectus” where appropriate.

19 Annual information

A statement of the type of information (if any) that is required to be, or otherwise will be, given annually to subscribers by the issuer.

20 On request information

- (1) A statement—
- (a) describing the type of information relating to the issuer or the securities being offered that is required to be, or otherwise will be, available on request from the issuer; and
 - (b) explaining how the request should be made; and
 - (c) as to whether any charge may be made for the information and the amount of the charge.
- (2) This clause does not apply to an investment statement dated before 1 July 2013 in respect of an annual or a quarterly disclosure statement (including its data file) that is made publicly available under the KiwiSaver (Periodic Disclosure) Regulations 2013.

Schedule 13 clause 20(2): inserted, on 1 July 2013, by regulation 44(4) of the KiwiSaver (Periodic Disclosure) Regulations 2013 (SR 2013/47).

Schedule 14
Certificate in respect of advertisements

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I/We* certify that—

- (a) I/We* have—
 - †(i) read:
 - †(ii) seen:
 - †(iii) listened to—

- the advertisement described in the Schedule of this certificate:
- (b) the advertisement complies with the Securities Act 1978 and the Securities Regulations 2009:
- (c) the advertisement does not contain any matter that—
- (i) is likely to deceive, mislead, or confuse with regard to any particular that is material to the offer of securities;
 - or
 - (ii) is inconsistent with the †investment statement or †registered prospectus or †disclosure statement for the securities.

*Select one.

†Omit if inapplicable.

Date:

Signature of director/authorised signatory*:

Date:

Signature of director/authorised signatory*:

*Select one.

Schedule
Description of advertisement

[The description must be sufficient to enable the advertisement to be identified.]

Schedule 14A

r 39A

Matters to be specified in trust deeds

Schedule 14A: inserted, on 1 October 2011, by regulation 10 of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

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1 Corporate or other form

- (1) If the issuer is a body corporate, the statute or other authority by or under which the issuer is incorporated or registered.
- (2) If the issuer is not a body corporate, the form of the issuer (for example, friendly society or credit union).

2 Governance

The governance requirements that the issuer must comply with (if any).

3 Periodic reporting

The frequency with which the issuer must provide periodic reports to the trustee and the contents of those reports.

4 Meetings

The frequency of, the procedure for convening and holding, the business to be conducted at, and the voting rights at meetings of holders of debt securities.

5 Trustee

- (1) The terms relating to the appointment and removal from office of the trustee.
- (2) The powers and duties of the trustee.

Schedule 15

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Clauses deemed to be contained in trust deeds
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Clauses deemed to be contained in all trust deeds

1 Duties of trustee

- (1) The trustee must—
- (a) exercise reasonable diligence to ascertain whether or not any breach of the terms of the deed or of the terms of the offer of the debt securities has occurred; and
 - (b) do all the things that it is empowered to do to cause any breach of those terms to be remedied (except if it is satisfied that the breach will not materially prejudice the security (if any) of the debt securities or the interests of the holders of debt securities).
- (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 to discharge the amounts of the debt securities as they become due.

2 Right of trustee to obtain information

- (1) The trustee is entitled to receive all notices of, and other communications relating to, any general meeting of the issuer that any member of the issuer is entitled to receive.

- (2) A representative of the trustee, being a person authorised to act for the purposes of this subclause by resolution of the directors or other governing body of the trustee, is entitled to—
 - (a) attend any general meeting of the issuer; and
 - (b) be heard at any general meeting of the issuer that he or she attends on any part of the business of the meeting that concerns the trustee as a trustee or the holders of debt securities for whom it is trustee.
- (3) The issuer must,—
 - (a) at the request in writing of the trustee, make available for its inspection the whole of the accounting and other records of the issuer;
 - (b) give to the trustee the information that it requires with respect to all matters relating to those records.

3 Meetings

- (1) The issuer must, at the request in writing of the trustee or of persons holding not less than one-tenth in nominal value of the issued debt securities to which the deed relates, summon a meeting of the holders of those securities for the purpose of—
 - (a) considering the latest financial statements of the issuer; 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 holder of the securities at the holder's last known address not later than 14 days before the date of the proposed meeting.
- (3) The chairperson of a meeting summoned under subclause (1) must be a person nominated by the trustee or any other person that may be appointed in that behalf by the holders of the securities present at the meeting.

3A Issuer must provide reports to trustee

- (1) The issuer must provide any reports that the trustee, by written notice, requires the issuer to provide.
- (2) Reports required under subclause (1) may—

- (a) be about any matter relevant to the performance of the trustee's duties;
 - (b) include forward-looking reports.
- (3) Reports required under subclause (1) must be—
- (a) provided within the time (which must be reasonable in the circumstances) specified by the trustee; and
 - (b) signed by at least 2 directors on behalf of the board of the issuer or, if the issuer has only 1 director, by that director.

Schedule 15 clause 3A: inserted, on 1 October 2011, by regulation 11(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

3B Issuer must report breach or possible breach of terms of deed or of offer

If an issuer has reasonable grounds to believe that it has breached, or may have breached, any of the terms of the deed or of the terms of the offer of the debt securities, the issuer must, as soon as practicable, notify the trustee in writing of—

- (a) the breach or possible breach; and
- (b) the steps (if any) that the issuer has taken or intends to take in light of the breach or possible breach and the date by which the steps were taken or are to be taken.

Schedule 15 clause 3B: inserted, on 1 October 2011, by regulation 11(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

3C Right of trustee to engage expert

- (1) The trustee is entitled to engage an expert (for example, an auditor, investigating accountant, valuer, or actuary) if the trustee considers, on reasonable grounds, that it requires the assistance of the expert to assist the trustee to—
- (a) determine the financial position of the issuer; or
 - (b) review the business, operation, or management systems, or the governance, of the issuer.
- (2) If the trustee engages an expert under this clause,—
- (a) the issuer must provide reasonable assistance to the expert to allow the expert to provide the assistance; and
 - (b) the fees and expenses of the expert, which must be reasonable in the circumstances, must be paid by the issuer.

Schedule 15 clause 3C: inserted, on 1 October 2011, by regulation 11(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

3D Power of trustee to amend trust deed in certain circumstances

- (1) The trustee may, with the written consent of the issuer, execute a deed to make amendments to the trust deed that do not adversely affect the interests of the holders of the debt securities.
- (2) The trustee may act under subclause (1) without obtaining the consent of the holders of the debt securities.
- (3) The issuer must, within 10 working days after a deed is executed under subclause (1), send a notice that contains a description of the amendment to every holder of the debt securities at the holder's last known address.
- (4) However, subclause (3) does not apply if the trustee notifies the issuer that subclause (3) does not need to be complied with (if, for example, the trustee considers that notification is not required or that it would be appropriate to give notice of the amendment in some other manner).

Schedule 15 clause 3D: inserted, on 1 October 2011, by regulation 11(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

3E Matters held on trust

The following are held in trust by the trustee for the benefit of the holders of the debt securities:

- (a) the right to enforce the issuer's duty to repay; and
- (b) any charge or security for repayment; and
- (c) the right to enforce any other duties that the issuer and any guarantor have under—
 - (i) the terms of the debt securities; or
 - (ii) the provisions of the deed.

Schedule 15 clause 3E: inserted, on 1 October 2011, by regulation 11(1) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Clauses deemed to be contained in trust deeds
for certain issuers that continuously offer debt
securities to public

4 Duty to provide regular reports and certificate

- (1) The issuer must provide to the trustee, within 30 days of the end of each month, the monthly management report prepared for the directors of the issuer.
- (2) The issuer must provide a monthly report to the trustee, in a form required by the trustee and within 30 days of the end of each month, on—
 - (a) the liquidity of the issuer; and
 - (b) the asset quality of the issuer (including arrears reports, and restructured, impaired, past due, and bad debts); and
 - (c) reinvestment rates; and
 - (d) any breaches by members of the borrowing group of financial covenants in financing arrangements with third parties.
- (3) The issuer must provide a certificate to the trustee, at least once in every 3 months, certifying that at all times during the period covered by the report—
 - (a) the current prospectus of the issuer has been up to date and not false or misleading in a material particular; and
 - (b) the issuer has complied with all provisions of the trust deed.
- (4) Both the report referred to in subclause (2) and the certificate referred to in subclause (3) must be signed by at least 2 directors on behalf of the board of the issuer or, if the issuer has only 1 director, by that director.

5 Duty to keep trustee informed

- (1) The issuer must advise the trustee, in advance or as soon as it is known, of—
 - (a) every change in ownership of the shares in the issuer that results in a change to the effective control of the issuer; and
 - (b) every change of directors of the issuer; and
 - (c) significant changes in the senior management of the issuer.

(2) The issuer must notify the trustee, in advance, of any major transaction (as defined in the Companies Act 1993), or any related series of transactions that have the effect of a major transaction, entered into by the issuer.

(3) *[Revoked]*

(4) *[Revoked]*

Schedule 15 clause 5(3): revoked, on 1 October 2011, by regulation 11(2) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Schedule 15 clause 5(4): revoked, on 1 October 2011, by regulation 11(2) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

6 Duty to audit or review half-yearly financial statements

(1) The issuer must have the half-yearly financial statements of the borrowing group audited by a qualified auditor, unless the trustee expressly waives this requirement.

(2) If the trustee waives the requirement for half-yearly audits, the issuer must instead have the half-yearly financial statements of the borrowing group reviewed by a qualified auditor.

Schedule 15 clause 6: replaced, on 1 July 2012, by section 83(2) of the Auditor Regulation Act 2011 (2011 No 21).

7 Duty to provide financial statements to trustee

(1) The issuer must provide the trustee with copies of the annual financial statements and half-yearly financial statements of the borrowing group within 3 months of the end of the relevant financial year or half-year.

(2) The financial statements given to the trustee must be signed by at least 2 directors on behalf of the board of the issuer or, if there is only 1 director, by that director.

8 Duty concerning appointment, etc, of auditors

(1) The issuer must—

(a) consult with the trustee before recommending the appointment or reappointment of a person as an auditor; and

(b) ensure that any comments of the trustee concerning the proposed auditor are brought to the attention of the person or persons appointing or reappointing the auditor.

- (2) The issuer must notify the trustee if an auditor resigns from appointment, or declines to accept appointment or reappointment, and must also pass on to the trustee any explanation provided by the auditor for resigning from appointment or declining to accept appointment or reappointment.
- (3) The issuer must not attempt to prevent a person who has resigned from appointment as an auditor, or declined to accept appointment or reappointment as an auditor, from offering an explanation, or disclosing to the trustee the reason, for resigning or declining appointment or reappointment.

9 Terms of appointment of auditor

- (1) The issuer must ensure that the terms set out in subclause (2) are included in the terms of appointment of its auditor, whether the auditor is conducting an audit or a review.
- (2) The terms are as follows:
 - (a) that the auditor will report separately to the trustee on any matter, immediately upon becoming aware of it, that is (in the opinion of the auditor)—
 - (i) relevant to the exercise of the powers or performance of the duties of the trustee; or
 - (ii) likely to call for further investigation by the trustee in the interests of security holders:
 - (b) that the auditor will report separately to the trustee if, in the conduct of the audit or review, the auditor forms the opinion that—
 - (i) any reports or certificates given by the issuer to the trustee, in respect of the period covered by the audit or review, are inaccurate or incorrect; or
 - (ii) any directors' opinions expressed to the trustee during, or in respect of, that period are unreasonable:
 - (c) that the auditor will confirm its audit opinion for the benefit of the trustee:
 - (d) that the auditor will provide the trustee with a copy of the management letter, setting out the material findings of the audit or review, that is provided to the board of the issuer:

- (e) that the auditor will meet with the trustee, without any representative of the issuer being present, to discuss matters arising in the performance of the audit or review and to answer any questions the trustee may have concerning the audit or review.

10 Right of trustee to appoint independent auditor

- (1) The trustee is entitled to appoint an independent auditor to audit the financial statements of the borrowing group if—
- (a) the auditor appointed in respect of the issuer is not, or is not a partner of, an audit firm that—
- (i) has at least 5 partners; and
- (ii) receives at least 20% of its revenue from audit or audit-related work; or
- (b) in the reasonable opinion of the trustee, the auditor appointed in respect of the issuer does not have sufficient experience or capacity to undertake the audit of the issuer.
- (2) The fees and expenses of the independent auditor, which must be reasonable in the circumstances, must be determined by the trustee and paid by the issuer.
- (3) If an independent auditor is appointed, the issuer is obliged to co-operate in permitting the auditor to carry out the audit.
- (4) The trustee must ensure that the terms of the appointment of the auditor include the terms set out in clause 9(2).

11 Right of trustee to engage expert

[Revoked]

Schedule 15 clause 11: revoked, on 1 October 2011, by regulation 11(3) of the Securities Amendment Regulations (No 2) 2011 (SR 2011/281).

Schedule 16

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Matters to be specified in deeds of participation

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1 Objects of scheme

The businesses or other activities in which the assets of the scheme may be used.

2 Capital of scheme

- (1) The number and amount of each class of participatory securities that have been or may be issued in respect of the scheme.
- (2) The liability of the holders of participatory securities to contribute to the scheme before the winding up of the scheme.
- (3) The total amount of participatory securities that must be allotted before the commencement of the scheme.

3 Redemption and transfer of participatory securities

The terms relating to the redemption, transfer, and transmission of the participatory securities.

4 Winding up of scheme

- (1) The circumstances in which the scheme must or may be wound up, and the procedure for the winding up.
- (2) The rights and liabilities of holders of participatory securities on and in the course of the winding up of the scheme.

5 Meetings

The frequency of, procedure for convening and holding, the business to be conducted at, and the voting rights at meetings of holders of participatory securities.

6 Manager

- (1) The terms relating to the appointment, remuneration, and removal from office of the manager of the scheme.
- (2) The powers and duties of the manager of the scheme, including any borrowing powers.

7 Surpluses

The terms relating to the use or distribution of any surpluses of the scheme.

8 Statutory supervisor

- (1) The procedure to be adopted in the event of a vacancy in the office of statutory supervisor.
- (2) The terms relating to the remuneration and costs of the statutory supervisor.

Schedule 17

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**Clauses deemed to be contained in deeds
of participation**
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1 Duties of statutory supervisor

The statutory supervisor must—

- (a) exercise reasonable diligence to ascertain whether or not any breach of the terms of the deed or of the offer of the participatory securities has occurred; and
- (b) do all of the things that he or she is empowered to do to cause any breach of those terms to be remedied (except if he or she is satisfied that the breach will not materially

prejudice the interests of the holders of the participatory securities).

2 Right of statutory supervisor to obtain information

- (1) The statutory supervisor is entitled to receive all notices and other communications relating to the scheme that any holder of the participatory securities is entitled to receive.
- (2) The statutory supervisor, or a representative of the statutory supervisor (being a person authorised to act for the purposes of this subclause by the statutory supervisor), is entitled to—
 - (a) attend any meeting of the holders of the participatory securities; and
 - (b) be heard at any meeting of the holders of the participatory securities on any part of the business of the meeting that concerns the statutory supervisor as a statutory supervisor or the holders of the participatory securities.
- (3) The manager of the scheme must,—
 - (a) at the request in writing of the statutory supervisor, make available for his or her inspection the whole of the accounting and other records relating to the scheme;
 - (b) give to the statutory supervisor the information that he or she requires with respect to all matters relating to those records.

3 Duties and liabilities of manager

- (1) The manager of the scheme has the following duties:
 - (a) to use the manager's best endeavours and skill to ensure that the affairs of the scheme are conducted in a proper and efficient manner;
 - (b) to use due diligence and vigilance in the exercise and performance of the manager's powers, functions, and duties as a manager;
 - (c) to account to the members of the scheme for all money that the manager receives on behalf of the scheme;
 - (d) not to pay out or invest or apply any money belonging to the scheme for any purpose that is not directed by or authorised in the deed;
 - (e) to supply to the members of the scheme, in general meeting, any oral or written information relating to the

affairs of the scheme that any member has given the manager reasonable notice to supply.

- (2) The manager of the scheme must—
 - (a) establish an account or accounts to be kept in the name of the scheme at the bank or banks that the manager may decide; and
 - (b) ensure that all money received on behalf of the scheme is paid into a bank account referred to in paragraph (a) as soon as practicable.
- (3) The manager of the scheme has the same liability for any of the manager's acts and omissions in the exercise and performance of the powers, functions, and duties as manager as the manager would have if the manager exercised and performed those powers, functions, and duties as a trustee of the property of the scheme.
- (4) The manager of the scheme is entitled to the same relief from that liability as the manager would be if the manager were a trustee of the property of the scheme.

4 Meetings

- (1) The manager of the scheme must—
 - (a) summon a meeting of the holders of the issued participatory securities for the purpose of considering the latest financial statements of the scheme, which meeting must be held not later than 6 months after the end of the accounting period of those statements;
 - (b) at the request in writing of the statutory supervisor, or of persons holding not less than one-tenth in nominal value of the issued participatory securities, summon a meeting of the holders of those securities for the purpose of giving to the statutory supervisor their opinions or directions in relation to the exercise of his or her powers.
- (2) The statutory supervisor may on his or her own volition or at the request of the manager, and must at the request in writing of persons holding not less than one-tenth in nominal value of the issued participatory securities, summon a meeting of the holders of the issued participatory securities for the purpose of giving to him or her their opinions or directions in relation to the exercise of his or her powers.

- (3) Every meeting summoned under this clause must be summoned by sending by post a notice, specifying the time and place of the meeting, to every holder of the issued participatory securities at the holder's last known address not later than 14 days before the date of the proposed meeting.
- (4) The chairperson of a meeting summoned under this clause must be a person nominated by the statutory supervisor or any other person that may be appointed in that behalf by the holders of the participatory securities present at the meeting.
- (5) The manager must provide the statutory supervisor with a copy of the register of participatory securities kept under section 51 of the Act, and of all changes to the register.

Schedule 18

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Consequential amendments

Securities (Fees) Regulations 1998 (SR 1998/461)

Regulation 2(d)(i): insert "or regulation 44(c) of the Securities Regulations 2009" after "Regulations 1983".

Regulation 2(d)(ii): insert "or regulation 44(d) of the Securities Regulations 2009" after "Regulations 1983".

Securities (Mutual Recognition of Securities Offerings—Australia) Regulations 2008 (SR 2008/153)

Definition of **Regulations** in regulation 4(1): revoke and substitute:
"Regulations means the Securities Regulations 2009 and the Securities Regulations 1983".

Regulation 14: add:

- "(3) In this regulation, **Regulations** means—
 - "(a) the Securities Regulations 2009; or
 - "(b) the Securities Regulations 1983 if those regulations apply to the offer in accordance with subclause (4).
- "(4) For the purposes of subclause (3), regulations 50 to 56 of the Securities Regulations 2009 apply with all necessary modifications as if the securities were offered in New Zealand (with the effect that the Securities Regulations 1983 may apply if,

Securities (Mutual Recognition of Securities Offerings—Australia) Regulations 2008 (SR 2008/153)—continued

for example, a prospectus is registered before 1 October 2009 or the issuer elects to comply with those regulations).”

Securities Regulations 1983 (SR 1983/121)

New regulation 1A: insert after regulation 1:

“1A Application of these regulations

“(1) These regulations are subject to regulations 50 to 56 of the Securities Regulations 2009.

“(2) In particular,—

“(a) these regulations apply only in accordance with regulations 50 to 56 of the Securities Regulations 2009; and

“(b) these regulations do not apply to an offer of securities if the Securities Regulations 2009 apply to the offer.”

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 27 August 2009.

Securities Amendment Regulations 2011

(SR 2011/226)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 27th day of June 2011

Present:

His Excellency the Governor-General in Council

Pursuant to sections 70 and 70AA of the Securities Act 1978, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Commerce made after consulting with the Financial Markets Authority, makes the following regulations.

Regulations

- 1 Title**
These regulations are the Securities Amendment Regulations 2011.
- 2 Commencement**
These regulations come into force on 1 July 2011.

Transitional provisions

- 15 Interpretation**
In regulations 16 to 18,—
amended principal regulations means the principal regulations as amended by these regulations

effective date and existing KiwiSaver scheme have the same meanings as in section 57 of the KiwiSaver Amendment Act 2011.

16 Investment statements dated before 1 August 2011

- (1) This regulation applies if the date of an investment statement is earlier than 1 August 2011.
- (2) The principal regulations as in force immediately before their amendment by these regulations apply to the investment statement.
- (3) However, if the investment statement contains a statement to the effect that the investment statement has been prepared in accordance with the amended principal regulations, then, subject to clause 17, the amended principal regulations apply to the investment statement.

17 Investment statements relating to interests in existing KiwiSaver schemes

- (1) This regulation applies to an investment statement if the investment statement relates to interests in an existing KiwiSaver scheme other than a restricted scheme (which makes it an investment statement to which clause 3(4) of Schedule 13 of the amended principal regulations applies).
- (2) Clause 3(5) of Schedule 13 of the amended principal regulations applies to the investment statement, as if the investment statement were not one to which clause 3(4) of that schedule applied, if—
 - (a) the investment statement relates to interests in the scheme to be allotted before the scheme's effective date (whether or not it also relates to interests to be allotted on or after the effective date); and
 - (b) the date of the investment statement is before the scheme's effective date.
- (3) Clause 3(4) of Schedule 13 of the amended principal regulations applies to the investment statement if—
 - (a) the investment statement relates only to interests in the scheme to be allotted on or after the scheme's effective date; or

- (b) the date of the investment statement is on or after the scheme's effective date.

18 Prospectuses relating to interests in existing KiwiSaver schemes

- (1) This regulation applies to a prospectus that relates to interests in an existing KiwiSaver scheme other than a restricted scheme (which makes it a prospectus to which regulation 5(1)(ea) and Schedule 5A of the amended principal regulations apply).
- (2) Regulation 5(1)(f) and Schedule 6 of the amended principal regulations apply to the prospectus, as if the prospectus were not one to which regulation 5(1)(ea) and Schedule 5A of those regulations applied, if the prospectus—
 - (a) relates only to interests in the scheme to be allotted before the scheme's effective date; and
 - (b) is registered before the scheme's effective date.
- (3) Regulation 5(1)(ea) and Schedule 5A of the amended principal regulations apply to the prospectus if the prospectus—
 - (a) relates only to interests in the scheme to be allotted on or after the scheme's effective date; or
 - (b) is registered on or after the scheme's effective date.

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 30 June 2011.

**Securities Amendment
Regulations (No 2) 2011**
(SR 2011/281)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 22nd day of August 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 70 of the Securities Act 1978, section 28 of the Unit Trusts Act 1960, and section 228 of the KiwiSaver Act 2006, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Commerce in accordance with section 70(3) of the Securities Act 1978, makes the following regulations.

Regulations

- 1 Title**
These regulations are the Securities Amendment Regulations (No 2) 2011.
- 2 Commencement**
These regulations come into force on 1 October 2011.
- 12 Transitional provision**
The amendments made by regulations 6 and 11 apply to a trust deed whether or not the trust deed was registered before 1 October 2011.

Reprinted as at
1 December 2014

Securities Regulations 2009

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 25 August 2011.

Reprints notes

1 *General*

This is a reprint of the Securities Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

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 Amendment Regulations (No 2) 2014 (LI 2014/339)
Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 5(o)
KiwiSaver (Periodic Disclosure) Regulations 2013 (SR 2013/47): regulation 44
Unit Trusts Amendment Act 2012 (2012 No 69): section 6
Criminal Procedure Act 2011 (2011 No 81): section 413
Securities Amendment Regulations (No 2) 2011 (SR 2011/281)
Securities Amendment Regulations 2011 (SR 2011/226)
Auditor Regulation Act 2011 (2011 No 21): section 83(2)
Financial Markets Authority Act 2011 (2011 No 5): sections 82, 84(4), 85(2)
Insurance (Prudential Supervision) Act 2010 (2010 No 111): section 241(2)
Securities (Moratorium) Regulations 2009 (SR 2009/395): regulation 10
