

**Reprint  
as at 1 December 2016**



**Securities Act (Transition to Securities Regulations 2009)  
Exemption Notice 2009  
(SR 2009/368)**

Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2009: revoked, on the close of 30 November 2016, by clause 3.

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This notice is administered by the Financial Markets Authority.**

## Notice

### 1 Title

This notice is the Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2009.

### 2 Commencement

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

### 3 Revocation

This notice is revoked on the close of 30 November 2016.

Clause 3: replaced, on 25 July 2014, by clause 3 of the Securities Act (Extension of Term) Exemption Notice 2014 (LI 2014/241).

### 4 Purpose

The purpose of this notice is to ensure that there is a smooth transition from the 1983 regulations to the 2009 regulations by providing for existing exemptions from provisions of the 1983 regulations to be extended to equivalent provisions of the 2009 regulations (with the effect that issuers and other persons will be able to continue to rely on those exemptions in respect of offers of securities under the 2009 regulations).

### 5 Interpretation

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

**1983 regulations** means the Securities Regulations 1983

**2009 regulations** means the Securities Regulations 2009

**Act** means the Securities Act 1978

**existing notice** means an exemption notice granted under section 5(5) of the Act that is in force immediately before the commencement of this notice.

(2) Any term or expression that is defined in the Act or the 2009 regulations and used, but not defined, in this notice has the same meaning as in the Act or the 2009 regulations.

(3) An example used in this notice has the following status:

(a) the example is only illustrative of the provision to which it relates and does not limit the provision; and

(b) if the example and the provision to which it relates are inconsistent, the provision prevails.

**6 Exemptions from provisions of 1983 regulations extended to corresponding provisions of 2009 regulations**

- (1) This clause applies if an existing notice contains an exemption from compliance with any provision of the 1983 regulations that is listed in the Schedule (the **exempted provision**).
- (2) A person or class of persons that is exempted from the exempted provision under the existing notice is also exempted from the provision of the 2009 regulations that is identified in the Schedule as being the provision that, with or without modification, replaces, or that corresponds to, the exempted provision.

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**Example**

Under the Securities Act (ABC Limited) Exemption Notice 2005 (the **2005 notice**), ABC Limited is exempted from clause 5A of Schedule 1 of the 1983 regulations in respect of offers of its equity securities.

Clause 5A (which relates to restrictions on directors' powers) has been replaced (with certain modifications) by clause 6 of Schedule 1 of the 2009 regulations. This corresponding provision is identified in the Schedule of this notice.

Under this notice, ABC Limited is exempted from clause 6 of Schedule 1 of the 2009 regulations in respect of offers of its equity securities. The exemption is, under clause 10, subject to the same terms and conditions as under the 2005 notice (but applied with all necessary modifications).

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- (3) If the exemption from the exempted provision under the existing notice is an exemption only to a specified extent or subject to specified limits, the exemption under subclause (2) from the provision of the 2009 regulations is to the same extent or subject to the same limits.

**7 Exemptions from subclauses, paragraphs, and subparagraphs also extend to corresponding provisions**

- (1) This clause applies if an existing notice contains an exemption from compliance with any subclause, paragraph, or subparagraph that is part of any provision of the 1983 regulations that is listed in the Schedule (the **exempted subprovision**).
- (2) A person or class of persons that is exempted from the exempted subprovision under the existing notice is also exempted from the part or parts of the corresponding 2009 provision that, with or without modification, replace, or that correspond to, the exempted subprovision.

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**Example**

Under the Securities Act (XYZ Limited) Exemption Notice 2006 (the **2006 notice**), XYZ Limited is exempted from clause 1(4) of Schedule 3 of the 1983 regulations in respect of offers of its participatory securities.

The Schedule of this notice specifies that clause 1 of Schedule 3 of the 2009 regulations corresponds to clause 1 of Schedule 3 of the 1983 regulations.

Clause 1(4) (which relates to the price or other consideration to be paid or provided for the securities) has been replaced (with certain modifications) by clause 1(5) of Schedule 3 of the 2009 regulations.

Under this notice, XYZ Limited is exempted from clause 1(5) of Schedule 3 of the 2009 regulations in respect of offers of its participatory securities. The exemption is, under clause 10, subject to the same terms and conditions as under the 2006 notice (but applied with all necessary modifications).

- (3) If the exemption from the exempted subprovision under the existing notice is an exemption only to a specified extent or subject to specified limits, the exemption under subclause (2) from the part or parts of the corresponding 2009 provision is to the same extent or subject to the same limits.
- (4) In this clause, **corresponding 2009 provision** means the provision of the 2009 regulations that is identified in the Schedule as being the provision that, with or without modification, replaces, or that corresponds to, the provision of the 1983 regulations referred to in subclause (1).

#### **8 Exemption from whole of 1983 regulations extends to 2009 regulations**

A person or class of persons that is exempted from the whole of the 1983 regulations (except regulation 8) under an existing notice is also exempted from the whole of the 2009 regulations (except regulation 23).

#### **9 Exemption from whole schedule of 1983 regulations extends to whole schedule of 2009 regulations**

A person or class of persons that is exempted from the whole of a schedule of the 1983 regulations under an existing notice is also exempted from the whole of the schedule of the 2009 regulations that, with or without modification, replaces, or that corresponds to, that schedule.

#### **10 Exemptions are on same terms and conditions**

An exemption under any of clauses 6 to 9 is subject to the same terms and conditions that apply under the relevant existing notice in respect of the relevant exemption from the 1983 regulations (but applied with all necessary modifications, including replacing references to provisions of the 1983 regulations with references to provisions of the 2009 regulations that, with or without modification, replace, or that correspond to, those provisions).

#### **11 Exemptions do not apply or cease to apply in certain circumstances and are subject to variations**

- (1) Clauses 6 to 9 do not apply in respect of an existing notice that was varied before the commencement of this notice so as to include express exemptions from any provision or provisions of the 2009 regulations.
- (2) An exemption under any of clauses 6 to 9 ceases to apply in respect of an exemption from the 1983 regulations under an existing notice on the expiry or revocation of the exemption from the 1983 regulations.

- (3) An exemption under any of clauses 6 to 9 ceases to apply in respect of an existing notice on the date that the existing notice is varied after the commencement of this notice so as to include express exemptions from any provision or provisions of the 2009 regulations.
- (4) Clauses 6 to 10 are subject to any variation of an existing notice after the commencement of this notice.

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**Example**

The Securities Commission varies the exemption notice that applies to ABC Limited to insert a new condition and a new expiry clause that expires the exemption on 31 December 2009.

ABC Limited must comply with the new condition (if it wants to rely on the exemption).

ABC Limited may not continue to rely on the exemption after 31 December 2009.

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## Schedule

### Table of replacement or corresponding provisions

cls 6, 7

<b>Securities Regulations 1983</b>	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
<i>Regulation</i>	<i>Regulation</i>
2	4
2A	45
2B	46
3	5
5(1)	12
5(2), (3)	13
5(4)	14
5(5)	15
5(6)	16
6	17
7	18
7A(1)	19(1), (2)
7A(2)	19(3)
7A(3)	20
7A(4)	21
7A(5)	19(4)
8	23
9	24
11	25
12	26
14	27

<b>Securities Regulations 1983</b>	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
15	28
16	29
17(1), (2)	30
17(3)	31
17(4), (5), (8)	32
17(6), (8)	33
17(7), (8)	34
18	35
20	36
21	38
23	39
23A	44
24	40
25	41
26	42
27A	47
<i>Schedule 1 (clauses)</i>	<i>Schedule 1 (clauses)</i>
1	1
2	2
3	3
4	4
5A	6
6	7
7	8
9	10
10(1)(a)	11(1)(a)
10(1)(b)	11(1)(b)
10(4)	11(5)
12	13
13	14
14	15
17	17
18	18
19	19
20	20
21	21
39	25
40	26
41	27
<i>Schedule 2 (clauses)</i>	<i>Schedule 2 (clauses)</i>

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<b>Securities Regulations 1983</b>	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
1	1
2	2
3	3
4	4
5A	6
6	7
9	10
10	11
11	12
12	13
13	14
14	15
33	19
34	20
35	21
<i>Schedule 3 (clauses)</i>	<i>Schedule 3 (clauses)</i>
1	1
3	3
4	4
5	5
7(1)	7(1)
7(2)	7(2)
7(3)	7(3)
7(4)	7(4)
8	8
9	9
11	11
12	12
15	14
16	15
17	16
18	17
19	18
35	22
36	23
37	24
<i>Schedule 3A (clauses)</i>	<i>Schedule 4 (clauses)</i>
1	1
2(1)	2(1)

	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
<b>Securities Regulations 1983</b>	
2(3)	2(2)
2(4)	2(3)
2(5)	2(4)
2(6)	2(5)
2(7)	2(6), (7)
2(8)	3(1), (2)
2(9)	3(3)
2(10)	4
3	5
4	6
5	7
7	9
8	10
10	12
11	13
12	14
13	15
14	16
15	17
16	18
17	19
18	20
19	21
20	22
<i>Schedule 3B (clauses)</i>	<i>Schedule 5 (clauses)</i>
1	1
2	2
3	3
4	4
6	6
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
<i>Schedule 3C (clauses)</i>	<i>Schedule 6 (clauses)</i>
1	1

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<b>Securities Regulations 1983</b>	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
2	2
3	3
4	4
5	5
6	6
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
<i>Schedule 3D (clauses)</i>	<i>Schedule 13 (clauses)</i>
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
<i>Schedule 5 (clauses)</i>	<i>Schedule 15 (clauses)</i>
1	1
3	3
<i>Schedule 6 (clauses)</i>	<i>Schedule 16 (clauses)</i>

<b>Securities Regulations 1983</b>	<b>Provision of Securities Regulations 2009 that, with or without modification, replaces, or that corresponds to, provision of Securities Regulations 1983</b>
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
<i>Schedule 7 (clauses)</i>	<i>Schedule 17 (clauses)</i>
3	3
4	4

Dated at Wellington this 24th day of November 2009.

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

[Seal]

C A N Beyer,  
Member.

### **Statement of reasons**

**Note: the following statement of reasons should be read in conjunction with the statement(s) of reasons appended to:**

- Securities Act (Extension of Term) Exemption Notice 2014

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 30 November 2014.

This notice helps to provide for a smooth transition from the Securities Regulations 1983 (the **1983 regulations**) to the Securities Regulations 2009 (the **2009 regulations**).

The 2009 regulations came into force on 1 October 2009. However, the 1983 regulations continue in force until 30 June 2010 as an alternative means of compliance in certain situations.

This notice provides for existing exemptions from provisions of the 1983 regulations to be extended to equivalent provisions of the 2009 regulations (with the effect that issuers and other persons will be able to continue to rely on those exemptions in respect of offers of securities under the 2009 regulations).

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

- while the changes to the securities regulations introduced by the 2009 regulations will reduce costs for issuers and improve information for investors, they do not amount to a fundamental review of the policy of securities law. Many of the exemptions granted by the Commission address difficulties arising from the structure of the Securities Act 1978, and the detailed disclosure prescriptions in the Securities Act 1978 and the 1983 regulations. This being the case, many existing exemptions from provisions of the 1983 regulations that cater for specific circumstances affecting individual issuers or classes of issuers need to be maintained for the 2009 regulations:
- in the case of exemptions granted by this notice that are equivalent exemptions from the 2009 regulations where exemptions were previously available from the 1983 regulations, the 2009 regulations have not introduced significantly different or additional requirements. In these circumstances, the securities law policy reasons for the exemptions have not changed and the exemptions remain appropriate for the same reasons that the exemptions from the 1983 regulations were granted:
- this notice also grants exemptions from all of the requirements of the 2009 regulations (except regulation 23) where the Commission has previously granted exemptions from all of the requirements of the 1983 regulations (except regulation 8), and exemptions from all of the requirements of a particular schedule of the 2009 regulations where the Commission has previously granted exemptions from all of the requirements of the corresponding schedule of the 1983 regulations. In these circumstances, the 2009 regulations in their entirety, or the corresponding schedules in their entirety, have not introduced significantly different or additional requirements. Therefore, the securities law policy reasons for these exemptions have not changed and the exemptions remain appropriate for the same reasons that the exemptions from the 1983 regulations were granted.

**Note: the preceding statement of reasons should be read in conjunction with the statement(s) of reasons appended to:**

- Securities Act (Extension of Term) Exemption Notice 2014

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 26 November 2009.

## **Reprints notes**

### **1    *General***

This is a reprint of the Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2009 that incorporates all the amendments to that notice as at the date of the last amendment to it.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Securities Act (Extension of Term) Exemption Notice 2014 (LI 2014/241): clause 3

Securities Act (Transition to Securities Regulations 2009) Exemption Notice 2009 (SR 2009/368): clause 3