Reprint
as at 1 December 2016

Securities Act (Group Investment Index Funds) Exemption Amendment Notice 2010

(SR 2010/301)

Securities Act (Group Investment Index Funds) Exemption Amendment Notice 2010: revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct Regulations 2014 (LI 2014/326).

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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Notice

1 Title

This notice is the Securities Act (Group Investment Index Funds) Exemption Amendment Notice 2010.

2 Commencement

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

3 Principal notice amended

This notice amends the Securities Act (Group Investment Index Funds) Exemption Notice 2002.

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.

4 Interpretation

(1) The definition of **fund** in clause 4(1) is revoked and the following definition substituted:

fund means a Group Investment Fund established under section 29 of the Trustee Companies Act 1967, or under section 63 of the Public Trust Act 2001, that is—

(a) a passive index fund, in that it is required, under the terms of its trust deed or the terms of the offer of specified participatory securities, to hold securities as near as practically possible to the securities' proportions in an index and includes a passive index fund that is permitted, under the terms of its trust deed or the terms of the offer of specified participatory securities, to lend securities; and

(b) named in Schedule 2

(2) Clause 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

lend means to lend securities in accordance with—

(a) the rules of a settlement system; and

(b) a process that—

(i) is fully, or predominantly, automated; and

(ii) involves no discretion on the part of the persons referred to in clause 5

settlement system means a settlement system that is declared to be a designated settlement system under section 156N of the Reserve Bank of New Zealand Act 1989

Dated at Wellington this 31st day of August 2010.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends clause 4(1) of the Securities Act (Group Investment Index Funds) Exemption Notice 2002 (the **2002 notice**) by—

- revoking and substituting the definition of fund; and
- inserting, in their appropriate alphabetical order, definitions of lend and settlement system (which relate to the new definition of fund).

The amendments to clause 4(1) will enable funds (as defined) that lend securities in an automated manner, which involves no discretion on the part of the fund or the fund managers, to benefit from the exemptions granted in the 2002 notice.

The Securities Commission (the **Commission**) considers it appropriate to grant the exemptions because—

- the 2002 notice exempts passive index-tracking funds from certain provisions of the Securities Act 1978 and the Securities Regulations 1983, in particular the requirement to have a statutory supervisor. This reflects the policy that passive funds are of such a nature that an additional level of supervision is unnecessary:
- some passive funds that have relied on this notice now wish to partake in lending. Where that lending is undertaken in an automated, non-discretionary way, the Commission is of the view that the activities of the fund continue to fall within the policy of the notice, and this should be reflected in the terms of the 2002 notice.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 2 September 2010.

Reprints notes

1 General

This is a reprint of the Securities Act (Group Investment Index Funds) Exemption Amendment Notice 2010 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 Legal status

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

3 Editorial and format changes

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

4 Amendments incorporated in this reprint

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

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2017