

**Reprint
as at 1 December 2016**



**Securities Act (Extension of Term, Amendment, and
Transitional Provision) Exemption Notice 2012
(SR 2012/294)**

Securities Act (Extension of Term, Amendment, and Transitional Provision) Exemption Notice 2012:
revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct
Regulations 2014 (LI 2014/326).

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

Contents

	Page
1 Title	1
2 Commencement	2
3 Amendments to notices	2
4 Transitional provision relating to real property proportionate ownership schemes	2

Schedule	2
Amendments to notices	

Notice

1 Title

This notice is the Securities Act (Extension of Term, Amendment, and Transitional Provision) Exemption Notice 2012.

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.

2 Commencement

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

3 Amendments to notices

Amend the notices specified in the Schedule as set out in that schedule.

4 Transitional provision relating to real property proportionate ownership schemes

(1) If, before the close of 30 September 2012, an offeror offered specified participatory securities in reliance on the 2002 notice, or the 1997 notice, using an offeror's written statement that was dated on or before 30 September 2012, the offeror and every person acting on its behalf may continue to rely on the 2002 notice in respect of specified participatory securities offered using that offeror's written statement (as if the 2002 notice continued in force after 30 September 2012).

(2) However, this clause does not permit specified participatory securities to be offered in reliance on the 2002 notice after the date that is 2 months after the date of the offeror's written statement.

(3) In this clause,—

1997 notice means the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 1997

2002 notice means the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002

offeror has the same meaning as in the 2002 notice

offeror's written statement means the statement referred to in clause 5(2)(e) of the 2002 notice or clause 3(2)(e) of the 1997 notice (as the case may be)

specified participatory security has the same meaning as in the 2002 notice.

Schedule

Amendments to notices

cl 3

Securities Act (Australian Issuers) Exemption Notice 2002 (SR 2002/314)

In clause 3, replace "30 September 2012" with "31 March 2013".

Securities Act (Authorised Futures Contracts) Exemption Notice 2002 (SR 2002/295)

In clause 3, replace "2012" with "2017".

Replace clause 4(1) with:

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

Securities Act (Authorised Futures Contracts) Exemption Notice 2002 (SR 2002/295)—continued

Act means the Securities Act 1978

authorised futures contract has the same meaning as in section 37(1) of the Securities Markets Act 1988

Regulations means the Securities Regulations 2009.

In clause 5(1), replace “regulation 8” with “regulation 23”.

Securities Act (Bloodstock) Exemption Notice 2002 (SR 2002/303)

In clause 3, replace “2012” with “2017”.

In clause 4(1), replace the definition of **approved code of practice** with:

bloodstock code of practice means a code of practice for the regulation of offers of equity securities or specified participatory securities to the public for subscription that is—

- (a) administered by a designated association; and
- (b) approved for the time being by the FMA

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

In clause 4(1), definition of **specified issuer**, paragraphs (a)(i) and (b), replace “an approved” with “a bloodstock”.

Securities Act (Building Societies) Exemption Notice 2002 (SR 2002/319)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Charitable and Religious Purposes) Exemption Notice 2003 (SR 2003/66)

In clause 3, replace “2012” with “2013”.

In clause 4(1), definition of **excluded security**, paragraph (b), replace “given under section 5(5)” with “granted under section 5(5) or 70B”.

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

In clause 5(1), replace “regulation 17” with “regulation 30”.

In clause 8(a), replace “This is because the Securities Commission has granted a general exemption from those requirements to all charitable organisations. The Securities Commission has not examined or approved this particular offer.” with “This is because a general exemption from those requirements has been granted to all charitable organisations. The Financial Markets Authority has not examined or approved this particular offer.”

In clause 8(a), replace “The Securities Commission granted the general exemption” with “The general exemption was granted”.

In clause 8(b), replace “Schedule 3D” with “Schedule 13”.

In clause 9(1), replace “regulation 17” with “regulation 30”.

Securities Act (Contributory Mortgage Brokers) Exemption Notice 1983 (SR 1983/187)

In clause 1A, replace “2012” with “2017”.

In clause 2, definition of **Regulations**, replace “1983” with “2009”.

In the heading to clause 3, replace “**regulation 12 of the Securities Regulations 1983**” with “**regulation 26 of Securities Regulations 2009**”.

In clause 3(1), replace “regulation 12” with “regulation 26”.

Replace clause 3(2)(c) with:

- (c) state the amount of the net assets, or the amounts of the assets and liabilities, of the mortgagor or the guarantor unless the amounts shown appear in the most recent statement of financial position of the mortgagor or the guarantor (being a statement of financial position dated not earlier than 18 months before the date of distribution of the advertisement) and the advertisement states the date of the statement of financial position as being the date at which the amount, or amounts, have been calculated.

Securities Act (Contributory Mortgage) Regulations (Solicitors) Exemption Notice 1996 (SR 1996/13)

In clause 1A, replace “30 September 2012” with “30 June 2013”.

In clause 2(1), definition of **solicitor**, replace “Law Practitioners Act 1982” with “Lawyers and Conveyancers Act 2006”.

Replace clause 3(2) with:

- (2) The exemption is subject to the condition that there are in force—
 - (a) regulations made under section 115 of the Lawyers and Conveyancers Act 2006 (relating to trust accounts); and
 - (b) rules made under section 96 of that Act (practice rules in relation to nominee companies).

Securities Act (Co-operative Companies) Exemption Notice 2011 (SR 2011/59)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Employee Share Purchase Schemes—Listed Companies) Exemption Notice 2011 (SR 2011/6)

In clause 3, replace “2012” with “2017”.

Securities Act (Employee Share Purchase Schemes—Unlisted Companies) Exemption Notice 2011 (SR 2011/58)

In clause 3, replace “2012” with “2017”.

Securities Act (Financial Institutions) Exemption Notice 2011 (SR 2011/62)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (French Issuers Employee Share Purchase Schemes) Exemption Notice 2010 (SR 2010/70)

In clause 3, replace “2012” with “2017”.

In clause 4(1), revoke the definitions of **1983 Regulations** and **2009 Regulations**.

In clause 4(1), insert in its appropriate alphabetical order:

Regulations means the Securities Regulations 2009

In clause 4(2), delete “2009” in each place.

In clause 5(2), replace “, from the 1983 Regulations (except regulation 8), and from the 2009” with “and from the”.

In clause 6(2), replace “, from the 1983 Regulations (except regulation 8), and from the 2009” with “and from the”.

Securities Act (Friendly Societies) Exemption Notice 2011 (SR 2011/61)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Group Investment Index Funds) Exemption Notice 2002 (SR 2002/316)

In clause 3, replace “2012” with “2017”.

In clause 4(1), definition of **NZX**, replace “New Zealand Exchange” with “NZX”.

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

Replace clause 5(c) and (d) with:

- (c) regulation 5(1)(c) of the Regulations; and
- (d) regulation 13 of the Regulations.

In the heading to clause 5A, replace “**regulation 23**” with “**regulation 39**”.

In clause 5A(1), replace “regulation 23” with “regulation 39”.

Replace clause 5A(2) with:

- (2) The exemption in subclause (1) is subject to the condition that the registered prospectus or any advertisement relating to the specified participatory securities must either—
 - (a) contain a statement about listing the securities or an application that is approved by the Special Division; or
 - (b) contain no statement nor otherwise imply that—
 - (i) the securities are or will be listed on a securities market; or
 - (ii) an application has been or will be made.
- (3) In subclause (2),—

application means an application to list the specified participatory securities on a securities market

Securities Act (Group Investment Index Funds) Exemption Notice 2002 (SR 2002/316)—continued

Special Division means the division of the NZ Markets Disciplinary Tribunal known by that name that is constituted under rule 3.2.1 of the NZ Markets Disciplinary Tribunal Rules.

In the heading to clause 8, replace “**Schedule 3A**” with “**Schedule 4**”.

In clause 8(1), replace “Schedule 3A” with “Schedule 4”.

Revoke clause 8(2).

In Schedule 2, revoke the items relating to AMP Investments’ Tracker Fund, AMP Investments’ World Index Fund, and NZGT 30 Fund.

Securities Act (Industrial and Provident Societies) Exemption Notice 2011 (SR 2011/60)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Overseas Companies) Exemption Notice 2002 (SR 2002/299)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002 (SR 2002/329)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Overseas Listed Issuers) Exemption Notice 2002 (SR 2002/326)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Overseas Takeovers by New Zealand Companies) Exemption Notice 2002 (SR 2002/300)

In clause 3, replace “2012” with “2017”.

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

In clause 5(1), replace “regulation 8” with “regulation 23”.

In clause 5(1)(a), replace “the New Zealand Stock Exchange” with “a registered market of NZX Limited”.

In clause 5(2)(a), replace “stock exchange” with “securities market”.

Securities Act (Real Property Developments) Exemption Notice 2007 (SR 2007/378)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Renewals and Variations) Exemption Notice 2002 (SR 2002/292)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Rights, Options, and Convertible Securities) Exemption Notice 2002 (SR 2002/318)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Short Form Prospectus) Exemption Notice 2009 (SR 2009/50)

In clause 3(2), replace “2012” with “2017”.

Replace clause 4(1) with:

- (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
Regulations means the Securities Regulations 2009.

In clause 11(2), replace “Securities Regulations 2009” with “Regulations”.

Securities Act (Takeovers) Exemption Notice 2011 (SR 2011/63)

In clause 3, replace “30 September 2012” with “31 March 2013”.

Securities Act (Venture Capital Schemes) Exemption Notice 2008 (SR 2008/218)

In clause 3, replace “2012” with “2017”.

In clause 4(1), definition of **code of practice**, paragraph (b), replace “Commission” with “FMA”.

In clause 4(1), definition of **Regulations**, replace “1983” with “2009”.

In clause 5, replace “regulation 8” with “regulation 23”.

In clause 7, replace “regulation 17” with “regulation 30”.

In clause 8(1)(g), replace “Securities Commission” with “Financial Markets Authority”.

In clause 8(1)(k), replace “Commission” with “FMA”.

In clause 9, replace “regulation 17” with “regulation 30”.

In clause 10(1)(g), replace “Securities Commission” with “Financial Markets Authority”.

In clause 10(1)(k), replace “Commission” with “FMA”.

In clause 11, replace “regulation 17” with “regulation 30”.

In the Schedule, revoke the items relating to Enterprise Northland Trust, Manukau Enterprise and Employment Trust, Marlborough Regional Development Holdings Limited, Priority One - Western Bay of Plenty Incorporated, Venture Southland, Waitakere Enterprise Trust Board, and Wanganui Incorporated.

Dated at Wellington this 24th day of September 2012.

Sue Brown,
Head of Primary Regulatory Operations.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, extends the terms of various securities class exemption notices, makes minor amendments to some of those notices, and provides a transitional provision in respect of the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002 (which expires on 30 September 2012).

The terms of the following class exemption notices (the **class notices continuing until 2017**) are extended until 30 September 2017:

- the Securities Act (Authorised Futures Contracts) Exemption Notice 2002:
- the Securities Act (Bloodstock) Exemption Notice 2002:
- the Securities Act (Contributory Mortgage Brokers) Exemption Notice 1983:
- the Securities Act (Employee Share Purchase Schemes—Listed Companies) Exemption Notice 2011:
- the Securities Act (Employee Share Purchase Schemes—Unlisted Companies) Exemption Notice 2011:
- the Securities Act (French Issuers Employee Share Purchase Schemes) Exemption Notice 2010:
- the Securities Act (Group Investment Index Funds) Exemption Notice 2002:
- the Securities Act (Overseas Takeovers by New Zealand Companies) Exemption Notice 2002:
- the Securities Act (Short Form Prospectus) Exemption Notice 2009:
- the Securities Act (Venture Capital Schemes) Exemption Notice 2008.

This notice makes some minor amendments to some of the class notices continuing until 2017 (for example, to replace references to the Securities Regulations 1983 with references to the Securities Regulations 2009).

The term of the Securities Act (Charitable and Religious Purposes) Exemption Notice 2003 (the **charities notice**) has been extended to 30 November 2013. In addition, minor amendments have been made to this notice.

The term of the Securities Act (Contributory Mortgage) Regulations (Solicitors) Exemption Notice 1996 (the **contributory mortgage notice**) has been extended to 30 June 2013. In addition, minor amendments have been made to this notice.

The terms of the following class exemption notices (the **class notices continuing until March 2013**) are extended until 31 March 2013:

- the Securities Act (Australian Issuers) Exemption Notice 2002:
- the Securities Act (Building Societies) Exemption Notice 2002:

- the Securities Act (Co-operative Companies) Exemption Notice 2011:
- the Securities Act (Financial Institutions) Exemption Notice 2011:
- the Securities Act (Friendly Societies) Exemption Notice 2011:
- the Securities Act (Industrial and Provident Societies) Exemption Notice 2011:
- the Securities Act (Overseas Companies) Exemption Notice 2002:
- the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002:
- the Securities Act (Overseas Listed Issuers) Exemption Notice 2002:
- the Securities Act (Real Property Developments) Exemption Notice 2007:
- the Securities Act (Renewals and Variations) Exemption Notice 2002:
- the Securities Act (Rights, Options, and Convertible Securities) Exemption Notice 2002:
- the Securities Act (Takeovers) Exemption Notice 2011.

The transitional provision relating to the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002 allows an offeror to continue to rely on that notice in respect of securities offered under an offeror's statement dated on or before 30 September 2012.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers that the extension of expiry dates and the amendments to the charities notice, the contributory mortgage notice, and the class notices continuing until 2017 are appropriate because—

- the exemptions in these notices have been in place for a number of years and the policy reasons for the notices remain valid and relevant. Consultation with market participants by the Financial Markets Authority demonstrates continued reliance on these exemptions; and
- a number of minor amendments have been made to update these notices in light of legislative amendments. While the changes introduced by legislative amendments have reduced costs for issuers, and improved information for investors, they have not attempted to tailor disclosure and conduct requirements to the extensive range of circumstances to which securities law requirements apply. Accordingly, these exemptions continue to be required and remain appropriate in light of the policy of these notices; and
- given the continuing validity and relevance of the exemptions, and the continued reliance on the exemptions, the Financial Markets Authority considers that the exemptions will not cause significant detriment to subscribers and that they are not broader than is reasonably necessary to address the matters that gave rise to the exemptions; and
- in the case of the charities notice, extending the expiry date to 30 November 2013 will allow time for the completion of a joint review with the Reserve Bank of New Zealand of the application of securities law and prudential re-

- quirements for charitable and religious organisations that also rely on the Deposit Takers (Charitable and Religious Organisations) Exemption Notice 2010; and
- in the case of the Securities Act (Group Investment Index Funds) Exemption Notice 2002, in addition to minor amendments to update the notice in light of other legislative amendments, the Schedule comprising recognised group investment funds is updated so that it only continues to recognise current passive index funds; and
 - in the case of the Securities Act (Venture Capital Schemes) Exemption Notice 2008, in addition to minor amendments to update the notice in light of other legislative amendments, the Schedule comprising recognised scheme administrators is updated so that it only continues to recognise scheme administrators that continue to operate venture capital schemes; and
 - in the case of the contributory mortgage notice, in addition to minor amendments to update the notice in light of the enactment of the Lawyers and Conveyancers Act 2006 and rules and regulations made under that Act, extending the expiry date for 9 months only to 30 June 2013 will allow time for the Financial Markets Authority to complete a detailed review of the regulation of contributory mortgages offered by solicitors, including in the context of the proposals in the Financial Markets Conduct Bill for these products.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers that the extension of expiry dates of the class notices continuing until March 2013 are appropriate because—

- the Financial Markets Authority has received and considered submissions on these notices and has substantially developed proposals for reform. The terms and conditions of these notices impose appropriate conduct and disclosure requirements so as to not cause any significant detriment to subscribers who are members of the public in New Zealand; and
- further amendments may be desirable to further enhance the effectiveness of these notices in facilitating the efficient and transparent offer and allotment of the securities to which they relate. The Financial Markets Authority considers that further time is desirable for consultation on, and finalisation of, proposals for reform. Extending the expiry dates until 31 March 2013 gives time for this to occur. The Financial Markets Authority considers that this extension is not longer than is reasonably necessary to enable further consultation and for the proposals to be finalised.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers that the transitional provision for the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002 and the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 1997 (the **RPPOS notices**) is appropriate because—

- the transitional provision allows offerors that have already offered securities in a particular scheme to the public in reliance on the RPPOS notices to proceed with that scheme on the basis of compliance with the requirements of the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002. *Clause 4(2)* of this notice provides that the transitional provision does not permit securities to be offered in reliance on that RPPOS notice after the date that is 2 months after the date of the offeror's written statement (*see also* the timing restrictions in clause 5(2)(e) of that notice); and
- additional compliance costs would be incurred by requiring compliance with the full requirements of the Securities Act 1978 for those schemes that have already commenced (and where the offer has already been prepared so as to comply with the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002). These additional compliance costs outweigh the benefits to prospective investors of full compliance with the Act; and
- given that the transitional provision is of limited scope, the Financial Markets Authority does not consider that it will cause significant detriment to subscribers. Nor does it consider that the transitional provision is broader than is reasonably necessary to provide a reasonable transition for market participants who are currently relying on the Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002.

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

Reprints notes

1 *General*

This is a reprint of the Securities Act (Extension of Term, Amendment, and Transitional Provision) Exemption Notice 2012 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

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

3 *Editorial and format changes*

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

4 *Amendments incorporated in this reprint*

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