Reprint
as at 1 December 2014

Securities Act (Community and Recreational Purposes) Exemption Notice 2013

(SR 2013/470)

Securities Act (Community and Recreational Purposes) Exemption Notice 2013: revoked, on 1 December 2014, by clause 3.

Pursuant to section 70B 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).

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Notice

1 Title

This notice is the Securities Act (Community and Recreational Purposes) Exemption Notice 2013.

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 1 December 2013.

3 Revocation

This notice is revoked on the close of 30 November 2014.

4 Interpretation

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

Act means the Securities Act 1978

not-for-profit organisation means any organisation, whether incorporated or not, that is carried on other than for the purposes of profit or gain to an owner, member, or shareholder

Regulations means the Securities Regulations 2009

rules, in relation to a not-for-profit organisation,—

(a) means its constitution, rules, or other document or instrument constituting, or defining the constitution of, the organisation or governing the conduct of its affairs; and

(b) includes the rules of the scheme to which the offer of participatory securities relates.

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

5 Exemptions

(1) Every not-for-profit organisation and every person acting on its behalf are exempted from sections 33(3), 37, and 37A of the Act and regulation 30 of the Regulations in respect of any participatory securities of which that not-for-profit organisation is the issuer if, by the terms of its rules,—

(a) the holders of those securities do not have any interest or right to participate in any capital, assets, earnings, royalties, or other property of that not-for-profit organisation or scheme other than the rights listed in subclause (2); and

(b) the liability of the holders of those securities to make any payments to, or on behalf of, that not-for-profit organisation or scheme is limited to the amount of the fees

or subscriptions that may be approved by a majority of the holders of those securities in general meeting.

(2) The rights listed for the purpose of subclause (1)(a) are all or any of the following:

(a) a right to use or enjoy any assets or other property of that not-for-profit organisation or scheme:

(b) a right to vote at any meeting of the holders of participatory securities:

(c) a right to share pro rata with all other holders of participatory securities in a distribution of any capital, assets, earnings, royalties, or other property of that not-for-profit organisation or scheme on a liquidation or winding up of that organisation or scheme.

Dated at Wellington this 26th day of November 2013.

Simone Robbers,
Head of Primary Regulatory Operations.

Statement of reasons

This notice comes into force on 1 December 2013. The notice is revoked on close of 30 November 2014.

The notice exempts not-for-profit organisations such as community-based recreational clubs, from the statutory supervisor, registered prospectus, and investment statement requirements in respect of offers of participatory securities that give holders a right to use or enjoy assets or other property on the basis of payment of membership subscriptions or other fees.

The notice replaces the exemption for participatory securities in the Securities Act (Charitable and Religious Purposes) Exemption Notice 2003 (the **2003 notice**), which expires on 30 November 2013. A sister notice to this notice, the Securities Act (Charity Debt Securities) Exemption Notice 2013, replaces the exemption for debt securities in the 2003 notice.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Act, considers that it is appropriate to grant the exemptions because—

- interests offered by not-for-profit organisations that allow their members to use and enjoy their assets or other property in exchange for subscriptions or other fees can fall within the definition of participatory security in the Securities Act 1978. However, the interests offered by these organisations are not investment products in the conventional sense. The exemptions facilitate the operation of these not-for-profit organisations in these circumstances by relieving them from unnecessary compliance with the securities law regime:
- the exemptions are consistent with the long-standing exemptions granted under the 2003 notice and preceding similar exemption notices.

In these circumstances, namely, that the notice applies only to holders of limited interests with limited liability, the Financial Markets Authority considers that the exemptions are not broader than is reasonably necessary to address the matters that gave rise to the exemptions and will not cause significant detriment to subscribers who are members of the public in New Zealand.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 November 2013.

Reprints notes

1 General

This is a reprint of the Securities Act (Community and Recreational Purposes) Exemption Notice 2013 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 (Community and Recreational Purposes) Exemption Notice 2013 (SR 2013/470): clause 3

Wellington, New Zealand:
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