



# Securities Act (ING (NZ) Administration Pty Limited) Exemption Notice 2005

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 (ING (NZ) Administration Pty Limited) Exemption Notice 2005.

### 2 Commencement

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

### 3 Expiry

This notice expires on the close of 30 June 2008.

### 4 Interpretation

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

**ING** means ING (NZ) Administration Pty Limited, a company incorporated in Australia

**Regulations** means the Securities Regulations 1983

**specified participatory securities** means units in an Australian unit trust constituted under a master trust deed poll dated on or about 1 July 2003 and executed by ING.

- (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 Exemption from clause 7(5) of Third Schedule of Regulations, and clause 4(1)(a) of Seventh Schedule of Regulations**

ING and every person acting on its behalf are exempted, in respect of the specified participatory securities, from—

- (a) clause 7(5) of the Third Schedule of the Regulations; and
- (b) clause 4(1)(a) of the Seventh Schedule of the Regulations.

Dated at Wellington this 28th day of February 2005.

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

[L.S.]

J. Diplock,  
Chairperson.

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**Statement of reasons**

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 30 June 2008, exempts ING (NZ) Administration Pty Limited (**ING**) from—

- clause 7(5) of the Third Schedule of the Securities Regulations 1983 (the **Regulations**). This means ING does not have to include a prospective statement of cash flows in its registered prospectus; and
- clause 4(1)(a) of the Seventh Schedule of the Regulations. This means ING does not have to hold annual meetings to consider the unit trust's financial statements.

The Securities Commission considers that it is appropriate to grant the exemption from clause 7(5) of the Third Schedule of the Regulations because the unit trust's fund invests in market securities for which meaningful forecasts are very difficult to achieve.

The Commission considers that it is appropriate to grant the exemption from clause 4(1)(a) of the Seventh Schedule of the Regulations because—

- Australian unit trusts appear to be more akin to a New Zealand unit trust than they are to other participatory schemes. New Zealand unit trusts are not subject to an equivalent obligation; and
- the costs of holding a meeting to approve the financial statements appear to outweigh the benefits to unit holders; and
- the statutory supervisor and holders of one-tenth or more of the issued units are still able to call a meeting under clause 4(1)(b) and clause 4(2) of the Seventh Schedule of the Regulations to give opinions or directions in relation to the exercise of the statutory supervisor's powers; and
- the exemption is in accordance with previous Commission decisions.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 3 March 2005.

This notice is administered by the Securities Commission.

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