



Securities Act (Overseas Companies) Exemption Notice 2002

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice.

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Schedule
Additional overseas companies

Notice

- 1 Title**
This notice is the Securities Act (Overseas Companies) Exemption Notice 2002.
- 2 Commencement**
This notice comes into force on 1 October 2002.
- 3 Expiry**
This notice expires on the close of 30 September 2007.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978

overseas company has the same meaning as in section 2(1) of the Companies Act 1993; and includes a person named in the Schedule

Regulations means the Securities Regulations 1983

specified exchange means a stock exchange in the United Kingdom, the Commonwealth of Australia, Canada, the United States of America, or Hong Kong.

- (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 for overseas quoted securities offered to existing security holders

- (1) Every overseas company, every holder of securities previously allotted by an overseas company, and every person acting on behalf of either that overseas company or that holder are exempted from sections 33(2), 33(3), 37, 37A, 38A, and 51 to 54B of the Act and the Regulations (except regulation 8) in respect of any securities of which that overseas company is the issuer if—
- (a) the securities are of a class that is quoted on a specified exchange or an application has been made for quotation of the securities on a specified exchange and, at the time of the offer of those securities to the public in New Zealand, the issuer has complied with all the requirements of the specified exchange relating to the application with which it is required to comply at that time; and
 - (b) the only members of the public to whom the securities are offered in New Zealand are—
 - (i) persons who, at the time of the offer, are holders of securities of which that overseas company is the issuer; or
 - (ii) persons who, at the time of the offer, are holders of securities of another overseas company—
 - (A) that are quoted on a specified exchange; or
 - (B) in respect of which an application was made for quotation, as provided in paragraph (a), and in respect of which the overseas company complied with all the requirements of the specified exchange

- with which it was required to comply at the time of the offer of the securities; or
- (iii) persons in whose favour an offer to which subparagraph (i) or subparagraph (ii) applies has been renounced.
- (2) For the purposes of subclause (1)(b)(ii), the other overseas company must be—
 - (a) a promoter of the offer of the securities; and
 - (b) a company of which the issuer is an associated body corporate or a related body corporate.
 - (3) Subclause (1)(b) applies whether or not the offer is renounceable in favour of any other person.

6 Exemption for overseas quoted securities exchanged for other overseas quoted securities

Every overseas company, every holder of securities previously allotted by an overseas company, and every person acting on behalf of either that overseas company or that holder are exempted from sections 33(2), 33(3), 37, 37A, 38A, and 51 to 54B of the Act and the Regulations (except regulation 8) in respect of any securities of which that overseas company is the issuer if—

- (a) the securities are of a class that is quoted on a specified exchange or an application has been made for quotation of the securities on a specified exchange and, at the time of the offer of those securities to the public in New Zealand, the issuer has complied with all the requirements of the specified exchange relating to the application with which it is required to comply at that time; and
- (b) the securities are offered as the whole or any part of the consideration for the acquisition or cancellation of all or any of the securities of which any other overseas company is the issuer; and
- (c) the securities of which that other overseas company is the issuer are quoted on a specified exchange or an application was made for quotation of the securities on a specified exchange and, at the time of the offer of those securities, the other overseas company had complied with all the requirements of the specified exchange relating to the application with which it was required to comply at that time.

7 Condition of exemption in clause 6

The exemption granted by clause 6 is subject to the condition that the offer of the securities to the public in New Zealand is made in compliance with—

- (a) the law of the country, state, territory, or province in which the stock exchange on which the securities are quoted or in respect of which an application has been made for quotation, as the case may be, is situated; and
- (b) any code, rules, or other requirements relating to the offer of those securities applying in that country, state, territory, or province.

8 Application to convertible securities

The exemptions granted by clauses 5 and 6 do not apply in respect of any security that—

- (a) will or may be converted into, or exchanged for, another security if the issuer of that other security will not be the issuer of the first mentioned security; or
- (b) confers a present or future right to subscribe for another security if the issuer of that other security will not be the issuer of the first mentioned security.

cl 4(1)

Schedule
Additional overseas companies

The Australian Gas Light Company
Westpac Banking Corporation

Dated at Wellington this 17th day of September 2002.

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

[L.S.]

J. Diplock,
Chairperson.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which comes into force on 1 October 2002 and expires on 30 September 2007, replaces the Securities Act (Overseas Companies) Exemption Notice 1997. The provisions of that notice have been carried forward with no change of substance. However, certain drafting changes have been made to reflect current drafting practice.

Clause 5 exempts every overseas company and every holder of securities previously allotted by an overseas company from the prospectus and investment statement requirements and various other requirements of the Securities Act 1978 and the Securities Regulations 1983 in respect of securities of which the overseas company is the issuer if the securities are of a class quoted on a specified exchange or an application for quotation on a specified exchange has been made and the overseas company has, at the time of the offer, complied with the requirements of the exchange that are applicable at that time.

The offer must be made only to—

- existing security holders; or
- holders of securities issued by a promoter of the offer of which the overseas company is an associated or related company that are similarly quoted or in respect of which a similar application for quotation was made by the promoter and the promoter complied with the applicable requirements of the exchange; or
- persons in whose favour an offer referred to above is renounced.

The term **specified exchange** is defined to mean a stock exchange in the United Kingdom, Australia, Canada, the United States of America, or Hong Kong.

Clause 6 exempts, subject to a condition, every overseas company and every holder of securities previously allotted by an overseas company from the prospectus and investment statement requirements and various other requirements of the Securities Act 1978 and the Securities Regulations 1983 in respect of securities of which the overseas company is the issuer if—

- the securities are of a class quoted on a specified exchange or an application for quotation on a specified exchange has been made and the overseas company has, at the time of the offer, complied with the requirements of the exchange that are applicable at that time; and
- the securities are offered as consideration for the acquisition or cancellation of the securities of another overseas company; and
- the securities of the other overseas company are similarly quoted or in respect of which a similar application for quotation was made by the other overseas company and that company complied with the applicable requirements of the exchange.

This exemption is subject to the condition that the offer complies with—

- the law of the country, state, territory, or province in which the stock exchange on which the securities are quoted or in respect of which an application for quotation has been made is situated; and
- any code, rules, or other requirements relating to the offer that apply in that country, state, territory, or province.

Clause 8 provides that the exemptions do not apply to convertible securities if the issuer of the securities to be issued on conversion will not be the same person as the issuer of the convertible securities.

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

Date of notification in *Gazette*: 19 September 2002.

This notice is administered in the Securities Commission.
