



Securities Act (Feltex Carpets Limited) Exemption Notice 2004

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).

Contents

| | | |
|---|---|---|
| <p>1 Title</p> <p>2 Commencement</p> <p>3 Expiry</p> <p>4 Interpretation</p> <p>5 Exemptions from regulations 3(1) and 7A(1) of Regulations</p> <p>6 Conditions for exemptions in clause 5</p> <p>7 Exemption from clause 1(4) of First Schedule of Regulations</p> | <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> | <p>Condition of exemption in clause 7</p> <p>Exemption from clause 8(5) of First Schedule of Regulations</p> <p>Condition of exemption in clause 9</p> <p>Exemption from clause 10(1)(c) of First Schedule of Regulations</p> <p>Conditions of exemption in clause 11</p> |
|---|---|---|

Notice

1 Title

This notice is the Securities Act (Feltex Carpets Limited) Exemption Notice 2004.

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 November 2004.

4 Interpretation

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

Credit Suisse First Boston means Credit Suisse First Boston Asian Merchant Partners, L.P., a limited partnership registered in Delaware

Feltex means Feltex Carpets Limited

offer means a proposed offer by Feltex and Credit Suisse First Boston that will comprise—

- (a) an offer by Credit Suisse First Boston of existing shares in Feltex; and
- (b) an offer by Feltex of new shares in Feltex

offer document means the combined prospectus and investment statement in relation to the offer that is, or will be, registered on or about 5 May 2004

Regulations means the Securities Regulations 1983

specified securities means the shares that will be offered as part of the offer.

- (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 from regulations 3(1) and 7A(1) of Regulations

Feltex, Credit Suisse First Boston, and every person acting on behalf of either or both of them are exempted from regulations 3(1) and 7A(1) of the Regulations to the extent that those provisions require a registered prospectus or investment statement relating to the specified securities to contain information about Credit Suisse First Boston as an issuer of those securities.

6 Conditions for exemptions in clause 5

The exemptions in clause 5 are subject to the conditions that—

- (a) the offer document contains a description of the effect of the exemptions in clause 5; and
- (b) the offer document contains a statement to the effect that Credit Suisse First Boston—
 - (i) is an issuer of the specified securities; and
 - (ii) has obligations as an issuer under the Act and the Regulations; and

- (c) Feltex holds all monies received from the public in connection with a subscription for the specified securities on trust until those securities have been allotted.

7 Exemption from clause 1(4) of First Schedule of Regulations

Feltex, Credit Suisse First Boston, and every person acting on behalf of either or both of them are exempted from clause 1(4) of the First Schedule of the Regulations in respect of any offer of specified securities.

8 Condition of exemption in clause 7

The exemption in clause 7 is subject to the condition that the offer document—

- (a) describes the procedure for fixing the subscription price for the specified securities; and
- (b) describes the factors that may be taken into account in determining the subscription price for the specified securities; and
- (c) states when the subscription price for the specified securities is expected to be fixed; and
- (d) describes how the specified securities will be allocated; and
- (e) states the indicative price range of the specified securities; and
- (f) states whether Feltex and Credit Suisse First Boston reserve the right to set a subscription price outside the indicative price range; and
- (g) states how an investor may ascertain the subscription price for the specified securities after that price is fixed; and
- (h) describes the procedures for holding money paid to subscribe for the specified securities by, or on behalf of, Feltex or Credit Suisse First Boston; and
- (i) describes how over-subscriptions will be treated and the procedures for making refunds; and
- (j) states, in terms permitted by regulation 23 of the Regulations, that an application has been made to New Zealand Exchange Limited for permission to quote the specified securities.

9 Exemption from clause 8(5) of First Schedule of Regulations

Feltex, Credit Suisse First Boston, and every person acting on behalf of either or both of them are exempted from clause 8(5) of the First Schedule of the Regulations in respect of any specified securities.

10 Condition of exemption in clause 9

The exemption in clause 9 is subject to the condition that the offer document contains the information required by clause 8(5) of the First Schedule of the Regulations, calculated as if the number of specified securities on which the assumptions are based is calculated by reference to the maximum number of specified securities that would be allotted if the subscription price of the specified securities was at the high point, at the mid-point, and at the low point of the indicative price range stated in the offer document.

11 Exemption from clause 10(1)(c) of First Schedule of Regulations

Feltex, Credit Suisse First Boston, and every person acting on behalf of either or both of them are exempted from clause 10(1)(c) of the First Schedule of the Regulations in respect of any specified securities.

12 Conditions of exemption in clause 11

The exemption in clause 11 is subject to the conditions that—

- (a) the offer document contains a prospective statement of cash flows for Feltex and its subsidiaries in respect of each of the following periods:
 - (i) the period of 12 months commencing on 1 July 2003 and ending on the close of 30 June 2004; and
 - (ii) the period of 12 months commencing on 1 July 2004 and ending on the close of 30 June 2005; and
- (b) the prospective statements of cash flows comply with clause 10(2) of the First Schedule of the Regulations.

Dated at Wellington this 27th day of April 2004.

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

[L.S.]

F. R. S. Clouston,
Member.

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 November 2004, exempts Feltex Carpets Limited (**Feltex**) and Credit Suisse First Boston Asian Merchant Partners, L.P. (**Credit Suisse**) from various provisions of the Securities Regulations 1983 (the **Regulations**), subject to conditions, in the case of an offer of shares in Feltex.

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

- the price for the shares is to be determined via a book building process and will not be known at the date the prospectus is to be registered. Similarly, the number of shares that may be allotted will not be known at that time. This means that Feltex and Credit Suisse cannot comply with clauses 1(4) and 8(5) of the First Schedule of the Regulations. The conditions of the exemption require that investors receive certain relevant information about how the price for the shares is to be set and about the potential net tangible asset backing per share; and
- the exemption from clause 10(1)(c) of the First Schedule of the Regulations will mean that the prospective statements of cash flows will be aligned to Feltex's normal accounting period. This means that the information will be more easy to compare with the financial statements of Feltex and more useful for investors; and
- where Part II of the Securities Act 1978 applies to an offer of previously allotted securities to the public, both the person offering the securities and the original allotter of the securities have a responsibility for the offer as issuers. Information about the offeror as issuer may not be useful to the investor and may be confusing. The exemptions from regulations 3(1)

and 7A(1) of the Regulations is consistent with current Commission policy.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 April 2004.
This notice is administered by the Securities Commission.
