



Securities Act (Overseas Employee Share Purchase Schemes) Exemption Amendment 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).

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Notice

1 Title

- (1) This notice is the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Amendment Notice 2004.
- (2) In this notice, the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002¹ is called “the principal notice”.

¹ SR 2002/329

2 Commencement

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

3 Interpretation

- (1) Clause 4(1) of the principal notice is amended by omitting from the definition of **exempt overseas issuer** the words “a listed”, and substituting the word “an”.
- (2) Clause 4(1) of the principal notice is amended by revoking the definition of **listed overseas issuer**.

(3) Clause 4(1) of the principal notice is amended by inserting, after the definition of **overseas bank**, the following definition:

“**overseas issuer** means either of the following:

“(a) an issuer—

“(i) that is incorporated in a specified overseas jurisdiction; and

“(ii) that is listed on a securities exchange in a specified overseas jurisdiction; and

“(iii) the shares or common stock in which are quoted or approved for quoting by a securities exchange in a specified overseas jurisdiction; or

“(b) an issuer—

“(i) that is incorporated in a specified overseas jurisdiction; and

“(ii) in respect of whose shares or common stock an application for quotation has been made to a securities exchange in a specified overseas jurisdiction; and

“(iii) who, at the time of an offer of specified securities in reliance on the exemptions granted by this notice, complies with all the requirements of the securities exchange in the specified overseas jurisdiction relating to the application for quotation that the issuer is required to comply with at that time”.

4 **Heading to Schedule 2 amended**

The heading to Schedule 2 of the principal notice is amended by omitting the word “**listed**”.

Dated at Wellington this 23rd day of March 2004.

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

[L.S.]

J. Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends the Securities Act (Overseas Employee Share Purchase Schemes) Exemption Notice 2002 (“the principal notice”) by revoking the definition of **listed overseas issuer**, and inserting a definition of **overseas issuer** in its place. The definition of overseas issuer is wider than the definition of listed overseas issuer. It includes an issuer whose shares or common stock are the subject of an application for listing, but have not actually been listed at the time at which an offer is made in reliance on the exemptions granted by the principal notice. The effect of the amendment therefore, is that the exemptions in the principal notice apply to a wider range of issuers in relation to the offer of specified securities under employee share purchase schemes.

This notice also makes 2 consequential amendments to the principal notice.

The Securities Commission considers that it is appropriate to make the amendments to the principal notice because—

- (a) the amendments will make the principal notice consistent with other exemption notices that have been granted in relation to overseas listed issuers and overseas companies; and
- (b) an unlisted overseas issuer (that is not named in Schedule 1 of the principal notice) will only be able to rely on the exemptions granted by the principal notice—
 - (i) if it has applied to a securities exchange in one of the specified overseas jurisdictions for quotation of its shares or common stock; and
 - (ii) if, at the time of the offer of specified securities, it has complied with all the requirements of the securities exchange in the specified overseas jurisdiction relating to the application that it is required to comply with at that time.