



## **Securities Act (Opus International Consultants Limited) Exemption Notice 2002**

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

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### **Notice**

#### **1 Title**

This notice is the Securities Act (Opus International Consultants Limited) Exemption Notice 2002.

#### **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 31 March 2004.

#### **4 Interpretation**

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

**Act** means the Securities Act 1978

**business day** means a day on which registered banks are open for normal banking business in Wellington and Auckland

**company** means Opus International Consultants Limited  
**employee share option plan** means the plan established by the company that is described in the prospectus that is, or will be, registered in or about March 2002, under which employees of the company or any of its subsidiaries may acquire specified equity securities

**FRS-24** means the financial reporting standard known as Financial Reporting Standard No 24—

- (a) that has been approved under section 24 of the Financial Reporting Act 1993; and
- (b) that came into force on 1 July 1997

**Regulations** means the Securities Regulations 1983

**specified equity securities** means shares, or rights or options to acquire shares, issued by the company under the employee share option plan.

- (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 section 37A(1)(c) and (2) of Act and clauses 4 to 38 and 40 to 42 of First Schedule of Regulations**

- (1) The company and every person acting on its behalf are exempted, in the case of specified equity securities, from—
- (a) section 37A(1)(c) and (2) of the Act; and
  - (b) clauses 4 to 20, 22 to 38, and 40 to 42 of the First Schedule of the Regulations; and
  - (c) clause 21 of the First Schedule of the Regulations to the extent that that provision requires the registered prospectus relating to the specified equity securities to contain—
    - (i) the dates, time periods, and price terms that relate to any offer under the employee share option plan; and
    - (ii) in connection with a valuation of any specified equity securities, the date of the valuation, the method of valuation, and the identity of the valuer; and

- (iii) any information personal to any person to whom the registered prospectus must be distributed.
- (2) The exemptions are subject to the conditions that—
- (a) the specified equity securities are offered only to a person—
    - (i) who is an employee of the company or a subsidiary of the company; or
    - (ii) who may become an employee of the company or a subsidiary of the company; and
  - (b) the specified equity securities are allotted only to a person who is an employee of the company or a subsidiary of the company; and
  - (c) a copy of the most recent audited consolidated financial statements of the issuing group that comply with the Financial Reporting Act 1993 is attached to, or contained in, every copy of a registered prospectus relating to the specified equity securities sent to a person under section 54B of the Act; and
  - (d) if the specified equity securities are offered more than 9 months after the date of the most recent audited consolidated financial statements of the issuing group, a copy of the interim financial statements for the most recently completed financial half-year of the issuing group that comply with FRS-24 is attached to, or contained in, every copy of a registered prospectus relating to the specified equity securities sent to a person under section 54B of the Act; and
  - (e) the investment statement and registered prospectus relating to the specified equity securities contain—
    - (i) a description of any arrangements under which the holders of specified equity securities can sell their securities; and
    - (ii) a summary of the manner in which, and by whom, the prices for the securities will be determined; and
  - (f) a statement containing the following matters is attached to, or contained in, every copy of the company's annual report sent to holders of the specified equity securities under section 209 of the Companies Act 1993:

- (i) the date of, names of the parties to, and general nature of any material contract (excluding a contract entered into in the ordinary course of business) entered into by a member of the issuing group at any time in the 2 years preceding a date not more than 20 working days before the date of circulation of the annual report;
- (ii) a brief description of any legal proceedings or arbitrations concerning the issuing group that are pending at a date not more than 20 working days before the date of circulation of the annual report and that might have a material adverse effect on the issuing group;
- (iii) a statement by 2 directors of the company as to whether, after inquiry by them in relation to the period between the date of the latest statement of financial position attached to, or contained in, the annual report and a date not more than 20 working days before the date of circulation of the annual report, there have, in their opinion, arisen any circumstances that materially adversely affect—
  - (A) the trading or profitability of the issuing group; or
  - (B) the value of its assets; or
  - (C) the ability of the issuing group to pay its liabilities due within the next 12 months; and
- (g) the annual report of the company referred to in paragraph (f) contains all the information described in section 211(1) and (2) of the Companies Act 1993 despite any agreement of the shareholders under subsection (3) of that section; and
- (h) the annual report referred to in paragraph (f) is also sent to persons who hold options to acquire specified equity securities at the same time as it is sent to the holders of specified equity securities; and
- (i) before subscription for the specified equity securities, the company has delivered to every person to whom the offer is made a copy of the most recent annual report of

- the company together with the statement referred to in paragraph (f)(iii); and
- (j) if an employee who acquires shares on the exercise of options under the employee share option plan wishes to sell all of those shares at their fair value as most recently determined in accordance with the plan and at that time the shares are not quoted on a registered stock exchange, the company must arrange for either a third party or the company to purchase the shares at their fair value within 20 business days of receiving notification of the employee's wish to sell the shares at their fair value.
- (3) For the purposes of subclause (2)(j), the fair value of the shares must be determined in accordance with the employee share option plan by an independent and appropriately qualified valuer appointed by the company (at the company's expense) who must not—
- (a) have or have had any significant advisory or professional relationship with the company or any of its subsidiaries (other than a relationship involving the valuation of shares under this subclause); or
  - (b) be a person who might otherwise be seen as being particularly close to the directors or management of the company or of any of its subsidiaries.
- (4) The exemption in subclause (1)(c) is subject to the further conditions that—
- (a) the information that would, but for the exemption in that subclause, be required by clause 21 of the First Schedule of the Regulations to be included in the registered prospectus relating to the specified equity securities is set out in a document attached to, or accompanying, the investment statement relating to the specified equity securities; and
  - (b) the registered prospectus contains all other terms of the offer, and all terms of the securities being offered, other than those implied by law or set out in a document that—
    - (i) is registered with a public official; and
    - (ii) is available for public inspection; and
    - (iii) is referred to in the registered prospectus.

**6      Exemption from regulation 5(2), clause 1(3) and (4) of  
First Schedule, and clause 5(1)(c) and (2) of Schedule 3D  
of Regulations**

- (1) The company and every person acting on its behalf are exempted, in the case of specified equity securities, from—  
(a) regulation 5(2) of the Regulations; and  
(b) clause 1(3) and (4) of the First Schedule of the Regulations; and  
(c) clause 5(1)(c) and (2) of Schedule 3D of the Regulations.
- (2) The exemptions are subject to the conditions that—  
(a) the information referred to in those provisions is set out in a document attached to, or accompanying, the investment statement relating to the specified equity securities; and  
(b) the registered prospectus and investment statement relating to the specified equity securities state that the information is contained in the document.

Dated at Wellington this 21st day of March 2002.

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

[L.S.]

J. Diplock,  
Chairperson.

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**Explanatory note**

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

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 31 March 2004.

The notice exempts Opus International Consultants Limited from certain provisions of the Securities Act 1978 and of the Securities

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Explanatory note

2002/80

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Regulations 1983 in the case of offers of equity securities made under an employee share option plan.

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

Date of notification in *Gazette*: 22 March 2002.

This notice is administered in the Securities Commission.

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