



Securities Act (Group Investment Funds) Exemption Notice 2001 Amendment Notice (No 2) 2002

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

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Notice

1 Title

- (1) This notice is the Securities Act (Group Investment Funds) Exemption Notice 2001 Amendment Notice (No 2) 2002.
- (2) In this notice, the Securities Act (Group Investment Funds) Exemption Notice 2001¹ is called “the principal notice”.

¹ SR 2001/393

2 Commencement

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

3 Interpretation

Clause 4 of the principal notice is amended by inserting, after the definition of **qualifying participatory security**, the following definition:

“**Regulations** means the Securities Regulations 1983”.

4 Exemption from section 37(3)

Clause 5 of the principal notice is amended by revoking sub-clause (2).

5 New clauses 7A and 7B inserted

The principal notice is amended by inserting, after clause 7, the following clauses:

“7A Exemption from regulation 3(3) of Regulations

“(1) Every trustee and every person acting on a trustee’s behalf are exempted from regulation 3(3) of the Regulations in respect of qualifying participatory securities of which that trustee is the issuer.

“(2) The exemption is subject to the condition that the registered prospectus contains the information, statements, certificates, and other matters specified in—

“(a) clause 3 of the Third Schedule of the Regulations; and

“(b) Schedule 3A of the Regulations (except clauses 3 and 20) applied as if references in Schedule 3A (and in the definitions of terms used in that schedule) to—

“(i) a unit were references to a qualifying participatory security; and

“(ii) a unit trust were references to a Fund; and

“(iii) a unit holder were references to a holder of a qualifying participatory security; and

“(iv) a unit trustee were references to a statutory supervisor of a Fund; and

“(v) a manager were references to a trustee; and

“(vi) a trust deed were references to a deed of participation.

“7B Exemption from clauses 3(2) and 4(1)(a) of Seventh Schedule of Regulations

“(1) Every trustee and every person acting on a trustee’s behalf are exempted from clauses 3(2) and 4(1)(a) of the Seventh Schedule of the Regulations in respect of the deed of participation required for the purposes of the Act and relating to qualifying participatory securities of which the trustee is the issuer.

“(2) The exemption from clause 3(2) of the Seventh Schedule of the Regulations is subject to the condition that all money

received on behalf of a Fund to which the specified participatory securities relate is paid into the trustee's trust account as soon as possible."

6 Revocations

- (1) The Securities Act (The New Zealand Guardian Trust Company Limited) Exemption Notice 1998 (SR 1998/288) is revoked.
- (2) Clause 3(3) of the Securities Act (Group Investment Index Funds) Exemption Notice 1997 (SR 1997/211) is revoked.

Dated at Wellington this 13th day of June 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 the day after the date of its notification in the *Gazette*, amends the Securities Act (Group Investment Funds) Exemption Notice 2001.

That notice exempted trustees, subject to conditions, from certain provisions of the Securities Act 1978 in respect of group investment funds established under the Trustee Companies 1967, the Public Trust Act 2001, or the Public Trust Office Act 1957.

This notice has the following 3 principal effects:

- it exempts trustees, subject to a condition, from regulation 3(3) of the Securities Regulations 1983 (the **Regulations**). The effect is that a registered prospectus relating to an offer of securities in a Fund must contain the matters specified in Schedule 3A of the Regulations (which relates to unit trusts)

rather than the matters specified in Schedule 3 of the Regulations (which relates to participatory securities). In addition, the registered prospectus must contain the matters in clause 3 of Schedule 3 of the Regulations relating to the statutory supervisor:

- it exempts trustees, subject to a condition, from clauses 3(2) and 4(1)(a) of the Seventh Schedule of the Regulations. Clause 3(2) requires the manager of a scheme to establish a bank account in the name of a scheme into which money received on behalf of the scheme must be paid. The effect of this exemption is that a trustee will not be required to establish separate bank accounts for each of its group investment funds. The exemption is subject to the condition that all money received for investment in group investment funds is paid into the trustee's trust account. Clause 4(1)(a) requires a meeting of security holders to be held to consider the financial statements of the scheme within 6 months after the end of the financial year:
- it revokes the separate provisions that apply to The New Zealand Guardian Trust Company Limited.

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

Date of notification in *Gazette*: 14 June 2002.

This notice is administered in the Securities Commission.
