



Securities Act (Westpac Investment Management-NZ-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 WIM's exemption from regulation 7(1)(a) of Regulations</p> <p>6 Condition of exemption in clause 5</p> <p>7 WIM's exemption from clause 17(c) of Schedule 3A of Regulations</p> <p>8 Condition of exemption in clause 7</p> <p>9 WLL's exemption from regulation 7(1)(a) of Regulations</p>	<p>10</p> <p>11</p> <p>12</p> <p>11</p>	<p>Condition of exemption in clause 9</p> <p>WLL's exemption from clause 13(d) of Schedule 3C of Regulations</p> <p>Condition of exemption in clause 11</p>
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Schedule
Provisions excluded from copy of Management Agreement

Notice

- 1 Title**

This notice is the Securities Act (Westpac Investment Management-NZ-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 31 March 2006.

4 Interpretation

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

Act means the Securities Act 1978

excluded provisions means the provisions set out in the Schedule that are excluded from the copy of the Management Agreement that must be delivered to the Registrar of Companies

Management Agreement means the Investment Management and Services Agreement (and accompanying “Note as to Fees”) between WIM and BT Funds Management (NZ) Limited dated 24 December 2003

NZGT means The New Zealand Guardian Trust Company Limited

Regulations means the Securities Regulations 1983

specified WIM securities means units in the Westpac Retail Unit Trusts and the Westpac Home Loan Trust

specified WLL securities means interests in the Westpac Retirement Plan

Westpac Home Loan Trust means the unit trust established under a trust deed between WIM and NZGT dated 14 April 2000, as modified from time to time

Westpac Retail Unit Trusts means the unit trusts established under a trust deed between WIM (then Westpac Unit Investments-NZ-Limited) and NZGT dated 30 January 1990, as modified from time to time

Westpac Retirement Plan means the superannuation scheme, of which WLL is the trustee, established under a deed dated 18 March 1980, as modified from time to time

WIM means Westpac Investment Management-NZ-Limited

WLL means Westpac Life-NZ-Limited.

- (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 WIM's exemption from regulation 7(1)(a) of Regulations

WIM and every person acting on its behalf are exempted from regulation 7(1)(a) of the Regulations in respect of any specified WIM securities in so far as that paragraph requires a prospectus that contains an offer of the specified WIM securities to have endorsed on it, or attached to it, or be accompanied by, copies of the Management Agreement.

6 Condition of exemption in clause 5

The exemption in clause 5 is subject to the condition that the prospectus that contains the offer of the specified WIM securities that is delivered to the Registrar of Companies—

- (a) has endorsed on it, or attached to it, or is accompanied by, a copy of the Management Agreement (without the excluded provisions); and
- (b) states that the excluded provisions have been excluded from the copy of the Management Agreement delivered to the Registrar of Companies; and
- (c) states why the excluded provisions have been excluded; and
- (d) contains a statement of the general nature of the excluded provisions; and
- (e) states—
 - (i) that a copy of the Management Agreement (without the excluded provisions) may be inspected during the currency of the prospectus on request and without any fee by any person; and
 - (ii) when and where in New Zealand it may be inspected; and
- (f) contains a prominent statement to the effect that the directors of the issuer of the specified WIM securities warrant to investors that the exclusion of the excluded provisions from the Management Agreement does not make the prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances.

7 WIM's exemption from clause 17(c) of Schedule 3A of Regulations

WIM and every person acting on its behalf are exempted from clause 17(c) of Schedule 3A of the Regulations in respect of any specified WIM securities in so far as that paragraph applies to the Management Agreement.

8 Condition of exemption in clause 7

The exemption in clause 7 is subject to the condition that the prospectus that contains the offer of the specified WIM securities that is delivered to the Registrar of Companies states—

- (a) that a copy of the Management Agreement (without the excluded provisions) may be inspected during the currency of the prospectus on request and without any fee by any person; and
- (b) when and where in New Zealand it may be inspected.

9 WLL's exemption from regulation 7(1)(a) of Regulations

WLL and every person acting on its behalf are exempted from regulation 7(1)(a) of the Regulations in respect of any specified WLL securities in so far as that paragraph requires a prospectus that contains an offer of the specified WLL securities to have endorsed on it, or attached to it, or to be accompanied by, copies of the Management Agreement.

10 Condition of exemption in clause 9

The exemption in clause 9 is subject to the condition that the prospectus that contains the offer of the specified WLL securities that is delivered to the Registrar of Companies—

- (a) has endorsed on it, or attached to it, or is accompanied by, a copy of the Management Agreement without the excluded provisions; and
- (b) states that the excluded provisions have been excluded from the copy of the Management Agreement delivered to the Registrar of Companies; and
- (c) states why the excluded provisions have been excluded; and
- (d) contains a statement of the general nature of the excluded provisions; and
- (e) states—

- (i) that a copy of the Management Agreement (without the excluded provisions) may be inspected during the currency of the prospectus on request and without any fee by any person; and
- (ii) when and where in New Zealand it may be inspected; and
- (f) contains a prominent statement to the effect that the directors of the issuer of the specified WLL securities warrant to investors that the exclusion of the excluded provisions from the Management Agreement does not make the prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances.

11 WLL's exemption from clause 13(d) of Schedule 3C of Regulations

WLL and every person acting on its behalf are exempted from clause 13(d) of Schedule 3C of the Regulations in respect of any specified WLL securities in so far as that paragraph applies to the Management Agreement.

12 Condition of exemption in clause 11

The exemption in clause 11 is subject to the condition that the prospectus that contains the offer of the specified WLL securities that is delivered to the Registrar of Companies states—

- (a) that a copy of the Management Agreement (without the excluded provisions) may be inspected during the currency of the prospectus on request and without any fee by any person; and
- (b) when and where in New Zealand it may be inspected.

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Schedule
Provisions excluded from copy of
Management Agreement

- 1 In the “Note as to Fees”, all text in the column headed “Range”.

- 2 In the “Note as to Fees”, all text in the column headed “Rate”.
- 3 In the “Note as to Fees”, all text after the expression “=” in each of the 4 places that it appears immediately before the final 2 sentences.
- 4 In Schedule 1, the final entry under the heading “Superannuation Schemes”, and all text under the heading “Wholesale Clients”, but above the footnote.
- 5 In Schedule 3, all text under the heading “Wholesale Clients”.
- 6 In Appendix A, the rows under the heading “External Clients” in the table headed “Asset Allocation Ranges”.
- 7 In Appendix A, the rows under the heading “External Clients” in the table headed “Multi-Sector Benchmarks”.
- 8 In Appendix A, all text within the tables headed “Hard Limits” and “Soft Limits”.
- 9 In Appendix A, the final sentence in the first paragraph under the heading “Investment Objective Benchmark and Style” on page 50 of the Management Agreement.
- 10 In Appendix A, all text in the second column of the table setting out “Investment Item” and “Limits”.
- 11 In Appendix A, all the text in the second and third columns of the table setting out “Benchmark Currencies”, “Active Position vs Benchmark Weight (%)”, and “Indicative Benchmark Weight (%)”.

Dated at Wellington this 25th day of March 2004.

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

[L.S.]

C. A. N. Beyer,
Member.

Statement of reasons

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on 31 March 2006. It exempts Westpac Investment Management-NZ-Limited (**WIM**) and Westpac Life-NZ-Limited (**WLL**), subject to conditions, from public disclosure of certain commercially sensitive terms (the **excluded provisions**) contained in a contract that is material to the securities to be issued.

The Securities Commission considers that it is appropriate to grant the exemption because—

- the detriment to the commercial interests of WIM and WLL by the disclosure of the excluded provisions would outweigh any benefit to prospective investors from their disclosure;
- the conditions of the exemption require that WIM and WLL explain to investors the general nature of the excluded provisions and why they have been excluded;
- the directors of the issuer in each case must warrant that the non-disclosure of the excluded provisions does not make the relevant prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances;
- the exemptions from regulation 7(1)(a) of the Securities Regulations 1983 and from clauses 17(c) of Schedule 3A and 13(d) of Schedule 3C of those regulations are appropriate as they meet the criteria stated in the Commission's Exemption Policy Note for "Applications to Exclude Commercially Sensitive Information from Material Contracts". (The Exemption Policy Note can be viewed on the Commission's website at www.sec-com.govt.nz/notices/exemption-policy.shtml.)

**Securities Act (Westpac Investment
Management-NZ-Limited) Exemption
Notice 2004**

2004/77

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

Date of notification in *Gazette*: 26 March 2004.

This notice is administered by the Securities Commission.
