



Securities Act (Vector Limited) Exemption Notice 2005

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

1	Title	12	Conditions of exemption in clause 11
2	Commencement	13	Exemption from clause 4(b) of Schedule 1 of Regulations
3	Expiry	14	Conditions of exemption in clause 13
4	Interpretation	15	Exemption from clause 8(5) of Schedule 1 of Regulations
	<i>Exemptions for nominee</i>	16	Conditions of exemption in clause 15
5	Exemptions from sections 37, 37A, and 51 to 54B of Act and Regulations	17	Exemption from clause 10(1)(c) of Schedule 1 of Regulations
6	Conditions of exemptions in clause 5	18	Conditions of exemption in clause 17
	<i>Exemptions for Vector</i>	19	Exemption from clause 10(1)(b) and (2) of Schedule 1 of Regulations
7	Exemptions from section 37(2) of Act and clause 10(4) of Schedule 1 of Regulations	20	Conditions of exemption in clause 19
8	Conditions of exemptions in clause 7	21	Exemption from clause 5 of Schedule 3D of Regulations
9	Exemption from regulation 12(1)(a) of Regulations	22	Conditions of exemption in clause 21
10	Conditions of exemption in clause 9		
11	Exemption from clause 1(4) of Schedule 1 of Regulations		

Notice

- 1 Title**
This notice is the Securities Act (Vector Limited) Exemption Notice 2005.

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 October 2005.

4 Interpretation

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

Act means the Securities Act 1978

AECT beneficiary means a person who, as at 1 May 2005, is an income beneficiary, as that term is defined by the trust deed dated 27 August 1993 establishing the Auckland Energy Consumer Trust

capital bondholder means a person who,—

- (a) as at 1 June 2005, is a registered holder of capital bonds in Vector issued under the trust deed; and
- (b) has a registered address in New Zealand as at that date; and
- (c) is eligible to subscribe for specified securities in respect of a capital bondholder entitlement as described in the offer documents

capital bondholder entitlement means a capital bondholder's entitlement to subscribe for specified securities in accordance with the trust deed

capital bondholder price means the price for specified securities under the offer that—

- (a) is payable by a capital bondholder in respect of the capital bondholder entitlement; and
- (b) is 97.5% of the indicative price or the final price (whichever is lower)

Code means the Takeovers Code approved by the Takeovers Code Approval Order 2000

code offer means the full offer for the shares in NGC made, or to be made, by Vector in accordance with the Code

final price means the price for specified securities under the offer that is payable by institutional investors subscribing for those securities under the institutional offer

indicative price means the amount stated in the offer documents as being payable by investors (other than capital bondholders under the capital bondholder entitlement and institutional investors under the institutional offer) unless the final price is lower than that amount

institutional investors means investors who participate in the institutional offer

institutional offer means that part of the offer described as an institutional offer in the offer documents

investment statement means the investment statement in relation to the offer that is, or will be, dated on or about 24 June 2005

minimum amount means the minimum amount that, in the opinion of Vector's directors, must be raised by the issue of specified securities under the offer in order to provide for—

- (a) the purchase price of any property purchased, or to be purchased, using the whole or part of the proceeds of the offer; and
- (b) any preliminary expenses or commission payable by Vector to any person in consideration of the person agreeing to subscribe for, or to procure or agree to procure subscriptions for, specified securities; and
- (c) working capital; and
- (d) the repayment of money borrowed by Vector in relation to any of the matters referred to in paragraphs (a) to (c)

NGC means NGC Holdings Limited

nominee means any nominee appointed to sell specified securities allotted to that nominee under the code offer

offer means an offer by Vector of shares under the offer documents to—

- (a) shareholders in NGC; and
- (b) AECT beneficiaries; and
- (c) capital bondholders; and
- (d) other investors (including primary market participant applicants and institutional investors)

offer documents means—

- (a) the investment statement; and
- (b) the prospectus

price means the lower of the indicative price or the final price for the specified securities, except the specified securities offered to—

- (a) a capital bondholder under the capital bondholder entitlement; or
- (b) an institutional investor under the institutional offer

primary market participant applicants means investors who participate in the primary market participant offer

primary market participant offer means that part of the offer described as a primary market participant offer in the offer documents

prospectus means the prospectus in relation to the offer that is, or will be, registered on or about 24 June 2005

Regulations means the Securities Regulations 1983

shares means ordinary shares in Vector

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

trust deed means the trust deed dated 25 September 2002 between Vector and The New Zealand Guardian Trust Company Limited

Vector means Vector 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.

Exemptions for nominee

5 Exemptions from sections 37, 37A, and 51 to 54B of Act and Regulations

The nominee, and every person acting on its behalf, is exempted from sections 37, 37A, and 51 to 54B of the Act and from the Regulations (except regulation 8) in respect of the sale by the nominee of any specified securities allotted to the nominee to sell under a resale facility established by Vector and referred to in the code offer.

6 Conditions of exemptions in clause 5

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

- (a) the prospectus contains—
 - (i) a description of the effect of the exemptions in clause 5; and
 - (ii) a statement to the effect that the nominee is an issuer of any specified securities allotted to the nominee and has obligations as an issuer under the Act and the Regulations; and
- (b) the nominee has no material information about Vector that is not disclosed in the prospectus.

Exemptions for Vector

7 Exemptions from section 37(2) of Act and clause 10(4) of Schedule 1 of Regulations

Vector, and every person acting on its behalf, is exempted from section 37(2) of the Act and clause 10(4) of Schedule 1 of the Regulations in respect of the prospectus for the specified securities.

8 Conditions of exemptions in clause 7

- (1) The exemptions in clause 7 are subject to the conditions that—
 - (a) the prospectus states—
 - (i) a formula for calculating the minimum amount; and
 - (ii) when the minimum amount will be known; and
 - (iii) that the minimum amount will be made known to potential investors through a market release; and
 - (b) no specified security may be allotted unless the minimum amount is paid to, and received by, Vector within 4 months after the date of the prospectus.
- (2) For the purposes of subclause (1)(b), an amount is taken to have been paid to, and received by, Vector if—
 - (a) a cheque for that amount is received in good faith by Vector; and
 - (b) Vector's directors have no reason to suspect that the cheque will not be honoured.

9 Exemption from regulation 12(1)(a) of Regulations

Vector, and every person acting on its behalf, is exempted from regulation 12(1)(a) of the Regulations in respect of the investment statement for the specified securities.

10 Conditions of exemption in clause 9

The exemption in clause 9 is subject to the conditions that—

- (a) the investment statement for the specified securities states the amount of total assets, net assets, and total liabilities of Vector if it contains any historical financial information; and
- (b) those amounts, and any other amounts shown in the financial information, are—
 - (i) taken from the audited consolidated statement of financial position of Vector dated 31 December 2004; and
 - (ii) contained in the prospectus.

11 Exemption from clause 1(4) of Schedule 1 of Regulations

Vector, and every person acting on its behalf, is exempted from clause 1(4) of Schedule 1 of the Regulations in respect of the specified securities.

12 Conditions of exemption in clause 11

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

- (a) describes the consideration to be provided under the code offer and contains a statement to the effect that further information about the code offer is contained in the document setting out the terms of the code offer;
- (b) describes the procedure for fixing the final price;
- (c) describes the price;
- (d) describes the factors that may be taken into account in fixing the final price;
- (e) states when the final price is expected to be fixed;
- (f) describes how the specified securities will be allocated;
- (g) states how an investor may ascertain the final price;
- (h) states that the final price will be released to the market upon determination;
- (i) states how a capital bondholder may ascertain the capital bondholder price after the final price is fixed;

- (j) describes the procedures for holding money paid to subscribe for the specified securities by, or on behalf of, Vector:
- (k) describes how over-subscriptions will be treated and the procedure for making refunds:
- (l) 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.

13 Exemption from clause 4(b) of Schedule 1 of Regulations
Vector, and every person acting on its behalf, is exempted from clause 4(b) of Schedule 1 of the Regulations in respect of NGC.

14 Conditions of exemption in clause 13

The exemption in clause 13 is subject to the conditions that the prospectus states—

- (a) the proportion of the issued capital of NGC held by Vector as at the specified date of the prospectus; and
- (b) how an investor may ascertain whether the proportion of the issued capital of NGC held by Vector has altered since the specified date of the prospectus.

15 Exemption from clause 8(5) of Schedule 1 of Regulations
Vector, and every person acting on its behalf, is exempted from clause 8(5) of Schedule 1 of the Regulations in respect of the specified securities.

16 Conditions of exemption in clause 15

The exemption in clause 15 is subject to the conditions that the prospectus contains—

- (a) the information required by clause 8(5) of Schedule 1 of the Regulations calculated as if all the specified securities were allotted at the indicative price; and
- (b) a statement that the net tangible asset backing per unit of the securities being offered was calculated as if the specified securities were allotted at the indicative price.

17 Exemption from clause 10(1)(c) of Schedule 1 of Regulations

Vector, and every person acting on its behalf, is exempted from clause 10(1)(c) of Schedule 1 of the Regulations in respect of the specified securities.

18 Conditions of exemption in clause 17

The exemption in clause 17 is subject to the conditions that—

- (a) the prospectus contains a prospective statement of cash-flows for Vector and its subsidiaries for each of the following periods:
 - (i) the period of 12 months commencing on 1 July 2004 and ending on 30 June 2005; and
 - (ii) the period of 12 months commencing on 1 July 2005 and ending on 30 June 2006;
- (b) the prospective statements of cashflows comply with clause 10(2) of Schedule 1 of the Regulations.

19 Exemption from clause 10(1)(b) and (2) of Schedule 1 of Regulations

Vector, and every person acting on its behalf, is exempted from clause 10(1)(b) and (2) of Schedule 1 of the Regulations in respect of the specified securities available to shareholders in NGC under the offer.

20 Conditions of exemption in clause 19

The exemption in clause 19 is subject to the conditions that—

- (a) the prospectus contains a statement of—
 - (i) the expected effect of Vector acquiring shares in NGC on the operations of NGC; and
 - (ii) the plans of Vector's directors for NGC;
- (b) the prospective statement of cash flows required by clause 10(1)(c) of Schedule 1 of the Regulations shows—
 - (i) the likely effect on Vector's cash flows of Vector acquiring shares in NGC resulting from the code offer; and
 - (ii) the principal assumptions on which the statement of cash flows is based.

- 21 Exemption from clause 5 of Schedule 3D of Regulations**
Vector, and every person acting on its behalf, is exempted from clause 5 of Schedule 3D of the Regulations in respect of the specified securities available to shareholders in NGC under the offer.
- 22 Conditions of exemption in clause 21**
The exemption in clause 21 is subject to the conditions that the investment statement—
- (a) contains a description of the consideration offered for the shares in NGC;
 - (b) states the proportion of shares in NGC that Vector wishes to acquire;
 - (c) states the minimum number of shares offered as consideration for the shares in NGC held by a shareholder in NGC expressed as a ratio, and how the minimum number could be increased as a result of the final price being less than the indicative price;
 - (d) states the amount of any cash sum offered as part of the consideration for each share in NGC;
 - (e) describes how a holder of shares in NGC may accept the code offer.

Dated at Wellington this 21st day of June 2005.

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

[L.S.]

J. Diplock,
Chairperson.

Statement of reasons

This notice comes into force on the day after the date of its notification in the *Gazette* and expires on the close of 31 October 2005.

This notice exempts, subject to conditions, Vector Limited (**Vector**) from certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in respect of any offer of specified securities.

The Securities Commission (the **Commission**) considers that it is appropriate to grant the exemptions for the following reasons:

- due to the nature of the offer, the price of the shares will not be known at the time of the offer. The conditions of the exemption from clause 1(4) of Schedule 1 of the Securities Regulations 1983 (the **Regulations**) require that potential investors receive information about how and when the price will be determined:
- as the share holding in NGC Holdings Limited (**NGC**) is likely to change under the takeover offer, Vector is unable to comply with the requirements of clause 4(b) of Schedule 1 of the Regulations. The conditions of this exemption require that the proportion of issued capital held by Vector as at the time of the offer is released and the potential investors are informed about how they can ascertain if that percentage has changed:
- as the price of the shares will not be determined until after the close of the NGC takeover offer, Vector is unable to comply with the requirements of clause 8(5) of Schedule 1 of the Regulations. The conditions of this exemption provide potential investors with the required information as if the price was equal to the indicative price:
- the conditions of the exemption from clause 10(1)(c) of Schedule 1 of the Regulations will mean that the prospective statement of cash flows will be aligned to Vector's normal accounting period. This means that the information will be more easily comparable to Vector's financial statements and more useful for investors:
- the consideration offered under the takeover offer will be shares in NGC. As such, there are no cash proceeds in relation to this part of the offer. The exemption is consistent with previous Commission decisions relating to takeovers:
- as the takeover offer involves the offer of shares and cash as consideration, Vector is unable to comply with the requirements of clause 5 of Schedule 3D of the Regulations. The conditions of this exemption allow potential investors to calculate what is being offered as consideration, how many shares are being offered, and how much cash will be offered. This exemption is consistent with previous Commission decisions:

- the exemption from regulation 12(1)(a) of the Regulations permits extra information about the assets of the issuing group to be included in the investment statement, while still requiring the investment statement to set out the amounts of the total assets, net assets, and total liabilities of the issuing group, which is consistent with the policy of regulation 12(1)(a). The registered prospectus must also contain this information:
- due to the nature of the takeover offer, Vector is unable to comply with the requirements of clause 10(4) of Schedule 1 of the Regulations and section 37(2) of the Securities Act 1978. The conditions of the exemptions require that the potential investors are given information to enable them to calculate the minimum amount, that the amount will be released by Vector when it becomes known, and that no allotment will be made unless that amount has been received by Vector within 4 months after the date of the prospectus:
- if Part 2 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 relating to the nominee is unlikely to be useful to potential investors in considering whether or not to subscribe for shares in Vector and may be confusing. The conditions of the exemption require potential investors to be advised that the nominee remains legally responsible as an issuer and require that the nominee does not have any material information about Vector that is not contained in the prospectus.

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

Date of notification in *Gazette*: 23 June 2005.

This notice is administered by the Securities Commission.
