



## Securities Act (Paradigm NZD Fund 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	7	Exemption from clause 8(5) of Schedule 1 of Regulations
2	Commencement	8	Conditions of exemption in clause 7
3	Expiry	9	Exemption from clause 10(1)(c) of Schedule 1 of Regulations
4	Interpretation	10	Conditions of exemption in clause 9
5	Exemption from clause 1(4) of Schedule 1 of Regulations		
6	Conditions of exemption in clause 5		

### Notice

#### 1 Title

This notice is the Securities Act (Paradigm NZD Fund 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 July 2010.

#### 4 Interpretation

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

**Act** means the Securities Act 1978

**initial subscription price** means the price for any subscription for specified securities in an initial offer period

**Paradigm** means Paradigm NZD Fund Limited, a company incorporated in the British Virgin Islands on 22 November 2004

**Regulations** means the Securities Regulations 1983

**specified securities** means redeemable preference shares in Paradigm offered to the public by Paradigm

**subsequent subscription price** means the price for any subscription for specified securities after an initial offer period.

- (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 clause 1(4) of Schedule 1 of Regulations**  
Paradigm and every person acting on its behalf are exempted from clause 1(4) of Schedule 1 of the Regulations in respect of the specified securities.

**6 Conditions of exemption in clause 5**

The exemption in clause 5 is subject to the conditions that—

- (a) Paradigm's first registered prospectus in New Zealand relating to the offer of the specified securities states—
- (i) the initial subscription price to be paid in an initial offer period; and
  - (ii) the initial offer period; and
- (b) Paradigm's first registered prospectus in New Zealand and every other registered prospectus in New Zealand relating to the offer of the specified securities—
- (i) describes the procedure for fixing the subsequent subscription price; and
  - (ii) states when the subsequent subscription price will be fixed; and
  - (iii) describes how subscribers must pay for subscriptions for the specified securities; and
  - (iv) describes how subscriptions for the specified securities will be held by Paradigm pending allotment of the specified securities; and
  - (v) states how an investor may ascertain the subsequent subscription price; and

- (vi) states how any overpayments of the subsequent subscription price will be treated, and if overpayments are to be refunded, describes the procedure for refunding overpayments; and
- (c) if any registered prospectus, investment statement, or advertisement relating to the offer of the specified securities refers to this notice or to the exemption granted by clause 5, that prospectus, investment statement, or advertisement also states that—
  - (i) it is not the function of the Securities Commission to approve investments or the terms of offers of specified securities; and
  - (ii) the Securities Commission has not expressed a view about investment in the specified securities or the terms of the offer of the specified securities.

**7 Exemption from clause 8(5) of Schedule 1 of Regulations**  
Paradigm and every person acting on its behalf are exempted from clause 8(5) of Schedule 1 of the Regulations in respect of the specified securities.

**8 Conditions of exemption in clause 7**

The exemption in clause 7 is subject to the conditions that the registered prospectus relating to the offer of the specified securities contains a statement of Paradigm's reasons for not providing the information required by clause 8(5) of Schedule 1 of the Regulations, including—

- (a) statements to the effect that—
  - (i) Paradigm intends to issue the specified securities on the basis described in the prospectus; and
  - (ii) the subsequent subscription price of the specified securities is to be determined by reference to the net tangible asset backing per unit of specified securities; and
  - (iii) the net tangible asset backing per unit of specified securities will depend on Paradigm's performance after Paradigm commences investment activity; and
  - (iv) a calculation of the net tangible asset backing per unit of specified securities that is based on the

assumption that all the specified securities had been allotted cannot be specified in the prospectus because the number of specified securities that may be allotted cannot be determined with certainty; and

- (b) a statement to the effect that the calculation of the net tangible asset backing per unit of specified securities will reflect the amount of the subscription price paid by subscribers for the specified securities (and the value of investments acquired by Paradigm using those funds) less any amounts paid by Paradigm as fees; and
- (c) to the extent of Paradigm's knowledge at the specified date, a statement of how those fees will be determined and levied; and
- (d) a prominent warning that those fees may include fees that are not known to Paradigm at the specified date.

## **9 Exemption from clause 10(1)(c) of Schedule 1 of Regulations**

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

## **10 Conditions of exemption in clause 9**

The exemption in clause 9 is subject to the conditions that the registered prospectus relating to the offer of the specified securities contains, in the place where the prospective statement of cash flows required by clause 10(1)(c) of Schedule 1 of the Regulations would otherwise have been set out,—

- (a) a statement of Paradigm's reasons for not providing the prospective statement of cash flows required by clause 10(1)(c); and
- (b) a statement to the effect that investors should regard investment in Paradigm as high risk.

Dated at Wellington this 2nd day of August 2005.

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

[L.S.]

C. A. N. Beyer,  
Member.

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### Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 July 2010, exempts Paradigm NZD Fund Limited (**Paradigm**) from the following provisions of Schedule 1 of the Securities Regulations 1983:

- clause 1(4)—this means that, except for an initial subscription price in the first prospectus, Paradigm’s registered prospectuses do not have to state the price to be paid for the securities being offered; and
- clause 8(5)—this means that Paradigm’s registered prospectuses do not have to include in their financial statement the net tangible asset backing per unit of the securities being offered; and
- clause 10(1)(c)—this means Paradigm’s first registered prospectus does not have to provide a prospective statement of cash flows for the next year.

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

- although securities in the fund are equity securities under New Zealand law, the business of the company is akin to a managed fund. The company is unable to comply with the requirement to state a price for its securities in its prospectus (as the price will change depending on the value of investments in the fund). It is also unable to state the net tangible asset backing per unit of the securities on an ongoing basis, as this will depend on the performance of the underlying investments of the fund; and
- as the company will be investing in market securities, any prospective statement of cash flows would be highly speculative and may be of little relevance to potential investors; and
- the conditions of the exemptions require the company to provide descriptions of the pricing of the securities, and of the

manner in which the net asset backing per unit of the securities will be determined. The conditions also require the company to set out for investors the reasons why no prospective financial information is provided, and to indicate the high risk nature of the investment. The information required by the conditions should enable investors to make informed decisions.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 4 August 2005.  
This notice is administered by the Securities Commission.

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