



THE SECURITIES ACT (BUILDING SOCIETIES) EXEMPTION NOTICE 1990

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

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Building Societies) Exemption Notice 1990.

(2) This notice shall come into force on the 1st day of February 1990.

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

“The Act” means the Securities Act 1978:

“Building society” has the same meaning as in section 2 of the Building Societies Act 1965:

“Building society share” means a share issued, or to be issued, by a building society pursuant to section 11 of the Building Societies Act 1965; but does not include a share which carries the right to payment of any dividend, or on which interest is payable from the annual surplus of the society, and which is irredeemable or redeemable at the option of the society:

“Designated building society” means a building society named in the Schedule to this notice and which has, as its principal business, the provision of any or all of the services listed in subparagraphs (i) to (x) (except subparagraph (viii)) of paragraph (a) of subsection (1) of section 9A of the Building Societies Act 1965:

“Specified participatory security” means a participatory security in the form of a building society share.

(2) Any term or expression which is not defined in this notice, but which is defined in the Act, shall have the meaning given to it by the Act.

3. Designated building societies exempt from certain provisions of the Securities Act 1978—(1) Subject to subclause (3) of this clause, every designated building society, and every person acting on its behalf, is exempted from compliance with the provisions of sections 33 (2) and 45 to 50 of the Act, in respect of any offer of debt securities made in the course of carrying on the principal business of that building society.

(2) Subject to subclause (3) of this clause, every designated building society, and every person acting on its behalf, is exempted from compliance with the provisions of sections 33 (3) and 45 to 50 of the Act, in

respect of any offer of specified participatory securities made in the course of carrying on the principal business of that building society.

(3) The exemptions granted by subclauses (1) and (2) of this clause are subject to the condition that either—

- (a) The directors of each designated building society shall, at least once every 2 months during the period of the exemption provide to the Securities Commission a statement as to whether, after due enquiry by them in relation to the period between the date of the latest balance sheet set out in the most recent registered prospectus and the date of the statement, there have, in their opinion, arisen any circumstances that materially adversely affect—
- (i) The trading or profitability of the building society; or
 - (ii) The value of its assets; or
 - (iii) The ability of the building society to pay its liabilities due within the next 12 months; or

(b) The designated building society is a person to which section 190 (1) of the Reserve Bank of New Zealand Act 1989 applies.

(4) This clause shall expire with the close of the 31st day of December 1990.

4. Designated building societies exempt from section 52 (1) and (2) of the Securities Act 1978 in relation to register of securities required to be kept under section 51 (1) (c) of that Act—(1) Subject to subclause (2) of this clause, every designated building society is exempted from compliance with the provisions of section 52 (1) and (2) of the Act in respect of specified participatory securities registered on the register kept by that building society under section 51 (1) (c) of the Act.

(2) The exemption from section 52 (1) of the Act granted by subclause (1) of this clause is subject to the condition that the register shall, except when duly closed (but subject to such reasonable restrictions as the building society may impose, so that not less than 2 hours in each day shall be allowed for inspection), be open to the inspection of any holder of specified participatory securities registered therein, or the representative of the holder, in respect of the securities of that holder, without fee.

5. Designated building societies exempt from the provisions of section 54 of the Securities Act 1978 in respect of certain securities—(1) Subject to subclause (2) of this clause, every designated building society is exempted from compliance with the provisions of section 54 of the Act in respect of debt securities and specified participatory securities issued by that building society.

(2) The exemption granted by subclause (1) of this clause is subject to the condition that the designated building society shall send, or cause to be sent, to the security holder at any time upon request and at least once every 6 months, a written statement which properly evidences the nature, ownership, terms, and conditions of the security.

6. Designated building societies exempt from certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in respect of offers of debt securities or specified participatory securities—(1) Subject to subclause (2) of this clause, every designated building society, and every person acting on its behalf, is exempted from compliance with the provisions of sections 37A (1) (a) to (d) and 38 (a) and

(b) of the Act and regulation 10 of the Securities Regulations 1983 in respect of any offer of debt securities or specified participatory securities made in the course of carrying on the principal business of that building society.

(2) The exemption granted by subclause (1) of this clause is subject to the following terms and conditions:

(a) That copies of the registered prospectus relating to the debt securities or specified participatory securities are on display and available to members of the public during normal business hours at each place of business of the designated building society at which offers of the debt securities or specified participatory securities are made; and

(b) That at the date of allotment, the registered prospectus is not known by the designated building society, or any director of it, to be false or misleading in a material particular by reason of failing to refer, or give proper emphasis, to adverse circumstances (whether or not the registered prospectus became so misleading as a result of circumstances occurring after the date of the registered prospectus).

(3) For the purposes of this clause, the terms “debt security” and “specified participatory security” do not include a security which renews or varies the terms of an existing security.

7. Revocations—The following notices are hereby revoked:

(a) The Securities Act (Building Societies) Exemption Notice 1988*:

(b) The Securities Act (Building Societies) Exemption Notice 1988, Amendment No. 2†.

*S.R. 1988/88
†S.R. 1988/335

SCHEDULE

Ashburton Loan and Building Society
Ashburton Permanent Building Society
Community Building Society
Countrywide Endeavour Building Society
Hastings Permanent Building and Investment Society
Heretaunga Permanent Building Society
Hibernian Permanent Building Society
Lyttelton Building Society
Napier Building Society (Permanent)
National Mutual Permanent Building Society
Nelson Building Society
Southern Cross Building Society
Southland Building and Investment Society
United Building Society
Wairarapa Building Society
Wanganui Rangitikei Building Society
Westport Permanent Building and Investment Society

Dated at Wellington this 29th day of January 1990.

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

[L.S.]

P. D. McKENZIE,
Member.

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 1 February 1990, replaces the Securities Act (Building Societies) Exemption Notice 1988.

Clause 3 exempts the building societies named in the Schedule, and whose principal business is to provide any or all of the services referred to in section 9A (1) (a) (i) to (x) (except subparagraph (viii)) of the Building Societies Act 1965, from compliance with the provisions of sections 33 (2), 33 (3), and 45 to 50 of the Securities Act 1978 in the case of offers of debt securities and specified participatory securities (as that term is defined) made in the course of carrying on their principal business.

The exemption in the case of offers of debt securities is new.

The exemptions granted by clause 3 are subject to the condition that either—

- (a) At least once every 2 months, the directors of each society provide the Securities Commission with a statement as to whether, in relation to the period between the date of the latest balance sheet set out in the most recent registered prospectus and the date of the statement, they consider that any circumstances have arisen that materially adversely affect the society's trading or profitability, or the value of its assets, or its ability to pay its current liabilities; or
- (b) The designated building society is subject to prudential supervision by the Reserve Bank of New Zealand.

The exemption expires on 31 December 1990.

Clause 4 exempts those building societies from compliance with the provisions of section 52 (1) and (2) of the Securities Act 1978 in relation to specified participatory securities registered on the register required to be kept under section 51 (1) (c) of that Act.

Clause 5 exempts those building societies from compliance with section 54 of that Act in respect of debt and specified participatory securities. The reference to debt securities is new.

Clause 6 exempts those building societies from compliance with the provisions of sections 37A (1) (a) to (d) and 33 (a) and (b) of the Securities Act 1978 and regulation 10 of the Securities Regulations 1983 in the case of offers of debt securities and specified participatory securities. This exemption is subject to the conditions—

- (a) That copies of the registered prospectus relating to the securities are on display and available to the public at each place of business of the building society during normal business hours; and
- (b) That at the date of allotment, the registered prospectus is not known by the building society, or any director of it, to be false or misleading in a material particular by reason of failing to refer, or give proper emphasis, to adverse circumstances (whether or not it became misleading as a result of circumstances occurring after the date of the registered prospectus).

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

Date of notification in *Gazette*: 30 January 1990.

This notice is administered in the Securities Commission.