

Reprint
as at 1 December 2016



**Securities Act (Amendments to Exemption Notices
Affecting Investment Adviser Information) Exemption
Notice 2008**
(SR 2008/60)

Securities Act (Amendments to Exemption Notices Affecting Investment Adviser Information) Exemption Notice 2008: revoked, on 1 December 2016, pursuant to Schedule 1 clause 26 of the Financial Markets Conduct Regulations 2014 (LI 2014/326).

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).

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Notice

1 Title

This notice is the Securities Act (Amendments to Exemption Notices Affecting Investment Adviser Information) Exemption Notice 2008.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint. Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Financial Markets Authority.

2 Commencement

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

3 Amendments relating to advice concerning investment advisers

- (1) Clause 2 of Schedule 1 of each of the notices specified in Part 1 of Schedule 1 of this notice are amended by omitting the heading **Choosing an investment adviser** and all of the words in clause 2 below that heading and above the heading *What sort of investment is this?* and substituting the heading and words set out in Schedule 2 of this notice.
- (2) Clause 2 of the Schedule of the Securities Act (NZX-NZAX Market) Exemption Notice 2005 is amended by omitting the heading **Choosing an investment adviser** and all of the words in clause 2 below that heading and above the heading *What sort of investment is this?* and substituting the heading and words set out in Schedule 2 of this notice.
- (3) The Schedule of each of the notices specified in Part 2 of Schedule 1 of this notice is amended by omitting the heading *Choosing an investment adviser* and all of the words in the Schedule of those notices below that heading and substituting the heading and words set out in Schedule 2 of this notice.

4 Transitional provision

The amendments made by this notice only apply to documents that are distributed on or after 30 April 2008.

Schedule 1 Provisions amended

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Part 1 Amendments to clause 2 of Schedule 1

Securities Act (Airedale Developments (Auckland) Limited) Exemption Notice 2004 (SR 2004/197)

Securities Act (Alpine Pacific Developments Limited) Exemption Notice 2005 (SR 2005/201)

Securities Act (Braemar Lodge 2004 Limited) Exemption Notice 2005 (SR 2005/202)

Securities Act (Kawaroa Consultancy Limited) Exemption Notice 2006 (SR 2006/14)

Securities Act (KCL Investments Limited) Exemption Notice 2006 (SR 2006/274)

Securities Act (KCL Investments Limited) Exemption Notice 2007 (SR 2007/101)

Securities Act (Monaco Village Holdings Limited) Exemption Notice 2005 (SR 2005/203)

Securities Act (One Riccarton Road Limited) Exemption Notice 2007 (SR 2007/264)

Securities Act (Real Property Proportionate Ownership Schemes) Exemption Notice 2002 (SR 2002/315)

Securities Act (Te Kaikoura Investments Limited) Exemption Notice 2003 (SR 2003/265)

Part 2 **Amendments to Schedule**

Securities Act (Australian Registered Managed Investment Schemes) Exemption Notice 2003 (SR 2003/297)

Securities Act (Great Britain Collective Investment Schemes) Exemption Notice 2004 (SR 2004/346)

Schedule 2 **Amended advice**

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Engaging an investment adviser

An investment adviser must give you a written statement that contains information about the adviser and his or her ability to give advice. You are strongly encouraged to read that document and consider the information in it when deciding whether or not to engage an adviser.

Tell the adviser what the purpose of your investment is. This is important because different investments are suitable for different purposes, and carry different levels of risk.

The written statement should contain important information about the adviser, including—

- relevant experience and qualifications, and whether dispute resolution facilities are available to you; and
- what types of investments the adviser gives advice about; and
- whether the advice is limited to investments offered by 1 or more particular financial institutions; and

- information that may be relevant to the adviser's character, including certain criminal convictions, bankruptcy, any adverse findings by a court against the adviser in a professional capacity, and whether the adviser has been expelled from, or prohibited from joining, a professional body; and
- any relationships likely to give rise to a conflict of interest.

The adviser must also tell you about fees and remuneration before giving you advice about an investment. The information about fees and remuneration must include—

- the nature and level of the fees you will be charged for receiving the advice; and
- whether the adviser will or may receive a commission or other benefit from advising you.

An investment adviser commits an offence if he or she does not provide you with the information required.

Dated at Wellington this 28th day of February 2008.

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

[Seal]

J Diplock,
Chairperson.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends various exemption notices to update the advice that is provided to investors in relation to investment advisers. The updated advice reflects recent changes to the law relating to investment advisers' disclosure obligations. The amendments only apply to documents that are distributed on or after 30 April 2008.

The Securities Commission considers that the amendments are appropriate for the following reasons:

- the Securities Commission has recommended amendments to clause 1(1) of Schedule 3D of the Securities Regulations 1983 to reflect changes to the law relating to investment advisers' disclosure obligations;

- some exemption notices require issuers to include the existing text of clause 1(1) of Schedule 3D of the Securities Regulations 1983 in offer documents for offers made in reliance on those exemption notices;
- investors who receive information from issuers who are relying on one of these exemption notices will therefore receive the out-of-date and inaccurate statement;
- the exemption notices that contain the existing text should be updated to reflect changes in the underlying legislation.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 6 March 2008.

Reprints notes

1 *General*

This is a reprint of the Securities Act (Amendments to Exemption Notices Affecting Investment Adviser Information) Exemption Notice 2008 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Financial Markets Conduct Regulations 2014 (LI 2014/326): Schedule 1 clause 26