

Securities Act (Southland Building Society) Exemption Amendment Notice 2013

Pursuant to sections 70B and 70D of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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Notice

- 1 Title**
This notice is the Securities Act (Southland Building Society) Exemption Amendment Notice 2013.
- 2 Commencement**
This notice comes into force on 1 October 2013.
- 3 Revocation**
This notice expires on the close of 30 September 2017.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978
redeemable shares means redeemable shares that—
 - (a) are offered to the public by SBS; and
 - (b) for the purposes of the Act, consist of participatory securities and debt securities**Regulations** means the Securities Regulations 2009
SBS means Southland Building Society, a building society registered under the Building Societies Act 1965.

(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 sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of Act and regulation 27(2) of Regulations

SBS and every person acting on SBS's behalf are exempted from sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of the Act and regulation 27(2) of the Regulations in respect of the redeemable shares to the extent that the redeemable shares consist of participatory securities.

6 Condition of exemptions in clause 5

The exemptions in clause 5 are subject to the condition that the investment statement relating to the offer of the redeemable shares (which is required to the extent that the redeemable shares consist of debt securities) clearly explains—

- (a) the nature of the redeemable shares; and
- (b) the rights of purchasers of the redeemable shares that arise from those redeemable shares to the extent that they consist of participatory securities.

7 Application of clause 5

An exemption in clause 5 only applies if SBS is a registered bank at the time when the exemption is relied upon.

Dated at Wellington this 18th day of September 2013.



Simone Robbers
Head of Primary Regulatory Operations
Financial Markets Authority

Statement of reasons

This notice, which comes into force on 1 October 2013, grants an exemption on substantially the same terms as the Securities Act (Southland Building Society) Exemption Notice 2008 (the **previous notice**) to extend the exemptions contained within the previous notice until 30 September 2017 and to update a reference to a provision of the Securities Regulations 1983.

Southland Building Society (SBS) offers redeemable shares (**redeemable shares**) to the public. When SBS does so, it is offering an instrument that consists of a participatory security and a debt security. SBS is a

registered bank and, therefore section 5(2C) of the Securities Act 1978 (the **Act**) applies to it, meaning that certain specified sections of the Act do not apply to SBS in respect of the redeemable shares to the extent that they consist of debt securities. However, other provisions of the Act continue to apply to SBS in respect of the redeemable shares to the extent that they consist of participatory securities. The notice exempts SBS from sections 33(3), 37(1), 37A(1)(a), and 51 to 54B of the Act and regulation 27(2) of the Securities Regulations 2009, subject to specified conditions. These exemptions relate to the redeemable shares to the extent that they consist of participatory securities, and are granted to SBS in order to ensure that SBS's compliance obligations in relation to the redeemable shares do not go beyond those of other registered banks.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 70B(2) of the Act, considers it appropriate to grant the exemptions on substantially the same terms as the previous notice because:—

- the redeemable shares issued by SBS consist of debt securities in that holders deposit money and have a right to be repaid. However, holders of redeemable shares also obtain additional rights, such as the right to share in the surplus assets of SBS upon liquidation. This means it is arguable that holders of redeemable shares also receive a participatory security in terms of the Act:
- the exemptions in this notice remove SBS's obligations in respect of the participatory securities that are issued to subscribers as an ancillary part of the redeemable shares. The debt securities, however, remain. SBS is required to comply with all of the provisions of the Act and the Securities Regulations 2009 in respect of those debt securities (subject to any available exemptions):
- the Act provides exemptions for registered banks that issue debt securities, thereby recognising their special nature as issuers regulated by the Reserve Bank of New Zealand. The Securities Commission has previously consulted with the Reserve Bank of New Zealand regarding the exemptions granted in the previous notice. The effect of the exemptions is to achieve consistency between the regulatory treatment of deposits issued by SBS and those issued by other registered banks.

In all of these circumstances the renewal will not cause significant detriment to subscribers of the securities and the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.
