

## Securities Act (Westhaven Marina Limited) Exemption Notice 2013

Pursuant to section 70B 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 (Westhaven Marina Limited) Exemption Notice 2013.
- 2 Commencement**  
This notice comes into force on 16 December 2013.
- 3 Revocation**  
The notice is revoked on the close of 30 November 2016.
- 4 Interpretation**
  - (1) In this notice, unless the context otherwise requires:  
**Act** means the Securities Act 1978  
**issuer** means Westhaven Marina Limited  
**scheme** means the scheme for ownership of rights and interests in Westhaven Marina issued by Ports of Auckland Limited under the Securities Act (Westhaven (Marina Extension) Trust) Exemption Notice 1992, Securities Act (Westhaven (Existing Marina) Trust) Exemption Notice 1995, Securities Act (Westhaven (Existing Marina) Trust) Exemption Notice 1997, Securities Act (Westhaven (Marina Extension)

Trust) Exemption Notice 1997, and Securities Act (Westhaven (Existing Marina) Trust) Exemption Notice 2002

**Regulations** means the Securities Regulations 2009

**reissued participatory securities** means marina berth licences relating to marina berths for which licences have been previously allotted under the scheme

**Westhaven Marina** means the marina situated at 137 Westhaven Drive, Westhaven Drive, Auckland

- (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 Exemptions from sections 33(3), 37 and 37A of the Act relating to reissued participatory securities**

The issuer and every person acting on its behalf, is exempted from sections 33(3), 37 and 37A of the Act in respect of offers of reissued participatory securities that are offers in the form of the reissue of those reissued participatory securities.

Dated at Wellington this 13<sup>th</sup> day of December 2013.



Simone Robbers  
Head of Primary Regulatory Operations  
Financial Markets Authority

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### Statement of Reasons

This notice comes into force on 16 December 2013. The notice is revoked on the close of 30 November 2016.

The notice exempts Westhaven Marina Limited (**the issuer**), subject to conditions, from the requirements under the Securities Act 1978 (**the Act**) for a statutory supervisor, registered prospectus and investment statement in respect of reissued participatory securities which are licences for marina berths at Westhaven Marina.

Securities Act (Westhaven Marina Limited)  
Exemption Notice 2013

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The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Act, considers that it is appropriate to grant the exemptions for the following reasons—

- section 6 of the Act provides an exemption from the statutory supervisor, prospectus and investment statement requirements for offers of previously allotted securities (unless the securities were originally allotted with a view to being offered for sale to the public and were not previously offered for sale to the public):
- offers of previously allotted marina berth licences would ordinarily be exempt from the statutory supervisor, prospectus and investment statement requirements under section 6 of the Act. However, the issuer cannot rely on the exemption in section 6 of the Act for the transfer of the marina berth licences because the transfer process requires the original marina berth licences to be surrendered and reissued and as such, technically, this would be considered to be an offer of new securities. The exemptions are consistent with the policy of the Act for previously allotted securities and will avoid unnecessary costs of appointing a statutory supervisor, preparing a prospectus, and maintaining an up to date investment statement for these reissued marina berth licences:

In the circumstances of the nature of the securities to which the exemptions apply, the Financial Markets Authority considers that the exemption granted is not broader than reasonably necessary to address the matters that gave rise to the exemption and will not cause significant detriment to subscribers in the scheme who are members of the public in New Zealand.

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