



Securities Act (Canterbury Building Society) Exemption Notice 2007

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 (Canterbury Building Society) Exemption Notice 2007.

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 December 2007.

4 Interpretation

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

Act means the Securities Act 1978

CBS means Canterbury Building Society

designated date means a date that is not more than 21 days before the date on which the information, statements, certificates, and other matters required under clause 6(d) are sent to members of LBS

FRS-42 means Financial Reporting Standard No 42, approved under the Financial Reporting Act 1993

LBS means Loan and Building Society

merged society means CBS after LBS has merged with it in accordance with the merger

merger means the union of CBS and LBS that is to be effected under section 32 of the Building Societies Act 1965

Regulations means the Securities Regulations 1983

specified participatory securities means ordinary shares in the capital of CBS that are, or are to be, offered under the merger.

(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) and 53 to 53F of Act and regulation 3(3) of Regulations

CBS and every person acting on its behalf are exempted from sections 33(3) and 53 to 53F of the Act and regulation 3(3) of the Regulations in respect of the specified participatory securities.

6 Conditions of exemptions in clause 5

The exemptions in clause 5 are subject to the conditions that—

(a) the registered prospectus for the offer of the specified participatory securities contains—

- (i) the information, statements, certificates, and other matters specified in clauses 2, 4 to 7, 16, 17, 21, 39, and 40 of Schedule 1 of the Regulations applied as if the specified participatory securities were equity securities; and
- (ii) a description and, if practicable, quantification of all liabilities (including potential and contingent liabilities) that a subscriber for specified participatory securities will or may incur as a holder of specified participatory securities; and
- (b) the registered prospectus for the offer of the specified participatory securities contains, or is accompanied by,—
 - (i) copies of the most recent audited consolidated financial statements of CBS and of LBS that—
 - (A) comply with, and have been registered under, the Financial Reporting Act 1993; or
 - (B) in the case of interim consolidated financial statements, have been prepared to comply with the Financial Reporting Act 1993 as if they required registration under that Act; and
 - (ii) if the date of allotment of the specified participatory securities would be more than 9 months after the balance date of the financial statements of CBS referred to in subparagraph (i), a copy of the interim consolidated financial statements of CBS that comply with that subparagraph (except that they need not be audited) for a period beginning on the day after that balance date and ending on a date that is not more than 9 months later; and
 - (iii) a copy of a prospective consolidated statement of financial position for the merged society as at the date on which the merger is proposed to take effect that complies with FRS-42; and
 - (iv) copies of prospective consolidated statements of financial position, financial performance, and cash flows for 1 or more future accounting periods of the merged society that in each case

- are prepared as if the merger had already been effected and that comply with FRS-42; and
- (v) a statement by the directors of CBS as to whether, after due inquiry by them in relation to the period between the balance date of the financial statements of CBS referred to in subparagraph (i) or of the interim financial statements of CBS referred to in subparagraph (ii) (as the case may be) and the designated date, there have, in their opinion, arisen any circumstances that materially adversely affect—
 - (A) the trading or profitability of CBS; or
 - (B) the value of its assets; or
 - (C) the ability of CBS to pay its liabilities due within the next 12 months; and
 - (vi) a statement by the directors of CBS that, between the balance date of the financial statements of CBS referred to in subparagraph (i) or of the interim financial statements of CBS referred to in subparagraph (ii) (as the case may be) and the designated date, there have been no material changes in the nature of the business of CBS; and
 - (vii) the information, statements, certificates, and other matters that must be sent to shareholders under section 221(3)(a) to (d), (f), and (g) of the Companies Act 1993 applied as if CBS and LBS were companies amalgamating under Part 13 of that Act; and
- (c) the date of allotment of any specified participatory securities is not more than 9 months after the balance date of the financial statements of CBS referred to in paragraph (b)(i) or of any interim financial statements of CBS referred to in paragraph (b)(ii) (as the case may be); and
 - (d) it is a term of the offer of the specified participatory securities that CBS complies with the applicable requirements of the amalgamation procedure under sections 220 and 221(1), (2), and (3)(a) to (d), (f), and (g) of the Companies Act 1993 applied as if CBS and LBS were companies amalgamating under Part 13 of that Act; and

- (e) it is a term of the offer that CBS complies with sections 53 to 53F of the Act applied as if the specified participatory securities were equity securities.

7 When certain financial statements not required

The registered prospectus for the offer of the specified participatory securities does not have to contain, or be accompanied by, the financial statements of LBS referred to in clause 6(b)(i) if—

- (a) a copy of the most recent annual report of LBS has previously been sent to the members of LBS; or
- (b) a copy of the most recent financial statements of LBS has previously been sent to the members of LBS under section 97A of the Building Societies Act 1965.

8 Exemption from regulation 7A(1) of Regulations

CBS and every person acting on its behalf are exempted from regulation 7A(1) of the Regulations in respect of the specified participatory securities.

9 Condition of exemption in clause 8

The exemption in clause 8 is subject to the condition that every investment statement that relates to the specified participatory securities contains all of the information, statements, and other matters specified in Schedule 3D of the Regulations that are applicable as if the specified participatory securities were equity securities (subject to the modifications referred to in clauses 10 and 11).

10 Exemption from clauses 1(1) and 5 of Schedule 3D of Regulations

- (1) CBS and every person acting on its behalf are exempted, in respect of the specified participatory securities, from the requirement to include in an investment statement in the list of questions referred to in clause 1(1) of Schedule 3D of the Regulations, the question “*How much do I pay?*”.
- (2) CBS and every person acting on its behalf are exempted, in respect of the specified participatory securities, from clause 5 of Schedule 3D of the Regulations and the italicised question above that clause.

11 Conditions of exemptions in clause 10

- (1) The exemption in clause 10(1) is subject to the condition that, in place of the question “*How much do I pay?*”, the investment statement includes the question “*What will this cost me?*”.
- (2) The exemption in clause 10(2) is subject to the condition that the investment statement contains a brief description of the terms on which the securities of LBS can be exchanged for the specified participatory securities.

Dated at Wellington this 13th day of November 2007.

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* and expires on 31 December 2007, exempts Canterbury Building Society (**CBS**), subject to conditions, from sections 33(3) and 53 to 53F of the Securities Act 1978 and regulations 3(3) and 7A(1) and clauses 1(1) and 5 of Schedule 3D of the Securities Regulations 1983 in respect of a proposed merger between CBS and Loan and Building Society (**LBS**).

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

- CBS’s shares are participatory securities in terms of the Securities Act 1978. However, the shares have the characteristics of equity securities. The Securities Act (Building Societies) Exemption Notice 2002 allows a prospectus in respect of building society shares to contain the information usually

required in a prospectus for equity securities and it is consistent with that class exemption to enable disclosure about the issue of CBS shares under its merger with LBS to be made as if it were an issue of equity securities:

- the exemptions are consistent with the policy of the Securities Act (Building Societies) Exemption Notice 2002 and the Securities Act (Amalgamations) Exemption Notice 2002. The Commission considers it appropriate to extend the terms of the Securities Act (Amalgamations) Exemption Notice 2002 to this union. This will enable CBS, a building society registered under the Building Societies Act 1965, to make disclosure about the offer of its shares under the merger with LBS using the amalgamations provisions of Part 13 of the Companies Act 1993, as if CBS were a company. CBS and LBS will still need to comply with the union provisions of the Building Societies Act 1965.

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

Date of notification in *Gazette*: 15 November 2007.

This notice is administered by the Securities Commission.
