

Deposit Guarantee Scheme – further exemption proposals

The Securities Commission proposes to grant further exemptions in relation to the Crown's deposit guarantee scheme to facilitate disclosure by collective investment schemes that are accepted into the scheme as nominated beneficiaries by entering into Deeds of Nomination with the Crown.

The Commission also proposes to make an amendment to the Securities Act (Deposit Guarantee Scheme) Exemption Notice 2008 to ensure consistency between the exemptions for issuers under that notice and the proposed exemptions for collective investment schemes.

The proposed exemptions and amendments are outlined below. The Commission seeks comments on these by 5.00pm Thursday 20 November. It is proposed that an exemption notice and an amendment notice will be gazetted on Thursday 27 November and come into force the following day.

Please email comments to the Commission at the following address:

peter.nielsen@seccom.govt.nz

The purpose of the exemptions is to promote consistent and straightforward disclosure to inform investors about the application of the guarantee scheme, based around the use of a standard statement and reference to the Treasury website for more detailed information. The proposed standard statement is:

“[name of collective investment scheme] only invests in [New Zealand government securities][and/or deposits covered by the New Zealand deposit guarantee scheme]*”*

** delete if inapplicable*

The Commission notes that it will be the investments made by a participating collective investment scheme, rather than the securities issued by it, that will have the benefit of the Crown guarantee. This makes the disclosure issues slightly different than for financial institutions that are party to a Crown deed of guarantee (where the securities issued by those institutions have the direct benefit of the guarantee).

Proposed exemption from regulation 7A(4)

The main proposed exemption is in relation to regulation 7A(4) of the Securities Regulations to allow details about the deposit guarantee scheme to be included in an investment statement in a separate section or by way of an insert. The proposed condition to that exemption is that the standard statement be included, together with a reference to the Treasury website for further information and such other information or statements as may be necessary to avoid misleading or confusing investors about the application of the Crown guarantee.

Proposed exemptions from regulation 17(2)

It is proposed that there be an exemption from regulation 17(2) of the Securities Regulations in respect of an advertisement that is an investment statement if the only difference between it and another investment statement for which a certificate complying with regulation 17(2) has been completed is a new section or an accompaniment that contains only the material required by the condition to the proposed exemption from regulation 7A(4).

Proposed exemption for advertising more generally

It is proposed that there be similar exemptions from regulations 9 and 17 of the Securities Regulations in relation to advertisements and related certificates as are currently in place for specified financial institutions under the Securities Act (Deposit Guarantee Scheme) Exemption Notice 2008.

Possible exemption in relation disclosure of material matters in prospectuses

The Commission notes that becoming a nominated beneficiary is likely to be relevant to the disclosure of other material matters in prospectuses pursuant to clause 36 of the second schedule to the Regulations or, as the case may be, pursuant to clause 18 of schedule 3A or clause 14 of schedule 3C. The Commission is interested in comments as to whether it would be useful to exempt issuers from those provisions in relation to the Crown guarantee on the condition that disclosure is made by way of the standard statement together with reference to the Treasury website for further information, and such other information or statements as may be necessary to avoid misleading or confusing investors about the application of the Crown guarantee.

The purpose of such an exemption would be to promote consistent disclosure and also to give some guidance as to the extent of disclosure required under those provisions in relation to the deposit guarantee scheme.

Proposed amendment to existing exemption notice

The Commission also proposes to amend the Securities Act (Deposit Guarantee Scheme) Exemption Notice 2008 to make the exemption from regulation 7A(4) more general rather than specific to the question "*What are my returns?*". This is proposed in relation to the equivalent exemption for collective investment schemes to ensure the effectiveness of allowing an investment statement to be updated in a separate section or by way of an insert in relation to the deposit guarantee scheme. This amendment will ensure consistency between the exemptions for issuers under this notice and the proposed exemptions for collective investment schemes.

There may also be other matters arising from the consultation on the proposed exemptions for collective investment schemes that result in amendments to the Securities Act (Deposit Guarantee Scheme) Exemption Notice 2008 to ensure consistency of treatment. The Commission is conscious that issuers have already acted in reliance on the exemptions in the current notice but anticipates that any amendments will not place new requirements on those issuers.

The Commission is interested in hearing from issuers and their advisers as to whether there are any further amendments to the existing notice that may be desirable.