



FINANCIAL MARKETS AUTHORITY
TE MANA TATAI HOKOHOKO - NEW ZEALAND

Securities Act (Apata Limited) Exemption Notice 2011

Pursuant to section 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

- Title**
This notice is the Securities Act (Apata Limited) Exemption Notice 2011.

2 Commencement

This notice comes into force immediately after it is granted.

3 Expiry

This notice expires on the close of 31 July 2016.

4 Interpretation

- (1) In this notice, unless the context otherwise requires, —
Act means the Securities Act 1978

Company means Apata Limited

equity securities means equity securities offered by the company to any person who is, or after the allotment will be, a transacting shareholder

Regulations means the Securities Regulations 2009

transacting shareholder means, in relation to the company, any person who would be a transacting shareholder under section 4 of the Co-operative Companies Act 1996 if the company was a co-operative company under that Act.

- (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

This company and every person acting on its behalf are exempted in respect of any equity securities from—

- (a) section 37A(1)(c) of the Act; and
- (b) section 54 of the Act; and
- (c) clauses 4 to 10, 12 to 20, 22 to 24, and 26 to 28 of Schedule 1 of the Regulations.

6 Condition that financial statements must be attached to prospectus

The exemption in clause 5(a) is subject to the condition that it is a term of the offer of the equity securities that a copy of the most recent audited financial statements of the company or group financial statements of the company, being financial statements that comply with, and have been registered under, the Financial Reporting Act 1993, will be attached to, or contained in, every copy

of the registered prospectus for the offer that is sent to a person under section 54B of the Act.

7 Condition that directors' statement must be attached to investment statement

- (1) The exemptions in clause 5(a) and (c) are subject to the further condition that every copy of the investment statement relating to the offer of the equity securities that is distributed by or on behalf of the company more than 9 months after the date of the most recent statement of financial position of the company registered under the Financial Reporting Act 1993 has attached to it, or contained in it, a directors' statement that—
 - (a) complies with subclause (2); and
 - (b) is dated no earlier than 8 months after the date of that statement of financial position; and
 - (c) is signed by each director of the company (or his or her agent who has been authorised in writing).

- (2) The directors' statement must include the following matters:
 - (a) particulars of any material matters relating to the offer of equity securities other than—
 - (i) matters set out elsewhere in the investment statement relating to the offer, the registered prospectus relating to the offer, or the most recent financial statements of the company; and
 - (ii) contracts entered into in the ordinary course of business of the company; and
 - (b) a statement by the directors of the company as to whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between the date of the company's most recent statement of financial position and the date of the directors' statement referred to in this clause:
 - (i) the trading or profitability of the company or the group;
 - (ii) the value of assets of the company or the group;
 - (iii) the ability of the company or the group to pay its liabilities due within the next 12 months.

8. Condition about statement of shareholding in lieu of certificate evidencing securities

- (1) The exemption in clause 5(b) is subject to the condition that the company sends, without fee, to each transacting shareholder annually, and within 5 working days of receiving a request from a transacting shareholder, a written statement that sets out—
 - (a) the class or classes of equity securities held by that shareholder; and
 - (b) the number of equity securities in each class held by that shareholder.
- (2) However, this condition does not require the company to send an annual statement to a transacting shareholder if the total number of equity securities in each class held by the shareholder has not changed since the most recent of the following dates:
 - (a) the date on which a written statement was sent to the shareholder under this clause;
 - (b) the date on which a written statement was sent to the shareholder under clause 9 of the Securities Act (Apata Limited) Exemption Notice Limited 2006;
 - (c) the date on which a certificate was sent to the shareholder under section 54 of the Act.

9 Condition that information must be contained in annual report of company

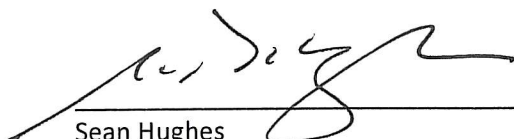
- (1) The exemption in clause 5(c) is further subject to the condition that the information required by clauses 4, 6, 7, 8, 13 to 15, 17, 18, 20 and 28 of Schedule 1 of the Regulations is contained in every annual report of the company.
- (2) However, where any of the clauses referred to in subclause (1) define a date or period for which information must be provided by reference to the specified date (as defined in regulation 4(1) of the Regulations), the information must instead be provided by reference to the date that 2 directors of the company signed the annual report on behalf of the board.

10 Revocation

The Securities Act (Apata Limited) Exemption Notice 2006 (SR 2006/200) is revoked.

Securities Act (Apata Limited)
Exemption Notice 2011

Dated at Wellington this ^{26th} day of July 2011 at ^{4:20} am/pm.



Sean Hughes
Chief Executive
Financial Markets Authority

Statement of reasons

This notice, comes into force immediately after it is granted and expires on 31 July 2016. This notice revokes and replaces the Securities Act (Apata Limited) Exemption Notice 2006 (the 2006 notice). This notice is on substantially the same terms as the 2006 notice. However, the notice relates to the Securities Regulations 2009 (rather than the Securities Regulations 1983).

This notice exempts Apata Limited (Apata) (subject to conditions) in respect of equity securities offered by Apata to any person who would be a transacting shareholder under section 4 of the Co-operative Companies Act 1996 if Apata was a co-operative company under that Act. The exemptions are from sections 37A(1)(c) and 54 of the Securities Act 1978, and from clauses 4 to 10, 12 to 20, 22 to 24, and 26 to 28 of Schedule 1 of the Securities Regulations 2009.

The effect of the notice is-

- to allow Apata to use an evergreen short form prospectus. Certain information that would normally be disclosed in the prospectus is to be disclosed in Apata's annual report. A copy of the most recent audited financial statements is to be attached to every prospectus sent under section 54B of the Securities Act 1978. Also investment statements distributed more than 9 months after the date of the most recent statement of financial position must provide updated information on material matters relating to the offer of securities

Securities Act (Apata Limited)
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and circumstances materially adversely affecting the company's trading, profitability, asset value, or ability to pay its liabilities:

- to exempt Apata from sending share certificates when it allots shares, subject to conditions.

The Financial Markets Authority considers that it is appropriate to grant the exemptions because-

- Apata has chosen not to register as a co-operative company but operates in a similar manner to a co-operative company. It is substantially owned by those using its services and its principal business is the provision of services to its shareholders. Shareholders and prospective shareholders are participants in the industry and are familiar with the industry and the company. Shareholders have access to information about the company on a regular basis and have routine opportunities to participate in the appointment of directors, the governance process, and policy development:
 - The exemption enables Apata to reduce compliance costs by registering a short form evergreen prospectus. The conditions to which those exemptions are subject are intended to ensure that investors receive up to date material information about the securities, in a manner that does not unnecessarily increase compliance costs by requiring disclosure of less material matters or matters that are disclosed elsewhere. In these circumstances we are satisfied that the exemption will not cause detriment to investors:
 - The exemptions only apply to shares offered by Apata to persons using, or those who will be using its services after the allotment of shares. The conditions require the provision of relevant information in an appropriate alternative manner. FMA is therefore satisfied that the extent of the exemptions are not broader than what is reasonable necessary to address the matters that gave rise to the exemptions.
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