

Securities Act (Flight Centre (NZ) Limited) Exemption Notice 2013

Pursuant to 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 (Flight Centre (NZ) Limited) Exemption Notice 2013.
- 2 Commencement**
This notice comes into force on 10 October 2013.
- 3 Revocation**
This 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

business unit means a shop, group of shops, or other division or department of Flight Centre or any of its subsidiaries

eligible person means-

- (a) a person who is an employee or a director of Flight Centre or any of its subsidiaries; or
- (b) a trustee for a person described in paragraph (a); or
- (c) a company that is controlled by a person described in paragraph (a)

employee note scheme means the employee note scheme established by Flight Centre under which an eligible person may acquire notes issued by Flight Centre

Flight Centre means Flight Centre (NZ) Limited

note means a note that is issued by Flight Centre under the employee note scheme

NZ IAS 34 means the financial reporting standard known as the New Zealand Equivalent to International Accounting Standard 34 (Interim Financial Reporting) that has been approved under the Financial Reporting Act 1993

offer means the offer of notes under the employee note scheme

Regulations means the Securities Regulations 2009

- (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

Flight Centre and every person acting on its behalf are exempted from the following provisions of the Act and the Regulations in respect of any interest in or right to a note:

- (a) section 37A(1)(c) of the Act; and
- (b) regulation 30 of the Regulations, in relation to advertisements containing information personal to a person to whom the advertisement is distributed; and
- (c) clauses 5 to 12, 14(2), 16 to 18 and 20 to 22 of Schedule 2 of the Regulations; and
- (d) clause 15(1) of Schedule 2 of the Regulations, to the extent that it requires the registered prospectus to contain the dates, time periods, and price terms relevant to the particular offer under the employee note scheme and information personal to the person to whom the registered prospectus is distributed.

6 Condition that notes allotted only to eligible person

The exemptions in clause 5 are subject to the condition that the notes are only allotted to a person who is an eligible person at the time of allotment of the notes.

7 Condition that information sent to subscribers

The exemptions in clause 5 are subject to the condition that, before an eligible person subscribes for the notes, Flight Centre provides that person with the following:

- (a) a copy of the most recent audited consolidated financial statements of the borrowing group that comply with the Financial Reporting Act 1993; and
- (b) if the notes are offered more than 9 months after the date of the most recent audited consolidated financial statements of the borrowing group, a copy of interim financial statements for the most recently completed financial half-year of the borrowing group that complies with NZ IAS 34; and
- (c) Flight Centre's most recent annual report, which includes or is accompanied by a statement setting out the following matters:
 - (i) particulars of entries in the interests register concerning directors of Flight Centre made during the accounting period to which the report relates; and
 - (ii) the date of, names of the parties to, and general nature of any material contract (excluding a contract entered into in the ordinary course of business) entered into by a member of the borrowing group at any time in the 2 years preceding a date not more than 20 working days before the date the annual report is made available to shareholders of Flight Centre in accordance with section 209 of the Companies Act 1993; and
 - (iii) a brief description of any legal proceedings or arbitrations concerning the borrowing group that are pending at a date not more than 20 working days before the date the annual report is made available to shareholders of Flight Centre in accordance with section 209 of the Companies Act 1993 and that might have a material adverse effect on the borrowing group; and
 - (iv) a statement by 2 directors of Flight Centre as to whether, after inquiry by them in relation to the period between the date of the latest statement of financial position attached to, or contained in, the annual report and a date not more than 20 working days before the date the annual report is made

available to shareholders of Flight Centre in accordance with section 209 of the Companies Act 1993, there have, in their opinion, arisen any circumstances that materially adversely affect the borrowing group's-

- A trading or profitability; or
- B asset value; or
- C ability to pay liabilities due within the next 12 months; and

- (v) brief particulars of any restrictions on the ability of any member of the borrowing group to borrow, being restrictions that result from any undertaking given, or contract or deed entered into, by the member, and that are not set out elsewhere in the registered prospectus or annual report.

8 Condition about redemption arrangements

The exemptions in clause 5 are subject to the condition that the investment statement relating to the notes contains a description of the arrangements for holders of the notes to redeem the notes (before and after they cease to be eligible persons).

9 Condition that terms of employee note scheme available

The exemptions in clause 5 are subject to the condition that the investment statement relating to the notes contains-

- (a) a brief description of the terms of the employee note scheme; and
- (b) a statement of the place or places where the terms of the employee note scheme are available free of charge to an eligible person.

10 Condition that Flight Centre undertakes to redeem notes

The exemptions in clause 5 are subject to the condition that Flight Centre undertakes to redeem the notes held by an eligible person if that person ceases to be an eligible person.

11 Condition that offer accompanied by statement as to fixed interest and returns

The exemptions in clause 5 are subject to the condition that the offer of the notes is accompanied by a prominent statement to the effect that the notes do not earn fixed interest and that the returns on the notes may vary depending on the performance of the relevant business unit to which the notes relate.

12 Further condition of exemption from regulation 30 of Regulations

The exemption in clause 5(b) from regulation 30 of the Regulations is subject to the further condition that Flight Centre

has complied with regulation 30 in relation to another advertisement and the only difference between the two advertisements is information personal to a person to whom the advertisement is distributed.

13 Further conditions of exemption from clause 15(1) of Schedule 2 of Regulations

The exemption in clause 5(d) from clause 15(1) of Schedule 2 is subject to the further condition that Flight Centre gives to every eligible person to whom the offer is made, a document that contains the information that, but for the exemption under clause 5(d), would be required by clause 15(1) of Schedule 2 of the Regulations to be contained in the registered prospectus.

Dated at Wellington this 3rd day of October 2013.



Simone Robbers
Head of Primary Regulatory Operations
Financial Markets Authority

Statement of Reasons

This notice, which grants exemptions on substantially the same terms as the Securities Act (Flight Centre (NZ) Limited) Exemption Notice 2008, comes into force on 10 October 2013. The notice exempts, subject to conditions, Flight Centre (NZ) Limited (Flight Centre) and every person acting on its behalf from certain provisions of the Securities Act 1978 and the Securities Regulations 2009 (the Regulations) in respect of the offer of notes (notes) under Flight Centre's employee note scheme (the scheme).

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

- Although Flight Centre is making an offer of debt not equity, the return on the notes is linked to performance of the employee's business unit. Therefore, the scheme encourages the employee's involvement in the performance of the business unit, in a manner similar to that of an employee share purchase scheme:
- The exemptions seek to lower Flight Centre's costs of compliance, while requiring Flight Centre to provide employees with the information that they need to make an informed decision as to whether to subscribe for notes under the scheme:

- The terms on which an employee may be offered notes under the scheme may vary according to the circumstances of the employee, his or her remuneration package, and the business unit to which the employee belongs. As a result, Flight Centre is not able to set out in a single prospectus or investment statement all the terms of the offer as required by the Regulations:
- Allowing Flight Centre to create a template for the personalised offer document, in which the only variable information is the information personal to the person to whom the offer is made, is more efficient and cost-effective than requiring a regulation 30 certificate in respect of each personalised offer document.

In all of these circumstances the exemptions 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.
