

Securities Act (Meridian Energy Limited) Exemption Notice 2011

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).

Contents

	Page
1 Title	1
2 Commencement	1
3 Expiry	1
4 Interpretation	1
5 Exemption from regulation 18(1)(a) of Regulations	2
6 Conditions of exemption in clause 5	2
7 Exemption from clause 19(c) of Schedule 2 of Regulations	3
8 Conditions of exemption in clause 7	3

Schedule

Provisions excluded from copies of specified documents

Notice

- 1 Title**
This notice is the Securities Act (Meridian Energy Limited) Exemption Notice 2011.
- 2 Commencement**
This notice comes into force on 15 December 2011.
- 3 Expiry**
This notice expires on the close of 30 November 2016.
- 4 Interpretation**
(1) In this notice, unless the context otherwise requires, —
Act means the Securities Act 1978
excluded provisions means the provisions set out in the Schedule that are excluded from the copies of the specified documents that must be delivered to the Registrar of Financial Service Providers and made available for public inspection in accordance with the Act and the Regulations

Meridian means Meridian Energy Limited

Regulations means the Securities Regulations 2009

specified documents means:

- (a) the Virtual Asset Swap Head Agreement, ISDA Master Agreement, ISDA Schedule to the ISDA Master Agreement, North Island Transaction Confirmation, and South Island Transaction Confirmation entered into between Genesis Power Limited and Meridian Energy Limited on 21 December 2010;
- (b) the Confirmation - Electricity Swap entered into between Meridian Energy Limited and Mighty River Power Limited on 21 December 2010;
- (c) the Agreement for the Sale and Purchase of the Tekapo A and Tekapo B Power Stations entered into between Meridian Energy Limited and Genesis Power Limited on 25 May 2011;
- (d) the Tekapo Sale Long Term and Lead In Confirmation entered into between Meridian Energy Limited and Genesis Power Limited on 25 May 2011; and
- (e) the Tekapo Deed entered into between Meridian Energy Limited, RTA Power (NZ) Limited and New Zealand Aluminium Smelters Limited on 25 May 2011

specified securities means unsecured, unsubordinated, debt securities to be issued by Meridian.

- (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 Exemption from regulation 18(1)(a) of Regulations

Meridian and every person acting on its behalf are exempted from regulation 18(1)(a) of the Regulations in respect of the specified securities in so far as that regulation requires a prospectus that contains an offer of the specified securities to have attached to it or be accompanied by a copy of the specified documents.

6 Conditions of exemption in clause 5

The exemption in clause 5 is subject to the condition that the prospectus that contains the offer of the specified securities that is delivered to the Registrar of Financial Service Providers must—

- (a) have attached to it or be accompanied by a copy of the specified documents without the excluded provisions; and

- (b) state that the excluded provisions have been excluded from the copies of the specified documents delivered to the Registrar of Financial Service Providers; and
- (c) state why the excluded provisions have been excluded; and
- (d) contain a statement of the general nature of the excluded provisions; and
- (e) state—
 - (i) that copies of the specified documents (without the excluded provisions) may be inspected during the currency of the prospectus on request and without any fee by any person; and
 - (ii) when and where in New Zealand they may be inspected; and
- (f) contain a prominent statement to the effect that the directors of Meridian warrant that the exclusion of the excluded provisions from the specified documents does not make the prospectus misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances.

7 Exemption from clause 19(c) of Schedule 2 of Regulations

Meridian and every person acting on its behalf are exempted from clause 19(c) of Schedule 2 of the Regulations in respect of the specified securities in so far as that clause applies to the specified documents.

8 Conditions of exemption in clause 7

The exemption in clause 7 is subject to the conditions that the prospectus that contains the offer of the specified securities that is delivered to the Registrar of Financial Service Providers must state—

- (a) that copies of the specified documents without the excluded provisions may be inspected during the currency of the prospectus on request and without any fee by any person; and
- (b) when and where in New Zealand they may be inspected.

SCHEDULE

PROVISIONS EXCLUDED FROM COPIES OF SPECIFIED DOCUMENTS

- (1) In the definition, or provision of the definition, of each term in Part 5(4)(2) of the ISDA Schedule to the ISDA Master Agreement (and the form of ISDA Schedule set out in Schedule 1 to the Virtual Asset Swap

Head Agreement) referred to in the first column of the following table, all of the words that appear after the word set out opposite that term in the second column of the table:

Definition of term and provision of definition	Word after which all words excluded
Averaging Period: paragraph (a)	Market Price
Averaging Period: paragraph (b)	Historic Average Spot Price
Closing Market Price	day
Daily Final Price	Trading Day
Fixed Price: paragraph (a)	South Island Transaction
Fixed Price: paragraph (b)	North Island Transaction
Historic Average Spot Price	Averaging Period
Historic Price Basis Adjustment	Transaction
North Island Market Node	below
North Island Market Price	Effective Date
North Island Settlement Node	means
Reference Instrument: paragraph (a)	North Island Market Price
Reference Instrument: paragraph (b)	South Island Market Price
South Island Market Node	below
South Island Market Price	Effective Date
South Island Settlement Node	means

- (2) Paragraph 6 of the North Island Transaction Confirmation (and the form of North Island Transaction Confirmation set out in Schedule 2 to the Virtual Asset Swap Head Agreement).
- (3) Paragraph 6 of the South Island Transaction Confirmation (and the form of South Island Transaction Confirmation set out in Schedule 3 to the Virtual Asset Swap Agreement).
- (4) In the definition, or provision of the definition, of each term in clause 10 of the Confirmation – Electricity Swap referred to in the first column of the following table, all of the words that appear after the word set out opposite that term in the second column of the table:

Securities Act (Meridian Energy Limited)
Exemption Notice 2011

Definition of term and provision of definition	Word after which all words excluded
Average Baseload Price	means
Averaging Period	means
Baseload Price Disruption Event	means
Baseload Disruption fallback	means
Fixed Price #1	means
Fixed Price #2	means
Fixed Price #3	means
Fixed Price #4	means
Maximum Percentage	means
Minimum Percentage	means
Node	means
Relevant Market	means

- (5) Paragraph 11 of the Confirmation – Electricity Swap.
- (6) The columns headed “Maximum Percentage” and “Minimum Percentage” in the table in Annex – Part 2 of the Confirmation – Electricity Swap.
- (7) Paragraph 10.6 and Schedules 7 and 8 of the Agreement for the Sale and Purchase of the Tekapo A and Tekapo B Power Stations.
- (8) In relation to the Tekapo Sale Long Term and Lead In Confirmation:
 - (a) in paragraph 9 the definition immediately preceding the definition of “Effective Date”;
 - (b) in the definition of “Fixed Price” in paragraph 9, all the words that appear after the word “means”;
 - (c) in paragraph 9 the definition immediately after the definition of “Termination Date”; and
 - (d) paragraph 10.
- (9) In relation to the Tekapo Deed:
 - (a) all of paragraphs 3.2, 3.3 and 4.3; and
 - (b) in paragraph 4.1 all the words that appear after the words “complete and accurate”.

Securities Act (Meridian Energy Limited)
Exemption Notice 2011

Dated at Wellington this 14th day of December 2011



Sue Brown
Head of Primary Regulatory Operations
Financial Markets Authority

Statement of reasons

This notice, which comes into force on 15 December 2011 and expires on 30 November 2016, exempts Meridian Energy Limited (**Meridian**) from regulation 18(1)(a) and clause 19(c) of Schedule 2 of the Securities Regulations 2009 (**Regulations**), subject to conditions, in respect of offers of unsecured, unsubordinated, debt securities to be issued by Meridian.

The effect of the exemptions from regulation 18(1)(a) and clause 19(1)(c) of Schedule 2 of the Regulations is to allow Meridian to exclude certain commercially sensitive information from the copies of documents that constitute a material contract and are attached to the registered prospectus.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 70B of the Act, considers it appropriate to grant these exemptions because—

- the exemptions from regulation 18(1)(a) and clause 19(c) of Schedule 2 of the Regulations meet the criteria stated in the FMA's Exemption Policy Note for "Applications to Exclude Commercially Sensitive Information from Material Contracts" (the Exemption Policy Note can be viewed on FMA's website at <http://www.fma.govt.nz/help-me-comply/issuers/exemptions/applications-to-exclude-commercially-sensitive-information-from-material-contracts/>):
- the detriment to the commercial interests of Meridian by the disclosure of the excluded provisions would outweigh any benefit to prospective investors from their disclosure:
- the directors of Meridian must warrant that the non-disclosure of the excluded provisions does not make the registered prospectus

Securities Act (Meridian Energy Limited)
Exemption Notice 2011

misleading in any material particular by a failure to refer, or give proper emphasis, to any adverse circumstances:

- the prospectus must state that information has been excluded from the agreements in question, the reasons why that information has been excluded, and the general nature of the material information that has been excluded:

In these circumstances, the scope of the exemptions which is limited to excluding certain sensitive information in material contracts, and the conditions requiring directors' warranties and explanations about the exclusions, mean that the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions and that the exemptions will not cause significant detriment to subscribers.

