



Securities Markets Act (Contact Energy Limited Small Holding Plan) Exemption Notice 2013

Pursuant to section 48(1)(c) of the Securities Markets Act 1988, 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 Markets Act (Contact Energy Limited Small Holding Plan) Exemption Notice 2013.

2 Commencement

This notice comes into force on 29 March 2013.

3 Revocation

This notice is revoked on the close of 28 February 2018.

4 Interpretation

- (1) In this notice, unless the context otherwise requires, —
Act means the Securities Markets Act 1988

cancellation period means, in respect of a shareholder who has accepted an offer, the period during which the shareholder has the right to cancel the resulting agreement pursuant to regulation 15 of the Regulations

Contact Energy means Contact Energy Limited

normal trading session has the same meaning as in the NZX participant rules

NZX means NZX Limited

NZX market means a market operated by NZX in accordance with market rules approved under Part 2B of the Act

NZX participant rules means the NZX Limited Participant Rules as approved from time to time under Part 2B of the Act as market rules for NZX markets

NZX trading and advising firm means a firm accredited by NZX to participate in NZX markets as an NZX Trading and Advising Firm under the NZX participant rules

offer means an unsolicited offer, to which the Regulations apply, to acquire a power to dispose of shares

off-market trade has the same meaning as in the NZX participant rules

participating shareholder means a shareholder who has accepted an offer made under a small holding plan and not subsequently cancelled the resulting agreement pursuant to regulation 15 of the Regulations

Regulations means the Securities Markets (Unsolicited Offers) Regulations 2012

share means an ordinary share in Contact Energy

shareholder means a person who, as at the date of an offer, is the registered holder of shares

small holding plan means an arrangement under which Contact Energy or an associated person of Contact Energy acting with Contact Energy's consent, or both, make an offer to shareholders who each hold not more than 1,000 shares

- (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

Contact Energy, any associated person of Contact Energy, and every person acting on behalf of either or both of them are, in respect of offers made under a small holding plan, exempted from:

- (a) regulation 7 of the Regulations; and
- (b) the obligation in regulation 8(1) of the Regulations to ensure that an unsolicited offer is only made in a disclosure document that complies with regulation 9; and
- (c) regulation 9 of the Regulations.

6 Conditions of exemptions

The exemptions in clause 5 are subject to the following conditions:

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- (a) shares of participating shareholders must be sold by an NZX trading and advising firm:
 - (i) in the ordinary course of trading on an NZX market; or
 - (ii) in an off-market trade during a normal trading session and executed within the current quotations for the shares;
- (b) any expenses payable by a participating shareholder to Contact Energy and its associated persons in connection with participation in the small holding plan must be reasonable and not exceed, in aggregate, direct costs incurred by Contact Energy in relation to sale of the shareholder's shares through an NZX trading and advising firm;
- (c) all the proceeds of a sale of participating shareholders' shares net of expenses (to the extent (if any) that they are not met by Contact Energy or its associated persons) must be distributed to the participating shareholders;
- (d) the shares must not be sold during the cancellation period;
- (e) a participating shareholder must be paid their proportion of the proceeds of a sale as soon as practicable after their shares have been sold and, in any event, within 28 days after the date on which the offeror received the participating shareholder's valid acceptance; and
- (f) the disclosure document must contain, in a prominent place, the following information and statements:
 - (i) the number of shares owned by the shareholder, the current market price of shares at a point in time specified in the disclosure document (being a time that is not earlier than 10 working days before the date of the offer), and the total value of that shareholder's shares based on the number of shares and the current market price;
 - (ii) the following statement immediately following the market price and total value:

"The market price specified above is the market price of your shares in Contact Energy Limited as at [specify date not earlier than 10 working days before the offer date] on the NZSX, which is operated by NZX Limited. If you decide to sell your shares, the price at which they will be sold will be a market price on the day of sale.

You can check the current market price for those shares on NZX Limited's Internet site at [specify either www.nzx.com or NZX CEN webpage address] or in

newspapers. The stock code for Contact Energy Limited is CEN.”;

- (iii) that the shares will not be sold during the cancellation period;
- (iv) details of how shares of participating shareholders will be pooled, if at all, prior to sale and how the proceeds of sale will be allocated between participating shareholders;
- (v) all expenses to be charged to the participating shareholder in connection with participation in the small holding plan;
- (vi) information about any alternatives the shareholder has to participating in the small holding plan, including that the shareholder does not have to sell the shares and that the shareholder can sell shares directly at any time through a broker; and
- (vii) the date of the offer and the expiry date, followed immediately by the following statement:

“Right to cancel

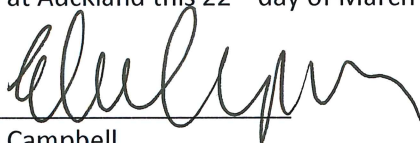
If you accept the offer but then change your mind, you have the legal right to cancel the agreement by writing to or emailing [name of offeror] and stating that you want to cancel or withdraw from the agreement. You can do that by completing and returning the attached cancellation form to [name of offeror]. You must do this within 10 working days after the date on which you accepted the offer.

Note: A **working day** for the purposes of this offer is a day of the week other than Saturday and Sunday. [or set out the following options that are applicable where there are non-working days other than Saturday and Sunday that are applicable to the offer

- Saturday and Sunday; and
- Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, and Labour Day; and
- a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- if 1 January falls on a Friday, the following Monday or, if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.]”

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Dated at Auckland this 22nd day of March 2013



Elaine Campbell
Head of Compliance Monitoring
Financial Markets Authority

Statement of reasons

This notice, which comes into force on 29 March 2013 and is revoked on 28 February 2018, exempts Contact Energy Limited (Contact Energy) and its associated persons from the following provisions of the Securities Markets (Unsolicited Offers) Regulations 2012 in relation to unsolicited offers to acquire a power to dispose of shares in Contact Energy:

- regulation 7 (which requires the offeror to notify the issuer of the offer, to provide a copy of the disclosure document to the issuer, and to identify the security holders who will receive the offer):
- the obligation in regulation 8(1)(a) that an unsolicited offer be made in a disclosure document that complies with regulation 9:
- regulation 9 (which specifies the contents of a disclosure document, which must follow the format specified in Schedule 1 and Schedule 2 of the Regulations).

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

- The small holding plan provides for sales of shares at market value. An underlying policy consideration for the Regulations was to regulate offers that result in sales at less than market value. The effect of certain conditions is that shares will be sold at market value, via an on-market sale in the ordinary course of trading on an NZX market (or certain off-market sales within current quotations) by an NZX trading and advising firm:
- The matters that are required to be disclosed under regulation 9 are not all relevant in the context of an offer under a small holding plan (for example a fair estimate of value of the power to dispose of shares) because the offeror is facilitating the sale of shares at a market price to unknown third parties:
- The exemptions are subject to conditions that require disclosure that is relevant in the circumstances, including disclosure of the market price of the shares, expenses payable by shareholders, and alternatives shareholders have to participating in the plan:
- An offer under a small holding plan is made by Contact Energy or its associated person with the consent of Contact Energy, in respect of shares in Contact Energy, so the requirement that prior

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notice be given to the issuer (in this case, Contact Energy) under regulation 7 is unnecessary.

The Financial Markets Authority considers that the exemptions are not broader than is reasonably necessary to address the matters that gave rise to the exemptions because:

- The provisions in the Regulations that are relevant in the circumstances continue to apply:
 - The exemption from the disclosure obligations is subject to a condition that requires the disclosure of information that is relevant in the circumstances, including information that is relevant from that which would otherwise be required by Regulation 9:
 - The exemption was only sought in relation to a small holding plan and not in relation to issuer-sponsored sale facilities more generally and is limited to 1,000 shares for that reason.
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