

**2<sup>nd</sup> October 2015**

## **Submission on NZX - Share and Unit Purchase Plans – Exemption Notice 2010**

### **Relationship of Submitter**

The New Zealand Shareholders Association (NZSA) is the only independent national group that represents the interests of retail investors in the listed equity and debt markets.

One of our major concerns is the need to engender confidence in the regulation and operation of the New Zealand capital markets. We therefore, take a close interest in the “public good” aspect of legislative changes or amendments of existing legislation as part of our core function.

This submission is written taking into consideration the impact to the prudent but non expert retail investor.

### **Background**

The proposed Exemption Notice will grant relief from the prospectus and investment statement requirements of the Securities Act for NZX listed issuers offering share or unit purchase plans. It is in effect an extension to 1 December 2015 for equity securities and until 01 December 2016 for unit trusts. The need arises as a result of the introduction of the FMC Act.

### **NZSA Position**

NZSA supports the proposed extension as a pragmatic way to address the difficulties some issuers are apparently having in meeting the time lines under the new FMC Act.

Our rationale is as follows:

- We note the Exemption will be limited largely to those issuers unable to take advantage of the same class provisions although we would expect this would be a rare situation.
- In the case of equity securities the provision is for a very short period from 01 December and we do not believe this to be material.
- We note that unit trusts have a more complex pathway to compliance it is not unreasonable to maintain the exemption until 1 December 2016. We are less familiar with the application of same class rules to Trusts but would expect most listed Trusts would not have to rely on this Exemption and would most likely apply the same class rules.

In coming to these conclusions we have been mindful that disruption to the capital markets would potentially be considerably greater than any possible risk from extending the Exemption Notice, given the proposed safeguards, particularly the requirement for issuers to apply for individual exemptions which will be subject to assessment by FMA. We also note that:

- *Offers must be made on the same terms and conditions to all security holders;*
  - *The right to subscribe must be non-renounceable;*
  - *The subscription price must be equal or less than the average end of day closing price of the securities over the 30 days prior to the offer or the lowest price paid by investors in a private placement; and*
  - *The total issue price of the securities must not exceed \$15,000 per security holder in any 12 month period.*
- We would however oppose any further extensions as we believe the current proposal gives adequate time for issuers to become compliant.

Thank you the opportunity to provide input on this exemption proposal.

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