

14 January 2013

Submission by: Financial Services Council

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Consultation Paper – Class Exemption Review

Introduction

The Financial Services Council - (FSC) has previously submitted comments on 7 May 2012 and 24 July 2012 in response to the FMA's earlier consultation papers on class exemption notices expiring this year.

Of the class exemptions covered by the current consultation paper our members have previously expressed a preference for renewal of the following:

- Financial Reporting Act (Overseas Companies)
- Securities Act (Overseas Companies)
- Securities Act (Overseas Employee Share Purchase Schemes)
- Securities Act (Renewals and Variations)

We have reviewed the FMA proposals in respect of these exemptions and have no further comments to make.

Securities Act (Australian Registered Managed Investment Schemes) Exemption Notice 2008

Of the 3 additional notices added to the review we wish to comment only in respect of SR 2008/327, the Securities Act (Australian Registered Managed Investment Schemes) Exemption Notice 2008 ("ARMIS exemption") which is due to expire on 30 September 2013. We would support renewal of this exemption with the minor amendments proposed by the FMA at paragraph 12.

There are a number of funds that previously issued under the ARMIS exemption and retain some NZ investors but have not transitioned to the Trans Tasman Mutual Recognition regime under the Securities (Mutual Recognition of Securities Offerings – Australia) Regulations 2008. We are not able to provide specific details regarding the number of investors in those funds and the value of investment, however there is a clear need for the retention of the ARMIS exemption to allow for the

continued operation of the products by issuers without breach of the Securities Act and for the retention of product features such as distribution reinvestment.

The funds concerned are no longer offered to new investors and therefore are not in a position to participate under the Securities (Mutual Recognition of Securities Offerings – Australia) Regulations 2008. The ability to comply with the Securities Act (without exemption) would involve excessive compliance costs for issuers. The removal of the exemption would likely mean New Zealand investors having to withdraw their investment.

In conclusion, we support the retention of the ARMIS exemption on the grounds that it is sufficiently limited to products previously issued under a long standing exemption that are not in a position to comply with the Trans Tasman Mutual Recognition regime on the basis that they are no longer offered to new investors in NZ. In addition, the conditions imposed by the current exemption ensure that investors have adequate information to investors.

Yours sincerely

A handwritten signature in black ink that reads "D. Keating". The signature is written in a cursive style with a large, looped initial "D".

Deborah Keating
EXECUTIVE OFFICER