



31 October 2011

Sue Brown/ Chantelle Cowlrick  
Financial Markets Authority  
Wellington

Dear Sue/Chantelle

**SECURITIES ACT (DIRECTORS' CERTIFICATES – COLLECTIVE INVESTMENT SCHEMES) EXEMPTION NOTICE 2011**

Thank you for the opportunity to comment on the draft Securities Act (Directors' Certificates – Collective Investment Schemes) Exemption Notice 2011.

Our members request that the Financial Markets Authority considers alternatives to the proposed condition that interim financial statements be attached to the modified directors' certificates when they are delivered for registration. Whether interim financial statements are needed was a point which ISI and the Securities Commission deferred, due to time constraints, when the original exemption was prepared.

It is considered that the preparation of interim financial statements is a cumbersome, expensive and ineffective means to explain declines in the value of a scheme's net assets caused by declines in market prices and/or a significant level of investor redemptions, in the context of collective investment schemes.

Our members consider financial statements are not comparatively as informative as performance data and fund size data, in this context. For example, it is difficult for non expert investors to:

- fully appreciate the relevance of changes in net assets in their investment decision or of the interim financial statements generally in this respect (particularly as the interim financial statements do not provide unitised information which is the most meaningful form of value information for investors); or
- immediately identify the declines in the scheme's net asset from the range of other information in the interim financial statements; or
- distil from the interim financial information the extent the net asset declines are attributable to withdrawals or performance declines; or

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- measure the level of performance declines and withdrawals from the interim financial statements in a meaningful way.

The interim financial statements are therefore not particularly helpful in describing the effect which they are proposed to illuminate.

Our members consider that a requirement to include in the certificate an explanation and description of the decline in unit prices and/or the level of redemptions that has caused the material net asset change would better explain the relevance and significance of such changes to investors, in a clear and effective manner. Such an approach would also avoid the significant costs and time delays of preparing the less helpful interim financial statements (which are costs borne through the scheme's expenses by investors).

In addition to the effectiveness of interim financial statements in this context, an explanation and description can be prepared more rapidly and therefore be more current at the time the certificate is completed. There is therefore less risk that the prescribed information is outdated or that further changes arise during the preparation phase which would make the additional material redundant.

Our members believe that a "principles based" approach should be adopted when prescribing the proposed requirement for a description and explanation in the exemption notice (i.e. requiring that the description and explanation be sufficient to ensure that the financial statements are not misleading in relation to the Scheme's net assets when the two are read together, rather than prescribing the content of the explanatory and descriptive statements). However, if the FMA prefers, the requirement could specify that specific matters be included; such as NAV changes since balance date, net fund outflows since balance date, unit price movements since balance date and any further data/information the Financial Markets Authority deems appropriate to replace the interim financial statements.

In addition, our members request removal of the requirement in clause 7(1)(b) that the statements in the certificate are repeated on every page on the issuer's website where the current subscription price is referred to. It is anticipated that the statements to be included could be lengthy and their inclusion in each case may be cumbersome, and the identification (and verification) of any references to the subscription price on the issuer's website could be time-consuming and costly. It is thought that one reference in a suitable place should be sufficient in this context.

We **attach** a draft revised exemption notice reflecting our submission.

Please feel free to contact us if you wish to discuss this matter further with us and our representatives. Once again, thank you for the opportunity to submit on the draft exemption notice.

Yours sincerely

Peter Neilson  
**CHIEF EXECUTIVE**