

Deposit Takers (Propertyfinance Securities Limited) Exemption Notice 2014

Pursuant to section 70 of the Non-bank Deposit Takers Act 2013, the Reserve Bank of New Zealand gives the following notice (to which is appended a statement of reasons of the Bank).

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Notice

1 Title

This notice is the Deposit Takers (Propertyfinance Securities Limited) Exemption Notice 2014.

2 Commencement

This notice comes into force on 1 August 2014.

3 Revocation

This notice is revoked on the close of 31 July 2016.

4 Interpretation

(1) In this notice, unless the context otherwise requires,—

Act means the Non-bank Deposit Takers Act 2013

PSL means Propertyfinance Securities Limited

(2) Any term or expression that is defined in the Act and used, but not defined in this notice, has the same meaning as in the Act.

5 Exemption from credit rating requirement

PSL is exempted from section 23(1) of the Act.

6 Exemption from certain governance requirements

PSL is exempted from section 25(1) and (2) of the Act.

7 Exemption from capital ratio requirements

(1) PSL is exempted from sections 34(1) and 35(1) of the Act.

(2) The trustee in respect of the debt securities of PSL is exempted from section 34(1) of the Act in respect of those securities.

8 Exemption from liquidity requirements

(1) PSL is exempted from sections 40(1) and 41(1) of the Act.

(2) The trustee in respect of the debt securities of PSL is exempted from section 40(1) of the Act in respect of those securities.

9 Conditions of exemptions in clauses 5 to 8

(1) The exemptions in clauses 5 to 8 are subject to the conditions that—

- (a) no debt securities may be offered for subscription by, or on behalf of, PSL; and
- (b) PSL must ensure that any Internet site maintained by or on behalf of it displays, at all reasonable times and at no cost to the public, a notice to the effect that PSL is exempted, on the basis that it is in moratorium and does not accept any subscriptions from the public for debt securities, from—
 - (i) the requirement in section 23(1) of the Act to have a credit rating; and
 - (ii) the governance requirements in section 25(1) and (2) of the Act; and
 - (iii) the capital ratio requirements in sections 34(1) and 35(1) of the Act; and
 - (iv) the liquidity requirements in sections 40(1) and 41(1) of the Act; and
- (c) PSL must not disclose an assessment of its creditworthiness that is in substance a credit rating (whether called a rating, grading, scoring, ranking, or by any other name) issued by an agency that is not approved by the Bank under section 86 of the Act; and
- (d) PSL must send a notice in writing to each of its depositors, by the close of 31 August 2014, to the effect that PSL is exempted, on the basis that it is in moratorium and does not accept any subscriptions from the public for debt securities, from the requirements referred to in paragraph (b); and
- (e) PSL must not increase or renew existing exposures to related parties or create any new exposures to related parties.

(2) References in this clause to debt securities do not include debt securities in respect of which the only persons in New Zealand who are able, under the terms of the offer of the securities, to subscribe for the securities are all or any of the following:

- (a) eligible persons referred to in section 5(2CC) of the Securities Act 1978;
- (b) persons referred to in section 3(2)(a) of the Securities Act 1978.

(3) For the purposes of subclause (1)(e), exposures to related parties must be identified and measured as set out in regulations 25 to 27 of the Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposures) Regulations 2010.

10 Further condition of exemption in clause 6

- (1) The exemption in clause 6 is subject to the condition that the governing body of PSL must include at least 1 director who is an independent director.
- (2) For the purposes of this clause, **independent director** means a director who—
- (a) is not an employee of either PSL or a related party; and
 - (b) is not a director of a related party other than a related party that is a guaranteeing subsidiary; and
 - (c) does not, directly or indirectly, have a qualifying interest in more than 10% of the voting securities of PSL or a related party.

11 Revocation

The Deposit Takers (Propertyfinance Securities Limited) Exemption Notice 2013 is revoked.

Dated at Wellington this 11th day of JULY 2014.

Grant Spencer,
Deputy Governor.



Statement of reasons

This notice comes into force on 1 August 2014.

It exempts Propertyfinance Securities Limited (PSL) from certain requirements of the Non-bank Deposit Takers Act 2013 (the Act). PSL is an entity that previously issued debt securities to members of the public, but is now in a moratorium approved by its shareholders and has not yet repaid all of its depositors. PSL is deemed to be an NBDT under section 5(1)(d) of the Act.

PSL is exempted from the following:

- the requirement in section 23(1) of the Act to have a credit rating;
- certain governance requirements in section 25(1) and (2) of the Act;
- capital ratio requirements in sections 34(1) and 35(1) of the Act;
- liquidity requirements in sections 40(1) and 41(1) of the Act.

The exemptions are subject to conditions that include the following:

- that no debt securities are offered for subscription by, or on behalf of, PSL. This restriction does not apply to offers of debt securities that could only be accepted by persons who come within the definition of eligible person in the Securities Act 1978 (which relates to wealthy persons and persons experienced in investing money or experienced in the industry or business to which the security relates) or by persons referred to in section 3(2)(a) of the Securities Act 1978 (to whom an offer of securities would not constitute an offer of securities to the public for the purposes of that Act);
- that PSL ensures that any Internet site maintained by or on behalf of it displays a notice to the effect that it is exempted from sections 23(1), 25(1) and (2), 34(1), 35(1), 40(1) and 41(1) of the Act;
- that PSL does not disclose an assessment of its creditworthiness that is in substance a credit rating;

- that at least 1 of the directors of PSL is an independent director:
- that PSL must not increase or renew existing exposures to related parties or create any new exposures to related parties.

This notice replaces, and is on substantially the same terms as, the Deposit Takers (Propertyfinance Securities Limited) Exemption Notice 2013 which is revoked from the close of 31 July 2014.

The Reserve Bank, after taking into account the principles set out in section 8 of the Act, and satisfying itself as to the matters set out in section 70(2) of the Act, considers it appropriate to grant the exemption because—

- the Bank is satisfied that the exemption is consistent with the maintenance of a sound and efficient financial system in that PSL will be prevented from accepting deposits from the public:
- the additional direct and indirect costs of obtaining a credit rating, maintaining a minimum capital ratio, and complying with the liquidity and governance requirements are unduly onerous and burdensome in the circumstances. PSL is unable to accept deposits from the general public as a condition of this exemption, and existing depositors have agreed not to withdraw their deposits until they fall due under the new arrangement. In these circumstances, compliance with the requirements is not likely to provide material additional benefits to depositors:
- the exemption is conditional on PSL not issuing any further debt securities to the public, but at the same time it does not preclude the possibility of investment, for example by a wealthy or experienced investor, that may assist PSL in moratorium; therefore the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.

This notice is administered by the Reserve Bank of New Zealand.