



New Zealand Gazette

OF THURSDAY, 29 NOVEMBER 2007

WELLINGTON: FRIDAY, 30 NOVEMBER 2007 — ISSUE NO. 131

MINISTRY OF ECONOMIC DEVELOPMENT

NOTICES OF EXEMPTION

PURSUANT TO SECTION 35B OF THE
FINANCIAL REPORTING ACT 1993

Financial Reporting Act (Overseas Incorporated Companies – United States of America) Exemption Notice 2007

Pursuant to section 35B of the Financial Reporting Act 1993, the Registrar of Companies gives the following notice (to which is appended a statement of reasons of the Registrar).

Notice

1 Title

This notice is the Financial Reporting Act (Overseas Incorporated Companies – United States of America) Exemption Notice 2007.

2 Commencement

This notice comes into force on its notification in the *New Zealand Gazette*.

3 Expiry

This notice expires on the close of 31 July 2012.

4 Application

An exemption granted by this notice applies to the following accounting periods of an exempt overseas company:

- (a) an accounting period of the exempt overseas company that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if,—
 - (i) in the case of copies of financial statements or group financial statements for that period that are required to be delivered for registration under section 19 of the Act, the exemption is granted before those documents are required to be delivered for registration under that section; or
 - (ii) in any other case, the exemption is granted before the financial statements or group financial statements for that period are required to be completed; and
- (b) subsequent accounting periods.

5 Interpretation

In this notice, unless the context otherwise requires,—

Act means the Financial Reporting Act 1993

approved auditor means an accountant who is qualified under Part 210 of the Code of Federal Regulations (US)

exempt overseas company means a company that —

- (a) is incorporated in the United States of America; and
- (b) is a company to which section 19 of the Act applies; and
- (c) has specified financial statements prepared in respect of it

specified financial statements, in relation to an exempt overseas company, means the group financial statements that are required to be prepared in respect of the exempt overseas company in accordance with the laws of the United States of America

(including the Securities Exchange Act of 1934 (US) and the Code of Federal Regulations (US))

US GAAP means generally accepted accounting principles in the United States of America.

6 Exemptions for directors of exempt overseas companies

- (1) Every director of an exempt overseas company is exempted from the following provisions in respect of the exempt overseas company:
 - (a) sections 10(1), 11, and 14 of the Act; and
 - (b) section 13 of the Act to the extent that it requires group financial statements to be prepared in relation to the exempt overseas company to comply with section 14 of the Act; and
 - (c) section 19(3) of the Act to the extent that it requires copies of the financial statements of the exempt overseas company, together with a copy of the auditor's report on those statements, to be delivered to the Registrar for registration.
- (2) Subclauses (1)(a) and (c) do not apply in relation to the New Zealand branch accounts that are required to be prepared in relation to the group's New Zealand business prepared in accordance with New Zealand generally accepted accounting practice as if the members of the group were companies formed and registered in New Zealand.
- (3) Subclause (1)(c) does not apply in relation to the group financial statements that are required to be prepared in relation to the exempt overseas company under section 13 of the Act.

7 Conditions

The exemptions in clause 6 are subject to the conditions that –

- (a) the specified financial statements of the exempt overseas company comply with US GAAP; and
- (b) if, in complying with US GAAP, the specified financial statements do not give a true and fair view of the matters to which they relate, the directors of the exempt overseas issuer add information and explanations that will give a true and fair view of those matters; and
- (c) the specified financial statements are accompanied by a report by an approved auditor that complies with the requirements of Part 210 of the Code of Federal Regulations (US).

Dated at Wellington this 28th day of November 2007.

Statement of reasons

This notice, which comes into force on its notification in the *New Zealand Gazette* and expires on 31 July 2012, exempts the directors of certain overseas companies incorporated in the United States of America (the United States) from various provisions of the Financial Reporting Act 1993 (the Act).

The effect of the exemptions is to allow overseas companies incorporated in the United States to provide the group financial statements that they are required to prepare under financial reporting requirements in the United States. The principal differences in financial statements provided by overseas companies relying on the exemptions are—

- the directors of the overseas company will prepare and register financial statements for the New Zealand business and consolidated financial statements only (not stand-alone parent company financial statements):
- the consolidated financial statements will comply with generally accepted accounting principles in the United States (rather than generally accepted accounting practice in New Zealand):
- the consolidated financial statements will be audited in accordance with the requirements set out in United States legislation and the auditor's report will provide the information required by United States legislation instead of the Act.

The Registrar considers that it is appropriate to grant the exemptions because—

- the Registrar has had regard to the financial reporting and audit requirements that must be complied with by United States incorporated companies who rely on the exemptions. The exemptions are limited to overseas companies that must comply with the financial reporting and audit requirements set out in the Securities Exchange Act of 1934 (US) and the Code of Federal Regulations (US); and
- an overseas group relying on the exemptions will still be required to file financial statements for the group's New Zealand business prepared in accordance with New Zealand generally accepted accounting practice as if the members of the group were companies formed and registered in New Zealand; and
- the Registrar is satisfied that the consolidated financial statements required to be prepared under United States financial reporting laws provide sufficient information to avoid any detriment to members of the public who have dealings with companies incorporated in the United States; and
- the exemptions address the particular difficulties experienced by United States incorporated companies that carry on business in New Zealand. The exemptions are not broader than what is reasonably necessary to address these difficulties and still require that group financial statements be filed in New Zealand.

Date of notification in *New Zealand Gazette*: 30 November 2007.

This notice is administered by the Registrar of Companies.

Financial Reporting Act (ENSCO Oceanics International Company and ENSCO Offshore International Company) Exemption Notice 2007

Pursuant to section 35B of the Financial Reporting Act 1993, the Registrar of Companies gives the following notice (to which is appended a statement of reasons of the Registrar).

Notice

1 Title

This notice is the Financial Reporting Act (ENSCO Oceanics International Company and ENSCO Offshore International Company) Exemption Notice 2007.

2 Commencement

This notice comes into force on its notification in the *New Zealand Gazette*.

3 Expiry

This notice expires on the close of 31 July 2012.

4 Application

An exemption granted by this notice applies to the following accounting periods of the exempt overseas companies:

- (a) an accounting period of the exempt overseas companies that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if,—
 - (i) in the case of copies of financial statements or group financial statements for that period that are required to be delivered for registration under section 19 of the Act, the exemption is granted before those documents are required to be delivered for registration under that section; or
 - (ii) in any other case, the exemption is granted before the financial statements or group financial statements for that period are required to be completed; and
- (b) subsequent accounting periods.

5 Interpretation

In this notice, unless the context otherwise requires,—

Act means the Financial Reporting Act 1993

exempt overseas companies means ENSCO Oceanics International Company and ENSCO Offshore International Company

specified financial statements, in relation to the exempt overseas companies, means the group financial statements that are required to be prepared in respect of the exempt overseas companies in accordance with the laws of the Cayman Islands

US GAAP means generally accepted accounting principles in the United States of America.

6 Exemptions for directors of exempt overseas companies

- (1) Every director of the exempt overseas companies is exempted from the following provisions in respect of the exempt overseas companies:

- (a) section 10(1) and 11 of the Act to the extent that these sections require financial statements to be prepared in relation to the exempt overseas companies; and
 - (b) section 13 of the Act to the extent that it requires group financial statements prepared in relation to the exempt overseas companies to comply with section 14 of the Act; and
 - (c) section 19(3) of the Act to the extent that this section requires financial statements of the exempt overseas companies, together with a copy of the auditor's report on those statements, to be delivered to the Registrar for registration.
- (2) Subclauses (1)(a) and (c) do not apply in relation to the New Zealand branch accounts that are required to be prepared in relation to the group's New Zealand business in accordance with New Zealand generally accepted accounting practice as if the members of the group were companies formed and registered in New Zealand.
- (3) Subclause (1)(c) does not apply in relation to the group financial statements that are required to be prepared in relation to the exempt overseas companies under section 13 of the Act.

7 Conditions

The exemptions in clause 6 are subject to the conditions that –

- (a) the specified financial statements of the exempt overseas companies comply with US GAAP; and
- (b) if, in complying with US GAAP, the specified financial statements do not give a true and fair view of the matters to which they relate, the directors of the exempt overseas companies add information and explanations that will give a true and fair view of those matters.

Dated at Wellington this 28th day of November 2007.

Statement of reasons

This notice, which comes into force on its notification in the *New Zealand Gazette* and expires on 31 July 2012, exempts the directors of ENSCO Oceanics International Company and ENSCO Offshore International Company, companies that were incorporated in the Cayman Islands, from various provisions of the Financial Reporting Act 1993 (the Act).

The effect of the exemptions is to allow ENSCO Oceanics International Company and ENSCO Offshore International Company to provide the group financial statements that they are required to prepare under financial reporting requirements in the Cayman Islands. The principal differences in financial statements provided by ENSCO Oceanics International Company and ENSCO Offshore International Company relying on the exemptions are—

- the directors of ENSCO Oceanics International Company and ENSCO Offshore International Company will prepare and register financial statements for the New Zealand business and consolidated financial statements only (not stand-alone parent company financial statements);
- the consolidated financial statements will comply with generally accepted accounting principles in the United States (rather than generally accepted accounting practice in New Zealand).

The Registrar considers that it is appropriate to grant the exemptions because—

- the Registrar has had regard to the financial reporting requirements that must be complied with by ENSCO Oceanics International Company and ENSCO Offshore International Company in their home jurisdiction; and
- ENSCO Oceanics International Company and ENSCO Offshore International Company will still be required to file financial statements for the group's New Zealand business prepared in accordance with New Zealand generally accepted accounting practice as if the members of the group were companies formed and registered in New Zealand; and
- the Registrar is satisfied that the consolidated financial statements required to be prepared under Cayman Islands financial reporting laws provide sufficient information to avoid any detriment to members of the public who have dealings with ENSCO Oceanics International Company and ENSCO Offshore International Company; and
- the exemptions address the particular difficulties experienced by ENSCO Oceanics International Company and ENSCO Offshore International Company carrying on business in New Zealand. The exemptions are not broader than what is reasonably necessary to address these difficulties and still require that group financial statements be filed in New Zealand.

Date of notification in *New Zealand Gazette*: 30 November 2007.

This notice is administered by the Registrar of Companies.

Financial Reporting Act (Overseas Incorporated Companies – Australian Wholly-Owned Entities) Exemption Notice 2007

Pursuant to section 35B of the Financial Reporting Act 1993, the Registrar of Companies gives the following notice (to which is appended a statement of reasons of the Registrar).

Notice

1 Title

This notice is the Financial Reporting Act (Overseas Incorporated Companies – Australian Wholly-Owned Entities) Exemption Notice 2007.

2 Commencement

This notice comes into force on its notification in the *New Zealand Gazette*.

3 Expiry

This notice expires on the close of 31 July 2012.

4 Application

An exemption granted by this notice applies to the following accounting periods of an exempt overseas company:

- (a) an accounting period of the exempt overseas company that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if,—
 - (i) in the case of copies of financial statements or group financial statements for that period that are required to be delivered for registration under section 19 of the Act, the exemption is granted before those documents are required to be delivered for registration under that section; or
 - (ii) in any other case, the exemption is granted before the financial statements or group financial statements for that period are required to be completed; and
- (b) subsequent accounting periods.

5 Interpretation

In this notice, unless the context otherwise requires,—

Act means the Financial Reporting Act 1993

Class Order means the Australian Securities and Investment Commission's Class Order [98/1418] Wholly-owned entities

exempt overseas company means a company that –

- (a) is incorporated in Australia; and
- (b) is a company to which section 19 of the Act applies; and
- (c) has been granted relief under the Class Order;

specified financial statements, in relation to an exempt overseas company, means the consolidated financial statements that are required to be prepared in accordance with the relief granted under the Class Order in respect of the exempt overseas company

Australian GAAP means generally accepted accounting principles in Australia.

6 Exemptions for directors of exempt overseas companies

Every director of an exempt overseas company is exempted from the following provisions in respect of the exempt overseas company:

- (a) section 10(1), 11, 13 and 14 of the Act; and
- (b) section 19(3) of the Act to the extent that it requires copies of the financial statements and group financial statements of the exempt overseas company, together with a copy of the auditor's report on those statements, to be delivered to the Registrar for registration.

7 Conditions

The exemptions in clause 6 are subject to the conditions that –

- (a) the specified financial statements comply with Australian GAAP; and
- (b) if, in complying with Australian GAAP, the specified financial statements do not give a true and fair view of the matters to which they relate, the directors of the exempt overseas company add information and explanations that will give a true and fair view of those matters; and
- (c) the directors of the exempt overseas company ensure that, within 20 working days after the specified financial statements are required to be signed, the following documents are delivered to the Registrar for registration:
 - (i) a copy of the specified financial statements;
 - (ii) a memorandum signed by the directors of the exempt overseas company which states that:
 - A the specified financial statements are the consolidated financial statements that are required to be prepared under the Class Order and are not the financial statements of the exempt overseas company; and
 - B the exempt overseas company has been granted relief under the Class Order and the basis for which the exempt overseas company qualifies for such relief; and
 - C the nature of the relief granted;
 - (iii) a copy of the Class Order.

Dated at Wellington this 28th day of November 2007.

Statement of reasons

This notice, which comes into force on its notification in the *New Zealand Gazette* and expires on 31 July 2012, exempts the directors of certain overseas companies incorporated in Australia from various provisions of the Financial Reporting Act 1993 (the Act).

The effect of the exemptions is to allow overseas companies incorporated in Australia, which are wholly owned subsidiaries that have been granted relief under the Australian Securities and Investment Commission's (ASIC) Class Order [98/1418] Wholly-owned entities (the Class Order), to provide the consolidated financial statements that they are required to prepare under financial reporting requirements in Australia.

The Class Order provides that certain wholly-owned subsidiaries may be relieved from the requirement to prepare and lodge audited financial statements under Chapter 2M of the Corporations Act 2001 (Aust), where they enter into deeds of cross guarantee with their parent or "holding entity" and meet certain other conditions. The relief is granted on the

basis that the deed of cross guarantee makes the group of companies that are parties to that deed akin to a single legal entity in many respects. Creditors and potential creditors can then focus on the consolidated financial position for those entities rather than the individual financial statements of the wholly-owned subsidiaries that are parties to the deed.

The principal differences in financial statements provided by overseas companies relying on the exemptions are—

- the directors of the overseas company will prepare and register financial statements for the New Zealand business and the consolidated financial statements prepared for the parent entity only (not stand-alone parent company financial statements);
- the consolidated financial statements will comply with generally accepted accounting principles in Australia (rather than generally accepted accounting practice in New Zealand).

The Registrar considers that it is appropriate to grant the exemptions because—

- the Registrar has had regard to the financial reporting requirements that must be complied with by Australian incorporated companies who rely on the exemptions. The exemptions are limited to overseas companies that have been granted relief by ASIC under the Class Order; and
- an overseas company relying on the exemptions will still be required to file financial statements for the group's New Zealand business prepared in accordance with New Zealand generally accepted accounting practice as if the members of the group were companies formed and registered in New Zealand; and
- the Registrar is satisfied that the consolidated financial statements for the parent company that are required to be prepared under the Class Order provide sufficient information to avoid any detriment to members of the public who have dealings with companies incorporated in Australia who have been granted relief under the Class Order; and
- the exemptions address the particular difficulties experienced by Australian incorporated companies that carry on business in New Zealand, and that have been granted relief under the Class Order from the requirement to prepare stand alone parent company financial statements in Australia. The exemptions are not broader than what is reasonably necessary to address these difficulties and still require that consolidated financial statements be filed in New Zealand.

Date of notification in *New Zealand Gazette*: 30 November 2007.

This notice is administered by the Registrar of Companies.