

Version
as at 30 April 2022



Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020

(LI 2020/71)

Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020: revoked, on the close of 29 April 2022, by clause 3.

Pursuant to sections 556 and 572 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Financial Markets Authority.

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Notice

1 Title

This notice is the Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020.

2 Commencement

This notice comes into force on 29 April 2020.

3 Revocation

This notice is revoked on the close of 29 April 2022.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

Regulations means the Financial Markets Conduct Regulations 2014

relevant provision, in relation to an exemption in this notice, means the provision of the Act or Regulations in respect of which the exempt person is relying on the exemption

required period means the period specified in respect of the relevant provision within which the provision must be complied with.

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

Financial reporting exemptions

5 Exemptions from time frame requirements for financial reporting duties

- (1) An FMC reporting entity (**A**) is exempted from sections 460, 461, 461B, and 461H(1) of the Act to the extent that those provisions require A to comply within 4 months after A's balance date if A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with 1 or more of those provisions within that period because of the outbreak of COVID-19.
- (2) A manager of a registered scheme (**B**) is exempted from sections 461A and 461H(1A) of the Act to the extent that those provisions require B to comply within 4 months after the balance date of the scheme if B believes, on reasonable grounds, that it is not reasonably practicable for it to comply within that period because of the outbreak of COVID-19.
- (3) The exemptions in this clause apply to accounting periods that end on or after 31 December 2019 but before 1 August 2020.

6 Conditions of exemptions in clause 5

The exemptions in clause 5 are subject to the condition that the FMC reporting entity or the manager of the registered scheme—

- (a) complies with the relevant provisions within 6 months after the balance date of the FMC reporting entity or of the scheme (as the case may be); and
- (b) gives to the FMA, within the required period, a written notice that states that the FMC reporting entity or the manager is relying on the exemptions in clause 5; and

- (c) lodges with the Registrar, within the required period, a copy of that written notice.

Exemptions from updating certain information on offers register

7 Exemption from time frame requirement for updating information about debt securities that are continuously offered

An issuer of debt securities (A) is exempted from regulation 51 and clause 67(1)(b) and (2)(b) of Schedule 2 of the Regulations to the extent that those provisions require A to comply within 4 months after A's balance date if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with those provisions within that period because of the outbreak of COVID-19; and
- (b) A is relying on the exemptions in clause 5(1) in relation to the accounting period ending on that balance date.

8 Exemption from time frame requirement for updating information about equity securities that are continuously offered

An issuer of equity securities (A) is exempted from regulation 51 and clause 55(2)(c) and (3)(b) of Schedule 3 of the Regulations to the extent that those provisions require A to comply within 4 months after A's balance date if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with those provisions within that period because of the outbreak of COVID-19; and
- (b) A is relying on the exemptions in clause 5(1) in relation to the accounting period ending on that balance date.

9 Conditions of exemptions in clauses 7 and 8

The exemptions in clauses 7 and 8 are subject to the conditions that the issuer—

- (a) complies with the relevant provisions within 6 months after the issuer's balance date; and
- (b) gives to the FMA, within the required period, a written notice that states that the issuer is relying on the exemptions in clause 7 or 8 (as the case may be); and
- (c) lodges with the Registrar, within the required period, a copy of that written notice.

Exemption for annual report for registered schemes

10 Exemption from time frame requirements for annual reports

A manager of a registered scheme (A) is exempted from regulation 62 of the Regulations to the extent that it requires A to prepare an annual report within 4 months after the balance date of the scheme if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with that provision within that period because of the outbreak of COVID-19; and
- (b) A is relying on the exemptions in clause 5(2) in respect of the accounting period to which the annual report relates.

11 Conditions of exemption in clause 10

The exemption in clause 10 is subject to the conditions that the manager of the registered scheme—

- (a) complies with the relevant provision within 6 months after the balance date of the scheme; and
- (b) gives to the FMA, within the required period, a written notice that states that the manager is relying on the exemption in clause 10; and
- (c) lodges with the Registrar, within the required period, a copy of that written notice.

Exemptions for restricted schemes that are not operated on unitised basis

12 Application of clauses 13 to 16

- (1) Clauses 13 to 16 apply to a restricted scheme if the final annual earnings (which could be negative) that are distributed to the scheme participants are determined by reference to the scheme's audited financial statements.
- (2) However, those provisions only apply to periods ending on a balance date of the restricted scheme that is on or after 31 January 2020 but before 1 August 2020.

13 Exemption from time frame requirements for duty to make fund update available

A manager of a restricted scheme (A) is exempted from regulation 56(2) of the Regulations to the extent that it requires A to comply within 3 months after the last day of a disclosure year or the balance date of the scheme if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with that provision within that period because of the outbreak of COVID-19; and
- (b) A is relying on the exemptions in clause 5(2) in relation to the accounting period ending on that last day or that balance date.

14 Conditions of exemption in clause 13

The exemption in clause 13 is subject to the conditions that the manager of the restricted scheme—

- (a) complies with the relevant provision within 5 months after the last day of the disclosure year or the balance date of the scheme; and
- (b) gives to the FMA, within the required period, a written notice that states that the manager is relying on the exemption in clause 13; and
- (c) lodges with the Registrar, within the required period, a copy of that written notice.

15 Exemption from time frame requirements for duty to supply confirmation information

A manager of a restricted scheme (A) is exempted from regulation 71 of the Regulations to the extent that it requires A to comply within 3 months after the expiry of the scheme's accounting period if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with that provision within that period because of the outbreak of COVID-19; and
- (b) A is relying on the exemptions in clause 5(2) in relation to that accounting period.

16 Conditions of exemption in clause 15

The exemption in clause 15 is subject to the conditions that the manager of the restricted scheme—

- (a) complies with the relevant provision within 5 months after the expiry of the scheme's accounting period; and
- (b) gives to the FMA, within the required period, a written notice that states that the manager is relying on the exemption in clause 15; and
- (c) lodges with the Registrar, within the required period, a copy of that written notice.

*Exemption for annual meeting of closed-ended schemes***17 Exemption from time frame requirements for calling and holding annual meeting of closed-ended schemes**

A manager of a registered scheme that is closed-ended (A) is exempted from regulation 92 of the Regulations to the extent that it requires A to comply within 6 months after the balance date of the scheme and not later than 15 months after the previous annual meeting if—

- (a) A believes, on reasonable grounds, that it is not reasonably practicable for it to comply with that provision within that period because of the outbreak of COVID-19; and

- (b) A is relying on the exemptions in clause 5(2) in relation to the accounting period ending on that balance date.

18 Conditions of exemption in clause 17

The exemption in clause 17 is subject to the conditions that the manager of the registered scheme—

- (a) complies with the relevant provision within 8 months after the balance date of the scheme and not later than 17 months after the previous annual meeting; and
- (b) gives to the FMA, within the required period, a written notice that states that the manager is relying on the exemption in clause 17.

Audit of registers exemption

19 Exemption from time frame requirements for audit of registers of regulated products

- (1) An issuer of regulated products (A) is exempted from regulations 108 and 109 of the Regulations to the extent that those provisions require A to comply within 4 months after the balance date of a registered scheme, or 4 months after A's balance date, if A believes, on reasonable grounds, that it is not reasonably practicable for it to comply within that period because of the outbreak of COVID-19.
- (2) The exemption in this clause applies to an audit that must, but for the exemption, be completed within 4 months after a balance date that is on or after 31 December 2019 but before 1 August 2020.

20 Conditions of exemption in clause 19

The exemption in clause 19 is subject to the conditions that the issuer—

- (a) complies with the relevant provisions within—
 - (i) 6 months after the balance date of the registered scheme (in the case of managed investment products); or
 - (ii) 6 months after the balance date of the issuer (in any other case); and
- (b) gives to the FMA, within the required period, a written notice that states that the issuer is relying on the exemption in clause 19.

Assurance engagement exemptions

21 Exemption for custodians from time frame requirements for assurance engagements

- (1) A custodian for a registered scheme (A) is exempted from regulation 87 of the Regulations to the extent that it requires A to comply within 4 months after a relevant date if A believes, on reasonable grounds, that it is not reasonably

practicable for it to comply within that period because of the outbreak of COVID-19.

- (2) The exemption in this clause applies in relation to relevant periods that end on or after 31 December 2019 but before 1 August 2020.
- (3) In this clause and clause 22,—
relevant date has the meaning set out in regulation 87(4) of the Regulations
relevant period has the meaning set out in regulation 88(4) of the Regulations.

22 Conditions of exemption in clause 21

The exemption in clause 21 is subject to the conditions that the custodian—

- (a) complies with the relevant provision within 6 months after the relevant date; and
- (b) gives to the FMA, within the required period, a written notice that states that the custodian is relying on the exemption in clause 21.

23 Exemption for derivatives issuers from time frame requirements for assurance engagements

- (1) A derivatives issuer (A) is exempted from regulation 248 of the Regulations to the extent that it requires A to comply within 4 months after A's balance date if A believes, on reasonable grounds, that it is not reasonably practicable for it to comply within that period because of the outbreak of COVID-19.
- (2) The exemption in this clause applies in relation to accounting periods that end on or after 31 December 2019 but before 1 August 2020.

24 Conditions of exemption in clause 23

The exemption in clause 23 is subject to the conditions that the derivatives issuer—

- (a) complies with the relevant provision within 6 months after its balance date; and
- (b) gives to the FMA, within the required period, a written notice that states that the issuer is relying on the exemption in clause 23.

Miscellaneous provisions

25 Extended time to comply with notification conditions

If a condition in this notice would otherwise require a notice to be given to the FMA, or lodged with the Registrar, on or before 30 April 2020, the notice must instead be given or lodged on or before 15 May 2020.

26 Notices may be combined

If a person is required to give or lodge 2 or more notices with the FMA or the Registrar under conditions in this exemption notice, the notices may be combined in a single notice.

27 Amendments to notices

Amend the notices specified in the Schedule as set out in that schedule.

Schedule

Amendments to notices

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Financial Markets Conduct (Forestry Schemes) Exemption Notice 2016 (LI 2016/265)

After clause 20, insert:

Time frame extended because of outbreak of COVID-19

21 Time frame extended because of outbreak of COVID-19

- (1) This clause applies if a custodian that is exempted under clause 15 believes, on reasonable grounds, that it is not reasonably practicable for it to comply with clause 16(1)(a) within 4 months after the relevant date because of the outbreak of COVID-19.
- (2) The period for compliance in clause 16(1)(a) is extended to 6 months after the relevant date if the custodian gives to the FMA, within 4 months after the relevant date, a written notice that states that the custodian is relying on this clause.
- (3) If subclause (2) would otherwise require the notice to be given to the FMA on or before 30 April 2020, the notice must instead be given on or before 15 May 2020.
- (4) This clause applies in relation to relevant periods that end on or after 31 December 2019 but before 1 August 2020.

Financial Markets Conduct (Overseas Custodians—Assurance Engagement) Exemption Notice 2018 (LI 2018/9)

After clause 7, insert:

8 Time frame extended because of outbreak of COVID-19

- (1) This clause applies if a custodian that is exempted under clause 5 believes, on reasonable grounds, that it is not reasonably practicable for it to comply with clause 6 within 4 months after the end of the exempt period because of the outbreak of COVID-19.
- (2) The period for compliance in clause 6 is extended to 6 months after the end of the exempt period if the custodian gives to the FMA, within 4 months after the end of the exempt period, a written notice that states that the custodian is relying on this clause.
- (3) If subclause (2) would otherwise require the notice to be given to the FMA on or before 30 April 2020, the notice must instead be given on or before 15 May 2020.
- (4) This clause—

Financial Markets Conduct (Overseas Custodians—Assurance Engagement) Exemption Notice 2018 (LI 2018/9)—*continued*

- (a) applies in relation to exempt periods that end on or after 31 December 2019 but before 1 August 2020; and
- (b) is revoked on the close of 29 April 2022.

Financial Markets Conduct (Property Schemes—Custody of Assets) Exemption Notice 2016 (LI 2016/266)

After clause 12, insert:

13 Time frame extended because of outbreak of COVID-19

- (1) This clause applies if a custodian that is exempted under clause 11 believes, on reasonable grounds, that it is not reasonably practicable for it to comply with clause 12(1)(a) within 4 months after the relevant date because of the outbreak of COVID-19.
- (2) The period for compliance in clause 12(1)(a) is extended to 6 months after the relevant date if the custodian gives to the FMA, within 4 months after the relevant date, a written notice that states that the custodian is relying on this clause.
- (3) If subclause (2) would otherwise require the notice to be given to the FMA on or before 30 April 2020, the notice must instead be given on or before 15 May 2020.
- (4) This clause applies in relation to relevant periods that end on or after 31 December 2019 but before 1 August 2020.

Financial Markets Conduct (Restricted Schemes—Custodian Assurance Engagement) Exemption Notice 2020 (LI 2020/45)

After clause 9, insert:

10 Time frame extended because of outbreak of COVID-19

- (1) This clause applies if a custodian that is exempted under clause 5 believes, on reasonable grounds, that it is not reasonably practicable for clause 6(c) to be complied with within 4 months of the relevant date because of the outbreak of COVID-19.
- (2) The period for compliance in clause 6(c) is extended to 6 months after the relevant date if the custodian gives to the FMA, within 4 months after the relevant date, a written notice that states that the custodian is relying on this clause.
- (3) This clause—
 - (a) applies in relation to relevant periods that end on or after 31 March 2020 but before 1 August 2020; and
 - (b) is revoked on the close of 29 April 2022.

Dated at Wellington this 23rd day of April 2020.

Sarah Vrede,
Director of Capital Markets.

Statement of reasons

This notice, which comes into force on 29 April 2020, exempts certain financial market participants from compliance with certain obligations (for example, financial reporting duties) under the Financial Markets Conduct Act 2013 (the **Act**) and the Financial Markets Conduct Regulations 2014 (the **Regulations**).

The exemptions only apply to the extent that the market participant is required to comply with the obligation within a time frame (for example, within 4 months after the market participant's balance date). The exemptions apply if the market participant believes, on reasonable grounds, that it is not reasonably practicable for it to comply within that time frame because of the outbreak of COVID-19. The exemptions are subject to conditions that the market participant—

- complies within an extended period of 2 months; and
- notifies the Financial Markets Authority (the **FMA**) that it is relying on the exemption; and
- in some cases, lodges the notice to the FMA with the Registrar of Financial Service Providers.

This notice also amends a number of class exemptions issued by the FMA under the Act (the **class notices**). To similar effect, the amendments extend the time frame for complying with certain conditions by 2 months if the exempt person believes, on reasonable grounds, that it is not reasonably practicable for it to comply within that time frame because of the outbreak of COVID-19.

The FMA, after satisfying itself as to the matters set out in section 557 of the Act and after consulting the Reserve Bank in accordance with section 561A(2) of the Act, considers it appropriate to grant the exemptions, and to amend the class notices, because—

- compliance with certain financial reporting, audit, and other duties under the Act, the Regulations, and the class notices within current required time frames has or is likely to become practically difficult for some market participants as a consequence of the outbreak of COVID-19; and
- in these circumstances, some market participants will require additional time to comply with their obligations; and
- taking a flexible approach and granting extended time for compliance will assist market participants to meet their obligations in a safe, efficient, and orderly manner and without unnecessary compliance costs and promote flexi-

bility in the financial markets. This will also help ensure that the information provided to investors is appropriately prepared, accurate, and audited and that there is continued confidence and informed participation by investors and businesses in the financial markets; and

- as such, it is satisfied that the granting of the exemptions, and the amending of the class notices, is desirable in order to promote the purposes of the Act, specifically to provide for accurate information to be provided to persons to assist them to make decisions relating to financial products or the provision of financial services, avoid unnecessary compliance costs, promote the confident and informed participation of businesses, investors, and consumers in the financial markets, and promote flexibility in those markets; and
- it is satisfied that the extent of the exemptions and the amendments is not broader than reasonably necessary to address the matters that gave rise to the exemptions and amendments, given that relief will only apply to market participants with balance dates or relevant dates, as the case may be, between 31 December 2019 and 1 August 2020 where it is not reasonably practicable for them to meet current reporting or audit time frames because of the outbreak of COVID-19.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 28 April 2020.

Notes**1 *General***

This is a consolidation of the Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Financial Markets Conduct (Financial Reporting and Other Relief—COVID-19) Exemption Notice 2020 (LI 2020/71): clause 3