

## Financial Markets Conduct (JP Morgan Chase Bank N.A.) Exemption Notice 2017

Pursuant to section 556 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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### Notice

#### 1 Title

This notice is the Financial Markets Conduct (JP Morgan Chase Bank N.A.) Exemption Notice 2017.

#### 2 Commencement

This notice comes into force on 10 March 2017.

#### 3 Revocation

This notice is revoked on the close of 9 March 2022.

#### 4 Interpretation

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

**Act** means the Financial Markets Conduct Act 2013

**borrower** has the meaning set out in the definition of lending authority

**client** has the meaning set out in the definition of lending authority

**JPM** means JP Morgan Chase Bank N.A., a national banking association chartered by the Office of the Comptroller of the Currency in the United States of America

**lending authority** means an authority granted to JPM to act as agent on behalf of a client of JPM (the **client**) in connection with a securities lending arrangement to be entered into between the client and another entity (the **borrower**), under which the client grants JPM the right—

(a) to transfer financial products held by or on behalf of the client to the borrower; and

- (b) to appropriate, transfer, use, reinvest or otherwise deal with all or any of the property provided as collateral by the borrower in connection with the securities lending arrangement

**master securities lending agreement** means—

- (a) an Australian Master Securities Lending Agreement published by the Australian Securities Lending Association; or
- (b) a Global Master Securities Lending Agreement published by the International Securities Lending Association; or
- (c) a written agreement that is on substantially the same terms as an agreement referred to in (a) or (b) above

**Regulations** means the Financial Markets Conduct Regulations 2014

**securities lending arrangement** means an arrangement documented under a master securities lending agreement under which—

- (a) the client agrees that it will—
- (i) deliver financial products (**delivered financial products**) to the borrower or to an entity nominated by the borrower; and
- (ii) vest title in the delivered financial products in the entity to which they are delivered; and
- (b) the borrower agrees that it will, when required to do so under the applicable master securities lending agreement—
- (i) deliver the delivered financial products or financial products equivalent to the delivered financial products (**equivalent financial products**) and any required collateral to the client or to an entity nominated by the client; and
- (ii) vest title in the delivered financial products or equivalent financial products and any required collateral in the entity to which they are delivered.
- (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.

## 5 Exemption

JPM is exempted from sections 276 to 279 of the Act in respect of any relevant interest in a financial product that JPM has as a result of a lending authority granted to it by a client.

## 6 Conditions of exemption

The exemption in clause 5 is subject to the conditions that—

- (a) JPM must not, under the lending authority, have the power to exercise, or control the exercise of, a right to vote attached to any financial product; and
- (b) JPM must not, under the lending authority, facilitate a securities lending arrangement that JPM knows, or ought reasonably to know, is being entered into by the client or the borrower, or both, for the purpose of avoiding the requirement to comply with sections 276 to 279 of the Act.

Dated at Wellington this 2nd day of March 2017.



Garth Stanish  
Director of Capital Markets  
Financial Markets Authority

### Statement of reasons

This notice comes into force on 10 March 2017 and is revoked on the close of 9 March 2022.

This notice exempts JP Morgan Chase Bank N.A. (**JPM**) from the substantial product holder requirements in sections 276 to 279 of the Financial Markets Conduct Act 2013 (**the Act**) in respect of any relevant interest in a financial product that JPM has as a result of being granted an authority (**lending authority**) to act as agent on behalf of a client (**the client**) to lend approved financial products owned by the client to another entity (**the borrower**) in connection with a securities lending arrangement entered into between the client and the borrower (**securities lending arrangement**).

The Financial Markets Authority (**the FMA**), after satisfying itself as to the matters set out in section 557 of the Act, considers it appropriate to grant the exemption because—

- given that the relevant interests in financial products to which the exemption relates arise as a result of the limited authority granted to JPM under the lending authority that may be withdrawn, or modified, by the client at any time, compliance with the substantial product holder disclosure requirements in the Act may inhibit an informed market. JPM has an interest in the financial products only for the purposes of lending those financial products as agent on behalf of the client in connection with a securities lending arrangement and does not, by virtue of the lending authority, have legal title or the beneficial interests attached to those products, or the power to exercise, or control the exercise of, a right to vote attached to those products:
- the exemption is consistent with the policy of the Act, which excludes certain interests in financial products from the definition of relevant interest, thereby limiting the scope of the circumstances in which substantial holdings in financial products must be disclosed to where the disclosure is useful:
- as such, the FMA is satisfied that the granting of the exemption is desirable to promote the purposes of the Act. Specifically, to promote the confident and informed participation of businesses, investors and consumers in the financial markets and, given there is no benefit to requiring disclosure in the circumstances covered by the exemption, the granting of the exemption will also avoid unnecessary compliance costs:
- the scope of the exemption is limited to circumstances where JPM has a relevant interest in a financial product as a result of a lending authority granted to it by a client in connection with a securities lending arrangement. The client and the borrower will still be required to comply with the substantial product holder requirements in sections 276 to 279 of the Act with respect to any relevant interest they have in the financial product delivered under the securities lending arrangement. Further, it is a condition of the exemption that JPM does not, under the lending authority, facilitate a securities lending arrangement that JPM knows, or ought reasonably to know, is being entered into by the client or the borrower, or both, for the purpose of avoiding the substantial product holder disclosure requirements. As such, the FMA is satisfied that the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.