

Financial Advisers (Courtenay Nominees Limited Transaction Reporting) Exemption Notice 2015

Pursuant to section 148 of the Financial Advisers Act 2008, the Financial Markets Authority, being satisfied of the matters set out in section 148(2) of that Act, gives the following notice.

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Notice

1 Title

This notice is the Financial Advisers (Courtenay Nominees Limited Transaction Reporting) Exemption Notice 2015.

2 Commencement

This notice comes into force on 28 July 2015.

3 Revocation

This notice is revoked on the close of 27 July 2020.

4 Interpretation

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

Act means the Financial Advisers Act 2008

Cash Assets means cash, Cash equivalent assets and Fixed return assets

Cash equivalent assets means cash equivalents as determined in accordance with generally accepted accounting practice

Cash Portfolio Management Service means a discretionary investment management service materially in the form described in the Service disclosure statement titled "Cash Portfolio Management Service Service Disclosure Statement" prepared by TFO as at 3 July 2015

Cash Service means the Cash Portfolio Management Service, and the Navigator Service to the extent it relates to Cash Assets, in each case provided by TFO in accordance with TFO's DIMS licence

CNL means Courtenay Nominees Limited

DIMS has the same meaning as in section 392 of the FMCA

DIMS licence means the market services licence granted to TFO on 17 April 2015

Fixed return assets means assets the return on which (excluding gains or losses on sale) is either fixed or varies periodically by reference to external rates

FMCA means the Financial Markets Conduct Act 2013

Market services licence has the same meaning as in section 6(1) of the FMCA

Navigator Service means a discretionary investment management service materially in the form described in the Service disclosure statement titled "Navigator Service Service Disclosure Statement" prepared by TFO as at 3 July 2015

Regulations means the Financial Advisers (Custodians of FMCA Financial Products) Regulations 2014

Service disclosure statement has the same meaning as in regulation 5(1) of the Financial Markets Conduct Regulations 2014

TFO means Todd Family Office Limited

working day has the meaning given to it in the Interpretation Act 1999.

- (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

CNL is exempted from regulation 5(1) of the Regulations, with respect to Cash Assets it holds as custodian, for the purposes of the FMCA, in respect of the Cash Service, to the extent that it must provide the information specified in:—

- (a) regulation 5(1)(a) and (b) of the Regulations; and
- (b) regulation 5(1)(c)(i) of the Regulations with respect to the number of FMCA financial products currently held on behalf of a client.

6 Conditions of exemption

The exemption in clause 5 is subject to the following conditions:—

- (a) CNL must at the same time as providing the information required under regulation 5 of the Regulations also provide—
 - (i) the total value of the Cash Assets held for the client by CNL as custodian, for the purposes of the FMCA, in respect of the Cash Service at the beginning and end of the reporting period (being the aggregate of the current, or most recent, valuations of the Cash Assets as at the relevant time); and
 - (ii) a statement of the basis on which that value is assessed or the relevant valuation is made (for example, the value of cash is the face value of that cash), and the date of the relevant assessment or valuation;

- (b) CNL must at the same time as providing the information required under regulation 5 of the Regulations also provide information setting out all further contributions of Cash Assets and withdrawals of Cash Assets by a client from the Cash Service; and
- (c) CNL must, within 10 working days of receiving a request from a client who receives the Cash Service, provide the client with the information specified in regulations 5(1)(a), (b) and the number of FMCA financial products currently held on behalf of the client as specified in regulation 5(1)(c)(i) of the Regulations.

Dated at Wellington this 24th day of July 2015.



Liam Mason
Director of Regulation
Financial Markets Authority

Statement of reasons

This notice comes into force on 28 July 2015 and is revoked on the close of 27 July 2020.

This notice exempts CNL from compliance with regulation 5(1) of the Regulations to the extent that it must provide the information specified in regulations 5(1)(a) and (b) of the Regulations to clients who use the Cash Service for their cash assets only, in respect of client money and client property received, held, or paid by it.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 148(2) of the Act, considers that it is appropriate to grant the exemption because—

- requiring CNL to provide the information specified in regulation 5(1)(a) and (b) of the Regulations to clients who use the Cash Service for their Cash Assets only, would involve significant costs to CNL and would be of limited benefit to clients because it would result in a high volume of low value information being provided to clients which could be unhelpful and potentially confusing; and
- requiring CNL to provide clients with the number of FMCA financial products currently held on their behalf through the Cash Service as specified in regulation 5(1)(c)(i) would not, given the nature of the Cash Service, provide meaningful information to clients; and
- at any time clients will be able to request the information specified in regulations 5(1)(a) and (b) and the number of FMCA financial products currently held on behalf of the client as specified in regulation 5(1)(c) of the Regulations from CNL and will be able to receive this information within 10 working days; and
- given the above, the costs of compliance with the relevant obligation would be unreasonable and would not be justified by the benefits of compliance.