

Financial Markets Conduct (BGC Partners (Australia) Pty Limited) Exemption Notice 2023

This exemption is granted by the Financial Markets Authority under section 556 of the Financial Markets Conduct Act 2013 after being satisfied of the matters set out in section 557 of that Act.

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Notice

1 Title

This notice is the Financial Markets Conduct (BGC Partners (Australia) Pty Limited) Exemption Notice 2023.

2 Commencement

This notice comes into force on 18 December 2023.

3 Revocation

This notice is revoked on 17 December 2025.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

BGC means BGC Partners (Australia) Pty Limited

BGC Financial Product Markets means the financial product markets to be operated by BGC in New Zealand through the Voice-broking Facility and the Electronic Trading Facility

BGC market rules means BGC's electronic access and trading terms from time to time

Electronic Trading Facility means the facility by which BGC operates services that allow for the trading of financial products to occur during specified matching sessions on an electronic platform

matching session means the periods during which the Electronic Trading Facility is open to participants

Regulations means the Financial Markets Conduct Regulations 2014

trading day means a calendar day on which the BGC Financial Product Markets are open

Voice-broking Facility means the facility by which BGC operates voice-broking services where the infrastructure used is limited to telephone services, electronic chat communications, intercom and software products that verify client deals and issue trade confirmations.

- (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 from section 310 of the Act

BGC is exempted from section 310 of the Act in connection with operating, or holding out as operating, the BGC Financial Product Markets.

6 Conditions of exemption in clause 5

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

Market access and broking

- (a) BGC does not receive or hold client money or client property or operate any clearing and settlement facility in connection with its operation of the BGC Financial Product Markets;
- (b) each participant in a BGC Financial Product Market is an entity that is a wholesale investor (as defined in clause 3(2) of Schedule 1 of the Act) acting on its own behalf as principal;
- (c) BGC, and any affiliate or group company, does not trade on its own behalf or as agent on behalf of others on a BGC Financial Product Market;

Financial products offered

- (d) each BGC Financial Product Market is used only in relation to one or more of the following financial products—
 - (i) derivatives between participants in that BGC Financial Product Market;
 - (ii) debt securities issued by registered banks; and
 - (iii) New Zealand Government bonds;

Financial product market operation

- (e) BGC does not describe itself as operating a licensed financial product market in New Zealand or hold out that any financial product market it operates is a licensed

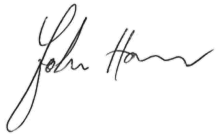
financial product market in New Zealand;

- (f) BGC must, in respect of the Electronic Trading Facility used in relation to the financial products specified in clause 6(d)(i) and (ii):
 - (i) not operate more than 10 matching sessions per trading day; and
 - (ii) ensure each matching session operates for no longer than 20 minutes; and
 - (iii) seek prior written approval from the FMA to conduct matching sessions that exceed the limits set out in clauses 6(f)(i) and (ii).

Reporting

- (g) BGC must:
 - (i) report to the FMA every 6 months from the date this notice comes into force, for the prior 6 months, in relation to the financial products specified in clause 6(d)(i) and (ii):
 - (A) the total number of trades and the total value, in NZD-equivalent terms, of trades by all participants by type of financial product (i.e. derivatives and debt securities); and
 - (B) the duration and frequency of each matching session operated in that 6 month period; and
 - (ii) advise the FMA within 10 working days of any potential or actual compliance breach that has been discussed with, or notified to or by, any other regulator (in New Zealand or overseas) in respect of any matters concerning the Voice-broking Facility or Electronic Trading Facility; and
 - (iii) report to the FMA every 3 months from the date this notice comes into force, for the prior quarter, in relation to the financial products specified in clause 6(d)(iii):
 - (A) the total number of trades and the total value, in NZD-equivalent terms, of trades by all participants; and
 - (B) the duration and frequency of each matching session operated in that 3 month period; and
 - (C) any instances of potential or actual breaches of BGC market rules; and
 - (iv) confirm at the same time that it submits the reporting above, that the Voice-broking Facility and Electronic Trading Facility are promoting and facilitating the development of fair, efficient, and transparent financial markets.

Dated at Wellington this 18th day of December 2023.



John Horner

Director – Markets, Investors and Reporting

Financial Markets Authority

Statement of reasons

This notice, which comes into force on 18th of December 2023 and is revoked on 17th of December 2025, exempts BGC Partners (Australia) Pty Limited (**BGC**) from section 310 of the Financial Markets Conduct Act 2013 (the **Act**). Section 310 requires that a person must not operate, or hold out that the person operates, a financial product market in New Zealand, unless the person holds a licence to operate that market under Part 5 of the Act, or the market is exempt from the licensing requirement under section 312 of the Act.

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

- BGC’s financial product market is simple in its format, the type of products that can be traded are limited, and the conditions of the exemption ensure that all participants are wholesale investors in accordance with clause 3(2) of Schedule 1 of the Act, and the FMA will receive detailed reporting. Accordingly, the following purposes can be substantially achieved without a licence—
 - promoting informed participation of businesses, investors and consumers in the financial markets;
 - promoting and facilitating the development of fair, efficient, and transparent financial markets; and
 - the additional purposes of providing timely, accurate and understandable information to persons to assist those persons to make decisions relating to financial products or the provision of financial services; and
- BGC must not:
 - hold investor money or property in relation to any financial product market it operates;
 - along with any affiliate or group company, be a participant in any of the transactions that take place on any financial product market it operates; and
 - operate any clearing and settlement facility on such financial product market.

As such, it is not necessary to impose requirements in relation to those matters to achieve the purpose of the Act relating to governance arrangements and the management of governance risks; and

- given the statutory purposes described above can be substantially met without BGC being subject to licensing requirements, it is desirable to grant the exemption in order to promote the further statutory purpose of avoiding unnecessary compliance costs; and
- granting the exemption promotes innovation and flexibility in the financial markets, by facilitating the establishment of a new financial product market with appropriate regulatory settings; and
- furthermore, taking into consideration:
 - the matters set out in section 308 of the Act regarding the nature of the activities conducted, the size of the market, the nature of the financial products dealt with, the participants, and the technology used; and
 - the purpose set out in section 229 of the Act to encourage a diversity of financial product markets to take account of the differing needs and objectives of issuers and investors,
- the obligations arising out of the operation of subparts 7 and 8 of Part 5 of the Act would be out of proportion to any benefits. Also, to subject the issuers whose products are traded on BGC's financial product market(s) to listing rules and requirements would impose significant costs on both BGC and the issuers disproportionate to any benefit; and
- the exemption is subject to conditions limiting the infrastructure of the facility, the nature of participants, the capacity in which they are participating, the range of products traded on any facility that has the benefit of the exemption, and the operation of the matching sessions. The exemption is also subject to conditions requiring BGC to report frequently to the FMA, including expanded reporting in relation to New Zealand Government bonds, and is being granted for a 2-year period. As such, the FMA considers the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.