

Financial Markets Conduct (Todd Family Office Limited Financial Reporting) Exemption Notice 2016

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.

Contents

	Page
1 Title	1
2 Commencement	1
3 Revocation	1
4 Interpretation	1
5 Exemptions	2
6 Conditions of exemption	2

Notice

1 Title

This notice is the Financial Markets Conduct (Todd Family Office Limited Financial Reporting) Exemption Notice 2016.

2 Commencement

This notice comes into force on 8 April 2016.

3 Revocation

This notice is revoked on the close of 7 April 2021.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

control has the meaning given to that term in clause 48 of Schedule 1 of the Act

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

DIMS means a discretionary investment management service provided by TFO under TFO's DIMS Licence

Regulations means the Financial Markets Conduct Regulations 2014

Todd Client means:—

- (a) any person who is a descendant (natural or adopted) of Charles Todd, late of Wellington, Merchant who died on 21 August 1942 and his wife Mary Todd, as if the Status of Children Act 1969 had not been passed; or
- (b) the trustees of any trust (acting in their capacity as trustees of that trust) if a settlor or beneficiary of that trust is a person described in paragraph (a) (including any trust



settled for charitable purposes); or

- (c) a company or limited partnership which is controlled by a person described in paragraph (a) or by trustees of a trust described in paragraph (b) (acting in their capacity as trustees of that trust); or
- (d) at the request of a person described in paragraph (a), any person who is a spouse, long term partner or step child of that person

TFO means Todd Family Office Limited.

- (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 Exemptions

TFO is exempted from section 461H of the Act.

6 Conditions of exemption

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

- (a) in respect of any accounting period in which TFO provides a DIMS, TFO only provides DIMS to Todd Clients; and
- (b) in respect of any accounting period in which TFO provides a DIMS, TFO meets the FMC reporting entity criteria set out in section 451 of the Act only as a result of holding a DIMS Licence and for no other reason; and
- (c) TFO must ensure that, within 4 months after its balance date, a copy of the financial statements of TFO for that accounting period, together with a copy of the auditor's report on those financial statements, is made available to Todd Clients through an electronic facility maintained by TFO.

Dated at Auckland this *1st* day of April 2016.


Nick Kynoch
General Counsel
Financial Markets Authority

Statement of reasons

This notice comes into force on 8 April 2016 and is revoked on the close of 7 April 2021.

The notice exempts Todd Family Office Limited (**TFO**) from compliance with section 461H of the Financial Markets Conduct Act 2013 (**the Act**). The effect of the exemption is to remove the requirement for TFO (as a FMC reporting entity) to lodge its audited financial statements, and the associated auditor's report, with the Registrar. The exemption is subject to a condition that requires TFO to ensure a copy of its audited financial statements and auditor's report are available to Todd Clients through an electronic facility (such as an internet site) maintained by TFO. In addition, the exemption is only available to TFO if all TFO's discretionary investment management service (**DIMS**) clients are Todd family members or associated entities (**Todd Clients**) and it is a FMC reporting entity only because it holds a market services licence for DIMS pursuant to the Act (**DIMS Licence**).

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—

- the conditions of the exemption and the conditions imposed on TFO's market services licence by regulation 193 of the Financial Markets Conduct Regulations 2014 (which require TFO to provide any document required for the purposes of the Act to an investor on request), means that all Todd Clients who receive DIMS from TFO will be entitled to obtain all of the information they would have been entitled to obtain had the information been provided to the Registrar in accordance with section 461H of the Act, while maintaining the privacy of their personal financial information. As such, the FMA is satisfied that the exemption is desirable in order to promote the purposes of the Act because it provides for timely and accurate information to be provided to Todd Clients to assist those investors to make decisions relating to TFO's provision of DIMS, and also promotes the confident and informed participation of those investors which might otherwise be undermined by the public disclosure of their personal financial information:
- the FMA is further satisfied that the exemption is no broader than is reasonably necessary to address the matters that give rise to the exemption because the conditions ensure that TFO will not have the benefit of the exemption if it provides DIMS to any investor who is not a Todd Client or if it meets the criteria for FMC reporting entity for any reason other than holding a DIMS Licence, and as such the exemption does no more than maintain the privacy of Todd Clients' personal financial information.