

Financial Markets Conduct (ANZ Group Holdings Limited) Exemption Notice 2022

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 (ANZ Group Holdings Limited) Exemption Notice 2022.

2 Commencement

This notice comes into force on 26 October 2022.

3 Revocation

This notice is revoked on the close of 31 December 2023.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

ANZBGL means Australia and New Zealand Banking Group Limited (Australian Business Number 11 005 357 522)

ANZBGL shares means the ordinary shares in ANZBGL

ANZ Group means, before the implementation of the scheme, ANZBGL and all of its subsidiaries, and after the implementation of the scheme, ANZ Group Holdings and all of its subsidiaries

ANZ Group Holdings means ANZ Group Holdings Limited (Australian Company Number 659 510 791)

approval meeting means the meeting of ANZBGL shareholders to be held to consider and vote on whether to approve the scheme

ASIC means the Australian Securities and Investments Commission

ASX means ASX Limited (Australian Company Number 008 624 691)



Corporations Act means the Corporations Act 2001 (Cth)

Court means the Federal Court of Australia, or such other court of competent jurisdiction agreed upon by ANZ Group Holdings

eligible shareholder means a person who is registered as a holder of ANZBGL shares as at the record date and has an address on ANZBGL's share register in a jurisdiction in which it is eligible under all applicable securities laws to receive the new shares

implementation date means the date on which eligible shareholders will receive new shares in accordance with the scheme

new shares means the ordinary shares in ANZ Group Holdings which are, pursuant to the scheme, to be offered to eligible shareholders at the rate of one new share for each ANZBGL share held as at the record date

New Zealand shareholder means a person who is registered as a holder of ANZBGL shares as at the record date and has an address on ANZBGL's share register in New Zealand

NZX means NZX Limited

proposal means the proposed restructure of the ANZ Group involving the transfer of 100% of the ANZBGL shares to ANZ Group Holdings in exchange for the issue of the new shares to eligible shareholders in accordance with the scheme

record date means the record date for the scheme as notified to eligible shareholders

Regulations means the Financial Markets Conduct Regulations 2014

financial information means:

- (a) the financial statements contained in ANZBGL's annual reports for the 2021 and 2022 financial years; and
- (b) any full year or half year financial results made publicly available by the ANZ Group, ANZBGL, or ANZ Group Holdings subsequent to the publication of ANZBGL's annual report for the 2022 financial year but prior to the implementation date

scheme means the scheme of arrangement relating to the proposal under Part 5.1 of the Corporations Act to be voted on at the approval meeting

scheme document means the explanatory statement in respect of the scheme prepared by ANZBGL in accordance with section 411(3) of the Corporations Act and containing the information prescribed in clauses 6(1)(i) and (j)

- (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

ANZ Group Holdings is exempted from Part 3 of the Act in respect of the new shares offered in accordance with the scheme.

6 Conditions of exemption in clause 5

- (1) The exemption in clause 5 is subject to the conditions that—
 - (a) the proposal must proceed by way of the scheme approved by the Court under Part 5.1 of the Corporations Act; and

- (b) the offer and issue of the new shares must comply with the applicable laws of Australia; and
- (c) ASIC makes a declaration that section 708A(5) is modified to grant ANZ Group Holdings relief from section 707(3) of the Corporations Act; and
- (d) the offer of new shares under the scheme in New Zealand is made only to New Zealand shareholders; and
- (e) it is a term of the offer that the new shares are issued to eligible shareholders, credited as fully paid, in exchange for their shares in ANZBGL, as contemplated by the scheme; and
- (f) it is a term of the offer that, immediately after the implementation of the scheme, ANZ Group Holdings is the parent company of the ANZ Group; and
- (g) it is a term of the offer that the assets and business of the ANZ Group immediately after the implementation of the scheme are the same as the assets and business of the ANZ Group immediately prior to the implementation of the scheme in all material respects, except that the assets of the ANZ Group after the implementation of the scheme will include all the ANZBGL shares; and
- (h) the scheme document is distributed or made available to eligible shareholders together with the notice of meeting for the approval meeting; and
- (i) the scheme document includes particulars of all matters that may be material to ANZBGL shareholders making a decision on whether to approve the scheme; and
- (j) without limiting (i) above, the scheme document includes the following:
 - (i) the terms of the new shares:
 - (ii) the purpose and effect of the proposal:
 - (iii) the steps necessary to bring the proposal into effect:
 - (iv) a statement as to why the directors of ANZBGL recommend that ANZBGL shareholders vote in favour of the scheme:
 - (v) a summary of the impact of the proposal, including any material advantages and disadvantages and risks of the proposal:
 - (vi) a summary of the costs of the proposal:
 - (vii) information prescribed by the Corporations Act (other than any requirements that are subject to relief, waiver, confirmation, or the like from ASIC or ASX):
 - (viii) a general description of the New Zealand tax implications of the scheme:
 - (ix) a report by an independent expert about whether the scheme is in the best interests of ANZBGL shareholders and a statement of the relevant qualifications of the independent expert giving the opinion:
 - (x) a statement of any material differences (if any) between the constitution of ANZBGL and the constitution of ANZ Group Holdings:
 - (xi) the name of every person who, at the date of the scheme document, is proposed to be a director of ANZ Group Holdings immediately following the implementation of the scheme (subject to any required regulatory approvals that have not been obtained as at the date of the scheme booklet, and any requirements for those

directors to be re-elected or otherwise approved by ANZBGL shareholders prior to the implementation date):

- (xii) a statement to the effect that the financial information can be found on the Internet site for each of NZX and ASX, and on the Internet site maintained by, or on behalf of, the ANZ Group, together with a link to or URL for the page for each of NZX, ASX and ANZ Group where the financial information is located:
- (xiii) a description of the rationale for the proposal; and
- (k) if the scheme is approved, the scheme document, together with the financial information, must be publicly available, free of charge, under ANZBGL's and ANZ Group Holdings' respective listings on the Internet site for each of NZX and ASX and on the Internet site maintained by, or on the behalf of, the ANZ Group for at least 12 months after the implementation date; and
- (l) if the scheme is approved, each of the documents disclosed by ANZBGL to NZX and ASX (whether under its continuous disclosure obligations or otherwise) that are referenced in the description of the rationale for the proposal described in (1)(j)(xiii) above must be publicly available on the Internet site maintained by, or on behalf of, the ANZ Group, free of charge, for at least 12 months after the implementation date; and
- (m) if the scheme is approved, all documents disclosed by ANZBGL to NZX and ASX (whether under its continuous disclosure obligations or otherwise) during the 12 months prior to the implementation date must be publicly available, free of charge, under ANZBGL's or ANZ Group Holdings' listings on the Internet site for each of NZX and ASX for at least 12 months after the implementation date.

Dated at Auckland this 6th day of October 2022



Paul Gregory
Acting Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 26 October 2022 and is revoked on the close of 31 December 2023.

This notice exempts ANZ Group Holdings Limited (**ANZ Group Holdings**) from compliance with the disclosure requirements of Part 3 of the Financial Markets Conduct Act 2013 (**Act**) in relation to an Australian scheme of arrangement, under which eligible Australia and New Zealand Banking Group Limited (**ANZBGL**) shareholders will be offered shares in ANZ Group Holdings in exchange for the same proportion of their existing shares in ANZBGL.

The Financial Markets Authority (**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 offer of shares in ANZ Group Holdings is made in connection with a proposal to reorganise the ANZ Group of companies (**ANZ Group**) which involves the exchange by eligible shareholders of ANZBGL of their shares in ANZBGL for shares in ANZ Group Holdings. This means that the offer is limited to persons who may be expected to already be familiar with the assets and business of the ANZ Group. Conditions of the exemption require that the offer can only be made if ANZ Group Holdings becomes the parent of the ANZ Group, and the underlying assets and business of the ANZ Group are the same after the implementation of the arrangement as before it (other than in respect of the ANZBGL shares to be acquired by ANZ Group Holdings prior to implementation):
- the offer is made in accordance with the laws of Australia and will be implemented by way of a court approved scheme of arrangement under the Corporations Act 2001. In order to comply with the Corporations Act, a scheme document containing information that is relevant to evaluating the proposal will be provided to investors with the notice of meeting to approve the scheme. The scheme document will be reviewed by the Australian Securities and Investments Commission and approved by the Federal Court of Australia before being dispatched to shareholders prior to the shareholder meeting:
- the disclosure requirements of Part 3 of the Act and the Financial Markets Conduct Regulations 2014 (**Regulations**) focus on providing information about the financial products being offered, including the assets and business of the issuer. However, in these circumstances, shareholders require information about the proposal, including its effects, in order to decide whether or not to approve it. Accordingly, the nature of the information that shareholders require to assess the offer is different from that prescribed in the Act and the Regulations. As such, the exemption, which includes conditions requiring shareholders to be provided with information about the effect, benefits and detriments of the scheme, supports the provision of timely, accurate and understandable information to persons to assist those persons to make decisions relating to financial products:
- the scheme document will also provide timely, accurate and understandable information to prospective shareholders of ANZ Group Holdings after the scheme of arrangement is approved and implemented. Specifically, the scheme document will contain material information about the rationale behind the proposal and will refer future prospective shareholders to documents disclosed by ANZBGL as part of its continuous disclosure obligations under the Corporations Act. The scheme document will be publicly available to future prospective shareholders of ANZ Group Holdings on the NZX and ASX websites. These steps will promote the development of fair, efficient, and transparent financial markets:
- ANZ Group Holdings will remain subject to the laws of Australia, including those that relate to the governance of the new shares. Placing additional New Zealand law compliance obligations on ANZ Group Holdings would impose additional compliance costs, which would outweigh the

expected benefits to current and future prospective New Zealand shareholders in circumstances where comparable disclosure is provided to investors by virtue of the Australian legislative requirements, and given the relatively small number of shareholders in New Zealand compared to those taking part in the scheme as a whole:

- ANZ Group Holdings will remain subject to the fair dealing provisions in Part 2 of the Act and therefore New Zealand shareholders will have protection against misleading or deceptive information being included in the scheme document:
- as such, the FMA is satisfied that the exemption is desirable in order to promote the purposes of the Act, namely:
 - to provide for timely, accurate and understandable information to be provided to ANZ Group Holdings shareholders voting on the scheme to assist them to make decisions relating to the proposal;
 - to promote confident and informed participation in financial markets (and thereby promote the development of fair, efficient, and transparent financial markets) by ensuring that future shareholders of ANZ Group Holdings who did not vote on the proposal will have access to all of the same information as the eligible shareholders of ANZBGL who voted on the scheme and by making the scheme document publicly available to future investors in ANZ Group Holdings;
 - to avoid unnecessary compliance costs in circumstances where alternative and appropriate disclosure requirements are already in place in Australia pursuant to the Court approved scheme of arrangement under the Corporations Act; and
 - to promote innovation and flexibility in the financial markets, as the exemption would promote flexibility for trans-Tasman financial markets participants and would be consistent with the policy objectives behind the trans-Tasman mutual recognition regime contained the Act. It is also desirable for the FMA to take an approach consistent with an existing legislative exemption, even if it does not apply for technical reasons in a particular case.
- the FMA is satisfied that the exemption is not broader than reasonably necessary to address the matters that give rise to it, given that:
 - it is limited to the offer of financial products made in the context of the scheme proposal; and
 - its key impacts are to provide relief from the requirement to provide information about the issuer and the financial product, which is not material to the decision about whether to approve the scheme proposal where there is already a level of protection for investors comparable to that provided under New Zealand law; and
 - it is conditional on measures being put in place that will ensure future prospective shareholders of ANZ Group Holdings have access to the same level of disclosure as shareholders voting on the scheme proposal.

