

Financial Markets Conduct (ANZ Bank New Zealand Limited–Offer of PPS) Exemption Notice 2022

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 (ANZ Bank New Zealand Limited–Offer of PPS) Exemption Notice 2022.

2 Commencement

This notice comes into force on 16 June 2022.

3 Revocation

This notice is revoked on the close of 31 December 2022.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

ANZ means ANZ Bank New Zealand Limited

AT1 capital means capital that qualifies as "Additional Tier 1 capital" for the purposes of Reserve Bank of New Zealand Banking Prudential Requirements Document *BPR110: Capital Definitions*

disclosure statement has the same meaning as in the Banking (Prudential Supervision) Act 1989

PDS means the product disclosure statement for the offer of PPS

PPS means perpetual preference shares—

- (a) in respect of which ANZ is the issuer; and
- (b) that, when issued, will be AT1 capital; and
- (c) that are not financial products that ANZ, in the ordinary course of its business, continuously offers

register entry means the entry for the offer of PPS in the register of offers of financial products

Regulations means the Financial Markets Conduct Regulations 2014

required or permitted information has the same meaning as in regulation 34(4) of the Regulations

Schedule 3 means Schedule 3 of the Regulations.

- (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.
- (3) Until section 298(2) of the Reserve Bank of New Zealand Act 2021 comes into force, a reference to the Banking (Prudential Supervision) Act 1989 in this notice must be treated as a reference to the Reserve Bank of New Zealand Act 1989.

5 Exemptions in respect of certain information in PDS

ANZ is exempted, in respect of an offer of PPS, from—

- (a) clause 2(1) of Schedule 3; and
- (b) regulation 23(1) of the Regulations to the extent that it requires the PDS to contain all of the information specified in Part 1 of Schedule 3 that is applicable; and
- (c) regulation 34 of the Regulations to the extent that it requires the PDS, if it contains any information in addition to the required or permitted information, to include the additional information after section 9 of the PDS.

6 Conditions of exemptions in clause 5

- (1) The exemptions in clause 5(a) and (b) are subject to the condition that the PDS must contain all of the information specified in the Schedule of this notice that is applicable as if that information were specified in Part 1 of Schedule 3.
- (2) The exemption in clause 5(c) is subject to the condition that if the PDS contains any information in addition to the required or permitted information, the additional information must be included after section 7 of the PDS.

7 Exemptions in respect of certain information in register entry

ANZ is exempted, in respect of an offer of PPS, from—

- (a) section 57(1)(b)(ii) of the Act to the extent that it requires the register entry to contain any information contained in a disclosure statement published by ANZ; and
- (b) clauses 53 and 54(1)(b), (2) and (2A) of Schedule 3.

8 Conditions of exemptions in clause 7 relating to register entry

- (1) The exemptions in clause 7 are subject to the conditions that—
 - (a) the register entry must contain the following information:

- (i) a statement (to be included in the register entry field "Product description")—
 - (A) of the distribution rate or rates that may be earned by holding the PPS (if the rate or rates are fixed at the date of the PDS); or
 - (B) of the basis on which or the method by which the distribution rate or rates will be ascertained:
 - (ii) subject to subclause (2), a copy of each report that gives a credit rating referred to in clause 12 of the Schedule of this notice:
 - (iii) a notice referring to the availability of ANZ's disclosure statements required under the Banking (Prudential Supervision) Act 1989 (including a link to the page on its Internet site where its disclosure statements are published):
- (b) for the purposes of regulation 50 of the Regulations, the information specified in subclause (1)(a)(i) must be treated as if it were information disclosed under clause 52 of Schedule 3.
- (2) Subclause (1)(a)(ii) does not apply to a report if—
- (a) lodging the report with the Registrar or otherwise making the report available on the register entry would breach a legal obligation that is binding on ANZ under a contract with the rating agency; and
 - (b) the rating agency has expressly refused to waive the legal obligation to the extent necessary to allow it to be contained on the register entry.

9 Condition of exemptions in clause 7 relating to updating register

- (1) The exemptions in clause 7 are subject to the further condition that ANZ must lodge with the Registrar the following information within the time specified in subclause (2)—
- (a) if the distribution rate or rates that may be earned by holding the PPS are fixed after the date of the PDS, a statement of those rates:
 - (b) if the basis on which or the method by which the distribution rate or rates will be ascertained involves a variable and that variable is fixed after the date of the PDS, a statement of the amount at which the variable has been fixed.
- (2) ANZ must comply with subclause (1)—
- (a) in the case of subclause (1)(a), within 5 working days after the distribution rate or rates are fixed:
 - (b) in the case of subclause (1)(b), within 5 working days after the variable is fixed.

Schedule

PDS for equity securities

PDS sections

3 PDS sections

- (1) The PDS must have sections that are headed up and ordered as follows:
 - 1 Key information summary
 - 2 Purpose of the offer
 - 3 Key dates and offer process
 - 4 Terms of the offer
 - 5 Key features of [*name of financial products*]
 - 6 Risks of investing
 - 7 Tax
 - 8 Where you can find more information
 - 9 How to apply
 - 10 Contact information
- (2) The sections of the PDS must be numbered sequentially.

Key information summary

4 Key information summary

- (1) The KIS must have sections that are headed up and ordered as follows:

What is this?

About [*name of issuer*]

Purpose of this offer

Key terms of the offer

How you can get your money out

How [*name of financial products*] rank for repayment

Key risks affecting this investment

What is [*name of issuer*]'s credit rating?/What is [*name of financial product*]'s credit rating?*

*Select one.

- (2) Clauses 5 to 12 specify the information that must be contained in the KIS under each of the section headings in subclause (1).

5 What is this?

- (1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products*]. [*Name of financial products*] are equity securities issued by [*name of issuer*]. You give [*name of issuer*] money, and in return you may receive scheduled distributions. If [*name of issuer*] runs into financial trouble, you might lose some or all of the money you invested."

- (2) The KIS must include a statement in the following form after the statement in subclause (1):

"Warning

These [*name of financial products*] do not have the same rights (including voting rights)* or privileges, or the same opportunity to increase in value, as ordinary shares. Scheduled distributions may be cancelled and those cancelled distributions will not be paid at a later date/[*name of issuer*] is under no obligation to pay cancelled distributions at a later date†. The [*name of financial products*] are perpetual and have no fixed term. You have no right to require repayment for any reason."

*Omit "(including voting rights)" if inapplicable.

†Select one.

6 About [*name of issuer*]

- (1) The KIS must contain a brief description of the issuer's business.
- (2) The KIS must include—
- (a) a statement to the effect that information about the issuer and the issuer's financial statements are published in disclosure statements required under the Banking (Prudential Supervision) Act 1989; and
 - (b) a link to the page on the issuer's Internet site where its disclosure statements are published.
- (3) In this clause, **disclosure statement** has the same meaning as in the Banking (Prudential Supervision) Act 1989.

7 Purpose of this offer

The KIS must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for and that the money raised under the offer will help the issuer meet regulatory capital requirements).

8 Key terms of the offer

The KIS must contain the key terms of the offer briefly summarised in a table, including—

- (a) a brief description of the equity securities; and
- (b) the fixed price of, or other fixed consideration for, the equity securities (if any) or the (fixed or indicative) range within which that price or consideration may be fixed (if any); and
- (c) the number or amount of the equity securities being offered; and
- (d) a statement that the investor has no right to redeem the equity securities; and
- (e) if the equity securities are redeemable by the issuer in certain circumstances, a statement to that effect and a reference to the section of the KIS where the statement required by clause 9(4) is located; and
- (f) a statement—
 - (i) of the distribution rate or rates that may be earned by holding the equity securities (if the rate or rates are fixed at the date of the PDS); or

- (ii) of the basis on which or the method by which the distribution rate or rates will be ascertained; and
- (g) the dates on which, or frequency with which, distributions are scheduled to be paid; and
- (h) a statement explaining that distributions may be cancelled and a reference to section 4 of the PDS (terms of the offer) where more information on that matter can be found; and
- (i) whichever of the following statements best applies:
 - (i) a statement explaining that cancelled distributions will not be paid at a later date:
 - (ii) a statement explaining that the issuer is under no obligation to pay cancelled distributions at a later date; and
- (j) the intended dates on which the offer opens and closes; and
- (k) if a holder of the equity securities will or may be liable to make further payments or to pay fees or charges relating to those securities, a brief description of the nature of that liability or of those fees or charges.

9 How you can get your money out

- (1) The KIS must include the following statement:

"[*Name of issuer*] intends to quote these [*name of financial products*] on the [*name of licensed market*]. This means you may be able to sell them on the [*name of licensed market*] if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of [*name of issuer*], demand for the [*name of financial products*], and movements in the market interest rates. You may receive less than the full amount that you paid for them."
- (2) For the purposes of subclause (1), if the issuer intends that the equity securities will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.
- (3) The KIS must contain a statement that the investor has no right to redeem the equity securities.
- (4) If the equity securities are redeemable by the issuer in certain circumstances, the KIS must contain a statement to that effect and a brief description of those circumstances and the intended redemption price.
- (5) If the equity securities are not redeemable by the issuer, the KIS must contain a statement to that effect.

10 How [*name of financial products*] rank for repayment

- (1) The KIS must include—
 - (a) a brief summary of the ranking of the equity securities on a liquidation of the issuer; and
 - (b) a reference to the section of the PDS where more information on that matter can be found; and
 - (c) a statement that, on a liquidation of the issuer, the maximum entitlement of the holder of the equity securities is the issue price of those securities.
- (2) The brief summary referred to in subclause (1)(a) must include—

- (a) a statement that, on a liquidation of the issuer, the equity securities rank below all liabilities and other financial products of the issuer other than the financial products described for the purposes of paragraph (b) or (c) (if any); and
- (b) if any financial products of the issuer rank equally with the equity securities on a liquidation of the issuer,—
 - (i) a description of those financial products; and
 - (ii) a statement that the equity securities rank equally with those financial products on a liquidation of the issuer; and
- (c) a statement that the equity securities rank above [*specify (for example, ordinary shares of the issuer)*] on a liquidation of the issuer.

11 Key risks affecting this investment

- (1) The KIS must include a statement in the following form:

"Investments in equity securities of this nature have risks. A key risk is that you will not be paid distributions on your investment or that your investment will not be repaid (credit risk). Cancelled distributions will not be paid at a later date/[*name of issuer*] is under no obligation to pay cancelled distributions at a later date*.

Section 6 of this document (risks of investing) discusses the main factors that give rise to the risk. You should consider whether the credit risk of these equity securities is suitable for you.

The distribution rate for these [*name of financial products*] should also reflect the degree of credit risk. In general, higher returns are demanded by investors from businesses with higher risk of defaulting on their commitments. You need to decide whether the offer is fair. [*Name of issuer*] considers that the most significant risk factors are: [*brief summary of the circumstances that must be disclosed under clauses 25 and 26 that the issuer considers most significantly increase the risk that the issuer will cancel distributions or that the investor will lose some or all of the money they have invested*].

[*Name of issuer*] can also redeem the [*name of financial products*] in certain circumstances.† See the "How you can get your money out" section for a brief description of those circumstances and the intended redemption price.† You have no right to redeem the [*name of financial products*]."

*Select one.

†Omit this sentence if it is inapplicable.

- (2) The brief summary must include particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities).
- (3) The KIS must include a statement in the following form after the statement in subclause (1):
- "This summary does not cover all of the risks of investing in [*name of financial products*]. You should also read [*references to section 6 of the PDS (risks of investing) and to other places in the PDS that describe risk factors (for example, risks arising for investors from the nature of the product)*]."

12 What is [*name of issuer*]'s credit rating?/What is [*name of financial product*]'s credit rating?

- (1) The KIS must include—

- (a) the heading "**What is [name of issuer]'s credit rating?**" or "**What is [name of financial product]'s credit rating?**" (whichever heading best applies); and
 - (b) the statement specified in subclause (2).
- (2) A statement under this subclause must be in the following form (and must be accompanied by the diagram required by subclause (3)(b)):

"A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.

[Specify either the name of the issuer or, in the case of a financial product rating, the name of the financial products] has/have been rated by [name of approved rating agency]. [Name of approved rating agency] gives ratings from [specify the top rating] through to [specify the lowest rating, excluding ratings attaching to entities in default]."*

*Select one.

- (3) For the purposes of subclause (2),—
- (a) **approved rating agency** has the same meaning as in section 60(3) of the Act;
 - (b) the KIS must include a diagram—
 - (i) showing the range of credit ratings given by the approved rating agency; and
 - (ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and
 - (iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics on the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and
 - (iv) indicating the placement within that range of the issuer's or issue's current credit rating;
 - (c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), that statement must be disclosed with the diagram;
 - (d) if the equity securities have been given a credit rating by an approved rating agency, that rating must be used (rather than a credit rating for the issuer);
 - (e) if a credit rating is given for the issuer but the equity securities (if those securities were to be given a credit rating by an approved rating agency) would be likely to be given a lower credit rating, the diagram under paragraph (b) must include—
 - (i) a statement to that effect; and
 - (ii) a brief explanation as to why the rating would be likely to be lower;
 - (f) if this paragraph applies under subclause (4),—
 - (i) the statement under subclause (2) must be amended to refer to the ratings given by each approved rating agency; and
 - (ii) the diagram under paragraph (b) must include, at a minimum, the information under paragraphs (b)(i) to (iv) and (c) for any one of those ratings; and

- (iii) the information under paragraphs (b)(i) and (iv) and (c) for each other current credit rating must be given in or under the diagram.
- (4) Subclause (3)(f) applies if the rating to be referred to in the statement under subclause (2) is a credit rating for—
 - (a) the equity securities and another current credit rating for the equity securities has been given by another approved rating agency:
 - (b) the issuer and another current credit rating for the issuer has been given by another approved rating agency.

13 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

Purpose of the offer

14 Application

Clause 15 applies to section 2 of the PDS (purpose of the offer).

15 Purpose of the offer

The PDS must give a brief description of the purpose of the offer, and must—

- (a) state whether a minimum amount must be raised before the equity securities are issued or transferred (*see* section 77(1)(b) of the Act); and
- (b) state the extent to which the offer is underwritten.

Key dates and offer process

16 Application

Clause 17 applies to section 3 of the PDS (key dates and offer process).

17 Key dates and offer process

- (1) The PDS must include—
 - (a) a table showing the key dates for the offer and the issue or transfer of the equity securities, including the intended dates on which—
 - (i) the offer opens:
 - (ii) the offer closes:
 - (iii) the equity securities are issued or transferred:
 - (iv) the equity securities are quoted:
 - (b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 4 of the PDS (terms of the offer)).
- (2) The table may specify other dates relating to the equity securities (for example, the intended date of the payment of the first distribution).
- (3) In relation to subclause (1)(a)(iv), *see* section 78 of the Act (which provides that an issue or a transfer is void if a quotation condition is not fulfilled).

Terms of the offer

18 Application

Clause 19 applies to section 4 of the PDS (terms of the offer).

19 Terms of the offer

- (1) The PDS must include a table that sets out the terms of the offer or provides a cross-reference to where those terms can be found in the PDS (including the terms that are summarised under clause 8).
- (2) The following information must be provided in or below the table:
 - (a) either—
 - (i) the distribution rate or rates (if fixed at the date of the PDS); or
 - (ii) the basis on which or the method by which the distribution rate or rates will be ascertained:
 - (b) the dates on which, or frequency with which, the distributions from the equity securities are scheduled to be paid:
 - (c) a statement explaining that distributions may be cancelled and the circumstances in which they may be cancelled:
 - (d) a statement that the investor has no right to redeem the equity securities and a description of the circumstances (if any) in which the issuer may redeem the equity securities.
- (3) The PDS must—
 - (a) refer to the constitution (if any) and any other document that sets the terms of the equity securities or other terms of the offer; and
 - (b) include a statement to the effect that those documents may be obtained from the offer register.
- (4) Subclause (1) does not apply—
 - (a) to any terms implied by law; or
 - (b) to a term set by the constitution (if any) or any other document that the issuer considers is not a key term of the offer.

Key features of [name of financial products]

20 Application

Clauses 21 and 22 apply to section 5 of the PDS (key features of [name of financial products]).

21 Key features

- (1) The PDS must include—
 - (a) a description of the key features of the equity securities (to the extent that those features are not already disclosed in section 4 of the PDS (terms of the offer) and are not features that apply to ordinary shares in a company generally); and
 - (b) a statement that the equity securities do not have the same opportunity to increase in value as ordinary shares; and

- (c) a statement to the effect that—
 - (i) distributions may be cancelled; and
 - (ii) the issuer has a discretion to cancel distributions and, in certain circumstances, cancellation of distributions may be required by the issuer’s conditions of registration as a bank; and
 - (d) whichever of the following best applies:
 - (i) a statement to the effect that cancelled distributions will not be paid at a later date;
 - (ii) a statement to the effect that the issuer is under no obligation to pay cancelled distributions at a later date; and
 - (e) a reference to section 4 of the PDS (terms of the offer) if key features of the equity securities are disclosed in that section (rather than in section 5).
- (2) The description under subclause (1)(a) must—
- (a) be sufficient to make it clear why a feature is of significance to investors; and
 - (b) include particulars of any voting rights or pre-emptive rights attaching to the equity securities; and
 - (c) include a description of the ranking of the equity securities on a liquidation of the issuer, including a diagram showing the total liabilities and total equity of the issuer.
- (3) The description under subclause (2)(c) must—
- (a) be under the subheading "**Ranking**"; and
 - (b) state that, after the date of the PDS, the issuer may incur liabilities that rank equally with, or in priority to, the equity securities on a liquidation of the issuer.
- (4) if any equity securities that would rank equally with, or in priority to, the equity securities could be issued by the issuer (for example, under its constitution), the description under subclause (2)(c) must—
- (a) state that fact; and
 - (b) briefly describe the circumstances in which those securities could be issued.

22 Diagram showing ranking of equity securities

- (1) The diagram under clause 21(2)(c) must be prepared in accordance with the following rules:
- (a) the diagram must state the amount of the issuer's liabilities and equity divided into 3 classes that are listed vertically and labelled as follows:
 - (i) the liabilities and equity that rank in priority to the equity securities on a liquidation of the issuer:
 - (ii) the liabilities and equity that rank equally with the equity securities on a liquidation of the issuer:
 - (iii) the equity that ranks below the equity securities on a liquidation of the issuer:
 - (b) the division of the issuer’s liabilities and equity into 3 classes may be subdivided further:
 - (c) the amounts must be indicative amounts based on the financial position of the issuer at its most recent balance date or any more recent stated date that is adjusted to reflect

the changes in the value of the issuer's assets, liabilities, and equity that the issuer reasonably expects to result from the issue or sale:

- (d) the amounts must be calculated on the basis of an assumption as to the number of equity securities on issue, which must be a number that the issuer reasonably considers is likely to provide the most useful information for investors.
- (2) The diagram under clause 21(2)(c) must be prepared in accordance with an applicable framework or methodology (if any).
 - (3) The PDS must—
 - (a) disclose the number of equity securities that is used for the purposes of subclause (1)(d); and
 - (b) briefly explain the effect of using that number.

Risks of investing

23 Application

Clauses 24 to 27 apply to section 6 of the PDS (risks of investing).

24 General risks

- (1) The PDS must include the subheading "**General risks**" and a statement to the effect that the investor's investment is subject to the general risk or risks summarised under subclause (2).
- (2) For the purposes of subclause (1), the PDS must include a summary relating to the following risks (if applicable):
 - (a) the risk that the investor will not be paid distributions on their investment or will lose some or all of the money they invested; and
 - (b) the risk that, if the investor wishes to sell the equity securities, the investor will be unable to find a buyer or that the amount received will be less than the amount paid for the equity securities.

25 Specific risks

- (1) The PDS must include the subheading "**Specific risks relating to [name of issuer]'s creditworthiness**" and a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk that investors in the equity securities will not be paid distributions on their investment or will lose some or all of the money they invested.
- (2) The description of the circumstances must include—
 - (a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities); and
 - (b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.
- (3) The description is required to include information about circumstances only to the extent that the information is material information.

26 Risks relating to investing in the equity securities

- (1) The PDS must include the subheading "**Risks related to investing in [name of financial products]**" and a description of the risks of investing in the equity securities (as compared to other types of equity securities).
- (2) The description of the risks must include—
 - (a) a description of the features of the equity securities that are listed in subclause (3) (as applicable); and
 - (b) particulars that make it clear what risk or risks may arise in relation to a particular feature; and
 - (c) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those features and risks, the nature of that impact, and the potential magnitude of that impact.
- (3) The features referred to in subclause (2)(a) are—
 - (a) that the investor has no right to redeem the equity securities:
 - (b) that scheduled distributions may be cancelled:
 - (c) that the issuer either will not, or is not required to, pay cancelled distributions at a later date:
 - (d) that the issuer may redeem the equity securities in certain circumstances:
 - (e) that, on a liquidation of the issuer, the equity securities rank behind all liabilities of the issuer and all equity other than the liabilities or equity (or both) of the type referred to in clause 22(1)(a)(ii) and (iii).
- (4) The description of the risk is required to include information about features and risks only to the extent that the information is material information.

27 Risks otherwise disclosed in PDS or register entry

- (1) To the extent that information about a risk is included elsewhere in the PDS (other than the KIS) or in the register entry, that information is not required to be repeated in section 6 of the PDS (risks of investing) for the purposes of clause 25 or 26.
- (2) However, if information about a risk is not included in section 6 of the PDS (risks of investing) as a result of subclause (1), that section must—
 - (a) at least include a brief summary of the circumstances referred to in clause 25 or the features and risks referred to in clause 26, as applicable; and
 - (b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

Tax

28 Application

Clause 29 applies to section 7 of the PDS (tax).

29 Taxation

- (1) The PDS must include a statement to the effect that—
 - (a) tax can have significant consequences for investments; and

- (b) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.
- (2) If New Zealand residents will have resident withholding tax deducted from distributions that are made under the equity securities, the PDS must include a statement to that effect.
- (3) This PDS section may include other information on the tax consequences of the investment if, and only if, the information relates to the particular equity securities on offer (rather than to equity securities, or classes of equity securities, generally).

Where you can find more information

30 Application

Clause 31 applies to section 8 of the PDS (where you can find more information).

31 Where you can find more information

- (1) The PDS must include a statement to the effect that—
 - (a) further information relating to the issuer and the equity securities is available on the offer register (for example, the issuer’s constitution); and
 - (b) a copy of information on the offer register is available on request to the Registrar.
- (2) The statement must be accompanied by a reference to the Internet site address for the offer register.
- (3) The PDS must include—
 - (a) a link to, or URL for, an Internet site for a register kept by the Registrar on which there is an entry for the issuer (for example, the New Zealand register or the overseas register kept under the Companies Act 1993); and
 - (b) a statement to the effect that further information relating to the issuer is available from that Internet site.
- (4) The PDS must include a statement—
 - (a) briefly describing any information relating to the issuer or the equity securities that is required to be, or otherwise will be, available—
 - (i) to the public by any means other than on the offer register or the register referred to in subclause (3)(a); or
 - (ii) on request to the issuer; and
 - (b) explaining—
 - (i) how that information can be obtained; and
 - (ii) how a request for that information should be made; and
 - (c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

32 Application

Clause 33 applies to section 9 of the PDS (how to apply).

33 How to apply

The PDS—

- (a) must include a short statement explaining how to apply for the equity securities; and
- (b) may include a link or reference to the application form.

Contact information

34 Application

Clause 35 applies to section 10 of the PDS (contact information).

35 Contact details

- (1) The PDS must state the contact details of—
 - (a) the issuer; and
 - (b) the offeror (if the offeror is not the issuer); and
 - (c) the securities registrar.
- (2) The contact details must include an address and a business telephone number.

Dated at Auckland this 15th day of June 2022.



Paul Gregory
Acting Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 16 June 2022 and is revoked on the close of 31 December 2022.

This notice exempts ANZ Bank New Zealand Limited (**ANZ**), which is a registered bank, from certain disclosure requirements under section 57(1)(b)(ii) of the Financial Markets Conduct Act 2013 (the **Act**) and regulations 23(1) and 34, and certain clauses of Schedule 3, of the Financial Markets Conduct Regulations 2014 (the **Regulations**) in respect of a proposed offer of perpetual preference shares (the **PPS**) subject to conditions requiring the disclosure of alternative information. The PPS are to be issued by ANZ for the purposes of constituting Additional Tier 1 (**AT1**) capital under the Reserve Bank of New Zealand's banking prudential requirements applicable to registered banks.

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

- although the PPS are equity securities for the purposes of the Act, they share a number of similarities with debt securities. These include not carrying any voting rights or equity upside, receiving a credit rating from a rating agency and having scheduled distributions which, if paid, provide a return that will be determined by reference to a fixed rate for a specified period of years and which thereafter will be determined by reference to a floating rate that will reset at quarterly intervals. As a result, many of the disclosure requirements for equity securities under Schedule 3 of the Regulations are not appropriate for an offer of PPS. Under the conditions of the exemptions, ANZ must comply with alternative disclosure requirements which are based, first, on Schedule 9 of the Regulations (which sets out disclosure requirements for offers of debt securities by registered banks) and, secondly, on disclosure requirements (also based initially on Schedule 9 of the Regulations) that are likely to be included in the Amendments (referred to below). These alternative disclosure requirements will result in the product disclosure statement (**PDS**) and the register entry for an offer of PPS (**register entry**) containing more appropriate and meaningful information for potential investors than disclosure based purely on the requirements of Schedule 3 of the Regulations. This will promote confident and informed participation in the offer of the PPS and promote the disclosure of accurate and understandable information to potential investors:
- as a registered bank, ANZ is required under the Reserve Bank of New Zealand Act 1989 (to be renamed the Banking (Prudential Supervision) Act 1989) to publish semi-annual disclosure statements containing information about ANZ and its financial statements. ANZ's disclosure statements are already publicly available and, as a condition of the exemptions, the PDS and register entry must draw attention to the disclosure statements and provide a link to the page on ANZ's website where they are published. The exemptions relieve ANZ from the requirement to ensure that the register entry contains any information contained in disclosure statements required by section 57(1)(b)(ii) of the Act and the requirement to replicate information in a PDS and register entry that is already contained in its disclosure statements in a different format in order to comply with the requirements of Schedule 3 of the Regulations. This ensures that the offer of PPS can be conducted efficiently while also avoiding unnecessary compliance costs associated with lodging and replicating information that is already publicly available:
- amendments to the Regulations (the **Amendments**) are being developed to address the specific disclosure requirements for AT1 capital instruments (such as the PPS). However, the Amendments, if made, are not expected to come into force by the date on which ANZ proposes to launch its offer of PPS. The exemptions are therefore required in order to prevent the offer of PPS from being delayed. This approach is consistent with the Act's purpose of promoting innovation and flexibility in the financial markets:

- for the above reasons, the FMA is satisfied that granting the exemptions is necessary and desirable in order to promote the purposes of the Act. In particular, the exemptions will promote the confident and informed participation of investors in the financial markets, provide for timely, accurate and understandable information to be provided to persons to assist those persons to make decisions relating to financial products, avoid unnecessary compliance costs and promote innovation and flexibility in the financial markets:
- the FMA is also satisfied that the extent of the exemptions is not broader than is reasonably necessary to address the matters that gave rise to them because the exemptions only provide relief from disclosure requirements for an offer of PPS that are either not relevant or require information that is already publicly available and are subject to conditions that require alternative disclosure that is more meaningful for investors and will assist them to make informed decisions about the offer.