

## **Financial Markets Conduct (BGC Partners (Australia) Pty 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 (BGC Partners (Australia) Pty Limited) Exemption Notice 2022.

#### **2 Commencement**

This notice comes into force on 22 December 2022.

#### **3 Revocation**

This notice is revoked on 21 December 2027.

#### **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 Market** means the financial product market to be operated by BGC through the Voice-broking Facility in New Zealand

**Regulations** means the Financial Markets Conduct Regulations 2014

**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 Market.

## 6 Conditions of exemption in clause 5

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

- (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 Market;
- (b) each participant in the 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, any affiliate or group company, does not trade on its own behalf or as agent on behalf of others on the BGC Financial Product Market;
- (d) the BGC Financial Product Market is used only in relation to one or more of the following financial products:
  - (i) derivatives between participants in the BGC Financial Product Market;
  - (ii) debt securities issued by registered banks; and
  - (iii) New Zealand Government bonds; and
- (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.

Dated at Auckland this 22<sup>nd</sup> day of December 2022.



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Paul Gregory

Acting Director of Capital Markets

Financial Markets Authority

## Statement of reasons

This notice, which comes into force on 22 December 2022 and is revoked on 21 December 2027, 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 proposed 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. 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, and the range of products traded on any facility that has the benefit of the exemption. As such, the FMA considers the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.