

# Financial Markets Conduct (Canterbury Mortgage Trust Group Investment Fund) Exemption Notice 2020

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 (Canterbury Mortgage Trust Group Investment Fund) Exemption Notice 2020.

### 2 Commencement

This notice comes into force on 21 May 2020.

### 3 Revocation

This notice is revoked on the close of 21 May 2021.

### 4 Interpretation

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

**Accounting Period** means the accounting period from 1 April 2019 to the End of the reporting period.

**Act** means the Financial Markets Conduct Act 2013.

**End of the reporting period** means the date decided by the Supervisor to be the date when winding up of the Scheme takes effect for the purposes of the winding up report prepared in respect of the Scheme under section 213(1)(a) of the Act.

**Manager** means Canterbury Fund Managers Limited.

**Scheme** means the Canterbury Mortgage Trust Group Investment Fund, being a managed investment scheme established by a deed dated 26 June 2001.

**Supervisor** means Trustees Executors Limited, acting as the supervisor of the Scheme.

**Unitholder** means a participant in the Scheme.

- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning given to it by the Act.

## **5 Exemptions**

- (1) The Manager is exempted, in relation to the Scheme, from:

- (a) Section 461A of the Act; and
- (b) Section 461H(1A) of the Act.

## **6 Conditions of exemptions**

- (1) The exemptions in clause 5(1)(a) and 5(1)(b) are subject to conditions that –

- (a) the Manager and Supervisor must ensure that, within 4 months after the End of the reporting period, financial statements that comply with generally accepted accounting practice are:
  - (i) completed in relation to the Scheme and the End of the reporting period; and
  - (ii) dated and signed on behalf of the Manager by 2 directors of the Manager or, 2 directors or authorised signatories of the Supervisor;
- (b) the Manager and Supervisor must include a note in the financial statements referred to in clause 6(1)(a) regarding the reconciliation of Unitholders' funds for the periods between:
  - (i) 1 April 2019 to 31 March 2020; and
  - (ii) 1 April 2020 to the End of the reporting period;
- (c) the Manager and Supervisor must ensure that the financial statements referred to in clause 6(1)(a) are audited, in accordance with all applicable auditing and assurance standards, by a qualified auditor;
- (d) the Manager and Supervisor must ensure that, within 4 months after the End of the reporting period, copies of the financial statements that are required to be prepared under clause 6(1)(a), together with a copy of the auditor's report on those statements, are delivered to the Registrar for lodgement;
- (e) the Manager and Supervisor must advise Unitholders in writing by 31 July 2020 that they will receive audited financial statements in relation to the Accounting Period, instead of the 12 months ending 31 March 2020, within 4 months after the End of the reporting period; and
- (f) the End of the reporting period is no later than 31 May 2020.

- (2) The condition in clause 6(1)(e) does not apply if the Manager and Supervisor –

- (a) deliver copies of the financial statements that are required to be prepared under clause 6(1)(a), together with a copy of the auditor's report on those statements, to the Registrar for lodgement before 31 July 2020;
- (b) send copies of the audited financial statements referred to in clause 6(1)(a) to all Unitholders before 31 July 2020; and
- (c) include a cover letter that notifies the Unitholders that the audited financial statements are in relation to the Accounting Period, instead of the 12 months ending 31 March 2020.

Dated at Wellington this 15<sup>th</sup> day of May 2020.



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Sarah Vrede  
Director of Capital Markets  
Financial Markets Authority

### Statement of Reasons

This notice comes into force on 21 May 2020. The notice is revoked on 21 May 2021. The notice exempts Canterbury Fund Managers Limited (**Manager**) in respect of the Canterbury Mortgage Trust Group Investment Fund (**Scheme**) from the following provisions of the Financial Markets Conduct Act 2013 (**Act**) –

- Section 461A of the Act so that the Manager is only required to prepare audited financial statements of the Scheme for the period between 1 April 2019 and the date when winding up takes effect; and
- Section 461H(1A) of the Act so the Manager is only required to submit audited financial statements for the Scheme with the Registrar of Financial Service Providers within four months of the date on which winding up takes effect.

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 these exemptions because –

- Under sections 461A and 461H(1A) of the Act, the Manager would ordinarily be required to prepare and lodge audited financial statements for the accounting period ending on the Scheme's balance date of 31 March 2020. Once the Scheme is wound up, Trustees Executors Limited (**Supervisor**) would be required to prepare a winding-up report and final financial statements under section 213 of the Act for the period from 1 April 2020 until the date they determine to be the date when winding up takes effect.
- The Scheme was placed in wind up on 11 February 2009, and the Manager previously intended for all scheme assets to be distributed by 31 March 2020. This would have aligned with the Scheme's annual financial reporting date. Consequently, a single set of financial statements would have been prepared that would have satisfied both sets of requirements in sections 461A and 461H(1A), and section 213(1)(a) of the Act.
- The date of distribution of the Scheme's assets was delayed, and would no longer align with the annual balance date of the Scheme. The winding up report prepared by the Supervisor would need to include audited financial statements for the period after 31 March 2020.
- The Manager had considered applying for a change to the Scheme balance date under the Financial Reporting Act 2013, however the Scheme's balance date is required to be 31 March due to the Scheme's obligations as a Portfolio Investment Entity under the Income Tax Act 2007 and Tax Administration Act 1994.
- The FMA considers that, in this instance, requiring two sets of audited financial statements to be prepared would impose an unnecessary compliance cost. It would be more appropriate to allow the Manager and Supervisor to prepare one set of financial statements that cover an extended period from 1 April 2019 to the date when winding up takes effect (**Extended**

**Financial Period**). As such, the Supervisor will also be able to rely on the same set of financial statements prepared by the Manager to meet its obligations under section 213(1)(a) of the Act.

- The FMA also considers that preparing a single set of audited financial statements for the Extended Financial Period would not result in a loss of relevant information for investors, compared to separate sets of financial statements being prepared in relation to the balance date and the period post the balance date to no later than 30 May 2020. This consideration is on the following basis:
  - The Supervisor confirmed that; as at 31 March 2020 the balance sheet of the Scheme was mainly comprised of cash / deposits and sundry creditors (including tax and unclaimed investor monies); the expenses that occurred during the 12 month period to 31 March 2020 will be included and explained, if material, in the financial statements for the Extended Financial Period in accordance with New Zealand Generally Accepted Accounting Principles (**NZ GAAP**); and differences between the expenses as at 31 March 2020 and at the date when winding up takes effect would be immaterial.
  - While the balance sheet at the end of the Extended Financial Period is intended to show a zero balance (on the basis that final distributions are intended to be made before the end of the reporting period), the material information relevant for the Extended Financial Period will be reflected in the final set of financial statements. The final set of financial statements will be prepared in accordance with NZ GAAP and as such the supplementary notes will include relevant information explaining any material transactions, events and circumstances incurred during the Extended Financial Period.
  - The Extended Financial Period will also be limited to a maximum of 14 months.
  - The reconciliation of the unitholders' funds disclosed in the financial statements will include any movements in the funds from 1 April 2019 to 31 March 2020 as well as the movement in the final unitholders' funds for the period from 1 April 2020 to the end of the Extended Financial Period.
- The preparation of a single set of audited financial statements would avoid the unnecessary compliance costs for the Scheme.

As such, the FMA is satisfied that -

- The granting of the exemption is desirable in order to promote the purposes of the Act, specifically to avoid unnecessary compliance costs. Given the specific circumstances of the Scheme and conditions of the exemption, it does not conflict with the Act's purpose to promote the confident and informed participation of businesses, investors, and consumers in the financial markets.
- The exemptions are not broader than reasonably necessary to address the matters that gave rise to them. The exemption is limited to the specific circumstances of the Scheme, and the conditions ensure that investors still receive the substance of the information that they would have otherwise received, absent the exemption.