

## Financial Markets Conduct (Craigs Investment Partners Limited Contingency DIMS) 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 Exemption	2
6 Condition of Exemption	2

### Notice

#### 1 Title

This notice is the Financial Markets Conduct (Craigs Investment Partners Limited Contingency DIMS) Exemption Notice 2016.

#### 2 Commencement

This notice comes into force on 1 May 2016.

#### 3 Revocation

This notice is revoked on the earlier of:—

- (a) any variation to or cancellation of a DIMS licence which has been granted to CIP, the effect of which is that CSL is not authorised to act as a custodian for financial products acquired or disposed of under CIP's DIMS; or
- (b) the close of 1 May 2021.

#### 4 Interpretation

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

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

**CIP AFA** means an Authorised Financial Adviser employed by CIP or engaged personally by CIP under a contract for services

**CIP** means Craigs Investment Partners Limited

**CSL** means Custodial Services Limited

**DIMS licence** means a licence that covers the service referred to in section 388(c) of the Act

**relevant contingency DIMS** means a service provided by a CIP AFA to any person in respect of which:—

- (a) all the circumstances specified in regulation 183(2) apply except for the circumstance specified in regulation 183(2)(i); and
- (b) the person holding the financial products acquired or disposed of under the service is CSL

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

- (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

Each CIP AFA is exempt from section 388(c) of the Act to the extent that the CIP AFA provides any relevant contingency DIMS.

## 6 Condition of Exemption

The exemption in clause 5 is subject to the condition, in respect of a CIP AFA, that before an investment authority relating to any relevant contingency DIMS is granted by any person to that CIP AFA the following matters have been disclosed to that person:

- (a) CSL is the person that will be holding the financial products acquired or disposed of under the relevant contingency DIMS; and
- (b) CSL is an associated person of CIP; and
- (c) CIP has been granted a DIMS licence, the effect of which is that CSL is authorised to act as a custodian for financial products acquired or disposed of under CIP's DIMS.

Dated at Wellington this 14<sup>th</sup> day of April 2016.



Liam Mason  
Director of Regulation  
Financial Markets Authority

## Statement of reasons

This notice comes into force on 1 May 2016 and is revoked on the earlier of:—

- (a) any variation to or cancellation of a DIMS licence which has been granted to Craig Investment Partners Limited (CIP), the effect of which is that Custodial Services Limited (CSL) is not authorised to act as a custodian for financial products acquired or disposed of under CIP's DIMS; or
- (b) the close of 1 May 2021.

This notice exempts each AFA employed by CIP or engaged personally by CIP under a contract for services (CIP AFA) from compliance with the licensing requirement in section 388(c) of the Act to the extent that the CIP AFA provides any DIMS which:—

- (a) all the circumstances specified in regulation 183(2) apply except for the circumstance specified in regulation 183(2)(i); and
- (b) the person holding the financial products acquired or disposed of under the service is CSL.



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

- CIP has been granted a DIMS licence with a condition that CSL is authorised to act as an associated custodian of CIP for its DIMS, on the basis that CIP has demonstrated in its DIMS licence application that CIP has adequate processes, procedures and controls in place to ensure that it cannot influence or control CSL in a manner that is detrimental to client interests;
- a condition of the exemption is that CIP must disclose to a prospective client of the relevant contingency DIMS that CSL will be the custodian, that CSL is an associated person of CIP and that CSL is authorised to act as a custodian for financial products acquired or disposed of under CIP's DIMS. This means that clients will be made aware of these matters before granting an investment authority for the relevant contingency DIMS;
- the FMA is satisfied that these processes, procedures and controls are also adequate to ensure that no CIP AFA can influence or control CSL in a manner that could compromise client interests;
- the FMA is satisfied that granting the exemption is desirable in order to promote the purposes of the Act, specifically to promote confident and informed participation of investors, to promote flexibility in the financial markets and to avoid unnecessary compliance costs. Without the exemption, there is a risk that a CIP AFA might not offer a contingency DIMS, which could be detrimental to client interests. In addition, provision of a contingency DIMS by a CIP AFA without the exemption would create increased compliance costs without providing any additional benefit; and
- the FMA is further satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to the exemption because it does no more than permit a CIP AFA to use CSL for any contingency DIMS it provides.