

## Financial Markets Conduct (The City of London Investment Trust plc) Exemption Notice 2017

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 the Act, gives the following notice.

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### Notice

#### 1 Title

This notice is the Financial Markets Conduct (The City of London Investment Trust plc) Exemption Notice 2017.

#### 2 Commencement

This notice comes into force on 7 April 2017.

#### 3 Revocation

This notice is revoked on the close of 6 April 2022.

#### 4 Application

- (1) An exemption granted by this notice applies to the following accounting periods of the exempt entity:
  - (a) an accounting period of the entity that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if the exemption is granted before the financial statements for that period would be required to be delivered to the Registrar for lodgement under section 461H of the Act; and
  - (b) subsequent accounting periods.
- (2) However, an exemption granted by this notice does not apply to an accounting period specified in subclause (3) of the exempt entity and subsequent accounting periods of the entity, if the exempt entity has issued financial products to a person in New Zealand during that accounting period.

- (3) For the purposes of subclause (2), the periods are, in respect of the exempt entity,—
- (a) the accounting period of the entity that commenced immediately before the exemption is granted; or
  - (b) an accounting period of the entity that commenced after the exemption is granted.

## 5 Interpretation

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

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

**approved auditor**, in relation to the exempt entity, means an accountant who is qualified or permitted under the laws of the United Kingdom to give an opinion as to whether financial statements comply with UK GAAP

**exempt entity** means The City of London Investment Trust plc, a company registered in England and Wales with registered number 34871

**LSE** means the London Stock Exchange

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

**UK GAAP** means the generally accepted accounting principles required or permitted in the United Kingdom.

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

## 6 Exemptions

The exempt entity is exempted from—

- (a) sections 455(1)(c), 461B(1), 461D, and 461G of the Act; and
- (b) section 460 of the Act to the extent that that section requires the exempt entity to ensure that its financial statements—
  - (i) comply with generally accepted accounting practice; and
  - (ii) are dated and signed in accordance with section 460(1)(b).

## 7 Conditions

The exemptions in clause 6 are subject to the conditions that—

- (a) the financial products of the exempt entity are approved for trading on the LSE; and
- (b) the LSE has primary jurisdiction for the listing requirements for the exempt entity and the quotation of those financial products; and
- (c) the exempt entity is not required to prepare group financial statements under section 461 of the Act; and
- (d) the exempt entity, in relation to the financial statements prepared under section 460 of the Act, must comply with the law and regulatory requirements of, or permitted by, the United Kingdom that relate to the preparation, content, audit, and public filing of those statements and, in particular, the exempt entity must ensure that—
  - (i) those statements comply with UK GAAP; and
  - (ii) those statements are audited by an approved auditor; and



- (iii) an audit report is prepared by the approved auditor in respect of that audit; and
- (e) the exempt entity must ensure that there are kept at all times accounting records that will enable the entity to ensure that—
  - (i) the financial statements prepared under section 460 of the Act comply with paragraph (d)(i); and
  - (ii) the New Zealand business financial statements prepared under paragraph (f) (if any) comply with paragraph (f)(i); and
- (f) the financial statements delivered for lodgement under section 461H of the Act must be accompanied by financial statements for the exempt entity's New Zealand business (if any), prepared as if that business were conducted by a company formed and registered in New Zealand, and the exempt entity must ensure that—
  - (i) those statements are prepared in accordance with UK GAAP or generally accepted accounting practice; and
  - (ii) those statements are audited by an approved auditor or a qualified auditor; and
  - (iii) an audit report is prepared by the approved auditor or qualified auditor in respect of that audit; and
- (g) if the auditor's report referred to in paragraph (d)(iii) or (f)(iii) was qualified or referred to a fundamental matter in any respect, the exempt entity must, within 7 working days after the report is signed, provide a copy of the report, and a copy of the financial statements to which it relates, to—
  - (i) the FMA; and
  - (ii) the External Reporting Board; and
- (h) the financial statements that are delivered to the Registrar for lodgement under section 461H of the Act—
  - (i) are accompanied by written notification to the Registrar that the exempt entity is relying on this notice in respect of the accounting period to which the statements relate; and
  - (ii) are in English or accompanied by an accurate English translation.

Dated at Auckland this 4<sup>th</sup> day of April 2017.

  
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Garth Stanish  
Director of Capital Markets  
Financial Markets Authority

### Statement of reasons

This notice comes into force on 7 April 2017 and is revoked on the close of 6 April 2022.

This notice exempts The City of London Investment Trust plc (the **exempt entity**) from certain financial reporting obligations in Part 7 of the Financial Markets Conduct Act 2013 (the **Act**), including—

- section 460 of the Act to the extent that that section requires the financial statements that are prepared to comply with New Zealand generally accepted accounting practice (**NZ GAAP**) and to be dated and signed by 2 directors (or, if the entity has only 1 director, by that director):
- sections 461D and 461G of the Act (which relate to auditing).

The exemptions are subject to conditions that require the exempt entity to prepare financial statements that comply with the financial reporting requirements of the United Kingdom (the **UK**). The main effects of the exemptions for the exempt entity are as follows:

- the financial statements that are prepared will comply with generally accepted accounting principles in the UK (**UK GAAP**) rather than NZ GAAP:
- those financial statements will be audited by an auditor who is qualified or permitted under the laws of the UK to give an opinion as to whether the financial statements comply with UK GAAP (a **UK approved auditor**):
- if the exempt entity has a New Zealand business, those financial statements will be accompanied by separate financial statements for the New Zealand business that comply with NZ GAAP or UK GAAP:
- those New Zealand business financial statements (if any) will be audited by a qualified auditor (as that term is defined in the Act) or a UK approved auditor.

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

- the exemptions are subject to conditions that the financial products of the exempt entity have a primary listing on the London Stock Exchange (the **LSE**) which is regulated by the laws of the UK. The exempt entity complies with the financial reporting requirements in the UK applicable to investment trust companies and is required to prepare financial statements that comply with UK GAAP, including FRS 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland', in accordance with the Companies Act 2006 (UK) and pursuant to the Statement of Recommended Practice 'Financial Statements of Investment Trust Companies and Venture Capital Trusts' issued by the Association of Investment Companies in November 2014. The exempt entity is also required to have its financial statements audited under the Companies Act 2006 (UK), and the auditor must audit and express an opinion on those financial statements in accordance with the International Standards on Auditing (UK and Ireland). The FMA is satisfied that the financial reporting required or permitted in the UK, and the nature and extent of regulatory oversight for the exempt entity and its auditor, are of high quality and as such, investors in the exempt entity will have access to financial information that will enable them to make informed decisions about their investments:
- the costs associated with the exempt entity having to prepare and audit financial statements in accordance with the financial reporting requirements of the UK, in addition to the costs associated with preparing NZ GAAP compliant financial statements audited by a New Zealand qualified auditor, would outweigh the benefits to investors in receiving financial statements prepared according to NZ GAAP rather than UK GAAP:
- the Financial Conduct Authority (the **FCA**), the conduct and prudential regulator for the exempt entity in the UK, is an ordinary member of the International Organization of Securities Commissions (**IOSCO**) and a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. This means the FMA will be able to obtain co-operation from the FCA if any compliance concerns arise in relation to the exempt entity or its auditor:



- as such, the FMA is satisfied that granting the exemptions is desirable in order to promote the purposes of the Act, specifically that the exemptions will avoid unnecessary compliance costs and promote flexibility in the financial markets:
- the exemptions only address the particular issues experienced by the exempt entity that arise because it has financial products that are listed both in New Zealand and in the UK. Given that the exempt entity is listed on the LSE and prepares financial statements and is subject to audit oversight that are of high quality, and that the exemptions only allow the use of UK GAAP in place of NZ GAAP with respect to the preparation of financial statements and allow those financial statements to be audited by a UK approved auditor rather than a New Zealand qualified auditor, the FMA is satisfied that the exemptions are not broader than is reasonably necessary to address the matters to which they relate.