

## Financial Markets Conduct Act (Garden BidCo Limited) Exemption Notice 2015

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 Act (Garden BidCo Limited) Exemption Notice 2015.

#### 2 Commencement

This notice comes into force on 6 November 2015.

#### 3 Revocation of this notice

This notice is revoked on the close of 5 November 2020.

#### 4 Application

An exemption granted by this notice applies to the following accounting periods of UK BidCo, UK TopCo and UK VLNCo:—

- (a) an accounting period of UK BidCo, UK TopCo or UK VLNCo 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 or group financial statements for period would be required to be lodged under the Act; and
- (b) subsequent accounting periods.

#### 5 Interpretation

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

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



**approval meeting** means a meeting of PACG shareholders that is to be held to consider and vote on whether to approve the arrangement

**approved auditor** means an accountant who is qualified under the laws of the United Kingdom to give an opinion as to whether specified financial statements comply with the overseas GAAP

**arrangement** means the scheme of arrangement relating to the proposal to be voted on at the approval meetings

**Companies Act** means the Companies Act 2006 (UK)

**Court** means the High Court of Justice of England and Wales

**effective date** means the date that an order of the Court made under section 899 of the Companies Act takes effect, or is taken to have taken effect, or such earlier date as the Court determines and specifies in the order as the date on which that order has effect

**exempt issuer** means each of UK BidCo, UK TopCo and UK VLNCo

**overseas GAAP** means generally accepted accounting principles in the United Kingdom or international accounting standards (within the meaning of Regulation (EC) No 1606/2002)

**PACG** means PA Consulting Group Limited, a company incorporated under the laws of England and Wales with registered number 06555894

**PACG securities** means ordinary shares in PACG and options to acquire ordinary shares in PACG

**PACG security holders** means all holders of PACG securities as at the effective date

**proposal** means the acquisition of the entire share capital of PACG by UK BidCo involving the allotment of specified financial products to PACG security holders in exchange for the PACG securities held by the PACG security holders in accordance with the arrangement

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

**scheme document** means the scheme circular prepared by PACG Group in accordance with the Companies Act and containing the information prescribed by sub-clauses 7(e) and (f).

**specified financial products** means equity securities to be issued to PACG security holders by UK TopCo or debt securities to be issued to PACG security holders by UK VLNCo under the proposal

**specified financial statements** means the group financial statements that are required to be prepared in respect of an exempt issuer in accordance with the Companies Act 1985 (UK) and the Companies Act 2006 (UK)

**UK BidCo** means Garden Bidco Limited, a company incorporated in England & Wales with registered number 09763551

**UK TopCo** means Garden Topco Limited, a company incorporated in England & Wales with registered number 09761378

**UK VLNCo** means Garden Finance Limited, a company incorporated in England & Wales with registered number 09763192

- (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.

## 6 Exemptions

In giving effect to the proposal UK BidCo, UK TopCo and UK VLNCo, are exempted in relation to the specified financial products from Part 3, Part 4 and Part 7 of the Act.

## 7 Conditions

- (1) The exemptions in clause 5 are subject to the conditions that—
- (a) the proposal must proceed by way of an arrangement approved by the Court under Part 26 of the Companies Act;
  - (b) the issue of the specified financial products must comply with the laws of United Kingdom;
  - (c) it is a term of the offer that the specified financial products, credited as fully paid, are issued to PACG security holders in exchange for their PACG securities, in accordance with the arrangement;
  - (d) the scheme document is distributed to PACG shareholders with the notices of meeting for the relevant approval meetings;
  - (e) the scheme document includes particulars of all matters that are material to a PACG shareholder making a decision on whether to approve the proposal; and
  - (f) without limiting clause 7(e) above, the scheme document includes the following:—
    - (i) the terms of the specified financial products;
    - (ii) the purpose and effect of the proposal;
    - (iii) information prescribed by the Companies Act;
    - (iv) the steps necessary to bring the proposal into effect;
    - (v) a statement as to why the directors of PACG recommend that PACG shareholders vote in favour of the proposal; and
    - (vi) a summary of the impact of the proposal.
- (2) The exemptions from Part 4 and Part 7 of the Act in clause 5 are subject to the further conditions that—
- (a) each exempt issuer complies with the requirements of the laws that relate to the preparation, content, auditing, and public filing of its financial statements in accordance with the Companies Act 1985 (UK) and the Companies Act 2006 (UK); and
  - (b) the specified financial statements of each exempt issuer comply with overseas GAAP; and
  - (c) the specified financial statements of each exempt issuer are accompanied by a report by an approved auditor that complies with the requirements of the Companies Act 2006 (UK).

Dated at Auckland this 3rd day of November 2015.



Simone Robbers  
Director of Primary Markets and Investor Resources  
Financial Markets Authority

### Statement of reasons

This notice, which comes into force on 6 November 2015 and is revoked on 5 November 2020, exempts UK BidCo, and every person acting on behalf of UK BidCo or associated with UK BidCo involved in giving effect to the proposal (including UK TopCo and UK VLNCo), subject to conditions, from Part 3, Part 4 and Part 7 of the Act, in relation to the specified financial products offered under the arrangement.

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

- the offer is made in connection with a proposal to acquire all of the share capital of PACG. It asks security holders to exchange their securities in PACG for securities in UK TopCo, the proposed new parent of the same group. The offer is limited to existing security holders of PACG. The Act and the Regulations focus on providing information about the securities being offered, including the assets and business of the issuer, and so would only require information to be provided about the financial products being offered in the proposed new parent. However, in these circumstances, investors require information about the exchange proposal, including its effects, in order to decide whether to approve it. Therefore the nature of the information investors require to assess the offer is different from that prescribed by the Act and Regulations:
- the offer is made in accordance with the laws of the United Kingdom and, in particular, by way of a scheme of arrangement under the Companies Act (UK). In order to comply with the requirements of the Companies Act (UK), shareholders must be provided with a scheme document containing information that is relevant to evaluating the exchange proposal. Conditions of the exemptions also require that the offer and allotment proceed in accordance with the laws of the United Kingdom and the scheme of arrangement, and that the investors receive all material information in the scheme document to enable them to make a decision on the exchange proposal:
- UK BidCo and others involved in the offer of the specified financial products will remain subject to the fair dealing provisions in Part 2 of the Act and therefore New Zealand subscribers will have protection against misleading or deceptive information being included in the scheme document:
- UK BidCo, UK TopCo and UK VLNCo will remain subject to the laws of the United Kingdom, including those that relate to the governance of the vendor loan notes and financial reporting. Placing New Zealand law compliance obligations on these entities would impose additional compliance costs, which would outweigh the expected benefits to New Zealand subscribers, given the relatively small number of subscribers in New Zealand compared to those taking part in the scheme of arrangement as a whole.

In summary, the conditions of the exemptions require New Zealand subscribers to receive the same protections and information available to United Kingdom subscribers, including, in particular, ensuring that they receive all material information to enable them to make a decision on the proposal, and preserving key protections usually available to New Zealand subscribers. The exemptions will not therefore cause significant detriment to subscribers for the specified financial products in New Zealand. Further these exemptions are limited to the offer of financial products made in the context of the proposal, and their key impact is to provide relief from the requirement to provide information about the issuer which is not material to the subscribers' decision on whether to approve the exchange proposal and to remove governance and financial reporting obligations where the compliance costs are expected to outweigh the benefits to New Zealand subscribers. In these circumstances, the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

