

Financial Markets Conduct (Arria NLG Limited Scheme) 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.

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Notice

1 Title

This notice is the Financial Markets Conduct (Arria NLG Limited) Exemption Notice 2016.

2 Commencement

This notice comes into force on 2 November 2016.

3 Revocation

This notice is revoked on the close of 31 March 2017.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

approval meeting means the meeting of Arria NLG shareholders that is to be held to consider and vote on whether to approve the scheme

Arria means Arria NLG Limited a company incorporated in New Zealand with company number 5947227

Arria Bonus Options means options issued by Arria having the terms set out in the scheme circular

Arria Group means, before the implementation of the scheme, Arria NLG and all of its subsidiaries, and after the implementation of the scheme, means Arria and all of its subsidiaries

Arria Shares means ordinary shares in the capital of Arria

Arria NLG means Arria NLG plc, a company registered in England and Wales with registered number 7812686



Arria NLG Shares means ordinary shares in the capital of Arria NLG

Court means the High Court of England and Wales

effective means the scheme becoming effective in accordance with the terms of the proposal

effective date means the date on which the scheme becomes effective

eligible Arria shareholder means a person who is recorded on the Arria NLG share register as owning shares in Arria NLG at the scheme record time as specified in the scheme circular

PDS means the product disclosure statement prepared by Arria in accordance with Part 3 of the Act relating to the offer

proposal means the restructure of the Arria Group involving the issue of the specified securities to the eligible Arria NLG shareholders in exchange for the transfer of each Arria NLG share held by the Arria NLG shareholders to Arria in accordance with the scheme, on the basis that each eligible Arria NLG shareholder will receive one Arria Share and the specified number of Arria Bonus Options in exchange for one Arria NLG Share

register entry means the entry for the offer in the register of offers of financial products

Regulations means the Financial Markets Conduct Regulations 2014

scheme means the Court approved scheme of arrangement relating to the proposal, under sections 895 to 899 of the UK Companies Act, between Arria NLG and the Arria NLG shareholders and to be voted on at the approval meeting by the Arria NLG shareholders

scheme circular means the scheme circular prepared by Arria NLG in accordance with the UK Companies Act, comprising a notice of meeting and explanatory statement as required by section 897 of the UK Companies Act in relation to the approval meeting

specified number means one Arria Bonus Option for each ten Arria NLG Shares held

specified securities means the Arria Shares and Arria Bonus Options being offered to the eligible Arria NLG shareholders in accordance with the scheme

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

- (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 Part 3 of the Act

Arria is exempted in relation to the specified securities from Part 3 of the Act.

6 Conditions for exemption in clause 5

The exemption in clause 5 are subject to the conditions that—

- (a) the proposal must proceed by way of the scheme approved by the Court under Part 26 of the UK Companies Act; and
- (b) the Arria NLG shareholders vote on the proposal at the approval meeting; and
- (c) it is a term of the offer that Arria issues the Arria Shares to the eligible Arria NLG shareholders credited as fully paid, in exchange for their Arria NLG Shares in accordance with the scheme, on the basis that each eligible Arria NLG shareholder will receive one Arria Share in exchange for one Arria NLG Share and the specified number of Arria Bonus Options; and
- (d) immediately after the effective date, Arria becomes the parent company of the Arria Group; and

- (e) immediately after the effective date, the assets and business of the Arria Group are the same as the assets and business of the Arria Group immediately prior to the scheme becoming effective, except that the assets of the Arria Group after the scheme becoming effective include the shares in Arria NLG transferred to Arria pursuant to the scheme; and
- (f) on or before 31 March 2017 the Arria Shares are quoted on the main board equity security market operated by NZX Limited; and
- (g) the scheme circular is distributed to Arria NLG shareholders at least 10 working days prior to the approval meeting; and
- (h) the scheme becomes effective in accordance with its terms; and
- (i) the scheme circular includes particulars of all matters that are material to an Arria NLG shareholder making a decision on whether to approve the proposal; and
- (j) without limiting (i) above, the scheme circular includes the following:
 - (i) a description of the terms of the Arria Shares and the Arria Bonus Options; and
 - (ii) the purpose and effect of the proposal; and
 - (iii) a statement to the effect that immediately after the effective date, the Arria Shares will not be quoted on any securities exchange, and this means that holders of Arria Shares may not be able to sell those Arria Shares until the Arria Shares are quoted on a securities exchange; and
 - (iv) a statement to the effect that although the Arria Shares will not be quoted on any securities exchange immediately after the effective date, the Arria Shares must be quoted on the main board equity security market operated by NZX Limited on or before 31 March 2017 pursuant to a condition of the Financial Markets Conduct (Arria NLG Limited Scheme) Exemption Notice 2016; and
 - (v) the steps necessary to bring the proposal into effect; and
 - (vi) a statement as to why the directors of Arria NLG recommend that Arria NLG shareholders vote in favour of the proposal; and
 - (vii) a summary of the material advantages, and material disadvantages of the proposal; and
 - (viii) a summary of the costs of the proposal; and
 - (ix) disclosure of the material differences (if any) between the proposed constitution of Arria (as it will be on the date that the Arria Shares are quoted on the main board equity security market (**NZSX**) operated by NZX Limited) and the constitution of Arria NLG (which disclosure may form part of a comparison of some of the material provisions governing Arria and Arria NLG under New Zealand law and English law, respectively), and a statement to the effect that a copy of the constitution of Arria (as it will be on the effective date) (if any) will be available; and
 - (x) the name and country of residence of every person who, at the date of the scheme circular, is expected by Arria NLG to be a director of Arria on the effective date; and
 - (xi) particulars of any material taxation liabilities of Arria NLG shareholders caused by the change in shareholding for New Zealand tax resident shareholders resulting from the implementation of the proposal; and

- (xii) particulars of any material differences in the taxation obligations of New Zealand tax resident shareholders in holding, or disposing of, Arria NLG Shares compared to the taxation obligations of shareholders in holding, or disposing of, the Arria shares.

Dated at Wellington this ^{Archland} 1st day of ^{November} 2016.



Garth Stanish
Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 2 November 2016 and is revoked on 31 March 2017.

This notice exempts Arria NLG Limited (**Arria**), a company registered in New Zealand, from Part 3 of the Financial Markets Conduct Act 2013 (**Act**) in relation to a UK scheme of arrangement involving an issue of Arria shares and Arria Bonus Options to Arria NLG plc (**Arria NLG**), a company registered in England and Wales, shareholders, in exchange for the transfer of the Arria NLG shares to Arria, on the basis that each Arria NLG shareholder will receive one ordinary fully paid share in Arria in exchange for one Arria NLG share and one Arria Bonus Option per ten Arria NLG shares held (**Scheme**).

The FMA, after satisfying itself as to the matters set out in section 556 of the Act, considers it appropriate to grant this exemption because—

- the offer is made in connection with a proposal to restructure the Arria Group (before the Scheme is implemented, being Arria NLG and all its subsidiaries, and after the Scheme is implemented, being Arria and all its subsidiaries). It asks shareholders of Arria NLG to exchange their shares in Arria NLG, the current parent company of the Arria Group, for shares in Arria, the proposed new parent of the same group, and for Arria Bonus Options. This means that the offer is limited to shareholders of Arria NLG and therefore to persons who may be expected to already be familiar with the assets and business of the Arria Group. Conditions of the exemption require that the offer can only be made if Arria becomes the parent, and the assets and business of the Arria Group are the same after the implementation of the Scheme as before it (with the exception of Arria now being the owner of the Arria NLG shares). The Act focuses on providing information about the securities being offered so would require information about Arria and the shares being offered in Arria only. However, in these circumstances, investors require information about the Scheme including its effects, differences between the Arria NLG shares and the Arria shares and taxation implications of exchanging the shares in order to decide whether to approve the proposal and whether subscribing for shares in Arria is preferable to continuing to hold shares in Arria NLG. Therefore, the nature of the information investors require to assess the offer is different from that prescribed by the Act; as such the exemption, which requires shareholders be provided information about the effect, benefits and detriments of the Scheme, supports the providing of timely, accurate, and understandable information to be provided to persons to assist those persons to make decisions relating to financial products or the provision of financial services:

- the offer is made in accordance with the laws of England and Wales and particularly pursuant to a scheme of arrangement under the Companies Act 2006 (UK) (**Companies Act**). In order to comply with the requirements of the Companies Act, shareholders must be provided with a scheme circular which includes a statement explaining the effect of the Scheme. The conditions of the exemption requires the scheme circular to contain all matters that are material to the shareholders enabling them to make an informed decision; as such the exemption supports the providing for timely, accurate, and understandable information to be provided to persons to assist those persons to make decisions relating to financial products or the provision of financial services:
- it would be unduly onerous to require Arria to prepare a product disclosure statement and register entry under Part 3 of the Act in addition to the scheme circular, particularly where investors are effectively changing the nature of their economic interest in the Arria Group from a direct to an indirect interest; as such the exemption facilitates the avoidance of unnecessary compliance costs:
- as the exemption is limited to the disclosure requirements for the Scheme only, with the requirement that information be provided in the scheme circular, the FMA is satisfied that the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.