

Financial Markets Conduct (Beca Group Superannuation Plan) 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 | 1 |
| 6 Conditions | 2 |

Notice

1 Title

This notice is the Financial Markets Conduct (Beca Group Superannuation Plan) Exemption Notice 2016.

2 Commencement

This notice comes into force on 1 July 2016.

3 Revocation

This notice is revoked on the close of 30 June 2021.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

Effective Date means the earlier of the date the manager elects to transition to the Act and 1 December 2016

Plan means the Beca Group Superannuation Plan

Plan Members means members of the Plan.

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

5 Exemption

The manager of the Plan is exempted from clause 39 of Schedule 4 to the Act in respect of the Plan.

6 Conditions

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

- (a) the manager must ensure that, before 30 June 2021, the Plan does not have an in-house assets ratio of 5% or more in relation to any related party or scheme participant (as determined in accordance with section 176 of the Act); and
- (b) the manager must send Plan Members a written notice before or within 3 months after the Effective Date informing them—
 - (i) that the Plan is not complying with the usual legal requirement not to have an in-house assets ratio of 5% or more in relation to any related party or scheme participant by 1 December 2017 on the condition that instead, as permitted by an exemption from the usual requirements, the Plan complies with the 5% in-house assets ratio by 30 June 2021; and
 - (ii) of the risks associated with investing retirement savings in a person related to the sponsoring employer of a retirement scheme.

Dated at Auckland this 17th day of June 2016.



Nick Kynoch
General Counsel
Financial Markets Authority

Statement of reasons

This notice comes into force on 1 July 2016 and is revoked on the close of 30 June 2021.

This notice exempts the manager of the Beca Group Superannuation Plan (**Plan**) from the requirement, pursuant to clause 39 of Schedule 4 to the Financial Markets Conduct Act 2013 (**Act**), to ensure that by 1 December 2017 the Plan does not have an in-house assets ratio of 5% or more in relation to any related party or scheme participant (as determined in accordance with section 176 of the Act) (the *exemption*).

The Financial Markets Authority (**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—

- the exemption and conditions provide an extended timeframe for compliance with the usual legal requirement not to have an in-house assets ratio of 5% or more in relation to a related party or scheme participant. The extended timeframe for compliance provides the manager with the flexibility to sell down its shareholding in a related party in a prudent and measured way rather than conduct a forced sale of its shareholding by the statutory deadline:
- the exemption is subject to conditions that require disclosure that is relevant in the circumstances. This disclosure includes advising members of the Plan that the manager has an extension of time until 30 June 2021 to comply with the usual legal requirement not to have an in-house assets ratio of 5% or more in relation to a related party or scheme participant. The disclosure will also advise members of the Plan of the risks associated with investing retirement savings in a person related to the sponsoring employer of a retirement scheme:

- the FMA is satisfied that the general trustee duties incumbent on the manager of a restricted scheme will require that it acts in the best interests of members of the Plan as well as with the necessary level of skill and care expected of it when selling down its shareholding in a related party:
- for these reasons, the FMA is satisfied that the exemption is desirable in order to promote the purposes of the Act, namely to promote innovation and flexibility in the financial markets and to promote the confident and informed participation of members of the Plan in matters relating to their retirement savings:
- in the circumstances that the exemption does no more than provide the manager of the Plan with an extension of time to comply with the legal requirement not to have an in-house assets ratio of 5% or more in relation to a related party or scheme participant rather than exempt it from the requirement entirely, the FMA is satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to the exemption.