

Financial Markets Conduct (Bonus Bonds) Exemption Notice 2022

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 (Bonus Bonds) Exemption Notice 2022.

2 Commencement

This notice comes into force on 24 June 2022.

3 Revocation

This notice is revoked on the close of 23 December 2023.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

Bondholder means the holder of one or more Bonus Bond

Bonus Bond means a unit in the Scheme

distribution completion date means the date on which the distribution of the Scheme's assets is completed, as notified to the FMA under section 213(1)(d) of the Act

manager means ANZ Investment Services (New Zealand) Limited, the licensed manager of the Scheme

Regulations means the Financial Markets Conduct Regulations 2014

Scheme means the Bonus Bonds Scheme (as identified with the scheme number SCH11094 on the scheme register), a scheme established by Trust Deed dated 17 September 1990, between Trustee Executors Limited as the supervisor and ANZ Investment Services (New Zealand) Limited as the manager, as amended and restated from time to time, and which is an approved unit trust within the meaning of that term in section 3 of the Finance Act (No 2) 1990

scheme register means the register of managed investment schemes (which is available online at www.disclose-register.companiesoffice.govt.nz) maintained by the Registrar of Financial Service Providers appointed under section 35 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008, for the purposes of Schedule 2 of the Act

specified participant means a Bondholder for whom the manager has not received completed payment instructions for the payment of winding-up distributions from the Scheme and for whom the manager does not hold a valid email address, at the time any annual report or notice would otherwise be required to be sent under regulation 62(1)(b) of the Regulations.

website means the Internet site for the Scheme maintained by or on behalf of the manager with the URL www.bonusbonds.co.nz.

- (2) In this notice, a requirement to give information by public notice means –
- (a) the information must be published prominently in a one quarter page notice on at least two weekdays and one weekend print publication of the following daily newspapers:
 - (i) The New Zealand Herald
 - (ii) The Dominion Post
 - (iii) The Press
 - (iv) Waikato Times
 - (v) Otago Daily Times; and
 - (b) a notice must be published prominently that contains a hyperlink to the information, on the home page of at least two weekdays and one weekend publication of the following news media websites:
 - (i) www.nzherald.co.nz
 - (ii) www.stuff.co.nz
 - (iii) www.odt.co.nz
- (3) 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 Regulations.

5 Exemption in Respect of Requirement to Send Annual Report or Notice to Investors

The manager is exempted, in respect of the Scheme, from regulation 62(1)(b) of the Regulations to the extent that Regulation requires a copy of the Scheme’s annual report, or a notice containing the statements specified in regulation 62(2) of the Regulations, to be sent to specified participants.

6 Conditions of Exemption in Clause 5

The exemption in clause 5 is subject to the conditions:

- (a) that within 10 working days after the commencement date of this notice, the manager must –
 - (i) publish the following information on the home page of the website and maintain that information on the website until the distribution completion date:
 - (A) a statement to the effect that the manager will within 4 months after each balance date of the Scheme, prepare an annual report on the affairs of the Scheme during the accounting period ending on that date and will publish a

- link to that annual report on the website within 28 days after the annual report is prepared;
- (B) a statement to the effect that Bondholders have a right to receive from the manager free of charge, a copy of the most recent annual report if the Bondholder makes a request to the manager to receive a copy of the annual report;
 - (C) a statement to the effect that Bondholders may obtain a copy of the annual report by electronic means; and
 - (D) a statement as to how Bondholders may obtain a copy of the annual report by electronic means (for example, from the address of the scheme register):
- (b) within 28 days after each annual report is prepared in respect of the Scheme in accordance with regulation 62(1)(a) of the Regulations, give the following information by public notice:
- (i) a statement to the effect that the manager has prepared an annual report on the affairs of the Scheme during the preceding accounting period and has published, or will publish, a link to that annual report on the website;
 - (ii) a statement to the effect that Bondholders have a right to receive from the manager free of charge, a copy of the annual report if the Bondholder makes a request to the manager to receive a copy of the annual report;
 - (iii) a statement to the effect that Bondholders may obtain a copy of the annual report by electronic means; and
 - (iv) a statement as to how Bondholders may obtain a copy of the annual report by electronic means (for example, from the address of the scheme register); and
- (c) the manager must, within 28 days after each annual report is prepared in respect of the Scheme in accordance with regulation 62(1)(a) of the Regulations, publish a link to the annual report on the home page of the website for the Scheme and maintain that information on the website until the next annual report has been prepared and is available on the website, or the distribution completion date (whichever is the earlier).

7 Exemption from requirement to hold an annual meeting

The manager is exempted from regulation 92 of the Regulations in respect of the Scheme.

Dated at Wellington this 21st day of June 2022



Financial Markets Authority

Statement of Reasons

This notice comes into force on 24 June 2022 and is revoked on the close of 23 December 2023.

This notice exempts ANZ Investment Services (New Zealand) Limited (**ANZIS**), as manager of the Bonus Bonds Scheme (the **Scheme**), subject to conditions, from regulation 62(1)(b) of the Financial Markets Conduct Regulations 2014 (the **Regulations**), and regulation 92 of the Regulations.

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

- the Scheme is in the process of being wound-up, and an initial distribution has been paid to those Bondholders for whom ANZIS holds payment information for. This first distribution accounts for the vast majority of the amounts to be distributed to Bondholders in the winding-up of the Scheme. As the Scheme is being wound-up, Bondholders are no longer able to acquire or redeem interests in the Scheme. In the circumstances, and given the large number of Bondholders of the Scheme and the associated significant costs with notifying all Bondholders, the costs of requiring full compliance with regulation 62(1)(b) would impose unnecessary cost on the Scheme to the detriment of the Bondholders;
- it is unlikely that the direct communications with Bondholders, as required by regulation 62(1)(b), would reach the majority of its target audience for a substantial number of Bondholders due to the historical nature, and large number, of Bondholders, therefore requiring ANZIS to comply in full with regulation 62(1)(b) would be an inefficient use of Scheme funds, and provide little benefit to the Bondholders;
- ANZIS is still required to communicate with the Bondholders, who ANZIS either hold email addresses for, or who have provided ANZIS with completed payment instructions. These are Bondholders who will likely receive the communications in an efficient and cost-effective way. For the remaining Bondholders, who are defined as specified participants, ANZIS will use an alternative and, in the circumstances, more effective and economical means for communicating the availability of the required information to Bondholders through public notification which will provide for timely, accurate, and understandable information to be provided to Bondholders;
- the Scheme offered a unique financial product which did not have the usual characteristics of a closed-ended fund. The scheme is not “equity like” and investor interests are not akin to ownership interests. In these circumstances an annual meeting would be of little relevance to Bondholders and participation rates would likely be low, quorate is unlikely to be met. Requiring an annual meeting would impose costs on the Scheme which would likely outweigh any benefits to Bondholders. Additionally, as the Scheme is in the wind-up process there is minimal need for the annual meeting to be held, as no significant decisions remain to be made in which Bondholders need to be consulted. Therefore, any benefits of holding an annual meeting would be outweighed by the cost of doing so and would impose unnecessary compliance costs on the Scheme to the detriment of the Bondholders;
- for these reasons, the FMA is satisfied that the exemptions are desirable in order to promote the purposes of the Act, specifically by avoiding unnecessary compliance costs and by promoting innovation and flexibility in financial markets, and to provide 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; and
- the FMA is further satisfied that the exemptions are not broader than is reasonably necessary to address the matters that give rise to them as –
 - (a) the exemptions only apply to the requirement under regulation 62(1)(b) of the Regulations to distribute the annual report, or notification that the annual report is available to Bondholders, and do not affect ANZIS’s obligations to prepare the annual report or lodge it on the scheme register; *and*
 - (b) the exemptions are subject to conditions that require an alternative means of communicating the availability of the annual report and how the annual report can be obtained.