

Financial Markets Conduct (Cash Advantage Fund and Term Advantage Fund) 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 (Cash Advantage Fund and Term Advantage Fund) Exemption Notice 2016.

2 Commencement

This notice comes into force on 28 October 2016.

3 Revocation

This notice is revoked on the close of 27 October 2021.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

Regulations means the Financial Markets Conduct Regulations 2014

scheme means the registered scheme comprising the Cash Advantage Fund and Term Advantage Fund and established under the AMP Capital Cash Funds Unit Trust Deed, dated 23 November 2007, as amended and restated from time to time.

- (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 in respect of duty to make fund update publicly available

The manager of the scheme is exempted from regulation 56 of Part 3 of the Regulations.

6 Exemptions in respect of fund update references in PDS

The manager of the scheme is exempted from clauses 18 and 23(3)(b) of Part 1 of Schedule 4 of the Regulations.

7 Condition of exemptions in clauses 5 and 6

The exemptions in clauses 5 and 6 are subject to the condition that the KIS in the PDS for the scheme must contain a statement in the following form:

"[Name of manager] is not required to prepare or publish updates for the fund."

8 Exemptions in respect of risk indicator in PDS

The manager of the scheme is exempted from clauses 12(2)(c), 12(4), 23(1)(c), 26 and 27 of Part 1 of Schedule 4 of the Regulations.

9 Condition of exemptions in clause 8

The exemptions in clause 8 are subject to the condition that under the subheading "**General investment risks**", the PDS must contain a statement in the following form:

"Some of the risks associated with the fund are: [insert brief summary of risks. For example, market risk and interest rate risk]."

10 Exemptions in respect of statement and example in PDS about fees

The manager of the scheme is exempted from clauses 31 and 38 of Part 1 of Schedule 4 of the Regulations.

11 Conditions of exemptions in clause 10

- (1) The exemptions in clause 10 are subject to the condition that the PDS for the scheme must contain a statement in the following form:

"You will not be charged fees for investing in [name of scheme or funds]. The [name of manager] may choose to charge fees at any time. An early withdrawal fee is charged in respect of [name of scheme or funds]."*

**This sentence may be omitted if there is no early withdrawal fee charged.*

- (2) The exemptions in clause 10 are subject to the further condition that the manager of the scheme must not charge any of the following fees:

- (a) any establishment fees:
- (b) any contribution fees:
- (c) any management fees:
- (d) any administration fees:

- (e) any performance-based fees.

12 Exemption in respect of statement in PDS about whether fees can be changed

The manager of the scheme is exempted from clause 39(2) of Part 1 of Schedule 4 of the Regulations.

13 Condition of exemption in clause 12

The exemption in clause 12 is subject to the condition that the PDS for the scheme must state whether and, if so, how fees or charges payable by an investor may be imposed and changed.

14 Exemptions in respect of register entry

The manager of the scheme is exempted from clauses 53(1)(c) to 53(1)(k) of Part 2 of Schedule 4 of the Regulations and clause 54 of Part 3 of Schedule 4 of the Regulations.

15 Conditions of exemptions in clause 14

- (1) The exemptions in clause 14 are subject to the condition that the register entry for the scheme must contain the following information for each fund of the scheme:
 - (a) the information specified in clause 57 of Part 4 of Schedule 4 of the Regulations;
 - (b) the interest rate or rates applicable to the debt securities available for investment by the fund as at the end of the most recently completed quarter:
 - (i) if the interest rate or rates are fixed, a statement of those rates;
 - (ii) if the basis on which or the method by which the interest rate or rates will be ascertained involves a variable and that variable is fixed, a statement of the amount at which the variable has been fixed;
 - (c) the credit rating of the registered bank issuing debt securities in which all funds of the scheme are invested;
 - (d) if there is a withdrawal fee, a statement of the amount of that fee as at the relevant date.
- (2) The exemptions in clause 14 are subject to the further conditions that—
 - (a) the information specified in clause 15(1) to be contained on the register entry for the scheme must be updated within 20 working days after the last day of each quarter of each disclosure year; and
 - (b) the manager of the scheme must not charge any of the following fees:
 - (i) any contribution fees;
 - (ii) any management fees;
 - (iii) any administration fees;
 - (iv) any performance-based fees.

16 Further conditions

The exemptions in clauses 5, 6, 8, 10, 12 and 14 are subject to the further conditions that—

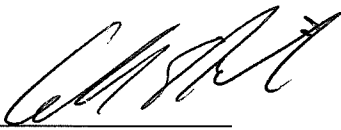
- (a) all funds of the scheme must be invested in bank term deposits and call debt securities, being category 2 products, issued by a single registered bank; and
- (b) the PDS for the scheme must, following the information required under clause 43 of

Part 1 of Schedule 4 of the Act, contain a subheading “**About [name of registered bank]**”, and under that subheading include a statement in the following form:

“[Name of registered bank in which the funds are invested under paragraph (a)] has been rated by [name of approved rating agency]. [Name of approved rating agency] gives ratings from [specify the top rating] through to [specify the lowest rating, excluding ratings attaching to entities in default].

A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.”

Dated at Wellington this 25th day of October 2016.



Garth Stanish
Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 28 October 2016 and expires on 27 October 2021.

This notice exempts the manager, in respect of the scheme consisting solely of the Cash Advantage Fund and Term Advantage Fund (the **scheme**), from the following provisions of the Financial Markets Conduct Regulations 2014 (**Regulations**):

- clauses 12(2)(c), 12(4), 23(1)(c), 26 and 27 of Part 1 of Schedule 4 of the Regulations which require a PDS to contain risk indicators and certain statements about risk indicators:
- regulation 56 of Part 3 of the Regulations which requires a fund update to be made publicly available:
- clauses 18 and 23(3)(b) of Part 1 of Schedule 4 of the Regulations which require a PDS to contain certain statements about fund updates:
- clauses 31, 38 and 39(2) of Part 1 of Schedule 4 of the Regulations which require a PDS to contain certain statements about fees, prescribed examples of how fees apply to investors, and statements about changes to fees:
- clauses 53(1)(c) to 53(1)(k) of Part 2 of Schedule 4 of the Regulations and clause 54 of Part 3 of Schedule 4 of the Regulations which require certain information about the scheme to be entered on the register entry for the scheme and updated quarterly in each disclosure year.

The exemptions are subject to a number of conditions including that the Product Disclosure Statement (**PDS**) for the scheme must include alternative material where necessary or desirable, such as disclosing the credit rating for any registered bank issuing term deposits and call debt securities in which the scheme invests.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 (**Act**), considers it appropriate to grant the exemptions because—

- The nature of interests in the scheme are such that fund update, register entry and PDS requirements need to be tailored to ensure investors receive meaningful disclosure:
- In particular, investments are made by investors in PIE call fund units and PIE term fund units via a managed investment scheme which invests exclusively in debt securities issued by a registered bank. As a result, and in contrast to other managed investment schemes, the managed investment products have features of a debt security. Returns to any particular investor in the scheme will not directly correlate with the overall financial performance of the scheme:
- Having regard to these features, the FMA is of the view that the exemptions and related conditions facilitate provision of timely, accurate and understandable information to assist investors to make decisions relating to the product.

The FMA is therefore satisfied that granting the exemption is necessary or desirable in order to promote one or more of the main or additional purposes of the Act. In particular, the PDS and register entry for the scheme permitted by the exemptions and related conditions promote—

- the confident and informed participation of the manager of the scheme and investors in the financial markets:
- greater transparency in relation to the scheme, thereby contributing to the development of fair, efficient, and transparent financial markets:
- accurate and understandable information being provided to investors to assist them to make decisions relating to the scheme.

The FMA is further satisfied that the exemptions are not broader than is reasonably necessary to address the matters that give rise to the exemptions. The manager of the scheme is only exempt with respect to a particular scheme from a limited number of specified requirements in the Regulations and Schedule 4 of the Regulations. The conditions to the exemptions substitute those requirements with more relevant requirements where necessary or desirable having regard to the particular characteristics of the scheme.