

## Financial Markets Conduct (Financial Adviser–Transition to Financial Services Legislation Amendment Act 2019) Exemption Notice 2021

Pursuant to section 572 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out section 557 of that Act, gives the following notice.

### Contents

		Page
1	Title	1
2	Commencement	1
3	Amendment to Financial Markets Conduct (Coöperatieve Rabobank U.A.) Exemption Notice 2017	1
4	Amendment to Financial Markets Conduct (Craigs Investment Partners Self-Select Schemes) Exemption Notice 2018	1
5	Amendments to Financial Markets Conduct (i-Select Superannuation Scheme) Exemption Notice 2018	2
6	Amendment to Financial Markets Conduct (Obsidian Contributory Mortgage Scheme) Exemption Notice 2019	2
7	Amendments to Financial Markets Conduct (Portfolio Superannuation Scheme) Exemption Notice 2018	2

### Notice

- 1 **Title**  
This notice is the Financial Markets Conduct (Financial Adviser–Transition to Financial Services Legislation Amendment Act 2019) Exemption Notice 2021.
- 2 **Commencement**  
This notice comes into force on 15 March 2021.
- 3 **Amendment to Financial Markets Conduct (Coöperatieve Rabobank U.A.) Exemption Notice 2017**
  - (1) This clause amends the Financial Markets Conduct (Coöperatieve Rabobank U.A.) Exemption Notice 2017.
  - (2) In clause 6(2), replace “a financial adviser” with “a financial advice provider”.
- 4 **Amendment to Financial Markets Conduct (Craigs Investment Partners Self-Select Schemes) Exemption Notice 2018**
  - (1) This clause amends the Financial Markets Conduct (Craigs Investment Partners Self-Select Schemes) Exemption Notice 2018.
  - (2) In clause 6(1)(h), replace “Your financial adviser” with “Your financial advice provider”.

**5 Amendments to Financial Markets Conduct (i-Select Superannuation Scheme) Exemption Notice 2018**

- (1) This clause amends the Financial Markets Conduct (i-Select Superannuation Scheme) Exemption Notice 2018.
- (2) In clause 6(1)(a)(ii)(A), replace “an authorised financial adviser” with “a financial advice provider”.
- (3) In clause 6(1)(a)(ii)(B), replace “the authorised financial adviser” with “the financial advice provider”.
- (4) In clause 6(1)(a)(ii)(C), replace “an authorised financial adviser” with “a financial advice provider”.
- (5) In clause 6(1)(a)(ii)(C)b., replace “the authorised financial adviser” with “the financial advice provider”.
- (6) In clause 6(1)(f), replace “their authorised financial adviser” with “their financial advice provider”.
- (7) In clause 6(1)(h), replace “an investor’s authorised financial adviser” with “an investor’s financial advice provider”.
- (8) In clauses 6(1)(h), clause 6(1)(i) and clause 6(1)(m)(i) replace “an authorised financial adviser” with “a financial advice provider” wherever mentioned.

**6 Amendment to Financial Markets Conduct (Obsidian Contributory Mortgage Scheme) Exemption Notice 2019**

- (1) This clause amends the Financial Markets Conduct (Obsidian Contributory Mortgage Scheme) Exemption Notice 2019.
- (2) In clause 6(2)(a)(i), replace “a financial adviser” with “a financial advice provider”.

**7 Amendments to Financial Markets Conduct (Portfolio Superannuation Scheme) Exemption Notice 2018**

- (1) This clause amends the Financial Markets Conduct (Portfolio Superannuation Scheme) Exemption Notice 2018.
- (2) In clause 6(1)(a)(ii)(A), replace “an authorised financial adviser” with “a financial advice provider”.
- (3) In clause 6(1)(a)(ii)(B), replace “the authorised financial adviser” with “the financial advice provider”.
- (4) In clause 6(1)(a)(ii)(C), replace “an authorised financial adviser” with “a financial advice provider”.
- (5) In clause 6(1)(a)(ii)(C)b., replace “the authorised financial adviser” with “the financial advice provider”.

- (6) In clause 6(1)(h), replace “an investor’s authorised financial adviser” with “an investor’s financial advice provider”.
- (7) In clause 6(1)(h), replace “an authorised financial adviser” with “a financial advice provider”.
- (8) In clause 6(1)(i), replace “your authorised financial adviser” with “a financial advice provider” and “an authorised financial adviser” with “a financial advice provider” wherever mentioned.
- (9) In clause 6(1)(m)(i), replace “an authorised financial adviser” with “a financial advice provider”.

Dated at Wellington this 1<sup>st</sup> day of March 2021.



Liam Mason  
Director of Regulation and Acting General Counsel  
Financial Markets Authority

### Statement of reasons

This notice, which comes into force on 15 March 2021, makes minor amendments to the following individual exemption notices granted under the Financial Markets Conduct Act 2013 (**FMC Act**):

- Financial Markets Conduct (Coöperatieve Rabobank U.A.) Exemption Notice 2017 (**Rabobank Notice**):
- Financial Markets Conduct (Craigs Investment Partners Self-Select Schemes) Exemption Notice 2018 (**CIP Notice**):
- Financial Markets Conduct (i-Select Superannuation Scheme) Exemption Notice 2018 (**i-Select Notice**):
- Financial Markets Conduct (Obsidian Contributory Mortgage Scheme) Exemption Notice 2019 (**Obsidian Notice**):
- Financial Markets Conduct (Portfolio Superannuation Scheme) Exemption Notice 2018 (**Saturn Notice**).

The amendments to these individual exemption notices are made as a consequence of amendments made to the FMC Act by the Financial Services Legislation Amendment Act 2019 (**FSLAA**) which introduces a new regulatory financial advice regime and repeals the Financial Advisers Act 2008.

The effect of this notice is to replace certain terminology in these individual exemption notices that has been affected by the amendments in FSLAA. In particular,—

- the term ‘authorised financial adviser’ (**AFA**) is replaced with ‘financial advice provider’; and
- the term ‘financial adviser’ is replaced with ‘financial advice provider’.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 557 of the FMC Act, considers the amendments to the individual exemption notices are appropriate because—

- the exemptions in these notices have been in place for a number of years and the policy reasons for the grant of the notices remain valid and relevant. The exemptions in these notices continue to be relied upon by the relevant market participants;
- the legislative amendments under FSLAA reform the financial advice regime, and create new defined terms in relation to providers of financial advice. This notice makes minor amendments to update these notices in light of legislative amendments under FSLAA. The amendments reflect the requirement under FSLAA that regulated financial advice be provided by or on behalf of a financial advice provider. The amendments do not change the original reasons and policy grounds for these notices;
- given the continuing validity and relevance of the exemptions, and the continued reliance on the exemptions, the FMA considers that the exemptions will assist the implementation of the new financial advice regime;
- the exemptions in the Rabobank Notice, CIP Notice and the Obsidian Notice are subject to conditions that require prescribed statements be included in disclosure documents alerting prospective investors to seek financial advice from a 'financial adviser'. Amending the terminology to 'financial advice provider' ensures that the prescribed statements remain relevant under the new financial advice regime;
- the exemptions in the Saturn Notice and i-Select Notice are subject to conditions that require investors in the scheme to have obtained financial advice from an 'authorised financial adviser'. Additionally, there are conditions that require prescribed statements be included in disclosure documents alerting investors to seek financial advice from an 'authorised financial adviser'. Amending the terminology to 'financial service provider' ensures that these conditions remain relevant under the new financial advice regime; and
- if the amendments in this notice are not made, these notices will not align with the new financial advice regime brought about by FSLAA. In some circumstances, this could require market participants to continue providing warning statements which refer to retired terminology, leading to investor confusion.

As such and for the reasons mentions above, the FMA is satisfied that –

- the amendments to these notices are necessary or desirable in order to promote a main purpose of the Act, namely, to promote confident and informed participation of businesses, investors and consumers in the financial markets; and
- the amendments to these notices are not broader than is reasonably necessary to address the matters that give rise to the amendments because the amendments are limited to retired terminology.