

Financial Markets Conduct (Lifetime Asset Management Limited) 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 (Lifetime Asset Management Limited) Exemption Notice 2016.

2 Commencement

This notice comes into force on 30 September 2016.

3 Revocation

This notice is revoked on the close of 30 November 2016.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

LAM means Lifetime Asset Management Limited

QROPS means a qualifying recognised overseas pension scheme

QROPS regulations means the regulations set by Her Majesty's Revenue and Customs from time to time which must be met to enable a New Zealand superannuation scheme to accept QROPS transfers

Regulations means the Financial Markets Conduct Regulations 2014

GB Superannuation Scheme means the Garrison Bridge Superannuation Scheme established by governing document dated 21 September 2016.

Superannuation Scheme Rules means the provisions of Schedule 12 of the Regulations.

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- (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 given to it by the Act or the Regulations.

5 Exemption

LAM is exempted from regulation 81(2)(b) of the Regulations, in respect of the GB Superannuation Scheme.

6 Conditions

The exemption in clause 5 is subject to the condition that the Superannuation Scheme Rules must be treated as implied into the governing document for the GB Superannuation Scheme, except to the extent that rules 8, 9, and 12 are excluded or modified in the governing document of the GB Superannuation Scheme to the extent necessary to enable the GB Superannuation Scheme to comply with QROPS regulations.

Dated at Auckland this 28th day of September 2016.



Nick Kynoch
General Counsel
Financial Markets Authority

Statement of reasons

This notice, which comes into force on 30 September 2016 and expires on the close of 30 November 2016, exempts Lifetime Asset Management Limited (**LAM**) from compliance with regulation 81(2)(b) of the Financial Markets Conduct Regulations 2014 (**Regulations**) in respect of the Garrison Bridge Superannuation Scheme (**GB Superannuation Scheme**). The exemption enables LAM to comply with UK qualifying recognised overseas pension scheme (**QROPS**) regulations to the same extent as superannuation schemes in existence as at 1 December 2014, for which regulation 81 of the Regulations does not yet apply. This exemption is subject to the condition that the Superannuation Scheme Rules (as defined in regulation 81 of the Regulations) must be treated as implied into the governing document for the GB Superannuation Scheme, except to the extent that they are excluded or modified to be compliant with the hardship and transfer provisions of the QROPS regulations.

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 this exemption because—

- the implication of Superannuation Scheme Rules into the governing documents of superannuation schemes is not discretionary, and brings any superannuation scheme which is compliant with the Act into conflict with QROPS regulations. Specifically, under the Superannuation Scheme Rules, scheme participants are entitled to make withdrawals in the event of significant financial hardship (clauses 8 and 9 of Schedule 12 of the Regulations), or transfer their accumulation to another scheme, KiwiSaver, or equivalent overseas scheme (clause 12 of Schedule 12 of the Regulations). These allowances for withdrawal and transfer bring any compliant scheme into conflict with the requirement of QROPS regulations that schemes must prevent withdrawals of UK transferred funds before the age of 55, except in the

case of serious illness. Accordingly, superannuation schemes established after 1 December 2014 are prevented from participating in the QROPS market in New Zealand:

- schemes formed prior to 1 December 2014 have the option to delay in their adoption of the Act's more robust compliance obligations until 1 December 2016, which creates an uneven regulatory platform for QROPS compliant schemes in New Zealand. The granting of the exemption is therefore desirable to allow participation by LAM in this part of the financial markets, on the same basis as those schemes that existed at 1 December 2014:
- as such the FMA is satisfied that the granting of the exemption is desirable in order to promote the purposes of the Act, specifically, to promote and facilitate the development of fair, efficient and transparent financial markets:
- as the exemption is limited to the offer of the GB Superannuation Scheme by LAM, expires on 30 November 2016, and the condition of exemption requires compliance with the Superannuation Scheme Rules except to the extent that it relates to hardship and transfer provisions so as to be compliant with QROPS regulations, the FMA is satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to the exemption.

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