

Financial Markets Conduct (Mayfield Hinds Irrigation Limited) Exemption Notice 2017

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

1	Title	1
2	Commencement	1
3	Revocation	1
4	Interpretation	1
5	Exemptions in respect of certain information in the PDS	2
6	Conditions of exemptions in clause 5	3
7	Exemptions in respect of financial information in PDS	4
8	Conditions of exemptions in clause 7	4
9	Conditions of exemptions in clauses 5 and 7	5

Notice

1 Title

This notice is the Financial Markets Conduct (Mayfield Hinds Irrigation Limited) Exemption Notice 2017.

2 Commencement

This notice comes into force on 8 May 2017.

3 Revocation

This notice is revoked on the close of 31 August 2017.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

Mayfield Hinds means Mayfield Hinds Irrigation Limited

merger date means the date on which the merger proposal is to take effect

merger proposal means the proposed merger of Mayfield Hinds and Valetta to be voted on at the Valetta shareholders meeting and involving:

- (a) the purchase of all assets and assumption of all of the liabilities of Valetta by Mayfield Hinds with the net consideration payable for the acquisition being satisfied by an issue of 449,629 MV shares to Valetta; and
- (b) the liquidation of Valetta and the distribution in specie to the Valetta shareholders of 1 MV share for every 1 Valetta share held on the day prior to the merger date

merger proposal booklet means the merger proposal booklet prepared by Mayfield Hinds and Valetta setting out the merger proposal and containing the information prescribed in subclause 6(b)

MV shares means the MV Class Shares in Mayfield Hinds issued to Valetta in accordance with the merger proposal

offer means the regulated offer of MV shares by Valetta to the Valetta shareholders in accordance with the merger proposal

PDS means the product disclosure statement for the offer

proposed water supply agreement means the agreement to be entered into between each Valetta shareholder and Mayfield Hinds on the merger date under which 1 litre per second of irrigation water is available for every 100 MV shares held

Regulations means the Financial Markets Conduct Regulations 2014

transacting shareholder:

- (a) has the same meaning as in section 4 of the Co-operative Companies Act 1996; and
- (b) includes a supplying shareholder within the meaning of section 34 of that Act.

Valetta means Valetta Irrigation Limited

Valetta shares means the ordinary shares in Valetta

Valetta shareholders means all holders of Valetta shares as at the date of the Valetta shareholders meeting

Valetta shareholders meeting means the meeting of Valetta shareholders that is to be held to consider and vote on whether to approve the merger proposal.

- (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 Exemptions in respect of certain information in the PDS

Mayfield Hinds is exempted from clauses 8, 26, 28 and 30 of Schedule 3 of the Regulations in respect of the offer.

6 Conditions of exemptions in clause 5

The exemptions in clause 5 are subject to conditions that—

- (a) the PDS, the merger proposal booklet, and the proposed water supply agreement are sent to Valetta shareholders as part of the notice of meeting for the Valetta shareholders meeting; and
- (b) the merger proposal booklet must include the following:
 - (i) the purpose and effect of the merger proposal:
 - (ii) the steps necessary to bring the merger proposal into effect:
 - (iii) the number of MV shares to be issued by Mayfield Hinds to Valetta in accordance with the merger proposal and the consideration payable for those shares:
 - (iv) a description of the terms of the MV shares being offered to Valetta shareholders and the rights attached to the MV shares:
 - (v) the number of MV shares being offered to Valetta shareholders in accordance with the merger proposal and the percentage of the total MV shares on issue that the number will represent immediately after the distribution:
 - (vi) a description of each class of existing shares on issue in Mayfield Hinds including the number of each of those classes of shares and the rights attached to each of those classes of shares:
 - (vii) a description of the annual charges payable for the supply of water for the MV shares for the accounting period ending 31 May 2018 and any other further payment, fee or charge relating to the MV shares:
 - (viii) a summary of the proposed changes to the constitution of Mayfield Hinds and the proposed structure of the board of directors of Mayfield Hinds after implementation of the merger proposal, and statement to the effect that a copy of the constitution of Mayfield Hinds may be obtained from the offer register:
 - (ix) a summary of the rights of holders of MV shares to transfer or sell the MV shares:
 - (x) an indicative timetable for implementing the proposed merger:
 - (xi) a statement that the merger proposal will not be implemented unless the proposed shareholder resolutions detailed in the merger proposal booklet are passed:
 - (xii) a table setting out the rights attached to each class of shares in Mayfield Hinds, including the MV shares, if the merger proposal is implemented; and
- (c) the PDS must contain in section 1 under the heading “Purpose of this offer” the following information and statement:
 - (i) a brief description of the purpose and effect of the merger proposal:

- (ii) a brief description of the consideration payable by Mayfield Hinds for the business and assets of Valetta in accordance with the merger proposal:
- (iii) a brief description of the MV shares:
- (iv) a statement to the effect that further information on the merger proposal, the offer and the MV shares can be found in the merger proposal booklet.

7 Exemptions in respect of financial information in PDS

Mayfield Hinds is exempted from—

- (a) clause 35(1) of Schedule 3 of the Regulations in respect of the offer to the extent that that clause requires the PDS to contain information for an interim accounting period for Mayfield Hinds; and
- (b) clause 35(3) of Schedule 3 of the Regulations in respect of the offer to the extent that that clause requires the PDS to contain information for an interim accounting period for Valetta.

8 Conditions of exemptions in clause 7

The exemption in clause 7 is subject to the conditions that—

- (a) the table in the PDS prepared under clause 35 of Schedule 3 of the Regulations must include the information under clause 35(1)(a) to (i) for Mayfield Hinds for the accounting periods ending 31 May 2017 and 31 May 2018; and
- (b) the PDS must contain the following statements in section 7 under the table referred to in paragraph (a):
 - (i) a clear and concise statement identifying the financial information usually required under clauses 35(1) and 35(3) of Schedule 3 of the Regulations that has not been provided in the PDS in reliance on the exemption contained in clause 7:
 - (ii) a clear and concise statement by the directors of Mayfield Hinds that, in their opinion, not including the financial information referred to in paragraph (b)(i) will not have a material adverse effect on Valetta shareholders:
 - (iii) a clear and concise statement as to why the directors of Mayfield Hinds consider that the financial information referred to in paragraph (a) is likely to be more useful to Valetta shareholders in assessing the merits of the offer; and
- (c) the register entry for the offer must contain a copy of a report by a qualified auditor, signed by him or her (either in his or her own name or that of his or her firm), stating, in relation to the prospective financial statements required to be contained in the register entry for the offer under clause 53(1)(c) of Schedule 3 of the Regulations—
 - (i) the work done by the auditor; and
 - (ii) the scope and limitations of the audit; and

- (iii) the existence of any relationship (other than that of auditor) that the auditor has with, or any interests that the auditor has in, the issuer or any of its subsidiaries; and
- (iv) whether the auditor has obtained all information and explanations that he or she has required; and
- (v) "in our (or my) opinion, the prospective financial information, so far as the accounting policies and calculations are concerned, has been properly compiled on the footing of the assumptions made or adopted by Mayfield Hinds set out [specify where assumptions are set out on the offer register and/or in the PDS] and is presented on a basis consistent with the accounting policies normally adopted by Mayfield Hinds."

9 Conditions of exemptions in clauses 5 and 7

The exemptions in clauses 5 and 7 are subject to the conditions that—

- (a) the rights attached to, and the charges payable on, the MV shares immediately following the implementation of the merger proposal are materially the same as the rights attached to, and the charges payable on, the Valetta shares immediately prior to the implementation of the merger proposal; and
- (b) immediately following the implementation of the merger proposal only Valetta shareholders will be holders of MV shares and in the same proportion as their shareholding in Valetta immediately prior to the implementation of the merger proposal; and
- (c) the holders of the MV shares immediately following the implementation of the merger proposal will be transacting shareholders of Mayfield Hinds.

Dated at Wellington this 5th day of May 2017.



Garth Stanish
Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 8 May 2017 and is revoked on 31 August 2017. This notice exempts Mayfield Hinds Irrigation Limited (**Mayfield Hinds**), subject to conditions, from certain provisions of Schedule 3 of the Financial Markets Conduct Regulations 2014 (**Regulations**) in relation to an offer of shares in Mayfield Hinds to shareholders of Valetta Irrigation Limited (**Valetta**) in connection with the proposed merger of Mayfield Hinds and Valetta. The proposal merger involves Mayfield Hinds acquiring all assets and assuming all of the liabilities of Valetta, and Valetta receiving new MV Class

Shares (**MV Shares**) issued by Mayfield Hind to satisfy the consideration payable for that acquisition. The shareholders of Valetta will then receive an *in specie* distribution of the MV Shares on the subsequent liquidation of Valetta.

Mayfield Hinds is exempt from—

- the requirement that the product disclosure statement for the offer (**PDS**) include the information under clauses 8, 26, 28 and 30 of Schedule 3 of the Regulations (**excluded clauses**); and
- the requirement under clauses 35(1) and 35(3) of Schedule 3 of the Regulations that the PDS include interim financial information for Mayfield Hinds and Valetta.

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 these exemptions because,—

- the offer is limited to shareholders of Valetta (**Valetta shareholders**) who must be invited to a meeting to vote on whether to approve the proposed merger. Valetta shareholders will receive a merger proposal booklet containing specific information in relation to the proposed merger that must be sent, along with the PDS, as part of the notice of meeting;
- the information required by the excluded clauses focus on the MV Shares being offered. However, in these circumstances Valetta shareholders also require information relating to the proposed merger, including its purpose and effect, in order to decide whether or not to approve it. Conditions of the exemption require the merger proposal booklet to contain relevant information about the proposed merger and the offer of MV Shares to enable Valetta shareholders to make an informed decision. It would be unnecessary to require Mayfield Hinds to include the information required by the excluded clauses in the PDS in circumstances where more specific and relevant information will already be contained in the merger proposal booklet;
- the proposed merger arrangements provide for the operating costs of the Mayfield Hinds irrigation distribution scheme and the Valetta irrigation distribution scheme to remain separate. No money is being raised from Valetta shareholders under the offer and post-merger they will continue to pay all of the costs of operating the Valetta irrigation distribution scheme through charges levied against the MV Shares. Similarly, the current shareholders of Mayfield Hinds will continue to pay all of the costs of operating the Mayfield Hinds irrigation distribution scheme post-merger through charges levied against their existing classes of shares in Mayfield Hinds;
- Valetta shareholders already hold or have access to financial information for Valetta and are aware of the costs of operating the Valetta irrigation distribution scheme. Valetta shareholders will not be liable for the costs of operating the Mayfield Hinds irrigation distribution scheme, so interim financial information for Mayfield Hinds will be of little benefit to them. The PDS will contain historical financial information for Mayfield Hinds and Valetta for the last three completed accounting periods and also, as a condition to the exemption, prospective financial information for Mayfield Hinds, so Valetta shareholders will receive sufficient financial information to make an informed decision. In these circumstances, the costs associated with having to prepare interim financial statements for

Mayfield Hinds and Valetta would outweigh the benefits to Valetta shareholders in receiving that information:

- as such, the FMA is satisfied that the exemptions are desirable in order to promote the purposes of the Act, specifically to provide for timely, accurate and understandable information to be provided to Valetta shareholders to assist them to make decisions relating to the proposed merger, and by avoiding unnecessary compliance costs:
- the exemptions are limited to the offer of MV Shares to Valetta shareholders made in the context of a proposed merger of Mayfield Hinds and Valetta. Their impact is to provide relief from the requirement to include information in the PDS that is already contained in the merger proposal booklet and from the requirement to provide interim financial information which is of little benefit to Valetta shareholders when deciding whether to approve the merger proposal and require more relevant prospective financial information to be provided instead. In these circumstances, the FMA is satisfied that the exemptions are not broader than reasonably necessary to address the matters that gave rise to them.