

Financial Markets Conduct (Southern Pastures Management Limited) Exemption Notice 2015

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 (Southern Pastures Management Limited) Exemption Notice 2015.

2 Commencement

This notice comes into force on 10 July 2015.

3 Revocation

This notice is revoked on the close of 9 July 2020.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

control has the same meaning as clause 48, Schedule 1 of the Act

eligible person means any:

- (a) employee of any subsidiary limited partnership; or
- (b) any person who provides personal services (other than as an employee) principally to any subsidiary limited partnership; or
- (c) an entity controlled by a person described in (a) or (b) above

farm means a dairy farm owned by a subsidiary limited partnership

Regulations means the Financial Markets Conduct Regulations 2014



specified financial products means partnership interests as that term is defined in the Limited Partnerships Act 2008 in a subsidiary limited partnership

SPLP means Southern Pastures Limited Partnership

SPML means Southern Pastures Management Limited

subsidiary limited partnership means a limited partnership registered under the Limited Partnerships Act 2008, which is formed for the sole purpose of acquiring and managing a farm, and in which:

- (a) SPML is the general partner; and
- (b) SPLP is the holder of 50% or more of the partnership interests of that subsidiary limited partnership.

5 Exemptions

SPLP and SPML are exempted from Parts 3, 4 and 7 of the Act in respect of an offer of specified financial products that is made only to eligible persons.

6 Conditions

(1) The exemptions in clause 5 are subject to the following conditions:

- (a) the offer of specified financial products must:
 - (i) be made as part of the remuneration arrangements for the eligible person or otherwise be made in connection with the employment or engagement of the eligible person; and
 - (ii) be made only to those eligible persons who are employed by or provide personal services in relation to the farm owned by the subsidiary limited partnership to which the specified financial products relate (or an entity that is controlled by those persons); and
 - (iii) not be for the primary purpose of raising funds for SPLP, SPML or any subsidiary limited partnership; and
- (b) in respect of any subsidiary limited partnership in respect of which the offer is being made, the total number of specified financial products issued or transferred in any 12 month period does not exceed 10% of the value of the total number of specified financial products of the subsidiary limited partnership that are of the same class as those specified financial products as at the start of the 12 month period; and
- (c) SPML and SPLP must not accept an application for, or issue or transfer specified financial products to an eligible person if the following have not been provided to that person before the application was made:
 - (i) a document that contains, in a prominent position, the warning statement referred to in clause 11 of Schedule 8 of the Regulations with any amendments that are reasonably necessary to reflect the nature of the specified financial products and the issuer; and
 - (ii) a document that contains a description of the specified financial products that are being issued and the applicable terms and conditions; and
 - (iii) a copy of the subsidiary limited partnership's partnership agreement; and

- (iv) a copy of the financial statements of the subsidiary limited partnership and, if those statements are not audited or reviewed by an auditor, a statement to that effect; and
 - (v) a copy of the auditor's report on those financial statements (if any); and
 - (vi) an independent valuation by a registered valuer of the farm which is owned by the relevant subsidiary limited partnership and which is dated not more than twelve months prior to the date of application by the eligible person for the specified financial products.
- (2) For the purposes of clause 6(1)(c):
- (a) The financial statements of the subsidiary limited partnership need not be provided to eligible persons if, at the date on which the application by the eligible person is received, the subsidiary limited partnership has not completed its first accounting period or has not prepared its financial statements for that first accounting period; and
 - (b) one or more of the documents specified may be combined in a single document; and
 - (c) the documents specified must be provided by giving them to the eligible person or delivering or sending them to the eligible person's address.

Dated at Auckland this 18th day of July 2015.



Simone Robbers
Director of Primary Markets and Investor Resources
Financial Markets Authority

Statement of reasons

This notice comes into force on 10 July 2015 and is revoked on 9 July 2020.

This notice exempts Southern Pastures Management Limited (**SPML**) and Southern Pastures Limited Partnership (**SPLP**) from compliance with the disclosure, governance and financial reporting requirements of Parts 3, 4 and 7 respectively of the Financial Markets Conduct Act 2013 (the **Act**).

The exemptions apply only to offers for issue or sale of partnership interests in limited partnerships in which SPML is the general partner and SPLP is the holder of 50% or more of the partnership interests, to employees or persons who provide personal services to those limited partnerships (**eligible persons**).

The exemptions are subject to the conditions that any offer made to eligible persons is consistent, as far as practicable, with the requirements of clause 8 of Schedule 1 of the Act (the exclusion for offers under employee share purchase schemes) and clauses 10-12 of Schedule 8 of the Financial Markets Conduct Regulations 2014 (the **Regulations**). In addition to the information required by the Regulations for employee share purchase schemes, a further condition of the exemptions requires any offer to be accompanied by a copy of a recent independent valuation of the farm owned by the limited partnership to which the offer relates.

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

- the exemptions enable farm operators to acquire an interest in a limited partnership that has been set up to own the particular farm on which they work. In these circumstances, information that is similar to that required for offers under the employee share purchase scheme exclusion and the independent valuation report of each farm is appropriate and useful information for the farm operators;
- the offers of limited partnership interests which are covered by this notice would have fallen within the exclusion for offers under employee share purchase schemes had the subsidiary limited partnerships been structured as companies;
- the exemptions will not affect any existing financial reporting obligations of the limited partnerships that may apply under the Limited Partnerships Act 2008 or any other enactment;
- without the benefit of the exemptions, there are significant compliance costs in respect of disclosure, governance and financial reporting that apply to limited partnerships making a regulated offer of financial products under the Act. It is unlikely that SPML and SPLP would make such offers to farm operators and consequently the farm operators would not have the opportunity to own an interest in the farm on which they work;
- as such, the FMA is satisfied that the exemptions are desirable in order to promote the informed participation of farm operators to invest in the farms on which they work and to avoid unnecessary compliance costs; and
- as the exemptions only apply in relation to offers made to eligible persons in specific limited partnerships, which own specific farms operated by those persons, the exemptions are not broader than is reasonably necessary to address the matters that gave rise to the exemptions.

