

# Financial Markets Conduct (Trustees Executors Limited) Exemption Notice 2021

Pursuant to section 556 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.

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## Notice

### 1 Title

This notice is the Financial Markets Conduct (Trustees Executors Limited) Exemption Notice 2021.

### 2 Commencement

This notice comes into force on 24 March 2021.

### 3 Revocation

This notice is revoked on the close of 24 March 2022.

### 4 Interpretation

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

**Act** means the Financial Markets Conduct Act 2013

**Bondholder** means the holder of one or more Bonus Bonds at the specified time from whom the manager had not received, before the specified time, a valid request to redeem their Bonus Bonds

**Bonds Transaction** means the issue or redemption of Bonus Bonds, but does not include the payment of a prize to a Bondholder by way of the issue of further Bonus Bonds

**Bonus Bond** means a unit in the Scheme

**distribution information** means advice in writing as to the manner (including any partial distribution) in which the remaining assets (if any) of the Scheme are to be distributed, as required under section 213(b)(ii) of the Act

**distribution completion date** means the date on which the distribution of the Scheme's assets is completed, as notified to the FMA under s 213(1)(d) of the Act

**final financial statements** means final financial statements of the Scheme, showing the financial position of the Scheme as at the date on which the winding up of the Scheme took effect, as required under section 213(1)(a) of the Act

**manager** means ANZ Investment Services (New Zealand) Limited the licensed manager of the Scheme

**Scheme** means the Bonus Bonds Scheme (as identified with the scheme number SCH11094 on the scheme register), a scheme established by Trust Deed dated 17 September 1990, between TEL as the supervisor and ANZ Investment Services (New Zealand) Limited as the manager, as amended and restated from time to time, and which is an approved unit trust within the meaning of that term in section 3 of the Finance Act (No 2) 1990

**scheme register** means the register of managed investment schemes (which is available online at [www.disclose-register.companiesoffice.govt.nz](http://www.disclose-register.companiesoffice.govt.nz)) maintained by the Registrar of Financial Service Providers appointed under section 35 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008, for the purposes of Schedule 2 of the Act

**specified time** means the time immediately before 9.00 pm on 31 October 2020

**specified participant** means a Bondholder for whom the manager does not have a valid email address and either the manager has received notice that the Bondholder no longer resides at the last known address for that Bondholder held by the manager, or their most recent Bonds Transaction was made more than five years' prior to 31 October 2020

**supervisor** means TEL the licensed supervisor of the Scheme

**TEL** means Trustees Executors Limited

**website** means the Internet site for the Scheme maintained by or on behalf of the manager with the URL [www.bonusbonds.co.nz](http://www.bonusbonds.co.nz).

- (2) In this notice, a requirement to give information by public notice means –
- (a) the information must be published prominently in a quarter page notice on at least five week days and one weekend in print publication of the following daily newspapers:
    - (i) The New Zealand Herald
    - (ii) The Dominion Post
    - (iii) The Press
    - (iv) Waikato Times
    - (v) Otago Daily Times; and
  - (b) a notice must be published prominently that contains a hyperlink to the information, on the home page of at least five week days and one weekend publication of the following news media websites:
    - (i) [www.nzherald.co.nz](http://www.nzherald.co.nz)
    - (ii) [www.stuff.co.nz](http://www.stuff.co.nz)
    - (iii) [www.odt.co.nz](http://www.odt.co.nz)
- (3) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

**5 Exemptions for Trustees Executors Limited in respect of specified participants**

TEL is exempted from—


- (a) section 213(1)(b)(i) of the Act to the extent that that section requires TEL to ensure that a copy of the final financial statements is sent to specified participants; and
- (b) section 213(1)(b)(ii) of the Act to the extent that that section requires TEL to ensure that specified participants receive the distribution information.

**6 Conditions of exemptions in clause 5**

The exemptions in clause 5 are subject to conditions that TEL must, within 20 working days after the date on which the exemptions are granted—

- (a) give the following information by public notice:
  - (i) a statement to the effect that Bondholders have a right to receive from the manager or supervisor of the Scheme, free of charge, a copy of the final financial statements and the distribution information if the Bondholder makes a request to the manager or supervisor of the Scheme:
  - (ii) a statement (including contact details of the manager and supervisor of the Scheme) as to how Bondholders may make a request to the manager or supervisor of the Scheme, to receive a copy of the final financial statements and distribution information:
  - (iii) a statement to the effect that Bondholders may obtain a copy of the final financial statements and the distribution information by electronic means:
  - (iv) a statement (including a relevant link to the final financial statements and distribution information) as to how Bondholders may obtain a copy of the final financial statements and distribution information by electronic means (for example, from the website); and
- (b) ensure that the information referred to in clause 6(1)(a) is published on the home page of the website and maintain that information until the distribution completion date; and
- (c) publish a link to the final financial statements and the distribution information on the home page of the website and maintain that information until the distribution completion date; and
- (d) ensure that a copy of the final financial statements and the distribution information is lodged on the scheme register.

Dated at Wellington this 19th day of March 2021



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

## Statement of reasons

This notice comes into force on 24 March 2021 and is revoked on the close of 24 March 2022.

This notice exempts Trustee Executors Limited (**TEL**), as supervisor of the Bonus Bonds Scheme (the **Scheme**), subject to conditions, from section 213(1)(b) of the Financial Markets Conduct Act 2013 (the **Act**), in respect of scheme participants that ANZ Investment Services (New Zealand) Limited, as manager of the Scheme, does not have a valid email address for, and has been notified that the participant no longer resides at their last known address or their most recent bonds transaction in the Scheme was made more than five years' prior to 31 October 2020 (the **Specified Participants**).

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

- the exemptions recognise the difficulties faced by TEL in complying with the requirements of section 213(1)(b) of the Act to send the Scheme's final financial statements and distribution information (the **Relevant Information**) to Specified Participants on the winding up of the Scheme:
- the conditions to the exemptions require TEL to publicly notify in the major print and online news channels in New Zealand alternative methods for Specified Participants to obtain the Relevant Information, provide Specified Participants with the ability to request the Relevant Information from the manager or supervisor of the Scheme, and require the Relevant Information to be published on the Scheme's website and lodged on the scheme register:
- these conditions will help ensure that Specified Participants are notified of the availability of the Relevant Information, and that the Relevant Information is accessible to Specified Participants in a timely, accurate, and understandable manner, to assist them in making decisions relating to their investment(s) in the Scheme:
- the exemptions and conditions aim to minimise unnecessary compliance costs associated with the distribution of Relevant Information to Specified Participants, in the circumstance where the Relevant Information is unlikely to reach the Specified Participants. Having regard to the volume of Specified Participants in the Scheme, the cost of compliance with this obligation would be an unnecessary cost to the Scheme, reducing the total amount of final distributions available without a corresponding benefit to Scheme Participants:
- the FMA is satisfied that the exemptions are desirable in order to promote the purposes of the Act. Specifically, to ensure timely, accurate, and understandable information is provided to Specified Participants, and to avoid unnecessary compliance cost associated with the distribution of Relevant Information to Specified Participants.

The FMA is satisfied that the exemptions are not broader than is reasonably necessary to address the matters that give rise to the exemptions as –

- the exemptions only apply to the requirement under section 213(1)(b)(i) and (ii) of the Act to send the Relevant Information to Specified Participants, and does not affect TEL's obligation to send the Relevant Information to other Scheme participants:
- the exemptions are subject to conditions that require an alternative means of communicating the availability of the Relevant Information and how that information can be obtained, to Specified Participants who otherwise would be unlikely to receive the Relevant Information as required under section 213(1)(b)(i) and (ii) of the Act.