



FINANCIAL MARKETS AUTHORITY  
TE MANA TATAI HOKOHOKO – NEW ZEALAND

## Futures Contracts (Financial Transmission Rights) Exemption Notice 2013

Pursuant to section 48(1)(d) of the Securities Markets Act 1988, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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### Notice

- Title**  
This notice is the Futures Contracts (Financial Transmission Rights) Exemption Notice 2012.
- Commencement**  
This notice comes into force on 4 March 2013.
- Expiry**  
This notice expires on the close of 31 March 2017.
- Interpretation**  
(1) In this notice, unless the context otherwise requires, —  
**Act** means the Securities Markets Act 1988  
**clearing manager** means the person appointed by the Electricity Authority to perform the role of clearing manager under the Code  
**Code** means the Electricity Industry Participation Code made under the Electricity Industry Act 2010

*all*

**FTR** means a financial transmission right created under subpart 6 of Part 13 of the Code

**FTR account** means FTR account established by the clearing manager pursuant to clause 14.43A of the Code

**FTR allocation plan** has the meaning given to that term in the Code

**qualified auditor** has the meaning given to that term in section 2C of the Securities Act 1978

**Regulations** means the Futures Industry (Client Funds) Regulations 1990

**trust account** means a cash deposit account established by the clearing manager pursuant to clause 14.7 of the Code.

- (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 Exemption

- (1) Subject to clause 5(2), the clearing manager and every person acting on its behalf are exempt from compliance with the Regulations in respect of dealings in futures contracts that are FTRs.
- (2) This exemption only applies to dealing in futures contracts in the course of the clearing manager carrying out the functions of the clearing manager in accordance with the Code and the FTR allocation plan.

## 6 Conditions of exemption

The exemption in clause 5 is subject to the conditions that—

- (a) the clearing manager complies with the conditions set out in clause 4(3) of the Authorised Futures Dealers (Financial Transmission Rights) Notice 2012; and
- (b) the clearing manager holds client funds in accordance with the Code, including holding any client money received as security for a position in FTRs in one or more trust accounts in accordance with the Code; and
- (c) the clearing manager maintains proper records:
- (i) to record dealings in respect of FTRs; and
  - (ii) to record client money or client property received, held or otherwise dealt with in the course of its role as clearing manager; and
- (d) the FTR account and every trust account are subject to an audit by a qualified auditor at least once a year; and

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- (e) the clearing manager must ensure the terms of engagement provide for the qualified auditor to report to FMA if the qualified auditor identifies any breach by the clearing manager of its obligations relating to client money or client property, including obligations under the Code, the FTR allocation, or this exemption; and
- (f) the clearing manager must promptly notify FMA of any breach of the Code in respect of holding or dealing with client money or client property.

Dated at Wellington this 26<sup>th</sup> day of February 2013



Head of Compliance Monitoring  
Financial Markets Authority

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### Statement of reasons

This notice, which comes into force on the day after the date of its notification in the Gazette, exempts the clearing manager and every person acting on its behalf from compliance with the Futures Industry (Client Funds) Regulations 1990 ("Regulations") in respect of dealings in futures contracts that are Financial Transmission Rights ("FTRs"). FTRs are contracts in relation to the difference in electricity prices between two or more points of the national grid, established under the Electricity Industry Act 2010 and the Electricity Industry Participation Code ("Code"). The Financial Markets Authority has declared FTRs to be futures contracts under the Futures Contracts (Financial Transmission Rights) Notice 2012, and has authorised the FTR manager and the clearing manager to deal FTRs under the Authorised Futures Dealers (Financial Transmission Rights) Notice 2012. The clearing manager is appointed by the Electricity Authority to, amongst other things, receive and hold money in connection the FTR scheme and to manage the settlement of FTRs.

This notice only exempts compliance with the Regulations in respect of FTRs, and not any other type of futures contract.

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The Financial Markets Authority, after satisfying itself as to the matters set out in section 48(2) of the Act, considers it is appropriate to grant this exemption because:

- the exemption would allow the clearing manager to handle client money in accordance with the Code. The Code provides procedures for handling money and property in the course of clearing both the deliverable electricity market and the FTR Market. These provisions include requirements to segregate client money from the clearing manager's own money;
  - by requiring the clearing manager to hold client money and client property in accordance with the Code, the conditions of exemption provide adequate alternative safeguards for the protection of client money and client property.
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