

Futures Contracts (J.P. Morgan Securities LLC) Exemption Notice 2014

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).

Contents

	Page
1 Title	1
2 Commencement	1
3 Revocation	1
4 Interpretation	1
5 Exemption	2
6 Conditions of exemption	3
7 Further condition of exemption	3

Notice

- Title**

This notice is the Futures Contracts (J.P. Morgan Securities LLC) Exemption Notice 2014.
- Commencement**

This notice comes into force on the day after its notification in the *New Zealand Gazette*.
- Revocation**

This notice is revoked on the close of 30 September 2017.
- Interpretation**

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

Act means the Securities Markets Act 1988

CFTC means the Commodity Futures Trading Commission of the United States of America

CFTC Regulations means any rules or regulations made under the Commodity Exchange Act; and includes the regulations contained in Chapter I of Part 17 of the United States Federal Code of Regulations



clearing house means an entity that provides clearing and settlement services, or acts as a central counterparty, in respect of futures contracts or derivative contracts and is regulated by a financial markets regulator or central bank in respect of those services in its principal place of business; and includes an organisation that is registered with the CFTC as a derivative clearing organisation pursuant to the Commodity Exchange Act

client money and **client property** have the meanings given to those terms by the Regulations

Commodity Exchange Act means the Commodity Exchange Act of 1936 of the United States of America

FMA means the Financial Markets Authority established by Part 2 of the Financial Markets Authority Act 2011

JPMS means J.P. Morgan Securities LLC

registration terms means the terms and conditions that apply to JPMS as a broker dealer registered with the SEC and as a futures commission merchant registered with the CFTC

Regulations means the Futures Industry (Client Funds) Regulations 1990

SEC means the Securities and Exchange Commission of the United States of America

segregated account means an account with a bank, broker, or clearing house in which client money or client property is held and is segregated from the dealer's own money or property; but client money and client property attributable to a client need not be segregated from money or property attributable to any other client that is not a related party of JPMS

specified futures contract means a futures contract which is, or will be, cleared through, or is of a class of contracts which has been approved under the rules of a clearing house to be cleared through, the clearing facilities of a clearing house of which JPMS or a related company is a clearing member or participant.

- (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

JPMS is exempted from compliance with the Regulations in respect of its dealings in specified futures contracts.

6 Conditions of exemption

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

- (a) JPMS complies with the terms and conditions of its authorisation under section 38 of the Act to carry on the business of dealing in futures contracts; and
- (b) JPMS holds all client money and client property held for the account of a New Zealand based client in a segregated account; and
- (c) JPMS complies with the requirements of the following in respect of holding client money and client property:
 - (i) its registration terms; and
 - (ii) the Commodity Exchange Act; and
 - (iii) the CFTC Regulations; and
- (d) in respect of client money and client property held for the account of a New Zealand based client in connection with a transaction to which to which Part 30 of the CFTC Regulations applies, JPMS complies with the CFTC Regulations as if that client was a person located in the United States of America; and
- (e) JPMS maintains proper records:
 - (i) to record dealings in respect of futures contracts on behalf of the client; and
 - (ii) to record client money and client property held or received in accordance with dealings in futures contracts.

7 Further condition of exemption

- (1) This clause applies if JPMS receives an external auditor's report that shows JPMS has not complied with any of the requirements of:
 - (a) its registration terms; and
 - (b) the Commodity Exchange Act; and
 - (c) the CFTC Regulations.
- (2) If this clause applies, the exemption in clause 5 is subject to the further condition that JPMS sends a copy of the external auditor's report to FMA as soon as reasonably practical after receiving it.

Dated at Wellington this 18th day of March 2014



Elaine Campbell
Head of Compliance Monitoring
Financial Markets Authority

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and is revoked on the close of 30 September 2017, exempts J.P. Morgan Securities LLC (**JPMS**) from the requirements of the Futures Industry (Client Funds) Regulations 1990. The conditions instead require JPMS to hold client money and client property in accordance with applicable requirements of the United States of America ('US').

The Financial Markets Authority, after satisfying itself as to the matters set out in section 48(2) of the Securities Markets Act 1988, considers it is appropriate to grant this exemption because-

- JPMS currently carries on business in the US, and is subject to regulation by the Commodity Futures Trading Commission and the Securities and Exchange Commission in the US. The exemption will allow JPMS to carry on its business with New Zealand clients under the same rules as apply in respect of its dealings with US clients:
- the requirements of US law in respect of client money and client property are broadly equivalent to those under the Futures Industry (Client Funds) Regulation 1990, and provide adequate protection for New Zealand clients' assets:
- by requiring JPMS to hold client money in a segregated account in accordance with the provisions of US law in relation to the protection of client money and client property and by limiting the application of the application of the exemption to client money held in connection with dealing in centrally cleared contracts, the conditions of exemption provide adequate alternative safeguards for the protection of client money and client property.