

# Financial Markets Conduct (Liberty Financial Group) 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 in section 557 of that Act, gives the following notice.

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## Notice

### 1 Title

This notice is the Financial Markets Conduct (Liberty Financial Group) Exemption Notice 2021.

### 2 Commencement

This notice comes into force on 30 September 2021.

### 3 Revocation

This notice is revoked on the close of 29 September 2026.

### 4 Interpretation

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

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

**Australian EIP** means the Liberty Financial Group Limited Equity Incentive Plan under which an eligible person may acquire stapled securities

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

**eligible person** means a person who is, at the time of the offer or at the time when the stapled securities are acquired–

- (a) an employee or an executive director of the issuers or any of the issuers subsidiaries; or
- (b) a relative of a person described in paragraph (a); or
- (c) a trustee of a trust of which a person described in paragraph (a) or (b) is a beneficiary; or
- (d) a company that is controlled by a person described in paragraph (a) or (b)

**employee stapled securities purchase scheme** means a scheme established by the issuers under which an eligible person may acquire stapled securities of the issuers

**issuers** means each of LFGL and the Trust

**LFGL** means **Liberty Financial Group Limited**, a company organised under the laws of Australia with Australian Company Number 59 125 611 574

**offer** means an offer of stapled securities made under the Australian EIP by the issuers to an eligible person in New Zealand

**Regulations** means the Financial Markets Conduct Regulations 2014

**relevant financial statements** has the meaning set out in clause 2 of Schedule 8 of the Regulations

**stapled security** means a share in LFGL and a unit in the Trust that are–

- (a) linked together so that one cannot be traded or otherwise dealt with without the other; and
- (b) which are quoted as a single tradable financial product on the market operated by ASX Limited with a single ticker code and unit price; and
- (c) includes an option to acquire, by way of issue, a stapled security

**Trust** means the Liberty Financial Group Trust, an Australian managed investment scheme with Australian Registered Scheme Number 644 813 847.

- (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

- (1) The issuers are exempt from Part 3 of the Act in respect of an offer.
- (2) The Trust is exempt from Part 4 of the Act in respect of an offer.

## 6 Conditions of exemptions in clause 5

- (1) The exemptions in clause 5 are subject to the conditions that–
  - (a) the offer must:
    - (i) be made as part of the remuneration arrangements for the eligible person or otherwise made in connection with the employment or engagement of the eligible person; and
    - (ii) not be for the primary purpose of raising funds for any of the issuers or for any subsidiary of an issuer; and
  - (b) the total number of stapled securities issued or transferred under all of the issuers' employee stapled securities purchase schemes to eligible persons in any 12-month period does not exceed 10% of the stapled securities of the issuers as at the start of the 12-month period; and
  - (c) the offer must be made only to eligible persons, so that–
    - (i) the only investors who are able, under the terms of the offer, to acquire the stapled securities are eligible persons; and
    - (ii) all of the investors who acquire the stapled securities under the offer are eligible persons; and

- (d) the issuers must not accept an application for, or issue or transfer stapled securities 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 the Schedule; and
  - (ii) a document that contains a description of the Australian EIP and its terms and conditions; and
  - (iii) the document or documents described in clause 6(2).
- (2) For the purposes of clause 6(1)(d)(iii), the document or documents are—
  - (a) each of the following:
    - (i) a copy of the issuers' latest annual report prepared under any enactment or overseas law (if any); and
    - (ii) a copy of the relevant financial statements of the issuers and, if those statements are not audited or reviewed by an auditor, a statement to that effect; and
    - (iii) a copy of the auditor's report on those relevant financial statements (if any); or
  - (b) a notice that contains:
    - (i) a statement to the effect that the eligible person has a right to receive from the issuers, free of charge, a copy of the documents referred to in clause 6(2)(a) if the eligible person makes a request to the issuers to receive a copy of those documents; and
    - (ii) a statement to the effect that the eligible person may obtain a copy of those documents by electronic means; and
    - (iii) a statement as to how the eligible person may obtain a copy of those documents by electronic means (for example, from a specified Internet site address).
- (3) One or more of the documents specified in clauses 6(1)(d) and 6(2) above may be combined in a single document.
- (4) In calculating the total number of stapled securities issued or transferred under all of the issuers' employee stapled securities purchase schemes to eligible persons for the purposes of clause 6(1)(b):
  - (a) an issue or sale to a person must be disregarded if the issue or sale results from an offer that—
    - (i) does not require disclosure under Part 3 of the Act for any reason other than as a result of the application of clause 8 of Schedule 1 of the Act or this notice; or
    - (ii) is not received in New Zealand; or
    - (iii) is a regulated offer that is separate from the offer under the Australian EIP; and
  - (b) if an offer of an option to acquire a number of stapled securities is made—
    - (i) the offer must be treated as being an offer of that number of stapled securities (with the offer of the option itself being disregarded in the calculation); and
    - (ii) the underlying stapled securities must be treated as being issued when the option is issued (regardless of whether or when the option is actually exercised); and
    - (iii) in a case where the number of underlying stapled securities to be acquired will be determined under a formula or other calculation, the issuers must apply the

formula or make the calculation as at the time that the option is offered or issued using any assumptions that the issuers consider are reasonable.

- (5) For the purposes of clauses 6(1)(d) and 6(2)–
  - (a) a document must be provided to an eligible person by giving it to that person or delivering or sending it to that person's address; and
  - (b) if an eligible person requests a document referred to in clause 6(1)(d) or 6(2), the issuers must provide that document to that person within 5 working days after the issuers receive that request.

## Schedule

### Warning statement

#### "Warning

This is an offer of options to acquire stapled securities (being shares in Liberty Financial Group Limited and units in the Liberty Financial Group Trust (together, **Liberty**)). If you receive a stapled security following the exercise of an option, that stapled security will give you a stake in the ownership of Liberty. You may receive a return if dividends are paid while you hold stapled securities.

If either of Liberty Financial Group Limited or Liberty Financial Group Trust runs into financial difficulties or is wound up, you will be paid only after all creditors have been paid. You may lose some or all of your investment.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors to make an informed decision.

The usual rules do not apply to this offer because it is made under an exemption granted by the Financial Markets Authority that allows Liberty to offer the options to acquire stapled securities to eligible persons. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

The stapled securities are quoted on the Australian Securities Exchange (**ASX**). This means you may be able to sell the stapled securities on the ASX if there are interested buyers. You may get less than you invested. The price will depend on the demand for the stapled securities.

The stapled securities cannot be disposed of or otherwise dealt with other than in accordance with the disposal restrictions in the Liberty Securities Trading Policy, the terms of the offer and all applicable laws."

Dated at Wellington this 29<sup>th</sup> day of September 2021



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Sarah Vrede  
Director of Capital Markets  
Financial Markets Authority

### Statement of reasons

This notice comes into force on 30 September 2021 and is revoked on the close of 29 September 2026.

This notice exempts the Liberty Financial Group Limited (**LFGL**) and Liberty Financial Group Trust (the **Trust**) (together, the **issuers**) from compliance with the disclosure requirements of Part 3 of the Financial Markets Conduct Act 2013 (**Act**). This notice also exempts the Trust from compliance with the governance requirements for managed investment schemes under Part 4 of the Act.

The exemptions apply only to offers (**offer**) of stapled securities (consisting of a share in LFGL and a unit in the Trust (**stapled securities**)), and options to acquire those stapled securities under the Liberty Group Equity Incentive Plan (**Australian EIP**) which are made by the issuers to certain eligible persons,

including employees (or executive directors) of the issuers and the issuers' subsidiaries and relatives of those employees (or executive directors) (**eligible persons**).

The exemptions are subject to certain conditions requiring offers to be consistent, as far as practicable, with the requirements of the exclusion relating to employee share purchase schemes in clause 8 of Schedule 1 of the Act (the **Schedule 1 exclusion**) and with clauses 10 to 12 of Schedule 8 of the Financial Markets Conduct Regulations 2014 (which relate to the Schedule 1 exclusion).

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 return on the underlying stapled securities is linked to the performance of the issuers. Therefore, the Australian EIP encourages employees' involvement in the performance of LFGL and its controlled entities, in a manner similar to that of an employee share purchase scheme. However, due to the composite nature of the stapled securities, which consist of both equity securities and managed investment products, the issuers are unable to rely on the Schedule 1 exclusion:
- the exemptions therefore promote flexibility in the financial markets by allowing eligible persons to participate in an offer which is in substance similar to an employee share purchase scheme and which will be offered on a similar basis as offers made in reliance on the Schedule 1 exclusion:
- the conditions to the exemptions require eligible persons to be provided access to the same kinds of information as would be required under the Schedule 1 exclusion. In addition, the Liberty stapled securities are listed on the Australian Securities Exchange (**ASX**). The issuers are therefore subject to ASX requirements and to Australian securities laws, with the market value and material issues relating to the stapled securities publicly available and accessible to employees. In these circumstances, the FMA is satisfied that eligible persons will have access to sufficient and appropriate information for them to make an informed investment decision in relation to the offer and requiring the issuers to comply with the disclosure requirements of Part 3 of the Act is unnecessary:
- the Trust is regulated under Australian law and is subject to Australian laws and regulatory requirements relating to governance of managed investment trusts. Therefore, sufficient and appropriate governance arrangements and protections for investors are already in place under Australian requirements, and requiring the Trust to comply with the governance requirements in Part 4 of the Act in relation to the offer is unnecessary.

As such, the FMA is satisfied that—

- the granting of the exemptions is desirable in order to promote the purposes of the Act, specifically by avoiding unnecessary compliance costs and by promoting flexibility in financial markets; and
- in circumstances where the exemptions are limited to the offers of stapled securities made by the issuers to eligible persons in connection with the Australian EIP, and their key impact is to provide the Australian EIP with equivalent treatment to that which applies to employee share schemes under the Act, the FMA is satisfied that the exemptions are not broader than is reasonably necessary to address the matters that gave rise to them.