

Securities Act (Arbor Management Limited) Exemption Notice 2015

Pursuant to section 70B of the Securities Act 1978, the Financial Markets Authority, being satisfied of the matters set out in section 70B(2) of that Act, gives the following notice.

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Notice

- 1 Title**
This notice is the Securities Act (Arbor Management Limited) Exemption Notice 2015.
- 2 Commencement**
This notice comes into force on 6 March 2015.
- 3 Revocation**
This notice is revoked on the close of 30 November 2015.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires, -
Act means the Securities Act 1978

contractual manager means Arbor Management Limited (or any person that succeeds Arbor Management Limited as contractual manager in accordance with the rules of the scheme) as the manager contracted to manage a scheme

general partner means a company who is the general partner in the limited partnership

information memorandum means the information memorandum which includes the information prescribed in clauses 6(j) and 6(k)

limited partner means a person who is a limited partner in a limited partnership

limited partnership means a limited partnership registered under the Limited Partnerships Act 2008

management agreement means the management agreement between the general partner and the contractual manager

members of the scheme means the holders of the specified participatory securities

notice of meeting means a notice of the meeting setting out details of the resolution to be voted on by the special partners to determine to wind up the special partnership and accept the offer that will result from the transition to the limited partnership

offer means an offer to the special partners by the limited partnership and the general partner of specified participatory securities, as set out in the notice of meeting and described in the information memorandum

Regulations means the Securities Regulations 2009

scheme means the arrangement to which the specified participatory securities relate following the transition

special partners means all special partners in a special partnership as at the transition date

special partnership means any one of the special partnerships formed under Part 2 of the Partnership Act 1908 set out in the schedule, in which securities were offered in a prospectus registered on the date specified in the schedule

specified participatory securities means the interests in a limited partnership that will be distributed to special partners under the transition

statutory supervisor means Covenant Trustee Services Limited (or any person that succeeds Covenant Trustee Services Limited as statutory supervisor of the scheme) appointed as the statutory supervisor of a scheme

transition means all changes or modifications made to replace a special partnership with a limited partnership

transition date means the date at which transition comes into effect.

- (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 from sections 37 and 37A of the Act

Every limited partnership, every general partner, and every person acting on behalf of any or all of them, are exempted from sections 37 and 37A of the Act in respect of the specified participatory securities.

6 Conditions of exemptions in clause 5

The exemptions in clause 5 are subject to the conditions that-

- (a) all directors of the general partner at the time of the offer and allotment of the specified participatory securities must sign the information memorandum as directors of the general partner;
- (b) Arbor Investments Limited must sign the information memorandum as a promoter of the specified participatory securities;
- (c) it is a term of the offer that the transition proceeds in accordance with a process approved by the statutory supervisor;
- (d) the specified participatory securities are only allotted to the persons who are special partners in a special partnership at the transition date;
- (e) it is a term of the offer that, following the allotment of the specified participatory securities, the assets and liabilities, and associated rights and obligations, of the special partnership are held by the limited partnership, excluding those that are inappropriate for a limited partnership because of statutory requirements relating to the structure and governance of limited partnerships;
- (f) it is a term of the offer that, following the allotment of the specified participatory securities, each special partner must have the same net position in a limited partnership in relation to the relevant assets and liabilities, and associated rights and obligations, as would arise on the winding up of the relevant special partnership at the transition date;
- (g) the information memorandum is distributed to all special partners with the notice of meeting and the following documents be made available on the contractual manager's website or hard copies will be provided to the special partners at their request:
 - (i) the limited partnership agreement between the general partner, the limited partners, and the limited partnership;
 - (ii) the deed of participation between the limited partnership, the general partner, and the statutory supervisor; and

- (iii) the management agreement;
- (h) the management agreement must at all times while the specified participatory securities have not been cancelled, redeemed, forfeited, or in respect of which obligations under them have not been discharged, provide that:
 - (i) the contractual manager has the following duties:
 - A. to use its best endeavours and skill to ensure that the affairs of the scheme are conducted in a proper and efficient manner;
 - B. to use due diligence and vigilance in the exercise and performance of its powers, functions, and duties as contractual manager;
 - C. to account to the members of the scheme for all money that it receives on behalf of the scheme;
 - D. not to pay out or invest or apply any money belonging to the scheme for any purpose that is not directed by or authorised in the deed of participation relating to the scheme;
 - E. to supply to the members of the scheme, in general meeting, any oral or written information relating to the affairs of the scheme that any member has given it reasonable notice to supply;
 - (ii) the contractual manager has the same liability for any of its acts and omissions in the exercise and performance of the powers, functions, and duties as contractual manager as it would have if it exercised and performed those powers, functions, and duties as a trustee of the property of the scheme under the Act;
 - (iii) the contractual manager is entitled to the same relief from that liability as it would have if it were a trustee of the property of the scheme under the Act;
- (i) the management agreement must be approved by the statutory supervisor;
- (j) the information memorandum must include particulars of all matters that are material for investors to make a decision on the transition;
- (k) without limiting (j) above, the information memorandum must include--
 - (i) a summary of the material information relating to the transition to assist a prudent, but non-expert, special partner to understand and make a decision on the transition, to be set out near the front of the information memorandum;

- (ii) the purpose and effect of the transition;
- (iii) the steps necessary to bring the transition into effect;
- (iv) the terms of the specified participatory securities;
- (v) a statement as to why the directors of the general partner consider the transition is in the best interests of special partners;
- (vi) a summary of the material differences between a special partnership and a limited partnership;
- (vii) a summary of the costs of the transition;
- (viii) information comparing the tax obligations arising under the existing structure of the investment with an investment held in the proposed limited partnership structure, and a report from a chartered accountant confirming the relevant information; and
- (ix) a statement that the documents in clause 6(g) are available on the contractual manager's website or that hard copies may be provided to the special partners at their request.

Schedule
Special Partnerships

Special Partnership	Prospectus Date
McQuade Forest Limited and Company	6 June 1986
Greenoch Forest Limited and Company	10 June 1987
Bradwood Forest Limited and Company	3 April 1991
Northwood Forest Limited and Company	10 May 1993
Brockville Forest Limited and Company	25 August 1993
Rosedale Forest Limited and Company	8 August 1994
Braemore Forest Limited and Company	21 February 1996
Pinehills Forest Limited and Company	29 August 1997
Silverwood Forest Corporation Limited and Company (Land Partnership)	10 September 1990 and 14 May 2003

Dated at Wellington this 5th day of March 2015.



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

Statement of reasons

This notice comes into force on 6 March 2015 and is revoked at the close of 30 November 2015. This notice exempts every limited partnership and every general partner from sections 37 and 37A of the Securities Act 1978 (**Act**), in relation to an offer of limited partner units in a limited partnership to special partners in special partnerships, pursuant to a transition of forestry investment schemes to the Limited Partnerships Act 2008 (**Limited Partnerships Act**) as contemplated by the transitional provision under that Act.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Act, considers that it is appropriate to grant the exemptions because:

- The prospectus and the investment statement disclosure requirements of the Act focus on providing information about securities being offered. This offer arises in the context of a proposed transition of a series of forestry special partnerships managed by Arbor Management Limited, a company that specialises in managing forestry investments. Accordingly, prospective investors are existing investors in the forestry special partnerships. They have previously decided to invest in the forestry special partnerships, and may be expected to already be familiar with the assets and business of the forestry special partnership. They must now evaluate a transition of their investment into a limited partnership, to put in place a new structure for their existing forestry investment, pursuant to the transitional provisions in the Limited Partnerships Act. As such, the nature of the information investors require is different from the usual prospectus and investment statement disclosure requirements of the Act:
- The conditions of the exemption will require investors to receive material information with the notice of meeting to vote on the proposed transition to enable them to make an informed decision:
- The conditions relating to the statutory supervisor and Arbor Investments Limited are imposed to protect investors' interests and property rights. In particular the conditions specify the information to be provided to investors in to understand and make a decision on the transition, maintain Arbor Investments Limited's responsibility for the offer as promoter, the oversight provided by the statutory supervisor, and the responsibility of the directors of Arbor Investments Limited for the offer:
- In light of the conditions relating to information provided and protections of investors' interests, we consider the exemptions will not cause significant detriment to subscribers of the securities who are members of the public in New Zealand. Further, these exemptions are limited to the offer of securities made in the context of the proposed transition of forestry schemes managed

by Arbor Management Limited, a company that specialises in managing forestry developments, and provide relief from the requirements to disclose information which is not material to investors' decision whether to approve the proposed transition. In these circumstances, the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.
