

## Securities Act (Augusta Funds Management Limited – Shands Road Limited Partnership) 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 (Augusta Funds Management Limited – Shands Road Limited Partnership) Exemption Notice 2015.

#### 2 Commencement

This notice comes into force on 23 October 2015.

#### 3 Revocation

This notice is revoked on the close of 22 January 2016.

#### 4 Interpretation

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

**Act** means the Securities Act 1978

**manager** means Augusta Funds Management Limited

**offer** means the offer to the public of specified securities in accordance with the prospectus

**property** means the building and property at 146 Shands Road, Hornby, Christchurch

**prospectus** means the prospectus for the offer of specified securities to be registered on or about 29 October 2015

**registered valuer** means a valuer registered under the Valuers Act 1948

**Regulations** means the Securities Regulations 2009



**scheme** means the contributory scheme offered by the manager in accordance with the prospectus where each subscriber for specified securities will acquire an interest in the property

**specified securities** means participatory securities issued by the manager in respect of the scheme.

**vendor** means Virgo Group Limited, the vendor of the property

- (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

The manager and every person acting on its behalf are exempted, in respect of the offer, from clause 10(3)(c) and (d) of Schedule 3 of the Regulations.

## 6 Conditions of exemptions in clause 5

- (1) The exemptions in clause 5 are subject to the condition that the prospectus contains the following information and statements under a heading 'Financial information regarding the Property':—
- (a) a special purpose unaudited statement of financial performance for the property for the accounting periods ending 31 March 2011, 31 March 2012, 31 March 2013, 31 March 2014 and 31 March 2015;
  - (b) a clear and concise statement to the effect that the prospectus does not contain the usually required:—
    - (i) summary financial statements in respect of the 5 accounting periods preceding the date of the prospectus whereby the amounts in those summary financial statements must be those that would have appeared in financial statements of the rental business on the property if those financial statements had been registered under the Financial Reporting Act 1993; or
    - (ii) latest full audited financial statements for the rental business on the property prepared in accordance with generally accepted accounting practice;
  - (c) a clear and concise statement as to why the financial information referred to in subclause (b) is not available to, and is not able to be completely recreated by, the manager;
  - (d) a clear and concise statement setting out the reasons why the directors of the manager consider it appropriate to provide the alternative financial information provided in the prospectus, including why the directors of the manager consider the information will be more useful to prospective investors in assessing the merits of the offer;
  - (e) a clear and concise summary of the differences between the information that would be required to be contained in the prospectus under the Regulations and the information that is provided in the prospectus;
  - (f) a statement by the directors of the manager that no other financial information relating to the past financial performance or position of the Property and its rental income is available other than that provided in the prospectus.

- (g) a statement by a qualified auditor to the effect that:—
  - (i) the information provided in the special purpose unaudited statement of financial performance referred to in subclause (a) has been correctly taken from the relevant unaudited financial statements prepared by the vendor except for any material adjustments that were required to be made to ensure compliance with relevant financial reporting standards; and
  - (ii) the special purpose unaudited statement of financial performance referred to in subclause (a) was prepared, in all material respects, in accordance with the requirements of the relevant financial reporting standards applicable to the vendor at the time of preparation.
- (2) The exemptions in clause 5 are subject to the further condition that the prospectus contains the following information and statement, under a heading 'Valuation of Property':—
  - (a) a copy of a valuation report for the property prepared by an independent registered valuer dated no more than three months before the specified date, or a reference to a copy of that report contained elsewhere in the prospectus;
  - (b) a statement by the directors of the manager that the valuation report was provided for the purposes of the scheme and for use by prospective investors in considering their investment in specified securities.

Dated at Wellington this 16<sup>th</sup> day of October 2015.



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

### Statement of reasons

This notice, which comes into force on 23 October 2015 and is revoked on 22 January 2016, provides exemptions to Augusta Funds Management Limited (**AFM**) from clauses 10(3)(c) and (d) of Schedule 3 of the Securities Regulations 2009 (the **Regulations**), in relation to its offer of participatory securities in a limited partnership which will own and lease a commercial property, to enable it to provide alternative financial information on the rental business that is to be acquired.

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978, considers it appropriate to grant the exemptions set out in this notice for the following reasons:—

- There will be no significant detriment to investors because:—
  - The conditions of the exemption require AFM to instead provide prospective investors with the best available alternative financial information in relation to the rental business including; a valuation report for the Property containing all information on the property that is relevant to investors, and a special purpose unaudited statement of financial performance for the property for the previous five accounting periods, to enable investors to make informed decisions about their investments;



- the conditions of the exemption require AFM to make various statements in the prospectus, including a statement of why they are unable to provide the historical financial information ordinarily required, why the alternative information will provide useful information to prospective investors, the differences between the information required under the Regulations and the information contained in the prospectus, and that no other financial information relating to the past performance or position of the property and its rental business is available;
- Further, the exemptions only provide relief from the requirement to provide historical financial information that is not available, therefore the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

