

Securities Act (Augusta Funds Management Limited – Southgate Proportionate Ownership Scheme) 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

- Title**

This notice is the Securities Act (Augusta Funds Management Limited – Southgate Proportionate Ownership Scheme) Exemption Notice 2015.
- Commencement**

This notice comes into force on 24 February 2015.
- Revocation**

This notice is revoked on the close of 31 May 2015.
- Interpretation**
 - 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
prospectus means the prospectus for the offer of specified securities to be registered on or about 25 February 2015
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 specified properties~~

specified business means, in respect of each specified property, the business carried out of leasing that property to its respective tenant(s)

specified property means each of the following:

- (a) Mitre 10 Mega, Southgate Retail Centre, 6 Walters Road, Takanini, Auckland (**Mitre 10 Mega**), comprising all the land in certificate of title 105792, North Auckland Registry:
- (b) All 26 units in the Southgate Retail Centre, corner of Great South Road and Walters Road, Takanini, Auckland (**Southgate Retail Centre**), comprising all the land in certificates of title 202952 to 202977, all North Auckland Registry

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

statement of historical net rental income means a special purpose statement of historical net rental income that contains the following information:

- (a) total gross revenue; including stating the amounts for each of rental income, embedded network rebate, interest income and other income:
- (b) net operating costs:
- (c) net revenue:
- (d) total non-recoverable operating costs; including stating the amounts for each of bad and doubtful debts, office administration, management charges, marketing contribution, professional fees, town planning, and unrecoverable operating costs:
- (e) net rental income

Urban Legacy means Urban Legacy & Partners Limited, the ultimate parent company of the vendor for each specified 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

- (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 historical net rental income':
- (a) a statement of historical net rental income and explanatory notes describing the nature of the revenue and expenses included in that statement, for each of the accounting periods ending 30 June 2010, 30 June 2011, 30 June 2012, 30 June 2013 and 30 June 2014, for each of the following:
 - (i) for the specified business at Mitre 10 Mega:
 - (ii) for the specified business at Southgate Retail Centre,whereby the amounts in those statements of historical net rental income must be taken from the records underlying the audited group financial statements of Urban Legacy:
 - (b) a consolidated statement of historical net rental income of both the specified business at Mitre 10 Mega and the specified business at Southgate Retail Centre, for each of the accounting periods ending 30 June 2010, 30 June 2011, 30 June 2012, 30 June 2013 and 30 June 2014, whereby the amounts in that consolidated statement of historical net rental income must be taken from the records underlying the audited group financial statements of Urban Legacy:
 - (c) a clear and concise statement to the effect that the prospectus does not contain, in respect of the specified business at Mitre 10 Mega or the specified business at Southgate Retail Centre, 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 relevant specified business if those financial statements had been registered under the Financial Reporting Act 1993; or
 - (ii) latest full audited financial statements prepared in accordance with generally accepted accounting practice:
 - (d) a clear and concise statement as to why the financial information referred to in subclause (c) is not available to the manager, and is not able to be completely recreated by the manager:
 - (e) a clear and concise statement setting out the reasons why the directors of the manager considers 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:

- (f) 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:
 - (g) a statement by the directors of the manager that no other financial information relating to the past financial performance or position of each of the specified properties and their rental income is available other than that provided in the prospectus.
- (2) The exemptions in clause 5 are subject to the further condition that the prospectus contains the following information and statements, under a heading 'Valuation of Properties':
- (a) a copy of the combined valuation report in respect of the specified properties dated 12 February 2015 from a registered valuer, or a reference to copy of that report contained elsewhere in the prospectus or attached as a schedule to the prospectus:
 - (b) a statement by the directors of the manager that the combined valuation report was provided for the purposes of the scheme and for use by prospective investors for specified securities.
- (3) The exemptions in clause 5 are subject to the further condition that the auditor's report contained in the prospectus required by clause 25(1) of Schedule 3 of the Regulations state whether the amounts stated under subclause 6(1)(a) and 6(1)(b) and the applicable note disclosures in respect of those amounts, have been taken from the records underlying the audited group financial statements of Urban Legacy, and whether or not the amounts have been correctly taken.

Dated at Wellington this 23rd day of February 2015.



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

Statement of reasons

This notice, which comes into force on 24 February 2015 and is revoked on 31 May 2015, provides exemptions to Augusta Funds Management

Limited (AFM) from clause 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 contributory scheme which will own and lease a commercial retail centre, to enable it to provide alternative financial information on the two rental businesses that are 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:

- the businesses being acquired are commercial properties. AFM is unable to comply with the requirements of clause 10(3)(c) and (d) of Schedule 3 of the Regulations because it does not hold, and is unable to obtain, sufficient historical financial information to enable summary financial statements for the previous 5 years and full audited financial statements for the latest year for each rental business to be provided. The conditions of the exemption require AFM to instead provide prospective investors with the best available alternative financial information in relation to the rental businesses:
- 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, and the differences between the information required under the Regulations and the information contained in the prospectus:
- the conditions of the exemption also require the prospectus for the offer to contain alternative information, including a combined valuation report for the properties containing all information on the properties that is relevant to investors, and details on the historical net rental income for each of the properties for the previous five accounting periods, to enable investors to make informed decisions about their investments:
- The requirement to warn prospective investors that the historical financial information relating to each rental business usually required is not available, and a requirement to instead provide the best alternative information available, and to explain the basis of and reasons for this information, means that there will be no significant detriment to investors. Further, in the circumstances that the exemptions only provide relief from the requirement to provide historical financial information that is not available, and imposes conditions which require the provision of relevant representative information on the businesses, the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.