

Securities Act (Scales Corporation Limited and George H Investments Limited) Exemption Notice 2014

Pursuant to section 70B of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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Notice

- 1 Title**
This notice is the Securities Act (Scales Corporation Limited and George H Investments Limited) Exemption Notice 2014.
- 2 Commencement**
This notice comes into force on 4 February 2014.
- 3 Revocation**
This notice is revoked on 3 February 2015.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires:
Act means the Securities Act 1978
approval meeting means the meeting of Scales Corporation's shareholders that is to be held to consider and vote, by way of special resolution, on whether to approve the arrangement
arrangement means the scheme of arrangement relating to the proposal, ordered by the Court under Part 15 of the Companies Act 1993 and to be voted on at the approval meeting
buyback means the share buyback referred to in paragraph (b) of the definition of "proposal"

Demerger Date means 31 March 2014 or such later date selected by Scales Corporation, but the "Demerger Date" shall be at least two working days after the final order of the Court approving the proposal

Court means the High Court of New Zealand

George H Investments means George H Investments Limited

George H Investments shares means shares in George H Investments

information memorandum means the information memorandum for the proposal containing the information prescribed by clauses 6(f) and 6(g)

notice of meeting means the notice notifying Scales Corporation shareholders of the approval meeting

proposal means the restructure of the business of Scales Corporation and its subsidiaries involving:

- (a) Scales Corporation conducting a 2 for 1 share split so each shareholder's shareholding doubles; and
- (b) Scales Corporation buying back half of each shareholder's shares; and
- (c) Scales Corporation providing the following consideration for each share subject to the buyback:
 - (i) the transfer by Scales Corporation of one share in George H Investments; and
 - (ii) the payment of 27 cents in cash per share, with such cash payment to be made no later than 21 days after the Demerger Date

record date means the date identified as such by Scales Corporation

Regulations means the Securities Regulations 2009

Scales Corporation means Scales Corporation Limited

Scales Corporation's shareholders means all registered holders of shares in Scales Corporation as at the record date.

- (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

Scales Corporation and George H Investments, and every person acting on behalf of either or both of them, are exempted from sections 37 and 37A of the Act in respect of offers of securities made to Scales Corporation's shareholders in the information memorandum in connection with the proposal.

6 Conditions of exemptions in clause 5

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

- (a) the proposal proceeds by way of a scheme of arrangement approved by the Court under Part 15 of the Companies Act 1993;
- (b) it is a term of the offer that immediately following the implementation of the proposal only Scales Corporation's shareholders will be holders of George H Investments shares and in the same proportion as their shareholding in Scales Corporation on the record date;
- (c) it is a term of the offer that Scales Corporation makes, to Scales Corporation's shareholders, the following return of capital in consideration of the buyback:
 - (i) the transfer of George H Investments shares (fully paid) only to Scales Corporation's shareholders and in the same proportion as their shareholding in Scales Corporation on the record date; and
 - (ii) payment of cash of 27 cents per share no later than 21 days after implementation of the proposal;
- (d) it is a term of the offer that the assets and businesses of Scales Corporation and George H Investments immediately following the implementation of the proposal are materially the same as the assets and business of Scales Corporation immediately prior to the implementation of the proposal, except that the assets of Scales Corporation after implementation of the proposal will not include shares in George H Investments or any cash paid for reasonable transaction costs relating to the proposal;
- (e) the information memorandum is distributed to Scales Corporation's shareholders together with the notice of meeting for the approval meeting giving Scales Corporation shareholders not less than 10 working days' notice of the shareholders' meeting at which Scales Corporation's shareholders will vote on the proposal;
- (f) the information memorandum includes particulars of all matters that are material to a Scales Corporation's shareholder making a decision on whether to approve the proposal; and
- (g) without limiting (f) above, the information memorandum includes the following:
 - (i) a description of the rights attached to Scales Corporation shares and George H Investments shares;
 - (ii) a description of the purpose and implications of the stapling of Scales Corporation's shares and George H Investments shares (including circumstances giving rise to the shares being unstapled);

- (iii) the purpose and effect of the proposal;
- (iv) the steps necessary to bring the proposal into effect;
- (v) a statement as to why the directors of Scales Corporation believe the proposal is in the best interests of Scales Corporation's shareholders;
- (vi) a statement of the material advantages and disadvantages of the proposal;
- (vii) a summary of the costs of the proposal;
- (viii) a statement of the material differences (if any) between the rights of shareholders under the constitution of Scales Corporation immediately prior to the implementation of the proposal and the rights of shareholders under the constitution of George H Investments immediately following the implementation of the proposal; and
- (ix) the name and address of every person who will be a director of each of Scales Corporation and George H Investments immediately following implementation of the proposal.

Dated at Wellington this 30th day of January 2014.



Simone Robbers
Head of Primary Regulatory Operations
Financial Markets Authority

Statement of Reasons

This notice, which comes into force on 4 February 2014, exempts Scales Corporation Limited (**Scales Corporation**) and George H Investments Limited (**George H Investments**), and every person acting on behalf of either or both of them, subject to conditions, from sections 37 and 37A of the Securities Act 1978 (the **Act**), in relation to an offer of securities in George H Investments to Scales Corporation shareholders to implement a restructure of Scales Corporation and its subsidiaries under a proposed scheme of arrangement pursuant to Part 15 of the Companies Act. This scheme involves Scales Corporation returning capital in the form of shares in George H Investments and paying cash to Scales Corporation's shareholders, subject to shareholder approval (the **Scheme**).

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

- Scales Corporation's shareholders already have economic exposure to George H Investments (through Scales Corporation's indirect shareholding in George H Investments) and the Scheme effectively involves shareholders exchanging an indirect shareholding in George H Investments for a direct shareholding. The Scheme is limited to Scales Corporation's shareholders and therefore to persons who are already familiar with the assets and business of George H Investments:
- as the Scheme is carried out by way of a Court approved scheme of arrangement, Scales Corporation's shareholders will be able to vote on the proposed Scheme. Scales Corporation's shareholders must be invited to a meeting to vote whether to approve the Scheme to allow it to proceed, and the scheme documents, including an information memorandum, will contain specific information in relation to the Scheme:
- it would be unduly onerous to require George H Investments to prepare a New Zealand law compliant prospectus and investment statement in addition to the scheme documents, particularly where investors are effectively changing the nature of their economic interest in George H Investments from an indirect interest to a direct interest:
- the scheme process is overseen by the Court who will need to be satisfied that the scheme documents include sufficient information for a shareholder to make an informed decision as to how to vote on the matter.

Given the offer is limited to existing Scales Corporation shareholders who are already familiar with the assets and business of George H Investments and the conditions requiring the provision of relevant information in an appropriate alternative manner, FMA is satisfied that the exemptions will not cause significant detriment to subscribers of the securities and the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

