

Securities Act (Serko Limited) Exemption Notice 2014

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 (Serko Limited) Exemption Notice 2014.
- 2 Commencement**
This notice comes into force on 26 May 2014.
- 3 Revocation**
This notice is revoked on the close of 31 August 2014.
- 4 Interpretation**
 - (1) In this notice, unless the context otherwise requires, –
Act means the Securities Act 1978
company means Serko Limited
Incharge means A.C.N. 090 734 786 Pty Limited (formerly Incharge Group Pty Limited) (ACN 090 734 786) an Australian incorporated limited liability company
Incharge business means the business of providing the “InCharge”



expense solution, which business was acquired by the company (through Serko Australia) from Incharge on 20 December 2013

investment statement means the investment statement relating to the offer

offer means the offer to the public of equity securities in the company

prospectus means the prospectus for the offer

Regulations means the Securities Regulations 2009

Serko Australia means Serko Australia Pty Limited (ACN 146 096 791) an Australian incorporated limited liability company and a wholly-owned subsidiary of the company

Serko Note means Serko Note Limited.

- (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 clauses 12(3)(d) and (e) of Schedule 1 of the Regulations in respect of acquisition

The company, Serko Note and every person acting on behalf of either or both of them are exempted, in respect of the offer, from clauses 12(3)(d) and (e) of Schedule 1 of the Regulations in so far as those clauses apply to the acquisition by the company (through Serko Australia) of the Incharge business.

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:
- (a) summary financial statements (if practicable, in tabular form) in respect of the 5 financial years ended 30 June 2013 with the amounts in those summary financial statements derived or taken from the statement of income (in relation to the line items for revenue, cost of sales, gross profit, consultants/labour expense, administration expenses, marketing expenses, other expenses, and profit before income tax, in each case to the extent included in that statement) and statement of cash flow (in relation to receipts from customers, payments to suppliers and employees, payments to suppliers and consultants and net cash provided by operating activities, in each case to the extent included in that statement) for Incharge;
 - (b) a statement to the effect that the prospectus does not contain the usually required:
 - (i) summary financial statements for the Incharge business 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 if those financial statements had been registered under the Financial Reporting Act 1993; or
- (ii) latest audited financial statements for the Incharge business 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, and is not able to be completely recreated;
 - (d) a clear and concise statement that the company and Serko Note consider the alternative financial information provided in the prospectus to be the best available information in the circumstances; and
 - (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, including a description of the assets and liabilities of Incharge that formed part of the Incharge business acquired by the company (through Serko Australia).
- (2) The exemptions in clause 5 are subject to the further condition that the auditor's report required by clause 28(1)(h) of Schedule 1 of the Regulations state whether the amounts stated under clause 6(1)(a) have been derived or taken from audited financial statements, and whether or not the amounts have been correctly derived or taken.

7 Exemptions from regulations 19(1) and 21(1) of the Regulations in respect of the form and content requirements of the investment statement

The company, Serko Note and every person acting on behalf of either or both of them are exempted from:

- (a) regulation 19(1) of the Regulations to the extent that it requires the investment statement to contain the following information, statements and other matters specified in the following clauses of Schedule 13 of the Regulations:
 - (i) clauses 3(7), 7, 8, 14, 18(1)(c), 19 and 20:
 - (ii) clause 1(1) to the extent that that subclause requires the investment statement to include:
 - A the heading "Choosing an investment":
 - B the words "When deciding whether to invest, consider carefully the answers to the following questions that can be found on the pages noted below:"
 - C the index of questions in italics (including page

references):

- (iii) clause 15(1) to the extent that that subclause requires the investment statement to include a statement as to whether, in the company's opinion, there is an established market for the sale of the shares; and
- (b) regulation 21(1) of the Regulations.

8 Conditions of exemptions in clause 7

- (1) The exemption in clause 7(a)(ii) is subject to the condition that the investment statement contains a prominent table of contents prior to the first substantive section of the investment statement:
- (2) The exemptions in clauses 7 are subject to the further conditions that –

- (a) the investment statement is a document that is separate from the prospectus;
- (b) the investment statement includes a prominent statement prior to the first substantive section of the investment statement, to the following effect:

"IMPORTANT NOTICE

This document is an investment statement. The purpose of an investment statement is to:

- *provide certain key information that is likely to assist a prudent but non-expert person to decide whether or not to subscribe for securities; and*
- *bring to the attention of such a person the fact that other important information about the securities is available to that person in other documents.*

For more information to assist you in deciding whether or not to purchase the Shares offered to you, you are recommended to read the Prospectus which has been prepared in respect of this Offer."

- (c) the investment statement includes a description, prior to the first substantive section of the investment statement, on how a copy of the prospectus, which includes or refers to the most recent financial statements of the company, can be obtained, free of charge; and
 - (d) the Internet site maintained by or on behalf of the company containing information about the offer includes on its homepage in a prominent place a hyperlink to the prospectus.
- (3) Nothing in this clause 8 limits the information, statements, questions or other matters that may be contained in an investment statement.

Dated at Wellington this 23rd day of May 2014.



Sue Brown
Head of Primary Regulatory Operations
Financial Markets Authority

Statement of Reasons

This notice, which comes into force on 26 May 2014 and is revoked on 31 August 2014, provides exemptions to Serko Limited (**Serko**) and Serko Note Limited (**Serko Note**) from clauses 12(3)(d) and (e) of Schedule 1 of the Securities Regulations 2009 (**Regulations**), in relation to the offer to the public of equity securities, to enable them to provide alternative financial information on an Australian business that has been acquired (**acquisition exemption**).

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 70B(2) of the Securities Act 1978 (**Act**), considers it appropriate to grant this acquisition exemption because –

- Serko and Serko Note are unable to comply with the requirements of clauses 12(3)(d) and (e) because they do not hold, and are 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 the Australian business, in each case in accordance with New Zealand generally accepted accounting practice, to be provided:
- the conditions of the exemptions require Serko and Serko Note to make various statements in the prospectus, including a statement of why they are unable to provide the historical financial information ordinarily required, that the alternative information is the best available information in the circumstances, and of the differences between the information required under the Regulations and the information contained in the prospectus:
- the conditions of the exemptions also require the prospectus for the offer to contain alternative information to enable investors to make informed decisions about their investments.

The requirement to warn prospective investors that the historical financial information relating to the Australian 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 Australian business, the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

This notice also exempts Serko and Serko Note in respect of certain specific content and form requirements of the Regulations in relation to the investment statement (**investment statement content exemption**). FMA, after satisfying itself as to the matters set out in section 70B(2) of the Act, considers it appropriate to grant this investment statement content exemption because –

- the purpose of an investment statement is to provide prescribed key information that is likely to assist a prudent but non-expert person to decide whether or not to subscribe for the securities, and to bring to the attention of such a person the fact that other important information about securities is available to them in other documents:
- the Regulations contemplate that certain matters may not be applicable to a particular offer of securities and therefore the investment statement is not required to refer to such matters. However, for an initial public offering, there are a number of prescribed matters that, while applicable, will not provide useful or relevant information to investors in order for them to make an informed investment decision:
- the exemptions will enable Serko and Serko Note to prepare an investment statement that provides investors with clear, concise, and effective information in an appropriate form for the particular offer. There is therefore no significant detriment to investors:

in these circumstances, FMA considers that the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.
