

# Financial Markets Conduct (Sharesies Limited) Exemption Notice 2020

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

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## Notice

### 1 Title

This notice is the Financial Markets Conduct (Sharesies Limited) Exemption Notice 2020.

### 2 Commencement

This notice comes into force on 5 November 2020.

### 3 Revocation

This notice is revoked on the close of 5 March 2021.

### 4 Interpretation

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

**Act** means the Financial Markets Conduct Act 2013

**approval meeting** means the meeting of Sharesies shareholders that is to be held to consider and vote on whether to approve the scheme

**Companies Act** means the Companies Act 1993

**group** means, before the implementation of the scheme, Sharesies and all of its subsidiaries and, after the implementation of the scheme, means Sharesies Group and all of its subsidiaries

**High Court** means the High Court of New Zealand

**proposal** means the restructure of the group involving the issue of Sharesies Group Shares to Sharesies shareholders in exchange for the transfer of the Sharesies shares held by Sharesies shareholders to Sharesies Group in accordance with the scheme

**Regulations** means the Financial Markets Conduct Regulations 2014

**scheme** means the scheme of arrangement relating to the proposal, approved by the High Court under Part 15 of the Companies Act and to be voted on at the approval meeting

**scheme booklet** means the scheme booklet prepared by Sharesies in respect of the scheme and containing the information prescribed in clauses 6(h) and (i)

**Sharesies** means Sharesies Limited a company incorporated in New Zealand with company number 6234088

**Sharesies Group** means Sharesies Group Limited a company incorporated in New Zealand with company number 8132684

**Sharesies Group Shares** means ordinary shares in the capital of Sharesies Group

**Sharesies shareholder** means all registered holders of Sharesies Shares

**Sharesies Shares** means ordinary shares in the capital of Sharesies.

- (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

Sharesies and Sharesies Group are exempted from Part 3 of the Act in respect of offers of Sharesies Group Shares made to Sharesies shareholders in accordance with the scheme.

## 6 Conditions

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

- (a) the proposal proceeds by way of the scheme approved by the High Court under Part 15 of the Companies Act; and
- (b) the Sharesies shareholders vote on the proposal at the approval meeting; and
- (c) it is a term of the offer that Sharesies Group issues the Sharesies Group Shares to the Sharesies shareholders credited as fully paid, in exchange for their Sharesies Shares in accordance with the scheme, on the basis that each Sharesies shareholder will receive one Sharesies Group Share in exchange for one Sharesies Share; and
- (d) immediately after the implementation of the scheme, Sharesies Group becomes the parent company of the group; and
- (e) immediately after the implementation of the scheme, the assets and business of the group are the same as the assets and business of the group immediately prior to the implementation of the scheme, except that the assets of the group after the implementation of the scheme include the shares in Sharesies transferred to Sharesies Group pursuant to the scheme; and
- (f) the scheme booklet is distributed to Sharesies shareholders at least 10 working days prior to the approval meeting; and
- (g) the scheme becomes effective in accordance with its terms; and
- (h) the scheme booklet includes particulars of all matters that, to the knowledge of the directors of Sharesies after making all inquiries that are reasonable in the circumstances, are material to a Sharesies shareholder making a decision on whether to approve the proposal; and
- (i) without limiting (h) above, the scheme booklet includes the following:
  - (i) a description of the rights attaching to Sharesies Group Shares; and
  - (ii) the purpose and effect of the proposal; and
  - (iii) the steps necessary to bring the proposal into effect; and

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- (iv) a statement as to why the directors of Sharesies recommend that Sharesies shareholders vote in favour of the proposal; and
- (v) a summary of the material advantages and disadvantages of the proposal; and
- (vi) a summary of the costs of the proposal; and
- (vii) disclosure of the material differences (if any) between the proposed constitution of Sharesies Group and the constitution of Sharesies, including the rights of Sharesies shareholders immediately prior to the implementation of the proposal and the rights of shareholders under the constitution of Sharesies Group immediately following the implementation of the proposal; and
- (viii) the name and country of residence of every person who, at the date of the scheme booklet, is expected by Sharesies to be a director of Sharesies Group immediately after the implementation of the scheme; and
- (ix) particulars of any material New Zealand taxation liabilities of Sharesies shareholders caused by the change in shareholding resulting from the implementation of the proposal; and
- (x) particulars of any material differences in the taxation obligations of New Zealand tax resident shareholders in holding, or disposing of, Sharesies Shares compared to the taxation obligations of New Zealand tax resident shareholders in holding, or disposing of, the Sharesies Group shares.

Dated at Wellington this 30<sup>th</sup> day of October 2020.



Sarah Vrede  
Director of Capital Markets  
Financial Markets Authority

### Statement of reasons

This notice comes into force on 5 November 2020 and is revoked on 5 March 2021.

This notice exempts Sharesies Limited (**Sharesies**) and Sharesies Group Limited (**Sharesies Group**), subject to conditions, from Part 3 (Disclosure of offers of financial products) of the Financial Markets Conduct Act 2013 (**Act**) in relation to an offer of shares in Sharesies Group to Sharesies shareholders under a proposed scheme of arrangement pursuant to Part 15 of the Companies Act 1993.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 556 of the Act, considers it appropriate to grant this exemption because—

- the offer is made in connection with a proposal to restructure Sharesies and its subsidiaries (the **group**). It asks Sharesies shareholders to exchange their shares in Sharesies, the current parent company of the group, for shares in Sharesies Group, the proposed new parent company of the group. Each Sharesies shareholder will exchange one Sharesies Share for one Sharesies Group Share. The effect of the scheme is that Sharesies Group will own 100% of the share capital of Sharesies. This means that the offer is limited to shareholders of Sharesies and therefore to persons who may be expected to already be familiar with the assets and business of the group. Conditions of the exemption require that the offer can only be made if

Sharesies Group becomes the parent of the group, and the underlying assets and business of the group are the same after the implementation of the scheme as before it (except that the assets of the group after the implementation of the scheme will include all Sharesies shares):

- the disclosure requirements of the Act and the Financial Market Conduct Regulations 2014 (**Regulations**) focus on providing information about the financial products being offered so would require information to be provided about Sharesies Group and the shares being offered in Sharesies Group only. However, in the circumstances of what is essentially a share exchange scheme, Sharesies shareholders must decide whether subscribing for shares in Sharesies Group is preferable to continuing to hold shares in Sharesies. Therefore, the nature of the information Sharesies shareholders require to make that assessment is different from that prescribed by the Act and Regulations:
- the offer is made in accordance with the laws of New Zealand and particularly pursuant to a court approved scheme of arrangement under Part 15 of the Companies Act 1993. In order to comply with these requirements, Sharesies shareholders must be provided with a scheme booklet containing information relevant to evaluating the proposal and which must be approved by the High Court. The conditions of the exemption also require the scheme booklet to contain all matters that are material to Sharesies shareholders enabling them to make an informed decision on the proposal:
- the arrangement will be overseen by the High Court. The High Court will need to be satisfied that the scheme documents (including the scheme booklet) include sufficient information for a Sharesies shareholder to make an informed decision as to how to vote on the scheme:
- Sharesies and Sharesies Group remain subject to the fair dealing provisions in Part 2 of the Act and therefore Sharesies shareholders will have protection against misleading or deceptive information being included in the scheme booklet:
- the exemptions are desirable in order to promote the purposes of the Act, namely to provide for timely, accurate and understandable information to be provided to Sharesies shareholders to assist them to make decisions relating to the proposed share exchange, and also in order to avoid unnecessary compliance costs by requiring Sharesies to produce a product disclosure statement and register entry under the Act and Regulations, in addition to the scheme booklet and other documents relating to the scheme:
- in the circumstances that the exemption is limited to the offer of financial products to existing Sharesies shareholders made in the context of the proposal, and the key impact of the exemption is to provide relief from the requirement to provide information that is not material to Sharesies shareholders' decision on whether to approve the proposal, the FMA is satisfied that the exemptions are not broader than reasonably necessary to address the matters that gave rise to the exemptions.

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