

Financial Markets Conduct (Times-7 Group) Exemption Notice 2023

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.

Contents

	Page
1 Title	1
2 Commencement	1
3 Revocation	1
4 Interpretation	1
5 Exemption	2
6 Conditions of exemption in clause 5	2
7 Offers not regulated offers	4
Schedule – Warning statement	4

Notice

1 Title

This notice is the Financial Markets Conduct (Times-7 Group) Exemption Notice 2023.

2 Commencement

This notice comes into force on 23 August 2023.

3 Revocation

This notice is revoked on the close of 22 August 2028.

4 Interpretation

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

Act means the Financial Markets Conduct Act 2013

control has the same meaning as in clause 48 of Schedule 1 of the Act

eligible person means a person who is, at the time of the offer or at the time when the stapled securities are acquired, 1 or more of the following—

- (a) an employee or a director of either of the issuers or of any of their respective subsidiaries; or
- (b) a person who provides personal services (other than as an employee) principally to either of the issuers or any of their respective subsidiaries; or

(c) a trustee of a trust in respect of which a person described in paragraph (a) or (b) is the beneficiary; or

(d) a company that is controlled by a person described in paragraph (a), (b) or (c)

issuers means each of Times-7 Holdings Limited and Times-7 Research Limited

offer means an offer of stapled securities made under a scheme by the issuers to an eligible person

Regulations means the Financial Markets Conduct Regulations 2014

relevant financial statements has the meaning set out in clause 2 of Schedule 8 of the Regulations

scheme means an employee stapled securities purchase scheme established by the issuers under which an eligible person may acquire stapled securities

stapled security—

(a) means a share in Times-7 Holdings Limited and a share in Times-7 Research Limited that are linked together so that one cannot be transferred or otherwise dealt with without the other; and

(b) includes an option to acquire, by way of issue, one stapled security of the kind referred to in paragraph (a).

(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 Exemption

The issuers are exempt from Part 3 of the Act in respect of an offer.

6 Conditions of exemption in clause 5

(1) The exemption in clause 5 is subject to the conditions that—

(a) the offer must:

(i) be made as part of the remuneration arrangements for the eligible person or otherwise made in connection with the employment or engagement of the eligible person; and

(ii) not be for the primary purpose of raising funds for either of the issuers or for any of their respective subsidiaries; and

(b) the total number of stapled securities issued or transferred under all of the issuers' schemes in any 12-month period does not exceed 10% of the stapled securities of the issuers as at the start of the 12-month period; and

(c) the offer must be made only to eligible persons, so that:

(i) the only investors who are able, under the terms of the offer, to acquire the stapled securities are eligible persons; and

(ii) all of the investors who acquire the stapled securities under the offer are eligible persons; and

(d) the issuers must not accept an application, or issue or transfer stapled securities to an eligible person, if the following were not provided to that person before the application was made:

- (i) a document that contains, in a prominent position, the warning statement referred to in the Schedule of this notice;
 - (ii) a document that contains a description of the relevant scheme and its terms and conditions; and
 - (iii) the document or documents referred to in clause 6(2).
- (2) For the purposes of clause 6(1)(d)(iii), the document or documents are—
 - (a) each of the following:
 - (i) a copy of the issuers' latest annual report prepared under any enactment or overseas law (if any); and
 - (ii) a copy of the relevant financial statements of the issuers and, if those statements are not audited or reviewed by an auditor, a statement to that effect; and
 - (iii) a copy of the auditor's report on those relevant financial statements (if any); or
 - (b) a notice that contains each of the following:
 - (i) a statement to the effect that the eligible person has a right to receive from the issuers, free of charge, a copy of the documents referred to in paragraph (a) if the eligible person makes a request to the issuers to receive a copy of those documents; and
 - (ii) a statement to the effect that the eligible person may obtain a copy of those documents by electronic means; and
 - (iii) a statement as to how the eligible person may obtain a copy of those documents by electronic means (for example, from a specified Internet site address).
- (3) One or more of the documents specified in clauses 6(1)(d) and 6(2) above may be combined in a single document.
- (4) In calculating the total number of stapled securities issued or transferred under all of the issuers' schemes for the purposes of clause 6(1)(b)—
 - (a) an issue or sale to a person must be disregarded if the issue or sale results from an offer that:
 - (i) does not require disclosure under Part 3 of the Act because of any reason other than as a result of the application of clause 8 of Schedule 1 of the Act or this notice; or
 - (ii) is not received in New Zealand; or
 - (iii) is a regulated offer that is separate from the offer under the scheme; and
 - (b) if an offer of stapled securities of the kind referred to in paragraph (b) of the definition of "stapled security" is made:
 - (i) the offer must be treated as being an offer of stapled securities equal to the number of options offered (with the offer of the options themselves being disregarded in the calculation); and
 - (ii) the underlying stapled securities must be treated as being issued when the options are issued (regardless of whether or when the options are actually exercised).
- (5) For the purposes of clauses 6(1)(d) and 6(2)—
 - (a) a document must be provided to an eligible person by giving it to that person or delivering or sending it to that person's address; and

- (b) if an eligible person requests a document referred to in clause 6(1)(d) or 6(2), the issuers must provide that document to that person within 5 working days after the issuers receive that request.

7 Offers not regulated offers

An offer of stapled securities made in reliance on this notice is not a regulated offer.

Schedule Warning statement

“Warning

This is an offer of stapled securities (being shares/options to acquire, by way of issue, shares[†] in Times-7 Holdings Limited and shares in Times-7 Research Limited) (**stapled securities**). The stapled securities give you (if you exercise the options)[#] a stake in the ownership of Times-7 Holdings Limited and Times-7 Research Limited (each a **Group Company**, together the **Group Companies**). You may receive a return if dividends are paid*.

If a Group Company runs into financial difficulties and is wound up, you will be paid only after all creditors and holders of preference shares (if any) have been paid/you will be unable to exercise the options[†]. You may lose some or all of your investment.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors to make an informed decision.

The usual rules do not apply to this offer because it is made under an exemption granted by the Financial Markets Authority that allows the Group Companies to offer the stapled securities to eligible persons. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

The stapled securities are not quoted on any stock exchange. The trading market for the investment is likely to be limited and you may not be able to sell it. The stapled securities cannot be sold, transferred or otherwise dealt with other than in accordance with the terms of this offer, each Group Company’s constitution and the Subscription and Shareholders Agreement referred to in [*name of offer document*].”

[†]Select one.

[#]Omit the phrase “(if you exercise the options)” if it is inapplicable.

*Omit the sentence about dividends if it is inapplicable or may be false, misleading, deceptive, or confusing.

Dated at Wellington this 22nd day of August 2023.



Peter Taylor
Director, Specialist Supervision and Response
Financial Markets Authority

Statement of reasons

This notice comes into force on 23 August 2023, and is revoked on the close of 22 August 2028.

This notice exempts Times-7 Holdings Limited and Times-7 Research Limited (together, the **issuers**) from compliance with the disclosure requirements of Part 3 of the Financial Markets Conduct Act 2013 (**Act**).

The notice also provides that the offers exempted by this notice are not regulated offers under the Act. This means that other requirements of the Act, or other Acts, that apply in connection with regulated offers (such as the financial reporting requirements) will not apply. Any other financial market conduct obligations the issuers may have, including obligations under Part 2 of the Act, are not affected.

The exemption applies only to an offer (**offer**) of stapled securities (each consisting of a share in Times-7 Holdings Limited and a share in Times-7 Research Limited or an option to acquire, by way of issue, one share in Times-7 Holdings Limited and one share in Times-7 Research Limited) (**stapled securities**) which is made by the issuers under an employee stapled securities purchase scheme (**scheme**) to certain eligible persons (**eligible persons**) including employees or directors of, or persons (other than employees) who provide personal services principally to, either of the issuers or any of their respective subsidiaries (**employees**).

The exemption is subject to certain conditions requiring an offer to be consistent, as far as practicable, with the requirements of the exclusion relating to employee share purchase schemes in clause 8 of Schedule 1 of the Act (the **Schedule 1 exclusion**) and with clauses 10 to 12 of Schedule 8 of the Financial Markets Conduct Regulations 2014 (which relate to the Schedule 1 exclusion).

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 557 of the Act, considers it appropriate to grant the exemption because—

- the issuers operate as a single economic enterprise, the issuers' shareholders and their respective shareholdings in each issuer are identical and the issuers' shares are stapled and cannot be transferred or otherwise dealt with other than together:
- any return on the stapled securities is linked to the performance of the issuers, and the scheme encourages the employees' involvement in the performance of the issuers in a manner similar to that of an employee share purchase scheme. However, due to the composite nature of the stapled securities, the issuers are unable to rely on the Schedule 1 exclusion which they would have been able to do if the offer were only of equity securities in the issuer that employed or otherwise engaged the employees:
- the exemption continues to promote innovation and flexibility in the financial markets by allowing the eligible persons to participate in an offer which is in substance similar to an employee share purchase scheme, and which will be offered on a similar basis as offers made in reliance on the Schedule 1 exclusion:
- the conditions to the exemption require eligible persons to be provided access to the same kinds of information as would be required under the Schedule 1 exclusion. In these circumstances, the FMA is satisfied that eligible persons will have access to sufficient and appropriate information for them to make an informed investment decision in relation to an offer and requiring the issuers to comply with the disclosure requirements of Part 3 of the Act is unnecessary:
- for the above reasons, the FMA is satisfied that granting the exemption is desirable in order to promote the purposes of the Act, specifically by avoiding unnecessary compliance costs and by promoting innovation and flexibility in financial markets:

- as the exemption is limited to the offer of stapled securities made by the issuers to the eligible persons under an employee stapled securities purchase scheme, and the key impact of the exemption is to provide the stapled securities with equivalent treatment to that which applies to employee share purchase schemes under the Act, the FMA is further satisfied that the exemption is not broader than reasonably necessary to address the matters that gave rise to it.