

Financial Markets Conduct (AxiCorp Financial Services Pty Ltd) 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 (AxiCorp Financial Services Pty Ltd) Exemption Notice 2020.

2 Commencement

This notice comes into force on 1 July 2020.

3 Revocation

This notice is revoked on the close of 30 June 2025.

4 Application

An exemption granted by this notice applies to the following accounting periods of the exempt entity:

- (a) the accounting period ending 30 June 2020; and
- (b) subsequent accounting periods.

5 Interpretation

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

Act means the Financial Markets Conduct Act 2013

ASIC means the Australian Securities and Investments Commission

approved auditor means an accountant who is qualified under the laws of Australia to give an opinion as to whether group financial statements comply with Australian GAAP



Australian GAAP means Australian equivalents to International Financial Reporting Standards that are required or permitted in Australia

exempt entity means AxiCorp Financial Services Pty Ltd (ACN 127 606 348)

International Financial Reporting Standards means—

- (a) International Financial Reporting Standards, International Accounting Standards, and Standing Interpretations Committee interpretations that have been issued, endorsed, or adopted by the International Accounting Standards Board in accordance with the constitution of the International Financial Reporting Standards Foundation; and
- (a) final interpretations by the International Financial Reporting Standards Interpretations Committee approved by the International Accounting Standards Board in accordance with that constitution

New Zealand business, in relation to the exempt entity, means the New Zealand business of the exempt entity's group (as defined in section 6(1) of the Act)

Regulations means the Financial Markets Conduct Regulations 2014.

- (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.

6 Exemptions

The exempt entity is exempted from—

- (a) sections 455(1)(c), 461B, 461D, and 461G of the Act; and
- (b) section 461 of the Act to the extent that that section requires the exempt entity to ensure that its group financial statements,—
 - (i) comply with generally accepted accounting practice; and
 - (ii) are dated and signed in accordance with section 461(1)(b); and
- (c) clause 29(a) of Schedule 6 of the Regulations in respect of an offer of derivatives by the exempt entity.

7 Conditions of exemptions

- (1) The exemptions in clauses 6(a) and (b) are subject to the conditions that—

- (a) the exempt entity, in relation to the group financial statements prepared under section 461 of the Act, must comply with the law and regulatory requirements of, or permitted by, the Commonwealth of Australia that relate to the preparation, content, audit, and public filing of those statements and, in particular, the exempt entity must ensure that—
 - (i) those statements comply with Australian GAAP; and
 - (ii) those statements are audited by an approved auditor; and
 - (iii) an audit report is prepared by the approved auditor in respect of that audit; and
- (b) the exempt entity must ensure that there are kept at all times accounting records that will enable the entity to ensure that—
 - (i) the group financial statements prepared under section 461 of the Act comply with paragraph (a)(i); and
 - (ii) the New Zealand business financial statements prepared under paragraph (c) (if any) comply with paragraph (c)(i); and

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- (c) the group financial statements delivered for lodgement under section 461H of the Act must be accompanied by financial statements for the New Zealand business (if any), and the exempt entity must ensure that—
 - (i) those statements are prepared in accordance with Australian GAAP or generally accepted accounting practice; and
 - (ii) those statements are audited by an approved auditor, or a qualified auditor; and
 - (iii) an audit report is prepared by the approved auditor, or qualified auditor in respect of that audit; and
 - (d) if an auditor's report referred to in paragraph (a)(iii) or (c)(iii) was qualified or referred to a fundamental matter in any respect, the exempt entity must, within 7 working days after the report is signed, provide a copy of the report, and a copy of the group financial statements to which it relates, to—
 - (i) the FMA; and
 - (ii) the External Reporting Board; and
 - (e) the group financial statements that are delivered to the Registrar for lodgement under section 461H of the Act—
 - (i) are accompanied by written notification to the Registrar that the exempt entity is relying on this notice in respect of the accounting period to which the statements relate; and
 - (ii) are in English.
- (2) The exemption in clause 6(c) is subject to the conditions that—
- (a) the register entry must contain a copy of—
 - (i) the exempt entity's group financial statements for the most recently completed accounting period before the date of the PDS for the offer that comply with Australian GAAP and have been audited by an approved auditor; and
 - (ii) the approved auditor's report on those statements; and
 - (b) the register entry must contain a statement to the effect that—
 - (i) the law normally requires the financial statements on the register to comply with New Zealand generally accepted accounting practice; and
 - (ii) in this case, the financial statements comply with Australian GAAP; and
 - (iii) this is allowed under the Financial Markets Conduct (AxiCorp Financial Services Pty Ltd) Exemption Notice 2020.
- (3) The exemptions in clause 6 are subject to the further conditions that—
- (a) the exempt entity must hold an Australian Financial Services Licence issued by ASIC; and
 - (b) ASIC must continue to be a member of the International Organization of Securities Commissions (IOSCO) and a full signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the exchange of Information.

Dated at Wellington this 30 day of June 2020.



Sarah Vrede
Director of Capital Markets
Financial Markets Authority

Statement of reasons

This notice comes into force on 1 July 2020 and is revoked on 30 June 2025.

The notice exempts AxiCorp Financial Services Pty Ltd (**exempt entity**), an Australian incorporated company that holds an Australian Financial Services Licence and a derivatives issuer licence under the Financial Markets Conduct Act 2013 (the **Act**), from:

- certain financial reporting obligations in Part 7 of the Act, including—
 - section 461 of the Act to the extent that those sections require the financial statements that are prepared to comply with New Zealand generally accepted accounting practice (**NZ GAAP**) and to be dated and signed by 2 directors (or, if the entity has only 1 director, by that director):
 - sections 461D and 461G of the Act (which relate to auditing):
- clause 29(a) of Schedule 6 of the Financial Markets Conduct Regulations 2014 (the **Regulations**) that requires the register entry for an offer of derivatives to contain group financial statements that comply with NZ GAAP and have been audited by a qualified auditor (as that term is defined in the Act).

These exemptions are subject to the conditions that require the exempt entity to prepare financial statements that comply with Australian equivalents to International Financial Reporting Standards (**Australian GAAP**). The main effects of the exemptions are as follows —

- the financial statements that are prepared will comply with Australian GAAP rather than NZ GAAP:
- those financial statements will be audited by an auditor who is qualified under the laws of Australia to perform the audit (an **approved auditor**):
- if the entity has a New Zealand business, those financial statements will be accompanied by separate financial statements for the New Zealand business that comply with Australian GAAP or NZ GAAP:
- those New Zealand business financial statements will be audited by an approved auditor or a qualified auditor:
- the register entry for the offer will contain the financial statements for the exempt entity that would ordinarily be required by the Regulations, except that the financial information will have been prepared in accordance with Australian GAAP instead of NZ GAAP and audited by an approved auditor instead of a qualified auditor

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



- the FMA is satisfied that the financial reporting required or permitted in Australia, and the nature and extent of regulatory oversight, for the exempt entity and its auditors are of high quality and at least equivalent to those that apply in New Zealand. As such, prospective investors in the exempt entity will have access to broadly similar and equivalent information to the information that they would otherwise receive:
- additionally, the conditions require that the register entry inform prospective investors that the financial statements for the exempt entity complies with Australian GAAP instead of the usually required NZ GAAP:
- the exemptions also are subject to the condition that the Australian Securities and Investment Commission (**ASIC**) must continue to be an ordinary member of the International Organization of Securities Commissions (**IOSCO**) and a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. This means that the FMA will be able to obtain co-operation from ASIC if any compliance concerns arise in relation to the exempt entity or its auditor:
- the costs associated with a requirement for the exempt entity to prepare and audit financial statements in accordance with the financial reporting requirements of Australia, in addition to the costs associated with preparing NZ GAAP complaint financial statements audited by a New Zealand qualified auditor, would outweigh the benefits to investors in receiving financial statement prepared according to NZ GAAP rather than Australian GAAP:
- as such, the FMA is satisfied that the granting of the exemptions is desirable in order to promote the purposes of the Act, specifically by avoiding unnecessary compliance costs and promoting flexibility in financial markets:
- given that the nature and extent of regulatory oversight for the exempt entity and its auditors are broadly equivalent to New Zealand, and that the exemptions only allow the use of Australian GAAP in place of NZ GAAP with respect to the preparation of financial statements and allow those financial statements to be audited by an Australian qualified auditor rather than a New Zealand qualified auditor, the FMA is satisfied that the exemptions are not broader than is reasonably necessary to address the matters that gave rise to the exemption.

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