

Financial Markets Conduct (The Warehouse Group Limited) Exemption Notice 2015

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 (The Warehouse Group Limited) Exemption Notice 2015.

2. Commencement

This notice comes into force on 7 May 2015.

3. Revocation

This notice is revoked on the close of 7 August 2015.

4. Interpretation

- (1) In this notice, unless the context otherwise requires,—
Act means the Financial Markets Conduct Act 2013

acquisition means the acquisition of NLG by the Warehouse on 1 December 2012

NLG means Noel Leeming Group Limited

offer means the regulated offer of specified financial products

interim accounting period means the interim accounting period from the balance date of the Warehouse's most recently completed accounting period before the date of the PDS and ending on a stated date (being an interim accounting period that is not less than 6 months)

PDS means the product disclosure statement for the offer

Regulations means the Financial Markets Conduct Regulations 2014

selected financial information means the financial information for the Warehouse set out at clause 37(1)(a) to (l) of Schedule 2 of the Regulations

specified financial products means the fixed rate bonds to be issued by the Warehouse on 15 June 2015

Warehouse means The Warehouse Group 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. Exemption from clause 37(1) of Schedule 2 of the Regulations in respect of the interim accounting period

The Warehouse is exempted from clause 37(1) of Schedule 2 of the Regulations to the extent that that clause requires the table in the PDS to contain selected financial information for the interim accounting period.

6. Condition of exemption in clause 5

The exemption in clause 5 is subject to the condition that the table in the PDS required by clause 37(1) of Schedule 2 of the Regulations contains selected financial information for the period from 28 July 2014 and ending on 25 January 2015.

7. Exemption from clause 37(5) of Schedule 2 of the Regulations in respect of the acquisition

The Warehouse is exempted from clause 37(5) of Schedule 2 of the Regulations to the extent that that clause applies to the acquisition.

8. Conditions of exemption in clause 7

The exemption in clause 7 is subject to the conditions that the PDS contains the following information and statements,—

- (a) a separate table specifying the information referred to in clause 37(1)(a) to (i) and (k) of Schedule 2 of the Regulations for NLG for each of the accounting periods ending 31 March 2011 and 31 March 2012 taken from the audited financial information for NLG for those respective periods; and
- (b) explanatory notes to the information referred to in subclause (a) that clearly explain the difference in accounting treatments for that information between the Warehouse and NLG prior to the acquisition; and
- (c) a clear and concise summary of the differences between the information usually required by the Regulations and the information that is provided in the PDS; and
- (d) a clear and concise statement explaining why the financial information usually required by the Regulations is not available to the Warehouse, and is not able to be reliably recreated by the Warehouse; and
- (e) a statement from the directors of the Warehouse that not including the information usually required by the Regulations will not have a material adverse effect on investors.

Dated at Auckland this 6th day of May 2015.



Simone Robbers
Director of Primary Markets and Investor Resources
Financial Markets Authority

Statement of reasons

This notice comes into force on 7 May 2015 and is revoked on 7 August 2015.

The notice exempts The Warehouse Group Limited (**Warehouse**) from the following provisions of the Financial Markets Conduct Regulations 2014 (**Regulations**) with respect to an offer of debt securities by the Warehouse:

- clause 37(1) of Schedule 2 of the Regulations (**Clause 37(1)**) to the extent that that clause requires the table in the product disclosure statement (**PDS**) for the offer to include selected financial information for the Warehouse for an interim accounting period that is not less than 6 months: and
- clause 37(5) of Schedule 2 of the Regulations (**Clause 37(5)**) to the extent that that clause applies to the acquisition by the Warehouse of Noel Leeming Group Limited (NLG).

The Financial Markets Authority, after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 considers that it is appropriate to grant the exemptions because:

- the Warehouse's financial year is formulated as a 52 week period ending on or about the last Sunday in July. As a result, the interim accounting period for the Warehouse ending on 25 January 2015 is 2 days less than the minimum 6 month period as required by clause 37(1):
- this is considered to be a technical timing issue and granting the exemption is desirable in order to avoid unnecessary compliance costs for the Warehouse to reproduce selected financial information for an interim accounting period that complies with the 6 month period requirement:
- the exemption from clause 37(1) imposes a condition that the PDS must instead contain selected financial information for an interim accounting period that is 2 days less than the minimum 6 month period. In these circumstances, the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption:
- NLG was acquired by the Warehouse on 1 December 2012. Clause 37(4) and (5) of Schedule 2 of the Regulations requires that the PDS contains financial information for NLG for each relevant period that NLG was not part of the issuing group for any part of that period. The Warehouse is unable to comply with this requirement because reliable financial information for NLG is not available to the Warehouse for all these periods, and is not able to be reliably recreated by the Warehouse:
- the conditions of the exemption require the PDS to instead contain financial information for NLG for each of the accounting periods ending 31 March 2011 and 31 March 2012 to enable investors to assess and compare the performance of NLG prior to its acquisition by the Warehouse:

- despite the financial information for NLG being material information, the size of the NLG business is small when compared to the overall financial position of the Warehouse. The debt securities are also guaranteed by certain subsidiaries of the Warehouse and the historic performance of NLG is unlikely to materially affect the Warehouse's or the guaranteeing group's ability to repay the debt securities. Accordingly, it is considered that there will be no significant detriment to investors by not having access to the financial information for NLG ordinarily required by the Regulations:
- the granting of the exemption from clause 37(5) is desirable in order to provide for timely, accurate, and understandable information to be provided to persons to assist them to make decisions relating to the financial products. Further, the exemption only provides relief from the requirement to provide financial information for NLG that is not available, and imposes conditions which require the provision of alternative financial information for NLG. In these circumstances, the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.