

Reprint  
as at 1 February 2017



**Financial Markets Conduct (DIMS Providers—Reporting  
on Percentage-based Charges) Exemption Notice 2015**  
(LI 2015/233)

Financial Markets Conduct (DIMS Providers—Reporting on Percentage-based Charges) Exemption Notice 2015: revoked, on the close of 31 January 2017, by clause 3.

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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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This notice is administered by the Financial Markets Authority.**

## Notice

### 1 Title

This notice is the Financial Markets Conduct (DIMS Providers—Reporting on Percentage-based Charges) Exemption Notice 2015.

### 2 Commencement

This notice comes into force on 2 October 2015.

### 3 Revocation

This notice is revoked on the close of 31 January 2017.

### 4 Interpretation

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

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

**associated fund**, in respect of a DIMS provided by a DIMS provider, means a fund—

- (a) in which money is invested under the DIMS; and
- (b) that is managed by the DIMS provider or by an associated person of the DIMS provider

**associated fund charges**, in relation to an associated fund, means the fees charged by any person in respect of the fund that affect the retail investors in proportion to those investors' interests in the fund (other than trading expenses or individual action fees), expressed as a percentage of the average net asset value of that fund for the most recent scheme year

**DIMS provider** means—

- (a) a DIMS licensee; or
- (b) an authorised body that provides a DIMS

**individual action fees** has the same meaning as in clause 37(2) of Schedule 21 of the Regulations

**most recent scheme year** means, in relation to a fund, the most recently completed accounting period of the scheme to which the fund relates

**next scheme year** means, in relation to a fund, the accounting period that immediately follows the most recent scheme year

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

**relevant percentage-based charges**—

- (a) means, in relation to an investor, fees—
  - (i) charged by any person in respect of an associated fund that affects the investor in proportion to the investor's interest in the fund; and

- (ii) that are paid in respect of the investor's portfolio; but
  - (b) does not include trading expenses or individual action fees
- trading expense** has the same meaning as in clause 37(2) of Schedule 21 of the Regulations.
- (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.

*Exemption from DIMS ongoing reporting on percentage-based charges*

**5 Exemption from regulation 210(4)(b)**

A DIMS provider is, in relation to a DIMS provided to a retail investor, exempt from regulation 210(4)(b) of the Regulations to the extent that it requires the DIMS provider to make available to the retail investor information on the relevant percentage-based charges paid during a reporting period that ends on or before 30 September 2016.

**6 Condition requiring information to be made available on request**

The exemption in clause 5 is subject to the condition that the DIMS provider must, on a request from the retail investor and in accordance with clause 11, make available to the investor information on the relevant percentage-based charges paid during a reporting period in respect of which the exemption is relied on.

**7 Condition requiring further information to be made available**

- (1) The exemption in clause 5 is subject to the further condition that the information made available to the retail investor under regulation 210 of the Regulations for a reporting period in respect of which the exemption is relied on includes, or is accompanied by, the information specified in subclause (2).
- (2) The information is,—
- (a) in respect of each associated fund in which the investor has money invested, a statement of the associated fund charges for the most recent scheme year (calculated on an annualised basis); and
  - (b) a statement in the form specified in clause 12; and
  - (c) if the DIMS provider has reasonable grounds to believe that the associated fund charges for the next scheme year will be materially different from the associated fund charges disclosed under paragraph (a), a statement that briefly describes the expected differences in associated fund charges; and
  - (d) an example of the associated fund charges referred to in paragraph (a) that is prepared in accordance with subclause (3).

- (3) For the purposes of subclause (2)(d), the example must, in respect of each associated fund, include information about the dollar amount of the associated fund charges that are charged for a quarter of the most recent scheme year in relation to a hypothetical investor who has \$10,000 invested in the fund (where the amount invested is assumed to be unchanged during that quarter).

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**Example**

The associated fund charges of fund A are 1% of the average net asset value of that fund for the most recent scheme year.

The dollar amount of the charges over a quarter would be \$25 ( $\$10,000 \times 1\% \div 4$ ).

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*Exemption from DIMS annual reporting on percentage-based charges*

**8 Exemption from regulation 211(1)(i)**

A DIMS provider is, in relation to a DIMS provided to a retail investor, exempt from regulation 211(1)(i) of the Regulations to the extent that it requires the DIMS provider to make available to the retail investor information on the relevant percentage-based charges paid during a disclosure year that ends on or before 30 September 2016.

**9 Condition requiring information to be made available on request**

The exemption in clause 8 is subject to the condition that the DIMS provider must, on a request from the retail investor and in accordance with clause 11, make available to the investor information on the total relevant percentage-based charges paid during a disclosure year in respect of which the exemption is relied on (expressed as a percentage of the investor's portfolio).

**10 Condition requiring further information to be made available**

- (1) The exemption in clause 8 is subject to the further condition that the information made available to the retail investor under regulation 211 of the Regulations for a disclosure year in respect of which the exemption is relied on includes, or is accompanied by, the information specified in subclause (2).
- (2) The information is,—
- (a) in respect of each associated fund in which the investor has money invested, a statement of the associated fund charges for the most recent scheme year (calculated on an annualised basis); and
  - (b) a statement in the form specified in clause 12; and
  - (c) if the DIMS provider has reasonable grounds to believe that the associated fund charges for the next scheme year will be materially different from the associated fund charges disclosed under paragraph (a), a statement that briefly describes the expected differences in associated fund charges; and

- (d) an example of the associated fund charges referred to in paragraph (a) that is prepared in accordance with subclause (3).
- (3) For the purposes of subclause (2)(d), the example must, in respect of each associated fund, include information about the dollar amount of the associated fund charges that are charged for the most recent scheme year in relation to a hypothetical investor who has \$10,000 invested in the fund (where the amount invested is assumed to be unchanged during that year).

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**Example**

The associated fund charges of fund A are 1% of the average net asset value of that fund for the most recent scheme year.

The dollar amount of the charges would be \$100 ( $\$10,000 \times 1\%$ ).

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*Miscellaneous provisions*

**11 How information is made available on request**

- (1) The DIMS provider must, after receiving the request referred to in clause 6 or 9, provide the information referred to in that clause to the investor—
- (a) within 20 working days after the DIMS provider receives the request; or
- (b) as soon as practicable (if it is not reasonably practicable to provide the information within that 20-working-day period).
- (2) The information must be made available to the investor (A)—
- (a) through an electronic facility (but only if A has agreed to this method); or
- (b) by giving it to A or delivering or sending it to A's address.
- (3) The information must be made available free of charge.

**12 Required statement**

- (1) A statement required by clause 7(2)(b) or 10(2)(b) is a statement in the following form:

“[Name of DIMS provider] is required to report on charges paid by you that are calculated as a percentage of your investment in any associated fund. [Name of DIMS provider]'s systems are currently unable to calculate charges as a percentage of the amount of your investment in an associated fund due to the fluctuation of your investment over the [specify either reporting period or disclosure year or both], so it has been granted an exemption from reporting this information for periods that end on or before 30 September 2016.

This report gives you information on the fees charged by the associated funds to help you to understand charges for the associated funds. However, the actual fees incurred by you may differ depending on your individual investments.

If you request it, [name of DIMS provider] will provide you with a statement of how much you are charged in relation to these associated funds. [Name of

*DIMS provider*] will provide this information free of charge and within 20 working days or as soon as practicable.”

- (2) Regulation 9 of the Regulations applies, with all necessary modifications, to the statement required by clause 7(2)(b) or 10(2)(b).

Dated at Auckland this 29th day of September 2015.

Joanne Davis-Calvert,  
Head of Governance, Policy, and Strategy.

### Statement of reasons

This notice, which comes into force on 2 October 2015 and is revoked on 31 January 2017, exempts a provider of a discretionary investment management service (**DIMS**) from the requirement to report to investors on percentage-based charges in funds that are managed by the provider or an associated person (**associated funds**). The exemptions only relate to periods that end on or before 30 September 2016.

DIMS providers will have difficulty, during a transitional period, reporting to investors on these percentage-based charges in the manner required by the Financial Markets Conduct Regulations 2014 (the **Regulations**). The Regulations require a DIMS provider to report to each investor on the portion of any percentage-based charges charged to the investor in an associated fund. A DIMS provider will need to make systems changes so that it can report on these fees in the required manner. The exemptions are granted on the condition that the DIMS provider reports to investors on a specified alternative basis.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 (the **Act**), considers it appropriate to grant the exemptions because—

- the exemptions relieve DIMS providers from providing the level of information required by the Regulations about percentage-based charges and so appropriately avoid unnecessary compliance costs that would result from manual calculations that would need to be undertaken for clients in a transitional period before full compliance with the Regulations; and
- the conditions mean that investors receive some information about the percentage-based charges and are informed about the limits of the information. As such, the FMA is satisfied that the granting of the exemptions is desirable in order to promote the purposes of the Act because it is consistent with the promotion of confident and informed participation of businesses, investors, and consumers in the financial markets and provides for timely, accurate, and un-

derstandable information to be provided to people to assist them to make decisions about the DIMS; and

- the extent of the exemptions is not broader than is reasonably necessary to address the matters that gave rise to them because the exemptions apply for 12 months, address a short-term transitional issue while systems changes are developed and implemented, and require some reporting on percentage-based charges to investors.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 1 October 2015.

## Reprints notes

### **1** *General*

This is a reprint of the Financial Markets Conduct (DIMS Providers—Reporting on Percentage-based Charges) Exemption Notice 2015 that incorporates all the amendments to that notice as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Financial Markets Conduct (DIMS Providers—Reporting on Percentage-based Charges) Exemption Notice 2015 (LI 2015/233): clause 3