

24 July 2012

Submission by: Financial Services Council

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Consultation Paper – Request for Further Feedback: Class exemption review

Introduction

The Financial Services Council - (FSC) submitted comments on 7 May 2012 in response to the FMA's original consultation paper on class exemption notices expiring this year. There is only one exemption notice in the Request for Further Feedback dated 3 July on which we would like to comment.

Securities Act (Renewals and Variations) Exemption Notice 2002

In our submission dated 7 May we recommended retention of this exemption notice for the reasons given in the consultation paper of 10 April.

Without this exemption any change in the terms and conditions of an existing security would require compliance with the prospectus and certificate requirements. The notice recognises that investors have already received disclosure under the Act and Regulations on a prior occasion and that more limited disclosure is appropriate, unless the variation extends the time for payment or changes the issuer.

Question C1.1

Yes, we agree with the FMA's view as to when a change to the manager of a collective scheme amounts to a variation of the existing security. We support the interpretation in Section C of the current Consultation Paper that it is not a variation of the security when the applicable trust deed or scheme documentation provides for a change of manager

Question C1.3

Yes, we agree that there is likely to be a variation of the terms of the security where there is a change of manager and that is not expressly permitted by the trust deed or scheme documentation.

Question C1.5

Yes, we agree that where a change of manager of a participatory security or unit trust is not expressly permitted by the applicable trust deed or scheme documentation investors in the scheme should have the full protection of the Act and regulations unless FMA has granted a specific exemption.

Question C2.1

Yes, we agree with the proposal to amend the notice.

Question C3

We have no comments or proposed amendments for the draft exemption notice in Appendix 3.

Yours sincerely

A handwritten signature in black ink that reads "D. Keating". The signature is written in a cursive style with a large initial "D" and a long, sweeping tail on the "g".

Deborah Keating
EXECUTIVE OFFICER