

Financial Markets Conduct (Pegasus Health Membership Limited) Exemption Notice 2021

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 from Part 3 of the Act for offers of shares	2
6 Conditions for exemptions in clause 5	2
7 Exemption from requirement to audit or review registers	2
8 Exemption from financial reporting if amount paid by individual Member does not exceed \$5,000	3
Schedule	3
Warning statement	

Notice

- Title**

This notice is the Financial Markets Conduct (Pegasus Health Membership Limited) Exemption Notice 2021.
- Commencement**

This notice comes into force on 1 December 2021.
- Revocation**

This notice is revoked on the close of 30 November 2026.
- Interpretation**
 - In this notice, unless the context otherwise requires:

Act means the Financial Markets Conduct Act 2013

Member means a qualified and registered medical practitioner (as that term is defined at section 2(1) of the Health Act 1956) employed within, or engaged or practicing in, the health industry in Canterbury, New Zealand



Nominee means a person or entity appointed by PHML from time to time to hold shares on trust for a Member

PHML means Pegasus Health Membership Limited

PHML shares means equity securities in PHML that are offered only to persons who are, or immediately after the issue or sale will be, Members

Regulations mean 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.
- (3) Regulation 9 of the Regulations applies, with all necessary modifications, to a warning statement required under this notice and to the disclosure document referred to in clause 6.

5 Exemption from Part 3 of the Act for offers of shares

- (1) PHML is exempted from Part 3 of the Act in respect of an offer of PHML shares.
- (2) The exemption in subclause (1) does not apply if either of the following applies:
 - (a) 1 or more Members has paid more than \$5,000 for PHML shares that the Member holds at the time of the offer; or
 - (b) the amount that 1 or more Members must pay on acceptance of an offer of PHML shares plus the amounts that the Member has previously paid for PHML shares that the Member holds at the time of the offer, is more than \$5,000.

6 Conditions for exemptions in clause 5

- (1) The exemption in clause 5 is subject to the conditions that:—
 - (a) PHML must not accept an application, or issue or transfer PHML shares to a Member or the Nominee, unless:—
 - (i) before the application was made, a disclosure document for the offer was given to the Member; and
 - (ii) the disclosure document contained all the information that must be contained in a key information summary under Schedule 3 of the Regulations in relation to an offer of PHML shares (unless irrelevant to the offer); and
 - (b) PHML must ensure that the warning statement set out in the Schedule to this notice is included, in a prominent position, at the front of every document provided to a Member that contains the key terms of the offer (including the disclosure document referred to in paragraph 6(1)(a)).

7 Exemption from requirement to audit or review registers

- (1) PHML is exempted from section 218 of the Act and regulation 108 of the Regulations in respect of PHML shares issued by PHML under the Act.
- (2) The exemptions in subclause (1) do not apply if either of the following applies:
 - (a) 1 or more Members has paid more than \$5,000 for PHML shares that the Member holds at the time of the offer; or
 - (b) the amount that 1 or more Members must pay on acceptance of an offer of PHML shares plus the amounts that the Member has previously paid for PHML shares that the Member holds at the time of the offer, is more than \$5,000.

- 8 **Exemption from financial reporting if amount paid by individual Member does not exceed \$5,000**
- (1) PHML is exempted from Part 7 of the Act with respect to a particular accounting period if PHML is an FMC reporting entity only by virtue of PHML shares issued by PHML being regulated products.
 - (2) The exemption in subclause (1) does not apply if 1 or more Members has paid more than \$5000 for PHML shares that the Member holds at any one time during the accounting period.

Schedule **Warning statement**

“Under the Financial Markets Conduct Act 2013, most companies making an offer of shares have to give investors information about the shares and the company before they invest. They also have to provide shareholders with on-going financial information about the shares and the company. In most cases, this information must meet legal requirements under that Act for financial reporting and the auditing of financial statements. This is to help investors make informed decisions.

In this case, these rules do not apply because there is an exemption from these requirements where the total amount to be invested by individual investors in Pegasus Health Membership Limited is \$5,000 or less (including any shares already held). This exemption recognises that, for the shareholders, Pegasus Health Membership Limited shares are more like a membership than an investment.

As a result, you may not be given all the information usually required.”

Dated at Wellington this 5th day of November 2021.



Sarah Vrede
Director of Capital Markets
Financial Markets Authority

Statement of Reasons

This notice comes into force on 1 December 2021 and is revoked on 30 November 2026.

This notice exempts Pegasus Health Membership Limited (**PHML**) from the disclosure and financial reporting requirements in Parts 3 and 7 of the Financial Markets Conduct Act 2013 (the **Act**), and from some limited register and record keeping requirements under Part 4 of the Act, in relation to offers of equity securities in PHML (**PHML shares**) that are offered only to persons who are, or immediately after the issue or sale will be, members of PHML. The exemptions are subject to certain conditions, including that the aggregate investment per member must be \$5,000 or less for the exemptions to apply.

PHML is a non-trading entity that offers medical practitioners in the Canterbury region an opportunity to be involved in the Pegasus members’ network. Medical practitioners enter into membership framework agreements with PHML under which the relevant medical practitioner and PHML provide various health-related services. PHML is structured similarly to a co-operative company but is not registered as one.

Membership in PHML is limited to qualified and registered medical practitioners (as that term is defined at section 2(1) of the Health Act 1956) employed within, or engaged or practicing in, the health industry in Canterbury, New Zealand (**Member**). Shares in PHML are issued for the purpose of facilitating

membership, as opposed to raising capital. Shares are issued for a nominal price which is not connected with the assets or profitability of PHML.

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:—

- PHML operates as a non-trading membership company. The exemptions only apply to offers of PHML shares to Members, who will be familiar with or who have significant knowledge or access to information about PHML. Additionally, the exemptions are subject to conditions limiting the total amount to be invested per shareholder at \$5,000 or less (including any shares already held). In these circumstances, the financial risk to Members is low. Members have no expectation of financial return from the ownership of PHML shares. Instead, Members obtain transacting benefits during the lifetime of their investment that are not in the nature of usual equity returns and are irrespective of any profits made by PHML:
- the exemptions therefore enable PHML to provide information to Members in a cost-effective way that is appropriate to the nature of PHML's business and the type and level of investment made by its Members, while still maintaining appropriate investor protections, for example Part 2 of the Act (fair dealing):
- additionally, the financial reporting and auditing requirements of the Companies Act 1993 will continue to apply, which will require PHML to prepare financial statements in accordance with generally accepted accounting principles and have those statements audited unless Members agree otherwise. In this way, PHML continue to be subject to financial reporting and auditing requirements that are more cost-effective to issuers and are appropriate to the nature of the business and the amount of revenue obtained during the relevant financial reporting period:
- the limited benefit Members would receive if PHML were required to comply with the full disclosure, financial reporting, and auditing requirements of the Act is outweighed by the compliance costs of doing so:
- for these reasons, the FMA is satisfied that the exemptions are desirable in order to promote the purposes of the Act, specifically avoiding unnecessary compliance costs while continuing to ensure the provision of timely, accurate, and understandable financial information to assist decision making by Members:
- the FMA is also satisfied that the exemptions are not broader than reasonably necessary to address the matters that gave rise to them, given that the exemptions are limited to a small class of investors (Members) and where the total per shareholder capital investment is limited to \$5,000 or less.