



## Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2016

Rt Hon Dame Sian Elias, Administrator of the Government

### Order in Council

At Wellington this 13th day of June 2016

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under section 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister (as defined in section 5 of that Act) made in accordance with section 154(2) of that Act.

### Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 2 amended (Commencement)	2
5 Regulation 3 replaced (Expiry)	3
3 Expiry	3
6 Regulations 11 to 24 replaced	3
11 Inclusion: cash transaction in casino: \$6,000 or more	3
12 Inclusion: travellers cheques: \$5,000 or more	3
13 Inclusion: money orders or postal orders: \$1,000 or more	3
13A Inclusion: wire transfers of more than \$1,000	3
14 Inclusion: currency exchange transactions: \$1,000 or more	4

15	Inclusion: transactions involving certain stored value instruments	4
	<i>Definition of reporting entity</i>	
16	Inclusion: certain financial advisers	5
17	Inclusion: trust and company service providers	6
18	Exclusion: reporting entities whose every relevant service is exempt from Act	6
18A	Exclusion: non-finance businesses that transfer money to facilitate purchase of goods or services	6
19	Exclusion: accommodation provider that provides registered guest with safety deposit box	6
20	Exclusion: lawyers, etc	7
21	Exclusion: pawnbrokers	7
21A	Exclusion: licensed or registered auctioneers and providers of Internet auctions	7
22	Exclusion: financial institutions that are in liquidation, etc	8
23	Exclusion: government departments	8
24	Exclusion: Reserve Bank of New Zealand	8
7	Consequential amendments to Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013	8

## Regulations

### 1 Title

These regulations are the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2016.

### 2 Commencement

These regulations come into force on 27 July 2016.

### 3 Principal regulations

These regulations amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (the **principal regulations**).

### 4 Regulation 2 amended (Commencement)

In regulation 2, insert as subclause (2):

- (2) However, regulations 11 to 24 (as replaced by the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2016 on 27 July 2016) come into force on 27 July 2016.

**5 Regulation 3 replaced (Expiry)**

Replace regulation 3 with:

**3 Expiry**

Regulations 11 to 24 (as replaced by the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2016 on 27 July 2016) expire, in accordance with section 154(5) of the Act, on 27 July 2021.

**6 Regulations 11 to 24 replaced**

Replace regulations 11 to 24 with:

**11 Inclusion: cash transaction in casino: \$6,000 or more**

- (1) This regulation applies to every cash transaction that—
  - (a) occurs outside of a business relationship in a casino; and
  - (b) is for an amount of \$6,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every cash transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**12 Inclusion: travellers cheques: \$5,000 or more**

- (1) This regulation applies to every transaction that—
  - (a) occurs outside of a business relationship; and
  - (b) involves travellers cheques; and
  - (c) is for an amount of \$5,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**13 Inclusion: money orders or postal orders: \$1,000 or more**

- (1) This regulation applies to every transaction that—
  - (a) occurs outside of a business relationship; and
  - (b) involves a money order or postal order; and
  - (c) is for an amount of \$1,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every cash transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**13A Inclusion: wire transfers of more than \$1,000**

- (1) This regulation applies to every transaction that—
  - (a) occurs outside of a business relationship; and

- (b) involves the receipt of a wire transfer by a beneficiary institution for an amount of more than \$1,000 (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**14 Inclusion: currency exchange transactions: \$1,000 or more**

- (1) This regulation applies to every transaction that—
  - (a) occurs outside of a business relationship; and
  - (b) involves currency exchange; and
  - (c) is for an amount of \$1,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**15 Inclusion: transactions involving certain stored value instruments**

- (1) This regulation applies to every transaction that occurs outside of a business relationship and that involves the issuing or provision of a stored value instrument that—
  - (a) has a maximum possible value at any one time of,—
    - (i) if the stored value instrument is redeemable for cash, \$1,000 or more;
    - (ii) if the stored value instrument is not redeemable for cash, \$5,000 or more; or
  - (b) is capable of being reloaded with \$10,000 or more in any consecutive 12-month period; or
  - (c) is capable of being reloaded directly through transfer from an account held at a financial institution that is—
    - (i) unregulated for AML/CFT purposes; or
    - (ii) located in a country with insufficient money laundering and countering financing of terrorism systems and measures.
- (2) This regulation does not apply to a stored value instrument that—
  - (a) is issued or provided by a casino solely for 1 or more of the following purposes:
    - (i) to facilitate gambling in the casino;
    - (ii) to redeem winnings from gambling in the casino;
    - (iii) to redeem unused credit provided by the casino; and
  - (b) has a maximum potential value at any one time of less than \$6,000.

- (3) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.
- (4) For the purposes of this regulation,—
- debit card** means an instrument that can be used to withdraw cash or make payments by debiting an account held at a financial institution
- gift facility** has the same meaning as in regulation 9(2) of the Financial Service Providers (Exemptions) Regulations 2010
- stored value instrument**—
- (a) means a portable device, including a gift facility, that is capable of storing monetary value in a form that is not physical currency, regardless of whether the device is reloadable or able to be redeemed for cash; and
- (b) includes—
- (i) a portable device whose value, or associated value, is transferable to a third party or is able to be remitted; and
- (ii) any account or other arrangement associated with the value stored on the device; but
- (c) does not include a credit card or a debit card.

*Definition of reporting entity*

**16 Inclusion: certain financial advisers**

- (1) This regulation applies to a person so far as the person arranges for a reporting entity to provide a relevant service to a customer or an intended customer of the reporting entity, if the person is—
- (a) an individual who is required to be an authorised financial adviser; or
- (b) an entity that provides financial adviser services in respect of a category 1 product, including to wholesale clients.
- (2) Subject to regulation 20, a person to whom this regulation applies is declared to be a reporting entity for the purposes of the Act.
- (3) An individual (**person A**) to whom this regulation applies is deemed to have complied with the Act and any regulations if—
- (a) the obligations that apply to person A under the Act and any regulations are discharged by another reporting entity (**person B**); and
- (b) person A is a partner, director, employee, agent, or other person acting in the course of, and for the purposes of, person B's business.
- (4) For the purposes of this regulation,—
- authorised financial adviser**, **category 1 product**, and **financial adviser service** have the same meanings as in section 5 of the Financial Advisers Act 2008

**wholesale client** has the same meaning as in section 5C of the Financial Advisers Act 2008.

**17 Inclusion: trust and company service providers**

- (1) Subject to regulation 20, a person to whom this regulation applies is declared to be a reporting entity for the purposes of the Act.
- (2) This regulation applies to a person who carries out, as the only or principal part of their business, 1 or more of the following activities:
  - (a) acting as a formation agent of legal persons or arrangements:
  - (b) arranging for a person to act as a nominee director or nominee shareholder or trustee in relation to legal persons or arrangements:
  - (c) providing a registered office, a business address, a correspondence address, or an administrative address for a company, a partnership, or any other legal person or arrangement.

**18 Exclusion: reporting entities whose every relevant service is exempt from Act**

- (1) This regulation applies to a person who, but for this regulation, would be a reporting entity (whether because the person is a financial institution or otherwise) but who only performs relevant services that are exempt from all provisions of the Act.
- (2) A person to whom this regulation applies is declared not to be a reporting entity for the purposes of the Act.

**18A Exclusion: non-finance businesses that transfer money to facilitate purchase of goods or services**

- (1) A person is not a reporting entity, for the purposes of the Act, by reason only that, in the ordinary course of a non-finance business, the person transfers money on behalf of a customer to facilitate the purchase of goods or services by the customer.
- (2) In this regulation, **non-finance business** means a person whose only or principal business is the provision of goods or services that are not relevant services.

**19 Exclusion: accommodation provider that provides registered guest with safety deposit box**

- (1) If the condition in subclause (2) is satisfied, it is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that, in the ordinary course of the person's business as a provider of accommodation, the person provides his or her registered guests with a safety deposit box or safety deposit boxes.
- (2) The condition is that the safety deposit box is—

- (a) located in the room of the registered guest and is controlled by the registered guest; or
  - (b) located outside the room of the registered guest but within the place of the traveller accommodation, is controlled by the provider of the traveller accommodation, and holds funds of registered guests.
- (3) In this regulation, **registered guest** means a guest whose name and contact details have been recorded by the provider of the accommodation.

## 20 Exclusion: lawyers, etc

- (1) It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person carries out a relevant service in the ordinary course of the person's business as one of the following:
- (a) a lawyer, an incorporated law firm, a conveyancing practitioner, an incorporated conveyancing firm, an accountant, or a real estate agent;
  - (b) an executor, an administrator, or a trustee in respect of services provided in the administration of an estate or, in the case of a trustee, in respect of services provided to beneficiaries of a family trust.
- (2) If subclause (1) applies to a person (A), it applies equally to any director, employee, agent, or other person while acting in the course of, and for the purposes of, A's business to the same extent as it applies to A.

## 21 Exclusion: pawnbrokers

It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person carries out a relevant service in the ordinary course of the person's business as a pawnbroker within the meaning of section 4 of the Secondhand Dealers and Pawnbrokers Act 2004.

## 21A Exclusion: licensed or registered auctioneers and providers of Internet auctions

- (1) It is declared that an auctioneer who is licensed or registered under an enactment is not a reporting entity, for the purposes of the Act, by reason only that the auctioneer carries out a relevant service in the ordinary course of the auctioneer's business of conducting auctions.
- (2) It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person provides relevant services in the ordinary course of the person's business as a provider of Internet auctions.
- (3) In this regulation,—
- action** means a process in which property of any kind (including goods, services, and interests in land) is offered for sale by an auctioneer on behalf of a vendor, and—
- (a) bids for the property are placed with the auctioneer in real time, whether in person, by telephone, via the Internet, or by any other means; and

(b) the property is sold when the auctioneer so indicates

**Internet auction** means a process, not being an auction as defined by this sub-clause, that is operated online to enable members of the public to conclude contracts for the sale and purchase of goods or the provision and acquisition of non-financial services

**non-financial service** means a service that is not, or does not include, a relevant service.

**22 Exclusion: financial institutions that are in liquidation, etc**

- (1) This regulation applies to a financial institution that is—
- (a) in liquidation under Part 16 of the Companies Act 1993 or under any other enactment; or
  - (b) in receivership, where no debt securities are being offered or issued to the public by, or on behalf of, the financial institution; or
  - (c) subject to a moratorium that prevents the financial institution from offering or issuing debt securities to the public.
- (2) A financial institution to which this regulation applies is declared not to be a reporting entity for the purposes of the Act.

**23 Exclusion: government departments**

Every government department named in Schedule 1 of the State Sector Act 1988 is declared not to be a reporting entity for the purposes of the Act.

**24 Exclusion: Reserve Bank of New Zealand**

The Reserve Bank of New Zealand is declared not to be a reporting entity for the purposes of the Act.

**7 Consequential amendments to Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013**

- (1) This regulation amends the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013.
- (2) In regulation 2(1), delete “, other than regulation 12,”.
- (3) Revoke regulations 2(2) and 12.

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 27 July 2016, amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (the **principal regulations**).

*Regulation 6* replaces regulations 11 to 24 of the principal regulations to prevent them from expiring on 27 July 2016.

*New regulations 11 to 24* will be in force from 27 July 2016 until 27 July 2021.

These regulations also make minor consequential amendments to the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 to prevent the revocation of regulations 11 to 24 of the principal regulations on 28 July 2016.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 16 June 2016.

These regulations are administered by the Ministry of Justice.