

July 2021

Anti-Money Laundering and Countering Financing of Terrorism - regulations update

Introduction

New Zealand's anti-money laundering and countering financing of terrorism (AML/CFT) system is intended to adapt as money laundering and terrorism financing risks evolve.

Two regulations that are a key part of the AML/CFT system were due to expire. The AML/CFT (Exemptions) Regulations 2011 were scheduled to expire on 30 June 2020, and the AML/CFT (Definitions) Regulations 2011 partially expire on 27 July 2021.

In October 2019 the Ministry of Justice consulted on the regulations. This was to identify whether each regulation is still required, and, if so, whether changes or updates are needed to be fit-for-purpose and reflect the current risk environment.

Cabinet has agreed to make changes to the Exemption Regulations, the Requirements and Compliance Regulations and the Definitions Regulations. The Ministry of Justice has released the documents about these decisions on their website. The changes and the impact on reporting entities supervised by the Financial Markets Authority (FMA) is summarised below.

New and changing regulations that will affect reporting entities supervised by the FMA with effect from 9 July 2021

Regulation	Change	What this means for FMA reporting entities
<i>New regulation</i> (Definitions)	Ensure that limited partnerships can more easily be included in designated business groups.	Limited partnerships will be eligible for inclusion in a designated business group where they are related to the other members of the designated business group.
<i>New regulation</i> (Requirements and Compliance)	Extend the default timeframe for AML/CFT audits to every three years, with some businesses potentially being eligible to be audited every four years.	AML/CFT audits will be required every three years. FMA can request a more frequent audit or a less frequent audit.
<i>New regulation</i> (Exemptions)	Reduce the potential for a business to unintentionally tip off people who are subject to a Police inquiry.	You will be exempt, for 30 days unless otherwise notified by the Police, from having to conduct enhanced due diligence in respect of the subject of Commissioner's Order. (A Commissioner's Order is when the Commissioner of Police requires information relevant to a suspicious activity report or prescribed transaction report.)
<i>New regulation</i> (Requirements and Compliance)	Protect businesses from companies that misuse nominee director relationships to obscure their beneficial owner.	You will have to obtain information from customers, who are companies, as to whether there are any nominee director relationships or nominee shareholder relationships. If the company declares that such a relationship exists, you will then be required to conduct enhanced customer due diligence.
<i>Definitions regulation 3 – expiry date</i>	The expiry date has been removed.	Reporting entities now have certainty that the current regulatory environment will continue after 27 July 2021.
<i>Definitions regulation 13A – Inclusion: wire transfer of more than \$1,000</i>	Clarify that this regulation applies to ordering institutions for wire transfers that occur outside of a business relationship with a customer, as well as applying to beneficiary institutions for wire transfers that are received outside of a business relationship with a customer.	This clarifies that AML/CFT obligations apply to an ordering institution of a wire transfer of more than \$1000 if the reporting entity does not have a business relationship with the person sending the funds. This also clarifies that AML/CFT obligations apply to a beneficiary institution of a wire transfer of more than \$1000 if the reporting entity receives funds for somebody with which it doesn't have a business relationship.
<i>Exemptions regulation 3 – expiry date</i>	The expiry date has been removed. This will provide business with more certainty.	Reporting entities now have certainty that the current regulatory environment will continue after 30 June 2020.

*Exemptions
regulation 16 –
Relevant
services
provided to
related entities*

More types of businesses will be captured by the 'related businesses' exemption.

AML/CFT obligations do not apply to relevant services provided to related entities. The definition of 'related' will include entities where A is 'controlled' by B (and vice versa) or where A and B are both 'controlled' by C.

For any questions about how these regulations affect your business, please contact us at aml@fma.govt.nz

AUCKLAND – Level 5, Ernst & Young Building | 2 Takutai Square, Britomart | PO Box 106 672 | Auckland 1143
WELLINGTON – Level 2 | 1 Grey Street | PO Box 1179 | Wellington 6140

fma.govt.nz