



Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2013

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 4th day of June 2013

Present:

The Right Hon John Key presiding in Council

Pursuant to section 154(1)(d) of the Financial Advisers Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce made after consulting the Financial Markets Authority in accordance with section 154(4) of that Act, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2013.

- 2 Commencement**
These regulations come into force on 10 June 2013.

- 3 Principal regulations**
These regulations amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 (the **principal regulations**).

- 4 Regulation 3 amended (Interpretation)**
Replace regulation 3(1) with:
“(1) In these regulations, unless the context otherwise requires, **Act** means the Financial Advisers Act 2008.”

- 5 New regulation 7AA inserted (Certain non-call credit union products are category 2 products)**
After regulation 7, insert:
“**7AA Certain non-call credit union products are category 2 products**
“(1) For the purposes of paragraph (k) of the definition of category 2 product in section 5 of the Act, each of the following is a category 2 product:
“(a) a credit union fixed term deposit product:
“(b) a credit union savings account product.
“(2) In subclause (1),—

“**credit union fixed term deposit product** means a share referred to in section 107 of the Friendly Societies and Credit Unions Act 1982, and issued by a credit union, under which—

- “(a) the member has a right to demand repayment of the value of the share in full at any time; and
- “(b) the credit union has an obligation to repay the value of the share in full in accordance with section 107(4) of the Friendly Societies and Credit Unions Act 1982; and
- “(c) a fixed rate of dividend or interest is payable if the principal sum is held by the credit union for a fixed period of time of up to 5 years (but the rate of dividend or interest payable may alter as a result of a demand being made before that fixed period ends); and
- “(d) no fee or other amount is payable as a result of the principal sum not having been held by the credit union for a particular period of time

“**credit union savings account product** means a share referred to in section 107 of the Friendly Societies and Credit Unions Act 1982, and issued by a credit union under a savings account, under which—

- “(a) the member has a right to demand repayment of the value of the share in full at any time; and
- “(b) the credit union has an obligation to repay the value of the share in full in accordance with section 107(4) of the Friendly Societies and Credit Unions Act 1982; and
- “(c) the rate of dividend or interest payable or any other benefit provided does not alter as a result of the demand being made; and
- “(d) a fee or other amount may be payable as a result of the principal sum not having been held by the credit union for a particular period of time; and
- “(e) the fee or other amount referred to in paragraph (d) does not exceed \$50.”

Rebecca Kitteridge,
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 10 June 2013, amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 to reclassify the following products as category 2 products (*see* paragraph (k) of the definition of category 2 product in section 5 of the Financial Advisers Act 2008):

- a credit union fixed term deposit product;
- a credit union savings account product.

The principal regulations already specify a certain kind of credit union share (an **FSCU share**) as a category 2 product (*see* regulation 7). The main differences between an FSCU share and the products referred to above are as follows:

- under an FSCU share, the rate of return provided does not alter as a result of a repayment demand being made. However, under a credit union fixed term deposit product, the rate of interest payable may alter as a result of a demand being made;
- under an FSCU share, no fee is payable as a result of the principal sum not having been held by the credit union for a particular period of time. However, under a credit union savings account product, a fee of up to \$50 may be payable.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 6 June 2013.

These regulations are administered by the Ministry of Business, Innovation, and Employment.
