



Financial Advisers (Custodians of FMCA Financial Products) Amendment Regulations 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 3rd day of November 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 154 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 and Consumer Affairs made after consulting the Financial Markets Authority, makes the following regulations.

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Regulations

1 Title

These regulations are the Financial Advisers (Custodians of FMCA Financial Products) Amendment Regulations 2014.

2 Commencement

These regulations come into force on 1 December 2014.

3 Principal regulations

These regulations amend the Financial Advisers (Custodians of FMCA Financial Products) Regulations 2014 (the **principal regulations**).

4 Regulation 4 amended (Application)

Replace regulation 4(3) and (4) with:

- “(3) Subclause (4) applies in respect of FMCA custodial services provided to a client (C) if—
- “(a) a person (A) provides the FMCA custodial services to C on behalf of the business of another person (B); and
 - “(b) B does not itself provide the FMCA custodial services but, by virtue of section 77U of the Act, is treated (instead of A) as the broker having the broker obligations under the Act.
- “(4) If this subclause applies,—
- “(a) B must ensure that A complies with the requirements of these regulations in respect of the FMCA custodial services (applied as if references to a custodian were references to A); and
 - “(b) B must be treated as having complied with the requirements of these regulations in respect of the FMCA custodial services if A complies with the requirements as referred to in paragraph (a).”

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 1 December 2014, amend the Financial Advisers (Custodians of FMCA Financial Products) Regulations 2014. The amendment clarifies the application of the regulations where a person (**A**) provides FMCA custodial services to a client on behalf of the business of another person (**B**). In this case, B is liable under the Financial Advisers Act 2008 if the requirements of these regulations are breached. The amendment clarifies that—

- B must ensure that A complies with the requirements as if references to a custodian were references to A; and
- B must be treated as having complied with those requirements if A so complies.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 4 November 2014.
These regulations are administered by the Ministry of Business, Innovation, and Employment.
