

**Reprint
as at 30 June 2018**



**Anti-Money Laundering and Countering Financing of
Terrorism (Class Exemptions) Amendment Notice (No 2)
2015**

(LI 2015/169)

Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2015: revoked, on 30 June 2018, pursuant to clause 5(b) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018 (LI 2018/101).

Pursuant to section 157(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, the Minister of Justice gives the following notice,—

- (a) having had regard to the matters specified in section 157(3) of that Act; and
- (b) having consulted in accordance with section 158 of that Act.

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Notice

1 Title

This notice is the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2015.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Ministry of Justice.

2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

3 Principal notice

This notice amends the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014 (the **principal notice**).

4 Schedule amended

- (1) In the Schedule, delete the table of contents.
- (2) In the Schedule, after Part 3, insert the Parts 4 and 5 set out in the Schedule of this notice.

Schedule New Parts 4 and 5 of Schedule inserted

cl 4(2)

Part 4 Reporting entities whose customers are licensed managing intermediaries

- 1 As the Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt those reporting entities whose customers include licensed managing intermediaries from carrying out the following requirements in respect of those customers:
 - (a) the requirement to conduct standard customer due diligence under sections 14 to 17 of the Act;
 - (b) the requirement, in any circumstances where the reporting entity is required to conduct enhanced customer due diligence, to carry out the identification and verification requirements under sections 23 and 24(1) of the Act on any beneficial owner of the customer;
 - (c) the requirement to conduct enhanced customer due diligence, under sections 23 to 25 of the Act, in circumstances where—
 - (i) the customer is a trust; and
 - (ii) the reporting entity is only required to conduct enhanced customer due diligence because section 22(1)(a)(i) or (b)(i) of the Act applies.
- 2 In this exemption, **licensed managing intermediary** means any of the following:

- (a) an NBDT (as defined in section 5 of the Non-bank Deposit Takers Act 2013) holding an NBDT licence granted under section 17 of that Act;
 - (b) a registered scheme (as defined in section 6(1) of the Financial Markets Conduct Act 2013);
 - (c) a person who holds, or is authorised to provide services under, a licence under Part 6 of the Financial Markets Conduct Act 2013;
 - (d) a scheme that, under clause 18(1), 34, or 35 of Schedule 4 of the Financial Markets Conduct Act 2013, continues to be registered or continues to be subject to another enactment;
 - (e) a supervisor or statutory supervisor holding a licence under section 10 of the Financial Markets Supervisors Act 2011;
 - (f) an FMA appointee (as defined in sections 22(2) and 37(1) of the Financial Markets Supervisors Act 2011).
- 3 This exemption is subject to the following conditions:
- (a) the reporting entity must conduct simplified customer due diligence on a customer in respect of which the exemption is relied on; and
 - (b) the reporting entity must, in any circumstances where the reporting entity is required to conduct enhanced customer due diligence on a customer in respect of which the exemption is relied on, carry out the identification and verification requirements under sections 23 and 24(1) of the Act on those beneficial owners of the customer that have effective control, or own more than 25%, of the customer; and
 - (c) the reporting entity must conduct enhanced customer due diligence on a customer in respect of which the exemption is relied on if the customer conducts a transaction to which regulation 5A of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011 applies; and
 - (d) the reporting entity must take reasonable steps to verify that a customer in respect of which this exemption is relied on is a licensed managing intermediary (for example, by checking a register kept by the Registrar of Financial Service Providers); and
 - (e) the reporting entity must comply with any request from its AML/CFT supervisor for the name of 1 or more customers in respect of which the exemption is relied on.
- 4 This exemption has been made for the following reasons:
- (a) there is a low risk of money laundering and terrorism financing in respect of transactions between reporting entities and licensed managing intermediaries because licensed managing intermediaries operate within a heavily regulated environment; and

- (b) the requirement for a reporting entity to conduct standard customer due diligence on a licensed managing intermediary may lead to duplication of customer due diligence obligations; and
 - (c) the requirement for a reporting entity to conduct customer due diligence on all beneficial owners of a licensed managing intermediary—
 - (i) has associated costs, may give rise to privacy concerns, and may deter international investment; and
 - (ii) is out of proportion to the risk of money laundering and terrorism financing posed by licensed managing intermediaries.
- 5 This exemption comes into force on the day after the date of its notification in the *Gazette*.
- 6 This exemption expires on 30 June 2018.

Part 5

Reporting entities whose customers are specified managing intermediaries

- 1 As the Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt those reporting entities whose customers include specified managing intermediaries from carrying out the following requirements in respect of those customers:
- (a) the requirement to conduct customer due diligence, under section 11(1)(b) of the Act, on any beneficial owner of a customer;
 - (b) the requirement, in any circumstances where the reporting entity is required to conduct enhanced customer due diligence, to carry out the identification and verification requirements under sections 23 and 24(1) of the Act on any beneficial owner of the customer;
 - (c) the requirement to conduct enhanced customer due diligence, under sections 23 to 25 of the Act, in circumstances where—
 - (i) the customer is a trust; and
 - (ii) the reporting entity is only required to conduct enhanced customer due diligence because section 22(1)(a)(i) or (b)(i) of the Act applies.
- 2 In this exemption,—
- foreign financial institution** means a financial institution that—
- (a) has its principal place of business in an overseas jurisdiction with sufficient AML/CFT systems and measures in place; and
 - (b) is supervised for AML/CFT purposes

managed investment scheme has the meaning set out in section 9 of the Financial Markets Conduct Act 2013

manager has the meaning given in section 6(1) of the Financial Markets Conduct Act 2013

senior manager means,—

- (a) in relation to a financial institution to which the Act applies, a senior manager to whom a reporting entity's AML/CFT compliance officer must report under section 56(4) of the Act:
- (b) in relation to a foreign financial institution, a person holding a comparable position to a senior manager (as defined in paragraph (a)):
- (c) in relation to a managed investment scheme, a senior manager (as defined in paragraph (a) or (b)) of the specified managing intermediary that is the manager, or a trustee, of that scheme

specified managing intermediary—

- (a) means any of the following:
 - (i) a financial institution to which the Act applies:
 - (ii) a foreign financial institution:
 - (iii) a managed investment scheme, the manager or a trustee of which is a person described in subparagraph (i) or (ii); but
- (b) excludes a licensed managing intermediary (as defined in Part 4 of this schedule).

3 This exemption is subject to the following conditions:

- (a) clause (1)(a) and (b) must not be relied on in respect of a beneficial owner that has effective control, or owns more than 25%, of a customer that is a specified managing intermediary; and
- (b) the reporting entity must conduct enhanced customer due diligence on a customer in respect of which the exemption is relied on if the customer conducts a transaction to which regulation 5A of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011 applies; and
- (c) the reporting entity—
 - (i) must obtain written confirmation, signed by a senior manager of the customer, to the effect that the customer (or, if the customer is a managed investment scheme, the specified managing intermediary that is the manager or a trustee of that scheme)—
 - (A) has an AML/CFT programme (or a foreign equivalent); and
 - (B) has its principal place of business in a jurisdiction with sufficient AML/CFT systems and measures in place; and
 - (C) is supervised for AML/CFT purposes; and

- (D) is conducting customer due diligence in accordance with the Act (or its foreign equivalent); but
 - (ii) is not required to verify a written confirmation obtained under subparagraph (i) unless there are reasonable grounds for the reporting entity to doubt the adequacy or veracity of the written confirmation; and
 - (d) the reporting entity must comply with any request from its AML/CFT supervisor for the name of 1 or more customers in respect of which the exemption is relied on.
- 4 This exemption has been granted because the requirement for a reporting entity to conduct customer due diligence on all beneficial owners of a specified managing intermediary—
- (a) may lead to duplication of customer due diligence obligations; and
 - (b) has associated costs, may give rise to privacy concerns, and may deter international investment; and
 - (c) is out of proportion to the risk of money laundering and terrorism financing posed by specified managing intermediaries.
- 5 This exemption comes into force on the day after the date of its notification in the *Gazette*.
- 6 This exemption expires on 30 June 2018.

Dated at Wellington this 21st day of June 2015.

Simon Bridges,
for Minister of Justice.

Explanatory note

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014 (the **principal notice**). The notice inserts *new Parts 4 and 5* into the Schedule of the principal notice, which set out new class exemptions from certain provisions of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**) relating to customer due diligence (**CDD**).

New Part 4 exempts reporting entities whose customers are licensed managing intermediaries (as defined) from carrying out the following requirements in respect of those customers:

- the requirement to conduct standard CDD (*clause 1(a)*); and
- the requirement, in any circumstances that require the reporting entity to conduct enhanced CDD, to identify and verify any beneficial owner of the customer (*clause 1(b)*); and
- the requirement to conduct enhanced CDD on customers that are trusts, in circumstances where the enhanced CDD is required only because section 22(1)(a)(i) or (b)(i) of the Act applies (*clause 1(c)*).

Clause 1(b) is limited by the condition in *clause 3(b)*, which requires the reporting entity, in any circumstances where the reporting entity is required to conduct enhanced CDD on a customer in respect of which the exemption is relied on, to identify and verify those beneficial owners of the customer that have effective control, or own more than 25%, of the customer.

New Part 5 exempts reporting entities whose customers include specified managing intermediaries (as defined) from carrying out the following requirements in respect of those customers:

- the requirement to conduct CDD on any beneficial owner of a customer (*clause 1(a)*); and
- the requirement, in any circumstances that require the reporting entity to conduct enhanced CDD, to identify and verify any beneficial owners of the customer (*clause 1(b)*); and
- the requirement to conduct enhanced CDD on customers that are trusts in circumstances where the enhanced CDD is only required because section 22(1)(a)(i) or (b)(i) of the Act applies (*clause 1(c)*).

Clause 1(a) and *(b)* is limited by the condition in *clause 3(a)*, which provides that the exemption must not be relied on in respect of those beneficial owners that have effective control, or own more than 25%, of a customer that is a specified managing intermediary. The effect of this condition is that reporting entities are only exempt from conducting CDD on those beneficial owners (as defined in section 5 of the Act) that do not have effective control, or own more than 25%, of a customer that is a specified managing intermediary. In addition, a reporting entity carrying out enhanced CDD on a customer that is a specified managing intermediary is only exempt from the requirement to identify and verify those beneficial owners of the customer that do not have effective control, or own more than 25%, of the customer.

New Parts 4 and *5* expire on 30 June 2018 and, in accordance with *clause 4(2)* of the principal notice, are revoked on that date.

Reprints notes

1 *General*

This is a reprint of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2015 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018 (LI 2018/101): clause 5(b)