



Financial Advisers (Non-NZX Brokers—Client Money) Exemption Amendment Notice 2020

Pursuant to sections 148 and 148A of the Financial Advisers Act 2008, the Financial Markets Authority, being satisfied of the matters set out in section 148(2) of that Act, gives the following notice.

Contents

		Page
1	Title	1
2	Commencement	1
3	Principal notice	1
4	Clause 3 amended (Revocation)	1
5	Clause 8 amended (Time frame extended because of outbreak of COVID-19)	1

Notice

- 1 Title**
 This notice is the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Amendment Notice 2020.
- 2 Commencement**
 This notice comes into force on 30 September 2020.
- 3 Principal notice**
 This notice amends the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017 (the **principal notice**).
- 4 Clause 3 amended (Revocation)**
 In clause 3, replace “30 November 2020” with “15 March 2021”.
- 5 Clause 8 amended (Time frame extended because of outbreak of COVID-19)**
 In clause 8(4), replace “1 July 2020” with “1 August 2020”.

Dated at Auckland this 27th day of August 2020.

Nick Kynoch,
General Counsel.

Statement of reasons

This notice, which comes into force on 30 September 2020, amends the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017 (the **2017 Notice**).

Section 77P(1A) of the Financial Advisers Act 2008 (the **FA Act**) requires brokers to keep client money and client property separate from their own money and property. The 2017 Notice exempts non-NZX brokers from that requirement subject to the conditions set out in the notice. The 2017 Notice is due to be revoked on 30 November 2020.

The Financial Services Legislation Amendment Act 2019 (the **2019 Act**) will repeal the FA Act and revoke the 2017 Notice. The relevant parts of the 2019 Act were due to come into force on 29 June 2020 (*see* the Financial Services Legislation Amendment Act Commencement Order 2019). However, because of the effects of COVID-19, commencement of those parts of the 2019 Act has been delayed and they will now come into force on 15 March 2021 (*see* the Financial Services Legislation Amendment Act Commencement Order 2020). This notice is therefore revoked on that date.

One of the conditions imposed by the 2017 Notice is that exempt brokers must obtain an auditor's report about their compliance with the 2017 Notice within 4 months after their relevant date (usually their annual balance date). The effects of COVID-19 have made it difficult for some brokers to obtain their audit report by that deadline. The 2017 Notice was amended in April 2020 to give affected brokers an additional 2 months to comply. Currently, this covers brokers with a relevant date between 31 December 2019 and 1 July 2020. However, because of the continuing effects of COVID-19, this longer time frame now extends to also cover brokers whose relevant date is in July 2020.

The FMA, after satisfying itself as to the matters set out in section 148(2)(a) of the FA Act, considers it appropriate to amend the 2017 Notice because—

- the 2017 Notice has been in place for 3 years and the original policy reasons for it remain valid and relevant. The FMA is aware of likely continued reliance on the 2017 Notice until it is revoked by the 2019 Act;
- the costs of full and immediate compliance by brokers with section 77P(1A) of the FA Act if the term of the 2017 Notice were not extended, for the short period until it is revoked, would not be justified by the benefit of a significant reduction in risks for clients.

2020/232

**Financial Advisers (Non-NZX Brokers—Client Money)
Exemption Amendment Notice 2020**

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 31 August 2020.

This notice is administered by the Financial Markets Authority.

Wellington, New Zealand:

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