Reprint
as at 15 March 2021

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 Associate 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.

Contents

Notice

1 Title

This notice is the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018.

2 Commencement

This notice comes into force on 30 June 2018.

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.

3 Application

(1) A class exemption applies on and from the date specified in the Part of the Schedule setting out the particulars of that class exemption.

(2) A class exemption expires on the date specified in the Part of the Schedule setting out the particulars of that class exemption and that Part is revoked on that date.

4 Class exemptions

The class exemptions granted under section 157(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 are set out in the Schedule.

5 Revocations

The following legislative instruments are revoked:

(a) Anti-Money Laundering and Countering Financing of Terrorism (Publication of Class Exemption) Notice 2013 (LI 2014/63):

(b) Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014 (LI 2014/142):

(c) Anti-Money Laundering and Countering Financing of Terrorism (Designated Issuers of Debt Securities Class Exemption) Notice 2018 (LI 2018/11).

Schedule
Class exemptions

cl 4

Part 1
Bodies corporate and body corporate managers

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt all bodies corporate, created under the Unit Titles Act 2010 (the **UT Act)** or created under the Unit Titles Act 1972 and continued under the UT Act, from all the provisions of the Act in relation to any relevant services provided in carrying out any management, financial, or administrative functions relating to the body corporate and the unit title development in accordance with the UT Act or the Unit Titles Regulations 2011 (the **UT Regulations**).

2 I also exempt any persons contracted or otherwise engaged by a body corporate as a body corporate manager or body corporate secretary (collectively referred to as **body corporate managers**) from sections 10 to 71 of the Act in relation to any relevant services provided whilst carrying out management, financial, or administrative functions and services on behalf of a body corporate. This

includes lawyers and accountants carrying out these services. The scope of this exemption for body corporate managers covers only those functions and services that a body corporate would otherwise provide to its constituent owners in accordance with the UT Act or the UT Regulations.

3 The exemption provided to bodies corporate in clause 1 is not subject to any conditions.

4 The exemption provided to body corporate managers in clause 2 is made subject to the following condition: a body corporate manager, in carrying out any functions and services on behalf of a body corporate, must adhere to all duties and other requirements contained in the UT Act, the UT Regulations, and any other relevant legislation as if the body corporate manager were acting as the body corporate itself.

5 These exemptions have been made for the following reasons:

(a) the risk of money laundering or the financing of terrorism is low:

(b) funds paid to bodies corporate or body corporate managers are only payable by unit owners of bodies corporate:

(c) funds are not accepted from any other parties (unless it is clear that such parties are acting as a unit owner's agent, such as a lawyer or an accountant paying on instructions from their client):

(d) funds are payable on levies struck during a financial year or (in the case of body corporate managers) on the supply of an invoice showing levies struck by the body corporate for the financial year:

(e) the levies struck are intended to cover the costs of insurance and other outgoings for that year, and, if further funds are required during the year, additional levies are struck by the body corporate:

(f) payments are made by direct credit to either the body corporate or body corporate manager and, on receipt, funds are held in specific accounts as required by the UT Act:

(g) where a body corporate has instructed a lawyer to receive payments from unit owners, or where a unit owner's mortgagee requires funds advanced to the owner to meet levies to be paid into a lawyer's trust account under an escrow arrangement, those funds are held in the lawyer's trust account on receipt:

(h) where the amount levied is in excess of the amount required for the year's outgoings, the surplus is usually credited to a long-term maintenance fund or offset against the next year's levies:

(i) individual unit owners have no control or ability to move money once it is received by the body corporate or body corporate manager:

(j) there is no automatic right of withdrawal or ability to use funds once levies are paid. Any surplus at the end of the financial year is usually mini-

mal, and those amounts are not usually returned to unit owners, but retained in the manner set out above.

6 This exemption comes into force on 30 June 2018.

7 This exemption will expire on 30 June 2023.

Part 2
Public Trust, Māori Trustee, and trustee companies

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt Public Trust, the Māori Trustee, and each trustee company within the meaning of the Trustee Companies Act 1967 (collectively referred to as the **statutory trustee corporations**) in respect of the classes of transactions listed at clause 2 below from the following provisions of the Act:

(a) sections 5 to 38; and

(b) sections 50 to 91; and

(c) sections 106 to 115.

2 The exemption applies to—

(a) the statutory trustee corporations in respect of the following personal trust services:

(i) acting as an agent to reseal overseas probate or letters of administration in New Zealand:

(ii) acting as a property manager under the Protection of Personal and Property Rights Act 1988:

(iii) acting as a court-appointed trustee, agent, or receiver:

(iv) acting as a guardian for a minor as required by court order:

(v) acting as a trustee of a funeral trust that does not provide for any cooling-off period or for the ability to withdraw funds prior to the settlor's or testator's death:

(vi) drafting any will, power of attorney, or trust documentation where required to do so by court order or by operation of statute:

(vii) acting as a property attorney under an enduring power of attorney where required to do so by court order or by operation of statute:

(b) Public Trust in respect of the personal trust service of being appointed to act as trustee, agent, manager, or receiver by operation of statute (for example, having money paid to Public Trust pursuant to the Local Government (Rating) Act 2002):

(c) the Māori Trustee in respect of the following personal trust services:

(i) acting as statutory trustee in respect of Māori land:

(ii) acting as a trustee, agent, or other fiduciary for Māori, or in respect of any Māori land or other interests, in the exercise or performance of its duties, functions, and powers by operation of statute.

3 In this exemption, **personal trust services**—

(a) means services provided by the statutory trustee corporations in a fiduciary capacity to individuals or the groups listed in clause 2; but

(b) excludes any services provided by the statutory trustee corporations in their capacities as trustees or supervisors in respect of an issue of securities to the public or activities related to the issue of securities.

4 This exemption is not subject to any conditions.

5 This exemption has been made for the following reasons:

(a) there is a low risk of money laundering or terrorism financing through the statutory trustee corporations when they are providing personal trust services, because—

(i) the statutory trustee corporations operate within a heavily regulated environment that includes requirements to provide services by court order or by operation of statute; and

(ii) the court, when requiring the statutory trustee corporations to provide services by court order, subjects the engagement of services to a unique supervisory element; and

(iii) the continued imposition of suspicious activity reporting obligations will adequately address the risk of money laundering and terrorism financing in the circumstances; and

(b) the obligations imposed on the statutory trustee corporations would be disproportionate given the low risk of money laundering or terrorism financing in the circumstances outlined in this exemption.

6 This exemption comes into force on 30 June 2018.

7 This exemption will expire on 30 June 2023.

Part 3

Services provided in relation to certain retirement schemes

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt the manager of a specified retirement scheme from sections 10 to 71 of the Act in relation to services provided in respect of the specified retirement scheme.

2 For the purposes of this ministerial exemption,—

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

regular leave of absence contributions means contributions made other than through payroll by a member to the retirement scheme during a permitted period of unpaid leave of absence

retirement scheme has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

specified retirement scheme means—

(a) a retirement scheme in respect of which the provision of relevant services would be exempt from the Act pursuant to regulation 20A of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011 but for the fact that the retirement scheme allows—

(i) transfers from equivalent overseas retirement schemes (as described in regulation 82(3) of the Financial Markets Conduct Regulations 2014) and other retirement schemes that are not superannuation schemes and so does not comply with paragraph (b)(ii) of the definition of limited employer superannuation scheme in regulation 20A(2) of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011:

(ii) regular leave of absence contributions and so does not comply with paragraph (d) of the definition of limited employer superannuation scheme in regulation 20A(2) of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011; and

(b) the following retirement schemes on and after 30 June 2018:

(i) AMP (NMLA) New Zealand Superannuation Scheme (SCH11057):

(ii) BP New Zealand Retirement Plan (SCH11078):

(iii) Dairy Industry Superannuation Scheme (SCH10871):

(iv) Defence Force Superannuation Scheme (SCH11069):

(v) Employee Retirement Plan (SCH11190):

(vi) MISS Scheme (SCH10889):

(vii) Opus Downer Retirement Scheme (SCH11472):

(viii) New Zealand Steel Pension Fund (SCH10529):

(ix) Ports Retirement Plan (SCH10801):

(x) UniSaver New Zealand (SCH10656); and

(c) the following retirement schemes on and after 1 July 2020:

(i) Fletcher Building Retirement Plan (SCH10825):

(ii) Maritime KiwiSaver Scheme (SCH10500):

(iii) Maritime Retirement Scheme (SCH10493); and

(d) the following retirement schemes on and after 1 December 2022:

(i) Baptist Union Superannuation Scheme (SCH11086):

(ii) The New Zealand Anglican Church Pension Fund (SCH10835):

(iii) The Presbyterian Church of Aotearoa New Zealand Beneficiary Fund (SCH11511):

(iv) The Supernumerary Fund of the Methodist Church of New Zealand (SCH10904)

specified voluntary contributions means voluntary contributions to the retirement scheme that are either—

(a) regular leave of absence contributions; or

(b) for the purpose of purchasing additional pensionable service or restoring pensionable service

sponsor means, in respect of a retirement scheme that is not an employer superannuation scheme (as defined in regulation 20A(2) of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011), an entity which remits contributions to the scheme through payroll

through payroll means, for the purposes of this exemption, by way of deduction from the salary, wages or other remuneration payable by an employer or a sponsor

voluntary contributions means—

(a) specified voluntary contributions:

(b) voluntary contributions that are not specified voluntary contributions but that are permitted by the trust deed and that are made in accordance with clause 4.

3 This exemption is made subject to the conditions set out in clauses 4 to 10.

4 Voluntary contributions that are made other than through payroll to a section of the retirement scheme that is subject to restrictions set out in the complying fund rules (as defined in section YA 1 of the Income Tax Act 2007) must be subject to a cap on the amount of those non-payroll voluntary contributions in a year beginning on 1 July and ending on 30 June. The cap must be set at the amount (after taking into account any other contribution made to that section through payroll) required to enable a member to maximise, in respect of the relevant year, those government contributions set out in section MK 4 of the Income Tax Act 2007.

5 Specified voluntary contributions other than through payroll for the purpose of purchasing additional pensionable service must be subject to enhanced customer due diligence.

6 Specified voluntary contributions other than through payroll for the purpose of restoring pensionable service must be subject to standard customer due diligence.

7 Regular leave of absence contributions must—

(a) be collected by the employer or sponsor, or by a related company (as defined in the Companies Act 1993) on behalf of the employer or sponsor, or by the retirement scheme's administration manager; and

(b) not exceed (as to either amount or frequency) the contributions that were being paid by the relevant member immediately prior to the member commencing leave of absence.

8 If any withdrawals are made by a member in addition to that member making regular leave of absence contributions during the permitted period of unpaid leave of absence, the following sections of the Act apply to those withdrawals and contributions:

(a) sections 10 to 17 (and, for the purposes of section 14(1)(d), the first withdrawal is specified as a circumstance in which standard customer due diligence must be conducted); and

(b) sections 39A to 48; and

(c) sections 48A to 48C; and

(d) section 49.

9 A retirement scheme covered by paragraph (a)(i) of the definition of specified retirement scheme in clause 2 cannot, in practice, accept any transfers from international sources other than Australian superannuation transfers. If, in the case of a retirement scheme covered by paragraph (a)(ii), (b), (c), or (d) of that definition, any transfers are made from international sources, with the exception of Australian superannuation transfers, the following sections of the Act apply to those transfers:

(a) sections 10 to 36; and

(b) sections 39A to 48; and

(c) sections 48A to 48C; and

(d) section 49.

10 If any regular leave of absence contributions are received from international sources during the permitted period of unpaid leave of absence, the following sections of the Act apply to those contributions:

(a) sections 10 to 17 (and, for the purposes of section 14(1)(d), the receipt of a contribution from an international source is specified as a circumstance in which standard customer due diligence must be conducted); and

(b) sections 39A to 48; and

(c) sections 48A to 48C; and

(d) section 49.

11 The exemption has been made for the following reasons:

(a) the specified retirement schemes pose a low risk of money laundering or terrorism financing; and

(b) any risks posed by voluntary contributions outside of payroll, transfers from international sources, and withdrawals have been addressed by the conditions; and

(c) due to the low money laundering and terrorism financing risks raised by the specified retirement schemes and the significant compliance costs that would arise from not granting this exemption, I consider that any benefits of requiring compliance with the Act are not justified by the associated costs; and

(d) this exemption is consistent with (and has no effect on the purpose or intent of) the Act, the Financial Transactions Reporting Act 1996, and New Zealand's international obligations as a member of the Financial Action Task Force and the Asia/Pacific Group on Money Laundering.

12 This exemption comes into force on 30 June 2018.

13 This exemption will expire on 30 June 2023.

Part 4
PAYE intermediaries

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt all PAYE intermediaries, only with respect to authorised transactions, from the following provisions of the Act:

(a) sections 11 to 39:

(b) section 49:

(c) sections 50 to 71:

(d) sections 106 to 115.

2 In this exemption,—

authorised transaction means any transaction that satisfies the requirements of section RP 2(2), RP 6, RP 14, RP 15, or RP 16 of the Income Tax Act 2007 or that fulfils the obligations of a PAYE intermediary under any of those provisions

PAYE intermediary means a person who is approved as a PAYE intermediary under section 15D of the Tax Administration Act 1994 (and includes a PAYE intermediary who is approved as a listed PAYE intermediary under section 15G of that Act).

3 This exemption is made subject to the following conditions:

(a) the exemption applies only to transfers between New Zealand bank accounts and does not extend to any transfer from or to a foreign bank account:

(b) to be eligible for the exemption, a PAYE intermediary must not use or provide any payroll remittance card in the course of its authorised activities.

4 This exemption has been made for the following reasons:

(a) the risk of money laundering or terrorist financing through the authorised transactions conducted by PAYE intermediaries is low because—

(i) PAYE intermediaries must be registered with the Inland Revenue Department:

(ii) PAYE intermediaries are regulated by requirements under the Income Tax Act 2007 and the Tax Administration Act 1994:

(iii) PAYE intermediaries rely on information provided by the Inland Revenue Department in relation to employees:

(iv) PAYE intermediaries must provide an employer schedule to the Inland Revenue Commissioner on a monthly basis:

(v) PAYE intermediaries must submit information to the Inland Revenue Department in a format that is acceptable to the Inland Revenue Department and that identifies all parties to any wire transfer:

(vi) the tasks performed by PAYE intermediaries in the manipulation and transfer of funds are limited to the deduction and transfer of income tax and other specific deductions:

(vii) any risks present within the authorised transactions conducted by PAYE intermediaries are dealt with by the conditions of the exemption:

(b) any benefits of requiring compliance with the Act are not justified given the associated costs owing to the low money laundering and terrorism financing risks raised by the authorised transactions conducted by PAYE intermediaries and the significant compliance costs that would arise in the absence of this exemption.

5 This exemption comes into force on 30 June 2018.

6 This exemption will expire on 30 June 2023.

Part 5

Reporting entities whose customers are licensed managing intermediaries

1 As the Associate 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 and LMI customers 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,—

financial advice provider has the same meaning as in section 6 of the Financial Markets Conduct Act 2013

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, other than a financial advice provider, who holds, or is authorised to provide services under, a licence under Part 6 of the Financial Markets Conduct Act 2013:

(ca) a financial advice provider who—

(i) holds, or is authorised to provide services under, a licence under Part 6 of the Financial Markets Conduct Act 2013; and

(ii) is a reporting entity under regulation 16 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011:

(d) a supervisor or statutory supervisor holding a licence under section 10 of the Financial Markets Supervisors Act 2011:

(e) an FMA appointee (as defined in sections 22(2) and 37(1) of the Financial Markets Supervisors Act 2011)

LMI customer means a person—

(a) that is a customer of a licensed managing intermediary; and

(b) on whose behalf a transaction is conducted by the licensed managing intermediary giving instructions to the reporting entity (whether alone or together with the person); and

(c) to whom the reporting entity provides a facility in the name of the person for the purposes of acting on those instructions.

2A If a customer of a reporting entity is a licensed managing intermediary that is exempt from any of sections 10 to 71 of the Act, this exemption does not apply to the reporting entity to the extent of that exemption.

3 In respect of a customer that is a licensed managing intermediary, this exemption is made subject to the following conditions:

(a) the reporting entity must conduct simplified customer due diligence on the licensed managing intermediary 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 accordance with section 22A(2) of the Act if the customer conducts a transaction to which section 22A of the Act 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 In respect of an LMI customer, this exemption is made subject to the following conditions:

(a) the reporting entity must conduct simplified customer due diligence on a licensed managing intermediary that provides 1 or more financial services to the LMI customer in connection with the services provided by the reporting entity to the LMI customer, as if the licensed managing intermediary were the customer of the reporting entity in relation to those services; and

(b) the reporting entity must conduct enhanced customer due diligence on an LMI customer in accordance with section 22A(2) of the Act if the reporting entity is instructed to conduct a transaction in respect of an LMI customer to which section 22A of the Act applies; and

(c) the reporting entity—

(i) must obtain written confirmation, signed by a senior manager of the licensed managing intermediary, that the LMI customer is a customer of the licensed managing intermediary; and

(ii) must obtain written confirmation that the licensed managing intermediary has undertaken customer due diligence on the LMI customer as required under the Act; but

(iii) is not required to verify a written confirmation obtained under subparagraphs (i) and (ii) 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 requests from its AML/CFT supervisors for the name of 1 or more LMI customers in respect of which the exemption is relied on.

5 This exemption has been made for the following reasons:

(a) there is a low risk of money laundering or terrorism financing in respect of transactions relating to licensed managing intermediaries and LMI customers 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 or an LMI customer 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.

6 This exemption comes into force on 30 June 2018.

7 This exemption will expire on 30 June 2023.

Schedule Part 5 clause 2 **financial advice provider**: inserted, on 15 March 2021, by clause 4(3) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule, Part 5 clause 2 paragraph (c) **licensed managing intermediary**: amended, on 15 March 2021, by clause 4(1) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 5 clause 2 paragraph (ca) **licensed managing intermediary**: inserted, on 15 March 2021, by clause 4(2) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 5 clause 2A: inserted, on 15 March 2021, by clause 4(4) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Part 6
Reporting entities whose customers are specified managing intermediaries

1 As the Associate 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 and SMI customers 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

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 supervisor or statutory supervisor holding a licence under section 10 of the Financial Markets Supervisors Act 2011:

(e) an FMA appointee (as defined in sections 22(2) and 37(1) of the Financial Markets Supervisors Act 2011)

managed investment scheme has the same meaning as in section 9 of the Financial Markets Conduct Act 2013

manager has the same meaning as 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

SMI customer means a person—

(a) that is a customer of a specified managing intermediary; and

(b) on whose behalf a transaction is conducted by the specified managing intermediary giving instructions to the reporting entity (whether alone or together with the person); and

(c) to whom the reporting entity provides a facility in the name of the person for the purpose of acting on those instructions

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.

3 In respect of a customer that is a specified managing intermediary, this exemption is made 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 the customer; and

(b) the reporting entity must conduct enhanced customer due diligence on the customer in accordance with section 22A(2) of the Act if the customer conducts a transaction to which section 22A of the Act 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 In respect of an SMI customer, this exemption is made subject to the following conditions:

(a) clause (1)(a) and (b) may not be relied on in respect of an SMI customer that has effective control, or owns more than 25%, of the specified managing intermediary; and

(b) the reporting entity must conduct enhanced due diligence on an SMI customer in accordance with section 22A(2) of the Act if the SMI customer conducts a transaction to which section 22A of the Act applies; and

(c) the reporting entity—

(i) must obtain written confirmation, signed by a senior manager of the specified managing intermediary, to the effect that the specified managing intermediary—

(A) has an AML/CFT programme (or 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 SMI customers in respect of which the exemption is relied on.

5 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 or on all SMI customers—

(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.

6 This exemption comes into force on 30 June 2018.

7 This exemption will expire on 30 June 2023.

Part 7
Shared compliance officer for members of a designated business group

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt reporting entities that are members of the same designated business group, or are in the process of electing to become members of the same designated business group, from the following provisions of the Act:

(a) section 56(2); and

(b) section 56(4).

2 For the purposes of this exemption, the process of electing to become members of the same designated business group means the process by which a group of 2 or more persons that are eligible to be members of the same designated business group have decided to become members and is concluded by providing a form in writing to the AML/CFT supervisor in accordance with regulation 6 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.

3 This exemption may be relied upon by reporting entities that are eligible to be members of the same designated business group (as defined in the Act).

4 The exemption may also be relied upon by an entity incorporated and resident in Australia that is subject to AML/CFT requirements in New Zealand in respect of its New Zealand activities.

5 This exemption is made subject to the following conditions:

(a) a reporting entity must appoint an employee of a member of the designated business group to act as their compliance officer under the Act (the **shared compliance officer**); and

(b) if the designated business group does not have employees, the reporting entity must appoint a person to act as the shared compliance officer for the designated business group; and

(c) the shared compliance officer must be domiciled in either New Zealand or Australia; and

(d) the shared compliance officer must administer and maintain the AML/CFT programmes of each member of the designated business group that is a reporting entity and has appointed the shared compliance officer; and

(e) the shared compliance officer must report to a senior manager of each member of the designated business group that has appointed the shared compliance officer.

6 The exemption has been granted for the following reason: allowing members of a designated business group to share a compliance officer is consistent with the policy principle of reducing regulatory burden (where possible and in the circumstances where it is appropriate to do so).

7 This exemption comes into force on 30 June 2018.

8 This exemption will expire on 30 June 2023.

Part 8
Financial advice providers arranging for relevant services to be provided for retirement schemes

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt all financial advice providers who arrange for a manager of a retirement scheme to provide relevant services to a customer or an intended customer of the retirement scheme from sections 10 to 71 of the Act.

2 For the purposes of this exemption,—

financial advice provider has the same meaning as in section 6 of the Financial Markets Conduct Act 2013

managed investment product has the same meaning as in section 8(3) of the Financial Markets Conduct Act 2013

manager has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013 and, for the purposes of this exemption, includes any authorised body of the manager as that term is defined in section 6(1) of the Financial Markets Conduct Act 2013

relevant product has the same meaning as in regulation 16(5) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011

relevant service has the same meaning as in regulation 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011

retirement scheme has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013 and, for the purposes of this exemption, excludes a Schedule 3 scheme (as defined in section 6(1) of the Financial Markets Conduct Act 2013).

3 If a financial advice provider arranges for a reporting entity to provide a relevant service in respect of any relevant product (other than a managed investment product that is an interest in a retirement scheme), then this exemption does not apply to that financial advice provider.

4 This exemption is made subject to the following conditions:

(a) the relevant financial advice provider has reasonable cause to believe the manager of the relevant retirement scheme is compliant with its obligations under the Act; and

(b) the relevant financial advice provider must, for the purposes of section 34 of the Act, act as an agent of the manager of the relevant retirement scheme, and agree to carry out, and carry out, the following obligations on behalf of the manager:

(i) conducting customer due diligence and obtaining and verifying any information required under the Act for each customer or intended customer of the retirement scheme introduced by the financial advice provider:

(ii) reporting to the manager any suspicious activities or patterns of activities that the financial advice provider becomes aware of in relation to any customer or intended customer introduced to the retirement scheme by the financial advice provider:

(iii) providing transaction records and identity verification records to the manager in a timely manner:

(iv) ensuring that any employee engaged in AML/CFT-related duties by the financial advice provider is appropriately vetted and provided with training on the manager's obligations under the Act:

(v) establishing procedures that are consistent with the manager's risk assessment and that are compliant with the Act.

5 The exemption has been made for the following reasons:

(a) financial advice providers act on behalf of retirement scheme managers to undertake anti-money laundering and countering financing of terrorism obligations:

(b) there is a low risk of money laundering or financing of terrorism in relation to retirement schemes:

(c) the exemption reduces the compliance burden for financial advice providers that only provide advice on retirement schemes and removes any duplication of costs relating to customer due diligence and transaction

reporting that must be carried out by retirement scheme managers in relation to the same customers.

6 This exemption comes into force on 30 June 2018.

7 This exemption will expire on 30 June 2023.

Schedule Part 8 heading: amended, on 15 March 2021, by clause 4(5) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 1: amended, on 15 March 2021, by clause 4(6) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **DIMS licensee**: revoked, on 15 March 2021, by clause 4(7) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **financial advice provider**: inserted, on 15 March 2021, by clause 4(8) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **financial adviser**: revoked, on 15 March 2021, by clause 4(7) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **financial adviser service**: revoked, on 15 March 2021, by clause 4(7) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **financial product**: revoked, on 15 March 2021, by clause 4(7) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **investment-linked contract of insurance**: revoked, on 15 March 2021, by clause 4(7) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 2 **relevant product**: inserted, on 15 March 2021, by clause 4(8) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 3: replaced, on 15 March 2021, by clause 4(9) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 4 paragraph (a): amended, on 15 March 2021, by clause 4(10)(a) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 4 paragraph (b): amended, on 15 March 2021, by clause 4(10)(b) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 4 paragraph (b)(i): amended, on 15 March 2021, by clause 4(10)(c) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 4 paragraph (b)(ii): amended, on 15 March 2021, by clause 4(10)(d) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 4 paragraph (b)(iv): amended, on 15 March 2021, by clause 4(10)(e) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 5 paragraph (a): amended, on 15 March 2021, by clause 4(11)(a) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Schedule Part 8 clause 5 paragraph (c): amended, on 15 March 2021, by clause 4(11)(b) of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38).

Part 9
Specified employee security purchase schemes

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt relevant persons from sections 10 to 71 of the Act where relevant persons carry out relevant services in respect of a specified employee security purchase scheme.

2 For the purposes of this exemption,—

eligible person—

(a) means an employee or a director of an issuer or of any of its subsidiaries or the issuer's holding company or any subsidiaries of the issuer's holding company; and

(b) includes a person who provides personal services (other than as an employee) principally to the issuer or any of its subsidiaries or the issuer's holding company or any subsidiaries of the issuer's holding company

holding company has the same meaning as in section 5 of the Companies Act 1993

issuer means,—

(a) in relation to an equity security, the company, industrial and provident society, building society, or other entity to which the security relates:

(b) in relation to a managed investment product, the manager of the managed investment scheme to which the product relates:

(c) in relation to an option or a right to acquire an equity security or managed investment product, the person that is required to either issue or transfer the equity security or managed investment product to the eligible person under the terms of the specified employee security purchase scheme

managed investment scheme means a managed investment scheme (as defined in section 9 of the Financial Markets Conduct Act 2013)

relevant person means—

(a) every financial institution (as defined in section 5(1) of the Act) that is—

(i) a managed investment scheme; or

(ii) a trustee of a managed investment scheme; or

(iii) an issuer of the specified security that may be offered under the specified employee security purchase scheme; or

(iv) a subsidiary or a holding company of the person specified in subparagraph (iii), or a subsidiary of the holding company of the person specified in subparagraph (iii), that manages or operates the specified employee security purchase scheme; or

(v) a manager or a trustee of any trust established for the specified employee security purchase scheme; and

(b) every person acting on behalf of, or under an agreement or arrangement with, any or all of the persons specified in paragraph (a)(i) to (v) in respect of the specified employee security purchase scheme

relevant service means a service provided by a relevant person in the course of carrying out a financial activity in relation to a specified employee security purchase scheme

specified employee security purchase scheme means a scheme under which specified securities may be offered to an eligible person

specified security means an equity security or a managed investment product (each as defined in section 8(2) and (3) of the Financial Markets Conduct Act 2013) in the entity or managed investment scheme to which it relates, or an option or a right to acquire such an equity security or managed investment product, that is offered to eligible persons under a specified employee security purchase scheme

subsidiary has the same meaning as in section 5 of the Companies Act 1993.

3 This exemption is made subject to the following condition: offers of specified securities must be made as part of remuneration arrangements for the eligible person or otherwise made in connection with the employment or engagement of the eligible person.

4 The exemption has been made for the following reasons:

(a) there is a low risk of money laundering or financing of terrorism associated with specified employee security purchase schemes due to the enduring relationship that the relevant person is likely to have with the eligible person, and a range of verifiable identity information is held about eligible persons:

(b) the obligations imposed on relevant persons would be disproportionate given the low risk of money laundering and financing of terrorism:

(c) money laundering and financing of terrorism risks are further mitigated by the condition that offers of specified securities must be made as part of the remuneration arrangements of eligible persons:

(d) the exemption is consistent with the Act and New Zealand's obligations as a member of the Financial Action Task Force, and there is a low risk of the exemption having an adverse impact on the integrity of, and compliance with, the Act.

5 This exemption comes into force on 30 June 2018.

6 This exemption will expire on 30 June 2023.

Part 10
Specified securities investment schemes

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt relevant persons from sections 10 to 71 of the Act where relevant persons carry out relevant services in respect of a specified securities investment scheme.

2 For the purposes of this exemption,—

issuer means,—

(a) in relation to an equity security, the company, industrial and provident society, building society, or other entity to which the security relates:

(b) in relation to a managed investment product, the manager of the managed investment scheme to which the product relates

managed investment scheme means a managed investment scheme (as defined in section 9 of the Financial Markets Conduct Act 2013)

relevant person means—

(a) every financial institution (as defined in section 5(1) of the Act) that is—

(i) a managed investment scheme; or

(ii) a trustee of a managed investment scheme; or

(iii) an issuer of the specified securities that are the subject of the specified securities investment scheme; or

(iv) a manager or a trustee of any trust established for the specified securities investment scheme; and

(b) every person acting on behalf of, or under an agreement or arrangement with, any or all of the persons specified in paragraph (a)(i) to (iv) for the purposes of the specified securities investment scheme

relevant service means a service provided by a relevant person in the course of carrying out a financial activity in relation to a specified securities investment scheme

specified investor means a person who holds—

(a) a managed investment product (within the meaning of section 8(3) of the Financial Markets Conduct Act 2013) in a managed investment scheme that has the specified securities investment scheme; or

(b) an equity security (within the meaning of section 8(2) of the Financial Markets Conduct Act 2013) in an issuer that has the specified securities investment scheme

specified securities investment scheme means—

(a) a dividend or distribution reinvestment scheme established by (or in respect of) an issuer under which specified investors may acquire specified securities and the purchase of those specified securities is not funded, in whole or in part, by cash; or

(b) an investment scheme established by (or in respect of) an issuer under which specified investors may acquire specified securities and the purchase of those specified securities is not funded, in whole or in part, by cash

specified security means an equity security or a managed investment product (each as defined in section 8(2) and (3) of the Financial Markets Conduct Act 2013) in the entity or managed investment scheme to which it relates that is offered to specified investors under a specified securities investment scheme.

3 This exemption is made subject to the following conditions:

(a) in the case of a dividend or distribution reinvestment scheme, the specified securities must only be issued to or acquired by specified investors to the extent of their participation in the reinvestment scheme, and where all or a specified part of the net proceeds of the dividends or distributions payable are applied to the purchase of the specified securities:

(b) in the case of an investment scheme, the specified securities must only be issued to or acquired by specified investors to the extent of the specified investors' entitlement under the investment scheme to purchase specified securities by means other than cash payment.

4 The exemption has been made for the following reasons:

(a) there is a low risk of money laundering or financing of terrorism associated with specified securities investment schemes because,—

(i) under a dividend or distribution reinvestment scheme, a specified investor agrees to forgo a cash dividend or distribution on the specified securities of the issuer, and instead receives specified securities; and

(ii) under an investment scheme, a specified investor purchases specified securities by means other than cash payment:

(b) the obligations imposed on relevant persons administering the specified securities investment schemes would be disproportionate given the low risk of money laundering and financing of terrorism:

(c) money laundering and financing of terrorism risks are further mitigated by the conditions of this exemption, which mean that the specified investor cannot pay cash for the acquisition of specified securities:

(d) the exemption is consistent with the Act and New Zealand's obligations as a member of the Financial Action Task Force, and there is a low risk

of the exemption having an adverse impact on the integrity of, and compliance with, the Act.

5 This exemption comes into force on 30 June 2018.

6 This exemption will expire on 30 June 2023.

Part 11
Casino loyalty schemes

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt casinos, in relation to their loyalty schemes, cards, or instruments, from the following provisions of the Act:

(a) sections 14(1)(a), 22(1)(a), and 26(1); and

(b) subject to clause 5 of this notice, section 31.

2 For the purposes of this exemption, **casino loyalty scheme** means a scheme operating in a casino that—

(a) generates points or credit exclusively through any of the following:

(i) gambling:

(ii) gambling and the purchase of food and beverages:

(iii) gambling and the purchase of hotel accommodation:

(iv) gambling and the purchase of food and beverages and hotel accommodation; and

(b) meets the following criteria:

(i) persons cannot deposit funds or credit into a casino loyalty scheme account or other loyalty arrangement or any associated loyalty card or instrument; and

(ii) persons can only hold 1 loyalty scheme account or arrangement for each casino at a time and it is not transferable; and

(iii) the maximum value of points or credit where points or credit can be redeemed in cash in a casino loyalty scheme account or arrangement is $5,999.99; and

(iv) casino loyalty scheme points or credit expire after 12 months from the date of the points accrual; and

(v) points earned through the casino loyalty scheme can only be redeemed in New Zealand.

3 This exemption applies to the following:

(a) a business relationship that is a membership in a casino loyalty scheme operated by a casino:

(b) a casino loyalty scheme card or an instrument that is used by a customer for the purpose of utilising membership in a casino loyalty scheme.

4 However, this exemption does not apply,—

(a) in relation to clause 3(a), to any casino loyalty card or instrument that enables cashless gambling:

(b) in relation to clause 3(b), to any casino loyalty card or instrument that enables other functions to be carried out, including cashless transactions.

5 The exemption from account monitoring obligations—

(a) applies only to the obligation to monitor the generation of loyalty points and the redemption of loyalty points; and

(b) does not affect the obligation to conduct other account monitoring that might identify grounds for reporting a suspicious activity; and

(c) does not affect obligations under section 40 of the Act to report an activity or a suspicious activity.

6 This exemption is made subject to the following conditions:

(a) before an application for membership in the loyalty scheme is accepted, the casino must identify each customer and be reasonably satisfied that it has established the customer's identity; and

(b) in relation to a customer identified under paragraph (a), the casino must keep its identity and verification records for a period of 5 years after the end of the business relationship with that customer to assist agencies in the detection, investigation, and prosecution of offences; and

(c) section 11(4) of the Act does not apply where information is obtained for the purpose of identification and verification under paragraph (a).

7 The exemption has been made for the following reasons:

(a) the money laundering risk associated with casino loyalty schemes is lowered by the criteria listed in clause 2(b); and

(b) the conditions set out in clause 6 sufficiently mitigate any negative impact on the prevention, detection, investigation, and prosecution of offences this exemption may have; and

(c) the compliance burden that casinos would be subject to, in the absence of this exemption, is disproportionate to the risk of money laundering associated with casino loyalty schemes.

8 This exemption comes into force on 30 June 2018.

9 This exemption will expire on 30 June 2023.

Part 12
Statutory supervisors of retirement villages

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt statutory supervisors of retirement villages from sections 11 to 31 of the Act for services provided in relation to repayable funds accepted in accordance with the Retirement Villages Act 2003 (the **RV Act**).

2 For the purposes of this exemption, **recipient** means a person who is entitled to a refund under the RV Act and, for the avoidance of doubt, is a customer for the purposes of the Act.

3 This exemption only applies to members of the Trustee Corporations Association of New Zealand Incorporated that are licensed under the Financial Markets Supervisors Act 2011 to act as a statutory supervisor in respect of retirement villages.

4 This exemption is made subject to the following conditions:

(a) a statutory supervisor is required, in accordance with sections 14 to 17 of the Act, to undertake standard customer due diligence on the recipient of any refunded monies when—

(i) an occupation right agreement is cancelled in accordance with section 29(2) of the RV Act; and

(ii) the statutory supervisor is required to refund moneys over the threshold value of $9,999.99:

(b) a statutory supervisor is required, in accordance with sections 23 and 24 of the Act, to undertake enhanced customer due diligence on the recipient referred to in paragraph (a) if the statutory supervisor is required to report the cancellation and refund to the Commissioner as an activity, or suspicious activity, under section 40(3) of the Act.

5 The exemption has been made for the following reason: there is a low risk of money laundering or terrorism financing through the statutory supervisors when they provide services in relation to repayable funds accepted in accordance with the RV Act because—

(a) statutory supervisors usually only hold the deposit paid by potential retirement village residents, which is ordinarily between $2,500 and $5,000; and

(b) there is a comprehensive regime in place regulating the way a prospective resident may enter into an occupation right agreement; and

(c) statutory supervisors do not deal in cash, no moneys are passed through a third party, and, by way of separate identification, an independent lawyer is required to certify that a statutory supervisor has advised a prospective resident prior to the signing of an occupation right agreement

(this ensures there is minimal risk of funds being transferred into the hands of potential money launderers); and

(d) when a deposit is paid by someone other than the intended resident, confirmation of the source of funds is required if the reporting entity considers that enhanced due diligence should apply owing to the level of risk involved.

6 The exemption is made subject to the conditions set out in clause 4 because—

(a) any money paid in respect of an occupation right agreement can be refunded during the 15-working-day cooling-off period as a matter of right; and

(b) although unusual, some operators receive a high proportion of the purchase price during the cooling-off period and progress payments are also often received during that period (any progress payments received must be held by the statutory supervisor until settlement or cancellation of the occupation right agreement).

7 This exemption comes into force on 30 June 2018.

8 This exemption will expire on 30 June 2023.

Part 13
Designated issuers that issue debt securities to specified subscribers through intermediaries

1 As the Associate Minister of Justice, and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**), I exempt from sections 10 to 26 and 37 of the Act transactions where a designated issuer issues debt securities to specified subscribers through intermediaries.

2 For the purposes of this exemption,—

debt securities has the same meaning as in section 8(1) of the Financial Markets Conduct Act 2013

designated issuer means a registered bank or special purpose vehicle that is a reporting entity under the Act

intermediary means any NZX Participant, registered bank, or other entity that—

(a) is a reporting entity under the Act; and

(b) receives an allocation of debt securities for distribution to its clients in relation to the offer of the debt securities by a designated issuer

NZX Participant means a Market Participant (as defined in the NZX Participant Rules issued by NZX Limited and dated 1 December 2017, as amended or replaced from time to time)

registered bank has the same meaning as in section 2(1) of the Reserve Bank of New Zealand Act 1989

special purpose vehicle has the same meaning as in regulation 9 of the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015

specified subscriber means an investor in debt securities who—

(a) is a customer of an intermediary before the debt securities are issued; and

(b) is either—

(i) the initial subscriber for the debt securities; or

(ii) the purchaser of the debt securities from the intermediary.

3 This exemption is subject to the following conditions:

(a) the designated issuer must take all reasonably practicable steps to satisfy itself that each intermediary will comply fully with its obligations under sections 10 to 26 and 37 of the Act as they apply to specified subscribers; and

(b) the designated issuer may require each intermediary to provide the designated issuer with the customer due diligence information of all specified subscribers that the intermediary holds or has obtained under the Act; and

(c) the designated issuer must comply with all relevant obligations in the Act in relation to customer due diligence information concerning the specified subscribers that the designated issuer receives (excluding obligations under sections 10 to 26 and 37 of the Act, but including record keeping and all other obligations).

4 The exemption has been granted for the following reasons:

(a) the low level of risk of money laundering or financing of terrorism associated with issuing debt securities to specified subscribers means that requiring designated issuers to comply with their obligations under sections 10 to 26 and 37 of the Act is of little benefit:

(b) the regulatory burden of compliance would be disproportionate to the benefits in this context:

(c) each specified subscriber for debt securities must be a customer of an intermediary through which that customer applies for debt securities, and each intermediary must be a reporting entity for the purposes of the Act (requiring the designated issuer to conduct customer due diligence on specified subscribers may lead to duplication of customer due diligence obligations).

5 This exemption comes into force on 30 June 2018.

6 This exemption will expire on 30 June 2023.

Part 14
Transactions of tax pooling intermediaries

Schedule Part 14: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

1 As the Associate Minister of Justice, and pursuant to section 157 of the Act, I exempt specified tax pooling transactions from the following sections of the Act:

(a) sections 10 to 21 (standard and simplified customer due diligence):

(b) sections 22 and 23 to 26 (enhanced due diligence except in circumstances where section 22A applies):

(c) sections 29 and 30 (correspondent banking relationships):

(d) sections 32 to 39 (reliance on third parties and prohibitions):

(e) sections 50 to 55 (identity and verification of records):

(f) sections 68 to 71 (cross-border transportation of cash).

Schedule Part 14 clause 1: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

2 For the purposes of this exemption,—

Act means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

ML/TF means money laundering and terrorist financing

specified tax pooling transaction—

(a) means a payment that is—

(i) a deposit, made by a client into a TPI's tax pooling account, that will be available for immediate on-payment to the Inland Revenue Department to meet an existing or anticipated tax liability in respect of the client; or

(ii) a purchase of an existing tax deposit in a TPI's tax pooling account available for immediate on-payment to the Inland Revenue Department; and

(b) does not include any refund of money from a TPI's tax pooling account to any person

tax pooling account has the same meaning as in section RP 17B of the Income Tax Act 2007

TPI means a tax pooling intermediary that is described in section RP 17 of the Income Tax Act 2007 and that is a reporting entity for the purposes of the Act.

Schedule Part 14 clause 2: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

3 This exemption is subject to the following conditions:

(a) in respect of each client that is a company, a TPI must hold identity information that is publicly available in relation to that company at the time the business relationship between the client and the TPI is entered into and at such time the client instructs the TPI to refund a deposit, or any portion of that deposit:

(b) in respect of all clients, a TPI must hold identity information for at least 1 individual who has authority to act on behalf of the client:

(c) before a client's deposit is transferred from the TPI's tax pooling account to the client's account at the Inland Revenue Department, the TPI must take reasonable steps to ascertain the amount of the client's tax liability that the transfer is made to satisfy:

(d) a TPI must, when a refund from the TPI's tax pooling account is requested by a client, ensure that it has completed CDD to the level required under the Act before that refund is made:

(e) in respect of all clients and transactions, a TPI must continue to meet all other requirements of the Act (unless otherwise exempted from above) including account monitoring, suspicious activity reporting, and prescribed transaction reporting:

(f) a TPI must, when a suspicious activity report is required to be submitted pursuant to section 40 of the Act,—

(i) obtain identity information required under section 15 of the Act; and

(ii) carry out enhanced customer due diligence as described in sections 23 to 26 where required by section 22A of the Act for making suspicious activity reports.

Schedule Part 14 clause 3: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

4 The exemption has been granted for the following reasons:

(a) there is a low risk of ML/TF associated with specified tax pooling transactions and the conditions associated with the conditions sufficiently mitigate remaining ML/TF risk:

(b) in the absence of the exemption, the regulatory burden of compliance in respect of specified tax pooling transactions would be disproportionate to the benefits:

(c) the compliance obligations continue to apply in respect of other higher-risk transactions involving a tax pooling account, including any refunds made from the account.

Schedule Part 14 clause 4: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

5 This exemption comes into force on 15 March 2021.

Schedule Part 14 clause 5: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

6 This exemption expires at the close of 1 July 2025.

Schedule Part 14 clause 6: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

Part 15
Barristers sole

Schedule Part 15: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

1 As the Associate Minister of Justice, and under section 157 of the Act, I exempt barristers as a class of reporting entities from provisions of the Act as set out in this Part.

Schedule Part 15 clause 1: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

2 A barrister who receives instructions from a solicitor (who is not an in-house lawyer, other than an in-house lawyer employed by the Crown) in respect of a client is exempt from the following provisions of the Act in relation to the client as a customer under that Act:

(a) sections 11 (customer due diligence) and 12 (reliance on risk assessment when establishing level of risk):

(b) sections 14 to 21 (standard and simplified customer due diligence):

(c) section 22(1), (2), and (5) (circumstances in which enhanced customer due diligence applies):

(d) sections 22A to 25 (enhanced customer due diligence):

(e) section 26 (politically exposed person):

(f) section 30 (new or developing technologies, or products, that might favour anonymity):

(g) section 31 (ongoing customer due diligence and account monitoring):

(h) sections 37 to 39 (prohibitions):

(i) sections 56 (reporting entity must have AML/CFT programme and AML/CFT compliance officer) and 57 (minimum requirements for AML/CFT programmes):

(j) sections 58 (risk assessment) and 59 (review and audit of risk assessment and AML/CFT programmes):

(k) section 59B (who carries out audit):

(l) section 60 (annual AML/CFT report).

Schedule Part 15 clause 2: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

3 Barristers who receive instructions from the Crown are exempt from the following provisions of the Act:

(a) section 11 (customer due diligence), except where sections 22(1) and 22A apply:

(b) section 12 (reliance on risk assessment when establishing level of risk):

(c) sections 14 to 17 (standard customer due diligence):

(d) section 22(2) and (5) (circumstances in which enhanced customer due diligence applies):

(e) section 26 (politically exposed person):

(f) sections 30 (new or developing technologies, or products, that might favour anonymity) and 31 (ongoing customer due diligence and account monitoring):

(g) sections 56 (reporting entity must have AML/CFT programme and AML/CFT compliance officer) and 57 (minimum requirements for AML/CFT programmes):

(h) sections 58 (risk assessment) and 59 (review and audit of risk assessment and AML/CFT programmes):

(i) section 59B (who carries out audit):

(j) section 60 (annual AML/CFT report).

Schedule Part 15 clause 3: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

4 The exemption does not apply to—

(a) a barrister who receives instructions directly from a client (other than the Crown or a solicitor in respect of a client); or

(b) a barrister who performs the activities listed in the definition of a designated non-financial business or profession in section 5 of the Act (outside of the instructions of a lawyer).

Schedule Part 15 clause 4: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

5 For the purposes of this exemption,—

Act means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

barrister means a person who holds a practising certificate as a barrister only, and not as a barrister and solicitor, in accordance with the Lawyers and Conveyancers Act 2006

Crown means a customer described in section 18(2)(b) to (f), (j), (l), or (m) of the Act

in-house lawyer has the same meaning as in rule 15.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

ML/TF means money laundering and terrorist financing

solicitor means a person holding a practising certificate as a barrister and solicitor in accordance with the Lawyers and Conveyancers Act 2006.

Schedule Part 15 clause 5: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

6 The exemption has been granted for the following reasons:

(a) the ML/TF risks associated with barristers are mitigated by—

(i) the restrictions on the activities a barrister may perform under rule 14.2 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008; and

(ii) the obligations to report relevant information under rules 2.4, 2.8 to 2.10, and 7 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008; and

(iii) solicitors' obligations to clients under the Act (as a second reporting entity, where the barrister receives instruction); and

(iv) the low ML/TF risk associated with instructions from Crown entities:

(b) barristers who are captured by the Act will still be required to file suspicious activity reports, complete simplified customer due diligence when taking instructions from the Crown, conduct enhanced due diligence in specific circumstances, keep the appropriate records, and make the records available to the Department of Internal Affairs when requested:

(c) the instructing solicitor is subject to full AML/CFT obligations with respect to the same work and same client. This means that requiring barristers to comply with the full suite of obligations under Part 2 of the Act is unlikely to increase the overall effectiveness of the AML/CFT regime:

(d) given how barristers operate their business (as sole practitioners with few, if any, dedicated support staff), full AML/CFT obligations would result in a disproportionate compliance burden for barristers.

Schedule Part 15 clause 6: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

7 This exemption comes into force on 15 March 2021.

Schedule Part 15 clause 7: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

8 This exemption expires at the close of 15 March 2026.

Schedule Part 15 clause 8: inserted, on 15 March 2021, by clause 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice (No 2) 2021 (LI 2021/39).

Dated at Wellington this 21st day of June 2018.

Hon Aupito William Sio,
Associate Minister of Justice.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 26 June 2018.

Reprints notes

1 General

This is a reprint of the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018 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) Amendment Notice (No 2) 2021 (LI 2021/39)

Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2021 (LI 2021/38)

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