



Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 8th day of June 2021

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under sections 14(3), 18(3A), 22(6), 153, and 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009—

- (a) on the advice and with the consent of the Executive Council; and
- (b) in relation to regulations made under section 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, on the recommendation of the Minister (as defined by section 5(1) of that Act) made in accordance with section 154(2) and (3) of that Act.

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Regulations

1 Title

These regulations are the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2021.

2 Commencement

These regulations come into force on 9 July 2021.

3 Principal regulations

These regulations amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.

4 Regulation 3 revoked (Expiry)

Revoke regulation 3.

5 Regulation 5B amended (Definition of customer)

In regulation 5B, insert as subclause (2):

- (2) For the purposes of paragraph (b)(iv) of the definition of customer in section 5(1) of the Act, a **customer**,—
- (a) in relation to a liquidator appointed under section 241(2)(c) of the Companies Act 1993, means the company in liquidation; and
 - (b) in relation to the provision of relevant services to an executor or administrator of an estate, means that executor or administrator.

6 New regulation 7A inserted (Prescribed member: limited partnerships)

After regulation 7, insert:

7A Prescribed member: limited partnerships

- (1) A related limited partnership is an entity for the purposes of paragraph (d)(xiii) of the definition of designated business group in section 5(1) of the Act.

- (2) For the purposes of this regulation, **limited partnership** has the meaning set out in section 6 of the Limited Partnerships Act 2008.

7 Regulation 13A amended (Inclusion: wire transfers of more than \$1,000)

Replace regulation 13A(1) with:

- (1) This regulation applies to every transaction—
- (a) that is a wire transfer; and
 - (b) that involves an amount of more than \$1,000 (whether the transaction is carried out in a single operation or several operations that appear to be linked); and
 - (c) that—
 - (i) is carried out by a reporting entity that is an ordering institution and occurs outside of a business relationship with the originator; or
 - (ii) involves the receipt of funds by a reporting entity that is a beneficiary institution and occurs outside of a business relationship with the beneficiary.

8 Regulation 15 amended (Inclusion: transactions involving certain stored value instruments)

- (1) In regulation 15(1), after “transaction”, insert “(whether the transaction is carried out in a single operation or several operations that appear to be linked)”.
- (2) After regulation 15(1), insert:
- (1A) Where the transaction under subclause (1) involves several operations that appear to be linked, the maximum possible value thresholds in subclauses (1)(a) and (b) apply to the combined total maximum value of all of the stored value instruments issued that are of the same kind (for example, all of the instruments are redeemable for cash or all of the instruments are not redeemable for cash).
- (3) In regulation 15(4), definition of **debit card**, after “institution”, insert “that is not a non-finance business”.
- (4) In regulation 15(4), insert in its appropriate alphabetical order:
- non-finance business** means a person whose only or principal business is the provision of goods or services that are not relevant services

9 Regulation 20 revoked (Exclusion: lawyers, etc)

Revoke regulation 20.

10 Regulation 21B amended (Exclusion: persons carrying out property management activities)

- (1) In the heading to regulation 21B, delete “persons carrying out”.

- (2) Replace regulation 21B(1) with:
- (1) For the purposes of the definition of designated non-financial business or profession in section 5(1) of the Act (and the associated definition of reporting entity), a person who carries out any property management activity is not managing client funds, accounts, securities, or other assets.

11 Regulation 24A replaced (Time at which real estate agents must conduct customer due diligence)

Replace regulation 24A with:

24A Time at which real estate agents must conduct customer due diligence

- (1) For the purpose of sections 14(3), 18(3A), and 22(6) of the Act, a real estate agent who carries out real estate agency work,—
- (a) in relation to a commercial lease transaction, must conduct customer due diligence before the real estate agent presents an offer of lease to the landlord of the commercial property to which the transaction relates; and
- (b) in relation to any other real estate transaction, must conduct customer due diligence before the real estate agent enters into an agency agreement (within the meaning of section 4(1) of the Real Estate Agents Act 2008) with a customer.
- (2) For the purposes of this regulation, **commercial lease transaction** means a transaction included in paragraph (b) of the definition of transaction in section 4(1) of the Real Estate Agents Act 2008.

12 Regulation 25 and cross-heading revoked

Revoke regulation 25 and the cross-heading above regulation 25.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 9 July 2021, amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (the **principal regulations**) by—

- removing the expiry date of the principal regulations;
- clarifying that a company in liquidation is a customer of the liquidator for the purposes of the definition of customer in section 5(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**):

- prescribing that related limited partnerships may be members of a designated business group under section 5(1) of the Act:
- clarifying the application of the definition of occasional transaction under section 5(1) of the Act in relation to international wire transfers:
- amending the definition of debit card and preventing structuring in relation to stored value instruments for the purposes of the application of the definition of occasional transaction in section 5(1) of the Act:
- clarifying the exclusion of services as an executor, administrator, or trustee from being a financial activity for the purposes of the Act:
- clarifying the exclusion of property management activities from managing client funds for the purposes of the definition of designated non-financial business or profession in section 5(1) of the Act:
- amending customer due diligence time frames for real estate agents engaging in commercial leases:
- revoking the now redundant regulation prescribing the Financial Service Providers (Registration and Dispute Resolution) Act 2008 for information sharing purposes under the Act.

Regulatory impact assessment

The Ministry of Justice produced a regulatory impact assessment on 11 March 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.justice.govt.nz/assets/Documents/Publications/RIA-AMLCFT-Expiring-Regulations.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Justice.