



Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) 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 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.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 7 amended (Certain transactions in casinos exempt from section 49 of Act)	2
5 Regulation 7A amended (Certain transactions with TAB NZ exempt from section 49(2) of Act)	2
6 Regulation 8 amended (Transactions that are not occasional transactions or wire transfers exempt from section 49(2)(d) of Act)	3

7	Regulation 11 amended (Relevant services provided in respect of insurance policies that are closed to new customers and new premiums)	3
8	Regulation 15 amended (Relevant services provided in respect of certain stored value instruments)	3
9	Regulation 16 amended (Relevant services provided to related entities)	3
10	Regulations 17 and 18 replaced	4
	17 Relevant services provided under premium funding agreement	4
11	Regulation 19 amended (Relevant services provided in respect of certain low-value life insurance policies)	5
12	New regulations 24AA to 24AE inserted	5
	24AA Relevant services provided by court-appointed liquidator	5
	24AB Relevant services provided in respect of certain third party transactions	6
	24AC Relevant services provided to subject of Commissioner of Police's order and production order	6
	24AD Relevant services provided by reporting entity acting as executor or administrator	7
	24AE Relevant services provided to executor or administrator	7

Regulations

1 Title

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

4 Regulation 7 amended (Certain transactions in casinos exempt from section 49 of Act)

Revoke regulation 7(3).

5 Regulation 7A amended (Certain transactions with TAB NZ exempt from section 49(2) of Act)

Revoke regulation 7A(3).

- 6 Regulation 8 amended (Transactions that are not occasional transactions or wire transfers exempt from section 49(2)(d) of Act)**
- (1) In the heading to regulation 8, delete “or wire transfers”.
 - (2) Replace regulation 8(1) with:
 - (1) This regulation applies to a transaction that occurs outside of a business relationship but is not an occasional transaction.
 - (3) Revoke regulation 8(3).
- 7 Regulation 11 amended (Relevant services provided in respect of insurance policies that are closed to new customers and new premiums)**
- (1) In the heading to regulation 11, after “of”, insert “life”.
 - (2) In regulation 11(1),—
 - (a) replace “an” with “a life”; and
 - (b) after “type of”, insert “life”.
- 8 Regulation 15 amended (Relevant services provided in respect of certain stored value instruments)**
- (1) In regulation 15(1), after “service”, insert “(whether it is carried out in a single operation or several operations that appear to be linked)”.
 - (2) After regulation 15(1), insert:
 - (1A) Where the relevant service under subclause (1) involves several operations that appear to be linked, the maximum possible value thresholds in subclause (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(3), definition of **debit card**, after “institution”, insert “that is not a non-finance business”.
 - (4) In regulation 15(3), insert in its appropriate alphabetical order:
non-finance business has the meaning set out in regulation 13(3)
- 9 Regulation 16 amended (Relevant services provided to related entities)**
- (1) In regulation 16(1) delete “within the meaning of section 12(2) of the Financial Markets Conduct Act 2013”.
 - (2) After regulation 16(2), insert:
 - (3) For the purposes of this regulation, a reporting entity (**A**) and a person who is the recipient of a service (**B**) are **related** if—
 - (a) B is A’s holding company or subsidiary within the meaning of section 5 of the Companies Act 1993; or
 - (b) more than half of A’s voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution

- of either profits or capital) are held by B and bodies corporate that are related to B (whether directly or indirectly, but other than in a fiduciary capacity), or vice versa; or
- (c) more than half of the voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) of each of A and B are held by members of the other (whether directly or indirectly, but other than in a fiduciary capacity); or
 - (d) the businesses of A and B have been so carried on that the separate business of each body corporate, or a substantial part of that business, is not readily identifiable; or
 - (e) there is another body corporate to which A and B are both related; or
 - (f) A controls B, or vice versa; or
 - (g) A and B are both controlled by a third person; or
 - (h) A and B are a partnership.
- (4) For the purposes of this regulation, **voting product** has the meaning given in to it by section 6(1) of the Financial Markets Conduct Act 2013.
- (5) For the purposes of this regulation, one person **controls** another person if the first person has the capacity to determine the outcome of decisions about the second person's financial and operating policies.

10 Regulations 17 and 18 replaced

Replace regulations 17 and 18 with:

17 Relevant services provided under premium funding agreement

- (1) Subclause (3)(a) applies to a relevant service provided under a premium funding agreement that is—
- (a) provided by an insurance company; and
 - (b) associated with an insurance policy that is issued by that insurance company.
- (2) Subclause (3)(b) applies to a relevant service provided under a premium funding agreement that is not provided by an insurance company.
- (3) A relevant service referred to in—
- (a) subclause (1) is exempt from all of the provisions of the Act;
 - (b) subclause (2) is exempt from sections 14 to 26 of the Act.
- (4) For the purposes of this regulation, **premium funding agreement** means an agreement under which—
- (a) a person agrees to make a loan to the customer to be applied—
 - (i) against an amount payable for premiums under a policy of insurance that is not subject to AML/CFT requirements; or

- (ii) against an amount payable in connection with such a policy (including, but not limited to, fees for advice or services provided in connection with such a policy and taxes payable in connection with such a policy); and
- (b) if the loan is not provided by the insurer, the person obtains from the customer, as security for payment of the loan, 1 or more of the following:
 - (i) an assignment of the customer's interest in the policy;
 - (ii) an assignment of all amounts payable under the policy;
 - (iii) a power of attorney that provides the attorney with the right to cancel the policy.

11 Regulation 19 amended (Relevant services provided in respect of certain low-value life insurance policies)

Replace regulation 19(4) with:

- (4) For the purposes of this regulation, **low-value life insurance policy** means a life insurance policy that meets 1 or both of the following criteria:
 - (a) a regular premium policy with premiums not more than \$1,500 per annum;
 - (b) a single premium policy where the premium is not more than \$3,000.

12 New regulations 24AA to 24AE inserted

After regulation 24, insert:

24AA Relevant services provided by court-appointed liquidator

- (1) This regulation applies to a relevant service provided by a liquidator in respect of the liquidation of a company where the liquidator of the company is appointed by the court under section 241(2)(c) of the Companies Act 1993.
- (2) A relevant service to which this regulation applies is exempt from the following sections of the Act:
 - (a) sections 14 to 17;
 - (b) sections 22(1)(a) to (c) and (2) to (6) and 22A;
 - (c) sections 27 and 28;
 - (d) section 31;
 - (e) section 37.
- (3) However, the reporting entity must comply with the following provisions of the Act in relation to the relevant services specified:
 - (a) if the relevant service to which this regulation applies relates to the provision of an international wire transfer by the liquidator, sections 22(3), 27, and 28;

- (b) if the relevant service to which this regulation applies relates to the disbursement of funds to the beneficial owner of the customer, section 16(1)(b) (*see* regulation 5B(2)(a) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 in relation to the meaning of **customer**).

24AB Relevant services provided in respect of certain third party transactions

- (1) This regulation applies to a relevant service provided by a designated non-financial business or profession in respect of payment of money received from a customer to enable the designated non-financial business or profession to make payments to one of the following:
 - (a) a government department named in Part 1 of Schedule 2 of the Public Service Act 2020;
 - (b) a local authority, as defined in section 5(1) of the Local Government Act 2002;
 - (c) the New Zealand Police;
 - (d) a barrister, as defined in section 6 of the Lawyers and Conveyancers Act 2006;
 - (e) any other person who carries out business within New Zealand that relates solely to business carried out within New Zealand if—
 - (i) the payment is wholly ancillary to the provision of a service that is not a relevant service by the designated non-financial business or profession; or
 - (ii) the total value of the transaction or series of related transactions is below \$1,000.
- (2) A relevant service to which this regulation applies is exempt from all provisions of the Act.

24AC Relevant services provided to subject of Commissioner of Police's order and production order

- (1) This regulation applies to a relevant service provided by a reporting entity to a person, where the person is the subject of a Commissioner's order or a production order.
- (2) A relevant service to which this regulation applies is exempt from sections 22 to 26, 31, and 37 of the Act—
 - (a) for 30 days from the date on which the reporting entity was notified of the Commissioner's order or production order; and
 - (b) if a qualified Police employee issues a notice under subclause (3), for the duration of the additional period specified in the notice.

- (3) A qualified Police employee may issue 1 or more notices directing that the period of exemption for the relevant service is extended for an additional period of 6 months or less if,—
- (a) in respect of the person, the Commissioner is continuing to carry out financial intelligence functions in accordance with section 142 of the Act or the New Zealand Police or another law enforcement agency is carrying out an investigation; and
 - (b) the qualified Police employee is satisfied that removing the exemption is likely to compromise the carrying out of the functions or the investigation.
- (4) For the purposes of this regulation,—
- Commissioner's order** means an order of the Commissioner of Police under section 143 of the Act
- production order** means a production order made under section 74 of the Search and Surveillance Act 2012
- qualified Police employee** means—
- (a) a constable who is of or above the level of position of sergeant; or
 - (b) an equally senior or more senior Police employee.

24AD Relevant services provided by reporting entity acting as executor or administrator

- (1) This regulation applies to a relevant service provided by a reporting entity that is an executor or administrator of an estate in the course of carrying out the role of executor or administrator.
- (2) A relevant service to which this regulation applies is exempt from the provisions of the Act except—
- (a) subpart 2 of Part 2; and
 - (b) section 49A; and
 - (c) sections 51 to 55.

24AE Relevant services provided to executor or administrator

- (1) This regulation applies to a relevant service provided by a reporting entity to an executor or administrator of an estate.
- (2) A relevant service to which this regulation applies is exempt from the following sections of the Act:
- (a) if the executor or administrator is another reporting entity, subpart 1 of Part 2;
 - (b) if the executor or administrator is not a reporting entity, sections 24(1)(b) and 37.

- (3) See regulation 5B(2)(b) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 in relation to the meaning of customer in the context of this regulation.

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 (Exemptions) Regulations 2011 (the **principal regulations**) by—

- revoking redundant provisions relating to exemptions from section 49 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**);
- clarifying that regulation 11 of the principal regulations applies to life insurers only;
- preventing the use of structuring in relation to stored value instruments to avoid obligations under the Act;
- amending the exemption provided to related entities so that it applies to entities that are not body corporates;
- consolidating regulations relating to relevant services provided under a premium funding agreement;
- removing a redundant reference to a contract of consumer credit insurance from regulation 19 of the principal regulations;
- inserting new regulations under section 154(1)(a) of the Act relating to exemptions for relevant services provided in respect of court-appointed liquidations and certain third party transactions, and to a subject of a Commissioner of Police’s order or production order.

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>

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Terrorism (Exemptions) Amendment Regulations 2021**

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These regulations are administered by the Ministry of Justice.

Wellington, New Zealand:

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