Reprint
as at 15 March 2021

Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2015

(LI 2015/278)

Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2015: revoked, on 15 March 2021, pursuant to section 97(2)(b) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 16th day of November 2015

Present:
His Excellency the Governor-General in Council

Pursuant to section 154(1)(a) and (gc) of the Financial Advisers Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Commerce and Consumer Affairs made after consulting the Financial Markets Authority in accordance with section 154(4) of that Act and being satisfied of the matters specified in section 154(5) of that Act, makes the following regulations.

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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.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2015.

2 Commencement

These regulations come into force on 17 December 2015.

3 Principal regulations

These regulations amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 (the **principal regulations**).

4 New regulations 13 and 14 inserted

After regulation 12, insert:

13 Broker obligations for handling money and property do not apply to money or property regulated under Financial Markets Conduct Regulations 2014

(1) A derivatives issuer is exempt from the application of sections 77P to 77T of the Act in respect of a service to the extent that the client money or client property to which the service relates is derivatives investor money or derivatives investor property.

(2) In this regulation,—

derivatives investor money has the meaning set out in regulation 239(1) to (3) of the Financial Markets Conduct Regulations 2014

derivatives investor property has the meaning set out in regulation 239(4) and (5) of the Financial Markets Conduct Regulations 2014

derivatives issuer has the meaning set out in section 6(1) of the Financial Markets Conduct Act 2013.

14 Custodian requirements do not apply if money or property held solely for completing transaction or securing obligation

Section 44 of the Act does not apply to client money or client property if it is held solely for completing a transaction, securing an obligation, or both.

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 17 December 2015, amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 to—

- insert an exemption from the obligations imposed on brokers relating to the handling of client money and client property (*see* sections 77P to 77T of the Financial Advisers Act 2008). The exemption only relates to money or property that is regulated under regulations 238 to 250 of the Financial Markets Conduct Regulations 2014. The exemption avoids an unnecessary overlap between the requirements of the Financial Advisers Act 2008 and the requirements of those regulations:
- prescribe a circumstance in which the custodian requirements in section 44 of the Financial Advisers Act 2008 do not apply.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 19 November 2015.

Reprints notes

1 General

This is a reprint of the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2015 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

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

Financial Services Legislation Amendment Act 2019 (2019 No 8): section 97(2)(b)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2021