

Version
as at 15 March 2026



Financial Markets Conduct (Overseas Providers of Custodial Services—Assurance Engagement) Exemption Notice 2020

(LI 2020/326)

Financial Markets Conduct (Overseas Providers of Custodial Services—Assurance Engagement)
Exemption Notice 2020: revoked, on the close of 14 March 2026, by clause 3.

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied of the matters set out in section 557 of that Act, gives the following notice.

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Notice

1 Title

This notice is the Financial Markets Conduct (Overseas Providers of Custodial Services—Assurance Engagement) Exemption Notice 2020.

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Financial Markets Authority.

2 Commencement

This notice comes into force on 15 March 2021.

3 Revocation

This notice is revoked on the close of 14 March 2026.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Financial Markets Conduct Act 2013

custodial service has the same meaning as in section 431W(2) of the Act

overseas assurance engagement has the meaning given in clause 6(3)

overseas assurance report, in relation to a relevant period, means an assurance report provided under an overseas assurance engagement for that period

Regulations means the Financial Markets Conduct Regulations 2014

relevant period has the same meaning as in regulation 229V(3) of the Regulations

sub-custodian has the same meaning as in regulation 229O of the Regulations.

- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemption from assurance engagement requirement

A provider of a custodial service is exempted from regulation 229U(2) to (4) of the Regulations for a relevant period if—

- (a) the relevant period ends—
 - (i) on or after 15 March 2021; and
 - (ii) before 14 March 2025; and
- (b) the provider has its principal place of business outside New Zealand.

6 Conditions of exemption

- (1) The exemption in clause 5 for a relevant period is subject to the following conditions:

- (a) the provider must obtain, within 4 months after the end of the relevant period, 1 or more overseas assurance engagements that together cover all custodial services of the provider, and of any sub-custodian, that are provided to the provider's clients in New Zealand during the relevant period (including obtaining the overseas assurance reports for those engagements within that 4-month period):
- (b) the provider must give the information set out in subclause (2) to the FMA within 20 working days after the provider obtains the overseas

- assurance report for the relevant period (or the last of those reports if there is more than 1):
- (c) the provider must give the information set out in subclause (2) to a client of the provider who requests the information within 10 working days after the request is received.
- (2) The information to be given is, in relation to a relevant period,—
- (a) a copy of each of the overseas assurance reports for the relevant period; and
 - (b) for each report, a statement of all of the custodial services provided by the provider, and by any sub-custodian, that are covered by the report (if the report does not include a statement to that effect); and
 - (c) for each report, to the extent that the report addresses matters that are the same as or similar to those set out in regulation 229V of the Regulations, information identifying where in the report those matters are addressed.
- (3) In this clause, **overseas assurance engagement** means an assurance engagement that—
- (a) is obtained in a jurisdiction—
 - (i) in which the provider, or any sub-custodian, carried on business as a provider of a custodial service during the relevant period; and
 - (ii) that is listed in the Schedule; and
 - (b) is with an auditor who is registered or licensed to provide assurance engagements in that jurisdiction; and
 - (c) complies with the legal requirements and auditing and assurance standards in that jurisdiction; and
 - (d) includes the auditor’s assessment of the provider’s processes, procedures, and controls relating to the custody of property, including the suitability of their design and their operating effectiveness.

Schedule

Overseas jurisdictions

cl 6(3)

Canada
Commonwealth of Australia
France
Luxembourg
Switzerland
The Netherlands
United Kingdom

United States of America

Dated at Auckland this 16th day of December 2020.

Nick Kynoch,
General Counsel,
Financial Markets Authority.

Statement of reasons

This notice, which comes into force on 15 March 2021 and is revoked on 14 March 2026, exempts certain overseas providers of custodial services from the requirement in regulation 229U of the Financial Markets Conduct Regulations 2014 (the **Regulations**). That is a requirement to obtain an assurance engagement from a New Zealand auditor that covers the New Zealand assurance engagement matters specified in regulation 229V of the Regulations.

The exemption applies to an overseas provider who obtains assurance engagements in 1 or more of the jurisdictions listed in the Schedule that together cover all custodial services provided by the provider and its sub-custodians to New Zealand clients.

The Financial Markets Authority (the **FMA**), after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 (the **Act**), considers it appropriate to grant the exemption because—

- the exemption applies only to providers of custodial services who have their principal place of business outside New Zealand and who obtain assurance engagements in 1 or more of the jurisdictions listed in the Schedule that together cover all custodial services provided by the provider and its sub-custodians to New Zealand clients;
- the exemption applies only in relation to jurisdictions in which providers are required to obtain assurance engagements from auditors who are subject to auditing standards and oversight that are broadly equivalent to those applying in New Zealand. The FMA is therefore confident of the comparability and quality of those overseas assurance engagements;
- if a provider obtains an assurance engagement that is prepared by an auditor who is registered or licensed to provide assurance engagements in one of those jurisdictions and complies with the regulatory requirements in that jurisdiction, the costs associated with requiring the provider to also obtain an assurance engagement prepared by a New Zealand auditor in compliance with requirements under the Regulations would outweigh the benefits to clients and be unnecessary compliance costs;

- the securities regulators in the jurisdictions listed in the Schedule are signatories to the International Organization of Securities Commissions Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. The audit regulators in those jurisdictions are signatories to the International Forum of Independent Audit Regulators Multilateral Memorandum of Understanding Concerning Co-operation in the Exchange of Information for Audit Oversight. The FMA will therefore be able to seek assistance from relevant regulators if enforcement issues arise:
- the FMA is satisfied that granting the exemption is desirable in order to promote a number of purposes of the Act. Specifically, it will ensure appropriate governance arrangements that allow for effective monitoring, avoid unnecessary compliance costs, and promote flexibility in financial markets:
- the exemption is limited to overseas providers obtaining assurance engagements from overseas auditors who are subject to audit oversight that is broadly equivalent to that in New Zealand. The FMA is therefore satisfied that the exemption is not broader than is reasonably necessary to address the matters that give rise to it.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 18 December 2020.

Notes

1 *General*

This is a consolidation of the Financial Markets Conduct (Overseas Providers of Custodial Services—Assurance Engagement) Exemption Notice 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Financial Markets Conduct (Overseas Providers of Custodial Services—Assurance Engagement) Exemption Notice 2020 (SL 2020/326): clause 3