



Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) 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 59(2) and 153 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 on the advice and with the consent of the Executive Council.

Contents

| | | Page |
|---|--|------|
| 1 | Title | 2 |
| 2 | Commencement | 2 |
| 3 | Principal regulations | 2 |
| 4 | Regulation 3 replaced (Interpretation) | 2 |
| | 3 Interpretation | 2 |
| 5 | New regulations 11 to 13 inserted | 2 |
| | 11 Information requirement for standard customer due diligence: existence of nominee directors or shareholders | 3 |
| | 12 Enhanced customer due diligence required for companies with nominee directors | 3 |
| | 13 Time period for audit of risk assessment and AML/CFT programme | 4 |

Regulations

1 Title

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

4 Regulation 3 replaced (Interpretation)

Replace regulation 3 with:

3 Interpretation

In these regulations, unless the context otherwise requires,—

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

nominee director means an individual who is a director of a company within the meaning of section 126 of the Companies Act 1993 and who is required to carry out or accustomed to carrying out the role of director in accordance with the directions or instructions of another person who is not a director of the company

nominee general partner means a person who is a general partner of a limited partnership within the meaning of section 19 of the Limited Partnerships Act 2008 and who is required to carry out or accustomed to carrying out the role of general partner in accordance with the directions or instructions of another person who is not a general partner of the limited partnership

nominee shareholder means a person who is a shareholder of a company within the meaning of section 96 of the Companies Act 1993 and who is required to carry out or accustomed to carrying out the role of shareholder in accordance with the directions or instructions of another person who is not a shareholder of the company, but does not include—

- (a) a shareholder of a customer listed in section 18(2) of the Act; or
- (b) a shareholder who is a trustee of an employee share purchase scheme within the meaning of section 6(1) of the Financial Markets Conduct Act 2013.

5 New regulations 11 to 13 inserted

After regulation 10, insert:

11 Information requirement for standard customer due diligence: existence of nominee directors or shareholders

- (1) The following are prescribed under section 15(f) of the Act as identity information a reporting entity must obtain in relation to the persons referred to in section 11(1)(a) of the Act:
 - (a) whether the person is a company, and, if so, the existence and name of any of the following:
 - (i) nominee director:
 - (ii) nominee shareholder:
 - (b) whether the person is a limited partnership or overseas limited partnership, and, if so, the existence and name of any nominee general partner.
- (2) Verification of the identity information provided under subclause (1) may be undertaken on the following bases prescribed under sections 13(b) and 16(1)(d) of the Act:
 - (a) in relation to the information provided under subclause (1)(a), the reporting entity—
 - (i) must, according to the level of risk involved, take reasonable steps to verify the existence and name of any nominee director or nominee shareholder so that the reporting entity is satisfied that it knows that information; but
 - (ii) is not required to verify this information on the basis of documents, data, or information issued by a reliable and independent source:
 - (b) in relation to the information provided under subclause (1)(b), the reporting entity—
 - (i) must, according to the level of risk involved, take reasonable steps to verify the existence and name of any nominee general partner so that the reporting entity is satisfied that it knows that information; but
 - (ii) is not required to verify this information on the basis of documents, data, or information issued by a reliable and independent source.

12 Enhanced customer due diligence required for companies with nominee directors

A reporting entity must conduct enhanced customer due diligence in accordance with sections 23 and 24 of the Act if the reporting entity establishes a business relationship with a customer that is—

- (a) a company with 1 or more nominee directors; or

- (b) a nominee general partner of a limited partnership or overseas limited partnership.

13 Time period for audit of risk assessment and AML/CFT programme

For the purposes of section 59(2) of the Act, the time period during which a reporting entity (other than a high-value dealer) must ensure that its risk assessment and AML/CFT programme are audited is—

- (a) every 4 years, if the reporting entity’s AML/CFT supervisor notifies the reporting entity that a 4-year period applies; or
- (b) in any other case, every 3 years.

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 (Requirements and Compliance) Regulations 2011 by inserting new regulations that—

- require a reporting entity to obtain information about whether a person on whom it is conducting customer due diligence under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**) has nominee directors and nominee shareholders:
- require a reporting entity to conduct enhanced customer due diligence under the Act if it establishes a business relationship with a customer that has a nominee director or a nominee general partner:
- replace the 2-year time period during which a reporting entity must ensure that its risk assessment and AML/CFT programme are audited under section 59(2) of the Act with a new default time period of 3 years, with the possibility of a 4-year time period upon notification by a reporting entity’s AML/CFT supervisor.

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>

**Anti-Money Laundering and Countering Financing of
Terrorism (Requirements and Compliance) Amendment
Regulations 2021**

2021/147

Explanatory note

- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 10 June 2021.

These regulations are administered by the Ministry of Justice.