



## **Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2024**

This notice is made by the Associate Minister of Justice under section 157(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 after—

- (a) having had regard to the matters specified in section 157(3) of that Act; and
- (b) having consulted in accordance with section 158 of that Act.

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### **Notice**

#### **1 Title**

This notice is the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Amendment Notice 2024.

#### **2 Commencement**

This notice comes into force on 31 December 2024.

#### **3 Principal notice**

This notice amends the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018.

#### **4 Schedule amended**

- (1) In the Schedule, Part 1, clause 7, replace “31 December 2024” with “31 December 2026”.
- (2) In the Schedule, Part 2, clause 7, replace “31 December 2024” with “31 December 2026”.

- (3) In the Schedule, Part 3, clause 13, replace “31 December 2024” with “31 December 2026”.
- (4) In the Schedule, Part 4, clause 6, replace “31 December 2024” with “31 December 2026”.
- (5) In the Schedule, Part 5, clause 9, replace “31 December 2024” with “31 December 2026”.
- (6) In the Schedule, Part 6, clause 2, insert in its appropriate alphabetical order:  
**operator of a money or value transfer service** means a person to whom section 5(1)(f) of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 applies
- (7) In the Schedule, Part 6, after clause 8, insert:  
8A This exemption will cease to apply to reporting entities who are operators of a money or value transfer service (other than registered banks) in respect of customers who are SMI customers on 31 December 2024.
- (8) In the Schedule, Part 6, clause 9, replace “31 December 2024” with “31 December 2026”.
- (9) In the Schedule, Part 7, clause 8, replace “31 December 2024” with “31 December 2026”.
- (10) In the Schedule, Part 8, clause 7, replace “31 December 2024” with “31 December 2026”.
- (11) In the Schedule, Part 9, clause 6, replace “31 December 2024” with “31 December 2026”.
- (12) In the Schedule, Part 10, clause 6, replace “31 December 2024” with “31 December 2026”.
- (13) In the Schedule, Part 11, clause 9, replace “31 December 2024” with “31 December 2026”.
- (14) In the Schedule, Part 12, clause 8, replace “31 December 2024” with “31 December 2026”.
- (15) In the Schedule, Part 13, clause 6, replace “31 December 2024” with “31 December 2026”.
- (16) In the Schedule, replace Parts 14 and 15 with the Parts 14 and 15 set out in the Schedule of this notice.

## Schedule

### New Parts 14 and 15 inserted into the Schedule

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#### Part 14

#### Transactions of tax pooling intermediaries

1 As the Associate Minister of Justice, and pursuant to section 157 of the Act, I exempt specified tax pooling transactions from the following sections of the Act:

- (a) sections 10 to 21 (standard and simplified customer due diligence):
- (b) sections 22 and 23 to 26 (enhanced due diligence except in circumstances where section 22A applies):
- (c) sections 29 and 30 (correspondent banking relationships):
- (d) sections 32 to 39 (reliance on third parties and prohibitions):
- (e) sections 50 to 55 (identity and verification of records):
- (f) sections 68 to 71 (cross-border transportation of cash).

2 For the purposes of this exemption,—

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

**ML/TF** means money laundering and terrorist financing

**specified tax pooling transaction**—

- (a) means a payment that is—
  - (i) a deposit, made by a client into a TPI's tax pooling account, that will be available for immediate on-payment to the Inland Revenue Department to meet an existing or anticipated tax liability in respect of the client; or
  - (ii) a purchase of an existing tax deposit in a TPI's tax pooling account available for immediate on-payment to the Inland Revenue Department; and
- (b) does not include any refund of money from a TPI's tax pooling account to any person

**tax pooling account** has the same meaning as in section RP 17B of the Income Tax Act 2007

**TPI** means a tax pooling intermediary that is described in section RP 17 of the Income Tax Act 2007 and that is a reporting entity for the purposes of the Act.

3 This exemption is subject to the following conditions:

- (a) in respect of each client that is a company, a TPI must hold identity information that is publicly available in relation to that company at the time the business relationship between the client and the TPI is entered into and at such time the client instructs the TPI to refund a deposit, or any portion of that deposit:
- (b) in respect of all clients, a TPI must hold identity information for at least 1 individual who has authority to act on behalf of the client:
- (c) before a client's deposit is transferred from the TPI's tax pooling account to the client's account at the Inland Revenue Department, the TPI must take reasonable steps to ascertain the amount of the client's tax liability that the transfer is made to satisfy:
- (d) a TPI must, when a refund from the TPI's tax pooling account is requested by a client, ensure that it has completed CDD to the level required under the Act before that refund is made:
- (e) in respect of all clients and transactions, a TPI must continue to meet all other requirements of the Act (unless otherwise exempted from above) including account monitoring, suspicious activity reporting, and prescribed transaction reporting:
- (f) a TPI must, when a suspicious activity report is required to be submitted pursuant to section 40 of the Act,—
  - (i) obtain identity information required under section 15 of the Act; and
  - (ii) carry out enhanced customer due diligence as described in sections 23 to 26 where required by section 22A of the Act for making suspicious activity reports.

4 The exemption has been granted for the following reasons:

- (a) there is a low risk of ML/TF associated with specified tax pooling transactions and the conditions associated with the conditions sufficiently mitigate remaining ML/TF risk:
- (b) in the absence of the exemption, the regulatory burden of compliance in respect of specified tax pooling transactions would be disproportionate to the benefits:
- (c) the compliance obligations continue to apply in respect of other higher-risk transactions involving a tax pooling account, including any refunds made from the account.

5 This exemption comes into force on 31 December 2024.

6 This exemption expires at the close of 31 December 2026.

## Part 15

### Barristers sole

- 1 As the Associate Minister of Justice, and under section 157 of the Act, I exempt barristers as a class of reporting entities from provisions of the Act as set out in this Part.
- 2 A barrister who receives instructions from a solicitor (who is not an in-house lawyer, other than an in-house lawyer employed by the Crown) in respect of a client is exempt from the following provisions of the Act in relation to the client as a customer under that Act:
- (a) sections 11 (customer due diligence) and 12 (reliance on risk assessment when establishing level of risk):
  - (b) sections 14 to 21 (standard and simplified customer due diligence):
  - (c) section 22(1), (2), and (5) (circumstances in which enhanced customer due diligence applies):
  - (d) sections 22A to 25 (enhanced customer due diligence):
  - (e) section 26 (politically exposed person):
  - (f) section 30 (new or developing technologies, or products, that might favour anonymity):
  - (g) section 31 (ongoing customer due diligence and account monitoring):
  - (h) sections 37 to 39 (prohibitions):
  - (i) sections 56 (reporting entity must have AML/CFT programme and AML/CFT compliance officer) and 57 (minimum requirements for AML/CFT programmes):
  - (j) sections 58 (risk assessment) and 59 (review and audit of risk assessment and AML/CFT programmes):
  - (k) section 59B (who carries out audit):
  - (l) section 60 (annual AML/CFT report).
- 3 Barristers who receive instructions from the Crown are exempt from the following provisions of the Act:
- (a) section 11 (customer due diligence), except where sections 22(1) and 22A apply:
  - (b) section 12 (reliance on risk assessment when establishing level of risk):
  - (c) sections 14 to 17 (standard customer due diligence):
  - (d) section 22(2) and (5) (circumstances in which enhanced customer due diligence applies):
  - (e) section 26 (politically exposed person):

- (f) sections 30 (new or developing technologies, or products, that might favour anonymity) and 31 (ongoing customer due diligence and account monitoring):
- (g) sections 56 (reporting entity must have AML/CFT programme and AML/CFT compliance officer) and 57 (minimum requirements for AML/CFT programmes):
- (h) sections 58 (risk assessment) and 59 (review and audit of risk assessment and AML/CFT programmes):
- (i) section 59B (who carries out audit):
- (j) section 60 (annual AML/CFT report).
- 4 The exemption does not apply to—
- (a) a barrister who receives instructions directly from a client (other than the Crown or a solicitor in respect of a client); or
- (b) a barrister who performs the activities listed in the definition of a designated non-financial business or profession in section 5 of the Act (outside of the instructions of a lawyer).
- 5 For the purposes of this exemption,—
- Act** means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009
- barrister** means a person who holds a practising certificate as a barrister only, and not as a barrister and solicitor, in accordance with the Lawyers and Conveyancers Act 2006
- Crown** means a customer described in section 18(2)(b) to (f), (j), (l), or (m) of the Act
- in-house lawyer** has the same meaning as in rule 15.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008
- ML/TF** means money laundering and terrorist financing
- solicitor** means a person holding a practising certificate as a barrister and solicitor in accordance with the Lawyers and Conveyancers Act 2006.
- 6 The exemption has been granted for the following reasons:
- (a) the ML/TF risks associated with barristers are mitigated by—
- (i) the restrictions on the activities a barrister may perform under rule 14.2 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008; and
- (ii) the obligations to report relevant information under rules 2.4, 2.8 to 2.10, and 7 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008; and
- (iii) solicitors' obligations to clients under the Act (as a second reporting entity, where the barrister receives instruction); and

- (iv) the low ML/TF risk associated with instructions from Crown entities:
- (b) barristers who are captured by the Act will still be required to file suspicious activity reports, complete simplified customer due diligence when taking instructions from the Crown, conduct enhanced due diligence in specific circumstances, keep the appropriate records, and make the records available to the Department of Internal Affairs when requested:
- (c) the instructing solicitor is subject to full AML/CFT obligations with respect to the same work and same client. This means that requiring barristers to comply with the full suite of obligations under Part 2 of the Act is unlikely to increase the overall effectiveness of the AML/CFT regime:
- (d) given how barristers operate their business (as sole practitioners with few, if any, dedicated support staff), full AML/CFT obligations would result in a disproportionate compliance burden for barristers.
- 7 This exemption comes into force on 31 December 2024.
- 8 This exemption expires at the close of 31 December 2026.

Dated at Wellington this 21st day of November 2024.

Hon Nicole McKee,  
Associate Minister of Justice.

### Explanatory note

*This note is not part of the notice but is intended to indicate its general effect.*

This notice, which comes into force on 31 December 2024, amends the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018 (the **principal notice**). The Schedule of the principal notice sets out various class exemptions from particular provisions of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

This notice—

- changes the expiry date for the exemptions under Parts 1 to 13 of the Schedule of the principal notice to 31 December 2026:
- removes operators of money or value transfer services from the exemption under Part 6, which applies to reporting entities whose customers are specified managing intermediaries.

This notice also replaces Parts 14 and 15 of the Schedule of the principal notice with *new Parts 14 and 15*. Those Parts grant class exemptions for transactions of tax pooling intermediaries, and for barristers sole.

The new Parts will expire on 31 December 2026, but are otherwise identical to existing Parts 14 and 15, as in force prior to being revoked and replaced by this notice.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 28 November 2024.  
This notice is administered by the Ministry of Justice.