

**Reprint
as at 1 December 2014**



**Anti-Money Laundering and
Countering Financing of Terrorism
(Definitions) Regulations 2011**
(SR 2011/222)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 27th day of June 2011

Present:

His Excellency the Governor-General in Council

Pursuant to sections 5, 153, and 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) in relation to regulations made under section 154 of that Act, on the recommendation of the Minister (as defined by section 5 of that Act) made in accordance with section 154(2) and (3) of that Act.

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 Justice.

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Regulations

- 1 Title**

These regulations are the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.
- 2 Commencement**

These regulations come into force on 28 July 2011.
- 3 Expiry**

Regulations 11 to 24 expire on the close of 27 July 2016.
- 4 Interpretation**

In these regulations, unless the context otherwise requires,—

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

financial activity means any financial activity referred to in paragraph (a)(i) to (xiii) of the definition of financial institution in section 5 of the Act

relevant service means,—

 - (a) in relation to a financial institution, services provided by the financial institution in the course of carrying out a financial activity; and
 - (b) in relation to a reporting entity that is not a financial institution, services provided by the reporting entity in the course of carrying out an activity (including, to avoid doubt, a financial activity) that attracts any obligations under the Act or the regulations.

*Definition of beneficial owner***5 Prescribed threshold**

For the purposes of paragraph (b) of the definition of beneficial owner in section 5 of the Act, the prescribed threshold is more than 25%.

Regulation 5: amended, on 30 June 2013, by regulation 4 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

Applicable threshold value for wire transfer

Heading: inserted, on 30 June 2013, by regulation 5 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

5A Applicable threshold value for wire transfer is \$1,000

For the purposes of section 27(1) of the Act, the applicable threshold value of a wire transfer is \$1,000.

Regulation 5A: inserted, on 30 June 2013, by regulation 5 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

*Definition of designated business group***6 Prescribed election process**

- (1) For the purposes of paragraph (b) of the definition of designated business group in section 5 of the Act, an election is made in accordance with these regulations if it is made in writing in the form issued by, and provided to, the AML/CFT supervisor, which must contain the following information:
- (a) the name of each entity electing to join the designated business group:
 - (b) the name and contact details of a contact person for the designated business group:
 - (c) the name and contact details of each entity's intended AML/CFT compliance officer:
 - (d) sufficient information to determine that each entity is eligible:
 - (e) the date that the election will take effect (if more than 30 days from submission of an application containing the information in paragraphs (a) to (d)).

- (2) An election comes into force on the latest of the following:
- (a) the expiry of the initial 30-day period if the AML/CFT supervisor has not requested further information during that period;
 - (b) if the AML/CFT supervisor has requested further information during the initial 30-day period, the expiry of any second or subsequent 30-day period during which the AML/CFT supervisor has not indicated that the entity is ineligible or that its eligibility cannot be determined;
 - (c) the date stated in the form.
- (3) In this regulation,—
- initial 30-day period** means the period of 30 days that commences on the day after receipt of the approved form by the AML/CFT supervisor
- second or subsequent 30-day period** means a period of 30 days that commences on the day after receipt of any further information requested by the AML/CFT supervisor.

7 Prescribed member: certain money transfer service agents and sub-agents

- (1) Reporting entities are entities, for the purposes of paragraph (d)(v) of the definition of designated business group in section 5 of the Act, if—
- (a) the entities are each money transfer agents or sub-agents; and
 - (b) each entity is related to every other entity in the designated business group or proposed designated business group in either of the following ways:
 - (i) one of those entities is a money transfer agent and the other entities are the sub-agents of that agent;
 - (ii) those entities are each sub-agents of the same money transfer agent.
- (2) For the purposes of this regulation,—
- money transfer agent**, in relation to a money transfer provider, means a reporting entity that has a representation agreement with a money transfer provider

money transfer provider means a person who, under a representation agreement, authorises a money transfer agent to carry on money transfer services on behalf of the money transfer provider and to engage sub-agents for the purpose of carrying on those services in New Zealand

money transfer services means the provision of remittance services that are carried on, otherwise than by a bank, under a single brand, trade mark, or business name

representation agreement means a written agreement between a money transfer provider and a money transfer agent, or between a money transfer agent and a sub-agent, that states the terms on which the money transfer agent, or the sub-agent, carries on money transfer services within New Zealand

sub-agent means a reporting entity that has a representation agreement with a money transfer agent.

8 Prescribed member: overseas companies, etc

Bodies corporate are entities, for the purposes of paragraph (d)(v) of the definition of designated business group in section 5 of the Act, if each body corporate—

- (a) is either a company within the meaning of section 2(1) of the Companies Act 1993 or an overseas company within the meaning of that section; and
- (b) is related, within the meaning of section 12(2) of the Financial Markets Conduct Act 2013, to every body corporate in the designated business group or proposed designated business group; and
- (c) is either—
 - (i) a reporting entity resident in New Zealand; or
 - (ii) a person that is resident in a country with sufficient anti-money laundering and countering financing of terrorism systems and that is supervised or regulated for anti-money laundering and countering the financing of terrorism purposes.

Regulation 8(b): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

9 Prescribed condition of membership of designated business group

For the purposes of paragraph (e) of the definition of designated business group in section 5 of the Act, a condition of membership is that the contact person of a designated business group must notify the relevant AML/CFT supervisor, in writing within 30 days, of any of the following:

- (a) a withdrawal of a member from the designated business group;
- (b) the termination of the designated business group;
- (c) any other change in the details previously notified to any AML/CFT supervisor in respect of the designated business group.

Definition of occasional transaction

10 Applicable threshold value

- (1) For the purposes of paragraph (a) of the definition of occasional transaction in section 5 of the Act, the applicable threshold value is \$9,999.99.
- (2) To avoid doubt, subclause (1) does not apply to a transaction or class of transactions declared by regulations to be an occasional transaction for the purposes of the Act.

11 Inclusion: cash transaction in casino: \$6,000 or more

- (1) This regulation applies to every cash transaction that—
 - (a) occurs outside of a business relationship in a casino; and
 - (b) is for an amount of \$6,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every cash transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

12 Inclusion: travellers cheques: \$5,000 or more

- (1) This regulation applies to every transaction that—
 - (a) occurs outside of a business relationship; and
 - (b) involves travellers cheques; and

- (c) is for an amount of \$5,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

13 Inclusion: money orders or postal orders: \$1,000 or more

- (1) This regulation applies to every transaction that—
 - (a) occurs outside of a business relationship; and
 - (b) involves a money order or postal order; and
 - (c) is for an amount of \$1,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every cash transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

13A Inclusion: wire transfers of more than \$1,000

- (1) This regulation applies to every transaction that—
 - (a) occurs outside of a business relationship; and
 - (b) involves the receipt of a wire transfer by a beneficiary institution for an amount of more than \$1,000 (whether the transaction is carried out in a single operation or several operations that appear to be linked).
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

Regulation 13A: inserted, on 30 June 2013, by regulation 6 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

14 Inclusion: currency exchange transactions: \$1,000 or more

- (1) This regulation applies to every transaction that—
 - (a) occurs outside of a business relationship; and
 - (b) involves currency exchange; and
 - (c) is for an amount of \$1,000 or more (whether the transaction is carried out in a single operation or several operations that appear to be linked).

- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

15 Inclusion: transactions involving certain stored value instruments

- (1) This regulation applies to every transaction that occurs outside of a business relationship and that involves the issuing or provision of a stored value instrument that—
- (a) has a maximum possible value at any one time of,—
 - (i) if the stored value instrument is redeemable for cash, \$1,000 or more;
 - (ii) if the stored value instrument is not redeemable for cash, \$5,000 or more; or
 - (b) is capable of being reloaded with \$10,000 or more in any consecutive 12-month period; or
 - (c) is capable of being reloaded directly through transfer from an account held at a financial institution that is—
 - (i) unregulated for AML/CFT purposes; or
 - (ii) located in a country with insufficient money laundering and countering financing of terrorism systems and measures.
- (2) This regulation does not apply to a stored value instrument that—
- (a) is issued or provided by a casino solely for 1 or more of the following purposes:
 - (i) to facilitate gambling in the casino;
 - (ii) to redeem winnings from gambling in the casino;
 - (iii) to redeem unused credit provided by the casino;and
 - (b) has a maximum potential value at any one time of less than \$6,000.
- (3) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.
- (4) For the purposes of this regulation,—
- debit card** means an instrument that can be used to withdraw cash or make payments by debiting an account held at a financial institution

gift facility has the same meaning as in regulation 9(2) of the Financial Service Providers (Exemptions) Regulations 2010

stored value instrument—

- (a) means a portable device, including a gift facility, that is capable of storing monetary value in a form that is not physical currency, regardless of whether the device is reloadable or able to be redeemed for cash; and
- (b) includes—
 - (i) a portable device whose value, or associated value, is transferable to a third party or is able to be remitted; and
 - (ii) any account or other arrangement associated with the value stored on the device; but
- (c) does not include a credit card or a debit card.

Regulation 15(1): replaced, on 30 June 2013, by regulation 7(1) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

Regulation 15(4): replaced, on 30 June 2013, by regulation 7(2) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

Definition of reporting entity

16 Inclusion: certain financial advisers

- (1) This regulation applies to a person so far as the person arranges for a reporting entity to provide a relevant service to a customer or an intended customer of the reporting entity, if the person is—
 - (a) an individual who is required to be an authorised financial adviser; or
 - (b) an entity that provides financial adviser services in respect of a category 1 product, including to wholesale clients.
- (2) Subject to regulation 20, a person to whom this regulation applies is declared to be a reporting entity for the purposes of the Act.
- (3) An individual (**person A**) to whom this regulation applies is deemed to have complied with the Act and any regulations if—

- (a) the obligations that apply to person A under the Act and any regulations are discharged by another reporting entity (**person B**); and
 - (b) person A is a partner, director, employee, agent, or other person acting in the course of, and for the purposes of, person B's business.
- (4) For the purposes of this regulation,—
authorised financial adviser, category 1 product, and financial adviser service have the same meanings as in section 5 of the Financial Advisers Act 2008
wholesale client has the same meaning as in section 5C of the Financial Advisers Act 2008.

17 Inclusion: trust and company service providers

- (1) Subject to regulation 20, a person to whom this regulation applies is declared to be a reporting entity for the purposes of the Act.
- (2) This regulation applies to a person who carries out, as the only or principal part of their business, 1 or more of the following activities:
 - (a) acting as a formation agent of legal persons or arrangements:
 - (b) arranging for a person to act as a nominee director or nominee shareholder or trustee in relation to legal persons or arrangements:
 - (c) providing a registered office, a business address, a correspondence address, or an administrative address for a company, a partnership, or any other legal person or arrangement.

Regulation 17(2)(c): replaced, on 30 June 2013, by regulation 8 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

18 Exclusion: reporting entities whose every relevant service is exempt from Act

- (1) This regulation applies to a person who, but for this regulation, would be a reporting entity (whether because the person is a financial institution or otherwise) but who only performs relevant services that are exempt from all provisions of the Act.

- (2) A person to whom this regulation applies is declared not to be a reporting entity for the purposes of the Act.

18A Exclusion: non-finance businesses that transfer money to facilitate purchase of goods or services

- (1) A person is not a reporting entity, for the purposes of the Act, by reason only that, in the ordinary course of a non-finance business, the person transfers money on behalf of a customer to facilitate the purchase of goods or services by the customer.
- (2) In this regulation, **non-finance business** means a person whose only or principal business is the provision of goods or services that are not relevant services.

Regulation 18A: inserted, on 30 June 2013, by regulation 9 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

19 Exclusion: accommodation provider that provides registered guest with safety deposit box

- (1) If the condition in subclause (2) is satisfied, it is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that, in the ordinary course of the person's business as a provider of accommodation, the person provides his or her registered guests with a safety deposit box or safety deposit boxes.
- (2) The condition is that the safety deposit box is—
- (a) located in the room of the registered guest and is controlled by the registered guest; or
 - (b) located outside the room of the registered guest but within the place of the traveller accommodation, is controlled by the provider of the traveller accommodation, and holds funds of registered guests.
- (3) In this regulation, **registered guest** means a guest whose name and contact details have been recorded by the provider of the accommodation.

20 Exclusion: lawyers, etc

- (1) It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person carries out a

relevant service in the ordinary course of the person's business as one of the following:

- (a) a lawyer, an incorporated law firm, a conveyancing practitioner, an incorporated conveyancing firm, an accountant, or a real estate agent;
 - (b) an executor, an administrator, or a trustee in respect of services provided in the administration of an estate or, in the case of a trustee, in respect of services provided to beneficiaries of a family trust.
- (2) If subclause (1) applies to a person (A), it applies equally to any director, employee, agent, or other person while acting in the course of, and for the purposes of, A's business to the same extent as it applies to A.

Regulation 20: replaced, on 30 June 2013, by regulation 10 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

21 Exclusion: pawnbrokers

It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person carries out a relevant service in the ordinary course of the person's business as a pawnbroker within the meaning of section 4 of the Secondhand Dealers and Pawnbrokers Act 2004.

21A Exclusion: licensed or registered auctioneers and providers of Internet auctions

- (1) It is declared that an auctioneer who is licensed or registered under an enactment is not a reporting entity, for the purposes of the Act, by reason only that the auctioneer carries out a relevant service in the ordinary course of the auctioneer's business of conducting auctions.
- (2) It is declared that a person is not a reporting entity, for the purposes of the Act, by reason only that the person provides relevant services in the ordinary course of the person's business as a provider of Internet auctions.
- (3) In this regulation,—

auction means a process in which property of any kind (including goods, services, and interests in land) is offered for sale by an auctioneer on behalf of a vendor, and—

- (a) bids for the property are placed with the auctioneer in real time, whether in person, by telephone, via the Internet, or by any other means; and
- (b) the property is sold when the auctioneer so indicates

Internet auction means a process, not being an auction as defined by this subclause, that is operated online to enable members of the public to conclude contracts for the sale and purchase of goods or the provision and acquisition of non-financial services

non-financial service means a service that is not, or does not include, a relevant service.

Regulation 21A: inserted, on 30 June 2013, by regulation 11 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230).

22 Exclusion: financial institutions that are in liquidation, etc

- (1) This regulation applies to a financial institution that is—
 - (a) in liquidation under Part 16 of the Companies Act 1993 or under any other enactment; or
 - (b) in receivership and no debt securities are being offered or issued to the public by, or on behalf of, the financial institution; or
 - (c) subject to a moratorium that prevents the financial institution from offering or issuing debt securities to the public.
- (2) A financial institution to which this regulation applies is declared not to be a reporting entity for the purposes of the Act.

23 Exclusion: government departments

Every government department named in Schedule 1 of the State Sector Act 1988 is declared not to be a reporting entity for the purposes of the Act.

24 Exclusion: Reserve Bank of New Zealand

The Reserve Bank of New Zealand is declared not to be a reporting entity for the purposes of the Act.

Reprinted as at
1 December 2014

**Anti-Money Laundering and Countering
Financing of Terrorism (Definitions)
Regulations 2011**

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 30 June 2011.

Reprints notes

1 *General*

This is a reprint of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 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 Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2013 (SR 2013/230)
