

# DRAFT FOR CONSULTATION

## Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023

Governor-General

### Order in Council

At Wellington this                      day of                      2023

Present:  
in Council

These regulations are made under sections 5(1), 14(1)(d), 18(2)(f), 23(1)(b), 27(2) and (3), 48A, 48B(1), 60(2)(c), 70, 153, and 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**)—

- (a) on the advice and with the consent of the Executive Council; and
- (b) in relation to regulations made under section 154 of the Act, on the recommendation of the Minister (as defined by section 5(1) of the Act) made in accordance with section 154(2) and (3) of the Act.

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## **Regulations**

### **1 Title**

These regulations are the Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023.

### **2 Commencement**

(1) The following regulations come into force on 31 July 2023:

- (a) regulation 4:
- (b) regulation 5:

- (c) regulation 7:
  - (d) regulation 8 (as far as it relates to new regulations 5B to 5D of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011):
  - (e) regulation 9 (as far as it relates to new regulation 7B of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011):
  - (f) regulation 14 (as far as it relates to new regulation 15B of the Anti-Money Laundering and Countering Financing of (Definitions) Terrorism Regulations 2011):
  - (g) regulation 15:
  - (h) regulation 20:
  - (i) regulation 30:
  - (j) regulation 31:
  - (k) regulation 32 (as far as it relates to new regulations 24AF, 24AG, 24AH, 24AI, and 24AK of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011):
  - (l) regulation 34:
  - (m) regulation 36:
  - (n) regulation 37 (as far as it relates to new regulations 12C and 12E of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011):
  - (o) regulation 38 (as far as it relates to new regulations 21, 31, 33, 34, 35, 38, and 40 of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011):
  - (p) regulation 40 (as far as it relates to new regulation 8 of the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016).
- (2) The rest of these regulations come into force on 1 June 2024.

## **Part 1**

### **Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Regulations 2010**

#### **3 Principal regulations**

This Part amends the Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Regulations 2010.

**4 Regulation 7 replaced (When cash report must be provided)**

Replace regulation 7 with:

**7 When cash report must be provided***Accompanied cash*

- (1) For the purposes of section 70(d)(i) of the Act, a person must provide a cash report to a Customs officer,—
  - (a) in the case of accompanied cash, that the person brings into New Zealand, at the same time as the person presents themselves under section 103(1)(a) or (b) of the Immigration Act 2009 (which relates to obligations on persons arriving in New Zealand); or
  - (b) in the case of accompanied cash, that the person takes out of New Zealand, at the same time as the person presents themselves under section 119(1)(a) of that Act (which relates to obligations of persons leaving New Zealand).
- (2) For the purposes of subclause (1), the following are declared to be bearer negotiable instruments:
  - (a) a chip (as defined in section 4(1) of the Gambling Act 2003):
  - (b) a stored value instrument (as defined in regulation 15(4) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011).

*Unaccompanied cash*

- (3) For the purposes of section 70(d) of the Act, a person must provide a cash report to a Customs officer,—
  - (a) in the case of unaccompanied cash that the person sends from outside New Zealand, at least 72 hours before the cash is received in New Zealand:
  - (b) in the case of unaccompanied cash that the person sends out of New Zealand, at least 72 hours before the cash leaves New Zealand:
  - (c) in the case of unaccompanied cash that is sent to the person from outside New Zealand, at least 72 hours before the person receives the cash in New Zealand.

**5 New regulation 7A inserted (Exemption from providing cash report)**

After regulation 7, insert:

**7A Exemption from providing cash report**

- (1) A person is not required to provide a cash report to a Customs officer in relation to accompanied cash that the person brings into or takes out of New Zealand on a craft, but only if the cash—
  - (a) is being carried on the craft for craft-related purposes; and



- (b) does not leave the craft; and
  - (c) is stored securely on the craft by means of a safe or other secure housing.
- (2) In subclause (1), **craft** has the same meaning as in section 5(1) of the Customs and Excise Act 2018.

## Part 2

### Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011

#### 6 Principal regulations

This Part amends the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.

#### 7 New regulation 5AA inserted (Inclusion: individual with ultimate ownership or control of customer or person)

After regulation 5A, insert:

##### 5AA Inclusion: individual with ultimate ownership or control of customer or person

For the purposes of the definition of beneficial owner in section 5(1) of the Act, **beneficial owner**—

- (a) includes a person with ultimate ownership or control of the customer, whether directly or indirectly; but
- (b) excludes a person on whose behalf the transaction is conducted, unless they are a person referred to in paragraph (a).

#### 8 Regulation 5B replaced (Definition of customer)

Replace regulation 5B with:

##### 5B Definition of customer: real estate agents

- (1) For the purposes of paragraph (c) of the definition of customer in section 5(1) of the Act, **customer**, in relation to a real estate agent,—
- (a) means a client of that real estate agent; and
  - (b) does not include any party to a real estate transaction on whose behalf the real estate agent is not carrying out real estate agency work; but
  - (c) despite paragraph (b), includes a person who conducts an occasional transaction with a real estate agent.
- (2) In subclause (1), **client** and **real estate agency work** have the meanings given in section 4(1) of the Real Estate Agents Act 2008.

**5C Definition of customer: liquidators and executors or administrators of estates**

For the purposes of paragraph (b)(iv) of the definition of customer in section 5(1) of the Act, **customer**,—

- (a) in relation to a liquidator appointed under section 241(2) of the Companies Act 1993, means the company in liquidation; and
- (b) in relation to the provision of relevant services to an executor or administrator of an estate, means that executor or administrator.

**5D Definition of customer: facility provided by reporting entity to trust**

For the purposes of paragraphs (b)(iv) and (c) of the definition of customer in section 5(1) of the Act, **customer**, in relation to a facility provided by a reporting entity to a trust,—

- (a) is the trust; but
- (b) is not the trustees of the trust.

**5E Definition of customer: designated non-financial business or profession acting as formation agent of legal persons or legal arrangement**

- (1) For the purposes of paragraph (b)(iv) of the definition of customer in section 5(1) of the Act, **customer**, in relation to a designated non-financial business or profession acting as a formation agent of a legal person or a legal arrangement, means the person who instructs the designated non-financial business or profession to form the legal person or legal arrangement.
- (2) Despite subclause (1), the designated non-financial business or profession must also comply with section 16(1)(b) of the Act in relation to the legal person or legal arrangement that is being formed.

**5F Definition of customer: designated non-financial business or profession that acts as nominee director, nominee shareholder, or trustee of legal person or legal arrangement**

For the purposes of paragraph (b)(iv) of the definition of customer in section 5(1) of the Act, **customer**, in relation to a designated non-financial business or profession that acts as a nominee director or nominee shareholder or trustee of a legal person or legal arrangement, means the legal person or legal arrangement.

**9 New regulations 7B and 7C inserted**

After regulation 7A, insert:

**7B Managing client funds**

For the purposes of paragraph (a)(iv) of the definition of designated non-financial business or profession in section 5(1) of the Act, **fees for professional services** means fees payable by a customer to a law firm, conveyancing practi-

tioner, incorporated conveyancing firm, accounting practice, real estate agent, or trust and company service provider for their professional services.

**7C Engaging in or giving instructions on behalf of customer to another person**

For the purposes of subparagraph (a)(vi) of the definition of designated non-financial business or profession in section 5(1) of the Act, **engaging in or giving instructions on behalf of a customer to another person** means any action taken by the person to whom that subparagraph applies on behalf of the customer in preparing for, or giving instructions relating to, a transaction or transfer in circumstances where the activities in subparagraph (a)(i) to (v) of that definition are not carried out.

**10 New regulation 10AAA and cross-heading inserted**

Before the cross-heading above regulation 10, insert:

*Definition of legal arrangement*

**10AAA Prescribed arrangements**

The following are prescribed legal arrangements for the purposes of the Act:

- (a) an unincorporated society;
- (b) a fiducie, a treuhand, a fideicomiso, and other similar foreign legal arrangements.

**11 New regulation 10A inserted (Definition of occasional transaction)**

After regulation 10, insert:

**10A Definition of occasional transaction**

For the purposes of paragraph (c)(i) of the definition of occasional transaction in section 5(1) of the Act, **cheque deposit** means a cheque deposit made at a registered bank or a non-bank deposit taker.

**12 Regulation 13A replaced (Inclusion: wire transfers of more than \$1,000)**

Replace regulation 13A with:

**13A Inclusion: wire transfers \$1,000 or more**

- (1) This regulation applies to a transaction—
  - (a) that is a wire transfer; and
  - (b) that involves 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); and
  - (c) that—

- (i) is carried out by a financial institution that is an ordering institution and occurs outside of a business relationship with the originator; or
  - (ii) involves the receipt of funds by a financial institution that is a beneficiary institution and occurs outside of a business relationship with the beneficiary.
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**13B Inclusion: Wire transfers made by designated non-financial business or profession of \$1,000 or more through another reporting entity**

- (1) This regulation applies to a transaction that—
- (a) is a wire transfer made by a designated non-financial business or profession that from its trust account on behalf of a person through another reporting entity; and
  - (b) involves 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); and
  - (c) occurs outside of a business relationship with the person instructing the designated non-financial business or profession to make the wire transfer.
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

**13 Regulation 15 amended (Inclusion: transactions involving certain stored value instruments)**

In regulation 15(4), definition of **stored value instrument**, paragraphs (a) and (b)(i), replace “a portable device” with “any device”.

**14 New regulations 15A and 15B and cross-heading inserted**

After regulation 15, insert:

**15A Inclusion: virtual asset transaction of \$1,000 or more**

- (1) This regulation applies to a transaction that—
- (a) is a virtual asset transaction or a virtual asset-to-virtual asset transaction; and
  - (b) 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); and
  - (c) occurs outside of a business relationship.
- (2) Every transaction to which this regulation applies is declared to be an occasional transaction for the purposes of the Act.

- (3) In this regulation, **virtual asset** means a digital representation of value that can be—
- (a) digitally traded or transferred; and
  - (b) used for payment or investment purposes.

*Definitions of ordering institution and beneficiary institution*

**15B Exclusion: designated non-financial business or profession making or receiving wire transfers**

A designated non-financial business or profession that makes or receives a wire transfer through another reporting entity on behalf of a customer is neither an ordering institution nor a beneficiary institution for the purposes of the Act.

**15 Regulation 16 amended (Inclusion: certain financial advice providers)**

In regulation 16(2), replace “Subject to regulation 20, a financial” with “A financial”.

**16 New regulation 16A inserted (Inclusion: virtual asset service providers)**

After regulation 16, insert:

**16A Inclusion: virtual asset service providers**

- (1) This regulation applies to a virtual asset service provider who provides safekeeping or administration of virtual assets, including a virtual asset service provider who does not provide any other service in relation to those assets.
- (2) A virtual asset service provider to whom this regulation applies is a financial institution for the purposes of the Act.
- (3) In this regulation,—

**virtual asset** has the meaning given in regulation 15A(3)

**virtual asset service provider** means a natural person or legal person who carries on 1 or more of the following activities or operations for, or on behalf of, another natural person or legal person:

- (a) exchanging between virtual assets and fiat currencies;
- (b) exchanging between 1 or more forms of virtual assets;
- (c) transferring virtual assets;
- (d) safekeeping or administration of virtual assets or instruments (or both) enabling control over virtual assets;
- (e) participating in and providing financial services related to an issuer’s offer or sale of a virtual asset.

**17 Regulation 18A amended (Exclusion: non-finance businesses that transfer money to facilitate purchase of goods or services)**

Replace regulation 18A(1) with:

- (1) A person is not a financial institution 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.

**18 Regulation 21 amended (Exclusion: pawnbrokers)**

In regulation 21, insert as subclause (2):

- (2) However, the exclusion in subclause (1) does not apply in respect of a pawnbroker who is a high-value dealer (as defined in section 5(1) of the Act).

**19 Regulation 21A revoked (Exclusion: providers of Internet auctions)**

Revoke regulation 21A.

**20 Regulation 24A replaced (Time at which real estate agents must conduct customer due diligence)**

Replace regulation 24A with:

**24A Time at which real estate agents must conduct customer due diligence**

- (1) For the purpose of sections 14(3), 18(3A), and 22(6) of the Act, a real estate agent who carries out real estate agency work must conduct customer due diligence,—
  - (a) in relation to a commercial lease transaction, before the real estate agent presents an offer of lease to the landlord of the commercial property to which the transaction relates; and
  - (b) in relation to any other real estate transaction, before the real estate agent lists the property to which the transaction relates for sale or a sale and purchase agreement is signed in respect of the property, whichever occurs first.
- (2) Subclause (1) does not apply to a real estate agent who is a conjunctional agent.
- (3) For the purposes of this regulation,—

**commercial lease transaction** means a transaction specified in paragraph (b) of the definition of transaction in section 4(1) of the Real Estate Agents Act 2008

**conjunctional agent** means a real estate agent who is acting for another real estate agent whose client is the vendor in a real estate transaction.

*Definition of trust and company service provider*

**24B Exclusion: trust and company service provider**

- (1) If the circumstances in subclause (2) are satisfied, it is declared that a person is not a trust and company service provider for the purposes of the Act.
- (2) The circumstances are that—
  - (a) the person is a financial institution; and
  - (b) the person's only activity is managing client funds (other than sums paid as fees for professional services), accounts, securities, or other assets.

**Part 3**

**Amendments to Anti-Money Laundering and Countering Financing  
of Terrorism (Exemptions) Regulations 2011**

**21 Principal regulations**

This Part amends the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011.

**22 Regulation 6A amended (Certain entities exempt from reporting under section 48A of Act)**

In regulation 6A, insert as subclause (2):

- (2) Nothing in subclause (1) applies to the operator of a money or value transfer service other than a registered bank.

**23 Regulation 8 revoked (Transactions that are not occasional transactions exempt from section 49(2)(d) of Act)**

Revoke regulation 8.

**24 Regulation 9 amended (Certain currency exchange transactions in hotels, etc)**

Replace regulation 9(1) with:

- (1) This regulation applies to a currency exchange transaction undertaken by a provider of hotel accommodation or any other accommodation where that provider only undertakes currency exchange transactions (or a series of related currency exchange transactions) of less than \$1,000.

**25 New regulation 9A inserted (Certain transactions with online marketplace)**

After regulation 9, insert:

**9A Certain transactions with online marketplace**

- (1) This regulation applies to 1 or more transactions that—

- (a) take place over a period of 12 months between a person who is a buyer and a provider of an online marketplace; and
  - (b) that in total do not exceed \$10,000 (whether carried out in a single operation or several operations that appear to be linked).
- (2) A transaction (or transactions) to which this regulation applies is exempt from the provisions of the Act, other than—
- (a) subpart 2 of Part 2; and
  - (b) if the transaction is relevant to a suspicious activity report, section 49(1) and (2)(a) to (f); and
  - (c) sections 92 to 100.
- (3) In this regulation,—
- non-financial service** means a service that is not, or does not include, a relevant service
- online marketplace** means a process 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.

**26 Regulation 10 revoked (Relevant services provided in respect of certain remittance card facilities)**

Revoke regulation 10.

**27 Regulation 15 amended (Relevant services provided in respect of certain stored value instruments)**

(1) After regulation 15(1A), insert:

(1B) This regulation does not apply to a relevant service in respect of a stored value instrument to which subclause (1A) applies that is issued or provided to a customer in which—

- (a) each stored value instrument is below the maximum possible value thresholds in subclause (1)(a) and (b); and
- (b) each stored value instrument appears to be for a different recipient.

(2) In regulation 15(3), definition of **stored value instrument**, paragraphs (a) and (b)(i), replace “a portable device” with “any device”.

**28 Regulation 22 amended (Debt collection services)**

In regulation 22(2), replace “of debt” with “of unpaid debt”.

**29 Regulation 24 revoked (Relevant services provided in respect of trust accounts or client funds accounts)**

Revoke regulation 24.



**30 Regulation 24AAB inserted (Relevant services provided by non-court-appointed liquidators)**

After regulation 24AA, insert:

**24AAB Relevant services provided by non-court-appointed liquidators**

- (1) This regulation applies to a relevant service provided by a non-court appointed liquidator in respect of the liquidation of a company.
- (2) A relevant service to which this regulation applies is exempt from the following sections of the Act:
  - (a) sections 22(1)(a) to (c) and (2) to (6) and 22A;
  - (b) sections 27 and 28;
  - (c) section 31;
  - (d) section 37(1)(b).
- (3) However,—
  - (a) if the relevant service relates to an international wire transfer by the non-court-appointed liquidator, the reporting entity must comply with subpart 2A of Part 2 of the Act;
  - (b) if the relevant service relates to the disbursement of funds to a beneficial owner of the customer that has not previously been subject to customer due diligence, the reporting entity must comply with section 16(1)(b) of the Act.
- (4) In this regulation, **non-court-appointed liquidator**, in relation to a company, means a liquidator appointed under section 241(2)(a), (b), or (d) of the Companies Act 1993.

**31 Regulation 24AC amended (Relevant services provided to subject of Commissioner of Police’s order and production order)**

- (1) Replace the heading to regulation 24AC with “**Relevant services provided to person subject to production order made under certain legislation**”.
- (2) Replace regulation 24AC(1) with:
  - (1) This regulation applies to a relevant service provided by a reporting entity to a person who—
    - (a) is the subject of a Commissioner’s order or a production order; or
    - (b) is an associate of the person referred to in paragraph (a).
- (3) In regulation 24AC(4), replace the definition of **production order** with:

**production order** means an order made or issued under either of the following:

  - (a) section 74 of the Search and Surveillance Act 2012;
  - (b) section 252 of the Customs and Excise Act 2018

**32 New regulations 24AF to 24AL inserted**

After regulation 24AE, insert:

**24AF Relevant services provided by trustee company or nominee company**

- (1) This regulation applies to a trustee company or nominee company—
  - (a) that is a subsidiary of, is controlled by, and delivers services on behalf of a reporting entity in New Zealand (a **parent entity**); and
  - (b) that undertakes activities as a trustee or nominee on behalf of that parent entity; and
  - (c) in respect of which the parent entity has established, and implements and maintains, an AML/CFT programme.
- (2) A trustee company or nominee company to which this regulation applies is exempt from all of the provisions of the Act.
- (3) In subclause (1)(a), **subsidiary** means—
  - (a) a wholly owned subsidiary; or
  - (b) a company owned by—
    - (i) an accountant in public practice, and practising in partnership, who is a partner; or
    - (ii) a solicitor in public practice, and practising in partnership, who is a partner; or
    - (iii) a solicitor in sole practice; or
    - (iv) an accountant in sole practice.

**24AG Relevant services provided by Crown entity**

- (1) This regulation applies to a relevant service provided by a Crown entity (as defined in section 7 of the Crown Entities Act 2004).
- (2) A relevant service to which this regulation applies is exempt from all of the provisions of the Act.

**24AH Relevant services provided by charitable entity**

- (1) This regulation applies to a relevant service provided in respect of a loan that—
  - (a) is provided by a charitable entity; and
  - (b) does not exceed \$6,000.
- (2) A relevant service to which this regulation applies is exempt from all of the provisions of the Act.
- (3) In subclause (1)(a), **charitable entity** has the same meaning as in section 4(1) of the Charities Act 2005.

*Other exemptions*

**24AI Disclosure of information relating to suspicious activity report: operator of money or value transfer service and agents**

For the purposes of ensuring compliance with AML/CFT requirements, an operator of a money or value transfer service and any agent (or sub-agent) of the operator may disclose to each other information to which section 46(1) of the Act applies.

**24AJ Exemption from address verification requirement**

- (1) A reporting entity is exempt from the requirement in section 16 of the Act to verify that a person's address or registered office is correct if it is satisfied, according to the level of risk involved, that the information obtained is a genuine address on the basis of documents, data, or information from a reliable source.
- (2) However, subclause (1) does not apply if the reporting entity is conducting enhanced customer due diligence as required by section 22 of the Act.

**24AK Agent of money or value transfer service carrying out certain activities not providing relevant service**

An agent of an operator of a money or value transfer service that is carrying out training, monitoring, or other assurance activities in relation to a sub-agent of the operator is not providing a relevant service.

**24AL Operator of money or value transfer service must determine whether to make suspicious activity report**

- (1) This regulation applies to an operator of a money or value transfer service that, in relation to a wire transfer, is both the ordering institution and beneficiary institution in respect of the transfer.
- (2) The operator must consider information from both the originator and the beneficiary of the wire transfer in determining whether to report a suspicious activity (within the meaning of section 39A of the Act) in relation to the transaction.
- (3) If suspicious activity must be reported, the operator must provide a suspicious activity report to the relevant financial intelligence unit in any country (or countries) affected by the suspicious activity.

**Part 4**

**Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011**

**33 Principal regulations**

This Part amends the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011.

**34 Regulation 11 amended (Information requirement for standard customer due diligence: existence of nominee directors or shareholders)**

After regulation 11(1), insert:

- (1A) However, nothing in subclause (1)(a) applies in respect of a nominee director who is required to, or accustomed to, following the directions of a holding company or an appointing shareholder.

**35 New regulation 11A inserted (Additional information requirement for standard customer due diligence: legal persons and legal arrangements)**

After regulation 11, insert:

**11A Additional information requirement for standard customer due diligence: legal persons and legal arrangements**

- (1) This regulation applies in relation to a customer that is a legal person or a legal arrangement.
- (2) A reporting entity must, as part of standard customer due diligence, obtain information—
- (a) relating to the customer’s legal form and proof of existence; and
  - (b) relating to the ownership of, and control structure relating to, the customer; and
  - (c) about any powers that bind or regulate the customer; and
  - (d) if the customer is a trust, relating to the name and date of birth of—
    - (i) the settlor (or settlors) of the trust; and
    - (ii) any protector (or protectors) of the trust.
- (3) The reporting entity must verify the information referred to in subclause (2) according to the level of risk involved and,—
- (a) in the case of the information specified in subclause (2)(a) to (c),—
    - (i) in relation to a legal person, on the basis of documents, data, or information from a reliable and independent source:
    - (ii) in relation to a legal arrangement, on the basis of documents, data, or information from a reliable source:
  - (b) in the case of the information specified in subclause (2)(d), on the basis of documents, data, or information from a reliable and independent source.

**36 Regulation 12 amended (Enhanced customer due diligence required for companies with nominee directors)**

Replace regulation 12(b) with:

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

**37 New regulations 12A to 12G inserted**

After regulation 12, insert:

**12A Circumstances when simplified customer due diligence does not apply**

Despite section 18(1) and (3) of the Act, a reporting entity must not conduct simplified customer due diligence on a person in the circumstances described in those subsections if the reporting entity has grounds to report a suspicious activity (within the meaning of section 39A of the Act) in relation to any of the circumstances.

**12B Additional enhanced customer due diligence required when establishing, and during, business relationship**

- (1) A reporting entity must carry out the additional enhanced customer due diligence measures specified in subclause (2) when establishing, and during, a business relationship as is necessary to manage and mitigate the risks of money laundering and the financing of terrorism.
- (2) The additional enhanced customer due diligence measures are—
  - (a) obtaining further information from the customer in relation to a transaction;
  - (b) examining the purpose of a transaction;
  - (c) enhanced monitoring of a business relationship;
  - (d) obtaining senior management approval for transactions or to continue the business relationship.

**12C Enhanced customer due diligence requirement relating to trusts**

- (1) When conducting enhanced customer due diligence under section 23 of the Act in relation to a trust, a report entity is not required to verify information relating to the source of funds or source of wealth of the trust if ...
- (2) [To come]

**12D Further requirement relating to risk-rating new customer**

- (1) A reporting entity must risk-rate a new customer when conducting customer due diligence in the circumstances described in sections 14 and 22 of the Act.
- (2) The reporting entity must keep a record of the customer's risk rating.

**12E Further requirements relating to ongoing customer due diligence and account monitoring**

When conducting ongoing customer due diligence and undertaking account monitoring under section 31(4)(c) of the Act, a reporting entity must, according to the level of risk involved,—

- (a) have regard to when customer due diligence was last conducted in relation to the customer; and

- (b) regularly review a customer's activities described in paragraph (a) of the definition of designated non-financial business or profession in section 5(1) of the Act; and
- (c) as appropriate, update the customer's risk rating.

**12F Customer due diligence requirements where designated non-financial business or profession provides relevant service to repeat customer outside of ongoing business relationship**

- (1) This regulation applies to a designated non-financial business or profession that provides a relevant service to a repeat customer in circumstances outside of an ongoing business relationship.
- (2) The designated non-financial business or profession is not required to obtain or verify any documents, data, or information previously obtained and verified relating to a customer that it has conducted customer due diligence on in the circumstances described in sections 14, 18, and 22 of the Act, unless the designated non-financial business or profession considers—
  - (a) there are reasonable grounds to doubt the adequacy or veracity of the documents, data, or information previously obtained; or
  - (b) the level of risk involved otherwise requires it.
- (3) To avoid doubt, subclause (2) does not exempt the designated non-financial business or profession from the requirements to conduct ongoing customer due diligence and account monitoring in accordance with section 31 of the Act.

**12G Customer due diligence requirements for when relevant service not initially provided**

- (1) This regulation applies to a designated non-financial business or profession that—
  - (a) has previously provided a service to a customer that is not a relevant service; and
  - (b) is subsequently engaged by that customer to provide a relevant service.
- (2) The designated non-financial business or profession must conduct customer due diligence on the customer in the circumstances described in sections 14, 18, and 22 of the Act.
- (3) However, the designated non-financial business or profession may carry out verification of identity after it is engaged to provide the relevant service if—
  - (a) it is essential not to interrupt normal business practice; and
  - (b) money laundering and financing of terrorism risks are effectively managed through appropriate risk management procedures; and
  - (c) verification of identity is completed as soon as is practicable after the designated non-financial business or profession is engaged to provide the relevant service.

**38 New regulations 14 to 40 inserted**

After regulation 13, insert:

**14 AML/CFT supervisor must approve designated business group**

A relevant AML/CFT supervisor must approve the formation of a designated business group.

**15 Prohibition on correspondent banking relationship with bank registered in Democratic People’s Republic of Korea**

A reporting entity must not establish or maintain a correspondent banking relationship (as defined in section 29(3) of the Act) with a bank registered in the Democratic People’s Republic of Korea.

**16 Further condition relating to reliance on reporting entity or persons in another country**

- (1) This regulation applies if a reporting entity is relying on a reporting entity or person in another country to conduct customer due diligence procedures required for customer due diligence as provided for in section 33 of the Act.
- (2) It is a condition that the reporting entity must take reasonable steps to satisfy itself that the reporting entity or person being relied on from that country—
  - (a) has record-keeping measures to at least the standard required by the Act; and
  - (b) is able to provide verification information to the reporting entity as soon as practicable on request, but no later than 5 working days after receiving the request.

**17 Specific condition relating to reliance on person described in section 33(2)(a)(ii) of Act**

- (1) This regulation applies if a reporting entity is relying on a person described in section 33(2)(a)(ii) of the Act to conduct customer due diligence procedures required for customer due diligence under the Act.
- (2) It is a condition that the reporting entity must consider the level of risk associated with relying on a person residing in that country.

**18 Requirement relating to reliance on overseas member of designated business group**

- (1) This regulation applies if a reporting entity that is a member of a designated business group is relying on another member of the group who is resident overseas (an **overseas member**) to conduct customer due diligence procedures in accordance with section 32(1)(a) of the Act.
- (2) The overseas member must conduct the customer due diligence procedures to at least the standard required by the Act and any regulations made under the Act.

**19 Verification information**

For the purposes of sections 32(1)(a)(ii) and 33(2)(c)(ii) of the Act, **relevant verification information** means a copy of the records used by the person being relied-on to verify the customer's identity.

**20 Requirement to update risk assessment in relation to new or developing technologies or products**

- (1) A reporting entity must update the risk assessment undertaken under section 58 of the Act to take account of any new or developing technologies, or new or developing products, used by the reporting entity.
- (2) The risk assessment must be updated before the new or developing technology or new or developing product is used by the reporting entity.

**21 Countries with insufficient anti-money laundering and countering financing of terrorism systems or measures**

For the purposes of section 22(1)(a)(ii) and (b)(ii) and 57(1)(h) of the Act, a **country with insufficient anti-money laundering and countering financing of terrorism systems or measures** means a country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action.

**22 Information requirement: international wire transfers less than \$1,000**

- (1) This regulation applies in relation to an ordering institution of an international wire transfer of less than \$1,000.
- (2) The following information must accompany each wire transfer:
  - (a) the originator's full name:
  - (b) the originator's account number or other identifying information that allows the transaction to be traced back to the originator:
  - (c) the name of the beneficiary:
  - (d) the beneficiary's account number or the beneficiary's unique transaction reference number.
- (3) However, the ordering institution need not verify the information specified in subclause (2) unless it considers there may be grounds to report a suspicious activity (within the meaning of section 39A of the Act) in relation to the transfer.

**23 Information requirement: domestic wire transfer related to international wire transfer made by intermediary institution**

- (1) This regulation applies to a domestic wire transfer that relates to an international wire transfer made by an intermediary institution.
- (2) If, for any technological reason, information received from an ordering institution or another intermediary institution cannot be transmitted with the domestic



wire transfer, the intermediary institution must keep a record of the information that was received.

- (3) The intermediary institution must retain the record for a period of at least 5 years after the completion of the domestic wire transfer.

**24 Information requirement: wire transfer made by ordering institution**

- (1) This regulation applies to a reporting entity that is an ordering institution in respect of an international wire transfer.
- (2) An ordering institution must keep a record of—
  - (a) the name of the beneficiary; and
  - (b) the beneficiary’s account number or the beneficiary’s unique transaction reference number.
- (3) The ordering institution must retain the record,—
  - (a) if the wire transfer is conducted by a customer with whom the reporting entity has a business relationship, for a period of at least 5 years after the end of that business relationship; or
  - (b) if the wire transfer is an occasional transaction or activity, for a period of at least 5 years after the completion of the wire transfer.

**25 Further requirement for AML/CFT compliance programme: reporting entity that is intermediary institution of international wire transfer**

- (1) This regulation applies to a reporting entity that is an intermediary institution in respect of an international wire transfer.
- (2) For the purposes of section 57 of the Act, the reporting entity’s AML/CFT compliance programme must set out the procedures, policies, and controls relating to—
  - (a) the reasonable steps the reporting entity will take to identify any international wire transfers that lack required originator or beneficiary information; and
  - (b) the risk-based policies or procedures the reporting entity will apply if an international wire transfer does not contain any of that information.

**26 Further requirement for AML/CFT compliance programme: reporting entity that is beneficiary institution of international wire transfer**

- (1) This regulation applies to a reporting entity that is a beneficiary institution in respect of an international wire transfer.
- (2) For the purposes of section 57 of the Act, the reporting entity’s AML/CFT compliance programme must set out the procedures, policies, and controls relating to—

- (a) the reasonable steps the reporting entity will take to identify any international wire transfers that lack required originator or beneficiary information; and
- (b) the risk-based policies or procedures the reporting entity will apply if an international wire transfer does not contain any of that information.

**27 Further requirement for AML/CFT compliance programme: agents of reporting entity**

For the purposes of section 57 of the Act, the AML/CFT compliance programme of a reporting entity must set out the procedures, policies, and controls relating to—

- (a) any functions carried out by an agent of the reporting entity as part of the programme:
- (b) vetting agents who carry out functions of the reporting entity:
- (c) training agents of the reporting entity on AML/CFT matters:
- (d) maintaining a list of agents of the reporting entity.

**28 Requirement for AML/CFT compliance programme: source of wealth or source of funds**

For the purposes of section 57 of the Act, the AML/CFT compliance programme of a reporting entity must, as is necessary to manage and mitigate the risks of money laundering and the financing of terrorism, differentiate between when—

- (a) information must be obtained and verified regarding the source of the funds or the source of the wealth of a customer; and
- (b) information must be obtained and verified regarding both the source of the funds and the source of the wealth of a customer.

**29 Reporting entity that carries out activities of another kind of reporting entity**

- (1) This regulation applies to a reporting entity specified in section 6(4) of that Act that carries out any activity or activities of another type of reporting entity specified in that subsection.
- (2) The reporting entity must comply with the provisions of the Act to the extent that it carries out activities of the other type of reporting entity.

**30 Requirement relating to ongoing customer due diligence and account monitoring**

- (1) As part of ongoing customer due diligence and account monitoring under section 31 of the Act, a reporting entity must, according to the level of risk involved,—

- (a) update any customer information following its review under section 31(4)(b); and
  - (b) take reasonable steps to verify the information.
- (2) In determining the extent to which information must be updated or verified under subclause (1), the reporting entity must consider when customer due diligence was last conducted in relation to the customer.

**31 Basis for verifying identity information where reliable and independent source does not exist**

- (1) This regulation applies if a reporting entity is unable to verify a customer's identity on the basis of documents, data, or information issued by a reliable and independent source.
- (2) The reporting entity may verify the customer's identity based on data, documents, or information issued by a reliable source.
- (3) However, nothing in this regulation applies to verification of information relating to—
- (a) a person's name or date of birth:
  - (b) the source of funds or source of wealth of a customer.

**32 Requirement to conduct customer due diligence in certain cases**

- (1) This regulation applies if a customer seeks to conduct an activity or a transaction through a reporting entity outside of a business relationship—
- (a) that is not an occasional transaction or an occasional activity; and
  - (b) where there may be grounds to report a suspicious activity (within the meaning of section 39A of the Act) in respect of the activity or transaction.
- (2) A reporting entity must conduct customer due diligence on the customer in accordance with Part 2 of the Act.

**33 Simplified customer due diligence: delegation by senior manager of customer**

- (1) A senior manager of a customer whose identity has been obtained and verified in accordance with sections 19 and 20 of the Act may delegate their authority to act by electronic means on behalf of the customer to 1 or more employees of the customer.
- (2) A delegation under subclause (1) is subject to any conditions or requirements that are necessary to manage and mitigate the risk of money laundering and the financing of terrorism.

**34 Extension of time for reporting suspicious activities: law firms**

Despite section 40(3) of the Act, a law firm must, as soon as practicable but no later than 5 working days after forming its suspicion, report the activity, or suspicious activity, to the Commissioner in accordance with section 41 of the Act.

**35 Extension of time for submitting prescribed transaction report in certain cases**

- (1) This regulation applies to a reporting entity who conducts a prescribed transaction on behalf of a person but is unable to comply with the requirement to report the transaction to the Commissioner within 10 working days of the transaction due to issues related to the use of an automated system by the entity.
- (2) The reporting entity must, as soon as practicable but no later than 20 working days after the transaction, report the transaction to the Commissioner in accordance with section 48B of the Act.

**36 Virtual asset transfer to be treated as international wire transfer**

- (1) For the purposes of complying with the Act, a reporting entity must treat a wire transfer involving a virtual asset as if it were an international wire transfer unless satisfied otherwise.
- (2) In subclause (1), **virtual asset** has the meaning given in regulation 15A(3) of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.

**37 Operator of money or value transfer service must comply with requirements relating to wire transfers**

To avoid doubt,—

- (a) an operator of a money or value transfer service must comply with all requirements of the Act and any regulations made under the Act relating to a wire transfer:
- (b) if an operator of a money or value transfer service utilises an agent (or a sub-agent) in relation to a wire transfer, the originator or beneficiary of the wire transfer is the customer for the purposes of the Act (and not the agent or sub-agent).

**38 Designated business group may share compliance officer**

A member of a designated business group may share a compliance officer with another member of the group.

**39 Record-keeping requirements for other records**

- (1) A reporting entity must keep a record of a prescribed transaction report submitted under subpart 2A of Part 2 of the Act for a period of at least 5 years after the report is made.

- (2) A reporting entity must keep a record described in section 51(1)(c) of the Act for a period at least 5 years after the end of the reporting entity's business relationship with the customer.

**40 Prescribed enactments for purposes of section 140 of Act**

The following enactments are prescribed for the purposes of section 140 of the Act:

- (a) Agricultural Compounds and Veterinary Medicines Act 1997:
- (b) Animal Products Act 1999:
- (c) Biosecurity Act 1993:
- (d) Child Support Act 1991:
- (e) Commerce Act 1986:
- (f) Corrections Act 2004:
- (g) Defence Act 1990:
- (h) Environment Act 1986:
- (i) Fisheries Act 1996:
- (j) Food Act 2014:
- (k) Forests Act 1949:
- (l) Gaming Duties Act 1971:
- (m) Immigration Act 2009:
- (n) Policing Act 2008:
- (o) Student Loans Scheme Act 2011:
- (p) Trusts Act 2019:
- (q) Wine Act 2003.

**Part 5**

**Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016**

**39 Principal regulations**

This Part amends the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016.

**40 New regulations 8 and 9 inserted**

After regulation 7, insert:

- 8 Section 48A(1) report to be submitted when making or receiving international wire transfer through another reporting entity**
- (1) This regulation applies to a designated non-financial business or profession that—
- (a) makes an international wire transfer from its trust account through another reporting entity on behalf of a customer; or
  - (b) receives an international wire transfer into its trust account from another reporting entity on behalf of a customer.
- (2) A designated non-financial business or profession to which this regulation applies must—
- (a) submit a prescribed transaction report under section 48A(1) of the Act containing the relevant information set out in section 48B(1) of the Act and Part 1 of Schedule 2 it holds in relation to the transfer; and
  - (b) include in that report any other information it holds in relation to the transfer that is necessary for the Commissioner to match complementary section 48A(1) reports made by other reporting entities.
- 9 Section 48A(1) report to be submitted for cash transactions deposited to beneficiary's bank account to settle international wire transfer**
- (1) This regulation applies to an operator of a money or value transfer service who makes funds available to a beneficiary of an international wire transfer through a deposit of physical cash into a bank account.
- (2) An operator of a money or value transfer service to which this regulation applies must submit a prescribed transaction report under section 48A(1) of the Act containing the information set out in section 48B(1) of the Act and Part 2 of Schedule 2.

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 amend the following regulations:

- Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Regulations 2010:
- Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011:
- Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011:

- Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011:
- Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016.

The majority of the amendments (as specified in *clause 2(1)*) come into force on 31 July 2023 and the rest of the amendments come into force on 1 June 2024.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Justice.