



## Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2018

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 30th day of July 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 5, 153, and 154 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009,—

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

### Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 New regulation 5B and cross-heading inserted	2
<i>Definition of customer</i>	
5B Definition of customer	2
5 Regulation 21A amended (Exclusion: licensed or registered auctioneers and providers of Internet auctions)	2
6 New regulation 21B inserted (Exclusion: persons carrying out property management activities)	3

	21B	Exclusion: persons carrying out property management activities	3
7		New regulation 24A and cross-heading inserted	3
		<i>Timing of due diligence</i>	
	24A	Time at which real estate agents must conduct customer due diligence	4

## Regulations

### 1 Title

These regulations are the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations 2018.

### 2 Commencement

These regulations come into force on 1 January 2019.

### 3 Principal regulations

These regulations amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (the **principal regulations**).

### 4 New regulation 5B and cross-heading inserted

After regulation 5A, insert:

#### *Definition of customer*

### 5B Definition of customer

For the purposes of paragraph (c) of the definition of customer in section 5(1) of the Act, a **customer**, in relation to a real estate agent (as defined in section 4(1) of the Real Estate Agents Act 2008)—

- (a) means a client (as defined in section 4(1) of the Real Estate Agents Act 2008) 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.

### 5 Regulation 21A amended (Exclusion: licensed or registered auctioneers and providers of Internet auctions)

- (1) In the heading to regulation 21A, delete “**licensed or registered auctioneers and**”.
- (2) Revoke regulation 21A(1).

**6 New regulation 21B inserted (Exclusion: persons carrying out property management activities)**

After regulation 21A, insert:

**21B Exclusion: persons carrying out property management activities**

- (1) For the purposes of the definition of reporting entity in section 5(1) of the Act, a person who carries out any property management activity is not a reporting entity by reason only that the person carries out property management activities.
- (2) In this regulation, **property management activity**—
  - (a) means—
    - (i) acting, or offering to act, for reward in respect of the negotiation, grant, approval, or assignment of tenancies in relation to residential premises (within the meaning of section 2(1) of the Residential Tenancies Act 1986), irrespective of whether that activity is carried on by itself or in conjunction with other businesses; and
    - (ii) in relation to any real property (whether residential premises, commercial premises, or other real property),—
      - (A) collecting or offering to collect money payable for the use, maintenance, repair, improvement, or oversight of any property; and
      - (B) holding or disbursing money received for the use, maintenance, repair, improvement, or oversight of any property; and
      - (C) holding or disbursing money received for the advertising of, or negotiating the use of, any property; and
  - (b) includes advertising or negotiating, or any other act done directly or indirectly for the purpose of carrying out any activities referred to in paragraph (a); but
  - (c) despite paragraphs (a)(ii) and (b), does not include—
    - (i) acting, or offering to act, for reward in respect of the negotiation, grant approval, or assignment of a tenancy agreement for commercial premises (whether described as a lease, tenancy agreement, right to occupy, or otherwise) in relation to commercial premises (within the meaning of section 2(1) of the Residential Tenancies Act 1986); or
    - (ii) real estate agency work (within the meaning of section 4(1) of the Real Estate Agents Act 2008).

**7 New regulation 24A and cross-heading inserted**

After regulation 24, insert:

*Timing of due diligence*

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

For the purpose of sections 14(3), 18(3A), and 22(6) of the Act, a real estate agent must conduct customer due diligence before the real estate agent enters into an agency agreement (within the meaning of section 4(1) of the Real Estate Agents Act 2008) with a customer.

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 come into force on 1 January 2019. They amend the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011, by—

- inserting a definition of a customer, in relation to a real estate agent:
- removing the exclusion of licensed or registered auctioneers from the definition of reporting entity in section 5(1) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**):
- excluding property management activities from the scope of the Act:
- specifying the time at which a real estate agent must conduct standard due diligence.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 2 August 2018.  
These regulations are administered by the Ministry of Justice.