



# **Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2016**

Jerry Mateparae, Governor-General

## **Order in Council**

At Wellington this 30th day of May 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under section 154(1)(d) and (e) of the Financial Advisers Act 2008 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce and Consumer Affairs made after consulting the Financial Markets Authority in accordance with section 154(4) of that Act.

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## Regulations

### 1 Title

These regulations are the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2016.

### 2 Commencement

- (1) Regulations 4(2) and 5(1) come into force on 1 December 2016.
- (2) The rest of these regulations come into force on 30 June 2016.

### 3 Principal regulations

These regulations amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 (the **principal regulations**).

### 4 Regulation 4 amended (Meaning of cash or term portfolio investment entity)

- (1) In regulation 4(2), replace “In subclause (1)” with “In this regulation”.
- (2) In regulation 4(2), definition of **PIE call fund unit**, paragraph (a), delete “investment statement or”.
- (3) In regulation 4(2), replace the definitions of **registered bank parent**, **specified bank**, and **specified issuer** with:

**registered bank** has the same meaning as in section 2(1) of the Reserve Bank of New Zealand Act 1989

**registered bank parent** means a registered bank that is the holding company of a specified issuer (within the meaning of section 5 of the Companies Act 1993)

**specified bank** means,—

- (a) if the specified issuer is a registered bank,—
  - (i) the registered bank; or
  - (ii) a related company of the registered bank that is also a registered bank; or
- (b) if the specified issuer is not a registered bank,—
  - (i) the specified issuer’s registered bank parent; or
  - (ii) a related company of the specified issuer’s registered bank parent that is also a registered bank

**specified issuer** means an issuer, in respect of 1 or more specified PIEs, that—

- (a) is a registered bank that, in the ordinary course of its business, continuously offers specified units; or
- (b) is a subsidiary of its registered bank parent that—

- (i) is controlled by its registered bank parent within the meaning of section 7 of the Companies Act 1993; and
- (ii) in the ordinary course of its business, continuously offers specified units

## 5 Regulation 7B amended (Bank notice product is category 2 product)

- (1) In regulation 7B(3), delete “investment statement or”.
- (2) Revoke regulation 7B(4).

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 amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011 (the **principal regulations**). Most of the amendments come into force on 30 June 2016. Two minor amendments come into force on 1 December 2016.

The Financial Advisers Act 2008 provides that a unit in a cash or term portfolio investment entity (as defined in the principal regulations) is a category 2 product (*see* paragraph (g) of the definition of that term in section 5 of the Act). *Regulation 4* amends the definition of cash or term portfolio investment entity in regulation 4 of the principal regulations to allow the units to be issued by a registered bank (as well as a subsidiary of a registered bank).

Regulation 7B of the principal regulations specifies certain bank notice products as category 2 products for the purposes of the Financial Advisers Act 2008. Under regulation 7B(4), this regulation was to be in force for a 5-year period ending on 30 June 2016. The effect of *regulation 5* is to remove this time limit so that bank notice products will continue to be category 2 products after 30 June 2016.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 2 June 2016.

These regulations are administered by the Ministry of Business, Innovation, and Employment.