

# **New Zealand Guardian Trust Company Amendment Bill**

Private Bill

## **Explanatory note**

### **General policy statement**

This Bill amends the New Zealand Guardian Trust Company Act 1982 (the **principal Act**).

The principal Act, among other things, authorises The New Zealand Guardian Trust Company Limited (**NZGT**) to transact business with its parent company and that parent company's subsidiaries and associated companies. The principal Act defines NZGT's parent company as being Promina Group Limited. However, on 20 March 2007 the businesses of Promina Group Limited and Suncorp-Metway Limited were merged by way of a scheme of arrangement. As a result of this merger, Suncorp-Metway Limited is NZGT's current parent company.

The purpose of this Bill is to authorise NZGT to transact business with Suncorp-Metway Limited and its subsidiaries and associated companies. This authority to transact business applies regardless of whether Suncorp-Metway Limited or its subsidiaries or associated companies are New Zealand companies or overseas companies. In particular, this Bill—

- provides that NZGT's existing authorisation to transact business with its parent company, and with its parent company's subsidiaries and associated companies, applies to its current parent company, Suncorp-Metway Limited, and the subsidiaries and associated companies of Suncorp-Metway Limited, whether or not they are incorporated in New Zealand; and

- authorises the Governor-General, by Order in Council, to amend Schedule 2 of the principal Act by adding the name of a body corporate that is a holding company of NZGT. As NZGT is authorised to transact business with any body corporate named in Schedule 2, this removes the need for legislative amendment to the principal Act whenever NZGT has a new parent company. The Order in Council can only be made on the recommendation of the Minister of Justice, given after consultation with the Minister of Commerce; and
- provides that the authorisation applies to any business transacted on or after 20 March 2007 until the commencement of this Act between NZGT and its new parent company, or subsidiaries or associated companies of its parent company, and, in effect, validates those transactions; and
- ensures that the principal Act accurately reflects NZGT current ownership structure.

### Preamble and clause by clause analysis

The *Preamble* describes the background to the Bill, and sets out the objects of the Bill.

*Clause 1* sets out the Title of the Bill.

*Clause 2* is the commencement clause. The Act comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* states that this Act amends the New Zealand Guardian Trust Company Act 1982.

*Clause 4* makes 2 minor consequential amendments to section 1.

*Clause 5* amends the interpretation section (section 2) by—

- consequentially amending the definition of **appointed day**;
- inserting a definition of **holding company**;
- repealing the definition of **parent company**;
- adding a *new subsection (2)* that authorises the Governor-General to amend *new Schedule 2* by adding the name of a body corporate that is a holding company of NZGT to Schedule 2, amending a name listed in Schedule 2, or removing a name from Schedule 2. Schedule 2 can be amended by an Order in Council, but only on the recommendation of the Minister of Justice, given after consultation with the Minister of Commerce.

*Clause 6* makes a minor consequential amendment to *section 13*.

*Clause 7* adds a *new section 18(2)* which defines the term parent company. For the purposes of section 18, **parent company** is defined to mean a holding company of NZGT.

*Clause 8* adds a *new section 21(3)* which also defines parent company. For the purposes of section 21, **parent company** means a holding company of NZGT that is specified in *new Schedule 2*. Schedule 2 lists NZGT current ultimate parent company, Suncorp-Metway Limited. The effect of this amendment is that NZGT can transact business with those of its holding companies that are listed in Schedule 2 and subsidiaries and associated companies of those holding companies.

*Clause 9* and the *Schedule* add *new Schedule 2*, which sets out the names of the holding companies of NZGT. Suncorp-Metway Limited, as the current ultimate parent company of NZGT, is the only company currently listed in *new Schedule 2*.

*Clause 10* validates any associated company transactions that have occurred on or after 20 March 2007, but before the commencement of this Act. Section 21 of the principal Act (which authorises associated company transactions) is deemed to have applied during that period as if **parent company** was defined in that section to mean Suncorp-Metway Limited.

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*Hon Judith Tizard*

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## **Preamble**

- (1) The New Zealand Guardian Trust Company Act 1982 vested in The New Zealand Guardian Trust Company Limited (**NZGT**)—
  - (a) the trust department undertaking of The New Zealand Insurance Company Limited; and
  - (b) the undertaking of The South British Guardian Trust Company Limited:
- (2) NZGT carries on a trust and agency business as an executor, as a trustee, in other fiduciary capacities, and as a trustee company:
- (3) The New Zealand Guardian Trust Company Act 1982 authorises NZGT to transact business with Promina Group

- Limited (as its parent company) and with that parent company's subsidiaries and associated companies:
- (4) NZGT's parent company changed from Promina Group Limited to Suncorp-Metway Limited on 20 March 2007:
- (5) NZGT wishes to— 5
- (a) be able to transact business with its current and future parent companies and with those parent companies' subsidiaries and associated companies; and
- (b) ensure the principal Act reflects NZGT's current ownership structure; and 10
- (c) validate business transacted with Suncorp-Metway Limited, or subsidiaries or associated companies of Suncorp-Metway Limited, on or between 20 March 2007 and the commencement of this Act:
- (6) The objects of this Act cannot be achieved without legislation: 15

**The Parliament of New Zealand therefore enacts as follows:**

**1 Title**

This Act is the New Zealand Guardian Trust Company Amendment Act **2007**. 20

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act amended**

This Act amends the New Zealand Guardian Trust Company Act 1982. 25

**4 Short Title and commencement**

- (1) Section 1(3) is amended by omitting "the Schedule to this Act shall" and substituting "Schedule 1".
- (2) Section 1(4) is amended by omitting "the Schedule to this Act" and substituting "Schedule 1". 30

## 5 Interpretation

- (1) The definition of **appointed day** in section 2 is amended by omitting “the Schedule to this Act:” and substituting “Schedule 1”.
- (2) Section 2 is amended by inserting the following definition after the definition of **Guardian**:  
“**holding company** has the same meaning as in section 5 of the Companies Act 1993 and, for the avoidance of doubt, includes a body corporate that is incorporated outside New Zealand”.
- (3) The definition of **parent company** in section 2 is repealed.
- (4) Section 2 is amended by adding the following subsection as **subsection (2)**:  
“(2) The Governor-General may, by Order in Council made on the recommendation of the Minister of Justice given after consultation with the Minister of Commerce, amend **Schedule 2** to—  
“(a) add the name of a body corporate that is a holding company of the new company;  
“(b) amend a reference to a body corporate named in **Schedule 2** in order to reflect a change in that body corporate’s name, provided that that body corporate continues to be a holding company of the new company;  
“(c) omit the name of a body corporate that ceases to be a holding company of the new company.”

## 6 Repeals

Section 13 is amended by omitting “the Schedule to this Act” and substituting “Schedule 1”.

## 7 Company not to wind up without sanction of Court

Section 18 is amended by adding the following subsection as **subsection (2)**:

- “(2) In this section, **parent company** means a holding company of the new company.”

- 8 Company authorised to transact business with parent company or subsidiaries or associated companies**  
Section 21 is amended by adding the following subsection:  
“(3) In this section, **parent company** means a holding company of the new company specified in **Schedule 2.**” 5
- 9 New Schedule 2 added**  
The schedule set out in the Schedule to this Act is added as Schedule 2.
- 10 Validation of certain previous transactions**  
Section 21 of the principal Act is deemed to have applied on and after 20 March 2007 until the commencement of this Act as if **parent company** was defined in that section to mean Suncorp-Metway Limited. 10
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**Schedule**  
**New Schedule 2 added**

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<b>Schedule 2</b>	<b>ss 2(2), 21(3)</b>	
<b>Authorised parent companies of new company</b>		<b>5</b>
Suncorp-Metway Limited		