

Reprint  
as at 15 March 2021



**Financial Advisers (Definitions, Voluntary Authorisation,  
Prescribed Entities, and Exemptions) Amendment  
Regulations 2011**  
(SR 2011/212)

Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2011: revoked, on 15 March 2021, pursuant to section 97(2)(b) of the Financial Services Legislation Amendment Act 2019 (2019 No 8).

Anand Satyanand, Governor-General

**Order in Council**

At Wellington this 20th day of June 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 154(1)(a), (d), and (e) of the Financial Advisers Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister of Commerce made after consulting the Financial Markets Authority in accordance with section 154(4) of that Act and being satisfied of the matters specified in section 154(5) of that Act, makes the following regulations.

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**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 Business, Innovation, and Employment.**

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## Regulations

### 1 Title

These regulations are the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment Regulations 2011.

### 2 Commencement

These regulations come into force on 1 July 2011.

### 3 Principal regulations amended

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

### 4 Meaning of cash or term portfolio investment entity

Paragraph (b) of the definition of **specified PIE** in regulation 4(2) is amended by inserting “debt securities that are bank notice products,” after “bank term deposits,”.

### 5 Meaning of investment-linked contract of insurance

Regulation 5 is amended by revoking subclause (2) and substituting the following subclauses:

- (2) In subclause (1), **pure risk contract of insurance** means a contract of insurance—
- (a) for the payment of money on the happening of a contingency not dependent on the continuance of human life; and
  - (b) that does not, and never will, have a value on its cancellation or surrender that is greater than the value of—
    - (i) an unexpired premium relating to a period after the date of cancellation or surrender; or

- (ii) the sum of the premiums paid to the insurer.
- (3) Subclause (2)(b)(ii) is revoked on the close of 30 June 2016.

## 6 New regulations 7A to 7C inserted

The following regulations are inserted after regulation 7:

### 7A Public Trust term deposit is category 2 product

For the purposes of paragraph (k) of the definition of category 2 product in section 5 of the Act, a fixed term deposit product offered by Public Trust is a category 2 product.

### 7B Bank notice product is category 2 product

- (1) For the purposes of paragraph (k) of the definition of category 2 product in section 5 of the Act, a bank notice product is a category 2 product.
- (2) In subclause (1), **bank notice product** means a debt security issued by a registered bank in New Zealand or a specified unit (as defined in regulation 4) under which—
  - (a) the security holder has the right to demand, at any time, repayment in full of the principal sum or withdrawal in full of the unit price or value of the units; and
  - (b) the issuer has an obligation to pay the amount demanded not later than any period (specified in the terms of issue) after the demand being made; and
  - (c) the rate of interest payable or any other benefit provided does not alter as a result of the demand being made; and
  - (d) no fee or other amount is payable as a result of the amount demanded not having been held by the issuer for a particular period of time.
- (3) Paragraphs (a) to (d) of subclause (2) may, in the case of a specified unit, be subject to the rights and requirements set out in paragraph (a)(i) to (viii) of the definition of PIE call fund unit in regulation 4(2) to the extent that they are described in the investment statement for the specified units.
- (4) This regulation is revoked on the close of 30 June 2016.

### 7C Certain building society fixed term redeemable shares are category 2 products

For the purposes of paragraph (k) of the definition of category 2 product in section 5 of the Act, a share issued by a building society that is a registered bank is a category 2 product if—

- (a) it is redeemable in cash at the end of a fixed term or on the liquidation of the building society; and
- (b) it bears a rate of dividend set on the issue of the share; and

- (c) on liquidation of the building society, the former holder ranks ahead of all other classes of shareholders for the consideration payable on redemption.

**7 New regulation 12 added**

The following regulation is added:

**12 Exemption for retirement village operators**

- (1) An operator of a retirement village is exempt from the application of the Act in respect of a service if—
  - (a) the retirement village is registered under the Retirement Villages Act 2003; and
  - (b) the service is provided in the ordinary course of business of an operator of a retirement village; and
  - (c) the service relates to acquiring or disposing of an occupation right agreement for that retirement village.
- (2) In this regulation, **occupation right agreement**, **operator**, and **retirement village** have the meanings set out in the Retirement Villages Act 2003.

Rebecca Kitteridge,  
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, which come into force on 1 July 2011, amend the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011.

These regulations do the following things:

- extend the existing definition of pure risk contracts of insurance. These insurance contracts are classified as category 2 products under section 5 of the Financial Advisers Act 2008 by virtue of being excluded from being investment-linked contracts of insurance. The extended definition allows pure risk contracts of insurance to provide for premium refunds. The extended definition is limited initially to 5 years, providing an opportunity to review its operation:
- reclassify the following products as category 2 products under section 5 of the Financial Advisers Act 2008:
  - fixed term deposit products offered by Public Trust:
  - bank notice products (which are deposit products issued by a registered bank under which funds are on call, but subject to a minimum advance notice period). These products may also be issued through a PIE structure. This reclassification is limited initially to 5 years, providing an opportunity to review its operation:
  - building society redeemable shares (which are akin to term deposits) if the building society is also a registered bank:
- provide a new exemption from the Financial Advisers Act 2008 for operators of registered retirement villages that provide advice or other services in the ordinary course of their business relating to the acquiring or disposing of occupation right agreements for their retirement village. This conduct is regulated under the Retirement Villages Act 2003. The exemption extends (under section 14(1)(q) of the Financial Advisers Act 2008) to employees and other persons acting in the course of, and for the purposes of, the operator's business.

## Reprints notes

### **1**    *General*

This is a reprint of the Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Amendment 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 Services Legislation Amendment Act 2019 (2019 No 8): section 97(2)(b)