

Anti-money laundering – a development for managing intermediaries

The Ministry of Justice is seeking feedback¹ on the proposed Ministerial exemption for “managing intermediaries” (reporting entities who transact with other reporting entities) under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act).

The deadline for submissions is 22 August 2014.

The proposed exemption

The exemption, previously signalled by AML/CFT supervisors,² is aimed at resolving the issues arising from the obligation to conduct customer due diligence (CDD) on the underlying clients of other reporting entities. It will allow reporting entities to conduct simplified CDD on licensed managing intermediaries and relieve the requirement to conduct CDD on beneficial owners of other specified financial institutions.

The proposed exemption is in fact two separate exemptions applying if:

- a reporting entity has a customer who is one of a list of **licensed financial institutions**, and
- a reporting entity has a customer who is an other **specified financial institution**.

If a customer is a licensed financial institution (authorised futures dealer, non-bank deposit-taker, FMCA market service licensee, securities trustee or statutory supervisor) the reporting entity in question is exempted from the obligation to conduct standard due diligence (simplified due diligence will apply instead).

Similarly, if a customer is an other specified financial institution (itself a financial institution under the Act, a foreign financial institution in a country which has sufficient AML measures or an exempted superannuation scheme) the reporting entity in question is exempted from the obligation to conduct CDD on some of the beneficial owners of that customer.

The exemptions are very welcome and will assist in removing some considerable duplication in the AML requirements for financial intermediaries.

The Ministry of Justice also proposes to conduct further targeted consultation to understand whether different conditions would be required for a reporting entity which has a clearing house as its customer in relation to exchange-traded securities.

Background

This round of consultation follows the Ministry of Justice's and the Joint Supervisors' Joint Response³ to industry feedback on the Consultation Draft of the Factsheet on Managing Intermediaries⁴ (signalled in the Beneficial Ownership Guideline⁵).

Released in November 2013, the Joint Response also acknowledged the need to clarify the obligation to undertake CDD on the customers of other reporting entities in certain circumstances, in the next update of the AML/CFT Act.

From here

Reporting entities should turn a keen eye to the proposed exemption, in particular the proposed list of financial institutions covered, to understand how the exemption will affect them.

Chapman Tripp has closely monitored developments in this area, having applied on behalf of clients for some of the proposed exemptions, and submitted on both the draft Factsheet and the Joint Response.

Footnotes

1. <http://www.justice.govt.nz/policy/criminal-justice/aml-cft/publications-and-consultation/proposed-ministerial-exemption-for-managing-intermediaries/main-consultation-paper-1/appendix-1>
2. <http://www.fma.govt.nz/media/1902192/joint-response-to-managing-intermediaries-consultation-paper-11-nov-2013.pdf>
3. <http://www.fma.govt.nz/media/1902192/joint-response-to-managing-intermediaries-consultation-paper-11-nov-2013.pdf>
4. <http://www.fma.govt.nz/media/1801930/consultation-paper-practical-implications-of-reporting-entities-transacting-with-other-reporting-entities-and-the-factsheet-on-managing-intermediaries.pdf>
5. http://www.rbnz.govt.nz/regulation_and_supervision/anti-money_laundering/guidance_and_publications/5080773.pdf

To discuss
the proposed
Ministerial
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