

CODE OF PROFESSIONAL CONDUCT FOR AUTHORISED FINANCIAL ADVISERS

Code Standard 10; When providing a *class service* to a retail client, an *Authorised Financial Adviser* must take reasonable steps to ensure the *client* is aware of the limitations of the service provided.

Anti-Money Laundering and Countering Financing of Terrorism Act 2009

In 2009 the Government passed the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT). The Act, which came into full force on 30th June 2013, seeks to deter money laundering and the financing of terrorism, contribute to public confidence in the financial system and improve New Zealand's compliance with the recommendations of the Financial Action Task Force.

Money laundering is how criminals disguise the illegal origins of money or property they have obtained through criminal activities. At its simplest, is the act of making money that comes from Source A look like it comes from Source B. Financers of terrorism use similar techniques to money launderers to avoid detection by authorities and to protect the identity of those providing and receiving the funds. In New Zealand, most money laundering takes place in relation to fraud, drug crime and organised crime. The money is primarily laundered through banks, insurance companies, currency exchanges, casinos and through the purchase of motor vehicles, real estate, jewellery and gold.

Financial institutions are now required to undertake due diligence on all new customers, particularly trusts, and ongoing due diligence on existing customers. One of the main features of the act is Section 11 "Customer due diligence". Under this requirement a financial institution will have to undertake due diligence on "(a) a customer: (b) any beneficial owner of a customer: and (c) any person acting on behalf of a customer".

There are two main types of due diligence, standard due diligence and enhanced due diligence.

Standard due diligence applies to individuals and only requires the recording of a person's full name, date of birth, address or registered office and company identifier or registration number. These documents must be verified by a trusted referee.

Enhanced due diligence applies to all trusts, to many non-residents, to companies with nominee shareholders or customers who are "a politically exposed person" (for example senior politicians, senior civil servants; senior members of the armed forces, judiciary and police force; senior executives and board members of state-owned enterprises; plus family

members and associates of all these groups). Under Section 23 (a) of the act enhanced due diligence customers are required to provide "information relating to the source of the funds" even though these funds may have been received directly from a major bank.

Our AML legislation will be supervised by the following government agencies:

The Reserve Bank of New Zealand (RBNZ) will supervise banks, life insurers and non-bank deposit takers;

The Financial Market Authority (FMA) will be responsible for issuers of securities, trustee companies, futures dealers, investment managers, stockbrokers and financial advisers;

The Department of Internal Affairs will oversee casinos, non-deposit taking lenders, money changers and other reporting entities not supervised by the RBNZ or FMA.

To begin with, it's likely that these new Anti-Money Laundering requirements will cause some unease between finance industry employees and their clients. No one wants to have to prove who they are, particularly when they have been customers for a long period of time, or be asked about the structure of their trust or source of its funds. Banking customers will now need to be mindful of these new regulations when making an overseas transfer of more than \$1,000. Additional information will be required and banks will need to be satisfied they have enough information about who is sending the money.

On the whole, the AML Act will not have a major impact on individuals who deposit or invest money in their own name, unless they undertake a large number of unusual transactions. However, it will have a much bigger impact on trusts and "politically exposed" persons as their disclosure requirements will significantly increase. Once people understand and become accustomed to the changes, as with all new regimes, it will become another feature of modern society.

Any queries or questions?

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Authorised Financial Adviser

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Quick Tip...

Even the slightest shortage of vitamins and minerals in your body can leave you vulnerable to infection. Fill up on flu-fighting foods this Winter like mushrooms that help to increase white blood cells, and red capsicums that contain twice as much vitamin C as oranges.

