

Our ref: 1005202

7 February 2013

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By email: gary@ibanz.co.nz

Dear Gary

Status of risk insurance and premium funding under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

You have asked whether the provision of risk insurance and premium funding is covered by the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 (the Act). In this regard we advise as follows.

Relevant services provided in respect of pure risk-based insurance policies

- 1 The Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011 (**Exemption Regulations**) exempt certain classes of transactions and services from all or part of the provisions of the Act. If a relevant service is provided in respect of a pure risk-based insurance policy it is exempt from all the provisions of the Act.
- 2 Under regulation 12 of the (Exemption) Regulations, a pure risk-based insurance policy is defined as a contract of insurance:
 - 2.1 for the payment of money on the happening of a contingency, other than a contingency dependant on the continuance of human life; and
 - 2.2 does not and never will have a value on its cancellation or surrender that is greater than the value of an unexpired premium relating to a period after the date of cancellation or surrender.

- 3 Note that the exemption specifically excludes the payment of money on the happening of a contingency dependent on the continuance of human life.
- 4 The Insurance Business Coverage Guidelines issued by the Reserve Bank, dated February 2012 (**Guidelines**), confirm that pure risk-based policies, which only payout if a particular event occurs are exempt from the regime. These include non-life policies as well as those life policies that are pure-risk based policies for the purposes of the AML/CFT Act. This type of policy has no cancellation or surrender value (other than the residual value of an unexpired or unused premium which relates to a period of time after the cancelation or surrender of the policy). An example of a pure-risk life policy is a term life insurance policy which pays an agreed sum if the insurer passes away during the period of coverage. If the insurer survives the period of coverage, then no payment or refund is available. The Guidelines confirm that accident, sickness and disability insurance policies are also exempt as pure-risk based insurance policies.
- 5 We attach at Appendix A a summary of how the Exemption Regulations apply to insurance services.


Relevant services provided under premium funding agreement by non-insurance company

- 6 Under regulation 18 of the Regulations, a premium funding agreement that is not provided by an insurance company is exempt from complying with certain aspects of the AML/CFT regime, namely:
 - 6.1 Sections 15 - 17 (Standard Customer Due Diligence);
 - 6.2 Sections 19-21 (Simplified Customer Due Diligence); and
 - 6.3 Sections 23 - 25 (Enhanced Customer Due Diligence).
- 7 The provider of such premium funding will, however, be required to comply with the requirements of the Act that it has not been exempted from, prior to 30 June 2013 including but not limited to;
 - 7.1 **Appointing** an AML/CFT Compliance Officer to administer and maintain the AML/CFT programme.
 - 7.2 **Preparing** a risk assessment of the money laundering and financing of terrorism that could be expected in the course of running its business.
 - 7.3 **Preparing** an AML/CFT Compliance Programme that includes procedures to detect, deter, manage and mitigate money laundering and the financing of terrorism (such as reporting and record keeping).
 - 7.4 **Putting in place** appropriate auditing and reporting procedures (including suspicious reporting).
- 8 Once those are in place, the premium funding provider will need to start thinking about their on-going obligations under the Act.

Conclusion

- 9 Where insurance is provided in respect of a pure-risked based insurance policy that meets the required definition under the Act, it is exempt from all provisions of the Act.
- 10 Where the provision of premium funding is provided by a provider other than an insurance company, that provider is only exempt from complying with the customer due diligence requirements. The provider must comply with all other obligations of the regime including risk assessments, AML/CFT programmes and suspicious transaction reports as set out in paragraph 7.
- 11 Please let us know if you have any additional queries in relation to the above matters. We would be happy to assist your members further in respect of their compliance with the AML/CFT regime.

Yours sincerely



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Appendix 1

Test for products/policies

