aml

From: [redacted]@mjw.co.nz>
Sent: Friday, 3 December 2021 2:43 pm
To: aml
Cc: [redacted]
Subject: Maritime Retirement Scheme
Attachments: Maritime - AML_CFT submission (2.12.21)(7486297.4).pdf

Afternoon

Please find attached our submission on the AML/CFT Act Review.

Regards
[redacted]

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3 December 2021

AML/CFT consultation team
Ministry of Justice
SX 10088
Wellington 6140
By email: aml@justice.govt.nz

Dear AML/CFT consultation team

AML/CFT ACT REVIEW - CONSULTATION SUBMISSION

Introduction

1 The Trustees of the Maritime Retirement Scheme and the Trustees of the Maritime KiwiSaver Scheme (**Trustees**) currently rely on an exemption from the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML/CFT Act**). Specifically, the Trustees rely on the exemption contained in part 3 of the Anti-money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2018 (**Class Exemption Notice**) relating to services provided in relation to certain retirement schemes.

2 The Class Exemption Notice is within the scope of your review of the AML/CFT Act. Specifically you have queries whether there are any regulatory or class exemptions that need to be revisited e.g. because they no longer reflect situation of proven low risk or because there are issues with their operation.

3 In summary, the Trustees submit that:

3.1 part 3 of the Class Exemption Notice should continue in effect and still reflects a situation of proven low risk;

3.2 consideration should be given to further extending the scope of part 3 of the Class Exemption Notice to also allow for lump sum payments in specific circumstances subject to certain conditions being met.

4 The Trustees believe that continuance of the Class Exemption Notice with the additional changes proposed:

4.1 is consistent with (and has no effect on the purpose or intent of) the AML/CFT Act, the Financial Transactions Reporting Act 1996, and

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New Zealand's obligations as a member of the Financial Action Task Force and the Asia/Pacific Group on Money Laundering; and

4.2 supports the nature and purpose of the schemes as retirement savings scheme without imposing unnecessary compliance costs.

5 We set out our reasoning in further detail below.

Continuance of Part 3 of the Class Exemption Notice

6 The Trustees support the continuance of part 3 of the Class Exemption Notice for the following reasons:

6.1 there is no evidence to suggest that the risk profile of the specified retirement schemes set out in part 3 of the Class Exemption Notice has changed. In our opinion, the specified retirement schemes pose a low risk of money laundering or terrorism financing; and

6.2 any risks posed by additional voluntary contributions, transfers from international sources and withdrawals are addressed by the conditions in the Class Exemption Notice; and

6.3 requiring the Trustees and other specified retirement schemes to comply in full with the AML/CFT Act would require them to incur significant compliance costs which are not justified given the low risk profile of the schemes - any such compliance costs would be passed onto members and impact on their retirement savings.

7 As the Maritime Retirement Scheme and Maritime KiwiSaver Scheme (**Maritime Schemes**) are listed in the Class Exemption Notice as a 'specified retirement scheme', the schemes are not subject to the same restrictions in respect of voluntary contributions from payroll which are applied to schemes relying on regulation 20A of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011 or who are a specified retirement schemes under (a) of the definition of 'specified retirement scheme'.

8 The Trust Deeds for the Maritime Schemes allow unlimited voluntary contributions provided they are from salary/employer's payroll. The Maritime Schemes have a number of members who contribute close to 100% of salary/wages when they are able to live on their spouse/partners income and wish to boost their savings for retirement. On retirement, members are able to elect to defer receipt of their benefit and elect to receive it in one lump sum or periodic lump sums/regular payments over the course of their retirement. The Trustees have a strong desire to retain this right for members to make such unlimited voluntary contributions so that they are able to enhance their position heading into retirement.

9 The ability to accept unlimited voluntary contributions from salary/employer's payroll should apply to all schemes as most schemes will have members similar to the Maritime Schemes nearing retirement that do not require their full their salary to live on and would like to make significant contributions from their salary into their retirement scheme.

10 The Trustees submit that Class Exemption Notice could be amended to clarify that such voluntary additional contributions from salary/payroll can be accepted by any schemes relying on the Class Exemption Notice without any conditions.

11 Allowing such contributions for all schemes (and not just the Maritime Schemes) will not change the risk profile of the schemes as accepting further contributions from salary/payroll is low risk. It will also assist many members with their retirement saving goals by allowing them to contribute additional amounts from salary/payroll when feasible.

12 For consistency, allowing such voluntary contributions from salary/payroll should also be considered for other employer superannuation schemes under Regulation 20A of the Anti-money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011.

Extension of scope - lump sum payments

13 The Trustees submit that consideration should be given to further extending the scope of part 3 of the Class Exemption Notice to also allow schemes to accept lump sum payments subject to compliance with customer due diligence requirements and .

14 The Trustees often have requests from members who have come into money as a result of an event or transaction including in the following circumstances:

14.1 the death of a parent (from their estate);

14.2 being made redundant; or

14.3 the sale of a house; and

14.4 winning lotto.

15 These members would like to put this money towards their retirement savings. However, the Trustees are unable to accept such lump sums without complying in full with the AML/CFT Act. There are also members who are nearing retirement who would like to consolidate their savings into their retirements savings and wish to transfer money from other investments including other managed investment schemes or retirement schemes.

16 The Trustees understand that accepting such lump sum payments changes the risk profile of such retirement schemes, however believe this can be managed by:

16.1 imposing customer due diligence conditions on the Trustees where such lump sums are accepted and requiring the Trustees to identify source of funds; and

16.2 requiring compliance with suspicious activity reporting.

17 Allowing such lump sum contributions will assist members with their retirement savings and allow them to maintain such savings in one place without imposing unnecessary compliance costs which will ultimately be borne by members and impact on their retirement savings. As mentioned in paragraph 8 above, members are able to are able to elect to defer receipt of their benefit on retirement and elect to receive it in one lump sum or periodic lump sums/regular payments over the course of their retirement. Therefore being able to

have all their retirement savings in one place to draw down regularly or as required will be beneficial.

Finally, the Trustees support the submission provided by the Financials Services Council of New Zealand Incorporated (FSC). It is fundamental that any exemptions from the AML/CFT Act for retirement savings schemes enhance, and not hinder the ability of members to provide for their retirement.

The Trustees would be happy to discuss any aspect of this submission with the AML/CFT consultation team and invite you to contact us.

Yours sincerely

[redacted]