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### **Implementation of the AML/CFT Act 2009: Regulations Consultation Document**

The Financial Services Council of NZ ("FSC") (previously the Investment Savings and Insurance Association of NZ Inc.) appreciates the opportunity to comment on the Consultation Document's proposals for amendment of the regulations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

As well as some brief comments on the specific proposals outlined in paragraph 44, we would like to take advantage of the invitation in paragraph 31 to propose 'other minor or technical amendments that may be required to reduce ambiguity or ensure regulations can be properly implemented'.

#### **Recommendation:**

We support the proposal in paragraph 44 of the consultation document and recommend that paragraph 44.2 be extended to include reporting entities licensed under the Securities Trustees and Statutory Supervisors Act and, on enactment, the Financial Markets Conduct Bill.

#### **Recommendation:**

Regulation 20 should explicitly cover:

- A KiwiSaver scheme accepting members as a default provider (under section 50 of the KiwiSaver Act); and
- A KiwiSaver scheme chosen by an employer as a preferred KiwiSaver schemes (under section 46 of the KiwiSaver Act).

The Investment Savings and Insurance Association made a submission in September 2010 recommending that criteria for reduced CDD measures for workplace superannuation should be applicable to KiwiSaver schemes in equivalent circumstances.

KiwiSaver schemes accepting members as default providers are presently covered by section 204 of the Financial Transactions Reporting Act. Our view is that the ML/FT risk profile for members of these KiwiSaver schemes is at least as low it is for members of employer facilitated superannuation schemes that will be covered by the exemption in Regulation 20.

Relevant considerations include:

- KiwiSaver schemes are only able to accept individual persons as members
- KiwiSaver schemes are not in a position to conduct CDD on default members before the business relationship is established
- KiwiSaver members must have valid IRD numbers
- IRD numbers require identity verification to obtain

- IRD facilitates the majority of payments into KiwiSaver schemes through work based PAYE deductions
- KiwiSaver schemes are primarily intended for retirement savings with a minimum withdrawal age currently 65 years of age and restrict withdrawals prior to retirement age

While Regulation 20 (4) refers solely to registered superannuation schemes within the meaning of section 2(1) of the Superannuation Schemes Act 1989, section 118 of the KiwiSaver Act provides for KiwiSaver schemes to be treated as registered superannuation schemes for most purposes.

However, for the avoidance of doubt we would like to take this opportunity to recommend that Regulation 20 be reworded to explicitly include:

- A KiwiSaver scheme accepting members as a default provider (under section 50 of the KiwiSaver Act); and
- A KiwiSaver scheme chosen by an employer as a preferred KiwiSaver schemes (under section 46 of the KiwiSaver Act).

Workplace Savings NZ has also advised they would support the expansion of Regulation 20 to include individuals joining KiwiSaver through the workplace on the basis that such membership, which has been transacted through the workplace, could either be membership of a default funds as a result of auto-enrolments, or membership where their employer has a preferred scheme arrangement.

Yours faithfully,

A handwritten signature in black ink that reads "D. Keating". The signature is written in a cursive, slightly slanted style.

Deborah Keating  
**EXECUTIVE OFFICER**