

Financial Services News Alert

16 August 2010

Register of Financial Service Providers opens today

The new Financial Service Providers Register (**Register**), operated by the Companies Office, opens today. According to the responsible Minister Simon Power:

The opening of the register marks the start of the transition to full implementation of the Financial Advisers Act and the Financial Service Providers Act.

What is it?

The Register is an electronic list, with basic contact and other details, of all financial service providers (other than where an exemption applies) resident or with a place of business in New Zealand.

The Financial Service Providers Register is available [here](#).

Who needs to register?

Under the Financial Service Providers (Registration and Dispute Resolution Act) 2008 (**Act**), unless an exemption applies, persons who are in the business of providing a "financial service" must be registered by the time the Act comes into force on **1 December 2010**. You can, however, register from now.

Under the Act, "financial service" means any of the following financial services:

- a financial adviser service (as defined under the Financial Advisers Act 2008 (**FAA**))
- a broking service (as defined under the FAA)
- acting as a deposit taker (as defined in the Reserve Bank of New Zealand Act 1989)
- being a registered bank
- keeping, investing, administering, or managing money, securities, or investment portfolios on behalf of other persons

- providing credit under a credit contract
- operating a money or value transfer service
- issuing and managing means of payment (for example, credit and debit cards, cheques, travellers' cheques, money orders, bankers' drafts, and electronic money)
- giving financial guarantees
- participating in an offer of securities to the public in either of the following capacities (within the meaning of those terms under section 2(1) of the Securities Act 1978 (**Securities Act**):
 - as an issuer of the securities
 - as a promoter
- acting in any of the following capacities (within the meaning of those terms under section 2(1) of the Securities Act) in respect of securities offered to the public:
 - as a trustee
 - as a unit trustee
 - as a superannuation trustee
 - as a manager
- changing foreign currency
- entering into derivative transactions, or trading in money market instruments, foreign exchange, interest rate and index instruments, transferable securities (including shares), and futures contracts on behalf of another person
- providing forward foreign exchange contracts
- acting as an insurer
- providing any other financial service that is prescribed for the purposes of New Zealand complying with the FATF Recommendations, other recommendations by FATF, or other similar international obligations that are consistent with the purpose of this Act.

If you have any doubt as to whether you need to register, you can talk to us.

Am I exempt?

Various exemptions apply under the Act, including:

- lawyers, incorporated law firms, conveyancing practitioners, chartered accountants, tax agents, or real estate agents providing a service in the ordinary course of business of the relevant kind
- certain government departments
- the Reserve Bank of New Zealand (and any subsidiaries)
- certain statutory entities

- persons engaged in terminating the business of a financial service provider after that provider has been deregistered
- non-profit organisations in respect of free financial services
- certain entities affiliated with qualifying financial entities (**QFEs**) under the FAA
- executors, administrators, or trustees in respect of services provided in the administration of an estate or trustees in respect of services provided to beneficiaries of a family trust
- nominated representatives of QFEs (within the meaning of the FAA) while acting in that capacity
- employers while providing services to enable employees of the employer to obtain rights or benefits under a registered superannuation scheme or a KiwiSaver scheme, being a scheme in which that employer participates for the benefit of its employees
- persons otherwise exempted under the Act, regulations or any other enactment.

We can advise further as to the scope of these exemptions if required.

Alternatively, if you think you may need to apply for a specific exemption, you should talk to us.

Do I need to register if I am based overseas?

An overseas entity or person only needs to register if they are ordinarily resident or have a place of business in New Zealand, **or** if they are otherwise required to be authorised or licensed in New Zealand (for example, a registered bank, superannuation scheme or authorised financial adviser). If in doubt, seek advice.

Do I need to be a member of a dispute resolution scheme?

If financial service providers provide services to “retail clients”, they are also required to be a member of an approved dispute resolution scheme. Details of currently approved schemes are available [here](#).

A “retail client” is any client who is not a “wholesale client”. Again, if you have any doubt as to whether your clients are retail or wholesale, you can talk to us.

What happens next?

According to Simon Power’s press release, the timeline from here is:

- **1 December**

Financial service providers must be registered and must belong to a dispute resolution scheme. Financial advisers who may be working under a qualifying financial entity or whose qualifying financial entity is still awaiting approval have until 31 March 2011 to register.

- **1 July 2011**

The Act and the FAA come fully into force. All financial advisers who need authorisation from the Securities Commission must have completed their training and finalised their authorisation by this date.

How can we help you?

We have been advising clients in New Zealand, and offshore, on the implications of the Act and the FAA. We can talk to you about how the Act and the FAA may affect your business and what steps you should be taking now to ensure you are ready for the new regime.

Further information



Lloyd Kavanagh

T +64 9 353 9976

M +64 21 786 172

E lloyd.kavanagh@minterellison.co.nz



Chris O'Brien

T +64 4 498 5133

M +64 21 888 739

E chris.obrien@minterellison.co.nz



Jeremy Muir

T +64 9 353 9819

M +64 21 625 319

E jeremy.muir@minterellison.co.nz



Karen Mace

T +64 4 498 5106

M +64 21 221 7513

E karen.mace@minterellison.co.nz

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