

# Update

# Morison's Securities Law

## Service 195 — March 2020

### Legislation

#### **Anti-Money Laundering and Countering Financing of Terrorism Act 2009**

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 has been amended by the following legislative amendments:

- Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2015, effective 1 July 2017.
- Intelligence and Security Act 2017, s 335 and Sch 4, effective 28 September 2017.
- Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017, ss 4–68, effective 11 August 2017.
- Racing Reform Act 2019, s 25(2) and Sch 3, effective 1 July 2019.
- Statutes Amendment Act 2019, ss 3–5, effective 24 October 2019.

#### **Financial Service Providers (Registration and Dispute Resolution) Act 2008**

The Financial Service Providers (Registration and Dispute Resolution) Act 2008 has been amended by the Financial Services Legislation Amendment Act 2019, s 95 and Sch 3, effective 26 November 2019.

#### **Personal Property Securities Regulations 2001**

The Personal Property Securities Regulations 2001 have been amended by the Personal Property Securities Amendment Act 2019, effective 2 September 2019.

#### **Financial Markets Conduct Act 2013**

The Financial Markets Conduct Act 2013 has been amended by the Kāinga Ora — Homes and Communities Act 2019, s 33 and Sch 3, effective 1 October 2019.

#### **Financial Markets Conduct (Fees) Regulations 2014**

The Financial Markets Conduct (Fees) Regulations 2014 has been amended by the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019, regs 4 and 5(2), effective 25 November 2019.

#### **Financial Markets Conduct Regulations 2014**

The Financial Markets Conduct Regulations 2014 has been amended by the following legislative amendments:

- Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019, effective 14 June 2019.
- Financial Markets Conduct Amendment Regulations 2019, effective 13 June 2019.

## Commentary

### Financial Markets Conduct Act 2013

The following annotated commentary in Part 3 of the Financial Markets Conduct Act 2013 has been updated by Victoria Stace:

- FMCA41.03 — Meaning of regulated offer and of regulated product
- FMCA44.01 — Treatment of offers of convertible financial products
- FMCA50.01 — PDS must be given if offer requires disclosure
- FMCA51.01 — Certain situations in which section 50 does not need to be complied with
- FMCA57.02 — The register entry
- FMCA58.01 — Register entry not required in prescribed circumstances
- FMCA60.02 and FMCA60.03 — Consent of experts and persons who make endorsements
- FMCA60.03 — Consent of experts and persons who make endorsements
- FMCA61.01 — PDS must be worded and presented in clear, concise, and effective manner
- FMCA Introduction — Other provisions relating to lodging of PDS and other documents [ss 63–75]
- FMCA65.01 — Waiting period after lodgement before processing applications for financial products
- FMCA66.01 — FMA may extend period
- FMCA67.01 — Waiting period restriction does not prevent offeror from acting under another PDS
- FMCA69.01 — Waiting period does not usually apply to continuous issue PDSs
- FMCA74.01 — Registrar must notify FMA of lodgement of supplementary document or replacement PDS
- FMCA75.01 — Publication of lodgement
- FMCA80.01 — Choices open to offeror
- FMCA82.03 — False or misleading statements, omissions, and new matters requiring disclosure
- FMCA83.01 — Persons who must inform offeror about disclosure deficiencies
- FMCA87.04 — Money for financial products must be held in trust
- FMCA90.01 — Distribution of PDS or registered documents
- FMCA Introduction Ongoing disclosure and updating of registers — Subpart 4 Ongoing disclosure and updating of registers [ss 95–100]
- FMCA95.01 — Duty to notify changes to Registrar
- FMCA96.01–FMCA96.09 — Information to be made available to investors, FMA, Registrar, or other prescribed persons
- FMCA97.01–FMCA97.06 — Information to be made publicly available
- FMCA100.01–FMCA100.07 — Issuer or offeror must provide confirmation

The following annotated commentary in Part 4 of the Financial Markets Conduct Act 2013 has been updated by Nicole MacFarlane:

- FMCA102.01 — Overview
- FMCA135.02 — Contents of governing document for registered scheme
- FMCA139.02 — Changes to governing document
- FMCA143.02 — General duties applying in exercise of manager's functions
- FMCA156.04 — Requirement to have supervisor or other independent person as custodian
- FMCA158.03 — Custodian must keep records of scheme property

The following annotated commentary in Part 7 of the Financial Markets Conduct Act 2013 has been updated by Trish Keeper:

- FMCA451.01 — Key definition of “FMC Reporting Entity”
- FMCA461A.01 — Financial statements for registered schemes and funds
- FMCA461B.01 — Financial statements required for New Zealand business of overseas FMC reporting entity
- FMCA461E.01 — Meaning of “qualified auditor”
- FMCA461F.01 — Compliance with all applicable auditing and assurance standards
- FMCA461H.01 — Lodgement of financial statements and auditor’s report
- FMCA461I.01 — Offence to knowingly fail to comply with financial reporting standards
- FMCA461J.01 — External Reporting Board must have regard to indication of level of public accountability
- FMCA461K.01 — FMA reporting entities considered to have higher level of public accountability

