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**CONFIDENTIAL**

**PREDICTIONS CLEARING LIMITED - APPLICATION FOR MINISTERIAL EXEMPTION FROM THE ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM ACT 2009**

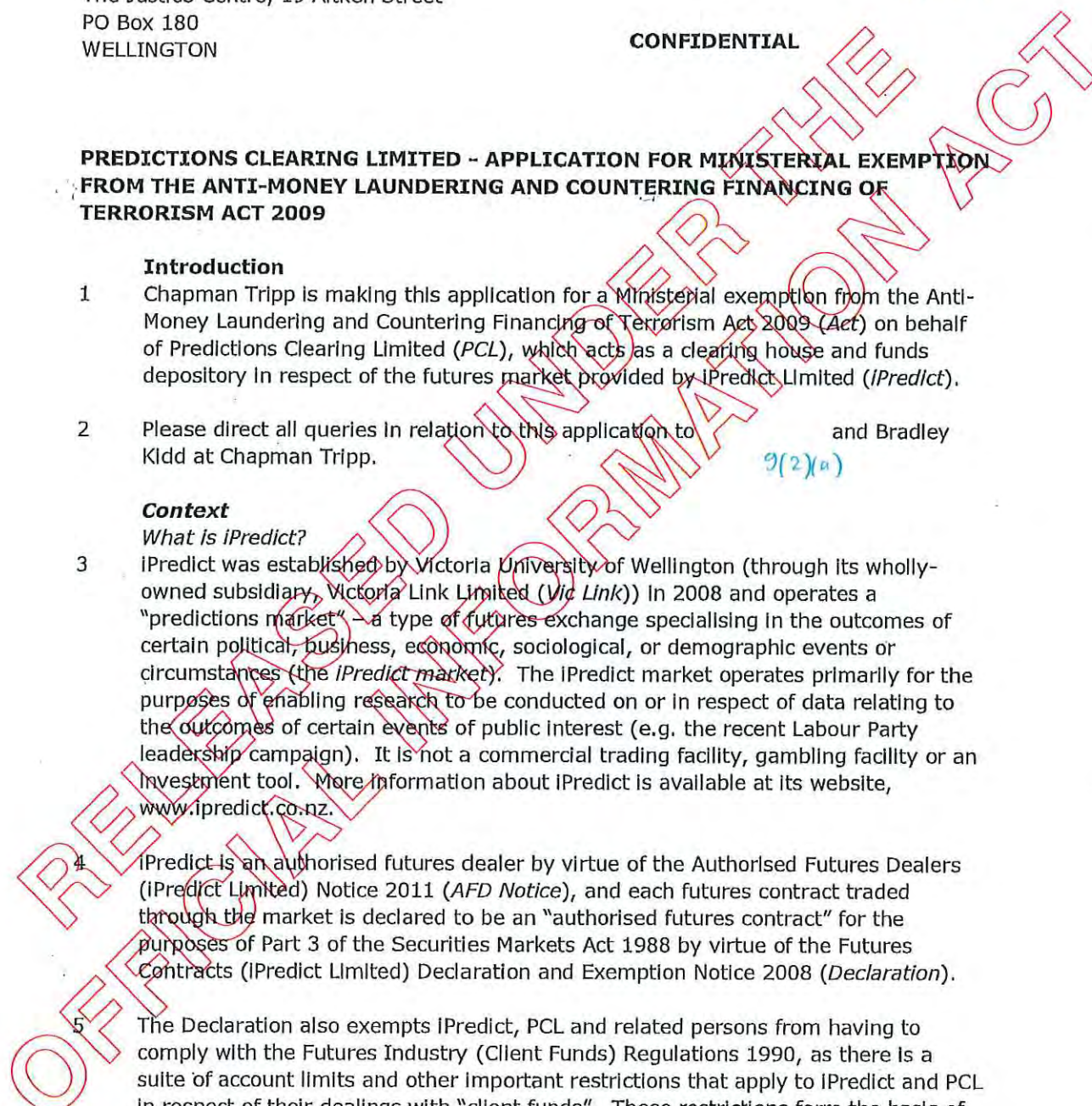
**Introduction**

- 1 Chapman Tripp is making this application for a Ministerial exemption from the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (*Act*) on behalf of Predictions Clearing Limited (*PCL*), which acts as a clearing house and funds depository in respect of the futures market provided by iPredict Limited (*iPredict*).
- 2 Please direct all queries in relation to this application to [redacted] and Bradley Kidd at Chapman Tripp. 9(2)(a)

**Context**

*What is iPredict?*

- 3 iPredict was established by Victoria University of Wellington (through its wholly-owned subsidiary, Victoria Link Limited (*Vic Link*)) in 2008 and operates a "predictions market" – a type of futures exchange specialising in the outcomes of certain political, business, economic, sociological, or demographic events or circumstances (the *iPredict market*). The iPredict market operates primarily for the purposes of enabling research to be conducted on or in respect of data relating to the outcomes of certain events of public interest (e.g. the recent Labour Party leadership campaign). It is not a commercial trading facility, gambling facility or an investment tool. More information about iPredict is available at its website, [www.ipredict.co.nz](http://www.ipredict.co.nz).
- 4 iPredict is an authorised futures dealer by virtue of the Authorised Futures Dealers (iPredict Limited) Notice 2011 (*AFD Notice*), and each futures contract traded through the market is declared to be an "authorised futures contract" for the purposes of Part 3 of the Securities Markets Act 1988 by virtue of the Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008 (*Declaration*).
- 5 The Declaration also exempts iPredict, PCL and related persons from having to comply with the Futures Industry (Client Funds) Regulations 1990, as there is a suite of account limits and other important restrictions that apply to iPredict and PCL in respect of their dealings with "client funds". These restrictions form the basis of this exemption application, and we discuss them in detail at paragraphs 34 to 43 below.



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- 6 IPredict is presently in discussions with the Financial Markets Authority (*FMA*), in relation to the process for extending and then renewing the AFD Notice and Declaration (which are both due to expire on 31 October 2013), and it is expected that these will both be granted on similar terms as they are currently.

*Who is PCL?*

- 7 PCL is a wholly-owned subsidiary of IPredict, and acts as the clearing house for the IPredict market. Persons wishing to trade on the market (*Users*) must first deposit funds with PCL, which holds those funds on bare trust for each User through a pooled account with separate ledger entries for each User. PCL will then debit and credit Users' "account" balances according to the outcome of the relevant futures contracts, and transfer money back to Users should they seek to "cash out".

- 8 Importantly, the terms of the AFD Notice and Declaration place restrictions on IPredict and PCL which (among other things) limit the amount of money a User may deposit with PCL to \$2,500 over any six month period and \$10,000 cumulatively, and regulate the circumstances in which a person may seek to open and operate an account through IPredict. These restrictions are mirrored in IPredict's Terms of Service (*T&Cs*) available on its website at <https://www.ipredict.co.nz/app.php?do=terms>.

**Who is applying?**

- 9 The applicant is Predictions Clearing Limited, company number 2145152. PCL's address is Am404, Alan Macdiarmid Building, Victoria University of Wellington, Kelburn Parade, Wellington.

**Does the exemption relate to a reporting entity or a transaction?**

- 10 This exemption relates to a reporting entity and a series of transactions. PCL is seeking an exemption from being a "reporting entity" for the purposes of the Act, such that the Act will not apply to PCL in its entirety.

- 11 In addition, PCL wishes this exemption to apply to every transaction conducted or sought to be conducted through the call deposit account that is maintained by PCL with a registered bank as the pooled client account for the purposes of holding Users' funds (*Pooled User Account*). The reason for this is to ensure that the registered bank that provides the Pooled User Account to PCL (which is currently ANZ Bank New Zealand Limited) is not itself required to comply with the Act in respect of that account, which would result in either that registered bank (or PCL as its agent) conducting customer due diligence (*CDD*) on the underlying Users. Without this exemption, the relevant bank would be required to comply with the Act, which would cut across the reasons for exempting PCL from being a "reporting entity" itself. We expand on this aspect in paragraphs 19 to 21 below.

**What do you want an exemption from?**

- 12 PCL wishes to be unconditionally exempt from being a "reporting entity" for the purposes of the Act. In addition, PCL wishes every transaction conducted or sought to be conducted through, or which otherwise relates to, the Pooled User Account (including, where relevant, the formation of the original business relationship in relation to that Pooled User Account) to be exempt from the Act.

**Describe the circumstance in which the exemption would apply**

- 13 PCL seeks the exemption to apply to it in its entirety (by exempting PCL from being a "reporting entity") and to every transaction conducted or sought to be conducted through, or which otherwise relates to, the Pooled User Account. We explain the practical circumstances of when the exemption would apply in both contexts further below.

**What does PCL do?**

- 14 PCL is the clearing house for the IPredict market (and this is the only "business" that PCL undertakes – i.e. it does not engage in any activity outside of its role as the clearing house). Pursuant to the T&Cs (which bind each User, IPredict and PCL), PCL's role is to:

- 14.1 hold each User's funds on bare trust for that User, through a pooled call deposit ledger account, which must be held with a registered bank (i.e. the Pooled User Account);
- 14.2 debit and credit Users' ledger balances, according to the outcome of the relevant futures contracts the relevant User has bought or sold through the market; and
- 14.3 electronically transfer funds to Users who make a withdrawal request in accordance with the T&Cs.

**How would the Act otherwise apply to PCL?**

- 15 Absent an exemption, PCL would likely be a reporting entity based on the following categories of the definition of a "financial institution" in section 5 of the Act:

(iv) transferring money or value for, or on behalf of, a customer;

(x) safe keeping or administering of cash or liquid securities on behalf of other persons; and

(xi) investing, administering, or managing funds or money on behalf of other persons,

in each case, as a result of the activities outlined in paragraph 14 above.

- 16 We do not consider this to be a situation where PCL is inadvertently captured by the Act. Rather, the particular circumstances that relate to PCL as a result of the AFD Notice and the Declaration, and the wider context in which the IPredict market operates, distinguish PCL from other entities who provide similar services to PCL.

- 17 The exemption from being a "reporting entity" will mean that (at a high level), PCL will not be required to:

- 17.1 undertake a risk assessment and prepare a compliance programme in relation to PCL's operation of the Pooled Client Account;

- 17.2 conduct CDD on new Users and, where required by the Act, on persons who became Users pre 30 June 2013;
  - 17.3 conduct ongoing CDD and account monitoring in respect of the Pooled User Account;
  - 17.4 keep the records otherwise required by the Act in relation to transactions conducted through the Pooled User Account (i.e. deposits, debits and credits to Users' ledgers, and withdrawals), identity and verification information and associated documentation; or
  - 17.5 monitor for and, where relevant report, suspicious transactions that may occur through the Pooled User Account (which, realistically, could only occur in respect of the deposits and withdrawal of funds by Users).
- 18 Given the nature of PCL's role and the restrictions that apply to it (discussed further at paragraphs 34 to 43 below), we do not consider that exempting PCL from any of the above obligations will increase the risk of money laundering or terrorist financing in New Zealand, or otherwise be inconsistent with the intent and purpose of the Act. In addition, as a result of the conditions to the AFD Notice and the Declaration, PCL is already subject to a number of obligations which are relevant in an AML/CFT context, in particular record keeping and reporting obligations discussed further in paragraphs 47 and 48 below.

**Which transactions would the exemption apply to?**

- 19 If PCL is exempt from being a reporting entity, absent the additional transaction-based exemption which we are seeking, the registered bank that provides the Pooled User Account to PCL will be required to conduct CDD on each underlying User of that Account, which would effectively "undo" the purposes of granting the "reporting entity" exemption.
- 20 By way of illustration:
- 20.1 If PCL was a "reporting entity", PCL would need to conduct CDD on each User and (on the basis of the interpretation of the term "beneficial owner" which we understand is favoured by the supervisors) the relevant registered bank would also be required to conduct CDD on each User, each as a "beneficial owner" of PCL (being persons on whose behalf transactions by PCL are conducted). However, the bank would be able to rely on regulation 24 of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011 (the *Trust Account Exemption*) to relieve it (subject to the prescribed conditions) from the CDD obligations it would otherwise have in respect of those Users as "beneficial owners". The prescribed conditions would require PCL to agree to hand over name and date of birth information, and the associated verification documentation that PCL would have used to verify each User's identity in accordance with the Act, if required by the bank.
  - 20.2 If PCL is exempt from being a "reporting entity", PCL will not be required to conduct CDD on each User, but the bank will *still* have CDD obligations in respect of each User. However, if no additional transaction-based exemption

Is granted, the registered bank would *not* be able to rely on the Trust Account Exemption as the bank would not meet the first condition to the Trust Account Exemption – that the Intermediary must itself be a “reporting entity”.<sup>1</sup> In these circumstances, the bank would need to conduct full CDD on each underlying User, as the “beneficial owner” of PCL. In practice, the bank would seek to discharge that obligation by entering into an agency arrangement with PCL pursuant to section 34 of the Act, which would render the “reporting entity” exemption largely redundant (as PCL would still be required to carry out CDD and associated obligations under the Act, on behalf of the registered bank).

- 21 For this reason, PCL seeks this exemption to apply not only to It as a “reporting entity”, but also to every transaction conducted or sought to be conducted through, or which otherwise relates to, the Pooled User Account.

**Why are you seeking this exemption?**

- 22 PCL’s justifications for this exemption are set out in detail in paragraphs 23 to 55 below, but the primary reasons PCL is seeking this exemption are that:

22.1 **Deposit restrictions apply:** The AFD Notice and the Declaration are granted (among other things) on the condition that no User may deposit into his or her “User account” (being the monies held by PCL on that User’s behalf) (*User Account*) more than:

- (a) \$2,500 over any six month period;<sup>2</sup> and
- (b) \$10,000 cumulatively – calculated as the total of all contributions paid by the User, less the amounts that User has “won” on futures contracts bought and sold through the market (i.e. the cumulative total excludes winnings).

This means that a User could only ever, at a maximum, launder \$10,000 worth of “dirty” money, a restriction which aligns with the policy behind a number of other threshold exemptions in the regulations to the Act, set out further in paragraphs 34 to 40 below.

22.2 **User Account restrictions apply:** The AFD Notice, Declaration and the T&Cs place a number of important restrictions on who may open a User Account, and the source of funds that are contributed to a User’s Account. These restrictions, together with the deposit limits above, mean that the ability of a User to “use” his or her User Account for reasons other than trading on the IPredict market is extremely limited.

<sup>1</sup> Or a person to whom the Financial Transactions Reporting Act 1996 applies, which is equally irrelevant in this context.

<sup>2</sup> Clause 6(2) of the T&Cs still states the previous User Account six month contribution limit of \$1,000, but IPredict currently accepts contributions of up to \$2,500 in any six month period, in accordance with the revised terms of the AFD Notice and the Declaration.

22.3 **The iPredict market is primarily for research purposes:** A further condition to the AFD Notice is that iPredict must make it clear on its website that the iPredict market is intended as a research and educational facility, not as an investment market or a gambling facility. In addition, PCL must at all times remain a wholly-owned subsidiary of iPredict, and be controlled by Vic Link and/or the New Zealand Institute for the Study of Competition and Regulation (ISCR).<sup>3</sup> This means that the iPredict market will never be a commercial trading facility through which an individual could seek to effectively launder their money. Rather, it is a public research facility, specifically designed to track and report on predictions behaviour in respect of certain political, business, economic, sociological, or demographic events or circumstances. For this reason, we consider it very unlikely that a person would choose such a public and restricted environment to carry out criminal activity.

22.4 **PCL is already required to keep records related to Users, and report to the FMA:** Among other things, the conditions to the AFD Notice require that:

- (a) PCL must keep and maintain proper records of each User's dealings, account and holdings; and
- (b) iPredict and PCL must report to the FMA<sup>4</sup> annually on the operation of the iPredict market, including contracts traded, volume and value of trades and number of participants, and must immediately report to the FMA any discrepancy or shortfall discovered in the Pooled User Account.

Taken together, these requirements ensure that PCL already has systems in place to monitor each User's transaction behaviour, and has direct reporting lines to the FMA in respect of that information.

22.5 **Risk of money laundering and terrorist financing is low:** The above factors combined mean that the risk of ML/TF associated with PCL's provision of the Pooled User Account, and the activities PCL undertakes in respect of that Account, are extremely low. Most importantly, there are User Account opening and operating restrictions, deposit limits, and monitoring and reporting obligations already in place, which mean that PCL already operates in a regulated environment, which is sufficient to address any residual ML/TF risks that may exist in this context.

**What effects will the exemption have on your business?**

23 The exemption will have a considerable effect on PCL's "business", as it will relieve PCL from the disproportionate compliance burden that the Act would otherwise impose. The only activities PCL undertakes are to hold Users' funds on bare trust, transfer funds between User Accounts (by debiting and crediting Users' ledgers within the Pooled Client Account), and transfer money back to Users when they wish to withdraw amounts from their User Accounts.

<sup>3</sup> While this is still a condition to the AFD Notice, ISCR is no longer involved with the iPredict project (so iPredict and PCL are and will remain wholly-owned by Vic Link).

<sup>4</sup> At the time of granting the AFD Notice, this was the Securities Commission.

- 24 In carrying out these actions, PCL is already subject to number of restrictions imposed by the AFD Notice and the Declaration – some of which may also address ML/TF risks. If PCL were required to superimpose the Act’s obligations on top of the systems and procedures PCL already has in place as a result of its bespoke regulatory environment (including the reporting lines it has in place with the FMA), it would place an unduly burdensome compliance regime onto PCL, for very little reciprocal benefit.

***Cost of implementing a compliance regime***

- 25 As a research facility, the iPredict market is a not-for-profit enterprise. As such, any compliance costs associated with the iPredict market cannot be borne by iPredict or PCL themselves, and instead must come from the wider research budget for the iPredict market. AML/CFT compliance regimes are expensive to design, implement and maintain, and increased regulatory costs may well mean that the project is no longer viable. In circumstances where the ML/TF risks are low, and existing mechanisms are already in place which serve to minimise any residual ML/TF risks, diverting research budget to implement a full AML/CFT compliance regime would be a disproportionate outcome in this context.

***How will you manage the residual risks of ML/TF in your business if the exemption is granted?***

- 26 Given the restrictions that apply to User Accounts (explained further in paragraphs 34 to 43 below), there is very little ML/TF risk associated with the activities PCL carries out. However, to the extent there are residual ML/TF risks, PCL is already required (as a result of the conditions to the AFD Notice and the Declaration) to:

- 26.1 keep and maintain proper records of each User’s dealings, account and holdings; and
- 26.2 report to the FMA regarding the overall operation of the iPredict market, the contracts traded, volume and value of trades, number of Users, and any discrepancy or shortfalls discovered in the Pooled User Account.

- 27 These requirements, which we understand iPredict and PCL comply with fully, mean that both iPredict and PCL already have systems in place to monitor User Accounts (and behaviours within those accounts), and to report those to the FMA. This provides a similar reporting regime to that required by the Act, which would also require annual reporting to PCL’s AML/CFT supervisor on a range of defined matters.

***What effects will there be on your competitors or other third parties?***

- 28 There will be no effects on third parties as a result of this exemption. Given the closely defined and regulated research environment the iPredict market operates in, PCL is by association a “single purpose” clearing house which deals with client money for very discrete purposes only.

- 29 The rationale for granting an exemption in this context could not be relevant to any other clearing house, so will present neither a “precedent risk”, nor disadvantage any other third party. Further, PCL must at all times remain wholly-owned by iPredict and be controlled by Vic Link, so the ability for a “competitor” to occupy the

role of clearing house in relation to the iPredict market (and thus be disadvantaged by this exemption) is non-existent.

**How can the exemption be justified, taking into account the matters the Minister must have regard to (described in section 157(3) of the Act)?**

***Intent and purposes of the Financial Transactions Reporting Act 1996***

30 The Financial Transactions Reporting Act 1996 is not relevant in the context of this application, given PCL's financial activities are no longer regulated by that Act.

***The intent and purpose of the AML/CFT Act and any regulations***

31 The intent and purpose of the Act and its regulations are to:

31.1 detect and deter money laundering and the financing of terrorism;

31.2 maintain and enhance New Zealand's international reputation by adopting, where appropriate in the New Zealand context, recommendations issued by the Financial Action Task Force; and

31.3 contribute to public confidence in the financial system.

32 Broadly, the Act is designed to require reporting entities to create risk-based compliance regimes that allow them to effectively assess, monitor and report on the financial activities conducted through or by the relevant reporting entity that carry the risk of ML/TF.

33 In the context of PCL, there are a number of regulatory restrictions that apply to its provision of User Accounts as a result of the AFD Notice and Declaration (and reflected in the T&Cs) which create a supervisory environment that effectively serves the broad intent and purpose of the Act by alternative means – to the extent that superimposing the Act's compliance regime onto those pre-existing restrictions is unnecessary.

*Deposit restrictions apply to User Accounts*

34 The AFD Notice and the Declaration are granted (among other things) on the condition that no User may deposit into his or her User Account more than:

34.1 \$2,500 over any six month period;<sup>5</sup> and

34.2 \$10,000 cumulatively – calculated as the total of all contributions paid by the User, less the amounts that User has "won" on futures contracts bought and sold through the market (i.e. the cumulative total excludes winnings),

and if a User does transfer amounts to PCL in excess of these limits, PCL must refund any excess amounts as soon as practicable.<sup>6</sup>

<sup>5</sup> See footnote 2 above.

<sup>6</sup> See in particular clause 7(b) of the Declaration, and clause 3(2)(b) of the AFD Notice, which states that the authorisation is given on the condition that (among other things) PCL complies with the terms of the Declaration.



35 These deposit limits significantly lower the risk of ML/TF associated with a User Account, in a manner consistent with the intent and purpose of the Act. The effect of the limits is that a User could only ever launder a maximum of \$10,000 worth of "dirty" money, which is not a sufficiently large amount to attract the full suite of AML/CFT obligations.

36 In support of this, a number of specified thresholds in the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 (*Definitions Regulations*) and the Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Regulations 2010 (*Cross-border Regulations*) specify circumstances where certain transactions under \$10,000 are excluded from the AML/CFT regime, suggesting that transactions involving less than \$10,000 carry lower ML/TF risks and thus are justifiably excluded from the Act.

Occasional transactions

37 Regulation 10 of the Definitions Regulations defines an "occasional transaction" to exclude cash transactions of \$9,999.99 and under. In terms of the policy behind that threshold, the "Implementation of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, Regulations and Codes of Practice Consultation Document", August 2010 notes that:

*"Using a threshold under which obligations do not apply is a useful way of targeting obligations at those situations which constitute higher risk and not burdening reporting entities with compliance costs in relation to common place low value transactions that may present low or negligible risk...[in relation to the occasional transaction threshold specifically]...the threshold should be set at a level that appropriately balances the risks associated with the types of products and services that are likely to be occasional transactions and the intelligence benefits, with the compliance burden upon reporting entities."*

38 After taking those matters into account, the Minister saw it fit to prescribe \$9,999.99 as the threshold to appropriately balance the risk of ML/TF with the compliance burden that would otherwise apply to reporting entities through which persons could seek to conduct occasional cash transactions. Given the other restrictions that apply in the context of PCL's provision of User Accounts (detailed further below), and the overall educational and research environment in which the iPredict market operates, we consider that it is appropriate to consider the \$10,000 cumulative deposit threshold that applies in respect of each User Account as equally deserving of exclusion from the AML/CFT regime.

Cross-border transportation of cash

39 Similarly, the threshold limit for reporting cross-border cash transactions is \$9,999.99 and over. This evidences a direct policy decision (which is consistent with the Financial Action Task Force's Recommendation 32) to focus on transactions where the risks of ML/TF warrants the compliance obligations that the cross-border reporting regime imposes – and to exclude lower value transactions where the risks do not justify the burden of compliance.

40 As with the occasional cash transaction definition above, we consider that these thresholds suggest that, where the ML/TF risks are not otherwise heightened by the

relevant product, service or customer, it is appropriate to exempt transactions below \$10,000, on the basis that the risk of ML/TF associated with such low-value transactions is negligible, and it would be a disproportionate regulatory outcome to impose the AML/CFT compliance regime in that circumstance.

*Restrictions on opening and operating a User Account apply*

41 In addition to deposit limits, the AFD Notice, the Declaration and the T&Cs also restrict the number of accounts a User may have, and the circumstances in which a User may operate an account. In particular, Users are prohibited from:

- 41.1 having more than one User Account (whether directly or indirectly);
- 41.2 opening a User Account on behalf of any other individual, company or other legal entity (i.e. a User may only open a User Account for themselves, provided they are an individual);
- 41.3 trading on the IPredict market with funds credited from his or her User Account other than funds:
  - (a) contributed by that User (that do not exceed the deposit limits);
  - (b) contributed by a "sponsor" (a mechanism for companies, government departments or other organisations who are looking to conduct discrete research tasks (often to a defined group of people, e.g. employees) to "sponsor" trading of futures contracts related to matters specifically relevant to that "sponsor" by crediting amounts to that defined group so that they can trade. For example, a manufacturing company may wish to sponsor a market in relation to the completion date of a specific internal project); or
  - (c) "won" from trading on the IPredict market,
 (and if PCL becomes aware of any prohibited funds sought to be traded, it must ensure that those amounts are refunded to the person who sought to deposit them as soon as practicable).

42 Taken together, these User Account restrictions directly address much of the "mischief" at which the Act is directed. For example, a key feature of the CDD requirements in the Act is to require reporting entities to take steps to determine ownership structures that exist behind the relevant "customer" of the reporting entity. In the context of PCL, this is dealt with directly by requiring every User to be an individual, and by prohibiting Users from acting on behalf of, or for the benefit of, any other person. This immediately reduces the risk of ML/TF, a key feature of which is often complex and indirect ownership arrangements.

43 In addition, the restrictions on source of funds and the prohibition on holding more than one User Account means that the \$10,000 cumulative deposit limit outlined in paragraph 34 above is a "real" limit – in that these additional restrictions ensure that Users cannot indirectly contribute more than \$10,000 to PCL. Again, this

significantly lowers the risk of ML/TF, in a manner consistent with the threshold exemptions for occasional transactions and cross-border cash reporting.

***The risk of money laundering and the financing or terrorism associated with the reporting entity, including, where appropriate, the products and services offered by the reporting entity and the circumstances in which the products and services are provided***

44 We have outlined above two significant factors (the deposit restrictions, and the broader opening and operating restrictions) that apply to User Accounts, both which significantly reduce the risk of ML/TF. In addition to those factors, we consider there to be a number of additional circumstances specific to PCL which mean that the ML/TF risks associated with this particular clearing house are negligible.

*The iPredict market is for educational and research purposes*

45 The iPredict market is an educational and research facility, primarily established as a means to conduct research on market behaviour and the efficacy of predictions markets as predictors by comparison with polls. It is not a commercial trading facility, a gambling facility or an investment pool (and clause 3(2)(m)(ii) of the AFD Notice requires iPredict to include a prominent statement to this effect on its website, to inform prospective Users of this fact).

46 The relevance of this background is that it does not create a compelling environment for ML/TF. In particular, the ability to "win" money through the iPredict market depends on the outcome of relevant political, business, economic, sociological or demographic events or circumstances, and the market behaviours and predictions of other Users. In addition, understandably the T&Cs provide that iPredict and PCL may use information they hold on Users (including in relation to their trading behaviours) for the purpose of conducting academic research. This means that the iPredict market is not only monitored (as transactions would also be required to be under the Act) but in fact *studied*, in a manner that is likely to deter any attempt at ML/TF simply by virtue of the overriding purpose of the iPredict market.

*Existing record keeping and reporting obligations*

47 Clause 3(2)(g) of the AFD Notice requires PCL to keep and maintain proper records of each User's dealings, account and holdings, and for PCL and iPredict to report to the FMA:

47.1 annually on the operation of the iPredict market, including contracts traded, volume and value of trades, number of Users, and any material systems failures or interruptions; and

47.2 immediately, when any discrepancy or shortfall is discovered in the Pooled User Account.

48 This means that PCL is already required to monitor and record transaction behaviour, and there are established reporting lines in place with the FMA in relation to the iPredict market generally, in particular User behaviour on that market. In this way, notwithstanding an exemption from the Act, PCL will continue to have systems in place which will result in a substantively similar outcome to the type of account and transaction monitoring the Act would require (notwithstanding that PCL's and

iPredict's monitoring and reporting obligations are of a different nature to those required by the Act).

- 49 Taken together with the fact that the ML/TF risks associated with User Accounts are already extremely low, these additional record keeping and reporting obligations may well effectively monitor for any instances of ML/TF to the extent that we consider the overall risk associated with PCL's financial activities as a clearing house to be negligible.

***The impacts on prevention, detection, investigation and prosecution of offences***

- 50 Given the factors outlined in paragraphs 34 to 48 above, we do not consider that exempting PCL will negatively impact the prevention, detection, investigation and/or prosecution of offences. In particular, PCL is subject to an alternative regulatory environment, by virtue of the AFD Notice and the Declaration, which indirectly minimise the ML/TF risks that would otherwise apply to a clearing house.

***The level of regulatory burden to which the reporting entity would be subjected in the absence of an exemption***

- 51 As noted in paragraphs 23 to 25 above, PCL would face significant regulatory burden were it required to comply with the Act. PCL is a special purpose entity whose sole function is to hold User funds traded on the iPredict market. If PCL had to comply with the Act, it would need to design and implement a significant compliance programme to sit on top of its existing processes which address the requirements of the AFD Notice and the Declaration. In addition, PCL would likely have to engage with the Department of Internal Affairs as its AML/CFT supervisor, in addition to the existing reporting obligations it has with the FMA in the context of its bespoke regulatory regime.

- 52 iPredict is operated by a small group of permanent Vic Link staff, and graduate students. Practically, if PCL were required to comply with the Act, Vic Link would likely need to look externally to resource a compliance role (and secure the necessary funding to do so), which in the context of the size and nature of iPredict's operation may well be considered an unjustifiable cost. In addition, as the iPredict market is run online, new systems would need to be designed to manage electronic customer on-boarding. Aside from the additional cost that necessitates, this would invariably create a higher administrative burden for persons seeking to trade on the iPredict market, which may in fact dissuade people from joining iPredict.

- 53 While that argument is of little or no relevance in most AML/CFT considerations, in the context of iPredict's research function – a key aspect of which is getting as many users as possible to get a bigger data pool – and the minimal AML/CFT risks that PCL poses, it is relevant in this circumstance. Given the minimal risks of ML/TF associated with PCL's financial activities, and its existing processes which are likely to achieve similar methods of managing residual ML/TF risk, it would be a disproportionate regulatory outcome if PCL were required to design and superimpose an AML/CFT compliance regime onto its existing operations.

**Whether the exemption would create an unfair advantage for the reporting entity or disadvantage third party reporting entities**

54 As noted in paragraphs 28 and 29 above, given the bespoke nature of PCL, and the fact that it must at all times remain a wholly-owned subsidiary of iPredict and be controlled by Vic Link, this exemption will not create any unfair advantage for PCL, or disadvantage any third party reporting entity.

**The overall impact that the exemption would have on the integrity of, and compliance with, the AML/CFT regulatory regime**

55 For the reasons outlined in paragraphs 34 to 54 above, we do not consider this exemption will have any negative impact on the integrity of, or New Zealand's compliance with, the AML/CFT regulatory regime.

**Are there any precedents?**

56 Given the unique circumstances and the fact that the Act has only recently come into force, there are no precedents of any relevance which apply in this context.

**Supporting documents**

57 We have included with this application a copy of:

57.1 the AFD Notice;

57.2 the Declaration; and

57.3 the T&Cs.

58 Please let us know if you require any additional information from us, and we will do our best to provide it.

**Timeframes**

59 iPredict and PCL are currently in consultation with FMA in relation to renewing the AFD Notice and the Declaration, both of which expire on 31 October 2013. We request that, to the extent this application is also relevant in the context of those renewals (and vice versa) a similar timeframe for consideration should be applied to this application.

Yours sincerely



Bradley Kidd /

PARTNER / SENIOR SOLICITOR

DIRECT: +64 4 498 6356 /

EMAIL: bradley.kidd@chapmantripp.com /

g(2)(a)

@chapmantripp.com



The Vogel Centre | 19 Aitken Street  
 DX SX10088 | Wellington  
 T: 04 918 8800 | F: 04 918 8820  
 E: info@justice.govt.nz | W: www.justice.govt.nz

2 October 2013

Attn: Bradley Kidd/

§(2)(a)

bradley.kidd@champantripp.com

§(2)(a)

§(2)(a)

Dear Mr Kidd and

Thank you for your application for Ministerial exemption under the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 on behalf of Predictions Clearing Limited (PCL) of 25 September 2013.

Under section 157 of the Act, the Minister of Justice may grant exemptions from the requirements of all or any of the provisions of the Act. The exemption may be granted subject to any conditions the Minister thinks fit. Exemptions will be granted for a period specified by the Minister not exceeding 5 years and may, at any time, be varied or revoked by the Minister.

Before making her decision the Minister must have regard to the following matters:

- the intent and purposes of the Financial Transactions Reporting Act 1996
- the intent and purpose of the AML/CFT Act and any regulations
- the risk of money laundering and the financing of terrorism associated with the reporting entity, including, where appropriate, the products and services offered by the reporting entity and the circumstances in which the products and services are provided
- the impacts on prevention, detection, investigation, and prosecution of offences
- the level of regulatory burden to which the reporting entity would be subjected in the absence of an exemption
- whether the exemption would create an unfair advantage for the reporting entity or disadvantage third party reporting entities
- the overall impact that the exemption would have on the integrity of, and compliance with, the AML/CFT regulatory regime.

A preliminary assessment of your application will be carried out by the Ministry of Justice, in accordance with the Ministerial exemption policy (available at [www.justice.govt.nz](http://www.justice.govt.nz)). The Ministry will consult with the relevant AML/CFT supervisor. For PCL, the relevant AML/CFT supervisor is the DIA. The Ministry will also consult with the AML/CFT National Coordination Committee (NCC) constituted under the AML/CFT Act. If the Ministry considers it necessary to carry out further consultation, we will contact you in advance.

Following consultation with the NCC we will contact you to advise you of the status of your application. The Ministry will then submit your application to the Minister of Justice for her consideration. Before granting an exemption the Minister must consult with the Ministers responsible for the AML/CFT supervisors and any other persons the Minister considers appropriate having regard to those matters listed above. If your application is approved, you will receive a letter of notification. The exemption will then be published in the New Zealand Gazette.

The Ministry of Justice is considering applications in the order in which they are received. The Act came into force on 30 June 2013. For applications received after this date, the Ministry of Justice Ministerial exemption policy applies a good faith understanding that enforcement action by the AML/CFT supervisors for non-compliance will not be taken against the applicant in relation to their application. However, this process should not be used as a way for reporting entities to avoid complying with obligations under the Act.

If you wish to receive an update on the progress of your application, please contact [international.crime@justice.govt.nz](mailto:international.crime@justice.govt.nz) in the first instance

Yours sincerely

**Principal Advisor**  
Criminal Law Team  
Ministry of Justice

9(2)(a)  
RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

9(2)(a)

**From:** fma.govt.nz>  
**Sent:** Monday, 14 October 2013 5:53 p.m.  
**To:** 9(2)(a)  
**Cc:**  
**Subject:** RE: Predictions Clearing Limited - application for Ministerial exemption from the AML/CFT Act

Hi 9(2)(a)

Thanks for sending through the exemption application from iPredict. I understand that this hasn't been allocated yet within Justice, but when it is please pass on FMA's comments below to whoever is dealing with it. Thanks

We note that:

- The application only relates to the clearing house (PCL) and not the entity running the market (iPredict). In our view iPredict would also be a reporting entity under the Act, because it is '*participating in securities issues and the provision of financial services related to those issues*'. We note that, although the futures contracts are exempt from the provisions of the Securities Act 1978 under the Securities Act (Authorised Futures Contracts) Exemption Notice 2002, the futures contracts are still debt securities (as per the Court of Appeal decision in *Hickman v. Turn and Wave Ltd*).
- iPredict does not currently identify its customers. In fact, from the website it appears that users don't even have to provide their real name, only a username (or handle) to set up an account. Therefore, although iPredict places emphasis on the fact that users can only have one account with a maximum of \$10,000 paid into it, we have no confidence that they have the ability to prevent individuals opening multiple accounts using different usernames.
- iPredict has a mechanism to allow "sponsors" to contribute money on behalf of other investors (as described in paragraph 41.3(b) of their application). Although we understand this mechanism is rarely used, we have no confidence that it could not be used by a fake business (set up by a money launderer) to inject many multiples of \$10,000 into their market. There is currently no requirement for them to conduct CDD on any proposed "sponsor".
- The fact that iPredict is not-for-profit does not make any difference to the AML/CFT risk. There are currently no exemptions purely on the basis that a business is not-for-profit. In fact we are aware that not-for-profit businesses are often targeted for use by money launderers.
- The fact that iPredict has a research focus is also irrelevant from an AML/CFT Risk perspective. The relevant issue is whether the service can be used by others for money laundering/terrorist financing.
- It is positive that PCL has "*systems in place to monitor each user's transaction behaviour*" (see paragraph 22.4), but if the users are not identified, any information will be useless to the FIU. In addition, as the transaction monitoring is focused on research into opinions about events, it is not clear whether these systems would pick up transactions which could be suspicious from an AML/CFT point of view.
- The current reporting to FMA on the overall operation of their market (mentioned in paragraph 26.2) is different in nature to AML/CFT reporting. It is incorrect to suggest that the existing requirements have a substantially similar outcome to the requirements under the AML/CFT Act.

FMA's view is:

- On the basis of the current application we do not think iPredict or PCL should be exempt from the AML/CFT Act.
- If iPredict were able to tighten their business practices in order to reduce the AML/CFT risk (e.g. by ensuring that customers are identified so that multiple accounts can't be opened) then they would have pretty much



complied with the most onerous parts of the Act. It is therefore difficult to envisage any situation in which we would support a revised exemption application.

- We would suggest that iPredict and PCL should form a designated business group that would be supervised by FMA. Their existing annual report (required in relation to their authorisation as a derivatives dealer) could be produced in conjunction with the annual AML/CFT report, but STRs should be reported to FIU in the same way as other reporting entities.
- Given the academic/research purpose of this business FMA has previously had a fairly lenient attitude towards it. We do not think it is appropriate to extend this approach to granting an exemption from the AML/CFT Act.

Out of scope

As always I'm happy to talk through any of the above comments when this comes to be considered. I hope this is helpful.

Kind regards

---

| Senior Adviser, Compliance Policy | Financial Markets Authority

T: + | E: \_\_\_\_\_  
Level 5, Ernst and Young Building, 2 Takutai Square, Britomart, Auckland, DX CX10033  
PO Box 106672, Auckland City 1143, New Zealand  
[www.fma.govt.nz](http://www.fma.govt.nz)

---

Out of scope

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## Predictions Clearing Limited exemption application – Notes

### Overview

Predictions Clearing Limited (PCL) is the clearing house for the iPredict market, owned and run by iPredict Limited. PCL is wholly owned by ipredict.

ipredict is a "predictions market," a type of futures exchange specialising in the outcomes of political, economic, sociological etc events. People who wish to trade on ipredict must deposit funds with PCL, which holds funds on bare trust for each user through a pooled account. PCL then debits or credits the user's "account" balances according to outcomes of their futures contracts and transfers funds if they seek to "cash out".

Money is deposited by a user with PCL with certain restrictions

- When contributed by that user:
  - \$2,500 over any six month period
  - \$10,000 cumulatively – calculated as a total of their deposits, minus the amounts they have won on contracts
- Contributed by a "sponsor": organisations seeking to conduct research (often in relation to a defined group) can sponsor trading of contracts by crediting amounts to that defined group by crediting their accounts.
- Where any money over the limits is deposited, it must be returned as soon as possible

### Sign up process for users:<sup>1</sup>

#### Step 1

#### **Create An Account**

Creating a trading account is simple and easy. Just fill in the short one page form. Then click the Create Your Account button.

[The form requires trading name, password and email address; and agreement to T&Cs]

#### Step 2

#### **Activate Your Account**

You will be sent an email confirming your account has been created and that you need to activate your account by clicking on the link in the email.

#### Step 3

#### **Credit Your Account**

<sup>1</sup> <https://www.ipredict.co.nz/app.php?do=register>

You can start with just \$10! And you can withdraw your money at any stage. We use DPS to securely process all credit card transactions.

Step 4

### **Start Trading!**

Yes, it's that simple! And if you get stuck you can try the [video tutorials](#), [help section](#) or the [forums](#).

#### **Is iPredict Limited a reporting entity?**

Is an authorised futures dealer. It may fall within the definition of financial institution by:

- (vii) trading for the person's own account or for the accounts of customers in any of the following:
  - (D) transferable securities
  - (E) commodity futures trading

The only uncertainty is whether iPredict actually conducts trades itself or if it only issues the futures.

- Participating in securities issues and provision of financial services in relation to those issues

The uncertainty is whether iPredict provides financial services in addition to issuing

#### **ML/TF risks**

- There are deposit limits, however:
  - They differ for sponsors' funds (\$1,000 per person) and with no apparent limit on the number of persons who can be sponsored
  - Once PCL becomes aware the limit is exceeded, it must refund the money – clear ML risks here of 'cleaning' similar to refundable deposits in banks and overpayments/refunds typologies.
- iPredict has some contracts which are a very high probability of occurring (e.g. above 90%) which can be bought and which result in a small profit. For example, at 2 December 2014, there is a contract for: 'Shinzo Abe to be Prime Minister of Japan on 1 January 2015' trading at \$0.9574. Essentially this means that the contract can be bought for 95% today and it will pay out \$1 on 1 January 2014.
- standard ML/TF risks associated with securities will apply including:

○

Key questions to ask:

The applicant:

- *To determine whether iPredict itself is a reporting entity:* apart from issuing contracts as and when requested or needed, what other financial services or functions does iPredict perform?
- User accounts:
  - Have you ever become aware of breaches the terms and conditions by:
    - Someone holding more than one account
    - Acting on behalf of another person or entity
  - Can a company or other entity hold an account?
- Specific questions about the deposits/refunds:
  - How does a user deposit money into their account? In particular, can they deposit money from an international account?
  - Similarly, how is money refunded – to a nominated NZ account?
  - How often have people made deposits in excess of the limits?
- Sponsors:
  - What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
  - Is there a limit to the number of people a sponsor to give money to?

FMA

- Do you consider iPredict to be a reporting entity? It is clearly an issuer, but the difficulty I have is with determining whether it is providing financial services in relation to those securities as well.
- iPredict is fairly open about market manipulation and insider trading being allowed on the platform. While insider trading is to some extent what the market needs to operate, other forms of manipulation seem a bit different. While they seem out of the ordinary, are there particular ML risks arising from manipulation?
  - Following on from this, if iPredict is subject to AML/CFT and becomes aware of insider trading or other forms of market manipulation it might be required to submit STRs. Would it be reporting huge amounts of STRs?

9(2)(a)

**From:** 9(2)(a)  
**Sent:** Thursday, 19 March 2015 3:30 p.m.  
**To:** 9(2)(a)  
**Subject:** FW: Predictions Clearing Limited exemption application  
**Attachments:** FMA's initial comments on Predictions Clearing exemption application.eml; PCL exemption application.pdf

Hi 9(2)(a) - Here's my last email on the Predictions Clearing exemption. The person to contact at FMA on this is now

Cheers 9(2)(a)

**From:** 9(2)(a)  
**Sent:** Friday, 5 December 2014 12:30 p.m.  
**To:** .  
**Cc:** . . . 9(2)(a)  
**Subject:** Predictions Clearing Limited exemption application

Hi 9(2)(a)

I've been assigned the application from Predictions Clearing Limited, which acts as the clearinghouse for the iPredict futures market. I've attached the application as well as an email from [redacted] last year with some of his initial thoughts. I've looked over the application and so far I'm not convinced there are grounds for an exemption but I'd be interested to hear your thoughts:

- despite the relatively low value of trading, there are clear ML/TF risks - PCL doesn't seem to have enough information on users to be able to monitor and enforce its account holding and deposit restrictions; any breaches of deposit limits require money to be quickly refunded; there may be an ability to deposit and withdraw money via overseas accounts.
- iPredict itself may also be a reporting entity - if so, it would change the compliance costs and risk analysis.
- the reporting requirements under the current notice and declaration aren't robust from an AML/CFT perspective.

I've put together some questions to go back to the applicant with as well as a few to discuss with FMA.

**Questions for the applicant:**

- Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?
- In relation to user accounts, have you ever become aware of breaches of the terms and conditions by:
  - a person holding more than one user account?
  - a user acting on behalf of another person or entity?
- Can a company or other entity hold a user account?
- In relation to deposits and refunds:
  - How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?
  - Similarly, how is money refunded or withdrawn – to a nominated NZ account?
  - How often have people made deposits in excess of the limits?
- What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
- Is there a limit to the number of people a sponsor to give money to?

**Questions for FMA:**

- iPredict is fairly open about market manipulation and insider trading being allowed on the platform. While insider trading is to some extent what the market needs to operate, other forms of manipulation seem different. Do you think there are particular ML risks arising from manipulation on iPredict?
- Following on from this, if iPredict is subject to AML/CFT requirements and becomes aware of insider trading or other forms of market manipulation it would probably be required to submit STRs for each instance. Would it be reporting huge amounts of STRs?
- iPredict's website lists their most successful traders by net worth and by return on investment. The ROI's are huge - 81,398% at the most, and even the 100th most successful has a 264% ROI. Do you have a view of whether these figures are out of the ordinary and raise specific ML/TF risks? I tend to think so.
- Does the FMCA change how iPredict is regulated compared to when they submitted their application?

Let me know your thoughts or comments on these, and I will get in touch with the applicant with the questions.

Out of scope

Cheers

9(2)(a)



Policy Advisor | Criminal Law Team | Policy Group

DDI: -

[www.justice.govt.nz](http://www.justice.govt.nz)

9(2)(a)

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MINISTERIAL EXEMPTIONS UNDER THE ANTI-MONEY LAUNDERING AND  
COUNTERING FINANCING OF TERRORISM ACT 2009

*Details of applications currently under consideration*

*Out of scope*

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*Out of scope*

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15.	<b>Predictions Clearing Limited</b> (medium) Clearing house for iPredict, a platform	25/09/13	FMA	Discussions with supervisor.
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	allowing trading in futures contracts relating to social, economic and political events. Seeking a full exemption as well as an exemption to apply to the bank providing its trust account.			
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Out of scope

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9(2)(a)

**From:** <fma.govt.nz>  
**Sent:** Wednesday, 10 June 2015 1:11 p.m.  
**To:** 9(2)(a)  
**Subject:** RE: AML/CFT Exemptions - Contractor starting at MOJ this week

Hi 9(2)(a)

Re. the Predictions Clearing Ltd application – I have gone through the application and the corresponding emails from and . I see that had some questions for the applicant – do you know whether he/MOJ ever received these? Here are the questions - 9(2)(a)

**Questions for the applicant:**

- Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?
- In relation to user accounts, have you ever become aware of breaches of the terms and conditions by:
  - o a person holding more than one user account?
  - o a user acting on behalf of another person or entity?
- Can a company or other entity hold a user account?
- In relation to deposits and refunds:
  - o How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?
  - o Similarly, how is money refunded or withdrawn – to a nominated NZ account?
  - o How often have people made deposits in excess of the limits?
- What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
- Is there a limit to the number of people a sponsor to give money to?

9(2)(a)

also had some questions for FMA (my comments are in red) -

**Questions for FMA:**

- iPredict is fairly open about market manipulation and insider trading being allowed on the platform. While insider trading is to some extent what the market needs to operate, other forms of manipulation seem different. Do you think there are particular ML risks arising from manipulation on iPredict? It's possible. iPredict itself appears to be a reporting entity, therefore should be subject to AML/CFT requirements.
- Following on from this, if iPredict is subject to AML/CFT requirements and becomes aware of insider trading or other forms of market manipulation it would probably be required to submit STRs for each instance. Would it be reporting huge amounts of STRs? This would depend on the circumstances.
- iPredict's website lists their most successful traders by net worth and by return on investment. The ROI's are huge - 81,398% at the most, and even the 100th most successful has a 264% ROI. Do you have a view of whether these figures are out of the ordinary and raise specific ML/TF risks? I tend to think so. Yes, likely.
- Does the FMCA change how iPredict is regulated compared to when they submitted their application? They may require a financial markets licence (e.g. derivatives issuer licence) under the FMCA.

FMA (in October 2013) took the view that on the basis of PCL's application that we did not think PCL or iPredict should be exempt from the AML/CFT Act. Here are comments from his email on 14 October 2013:

9(2)(a)

- On the basis of the current application we do not think iPredict or PCL should be exempt from the AML/CFT Act.
- If iPredict were able to tighten their business practices in order to reduce the AML/CFT risk (e.g. by ensuring that customers are identified so that multiple accounts can't be opened) then they would have pretty much

complied with the most onerous parts of the Act. It is therefore difficult to envisage any situation in which we would support a revised exemption application.

- We would suggest that iPredict and PCL should form a designated business group that would be supervised by FMA. Their existing annual report (required in relation to their authorisation as a derivatives dealer) could be produced in conjunction with the annual AML/CFT report, but STRs should be reported to FIU in the same way as other reporting entities.
- Given the academic/research purpose of this business FMA has previously had a fairly lenient attitude towards it. We do not think it is appropriate to extend this approach to granting an exemption from the AML/CFT Act.

Out of scope

I've also had a quick chat with my colleagues and on the basis of the current application and information, we would agree with our initial view that PCL and iPredict should not be exempted from the AML/CFT Act. Please let me know if I have missed any information which may influence our initial view.

Happy to discuss.

Regards

9(2)(a)

---

**From:** [redacted] @justice.govt.nz] 9(2)(a)  
**Sent:** Tuesday, 26 May 2015 1:37 p.m.  
**To:**  
**Subject:** RE: AML/CFT Exemptions - out of scope

Hi.

9(2)(a)

Out of scope

I believe [redacted] was processing at least the Predictions Clearing Limited, [redacted] I and [redacted] applications. Please let me know if you find the list he was meaning to send you, and I can try to find the files at this end. 9(2)(a)

I have also attached an email [redacted] forwarded to me on these three exemptions. This was sent to [redacted] 9(2)(a) but I'm not aware of whether she had replied to this before leaving.

Regarding priorities, we have a list of priority exemptions that we are working through at the moment. Some FMA individual exemptions on the list include the

[redacted], as well as the three exemptions mentioned above. We will send these through as we have drafts available. 9(2)(a) out of scope

Happy to discuss if you have questions about any of this - and thanks in advance for your help.

Kind regards,

9(2)(a)



Policy Advisor | Reducing Crime

DDI:  
[www.justice.govt.nz](http://www.justice.govt.nz)

9(2)(a)

**From:** \_\_\_\_\_ @fma.govt.nz]  
**Sent:** Monday, 25 May 2015 5:02 p.m.  
**To:** 9(2)(a)  
**Subject:** RE: AML/CFT Exemptions -

Hi , 9(2)(a)

I think I might have missed this email amongst my bulk of other emails (I had over 400 emails after my holiday) - apologies for the late reply.

Out of scope

In the meantime, please let me know which of the individual exemptions you would like me to review as priority. I am still playing catch up on few things but happy to help out.

Regards

Solicitor

T  
E  
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[www.fma.govt.nz](http://www.fma.govt.nz)

**From:** '  
**Sent:** Monday, 11 May 2015 1:36 p.m.  
**To:**  
**Subject:** AML/CFT Exemptions -

9(2)(a)

out of scope

Hi and 9(2)(a)

Out of scope

Happy to discuss if you have any questions or would prefer to talk about this on the phone - just call me whenever suits.

Kind regards,

9(2)(a)



Policy Advisor | Reducing Crime

9(2)(a)

[www.justice.govt.nz](http://www.justice.govt.nz)

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Thank you.

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9(2)(a)

**From:** [redacted]@fma.govt.nz>  
**Sent:** Tuesday, 16 June 2015 10:11 a.m.  
**To:**  
**Cc:** 9(2)(a)  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi 9(2)(a)

Thanks for the update.

Yes, our initial view is that it would be a decline. I look forward to receiving your assessment form.

Kind regards



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 PO Box 106 672, Auckland 1143, New Zealand

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**From:** [redacted]@justice.govt.nz]  
**Sent:** Monday, 15 June 2015 1:49 p.m.  
**To:** 9(2)(a)  
**Cc:**  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi. 9(2)(a)

9(2)(a)

I am picking up on the application received from PCL. I have just sent 9(2)(a)'s questions to the applicant (email below). I have also seen your answers to 9(2)(a) questions, as well as FMA's comments on the application in general. My understanding is that we are looking at a decline here. I will start drafting the assessment form and send it over for your review when it's complete. Similarly I will keep you updated if and when the applicant comes back on the below.

Many thanks

9(2)(a)

**From:**  
**Sent:** Monday, 15 June 2015 1:42 p.m.  
**To:** [redacted]@chapmantripp.com' 9(2)(a)  
**Cc:**  
**Subject:** AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Dear ,

9(2)(a)

By way of introduction, my name is \_\_\_\_\_ am one of the advisors who has been reviewing and processing your application for a Ministerial exemption under the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 on behalf of Predictions Clearing Limited (PCL). Please accept our apologies for the delayed response. We are currently reviewing a large number of applications submitted to the Ministry.

We are in the process of reviewing the PCL application, and, for completeness, we need some more details for clarification, which I have listed below.

1. Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?
2. In relation to user accounts, have there been any breaches of the terms and conditions by:
  - a. A person holding more than one user account?
  - b. A user acting on behalf of another person or entity?
3. Can a company or other entity hold a user account?
4. In relation to deposits and refunds:
  - a. How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?
  - b. Similarly, how is money refunded or withdrawn – to a nominated NZ account?
  - c. How often have people made deposits in excess of the limits?
5. What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
6. Is there a limit to the number of people a sponsor to give money to?

I look forward to your response.

Many thanks



Advisor | Criminal Law

9(2)(a)

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9(2)(a)

**From:** @chapmantripp.com>  
**Sent:** Monday, 29 June 2015 8:54 a.m.  
**To:** 9(2)(a)  
**Cc:** Geof Shirtcliffe; "geoff.todd@viclink.co.nz" (geoff.todd@viclink.co.nz)  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited  
**Attachments:** WGND0C01-#2315998-v2-iPredict\_AML\_Matrix.DOCX

9(2)(a)

Further to Brad's email, I **attach** a response to your questions.

Please don't hesitate to contact me if you need any further clarification of these comments. I hope they are of assistance in expediting the exemption application.

Regards

9(2)(a)

SPECIAL COUNSEL

**CHAPMAN TRIPP** | D: www.chapmantripp.com | M: | PA: 9(2)(a)

**From:** Bradley Kidd  
**Sent:** Monday, 15 June 2015 3:13 p.m.  
**To:** 9(2)(a)  
**Cc:** Geof Shirtcliffe  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Thanks

9(2)(a)

left Chapman Tripp late in 2013 (although she is re-joining later this year).

I have copied my colleagues, Geof Shirtcliffe and 9(2)(a), who most commonly deal with iPredict matters at Chapman Tripp. Geof and 9(2)(a) will seek input from iPredict, and be back in touch with you. 9(2)(a)

Regards  
Bradley

BRADLEY KIDD  
PARTNER

**CHAPMAN TRIPP** | D: +64 4 498 6356 | M: + | PA:  
www.chapmantripp.com

**From:** 9(2)(a)  
**Sent:** Monday, 15 June 2015 2:12 p.m.  
**To:** Bradley Kidd  
**Cc:** I  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited



Dear Bradley Kidd

9(2)(a)

I tried emailing your colleague this morning but received an automated message saying the recipient could not be found. I believe you are advising partner on the Predictions Clearing Limited matter, specifically their application for a Ministerial exemption. Please see my email below, can you communicate and coordinate a response please?

Many thanks

9(2)(a)

**From:**

**Sent:** Monday, 15 June 2015 1:42 p.m.

**To:** ' @chapmantripp.com'

**Cc:** 9(2)(a)

**Subject:** AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Dear

9(2)(a)

By way of introduction, my name is I am one of the advisors who has been reviewing and processing your application for a Ministerial exemption under the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 on behalf of Predictions Clearing Limited (PCL). Please accept our apologies for the delayed response. We are currently reviewing a large number of applications submitted to the Ministry.

We are in the process of reviewing the PCL application, and, for completeness, we need some more details for clarification, which I have listed below

1. Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?
2. In relation to user accounts, have there been any breaches of the terms and conditions by:
  - a. A person holding more than one user account?
  - b. A user acting on behalf of another person or entity?
3. Can a company or other entity hold a user account?
4. In relation to deposits and refunds:
  - a. How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?
  - b. Similarly, how is money refunded or withdrawn – to a nominated NZ account?
  - c. How often have people made deposits in excess of the limits?
5. What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
6. Is there a limit to the number of people a sponsor to give money to?

I look forward to your response.

Many thanks



Advisor | Criminal Law

[www.justice.govt.nz](http://www.justice.govt.nz)

---

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Thank you.

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**AML/CFT ACT EXEMPTION APPLICATION – PREDICTIONS CLEARING LIMITED**

Responses to questions from Ministry of Justice – 26 June 2015

Question	Response
<p>1 Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?</p>	<p>Apart from issuing the contracts and managing the iPredict market, iPredict does not carry out any other financial services or functions.</p> <p>iPredict is in discussions with the Financial Markets Authority in relation to iPredict's status under the Financial Markets Conduct Act 2013, and whether, as a consequence, it will need to register on the Financial Service Providers Register as providing certain financial services under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.</p>
<p>2 In relation to user accounts, have there been any breaches of the terms and conditions by:</p> <p>a. A person holding more than one user account?</p> <p>b. A user acting on behalf of another person or entity?</p>	<p>There have been three incidents of a person holding more than one user account.</p> <p>Two of these appeared to be accidental as funds were only placed in one account.</p> <p>One was deliberate and the person's accounts were closed down as soon as iPredict became aware of the situation, and the relevant person has been prohibited from using iPredict.</p> <p>iPredict is not aware of cases of user acting on behalf of another person or entity.</p>
<p>3 Can a company or other entity hold a user account?</p>	<p>No. The terms and conditions provide that users must act solely for themselves and not on behalf of any other individual, company or other legal entity.</p>

<p>4</p> <p>In relation to deposits and refunds:</p> <p>a. How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?</p> <p>b. Similarly, how is money refunded or withdrawn – to a nominated NZ account?</p> <p>c. How often have people made deposits in excess of the limits?</p>	<p>By credit card or bank transfer. Credit card investments can come from overseas.</p> <p>The system is automated to make payments to NZ bank accounts only. Alternatives are discouraged but not prohibited. Occasionally international bank transfers may be made to settle an account, but this is rare - once in the last 6 months.</p> <p>Only once to iPredict's knowledge. This account was immediately suspended.</p>
<p>5</p> <p>What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?</p>	<p>As an initial comment, while iPredict has the functionality to have "sponsored" markets and the terms and conditions cover such markets, as a practical matter iPredict has not to date created any commercial "sponsored" market.</p> <p>There is one "sponsored" research market that is open to any participant. This sponsorship is by a researcher studying the ability of prediction markets to predict US annual nominal GDP.</p>
<p>6</p> <p>Is there a limit to the number of people a sponsor can give money to?</p>	<p>Participants do not receive financial benefits in the research sponsored market. The sponsorship covers the fees of establishing the prediction market. Accordingly, no party receives income as a result of the trading in the prediction stocks.</p>

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9(2)(a)

**From:**  
**Sent:** Wednesday, 12 August 2015 4:15 p.m.  
**To:**  
**Cc:**  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited  
**Attachments:** Predictions Clearing Limited - NCC form v3.docx

Hi.

*Out of scope*

On the Predictions Clearing Limited application, I wanted to check just one detail with you before I send the form off to NCC. The form currently has a section about whether iPredict is a reporting entity (indicating that its status is not clear). I have highlighted this in the attached form.

Assuming that iPredict is now under DIA, has there been an agreement that it is a reporting entity? If this is the case, I could edit the section to note that iPredict is a reporting entity under DIA's supervision and that they have not applied for an exemption.

Happy to discuss.

Thanks,



9(2)(a)  
 Policy Advisor | Criminal Law | Policy Group  
[www.justice.govt.nz](http://www.justice.govt.nz)

**From:** @fma.govt.nz]  
**Sent:** Wednesday, 12 August 2015 3:10 p.m.  
**To:**  
**Cc:** 9(2)(a)  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi'

I am comfortable with the reasoning for declining the application.

Please note that iPredict has been designated to the DIA as the FMA has reached a view that it should not be within our supervision.

Happy to discuss.

Regards



Intermediate Solicitor  
T  
E  
Level 5, Ernst & Young Building  
2 Takutai Square, Britomart, Auckland, 1010  
PO Box 106 672, Auckland 1143, New Zealand

Follow us on Twitter: [@fmamedia](#)

[www.fma.govt.nz](#)



**From:** \_\_\_\_\_  
**Sent:** Tuesday, 11 August 2015 5:10 p.m. 9(2)(a)  
**To:** \_\_\_\_\_  
**Cc:** \_\_\_\_\_ 9(2)(a)  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi

In regards to the Predictions application, you will recall that MOJ and FMA agreed that it would be a decline.

As per your advice I ran the iPredict point by the DIA, and as expected they have taken the point on board but this is not something that should delay processing of the application (please see DIA's response below as confirmation).

I'm resending you our NCC assessment draft for your final review and confirmation (by email please) that the FMA is comfortable with the reasoning for decline before we send it out to the NCC panel for discussion and approval?

Many thanks

**From:** \_\_\_\_\_ [@dia.govt.nz](#)  
**Sent:** Tuesday, 4 August 2015 1:39 p.m.  
**To:** \_\_\_\_\_  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi

I apologise for the delay in responding to this. I am consulting our Policy team on the issue of capture under the Gambling Act but that is likely to take some time given the prioritisation of other work streams they have. This process does not impact on the AML/CFT exemption process though and shouldn't hold up any decision reached by FMA and MoJ.

Thanks

**From:** \_\_\_\_\_  
**Sent:** Tuesday, 30 June 2015 10:13 a.m.  
**To:** \_\_\_\_\_ [@fma.govt.nz](#) 9(2)(a)  
**Cc:** \_\_\_\_\_  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi

Following up on email below, I'm sending the draft assessment form on the Predictions Clearing Ltd application.

The further information in the attached document has been incorporated in the draft, but it has not substantially changed our view of declining the application.

As always, happy to discuss.

Kind regards,



Policy Advisor | Criminal Law

[www.justice.govt.nz](http://www.justice.govt.nz)

9(2)(a)

---

**From:** 9(2)(a)  
**Sent:** Tuesday, 30 June 2015 9:49 a.m.  
**To:**  
**Cc:**  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi

We have received a response from legal representatives of Predictions, please see below and attached. We don't believe their answers to questions would change the direction this application is heading. Please can you confirm that FMA is still of the view that the application should be declined?

Many thanks

---

**From:** [mailto: @chapmantripp.com]  
**Sent:** Monday, 29 June 2015 8:54 a.m. 9(2)(a)  
**To:**  
**Cc:** Geoff Shirtcliffe; "geoff.todd@viclink.co.nz" (geoff.todd@viclink.co.nz)  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Further to Brad's email, I **attach** a response to your questions.

Please don't hesitate to contact me if you need any further clarification of these comments. I hope they are of assistance in expediting the exemption application.

Regards

SPECIAL COUNSEL

9(2)(a)

CHAPMAN TRIPP | D:   
[www.chapmantripp.com](http://www.chapmantripp.com)

M: .

| PA: .

**From:** Bradley Kidd  
**Sent:** Monday, 15 June 2015 3:13 p.m.  
**To:** [redacted] 9(2)(a)  
**Cc:** [redacted]; Geof Shirtcliffe  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Thanks

[redacted] left Chapman Tripp late in 2013 (although she is re-joining later this year).

I have copied my colleagues, Geof Shirtcliffe and [redacted] who most commonly deal with iPredict matters at Chapman Tripp. Geof and [redacted] will seek input from iPredict, and be back in touch with you.

Regards  
Bradley

BRADLEY KIDD  
PARTNER

CHAPMAN TRIPP | D: +64 4 498 6356 | M: [redacted] LPA:  
www.chapmantripp.com

**From:** [redacted]  
**Sent:** Monday, 15 June 2015 2:12 p.m.  
**To:** Bradley Kidd 9(2)(a)  
**Cc:** [redacted]  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Dear Bradley Kidd

I tried emailing your colleague [redacted] this morning but received an automated message saying the recipient could not be found. I believe you are advising partner on the Predictions Clearing Limited matter, specifically their application for a Ministerial exemption. Please see my email below, can you communicate and coordinate a response please?

Many thanks

[redacted] 9(2)(a)

**From:** [redacted]  
**Sent:** Monday, 15 June 2015 1:42 p.m. 9(2)(a)  
**To:** [redacted]@chapmantripp.com  
**Cc:** [redacted]  
**Subject:** AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Dear [redacted]

By way of introduction, my name is [redacted], I am one of the advisors who has been reviewing and processing your application for a Ministerial exemption under the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 on behalf of Predictions Clearing Limited (PCL). Please accept our apologies for the delayed response. We are currently reviewing a large number of applications submitted to the Ministry.

We are in the process of reviewing the PCL application, and, for completeness, we need some more details for clarification, which I have listed below.

1. Apart from issuing contracts as and when needed, what other financial services or functions does iPredict (as opposed to PCL) perform?



2. In relation to user accounts, have there been any breaches of the terms and conditions by:
  - a. A person holding more than one user account?
  - b. A user acting on behalf of another person or entity?
3. Can a company or other entity hold a user account?
4. In relation to deposits and refunds:
  - a. How does a user deposit money into their account? In particular, can they deposit money from an overseas account or source?
  - b. Similarly, how is money refunded or withdrawn – to a nominated NZ account?
  - c. How often have people made deposits in excess of the limits?
5. What is the process involved for signing up with or agreeing to an arrangement with a sponsor? Is there a standard set of terms and conditions in relation to sponsors?
6. Is there a limit to the number of people a sponsor to give money to?

I look forward to your response.

Many thanks



Advisor | Criminal Law

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9(2)(a)

**From:** @dia.govt.nz>  
**Sent:** Tuesday, 4 August 2015 1:39 p.m.  
**To:** 9(2)(a)  
**Subject:** RE: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi 9(2)(a)

I apologise for the delay in responding to this. I am consulting our Policy team on the issue of capture under the Gambling Act but that is likely to take some time given the prioritisation of other work streams they have. This process does not impact on the AML/CFT exemption process though and shouldn't hold up any decision reached by FMA and MoJ.

Thanks

**From:** .....  
**Sent:** Wednesday, 29 July 2015 5:05 p.m.  
**To:** .  
**Subject:** FW: AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi

I hope you are well and managing to juggle all exemption applications we are sending through to you!

You may recall our telephone conversation in relation to iPredict we had last month. The application was sent in to MOJ by Predictions Clearing Limited and the FMA and MOJ have agreed that we will be declining it. However, FMA suggested that we run this by DIA as well because part of Predictions clearing limited - iPredict - may be caught under the Gambling Act. It won't be affecting the decision to decline but we thought you might want to be informed about this. When you have time, can you please look into this, see application and our reasoning attached. Below are contact details in case you would like to discuss this with him directly.

Intermediate Solicitor  
T-  
E1  
Level 5, Ernst & Young Building  
2 Takutai Square, Britomart, Auckland, 1010  
PO Box 106 672, Auckland 1143, New Zealand

Out of scope

Many thanks

9(2)(a)

**From:**  
**Sent:** Thursday, 2 July 2015 11:47 a.m.  
**To:** 'dia.govt.nz' 9(2)(a)  
**Cc:**  
**Subject:** AML/CFT Ministerial Exemption Application - Predictions Clearing Limited

Hi 9(2)(a)

I'm emailing you in relation to one application we are processing to which FMA is a supervisor, however, it has been decided that we run it by the DIA because the applicant indirectly may fall under the Gambling Act.

The applicant Predictions Clearing Limited is seeking a full exemption from the AML/CFT Act in respect of the futures market provided by iPredict Limited. We found no reasonable grounds for granting an exemption and it has been agreed with the FMA that we will decline the application. We do, however, think that iPredict might be a reporting entity reporting to DIA, and for this reason we would like to obtain your OK on this or receive further comments.

I have attached a copy of the application as well as the final draft of the NCC form which has already been reviewed by the FMA.

I look forward to your response, please let me know if you have any questions, I'm happy to discuss this over the phone/

Many thanks



Advisor | Criminal Law

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9(2)(a)

**From:**  
**Sent:** Thursday, 2 July 2015 5:07 p.m.  
**To:** 9(2)(a)  
**Subject:** RE: AML/CFT Ministerial exemption application -

Hi

Great, thanks very much. did mention your phone call about the Predictions application, and she has sent the form through to at DIA.

Kind regards,

9(2)(a)

**From:**  
**Sent:** Thursday, 2 July 2015 4:47 p.m.  
**To:** 9(2)(a)  
**Subject:** RE: AML/CFT Ministerial exemption application -

Hi

Thanks for your email.

Re. Prediction clearing house/iPredict - I spoke with the other day and suggested that she may also wish run it past DIA. I understand that DIA has been in touch with iPredict and has taken the view that trading in its prediction contracts is gambling under the Gambling Act. In any event, we are still of the view that their application should be declined.

Happy to discuss

Regards



Solicitor

T:  
E  
Level 5, Ernst & Young Building  
2 Takutai Square, Britomart, Auckland, 1010  
PO Box 106 672, Auckland 1143, New Zealand

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9(2)(a)

**From:** 9(2)(a)  
**Sent:** Friday, 14 August 2015 4:12 p.m.  
**To:** Gage, Brendan; 'Andrew Hill'; 'Brian Thurlow';  
 'Geoff Brown';  
 'Natasha.Weight@dia.govt.nz'; 'Kirsty Campbell';  
 ; Schmidt, Richard;

9(2)(a)

**Subject:** AML/CFT Ministerial Exemption Applications -  
 & Predictions Clearing Limited

out of scope

**Attachments:**  
 20150814 - Predictions Clearing Limited - NCC Assessment  
 Form - DRAFT.docx

Dear NCC members,

Please find attached for your consideration:

- The draft assessment form relating to an application from Predictions Clearing Limited. The recommendation is a decline.

We would appreciate any comments by Friday 21 August.

Kind regards,



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14

9(2)(a)

**From:** 9(2)(a)  
**Sent:** Tuesday, 18 August 2015 5:05 p.m.  
**To:** THURLOW Brian  
**Subject:** RE: AML/CFT Ministerial Exemption Applications - & Predictions Clearing Limited *out of scope*

Good afternoon Brian,

Thanks a lot for confirming this.

Kind regards,

---

**From:** THURLOW Brian [mailto:Brian.ThurLOW@Customs.govt.nz]  
**Sent:** Tuesday, 18 August 2015 2:45 p.m.  
**To:** 9(2)(a) *out of scope*  
**Subject:** RE: AML/CFT Ministerial Exemption Applications - & Predictions Clearing Limited

Good afternoon

Thank you for providing the Customs Service an opportunity to comment on the Ministerial Exemption assessments in respect of applications for exemptions submitted by and Predictions Clearing Limited. Customs has no comment to make other than to agree with the recommendations of the Ministry of Justice in both cases.

Brian ThurLOW  
 Enforcement Policy  
 NZ Customs Service  
 The Customhouse, Wellington  
 (04)901 4589

---

**From:** 9(2)(a)  
**Sent:** Friday, 14 August 2015 16:12  
**To:** Gage, Brendan; 'Andrew Hill'; THURLOW Brian; 'Geoff Brown'; 'Natasha.Weight@dia.govt.nz'; 'Kirsty Campbell'; L

Schmidt, Richard;

**Subject:** AML/CFT Ministerial Exemption Applications - & Predictions Clearing Limited *out of scope*

[SEEMAIL]

Dear NCC members,

Please find attached for your consideration:

*out of scope*

- The draft assessment form relating to an application from Predictions Clearing Limited. The recommendation is a decline.

We would appreciate any comments by Friday 21 August.

Kind regards,



-----  
Policy Advisor | Criminal Law | Policy Group  
-----

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9(2)(a)

**From:** ..  
**Sent:** Friday, 21 August 2015 3:45 p.m.  
**To:**  
**Subject:** RE: AML/CFT Ministerial Exemption Applications -  
& Predictions Clearing Limited

Out of scope

Hi

Thanks a lot for confirming this.

Cheers,  
9(2)(a)

**From:** [mailto:rbnz.govt.nz]  
**Sent:** Friday, 21 August 2015 1:22 p.m.  
**To:** 9(2)(a)  
**Cc:**  
**Subject:** RE: AML/CFT Ministerial Exemption Applications - Baptist Union Superannuation Scheme & Predictions Clearing Limited

Hi 9(2)(a)

Hope all is well.

and I have read the documents and discussed the 2 assessments.

We agree with MOI's assessment and recommendation of both applications.

Let me know if you have any questions.

Cheers

Senior Analyst – AML, Investigations and Enforcement | Reserve Bank of New Zealand  
2 The Terrace, Wellington 6011 | P O Box 2498, Wellington 6140  
D. + | T. + | F. +  
[www.rbnz.govt.nz](http://www.rbnz.govt.nz) 9(2)(a)

**From:**  
**Sent:** Friday, 14 August 2015 4:12 p.m.  
**To:** Gage, Brendan; 'Andrew Hill'; 'Kirsty Campbell'; 'Geoff Brown';  
Schmidt, Richard; 9(2)(a)  
**Subject:** AML/CFT Ministerial Exemption Applications - & Predictions Clearing Limited  
Out of scope

Dear NCC members,

Please find attached for your consideration:

*Out of scope*

- The draft assessment form relating to an application from Predictions Clearing Limited. The recommendation is a **decline**.

We would appreciate any comments by Friday 21 August.

Kind regards,



Policy Advisor | Criminal Law | Policy Group

[www.justice.govt.nz](http://www.justice.govt.nz)

\*\*\*\*\*

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**BRIEFING SHEET: MINISTERIAL EXEMPTION APPLICATION UNDER THE ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM (AML/CFT) ACT – PREDICTIONS CLEARING LIMITED**

*Pursuant to section 157 of the AML/CFT Act, the Minister of Justice may grant exemptions from any or all provisions of the AML/CFT Act. Exemptions can be granted for a maximum of 5 years and may be varied or revoked at any time by the Minister of Justice. This responsibility is currently delegated to the Associate Minister of Justice.*

<b>Date:</b> 1 September 2015	<b>Timeframe/Deadline:</b> Please note that the Ministry still has a number of applications to process. The legislation came into force 30 June 2013.	<b>File Reference:</b> <b>CLW 37 09 04</b>
-------------------------------	--	---

**DESCRIPTION OF ENTITY:**

Predictions Clearing Limited (PCL) acts as a clearing house and funds depository in respect of the futures market provided by iPredict Limited. iPredict operates a predictions market – a type of futures exchange which allows users to buy and sell futures contracts which are based on the outcomes of certain political, economic or other circumstances.

PCL is a wholly-owned subsidiary of iPredict, and acts as the clearing house and funds depository for iPredict. Any individual who wishes to enter into trades on iPredict must first deposit funds with PCL.

*Rationale for recommendation*

We recommend that PCL's application be declined due to the money laundering and terrorist financing (ML/TF) risks associated with it. The main reasons for this are:

- a) PCL does not identify its customers, or have any means of verifying their identity;
- b) PCL's customers can deposit and withdraw funds from their accounts, including from overseas. Deposit restrictions apply (\$2,500 over six months and \$10,000 cumulatively), but these can be circumvented by setting up multiple user accounts;
- c) PCL keeps records of each user's dealings, account and holdings, but this information is not useful for detecting, investigating or prosecuting ML/TF as the customers are not identified.

**RECOMMENDATION:**

Exemption should be **declined**.

**OTHER:**

There is no statutory requirement to consult on a declined application. Accordingly, the letter for the relevant Ministers (Finance, Commerce and Consumer Affairs and Internal Affairs) is for the purpose of informing them of the recommendation, and is phrased as such. The Minister is requested to sign all letters to the applicant where the exemption applied for has been declined.

**RECOMMENDATIONS**

Step	Documentation	Approval
<b>Step 1: consult with Ministers responsible for the AML/CFT supervisors (Ministers of Commerce and Consumer Affairs, Finance, and Internal Affairs)</b>	<ul style="list-style-type: none"> <li>• Sign and refer letters to the Ministers of Commerce and Consumer Affairs, Finance, and Internal Affairs</li> <li>• Refer assessment form</li> </ul>	<p align="center"><b>YES / NO</b></p> <p>Date:</p> <p align="right">8/9/15</p>



<b>Step 2: sign letter to the applicant</b>	<ul style="list-style-type: none"> <li>• Sign letter to applicant</li> </ul>	<b>YES / NO</b>  Date: 8/9/15
<b>Step 3: refer document to Ministry</b>	<ul style="list-style-type: none"> <li>• Signed letter to applicant</li> </ul>	
APPROVED / SEEN / NOT AGREED		
 Brendan Gage Policy Manager, Criminal Law	 Hon Simon Bridges Associate Minister of Justice Date: 8/9/15	
<b>Attachments</b>	<ul style="list-style-type: none"> <li>• Assessment form completed by the Ministry of Justice</li> <li>• Notification letter to the Ministers of Finance, Commerce and Consumer Affairs, and Internal Affairs</li> <li>• Letter to the applicant</li> </ul>	

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Ministerial Exemption Assessment Form

Individual who completed assessment:		Ministry of Justice
Statutory supervisor for application:	Financial Markets Authority (FMA)	9(2)(a)
Date to National Coordination Committee:	14 August 2015	
Agreed to by National Coordination Committee:	YES / NO	

## Preliminary information

### 1. Applicant

Predictions Clearing Limited (PCL)

## Summary of proposed exemption

### 2. Recommendation

The exemption should be **declined**

1. We recommend that PCL's application under section 157 of the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 (**Act**) should be declined.

### 3. Describe the day to day business of the reporting entity (3-4 sentences) and the specific business of the entity under consideration for an exemption

1. Predictions Clearing Limited (PCL) acts as a clearing house and funds depository in respect of the futures market provided by iPredict Limited (**iPredict**).

#### **iPredict**

2. iPredict operates a *predictions market* – a type of futures exchange which allows users to buy and sell futures contracts which are based on the outcomes of certain political, economic or other circumstances. Apart from issuing the contracts and managing the iPredict market, iPredict does not carry out any other financial services or functions.
3. PCL notes that iPredict operates primarily for the purposes of enabling research to be conducted on in respect of the data relating to certain outcomes. It is not a commercial trading facility, gambling facility or investment tool.
4. For example, a user may buy a futures contract on 31 December 2014 for \$0.20 on the basis of "Joe Bloggs will be the Prime Minister of New Zealand by 1 January 2015". If Joe Bloggs is Prime Minister on this date, the holder of the contract will receive \$1.
5. iPredict holds a transitional derivatives issuer licence in accordance with clause 45 of the schedule 4 to the Financial Markets Conduct Act 2013 (**FMC Act**) as they were an authorised to deal in futures contracts under the Securities Markets Act 1988 immediately before 1 December 2014. It is noted that at the time of application, the application referred to the Authorised Futures Dealer (iPredict Limited) Notice 2011 (**Notice**). The transitional derivatives issuer licence is valid until 30 November 2016, and it is subject to the same restrictions that were imposed by the Notice.
6. A futures contract on the market is an authorised futures contract for the purposes of part 3 of the Securities Markets Act 1988, by virtue of the Futures Contracts (iPredict Limited) Declaration and Exemption Notice 2008 (**Declaration**).

### **Predictions Clearing**

7. PCL is a wholly-owned subsidiary of iPredict, and acts as the clearing house and funds depository for iPredict. Any individual who wishes to enter into trades on iPredict must first deposit funds with PCL.
8. PCL not engage in any activity outside of its role as the clearing house and funds depository. This role includes:
  - a) holding each user's funds on bare trust for that user, through a pooled call deposit ledger account, which must be held with a registered bank (the Pooled User Account);
  - b) debit and credit users' ledger balances, according to the outcome of the relevant futures contracts the relevant user has bought or sold through iPredict; and
  - c) electronically transfer funds to users who make a withdrawal request.
9. A person must first register with PCL and iPredict, which involves the person entering a trading name, password and their email address. A confirmation email is sent to the email address and the user clicks a link to activate their account. A user may then credit their account by making a deposit and begin trading. Users can deposit money by credit card or bank transfer. Credit card deposits can be sourced from overseas.
10. PCL holds the funds on bare trust for each user in a pooled account with a bank (currently ANZ Bank Limited). The pooled account has separate ledger entries for each user. PCL's then credits and debits each user's ledger entry according the outcome of the user's contracts.
11. A user may make a withdrawal request and PCL must electronically transfer funds to the user as soon as practicable. The repayment system is automated to make payments to New Zealand bank accounts only, and alternatives to this are discouraged but not prohibited. International bank transfers can be made to settle an account, but this is rare (one transfer in 2015).
12. The Notice, the Declaration and iPredict's Terms of Service impose several restrictions or obligations on both iPredict and PCL:
  - a) Users may not hold more than one account at a time, either directly or indirectly (including through companies or other legal entities controlled by the user).
  - b) Users cannot act on behalf of any other individual, company or legal entity.
  - c) A user may only deposit \$2,500 over a six month period, and \$10,000 cumulatively, into their trading account with PCL.
  - d) As soon as PCL becomes aware of a payment that exceeds the value limits or is from a different source than is allowed, it must refund that amount as soon as practicable.
  - e) Users may only trade using funds credited to their account from:
    - i. Payments made by the user into their account
    - ii. Payments made as a contribution from a "sponsor" (see below)
    - iii. Trading activities on the market.
  - f) PCL must keep and maintain records of each user's dealings, account and holdings.
  - g) iPredict and PCL are required to report to the Financial Markets Authority:
    - iv. annually on the operation of the iPredict market; and
    - v. immediately any discrepancy or shortfall discovered in the pooled account.

### **Sponsored markets**

13. Because a key function of iPredict is to be used as a research facility, it also offers a mechanism for businesses and organisations ("sponsors") to conduct research tasks on the market, often in relation to a defined group of people. A person can sponsor trading of relevant futures contracts related to that "sponsor" by crediting amounts to a defined group so that they can trade. The Notice limits a sponsor's contributions to \$1,000 for each participant in any six month period. As with a user's own deposits, any amounts in excess of the limits must be refunded to the sponsor.

14. iPredict has the functionality to have "sponsored" markets and the terms and conditions cover such markets. To date, iPredict has not created any commercially sponsored markets. There is one sponsored research market that is open to any participant. This sponsorship is by a researcher studying the ability of prediction markets to predict US annual nominal GDP.
15. Users do not receive financial benefits in the research sponsored market. The sponsorship covers the fees of establishing the prediction market. Accordingly, no party receives income as a result of the trading in the prediction stocks.

**Application for exemption**

16. PCL has applied for a full exemption from the AML/CFT Act.
17. In addition, PCL has submitted that the exemption would also need to apply to every transaction conducted or sought to be conducted through the pooled client account for the purposes of holding users' funds. This would remove the requirement of the bank to conduct customer due diligence (CDD) on the underlying users.

**iPredict as a reporting entity**

18. The application seeks exemption only for PCL and the bank providing its trust account. iPredict may, however, be a reporting entity, by satisfying the definition of "financial institution." In the ordinary course of business, iPredict may:
- a) Participate in the issue of securities and provide financial services related to those issues:
    - A futures contract is a derivative under the FMC Act, and the definition "security" includes derivatives.
    - iPredict's services are captured under the definition of "financial service" under the FMC Act.
19. iPredict is in discussions with the Financial Markets Authority in relation to its status under the FMC Act, and whether, as a consequence, it will need to register on the Financial Service Providers Register as providing certain financial services under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

**Why the entity is subject to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ('the Act')**

**4. Does the entity, in the ordinary course of business, carry on one or more of the following financial activities?**

Accepting deposits or other repayable funds from the public	YES
Lending to or for a customer, including consumer credit, mortgage credit, factoring (with or without recourse), and financing of commercial transactions (including forfeiting)	
Financial leasing (excluding financial leasing arrangements in relation to consumer products)	
Transferring money or value for, or on behalf of, a customer	
Issuing or managing the means of payment (for example, credit or debit cards, cheques, traveller's cheques, money orders, bankers' drafts, or electronic money)	
Undertaking financial guarantees and commitments	
Trading for the person's own account or for the accounts of customers in any of the following: (A) money market instruments (for example, cheques, bills, certificates of deposit, or derivatives); (B) foreign exchange; (C) exchange, interest rate, or index instruments; (D) transferable securities; (E) commodity futures trading	
Participating in securities issues and the provision of financial services related to those issues	
Managing individual or collective portfolios	
Safe keeping or administering of cash or liquid securities on behalf of other persons	
Investing, administering, or managing funds or money on behalf of other persons	YES
Issuing, or undertaking liability under, life insurance policies as an insurer	

5. Are there any exemptions relevant to this application?

NO

**Rationale for granting exemption**

6. Would granting an exemption be consistent with statutory considerations for granting exemptions under section 157 of the Act? NO

The risk of money laundering and the financing of terrorism associated with the reporting entity, including the products and services offered by the reporting entity and the circumstances in which the products and services are provided

1. Overall, it is likely that PCL presents medium risks of money laundering and terrorist financing (ML/TF).
2. Futures and options dealers are assessed as presenting medium / high risks of ML/TF in the Securities Commission's 2011 sector risk assessment.

3. Higher risk factors include:

*Lack of identification of customers*

- a. PCL does not currently identify its customers. The only information required to open an account is a username (which does not need to be the user's real name) and an email address.
- b. Despite the restrictions on user accounts, PCL does not appear to have any way of monitoring and enforcing the restrictions.
- c. PCL is aware of three situations where one person has held more than one user account, one of these being deliberate.

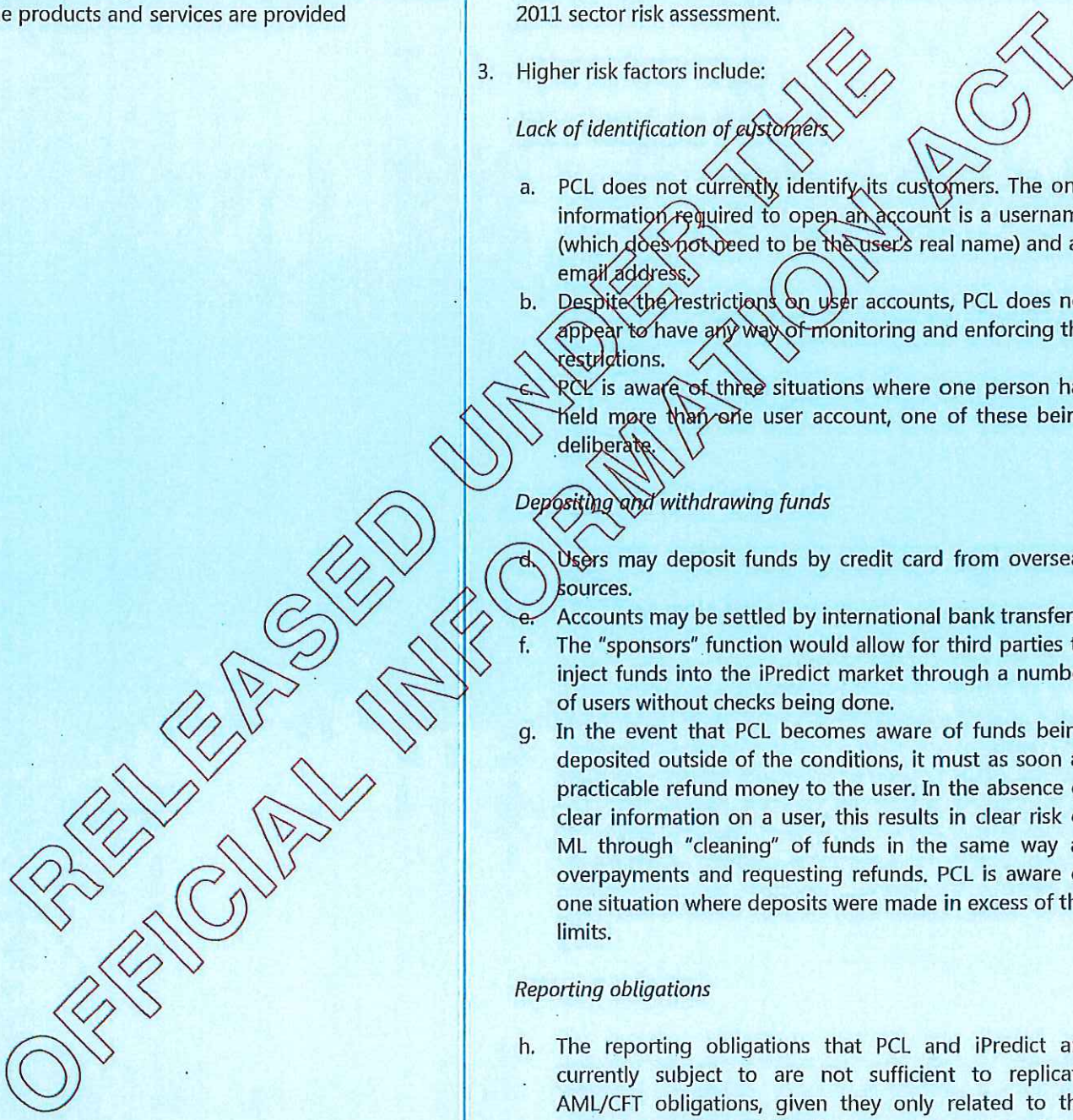
*Depositing and withdrawing funds*

- d. Users may deposit funds by credit card from overseas sources.
- e. Accounts may be settled by international bank transfers.
- f. The "sponsors" function would allow for third parties to inject funds into the iPredict market through a number of users without checks being done.
- g. In the event that PCL becomes aware of funds being deposited outside of the conditions, it must as soon as practicable refund money to the user. In the absence of clear information on a user, this results in clear risk of ML through "cleaning" of funds in the same way as overpayments and requesting refunds. PCL is aware of one situation where deposits were made in excess of the limits.

*Reporting obligations*

- h. The reporting obligations that PCL and iPredict are currently subject to are not sufficient to replicate AML/CFT obligations, given they only relate to the general operation of iPredict on an annual basis, or relate to discrepancy or shortfall in the pooled account.
- i. PCL keeps records of each user's dealings, account and holdings. This information is not useful, however, as PCL does not identify its users.

*Other factors*





	<p>j. PCL can offer a very high return on the user's investment, raising ML/TF risks. For example, as at 29 June 2015, the highest ranked trader has a 81,584% return on investment, and the trader ranked 100<sup>th</sup> has a 249% return.</p> <p>k. Market manipulation risks – especially given contracts are created by iPredict after crowd sourcing or being asked by traders.</p> <p>4. Lower risk factors include:</p> <p>a. A user may only deposit \$2,500 over a six month period, and \$10,000 cumulatively, into their trading account with PCL. PCL is aware of one situation where deposits were made in excess of the limits.</p>
<p>The purpose of the FTRA is to facilitate the:</p> <ul style="list-style-type: none"> <li>• prevention</li> <li>• detection</li> <li>• investigation, and</li> <li>• prosecution of money laundering by imposing certain obligations on financial institutions in relation to the conduct of financial transactions</li> </ul>	<p>5. Declining PCL's application for an exemption supports the purpose of the FTRA.</p>
<p>The purpose of the AML/CFT Act is to:</p> <ul style="list-style-type: none"> <li>• detect and deter money laundering and the financing of terrorism</li> <li>• maintain and enhance New Zealand's international reputation by adopting appropriate recommendations issued by the FATF, and</li> <li>• contribute to public confidence in the financial system</li> </ul>	<p><i>Detecting and deterring ML/TF</i></p> <p>6. PCL submits it is already required to monitor and record transaction behaviour of its users, and report to FMA. This reporting is, however, conducted for a different purpose than detecting and deterring ML/TF. Furthermore, the transaction reports cannot be linked to individuals as PCL does not identify its users.</p> <p>Granting an exemption to PCL may also further reduce the amount of identification information available.</p> <p><i>FATF Recommendations</i></p> <p>8. The FATF Recommendations provide for a risk based approach which allocates resources depending on risk and provides exemptions only in justified circumstances. Given the ML/TF risks associate with PCL, declining the exemption would be consistent with this approach.</p> <p><i>Public confidence in the financial system</i></p> <p>9. Public confidence in the financial system is enhanced when the AML/CFT requirements apply to appropriate entities and services. It is therefore appropriate that PCL be subject to the Act.</p>
<p>The level of regulatory burden to which the reporting entity would be subjected in the absence of an exemption</p>	<p>10. We consider the regulatory burden PCL will be subject to is justified given the clear money laundering risks associated with the services it provides as the clearing house and funds depository for iPredict.</p>

Whether the exemption would create an unfair advantage for the reporting entity or disadvantage third party reporting entities	11. Given PCL's bespoke nature, declining the exemption would not create an unfair advantage for third party reporting entities.
The overall impact that the exemption would have on the integrity of, and compliance with, the AML/CFT regulatory regime	12. Granting an exemption may be detrimental to the integrity of the AML/CFT regime.

### 7. Other policy considerations for granting exemption

A 'best fit' for New Zealand: consider the likely costs on government and business of an exemption and whether these costs are justified by <ul style="list-style-type: none"> <li>likely benefits</li> <li>the level of money laundering risk in New Zealand, and</li> <li>the likely consequences of non-compliance with FATF Recommendations</li> </ul>	<p>1. The decline of an exemption for PCL will represent a best fit for AML/CFT regulation in New Zealand because there are clear money laundering risks associated with PCL's role as the clearing house and funds depository for iPredict.</p> <p>2. Declining the exemption would be consistent with the FATF Recommendations as the Recommendations support a risk-based approach which allocates resources depending on risk and provides exemptions only in justified circumstances.</p>
Compatibility with Australian regulatory requirements (that are consistent with New Zealand's circumstances and requirements)	3. Not applicable.
Consistent regulation and supervision across sectors	<p>4. PCL has noted that the user deposit limits effectively mean a person may launder a maximum of \$10,000, an amount consistent with AML/CFT obligations relating to occasional transactions and cross-border transportation of cash.</p> <p>5. We do not agree that PCL's deposit limits will have this effect (See above for discussion of ML/TF risks). In addition, the \$10,000 thresholds mentioned are not relevant to the granting of an exemption:</p> <ul style="list-style-type: none"> <li>a. Occasional transactions are transactions conducted outside of a business relationship, while PCL has an established business relationship with its users.</li> <li>b. The cross-border transportation of cash requirements are separate to the set of obligations applying to reporting entities and apply only where money moves across borders, and not necessarily in the context of providing a set of services to a customer.</li> </ul>
Transparent regulation, rules and sector guidance that are still accessible and provide certainty to business and supervisors	6. See above.
Effective and coordinated implementation (including information sharing mechanisms) to achieve the overall objectives of the framework	7. See above.
Regulation and supervision that go no further than is necessary to achieve the objectives of the Act, and which are implemented in ways that minimise compliance costs on industry	<p>8. We do not accept that the regulation and supervision of PCL is disproportionate to the apparent ML/TF risk.</p> <p>9. Compliance with full requirements the AML/CFT regime is the minimum necessary to achieve the objectives of the Act. Accordingly, we recommend that an exemption should be declined.</p>

## Other considerations

### 8. Consultation

1. The National Coordination Committee, made up of the Ministry of Justice, Department of Internal Affairs, New Zealand Police, Financial Markets Authority, Reserve Bank of New Zealand, and the New Zealand Customs Service, has agreed to the recommendations outlined above.

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OFFICIAL INFORMATION ACT



## Office of Hon Simon Bridges

MP for Tauranga  
Minister of Energy and Resources  
Minister of Transport  
Deputy Leader of the House

Associate Minister for Climate Change  
Issues  
Associate Minister of Justice

Hon Bill English  
Minister of Finance

Hon Paul Goldsmith  
Minister of Commerce and Consumer Affairs

Hon Peter Dunne  
Minister of Internal Affairs

Dear Minister

### **Ministerial exemption application under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009**

The purpose of this letter is to inform you of my decision to decline a Ministerial exemption application made on behalf of Predictions Clearing Limited (PCL) from the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act). Attached to this letter is a detailed assessment form.

#### *Background*

The AML/CFT Act came into full force on 30 June 2013. The AML/CFT Act builds on obligations in the Financial Transactions Reporting Act 1996 for financial institutions and casinos (collectively referred to as 'reporting entities'). Obligations include developing a risk assessment and compliance programme, undertaking customer due diligence (customer identification and verification), account monitoring and submitting suspicious transaction reports to the Financial Intelligence Unit of the New Zealand Police.

The AML/CFT Act allows the Minister of Justice to grant exemptions from all or any of the obligations in the AML/CFT Act. This responsibility is currently delegated to me as the Associate Minister of Justice.

#### *Application by Predictions Clearing Limited*

PCL applied for an exemption from all the provisions of the AML/CFT Act. In addition, PCL asked for the exemption to apply to every transaction conducted, or sought to be conducted, through the call deposit account that is maintained by PCL with a registered bank for the purposes of holding PCL's users' funds.

The Ministry of Justice has assessed the application against the statutory criteria in section 157 of the AML/CFT Act. Criteria include the relevant money laundering and/or terrorist financing risks associated with a product, service or business, compliance burden on industry in the absence of an exemption, and the potential impact on

prevention, detection, investigation and prosecution of money laundering and other offences.

The assessment was presented to the National Coordination Committee (NCC), which is a statutory body established under the AML/CFT Act to consider AML/CFT policy. The NCC is made up of the Ministry of Justice, AML/CFT supervisors (the Department of Internal Affairs, Reserve Bank of New Zealand, Financial Markets Authority), the New Zealand Police and the New Zealand Customs Service.

*NCC recommendation*

The NCC recommends that the application from PCL for an exemption from the provisions of the AML/CFT Act be declined.

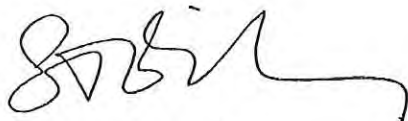
The recommendation to decline this exemption application has been made because the NCC considers that PCL's clearing house and funds depository service carries legitimate money laundering risk. This is because:

- The lack of appropriate customer due diligence (CDD) checks, providing criminals with a legitimate means to deposit and withdraw the proceeds of criminal activity.
- PCL does not appear to have any way of monitoring and enforcing the user account restrictions. The deposit restrictions can also be circumvented by setting up multiple user accounts.
- The monitoring and recording of transaction behaviour of PCL's users is conducted for a different purpose than detecting and deterring money laundering and terrorist financing. Furthermore, the transaction reports cannot be linked to individuals as PCL does not identify its users.
- I also consider that the level of regulatory burden is proportionate to the risk associated with PCL.

If you or your officials require further information regarding the details of the application, the point of contact at the Ministry of Justice is \_\_\_\_\_, Policy Advisor, Policy Group (DDI ( \_\_\_\_\_)).

9(2)(a)

Yours sincerely



Hon Simon Bridges  
**Associate Minister of Justice**



## Office of Hon Simon Bridges

MP for Tauranga

Minister of Energy and Resources

Minister of Transport

Deputy Leader of the House

Associate Minister for Climate Change  
Issues

Associate Minister of Justice

9(2)(a)

Special Counsel  
Chapman Tripp  
10 Customhouse Quay  
PO Box 993  
Wellington 6140

@chapmantripp.com

Dear Mr

### **Decision to decline a Ministerial exemption application under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009**

Thank you for the Ministerial exemption application under the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 on behalf of Predictions Clearing Limited (PCL).

Your application to the Ministry of Justice requested that PCL be exempt from all the provisions of the AML/CFT Act. In addition, you asked for the exemption to apply to every transaction conducted, or sought to be conducted, through the call deposit account that is maintained by PCL with a registered bank for the purposes of holding PCL's users' funds.

#### *Decision on exemption application*

Your application was assessed against the statutory criteria in section 157 of the AML/CFT Act. The criteria included the relevant money laundering and/or terrorist financing risks associated with a product, service or business, the compliance burden in the absence of an exemption, and the potential impact on prevention, detection, investigation and prosecution of money laundering and other offences.

I have decided to decline your application, because I consider that PCL's clearing house and funds depository service carries legitimate money laundering risk. This is because:

- The lack of appropriate customer due diligence (CDD) checks, providing criminals with a legitimate means to deposit and withdraw the proceeds of criminal activity.
- PCL does not appear to have any way of monitoring and enforcing the user account restrictions. The deposit restrictions can also be circumvented by setting up multiple user accounts.

- The monitoring and recording of transaction behaviour of PCL's users is conducted for a different purpose than detecting and deterring money laundering and terrorist financing. Furthermore, the transaction reports cannot be linked to individuals as PCL does not identify its users.
- I also consider that the level of regulatory burden is proportionate to the risk associated with PCL.

My decision is consistent with the recommendation of the National Coordination Committee made up of the Ministry of Justice, Department of Internal Affairs, New Zealand Police, Financial Markets Authority, Reserve Bank of New Zealand, and the New Zealand Customs Service.

I appreciate that this decision has come after the AML/CFT Act came into force on 30 June 2013. Accordingly, I suggest that PCL engage in discussions with the relevant statutory supervisor, the Financial Markets Authority, to ascertain what will be expected under the AML/CFT Act.

If you require further information or have any questions regarding the outcome of your application, please contact . . . Policy Advisor in the Policy Group at the Ministry of Justice. . . s contact details are provided below:

....., Policy Advisor

Telephone: |

Email: |

Yours sincerely



Hon Simon Bridges  
Associate Minister of Justice

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9(2)(a)

**From:** @parliament.govt.nz>  
**Sent:** Thursday, 26 November 2015 1:55 p.m.  
**To:**  
**Cc:** Gage, Brendan 9(2)(a)  
**Subject:** RE: iPredict

Hi all,

Thanks for the quick turn-around on the information – much appreciated by the Office.

At this stage it doesn't look like we need anything more.

FYI – here is more-or-less final version of the media response the Minister will send out. Also a comment below from 'it is what it is' with a pragmatic approach to the AML/Exemption legislation.

Thanks again,

9(2)(a)

#### Response used - FYI

The Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 makes it easier for the Government to recover money gained illegally and helps close the loopholes that can be used to launder money. It aligns New Zealand with international laws and best practice – being in step with the rest of the world is crucial to New Zealand as a trading nation as more and more authorities around the world are requiring compliance with AML/CFT standards.

The Act introduced obligations for various businesses and industries. The obligations include checking customers' identities (customer due diligence), reporting suspicious transactions, and appointing an AML/CFT compliance officer. It also allows the Minister of Justice (delegated to the Associate Minister) to grant exemptions to any or all of these obligations on a case by case basis.

Predictions Clearing Limited, the clearing house and funds depository for iPredict Limited, applied for a full exemption from the AML/CFT Act. As Associate Minister, I declined the application. This decision was taken on the recommendation of the AML/CFT National Coordination Committee, which is established by law to consider AML/CFT policy. The Committee comprises Ministry of Justice, Department of Internal Affairs, New Zealand Police, Financial Markets Authority, and New Zealand Customs Service.

The main reason for declining the application was that Predictions Clearing Limited does not identify its customers, which creates an opportunity to use the iPredict market to launder illicit funds. The customers can deposit and withdraw funds from their accounts, including from overseas. Deposit restrictions apply, but these can be circumvented by setting up multiple user accounts as the customers' identities are not verified.

I recommended to Predictions Clearing Limited on 8 September 2015 that they discuss with the Financial Markets Authority how best to meet their obligations under the AML/CFT Act. The requirements for conducting standard customer due diligence, for example, are set out in the Act and are generally not onerous. For example, they include full name, date of birth, and address.

**It is what it is** 57 minutes ago



The government didnt close them down. They chose to close down themselves. They applied for an exemption to a piece of legislation. They were not eligible for the exemption so it was declined. This is utterly different to them "being closed down".

..... | **Private Secretary (Justice)**  
Office of Hon Simon Bridges | Associate Minister of Justice  
5.1 Beehive, Parliament Buildings, Wellington 6160 | DDI:

9(2)(a)

| Mobile: .....

---

**From:** .....

**Sent:** Thursday, 26 November 2015 12:37 p.m.

**To:** .....

**Cc:** Gage, Brendan 9(2)(a)

**Subject:** RE: iPredict

Hi:

Thanks, the tracked changes look good.

On a further note, the application from Predictions Clearing Limited was declined 8 September 2015. They have not been in contact with us or the Financial Markets Authority about the declined application, but decided to cease their operations without discussing this with anyone.

The normal process after a declined application is for the applicant to contact the supervisor (FMA) to confirm what the obligations are under the Act. Applicants wishing to contest the application normally contact MOJ in the first instance.

Thanks,

---

**From:** .....

**Sent:** Thursday, 26 November 2015 12:28 p.m.

**To:** Gage, Brendan:

**Cc:** .....

**Subject:** RE: iPredict

Hi Brendan and

9(2)(a)

Some suggestions - tracked - to tighten it up a little.

Cheers

---

**From:** Gage, Brendan

**Sent:** Thursday, 26 November 2015 12:13 p.m.

**To:** .....

**Subject:** FW: iPredict 9(2)(a)

Brendan Gage  
Policy Manager | Criminal Law



DDI: +64 4 494 9908 | Ext 50908 |  
[www.justice.govt.nz](http://www.justice.govt.nz)

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**From:**  
**Sent:** Thursday, 26 November 2015 12:09 p.m.  
**To:**  
**Cc:** Gage, Brendan 9(2)(a)  
**Subject:** RE: iPredict

Hi

Please find the draft attached. Sorry for the delay!

Thanks,

---

**From:** [parliament.govt.nz](mailto:parliament.govt.nz)  
**Sent:** Thursday, 26 November 2015 11:25 a.m.  
**To:** 9(2)(a)  
**Cc:** Gage, Brendan  
**Subject:** RE: iPredict

Hi

Just a bit more on the response please:

- The AML 101 principles and purpose ect
- The reasons why PLC were turned down
- What they could do to become compliant (were they in discussions with the FMA/NCC?)

Happy to discuss.

Cheers,

9(2)(a)

| Private Secretary (Justice)

Office of Hon Simon Bridges | Associate Minister of Justice  
5.1 Beehive, Parliament Buildings, Wellington 6160 | DDI:

| Mobile: .

9(2)(a)

---

**From:**  
**Sent:** Thursday, 26 November 2015 11:13 a.m. 9(2)(a)  
**To:** 'Brendan.gage@justice.govt.nz'  
**Subject:** FW: iPredict  
**Importance:** High

Hi .

Here is the media article link below.

Please can we have the 101 of the AML Act & some specific details regarding the declined decision (without breaching commercial sensitivity).

Also note there has been a tweet about Ipredict having to suspend trading due to the AML exemption.

I will Minister Adams office know about this as well.

I know its short office, but can we please have this information by 11:45.

Cheers,

Private Secretary (Justice)  
Office of Hon Simon Bridges | Associate Minister of Justice  
5.1 Beehive, Parliament Buildings, Wellington 6160 | DDI:

9(2)(a)  
| Mobile:

**From:** Stephanie Edridge  
**Sent:** Thursday, 26 November 2015 11:02 a.m.  
**To:**  
**Subject:** FW: iPredict

FYI

**From:** Hamish Rutherford [mailto:hamish.rutherford@fairfaxmedia.co.nz]  
**Sent:** Thursday, 26 November 2015 11:01 a.m.  
**To:** Stephanie Edridge <Stephanie.Edridge@parliament.govt.nz>  
**Subject:** iPredict

Hi Stephanie

See here:

<https://www.ipredict.co.nz/app.php?do=message>

Regrettably the Ministry of Justice has not been so positive. We applied for an exemption from the Anti-Money Laundering and Countering Financing of Terrorism Act. We believed we would secure an exemption due to the limited possible investment into iPredict trades and the small nature of the Prediction market transactions.

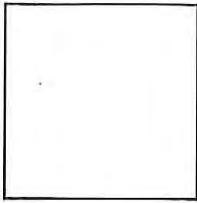
**Our application has been declined by the Minister, Simon Bridges, on the grounds that we are "a legitimate money laundering risk".** This is essentially because we have no customer due diligence checks. He considered the level of regulatory burden is proportionate to the risk. He formed these views without any discussions with us.

We are an academic not-for-profit organisation and our agreement with the FMA dictates we place caps on transactions. For example, over the past seven years, we have handled a total of 3,782 withdrawals, with an average trader net worth of \$41. Our withdrawal process is lengthy and we are a low risk of money laundering.

Hamish

**Hamish Rutherford**  
Wellington business bureau chief

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

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act) seeks to enhance public confidence in the financial system and improve New Zealand's compliance with international laws and best practices by detecting and deterring money laundering and the financing of terrorism.

The AML/CFT Act introduces obligations for various businesses and industries which include financial institutions, casinos, certain trust and company service providers and certain financial advisers. The obligations include checking customers' identities (referred to as customer due diligence), reporting suspicious transactions and appointing an AML/CFT compliance officer.

The AML/CFT Act allows the Minister of Justice to grant exemptions to any or all of these obligations. This responsibility is delegated to the Associate Minister of Justice. Ministerial exemption powers are generally used to provide relief from unintended consequences of the legislation on a case by case basis.

#### ***Application from Predictions Clearing Limited***

Predictions Clearing Limited, the clearing house and funds depository for iPredict Limited, applied for an exemption from the AML/CFT. Individuals who wish to enter into trades on the iPredict market must first deposit funds with Predictions Clearing Limited.

The Associate Minister of Justice has decided to decline the application. This decision was taken following consultation with the Financial Markets Authority and the AML/CFT National Coordination Committee, which is established by law to consider AML/CFT policy. The recommendation from the National Coordination Committee was to decline the application.

#### ***Reason for declining the application***

The main reason for declining the application was that Predictions Clearing Limited does not identify its customers, which creates an opportunity to use the iPredict market to launder illicit funds. The customers can deposit and withdraw funds from their accounts, including from overseas. Deposit restrictions apply, but these can be circumvented by setting up multiple user accounts as the customers' identities are not verified.

The specific reasons for declining the application as set out in the recommendation to the Minister:

*We recommend that PCL's application be declined due to the money laundering and terrorist financing (ML/TF) risks associated with it. The main reasons for this are:*

- a) PCL does not identify its customers, or have any means of verifying their identity;*
- b) PCL's customers can deposit and withdraw funds from their accounts, including from overseas. Deposit restrictions apply (\$2,500 over six months and \$10,000 cumulatively), but these can be circumvented by setting up multiple user accounts;*
- c) PCL keeps records of each user's dealings, account and holdings, but this information is not useful for detecting, investigating or prosecuting ML/TF as the customers are not identified.*

***What Predictions Clearing Limited can do to become compliant with the AML/CFT Act***

The AML/CFT Act sets out the obligations for businesses and organisations that need to comply with the law. The appropriate AML/CFT supervisor, the Financial Markets Authority (FMA) is best placed to discuss Predictions Clearing Limited's legal obligations.

The Ministry of Justice has spoken to FMA about the iPredict announcement (which they were not aware of prior to the call from MOJ). FMA will look into the matter and provide MOJ with further comments.

The requirements for conducting standard customer due diligence are set out in section 15 of the AML/CFT Act and are generally not onerous. They include:

***15 Standard customer due diligence: identity requirements***

A reporting entity must obtain the following identity information in relation to the persons referred to in section 11(1):

- (a) the person's full name; and
- (b) the person's date of birth; and
- (c) if the person is not the customer, the person's relationship to the customer; and
- (d) the person's address or registered office; and
- (e) the person's company identifier or registration number; and
- (f) any information prescribed by regulations.

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**From:** Gage, Brendan  
**Sent:** Thursday, 26 November 2015 5:14 p.m.  
**To:**  
**Subject:** FW: iPredict 9(2)(a)

FYI



**Brendan Gage**  
Policy Manager | Criminal Law  
DDI: +64 4 494 9908 | Ext 50908 |  
[www.justice.govt.nz](http://www.justice.govt.nz)

**From:** Vanessa Simons [<mailto:Vanessa.Simons@fma.govt.nz>]  
**Sent:** Thursday, 26 November 2015 5:11 p.m.  
**To:** Gage, Brendan  
**Subject:** iPredict

Hi Brendan, I understand you have spoken to James from my team earlier today, regarding a formal response from the FMA for Simon Bridges regarding our involvement with iPredict. We are happy to provide the following. Feel free to contact me for more information.

In September 2013 the FMA received iPredict's AML/CFT exemption application from MoJ for review. In October 2013 we provided an initial recommendation that iPredict should not be granted an AML/CFT exemption. Our assessment indicated that if iPredict tightened its customer due diligence practises by ensuring that customers were identified so that multiple accounts could not be opened, then it would have been largely compliant (in which case no exemption would be necessary).

We were then contacted by MoJ in December 2014. MoJ advised us that it had formed an initial view that it would not grant an AML/CFT exemption but intended to seek further information from iPredict. We responded to further questions from MoJ and reconfirmed our initial views. In August 2015 we also participated in the NCC's consideration of the exemption application.

Separately we have engaged directly with iPredict regarding their obligations under financial markets legislation. iPredict was an authorised futures dealer under the Securities Markets Act 1978 until 1 December 2014 and now holds a transitional derivatives issuer licence under the Financial Markets Conduct Act (FMC Act) until 30 November 2016. Earlier this year we indicated to iPredict that we would be open to considering a declaration that iPredict's predictions contracts are not financial products under the FMC Act and have been working with them on that basis (noting also that not all predictions contracts are financial products). Note that, such a declaration would not affect iPredict's AML/CFT obligations because those obligations arise simply from accepting deposits or other repayable funds from the public.

Kind regards  
Vanessa

Vanessa Simons Head of Legal, Regulation

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