

NEW ZEALAND FOREIGN TRUST DISCLOSURE REGIME

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Tags
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In April 2016, the New Zealand government convened an independent inquiry into the use of New Zealand foreign trusts. Following this inquiry, the New Zealand government proposed a new Foreign Trust Disclosure Regime (“F.T.D.R.”). The new regime will run in parallel to New Zealand’s adoption of the Common Reporting Standard (“C.R.S.”) and will be entirely separate to any C.R.S. reporting.

The bill that will introduce the F.T.D.R. is currently going through the New Zealand parliamentary process. Parliament returns to sit on February 7, 2017, and the legislation will be considered in due course on the legislative agenda; it is expected that the bill will not be amended substantially before it is passed into law. Once the bill has been passed, regulations will be put in place which will set out the specific requirements of the regime. The draft regulations for the F.T.D.R. are currently unknown.

It is expected that the new F.T.D.R. will become effective from June 30, 2017. All existing New Zealand foreign trusts will need to comply with the legislation by that date.

Although the relevant legislation has not yet been passed and the final specific details of the new regime are unknown, we are currently able to highlight the following points about the new F.T.D.R.:

- Nothing disclosed under the F.T.D.R. may be used for C.R.S. reporting by the New Zealand government. The information gathered under the regime will be collated by the Inland Revenue Department (“I.R.D.”) for the New Zealand government’s records purposes only.
- The information will not be publicly available and will be protected by New Zealand’s extremely strong privacy and confidentiality legislation. New Zealand government agencies have a proven track record of upholding this legislation.
- No change to the fully tax-exempt status of New Zealand foreign trusts has been proposed.
- New Zealand foreign trusts already disclose their establishment to the I.R.D., however, the information required under the F.T.D.R. is more detailed. It is proposed that the F.T.D.R. will require the following information to be filed with the I.R.D.:
 - Trust deed and particulars of settlors and, in certain cases, protectors
 - T.I.N.’s where applicable

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- Beneficiaries where they have a fixed right to distributions
 - Class of beneficiaries where beneficiaries are discretionary and identification of individual beneficiaries when distributions are made
 - Any amendments to the above arrangements
 - Annual financial statements (see below)
 - An annual return
- The government will levy fees for the initial filing and the annual return filing.
 - Following the introduction of the F.T.D.R., New Zealand foreign trusts will be required by law to prepare financial statements. However, consolidated financial statements will not be required. As an example, in the case of a trust holding shares in an investment company, only the shares will be shown in the statement, not the underlying assets of the investment company.



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