

Ministerial Exemptions Under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

In accordance with section 157(6)(b) of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“Act”), the Associate Minister of Justice gave notice on 10 November 2020 that he has granted the following exemption from the Act:

Ministerial Exemption: Earthquake-Prone Building Financial Assistance Scheme

Exempting the Earthquake-Prone Building Financial Assistance Scheme (“Scheme”) provided by Kāinga Ora from all obligations under the Act, with the exception of suspicious activity reporting and associated obligations (sections 39A–42, 44–47 and 49A of the Act).

This exemption is subject to the following conditions:

- a. the Scheme is still subject to sections 39A–42, 44–47 and 49A of the Act;
- b. the Scheme remains limited to New Zealand resident citizens only, to use for seismic strengthening relating to properties purchased before June 2017, and to loans of no more than NZD250,000 to a maximum of NZD10 million;
- c. controls must be maintained relating to due diligence to ensure eligibility to the scheme, monitoring for unusual activity including unusual repayments and unusual involvement of third parties prohibiting cash repayments; and
- d. Kāinga Ora must inform the Ministry of Justice of any changes that may affect the exemption within 10 working days of when the change occurs.

This exemption has been granted for the following reasons:

- a. the residual Money Laundering and Terrorism Financing (ML/TF) risk associated with the Scheme is low. Specifically, the inherent ML/TF risk is mitigated by:
 - i. the limited entry criteria for the scheme; which are likely to limit the customer base, and prevent criminals from accessing the Scheme: and
 - ii. the structure of activities; including not accepting cash repayments, customer due diligence and monitoring to enforce the criteria.
- b. the residual risk of layering proceeds of crime will be as effectively managed through the conditions as through a full AML/CFT programme. Therefore, granting this exemption would have little to no impact on the prevention, detection and prosecution of ML/TF offences;
- c. in the absence of an exemption, the Scheme would be subject to an undue regulatory burden. This is because the regulatory burden would be disproportionate to the low residual level of ML/T risk and the duplication of equivalent controls provided by the criteria and structure of activities.

This exemption comes into force on 24 July 2020.

This exemption will expire on 24 July 2025.

Any person wishing to provide comment on this notice should contact the Terrorism and Law Enforcement Stewardship Team at the Ministry of Justice by emailing amlcft.exemptions@justice.govt.nz.