

## **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 15 March 2021 that he has granted the following exemption from the Act:

### **Ministerial Exemption: Callaghan Innovation**

Exempting Callaghan Innovation from the following provisions of the Act:

- a. sections 10–39;
- b. sections 48A–48C;
- c. sections 49–51; and
- d. sections 56–71 (inclusive).

The exemption only applies to loans provided by Callaghan Innovation under the R&D Loan Scheme or Technology Incubator Programme;

In this exemption, unless the context otherwise requires:

- R&D Loan Scheme means the Short-Term Loan Scheme to Support R&D Performing Businesses in Response to the COVID-19 Crisis, referred to in Ministerial Direction to Callaghan Innovation on 27 August 2020 by the Minister of Research, Science and Innovation.
- Technology Incubator Programme means the programme offered by Callaghan Innovation to provide technology start ups with commercialisation support, international and local connections, and access to investment through Technology Incubators

This exemption is made subject to the following conditions:

- a. Where a loan recipient’s repayment frequency and/or amount is not in line with Callaghan’s understanding of the recipient’s business, Callaghan Innovation must undertake further enquiries to determine the source of funds used to repay the loan.
- b. Callaghan Innovation must inform the Ministry of Justice of any changes that may affect the exemption and/or conditions imposed by this written instrument within 10 working days from when the change affecting the exemption occurs.

This exemption has been made for the following reasons:

- a. Both the R&D Loan Scheme and Technology Incubator Programme have strict eligibility criteria, which limits the number of potential recipients of the loans provided by Callaghan Innovation. Lending under the R&D Loan Scheme is only available to New Zealand businesses with eligible R&D activity who can demonstrate a negative impact as a result of COVID-19. Similarly, funding under the Technology Incubator Programme can only occur as a result of the start-up business partnering with one of Callaghan Innovation’s approved technology incubators.

- b. Callaghan Innovation has existing relationships with businesses in the Technology Incubator Programme and estimates that approximately 75% of R&D Loan Scheme recipients will be business with an existing relationship. However, even those known to Callaghan Innovation will be required to meet the eligibility criteria and prove that the loan was spent on R&D activity, further ensuring Callaghan Innovation maintain a robust knowledge of their customers.
- c. Funding provided under the R&D Loan Scheme and Technology Incubator Programme can only be used for specific purposes (supporting eligible R&D activity and commercialisation of complex products and technologies respectively). Any funds not applied for these purposes must be immediately repaid.
- d. Callaghan Innovation does not accept cash repayments. Money provided under the Technology Incubator Programme can only be repaid through a royalty on gross revenue from sales. Money provided under the R&D Loan Scheme must be repaid within 10 years, and is interest free if repaid within one year, but can be repaid in one lump sum.
- e. There is a small residual risk that criminal proceeds will be used to repay a loan provided under the R&D Loan Scheme as it can be repaid in one lump sum. We consider this risk is mitigated by the condition requiring further enquiries where repayment amounts and/or frequency do not match Callaghan Innovation's understanding of the recipient's business.
- f. As a Crown-owned entity, Callaghan Innovation is subject to a number of public accountability and transparency mechanisms as well as Ministerial oversight under the Public Finance Act 1989, the Crown Entities Act, the Official Information Act 1982, the Public Audit Act 2001 and the Ombudsmen Act 1975.

This exemption comes into force on 9 March 2021.

This exemption will expire on 9 March 2026.

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](mailto:amlcft.exemptions@justice.govt.nz).