

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, Hon Aupito William Sio, gave notice on 23 May 2022 that he has granted the following exemptions from the Act:

Ministerial Exemption: New Zealand Green Investment Finance Limited

Revoking the Ministerial exemption for New Zealand Green Investment Finance Limited (“NZGIF”) activities involving funding from the New Zealand Government, in force since 4 August 2020 and published in the [New Zealand Gazette, 10 November 2020, Notice No. 2020-go5154](#).

Exempting New Zealand Green Investment Finance Limited (“NZGIF”) and its special purpose vehicles (SPVs) created solely to further NZGIF’s investment functions from sections 10–71 of the Act when carrying out captured activities, where only funding from the New Zealand Government is used.

Exempting NZGIF and each SPV created solely to further NZGIF’s investment functions:

- a. In relation to wholesale investor-customers of the SPVs, from all sections in the Act except for sections 22(1)(a)(ii), 22(1)(b)(ii), 22(1)(c), 22(1)(d), 22(1)(e), 22(2), 22A, 23, 24, 25, and 26 (enhanced due diligence) and 39A–48C (suspicious activity reports).
- b. In relation to investee-customers of the SPVs, from all sections of the Act.

This exemption is made subject to the following conditions:

- a. NZGIF and its SPVs must continue to carry out their own robust due diligence process on each investor-customer (other than the New Zealand Government) and investee-customer.
- b. NZGIF and SPV investee-customers must be New Zealand domiciled entities and projects.
- c. All NZGIF and SPV transactions, for both investor-customers and investee-customers, must be conducted electronically.
- d. NZGIF and SPV investor-customers (other than the New Zealand Government) must not be able to redeem their investments before the stated maturity date.
- e. NZGIF must inform the Ministry of Justice of any changes that may affect the exemption within 10 working days from when the change affecting the exemption occurs.

The exemption has been granted as a partial exemption and with the conditions noted, to reduce the money laundering and terrorism financing (“ML/TF”) risks otherwise considered medium or high, as listed below:

- a. Some ML/TF risks can be either avoided or mitigated by the nature of the entity and its functions:
 - i. NZGIF is already subject to the public accountability requirements of the Crown Entities Act 2004 and the Public Finance Act 1989. In addition, NZGIF and any of its financial vehicles associated with wholesale investors are subject to the public accountability requirements of the Public Audit

Act 2002 and the Ombudsmen Act 1975. Additional full accountability under the Act would be disproportionate.

- ii. NZGIF does not handle cash, and all loan payments and repayments will only be made electronically.
 - iii. NZGIF has noted in its material change application that it will carry out “robust due diligence processes on all [its] investees and on the investors that co-invest with [it] through any entity [it] controls”.
- b. Despite these risk mitigations, some ML/TF risks relating to SPVs would be difficult to detect, prevent, or prosecute if the exemption was not approved as a partial exemption with conditions:
- i. The risks inherent in some wholesale investors (particularly those which self-certify, or are large, or their source of funds/wealth is unclear) are high.
 - ii. Funds from international sources may be disguised as domestic funds using vehicles such as New Zealand resident companies.
 - iii. From time to time, SPVs will receive money from, and pay money to, overseas bank accounts held by investors.
 - iv. The scale and frequency of NZGIF’s activities increase the risk of ML/TF. The tenure of NZGIF’s loans are relatively long-term. Such investments, including those of an illiquid nature, can be attractive to larger, more sophisticated ML/TF operations because they may offer higher profits than short-term investments.

This exemption comes into force on **12 May 2022**.

This exemption will expire on **12 May 2027**.

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