

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: Wairakei 801 Limited

Exempting Wairakei 801 Limited (“Wairakei”) in relation to its activity of lending to existing customers for their Earthquake Commission (EQC) and insurance claim litigation from sections 56–60, inclusive of the Act.

This exemption is subject to the following conditions:

- a. Wairakei must not enter into any new business relationships or conduct any occasional transaction (as those terms are defined in the Act) with any new customer; and
- b. Wairakei must inform the Ministry of Justice of any material change that may affect the exemption within 10 working days from when the change affecting the exemption occurs.

This exemption has been granted for the following reasons:

- a. the risk of money laundering/terrorist financing (ML/TF) associated with Wairakei’s lending activity is low. This is because:
 - i. Wairakei is a litigation claim lender who has ceased lending to new customers from February 2018, and its operations are now limited to maintenance of historic loans, pending repayment;
 - ii. Wairakei’s strict lending criteria mitigates the opportunities for ML/TF to occur;
 - iii. Wairakei has a small customer base, and low volume of loans;
 - iv. Wairakei places restrictions on what loans can be used for, i.e. loans can only be used by litigant-homeowners of earthquake damaged properties, for the purposes of settling third party invoices for professional legal, engineering and administrative services rendered in the course of litigation; and
 - v. Wairakei does not undertake any cash transactions.
- b. given Wairakei’s low ML/TF risk, this exemption is consistent with the intent and purpose of the Act in that it has no negative impact on the prevention, detection and prosecution of ML/TF offences;
- c. exempting Wairakei from sections 56–60 of the Act reduces its regulatory burden to reflect the low-risk nature of its exempt activity; and
- d. this exemption does not create an unfair advantage for Wairakei, nor does it disadvantage any third-party reporting entities because Wairakei no longer accepts new customers.

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.