

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 5 July 2018 that he has granted the following exemption from the Act:

Ministerial exemption: Spark Finance Limited (NZBN: 9429039076847)

Exempting Spark Finance Limited (“SFL”) from the following provisions of the Act:

- a. Sections 10–71 inclusive.

This exemption applies in relation to debt securities issued by SFL.

This exemption is made subject to the following conditions:

- a. SFL must continue to operate as an administrative funding vehicle for Spark New Zealand Limited and its subsidiaries (“Spark Group”);
- b. SFL must continue to be a wholly owned subsidiary of the Spark Group;
- c. SFL must ensure that at least 95% of subscriptions raised from the issue of debt securities are for on-lending to the Spark Group;
- d. the risk profile of SFL remains consistent with that of an occasional (or one-off) issuer, in that debt securities issued by SFL, whether from within SFL or from other parts of the Spark Group, are not a financial activity carried on in the ordinary course of business of the Spark Group taken as a whole; and
- e. SFL must inform the Ministry of Justice of any changes that may affect the exemption and/or conditions imposed by this written instrument within 14 days from when the change affecting the exemption occurs.

This exemption has been made for the following reasons

- a. the risk of money laundering and terrorist financing associated with SFL is low;
- b. an exemption would place SFL in substantially the same position as other corporate bond issuers of debt securities, which are not subject to the Act as reporting entities. The structure of the Spark Group is such that SFL issues debt securities to the public in the ordinary course of business because it operates as the treasury function of the Spark Group. If the Spark Group is looked at as a whole, then the issuance of debt securities would not be carried on in the ordinary course of the Spark Group’s business. In comparison, those other corporate bond issuers do not have a dedicated treasury subsidiary and therefore do not issue debt securities in the ordinary course of business;
- c. it is more appropriate to consider Spark Group as an occasional (or one-off) issuer of debt securities for regulatory purposes that is not subject to the Act as a reporting entity, rather than

treat it as an issuer of debt securities to the public who issues securities in the ordinary course of business;

- d. an exemption is consistent with the Australian position where a person issuing or selling a security or derivative to another person on a prescribed financial market, is not subject to the Australian Anti-Money Laundering and Countering Financing of Terrorism Act for that transaction (Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1); and
- e. due to the low money laundering and terrorism financing risk associated with the issue of debt securities by SFL and the significant compliance costs to SFL that would arise from not granting this exemption, I consider that any benefits of requiring compliance with the Act are not justified by the associated costs.

This exemption comes into force on 2 July 2018.

This exemption will expire on 30 June 2023.

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.