

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

In accordance with section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“Act”), the Associate Minister of Justice granted the following exemption from the Act:

Ministerial Exemption: Fonterra Farmer Custodian Limited

Exempting Fonterra Farmer Custodian Limited (FFCL) from:

- a. Sections 10–71 from the Act.

The exemption is subject to the following conditions:

- a. FFCL must inform the Ministry of Justice when Flexible Shareholding changes are legislated and implemented, as they would be a material change to the nature of FFCL’s business. This would allow the Ministry to reassess the risks of money laundering and terrorism financing (ML/TF) at that time and consider whether this exemption continues to remain appropriate.
- b. FFCL 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 which the change affecting the exemption occurs.

The exemption with these conditions is granted because, on balance, FFCL presents a medium-low risk of ML/TF, for the following reasons:

- a. The risk of ML/TF in the provider of client money or property service (previously brokers and custodians) sector is medium-high and in the cooperatives sector is high. FFCL operates in both sectors.
- b. However, FFCL’s role and the nature of its activity is limited. It also differs from that of an “ordinary” custodian which is a broker who holds money or property for clients.
- c. FFCL’s principal role is to hold shares and economic rights on trust. It has no ability to convert them into cash for beneficiaries of the relevant trusts.
- d. No cash changes hands between farmer shareholders and FFCL or within the TAF scheme. Cash only changes hands between a buyer and a seller of shares, as facilitated either through the NZX Clearing System or through a private sale. This is the case from the first time a farmer shareholder purchases shares in order to meet Fonterra’s share requirements.
- e. Only suppliers of milk to Fonterra can be shareholders of Fonterra. As shares are proportionate to dairy supply to Fonterra, and unit issues are made in correspondence to shares, the risk of suspicious activities or transactions occurring is low.
- f. Granting FFCL an exemption from the Act is unlikely to give it an unfair advantage because it has no obvious competitors.

The exemption comes into force the day after publication.

The exemption will expire on 17 January 2028.

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