

## **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, the Associate Minister of Justice gave notice on 17 December 2019 that he has granted the following exemption from the Act:

### **Ministerial exemption: The New Zealand Local Government Funding Agency Limited**

As the Associate Minister of Justice, and pursuant to sections 157 and 159 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“Act”), I:

- a. revoke the current exemption for the New Zealand Local Government Funding Agency Limited (LGFA) and
- b. exempt the LGFA from sections 10–71 of the Act inclusive.

In this exemption, unless the context otherwise requires:

- council-controlled organisation has the meaning given to it in the Local Government Act 2002;
- Exemptions Regulations means the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011; and
- local authority has the meaning given to it in the Local Government Act 2002.

This exemption is made subject to the following conditions:

- a. LGFA must remain a council-controlled organisation;
- b. If LGFA is lending to a council-controlled organisation, LGFA must only lend to a council-controlled organisation which is a company in which equity securities carrying 51% or more of the voting rights at a meeting of the shareholders of the council-controlled organisation are held or controlled, directly or indirectly, by 1 or more local authorities; and
- c. LGFA 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.

The exemption has been made for the following reasons:

- a. LGFA is a council-controlled organisation, pursuant to the Local Government Act 2002;
- b. The Local Government Borrowing Act 2011 was enacted to facilitate the operation of LGFA and exempts LGFA from certain regulatory and tax criteria;
- c. LGFA was established as a vehicle to give local authorities the ability to collectively access the debt capital markets. LGFA’s principal activities are to borrow funds in the debt capital markets and to on-lend those funds to local authorities and council-controlled organisations;

- d. The function that LGFA performs is very similar to that of a corporate treasury company, particularly given that the majority of LGFA's issued capital is owned by local authorities. However, LGFA is not able to rely on the exemption which ordinarily applies to corporate treasury companies (the exemption for relevant services provided to related entities in Regulation 16 of the Exemption Regulations) because it is widely held by the Crown and 30 local authorities;
- e. Lending to local authorities and council-controlled organisations (including by subscribing for securities issued by local authorities and council-controlled organisations) is the only part of LGFA's business that is subject to the Act;
- f. Pursuant to section 18 of the Act, simplified customer due diligence may be undertaken in respect of customers that are local authorities. This reflects the lower risk for money laundering or financing of terrorism where a reporting entity has a business relationship with a local authority;
- g. Council-controlled organisations are not considered to carry a high money laundering or terrorism financing risk. Further, LGFA is only able to lend to those council-controlled organisations that are majority owned or controlled by 1 or more local authorities;
- h. LGFA has a low number of overall customers. At 31 August 2019, there are currently sixty-four LGFA participating local authorities, of which forty-seven have council-controlled organisations;
- i. LGFA's compliance burden would be disproportionate, as LGFA's business is assessed to have a low risk of money laundering or terrorism financing;
- j. Granting an exemption to LGFA is not considered to impact on the integrity of the overall regime given the low risk of money laundering or terrorism financing; and
- k. As LGFA is unique in structure and purpose, the proposed exemption would not create an unfair advantage for LGFA.

This exemption comes into force on 14 November 2019.

This exemption will expire on 31 October 2024.

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).