

## **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 hereby gives notice that he has granted the following exemption from the Act:

### **Ministerial exemption: Baptist Retirement Trustee Limited (FSP526126), the trustee of the Baptist Union Superannuation Scheme (SCH11086)**

1. In my capacity as the Associate Minister of Justice and pursuant to section 157 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“Act”), I exempt Baptist Retirement Trustee Limited (“Trustee”), the trustee of the Baptist Union Superannuation Scheme (“Scheme”), from the following provisions of the Act in relation to services provided in respect of the Scheme:
  - a. Sections 10-71 inclusive.
2. The exemption is granted subject to the following conditions:
  - a. The Scheme must remain registered under the Financial Markets Conduct Act 2013.
  - b. Subject to paragraphs 3 and 4 below, the Trust Deed for the Scheme (“Trust Deed”) must not contain any mechanisms that enable members to contribute to the Scheme voluntarily other than through payroll.
  - c. With the exception of Australian superannuation transfers to the Scheme (if applicable), Customer Due Diligence in accordance with sections 10-36 of the Act and suspicious transaction reports in accordance with sections 40-48 of the Act and, where the transaction is relevant to a suspicious transaction report, transaction records in accordance with section 49(1) and (2)(a)-(f) of the Act are required on all transfers to the Scheme from international sources.
3. The Trust Deed may permit voluntary contributions made other than through payroll to the section of the Scheme which is subject to restrictions set out in the complying fund rules (as defined in section YA 1 of the Income Tax Act 2007), provided there is a cap on any such non-payroll voluntary contribution made in a KiwiSaver year. The cap should be set at the amount (after taking into account any other contribution made to that section through payroll) required to enable a member to maximise, in respect of that year, those government contributions set out in section MK 4 of the Income Tax Act 2007.
4. The Trust Deed may permit contributions to be made to the Scheme other than through payroll by a member during a permitted period of unpaid leave of absence (“Regular Leave of Absence Contributions”) where:
  - a. the employer or the Scheme’s administrator collects those contributions; and
  - b. the contributions do not exceed (as to either amount or frequency) the contributions that were being paid by the relevant member in accordance with the Trust Deed immediately prior to the member commencing leave of absence.
5. Where any withdrawals are made by a member in addition to that member making Regular Leave of Absence Contributions during the permitted period of unpaid leave of absence the following sections of the Act apply to such withdrawals and contributions:
  - a. sections 10-17 of the Act (and for the purposes of section 14(d) of the Act the first such withdrawal is specified as a circumstance in which standard customer due diligence must be conducted);
  - b. sections 40-48 of the Act;
  - c. where the transaction is relevant to a suspicious transaction report, section 49(1) and (2)(a)-(f) of the Act; and
  - d. sections 92-100 of the Act.
6. Where any Regular Leave of Absence Contributions are received from international sources during the permitted period of unpaid leave of absence, the following sections of the Act apply to such contributions:
  - a. sections 10-17 of the Act (and for the purposes of section 14(d) of the Act the receipt of a contribution from an international source is specified as a circumstance in which standard customer due diligence

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- must be conducted);
- b. sections 40-48 of the Act;
  - c. where the transaction is relevant to a suspicious transaction report, section 49(1) and (2)(a)-(f) of the Act; and
  - d. sections 92-100 of the Act.
7. The exemption has been granted for the following reasons:
- a. the Trustee's only duties as a reporting entity under the Act are in respect of the Scheme;
  - b. the Scheme poses a very low risk of money laundering or terrorism financing;
  - c. any risks posed by voluntary contributions outside of payroll have been addressed by the conditions;
  - d. due to the very low money laundering and terrorism financing risks raised by the Scheme and the significant compliance costs 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; and
  - e. this exemption is consistent with (and has no effect on the purpose or intent of) the Act, the Financial Transactions Reporting Act 1996 and New Zealand's international obligations as a member of the Financial Action Taskforce and the Asia Pacific Group on Money Laundering.
8. This exemption replaces the existing notice under the Act in respect of the Scheme.
9. This exemption came into force on **7 February 2018**.
10. This exemption will expire on **30 November 2022**.

Any person wishing to provide comment on this notice should contact the Criminal Law Team at the Ministry of Justice by emailing [international.crime@justice.govt.nz](mailto:international.crime@justice.govt.nz).