

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

Ministerial Exemption: Waiapu Board of Diocesan Trustees Incorporated

1. This exemption is granted subject to the following conditions:
 - a. The exemption would apply only in relation to services provided by the Waiapu Board of Diocesan Trustees Incorporated (“Waiapu Board”) to entities under the common “control” of the Anglican Church, within the definition of clause 48 of Schedule 1 of the Financial Markets Conduct Act 2013 (“FMC Act”) (Church Bodies). For the avoidance of doubt, the exemption would also apply in relation to the two outstanding “legacy” loans made to external parties.
 - b. The Waiapu Board must continue to be an Authorised Trust Board under the Anglican Church Trusts Act 1981.
 - c. The Waiapu Board must continue to be incorporated under the Charitable Trusts Act 1957.
2. The exemption has been granted for the following reasons:
 - a. Regulation 16 of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011 (“Regulation 16”) provides an exemption from all the provisions of the Act for relevant services provided by a reporting entity to persons who are related to it within the meaning of section 12(2) of the FMC Act.
 - b. Section 12(2) of the FMC Act defines when one body corporate is related to another body corporate. The Waiapu Board is a body corporate by virtue of being incorporated under the Charitable Trusts Act 1957, but the Church Bodies are not bodies corporate.
 - c. The Waiapu Board cannot rely on Regulation 16 because the Church Bodies are not bodies corporate and therefore not related to the Waiapu Board within the meaning of section 12(2) of the FMC Act, as required by Regulation 16.
 - d. Due to the very low money laundering and terrorism financing risks raised by the Waiapu Board 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.
 - 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 member of the Financial Action Task Force and the Asia/Pacific Group on Money Laundering.
3. This exemption came into force on the day after the date I granted this exemption (**22 September 2016**).
4. This exemption will expire on **30 June 2020**.

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.