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: Board of Trustees of the National Provident Fund

Exempting the Board of Trustees of the National Provident Fund ("NPF") from:

a. Sections 10–71 of the Act.

The exemption is subject to the following conditions:

a. NPF is required to comply with sections 39A–48 of the Act in relation to suspicious activity reports:

b. NPF is required to comply with section 26 of the Act and take reasonable steps to determine whether any of its existing members are politically exposed persons ("PEPs"). Reasonable steps should also be taken to trace the source of funds if any PEPs identified attempt to purchase service or introduce other funds separate from payroll:

c. NPF is required to prepare a risk assessment in line with the requirements of section 58 of the Act:

d. NPF is required to review its risk assessment regularly in accordance with section 59(1) of the Act:

e. If, following a review outlined in paragraph (d) above, NPF considers that it faces a materially greater money laundering/terrorism financing ("ML/TF") risk, the Board is required to notify the Ministry of Justice and the Financial Markets Authority to undertake to work with those bodies to agree how to manage those risks:

f. NPF continues its current procedure to inquire into the source of funds used to make significant voluntary contributions:

g. To the extent this exemption relates to the Lump Sum Cash Accumulation Scheme, NPF is required to conduct customer due diligence and identity verification on members at the time the first payment of a benefit is made to a member, where the payment has not arisen as a result of a transfer from another NPF scheme, in line with the requirements of sections 10–17 of the Act:

h. If any voluntary contributions are received from international sources, the following sections of the Act apply to such contributions:

    i. Sections 10–17:

    ii. Section 48A–48C; and

    iii. Section 49.

i. NPF must appoint an AML/CFT Compliance Officer in accordance with section 56(2) and (4) of the Act to oversee compliance with these conditions; and

j. NPF 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 is granted with these conditions because, on balance, NPF presents a low ML/TF risk, for the following reasons:

a. NPF is a statutory entity established under the NPF Act.

b. The retirement schemes of which the NPF is trustee are closed to new members, and membership can only change if members transfer between schemes or former members re-join any of the schemes.

c. The schemes are superannuation schemes which means members generally do not have on-demand access to benefits (with the exception of the Lump Sum Cash Accumulation Scheme).

d. The retirement schemes are defined benefit schemes and employment-based schemes which makes them unattractive to use for ML/TF purposes. That is because either a formula determines what a member will be paid for their pension (rather than being able to draw on the same amount of funds the member put in) or the fact that contributions can only be made through employer deductions from salary or wages.

e. There are limitations on third parties to whom benefits can be paid. They can only be paid to a third party, which has to be either the member's spouse, dependants or a nominated beneficiary, upon a member's death. All retirement schemes require that third party to be a natural person. Some schemes require that the third party is in a close, defined relationship with the member.

f. In relation to the Global Asset Trust ("GAT"), its only investors are the retirement schemes party to it. Therefore, the GAT will only ever have one customer, being the Board in its capacity as trustee of the schemes, which means that the GAT poses no ML/TF risk.

g. Two schemes only receive transfers from other retirement schemes party to the GAT and pay pensions to their members from the amounts transferred. This means no contributions by members can be made to these schemes. The ML/TF risk is then solely related to the funds transferred from other retirement schemes which is already low.

h. The Board uses regular banking systems to make and organise payments and does not deal in cash or make cash contributions.

The exemption comes into force on 30 June 2023.

The exemption will expire on 30 June 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.