

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

On 10 November 2020, the Associate Minister of Justice exempted Motor Trade Finance Group (Motor Trade Finance Limited, each person appointed as a franchisee of Motor Trade Finance Limited and MTF Leasing Limited, together MTF) from the requirements of paragraph (d) relating to the definition of “designated business group” under section 5 of the Act.

This exemption is subject to the following conditions:

- a. MTF is required to satisfy all other requirements of the definition of a “designated business group”;
- b. each member of the designated business group must be a wholly owned subsidiary of Motor Trade Finance Limited or party to a franchise agreement with Motor Trade Finance Limited, which is similar to each other such agreement in all material respects;
- c. MTF must inform the Ministry of Justice of any changes that may affect the exemption within 10 working days of when the change occurs; and
- d. all other provisions of the Act apply.

This exemption has been granted for the following reasons:

- a. Sub-paragraph (d) of the definition for “designated business group” (DBG) contained within section 5 of the Act provides that in order to be classed as a DBG, each member must be related to each other within the meaning of section 2(3) of the Companies Act 1993.
- b. MTF cannot rely on sub-paragraph (d) as its members do not meet the test for being related to each other under section 2(3) of the Companies Act. This is because the majority of its members are franchisees.
- c. The exemption will allow MTF to achieve consistency across all the franchisees, ensuring that they meet the obligations under the Act by allowing one compliance officer in the head office to formulate a shared risk assessment and compliance programme for the whole group.
- d. Allowing MTF to be treated as a DBG is an effective and efficient way to address and mitigate MTF’s cost of compliance while ensuring that MTF meets its AML/CFT obligations.

This exemption comes into force on 4 August 2020.

This exemption will expire on 4 August 2025.

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.