

Implementation of Anti-Money Laundering and Countering Financing of Terrorism Act 2009

10 August 2010

Consultation document released

The Ministry of Justice (**Ministry**) yesterday released a consultation document (**Document**) on the implementation of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML/CFT Act**). The Document is available [here](#). Submissions on the Document are due on **Monday 6 September 2010**. The Document sets out proposed refinements of the options and proposals set out in the Ministry's earlier discussion document released in February. It also contains detailed proposals for an approach to codes of practice relating to Customer Due Diligence. We intend to issue a further news letter providing commentary in these proposals within the next few days.

Exemptions

Alongside the Document the Ministry has also released a policy document governing Ministerial Exemptions. Under the AML/CFT Act, two methods exist for obtaining exemptions:

- through regulation; or
- Ministerial Exemption.

The process for obtaining exemptions involves either the Minister of Justice (**Minister**) as the Minister responsible for the AML/CFT Act granting a Ministerial Exemption or alternatively the Minister recommending to the Governor-General that a regulatory exemption be created.

The AML/CFT Act sets a number of requirements for the granting of Ministerial Exemptions. Before deciding to grant an exemption, and whether to attach any conditions to the exemption, the Minister must have regard to:

- the intent and purposes of the Financial Transactions Reporting Act 1996;
- the intent and purpose of the AML/CFT Act (and any regulations);
- the risk of money laundering and the financing of terrorism associated with the reporting entity, including, where appropriate, the products and services offered by the reporting entity and the circumstances in which the products and services are provided;

- impacts on prevention, detection, investigation, and prosecution of offences;
- the level of regulatory burden to which the reporting entity would be subjected in the absence of an exemption;
- whether the exemption would create an unfair advantage for the reporting entity or disadvantage third party reporting entities; and
- the overall impact that the exemption would have on the integrity of, and compliance with, the AML/CFT regulatory regime.

At this stage, a formal application process for Ministerial Exemption does not exist. However, the Ministry's new policy document is a guide for Reporting Entities on how to apply for exemptions. The policy sets out:

- the form in which the application for exemption must be made;
- the statutory criteria for decision making;
- consultation requirements;
- the respective roles of Ministers, supervisors and Ministry of Justice in the exemptions application process; and
- an overview of the process itself, and information about application processing timeframes.

The policy is available [here](#).

How can we help you

The Ministry is currently seeking comments from members of the public affected by the AML/CFT regime. If you think you may be affected by the regime, we can help you to prepare your submissions on the Document as well as, if appropriate, to prepare any application for exemption. If you have any questions, or would like to discuss the affects of the regime on your business please contact one of our team members below.

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