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To whom it may concern

Subject: CPA Australia's submission to improving New Zealand's ability to tackle money laundering and terrorist financing

CPA Australia represents the diverse interests of more than 155,000 members in 118 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders. Against this background and in the public interest, we provide this submission in response to the proposed improvements to New Zealand's anti-money laundering and countering financing of terrorism laws.

CPA Australia has long supported governments taking action to improve their ability to detect, deter and disrupt money laundering and terrorist financing. Not only is such action an essential part in tackling organised crime and other illegal activity, it also improves the integrity of a nation's financial system and reduces the risk of it being misused.

General comments on extending all AML/CTF obligations to accountants

We are generally supportive of the proposed extension of the application of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (*the Act*) to other businesses and professionals, including statutory accountants, qualified auditors and other providers of accounting services.

However we do not believe it is necessary to impose all the existing obligations under the Act (beyond client verification and reporting of suspect transactions) on every statutory accountant or qualified auditor accounting practice, or other phase two entities.

The cost of extending all existing obligations far outweigh the benefits, and overlaps with existing professional requirements imposed on statutory accountants and qualified auditors by accredited accounting bodies.

As we have previously stated in other jurisdictions - such as Australia - we are concerned with the possible unnecessary burden of extending all of the current obligations imposed under the Act to phase two entities, and the overlap these obligations may have with the pre-existing professional obligations statutory accountants and qualified auditors must comply with as part of their membership of an accredited accounting body.

The current obligations under the Act are primarily designed to counter risks in large financial institutions. These obligations are expensive and difficult to comply with, especially for smaller businesses that are not financial institutions.

Further, there is overlap with the requirements statutory accountants and qualified auditors must already meet as part of their membership of an accredited accounting body including:

- compliance with a detailed Code of Ethics for professional accountants
- complying with extensive quality control and risk management standards for firms and having that compliance verified through an independent quality control review
- undertaking at least 120 hours of continuous professional development over a three year period, and
- holding appropriate professional indemnity insurance.

The objectives of the Act can still effectively be achieved and at less cost if a number of obligations are either not imposed on statutory accountants and qualified auditors, or are only applied in a modified manner.

In this regard we suggest that consideration be given in phase two to removing or modifying the following AML/CTF obligations for statutory accountants and qualified auditors:

- the requirement to develop and maintain an AML/CTF risk assessment and compliance programme and subjecting that programme to audit, and
- the requirement to make an annual report to a supervisory agency.

Instead of imposing these obligations on all statutory accountants and qualified auditors, an alternative approach is to include these elements as part of the penalty regime in the Act. As such they would only apply to statutory accountants and qualified auditors found to be involved in facilitating or enabling money laundering or terrorism financing.

Specifically, phase two could give a supervisory agency or the courts the authority to compel a specific accounting firm to develop and maintain an AML/ CTF risk assessment and compliance programme and subject that programme to regular audits as part of a penalty for facilitating money laundering or terrorism financing. The penalty could also require such a firm to provide annual or more regular reports to a supervisory agency.

These penalties could also be imposed where a statutory accountant or qualified auditor has failed to meet other obligations under the Act, such as not undertaking customer due diligence or not reporting suspicious transactions on a regular basis. These obligations could be imposed in addition to other penalties or as standalone penalties.

In relation to the obligation to develop and maintain an AML/CTF risk assessment and compliance programme, we are of the opinion that the vast majority of statutory accountants and qualified auditors - who are at either no or very low risk of facilitating money laundering, would get more value from non-binding guidance from supervisory agencies (with input from the accredited accounting bodies) on the risks of money laundering and terrorist financing and how to mitigate and act on those risks. This guidance would add to the quality control and risk management standards accounting firms are already required to meet as part of holding a public practice certificate with an accredited accounting body

Further, requiring that the risk assessment and compliance programmes of accounting firms be regularly audited seems excessive, particularly when so few would be facilitating, unwittingly or willfully money laundering and that such firms are already subject to independent quality reviews as part of their requirements of holding a public practice certificate with an accredited accounting body. In addition, we see little or no value to accounting firms or the supervisory agencies of annual reporting by accounting firms.

We do however support imposing the obligation to undertake customer due diligence on statutory accountants and qualified auditors. Such an obligation should not only reduce the risk of money laundering and terrorist financing, it is good practice for firms to verify their customer's identity. The ability of private entities to check identity information against official government databases in New Zealand and Australia makes it easier for accounting firms to verify a customer's identity.

We also support extending the obligation to report suspicious transactions to the relevant supervisory agency to statutory accountants and qualified auditors. Such reporting is critical to identifying possible money laundering and terrorist financing.

To improve the probability of the police financial intelligence unit receiving actionable suspicious transaction reports, we suggest that the supervisory bodies and the Police develop guidance material, including examples of the suspicious transactions they would like reported.

In relation to the reporting of suspicious transactions, it should be noted that from 15 July 2017, there will be changes to the responsibilities of assurance practitioners when dealing with actual or suspected non-compliance with laws and regulations (NOCLAR) imposed under PES 1 of the New Zealand Auditing and Assurance Standards Board (NZAuASB). Further, all our members will have to comply with the NOCLAR requirements when they are adopted by APES 110 *Code of Ethics for Professional Accountants*.

It should also be noted that PES 1 imposes duty on professional accountants to determine whether accepting a client or engagement creates a threat to compliance with the fundamental principles of the profession, 'such as 'client involvement in illegal activities (such as money laundering)'.

We support the extension of certain AML obligations to statutory accountants and qualified auditors such as customer verification and suspect transaction reporting, including when such professionals provide assurance and advisory services. It should however be noted that there are others that provide the 'accounting services'

listed in the discussion paper including managing client funds and that as a matter of competitive neutrality, the obligations under the Act should also extend to such non-accountant providers of such services.

Supervision model

We support the continuation of New Zealand's current multi-agency supervision model and acknowledge that other agencies such as the Inland Revenue may need to be included in the model.

We do not support a combination of existing sector supervisors and self-regulatory bodies supervising AML/CTF activities. While there may be advantages to such an approach, the disadvantages identified in the discussion paper would mean the costs outweigh any advantages.

Regardless of the supervision model the government decides on, CPA Australia is willing to assist in developing guidance material with the appropriate agency.

Transition period

We suggest that a transition period of three years be considered. While the introduction of phase one of the Act created a body of knowledge and expertise, we are not certain that such knowledge and expertise has been or will be shared with the accounting profession, particularly smaller firms and sole practitioners.

Further, we are not certain whether the guidance material developed for phase one businesses is relevant to accounting firms.

Compliance costs

The cost of complying with phase two will depend on whether the government decides to impose all the existing obligations under the Act on phase two entities or remove and/or modify those obligations as suggested above.

Extending all the existing obligations without modification is likely to be more expensive to comply with (as all regulated businesses will have to develop an AML/CTF risk assessment and compliance programme, have their compliance with that programme audited and meet annual reporting requirements). Removing or modifying those obligations should reduce the compliance burden, particularly for low risk businesses without necessarily diminishing the effectiveness of the regime.

Other issues, and next steps

We also take the opportunity to provide the following comments:

- Many accountants will be servicing clients they have had for decades. It is therefore important that guidance be developed with the accredited accounting bodies on when statutory accountants and qualified auditors will be required to verify the identity of existing clients.
- We suggest that the anti-money laundering regimes of New Zealand and Australia be harmonised when Australia implements the second tranche of its AML legislation.
- We suggest that as a next step, the Ministry of Justice develops options for bringing statutory accountants, qualified auditors and others into the Act and subject those options to a cost-benefit analysis.

If you have any questions regarding this submission, please do not hesitate to contact Gavan Ord, Manager – Business and Investment Policy of CPA Australia on +613 9606 9695 or gavan.ord@cpaaustralia.com.au.

Yours faithfully

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