

Response ID ANON-Z596-YZDH-W

Submitted to AML/CFT Act review
Submitted on 2021-12-01 16:42:21

Tell us a bit about yourself

1 What age group are you in?

50-64

2 What is your ethnicity? (You can select more than one.)

NZ European

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

3 If you're responding on behalf of an organisation or particular interest group, please give details below:

Organisation or special interest group details:

Both as an AML consultant/auditor and Accountant in small one person practice.

4 If you would like to be contacted in the future about AML/CFT work, please include your email address below. (Note you are not required to provide your email address. You can provide your submission anonymously.)

Email address:

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1. Institutional arrangements and stewardship

1.1 Are the purposes of the Act still appropriate for New Zealand's Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) regime?

Yes

If you answered 'no', what should be changed?:

If you think there are other purposes that should be added, please give details below.:

no comment

1.2 Should a purpose of the Act be that it seeks to actively prevent money laundering and terrorism financing, rather than simply deterring or detecting it?

No

Please comment on your answer.:

As per above this may exacerbate unintended consequences e.g de-risking and financial exclusion which is already happening. Prevention could also put additional pressure and burden on businesses to make decisions around a predicate offence as opposed to just having a suspicion and reporting it.

1.3 If you answered 'yes' to Question 1.2, do you have any suggestions how this purpose should be reflected in the Act, including whether there need to be any additional or updated obligations for businesses?

Please share your comments below.:

no comment

1.4 Should a purpose of the Act be that it also seeks to counter the financing of proliferation of weapons of mass destruction?

Yes

Please comment on your answer.:

It makes sense for the Act to support NZ's efforts to combat proliferation financing.

1.5 If you answered 'yes' to Question 1.4, should the purpose be limited to proliferation financing risks emanating from Iran and the Democratic People's Republic of Korea?

No

Please give reasons for your answer.:

It should be flexible enough to include risks wherever they present around the world.

Yes

Please comment on your answer.:

It should be flexible enough to include risks wherever they present.

1.6 Should the Act support the implementation terrorism and proliferation financing targeted financial sanctions, required under the Terrorism Suppression Act 2002 and United Nations Act 1946?

Yes

Please comment on your answer.:

It should be flexible enough to include risks wherever they present around the world.

1.7 What could be improved about New Zealand's framework for sharing information to manage risks?

Please share your comments below.:

Centralised data sources for CDD. Registers of BO.

1.8 Are the requirements in section 58 still appropriate?

Yes

Please comment on your answer.:

How could the government provide risk information to businesses so that it is more relevant and easily understood?:

Additional guidelines more suited to the smaller reporting entities within each sector

1.9 What is the right balance between prescriptive regulation compared with the risk-based approach?

Please share your comments below.:

I think there needs to be more lee-way in the obligations. The minimum requirements suit a medium-higher risk entities whilst smaller low risk entities find the compliance costs outway the risks they face.

Does the Act currently achieve that balance, or is more (or less) prescription required?:

The Act needs to be more risk-based in its approach. so lower risk entities have a lower level of compliance. this is already partially in place for example high value dealers. Many smaller low risk entities end up changing their business model and opt out of AML which is unhelpful all round. If the obligations were reduced for these entities to just reporting there would be a greater acceptance and uptake, supervisors would get a better picture of the number of entities involved.

1.10 Do some obligations require the government to set minimum standards?

Yes

If you answered 'yes', please comment on how this could be done.:

I think s58 is about correct, but this should then feed into the level of compliance obligations required. E.g low level risk entities could just have reporting as their compliance obligation whilst high level risk entities would have all current minimum obligations and possibly more.

What role should guidance play in providing further clarity?:

Guidance should always provide clarity, currently it appears to sit somewhere between what the legislation says (but not fully interpreted) and what an ideal FATF requirement looks like.

1.11 Could more be done to ensure that businesses' obligations are in proportion to the risks they are exposed to?

Yes

If you answered 'yes', please give reasons for your answer.:

Treating all businesses as having the same obligations creates unintended consequences of cost and time for small businesses and driving some businesses to 'opt out' of AML by either changing business products being offered to 'going underground' and ignoring obligations as too onerous. A risk based approach whereby business's need to 'prove' they are low risk could have lower obligations e.g just reporting (Like High value dealers) and those businesses that are higher risk full obligations.

1.12 Does the Act appropriately reflect the size and capacity of the businesses within the AML/CFT regime?

No

Please give reasons for your answer.:

Needs a truly risk-based approach to business risk and obligations. The burden of cost and time is too onerous for small entities.

1.13 Could more be done to ensure that businesses' obligations are in proportion to the risks they are exposed to and the size of the business?

Yes

If you answered 'yes', please share your suggestions.:

Yes, you could have an approach whereby a company, sole trader (or maybe one staff) up to say 100 clients, no trust accounts, customers NZ resident/citizens/registered, NZ institutions etc and do any captured activities then obligations would be simpler e.g. no risk assessment/compliance programme, but simple ID CDD and obligations to report ie SARs - not too dissimilar to high value dealers. This would make the AML regime more palatable to smaller business who may then be ok with this rather than actively avoiding AML. this would also provide supervisors with more oversight in who is active in the different sectors.

Businesses would need to fill in a form to provide sufficient details to assess risk is low and maybe we say needs to be a member of an organisation e.g. ICNZB/CAANZ/ATAINZ/Law Society/REINZ etc so would have access to AML information and training etc.

1.14 Are exemptions still required for the regime to operate effectively?

If not, how can we ensure AML/CFT obligations are appropriate for low-risk businesses or activities?:

If risk-based approach used and obligations changed to suit risk level then it may be possible to do away with exemptions and just have obligations to report as the starting level (no RA/CP/Audit required)

Unsure

1.15 Is the Minister of Justice the appropriate decision maker for exemptions under section 157?

No

If you answered 'no', should it be an operational decision maker such as the Secretary of Justice? Please comment below.:

This is an operational decision, the MOJ has too wide a portfolio to do this effectively.

1.16 Are the factors set out in section 157(3) appropriate?

No

If you answered 'no', please give reasons for your answer.:

If risk-based approach used and obligations changed to suit risk level then it may be possible to do away with exemptions and just have obligations to report as the starting level (no RA/CP/Audit required)

1.17 Should it be specified that exemptions can only be granted in instances of proven low risk?

Yes

Please give reasons for your answer.:

If risk-based approach used and obligations changed to suit risk level then it may be possible to do away with exemptions and just have obligations to report as the starting level (no RA/CP/Audit required)

Should this be the risk of the exemption, or the risk of the business?:

Should be the risk of the business.

1.18 Should the Act specify what applicants for exemptions under section 157 should provide?

Yes

Please give reasons for your answer.:

Needs Clarity

Should there be a simplified process when applying to renew an existing exemption?:

definitely if exemptions still in place

1.19 Should there be other avenues beyond judicial review for applicants if the Minister decides not to grant an exemption?

Yes

If you answered 'yes', what could these avenues look like?:

I think the supervisors are in a good position to provide feedback on exemptions for entities within each sector.

1.20 Are there any other improvements that we could make to the exemptions function?

Yes

If you answered 'yes', please give details.:

See above comments about a broader risk-based approach and need for exemptions.

For example, should the process be more formalised with a linear documentary application process?:

no comment

1.21 Can the AML/CFT regime do more to mitigate its potential unintended consequences?

Yes

If you answered 'yes', please give details.:

De-risking potential forces entities to provide services outside the financial sector e.g hawala. This makes it more difficult to provide oversight and supervision.

Exclusion only forces people into a cash based higher risk situation and goes against the intention of the AML regime in protecting society.

1.22 How could the regime better protect the need for people to access banking services to properly participate in society?

Please share your comments below.:

There needs to be additional options for inclusion e.g an alternative COP for IDV.

1.23 Are there any other unintended consequences of the regime?

Yes

If you answered 'yes', what are they and how could we resolve them?:

High compliance costs for small low risk entities - they either do not comply with ACT, actively avoid doing captured activities to opt out or under resource.

1.24 Can the Act do more to enable private sector collaboration and coordination?

Yes

If you answered 'yes', please give details.:

I think the IRD and MSD have a place at the table.

1.25 What do you see as the ideal future for public and private sector cooperation?

Please share your comments below.:

no comment

Are there any barriers that prevent that future from being realised and if so, what are they?:

no comment

1.26 Should there be greater sharing of information from agencies to the private sector?

Yes

If you answered 'yes', would this enhance the operation of the regime?:

The Typology reports and FIU reports are helpful for reporting entities to understand how ML/FT actually occurs. Additional information around specific examples would be useful as at the moment many reporting entities can not comprehend how ML/FT could occur through their businesses, this limits their interest and active participation in AML efforts.

1.27 Should the Act require have a mechanism to enable feedback about the operation and performance of the Act on an ongoing basis?

Yes

If you answered 'yes', what is the mechanism and how could it work?:

A Regular review process would enable the Act to quickly respond to changes in the effectiveness of the legislation

1.28 Should the New Zealand Police Financial Intelligence Unit (FIU) be able to request information from businesses which are not reporting entities in certain circumstances (e.g. requesting information from travel agents or airlines relevant to analysing terrorism financing)?

Yes

Please give reasons for your answer.:

With a warrant.

1.29 If the FIU had this power, under what circumstances should it be able to be used and should there be any constraints on using the power?

Please share your comments below.:

with a warrant - in other words there needs to be a valid reason to request information.

1.30 Should the FIU be able to request information from businesses on an ongoing basis?

Yes

Please explain your answer:

with a warrant

1.31 If the FIU had this power, what constraints are necessary to ensure that privacy and human rights are adequately protected?

What constraints are needed?:

with a warrant - in other words there needs to be a valid reason to request information and a risk of imminent harm or likely to result in harm.

1.32 Should the Act provide the FIU with a power to freeze, on a time limited basis, funds or transactions in order to prevent harm and victimisation?

Yes

If you answered 'yes', how could the power work and operate? In what circumstances could the power be used, and how could we ensure it is a proportionate and reasonable power? Please share your comments below.:

with a warrant. Requests need to be within the bounds of the business to act.

1.33 How can we avoid potentially tipping off suspected criminals when the power is used?

Please share your comments below.:

Difficult to do. A criminal would suspect something was wrong with transaction frozen or stopped. Should not be the reporting entity that is involved in providing a reason for stop.

1.34 Should supervision of implementation of Targeted Financial Sanctions (TFS) fall within the scope of the AML/CFT regime?

Yes

Please give reasons for your answer.:

This is a gap that needs attention

1.35 Which agency or agencies should be empowered to supervise, monitor, and enforce compliance with obligations to implement TFS?

Please describe below and give reasons for your answer.:

Current supervisors. Best placed at moment. Not sure what other agency could do this.

1.36 Are the secondary legislation making powers in the Act appropriate, or are there other aspects of the regime that could benefit from having regulation making powers created?

Please share your comments below.:

Yes, but I think they need to be reviewed more regularly. Care needs to be taken that the secondary legislation doesn't undermine or make more difficult the primary legislation and intent of the Act.

In addition, they need to work alongside other terms and conditions in use. An example is the IVCOP which allows for the use of bank and credit cards as a secondary form of ID. However, the terms and conditions of holding a credit card prevents the replication and copying of a card. As an auditor we see a lot of credit cards copied on file - this breaches the terms and conditions the customer has for holding a credit card and is a risk of fraudulent use.

1.37 How could we better use secondary legislation making powers to ensure the regime is agile and responsive?

Please share your comments below.:

Reviewed more regularly.

1.38 Are the three Ministers responsible for issuing Codes of Practice the appropriate decision makers, or should it be an operational decision maker such as the chief executives of the AML/CFT supervisors? Why or why not?

Please share your comments below and give reasons for your answer.:

COP's are binding unless you opt out so does need to have some higher level government decision making behind it, much like any legislative changes. Guidance is non-binding and non-mandatory so Supervisors are the appropriate source for these.

1.39 Should the New Zealand Police also be able to issue Codes of Practice for some types of FIU issued guidance?

Yes

If you answered yes, what should the process be?:

Would probably provide additional clarity

1.40 Are Codes of Practice a useful tool for businesses?

Unsure

If you answered 'yes', are there any additional topics that Codes of Practice should focus on? What enhancements could be made to Codes of Practice? Please share your comments below.:

It is good to have something prescriptive for some things but the current COP does not allow enough flexibility for low risk situations, so exceptions are then needed to be used. Again a risk-based approach would be more beneficial.

1.41 Does the requirement for businesses to demonstrate they are complying through some equally effective means impact the ability for businesses to opt out of a Code of Practice?

Yes

If you answered 'yes', please give reasons for your answer.:

"equally effective" means is difficult to quantify. Reporting entities become too scared of falling foul of the legislation to seek out alternatives.

1.42 What status should be applied to explanatory notes to Codes of Practice? Are these a reasonable and useful tool?

Please share your comments below.:

The COP should be written so that explanatory notes aren't needed.

1.43 Should operational decision makers within agencies be responsible for making or amending the format of reports and forms required by the Act?

Yes

Please give reasons for your answer.:

Much more efficient and useful

1.44 If you answered 'yes' to the previous question (question 1.43), which operational decision makers would be appropriate, and what could be the process for making the decision? For example, should the decision maker be required to consult with affected parties, and could the formats be modified for specific sectoral needs?

Please share your comments below.:

Depends on the forms being made or amended. The examples given are good and appropriate. Consultation should always be with affected parties and should definitely be formatted to suit specific sectoral needs. You will get greater buy in if the formats are easy and understandable to the reporting entities using them.

1.45 Would AML/CFT Rules (or similar) that prescribed how businesses should comply with obligations be a useful tool for business?

Yes

Please give reasons for your answer.:

These may be better than guidance, but agree care who is responsible for issuing them. Currently guidance seem to be a collective document between supervisors, but reality is some sectors required more specific situational rules or help.

1.46 If we allowed for AML/CFT Rules to be issued, what would they be used for, and who should be responsible for issuing them?

Please share your comments below.:

see above

1.47 Would you support regulations being issued for a tightly constrained direct data access arrangement which enables specific government agencies to query intelligence the FIU holds?

Yes

Please give reasons for your answer.:

could create more responsiveness to developing situations.

1.48 Are there any other privacy concerns that you think should be mitigated?

Yes

Please share your comments below.:

Data needs to be kept safe and private within the sharing agencies.

1.49 What, if any, potential impacts do you identify for businesses if information they share is then shared with other agencies? Could there be potential negative repercussions notwithstanding the protections within section 44?

Please share your comments below.:

no comment

1.50 Would you support the development of data-matching arrangements with FIU and other agencies to combat other financial offending, including trade-based money laundering and illicit trade?

Yes

Please give reasons for your answer.:

more responsive actions could be undertaken.

1.51 What concerns, privacy or otherwise, would we need to navigate and mitigate if we developed data-matching arrangements? For example, would allowing data-matching impact the likelihood of businesses being willing to file Suspicious Activity Reports (SARs)?

Please share your comments below.:

Shouldn't impact SAR reporting. Would need to be developed alongside the Privacy Act to allow reporting entities the ability to include in their own privacy act policies.

1.52 Should there be an AML/CFT-specific registration regime which complies with international requirements?

Yes

If you answered 'yes', how could it operate, and which agency or agencies would be responsible for its operation? Please share your comments below.:

Could connect in with the Companies Register and NZBN to produce a list, but that would require all businesses to have an NZBN that is not a company. That way the business doesn't have to manually register themselves.

The businesses you are trying to capture are those that don't already belong to a recognised sector based group such as ATAINZ/CPA/CAANZ/ICNZB/ law society RBNZ / REINZ / FSP etc. Question is how can you compel them to register, many don't want to know. Cost would also be a factor for example the bookkeeper or accountant who only has a few clients and low turnover.

1.53 If such a regime was established, what is the best way for it to navigate existing registration and licensing requirements?

Please share your comments below.:

see above

1.54 Are there alternative options for how we can ensure proper visibility of which businesses require supervision and that all businesses are subject to appropriate fit-and-proper checks?

Unsure

Please give reasons for your answer.:

see above

1.55 Should there also be an AML/CFT licensing regime in addition to a registration regime?

Yes

Please give reasons for your answer.:

Yes, if it does have the effect of limiting the de-risking imposed by FI's. But cost will be a factor.

1.56 If we established an AML/CFT licensing regime, how should it operate? How could we ensure the costs involved are not disproportionate?

Please share your comments below.:

don't know

1.57 Should a regime only apply to sectors which have been identified as being highly vulnerable to money laundering and terrorism financing, but are not already required to be licensed?

Unsure

Please give reasons for your answer.:

1.58 If such a regime was established, what is the best way for it to navigate existing licensing requirements?

Please share your comments below.:

no comment

1.59 Would requiring risky businesses to be licensed impact the willingness of other businesses to have them as customers? Can you think of any potential negative flow-on effects?

Please share your comments below.:

no comment

1.60 Would you support a levy being introduced for the AML/CFT regime to pay for the operating costs of an AML/CFT registration and/or licensing regime?

Please give reasons for your answer.:

I come back to the cost and how that would affect the smaller reporting entities.

For example a bookkeeper with 10 clients. They are busy but don't necessarily earn a lot.

Unsure

1.61 If we developed a levy, who do you think should pay the levy (some or all reporting entities)?

Please share your comments below.:

Maybe the levy is scaled, smaller entities pay a little, larger entities pay more. Or do it based on cents or \$ per client of the entity. e.g. 10 clients \$5 per year. 1000 clients \$500 per year or similar.

1.62 Should all reporting entities pay the same amount, or should the amount be calculated based on, for example, the size of the business, their risk profile, how many reports they make, or some other factor?

Please share your comments below.:

see above

1.63 Should the levy also cover some or all of the operating costs of the AML/CFT regime more broadly, and thereby enable the regime to be more flexible and responsive?

Yes

Please give reasons for your answer.:

If there is going to be a levy then it needs to be utilised as broadly and effectively as possible.

1.64 If the levy paid for some or all of the operating costs, how would you want to see the regime's operation improved?

Please share your comments below.:

Education

2. Scope of the AML/CFT Act

2.1 How should the Act determine whether an activity is captured, particularly for Designated Non-Financial Businesses and Professions (DNFBPs)?

Please share your comments below.:

There needs to be some flexibility in service provision. For example there are some things that are only done occasionally for a client and never for others for example a tax transfer where a client has inadvertently paid GST into a PAYE account and needs this moved over to GST. If the word ordinary was removed this could potentially impact businesses who are not captured in the current ordinary course of business. If this was removed then there needs to be some way of navigating around the full compliance obligations. So that an accountant who may do one or two company formations over a few years, a couple of tax transfers during the year (for the one client who constantly pays it into the wrong account!) and no other captured activities isn't burdened so much.

Yes

Please give reasons for your answer.:

Probably. Currently there is uncertainty in the sectors around what this actually means in practice.

2.2 If 'ordinary course of business' was amended to provide greater clarity, particularly for DNFBPs, how should it be articulated?

Please share your comments below.:

"a regular action of service provision"

Something that is done with a regular pattern of activity e.g annual statements and tax returns, GST returns, PAYE returns

2.3 Should 'ordinary' be removed?

Unsure

If so, how could we provide some regulatory relief for businesses which provide activities infrequently? Are there unintended consequences that may result? Please share your comments below.:

I think it needs to be further defined, but if removed then definitely some regulatory relief e.g obligation to report only

2.4 Should businesses be required to apply AML/CFT measures in respect of captured activities, irrespective of whether the business is a financial institution or a DNFBP?

Yes

Please give reasons for your answer.:

This change would also avoid any competitive advantage businesses may have and ensure all businesses that provide the particular activity have the same obligations.

2.5 If you answered yes to the previous question (Question 2.4), should we remove 'only to the extent' from section 6(4)?

Yes

Would anything else need to change, e.g. to ensure the application of the Act is not inadvertently expanded? Please share your comments below.:

not sure

2.6 Should we issue regulations to clarify that captured activities attract AML/CFT obligations irrespective of the type of reporting entity which provides those activities?

Yes

Please give reasons for your answer.:

adds more clarity

2.7 Should we remove the overlap between 'managing client funds' and other financial institution activities?

Yes

If you answered 'yes', how could we best do this to avoid any obligations being duplicated for the same activity? Please share your comments below.:

Provide a one source of truth for captured activities rather than separate under DNFBP and Financial institution definitions.

2.8 Should we clarify what is meant by 'professional fees'?

Yes

If you answered 'yes', what would be an appropriate definition? Please share your comments below.:

Professional services include the businesses own fees and any fees paid by the business on behalf of the client to be reimbursed.

Reimbursements would be for any fees the business paid to enable them to provide the service being undertaken for the client.

2.9 Should the fees of a third party be included within the scope of 'professional fees'?

Unsure

Please give reasons for your answer.:

Yes, if part of the service provision e.g. when forming a company or filing an annual return for a client the business is invoiced and this would form part of the total fees billed to the client.

No, if not part of the service being provided. The 3rd party can bill the client directly.

2.10 Does the current definition appropriately capture those businesses which are involved with a particular activity, including the operation and management of legal persons and arrangements?

No

Please give reasons for your answer.:

Really unclear and only involves legal persons and arrangements. Sole traders/individuals also launder money.

How could it be improved?:

Needs to be more guidance around what this actually means per sector. The Supervisors could do more work with providing examples from each sector within its guidance.

2.11 Have you faced any challenges with interpreting the activity of 'engaging in or giving instructions'?

Yes

If you answered 'yes', what are those challenges and how could we address them?:

not specific but more around working through the process of understanding the wording in this section.

2.12 Should the terminology in the definition of financial institution be better aligned with the meaning of financial service provided in section 5 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008?

Yes

If you answered yes, how could we achieve this?:

Clarity

2.13 Are there other elements of the definition of financial institution that cause uncertainty and confusion about the Act's operation?

Unsure

If you answered 'yes', please give details::

no comment

2.14 Should the definition of high-value dealer be amended so businesses which deal in high value articles are high-value dealers irrespective of how frequently they undertake relevant cash transactions?

Yes

Please give reasons for your answer.:

Greater clarity

Can you think of any unintended consequences that might occur?:

no

2.15 What do you anticipate would be the compliance impact of this change?

Please share your comments below.:

HVD have very low compliance requirements now so minimal impact

2.16 Should we revoke the exclusion for pawnbrokers to ensure they can manage their money laundering and terrorism financing risks?

Yes

Please give reasons for your answer.:

Again clarity and providing a level playing field.

2.17 Given there is an existing regime for pawnbrokers, what obligations should we avoid duplicating to avoid unnecessary compliance costs?

Please share your comments below.:

unsure

2.18 Should we lower the applicable threshold for high value dealers to enable better intelligence about cash transactions?

Yes

Please give reasons for your answer.:

greater visibility on use of cash and methods of structuring

2.19 If you answered 'yes' to the previous question (Question 2.18), what would be the appropriate threshold? How many additional transactions would be captured? Would you stop using or accepting cash for these transactions to avoid AML/CFT obligations?

Please share your comments below.:

\$3,000 although this may capture too many, but any lump sums of cash is not so typical these days and should be questioned.

2.20 Do you currently engage in any transactions involving stores of value that are not portable devices (e.g. digital stored value instruments)?

No

If you answered 'yes', what is the nature and value of those transactions?:

2.21 What risks do you see with stored value instruments that do not use portable devices?

Please share your comments below.:

no comment

2.22 Should we amend the definition of "stored value instruments" to be neutral as to the technology involved?

Unsure

If you answered 'yes', how should we change the definition? Please share your comments below.:

2.23 Should acting as a secretary of a company, partner in a partnership, or equivalent position in other legal persons and arrangements attract AML/CFT obligations?

Yes

Please give reasons for your answer.:

to align with FATF

2.24 If you are a business which provides this type of activity, what do you estimate the potential compliance costs would be for your business if it attracted AML/CFT obligations?

Please share your comments below.:

n/a

How many companies or partnerships do you provide these services for?:

n/a

2.25 Should criminal defence lawyers have AML/CFT obligations?

Unsure

If you answered 'yes', what should those obligations be and why?:

If included reporting obligations only.

2.26 If you are a criminal defence lawyer, have you noticed any potentially suspicious activities?

Unsure

If you answered 'yes', without breaching legal privilege, what were those activities and what did you do about them?:

n/a

2.27 Are there any unintended consequences that may arise from requiring criminal defence lawyers to have limited AML/CFT obligations, that we will need to be aware of?

Unsure

If you answered 'yes', please give details.:

n/a

2.28 Should non-life insurance companies become reporting entities under the Act?

Yes

Please give reasons for your answer.:

Including non-life insurance businesses in the Act could address money laundering vulnerabilities and provide a useful source of financial intelligence.

2.29 If you answered 'yes' to the previous question (Question 2.28), should non-life insurance companies have full obligations, or should they be tailored to the specific risks we have identified?

Tailored to specific risks

Please give reasons for your answer.:

reduce compliance cost

2.30 If you are a non-life insurance business, what do you estimate would be the costs of having AML/CFT obligations (including limited obligations)?

Please share your comments below.:

n/a

2.31 Should we use regulations to ensure that all types of virtual asset service providers have AML/CFT obligations, including by declaring wallet providers which only provide safekeeping or administration are reporting entities?

Yes

If you answered 'yes', how should we do this?:

to ensure that New Zealand is not out-of-step with the rest of the world.

2.32 Would issuing regulations for this purpose change the scope of capture for virtual asset service providers which are currently captured by the AML/CFT regime?

Unsure

If you answered 'yes', please give reasons for your answer.:

2.33 Is the Act sufficiently clear that preparing or processing invoices can be captured in certain circumstances?

No

If you answered 'no', please give reasons for your answer.:

Never been made clear in legislation or guidance. Only come to light as a result of this legislative review.

2.34 If we clarified the activity, should we also clarify what obligations businesses should have?

Yes

If you answered 'yes', please give reasons for your answer.:

Definitely needs clarification. Obligations to report only if included because the process of preparing or processing invoices is done under instruction of the business owner, the bookkeeper/accountant does not have visibility to ensure product is moving or that the details are correct outside of the details provided by the business management/payroll system or job management system.

2.35 Should preparing accounts and tax statements attract AML/CFT obligations?

No

Please give reasons for your answer.:

Shouldn't be included persay as information is generally historic, however if included this would create greater oversight by supervisors, but as it would be a catch all for all accountants the obligations need to be tailored to reporting suspicious activities only.

2.36 If you answered 'yes' to the previous question (Question 2.35), what would be the appropriate obligations for businesses which provide these services?

Please share your comments below.:

tailored to reporting suspicious activities only.

2.37 Should tax-exempt non-profits and non-resident tax charities be included within the scope of the AML/CFT Act given their vulnerabilities to being misused for terrorism financing?

Unsure

Please give reasons for your answer.:

need to ensure that any measures are risk-based and in proportion to the organisation's vulnerability to being misused for terrorism financing and did not undermine the ability of these organisations to provide charitable services.

2.38 If these non-profit organisations were included, what should their obligations be?

Please share your comments below.:

reporting suspicious activities

2.39 Are there any other regulatory or class exemptions that need to be revisited, e.g. because they no longer reflect situations of proven low risk or because there are issues with their operation?

Unsure

If you answered 'yes', please share your suggestions.:

if a risk based approach to obligations were introduced we could do away with all exemptions and replace with tailored obligations such as reporting.

2.40 Should the exemption for internet auctions still apply, and are the settings correct in terms of a wholesale exclusion of all activities?

No

If you answered 'no', please give reasons for your answer.:

Should be included due to volume of transactions undertaken, however could be difficult to monitor

2.41 If it should continue to apply, should online marketplaces be within scope of the exemption?

Unsure

Please give reasons for your answer.:

2.42 What risks do you see involving internet marketplaces or internet auctions?

Please share your comments below.:

no comment

2.43 If we were to no longer exclude online marketplaces or internet auction providers from the Act, what should the scope of their obligations be? What would be the cost and impact of that change?

Please share your comments below.:

no comment

2.44 Do you currently rely on this regulatory exemption to offer special remittance card facilities?

Unsure

If you answered 'yes', how many facilities do you offer to how many customers?:

no comment

2.45 Is the exemption workable or are changes needed to improve its operation?

Please share your comments below.:

no comment

What would be the impact on compliance costs from those changes?:

no comment

2.46 Do you consider the exemption properly mitigates any risks of money laundering or terrorism financing through its conditions?

Unsure

If you answered 'yes', please give reasons for your answer.:

no comment

2.47 Should we amend this regulatory exemption to clarify whether and how it applies to DNFBPs?

Yes

If you answered 'yes', please share your suggestions.:

if unclear, needs to be clarified

2.48 Should we issue any new regulatory exemptions?

Yes

If you answered 'yes', please share your suggestions.:

Tax transfers as per Tax administration Act 1994 S173M (2) (a) to (fb) but not including (g) who could be an unidentified party.

Are there any areas where Ministerial exemptions have been granted where a regulatory exemption should be issued instead?:

nocomment

2.49 Do you currently use a company to provide trustee or nominee services?

No

If you answered 'yes', why do you use them, and how many do you use? What is the ownership and control structure for those companies?:

2.50 Should we issue a new regulatory exemption to exempt legal or natural persons that act as trustee, nominee director, or nominee shareholder where there is a parent reporting entity involved that is responsible for discharging their AML/CFT obligations?

Yes

Please give reasons for your answer.:

Double up in responsibilities and obligations

2.51 If so, what conditions should be attached to such an exemption to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your comments below.:

Include in risk assessment and compliance programme

2.52 Should we issue a new regulatory exemption to exempt Crown entities, entities acting as agents of the Crown, community trusts, and any other similar entities from AML/CFT obligations?

Yes

Please give reasons for your answer.:

Simplify the legislation to do away with exemptions

2.53 If you answered 'yes' to the previous question (Question 2.52), what should be the scope of the exemption and possible conditions to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your suggestions below.:

no comment

2.54 Should we issue an exemption for all reporting entities providing low value loans, particularly where those loans are provided for social or charitable purposes?

Yes

Please give reasons for your answer.:

for the reasons given in the explanatory above

2.55 If so, what conditions should be attached to such an exemption to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your comments below.:

no comments

2.56 Should the AML/CFT Act define its territorial scope?

Yes

Please give reasons for your answer.:

to avoid confusion

2.57 If so, how should the Act define a business or activity to be within the Act's territorial scope?

Please share your comments below.:

no comment

3. Supervision, regulation, and enforcement

3.1 Is the AML/CFT supervisory model fit for purpose or should we consider changing it?

No

3.1 Please indicate why? :

Seems to work

3.2 If it were to change, what supervisory model do you think would be more effective in a New Zealand context?

Not Answered

3.2 Please provide context for your choice:

no comment

3.3 Do you think the Act appropriately ensures consistency in the application of the law between the three supervisors? If not, how could inconsistencies in the application of obligations be minimised?

Yes

3.3 Please provide options for how inconsistencies in the application of obligations could be minimised:

Joint training of all supervisors

3.4 Does the Act achieve the appropriate balance between ensuring consistency and allowing supervisors to be responsive to sectoral needs? If not, what mechanisms could be included in legislation to achieve a more appropriate balance?

Yes

If not, what mechanisms could be included to achieve balance:

3.5 Are the statutory functions and powers of the supervisors appropriate or do they need amending? If so, why?

Yes - the functions and powers are appropriate

3.5 If so, why are the statutory functions and powers of the supervisors not appropriate:

3.5 What amendments are required:

3.6 Should AML/CFT Supervisors have the power to conduct onsite inspections of REs operating from a dwelling house? If so, what controls should be implemented to protect the rights of the occupants?

Yes - AML/CFT Supervisors should be able to conduct onsite inspections where REs are operating from a dwelling house

Please explain your answer:

Many people operate a home office environment and meet clients there as well. The supervisors should be able to access the same environment as the client.

What controls are required to protect the rights of occupants?:

Limited to office space, no access to rest of dwelling.

3.7 What are some advantages or disadvantages of remote onsite inspections?

Please share your thoughts:

remote inspections should be able to be conducted however there may be limitations in being able to view all records etc, however with zoom and file sharing options this is minimised. Just need to ensure privacy and safety of information being shared.

3.8 Would virtual inspection options make supervision more efficient? What mechanisms would be required to make virtual inspections work?

Yes

Please explain your answer:

more efficient as no travel.

What mechanisms would be required to make virtual inspections work?:

save sharing of information, good internet connections for virtual meetings.

3.9 Is the process for forming a designated business group (DBG) appropriate? Are there any changes that could make the process more efficient?

Unsure

Please explain your answer:

not been through the process

Are there changes that could make the process more efficient?:

no comment

3.10 Should supervisors have an explicit role in approving or rejecting formation of a DBG? Why or why not?

Yes

Why or why not?:

Supervisors should be in the position of knowing the sector and how the DBG would work within that sector.

3.11 Should explicit standards for audits and auditors be introduced? If so, what should those standards be and how could they be used to ensure audits are of higher quality?

Yes

If yes, what should the standards be?:

Some form of AML qualifications e.g. CAMS/NZAMLCO certificates

AML Audit specific qualifications e.g. Advanced CAMS-Audit

Experience

do not need to be financial auditors

How could standards be used to ensure audits are of higher quality?:

Standards can only be used to ensure the auditor is appropriately qualified, to ensure audits are of higher quality there could be an auditors forum for peer discussions and training by supervisors around what a high quality audit looks like from their perspective.

3.12 Who would be responsible for enforcing the standards of auditors?

AML/CFT supervisors

If other, which agency/organisation would enforce the standards?:

Please explain your answer:

The Supervisors can request audit reports. The audit reports should align with Supervisor reviews and requirements therefore they would be in the best position to enforce the standards of auditors. But, it would require a joint body from all three supervisors as auditors work across all three supervisory areas.

3.13 What impact would that have on cost for audits? What benefits would there be for businesses if we ensured higher quality audits?

Please share your thoughts:

Any costs or liabilities enforced on auditors would result in increased costs for reporting entities.

Businesses should be able to rely on audits and auditors need to take responsibility for poor audits.

What benefits would there be for businesses if we ensured higher quality audits?:

Better educational outcomes of audits and greater compliance with remediation. The business should enjoy the audit process more.

3.14 Should there be any protections for businesses which rely on audits, or liability for auditors who do not provide a satisfactory audit?

Yes

Please explain your answer:

Businesses should be able to rely on their audits for accurate assessment and information. Auditors need to take responsibility for poor audits.

If yes, what protections would you want? What should be the nature of the liability for auditors?:

3.15 Is it appropriate to specify the role of a consultant in legislation, including what obligations they should have? If so, what are appropriate obligations for consultants?

Yes

Please explain your answer:

Consultants form a link for businesses in addressing their obligations with the legislation

If a consultant's rule should be specified in legislation, what are the appropriate obligations?:

obligations to report if something is found during a consultation process similar to Auditors.

3.16 Do we need to specify what standards consultants should be held to? If so, what would it look like? Would it include specific standards that must be met before providing advice?

Yes

Please explain your answer:

Because of the reliance on the consultant to provide good advice there needs to be minimum standards or qualification for consultants.

If yes, what should the standards look like?:

academic qualifications around AML/CFT, experience

3.17 Who would be responsible for enforcing the standard of consultants?

AML/CFT supervisor(s)

If other, please indicate which agency/organisation you see having responsibility:

Please explain your answer:

as per auditors, supervisors are best placed to provide oversight

3.18 Do you currently use agents to assist with your AML/CFT compliance obligations? If so, what do you use agents for?

No

What do you use agents for?:

3.19 Do you currently take any steps to ensure that only appropriate persons are able to act as your agent? What are those steps and why do you take them?

No

If yes, what are the steps you take to ensure only appropriate persons act as your agent?:

not applicable

3.20 Should there be any additional measures in place to regulate the use of agents and third parties? For example, should we set out who can be an agent and in what circumstances they can be relied upon?

Unsure

Please explain your answer:

3.20 If yes, what other additional measures would you like to regulate the use of agents and third parties? :

3.21 Does the existing penalty framework in the AML/CFT Act allow for effective, proportionate, and dissuasive sanctions to be applied in all circumstances, including for larger entities? Why or why not?

No

Please explain your answer:

doesn't consider the size of the reporting entity and impact non compliance has made.

3.22 Would additional enforcement interventions, such as fines for non-compliance or enabling the restriction, suspension, or removal of a license or registration enable more proportionate, effective, and responsive enforcement?

Yes

Please explain your answer:

would be more risk based approach

3.23 Are there any other changes we could make to enhance the penalty framework in the Act?

Unsure

Please provide further detail:

no comment

3.24 Should the Act allow for higher penalties at the top end of seriousness to ensure sufficiently dissuasive penalties can be imposed for large businesses? If so, what should the penalties be?

Yes

Please provide further information, including what the penalties could be:

no high enough for the potential impact for society. Penalties could easily be doubled.

3.25 Would broadening the scope of civil sanctions to include directors and senior management support compliance outcomes? Should this include other employees?

Yes

Please provide further detail:

Ultimately the directors or senior managers are responsible for making decisions about how the business operates and whether it complies with the AML/CFT obligations.

3.26 If penalties could apply to senior managers and directors, what is the appropriate penalty amount?

Please share your thoughts:

Because ultimately the directors or senior managers are responsible for making decisions about how the business operates and whether it complies with the AML/CFT obligations

3.27 Should compliance officers also be subject to sanctions or provided protection from sanctions when acting in good faith?

Please share your thoughts:

agree with comments for this section

3.28 Should the Department of Internal Affairs (DIA) have the power to apply to liquidate a business to recover penalties and costs obtained in proceedings undertaken under the Act?

Yes

Please provide your comments in the box below:

Consistency

3.29 Should we change the time limit by which prosecutions must be brought by? If so, what should we change the time limit to?

Yes

Please provide your thoughts:

If it results in more prosecutions

If you answered yes, what should we change the time limit to?:

5 years max. This aligns with the time period reporting entities need to keep their records for.

4. Preventive measures

4.1 What challenges do you have with complying with your customer due diligence (CDD) obligations? How could these challenges be resolved?

What challenges do you have with complying with your CDD obligations?:

not being able to meet the IVCOP requirements
3 month timeframe for certified documents where there is no legal basis for this
Address verification

How could these challenges be resolved?:

more flexibility with IVCOP - being able to use drivers license on its own
remove 3 month timeframe for certified documents
remove need to verify address

4.2 Have you experienced any situations where trying to identify the customer can be challenging or not straightforward? What were those situations and why was it challenging?

Yes

If yes, what were those situations and why was it challenging?:

Address verification for a wife where all property/bills are in the husbands name.
Trust beneficial owners, trust deed lost/unable to be provided

4.3 Would a more prescriptive approach to the definition of a customer be helpful? For example, should we issue regulations to define who the customer is in various circumstances and when various services are provided?

Yes

Please share your thoughts:

Possibly but needs to be pretty broad and cover a lot of different scenarios

4.4 If so, what are the situations where more prescription is required to define the customer?

What do you think?:

no comment

4.5 Do you anticipate that there would be any benefits or additional challenges from a more prescriptive approach being taken?

Please share your thoughts:

benefits if compliance costs are reduced
Challenges if not flexible enough to cover different situations

4.6 Should we amend the existing regulations to require real estate agents to conduct CDD on both the purchaser and vendor?

Yes

Please provide comments below :

Purchasers are the ones transacting through trust accounts. Although the lawyers also do CDD as purchasers are their clients. Allowing the sharing of CDD between the two would reduce compliance cost for real estate agents.

4.7 What challenges do you anticipate would occur if this was required? How might these be addressed? What do you estimate would be the costs of the change?

What challenges do you anticipate would occur if CDD was required on both parties?:

compliance cost and purchaser reluctance due to repeated requests for information

How might the challenges be addressed?:

Ability to share CDD between Lawyers and Real estate

What do you estimate the costs of the change would be?:

no comment

4.8 When is the appropriate time for CDD on the vendor and purchaser to be conducted in real estate transactions?

Later - when contracts are signed

If you have indicated other above or have more comments to make please provide them in the box below:

later would provide time for real estate agents to conduct CDD on the vendors and then the Purchaser prior to a transaction being conducted.

4.9 Are the prescribed points where CDD must be conducted clear and appropriate? If not, how could we improve them?

Yes

Please provide further detail below:

4.10 For enhanced CDD, is the trigger for unusual or complex transactions sufficiently clear?

Yes

Please provide further detail below:

4.11 Should CDD be required in all instances where suspicions arise?

Yes

Please provide your comments in the box below:

anything that would enhance the ability to detect and deter is a good thing. but care not to tip off may be a barrier to being able to do this.

4.12 If so, what level of CDD should be required, and what should be the requirements regarding verification? Is there any information that businesses should not need to obtain or verify?

Standard customer due diligence

What should be the requirements regarding verification?:

depends on the circumstances. if no or low transaction involved there would be no need for source of wealth/funds so Standard CDD would be the minimum.

Is there any information that businesses should not need to obtain or verify?:

address verification and possibly source of wealth/funds

4.13 How can we ensure that this obligation does not put businesses in a position where they are likely to tip off the person?

Please provide your comments in the box below:

difficult no answer

4.14 What money laundering risks are you seeing in relation to law firm trust accounts?

Please provide your comments in the box below:

third party transactions/refunds.
discrepancies in amounts being deposited to what was requested.
Deposits from unidentified parties

4.15 Are there any specific AML/CFT requirements or controls that could be put in place to mitigate the risks? If so, what types of circumstances or transactions should they apply to and what should the AML/CFT requirements be?

Yes

Please share your thoughts:

requiring CDD before refunding money to a third party
Only refunding back to party who deposited
Holds on transactions if discrepancies found
CDD if deposits come from unidentified parties

If you answered yes, what types of circumstances or transactions should they apply to and what should the AML/CFT requirements be?:

as above

4.16 Should this only apply to law firm trust accounts or to any DNFBP that holds funds in its trust account?

Apply to any DNFBP that holds funds in its trust account

Please provide your comments in the box below:

risks are potentially the same regardless of DNFBP

4.17 What do you estimate would be the costs of any additional controls you have identified?

Please provide your comments in the box below:

no comment

4.18 Is the information that the Act requires to be obtained and verified still appropriate? If not, what should be changed?

Yes

Please share your thoughts:

requirement to verify addresses and registered offices.

4.19 Are the obligations to obtain and verify information clear?

Yes

Please provide your comments in the box below:

requirements are clear

4.20 Is the information that businesses should obtain and verify about their customers still appropriate?

No

Please provide your comments in the box below:

address verification - value minimal but can cost more to get completed.

4.21 Is there any other information that the Act should require businesses to obtain or verify as part of CDD to better identify and manage a customer's risks?

Please provide your comments in the box below:

no comment

4.22 Should we issue regulations to require businesses to obtain and verify information about a legal person or legal arrangement's form and proof of existence, ownership and control structure, and powers that bind and regulate? Why?

Yes

Please provide your thoughts :

companies extract
Trust Deed & variations

4.23 Do you already obtain some or all of this information, even though it is not explicitly required? If so, what information do you already obtain and why?

Yes

If so, what information do you already obtain and why?:

companies extract - provides details of registration, status, directors and shareholders, addresses
Trust Deed and variations - Settlor and Trustee details, beneficiary details or type of trust

4.24 What do you estimate would be the impact on your compliance costs for your business if regulations explicitly required this information to be obtained and verified?

Please estimate the impact on your compliance costs in the box below:

none if already being collected

4.25 Should we issue regulations to prescribe when information about a customer's source of wealth should be obtained and verified versus source of funds? If so, what should the requirements be for businesses?

Yes

Please provide further details below:

greater clarity so ease of compliance.

If so, what should the requirements be for businesses?:

no comment

4.26 Are there any instances where businesses should not be required to obtain this information? Are there any circumstances when source of funds and source of wealth should be obtained and verified?

Yes

Please provide your thoughts:

should be risk based for example a family trust that has held the family home for many years is selling the house - ECDD applies but title shows mortgages involved in funding the house and details become sketchy over time - so should be assessed as low risk and no need to provide further proof.

4.27 Would there be any additional costs resulting from prescribing further requirements for source of wealth and source of funds?

Unsure

Please provide your estimate of additional costs in the box below:

Possibly

4.28 Should we issue regulations to require businesses to obtain information about the beneficiary/ies of a life insurance or investment-related insurance policy and prescribe the beneficiary/ies as a relevant risk factor when determining the appropriate level of CDD to conduct? Why or why not?

Yes

4.28 Please provide your comments on why or why not in the box below:

Recognised international risk but agree only require this information to be obtained for insurance policies which we identify as representing moderate or high risks in line with FATF guidance for a risk-based approach to the life insurance sector.[1] This would not impose any additional obligations on life insurers unless they started issuing risky policies.

4.29 If we required this approach to be taken regarding beneficiaries of life and other investment-related insurance policies, should the obligations only apply for moderate or high-risk insurance policies? Are there any other steps we could take to ensure compliance costs are proportionate to risks?

Yes

Please provide your comments in the box below:

as above

Are there any other steps we could take to ensure compliance costs are proportionate to risks?:

no comment

4.30 Have you encountered issues with the definition of a beneficial owner? If so, what about the definition was unclear or problematic?

Yes

If so, what about the definition was unclear or problematic?:

how far down a company structure to fully identify beneficial owner

How to define who has effective control e.g trust where trustees are elderly and there is potential of a beneficiary having more control

4.31 How can we improve the definition in the Act as well as in guidance to address those challenges?

Please provide your thoughts:

no comment

4.32 Should we issue a regulation which states that businesses should be focusing on identifying the "ultimate" beneficial owner? If so, how could "ultimate" beneficial owner be defined?

Yes

Please provide your thoughts:

The ultimate beneficial owner is the goal

If so, how could "ultimate" beneficial owner be defined:

the person(s) who hold the most effective control of the entity.

4.33 To what extent are you focusing beneficial ownership checks on the "ultimate" beneficial owner, even though it is not strictly required?

Always

Please provide any comments you have on "ultimate" beneficial owner checks in the box below:

always try and get to the person who hold the most interest in the entity.

4.34 Would there be any additional costs resulting from prescribing that businesses should focus on the "ultimate" beneficial owner?

Yes

Please provide your thoughts:

probably as may require additional time and resources to trace.

If yes, can you please indicate the level of costs you think apply:

no comment

4.35 Should we issue a regulation which states that for the purposes of the definition of beneficial owner, a person on whose behalf a transaction is conducted is restricted to a person with indirect ownership or control of the customer (to align with the Financial Action Task Force (FATF) standards)? Why or why not?

Yes

Please provide your thoughts below:

greater clarity and alignment with FATF

4.36 Would this change make the "specified managing intermediaries" exemption or Regulation 24 of the AML/CFT (Exemption) Regulations 2011 unnecessary? If so, should the exemptions be revoked?

Unsure

Please provide your thoughts:

4.37 Would there be any additional compliance costs or other consequences for your business from this change? If so, what steps could be taken to minimise these costs or other consequences?

Unsure

Please provide your thoughts:

4.38 What process do you currently follow to identify who ultimately owns or controls a legal person, and to what extent is it consistent with the process set out in the FATF standards?

NZ AML/CFT Supervisor guidance on Beneficial Ownership

To what extent is the process you follow consistent with the process set out in the FATF standards?:

fairly consistent

4.39 Should we issue regulations or a Code of Practice which is consistent with the FATF standards for identifying the beneficial owner of a legal person?

Issue regulations

Please provide any further comments you have in the box below:

align legislation with FATF

4.40 Are there any aspects of the process the FATF has identified that are not appropriate for New Zealand businesses?

No

If yes, please indicate what aspects they are and why they are not appropriate for New Zealand businesses:

4.41 Would there be an impact on your compliance costs by mandating this process? If so, what would be the impact?

No

If so, what would be the impact?:

4.42 Should we issue regulations or a Code of Practice that allows businesses to satisfy their beneficial ownership obligations by identifying the settlor, the trustee(s), the protector and any other person exercising ultimate effective control over the trust or legal arrangement?

Issue regulations

Please provide any comments you have in the box below:

align legislation with FATF

4.43 Would there be an impact on your compliance costs by mandating that this process be applied? If so, what is the impact?

Unsure

Please provide further details below:

4.44 Are the standards of verification and the basis by which verification of identity must be done clear and still appropriate? If not, how could they be improved?

No

Please provide your thoughts:

A drivers License is issued by a reliable and independent source and yet is not allowable as a form of identity in NZ.

4.45 Do you encounter any challenges with using Identity Verification Code of Practice (IVCOP)? If so, what are they, and how could they be resolved?

Yes

4.48 If so, what are they, and how could they be resolved?:

as above information there are gaps, does not allow for other forms of ID, does not allow for drivers licenses only, allows for use of credit cards which may be against terms and conditions for holding a card, along with guidance specified only current/valid passports can be used - expiry does not negate who the person is, so could still be used as a form of ID.

4.46 Is the approach in IVCOP clear and appropriate? If not, why?

No

Please provide your comments in the box below:

as per above too many gaps, not flexible enough, encourages using credit cards against the terms and conditions of using a credit card.

4.47 Should we amend or expand the IVCOP to include other AML/CFT verification requirements, e.g. verifying name and date of birth of high-risk customers verifying legal persons or arrangements, ongoing CDD, or sharing CDD information between businesses?

Yes

What other verification requirements could be included?:

if it provides clarity and ease of use

4.48 Are there any identity documents or other forms of identity verification that businesses should be able to use to verify a customer's identity?

Please provide your comments in the box below:

Drivers License on its own.

4.49 Do you have any challenges in complying with Part 3 of IVCOP in relation to electronic verification? What are those challenges and how could we address them?

Yes

What challenges have you faced? :

uncertainty that the method being use is acceptable - seems to be pushing for biometric identity so increases in cost of compliance

How could those challenges be addressed?:

Providing a realistic risk based approach to ID verification where manual identification and verification can easily be use. This would reduce compliance costs.

4.50 What challenges have you faced with verification of address information? What have been the impacts of those challenges?

What challenges have you faced with verification of address information?:

failures due to insufficient documentation for address. Particularly for women where everything is in the husbands/partners name

4.53 What have been the impacts of those challenges?:

delays in completing CDD - extra time to follow up,obtain alternative documents etc

4.51 In your view, when should address information be verified, and how should that verification occur?

When should address information be verified?:

amend the requirement in the Act itself to still require address information to be obtained, but only verified in instances where it is valuable to do so (e.g. as part of a wire transfer or when suspicions are raised)

How should verification occur?:

customer letter - although the use of post for letters does not align with paperless office situations where emails/txt are the main forms of communication with customers.

4.52 How could we address challenges with address verification while also ensuring law enforcement outcomes are not undermined? Are there any fixes we could make in the short term?

How could we address challenges with address verification while also ensuring law enforcement outcomes are not undermined? :

amend the requirement in the Act itself to still require address information to be obtained, but only verified in instances where it is valuable to do so (e.g. as part of a wire transfer or when suspicions are raised)

Are there any fixes we could make in the short term?:

issue regulations to only require address verification to occur for higher risk customers that are natural persons. We could also amend IVCOP to include how businesses should verify address information to ensure a consistent and robust approach. We could also change the basis for verifying address information and enable verification through other means, such as businesses sending their customer a letter.

4.53 Do you currently take any of the steps identified by the FATF standards to manage high-risk customers, transactions or activities? If so, what steps do you take and why?

No

If you answered yes, what steps do you take and why?:

no comment

4.54 Should we issue regulations or a Code of Practice which outlines the additional measures that businesses can take as part of enhanced CDD?

Issue a Code of Practice

Please provide any further comments you have in the box below:

This may provide more clarity around the risks of dealing with high-risk entities.

However there needs to be some flexibility build into this so that a low risk family trust is not treated the same as a high risk corporate trust.

4.55 Should any of the additional measures be mandatory? If so, how should they be mandated, and in what circumstances?

Yes

If you answered yes, what measures should be mandatory?:

obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner.
obtaining additional information on the intended nature of the business relationship.
obtaining information on the reasons for intended or performed transactions.

How should we make the measures mandatory?:

no comment

When should the measures be mandatory?:

At the time the risk is assessed.

4.56 Are there ways we can enhance or streamline the operation of the simplified CDD obligations, in particular where the customer is a large organisation?

Yes

Please provide further detail below :

Agree - could issue regulations to allow employees to be delegated to act on behalf of the customer by a senior manager but without triggering CDD.

4.57 Should we issue regulations to allow employees to be delegated by a senior manager without triggering CDD in each circumstance? Why?

Yes

Why? Please provide your response in the box below:

Agree - This would ensure that the compliance burden of engaging with persons who act on behalf of a large organisation is in proportion to the risks identified.

4.58 Should we remove the requirement for enhanced CDD to be conducted for all trusts or vehicles for holding personal assets? Why or why not?

Yes

Why or why not? Please elaborate:

There needs to be more flexibility for low risk family trust type situations, local charitable trusts and focus on the higher risk end of trusts

4.59 If we removed this requirement, what further guidance would need to be provided to enable businesses to appropriately identify high risks trusts and conduct enhanced CDD?

Please provide further detail below:

help in guidance around identifying high risk trusts. Specifically identify high risk categories of trusts which do require enhanced CDD to provide further clarity

4.60 Should high-risk categories of trusts which require enhanced CDD be identified in regulation or legislation? If so, what sorts of trusts would fall into this category?

Yes

Please provide further detail below:

Separate in legislation

If so, what sorts of trusts would fall into this category?:

trusts with nominee trustees
Trading trust
NZ trading trusts
Possibly Charitable trusts operating offshore.

4.61 Are the ongoing CDD and account monitoring obligations in section 31 clear and appropriate, or are there changes we should consider making?

Yes

Please provide further detail below:

no comment

What changes should we consider making to clarify CDD and account monitoring obligations in section 31?:

no comment

4.62 As part of ongoing CDD and account monitoring, do you consider whether and when CDD was last conducted and the adequacy of the information previously obtained?

Yes

Please provide any further comments in the box below:

Make it clear that if a passport/drivers license expires then the identity doesn't change and there shouldn't be a need to collect an updated one

4.63 Should we issue regulations to require businesses to consider these factors when conducting ongoing CDD and account monitoring? Why?

Yes

Why? Please provide your comments in the box below:

Close the gap and make it clear

4.64 What would be the impact on your compliance costs if we issued regulations to make this change? Would ongoing CDD be triggered more often?

What would be the impact on your compliance costs if we issued regulations to make this change?:

nil

No - ongoing CDD would not be triggered more often

4.65 Should we mandate any other requirements for ongoing CDD, e.g. how frequently it needs to be conducted?

No

Why? Please provide further detail below:

should be left risk based dependent on the entities business. some guidance on suitable frequencies would be beneficial

Please provide any other examples of mandated requirements for ongoing CDD in the box below:

no comment

4.66 If you are a DNFBP, how do you currently approach your ongoing CDD and account monitoring obligations where there are few or no financial transactions?

Please provide your response in the box below:

For some entities it makes sense to align with business touch points such as GST return filing (1.2 or 6 monthly) or it could be when doing annual accounts at year end. for others it could be when a transaction is going to occur such as a property sale settlement. I'm not sure you could mandate a specific time as this would create undue burden on reporting entities.

4.67 Should we issue regulations to require businesses to review activities provided to the customer as well as account activity and transaction behaviour? What reviews would you consider to be appropriate?

No

Please provide further information below:

Activities provided to the customer is already reviewed as part of ongoing CDD when checks for changes in nature and purpose of the relationship occurs.

What reviews would you consider to be appropriate?:

none

4.68 What would be the impact on your compliance costs if we issued regulations to make this change?

What would be the impact on your compliance costs if we issued regulations to make this change?:

no comment

4.69 Do you currently review other information beyond what is required in the Act as part of account monitoring? If so, what information do you review and why?

No

If so, what information do you review and why?:

4.70 Should we issue regulations requiring businesses to review other information where appropriate as part of account monitoring? If so, what information should regulations require businesses to regularly review?

No

Please provide further information below:

If you answered yes, what information should regulations require businesses to regularly review?:

4.71 How could we ensure that existing (pre-Act) customers are subject to the appropriate level of CDD? Are any of the options appropriate and are there any other options we have not identified? What would be the cost implications of the options?

Changing what is meant by a 'material change'

Why? Please provide further details below:

Makes more sense for long term clients of reporting entities. A change that would be relevant to risk is more appropriate. Changes to services being offered (business relationship), changes to client ownership.

Are there any other options for ensuring existing (pre-Act) customers are subject to the appropriate levels of CDD?:

no comment

What would be the cost implications of the options?:

slight increase

4.72 Should the Act set out what can constitute tipping off and set out a test for businesses to apply to determine whether conducting CDD or enhanced CDD may tip off a customer?

Yes

Why? Please provide more information below:

May provide more confidence to reporting entities to conduct CDD/ECDD at the appropriate times

4.73 Once suspicion has been formed, should reporting entities have the discretion not to conduct enhanced CDD to avoid tipping off?

Yes

Please provide any further information below:

There needs to be some flexibility in having to do ECDD in these circumstances. May enable more entities to report if they don't feel comfortable with conducting ECDD.

4.74 If you answered yes to question 4.73, in what circumstances should this apply? For example, should it apply only to business relationships (rather than occasional transactions or activities)? Or should it only apply to certain types of business relationships where the customer holds a facility for the customer (such as a bank account)?

Or should it only apply to certain types of business relationships where the customer holds a facility for the customer?

If other, please provide details in the box below:

Why? Please provide further detail below:

More risk when the reporting entity holds a facility for the customer

4.75 Are there any other challenges with the existing requirements to conduct enhanced CDD as soon as practicable after becoming aware that a SAR must be reported? How could we address those challenges?

Yes

What are those challenges?:

challenges in terminology - what does as soon as practicable mean - before the SAR is filed or can it be after?

If yes, how could we address those challenges?:

Provide more clarity

4.76 Do you have any challenges with complying with your record keeping obligations? How could we address those challenges?

No

Please provide more detail below:

no comment

If yes, how could we address those challenges?:

4.77 Are there any other records we should require businesses to keep, depending on the nature of their business?

No

If yes, what are the other records and why should they be kept?:

4.78 Does the exemption from keeping records of the parties to a transaction where the transaction is outside a business relationship or below the occasional transaction threshold hinder reconstruction of transactions? If so, should the exemption be modified or removed?

No

If so, should the exemption be modified or removed?:

Why? Please provide any additional information:

The basis for this exemption is that the parties will not have been subject to CDD, so the business may not have the information about who the parties are in the first place.

4.79 Do you have any challenges with complying with the obligations regarding politically exposed persons? How could we address those challenges?

Yes

Please provide any additional information below:

Although there is additional guidance around a risk based approach for PEP checking, it can still be challenging for reporting entities to record the search undertaken and result unless they are paying for it as part of electronic ID services.

Also difficult to manually check whether an individual is related/associated to a PEP.

Additional changes with ex-pats returning to NZ as a result of pandemic

If you answered yes, how could we address those challenges?:

It would be easier if all PEP checks were done electronically but that increases compliance cost for businesses and for entities who have long-term NZ residents/citizens the risk is really one of association and that can be difficult to check

4.80 Do you take any additional steps to mitigate the risks of politically exposed persons (PEPs) that are not required by the Act? What are those steps and why do you take them?

No

If yes, what are those steps and why do you take them?:

4.81 How do you currently treat customers who are domestic PEPs or PEPs from international organisations?

How do you currently treat customers who are domestic PEPs or PEPs from international organisations?:

no comment

4.82 Should the definition of "politically exposed persons" be expanded to include domestic PEPs and/or PEPs from international organisations? If so, what should the definitions be?

No

Please provide any additional information below:

Risk is too low for the costs involved.

If you answered yes, how do you think these terms should be defined?:

4.83 If we included domestic PEPs, should we also include political candidates and persons who receive party donations to improve the integrity of our electoral financing regime?

Yes

Please provide any further comments in the box below:

More likely to be where bribery and corruption sits

4.84 What would be the cost implications of such a measure for your business or sector?

4.84 What would be the cost implications of such a measure for your business or sector?:

significant

4.85 How do you currently treat customers who were once PEPs?

4.85 How do you currently treat customers who were once PEPs?:

n/a

4.86 Should we require a risk-based approach to determine whether a customer who no longer occupies a public function should still nonetheless be treated as a PEP?

Yes

4.86 If you want to elaborate on your choice please provide your comments in the box below:

4.87 Would a risk-based approach to former PEPs impact compliance costs compared to the current prescriptive approach?

Yes

4.87 Please provide any further comments you would like to make in the box below:

additional monitoring costs

4.88 What steps do you take, proactive or otherwise, to determine whether a customer is a foreign PEP?

4.88 What steps do you take, proactive or otherwise, to determine whether a customer is a foreign PEP?:

asking them

Google/adverse media checks

2Shakes check

namescan.io

4.89 Do you consider the Act's use of "take reasonable steps" aligns with the FATF's expectations that businesses have risk management systems in place to enable proactive steps to be taken to identify whether a customer or beneficial owner is a foreign PEP? If not, how can we make it clearer?

No

4.89 If not, how can we make it clearer?:

Reasonable steps is not defined so that leaves a reporting entity with lots of choices as to how to undertake a PEP check.

4.90 Should the Act clearly allow businesses to consider their level of exposure to foreign PEPs when determining the extent to which they need to take proactive steps?

Yes

4.90 Please provide any further comments you would like to make in the box below:

Risk based approach in action

4.91 Should the Act mandate that businesses undertake the necessary checks to determine whether the customer or beneficial owner is a foreign PEP before the relationship is established or occasional activity or transaction is conducted?

Yes

4.91 Please provide any further comments in the box below:

Should be before so that any additional measures can be completed at the same time as onboarding e.g ECDD

4.92 How do you currently deal with domestic PEPs or international organisation PEPs? For example, do you take risk-based measures to determine whether a customer is a domestic PEP, even though our law does not require this to be done?

Do you follow the requirements in the Act

4.92 If there are other ways you currently deal with domestic PEPs or international organisation PEPs please indicate what you do in the box below:

4.93 If we include domestic PEPs and PEPs from international organisations within scope of the Act, should the Act allow for businesses to take reasonable steps, according to the level of risk involved, to determine whether a customer or beneficial owner is a domestic or international organisation PEP?

Yes

4.93 Please provide any further comments in the box below:

should be risk based.

4.94 What would the cost implications of including domestic PEPs and PEPs from international organisations be for your business or sector?

4.94 What would the cost implications of including domestic PEPs and PEPs from international organisations be for your business or sector?:

no comment

4.95 Should businesses be required to take reasonable steps to determine whether the beneficiary (or beneficial owner of a beneficiary) of a life insurance policy is a PEP before any money is paid out?

Yes

4.95 Please provide any comments you have in the box below:

the lack of any requirements for determining whether a life insurance beneficiary is a PEP is a vulnerability that could be exploited.

4.96 What would be the cost implications of requiring life insurers to determine whether a beneficiary is a PEP?

4.96 What would be the cost implications of requiring life insurers to determine whether a beneficiary is a PEP?:

no comment

4.97 What steps do you currently take to mitigate the risks of customers who are PEPs?

4.97 What steps do you currently take to mitigate the risks of customers who are PEPs?:

do not have any

4.98 Should the Act mandate businesses take the necessary mitigation steps the FATF expects for all foreign PEPs, and, if domestic or international organisation PEPs are included within scope, where they present higher risks?

Yes

4.98 Please provide your comments in the box below:

more consistency with FATF

4.99 What would be the cost implications of requiring businesses to take further steps to mitigate the risks of customers who are PEPs?

4.99 What would be the cost implications of requiring businesses to take further steps to mitigate the risks of customers who are PEPs?:

could be significant for some reporting entities

4.100 Should businesses be required to assess their exposure to designated individuals or entities?

Yes

Please provide your comments in the box below:

help inform the nature of the policies, procedures, and controls a business should implement

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

access to automatic screening solutions

4.102 If we require businesses to assess their proliferation financing risks, what should the requirement look like? Should this assessment be restricted to the risk of sanctions evasion (in line with FATF standards) or more generally consider proliferation financing risks?

Please provide your comments in the box below:

Given out low exposure, but increased lone operators, it would be difficult for reporting entities to implement. goAML already provides details of designation individuals/entities/sanctions so not sure how effective additional requirements would be.

4.103 Should legislation require businesses to include, as part of their AML/CFT programme, policies, procedures, and controls to implement TFS obligations without delay? How prescriptive should the requirement be?

Please provide your comments in the box below:

agree- with comments above.

4.104 What support would businesses need to develop such policies, procedures, and controls?

Please provide your comments in the box below:

very clear guidelines of how to implement with examples for different sectors. Banking/FI are very different from DNFBP's so opening accounts/conducting transactions etc are not always available with DNFBPs

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

Maybe is should be compulsory to register with goAML. All reporting entities have reporting obligations so should be prepared even if unlikely to submit.

4.106 Do we need to amend the Act to ensure all businesses are receiving timely updates to sanctions lists? If so, what would such an obligation look like?

Please provide your comments in the box below:

Maybe is should be compulsory to register with goAML. All reporting entities have reporting obligations so should be prepared even if unlikely to submit.

4.107 How can we support and enable businesses to identify associates and persons acting on behalf of designated persons or entities?

Please provide your comments in the box below:

no comment

4.108 Do you currently screen for customers and transactions involving designated persons and entities? If so, what is the process that you follow?

Please provide your comments in the box below:

n/a

4.109 How could the Act support businesses to screen customers and transactions to ensure they do not involve designated persons and entities? Are any obligations or safe harbours required?

Please provide your comments in the box below:

no comment

4.110 If we created obligations in the Act, how could we ensure that the obligations can be implemented efficiently and that we minimise compliance costs?

Please provide your comments in the box below:

A COP is more appropriate but again it needs to be flexible enough to suit a wide range of reporting entities, and there would be a lot who would not be able to manage the cost of this, let alone be proportional to the risk that reporting entity is exposed to.

4.111 How can we streamline current reporting obligations and ensure there is an appropriate notification process for property frozen in compliance with regulations issued under the United Nations Act?

Please provide your comments in the box below:

no comment

4.112 If we included a new reporting obligation in the Act which complies with UN and FATF requirements, how could that obligation look? How could we ensure there is no duplication of reporting requirements?

Please provide your comments in the box below:

no comment

4.113 Should the government provide assurance to businesses that have frozen assets that the actions taken are appropriate?

Yes

Please provide your comments in the box below:

feedback would encourage ongoing compliance

4.114 If so, what could that assurance look like and how would it work?

Please provide your comments in the box below:

no comment

4.115 Are the requirements for managing the risks of correspondent banking relationships set out in section 29 still fit-for-purpose or do they need updating?

Unsure

Please provide your comments in the box below:

no comment

4.116 Are you aware of any correspondent relationships in non-banking sectors? If so, do you consider those relationships to be risky and should the requirements in section 29 also apply to those correspondent relationships?

Unsure

Please provide your comments in the box below:

no comment

4.117 If you are a money or value transfer service (MVTs) provider which uses agents, how do you currently maintain visibility of how many agents you have?

Please provide your comments in the box below:

n/a

4.118 Should a MVTs provider be required to maintain a current list of its agents as part of its AML/CFT programme?

Yes

Please provide your comments in the box below:

no comment

4.119 Should a MVTs provider be explicitly required to monitor and manage its agents for compliance with its AML/CFT programme (including vetting and training obligations)?

Yes

Please provide your comments in the box below:

Most I know already maintain an list

4.120 Should the Act explicitly state that a MVTs provider is responsible and liable for AML/CFT compliance of any activities undertaken by its agent? Why or why not?

Yes

Why or why not?:

As agents they are acting for the MVTs

4.121 If you are an MVTS provider which uses agents, do you currently include your agents in your programme, and monitor them for compliance (including conducting vetting and training)? Why or why not?

Yes

Why or why not?:

Of the MVTS that I know of yes they do - treated like staff/employees

4.122 Should we issue regulations to explicitly require MVTS providers to monitor and manage its agents for compliance with its AML/CFT programme (including vetting and training obligations)? Why or why not?

Yes

Why or why not?:

Not sure what the wider sector is doing but yes it should be included. Reduces risk.

4.123 What would be the cost implications of requiring MVTS providers to include agents in their programmes?

Please provide your comments in the box below:

no comment

4.124 Who should be responsible for the AML/CFT compliance for sub-agents for MVTS providers which use a multi-layer approach? Should it be the MVTS provider, the master agent, or both?

Please provide your comments in the box below:

Both have responsibilities

4.125 Should we issue regulations to declare that master agents are reporting entities under the Act in their own right? Why or why not?

No

Why or why not?:

Treat like a DBG

4.126 What would be the cost implications of requiring MVTS providers to include agents in their programmes?

Please provide your comments in the box below:

no comment

4.127 What risks with new products or technologies have you identified in your business or sector? What do you currently do with those risks?

Please provide your comments in the box below:

Use of virtual assets and wallets

Use of electronic ID systems for onboarding

4.128 Should we issue regulations to explicitly require businesses to assess risks in relation to the development of new products, new business practices (including new delivery mechanisms), and using new or developing technologies for both new and pre-existing products? Why or why not?

Yes

Why or why not?:

This would align with business practices now

4.129 If so, should the risks be assessed prior to the launch or use of any new products or technologies?

Please provide your comments in the box below:

Prior to launch or use

4.130 What would be the cost implications of explicitly requiring businesses to assess the risks of new products or technologies?

Please provide your comments in the box below:

no comment

4.131 Should we issue regulations to explicitly require businesses to mitigate risks identified with new products or technologies? Why or why not?

Yes

Why or why not?:

Might make it clearer

4.132 Would there be any cost implications of explicitly requiring business to mitigate the risks of new products or technologies?

Yes

If yes, what are your views?:

yes probably

4.133 Are there any obligations we need to tailor for virtual asset service providers? Is there any further support that we should provide to assist them with complying with their obligations?

Unsure

Please provide your comments in the box below:

no comment

4.134 Should we set specific thresholds for occasional transactions for virtual asset service providers? Why or why not?

Yes

Why or why not?:

The FATF's expectation is that countries set an occasional transaction threshold at EUR/USD 1,000 for all transactions involving virtual assets (including virtual asset to virtual asset transfers), which would translate to approximately NZD 1,500.

4.135 If so, should the threshold be set at NZD 1,500 (in line with the FATF standards) or NZD 1,000 (in line with the Act's existing threshold for currency exchange and wire transfers)? Why?

Yes

Why?:

in line with the Act's existing threshold for currency exchange and wire transfers as would be more consistent and easier for reporting entities to manage

4.136 Are there any challenges that we would need to navigate in setting occasional transaction thresholds for virtual assets?

Unsure

Please provide your comments in the box below:

no comment

4.137 Should we issue regulations to declare that transfers of virtual assets to be cross-border wire transfers? Why or why not?

Yes

Why or why not?:

Make it clear - resolve this uncertainty by issuing regulations to declare these transactions as a type of wire transfers. We could also issue regulations declaring that a transfer of virtual assets is always cross-border to address the risks these types of transactions pose. This would mean that the existing identity and verification requirements for wire transfers (set out in sections 27 to 29) would apply to these transactions, as well as the requirements to file prescribed transaction reports (section 48C).

4.138 Would there be any challenges with taking this approach? How could we address those challenges?

Unsure

Please provide your comments in the box below:

no comment

4.139 What challenges have you encountered with the definitions involved in a wire transfer, including international wire transfers?

Please provide your comments in the box below:

complicated and difficult to fully understand how to interpret for reporting entities

4.140 Do the definitions need to be modernised and amended to be better reflect business practices? If so, how?

Yes

If so, how?:

Needs to cover the different situations occurring in a modern banking system

4.141 Are there any other issues with the definitions that we have not identified?

Yes

If yes, what are your views?:

can sometimes be difficult to determine who is an ordering, intermediary or beneficiary institution for some reporting entities particularly DNFBP's with client trust accounts

4.142 What information, if any, do you currently provide when conducting wire transfers below NZD 1000?

Please provide your comments in the box below:

n/a

4.143 Should we issue regulations requiring wire transfers below NZD 1000 to be accompanied with some information about the originator and beneficiary? Why or why not?

Yes

Why or why not?:

Probably given the nature of terrorist financing and human trafficking etc where small amounts are used

4.144 What would be the cost implications from requiring specific information be collected for and accompany wire transfers of less than NZD 1000?

Please provide your comments in the box below:

huge

4.145 How do you currently treat wire transfers which lack the required information about the originator or beneficiary, including below the NZD 1000 threshold?

Please provide your comments in the box below:

n/a

4.146 Should ordering institutions be explicitly prohibited from executing wire transfers in all circumstances where information about the parties is missing, including information about the beneficiary? Why or why not?

Yes

Why or why not?:

anonymity is a risk

4.147 Would there be any impact on compliance costs if an explicit prohibition existed for ordering institutions?

Unsure

If yes, what are your views?:

probably

4.148 When acting as an intermediary institution, what do you currently do with information about the originator and beneficiary?

Please provide your comments in the box below:

n/a

4.149 Should we amend the Act to mandate intermediary institutions to retain the information with the wire transfer? Why or why not?

Yes

Why or why not?:

not in line with the FATF standards and risks transfers being delayed or information being lost about the originator and beneficiary.

4.150 If you act as an intermediary institution, do you do some or all of the following:• keep records where relevant information cannot be passed along in the domestic leg of a wire transfer where technical limitations prevent the information from being accompanied?• take reasonable measures to identify international wire transfers lacking the required information?• have risk-based policies in place for determining what to do with wire transfers lacking the required information?

Unsure

Please provide your comments in the box below:

n/a

4.151 Should we issue regulations requiring intermediary institutions to take these steps, in line with the FATF standards? Why or why not?

Unsure

Why or why not?:

n/a

4.152 What would be the cost implications from requiring intermediary institutions to take these steps?

Please provide your comments in the box below:

no comment

4.153 Do you currently take any reasonable measures to identify international wire transfers that lack required information? If so, what are those measures and why do you take them?

Unsure

If so, what are those measures and why do you take them? :

n/a

4.154 Should we issue regulations requiring beneficiary institutions to take reasonable measures, which may include post-event or real time monitoring, to identify international wire transfers that lack the required originator or beneficiary information?

Yes

If yes, what are your views?:

Bring into line with FATF

4.155 What would be the cost implications from requiring beneficiary institutions to take these steps?

Please provide your comments in the box below:

no sure

4.156 Are the prescribed transaction reporting requirements clear, fit for purpose, and relevant? If not, what improvements or changes do we need to make?

Yes

If not, what improvements or changes do we need to make?:

4.157 Have you encountered any challenges in complying with your prescribed transaction reporting (PTR) obligations? What are those challenges and how could we resolve them?

No

If yes, what are those challenges and how could we resolve them?:

4.158 Should we issue regulations or a Code of Practice to provide more clarity about the sorts of transactions that require a PTR?

Yes

Please provide your comments in the box below:

Provide greater clarity - We could issue regulations or a Code of Practice to identify the common types of transactions where obligations are unclear and clarify whether and in what circumstances a PTR is required. This approach could also identify who is required to report in each transaction, and what information is required.

4.159 If so, what transactions have you identified where the PTR obligation is unclear? What makes the reporting obligation unclear, and how could we clarify the obligation?

Please provide your comments in the box below:

no comment

4.160 Should non-bank financial institutions (other than MVTS providers) and DNFBPs be required to report PTRs for international fund transfers?

Yes

Please provide your comments in the box below:

makes sense to provide full details

4.161 If so, should the PTR obligations on non-bank financial institutions and DNFBPs be separate to those imposed on banks and MVTS providers?

Please provide your comments in the box below:

Agree - have different reporting requirements for banks and non-bank financial institutions or DNFBPs involved in an international wire transfer, and that each party reports the information it holds. This option would enable banks to implement automated solutions and there would be no requirement to differentiate between different types of customer and transactions. The non-bank financial institution or DNFBP would then provide information about their customer to the FIU. We could also require specific transaction reference identifiers to be reported to enable the FIU the non-bank financial institution or DNFBP's PTR with the bank's PTR.

4.162 Are there any other options to ensure that New Zealand has a robust PTR obligation that maximises financial intelligence available to the FIU, while minimising the accompanying compliance burden across all reporting entities?

No

Please provide your comments in the box below:

no comment

4.163 Should we amend the existing regulatory exemption for intermediary institutions so that it does not apply to MVTS providers?

Yes

Please provide your comments in the box below:

amend the existing regulatory exemption so that it does not apply to MVTS providers. This would not impact the status quo position for banks or other businesses involved in international wire transfers.

4.164 Are there any alternative options that we should consider which ensure that financial intelligence on international wire transfers is collected when multiple MVTS providers are involved in the transaction?

Unsure

If yes, what are your views?:

no comment

4.165 Are there any other intermediary institutions that should be included in the exemption?

Unsure

If yes, what are your views?:

4.166 Are there situations you have encountered where submitting a PTR within the required 10 working days has been challenging? What was the cause of that situation and what would have been an appropriate timeframe?

No

Please provide your comments in the box below:

n/a

4.167 Do you consider that a lower threshold for PTRs to be more in line with New Zealand's risk and context? If so, what would be the appropriate threshold for reporting?

Yes

If so, what would be the appropriate threshold for reporting?:

cash \$5000

All international wire transfers

4.168 Are there any practical issues not identified in this document that we should address before changing any PTR threshold?

Unsure

Please provide your comments in the box below:

no comment

4.169 How much would a change in reporting threshold impact your business?

Please provide your comments in the box below:

not at all

4.170 How much time would you need to implement the change?

Please provide your comments in the box below:

none

4.171 Do you use any of the reliance provisions in the AML/CFT Act? If so, which provisions do you use?

No

If so, what provisions do you use?:

4.172 Are there any barriers to you using reliance to the extent you would like to?

No

Please provide your comments in the box below:

4.173 Are there any changes that could be made to the reliance provisions that would mean you used them more? If so, what?

No

If so, what?:

4.174 Given the 'approved entities' approach is inconsistent with FATF standards and no entities have been approved, should we continue to have an 'approved entities' approach?

No

Please provide your comments in the box below:

this approach is not consistent with FATF standards, and as no entities have been approved, cannot be used in practice.

4.175 If so, how should the government approve an entity for third party reliance? What standards should an entity be required to meet to become approved?

Please provide your comments in the box below:

no comment

4.176 If your business is a reporting entity, would you want to be an approved entity? Why or why not?

No

Why or why not?:

n/a

4.177 Are there any alternative approaches we should consider to enable liability to be shared during reliance?

No

Please provide your comments in the box below:

no comment

4.178 Should we issue regulations to enable other types of businesses to form DBGs, if so, what are those types of businesses and why should they be eligible to form a DBG?

Unsure

If so, what are those types of businesses and why should they be eligible to form a DBG?:

no comment

4.179 Should we issue regulations to prescribe that overseas DBG members must conduct CDD to the level required by our Act?

Yes

Please provide your comments in the box below:

Consistency and protection of reporting entities in NZ

4.180 Do we need to change existing eligibility criteria for forming DBGs? Why?

Yes

Why?:

It may be beneficial for smaller entities all providing the same services to be able to form a DBG to keep compliance costs down. An example could be a group of Bookkeepers who provide similar services and maybe belong to the same institution. Or a group of Accountants etc. All would need to be a similar size, with similar risk profiles.

4.181 Are there any other obligations that DBG members should be able to share?

Yes

Please provide your comments in the box below:

Share Compliance Officer, CDD, Reporting

4.182 Should we issue regulations to explicitly require business to do the following before relying on a third party for CDD:• consider the level of country risk when determining whether a third party in another country can be relied upon;• take steps to satisfy themselves that copies of identification data and other relevant documentation will be made available upon request without delay; and• be satisfied that the third party has record keeping arrangements in place.

Yes

Please provide your comments in the box below:

increases confidence in using a 3rd party

4.183 Would doing so have an impact on compliance costs for your business? If so, what is the nature of that impact?

Unsure

If so, what is the nature of that impact?:

no comment

4.184 Are there any other issues or improvements that we can make to third party reliance provisions?

Yes

Please provide your comments in the box below:

Require the 3rd party to be 'qualified' in NZ legislation particularly if offshore.

4.185 Are there other forms of reliance that we should enable? If so, how would those reliance relationships work?

Yes

If so, how would those reliance relationships work?:

should be able to rely on another reporting entities CDD e.g an accountants or lawyers or real estate agent in the case of a real estate transaction - privacy issues are a concern as well as quality of CDD undertaken

4.186 What conditions should be imposed to ensure we do not inadvertently increase money laundering and terrorism financing vulnerabilities by allowing for other forms of reliance?

Please provide your comments in the box below:

secure movement of information between parties - ie no interception with client

4.187 Are the minimum requirements set out still appropriate? Are there other requirements that should be prescribed, or requirements that should be clarified?

Yes

Please provide your comments in the box below:

Yes still appropriate

4.188 Should the Act mandate that compliance officers need to be at the senior management level of the business, in line with the FATF standards?

No

Please provide your comments in the box below:

Not always practical or possible to have a senior manager be the compliance officer. Many smaller reporting entities use an administrator/receptionist as the compliance officer. Mandating that it must be a senior manager may be impossible for the reporting entity to implement if there is only one senior operator.

4.189 Should the Act clarify that compliance officers must be natural persons, to avoid legal persons being appointed as compliance officers?

Yes

Please provide your comments in the box below:

needs to be a natural person - a company cannot operate as a point of contact and drive compliance culture within the business.

4.190 If you are a member of a financial or non-financial group, do you already implement a group-wide programme even though it is not required?

Please provide your comments in the box below:

n/a

4.191 Should we mandate that groups of financial and non-financial businesses implement group-wide programmes to address the risks groups are exposed to?

Yes

Please provide your comments in the box below:

Drives commonality across the organisation/group

4.192 Do we need to clarify expectations regarding reviewing and keeping AML/CFT programmes up to date? If so, how should we clarify what is required?

Yes

If so, how should we clarify what is required?:

Timeframes for internal reviews could be made clearer. Audit timeframes are relatively clear and prescribed.

4.193 Should legislation state that the purpose of independent audits is to test the effectiveness of a business's AML/CFT system?

Yes

Please provide your comments in the box below:

I like the definition used in Canada etc The FATF states that the purpose of the independent audit function is to "test the system" and some countries (e.g., Canada, United States, United Kingdom) explicitly state that the purpose of the audit function is to test whether the system is effective at detecting money laundering or terrorism financing.

4.194 What other improvements or changes could we make to the independent audit or review requirements to ensure the obligation is useful for businesses without imposing unnecessary compliance costs?

Please provide your comments in the box below:

I think more clarity around the level of assurance to expect. using the terminology reasonable and limited is very financial audit speak. I think an audit should provide a clear indication of whether a reporting entity has met their obligations or not and whether it has implemented their policies, procedures and controls as intended or not.

Either compliant or non compliant. Sampling done until clear pattern/picture is established.

4.195 How can we better enable businesses to understand and mitigate the risk of the countries they deal with, and determine whether countries have sufficient or insufficient AML/CFT systems and measures in place? For example, would a code of practice (rather than guidance) setting out the steps that businesses should take when considering country risk be useful?

Please provide your comments in the box below:

COP with options for checking would be helpful

4.196 Should we issue regulations to impose proportionate and appropriate countermeasures to mitigate the risk of countries on FATF's blacklist?

Yes

Please provide your comments in the box below:

Agree - issue regulations under section 155 to prohibit or regulate business relationships and transactions with persons in particular countries. We could use this power to require effective and proportionate countermeasures against countries on the blacklist, such as limiting or prohibiting business relationships with persons in these countries, requiring enhanced CDD, or requiring systematic reporting of transactions with these countries.

4.197 If so, what do you think would be appropriate measures to counter the risks these countries pose?

Please provide your comments in the box below:

Agree - limiting or prohibiting business relationships with persons in these countries, requiring enhanced CDD, or requiring systematic reporting of transactions with these countries. - Dependant on country

4.198 Is the FATF blacklist an appropriate threshold? If not, what threshold would you prefer?

Unsure

If not, what threshold would you prefer?:

FATF is a useful starting point but as mentioned does not cover all countries. Perhaps the COP could include other resources to check

4.199 Should we use section 155 to impose countermeasures against specific individuals and entities where it is necessary to protect New Zealand from specific money laundering threats?

Unsure

Please provide your comments in the box below:

Needs further work

4.200 If so, how can we ensure the power is only used when it is appropriate? What evidence would be required for the Governor-General to decide to impose a countermeasure?

Please provide your comments in the box below:

no comment

4.201 How can we protect the rights of bona fide third parties?

Please provide your comments in the box below:

no comment

4.202 Should there be a process for affected parties to apply to revoke a countermeasure once made? If so, what could that process look like?

Yes

If so, what could that process look like?:

Need to apply to the body who made the decision in the first place.

4.203 How can we improve the quality of reports received by the FIU and avoid low-quality, defensive reporting?

Please provide your comments in the box below:

Allow updates as information comes to hand, added as an addendum to original filing so the original stays intact.

4.204 What barriers might you have to providing high quality reporting to the FIU?

Please provide your comments in the box below:

Insufficient information on client if suspicion was a result of a query or prior to full onboarding CDD processes being undertaken.
Time to file if unable to access or obtain additional evidence

4.205 Should the threshold for reporting be amended to not capture low level offending?

Unsure

Please provide your comments in the box below:

low level offending may lead to larger offending - would this be useful information to have?

4.206 Should we expand the circumstances in which SARs or SAR information can be shared? If so, in what circumstances should this information be able to be shared?

Yes

If so, in what circumstances should this information be able to be shared?:

Where there is a need for additional quality information

4.207 Should there be specific conditions that need to be fulfilled before this information can be shared? If so, what conditions should be imposed (e.g. application to the FIU)?

Unsure

If so, what conditions should be imposed (e.g. application to the FIU)?:

no comment

4.208 Should we issue regulations to state that a MVTs provider that controls both the ordering and beneficiary ends of a wire transfer is required to consider both sides of the transfer to determine whether a SAR is required? Why or why not?

Yes

Why or why not?:

Align with FATF

4.209 If a SAR is required, should it be explicitly stated that it must be submitted in any jurisdiction where it is relevant?

Yes

Please provide your comments in the box below:

Align with FATF

4.210 Should we extend additional AML/CFT obligations to high value dealers? Why or why not? If so, what should their obligations be?

Yes

Why or why not? If so, what should their obligations be?:

Obligation to submit SARs

4.211 Should all high value dealers have increased obligations, or only certain types, e.g., dealers in precious metals and stones, motor vehicle dealers?

Yes

Please provide your comments in the box below:

greater coverage and information for FIU

4.212 Are there any new risks in the high value dealer sector that you are seeing?

Unsure

Please provide your comments in the box below:

no comment

5. Other issues or topics

5.1 Should the AML/CFT Act define the point at which a movement of cash or other instruments becomes an import or export?

Yes

If you answered 'yes', please give reasons for your answer.:

clarify for ease of reporting

5.2 Should the timing of the requirement to complete a BCR be set to the time any Customs trade and/or mail declaration is made, before the item leaves New Zealand, for exports, and the time at which the item arrives in New Zealand, for imports?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.3 Should there be instances where certain groups or categories of vessel are not required to complete a BCR (for example, cruise ships or other vessels with items on board, where those items are not coming off the vessel)?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.4 How can we ensure the penalties for non-declared or falsely declared transportation of cash are effective, proportionate, and dissuasive?

Please share your suggestions below.:

no comment

5.5 Should the Act allow for Customs officers to detain cash even where it is declared appropriately through creating a power, similar to an unexplained wealth order that could be applied where people are attempting to move suspiciously large volumes of cash?

Yes

If you answered 'yes', please give reasons for your answer.:

To detain until checked out satisfactorily

5.6 If you answered 'yes' to the previous question (Question 5.5), how could we constrain this power to ensure it does not constitute an unreasonable search and seizure power?

Please share your suggestions below.:

would need a suspicion formed similar to SAR requirements

5.7 Should BCRs be required for more than just physical currency and bearer-negotiable instruments and also include other forms of value movements such as stored value instruments, casino chips, and precious metals and stones?

Yes

If you answered 'yes', please give reasons for your answer.:

Closes off another form of money laundering

5.8 Does the AML/CFT Act properly balance its purposes with the need to protect people's information and other privacy concerns?

Yes

If you answered 'no', how could we better protect people's privacy?:

5.9 Should we specify in the Act how long agencies can retain information, including financial intelligence held by the FIU?

Yes

Please give reasons for your answer.:

But there could be some way of redacting the personal information and retaining enough information to reconstruct the transaction should the need arise later.

5.10 If you answered 'yes' to the previous question (Question 5.9), what types of information should have retention periods, and what should those periods be?

Please share your suggestions below.:

no comment

5.11 Does the Act appropriately protect the disclosure of legally privileged information?

Yes

If you answered 'no', please give reasons for your answer.:

Are there other circumstances where people should be allowed not to disclose information if it is privileged?:

no comment

5.12 Is the process for testing assertions that a document or piece of information is privileged set out in section 159A appropriate?

Unsure

If you answered 'no', please give reasons for your answer.:

5.13 What challenges or barriers have you identified that prevent you from harnessing technology to improve efficiencies and effectiveness?

Please share your comments below.:

uncertainty and cost

How can we overcome those challenges? Please share your suggestions below.:

no comment

5.14 What additional challenges or barriers may exist which would prevent the adoption of digital identity once the Digital Identity Trust Framework is established and operational?

Please share your comments below.:

Elderly or disabled may have difficulty establishing a digital identity

How can we overcome those challenges?:

avenues for inclusion for people who may not have the normal forms of identity ie valid passport/drivers licence or access to a computer/smart phone or email address.

5.15 Should we achieve greater harmonisation with Australia's regulation?

Yes

If you answered yes, tell us why and any suggestions you have for how we could achieve this.:

Because of the 'closeness' of the two countries it would make sense to align with Australia, however Australia is behind NZ regarding the sectors captured so really it should be Australia aligning with NZ!

5.16 How can we ensure the AML/CFT system is resilient to long- and short-term challenges?

Please share your suggestions below.:

more risk based decision making options for businesses.

6. Minor changes

6.1 What are your views regarding the minor changes we have identified?

Please share your comments below.:

Generally agree with amends proposed

Are there any changes you don't support? Please tell us what they are and why you don't support them.:

no

6.2 Are there any other minor changes that we should make to the Act or regulations?

Unsure

If you answered 'yes', please share your suggestions.: