Response ID ANON-Z596-YZY3-W

Submitted to AML/CFT Act review
Submitted on 2021-12-02 10:09:07

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.)

Please specify:

Asian

Please specify:
South East Asian Chinese

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:

I am responding from the real estate industry.

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:
[redacted]@gmail.com

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?

No

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

It should be changed for higher enforcement authority given to our enforcement agencies for money-launders and reporting entities that are non-compliant to the Act.

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

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?

Yes

Please comment on your answer.:

True examples here
1. Reporting Entities (RE) are NOT interested in SARs and they will have no appetite to stop any business transactions from going through.
2. RE in the real estate sector are not interested in the purpose of this Act. They see this Act as a hindrance to their business.

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.:

1. Mandatory government controlled training and qualifications for Company Directors and Compliance Officers to attend and pass assessments.
2. Higher fines for breach of the law.
3. Compulsory annual training for all staff of RE to attend and assessments required to proof they understand this Act and obligation to the Act,
4. More on-site review of real estate companies and interviews with licensed salespersons on their working of this Act.
5. Annual external audits required - not three years audit.
6. Higher penalties for businesses that do not issue guidances or guidelines to staff.
7. Scrutinise Compliance Officers regularly.

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.:

NZ need to be party to the expectations of FATF. It is essential to include this in the Act.

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 world-wide not just Iran and DPRK.

Yes

Please comment on your answer.:

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.:

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

Please share your comments below.:

Business risk assessments are done to tick the box. My current experience is that the real estate sector has a very high risk appetite. The risk-based approached has been missed and manipulated by the sector to zero risk for any sales, any buyers and any transactions because the focus of this sector is to sell properties as often as possible.

The salespeople are not trained sufficiently to appreciate the purposes and requirements this Act and may just be doing CDD to tick the boxes. If the staff of the company have no idea of what the Risk Assessment is, I doubt any of them would even have a clue what National Risk Assessments are.

1.8 Are the requirements in section 58 still appropriate?

Yes

Please comment on your answer.:

Definitely as it helps identify the risks of vendors we are on-boarding.

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

Absolutely. It is not only essential that government provide risk information regularly but mandate it that the risk information must be shared/given to all staff and with evidence that they have done so. It is absolutely pointless if the information given is not directly issued to all staff captured under this Act.

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

Please share your comments below.:

Prescriptive regulation is required because the current interpretation purely with the risk-based approach will not work for the purpose of the Act.
ie. the business decides there are no risks involved with its customers -then there will be absolutely no appetite for putting in any SARs.

The level of risks tolerated becomes a personal interpretation and again personal risk appetites are applied to their business transactions.

Example-
In the current booming real estate environment, nobody want to hear about any risks, or SARs. They are not in the industry- as they would say "Do the work for any police", " Not qualified to make any risk assessments of their clients", "Here to do business for everyone and anyone and get the

commissions", "Not law enforcement people to know or make a mistake of assigning any risk to any person wrongly."

The safest approach, thus, would be to apply the no/low risk approach in conducting business. Tick the boxes for compliance sake and get on with the sales.

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

More prescription is required and more enforcement is required for these prescriptions.

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.:

1 Obligatory training for all decision makers, such as Compliance Officers/Branch Managers/Directors and those working directly around this Act.

What role should guidance play in providing further clarity?:

Guidance from the Supervisors are essential and these guidances should be given to anyone who subscribe to their Supervisor's newsletter or is registered as working in a reporting entity sector.

If guidances are only given to CO's, or posted on their websites, it is not common or an expectation for them to go look for the information themselves as it is not a mandatory obligation.

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.:

Definitely.

Do businesses really know what their obligations are and do they really care about it?

Currently, businesses have very little judicial guidance from our judicial system and few precedences/court cases to refer to to know the imposed penalties for non-compliance of breach of the Act.

Most businesses believe that because this is still a new Act for Phase 2 entities, it is likely a smack on the hand will be issued if an apology is given for non-compliance as they are in the 'learning' phase.

For the businesses that are aware of the risks they are exposed to, ticking the boxes sufficient to be seen as compliance is the standard practice without making any additional effort to actually do more for the purposes of the Act. This is because it will effect the profits of the company ultimately.

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.:

I believe AML/CFT measures should be equal for large or small businesses. Do not underestimate the use of smaller businesses by money-launders to avoid detection.

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::

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?:

There should be no exemptions given universally to any businesses. The same rule should apply for all sectors/businesses captured under the Act.

For low-risk businesses or activities, an annual audit should be conducted.
Evaluation of the business risks should be conducted annually and submitted with evidence.

Maybe application of exemptions should only be allowed for businesses in operation for over 3 -5 years.

Police checks for business owners/Company Directors and Compliance Officers should be conducted annually.

No

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

Yes

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

What's the risk of any corruption if assigned to a single individual being the decision maker?

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

Unsure

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

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.:

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

Risk of the exemption.

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

Yes

Please give reasons for your answer.:

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

No.

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

No

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

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

Yes

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

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

Yes.

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

Unsure

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

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.:

1.23 Are there any other unintended consequences of the regime?

Unsure

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

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

Yes

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

1. Allow anyone with criminal/tax evasion/tax fraud/sector corrupt practises information to submit SARs directly to NZ FIU. Currently we depend on the Compliance Officer of each reporting entity to do this. It is insufficient and defeats the whole purpose of the Act.

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

Please share your comments below.:

Deal future should allow anyone working the Act who has information to submit to the NZ Police FIU.

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

See my answer above.

Examples here -
There is no interest from businesses in general to want to be involved too much with this Act as it is seen tp cause potential harm to their businesses. The harm is lost of sales, nothing else matters.

The current Act only allows for the CO to make SARS or do investigations.

If the CO does not wish to put in any SARs submitted for lodging, there is nothing anyone in the business can do. It deters, it frustrates and it works against the purpose of the Act.

If the Company's decision makers do not wish to be exposed as working with people who could be flipping properties regularly, or people who buy properties at auctions on a weekly basis, or doing numerous on-sells transactions, or sight unseen buyers, there is currently nothing anyone can do to report any SARs.

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 NZ Police FIU monthly reports are good.

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?:

Has Industry Advisory Groups been used as a way to avoid more work and regulations on them and to protect the industry in general from having to do more for the purposes of the Act?

How effective has the IAG been in enhancing the work prescribed under this Act?

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.:

NZ Police FIU should have authority to request information for the purpose of this Act from any business in operational in NZ.

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.:

When there is an SAR to investigate.

There should be no constraints on using the power and there should be minimal discruptions to the daily operations of the business.

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

Yes

Please explain your answer:

Reporting entities are required to conduct on-going CDD and therefore, it makes perfect sense for FIU to conduct ongoing monitoring of accounts.

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?:

Privacy and human rights should adequately be protected as long as there are no leaks of any investigations given out to the media that could potentially harm an innocence person.

The use of any data from the investigations should be constrained to the purposes of the investigations and not used for other purposes or information shared in error to other public organisations.

Data security should be managed to the highest level.

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.:

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

Please share your comments below.:

To avoid tipping off will be a hard thing.

Example:
There are salespeople in the real estate industry who works for specific money-launders. Money-launders have their own network of salespeople of different races and at different regions/suburbs. There will be tipping off regardless.

I believe it can be hard to avoid any tipping off by those individuals if they are involved. For others, there could be an authorised agreement for non-revelation of any investigation knowledge.

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.:

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.:

A new TFS agency should be formed and they should work closely with all the Supervisors.

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, they are appropriate for the changing economic environment within and out of NZ.
This would be a faster, such be a more proactive way of making changes a necessary.

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

Please share your comments below.:

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.:

My comments on this for my sector is this.
1. Real estate people are not smartest in the world clarity around processes and procedures and requirements are very necessary to help them do their part of the work.
The Code of Practice is used for that very purpose that it becomes habitual and something they can remember to do.

When requirements are not clear and a matter of interpretation by individual businesses, this becomes a huge issue when comparisons are made between different companies.

True Example:
If Real Estate company A uses the Code and Real Estate company B does not, it will use that for its marketing purposes - easier to on-board, faster, and

less requirements than RE company A.
Public will compare, talk about it, and the uninformed will accuse RE Company A for making life difficult for their clients. The salespeople gets confused to the requirements of the Act.

Confusion can cause non-compliance as well when processes eventually are not followed over decisions to win business back. Risks will be taken with non-compliance with excuses given.

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?:

Yes, NZ Police FIU is the enforcement agency that need to be able to issue Codes of Practice so that the work we do actually fits into their investigation framework and data analysis.

1.40 Are Codes of Practice a useful tool for businesses?

Yes

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.:

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?

No

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

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.:

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.:

Yes enable and empower agencies to make amendments and be very responsive at all times. It is required and needed.

Example:
I had to re-design the SAR form for the company I work for based on the the FIU Monthly report March issue. There were none from the company's Compliance department.

In the end, they used my form.

This example is given to highlight how little effort or willingness is there for companies to do any extra work for this Act. It is almost like - 'what is not given to us - is not necessary or could be ignored, or we cannot be held responsible for what is not available to us by the authorities'

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.:

I don't believe it is always necessary to consult as consultation takes time and it is not always the best approach.

However, the agencies should have experts that are able to create forms that could be modified and especially for specific sectoral needs.

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.:

I like rules. Rules create clarity and clear obligations and penalties for non-compliance.

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.:

Rules should be part of all reporting entities Compliance Programme and could be further developed into training programmes for each sector. This allow for targeted training, and should also ease the burden of 'risk based' assessments made by those who are more interested in making business decisions than for the Act.

Rules will allow for a clear, equal playing field for all entities.

It will also remove incompetent Compliance Officer's interpretations of the Act that would affect the inadequate policies made for the company. It should also remove 'rules bending' by the Compliance Officer as and when there is a request for business sake.

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.:

Definitely. Accesibility controls of users to these information has to be strictly controlled and monitored at all times as well.

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

Yes

Please share your comments below.:

The only privacy concerns that needs to be mitigated are the use of the data by informers within the government agencies that could be working for our criminals.

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.:

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.:

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.:

Businesses in general are not willing to file SARs currently so that will not be an impact, in my opinion.

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.:

I agree to the licensing.

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.:

Have a government registration platform/database for all licensing required by reporting entities are managed together so that all licenses held by reporting entities are transparent.

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?

Yes

Please give reasons for your answer.:

Through audits, on-site reviews, and allow for reports of known harmful business practices to be reported to the authorities.

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

Yes

Please give reasons for your answer.:

For some cultures, licensing equates to being monitored. This could prevent the set up of potential money laundering business to operate here in NZ. Licensing may have an additional cost but that cost is required. However, I believe there will still be businesses who will work for money-launders that could be licensed because the cost is not significant for them at all, if the business is effective in the work that they do for the criminals.

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.:

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?

No

Please give reasons for your answer.:

It should be universally be required by all sectors identified.

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.:

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. Licensing requirements should not have that negative flow-on effects. The risk assessments of other businesses has to be re-evaluated then to reflect on any further identified risks or lesser risks under such a regime.

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.:

Everything comes with a cost and such a levy is acceptable.

Yes

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.:

All reporting entities

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.:

Risk profile of business should be the key factor. Size should not be a factor.

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?

No

Please give reasons for your answer.:

The levy cost might be too big for small to medium size businesses unless there is payment structure based around size of business P/L.

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.:

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.:

Removal of the word 'ordinary' will certainly provide clarity. It should be removed. There are high potential for corruption risks money-laundering risks, when a corrupt business is given some form of deals that are slightly out of the ordinary and those businesses would currently have no obligations for those businesses.

An example would be the various forms real estate transactions that are out there and how versatile these transactions can be made for the sale.

If businesses which only provide one-off activities, it should be clearly stated in the CP and RA. I don't believe exemption from requirement to establish compliance programme should be used.

Yes

Please give reasons for your answer.:

Very much so. Open intepretation by businesses or rather their COs could be inadequate or willfully made in error.

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

Please share your comments below.:

2.3 Should 'ordinary' be removed?

Yes

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.:

Should the frequency of activities or services be part of the decision making on this matter? Infrequent activities if not captured could still be a way used by corrupt to do their business for those who need their services undetected.

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.:

I believe if a business is captured under the Act as a reporting entity it should not matter what types of activities they have, and their obligations should be similar.

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.:

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.:

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.:

Have a rule in the Act to avoid duplication.

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.:

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

Yes

Please give reasons for your answer.:

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?

Yes

Please give reasons for your answer.:

How could it be improved?:

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

No

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

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?

Unsure

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

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::

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.:

Definitely.

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

Those who have a system of avoiding the obligations of the Act will not be pleased with the rule change. When there is a way out of any obligations such as applying the cash transactions not exceeding $10,000 - they would have done their best to ensure they have systems in place to do that for their client's benefits.

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

Please share your comments below.:

All activities will be captured and it would be harder for the businesses not be be obliged to the Act.

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.:

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.:

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.:

For sure.

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.:

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.:

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

Yes

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.:

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.:

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

2.25 Should criminal defence lawyers have AML/CFT obligations?

Yes

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

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

Not Answered

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

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?

Not Answered

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

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

Yes

Please give reasons for your answer.:

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.:

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.:

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?:

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?

Yes

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.:

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.:

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

No

Please give reasons for your answer.:

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.:

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?

Yes

Please give reasons for your answer.:

Are churches tax-exempted? Do we know that churches are not used as a platform for money-launderers?

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

Please share your comments below.:

Full obligations

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?

Yes

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

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.:

I saw an indoor plant sold for over $20,000 on Trade Me. There are more such crazy auctions where plants are sold for really high prices that are unexplainable.
Under the lockdown, real estate has been selling by auction. There are many Sight Unseen Buyers buying property. The guidelines for sight Unseen Buyers from Supervisors are very unclear. IF ECDD is required, there are ways businesses exempt this CDD. Is it safe for money launderers to buy properties at auction? Definitely.

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

No

Please give reasons for your answer.:

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

Please share your comments below.:

1, Safest way to be Sight Unseen Buyers at property auctions by Money-launderers, to clean up money. They just need to do their own due diligence to find a real estate agency that is not interested in doing CDD or SARs and they will work with those agencies/salespersons.

2. Manipulated pricing on items sold for example on Trade-Me. People have reported seeing plants sold over over $10,000 or more.

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.:

Full obligations for all trading sellers and buyers to be registered using REALME verified as a compulsory login option.

I think the cost and impact is higher if not changed.

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

No

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

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

Please share your comments below.:

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

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.:

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.:

2.48 Should we issue any new regulatory exemptions?

Yes

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

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

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?

No

Please give reasons for your answer.:

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.:

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?

No

Please give reasons for your answer.:

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.:

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?

No

Please give reasons for your answer.:

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.:

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

Yes

Please give reasons for your answer.:

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.:

3. Supervision, regulation, and enforcement

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

Unsure

3.1 Please indicate why? :

Currently, we seek guidance from our immediate Supervisor and also check from the other Supervisors to ensure the rules or guidances are similar, especially when dealing with disputes of requirements between different reporting entities captured under the Act with different Supervisors.

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

Single supervisor responsible for all entities

3.2 Please provide context for your choice:

1. Hopefully would improve clarity and a single guideline that all sectors are able to use.
2. This would eliminate 'the left hand does not know what the right hand is doing' analogy.
3. To avoid disputes on obligations for the work between the different sectors.

Example-The Law Society is mentioned as an example of a regulatory body.
We struggle with proper document verifications from solicitors and they get offended when we request for the documents to be verified appropriately.

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?

No

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

1. Regular communication from a single governing body of the Act.
2. Sector's rule/obligations/guidelines could be fully documents as part of a 'National Compliance Programme' for each sector.

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?

No

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:

All reporting entities should have similar rules to on-site inspection regardless of the type of building they operate on. Anyone with a criminal activity would know this rule by now and operate effectively at a dwelling house.

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

- Ensure the investigation is absolutely necessary
- Ensure there are appropriate documentations for the purpose of the on-site inspections

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

Please share your thoughts:

Disadvantages would be the supervisors would not have the complete picture of how the business operates and would have no access to staff face-to-face.

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

No

Please explain your answer:

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

I don't believe it will work even if the inspection is to educate the REs on their obligations of the Act as effectively as being on-site and seeing/hearing/testing/asking/ all level of staff to get the big picture of the RE's business operations actual risks.

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 expalin your answer:

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

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?:

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?:

- Auditors should have professional sector knowledge and the business policies and services that they provide.
- Auditors must be trained/certified and should not be the just a financial auditor.
- Auditors should have obligations to report poor RE compliance to Supervisors
- Auditors should always be on-site for the audit and meet with different levels of staff to ask questions.
- There should be liability for auditors who do not do a proper thorough audit and would not report non-compliance levels to Supervisors for fear of

losing their customers.

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

Speaking from experience with auditors over the last few years, they send out a list of how the audit would be conducted. None of them are conducted as per the list.
No questions were asked, no training documents checked and no checking for example if the CDD was verified after the property was sold. (Post sale verification)

The Auditors were very unsure of what they were doing, and did not ask any industry questions.

The audits in my own opinion were poorly conducted and by people of those companies that used a financial auditor instead of an AML/CFT auditor.

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:

Training for auditors managed by aML/CFT Supervisors would be necessary for equal standards and obligations required under the Act.

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:

What impact is the cost to the country for non-compliance and for failing to capture the business risks from the audit?

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

To have their Compliance Programme/Operations/Policies/Training/Guidances/Communications improved at all levels.
Any additional initial costs for quality audits that helps a business improve its Compliance and also the NZ Police FIU would reduce over time.

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:

Initially, until we have more qualified auditors, it would be fair to have that allowance for businesses.

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

Protection from unqualified auditors.
Liability for auditors would be fines for not reporting SARs found or non Compliance.

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:

Obligations for consultants must include the ability to report to Supervisors serious non-compliance business practices, or SARs or a channel to address suspicious activities directly to NZ Police FIU.

Such reporting is currently the responsibility of the Compliance Officer of the business to do. How often or willing would Compliance Officer put in SARs or poor AML practices within their own company?

Consultants have obligations to their client to improve their level of compliance. However, the decisions are still made by the Compliance Officer and the Directors of the business. If they choose not to execute any improvements in their programmes, consultants do not have any obligations to report or do much more.

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

1. Obligation to report to any report suspicious activities
2. Must be certified and trained AML/CFT Specialists
3. Must attend NZ's AML/CFT conferences
4. Must be on a government register
5. To work closely with Supervisor of the RE

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?

Unsure

Please explain your answer:

If yes, what should the standards look like?:

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:

The consultants must have direct assess to the enforcement agency of consultants, similar to a Compliance Officer. It is critical there is this reporting option for consultants.

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?:

I am an AML/CFT full time contracted consultant to do the work for some branches from the real estate sector.

The responsibility that I have is similar to the branch manager as a compliance officer. I report to him and all major decisions such as to put in a SAR is his decision. He also makes decisions on some temporary exceptions. I conduct in-house regular training for the sales teams. I check and verify the CDDs that are completed by the salespersons, handle the assurances, record keeping and completion of sales records.

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?

Yes

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

The company I consult for, use a third party agent to complete CDD for ECDD for Trusts and very complex structure. We avoid using the agent because they are not effective. They take a long time to complete the work and also have shown not to work according to the company policies.

I need to check their due diligence carefully and found errors from their work.

In terms of choice, we have no choice that they are our agent. They have not been trusted to identify SARs or even PEPs. I do not believe their staff are training sufficiently.

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?

Yes

Please explain your answer:

Yes. There should be clear responsibility set out for reporting entities, such as, SAR reporting.

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

Agents must have the industry knowledge of the sector the they are doing the work for.

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:

There is a huge lacking in judicial guidance on offences and penalties. This has resulted in the attitude of some reporting entities not taking the Act and their work seriously. The attitude towards this Act is poor and many do not believe there can be effective penalties put on them ever for non-compliance.

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:

The current fines and penalties are stated for Compliance Officers and businesses.

An example from the real estate industry is that, the sales people do not believe they will be penalised in anyway for non-compliance. It has become an issue of poor attitude towards the work required to be totally compliant. They have high risk appetites.
Again this is because of the lack of judicial guidances.

Compliance Officer are protected with some industry insurance against penalties and so Compliance Officers can also be the cause of non-compliance in the company especially when they do not respect the Act and they are there to find ways to work around the Act in the most minimalistic ways for the company.

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

Yes

Please provide further detail:

I believe penalties could be added for the people conducting CDD directly on their clients ie. real estate licensed salespersons and their staff.

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:

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:

This is a definite yes that Company Directors and senior managers are included and held responsible.

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

Please share your thoughts:

- Compulsory training
- Fines that seriously matters for the company
- Jail time for serious offences of working with money-launderers directly or indirectly.

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

Please share your thoughts:

I believe Compliance Officers should also be subject to sanctions and only if it is found beyond reasonable doubt they acted in good faith, they should be fined and penalised.

Not all Compliance Officers act in good faith. Most CO work towards mitigating risks of getting caught for non compliance, otherwise, it is just business first.

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:

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 investigations require more time than the 3 years on which the offence was committed, then we need to extend that. Must there be a time limit and if so, why?
Would time limit benefit our enforcement agencies in their investigations in the long run as criminal acts through money-laundering becomes more

complex than ever.

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

My response is why do we need a time limit?

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?:

These would be the challenges of the real estate sales people and my challenge as their trainer.

1. The general uninformed public/clients who get offended.
2. Large, well known local businesses' Directors who believe CDD is an insult and many would not supply Source of Funds information in documentary form.
3. Solicitors/Accountants who are unable to provide Trust documents or information for Source of funds
4. The key issues all often around Source of Funds documentary evidence and where that information is coming from. Ie. if the source is independent.
5. Reading guidances or reports from Supervisors. Many seems to have trouble reading and prefer audio files.
6. Training-most of them do not have time to do training unless made mandatory to them.
7. AML is still seen as 'sort' of a joke and the attitude towards this Act is extremely poor.
8. Salespersons do not believe they re qualified to report SARs, identify red flags or be suspicious because it is not 'their job' to do as salespersons. They just wish to get on with listing and selling properties.
9. Most do not read Trust Documents or understand what's on there.
10. Remembering the processes and procedures is a major challenge for most of them.
11. Hearing competitor agencies being able to list or sell properties before CDD is completed and that they were somehow able to 'work' around the law or use exemptions to do the work faster.

As the person acting for the branch manager as a compliance officer, my challenges are
- getting the manager to accept the red flags and to do SARs.
- getting approval to file SARs from the Company's Compliance Officer or when SARs are filed to the CO, they are not reported to NZ Police FIU for his own reasons.
- Risk appetites of the real estate world is very high because they are in there for the business not AML
- Sustaining compliance and reducing the temporary exceptions given out by the manager for unacceptable reasons.
- Conflicting policies or rule bending by Compliance Officer for the benefit of salespersons/business.
- I have been told not to share too much information on AML with the team as he does not wish to install fear which distracts them from their business.
- Not many salespeople have the will to want to report SARs for fear of losing the business with those individuals.

How could these challenges be resolved?:

How can this Act change the work attitude and risk appetite of this industry?
I believe mandatory training sessions with NZ Police FIU is necessary to help them put into context the reasons for all the extra work they are doing.

Regular visits/interviews by Supervisors to test working knowledge and compliance and to also hear feedback from them.

Provide an online reporting platform or support for those like myself working to keep the team compliant and to be able to get direct guidance on SARs or suspicious individuals especially.

Such a platform to be able to lodge information collected and reasons for the reporting would take tremendous pressure away for not doing so because we do not have consent from our company to make those reports. I believe the data gathered from such a platform will increase the AI for the police doing the investigations.

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?:

An example we had -
Businesses with complex structures and international ownerships and other international businesses as shareholders. It was difficult to identify the beneficial owners of the company.

The NZ company had their solicitors send through some limited information/documents just the NZ Company and when the CDD was Outsourced, the NZ Company Director was furious that the documents sent by their solicitors were considered insufficient. In the end the outsource company gave up for fear again of losing future business, despite the fact I believe ECDD should be conducted but the salesperson put alot of pressure on the manager to stop me from asking for ECDD and the decision was made by the manager to stop the enquiries and instructed to do the verification.

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:

YES! The clearer it is defined, the better and easier it is to comply. There should be no room for personal interpretation to understand how to comply.

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

What do you think?:

SIGHT UNSEEN BUYERS - to what extend is someone considered a SUB?
Currently, it is open to interpretation, to avoid doing ECDD or to even get their details.

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 of clarity and expectations from all parties involved in any real estate transactions.

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 :

Definitely. FATF is correct. The SARs I have submitted are mostly purchasers.
That is why the company refuse to submit my SARs because they fear the sale would not go through.

I have kept my own records of purchasers who flip properties regularly, and purchasers that I am suspicious off but do not have sufficient information to complete my investigations to do SARs. These are all high money value purchasers that seem to have endless funds.

But I also am aware, these purchasers would either work with just a few salespersons all the time to conduct their sales or purchase or they will move around different companies to avoid detection.

Purchasers at auctions are not even recorded in any register. No contact details or identification is required for anyone in the auction room to bid. I think with the lockdown, registration is only just been implemented for bidders.

Sight Unseen buyers - we are not doing any ECDD on any of them currently as management's decision not to.

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?:

The main challenge is the frustration of the salespersons to have to do more CDD work. However, there is minimal cost as there is only one buyer per property.

How might the challenges be addressed?:

Clarity on the requirements and leave nothing to open interpretation of the decision makers. It is often the business owners/managers/directors/CO that would prefer to make decisions that suit their business first and AML requirements secondary or not even informed to their sales people to do.

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

I don't know what the financial cost would be. I believe this will benefit the country tremendously.

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

Other

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

CDD for vendors should remain as per current law.

CDD for purchasers when there is a signed offer or unconditional sales and purchase agreement. (S&P)

The current S&P still allows for nominee purchasers and that is still an issue as we do not know who the property will be assigned to eventually with this allowance.

I believe such S&Ps should have a disclosure if the property will be re-assigned to someone else and a report lodged to a government register again to build up the AI/database for investigations.

Solicitors/Conveyancers should be responsible for reporting all change of property ownership if they handle such changes and they should conduct CDD on the new owners.

The listing company must be responsible for CDD for both purchasers and vendors.
The reason being, full transactional records will be kept with the property transaction records. All the information of the property transaction is thus complete.

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

No

Please provide further detail below:

Here's an example-

My experience from real estate is some properties can take years to sell. We have general listings from before 2019. We have top salesperson managing those listings who simply refuse to conduct CDD on those pre-2019 vendors despite being told to do so.
There is no help from management as well as it would be upsetting the top sales person who might threaten to leave affecting the business income.

The manager would choose to protect their top earners rather than to enforce the requirement to conduct CDD for compliance.

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?

Unsure

Please provide your comments in the box below:

If the money launder is very well aware of the law and knows the level of CDD required for his engagement is Standard CDD and we apply ECDD because of our suspicions, how do we not trigger the 'tipping off' effect for them?
They will know something is amiss and that they are under some form of additional scrutiny.

It is also similar when there is any suspicions during CDD of a vendor and the company decided it is too risky to be engaged, we tell them we have decided not to list their property or work for them. How does that really work in real life? I believe that would certainly alert them.

The sales people do not have the correct skills to ask the correct questions, to avoid tipping off, to remain calm and conduct CDD as normal for any suspicious scenarios. Many struggled in the first year to even do the standard CDD.

I don't believe there will be buy-ins into this requirement due to lack of confidence, knowledge, or willingness to do more for AML purposes. As it is, they see they are forced to do something they are not trained to do nor am interested to do.

I believe the attitude towards this Act is still bad for reporting entities. How can that be changed?

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?:

With standard due diligence, there is sufficient information gathered that could be lodged immediately to a different/or similar platform to FIU.

Currently, enhanced CDD requires the additional information of Source of Funds/Wealth. This is very hard to obtain from anyone in a proper documentary form.

Standard due diligence with a mandatory SAR report could be considered.

However, how would you govern the decisions of the COs who has the ultimate responsibility to decide to do an SAR or not?

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

Source of funds for this scenario.

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:

See my answers above.

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

Please provide your comments in the box below:

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?

Not Answered

Please share your thoughts:

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

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

Not Answered

Please provide your comments in the box below:

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:

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:

Real estate determines who they conduct CDD on through the Certificate of Title of the property. Currently, we depend on the honesty of the vendors and those on the title to inform us if there is a trust involved with the property. If the clients do not disclose this information, we will never know.

We need to have all properties owned by Trusts to have the name of the Trust on the title and not just the Trustee Limited companies. Some trusts are not managed by any trustee limited companies.

This currently is an issue that needs to change.

4.19 Are the obligations to obtain and verify information clear?

Yes

Please provide your comments in the box below:

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

Yes

Please provide your comments in the box below:

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:

How does the Act manage businesses who do not believe they have any customer risks?

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 :

There are cases where obtaining information on ownership is rather difficult.
Examples are companies with Trusts as shareholders.
I have seen company setups with 24.9% shareholdings x 4 thus requiring no CDD on these entities.

Companies with nominee shareholders or controllers/funders not disclosed or seen from a Company Extract, would not disclose the fact to any questioning by a real estate salesperson.

I believe there has to be a different approach to obtaining this information.

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?

No

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

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:

The biggest impact would be the time cost for on-boarding work, training cost, and possibly lost of sales people if they find the compliance work way too time consuming and challenging.

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:

Clarity is important. It closes the door for misinterpretation at all levels, willingly or unwillingly.

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

Annual Financial report/statements from businesses to be provided by the accountants or tax agents.

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:

- Public listed companies, government agencies

Example:
I have seen businesses with one Director, with/without multiple trusts, listing properties (new builds or existing properties). The Director is commonly a single woman, Chinese in ethnicity from a range of ages. There are no other shareholders disclosed in the company.

For some who are married, the properties would still be registered under one name, the woman's name.

I often wonder if it is a cultural thing or something else I am missing.

The other scenario I have come across are vendors with a business but when looking up information on their business, I would find multiple businesses they had owned for about 1 year each one and the businesses are closed/removed/or has multiple name changes.
This is more common with Indian enthnicity and commonly a male.

Other scenarios are single Chinese lady buying multimillion dollar properties on their own.
Some of them are so young.

I wonder if these could be scenarios Source of Wealth information be mandated.

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:

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:

Money launders would look for the least regulated industry/sectors to do the cleaning up for them as they would find the easiest real estate branches/sales people to do the work for them.

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:

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

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?:

Definition of prescribed threshold and what's the threshold?

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

Please provide your thoughts:

The clarity around beneficial ownership has to be simplified, easy to understand and less wordy.

Guidances from supervisors could be in the form of:
Charts, checklists, standardised forms from the government to use would all help simplify this task.

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:

Should the identifying of all beneficial owners, whether they are ultimate or penultimate in any form be mandated for all companies, partnerships, and trusts?

Can trust forming agencies be mandated to obtain these ownership information from the time of a trust forming?

Then, could we have a national register for all forms of trusts registered in NZ?

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

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:

I have made questioning business owners if there are any other beneficial owners/nominee share holders in their companies compulsory for my team. At this stage, they are to record the answer given by their vendors based on honesty system. We do not have sufficient resources to proof if their disclosure are true or not.

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

Unsure

Please provide your thoughts:

I don't believe the cost should be impacted on businesses but something that could be provided by the government as a form of a reliable register that could be used as our resource.

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

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:

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?

Yes

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 theses 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?

FATF Standards

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

The entire process

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:

There are contentions for Code of Practice that it is not law. It is not compulsory.
So it becomes a choice of decision makers on how they would proceed with their work.
It is very hard to explain or train code of practice if they do not respect it as if it is a regulation.

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?

Unsure

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:

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

No

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?

Yes

Please provide your thoughts:

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?:

International customers are difficult to CDD. There is insufficient resources to find business ownerships for overseas clients.

Discrepancies around types of documents required. Ie. Residency visa for overseas passport and all those gaps you have stated.

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

No

Please provide your comments in the box below:

It is appropriate to some extend.

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?:

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:

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? :

Who pays for the electronic verification is still a matter that is being dealt with.
Sales people in general refuse to pay for any external services, the company does not want to pay for the services either. Most believe the government should pay for the services.

How could those challenges be addressed?:

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?:

Some common challenges for different groups of people:-
The documents are older than 12 months old
Common for women folks of certain ethnicity not to have any invoices of any kind in their names so there are no documents to proof their address.
Old folks who moved into some retirement homes or those elderly who are sick in some hospital/hospice care.
We do not obtain proof of address documents just from banks but any documents the vendors has that has their names/address/date of issue/issuer.
Most proof of address documents are electronic PDFs of invoices and most do not have paper statements anymore.

4.53 What have been the impacts of those challenges?:

The work is hard for salespersons and time consuming and can be annoying for their vendors to have to find other documents suitable.

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

When should address information be verified?:

For real estate sales - at the time of listing and the document we could use could be the listing agreement where full vendor's details are recorded. The listing agreement is a legal document.

How should verification occur?:

Through using REALME would be the best option. Every NZ citizen should have a REALME account setup and verified.

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? :

It is better to maintain the current requirements than to change for any short term fixes. It causes confusion. Removing the requirement for address verification removed another layer to ease the CDD for criminals.

As it is, we have seen foreign passport holders who live in another country, providing NZ address as their residential address despite the fact that they do not live in NZ most of the time.

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

Please try look for long term solutions.

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?:

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 regulations

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

Regulations should be clear on the obligations for compliance and for the purposes identified.

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

Unsure

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

Mandatory when triggered by a high risk identified guided by the NZ Police FIU's requirements for their potential investigations.

How shouild we make the measures mandatory?:

See response above.

When should the measures be mandatory?:

See response above.

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 :

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:

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:

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:

Absolute clarity and defined what are high risk trusts.
A trust register and the category of trust the trust sits in should be the best guidance.

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:

There need to be a NZ national trust register that categorise all trusts so that it is easier for us to obtain the correct documentations and also identify what trusts are high risks.

Businesses with multiple trusts as shareholders.

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

The type of trusts that are high risks are
- Property investment Trusts
- Partnership trusts
- Single named person trusts
- Foreign trusts
- Business Trusts

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:

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

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:

We conduct on-going CDD for when any previous vendors after 12 months to update their proof of address documents if they have other properties they wish to engage us for sale again.
If they have a trust, trust deed are checked for any amendments.
All the information we hold on record is checked for expiry of documents and if they precious CDD is adequate to be used for the new engagement.

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:

To avoid any discrepancies in guidelines or policies from reporting entities.

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?:

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?

Unsure

Why? Please provide further detail below:

Different sectors might require more ongoing CDD. For real estate, ongoing CDD is triggered by a previous customer wanting to sell another property with us.

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

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:

We conduct on-going CDD for when any previous vendors after 12 months to update their proof of address documents if they have other properties they wish to engage us for sale again.
If they have a trust, trust deed are checked for any amendments.
All the information we hold on record is checked for expiry of documents and if they precious CDD is adequate to be used for the new engagement.

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?

Yes

Please provide further information below:

The real estate sector does not have any information recorded for buyers and does not carry out due diligence on buyers. There is no information on buyer's source of wealth.

What reviews would you consider to be appropriate?:

Buyers of properties especially those that buy at auctions/tender regularly.

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?:

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?

Yes

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

I check the name from a search online to see what information might be available in public spaces on the person or the business.

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?

Yes

Please provide further information below:

Foreign passport holders
Occupation
Regular vendors who flip properties (weekly/monthly basis)

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

Regular purchasers of properties
Purchasers of properties over a certain amount guided by the ever changing property market.

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?

Introducing a timeframe or 'sinking lid' for existing (pre-Act) customers

Why? Please provide further details below:

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

No. This has been an on-going issue with some salespeople being reluctant to CDD their existing customers. Yet, when a sale goes through, we still do not have records of the customers now.

The reluctance is the interpretation with 'material change' and that they were pre-existing and not captured under the Act.

What would be the cost implications of the options?:

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:

Tipping off effect is easy in the real estate sector under the current legislation.
When ECDD is suddenly required, there is no way that would not tip off a person who is aware the level of CDD for them should only be a standard CDD.

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:

However, a simplified SAR must be filed without ECDD conducted for real estate cases.
This tipping off discretion will see this sector use the 'tipping off' as the key reason/excuse for not to conduct CDD or SARs.

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)?

Other

If other, please provide details in the box below:

The same Act must and should apply as much as possible for all sectors especially around CDD processes and procedures.

Why? Please provide further detail below:

There will be confusion and dissatisfied sectors.

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?:

It is hard to explain why ECDD is required. It is almost impossible for salespeople to want to offend their customers/vendors/buyers in this manner.
It will cost them their business so the attitude around this would be the 'less we know, the less work we need to do'. See no evil, hear no evil and no do harm to customers first.

If yes, how could we address those challenges?:

Perhaps the responsibility would be to submit all the information we have on those people in an SAR and NZ Police FIU could do their investigations.

However, if this responsibility is left to only the Compliance Officer to do, there might not be any SARs submitted as well.

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:

We have an online CDD register provider and backups for all our transaction records.

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?

Yes

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

Sales transaction records
Auction Bidders registrations
Tender bidders registrations
All real estate buyers records which should include a form of Photo ID.

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?

Yes

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

Exemption should be removed.

Why? Please provide any additional information:

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:

Limited resources to check foreign databases within NZ. If the company does not have a subscription to some of these checkers, there is minimal checks conducted for PEPs.

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

We need free access to more foreign databases available to us.

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?

Yes

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

The provider we use has a PEP check ability from different databases. However, most times false positive results is triggered from the checks. There is no other means to check further if required.

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?:

We treat everyone the same and conduct a PEP check on every single customer as it is a free feature from the AML service provider.

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?

Yes

Please provide any additional information below:

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:

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?:

If there is a government register accessible to us, there should be no additional cost to the business.

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

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

No experience.

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:

Risk based is better than time limit. Ex politicians still have the ability to influence, or maybe even extend their influence due to their reputation from before especially if they are high ranking.

The profile of all ex-politicians of NZ should be updated on a register than informs us what they are doing currently -ie- businesses involved in etc.

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

No

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

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?:

I depend on the PEP check feature from the AML Provider we use. It often triggers false positives. A general google search is conducted for all false positives to confirm.

It is hard to know if the databases used are reliable or as current as it should be.

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?:

Define what is considered to the 'take reasonable steps'.
What is considered reasonable?
What are the step- define them as clearly as possible.

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?

No

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

Taking reasonable steps is an option open to interpretation and abuse if companies have a high risk appetite.

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:

'As soon as practicable' is another choice.

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 take risk-based measures to determine whether a customer is a domestic PEP

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:

Definitions would be required for what these reasonable steps are.

It is hard to identify PEPs relying just from disclosures from clients. Family members of PEP might not even disclosure because they are unaware of the requirement of this Act.

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?:

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:

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?:

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?:

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:

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?:

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

Yes

Please provide your comments in the box below:

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

As long as there are resources for us to refer to for these from the government or reliable sources, the work can be done to mitigate the risks.

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:

Yes, the FATF standards should be used.

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:

Yes.

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

Please provide your comments in the box below:

Clarity around the FATF standards and guidances for businesses to conduct their own risk assessments.

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

This information must be available and accessible to everyone and provided by the government.

If notifications only goes to the business or its Compliance Officer, others doing the Compliance work may not receive any notifications or information. Please allow for those working under this regime to subscribe to information from NZ Police FIU as well.

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:

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:

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:

No.

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:

Code of Practice to begin with until businesses have access to reliable resources from the government.

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:

Provide businesses with the online real time resources for doing the screening.

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:

Design a new reporting platform that reporting entities are able to select what they are reporting. Selectable categories for type of reporting would make it easier.

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:

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:

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

Please provide your comments in the box below:

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?

Not Answered

Please provide your comments in the box below:

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?

Not Answered

Please provide your comments in the box below:

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:

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

Not Answered

Please provide your comments in the box below:

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)?

Not Answered

Please provide your comments in the box below:

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?

Not Answered

Why or why not?:

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?

Not Answered

Why or why not?:

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?

Not Answered

Why or why not?:

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:

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:

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?

Not Answered

Why or why not?:

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:

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:

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?

Not Answered

Why or why not?:

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:

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:

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

Not Answered

Why or why not?:

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

Not Answered

If yes, what are your views?:

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?

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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?:

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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

Not Answered

Please provide your comments in the box below:

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:

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

Not Answered

If so, how?:

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

Not Answered

If yes, what are your views?:

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:

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?

Not Answered

Why or why not?:

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:

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:

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?

Not Answered

Why or why not?:

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

Not Answered

If yes, what are your views?:

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:

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

Not Answered

Why or why not?:

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?

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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

Please provide your comments in the box below:

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?

Not Answered

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

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?

Not Answered

If yes, what are your views?:

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

Please provide your comments in the box below:

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?

Not Answered

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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:

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

Not Answered

Please provide your comments in the box below:

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:

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?

Not Answered

Please provide your comments in the box below:

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

Not Answered

Please provide your comments in the box below:

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?

Not Answered

If yes, what are your views?:

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

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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?

Not Answered

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

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

Not Answered

Please provide your comments in the box below:

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

Please provide your comments in the box below:

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

Please provide your comments in the box below:

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

Yes

If so, what provisions do you use?:

Solicitors/Legal firms
Accountants
Outsource Agent

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

Yes

Please provide your comments in the box below:

From accountants and solicitors:-
The certification/verification of documents are not always correct.
Reluctance to disclose information like source of funds of their clients.

From Agent
- Slow to complete the CDD
- Not conducting CDD according to the company policy
- Sometimes poor understanding of the Act by agent's staff

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

Not Answered

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:

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:

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

Unsure

Why or why not?:

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

Unsure

Please provide your comments in the box below:

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?:

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:

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

Yes

Why?:

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

Unsure

Please provide your comments in the box below:

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:

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

No

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

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

Unsure

Please provide your comments in the box below:

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?:

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:

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:

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?

Yes

Please provide your comments in the box below:

Definitely, however I wonder how many COs will be able to influence higher-level decisions within the business or if the Directors will welcome this.

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:

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:

Yes, the company has group wide policies.

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:

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?:

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:

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:

To have audit work for the businesses, the auditors has to be qualified for AML/CFT audits, have integrity and is honest about their findings. Do not sugar coat findings of non compliance or partial compliance for the seek of retaining potential businesses.

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:

Businesses need to have resources to refer to, to make checks. These resources should come from the government and are up to date. If there is a site where we can get all the resources we need for our work, it will help make compliance easier and less costly.

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:

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:

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

Yes

If not, what threshold would you prefer?:

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:

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:

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

Please provide your comments in the box below:

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?:

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:

Run mandatory workshops/seminars on SARs/red flags for the difference sectors.

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

Please provide your comments in the box below:

Sometimes, it is insufficient resources, databases and sometimes it is the time factor.

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

No

Please provide your comments in the box below:

Unless a red flag is seriously looked into and a standard investigation is done as best as we can with the resources we have, there would be no way for us to even know if it is a low level offending.

The real estate red flags from NZ Police FIU might need to be updated.
For example -selling a property in a short space of time is a red flag but most real estate companies do not see that as a crime for investors who buy and on-sell within days from an unconditional offer by just paying a 5 - 10% deposit. There are special clauses to allow for on-selling and the price asked for the on-sell could easily be for a profit of anything from $10,000 - $500,000.

Properties are being sold was above expected prices in this current market.
Small pieces of land have been sold for over $3million when the CMA is around $1mil.
Buyers are willing to pay really high prices for properties. It is hard to know what is a red flag any more for real estate.

And most agencies will not put in any SARs for such sales.

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?:

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)?:

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?

Not Answered

Why or why not?:

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

Not Answered

Please provide your comments in the box below:

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?:

Same obligations.

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:

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

Not Answered

Please provide your comments in the box below:

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.:

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?

Not Answered

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)?

Not Answered

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.:

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?

Unsure

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

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.:

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?

Unsure

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

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?

No

Please give reasons for your answer.:

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.:

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?:

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.:

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

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.:

How can we overcome those challenges?:

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

Unsure

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

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

Please share your suggestions below.:

6. Minor changes

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

Please share your comments below.:

All good and definitely adds a level of clarity on the obligations.

Any changes made to the Act has to be enforceable and genuinely regulated and supervised.

If there are loopholes in the Act, there will be those with high risk appetite to not comply to the law or work around the law as if they 'are still learning', 'ignorant' or 'not told'.
These are all excuses for them to carry business as usual with minimal observant to the law.

An example- how do Supervisors check if AML/CFT communications are issued by company around their risks/compliance programme, updates from Supervisors?
From my personal experience in the entire year this year, there had only been a small mention about AML for a company with over 2000 sales persons. No guidance around lockdown processes and procedures from the CO.

I believe there are many instances reporting entities can get away with non compliance currently quite easily and the last 3 years seems to have proven that for them, therefore the risk appetite is high.

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

If any changes are made that would directly affect the general public, it would be good for the government to inform how these changes affects them for all sectors from a dedicated site or link on MoJ's website.

This would help us point the general public we work with to the new changes so that they can check things out themselves to avoid disputes, reluctance to comply and failure to do business amicably.

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

Yes

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

Allow a platform for non COs to have the ability to lodge suspicious activities to the NZ police FIU. There are times the fear of having information and not being able to report via CO who chooses not to report have caused some to leave their companies.

These reports could help with database build up and increase the AI in investigations over time.

Those who would make these reports should also be allowed to do it anonymously.
Sometimes it is about being able to carry on working for the company to earn a living and still wanting to do the right thing and not fear of being investigated by the authorities.

If SARs are so important for the police, then there must be more ways for those who has information to do the reports.

If SARs are not reported by COs or decision makers, over time, there will be no more will by the sales people to want to say anything or do a report as it takes time to do and the usual "nothing happens after that' is seen as a waste of their time and there is nothing anyone can do about it. It becomes an added personal pressure between work and integrity and trying to be compliant.

Supervisors should do on-site investigations on the top selling branches of companies and have a chat with their top sales people. I believe they will have a clearer picture of the reality of how this sector works under this Act. Such visits could help provide a wake up call to those still disrespectful to the Act and perhaps work as an educational opportunity directly from the Supervisors. Such conversations would be great to help bring them on board, not out of fear but out of realisation that their CDD work is important to the country.