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From: [REDACTED]@cpaaustralia.com.au>
Sent: Friday, 3 December 2021 3:00 pm
To: aml
Cc: [REDACTED]
Subject: AML/CFT Statutory Review Consultation 2021 - CPA Australia Submission
Attachments: Review of the AML CFT Act Consultation 2021 CPA Australia Submission.pdf

Good Afternoon

Please find attached CPA Australia's submission to the Review of the AML/CFT Act consultation.

Should you any questions, please do not hesitate to contact either myself or Rick Jones Country Head New Zealand, also copied into this email.

Kind regards

[REDACTED]

[REDACTED] | **Head of Public Practice & SME**

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3 December 2021

AML/CFT consultation team
Ministry of Justice
SX 10088
Wellington 6140

By email: aml@justice.govt.nz

Dear Sir/Madam

Review of the AML/CFT Act Consultation 2021

CPA Australia represents the diverse interests of more than 168,000 members, including over 2,700 members in New Zealand, working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia supports the review of the Anti-Money Laundering and Countering Financing Terrorism (AML/CFT) regime. The review provides an opportunity to reflect on the effectiveness and efficiency of the current regime to ensure it continues to detect, deter and disrupt money laundering and terrorist financing, while balancing the obligations and associated costs on participants of the regime.

In preparing this submission, we have sought the feedback of professional accountants running small to medium sized practices. They advised that the current AML/CFT regime can be complex and onerous, resulting in higher costs to implement and with which to comply.

For example, the complexity of the current customer due diligence (CDD) obligations has seen some smaller practices electing to outsource the process to a verification service at a cost of approximately \$50 for an individual and up to \$500 where multiple entities may be involved.

This challenge could be, in part, addressed if members of CPA Australia were added to the list of trusted referees in the Amended Identity Verification Code of Practice 2013 (IVCOP).

CPA Australia is an accredited body under the Auditor Regulation Act 2011 and a member of the International Federation of Accountants (IFAC). Members of CPA Australia must abide by professional standards set by the [Accounting Professional and Ethical Standards Board](#), meet ongoing professional development obligations and are subject to quality reviews to ensure compliance.



CPA Australia therefore recommends that full members of CPA Australia are added to the list of trusted referees in the IVCOP.

Responses to selected questions are outlined in the Attachment.

If you have any queries about this submission, please contact [REDACTED], Head of Public Practice and SME on [REDACTED] or [REDACTED] [@cpaaustralia.com.au](mailto:[REDACTED]@cpaaustralia.com.au) or [REDACTED], Country Head, New Zealand on + [REDACTED]

Yours sincerely

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[REDACTED]
Executive General Manager
Policy and Advocacy

[REDACTED]

[REDACTED]
Country Head
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AML/CFT Statutory Review Consultation 2021

SCOPE OF THE AML/CFT ACT

Preparing or processing invoices

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

CPA Australia believes that the Act is sufficiently clear that preparing or processing invoices can be captured by the current AML/CFT obligations.

However, we question whether the resulting process and reporting obligations are effective, as they arguably appear to lead to a high level of compliance obligations being imposed on low-risk activities.

For example, many tax agents are currently captured by the AML/CFT obligations simply because they have the ability to transfer funds between Inland Revenue Department (IRD) tax accounts. This is considered to be managing client funds or engaging in or giving instructions in relation to transactions.

We question if this is an unintended consequence of the provisions.

We also note that the requirements to prove a source of wealth for Trusts may deter some tax agents from acting for Trusts taxpayer given the resulting reporting obligations.

2.34. If we clarified the activity, should we also clarify what obligations businesses should have? If so, what obligations would be appropriate?

Following our comments in 2.33, CPA Australia recommends that this activity be reviewed and that intended captured activities be clarified. We note that the obligations for a business should be commensurate with the risk of an AML/CFT activity to ensure that compliance costs are in proportion to the risks being addressed.

Preparing annual accounts and tax statements

2.35. Should preparing accounts and tax statements attract AML/CFT obligations? Why or why not?

Many accountants are already subject to the obligations of the AML/CFT regime in their capacity as a tax agent and therefore we question the benefits of extending the regime to the preparation of annual accounts and tax statements.

As noted in the consultation, it is currently unclear how many more businesses may be captured by this change given that there are approximately 5,600 active tax agents.

CPA Australia recommends further cost benefit analysis be undertaken to understand the potential to capture AML/CFT activity before imposing AML/CFT obligations and compliance costs on new businesses.

We note that Inland Revenue has begun work to determine whether more rigorous standards need to be applied to tax agents. Currently no formal qualifications or membership of a professional body is required for tax agents to prepare clients' work. This means there is no external professional oversight, minimum Professional Indemnity Insurance (PII) requirements or potential disciplinary action in place for these agents.

CPA Australia strongly believes it is in the public interest to raise the standards for tax agents and that immediate action should be taken to address this regulatory gap.

SUPERVISION, REGULATION AND ENFORCEMENT

Regulating auditors, consultants, and agents - Independent Auditors

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?

The absence of standards for the preparation of AML/CFT audits means that the scope and quality of audits in this area might vary. However, we note that audit costs are currently a significant issue for small to medium size practices and cannot always be passed on to the client.

Given this, CPA Australia supports consideration of the introduction of standards for both the audit and auditor to ensure a focus on quality rather than breadth. However, we recommend further consultation be undertaken on the potential standards to ensure the right balance between quality audit outcomes, risk outcomes and resulting costs to businesses.

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

While we recommend further consultation be undertaken with respect to the development and enforcement of the standards for auditors, potential solutions to explore could include existing regulations and supervisors with respect to audits, like the Financial Markets Authority (FMA).

Consultants

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?

CPA Australia believes that consultants who provide identity verification services should be regulated.

Many businesses and professional advisers rely on the advice and judgement of consultants to ensure compliance with their obligations. Therefore, at a minimum, we recommend they should be required to hold relevant PII. We understand that currently some insurers may be reluctant to provide PII, which will need to be considered in deciding whether to mandate this requirement. However, the introduction of standards and oversight may assist in this issue being addressed.

Consideration should also be given to defining relevant obligations under the Privacy Act that must be complied with to ensure the protection of personal information, given that this, and other confidential data such as credit card information, are often used to verify an individual's identity.

PREVENTIVE MEASURES

Customer due diligence

4.1. What challenges do you have with complying with your CDD obligations? How could these challenges be resolved?

The current breadth and complexity of the CDD obligations present a number of challenges for small to medium practices, resulting in many smaller practices choosing to outsource the process and reporting, even though they remain responsible for compliance with these obligations.

As mentioned earlier, this results in additional costs, which may be passed on to clients.

We also note that feedback we received from members suggests that the obligation to identify the source of funds for Trusts can be seen by the client as being invasive. In many instances practitioners may have to go back several decades to make this determination. Often the source of funds is the result of an inheritance, for example, and therefore while we understand the need for caution, we question whether established Trusts require this level of compliance. In many cases the practitioner may have also worked with the Trusts for many years.

CPA Australia recommends that the current obligations be reviewed to understand where there may be opportunities to improve both the practitioner and client experience, while ensuring the integrity, and managing the risks, of the AML/CFT regime. We recommend that as part of this review, practitioners currently subject to these obligations are engaged and consulted.

Identity Verification Code of Practice

4.45. Do you encounter any challenges with using IVCOP? If so, what are they, and how could they be resolved?

Currently, fully qualified members of CPA Australia are not listed as a trusted referee in the *Amended Identity Verification Code of Practice 2013*. This omission creates compliance and administration challenges, including substantial external compliance costs, for members who are subject to CDD obligations.

CPA Australia is an accredited body under the *Auditor Regulation Act 2011* and a member of IFAC. Members of CPA Australia must abide by professional standards set by the Accounting Professional and Ethical Standards Board, meet ongoing professional development obligations and are subject to quality reviews to ensure compliance.

These obligations align with the same professional and ethical standards required of a chartered accountant.

CPA Australia recommends that full members of CPA Australia be added to the list of trusted referees in the IVCOP.

Verifying the address of customers who are natural persons

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

We note that the provision of a recent utility bill may not be the most prudent method to verify an address, given that the individual may have moved since the issuing of this invoice. In the absence of suitable alternatives, we would recommend reviewing the purpose and value of this requirement.