

aml

From: [REDACTED]@mas.co.nz>
Sent: Friday, 3 December 2021 12:22 pm
To: aml
Subject: Please find attached a submission on the AML/CFT Act review on behalf of Medical Assurance Society New Zealand Limited (MAS) and the MAS Designated Business Group (DBG).
Attachments: AML CFT Act Review Submission on the Ministry of Justice's Consultation Document.pdf

Tēnā koutou

Please find attached a submission on the AML/CFT Act review on behalf of Medical Assurance Society New Zealand Limited (MAS) and the MAS Designated Business Group (DBG).

We appreciate the opportunity to provide feedback on this topic and welcome further engagement should you have any questions on our submission.

Please contact [REDACTED]@mas.co.nz) in the first instance.

Ngā mihi nui

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Contact details

Please contact [REDACTED] ([@mas.co.nz](mailto:[REDACTED]@mas.co.nz)) if you have any questions about this submission.

Introduction

This submission is made by Medical Assurance Society New Zealand Limited (MAS) and the MAS Designated Business Group (DBG). The MAS DBG is made up of MAS, and our operating subsidiaries Medical Securities Limited ("MSL") and Medical Funds Management Limited ("MFM"), who are also Reporting Entities.

The relevant activities of MAS are the management by MFM of the MAS Retirement Savings Scheme and MAS KiwiSaver Scheme, both of which are managed investment schemes open to natural persons who are MAS Members (customers) for the purpose of saving for their retirement. MSL is a Reporting Entity through a small number of legacy loan accounts but ceased writing new loans in 2016. MAS also has a general insurance subsidiary and a life and disability insurance subsidiary, both of which offer pure risk insurance policies to MAS Members.

This submission has two parts:

- A. A thematic response to the overall intent of the Act
- B. A response to key themes affecting MAS

Part A: Thematic Response to the overall intent of the Act

Support for other industry submissions

We note and support submissions made by industry groups that we are associated with – the Financial Services Council of New Zealand (FSC); the Insurance Council of New Zealand (ICNZ); and the Boutique Investment Group (BIG).

The scope of the AML regime: balancing prescription with risk-based obligations (1.9 – 1.13)

MAS supports the position of the ICNZ that the scope of the regime should not be expanded to include general insurance. Such a proposal is unnecessary and inappropriate given the absence of evidence of money laundering or terrorism financing risks. For smaller insurers like MAS the cost to establish AML/CFT compliance monitoring frameworks can be especially disproportionate to the size of business and level of offending.

To illustrate this point, typical general insurance premiums for MAS policies range between \$500 to \$3,000 per annum. These amounts are not significantly material from a money laundering perspective. From a fraud perspective we may identify 3-6 instances of suspected fraud per annum (so between \$1,500 and \$18,000 of potential criminal activity). This level of activity is disproportionate to the estimated cost of compliance with the Act. We estimate the costs to expand our existing AML monitoring framework to include our insurance businesses to be \$400k in one-off implementation costs and circa \$150k per annum ongoing cost.



Risk based approach to regulation, understanding our risks and mitigating unintended consequences (1.9-1.11, 1.23)

We have noted an unintended consequence with a lack of consistency between the Act and other relevant legislation, including consistency of language used and obligations. For example, section 37 of the AML/CFT Act places obligations on Reporting Entities to not enter into, and cease business relationships, where Customer Due Diligence (CDD) is unable to be completed. It is not clear how this obligation can be exercised in conjunction with legislation that sets a right for a person to hold a financial product. For example, the KiwiSaver Act 2006 sets out a right (providing eligibility requirements are met) to hold an account and provides very few permitted withdrawal circumstances. These have the potential to create a conflict with CDD obligations.

Prescribed Transaction Reports: Who is required to submit a report (4.156 – 4.165)

Subpart 2A and S5 of the AML/CFT Act place obligations on Reporting Entities to complete Prescribed Transactions Reports (PTRs) in defined situations. The definitions provided in the Act to specify who must make PTRs are unclear and should be supported by guidance. For example, it is not clear how a wire transfer differs (or if there is a difference) from other forms of electronic bank transfer or transaction. There appears to be different interpretations of this across the three sector supervisors.

The role of the private sector: partnering in the fight against financial crime and Information sharing (1.24 -1.27; 1.47-1.51)

Whilst the private sector can play an important role in contributing to the intelligence used to detect criminal activity, financial institutions themselves should not be expected to determine themselves what is and isn't money laundering or terrorism financing activity. In this regard, the current obligations for monitoring for and reporting suspicious transactions and activity are appropriate. The Police FIU should continue to play its role in collecting and analysing the intelligence provided by Reporting Entities. Sharing of information between Reporting Entities (outside of a Designated Business Group) on face value, appears to be unnecessarily complex and costly.

We do support the sharing of CDD information in the transfer of financial accounts between Reporting Entities. For example, the transfer of a KiwiSaver account from one KiwiSaver provider to another. Consideration should be given as to how the AML/CFT regime will work together with the proposed consumer data right legislation and Privacy Act obligations.

We also support formalisation of the transfer of data between Government agencies where it is necessary to act on intelligence to investigate and/or prosecute criminal activity. For example, between the Police FIU and Inland Revenue for the purposes of investigating tax evasion, or within the Police for the investigation of predicate crimes related to money laundering.

Balancing prescription with risk-based obligations (1.9 – 1.10)

Where obligations do not need to be prescribed, guidelines and best practice examples can be a pragmatic and balanced approach to risk. They also tend to be more flexible and responsive to changing environments. An example is considering whether and when customer due diligence was last conducted on customers who hold KiwiSaver and/or other locked-in superannuation scheme accounts, and the timing of when initial CDD is required to be carried out on customers of these products. Prescribing a timeframe or sinking lid by which CDD on existing pre-Act customers must be



conducted, and/or prescriptions around when CDD was last conducted presents an unnecessary cost to business. Developing a mechanism for identifying relevant accountholders would be a manually burdensome and costly exercise for a small but diverse business such as MAS where customers may hold multiple products, some of which may or may not be relevant activities for AML/CFT compliance. We prefer an approach whereby CDD on existing customers is triggered by an elevation in the risk profile of the product or the customer themselves.

Part B: Key themes response

Customer Due Diligence (4.1, 4.9 – 4.10, 4.18-4.21, 4.44-4.52)

We support more flexibility within CDD obligations for financial products with a lower risk of being used for money laundering or terrorism financing activity. For example, superannuation products (including KiwiSaver) in which funds are locked-in until a prescribed limited set of events or age of eligibility, are not a particularly effective or attractive vehicle for money laundering or terrorism financing. They could be supported by more flexible requirements around due diligence, especially where they are only open to natural persons (eliminating the complexity and risk of identifying beneficial ownership) and in the case of KiwiSaver, only open to persons normally resident in New Zealand. A pragmatic and cost-effective approach for business could be to defer CDD for such products until the point of first withdrawal.

The requirements for address verification represent the biggest frustration for MAS in meeting the standards for initial CDD. Today, the majority of identity and address verification is carried out electronically. Most commonly, unsuccessful electronic identity verification occurs through being unable to verify a person's residential address. From a time and cost perspective, the reversion back to documentary identification and/or address verification processes, and/or an exception to expected processes, adds an additional \$50-\$60 to the normal \$5-\$7 cost of individual verification. This frustration is compounded in respect to residential address verification required on KiwiSaver accounts, where a person must normally be resident in New Zealand to be eligible for the product, and therefore address verification provides no indication of the linkages to high-risk jurisdictions that address verification is intended to provide.

Regulatory oversight and licensing (1.52- 1.64)

In the absence of quantifiable flaws or risks identified in the independent audit requirements and sector supervisor monitoring and enforcement frameworks, MAS does not support licensing of AML/CFT reporting entities.

MAS (and its subsidiaries) are already subject to a number of legislative licensing regimes:

Medical Assurance Society New Zealand Limited is licensed by the FMA as a Financial Advice Provider under the Financial Markets Conduct Act;

Medical Funds Management Limited is licensed by the FMA as a Managed Investment Scheme manager under the Financial Markets Conduct Act;

Medical Insurance Society Limited is licensed as an insurer by the RBNZ, and will be licensed by the FMA under future legislation proposed through the Conduct of Financial Institutions Bill; and



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Medical Life Assurance Society Limited is licensed as an insurer by the RBNZ, and will be licensed by the FMA under future legislation proposed through the Conduct of Financial Institutions Bill.

Further licensing introduces additional layers of cost and complexity, and risks should be addressed through more targeted regulatory oversight of entities not subject to the same level of scrutiny.