

**aml**

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**From:** Milford Compliance <Compliance@milfordasset.com>  
**Sent:** Friday, 3 December 2021 4:51 pm  
**To:** aml  
**Cc:** Milford Compliance  
**Subject:** Milford AML/CFT Act review - response  
**Attachments:** Milford Consultation Submission to MOJ - AML\_CFT\_03\_12\_2021.pdf

To: AML/CFT consultation team

Re: Response to AML/CFT Act Consultation Document

Please find our submission for your consideration

Kind regards  




## Submission on the consultation – AML/CFT Act review

03 December 2021

Thank you for the opportunity to provide feedback on the review of the AML/CFT Act (**The Act**). While we are participating in the Boutique Investment Group (**B.I.G.**) submission, however we also wanted to take the opportunity to provide some key messages directly.

The consultation document has identified many of the industry's pain points and we applaud many of the proposed solutions. We are also pleased that consultation with industry will continue into 2022 and would support future engagement if an opportunity arose.

Milford fully supports the spirit and intent of the Act. We do not want our business to be abused by criminals and have made significant investments in people, technology and processes to ensure that the likelihood of this occurring is remote. In addition, we engage with legal support, consultants, auditors and our peers in the industry to ensure our controls operate to a high standard of compliance with the Act.

Unsurprisingly, this investment consumes a great deal of resource. From our client facing teams right through to our Risk and Compliance team, the effort expended on adhering to AML/CFT requirements is significant. The time spent by some of our customers we consider to be low risk in meeting our CDD requests can also be significant. There are a great many more requirements in the Act that don't reduce risk<sup>1</sup>, but create repetition and drag on our business and our customers.

All that compliance effort would make sense to us if we felt that the risk to our business of financial crime was inherently high. However we are a business that the Financial Markets Authority (FMA) identified as having a medium-low inherent risk of money laundering (ML) or terrorist financing (TF) in its sector risk assessment. This medium-low risk rating does not currently translate into any obvious relief in the obligations we face. It is apparent to us that for sectors the FMA have determined to have a higher risk of ML/TF, the expectations on them and us are largely the same. So much of what is in the Act is prescribed, making it inaccurate to describe the regime as being risk based. A more accurate description of the current model would be to describe it as "one size fits all".

We wish to direct our internal resources to the areas where our ML/TF risks are greatest. But currently a great deal of effort is needed to comply with all the prescribed activity that there is a chance that higher risk activity is not given the attention it requires. We do our best to ensure this likelihood is low, but until we are able to operate in a truly risk-based regime, we will continue to direct large scale compliance activity in low-risk areas.

Based on our experience in operating under the Act, we provide direct commentary on three key points below (in addition to our comments on a risk-based approach in the paragraphs above). These matters are a priority for our business, and we are hopeful that by drawing them to your attention, they may receive due consideration.

### 1. Reduce duplication

Consider how the legislation could allow for the legal transportability of data and chains of reliance between high trust reporting entities. It is only in rare circumstances that Milford onboards customers not resident in New Zealand. Consequently, customers we onboard are almost always customers of another reporting entity in New Zealand (most commonly a bank).

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<sup>1</sup> For example CDD requirements that are mandated on customers by type.



However, at onboarding we currently duplicate the customer due diligence completed by the bank for no obvious reduction in risk (when people have to provide the same ID information repeatedly, we should stop to ask how it can be done better). This activity creates cost for our business, frustration for our customers and could be a barrier for some changing to a more suitable provider. We believe for lower-risk customers, the new regime should reduce the unnecessary duplication.

## 2. Lower the barrier for onboarding lower-risk customers

Greater relief and greater recognition of such customers. Three places we believe should be a priority include:

- **Make address verification optional.** We do not believe that verifying the address of a lower risk customer assists in the fight against financial crime. This is an activity significant in the resources it consumes, high in failure rate and long in frustration. It is a requirement that fails to recognise the realities of how many of our customers live (in shared accommodation for example) and can force exclusion on some people. Many customers frequently change their living arrangements so verified address information quickly becomes stale. It adds no greater confidence to knowing who your customer is.
- **Not all trusts are high risk.** The reality is that the majority of trusts we onboard are typical New Zealand family trusts with no additional risk factors<sup>2</sup>. Mandating that they require ECDD is simply not reflective of the risk they bring.
- **Make it easier for high trust entities to engage with one another.** There are too many occasions where we find ourselves looking to transact with high trust, regulated entities for whom the Act provides insufficient relief from CDD requirements. The risk of ML/TF in these relationships is beyond remote. Entities that qualify for simplified CDD should be greatly expanded.

## 3. Do not mandate prevention activity

The consultation explores the idea of requiring reporting entities to actively prevent ML/TF by screening and stopping transactions before they occur. A pivot to a prevention focus would require an investment in technology and resources that would challenge us. Many of our interactions with our customers are electronic with no human-to-human contact. These are designed to be fast, reliable, and accurate. They create a better experience for our customers (the vast majority of which are lower risk). To put some sort of blunt requirement like this onto our business does not reflect the risks we face and would disregard the difficulty we would have to implement the requirement. If you must – direct these requirements to those sectors you consider high risk.

### Conclusion

Like you we want a fit for purpose Act that is proportionate. We hope you find our comments useful and thank you for considering them.

### About Milford

Milford is an active fund manager committed to growing the wealth of our clients and making a positive contribution to the community. We aim to deliver the best investment outcomes and client service.

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<sup>2</sup> Higher risk characteristics include things like trustees, settlors or other interested persons residing offshore, complex trust deeds or offshore bank accounts.