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From: [REDACTED]@nzrealtors.co.nz>
Sent: Friday, 3 December 2021 12:33 pm
To: aml
Cc: [REDACTED]
Subject: Submission: Review of the AML/CFT Act Consultation Document
Attachments: Review AML-CFT Act Consultation Doc Oct 2021.pdf

Good afternoon,

Please see attached our submission on the review of the AML/CFT Act Consultation Document – Oct 2021.

Best regards,

[REDACTED]
General Manager



Local experts, national connections

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1 December 2021

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SUBMISSION: REVIEW OF THE AML/CFT ACT CONSULTATION DOCUMENT – OCT 2021

Thank you for the opportunity to make a submission on the Review of the AML/CFT Act Consultation Document, October 2021 (**Consultation Document**).

Introduction

NZ Realtors Network (**NZ Realtors**) is New Zealand's largest independent real estate network (membership organisation) made up of 13 companies providing access to more than 2,650 salespeople across 195 offices spanning New Zealand. Our members cover all the major areas of real estate including residential, lifestyle, rural, commercial, business and property management.

One in four properties in New Zealand (residential, lifestyle, rural) is sold by a member of NZ Realtors. Three properties and over \$3 billion of real estate is sold every hour and nearly \$30 billion of real estate was sold in the last 12 months.

NZ Realtors is headed by experts in their field, with the input of Directors who are actively working as owner operators in their respective agencies.

A six-strong board is representative of some of the country's leading independent agencies, maintaining the founding principles of NZ Realtors.

The companies of NZ Realtors network are:

- Barfoot & Thompson – Auckland, Northland
- Morley & Associates – Auckland
- Richardsons Real Estate – Coromandel Peninsula, Hauraki Plains
- Whangamata Real Estate – Whangamata, Whiritoa, Onemana
- Cambridge Real Estate – Cambridge
- Lodge Real Estate – Hamilton
- McDonalds Real Estate – New Plymouth, Taranaki
- Property Brokers – Manawatu, Wairarapa, New Plymouth, Hawkes Bay, Gisborne, Waikato, Bay of Plenty, Canterbury, West Coast, Otago, Southland
- Tommys Real Estate – Wellington, Hutt Valley, Kapiti, Mana, Wairarapa
- The Agency Group – Wellington (Commercial)
- Summit Real Estate – Nelson, Tasman, Marlborough
- Cowdy and Co – Christchurch
- Edinburgh Realty – Dunedin, Mosgiel, Cromwell.

Comments

This submission addresses questions 4.6 to 4.8 of the Consultation Document.

4.6

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

The members of NZ Realtors are strongly opposed to amending the existing regulations to require real estate agents to conduct CDD on both vendors and purchasers.

Requiring agents to conduct CDD on both the vendor and purchaser to align New Zealand's practices with the Financial Actions Task Force's (FAFT) recommendations would significantly compromise the ease of doing business for real estate agents, and undeservedly effect the lives of New Zealanders. It would be unworkable in practice and would further impede the fair, transparent and efficient operation of the real estate market.

It would be an unnecessary adoption of international practices that would be inappropriate in the New Zealand real estate environment as CDD on the purchaser is already being completed by the purchaser's lawyer and bank who are better placed to detect issues.

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 change?

There is no practical or realistic point at which an agent can complete CDD on a purchaser. This will severely impact the flow of business.

If at the time of offer, in many cases across New Zealand, agents can be dealing with several (in some regions hundreds) prospective purchasers for a property, each of whom have the intention of fulfilling the transaction. In multiple offer situations only one can be accepted, or none may be accepted. This would be a major cost in time and process. It is therefore impractical for CDD to be carried out on all interested parties.

It would also be impractical for CDD to be completed on a purchaser at the time they enter into a sale and purchase agreement.

A few points commonly raised by our members are:

- Currently the process of the solicitors conducting CDD on their clients is the most effective and fair way for purchasers to have CDD conducted on them, as per the consultation document there must be thought put into who carries the cost of compliance, remember it is not just a monetary cost but also a time cost. Real estate agencies only usually deal with the deposit of a sale and purchase agreement, the rest, usually 90%, is directly transacted between solicitors and banks on behalf of the vendors and the purchasers.
- And or Nominee on sale and purchase agreements would make it impossible for real estate agencies to verify the nominated party as this is decided with by the purchaser and the solicitor then creates the appropriate e-dealings at the time of transfer, keeping purchaser CDD with the solicitors makes more sense.
- Auctions are conducted as unconditional sales; in a competitive Auction situation it would not be sustainable or cost effective to conduct CDD on all the purchasers and to add a condition in for verification would contradict the Auction process.

- Tenders and Multiple Offers would also require multiple verification of purchasers, of which there can be only one purchaser of the property. This would bring a level of dissatisfaction for the purchasers particularly if they miss out on the property, it is not sustainable with the level of property vs. the number of potential purchasers for each property.
- Real estate agents under New Zealand's regulations are only entitled to receive one commission and are only acting for one party, therefore we are acting as an agent for either the seller as a seller's agent or a buyer as a buyer's agent, whomever is contractually bound to us is bound to pay our commission, our AML Risk assessment responsibilities rest with who we are contracted to.
- In most instances in New Zealand we don't get paid by the buyer so have no opportunity to recover the cost of doing AML CDD on buyers.
- The cost of compliance would not just double – in fact in this market it could more than quadruple if we conducted CDD on every potential purchaser.

4.8

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

The appropriate time for CDD to be completed on the vendor and purchaser is when a business/contractual relationship is entered. In New Zealand, most agents act for the vendor (buyer's agents are rare). Therefore, the appropriate time to complete CDD on the vendor is upon listing the property, when the agency agreement is signed. This is the current practice. The agent does not have a business/contractual relationship with the purchaser, may never know their identity where a nomination is made, and the agent is prohibited from having a business/contractual relationship with the purchaser in the same transaction.

The cost and disruptions associated with a change to the timing of vendor CDD could be significant. Complications created with the 'or nominee' scenario would seem to make a change totally pointless. The current procedure is well understood by the industry and processes are firmly embedded therefore any change to the current timing needs to be carefully considered.

Thank you again for the opportunity to make a submission on behalf of our members.

Yours sincerely

Donna Peffers
General Manager
NZ Realtors Network

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