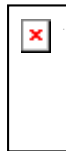


aml

From: [REDACTED]@pb.co.nz>
Sent: Friday, 3 December 2021 3:44 pm
To: aml
Subject: Statutory Review AML/CFT
Attachments: AMLCFT Statutory review submission.pdf

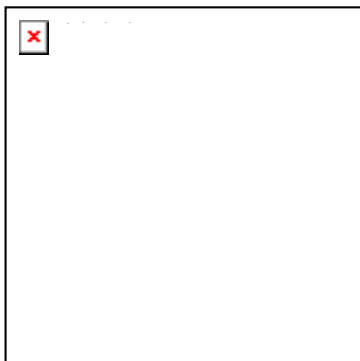


Good afternoon,

Please find attached Property Brokers submission for the review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Kind regards,

[REDACTED]



[REDACTED]
AML Compliance Officer
[REDACTED]

Property Brokers

240 Broadway Avenue, Palmerston North
pb.co.nz





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3rd December 2021

AML/CFT Consultation Team
Ministry of Justice

Email: aml@justice.govt.nz

Statutory Review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

Introduction

Under the AML/CFT Act, Property Brokers is identified as a non-financial business or profession and supervised by the Department of Internal Affairs. Property Brokers completed an onsite inspection with the DIA earlier in the year and were found to be meeting the minimum requirements of the Act as of 26th August 2021.

Property Brokers is a large, family operated real estate company operating 80 branches spanning the North and South Island employing over 280 staff and 450 independent contractors (our sales agents).

The core business covers residential and rural sales, property management, commercial sales and leases as well property compliance.

We wish to address the below questions of the Consultation Document and will provide an overall statement on the implications of the Act within real estate.

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

Property Brokers would strongly oppose to this amendment. The Act would need to further clarify who the "customer" is. Our business relationship is deemed that of the vendor and enables us to accurately capture the nature and purpose of the transaction. Contact with the purchaser is limited and CDD is already a requirement of the purchasers' solicitor.

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?

The annual cost of the current AML/CFT requirements to Property Brokers is approximately \$1 million a year. This includes, but not limited to, outsourcing CDD to a third party - FirstAML, staff training and employment of a full-time AMLCO. The addition of completing CDD on purchasers could exponentially increase the costs depending on the definition of the purchaser.

With multiple reporting entities required to complete CDD, there is unnecessary duplication of client records. There would be a heavy reliance of exercising Section 33 of the Act should purchasers be included.

Our last annual report saw us record levels of CDD at 6672 individuals, 1010 Trusts and 1790 NZ root entities, with the addition of overseas individuals and entities at a much lower volume.

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

The current process of completing CDD at the time of a listing agreement is sufficient. It enables a risk assessment and CDD level to be established along with an understanding of the customers rationale for sale.

Multiple challenges would be presented should purchasers be required to complete CDD prior to any contractual signings- auctions, tenders and multi-offers.

Additional Comments

Source of wealth vs source of funds-

4.26 Are there are instances where businesses should not be required to obtain this information?

With the Trust Law reform changes from 2021 there were multiple changes made to enhance trustee responsibilities and documentational records. This included records of the trust property, any accounting records and financial statements, ensuring trustees act honestly and in good faith and information to be shared with beneficiaries.

IRD also introduced new requirements of Trusts from 2021-22 where trustees will have to prepare financial statements and provide extra information with their income tax returns.

With all the current reporting that is legally required by solicitors, accountants and banks, why are real estate agencies subject to obtaining a clients source of wealth / funds? In most instances we are reliant on a letter provided by the accountant or solicitor and is again an example of duplicating records with a risk-based approach upon acceptance.

Customer due diligence-

Completing CDD includes the confirmation of an individuals full name, date of birth and address verification. We see no need to change the requirements of this guidance. Address verification is a way to identify where a client is residing and guides in understanding the clients circumstances also contributing to our overall risk assessment.

With real estate being transactional our on-going CDD policy is to assess the client at each transaction to ensure there has been no material change.

Suspicious Activity Reporting

With the consultation suggesting a purchaser must complete CDD, one would ask what value this would add to our regime?

Suspicious activity as per AML/CFT 2009 Subpart 2- 39A Interpretation- means an activity undertaken in circumstances in which a) a person conducts or seeks to conduct a transaction through a reporting entity.

There is already a requirement when any person (purchaser) presents suspicious activity, that it is reported. This last year Property Brokers have submitted three reports based on purchasers.

The reporting portal through FIU- GOAML would significantly benefit from being reviewed. It is very difficult to submit accurate reporting due to the processes and is a timely, frustrating process.

Closing statement

The AML/CFT regime in NZ needs to better reflect the level of criminal activity that occurs and clearly identify and align with the roles of the reporting entities.

Real Estate is a service provider, customer service focused. It is not the responsibility of this industry to police nor investigate criminal activity.

A consistent focus should remain on the strength of reporting that real estate can bring to the regime, identifying circumstantial evidence and reporting where there is suspicion of illegal activity. We fully support the objectives behind the consultation. New Zealanders deserve to have a high quality regime combatting money laundering and terrorism of financing, especially ensuring it does not compromise the ease of doing business or unduly impact the lives of New Zealanders.

This review comes at a time where financial markets are changing. Cash is a decreasing currency with the increase in cryptocurrency use. Increasing house prices will result in illegal funds needing to be introduced through layering entities. Consideration for how NZ Companies Register operates as well as Overseas Investments Office and the Inland Revenue.

Banks, accountants and solicitors are privy to more accurate data than real estate agencies and we ask that this be considered within the review.

We thank you for the opportunity to submit feedback and look forward to future notification.

Kind regards,



Andrew Tyler
Chief Financial Officer



Ashleigh Henderson
AMLCO