aml

From: [redacted]@wealthpoint.co.nz>
Sent: Friday, 3 December 2021 6:42 pm
To: aml
Cc: Compliance
Subject: RE: AML consultation submission
Attachments: AML consultation submission.pdf

Good Evening

We have just noticed that our submission had a typo in our answer to 2.39 which affected a key point we were trying to convey and this is carried through in some of our other answers in our submission. We have now corrected this.

Please find attached an amended submission accordingly.

Thanks

[redacted]
Head of Legal, Compliance and Conduct

E: [redacted]@wealthpoint.co.nz

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From: [redacted]
Sent: Friday, 3 December 2021 2:58 pm
To: aml@justice.govt.nz
Cc: Compliance <compliance@wealthpoint.co.nz>
Subject: AML consultation submission

Good Afternoon

Please find attached Wealthpoint's response to the AML consultation.

Could you please confirm receipt.

Regards

[redacted]
Head of Legal, Compliance and Conduct

[redacted]
E: [redacted]@wealthpoint.co.nz

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Wealthpoint Limited submission 3 December 2021

Ministry of Justice's Review of the AML/CFT Act (the Act)

Thank you for the opportunity to make a submission in response to this consultation.

Wealthpoint Limited is a co-operative company consisting of 50 companies that provide financial advice to customers. Wealthpoint is a Reporting Entity for the purposes of the Act. This submission is in relation to the financial services Wealthpoint and Wealthpoint companies provide to customers.

Question 2.39 Currently exempt sectors or activities.

All services that Wealthpoint advisers provide that are captured by the AML/CFT Act, also have another Reporting Entity involved in each transaction (whether a custodian, KiwiSaver provider or otherwise).

Therefore, both financial adviser and other Reporting Entity (eg KiwiSaver provider) obtains CDD and carry out PEP checks on the same customer. The financial adviser could contractually rely on the other Reporting Entity to carry out the CDD and PEP check, but typically the other Reporting Entity will refuse to agree to this.

Therefore there is a duplication of compliance burden to both the customer and the adviser for no benefit.

Financial advisers should be granted legislative relief from complying with certain elements of CDD and PEP checks where a product provider is involved in the transaction. There are certain exemptions in place already but these only cover limited circumstances which are often of no benefit to financial advisers.

Question 2.48 Potential new regulatory exemptions

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exemptions in place already but these only cover limited circumstances which are often of no benefit to financial advisers.

Question 4.28 Life insurance/investment related insurance.

If there is to be any new regulations covering certain life insurance policies or investment related policies, it needs to be very clear what type of policies are captured and why it is they are considered to be higher risk.

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

Address verification appears unnecessary and is another compliance burden on customers and on businesses. It is not clear what risk is being addressed by having such a requirement.

As limited guidance is provided by regulators, reporting entities often have differing requirements on how old the document used for address verification can be e.g. Reporting Entities could impose a 3, 6 or sometimes 12 months period for documents to be valid, which makes it hard for financial advisers to meet the differing product provider requirements.

4.58 Should we remove the requirement for enhanced CDD to be conducted for all trusts or vehicles for holding personal assets? Why or why not?

Yes. Often with low risk trusts, verifying the information is difficult as the wealth in question may have been accumulated over a number of years, and trustees are unable to provide the required information due to records no longer being available.

4.61. Are the ongoing CDD and account monitoring obligations in section 31 clear and appropriate, or are there changes we should consider making?

No, they are not clear and appropriate. The Act refers to "regularly review" however there has been no guidance on what is considered "regular".

Account and transaction monitoring is difficult to implement for many financial adviser businesses where the business does not accept client funds and funds are paid to another Reporting Entity. Financial advisers are limited in the monitoring they can do due to lack of access to transactions or reporting information available from providers. Transaction monitoring should be conducted by the Reporting Entities that receive the funds and can more easily identify any suspicious or unusual activity. This can then be reported to the financial advice firm for assistance in investigating the transactions with the customer.

In some cases, customers can deal directly with the product provider (eg the KiwiSaver provider) to transact on their account bypassing the financial adviser who may have no oversight or knowledge of the transaction.

Once a customer has been correctly identified in compliance with the Act, there is no regulator guidance explaining what risk is being mitigated by requiring the obtaining of updated ID documents once those expire. Obtaining up to date documents creates a significant additional burden on

customers and Reporting Entities, as each Reporting Entity is required to obtain the same updated information.

4.62. As part of ongoing CDD and account monitoring, do you consider whether and when CDD was last conducted and the adequacy of the information previously obtained?

No, however, we do consider whether an existing customer may have CDD on file when there is a material change.

4.63. Should we issue regulations to require businesses to consider these factors when conducting ongoing CDD and account monitoring? Why?

No. Once a customer has been correctly identified in compliance with the Act, there is no regulator guidance explaining what risk is being mitigated by requiring the obtaining of updated ID documents once those expire. Obtaining up to date documents creates a significant additional burden on customers and Reporting Entities, as each Reporting Entity is required to obtain the same updated information.

4.65. Should we mandate any other requirements for ongoing CDD, e.g. frequently it needs to be conducted?

No. Such a mandate would significantly increase compliance costs.

4.79. Do you have any challenges with complying with the obligations regarding politically exposed persons? How could we address those challenges?

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Therefore, both financial adviser and other Reporting Entity (eg KiwiSaver provider) obtains CDD and carry out PEP checks on the same customer. The financial adviser could contractually rely on the other Reporting Entity to carry out the CDD and PEP check, but typically the other Reporting Entity will refuse to agree to this.

Therefore there is a duplication of compliance burden for both the customer and adviser for no benefit.

Financial advisers should be granted legislative relief from complying with certain elements of CDD and PEP checks where a product provider is involved in the transaction. There are certain exemptions in place already but these only cover limited circumstances which are often of no benefit to financial advisers.

There is time and costs associated with completing PEP checks on a regular basis when the risk is low due to the type of products that we distribute and the customer types.

Should the domestic PEPs be included, this will also increase the burden across all Reporting Entities as to the regular PEP screening required, and the enhanced CDD that is also required once a PEP has been identified as each reporting entity will be looking to obtain SOF/W. This will ultimately fall on

the financial adviser's responsibility that will increase the compliance burden. This may require financial advice providers to implement electronic screening which, depending on the amount of customers, could be a significant cost burden when considering the low level of risk.