Response ID ANON-Z596-YZN7-P

Submitted to AML/CFT Act review
Submitted on 2021-12-03 10:32:36

Tell us a bit about yourself

1 What age group are you in?

50-64

2 What is your ethnicity? (You can select more than one.)

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:
European

3 If you're responding on behalf of an organisation or particular interest group, please give details below:

Organisation or special interest group details:

I work in the accounting services industry. I also have experience in IT and application development.

4 If you would like to be contacted in the future about AML/CFT work, please include your email address below. (Note you are not required to provide your email address. You can provide your submission anonymously.)

Email address:
[redacted]@gmail.com

1. Institutional arrangements and stewardship

1.1 Are the purposes of the Act still appropriate for New Zealand's Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) regime?

No

If you answered 'no', what should be changed?:

This act is not written in the New Zealand context and it is in need of major review. This act will impact businesses detrimentally. No consideration has been given to cost on business and the community, the value of that cost, and the relationship between the cost and the risk the act wants to mitigate. There is a very high cost for very little return on the risk.

If you think there are other purposes that should be added, please give details below::

1.2 Should a purpose of the Act be that it seeks to actively prevent money laundering and terrorism financing, rather than simply deterring or detecting it?

No

Please comment on your answer.:

This act in its current form does not effectively deter or prevent. It simply creates a set of actions that are required but completely ineffective. I am unaware of any act of laundering or terrorism that was prevented by this act, that was not already intercepted by the police or SFO. It is merely security theater.

1.3 If you answered 'yes' to Question 1.2, do you have any suggestions how this purpose should be reflected in the Act, including whether there need to be any additional or updated obligations for businesses?

Please share your comments below.:

The obligations and additional cost imposed on business and their clients are unacceptable. We are not in business to undertake these requirements, they have no value to business or its customers and the cost to the community does not prevent acts of terrorism.

1.4 Should a purpose of the Act be that it also seeks to counter the financing of proliferation of weapons of mass destruction?

No

Please comment on your answer.:

This is a matter of government and the security forces.
The use of fossil fuels is a weapon of mass destruction, called climate change, yet we pay for petrol.

1.5 If you answered 'yes' to Question 1.4, should the purpose be limited to proliferation financing risks emanating from Iran and the Democratic People's Republic of Korea?

No

Please give reasons for your answer.:

Such evidence is political gesturing from the United States and is not relevant to New Zealand.

No

Please comment on your answer.:

The financing of such activity, if in fact, it exists, is a political issue and not an issue that is part of daily business activity.
The prevention of proliferation is not aided by imposing overbearing compliance and regulation.

1.6 Should the Act support the implementation terrorism and proliferation financing targeted financial sanctions, required under the Terrorism Suppression Act 2002 and United Nations Act 1946?

No

Please comment on your answer.:

There is enough information available to security forces in order for them as institutions to follow through on such allegations.
It is not the business of people in their day-to-day lives to be impacted by those requirements.

1.7 What could be improved about New Zealand's framework for sharing information to manage risks?

Please share your comments below.:

The information required by this should be limited to the security forces, the police, and the SFO. The system should be designed so the obligations fall on those with the expertise to follow through on managing such risks. It is not the domain of business and the nation's citizens.

1.8 Are the requirements in section 58 still appropriate?

No

Please comment on your answer.:

This legislation has never been properly vetted. It needs to be rewritten by New Zealand politicians and made appropriate to our circumstances.

How could the government provide risk information to businesses so that it is more relevant and easily understood?:

The government should not provide risk information to businesses. We are not in the business of handling risk on behalf of the government. The government needs to make its risk concerns the business of the security forces who are in a position to manage that risk.

1.9 What is the right balance between prescriptive regulation compared with the risk-based approach?

Please share your comments below.:

I am in the business of conducting business in my profession. The AML/CFT is an unnecessary cost I am now forced to bear, without compensation for the resources required to comply with the legislation.
The concept that these activities in any way reduce risk or deter would-be terrorists in the context of business is pure fantasy.
The agency that supports this legislation is unable to enforce it, and the requirements of the act are so far-fetched that any business following it to the letter of law would quickly be out of business.
In day-to-day business, these risks do not exist in any quantity that justifies the widespread participation of so many individuals in business.

Does the Act currently achieve that balance, or is more (or less) prescription required?:

No, this act is completely unbalanced. It is impractical, unenforceable and it is blatantly discriminatory.

1.10 Do some obligations require the government to set minimum standards?

Yes

If you answered 'yes', please comment on how this could be done.:

There is a minimum standard that the security forces and have the resources to enact AML/CFT without interrupting the normal course of business.

What role should guidance play in providing further clarity?:

The only guidance that should be given is that if in the course of your business you suspect suspicious activity it should be able to be reported anonymously.

1.11 Could more be done to ensure that businesses' obligations are in proportion to the risks they are exposed to?

Yes

If you answered 'yes', please give reasons for your answer.:

The obligations of businesses in the current context are overblown in terms of the actual risk. In day-to-day business, there is no risk or at least the actual real risk is so small it does warrant the resources required by the business.

1.12 Does the Act appropriately reflect the size and capacity of the businesses within the AML/CFT regime?

No

Please give reasons for your answer.:

No, it has no scalability. A single-person operation has the same costs and obligations as a corporate business.
A corporate business has the resources to reduce the costs associated with the requirements, so smaller businesses carry a greater portion of the cost.

1.13 Could more be done to ensure that businesses' obligations are in proportion to the risks they are exposed to and the size of the business?

Yes

If you answered 'yes', please share your suggestions::

The vast majority of businesses are not exposed to risk. Identify those businesses that have real risk and get the security forces to assist them to manage it.

1.14 Are exemptions still required for the regime to operate effectively?

If not, how can we ensure AML/CFT obligations are appropriate for low-risk businesses or activities?:

Everybody should be exempt unless identified by the security forces as having real risk.

Yes

1.15 Is the Minister of Justice the appropriate decision maker for exemptions under section 157?

No

If you answered 'no', should it be an operational decision maker such as the Secretary of Justice? Please comment below.:

The waiting time to receive exemption is simply unacceptable. It should be a matter of a day or two, not months.

1.16 Are the factors set out in section 157(3) appropriate?

No

If you answered 'no', please give reasons for your answer::

The exemptions are not clear or helpful.

1.17 Should it be specified that exemptions can only be granted in instances of proven low risk?

No

Please give reasons for your answer.:

All the risk is low, so why is the assumption that all businesses are high risk.

Should this be the risk of the exemption, or the risk of the business?:

Only those businesses with actual high risk need non-exemption

1.18 Should the Act specify what applicants for exemptions under section 157 should provide?

No

Please give reasons for your answer.:

This is just more unnecessary paperwork designed to frustrate the process.

Should there be a simplified process when applying to renew an existing exemption?:

Of course. It should be automatic.

1.19 Should there be other avenues beyond judicial review for applicants if the Minister decides not to grant an exemption?

Yes

If you answered 'yes', what could these avenues look like?:

Only those businesses deemed to be very high risk should warrant ministerial review.
If the DIA is responsible for monitoring AML/CFT they should have the resources to grant automatic exemptions and if and only if they specifically identify a high-risk business, then that business will need to follow a high-risk procedure to be granted an exemption.

1.20 Are there any other improvements that we could make to the exemptions function?

Yes

If you answered 'yes', please give details::

Exemptions should be universal and not an exception. Only high-risk businesses should be non-exempt.

For example, should the process be more formalised with a linear documentary application process?:

No - it increases the cost of compliance. High compliance costs will lead to disengagement.

1.21 Can the AML/CFT regime do more to mitigate its potential unintended consequences?

Yes

If you answered 'yes', please give details::

AML/CFT needs to be put into context. The cost of compliance and productivity has been ignored by the authors of the legislation. The origins of the legislation date back to 1989 and are totally ignorant of the business world today.
The purpose of the act was to capture activities that could identify terrorist activity, this now includes money laundering, but does not define what sort of money laundering.
Likewise, aviation security is aimed at preventing terrorism, but for the most part, now captures petty transgressions like grandmothers with knitting needles.
the AML/CFT needs to be very clear about what is being targeted and what parameters are realistic in achieving that. The legislation needs review to make sure it is relevant in today's working and technological environment. Further, it needs scheduled regular reviews to ensure it is up to date and can be amended or removed.

1.22 How could the regime better protect the need for people to access banking services to properly participate in society?

Please share your comments below.:

In order to perform to AML /CFT requirements, identification by way of passport and driver's license and confirmed address. Access to that sort of ID is not universal, the act discriminates against the elderly, homeless, and disadvantaged.
If you do not travel, drive or have a credit card what ID options are available. I am aware of an elderly person who had to go get a hospitality card for proving you over 18 as a form of photo ID.
If the purpose of AML/CFT is to enable identification of the citizens or residents then there should be a national ID card for everyone, then there is no need for other forms of ID.

1.23 Are there any other unintended consequences of the regime?

Yes

If you answered 'yes', what are they and how could we resolve them?:

If somebody buys property, they are required to provide ID to:
The Bank(s), the real estate agent, the accountant and the lawyer. That information is replicated and stored by each entity requiring ID. It is unnecessary replication, and also an unnecessary use of computer storage, these costs are passed on to the consumer who is charged four times for providing the same information. This information could be stored once and made available to those entities requiring them.

The legislation, deliberate or not, is overreaching and confusing. It is technically not possible for any entity or individual to completely comply with the legislation. This means the act can be used to bring charges for minor omissions. The DIA is unable to provide a meaningful interpretation of the act. Their advice is to seek legal advice. This is sidestepping their responsibilities and this is because in reality the act is badly written.

The act ignores the privacy act and causes entities to act in a manner that is in fact a breach of privacy. Banks in particular use the guise of the act to ask questions, which are personal in nature and not relevant to the conduct of business.

The act requires identification of place of birth, which though non-governmental agencies is used to determine risk level. Being born in a particular country is highly discriminatory. I believe these requirements breach the human rights act by labeling risk as a function of birthplace.

This act effectively is asking for individuals to look into their client's affairs when such investigation is not part of the business model or necessary for the conduct required. We are being asked to look for suspicious activity and report it. We are not trained to look for this, and yet we are responsible if it occurs and we do not report it.

The reports that are required by the act are not sent to the DIA, so how does the DIA know of the contents of those reports. This means there is a whole mass of information that is gathered but never looked at. Was that the intent of the legislation.

There are many many more examples of unintended consequences. This legislation was poorly drafted and never given the consideration required in terms of the consequences it would have.

1.24 Can the Act do more to enable private sector collaboration and coordination?

Yes

If you answered 'yes', please give details::

The AML/CFT act is to prevent terrorism.
Having private enterprises engage in this process with a view to profit is contradictory.
We pay taxes to governments to protect its citizens from war and terrorism.
If the government is serious about this it should not be treating it as a pathway to profit.

1.25 What do you see as the ideal future for public and private sector cooperation?

Please share your comments below.:

None - this should be a government activity funded by taxes.
Private enterprises should not be able to profit from increased AML/CFT activity. If so who pays for it.

Are there any barriers that prevent that future from being realised and if so, what are they?:

The AML/CFT issue is a result of political action or inaction, domestically and internationally. It will be too hard for the private sector to engage purposely when political changes happen.

1.26 Should there be greater sharing of information from agencies to the private sector?

No

If you answered 'yes', would this enhance the operation of the regime?:

1.27 Should the Act require have a mechanism to enable feedback about the operation and performance of the Act on an ongoing basis?

Yes

If you answered 'yes', what is the mechanism and how could it work?:

Because the nature of AML/CFT can change quickly and because technology changes the interaction between business and individuals it is important that this is reviewed regularly. It is important the act is kept nimble so as not to overburden those required to comply with it.

1.28 Should the New Zealand Police Financial Intelligence Unit (FIU) be able to request information from businesses which are not reporting entities in certain circumstances (e.g. requesting information from travel agents or airlines relevant to analysing terrorism financing)?

Yes

Please give reasons for your answer.:

This demonstrates how badly conceived this act is. If the function of the FIU is to monitor AML, then yes they should be able to make inquiries when the evidence is needed.
There are other government agencies that can obtain this information.

1.29 If the FIU had this power, under what circumstances should it be able to be used and should there be any constraints on using the power?

Please share your comments below.:

They should require a warrant, as with any police matter.

1.30 Should the FIU be able to request information from businesses on an ongoing basis?

No

Please explain your answer:

Businesses are not in the business of providing such information. How does the business get compensated for the resources it is required to provide to supply this information.
There are other options for information gathering that do not need to involve business or interfere with their day-to-day processes.

1.31 If the FIU had this power, what constraints are necessary to ensure that privacy and human rights are adequately protected?

What constraints are needed?:

The act needs to be rewritten such that it specifically protect the privacy and human rights. As it is written now it abuses both of those rights.

1.32 Should the Act provide the FIU with a power to freeze, on a time limited basis, funds or transactions in order to prevent harm and victimisation?

Yes

If you answered 'yes', how could the power work and operate? In what circumstances could the power be used, and how could we ensure it is a proportionate and reasonable power? Please share your comments below.:

It would require a warrant issued by a judge who has reviewed the evidence.

1.33 How can we avoid potentially tipping off suspected criminals when the power is used?

Please share your comments below.:

1.34 Should supervision of implementation of Targeted Financial Sanctions (TFS) fall within the scope of the AML/CFT regime?

No

Please give reasons for your answer.:

This just adds more levels of complexity and cost.
Do the AML/CFT supervisors really have the resources to monitor effectively, or is the act simply too complex.

1.35 Which agency or agencies should be empowered to supervise, monitor, and enforce compliance with obligations to implement TFS?

Please describe below and give reasons for your answer.:

The DIA

1.36 Are the secondary legislation making powers in the Act appropriate, or are there other aspects of the regime that could benefit from having regulation making powers created?

Please share your comments below.:

Yes

1.37 How could we better use secondary legislation making powers to ensure the regime is agile and responsive?

Please share your comments below.:

Too much secondary legislation could make the act confusing.
Regularly scheduled reviews would be better as secondary legislation tends to be reactive.

1.38 Are the three Ministers responsible for issuing Codes of Practice the appropriate decision makers, or should it be an operational decision maker such as the chief executives of the AML/CFT supervisors? Why or why not?

Please share your comments below and give reasons for your answer.:

In order to get the widest cooperation of the act, it must be within the grasp of the businesses required to comply with it.
How are such changes going to be understood by those required to enact them?

1.39 Should the New Zealand Police also be able to issue Codes of Practice for some types of FIU issued guidance?

No

If you answered yes, what should the process be?:

1.40 Are Codes of Practice a useful tool for businesses?

No

If you answered 'yes', are there any additional topics that Codes of Practice should focus on? What enhancements could be made to Codes of Practice? Please share your comments below.:

1.41 Does the requirement for businesses to demonstrate they are complying through some equally effective means impact the ability for businesses to opt out of a Code of Practice?

Yes

If you answered 'yes', please give reasons for your answer.:

These are highly technical details that would not be understood or enacted by the vast majority of businesses. How are such rules and requirements easily understood and how do such instruments actually prevent money laundering and or terrorism.

1.42 What status should be applied to explanatory notes to Codes of Practice? Are these a reasonable and useful tool?

Please share your comments below.:

How does this affect the purpose of the act and its ability to be effective?

1.43 Should operational decision makers within agencies be responsible for making or amending the format of reports and forms required by the Act?

No

Please give reasons for your answer.:

How are the businesses and entities that are required to comply with this law expected to keep up with these changes, let alone have the resources to ensure any changes are implemented?

1.44 If you answered 'yes' to the previous question (question 1.43), which operational decision makers would be appropriate, and what could be the process for making the decision? For example, should the decision maker be required to consult with affected parties, and could the formats be modified for specific sectoral needs?

Please share your comments below.:

1.45 Would AML/CFT Rules (or similar) that prescribed how businesses should comply with obligations be a useful tool for business?

Yes

Please give reasons for your answer.:

Rules are easier to understand. One of the shortcomings of this legislation is the inability of the DIA to provide guidance.

1.46 If we allowed for AML/CFT Rules to be issued, what would they be used for, and who should be responsible for issuing them?

Please share your comments below.:

The DIA or at least a centralised agency.

1.47 Would you support regulations being issued for a tightly constrained direct data access arrangement which enables specific government agencies to query intelligence the FIU holds?

Yes

Please give reasons for your answer.:

Information sharing is required if there is to be effective action for AML/CFT

1.48 Are there any other privacy concerns that you think should be mitigated?

Unsure

Please share your comments below.:

1.49 What, if any, potential impacts do you identify for businesses if information they share is then shared with other agencies? Could there be potential negative repercussions notwithstanding the protections within section 44?

Please share your comments below.:

Businesses and entities must be indemnified when they are forced to share information that is required under the act.
If that information leads to a false arrest or is used for purposes other than AML/CFT the business that supplied the information cannot be held for damages. They should fall with the agency that transgressed with that information.

1.50 Would you support the development of data-matching arrangements with FIU and other agencies to combat other financial offending, including trade-based money laundering and illicit trade?

Yes

Please give reasons for your answer.:

Only if protection is given to the source of the data and there is indemnity from the incorrect or inappropriate use of that data.

1.51 What concerns, privacy or otherwise, would we need to navigate and mitigate if we developed data-matching arrangements? For example, would allowing data-matching impact the likelihood of businesses being willing to file Suspicious Activity Reports (SARs)?

Please share your comments below.:

In theory, data matching would eliminate the need for businesses to file SAR's. Businesses are not in the business of monitoring activity, so it should not fall on them.

1.52 Should there be an AML/CFT-specific registration regime which complies with international requirements?

No

If you answered 'yes', how could it operate, and which agency or agencies would be responsible for its operation? Please share your comments below.:

1.53 If such a regime was established, what is the best way for it to navigate existing registration and licensing requirements?

Please share your comments below.:

1.54 Are there alternative options for how we can ensure proper visibility of which businesses require supervision and that all businesses are subject to appropriate fit-and-proper checks?

Yes

Please give reasons for your answer.:

The current system does not support this.
Most businesses should be exempt and those that are not should be monitored.

1.55 Should there also be an AML/CFT licensing regime in addition to a registration regime?

No

Please give reasons for your answer.:

This adds more complexity and cost. Such action discriminates against small businesses as costs per unit are higher.

1.56 If we established an AML/CFT licensing regime, how should it operate? How could we ensure the costs involved are not disproportionate?

Please share your comments below.:

Make exemption the norm and monitor those businesses which have real risk.

1.57 Should a regime only apply to sectors which have been identified as being highly vulnerable to money laundering and terrorism financing, but are not already required to be licensed?

No

Please give reasons for your answer.:

This increases complexity.
How does having a license prevent ML/FT

1.58 If such a regime was established, what is the best way for it to navigate existing licensing requirements?

Please share your comments below.:

1.59 Would requiring risky businesses to be licensed impact the willingness of other businesses to have them as customers? Can you think of any potential negative flow-on effects?

Please share your comments below.:

This is in effect another form of discrimination.
An industry identified as being at risk is not at risk for that reason.

1.60 Would you support a levy being introduced for the AML/CFT regime to pay for the operating costs of an AML/CFT registration and/or licensing regime?

Please give reasons for your answer.:

This would be an indirect cost imposed on a business that has to pass to its customers.
If it is of value for society to enact AML/CFT actions, this should be paid by society through taxes and not targeted at business users. Businesses do create AML/CFT risk is imposed on society by actors with no connection to those businesses.

No

1.61 If we developed a levy, who do you think should pay the levy (some or all reporting entities)?

Please share your comments below.:

No levy should be paid. How is this to be collected.

1.62 Should all reporting entities pay the same amount, or should the amount be calculated based on, for example, the size of the business, their risk profile, how many reports they make, or some other factor?

Please share your comments below.:

If there has to be a levy or an indirect tax, then it should be a function of revenue and the number of customers.

1.63 Should the levy also cover some or all of the operating costs of the AML/CFT regime more broadly, and thereby enable the regime to be more flexible and responsive?

No

Please give reasons for your answer.:

This legislation is to combat AML/CFT. Its costs should be covered by taxes and the taxpayer.
Enhanced funding will only fund ineffective activities, most likely to pay the profits of entities engaged in monitoring AML/CFT.

1.64 If the levy paid for some or all of the operating costs, how would you want to see the regime's operation improved?

Please share your comments below.:

By having a regime that only monitors non-exempt high-risk businesses, where most businesses are exempt, costs will be lower.

2. Scope of the AML/CFT Act

2.1 How should the Act determine whether an activity is captured, particularly for Designated Non-Financial Businesses and Professions (DNFBPs)?

Please share your comments below.:

The act needs to be very specific about what activity is captured. The act is for the purposes of AML/CFT, so only activity that is suspicious should be captured. This cannot be defined by the value of the transactions.

No

Please give reasons for your answer.:

How can an act determine what is the "ordinary" course of business? The definition is far too wide and could lead to the exclusion by not being included.

2.2 If 'ordinary course of business' was amended to provide greater clarity, particularly for DFNBPs, how should it be articulated?

Please share your comments below.:

simply

2.3 Should 'ordinary' be removed?

Yes

If so, how could we provide some regulatory relief for businesses which provide activities infrequently? Are there unintended consequences that may result? Please share your comments below.:

The course of business is ordinary even if that happens infrequently.

2.4 Should businesses be required to apply AML/CFT measures in respect of captured activities, irrespective of whether the business is a financial institution or a DNFBP?

No

Please give reasons for your answer.:

Captured activity is a vague concept. An activity should be captured if and only if it is deemed to be suspicious.

2.5 If you answered yes to the previous question (Question 2.4), should we remove 'only to the extent' from section 6(4)?

Unsure

Would anything else need to change, e.g. to ensure the application of the Act is not inadvertently expanded? Please share your comments below.:

2.6 Should we issue regulations to clarify that captured activities attract AML/CFT obligations irrespective of the type of reporting entity which provides those activities?

No

Please give reasons for your answer.:

How does this actualy prevent or deter AML/CFT

2.7 Should we remove the overlap between 'managing client funds' and other financial institution activities?

No

If you answered 'yes', how could we best do this to avoid any obligations being duplicated for the same activity? Please share your comments below.:

2.8 Should we clarify what is meant by 'professional fees'?

Yes

If you answered 'yes', what would be an appropriate definition? Please share your comments below.:

Professional Fees should not include fees that are paid doing general work that is simply outsourced.
For example, a bookkeeper working as a contractor for a firm is the same as if they are working for that firm. It is a service but not necessarily a "professional" one. If the bookkeeper was employed by the firm they are not required to report under the act, however as a sole trader they are.
A professional service is provided at a level of expertise that would not be available as an employee or contractor to the firm.

2.9 Should the fees of a third party be included within the scope of 'professional fees'?

No

Please give reasons for your answer.:

That adds layers of complexity, which would include fees paid to the council for rubbish collection.

2.10 Does the current definition appropriately capture those businesses which are involved with a particular activity, including the operation and management of legal persons and arrangements?

No

Please give reasons for your answer.:

There is a difference between the risk of AML/CFT and perceived risk. What activity is the actual risk you want to capture, that is what should be defined.

How could it be improved?:

2.11 Have you faced any challenges with interpreting the activity of 'engaging in or giving instructions'?

Yes

If you answered 'yes', what are those challenges and how could we address them?:

What is giving instruction? Is that advice or is telling someone what to do. I could give advice that leads to action by suggesting a set of actions. If I tell them what to do that is that giving instruction.

2.12 Should the terminology in the definition of financial institution be better aligned with the meaning of financial service provided in section 5 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008?

Yes

If you answered yes, how could we achieve this?:

Generally, the terminology used in this act is obscure and confusing.
If the act is not easily understood how can it be effectively enacted?

2.13 Are there other elements of the definition of financial institution that cause uncertainty and confusion about the Act's operation?

Yes

If you answered 'yes', please give details::

2.14 Should the definition of high-value dealer be amended so businesses which deal in high value articles are high-value dealers irrespective of how frequently they undertake relevant cash transactions?

Yes

Please give reasons for your answer.:

The reality is that cash is a very outdated concept and in business is now the exception, not the norm.
Even the $10,000 threshold is outdated

Can you think of any unintended consequences that might occur?:

The definitions used are static the value of $10,000 reduces each year. The act does not keep these thresholds in line with inflation.

2.15 What do you anticipate would be the compliance impact of this change?

Please share your comments below.:

This will simply put more compliance costs on business How are these costs going to be recovered.
Again the act should exclude as many businesses as possible and concentrate on those businesses that have can effectively track AML/CFT activity.

2.16 Should we revoke the exclusion for pawnbrokers to ensure they can manage their money laundering and terrorism financing risks?

No

Please give reasons for your answer.:

Pawnbrokers are a licensed business, so it is already subject to legislative obligations. Increased compliance costs will be hard for these businesses to pass on.

2.17 Given there is an existing regime for pawnbrokers, what obligations should we avoid duplicating to avoid unnecessary compliance costs?

Please share your comments below.:

They should be exempt from AML/CFT legislation, as should most New Zealand businesses.

2.18 Should we lower the applicable threshold for high value dealers to enable better intelligence about cash transactions?

No

Please give reasons for your answer.:

The $10,000 threshold is too low and how is this reviewed over time.

2.19 If you answered 'yes' to the previous question (Question 2.18), what would be the appropriate threshold? How many additional transactions would be captured? Would you stop using or accepting cash for these transactions to avoid AML/CFT obligations?

Please share your comments below.:

2.20 Do you currently engage in any transactions involving stores of value that are not portable devices (e.g. digital stored value instruments)?

No

If you answered 'yes', what is the nature and value of those transactions?:

2.21 What risks do you see with stored value instruments that do not use portable devices?

Please share your comments below.:

2.22 Should we amend the definition of “stored value instruments” to be neutral as to the technology involved?

Unsure

If you answered 'yes', how should we change the definition? Please share your comments below.:

2.23 Should acting as a secretary of a company, partner in a partnership, or equivalent position in other legal persons and arrangements attract AML/CFT obligations?

No

Please give reasons for your answer.:

Such positions do not engage with day to day processing of transactions. To make such positions responsible for scrutiny of those transactions is simply counterproductive and in reality impossible. The assumptions made by this act and definitions imported from other jurisdictions are simply not relevant to business in New Zealand.

2.24 If you are a business which provides this type of activity, what do you estimate the potential compliance costs would be for your business if it attracted AML/CFT obligations?

Please share your comments below.:

I would need to employ additional staff just to manage AML/CFT compliance. NZD 140,000 per annum, about $5,500 per cliient. That is a cost I cannot pass on to my customers.

How many companies or partnerships do you provide these services for?:

About 20-30

2.25 Should criminal defence lawyers have AML/CFT obligations?

No

If you answered 'yes', what should those obligations be and why?:

The purpose of the act is to meet international obligations in regard to the financing of terrorism and the money laundering that supports that activity. Criminal activity is quite different from that, if the legal community has to engage in more compliance activity, how does that get paid for?

2.26 If you are a criminal defence lawyer, have you noticed any potentially suspicious activities?

Not Answered

If you answered 'yes', without breaching legal privilege, what were those activities and what did you do about them?:

2.27 Are there any unintended consequences that may arise from requiring criminal defence lawyers to have limited AML/CFT obligations, that we will need to be aware of?

Yes

If you answered 'yes', please give details::

Criminal lawyers will be less likely to take on criminal cases, due to increased cost.

2.28 Should non-life insurance companies become reporting entities under the Act?

No

Please give reasons for your answer.:

This will increase insurance premiums. The concept that insurance companies would be used for money laundering to support terrorist actives is fanciful.

2.29 If you answered 'yes' to the previous question (Question 2.28), should non-life insurance companies have full obligations, or should they be tailored to the specific risks we have identified?

Not Answered

Please give reasons for your answer.:

2.30 If you are a non-life insurance business, what do you estimate would be the costs of having AML/CFT obligations (including limited obligations)?

Please share your comments below.:

2.31 Should we use regulations to ensure that all types of virtual asset service providers have AML/CFT obligations, including by declaring wallet providers which only provide safekeeping or administration are reporting entities?

No

If you answered 'yes', how should we do this?:

How in reality are you going to monitor that.

2.32 Would issuing regulations for this purpose change the scope of capture for virtual asset service providers which are currently captured by the AML/CFT regime?

Unsure

If you answered 'yes', please give reasons for your answer.:

2.33 Is the Act sufficiently clear that preparing or processing invoices can be captured in certain circumstances?

No

If you answered 'no', please give reasons for your answer.:

This is overbearing legislation that is simply unrealistic in terms of understanding what accounting service providers do.
How does the act distinguish between an accounts clerk in a company issuing invoices and a contract bookkeeper doing the monthly invoicing? The employee and the company are not captured by the act but the contractor is.
Generally, most accounting service providers do not issue invoices, handle cash, or scrutinize every transaction. We are not auditors, we deal with summaries of numbers prepared to ensure our clients meet their tax obligations.
We are not employed by our clients to sift through their affairs on the assumption that they are financing terrorists.
In most cases, we have a personal relationship with our clients that extends over long periods of time and we are very aware of the nature of their businesses. If and only if there was illegal activity, then that should be reported to the police.
The assumptions this act makes on the activities of accounting service providers are out of date, ignorant of technology, and simply incorrect.

2.34 If we clarified the activity, should we also clarify what obligations businesses should have?

Yes

If you answered 'yes', please give reasons for your answer.:

2.35 Should preparing accounts and tax statements attract AML/CFT obligations?

No

Please give reasons for your answer.:

No.... preparing accounts is nothing more than the summary of financial activity, any suspicious activity is in the details of the transactions and not the summary of them, so it is already captured by the act.
This is imposing even more compliance costs on the industry and its clients.

2.36 If you answered 'yes' to the previous question (Question 2.35), what would be the appropriate obligations for businesses which provide these services?

Please share your comments below.:

2.37 Should tax-exempt non-profits and non-resident tax charities be included within the scope of the AML/CFT Act given their vulnerabilities to being misused for terrorism financing?

No

Please give reasons for your answer.:

How do you expect charities to have the additional resources for this?
Charities should be exempt unless there is actual risk identified. This form of compliance will drive certain charities to the ground.

2.38 If these non-profit organisations were included, what should their obligations be?

Please share your comments below.:

None - they should be exempt.

2.39 Are there any other regulatory or class exemptions that need to be revisited, e.g. because they no longer reflect situations of proven low risk or because there are issues with their operation?

Yes

If you answered 'yes', please share your suggestions.:

All businesses should be exempt unless specially identified as being high risk.
Politically there needs to be pushback to the FATF, it imposes legislative requirements that are not appropriate to New Zealand, and as a result, businesses are required to absorb unnecessary costs and risks.

2.40 Should the exemption for internet auctions still apply, and are the settings correct in terms of a wholesale exclusion of all activities?

Yes

If you answered 'no', please give reasons for your answer.:

This is overbearing, the number of transactions that happen over the internet, in business, or in a bank that is possibly related to AML/CFT is probably less than 0.0001 percent.

2.41 If it should continue to apply, should online marketplaces be within scope of the exemption?

Yes

Please give reasons for your answer.:

Exemption should be a normal setting.

2.42 What risks do you see involving internet marketplaces or internet auctions?

Please share your comments below.:

In real terms none. Criminal activity related to AML/CFT is monitored by the police.
If you were to include internet transactions, then why not all retail transactions.

2.43 If we were to no longer exclude online marketplaces or internet auction providers from the Act, what should the scope of their obligations be? What would be the cost and impact of that change?

Please share your comments below.:

There should be no obligations, the cost imposed by this legislation is an unnecessary cost passed on to individuals

2.44 Do you currently rely on this regulatory exemption to offer special remittance card facilities?

No

If you answered 'yes', how many facilities do you offer to how many customers?:

2.45 Is the exemption workable or are changes needed to improve its operation?

Please share your comments below.:

Again, this imposes costs that are unnecessary. These costs do not add any value to customers involved, it lowers the value of their remittances, and thus is detrimental to the recipients.

What would be the impact on compliance costs from those changes?:

See above

2.46 Do you consider the exemption properly mitigates any risks of money laundering or terrorism financing through its conditions?

Yes

If you answered 'yes', please give reasons for your answer.:

The real risk of terrorism associated with these activities is non-existent. There may be criminal risk but the purpose of this legislation is in regard to terrorism.

2.47 Should we amend this regulatory exemption to clarify whether and how it applies to DNFBPs?

Yes

If you answered 'yes', please share your suggestions.:

There appears to be inconsistency. A travel agent or an airline is more likely to handle cash and provide a transaction that could facilitate the movement of a terrorist, e.g. buys an airline ticket. Such a business is exempt, yet a bookkeeper that handles no cash or any activity that could be used by a terrorist is not exempt.

2.48 Should we issue any new regulatory exemptions?

Yes

If you answered 'yes', please share your suggestions.:

The current regime for seeking exemptions is cumbersome, too slow, and ineffective.
Exemptions should be automatic and only rescinded if identified as having real risk.

Are there any areas where Ministerial exemptions have been granted where a regulatory exemption should be issued instead?:

Yes, every exemption should be regulatory. This minister cannot simply handle every business, person, or entity that is captured by this act.

2.49 Do you currently use a company to provide trustee or nominee services?

No

If you answered 'yes', why do you use them, and how many do you use? What is the ownership and control structure for those companies?:

2.50 Should we issue a new regulatory exemption to exempt legal or natural persons that act as trustee, nominee director, or nominee shareholder where there is a parent reporting entity involved that is responsible for discharging their AML/CFT obligations?

Yes

Please give reasons for your answer.:

In most cases, the AML/CFT scrutiny has already captured the individuals concerned either as being associated with a trust or company. So further non-exemption creates duplication and there additional unnecessary cost.

2.51 If so, what conditions should be attached to such an exemption to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your comments below.:

The risk is with the entity being managed not the entity managing it.

2.52 Should we issue a new regulatory exemption to exempt Crown entities, entities acting as agents of the Crown, community trusts, and any other similar entities from AML/CFT obligations?

No

Please give reasons for your answer.:

If they are exempt, why aren't businesses exempt, why should businesses carry the cost of compliance, and government businesses not.

2.53 If you answered 'yes' to the previous question (Question 2.52), what should be the scope of the exemption and possible conditions to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your suggestions below.:

2.54 Should we issue an exemption for all reporting entities providing low value loans, particularly where those loans are provided for social or charitable purposes?

Yes

Please give reasons for your answer.:

The cost of compliance would erode the benefit.

2.55 If so, what conditions should be attached to such an exemption to ensure it does not raise other money laundering or terrorism financing vulnerabilities?

Please share your comments below.:

none

2.56 Should the AML/CFT Act define its territorial scope?

Yes

Please give reasons for your answer.:

A business that is not in New Zealand is subject to the jurisdiction of the country it is in, which is then covered by the FAFT obligations of that country.

2.57 If so, how should the Act define a business or activity to be within the Act's territorial scope?

Please share your comments below.:

If the business is controlled by New Zealand interests and is a registered New Zealand entity then it is in territorial scope.

3. Supervision, regulation, and enforcement

3.1 Is the AML/CFT supervisory model fit for purpose or should we consider changing it?

No

3.1 Please indicate why? :

I do not believe the supervisors have the required resources to manage what they supervise.

3.2 If it were to change, what supervisory model do you think would be more effective in a New Zealand context?

Single supervisor responsible for all entities

3.2 Please provide context for your choice:

Supervision should be a government-controlled entity.

3.3 Do you think the Act appropriately ensures consistency in the application of the law between the three supervisors? If not, how could inconsistencies in the application of obligations be minimised?

No

3.3 Please provide options for how inconsistencies in the application of obligations could be minimised:

The act needs simplification and clarification on what it is actually intended to do. Much of the act extends beyond the scope of preventing and deterring terrorism.

3.4 Does the Act achieve the appropriate balance between ensuring consistency and allowing supervisors to be responsive to sectoral needs? If not, what mechanisms could be included in legislation to achieve a more appropriate balance?

No

If not, what mechanisms could be included to achieve balance:

Exemptions need to be the norm such that exemptions are managed. This is much more efficient than managing the whole community captured by the act.

3.5 Are the statutory functions and powers of the supervisors appropriate or do they need amending? If so, why?

No - the functions and powers of the supervisors need amending

3.5 If so, why are the statutory functions and powers of the supervisors not appropriate:

It is unclear as to what powers supervisors have.

3.5 What amendments are required:

There needs to be clarity on the role of supervisors and what they can do with their power. What mechanisms are in place if those powers are overreaching.

3.6 Should AML/CFT Supervisors have the power to conduct onsite inspections of REs operating from a dwelling house? If so, what controls should be implemented to protect the rights of the occupants?

No

Please explain your answer:

Such visits should be by consent only. If there has been criminal activity it is a matter for the police who can get a warrant.

What controls are required to protect the rights of occupants?:

There has to be a judicial process before entering a property.

3.7 What are some advantages or disadvantages of remote onsite inspections?

Please share your thoughts:

This would be a privacy breach, how would a supervisor conduct a remote inspection and only be given access to the required files.
An inspection would need to be requested and the relevant documents sent or shared with the supervisor.

3.8 Would virtual inspection options make supervision more efficient? What mechanisms would be required to make virtual inspections work?

No

Please explain your answer:

Inspections would need to be supervised to ensure only the required information is accessed.

What mechanisms would be required to make virtual inspections work?:

Arrangments would be required to give access.

3.9 Is the process for forming a designated business group (DBG) appropriate? Are there any changes that could make the process more efficient?

Yes

Please expalin your answer:

It should be made easy to set up such groups

Are there changes that could make the process more efficient?:

It should be an online form and voluntary on the part of the joining entity

3.10 Should supervisors have an explicit role in approving or rejecting formation of a DBG? Why or why not?

No

Why or why not?:

Any group of businesses should be able to form a DBG. Once formed status can be rejected if supervisors have a valid reason to do that.

3.11 Should explicit standards for audits and auditors be introduced? If so, what should those standards be and how could they be used to ensure audits are of higher quality?

Yes

If yes, what should the standards be?:

A major shortfall of the act is the fact that standards are not specified. Guidelines lead to different interpretations of the act, which then can be deemed to be incorrect. The act needs to be very specific about what is required. It is not good enough for the DIA to advise that legal advice should be sought when asked specific questions about the act.

How could standards be used to ensure audits are of higher quality?:

The more specific the act, the better audit is at identifying areas of concern rather than a question of interpretation.

3.12 Who would be responsible for enforcing the standards of auditors?

AML/CFT supervisors

If other, which agency/organisation would enforce the standards?:

Audits should be controlled by AML/CFT supervisors.

Please explain your answer:

The concept of independent auditors is flawed. There are no professional requirements and it is a cost that is borne by the business. Audits should be run by the AML/CFT supervisors at no cost to business

3.13 What impact would that have on cost for audits? What benefits would there be for businesses if we ensured higher quality audits?

Please share your thoughts:

There is no benefit to business through higher cost, this is passed on to the consumer who receives no benefit from this cost. Audits should be undertaken by a government agency at no cost to businesses.

What benefits would there be for businesses if we ensured higher quality audits?:

None - Audits happen after an event and therefore have no effect on an activity that has passed. They are simply tools to check on past activities.

3.14 Should there be any protections for businesses which rely on audits, or liability for auditors who do not provide a satisfactory audit?

Yes

Please explain your answer:

There is no process to confirm the quality of any given auditor. An insufficient audit is caused by the actions of the business being audited. Every business should be indemnified from any action that results from an inadequate audit. For that reason audits should conduct by a government entity and not independent individuals,

If yes, what protections would you want? What should be the nature of the liability for auditors?:

Why should a business that has been incorrectly audited have to bear the cost of that?
Auditors must be qualified and be fully responsible for any liability. This will increase audit costs due to insurance. Again Auditors should not be done through the private sector.

3.15 Is it appropriate to specify the role of a consultant in legislation, including what obligations they should have? If so, what are appropriate obligations for consultants?

Yes

Please explain your answer:

Consultants must be qualified to consult on the legislation. The need for consultants would lessen if the legislation had specific regulations and not interpretative regulations.

If a consultant's rule should be specified in legislation, what are the appropriate obligations?:

A consultnat must the appropraite training on the legislation.

3.16 Do we need to specify what standards consultants should be held to? If so, what would it look like? Would it include specific standards that must be met before providing advice?

Yes

Please explain your answer:

Consultants must have training in the act

If yes, what should the standards look like?:

An appropriate training course

3.17 Who would be responsible for enforcing the standard of consultants?

AML/CFT supervisor(s)

If other, please indicate which agency/organisation you see having responsibility:

Please explain your answer:

Supervisors work with the act they should be a stop shop for all AML/CFT requirements.

3.18 Do you currently use agents to assist with your AML/CFT compliance obligations? If so, what do you use agents for?

No

What do you use agents for?:

3.19 Do you currently take any steps to ensure that only appropriate persons are able to act as your agent? What are those steps and why do you take them?

No

If yes, what are the steps you take to ensure only appropriate persons act as your agent?:

3.20 Should there be any additional measures in place to regulate the use of agents and third parties? For example, should we set out who can be an agent and in what circumstances they can be relied upon?

Yes

Please explain your answer:

If anyone can be an agent, without supervision or licencing, how do you expect to ensure the quality of those agents?

3.20 If yes, what other additional measures would you like to regulate the use of agents and third parties? :

They should be registered and subject to training standards

3.21 Does the existing penalty framework in the AML/CFT Act allow for effective, proportionate, and dissuasive sanctions to be applied in all circumstances, including for larger entities? Why or why not?

No

Please explain your answer:

There is no proportionality of penalty in relation to the size of the business. Large corporate firms, such as banks, may be able to withstand penalties. Smaller businesses may not. Smaller businesses with lesser resource for compliance are more likely to be in breach of the legislation. Penalties that force smaller businesses out of business would be detrimental.
The legislation is so overreaching and complex, that it is, in reality, impossible to be 100% compliant. Any penalty for non-compliance needs to be considered in terms of the impact of the breach and the continuance of the business.

3.22 Would additional enforcement interventions, such as fines for non-compliance or enabling the restriction, suspension, or removal of a license or registration enable more proportionate, effective, and responsive enforcement?

No

Please explain your answer:

The purpose of this act is to deter terrorism. Using penalties to encourage compliance is counterproductive.

3.23 Are there any other changes we could make to enhance the penalty framework in the Act?

Yes

Please provide further detail:

Penalties do not work, education does. A breach of the act should require an educative response to ensure future compliance.

3.24 Should the Act allow for higher penalties at the top end of seriousness to ensure sufficiently dissuasive penalties can be imposed for large businesses? If so, what should the penalties be?

No

Please provide further information, including what the penalties could be:

Penalties are are a cost that is borne by the consumer. Big business will just pass these costs on.
If big businesses are charged large fines, what is the revenue from the fines used for?

3.25 Would broadening the scope of civil sanctions to include directors and senior management support compliance outcomes? Should this include other employees?

No

Please provide further detail:

Businesses undertake millions of transactions and business is not in the business of scrutinizing those transactions. You cannot expect specific people who manage the business to be fully responsible.

3.26 If penalties could apply to senior managers and directors, what is the appropriate penalty amount?

Please share your thoughts:

This is an overreach of the legislation. How does this specifically prevent or deter acts of terrorism?

3.27 Should compliance officers also be subject to sanctions or provided protection from sanctions when acting in good faith?

Please share your thoughts:

This would deter people from wanting to be compliance officers or alternatively force up the cost of business insurance. The costs would be borne by the customer.
The concept that penalties are a tool against terrorism is counterproductive.

3.28 Should the Department of Internal Affairs (DIA) have the power to apply to liquidate a business to recover penalties and costs obtained in proceedings undertaken under the Act?

No

Please provide your comments in the box below:

No, what sort of breach would have to happen for the DIA to force the closure of a business. This is not the intent of the legislation. Education leads to better compliance, penalties do not.

3.29 Should we change the time limit by which prosecutions must be brought by? If so, what should we change the time limit to?

Yes

Please provide your thoughts:

If it takes three years to identify a breach of the act, then the act is not good at being enforced. If such a time lag is apparent then there is not enough resource to enforce the act.

If you answered yes, what should we change the time limit to?:

It should be reduced to six months.

4. Preventive measures

4.1 What challenges do you have with complying with your customer due diligence (CDD) obligations? How could these challenges be resolved?

What challenges do you have with complying with your CDD obligations?:

CDD is a breach of customer trust, especially with long-held relationships. I do not believe CDD plays any part in identifying risk. That comes from the customer's activities and not their identity. There are aspects of risk assessment with CDD that is blatant discrimination and the factors by which these risks are made are not prescribed by the DIA but through private enterprise.

How could these challenges be resolved?:

The government should introduce a national Identidy card.

4.2 Have you experienced any situations where trying to identify the customer can be challenging or not straightforward? What were those situations and why was it challenging?

Yes

If yes, what were those situations and why was it challenging?:

Customers with out passports or driver licences or documented place of abode.

4.3 Would a more prescriptive approach to the definition of a customer be helpful? For example, should we issue regulations to define who the customer is in various circumstances and when various services are provided?

Yes

Please share your thoughts:

The act should be clear and we should not be expected to rely on interpretation.

4.4 If so, what are the situations where more prescription is required to define the customer?

What do you think?:

We need less complication.

4.5 Do you anticipate that there would be any benefits or additional challenges from a more prescriptive approach being taken?

Please share your thoughts:

The act needs clearer deffinition of it requires. The interprative approach can easily lead to breaches of the act.

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

No

Please provide comments below :

Every real estate transaction requires attenance by a lawyer and a bank. This a duplication of CDD, how does that enhance the objective of the act.

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?

What challenges do you anticipate would occur if CDD was required on both parties?:

This creates more administrative time and cost for the real estate business.

How might the challenges be addressed?:

They sould be exempt.

What do you estimate the costs of the change would be?:

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

Other

If you have indicated other above or have more comments to make please provide them in the box below:

It should not be required

4.9 Are the prescribed points where CDD must be conducted clear and appropriate? If not, how could we improve them?

No

Please provide further detail below:

At what point is the customer a customer.

4.10 For enhanced CDD, is the trigger for unusual or complex transactions sufficiently clear?

No

Please provide further detail below:

The process for this is unclear and is discriminatory.
Apart from identifying the customer, it is not clear what these additional actions actually achieved.

4.11 Should CDD be required in all instances where suspicions arise?

No

Please provide your comments in the box below:

How is a business expected to report on transactions that are outside the business relationship

4.12 If so, what level of CDD should be required, and what should be the requirements regarding verification? Is there any information that businesses should not need to obtain or verify?

Standard customer due diligence

What should be the requirements regarding verification?:

As per standard CDD

Is there any information that businesses should not need to obtain or verify?:

Information of personal nature that is not part of the business relationship

4.13 How can we ensure that this obligation does not put businesses in a position where they are likely to tip off the person?

Please provide your comments in the box below:

You can't, if I am forced to ask questions to a client, I must be able to validate that it is required under the act.
In reality, each interaction with clients should state that all transactions are subject to scrutiny under the act.
The act enforces us to disregard the privacy of the client, was that the intention of the act?

4.14 What money laundering risks are you seeing in relation to law firm trust accounts?

Please provide your comments in the box below:

None. Trusts are used mostly for legitimate reasons. This might not be the case overseas, but generally not in New Zealand.

4.15 Are there any specific AML/CFT requirements or controls that could be put in place to mitigate the risks? If so, what types of circumstances or transactions should they apply to and what should the AML/CFT requirements be?

No

Please share your thoughts:

The purpose of the act is to deter or prevent terrorism. The real risk is extremely low and this level of complexity adds costs that are of no real value.

If you answered yes, what types of circumstances or transactions should they apply to and what should the AML/CFT requirements be?:

4.16 Should this only apply to law firm trust accounts or to any DNFBP that holds funds in its trust account?

Apply only to law firm trust accounts

Please provide your comments in the box below:

The less complexity the clearer the task.

4.17 What do you estimate would be the costs of any additional controls you have identified?

Please provide your comments in the box below:

Every touchpoint of this act creates a cost that is borne by the customer of the business. Multiple CDD caused by property transactions adds a lot of replicated costs.
The cost to business and society reaches in the billions and does this indirect tax actually represent value, especially to those forced to pay for it.

4.18 Is the information that the Act requires to be obtained and verified still appropriate? If not, what should be changed?

No

Please share your thoughts:

The information required is not relevant to actions undertaken in the business relationship. I do not need to know such details to do my job, nor am I interested in that. I do not believe gathering nonrequired information on my client's details adds any value to the relationship. We already have multiple layers of ID collection, namely with the banks, who are also privy to any transactions. So it is counterproductive to reengage in CDD with every business the client encounters. Given the technology available today, there must be smarter ways of dealing with these requirements.

4.19 Are the obligations to obtain and verify information clear?

No

Please provide your comments in the box below:

No not at all, how do define "nature and purpose". At what point does the information required become too much or not enough information.

4.20 Is the information that businesses should obtain and verify about their customers still appropriate?

No

Please provide your comments in the box below:

Any information other than simple ID verification and information that is specific to the task is unnecessary and adds time and cost. It is inappropriate to gather information beyond that.

4.21 Is there any other information that the Act should require businesses to obtain or verify as part of CDD to better identify and manage a customer's risks?

Please provide your comments in the box below:

no

4.22 Should we issue regulations to require businesses to obtain and verify information about a legal person or legal arrangement's form and proof of existence, ownership and control structure, and powers that bind and regulate? Why?

No

Please provide your thoughts :

This information is held with the companies office. For legislation to have the same type of public records for trusts and non-company business entities would be useful. The companies office or such entity responsible for such records should be responsible to ensure that the information held is correct. The necessity for multiple businesses to verify the same information is a wasteful duplication of effort.

4.23 Do you already obtain some or all of this information, even though it is not explicitly required? If so, what information do you already obtain and why?

Yes

If so, what information do you already obtain and why?:

Generally we keep such records as required to do our job.

4.24 What do you estimate would be the impact on your compliance costs for your business if regulations explicitly required this information to be obtained and verified?

Please estimate the impact on your compliance costs in the box below:

It is more time and expense passed on to the client.
The cost per client would be between $150 and $500 per client, in addition to the training required.

4.25 Should we issue regulations to prescribe when information about a customer's source of wealth should be obtained and verified versus source of funds? If so, what should the requirements be for businesses?

No

Please provide further details below:

This adds further complexity. These regulations impose a specialized branch of knowledge that is not required for the task we are asked to do for our clients.

If so, what should the requirements be for businesses?:

There should be no requirement for businesses to investigate this unless it is relevant to the task.

4.26 Are there any instances where businesses should not be required to obtain this information? Are there any circumstances when source of funds and source of wealth should be obtained and verified?

Yes

Please provide your thoughts:

This should only be required, if at all when a new customer presents.

4.27 Would there be any additional costs resulting from prescribing further requirements for source of wealth and source of funds?

Yes

Please provide your estimate of additional costs in the box below:

There is time and cost, plus the cost of training required.
Effectively businesses are being forced to introduce specialised training for the directors and staff of the business for a purpose that is not their core business.

4.28 Should we issue regulations to require businesses to obtain information about the beneficiary/ies of a life insurance or investment-related insurance policy and prescribe the beneficiary/ies as a relevant risk factor when determining the appropriate level of CDD to conduct? Why or why not?

No

4.28 Please provide your comments on why or why not in the box below:

Is this really relevant for the purposes of the act? What happens when the beneficiaries are extensive or named as groups. This would be akin to doing CDD on every shareholder of a public company.

4.29 If we required this approach to be taken regarding beneficiaries of life and other investment-related insurance policies, should the obligations only apply for moderate or high-risk insurance policies? Are there any other steps we could take to ensure compliance costs are proportionate to risks?

Yes

Please provide your comments in the box below:

In most cases, the presumed risk is highly overstated, so obligations should be for very high-risk policies.

Are there any other steps we could take to ensure compliance costs are proportionate to risks?:

The real risk that this legislation attempts to mitigate is very small. For that reason, the costs imposed on businesses and their customers are grossly disproportionate. Large corporates can spread the cost more evenly, small businesses cannot. Any steps that reduce the regulatory or compliance regime will help.

4.30 Have you encountered issues with the definition of a beneficial owner? If so, what about the definition was unclear or problematic?

Yes

If so, what about the definition was unclear or problematic?:

As with multiple beneficiaries who are groups.

4.31 How can we improve the definition in the Act as well as in guidance to address those challenges?

Please provide your thoughts:

Simplify the definitions

4.32 Should we issue a regulation which states that businesses should be focusing on identifying the "ultimate" beneficial owner? If so, how could “ultimate” beneficial owner be defined?

No

Please provide your thoughts:

How does this apply to publicly held companies or situations when voting rights do not fall within a specific group.

If so, how could "ultimate" beneficial owner be defined:

4.33 To what extent are you focusing beneficial ownership checks on the "ultimate" beneficial owner, even though it is not strictly required?

Sometimes

Please provide any comments you have on "ultimate" beneficial owner checks in the box below:

In most cases, this is in the course of business.

4.34 Would there be any additional costs resulting from prescribing that businesses should focus on the “ultimate” beneficial owner?

Yes

Please provide your thoughts:

The more compliance required the higher the cost on resources

If yes, can you please indicate the level of costs you think apply:

The charge-out rate is multiplied by the time taken.
So that can be $120 to $300 per hour multiplied by 1 to 3 hours.

4.35 Should we issue a regulation which states that for the purposes of the definition of beneficial owner, a person on whose behalf a transaction is conducted is restricted to a person with indirect ownership or control of the customer (to align with the Financial Action Task Force (FATF) standards)? Why or why not?

No

Please provide your thoughts below:

In most cases, this information is not required to complete our task. It would add complexity.
FATF standards are inappropriate to the New Zealand business model.

4.36 Would this change make the "specified managing intermediaries" exemption or Regulation 24 of the AML/CFT (Exemption) Regulations 2011 unnecessary? If so, should the exemptions be revoked?

Unsure

Please provide your thoughts:

4.37 Would there be any additional compliance costs or other consequences for your business from this change? If so, what steps could be taken to minimise theses costs or other consequences?

Unsure

Please provide your thoughts:

4.38 What process do you currently follow to identify who ultimately owns or controls a legal person, and to what extent is it consistent with the process set out in the FATF standards?

NZ AML/CFT Supervisor guidance on Beneficial Ownership

To what extent is the process you follow consistent with the process set out in the FATF standards?:

Are FATF standards suitable in the New Zealand context?

4.39 Should we issue regulations or a Code of Practice which is consistent with the FATF standards for identifying the beneficial owner of a legal person?

Other

Please provide any further comments you have in the box below:

Would such a change add complexity to the existing framework?

4.40 Are there any aspects of the process the FATF has identified that are not appropriate for New Zealand businesses?

Yes

If yes, please indicate what aspects they are and why they are not appropriate for New Zealand businesses:

Much of the FATF framework is inappropriate for New Zealand. Especially in regard to the role of accountants. Their definitions are outdated and do not match what our work entails. Accountants generally do not handle cash, issue invoices, scrutinise every transaction or launder money. This act is forcing accountants to undertake activity that is beyond the scope of our work. It is unfair to have to load those costs on our clients. The FATF ignores the scale of business in New Zealand, compared to the USA or Europe, New Zealand businesses are much smaller and operate a scale that is well below what the FATF considers. This has meant the cost of this legislation is disproportionate when applied to our customers.
The FATF ignores the amount of data available from modern technology and there are much smarter ways of using this data rather than being forced to follow what are outdated manual recording systems.

4.41 Would there be an impact on your compliance costs by mandating this process? If so, what would be the impact?

Yes

If so, what would be the impact?:

The act uses businesses to impose costs on customers. It is indirect taxation.

4.42 Should we issue regulations or a Code of Practice that allows businesses to satisfy their beneficial ownership obligations by identifying the settlor, the trustee(s), the protector and any other person exercising ultimate effective control over the trust or legal arrangement?

Other

Please provide any comments you have in the box below:

No further complexity should be required

4.43 Would there be an impact on your compliance costs by mandating that this process be applied? If so, what is the impact?

Yes

Please provide further details below:

Yes, everything that takes time adds cost.

4.44 Are the standards of verification and the basis by which verification of identity must be done clear and still appropriate? If not, how could they be improved?

No

Please provide your thoughts:

There should be a national ID card, verifiable through a database.

4.45 Do you encounter any challenges with using Identity Verification Code of Practice (IVCOP)? If so, what are they, and how could they be resolved?

Yes

4.48 If so, what are they, and how could they be resolved?:

Clients without passports, driver's licenses, or no fixed place of abode are problematic.

4.46 Is the approach in IVCOP clear and appropriate? If not, why?

No

Please provide your comments in the box below:

How much training is required to ensure that ID documents are genuine?
To what extent are we responsible if a client presents with a false document.

4.47 Should we amend or expand the IVCOP to include other AML/CFT verification requirements, e.g. verifying name and date of birth of high-risk customers verifying legal persons or arrangements, ongoing CDD, or sharing CDD information between businesses?

No

What other verification requirements could be included?:

Is this really necessary?

4.48 Are there any identity documents or other forms of identity verification that businesses should be able to use to verify a customer's identity?

Please provide your comments in the box below:

Any form of ID should be sufficient.

4.49 Do you have any challenges in complying with Part 3 of IVCOP in relation to electronic verification? What are those challenges and how could we address them?

Unsure

What challenges have you faced? :

Such processes are not clear

How could those challenges be addressed?:

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

What challenges have you faced with verification of address information?:

Addresses are not static and we rely on the client to advise the change. It can then take time to verify the address.
Clients with no fixed abode or traveling cannot be verified

4.53 What have been the impacts of those challenges?:

Time and cost

4.51 In your view, when should address information be verified, and how should that verification occur?

When should address information be verified?:

On inital CDD

How should verification occur?:

What is the importance of an address, in the vast majority of cases addresses are where people live?
If there is malicious intent why would they use a valid address and how would we know if they presented a bill with an address that it was a genuine document.
If you ask someone for their address, usually it will be given, and that is sufficient.
How does this activity actually assist with the objective of the act?

4.52 How could we address challenges with address verification while also ensuring law enforcement outcomes are not undermined? Are there any fixes we could make in the short term?

How could we address challenges with address verification while also ensuring law enforcement outcomes are not undermined? :

Given the technology available today why is this necessary?

Are there any fixes we could make in the short term?:

4.53 Do you currently take any of the steps identified by the FATF standards to manage high-risk customers, transactions or activities? If so, what steps do you take and why?

Yes

If you answered yes, what steps do you take and why?:

I undertake the tasks required by the legislation.

4.54 Should we issue regulations or a Code of Practice which outlines the additional measures that businesses can take as part of enhanced CDD?

Unsure

Please provide any further comments you have in the box below:

No further complexity is required

4.55 Should any of the additional measures be mandatory? If so, how should they be mandated, and in what circumstances?

No

If you answered yes, what measures should be mandatory?:

How shouild we make the measures mandatory?:

When should the measures be mandatory?:

4.56 Are there ways we can enhance or streamline the operation of the simplified CDD obligations, in particular where the customer is a large organisation?

Yes

Please provide further detail below :

CDD for large and public companies should be accessed electronicaly

4.57 Should we issue regulations to allow employees to be delegated by a senior manager without triggering CDD in each circumstance? Why?

Yes

Why? Please provide your response in the box below:

It saves time and cost

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

Why or why not? Please elaborate:

The use and purposes of trusts in New Zealand in unique compared with other countries. The risk is low and there is no need to increase the time and cost.

4.59 If we removed this requirement, what further guidance would need to be provided to enable businesses to appropriately identify high risks trusts and conduct enhanced CDD?

Please provide further detail below:

Follow the transactions.

4.60 Should high-risk categories of trusts which require enhanced CDD be identified in regulation or legislation? If so, what sorts of trusts would fall into this category?

No

Please provide further detail below:

If so, what sorts of trusts would fall into this category?:

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

Please provide further detail below:

reverifying a customer's ID, especially when they are long-standing clients does not enhance the process. It simply adds time and cost.

What changes should we consider making to clarify CDD and account monitoring obligations in section 31?:

They should only be updated if there is a change.

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?

Yes

Please provide any further comments in the box below:

If there is no change, there is no need to update. A client's records only need updating if there is a change. No additional CDD is required unless there has been a major change in the nature of the client.

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

No

Why? Please provide your comments in the box below:

There are no fundamental changes over time. Reverifying the obvious is duplication of effort.

4.64 What would be the impact on your compliance costs if we issued regulations to make this change? Would ongoing CDD be triggered more often?

What would be the impact on your compliance costs if we issued regulations to make this change?:

Any additional regulation increases time and cost.

Yes - ongoing CDD would be triggered more often

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

No

Why? Please provide further detail below:

On going CDD is pointless unless there has been a change

Please provide any other examples of mandated requirements for ongoing CDD in the box below:

4.66 If you are a DNFBP, how do you currently approach your ongoing CDD and account monitoring obligations where there are few or no financial transactions?

Please provide your response in the box below:

4.67 Should we issue regulations to require businesses to review activities provided to the customer as well as account activity and transaction behaviour? What reviews would you consider to be appropriate?

No

Please provide further information below:

This ads complexity, time and cost, for no additional benefit

What reviews would you consider to be appropriate?:

4.68 What would be the impact on your compliance costs if we issued regulations to make this change?

What would be the impact on your compliance costs if we issued regulations to make this change?:

More time and cost

4.69 Do you currently review other information beyond what is required in the Act as part of account monitoring? If so, what information do you review and why?

No

If so, what information do you review and why?:

4.70 Should we issue regulations requiring businesses to review other information where appropriate as part of account monitoring? If so, what information should regulations require businesses to regularly review?

No

Please provide further information below:

I am not in the business of monitoring my client's activities. Such monitoring is beyond the scope of what I provide, and how can I charge the client for this without advising them that it is for monitoring them.

If you answered yes, what information should regulations require businesses to regularly review?:

4.71 How could we ensure that existing (pre-Act) customers are subject to the appropriate level of CDD? Are any of the options appropriate and are there any other options we have not identified? What would be the cost implications of the options?

None of the above

Why? Please provide further details below:

It is a duplication of effort. CDD is appropriate if there has been a major change.

Are there any other options for ensuring existing (pre-Act) customers are subject to the appropriate levels of CDD?:

Yes, don't subject them, unless there is a specific reason for doing so.

What would be the cost implications of the options?:

Time and cost

4.72 Should the Act set out what can constitute tipping off and set out a test for businesses to apply to determine whether conducting CDD or enhanced CDD may tip off a customer?

Yes

Why? Please provide more information below:

The act should be public enough such that the client is aware that any information asked could be used to determine if they are caught by the act. The same as having your rights read when you are arrested.
I should advise every client that I am required by law to gather information about them.
That way everyone is aware that they could be tipped off, and it applies universally.

4.73 Once suspicion has been formed, should reporting entities have the discretion not to conduct enhanced CDD to avoid tipping off?

Yes

Please provide any further information below:

Every client should be told that any information investigated about them could be treated as suspicious.
That applies universality and avoids the problem of tipping off.

4.74 If you answered yes to question 4.73, in what circumstances should this apply? For example, should it apply only to business relationships (rather than occasional transactions or activities)? Or should it only apply to certain types of business relationships where the customer holds a facility for the customer (such as a bank account)?

Other

If other, please provide details in the box below:

Why? Please provide further detail below:

4.75 Are there any other challenges with the existing requirements to conduct enhanced CDD as soon as practicable after becoming aware that a SAR must be reported? How could we address those challenges?

Yes

What are those challenges?:

If a SAR is identified, any further action should be taken by the authorities. It is not the purpose of being in business to investigate security risks.

If yes, how could we address those challenges?:

Reduce the obligation on businesses to take action.

4.76 Do you have any challenges with complying with your record keeping obligations? How could we address those challenges?

Yes

Please provide more detail below:

It is laborious and disproportionate to the actual risk that exists.

If yes, how could we address those challenges?:

The legislation ignores the level of technology that is available for record-keeping.
There are much smarter ways of accessing the information if required.

4.77 Are there any other records we should require businesses to keep, depending on the nature of their business?

No

If yes, what are the other records and why should they be kept?:

4.78 Does the exemption from keeping records of the parties to a transaction where the transaction is outside a business relationship or below the occasional transaction threshold hinder reconstruction of transactions? If so, should the exemption be modified or removed?

No

If so, should the exemption be modified or removed?:

Why? Please provide any additional information:

There is no reason why this would hinder the reconstruction of transactions.

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

Yes

Please provide any additional information below:

This is irrelevant to New Zealand. Interaction with overseas PEP's is extremely low and what level of training is required for any individual within a business to identify if a PEP is misusing their authority in a foreign jurisdiction.

If you answered yes, how could we address those challenges?:

The SIS should be responsible for monitoring this.

4.80 Do you take any additional steps to mitigate the risks of politically exposed persons (PEPs) that are not required by the Act? What are those steps and why do you take them?

No

If yes, what are those steps and why do you take them?:

4.81 How do you currently treat customers who are domestic PEPs or PEPs from international organisations?

How do you currently treat customers who are domestic PEPs or PEPs from international organisations?:

Probably best not to do business with them. I would have to advise them that they are high-risk individuals and taking on their business is beyond the resources required to monitor them.

4.82 Should the definition of “politically exposed persons” be expanded to include domestic PEPs and/or PEPs from international organisations? If so, what should the definitions be?

No

Please provide any additional information below:

In the New Zealand context, this is simply overreaching.

If you answered yes, how do you think these terms should be defined?:

4.83 If we included domestic PEPs, should we also include political candidates and persons who receive party donations to improve the integrity of our electoral financing regime?

No

Please provide any further comments in the box below:

In the New Zealand context, this is simply overreaching.
The New Zealand electoral system by international standards is very robust.
To what extent do you define a political candidate, that stood for election anytime in the last 50 years? The very vast majority of political candidates are not at PEP level.

4.84 What would be the cost implications of such a measure for your business or sector?

4.84 What would be the cost implications of such a measure for your business or sector?:

In addition to the time and cost associated with CDD, additional training to handle PEP would require, this additional cost would need to be absorbed by the PEP's.

4.85 How do you currently treat customers who were once PEPs?

4.85 How do you currently treat customers who were once PEPs?:

Given the additional requirements it would be best to take on work for a PEP.

4.86 Should we require a risk-based approach to determine whether a customer who no longer occupies a public function should still nonetheless be treated as a PEP?

No

4.86 If you want to elaborate on your choice please provide your comments in the box below:

Generally a PEP once no longer a PEP returns to normal life. If not then the approach revolves around their transactions and is assessed in the normal manner.

4.87 Would a risk-based approach to former PEPs impact compliance costs compared to the current prescriptive approach?

Yes

4.87 Please provide any further comments you would like to make in the box below:

Anything that requires more time and cost increases the cost of compliance.

4.88 What steps do you take, proactive or otherwise, to determine whether a customer is a foreign PEP?

4.88 What steps do you take, proactive or otherwise, to determine whether a customer is a foreign PEP?:

This is simply impactable Unless you are told how could you know, the only way would be to question the foreigner and ask if they are a PEP.

4.89 Do you consider the Act's use of "take reasonable steps" aligns with the FATF's expectations that businesses have risk management systems in place to enable proactive steps to be taken to identify whether a customer or beneficial owner is a foreign PEP? If not, how can we make it clearer?

No

4.89 If not, how can we make it clearer?:

The FATF expectations are simply unrealistic and have no bearing on the work we do. Such matters are the concern of security authorities such as the SIS.

4.90 Should the Act clearly allow businesses to consider their level of exposure to foreign PEPs when determining the extent to which they need to take proactive steps?

Yes

4.90 Please provide any further comments you would like to make in the box below:

The vast majority of businesses are not exposed to PEP's, so the cost of training for this is disproportionate to the likelihood of an event. If PEP requires special treatment, this should not be a function of the business.

4.91 Should the Act mandate that businesses undertake the necessary checks to determine whether the customer or beneficial owner is a foreign PEP before the relationship is established or occasional activity or transaction is conducted?

No

4.91 Please provide any further comments in the box below:

4.92 How do you currently deal with domestic PEPs or international organisation PEPs? For example, do you take risk-based measures to determine whether a customer is a domestic PEP, even though our law does not require this to be done?

Are there other ways you deal with domestic PEPs

4.92 If there are other ways you currently deal with domestic PEPs or international organisation PEPs please indicate what you do in the box below:

Dealing with PEP's adds additional cost and risk to the business. If identified they would be asked to do business elsewhere.
The requirements of FATF are overstated in the New Zealand context.

4.93 If we include domestic PEPs and PEPs from international organisations within scope of the Act, should the Act allow for businesses to take reasonable steps, according to the level of risk involved, to determine whether a customer or beneficial owner is a domestic or international organisation PEP?

No

4.93 Please provide any further comments in the box below:

4.94 What would the cost implications of including domestic PEPs and PEPs from international organisations be for your business or sector?

4.94 What would the cost implications of including domestic PEPs and PEPs from international organisations be for your business or sector?:

The cost of administrating a PEP would be at least $2000 + GST. In context that is quite high when charging $300 for a tax return.

4.95 Should businesses be required to take reasonable steps to determine whether the beneficiary (or beneficial owner of a beneficiary) of a life insurance policy is a PEP before any money is paid out?

No

4.95 Please provide any comments you have in the box below:

4.96 What would be the cost implications of requiring life insurers to determine whether a beneficiary is a PEP?

4.96 What would be the cost implications of requiring life insurers to determine whether a beneficiary is a PEP?:

4.97 What steps do you currently take to mitigate the risks of customers who are PEPs?

4.97 What steps do you currently take to mitigate the risks of customers who are PEPs?:

The requirements of FATF are overstated in the New Zealand context.
The best mitigation is not to do business with a PEP.

4.98 Should the Act mandate businesses take the necessary mitigation steps the FATF expects for all foreign PEPs, and, if domestic or international organisation PEPs are included within scope, where they present higher risks?

No

4.98 Please provide your comments in the box below:

The requirements of FATF are overstated in the New Zealand context.

4.99 What would be the cost implications of requiring businesses to take further steps to mitigate the risks of customers who are PEPs?

4.99 What would be the cost implications of requiring businesses to take further steps to mitigate the risks of customers who are PEPs?:

Again this requires time and cost and additional training

4.100 Should businesses be required to assess their exposure to designated individuals or entities?

No

Please provide your comments in the box below:

This is so far beyond the purpose of a business that it should not be managed in the realm of business.

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

This would require intensive training and referral support

4.102 If we require businesses to assess their proliferation financing risks, what should the requirement look like? Should this assessment be restricted to the risk of sanctions evasion (in line with FATF standards) or more generally consider proliferation financing risks?

Please provide your comments in the box below:

This is so far beyond the purpose of a business that it should not be managed in the realm of business.

4.103 Should legislation require businesses to include, as part of their AML/CFT programme, policies, procedures, and controls to implement TFS obligations without delay? How prescriptive should the requirement be?

Please provide your comments in the box below:

This is so far beyond the purpose of a business that it should not be managed in the realm of business.

4.104 What support would businesses need to develop such policies, procedures, and controls?

Please provide your comments in the box below:

Businesses would need financial support to offset the training and staffing costs required to manage this.

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

This should be gazetted, and each business called to advise that there are updates.
This should be publicly available information and published through media channels.

4.106 Do we need to amend the Act to ensure all businesses are receiving timely updates to sanctions lists? If so, what would such an obligation look like?

Please provide your comments in the box below:

How in the course of business can you expect businesses to keep up to date with this.
It would be best for the FIU to download the client list and check if there are any matches.

4.107 How can we support and enable businesses to identify associates and persons acting on behalf of designated persons or entities?

Please provide your comments in the box below:

The obligation should fall with the FIU.
Small businesses do not have the resources or profit capacity to keep up to date as the act requires.

4.108 Do you currently screen for customers and transactions involving designated persons and entities? If so, what is the process that you follow?

Please provide your comments in the box below:

Screening should be undertaken by the FIU, it is the organisation that requires the information.

4.109 How could the Act support businesses to screen customers and transactions to ensure they do not involve designated persons and entities? Are any obligations or safe harbours required?

Please provide your comments in the box below:

The act should extend exemptions such that smaller businesses are not overburdened with compliance

4.110 If we created obligations in the Act, how could we ensure that the obligations can be implemented efficiently and that we minimise compliance costs?

Please provide your comments in the box below:

Compliance costs are minimised when there are wide exemptions

4.111 How can we streamline current reporting obligations and ensure there is an appropriate notification process for property frozen in compliance with regulations issued under the United Nations Act?

Please provide your comments in the box below:

This information should be shared between governments at government level.

4.112 If we included a new reporting obligation in the Act which complies with UN and FATF requirements, how could that obligation look? How could we ensure there is no duplication of reporting requirements?

Please provide your comments in the box below:

If you become aware that your property was owned by a terrorist, wouldn't you just call the police?

4.113 Should the government provide assurance to businesses that have frozen assets that the actions taken are appropriate?

Unsure

Please provide your comments in the box below:

Any business that is subject to having its premises frozen should receive relocation and financial assistance.

4.114 If so, what could that assurance look like and how would it work?

Please provide your comments in the box below:

How does any of this action assist the business affected?

4.115 Are the requirements for managing the risks of correspondent banking relationships set out in section 29 still fit-for-purpose or do they need updating?

Unsure

Please provide your comments in the box below:

4.116 Are you aware of any correspondent relationships in non-banking sectors? If so, do you consider those relationships to be risky and should the requirements in section 29 also apply to those correspondent relationships?

Unsure

Please provide your comments in the box below:

4.117 If you are a money or value transfer service (MVTS) provider which uses agents, how do you currently maintain visibility of how many agents you have?

Please provide your comments in the box below:

4.118 Should a MVTS provider be required to maintain a current list of its agents as part of its AML/CFT programme?

Not Answered

Please provide your comments in the box below:

4.119 Should a MVTS provider be explicitly required to monitor and manage its agents for compliance with its AML/CFT programme (including vetting and training obligations)?

Not Answered

Please provide your comments in the box below:

4.120 Should the Act explicitly state that a MVTS provider is responsible and liable for AML/CFT compliance of any activities undertaken by its agent? Why or why not?

Not Answered

Why or why not?:

4.121 If you are an MVTS provider which uses agents, do you currently include your agents in your programme, and monitor them for compliance (including conducting vetting and training)? Why or why not?

Not Answered

Why or why not?:

4.122 Should we issue regulations to explicitly require MVTS providers to monitor and manage its agents for compliance with its AML/CFT programme (including vetting and training obligations)? Why or why not?

Not Answered

Why or why not?:

4.123 What would be the cost implications of requiring MVTS providers to include agents in their programmes?

Please provide your comments in the box below:

4.124 Who should be responsible for the AML/CFT compliance for sub-agents for MVTS providers which use a multi-layer approach? Should it be the MVTS provider, the master agent, or both?

Please provide your comments in the box below:

4.125 Should we issue regulations to declare that master agents are reporting entities under the Act in their own right? Why or why not?

Not Answered

Why or why not?:

4.126 What would be the cost implications of requiring MVTS providers to include agents in their programmes?

Please provide your comments in the box below:

4.127 What risks with new products or technologies have you identified in your business or sector? What do you currently do with those risks?

Please provide your comments in the box below:

None, there are no risks associated with the technology used.

4.128 Should we issue regulations to explicitly require businesses to assess risks in relation to the development of new products, new business practices (including new delivery mechanisms), and using new or developing technologies for both new and pre-existing products? Why or why not?

No

Why or why not?:

This is beyond the scope of the intention of the act. The risk does not exist with the technology used.

4.129 If so, should the risks be assessed prior to the launch or use of any new products or technologies?

Please provide your comments in the box below:

This does not seem practical. Who at what stage of what process should undertake the assessment.

4.130 What would be the cost implications of explicitly requiring businesses to assess the risks of new products or technologies?

Please provide your comments in the box below:

Enormous, it would most likely make introducing new technology the realm of large businesses with financial resources.
This would be highly detrimental to IT innovation in New Zealand.

4.131 Should we issue regulations to explicitly require businesses to mitigate risks identified with new products or technologies? Why or why not?

No

Why or why not?:

Because this action is an overreach of the legislation.

4.132 Would there be any cost implications of explicitly requiring business to mitigate the risks of new products or technologies?

Yes

If yes, what are your views?:

Having risk assess new technology would be a financial burden on businesses taking on new technology. This is because such action is beyond the scope of the business and would require specialists to assess the risk.
This would be highly detrimental to New Zealand businesses, especially those looking to gain efficiency through technology.
It would be impossible to comply with this proposal as new technology is abundant.

4.133 Are there any obligations we need to tailor for virtual asset service providers? Is there any further support that we should provide to assist them with complying with their obligations?

Yes

Please provide your comments in the box below:

I do not believe that any person or technology could monitor this successfully in the context of the act. The resources required would need to exceed the technology used.

4.134 Should we set specific thresholds for occasional transactions for virtual asset service providers? Why or why not?

No

Why or why not?:

In reality this is impossible to monitor

4.135 If so, should the threshold be set at NZD 1,500 (in line with the FATF standards) or NZD 1,000 (in line with the Act's existing threshold for currency exchange and wire transfers)? Why?

No

Why?:

These thresholds are simply unrealistic. It would be impossible to monitor the volume of transactions.

4.136 Are there any challenges that we would need to navigate in setting occasional transaction thresholds for virtual assets?

Yes

Please provide your comments in the box below:

How do expect to handle the volume?

4.137 Should we issue regulations to declare that transfers of virtual assets to be cross-border wire transfers? Why or why not?

No

Why or why not?:

How are you going to monitor that?

4.138 Would there be any challenges with taking this approach? How could we address those challenges?

Yes

Please provide your comments in the box below:

The ability to monitor this is impossible.
It would seem the intention of this act is to reduce this form of payment.

4.139 What challenges have you encountered with the definitions involved in a wire transfer, including international wire transfers?

Please provide your comments in the box below:

The scope of defining a transaction is too wide.
The transaction is the transfer of value, regardless of how it is made.

4.140 Do the definitions need to be modernised and amended to be better reflect business practices? If so, how?

Yes

If so, how?:

The term "wire transfer" is archaic. The original documents behind this legislation date back to the 1980s. The world and technology have moved on a lot since then. It would be very useful if the terminology was updated and kept updated on a regular basis.

4.141 Are there any other issues with the definitions that we have not identified?

Yes

If yes, what are your views?:

The use of language in this act is unclear and confusing. If you want effective legislation that extends to extent of this act, it must use clear defined terms that can be understood by the people expected to perform to the requirements of the act.
Most of this act requires specialist training in order to interpret it.

4.142 What information, if any, do you currently provide when conducting wire transfers below NZD 1000?

Please provide your comments in the box below:

None

4.143 Should we issue regulations requiring wire transfers below NZD 1000 to be accompanied with some information about the originator and beneficiary? Why or why not?

No

Why or why not?:

If "wire transfers" include cryptocurrency, how are you going to monitor that?

4.144 What would be the cost implications from requiring specific information be collected for and accompany wire transfers of less than NZD 1000?

Please provide your comments in the box below:

Any additional requirements will devalue the value of the transfer because of the associated increased cost.

4.145 How do you currently treat wire transfers which lack the required information about the originator or beneficiary, including below the NZD 1000 threshold?

Please provide your comments in the box below:

4.146 Should ordering institutions be explicitly prohibited from executing wire transfers in all circumstances where information about the parties is missing, including information about the beneficiary? Why or why not?

No

Why or why not?:

This impacts on lively hoods and the flow of money to the Islands.

4.147 Would there be any impact on compliance costs if an explicit prohibition existed for ordering institutions?

Yes

If yes, what are your views?:

If it needs verification or action it adds cost.

4.148 When acting as an intermediary institution, what do you currently do with information about the originator and beneficiary?

Please provide your comments in the box below:

4.149 Should we amend the Act to mandate intermediary institutions to retain the information with the wire transfer? Why or why not?

Unsure

Why or why not?:

4.150 If you act as an intermediary institution, do you do some or all of the following:• keep records where relevant information cannot be passed along in the domestic leg of a wire transfer where technical limitations prevent the information from being accompanied?• take reasonable measures to identify international wire transfers lacking the required information?• have risk-based policies in place for determining what to do with wire transfers lacking the required information?

Unsure

Please provide your comments in the box below:

4.151 Should we issue regulations requiring intermediary institutions to take these steps, in line with the FATF standards? Why or why not?

No

Why or why not?:

Are the FATF requirements realistic in terms of the compliance costs imposed.

4.152 What would be the cost implications from requiring intermediary institutions to take these steps?

Please provide your comments in the box below:

4.153 Do you currently take any reasonable measures to identify international wire transfers that lack required information? If so, what are those measures and why do you take them?

Unsure

If so, what are those measures and why do you take them? :

4.154 Should we issue regulations requiring beneficiary institutions to take reasonable measures, which may include post-event or real time monitoring, to identify international wire transfers that lack the required originator or beneficiary information?

Unsure

If yes, what are your views?:

4.155 What would be the cost implications from requiring beneficiary institutions to take these steps?

Please provide your comments in the box below:

4.156 Are the prescribed transaction reporting requirements clear, fit for purpose, and relevant? If not, what improvements or changes do we need to make?

Unsure

If not, what improvements or changes do we need to make?:

4.157 Have you encountered any challenges in complying with your prescribed transaction reporting (PTR) obligations? What are those challenges and how could we resolve them?

Unsure

If yes, what are those challenges and how could we resolve them?:

4.158 Should we issue regulations or a Code of Practice to provide more clarity about the sorts of transactions that require a PTR?

Unsure

Please provide your comments in the box below:

4.159 If so, what transactions have you identified where the PTR obligation is unclear? What makes the reporting obligation unclear, and how could we clarify the obligation?

Please provide your comments in the box below:

4.160 Should non-bank financial institutions (other than MVTS providers) and DNFBPs be required to report PTRs for international fund transfers?

No

Please provide your comments in the box below:

It is an unnecessary duplication of reporting

4.161 If so, should the PTR obligations on non-bank financial institutions and DNFBPs be separate to those imposed on banks and MVTS providers?

Please provide your comments in the box below:

Yes

4.162 Are there any other options to ensure that New Zealand has a robust PTR obligation that maximises financial intelligence available to the FIU, while minimising the accompanying compliance burden across all reporting entities?

No

Please provide your comments in the box below:

The transaction is already covered by the bank and non-reporting entities are already excluded.

4.163 Should we amend the existing regulatory exemption for intermediary institutions so that it does not apply to MVTS providers?

No

Please provide your comments in the box below:

4.164 Are there any alternative options that we should consider which ensure that financial intelligence on international wire transfers is collected when multiple MVTS providers are involved in the transaction?

No

If yes, what are your views?:

4.165 Are there any other intermediary institutions that should be included in the exemption?

Yes

If yes, what are your views?:

4.166 Are there situations you have encountered where submitting a PTR within the required 10 working days has been challenging? What was the cause of that situation and what would have been an appropriate timeframe?

Unsure

Please provide your comments in the box below:

What is the basis for 10 working days? What is the time frame in which the commissioner must review the transaction?

4.167 Do you consider that a lower threshold for PTRs to be more in line with New Zealand's risk and context? If so, what would be the appropriate threshold for reporting?

No

If so, what would be the appropriate threshold for reporting?:

The threshold is already too low, especially for "wire transfers". How and when are these thresholds reviewed. The value of the current threshold dates back to when.

4.168 Are there any practical issues not identified in this document that we should address before changing any PTR threshold?

Yes

Please provide your comments in the box below:

Low value "wire transfers" attract are higher cost per unit and there devalues the amount of the transfer. Where communities, such as Pacific Islands, are dependent on remittances, they are affected by this.

4.169 How much would a change in reporting threshold impact your business?

Please provide your comments in the box below:

The lower the threshold the higher the cost and time required. These costs are passed on and increase costs to the consumer. The lower the value the higher the cost impact.

4.170 How much time would you need to implement the change?

Please provide your comments in the box below:

Immediately if the threshold is increased.
Ten years if the threshold is lowered, dependant communities must have enough time to adjust from traditional settings.

4.171 Do you use any of the reliance provisions in the AML/CFT Act? If so, which provisions do you use?

Unsure

If so, what provisions do you use?:

4.172 Are there any barriers to you using reliance to the extent you would like to?

Yes

Please provide your comments in the box below:

The processes are unclear.

4.173 Are there any changes that could be made to the reliance provisions that would mean you used them more? If so, what?

Yes

If so, what?:

The language needs to be decluttered so it is clear how and when this applies.

4.174 Given the 'approved entities' approach is inconsistent with FATF standards and no entities have been approved, should we continue to have an 'approved entities' approach?

Yes

Please provide your comments in the box below:

FATF standards do necessarily align with New Zealand requirements.

4.175 If so, how should the government approve an entity for third party reliance? What standards should an entity be required to meet to become approved?

Please provide your comments in the box below:

There should be a single government agency that approves such entites.

4.176 If your business is a reporting entity, would you want to be an approved entity? Why or why not?

Unsure

Why or why not?:

4.177 Are there any alternative approaches we should consider to enable liability to be shared during reliance?

Unsure

Please provide your comments in the box below:

4.178 Should we issue regulations to enable other types of businesses to form DBGs, if so, what are those types of businesses and why should they be eligible to form a DBG?

Yes

If so, what are those types of businesses and why should they be eligible to form a DBG?:

Any entity that is a reporting entity should be able to group with like business. The act cannot name every type of business.

4.179 Should we issue regulations to prescribe that overseas DBG members must conduct CDD to the level required by our Act?

No

Please provide your comments in the box below:

An overseas DBG is covered in the jurisdiction it operates in.

4.180 Do we need to change existing eligibility criteria for forming DBGs? Why?

No

Why?:

It creates duplication of effort.

4.181 Are there any other obligations that DBG members should be able to share?

Unsure

Please provide your comments in the box below:

4.182 Should we issue regulations to explicitly require business to do the following before relying on a third party for CDD:• consider the level of country risk when determining whether a third party in another country can be relied upon;• take steps to satisfy themselves that copies of identification data and other relevant documentation will be made available upon request without delay; and• be satisfied that the third party has record keeping arrangements in place.

No

Please provide your comments in the box below:

If the purpose of the act is to reduce risk then only New Zealand third parties can be used. There is no reliable manner to determine another countries risk profile as these can be subject to sudden change.

4.183 Would doing so have an impact on compliance costs for your business? If so, what is the nature of that impact?

Yes

If so, what is the nature of that impact?:

Costs would be lower as not subject to currency fluctuations.

4.184 Are there any other issues or improvements that we can make to third party reliance provisions?

Yes

Please provide your comments in the box below:

Exclude overseas, third-party providers.
Overseas third-party providers are driven by that countries political perceptions, we, therefore, become reliant on those perceptions which may hinder access to new markets or threaten existing ones.

4.185 Are there other forms of reliance that we should enable? If so, how would those reliance relationships work?

Yes

If so, how would those reliance relationships work?:

A customer should not be subject to multiple CDD inquiries over the same transaction.
e.g. buying a house, involves the lawyer, the bank, the accountant, the real estate agent.
There should be a seamless way such that effort is not duplicated. It could work like a vaccine pass, which can pass through various check points.

4.186 What conditions should be imposed to ensure we do not inadvertently increase money laundering and terrorism financing vulnerabilities by allowing for other forms of reliance?

Please provide your comments in the box below:

The technology available today, c.f. the technology when this regime was conceived, would allow smarter ways of tracking identity and address.
A national identity card or system would also enhance this.

4.187 Are the minimum requirements set out still appropriate? Are there other requirements that should be prescribed, or requirements that should be clarified?

No

Please provide your comments in the box below:

The current act is confusing, overreaching, and in reality impossible to be compliant with. The cost that businesses are forced to pass on their clients is unacceptable.
In its current form, the cost borne by businesses and their customers is not acceptable in terms of the intended outcome of the act.

4.188 Should the Act mandate that compliance officers need to be at the senior management level of the business, in line with the FATF standards?

No

Please provide your comments in the box below:

No business is in the business of enacting this act.
The resources of senior people are for the progression of the business, having to act for the purposes of the act does not progress the business.
In order to minimise the cost imposed by this act compliance officers should not be an executive position.

4.189 Should the Act clarify that compliance officers must be natural persons, to avoid legal persons being appointed as compliance officers?

No

Please provide your comments in the box below:

Compliance officers need not be natural persons, this would allow outsourcing of this position, e.g. to a compliance company. In small organisations this may help reduce the cost of compliance.

4.190 If you are a member of a financial or non-financial group, do you already implement a group-wide programme even though it is not required?

Please provide your comments in the box below:

Technology could provide seamless CDD within groups, and thus reduce costs to the client.

4.191 Should we mandate that groups of financial and non-financial businesses implement group-wide programmes to address the risks groups are exposed to?

No

Please provide your comments in the box below:

Grouping should be voluntary so additional costs are not unnecessarily incurred.

4.192 Do we need to clarify expectations regarding reviewing and keeping AML/CFT programmes up to date? If so, how should we clarify what is required?

Yes

If so, how should we clarify what is required?:

AML/CFT programmes must be dynamic. If there is a drop in the overall risk level, requirements should also be reduced.
It is very important that this regime does carry on when there is no risk.
How does the programme monitor, on an ongoing basis, the apparent level of risk at any given time?

4.193 Should legislation state that the purpose of independent audits is to test the effectiveness of a business's AML/CFT system?

No

Please provide your comments in the box below:

Audits are ineffective in terms of the act set out to achieve. The purpose of this act is to prevent or deter AML/CFT. The audit of business merely validates the quality of record-keeping. An audit after the fact does lessen the risk that might have been at the time the record was taken.

4.194 What other improvements or changes could we make to the independent audit or review requirements to ensure the obligation is useful for businesses without imposing unnecessary compliance costs?

Please provide your comments in the box below:

In terms of the purpose of the act, audits and record-keeping are not as effective as reporting suspicious activity.

4.195 How can we better enable businesses to understand and mitigate the risk of the countries they deal with, and determine whether countries have sufficient or insufficient AML/CFT systems and measures in place? For example, would a code of practice (rather than guidance) setting out the steps that businesses should take when considering country risk be useful?

Please provide your comments in the box below:

The lists that group certain countries into categories lead to discriminatory behavior.
I do not believe the risk is defined by country but is defined by the action an individual takes.
We recently accepted into New Zealand Afghani refugees who were professional Judges. Under this law, they will be treated as being high risk, and be treated as such.
By the same token, there is no evidence that any provision of this act deterred or prevented the Christchurch mosque shootings.

4.196 Should we issue regulations to impose proportionate and appropriate countermeasures to mitigate the risk of countries on FATF's blacklist?

No

Please provide your comments in the box below:

The FATF list should not impose on New Zealand's sovereignty.

4.197 If so, what do you think would be appropriate measures to counter the risks these countries pose?

Please provide your comments in the box below:

The risk does not lie with the country. The risk lies with groups who may operate in any given country.

4.198 Is the FATF blacklist an appropriate threshold? If not, what threshold would you prefer?

No

If not, what threshold would you prefer?:

The FATF blacklist is a blatant extension of US foreign policy.
New Zealand has traded with Iran and could do so with the DPRK. It is a trade that breaks down barriers and reduces the risk of group activity.
What evidence is there, since this act came into force, that its provisions have deterred or prevented terrorism or money laundering specifically from these two countries.

4.199 Should we use section 155 to impose countermeasures against specific individuals and entities where it is necessary to protect New Zealand from specific money laundering threats?

Yes

Please provide your comments in the box below:

If government authorities have identified individuals that are a specific threat to New Zealand then they should be dealt with.
However, what protections are available to ensure such action is not interfered with by foreign states, as has been seen in New Zealand.

4.200 If so, how can we ensure the power is only used when it is appropriate? What evidence would be required for the Governor-General to decide to impose a countermeasure?

Please provide your comments in the box below:

If an individual is deemed to be an undesirable person, surely Immigration New Zealand would not issue them a visa or they would be turned down at the border. Surely such decisions are at ministerial levels.

4.201 How can we protect the rights of bona fide third parties?

Please provide your comments in the box below:

The way this legislation is written any party that has contact with such individuals would be in breach of the law even if reported.

4.202 Should there be a process for affected parties to apply to revoke a countermeasure once made? If so, what could that process look like?

No

If so, what could that process look like?:

If you allow appeals, persons with wealth will simply keep appealing decisions until granted. If a person is banned then that is what it means, and the decision to ban someone must be complete and final.

4.203 How can we improve the quality of reports received by the FIU and avoid low-quality, defensive reporting?

Please provide your comments in the box below:

The problem with this legislation is that it is punitive if action is not taken, therefore it is necessary to report anything that might be suspicious.
If the legislation had an educative response and not punitive, the quality of SAR's would improve.
Businesses are not in the business of assessing the quality of a SAR, we are forced to report them because of the legislation, if want quality SAR's they should be reported by entities that are in the business of assessing SAR's.

4.204 What barriers might you have to providing high quality reporting to the FIU?

Please provide your comments in the box below:

This would require additional training that is beyond the scope of business. Businesses simply do not have the resources to engage staff with the level of specialist training required to assess what the quality of a SAR is.
It is the responsibility of the FIU to ensure they have enough staff to handle the volume of data received, regardless of its quality.

4.205 Should the threshold for reporting be amended to not capture low level offending?

Yes

Please provide your comments in the box below:

If you do not lower the threshold you will have increasing levels of SAR's. It is better to report a SAR than risk being held responsible for not reporting it, that is how the legislation is written.
If the FIU cannot handle the volume required by the legislation then the legislation needs to be amended.

4.206 Should we expand the circumstances in which SARs or SAR information can be shared? If so, in what circumstances should this information be able to be shared?

Yes

If so, in what circumstances should this information be able to be shared?:

Information sharing between connected businesses may reduce the volume of low-quality SAR's.

4.207 Should there be specific conditions that need to be fulfilled before this information can be shared? If so, what conditions should be imposed (e.g. application to the FIU)?

No

If so, what conditions should be imposed (e.g. application to the FIU)?:

4.208 Should we issue regulations to state that a MVTS provider that controls both the ordering and beneficiary ends of a wire transfer is required to consider both sides of the transfer to determine whether a SAR is required? Why or why not?

No

Why or why not?:

It should be the responsibility of the receipt country to validate the transactions. Otherwise, the MVTS would need to be trained for the individual requirements of each country.

4.209 If a SAR is required, should it be explicitly stated that it must be submitted in any jurisdiction where it is relevant?

No

Please provide your comments in the box below:

Submitting a SAR in a foreign country could itself arise suspicion.

4.210 Should we extend additional AML/CFT obligations to high value dealers? Why or why not? If so, what should their obligations be?

No

Why or why not? If so, what should their obligations be?:

This would add further unnecessary complexity to the legislation. It would also increase costs to business.

4.211 Should all high value dealers have increased obligations, or only certain types, e.g., dealers in precious metals and stones, motor vehicle dealers?

No

Please provide your comments in the box below:

Further complexity is not required

4.212 Are there any new risks in the high value dealer sector that you are seeing?

No

Please provide your comments in the box below:

5. Other issues or topics

5.1 Should the AML/CFT Act define the point at which a movement of cash or other instruments becomes an import or export?

No

If you answered 'yes', please give reasons for your answer.:

This should be legislated for in the Customs and Excise act.

5.2 Should the timing of the requirement to complete a BCR be set to the time any Customs trade and/or mail declaration is made, before the item leaves New Zealand, for exports, and the time at which the item arrives in New Zealand, for imports?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.3 Should there be instances where certain groups or categories of vessel are not required to complete a BCR (for example, cruise ships or other vessels with items on board, where those items are not coming off the vessel)?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.4 How can we ensure the penalties for non-declared or falsely declared transportation of cash are effective, proportionate, and dissuasive?

Please share your suggestions below.:

Increase the penalty

5.5 Should the Act allow for Customs officers to detain cash even where it is declared appropriately through creating a power, similar to an unexplained wealth order that could be applied where people are attempting to move suspiciously large volumes of cash?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.6 If you answered 'yes' to the previous question (Question 5.5), how could we constrain this power to ensure it does not constitute an unreasonable search and seizure power?

Please share your suggestions below.:

5.7 Should BCRs be required for more than just physical currency and bearer-negotiable instruments and also include other forms of value movements such as stored value instruments, casino chips, and precious metals and stones?

Unsure

If you answered 'yes', please give reasons for your answer.:

5.8 Does the AML/CFT Act properly balance its purposes with the need to protect people's information and other privacy concerns?

No

If you answered 'no', how could we better protect people's privacy?:

This act forces businesses and their employees to ask questions that are a blatant breach of privacy. These questions are necessary because of the act but are not necessary or relevant to work undertaken on behalf of the client.
It is highly likely that this sort of information could easily be misused and leaked to institutions such as the press.
The act takes no responsibility for such outcomes. What recourse would a victim of leaked information have?
Such information could pass through several people in an organisation before being reported to multiple agencies, every time the information is touched the risk of misuse increases. Also, the risk of that information being used for ML/FT also increases.

5.9 Should we specify in the Act how long agencies can retain information, including financial intelligence held by the FIU?

No

Please give reasons for your answer.:

It is impossible to delete that information completely, it has passed through many points before being stored. Each storage point would need to be deleted, including any backups made or held in overseas servers.

5.10 If you answered 'yes' to the previous question (Question 5.9), what types of information should have retention periods, and what should those periods be?

Please share your suggestions below.:

5.11 Does the Act appropriately protect the disclosure of legally privileged information?

No

If you answered 'no', please give reasons for your answer.:

No, it has other provisions and actions available to it that would allow access to any information.

Are there other circumstances where people should be allowed not to disclose information if it is privileged?:

That is the purpose of privileged information. The act either allows for privileged information or it ignores the right of privilege and erodes citizens' rights.

5.12 Is the process for testing assertions that a document or piece of information is privileged set out in section 159A appropriate?

No

If you answered 'no', please give reasons for your answer.:

If a piece of information is privileged then that is what it is.
If the act is allowed to test that, it erodes the rights of privileged information.

5.13 What challenges or barriers have you identified that prevent you from harnessing technology to improve efficiencies and effectiveness?

Please share your comments below.:

The proposed changes to the act would make the adoption of technology difficult because a risk assessment of that technology is required.
Given that any technology can be used for the purposes of ML/FT it is unclear how technology can be used within the act.
Ironically it is technology that could be best used to monitor for ML/FT activity.
In fact, I am aware of finance for technology projects being withdrawn because it was perceived that it could be used for ML/FT. This is evidence that this act will now act as a brake on IT development. This is highly detrimental to the New Zealand IT development industry and jobs and innovation will suffer.

How can we overcome those challenges? Please share your suggestions below.:

The origins of this act go back to the '80s when technology was not as entrenched in business. Technology is now the engine of business. This needs to accept that technology is a tool that can be manipulated by anyone for their purpose and this risk associated with that is a part of life. Just as are cars, planes, bicycles, and trains.
Technology should be allowed to be part of the solution. The attempt by this act to treat technology as a risk is simply counterproductive.

5.14 What additional challenges or barriers may exist which would prevent the adoption of digital identity once the Digital Identity Trust Framework is established and operational?

Please share your comments below.:

One of the main issues in this act CDD, having a national identity card as part of digital identity would eliminate much of the unnecessary duplication. If transactions are digitally stamped then seamless monitoring of activity would be possible and highly efficient in terms of the outcomes that this act seeks.

How can we overcome those challenges?:

The promoters of this act should fully consider using this form of technology to replace the cumbersome, overbearing, and impossible tasks of this act,

5.15 Should we achieve greater harmonisation with Australia's regulation?

No

If you answered yes, tell us why and any suggestions you have for how we could achieve this.:

The risk profile of each country is unique. The act should have the ability to adjust to New Zealand settings as that risk profile changes.

5.16 How can we ensure the AML/CFT system is resilient to long- and short-term challenges?

Please share your suggestions below.:

It is necessary that the act monitors the risk level that is unique to New Zealand and allows for settings to change accordingly. If this act is in fact effective, over time the risk should reduce and activity under the act decrease as well.
The adoption of national digital identity along with smart technology should reduce the requirement of business groups to report under the act. This act creates a massive cost burden to businesses, one estimate at 26 billion per year, this is a high cost to society where the risk, in reality, is low.
This act promotes distrust, breaches rights of privacy, and is discriminatory to certain sectors of society. Resilience is possible when those barriers are removed from the act. A trusting society is a vigilant one, a distrustful society is not.
This act is asking us as citizens to adopt mores that are not part of New Zealand's unique fabric, if you require resilience then the act should reflect our values.
Whilst internationally New Zealand is expected to do its share, Politicians need to be strong enough to ensure that our values are not eroded because managing our risk is different from other countries.

6. Minor changes

6.1 What are your views regarding the minor changes we have identified?

Please share your comments below.:

Banks, businesses and government agencies do not accept cheques, let alone do wire transfers. Like cash is rarely used in business-to-business transactions.
The language used in this act must be concurrent with modern business practices and terms.
DBG, DNFBP, etc, are jargonistic terms, jargon should be replaced with actual terms such that the act is easier to read. If the actual term is too complicated it will not be understood. This act is a wide-reaching act that has to be understood by those affected by it. The language must be clear and concise.
Proper cross-references to other acts should be given.

Are there any changes you don't support? Please tell us what they are and why you don't support them.:

A supervisor should be able to issue a formal warning before a censure is given. Adoption of this act is best served by education and not punitive actions.

A customer can be an entity that is not a person, or a customer can be a group of persons or entities, the change of this definition is confusing.

"Is unable to" is quite different from "does not". There may be many reasons one is unable to do something, if it changes to "does not" it will have unintended consequences. The language should reflect that we live in a civilized society.

The requirement to keep records is difficult, as in the normal course of business only summary documents are kept. What happens when the business closes or is bankrupted. It also adds cost.

Access to records is never immediate, especially if over two years. This would require all businesses to keep all records readily available. This is impossible to comply with, there needs to be reasonable notice.

6.2 Are there any other minor changes that we should make to the Act or regulations?

Yes

If you answered 'yes', please share your suggestions.:

The authors of this act need to engage with those communities that are affected by it. The business community has to bear the brunt of the requirements of the act; which uses archaic language and outdated concepts is impossible to comply with because business processes are not understood; imposes an incredible cost burden on businesses and their customers; provides outcomes that are vague and not realistic.

It is highly likely that enforcers of this act will abuse their power under the act in order to justify outcomes to justify their positions. Business people will

be penalised for minor breaches of the act in order "to make an example". There are no provisions in this act for the misuse of the act.

This act has given rise to businesses that are required to support the act, such as auditors. There are no qualifications or standards for these businesses. This will mean that businesses that become reliant on income from this act will, in the interests of profit, could encourage misuse or report on businesses they have a grudge against.

Changes need to be made to protect against misuse of this act and that the business community has the assurance that are processes and remedies available when enforcement or reporting behavior is misused.

There needs to be an authority that has oversight over this act and can respond to complaints, investigate misuse and recommend changes on an ongoing basis.