

## Response ID ANON-Z596-YZCZ-E

Submitted to AML/CFT Act review  
Submitted on 2021-12-03 12:45:50

### Tell us a bit about yourself

1 What age group are you in?

35-49

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

NZ European

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

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

Organisation or special interest group details:

Law firm

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:

██████████@nolans.co.nz

### 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?

Yes

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

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?

Unsure

Please comment on your answer.:

It depends on the extent to which the burden of that will fall on small businesses

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.:

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

Unsure

Please comment on your answer.:

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?

Not Answered

Please give reasons for your answer.:

Not Answered

Please comment on your answer.:

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?

Yes

Please comment on your answer.:

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

Please share your comments below.:

Allow for differences in sectors which reflect the degree of knowledge the relevant professionals have about the risk.

1.8 Are the requirements in section 58 still appropriate?

Unsure

Please comment on your answer.:

The principles are fine, but the degree to which we are required to follow procedures and to box check for 99% of clients who present absolutely no risk is burdensome and expensive and pointless.

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

yes

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

Please share your comments below.:

No. As mentioned there is no distinction between sectors. Law firms have a high degree of compliance with other regulation around financial transactions and are in a position to better assess client risk but this is not taken into account. The same requirements are necessary as industries with very little client knowledge and fewer other compliance obligations.

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

No. Needs to be less prescriptive and allow true risk assessment in a sensible way.

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

Unsure

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

What role should guidance play in providing further clarity?:

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.:

Absolutely. It is a one size fits all approach which is not proportionate to the risks in each sector.

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.:

Small businesses are disproportionately affected. Compliance costs are significant and when assessed against the real risk unnecessary.

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 number of property transactions we process which have any degree of risk is so small that it is negligible. There is no way to reduce our compliance costs to reflect that, we are required to treat every house purchase like it has the potential to be a high risk transaction. That is not the reality.

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?:

Yes

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

Yes

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

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

Unsure

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

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

Yes

Please give reasons for your answer.:

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

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

Unsure

Please give reasons for your answer.:

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

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?:

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

Unsure

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

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

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

Yes

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

Listen to those at the coal face. we understand the risks in our sectors better than anyone. Help us help with reporting by not making it so burdensome that we are just frustrated by the whole thing.

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.:

don't know

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?:

Significant increased compliance costs for low risk businesses.

Compliance fatigue.

Loss of respect for the aims of the legislation because of the method of implementation.

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

Yes

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

revealing the burden of unnecessary compliance

Also not privatising the investigation of our clients. We're not funded to investigate our own clients. That's not, nor should it ever be our role.

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

Please share your comments below.:

Industry based compliance which is specific to the risks

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

DIA's prescriptive and inflexible approach to application of the Act.

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

Unsure

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?:

surveys

feedback

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)?

Unsure

Please give reasons for your answer.:

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.:

constraints

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

Yes

Please explain your answer:

If justified and there are protections against abuse and there is not an unreasonable burden on small businesses in doing so.

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?:

review/appeal process which is independent, cheap and effective

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?

No

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.:

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

Please share your comments below.:

that's for you to work out. we're not investigators

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

Yes

Please give reasons for your answer.:

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.:

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.:

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

Please share your comments below.:

industry specific requirements

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.:

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

Unsure

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?

Unsure

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

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.:

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

Unsure

Please give reasons for your answer.:

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?

Unsure

Please give reasons for your answer.:

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.:

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?

Unsure

Please give reasons for your answer.:

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

Yes

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.:

yes. breach Privacy Act

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.:

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.:

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

Unsure

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?

Unsure

Please give reasons for your answer.:

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

Unsure

Please give reasons for your answer.:

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.:

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?

Yes

Please give reasons for your answer.:

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.:

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.:

Unsure

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.:

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.:

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?

Not Answered

Please give reasons for your answer.:

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.:

## 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.:

No

Please give reasons for your answer.:

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

Please share your comments below.:

2.3 Should 'ordinary' be removed?

No

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.:

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.:

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

No

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?

Unsure

Please give reasons for your answer.:

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

Yes

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'?

No

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

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

No

Please give reasons for your answer.:

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?

Yes

Please give reasons for your answer.:

How could it be improved?:

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

No

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

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?

Unsure

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

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

Unsure

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?

Unsure

Please give reasons for your answer.:

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



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

Please share your comments below.:

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

Unsure

Please give reasons for your answer.:

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.:

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

Unsure

Please give reasons for your answer.:

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?

Unsure

Please give reasons for your answer.:

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.:

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

2.25 Should criminal defence lawyers have AML/CFT obligations?

No

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

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::

Increase compliance costs in an area of the profession which is already under resourced and has people leaving in their thousands. It's creating real issues with access to justice,, this will just compound that.

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

Unsure

Please give reasons for your answer.:

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?

Unsure

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

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?

Unsure

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

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

Unsure

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.:

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.:

Generally not, unless they trigger reason for suspicion. The vast majority are saddled with massive compliance cost which drain resources when they could be better applied to the purpose the charity was established for. Most are not ML vehicles.

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

Please share your comments below.:

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?

Unsure

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

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

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

Please share your comments below.:

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.:

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.:

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

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

Not Answered

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

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

Unsure

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

2.48 Should we issue any new regulatory exemptions?

Not Answered

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

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

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?

Unsure

Please give reasons for your answer.:

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.:

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?

Yes

Please give reasons for your answer.:

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?

Unsure

Please give reasons for your answer.:

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.:

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

Unsure

Please give reasons for your answer.:

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.:

### 3. Supervision, regulation, and enforcement

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

Unsure

3.1 Please indicate why? :

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

Regulatory bodies as supervisors - eg. Law Society

3.2 Please provide context for your choice:

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:

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:

there is no balance in my experience there is a blanket approach

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:

3.5 What amendments are required:

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:

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

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

Please share your thoughts:

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

Unsure

Please explain your answer:

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

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

Unsure

Please explain your answer:

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

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

Unsure

Why or why not?:

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?:

industry appropriate and based on real level of risk in that business- rather than overkill

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

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

AML/CFT supervisors

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

Please explain your answer:

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:

increased costs

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

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:

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

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?

No

Please explain your answer:

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

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?

No

Please explain your answer:

If yes, what should the standards look like?:

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

Not Answered

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

Please explain your answer:

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

Yes

What do you use agents for?:

dealing with the compliance nightmare that we don't have time to deal with. Because the legislation and the application is a one size fits all approach, our consultants bridge the gap between what the legalisation requires and how we practically comply with it.

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?

Yes

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

talking in the industry

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?

No

Please explain your answer:

Isn't there enough regulation already

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

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?

Unsure

Please explain your answer: :

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?

Unsure

Please explain your answer:

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

Unsure

Please provide further detail:

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?

Unsure

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

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

Unsure

Please provide further detail:

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

Please share your thoughts:

Because the regime is overkill, this has caused much concern with our employees involved.

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

Please share your thoughts:

NO.

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?

Unsure

Please provide your comments in the box below:

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?

Unsure

Please provide your thoughts:

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

## 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?

Unsure

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

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.:

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?

Unsure

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

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.:

This will require yet further monitoring and compliance and more requested from already exhausted clients

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?

Unsure

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

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

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

Unsure

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

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.:

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

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.:

How can we overcome those challenges?:

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

Unsure



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

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

Please share your suggestions below.:

make compliance less demanding in the 99.9% of cases we deal with where there is absolutely nothing suspicious about the transaction

## 6. Minor changes

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

Please share your comments below.:

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

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

Not Answered

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

Make compliance easier.

This questionnaire is an example of how there is very little thought given to the people on the end of this. To be completed properly this takes literally hours. We don't have time to do that. Our businesses will fall over. Make it easier!