aml

From: [redacted]@gmail.com>
Sent: Wednesday, 8 December 2021 8:41 pm
To: aml
Subject: Comments on AML Amendment
Attachments: Comments on AML.pdf

Hi there,

First of all, I apologize for sending my comments late as I was too busy at my work.

My comments on the AML consultation document are attached.

I am available for any discussion before the select committee, if required.

Kind regards,
[redacted]

1.28. Should the 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)? Why or why not?

1.28

Yes. A growing number of criminals are buying and selling high value vehicles, in order to hide their proceeds of crime, with the cash generated through their criminal activities. This is done through several businesses including motor vehicle traders. Allowing FIU to access that information will assist police investigate criminals about their illegitimate gains and deter criminals.

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

1.29

This power should be used only for intelligence purposes to support investigation of crimes.

1.30. Should the FIU be able to request information from businesses on an ongoing basis? Why or why not?

1.30

Considering a significant number of criminals or economic offenders are hiding their illegitimate assets by transferring to third parties, allowing FIU to receive real-time financial information help both to reduce economic harm and to help highly risk individuals.

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

1.31 – The FIU disseminate to police the information gathered only for investigation purposes. Any disclosure of the information obtained from the FIU must be made after written consent of the FIU and according to legislative restraints.

1.55. Should there also be an AML/CFT licensing regime in addition to a registration regime? Why or why not?

1.55

Registration and licensing regime for virtual assets service providers (VASPs) is need of the hour. Popularity, anonymity, and convenience of virtual assets have encouraged more and more people including criminals buy and sell them. This has further helped criminals to convert their criminals proceeds and hide them in other corner of the world. In this circumstance, it becomes necessary to know all the details of those criminals through VASPs

and destination of illegitimate gains. Registration and licensing will ensure investigation to unearth the proceeds of crime through VASPs.

1.56. If we established an AML/CFT licensing regime, how should it operate? How could we ensure the costs involved are not disproportionate?
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?
1.58. If such a regime was established, what is the best way for it to navigate existing licensing requirements?
1.56 & 1.58

At present, no licensing regime exists for VASPs. Considering Financial Management Authority (FMA) controls financial service providers, it should be allowed to register and license VASPs. Also, there should be a register of all VASPs on the lines of Companies register.

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? Why or why not? Can you think of any unintended consequences that might occur?
2.14 – The definition should be amended so all high-value dealers report about the transaction which is more than $10,000. This information will be used for intelligence purposes. I believe no unintended consequences will flow out of this amendment. It will be business as usual procedure.

2.15. What do you anticipate would be the compliance impact of this change?
2.15 – Removing “ordinary’ from the definition will deter businesses to deal in cash which equals or exceed NZD 10,000, and consequently reduce bringing the illegitimate criminal gains in the economy.

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? If so, how should we?
2.31 – As explained in 1.55 above

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?
4.133 – It must be a requirement for VASPs to conduct Customers Due Diligence and Enhanced Due Diligence as required under the existing AML/CFT.

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

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?

4.134 & 4.135 – A limit of NZD 1,000 is important because of the practice of hiding illegitimate gains by growing number of educated and professional economic offenders.

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?

4.162* - All High Value Dealers should provide a suspicious activity report where a single transaction or multiple of cash in a year is more than NZD 10,000.