Submission to the Ministry of Justice (MoJ)

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

December 2021

Feedback submission from [redacted]

This submission is made on behalf of [redacted] is the trading name of [redacted]. [redacted] is a registered statutory trustee companies pursuant to the Trustee Companies Act 1967.

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Purpose of the AML/CFT Act

1.1 Are the purposes of the Act still appropriate for New Zealand's AML/CFT regime or should they be changed? Are there any other purposes that should be included other than what is mentioned?

Yes, the purposes of the Act are still appropriate especially to maintain and enhance New Zealand's international reputation.

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

Prevention would be extremely difficult to put in practice. For many financial institutions that provide transactional accounts, they are unaware of the majority of transactions until after they have occurred and therefore they would have limited or no opportunity to prevent suspicious transactions occurring. For other financial institutions that are aware (of transactions before they occur) there is still a timing factor. If a financial transaction appears to be suspicious it takes time to investigate the transactions fully to be able to form that view; time the financial institution may not have. If a financial institution does stop, or defer, a transaction occurring due to their suspicions and it turns out their suspicions are unfounded the financial institution may be subject to financial penalties, adverse publicity or other adverse consequences. Financial institutions would need some legal protection in taking such action if they have formed a view in good faith, taking into account the information they had at the time the decision was made, to prevent a transaction occurring. There is also an issue that such investigations may tip off the party.

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

We do not think that this should be a purpose of the Act as this would impose an additional burden on financial institutions of any size and it would be difficult to know how a financial institution could know or raise a suspicion that any funds in a company would be used for this purpose.

1.5. If so, should the purpose be limited to proliferation financing risks emanating from Iran and the Democratic People's Republic of Koreaor should the purpose be to combat proliferation financing more generally? Why?

Reporting entities would need more information on how this occurs in order that they can complete accurate due diligence and a risk assessment. Even if every reporting entity banned dealing with countries like North Korea or Syria, most transactions would be complicated and involved and it may not be immediately obvious to a reporting entity that they are a link in a chain of transactions that could end up resulting in proliferation of weapons

Supporting the implementation of targeted financial sanctions

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?* Why or why not?

No. as sanctions already achieves this in the *Terrorism Suppression Act 2002* and *United Nations Act 1946*.

Understanding our risks

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

At present a reporting entity has to access a number of separate publications that outline the National and sector risks. If some of those publications be combined e.g. the AML/CFT sector risk assessments could include or incorporate the National Risk Assessment in the relevant areas to make it easier for reporting entities to measure their business risks versus the identified national sector risks.

1.8. Are the requirements in section 58 still appropriate? How could the government provide risk information to businesses so that it is morerelevant and easily understood?

Yes, the requirements in section 58 are still appropriate to enable all reporting entities to assess their own AML risks.

Balancing prescription with risk-based obligations

1.9. What is the right balance between prescriptive regulation comparedwith the risk-based approach? Does the Act currently achieve that balance, or is more (or less) prescription required?

Prescriptive regulation should cover areas where there needs to be a set minimum standard including the types of activities that are caught by the AML/CFT Act, levels of customer due diligence to be conducted and what customer due diligence is required, or any other areas that the regulators think that consistent minimum standards are required. This will ensure that all businesses caught by the Act have the same minimum standards while allowing the business to use risk based approach.

We feel that the Act currently achieves the right balance.

1.10. Do some obligations require the government to set minimum standards? How could this be done? What role should guidance playin providing further clarity?

The obligations around identifying and verifying your customers do require minimum standards to be set including when a reporting entity can undertake, simplified, standard or enhanced due diligence.

Guidance plays an important role in providing clarity as interpreting the law can be difficult, especially when a reporting entity has to overlay this with their own AML/CFT risk assessment. The guidance on electronic ID verification is a good example of guidance clarifying the obligations.

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

Yes there is always that more can be done. Education is key either from the AML Supervisors via guidance notes and sector risk assessments or from feedback from the AML audit.

1.12. Does the Act appropriately reflect the size and capacity of the businesses within the AML/CFT regime? Why or why not?

The Act does not appropriately reflect the size and capacity of the businesses within the AML/CFT regime. The overwhelming obligations under the Act, including having and maintaining a compliance programme and risk

assessment, conducting customer due diligence and conducting account and transaction monitoring apply regardless of the size of the business and impose a greater compliance burden on smaller businesses relative to larger businesses in terms of resources (people, technology) and costs.

As an example, larger businesses due to their different risks, and larger client base, require more complex measures especially in the areas of account and transaction monitoring where electronic rather than manual monitoring is usually needed due to the scale of transactions. However larger businesses are much better resourced to be able to put these measures in place.

In contrast most small to medium businesses have the same obligations as larger businesses but either don't have the resource, scale or funds to take advantage, as an example, of electronic transaction monitoring meaning that manual monitoring is required which can take up resources and create a requirement to create compliance teams and costs to manage this additional compliance burden that most small business do not have.

1.13. Could more be done to ensure that businesses' obligations are inproportion to the risks they are exposed to and the size of the business? If so, what?

A central resource to assist businesses to manage compliance would be useful. AML compliance is labour intensive and has imposed a significant resource (people, time, technology, training, CDD and data analysis) cost and a client impact in service levels and on-boarding timeframes.

There can be more relief via class exemptions to known low risk businesses or activities. The Police FIU and the AML/CFT Supervisors now have knowledge of what business sectors and activities present a higher risk of money laundering and which sectors/activities present a lower risk. A class exemption with appropriate conditions would provide some relief and ensure the obligations are in proportion to the risks they are exposed to.

Applying for exemptions from the Act

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 (refer answer to question 1.13.) exemptions are still required to enable the regime to operate effectively.

1.15. Is the Minister of Justice the appropriate decision maker for exemptions under section 157, or should it be an operational decisionmaker such as the Secretary of Justice? Why or why not?

Without knowledge of the roles and their service levels we cannot comment other than to say that any decision-maker that could offer a timely and stream lined exemption service would be welcomed by business.

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

Yes, the factors are appropriate

1.17. Should it be specified that exemptions can only be granted in instances of proven low risk? Should this be the risk of the exemption,or the risk of the business?

Yes; the business should have to demonstrate that their business or activity is low risk including in relation to other reporting entities that conduct similar businesses or activities. It should then follow that any exemption granted would therefore be low risk.

1.18. Should the Act specify what applicants for exemptions under section157 should provide? Should there be a simplified process when applying to renew an existing exemption?

Appropriate guidance for applicants and for the renewal of an existing exemption would be helpful.

1.19. Should there be other avenues beyond judicial review for applicants ifthe Minister decides not to grant an exemption? If so, what could these avenues look like?

Without knowledge of government/public sector roles it is difficult to identify a solution. The Regulators do play a part in this but presumably at a lower level.

Mitigating unintended consequences

1.21. Can the AML/CFT regime do more to mitigate its potential unintendedconsequences? If so, what could be done?

Provide exemptions or alternative solutions to those it recognises as being disadvantaged. For example, we have a significant number of clientele who include elderly clients who are no longer mobile and therefore do not possess valid ID, people who are end of life, have lost capacity or are seriously ill as well as young children. We have had to come up with an exception process (as approved by the Regulator) to ensure these clients can transact with us.

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

No comment.

1.23. Are there any other unintended consequences of the regime? If so, what are they and how could we resolve them?

Adding additional compliance resourcing to businesses that cannot support the cost or do not adequately resource to support compliance. Perhaps making it too difficult to operate in this environment.

Making on-boarding slow and difficult for many clients with a flow on to missed settlements or business opportunities?

The role of the private sector

1.24. Can the Act do more to enable private sector collaboration andcoordination, and if so, what?

The Act can but issues around privacy would need to be addressed to allow private sector collaboration and coordination in terms of what, and under what circumstances, information can be shared and resources training and

technology shared and used to develop smarter and quicker ID, monitoring and reporting processes.

1.25. What do you see as the ideal future for public and private sector cooperation? Are there any barriers that prevent that future from beingrealised and if so, what are they?

Yes, costs and the need for confidentiality around suspicious reporting i.e. a SAR is not acknowledged or shared across private sector compliance and law enforcement roles.

1.26. Should there be greater sharing of information from agencies to the private sector? Would this enhance the operation of the regime?

Greater collaboration and sharing of information or developing technology would assist the 'not in my country' approach.

Helping to ensure the system works effectively

1.27. Should the Act require have a mechanism to enable feedback about the operation and performance of the Act on an ongoing basis? If so, what isthe mechanism and how could it work?

We agree that having such a mechanism to enable feedback would be beneficial. The mechanism that the DIA currently runs to allow entities to raise issues and concerns seems a good prototype for what the mechanism could look like.

Powers and functions of AML/CFT agencies

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?

If the Police FIU have reasonable grounds to request information from other businesses to investigate potential money laundering or financing of terrorism then it seems reasonable that they should have that power.

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

The law would have to prescribe the circumstances under which the FIU could request information from other businesses and would have to provide the business with an appropriate request citing the relevant section of the Act in order that the business from which it was requesting information would be able to meet its Privacy Act obligations. The circumstances should be where the FIU has reasonable grounds to suspect criminal activity and not just used as a fishing exercise.

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

This could impose a high compliance burden on a reporting entity depending on the type of account or facility a person had with a reporting entity e.g. a transactional bank account versus a facility with only occasional transactions or activities. Depending on what information the FIU requires it may also increase the risk of tipping off the customer e.g. if a reporting entity had to question or seek further information for every transaction that was

being conducted.

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

Due to the high compliance burden that reporting entities would incur if this was allowed, the FIU should only use this power in circumstances when they are aware that criminal activity is occurring and the information is required as evidence for a potential conviction.

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? If so, how could the power work and operate? In what circumstances could the power be used, and how could we ensure it isa proportionate and reasonable power?

We are not sure how a freezing order could be implemented in practice without tipping off suspected criminals e.g. if there was a temporary freezing order for say 72 hours and the suspected criminal wished to conduct a transaction in that time, how would the reporting entity explain the fact their customer isn't able to conduct a transaction or activity without telling the suspected criminal of the reason. Also what happens after the temporary freezing order expires; is there an expectation that in that time the FIU would apply to the Courts for a permanent freeze on the funds?

Any reporting entity that was the subject of a freezing order would need to be indemnified against any costs or losses incurred by their customer (if any) for not allowing them to access their funds.

We are of the opinion that a temporary freezing order could only be used to allow the FIU time to obtain a Court injunction to freeze or seize the funds on the suspicion that the funds have been obtained or are part of criminal activity.

1.33. How can we avoid potentially tipping off suspected criminals when thepower is used?

As per the answer to question 1.32, we are not sure how this power could be used without tipping off suspected criminals.

1.34. Should supervision of implementation of TFS fall within the scope ofthe AML/CFT regime? Why or why not?

Not all businesses that are subject to targeted financial sanctions (TFS) are AML/CFT reporting entities e.g. most importers or exporters whom do not conduct activities that make them subject to the AML/CFT Act but they do need to comply with TFS. For that reason it does not seem to be an exact fit for the AML/CFT Act as currently drafted i.e. the Act would need to be expanded to capture the activities of businesses or industries that need are currently not caught by the AML/CFT Act but need to comply with TFS.

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

Agencies that are responsible for oversight of relevant businesses and current AML Supervisors.

Secondary legislation making powers

1.36. Are the secondary legislation making powers in the Act appropriate, or are there other aspects of the regime that could benefit from further oramended powers?

The secondary legislation making powers in the Act are appropriate.

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

A potential way for the regime to stay agile is by including rules or standards by way of reference in a similar way to how the Common Reporting Standard ('CRS'), the global framework to combat tax evasion, has been incorporated by reference into New Zealand tax legislation. Changes to the CRS can be made without the legislation having to be updated making it easier to implement changes.

Codes of Practice

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? Whyor why not?

We support any proposal to make issuing Codes of Practice easier, however the current process ensures that an AML/CFT Supervisor has appropriate oversight and has completed an appropriate process before approval is given. Any changes to the current law would still need to have similar checks and balances.

1.39. Should the New Zealand Police also be able to issue Codes of Practice for some types of FIU issued guidance? If so, what should theprocess be?

Yes for relevant matters they can provide useful operational guidance on relevant topics such as transaction monitoring and providing suspicious reports.

1.40. Are Codes of Practice a useful tool for businesses? If so, are there any additional topics that Codes of Practice should focus on? What enhancements could be made to Codes of Practice?

Codes of Practice are a useful tool as they help reporting entities interpret the Act and how they should comply with the Act.

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

Yes this requirement does impact on businesses ability to opt out of a Code of Practice but we feel that there is a good reason for this. The Codes of Practice are put in place to ensure common, minimum, standards across all businesses and industries. If a business could opt out without demonstrating that they are still complying using equally effective means could undermine the whole regime.

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

The explanatory notes are a reasonable and useful tool; as with legislation, the Codes can be difficult to interpret without some guidance. While the guidance notes are 'non-binding'; in practice most AML/CFT Supervisors appear to expect that businesses view them as binding.

Forms and annual report making powers

1.43. Should operational decision makers within agencies be responsible formaking or amending the format of reports and forms required by the Act? Why or why not?

We support operational decision makers within agencies to be responsible for making or amending the format of reports if it means the agencies can be more responsive to industry needs

1.44. If so, 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?

The CEOs of operational agencies would be the appropriate decision makers after consultation with all affected parties.

AML/CFT Rules

1.45. Would AML/CFT Rules (or similar) that prescribed how businesses should comply with obligations be a useful tool for business? Why orwhy not?

We agree that AML/CFT Rules (or similar) would be a useful tool for business to provide clarity and guidance on how to interpret the legislation.

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?

The AML/CFT Rules could be used to compliment or replace the Codes of Practice in areas such as customer due diligence. The responsibility for issuing any Rules should be consistent with those responsible for issuing Codes of Practice.

Information sharing

1.47. Would you support regulations being issued for a tightly constraineddirect data access arrangement which enables specific governmentagencies to query intelligence the FIU holds? Why or why not?

We would support regulations being issued for data sharing as long as access was tightly restrained to ensure that access to the data could only be viewed for the purpose for which the data was originally obtained e.g. data could only be viewed for the purposes of countering money laundering or the financing of terrorism and not for any other reason.

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

The main privacy concern is to ensure that Principle 10 of the Privacy Act 2020 is met.

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?

No other potential impacts.

Data matching to combat other offending

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? Why or whynot?

We do not support the development of data-matching arrangements due to the significant privacy implications.

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 SARs?

Privacy concerns, reluctance to report suspicions if businesses feel that the information they are supplying in good faith could be used for other, unidentified reasons.

Licensing and registration

1.52. Should there be an AML/CFT-specific registration regime which complies with international requirements? If so, how could it operate, and which agency or agencies would be responsible for its operation?

We support a registration regime to ensure that all businesses that are required to comply with the AML/CFT Act are identified and their owners meet a fit and proper test. From a practical point of view, the AML/CFT supervisors would appear to be the appropriate agencies responsible for its operation.

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

If the regime was established there would need to be a carve out for those entities that are already licensed to provide a business activity or are registered under the FSPR to avoid duplication.

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?

If there was nothing to comply businesses to be either registered and/or licensed then the existing issues as detailed above would still apply.

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

We do not support an AML/CFT licensing regime in addition to a registration scheme. If there are industries that are high risk they should be identified separately and licensed in their own right, not using the AML/CFT Act as the catalyst for licensing. This licensing regime would add significant costs to, mainly, small businesses.

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

See 1.55 above. However, if an AML/CFT licensing regime was established it should be operated through one of the existing regulators. Costs could perhaps be proportionate to the volume/value of the total relevant transactions.

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?

See 1.55 above.

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

Perhaps a question in relationship to the applicability of AM/CFT risk could be included in existing licensing requirements.

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

If a business was only required to be licensed if it was assessed as being in a high risk industry then it could impact on other businesses having them as customers i.e. a broad brush approach does not differentiate between low and high risk businesses within an industry.

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 licensingregime? Why or why not?

We do not support a levy being introduced especially for those businesses which are already licensed and have to pay levies in order to conduct a business activity.

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

If a levy was introduced then only those entities that do not already pay a levy to conduct a licensed business activity should be charged a levy.

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?

The levy should take into account the size of the business and their risk profile .e.g. registered banks would pay significantly higher levy due to their size and risk factors.

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 bemore flexible and responsive?

Any additional levy will eventually be passed on to the end consumer increasing costs.

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

The burden is currently on businesses therefore any further costs should return a significant improvement in education opportunities including regular free AML training sessions, technology and more timely, practical and substantive guidelines.

Scope of the AML/CFT Act

2.1 How should the Act determine whether an activity is captured, particularly for DNFBPs? Does the Act need to prescribe how businesses should determine when something is in the “ordinary course of business”?

While prescription would provide greater clarity the multitude of factors that need to be determined when considering whether an activity is in the ordinary course of business i.e. frequency and financial scale would make it difficult as it could either result in many more businesses being caught or businesses designing their activities to ensure that they do not fall within the definition. If AML/CFT Rules were introduced (question 1.45) then the Rules could be used to assist businesses.

2.3 Should “ordinary” be removed, and if so, how could we provide some regulatory relief for businesses which provide activities infrequently? Are there unintended consequences that may result?

We agree that removing “ordinary’ would provide more certainty but will also catch more businesses and create an unintended compliance burden and risk for small businesses; some regulatory relief in terms of AML reporting, audit and a limited compliance programme could be considered.

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? Why or why not?

We agree with the proposal for businesses to apply AML/CFT measures in respect of captured activities irrespective of whether the business in a financial institution or a DNFBP to ensure all businesses that provide the same activities have the same obligations

2.5. If so, should we remove “only to the extent” from section 6(4)? Would anything else need to change, e.g. to ensure the application of the Actis not inadvertently expanded?

We agree with the removal of the words ”only to the extent”.

In the interim, we could issue regulations that clarify that captured activities attract AML/CFT obligations irrespective of the type of reporting entity which provides those activities. For example, regulations could declare that a financial institution that also provides activities listed under the DNFBP definition must comply with the Act in relation to the DNFBP activities. However, this would also mean that hybrid businesses would be required to file two annual reports (one for the financial institution activities and another for the DNFBP activities). We could exempt hybrid businesses from one or the other obligations to avoid unnecessary duplication.

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? Why or why not?

Yes.

2.7. Should we remove the overlap between "managing client funds" and other financial institution activities? If so, how could we best do this to avoid any obligations being duplicated for the same activity?

If the overlap means the same thing and only serves to create a duplication in reporting and other compliance obligations then yes the overlap should be removed.

2.8. Should we clarify what is meant by 'professional fees'? If so, whatwould be an appropriate definition?

Clarification will assist businesses. The definition should include fees taken/charged for providing products and services in the 'ordinary' course of business.

2.9. Should the fees of a third party be included within the scope of'professional fees'? Why or why not?

We are unsure how big this issue is i.e. one business collecting professional fees for a third party. The majority of businesses will not collect or manage a third party's fees, however we are aware that some transactions involving property for instance involves one party withholding professional fees and paying those fees to a third party.

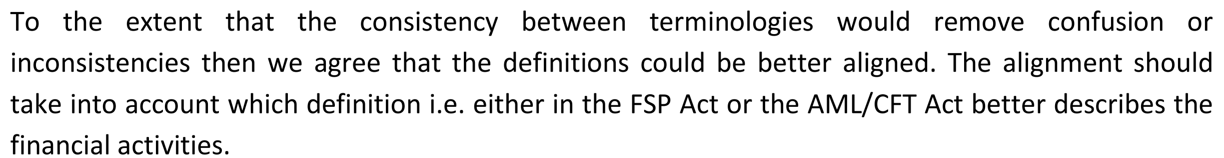
2.10. Does the current definition appropriately capture those businesseswhich are involved with a particular activity, including the operation and management of legal persons and arrangements? Why or whynot? How could it be improved?

While the term 'engaging' has more than one definition we are of the opinion that the current definition appropriately captures businesses when

2.11. Have you faced any challenges with interpreting the activity of "engaging in or giving instructions"? What are those challenges andhow could we address them?

We have not faced any challenges with this interpretation.

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*? If so, how could we achieve this?



To the extent that the consistency between terminologies would remove confusion or inconsistencies then we agree that the definitions could be better aligned. The alignment should take into account which definition i.e. either in the FSP Act or the AML/CFT Act better describes the financial activities.

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

No.

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

We agree that the definition should be amended irrespective of how frequently they undertake relevant cash transactions. New Zealand and other similar jurisdictions are moving to become 'cashless' societies. This means that both consumers and businesses are moving away from using cash as a normal means of payment especially for large amounts >$10,000. We cannot think of any unintended consequences.

2.15. What do you anticipate would be the compliance impact of thischange?

The compliance impact will increase due to the larger amount of transactions that will require compliance however, this compliance impact may reduce if businesses, using a risk based approach, decide to no longer accept cash payments greater than a certain dollar amount as a means of payment.

2.16. Should we revoke the exclusion for pawnbrokers to ensure they can manage their money laundering and terrorism financing risks? Why orwhy not?

Yes if there is ML and TF risks within the industry then the exemption should be removed if the existing licensing regime does not adequately address this risk.

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

Any obligations that are currently covered, and should stay covered, under the licensing regime or which are disproportionate to the ML and TF risks currently posed by the industry.

We have no comment on questions 2.18 and 2.19.

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

No.

2.21. What risks do you see with stored value instruments that do not useportable devices?

Any product or service that is structured to include anonymity could be subject to misuse by criminal elements.

2.22. Should we amend the definition of "stored value instruments" to be neutral as to the technology involved? If so, how should we changethe definition?

On its face; the definition amendment appears sensible to future proof the definition against new technologies.

Potential new activities

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

We agree that acting as a partner in a partnership should attract AML/CFT obligations. However there is already in obligation to conduct CDD on 'effective controllers' of a business; which based on the activities detailed above, the existing guidance would capture. If a secretary or similar roles falls within the existing definition of a "senior manager" (as CFOs do) then they should be captured however as a company secretary duties can vary from business to business we suggest the guidance around effective controllers be reviewed, if necessary, to ensure any person carrying out similar activities would be caught as an effective controller.

2.24. If you are a business which provides this type of activity, what do youestimate the potential compliance costs would be for your business if it attracted AML/CFT obligations? How many companies or partnerships do you provide these services for?

No.

2.25. Should criminal defence lawyers have AML/CFT obligations? If so, what should those obligations be and why?

Yes if defence lawyers and/or their clients pose an ML/FT risk then they should also have AML/CFT obligations and in line with the rest of the legal profession. However, we would imagine that legal privilege would make this difficult to enforce.

2.26. If you are a criminal defence lawyer, have you noticed any potentiallysuspicious activities?

Without breaching legal privilege, what were those activities and what did you do about them?

Not applicable to our business

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

Not that we are aware of.

2.28. Should non-life insurance companies become reporting entities underthe Act?

Given that most general insurance products do not allow for a return of funds other than if there are contractual cooling off periods the risks appear to be fraud rather than ML/CT and we believe that insurance companies would already have adequate controls in place to identify fraud. However we are unaware as to their ; obligation and threshold for reporting insurance fraud to the Police though if applicable, serious amounts should result in reporting to the SFO]

2.29. If so, should non-life insurance companies have full obligations, or should they be tailored to the specific risks we have identified?

Yes AML/CFT obligations should be commensurate with ML/FT risks posed.

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)?

Not applicable to our business.

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 arereporting entities? If so, how should we?

Yes.

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

No comment.

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

We suggest that these activities be clarified to make it clearer or explicit the types of activities that incur AML/CFT obligations.

2.34. If we clarified the activity, should we also clarify what obligations businesses should have? If so, what obligations would be appropriate?

Yes, the obligations should go hand in hand. We are of the opinion that the obligations should be in line with that of all designated non-financial businesses or professions.

2.35. Should preparing accounts and tax statements attract AML/CFTobligations? Why or why not?

If these activities were captured the costs of compliance would be passed onto clients. For many accountants who prepare accounts for small businesses may not be able to pass on all costs which may mean them withdrawing from providing those services.

2.36. If so, what would be the appropriate obligations for businesses whichprovide these services?

Only reporting suspicious activities seems reasonable and in line with the objectives of the Act.

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

We do not agree that tax exempt non-profits should be included within the scope of the AML/CFT Act. Most of the tax exempt non-profits are very small and the compliance costs imposed on them would be disproportionate to the AML/CFT risks.

In addition, the obligations listed here as potential measures are actually already undertaken by other means within the remit of being a 'registered charitable entity'. For example:

- The new accounting legislation introduced for charities in 2016 covers the purpose information and ensuring it is contained in annual financial statements. In addition those with higher 'value' also complete a Statement of Service Performance which goes further into activities and impact.
- The breakdown info is what is on the charities register's annual returns process.
- Good standing etc. is covered by the authorised officer requirements in the charities act, monitored by charities services.
- Charites Services also have an audit process, which completed on an ad-hoc basis, does some of the 'appropriate control' work.

2.38. If these non-profit organisations were included, what should theirobligations be?

No comment.

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 lowrisk or because there are issues with their operation?

None that we are aware of.

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

2.41. If it should continue to apply, should online marketplaces be withinscope of the exemption?

2.42. What risks do you see involving internet marketplaces or internetauctions?

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

We can see the risks but given the high usage of these sites we can't see how AML could be applied without significant work for the Regulators, site administrators and annoyance for consumers.

Special remittance card facilities

2.44 Do you currently rely on this regulatory exemption to offer special remittance card facilities? If so, how many facilities do you offer tohow many customers?

No.

2.45. Is the exemption workable or are changes needed to improve its operation? What would be the impact on compliance costs from thosechanges?

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

No comment.

2.17. Should we amend this regulatory exemption to clarify whether and how it applies to DNFBPs? If so, how?

We agree that this should be clarified by clarifying what activities that DNFBPs carry out are, or are not, caught as a relevant service.

Potential new regulatory exemptions

2.48. Should we issue any new regulatory exemptions? Are there any areas where Ministerial exemptions have been granted where a regulatory exemption should be issued instead?

We are of the opinion that Ministerial Exemptions should continue to be issued and considered on a case by case basis. We are not aware of any areas where a regulatory exemption should be issued.

2.49. Do you currently use a company to provide trustee or nominee services? If so, why do you use them, and how many do you use? What is the ownership and control structure for those companies?

No.

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? Why or whynot?

In this situation, wouldn't the parent reporting entity just include all of the nominee companies in a DBG meaning that they only need one compliance programme – which means that the parent and subsidiaries are caught but they have some compliance relief.

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

Conditions include being part of a parent DBG where their compliance programme is managed by the DBG.

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

Yes if the current risk of ML/CT is low or negligible.

2.53. If so, what should be the scope of the exemption and possible conditions to ensure it does not raise other money laundering orterrorism financing vulnerabilities?

A risk assessment should be performed and reviewed on a regular basis to assess risk levels and vulnerabilities justify the exemption.

2.54. Should we issue an exemption for all reporting entities providing lowvalue loans, particularly where those loans are provided for social orcharitable purposes?

If the sector risk assessment is low; we agree to the exemption.

2.54. **If so, what conditions should be attached to such an exemption to ensure it does not raise other money laundering or terrorism financingvulnerabilities?**

The conditions to the exemption could be that AML/CFT Act obligations will apply to any activities that are undertaken outside of loans provided for social or charitable purposes.

Territorial scope

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

For clarity, we agree that the AML/CFT Act should define its territorial scope.

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

This would seem unnecessary if the Act adequately defines its territorial scope and the types of businesses and activities currently captured by the Act and would also lead to constant updates as businesses or activities evolve or cease to exist.

Supervision, regulation, andenforcement

3.1. Is the AML/CFT supervisory model fit-for-purpose or should weconsider changing it?

While we are of the opinion that the current supervisory model is fit-for purpose it appears that a disproportionate number of businesses caught by the AML/CFT Act are supervised by the DIA which raises questions of whether the DIA is appropriately resourced to adequately supervise such a large number. Furthermore some businesses have multiple AML Regulators within their Group of companies which can lead to multiple regulator relationships and interpretations.

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

Each model has its pros and cons but the Australian model of one specialised agency could be effective in the smaller NZ context.

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?

We are of the opinion that the Act appropriately ensures consistency.

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 toachieve a more appropriate balance?

The current wording in the Act for "supervisors to cooperate to ensure the consistent, effective, and efficient implementation of the Act." appears to achieve the appropriate balance.

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

We are of the opinion that the current statutory powers are appropriate.

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

We agree that the Act should allow AML/CFT Supervisors to have the power to conduct onsite inspections wherever a business conducts their business including a private dwelling if that is where the business is conducted from. Most businesses run from a private dwelling will, by nature, be small. Such business should have the option of allowing a inspection off-site such as a neutral venue, if the inspection will unduly impinge on the rights of any other occupants of the private

dwelling.

3.7. What are some advantages or disadvantages of remote onsiteinspections?

An advantage of remote inspections is less disruption for the business. A disadvantage is the lack of ability to readily answer questions or queries which would otherwise be completed quickly at an on-site inspection.

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

Virtual inspections could make supervision more efficient if the AML/CFT Supervisors are able to undertake more inspections when taking away travel time etc. Mechanisms such as secure file sharing system to allow safe and easy transfer of documents between a business and Supervisor should be used. Video conferencing calls can also be used.

3.9. Is the process for forming a DBG appropriate? Are there any changes that could make the process more efficient?

We are of the opinion that the current process for forming a DBG is appropriate.

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

No, unless a supervisor currently has substantial anecdotal evidence DBGs are not currently being formed in compliance with the current criteria or are being used inappropriately. Another approval process would add another compliance burden and slow down the compliance process.

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 ensureaudits are of higher quality?

There is currently a global AML audit qualification offered via the Advanced Certified AML Specialist – Audit or ACAMS-Audit. If all AML auditors in New Zealand were required to have this qualification it should result in a higher standard of auditors and audits.

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

ACAMS or NZICA.

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

We consider that the cost of audits will increase. The benefit of higher quality audits is a greater level of assurance that businesses are adequately complying with the AML/CF Act.

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

We feel that there should be some, limited, protections for businesses where an audit has not raised an issue and given the business information and time to remedy.

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?

We do not think it is appropriate to specify the role of a consultant in 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?

Consultants should be held to similar standards as those for AML auditors in terms of their experience and qualifications to consult.

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

If consultants are not covered by ACAMS or ICANZ, then potentially the AML/CFT Supervisors.

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

No.

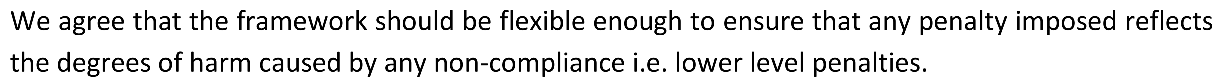
3.19. Do you currently take any steps to ensure that only appropriate persons are able to act as your agent? What are those steps and whydo you take them?

Not applicable.

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?

We agree that the Act should stipulate what agents can or can not be relied on e.g. potentially limiting the scope of work undertaken.

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?



We agree that the framework should be flexible enough to ensure that any penalty imposed reflects the degrees of harm caused by any non-compliance i.e. lower level penalties.

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

We agree that additional enforcement interventions as outlined would enable the framework to be more proportionate and responsive as long as the AML/CFT Supervisors have the general duty to act fairly.

3.23. Are there any other changes we could make to enhance the penaltyframework in the Act?

Not to our knowledge.

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

Higher penalties for serious breaches could be aligned to the level of money laundering or a businesses annual turnover similar to how penalties for privacy breaches are enforced in overseas jurisdictions.

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

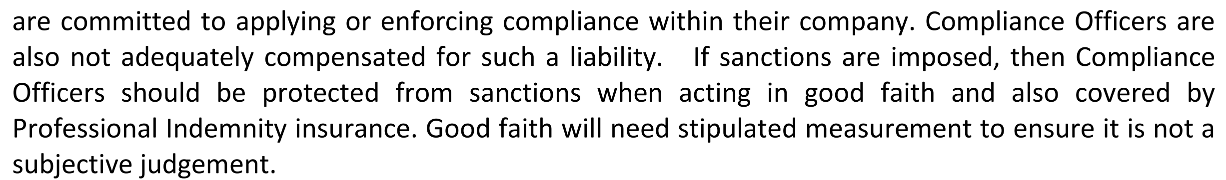
We do not support broadening the scope of civil sanctions to include directors and senior management or other employees. This would not support compliance outcomes, would add further compliance burden and could lead to resourcing issues as personnel would be reluctant or fearful to undertake roles subject to penalties. Support, education and collaboration from the public sector would be more effective and provide re-assurance that employees are compliant.

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

The civil liability sanctions are already high and should not be increased.

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

We do not support sanctions against Compliance Officers. They should not be subject to sanctions as they may have limited ability to influence decisions or management may disregard their recommendations. Any sanctions for or against Compliance Officers will exacerbate an existing shortage of skilled compliance personnel as many will not be willing to undertake the role or will relinquish the role. This is likely to have the opposite effect of ensuring compliance given that COs



are committed to applying or enforcing compliance within their company. Compliance Officers are also not adequately compensated for such a liability. If sanctions are imposed, then Compliance Officers should be protected from sanctions when acting in good faith and also covered by Professional Indemnity insurance. Good faith will need stipulated measurement to ensure it is not a subjective judgement.

3.28. Should DIA have the power to apply to a court to liquidate a business to recover penalties and costs obtained in proceedings undertaken under the Act?

We agree that the DIA should have similar powers to the other AML/CFT Supervisors.

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?

Any increase in time limits for prosecution should be in line with other time limitations for other financial crime offences e.g. fraud.

Preventative Measures

4.1. What challenges do you have with complying with your CDD obligations? How could these challenges be resolved?

Address verification: the majority of customers no longer receive the majority of acceptable documents actually posted to their residential address i.e. majority of bills and correspondence is received electronically. Clarification and guidance on accepting online address verification documents would assist.

Identifying beneficial ownership of a customer – both from the point of view of conducting CDD on our customers and when we are customers and CDD is being conducted on us. Further clarification on who is an 'effective controller' of a business would assist, especially when there is a group situation. At present the default position for many businesses is to ask for CDD on every person in a chain of companies despite those persons not having any part in the transaction or client relationship. This places an undue onus on Directors and in some cases represents a privacy risk.

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

A situation where we were requested to hold funds for an educational facility. The funds which represented fees paid by students upfront were either paid to the educational facility or if the student left the educational facility they would receive a refund. Under the definition of beneficial ownership, the students could be 'persons on whose behalf a transaction was conducted' i.e. if the funds were to be refunded to the student did CDD have to be conducted on them. It is also challenging for elderly clients who no longer travel and have not renewed photographic ID, those who have lost capacity or are seriously ill and dependent on others to look after their financial affairs.

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

We agree that a more prescriptive approach would be helpful and time saving for businesses.

4.4. If so, what are the situations where more prescription is required todefine the customer?

Independent or corporate trustees for family trusts. An AML/CFT Supervisor has clarified when CDD is to be conducted on the directors of the corporate trustee but not the ultimate owners of the corporate trustee. Many businesses insist that CDD must be conducted on the ultimate owners of a corporate trustee; when in fact they have no beneficial interest in the assets of the family trust that is the subject of a business relationship.

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

Additional prescriptions similar to the Australian Rules will be beneficial to assist all businesses conduct CDD consistently across all sectors. Requesting and assessing the suitability of CDD is often time consuming for employees and clients so guidelines would be helpful in enabling clear solutions and compliance.

4.6. Should we amend the existing regulations to require real estate agents to conduct CDD on both the purchaser and vendor?
4.7. What challenges do you anticipate would occur if this was required? How might these be addressed? What do you estimate would be thecosts of the change?
4.8. When is the appropriate time for CDD on the vendor and purchaser to be conducted in real estate transactions?

This sector is not relevant to our business and we cannot comment with authority.

When CDD must be conducted

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

We are of the opinion that the prescribed points where CDD must be conducted are clear and appropriate.

4.10. For enhanced CDD, is the trigger for unusual or complex transactionssufficiently clear?

Further guidance could be provided as what is unusual or complex may be interpreted widely.

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

From a practical point of view this would be difficult as suspicions may only arise after the initial interaction(s) with a person or after a transaction has been completed. If completing CDD was not an initial prerequisite to the transaction asking for CDD after the fact may be difficult to explain and raise suspicions and tip them off.

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

Practically it would have to be enhanced due diligence to try and ascertain the source of the funds that is the subject of the transaction/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?

Refer answer to 4.11; very hard to complete without raising suspicions or tipping them off.

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

The most obvious risk is the source of the funds.

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?

A control to conduct CDD if an amount or transaction occurs that is outside of the known profile of the client. This means that lawyers need to 'know their client' prior to agreeing to accept funds or transact funds through their trust account

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

All trust accounts can be misused for criminal purposes.

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

We are currently unable to quantify this.

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

On the whole yes; although we are unsure what benefit there is in obtaining and verifying a person's address.

4.19. Are the obligations to obtain and verify information clear?

Yes.

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

Yes.

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?

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?

This would only work if you there was an easy way to verify the information e.g. consistent documentation and/or a public register.

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?

We always try and obtain documentation that confirms the formation of an entity, including partnerships, charities etc. Obtaining the documents is used to identify who we should be verifying.

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?

Hard to estimate but it could add 1-2 hours of additional compliance time to get appropriate information.

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?

This would be helpful, although verification of source of wealth can be challenging e.g. the source of wealth for retired persons may have been built up from their wage and salary earnings over their lifetime and their current source of wealth may just be their pension. You could verify their current source of wealth but it is very difficult to verify earnings from a job they may have been retired for a number of years when records no longer exist either with the retiree or their former employee or from a sale of a home or other transaction many years ago

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?

Source of wealth and source of funds are connected; collecting information about a person's source of wealth to build up a picture e.g. is their current asset backing in keeping with their age, background, occupations etc. If there is nothing suspicious then a business can concentrate on verifying the source of funds for a transaction. If there are issues or suspicions about how a person has accumulated or obtained their wealth, then a business can require some verification on an

exception basis.

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

Any further prescription will result in additional costs; especially the time taken to discuss and try and obtain verification of either source of wealth and source of funds; the latter is easier than the former.

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?

4.29. If we required this approach to be taken regarding beneficiaries of lifeand 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?

This sector is not relevant to our business and we cannot comment with authority.

Identifying the beneficial owner

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

We have not encountered any issues, but we have encountered issues with businesses conducting CDD on us e.g. stating (without any basis for doing so) that in their view, all directors in holding or parent companies are effective controllers of the company they are conducting CDD on when in fact they have no effective control of their customer or transaction.

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

Further guidance and clarity on the types of activities or control meets the definition of effective controller for the business that CDD is being conducted on.

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?

Clarifying this would be useful however we have always used the Beneficial Ownership Guidelines ("Guideline") to identify the ultimate owner; and likewise so have businesses who have conducted CDD on us. The definition and wording in the Guideline is appropriate.

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

In all cases.

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

No.

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 controlof the customer (to align with the FATF standards)? Why or why not?

We agree that such a regulation would clarify the situation and reduce unnecessary, or duplication of, CDD.

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?

If the regulations or any related guidance made it clear who a PAOB is, that would clarify the situation and we agree that the exemption could be revoked.

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

No.

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 theprocess set out in the FATF standards?

We follow the process detailed in the Beneficial Ownership Guideline. Our process is consistent apart from step 3, although persons holding those roles (i.e. senior managing official) are usually picked up under the definition of effective controller. It would also be helpful for further explanation of guidelines on what is meant by "exercising control of a legal person by other means" with examples of roles or activities that would allow a business to identify such persons.

4.39. Should we issue regulations or a Code of Practice which is consistentwith the FATF standards for identifying the beneficial owner of a legalperson?

We are of the opinion that the current Beneficial Ownership Guideline is sufficient.

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

We are not aware of any.

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

No.

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?

Yes. We would recommend that further guidance be given when the trustee of a trust is a professional statutory or corporate trustee i.e. which natural persons of the corporate trustee need to be identified and verified. Many businesses conducting CDD on a corporate trustee insist on identifying and verifying the ultimate owner of the corporate trustee when the ownership of the professional corporate trustee actually has no beneficial interest in the trust which is the subject of the CDD.

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

No; we already conduct CDD on persons holding those positions.

Reasonable steps to verify information obtained through CDD

4.45. Do you encounter any challenges with using IVCOP? If so, what are they, and how could they be resolved?

One of the main challenges is when we are verifying the identities of persons located in overseas jurisdictions. The IVCOP requires that the trusted referee must be a person authorised by law in that country to take a statutory declarations or equivalent. In some non-English law countries it is difficult to ascertain who can act as a trusted referee. It would be clearer if the requirement just stated a Notary Public or solicitor.

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

Some of the additional guidance, especially the recent guidance on electronic ID verification could

be incorporated into the Code.

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?

We agree that adding requirements for high-risk customers, on-going CDD etc. would be helpful.

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?

No.

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

It would help if the additional guidance issued on electronic ID verification be included in the Code.

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

Address verification is harder than identity verification. The challenges include persons who no longer have utility bills or other forms of acceptable proof of address documents physically posted to their home address i.e. they receive all correspondence online; and persons who have all mail sent to a PO Box. Electronic ID verification of an address is easier than obtaining manual verification.

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

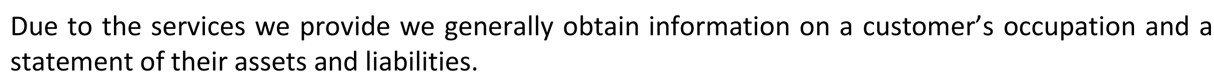
For the reasons you have stated above we question the benefit of obtaining verification of a person's address.

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?

We have unaware of any short-term fix. If all reporting entities had access to a reasonably priced electronic address verification solution, that might assist.

Obligations in situations of higher and lower risk

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



Due to the services we provide we generally obtain information on a customer’s occupation and a statement of their assets and liabilities.

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

A Code of Practice that outlines additional measures that a business can take as part of enhanced CDD would be helpful.

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

No.

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

We agree with the solution outlined above (allow employees to be delegated to act on behalf of the customer by a senior manager but without triggering CDD) would be beneficial.

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

See answer to 4.56.

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

We agree with the removal of the requirement for enhanced CDD to be conducted for all trusts, as this does not take into account the actual risk.

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

Clarification of what constitutes a ‘high risk trusts‘ is imperative e.g. is it based on the type or level of assets, the location (jurisdiction) of where the assets are located or where the beneficial owners of the trust are located.

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

See answer to 4.59.

Ongoing customer due diligence and account monitoring

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

On the whole we feel that the obligations are clear and appropriate; however additional guidance or best practice in this area would be helpful.

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

Yes.

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

Yes; although further clarification on what 'current' means will be required. For instance, does 'current' means that the level of CDD meets current law or business practices or is it also expected that if the ID document obtained at the start of the business relationship has since expired, then you must obtain a copy of the current ID document. If a customer's profile has not changed we would not always request new ID if the previous ID has expired i.e. just because an ID document has expired it does not invalidate the ID verification originally obtained.

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

Depending on what the regulations required, then compliance costs may increase.

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

We do not agree with a mandate for frequency, as a business should conduct this in line with the AML risk.

4.66. If you are a DNFBP, how do you currently approach your ongoing CDD and account monitoring obligations where there are few or nofinancial transactions?
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?

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

Not applicable to our business.

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 youreview and why?

No.

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 regularlyreview?

Imposition of requirement to review other information such as IP address would drastically increase compliance costs.

Conducting CDD on existing (pre-Act) customers

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 thecost implications of the options?

We are doing this via our on-going CDD process but any timeframe would require substantial cost and resourcing as it would probably require a project team.

Avoiding tipping off

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?

Any guidance either in the Act or a guidance note would assist business tackle this area.

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

Yes if it was obvious that conducting enhanced CDD would result in the client becoming suspicious of the reasons.

4.74. If so, 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)?

There shouldn't need to be a differentiation in client types only if a transaction is suspicious and the risk of tipping off is real and place the employee in a difficult position or will hinder the investigation.

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?

The challenge in conducting enhanced CDD, potentially after the transaction has occurred, has practical implications e.g. the customer would not be motivated to comply as the transaction has already occurred and in most cases customers would raise questions about why the information is needed.

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

The major issue we have with record keeping is the obligation to remove all identity verification documentation 5 years after the business relationship has ceased. As a business we are required to retain information for longer periods pursuant to other pieces of legislation. The requirement to remove some documents on a much shorter period of time has practical implications.

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

No.

Transactions outside a business relationship

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?

We have no comment on this question.

Politically exposed persons

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

No.

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

No.

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

As per the current definition, we do not treat domestic PEPs as PEPs. However if a domestic PEP does come up, they are still reviewed by a senior manager. Any PEPs from international organisations are treated as PEPs.

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 to domestic PEPs.

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

This would need to be done in the context of the business relationship t (i.e. product or service) that the domestic PEP is looking to establish. Also how would persons who receive party donations be identified? If they are not caught by international databases most businesses would be unaware that they receive such donations.

4.84. What would be the cost implications of such a measure for yourbusiness or sector?

This would result in increased compliance costs.

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

As prescribed by the Act.

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?

There are practical implications in this; how would any business be able to ascertain the level of informal influence a PEP could still exercise. If a PEP is no longer entrusted with public functions where would you obtain any information apart from asking the PEP themselves. If they answered that they no longer had any influence how could a business verify whether that is correct or not?

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

This would increase compliance costs if issues such as that raised in the answer to question 4.86 could not be clarified.

Identifying whether a customer is a PEP

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

At the time a customer if on-boarded a PEP check is conducted.

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?

We think the Act's use of "take reasonable steps" aligns with FATF's expectations

4.90. Should the Act clearly allow business to consider their level of exposure to foreign PEPs when determining the extent to which theyneed to take proactive steps?

Using a risk based approach; this is a reasonable approach.

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 activityor transaction is conducted?

For the avoidance of doubt; yes.

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

All customers' names are checked against international databases; which also identifies domestic PEPs.

4.93. If we include domestic PEPs and PEPs from international organisations within scope of the Act, should the Act allow for business 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?

We agree that a business should have to take reasonable steps according to the risk.

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

Compliance costs would increase.

4.95. Should businesses be required to take reasonable steps to determinewhether the beneficiary (or beneficial owner of a beneficiary) of a life insurance policy is a PEP before any money is paid out?
4.96. What would be the cost implications of requiring life insurers to determine whether a beneficiary is a PEP?

Not applicable to our business.

4.97. What steps do you currently take to mitigate the risks of customerswho are PEPs?

All customers are checked to see whether they are PEPs before a business relationship is established. If there is a match, this is refereed to a senior manage for approval.

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

Yes.

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

This would increase compliance costs.

Implementation of targeted financial sanctions

4.100. Should businesses be required to assess their exposure to designatedindividuals or entities?

Yes.

4.101. What support would businesses need to conduct this assessment?

Access to appropriate databases to allow names of customers to be checked for any matches.

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?

This area would need to be explained in detail in regards to sectors, businesses or products that could be exposed to this risk.

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?

Any legislative change should give businesses time to amend their programme, introduce controls and operationalise the controls. This will take time.

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

Guidance.

4.105. How should businesses receive timely updates to sanctions lists?

Businesses should have the option of either receiving data form the government or via third party providers.

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 obligationlook like?

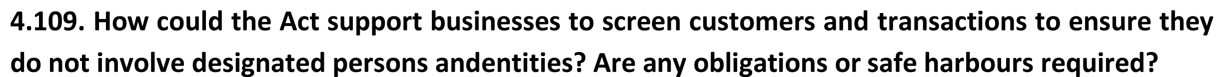
No.

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

Guidance.

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

Yes; we use a global watch list to check all new customers against.



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

Safe Harbours to nominate appropriate watch lists would be helpful.

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?

Ensuring that this is conducted on a risk based approach; many businesses only deal with New Zealand residents and may never be exposed to these risks.

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*?

Requiring businesses to only have to complete one report that is then circulated to appropriate parties would streamline the process.

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?

No comment.

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

We agree that some form of assurance to businesses should be provided.

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

The proposal for a review by the FIU seems a practical approach.

Questions 4.115. through 4.127. are not applicable to our business and we have no comment.

4.128. Should we issue regulations to explicitly require businesses to assessrisks 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? Whyor why not?

We think that this is already carried out as part of the requirements to undertake an AML risk assessment.

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

Yes.

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

Some additional compliance costs but considering risks should form part and parcel of the process.

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

Yes; as this seems logical in order to comply with the spirit of the Act.

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

Yes.

Questions 4.133. through 4.170. are not applicable to our business and we have no comment.

Reliance on third parties

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

No.

4.172. Are there any barriers to you using reliance to the extent you wouldlike to?
4.173. Are there any changes that could be made to the reliance provisionsthat would mean you used them more? If so, what?

Not applicable.

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

No.

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

Not applicable.

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

No; we can't see any business relationship that we are involved with where we would be comfortable with another entity relying on CDD conducted by ourselves.

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

No.

Designated business group reliance

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 shouldthey be eligible to form a DBG?

We feel the current rules in regards to the formation of DBGs are appropriate.

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

Yes.

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

No; we feel the current rules are appropriate.

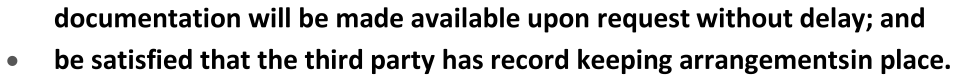
4.181. Are there any other obligations that DBG members should be able toshare?

No.

Third party reliance

4.182. Should we issue regulations to explicitly require business to do thefollowing 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 arrangementsin place.**

Yes.

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

No.

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

No.

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

There are instances where one party is subject to CDD by many parties for one transaction e.g. a property purchase where the purchaser will be subject to CDD conducted by the real estate agent, their solicitor, and a bank (if they are arranging finance). It would seem practicable for some of these parties to be allowed to rely on another parties due diligence for the one transaction.

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?

The conditions could be that, in the example used in the answer to 4.185. that all parties have to have full visibility of the transaction in order to stop a criminals only providing parties with only some of the details.

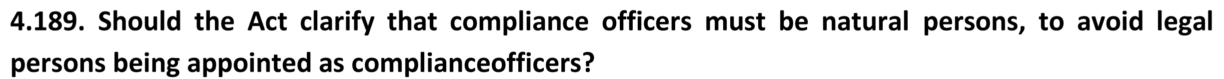
Internal policies, procedures, and controls

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

The minimum requirements are still appropriate.

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

This would depend on the size of a business. A small closely held business may not have sufficient senior management positions to allow this to happen.



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

We agree that Compliance Officers should be natural persons.

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 notrequired?

Not applicable.

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

A group wide programme would only work if all members of the group had similar risks products and services.

Review and audit requirements

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 isrequired?

Clarification would be helpful.

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

Yes though the measures for what is deemed to be effective would also need to be quantified and communicated so that this is not a subjective measure.

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?

We have no comment.

Higher-risk countries

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?

A Code of Practice that sets out the steps that businesses should take would be helpful.

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

Yes if current measures (including sanctions) to do not currently mitigate ML/CT risks and to ensure we are in alignment with other FATF compliant regimes.

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

As above and in line with law enforcement intel and FATF recommendations.

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

FATF is the guideline for AML/CFT legislation and therefore seems appropriate along with relevant agency intel.

Imposing sanctions on specific individuals or entities

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

Any such sanctions should be applied in line with the Government's ability to sanction individuals or entities.

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

These are questions for relevant agencies and law makers to answer.

Suspicious activity reporting

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

The FIU's reporting system is not intuitive and cumbersome to complete. It uses terms and phrases that are only fit for purpose for banking institutions and many compulsory fields are not relevant to

the majority of businesses that are required to reports SARs.

4.204. What barriers might you have to providing high quality reporting to theFIU?

The current reporting system.

4.205. Should the threshold for reporting be amended to not capture low leveloffending?

As long as the reporting system was fit for purpose.

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

Yes, as long as the information is only shared to assist with mitigating or identifying criminal activity.

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)?

Yes specific conditions designed to provide a safeguard against accusations of tipping off or undue disclosure. Sharing should either be by permission of, or by the FIU/Regulator.

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 aSAR is required? Why or why not?
4.209. If a SAR is required, should it be explicitly stated that it must besubmitted in any jurisdiction where it is relevant?

These questions are not relevant to our business and we have no comment.

High value dealer obligations

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

If the sector is high risk in terms of being misused by criminals and current AML/CFT compliance is low or compliance programmes are immature then additional AML/CFT measures seems appropriate.

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

Again based on risk, and current levels of compliance and criminal activity; it may only be certain high value dealers that should be caught by the additional measures.

4.212. Are there any new risks in the high value dealer sector that you areseeing?

As a business we do not deal with high value dealers and we are not aware of any new risks.

Other issues or topics

We have no comments on questions 5.1 through to 5.7.

5.8. Does the AML/CFT Act properly balance its purposes with the need to protect people's information and other privacy concerns? If not, how could we better protect people's privacy?

Yes.

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

Yes.

5.10. If so, what types of information should have retention periods, and what should those periods be?

The retention period should be in line with how long businesses are required to retain information regarding a transaction.

We have no comments on questions 5.11. and 5.12.

5.13. What challenges or barriers have you identified that prevent you from harnessing technology to improve efficiencies and effectiveness? Howcan we overcome those challenges?

The cost of developing or adapting technology to keep it current and user friendly. Keeping in mind that technology must meet several objectives and obtaining Regulator approval before investing significant spend in tech projects or software. People resourcing – using technology is dependent on data integrity and diverting sufficient and qualified resourcing for competing demands; high cost and shortage of skilled labour in current market.

We have no comment on question 5.14.

5.15. Should we achieve greater harmonisation with Australia's regulation?If so, why and how?

Yes, there is much to learn from the more mature Australian AML model and experience and cross border sharing would be beneficial for those businesses with operations or clients in Australia. A balance would need to be found between the more prescriptive Australian AML regime and the risk-based NZ approach.

We have no comments on questions 5.16. through 6.2.