

Response ID ANON-Z596-YZXG-G

Submitted to AML/CFT Act review
Submitted on 2021-10-21 11:37:09

Tell us a bit about yourself

1 What age group are you in?

35-49

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

NZ European

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

Not Answered

Please specify:

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

Organisation or special interest group details:

Industry-One Ltd. We are a reporting entity (real estate agent)

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

Email address:

1. Institutional arrangements and stewardship

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

Yes

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

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

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

No

Please comment on your answer.:

I think businesses have had enough red tape loaded on them already without any recompense whatever, and Govt should make more use of the big data it has already.

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

Please share your comments below.:

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

Yes

Please comment on your answer.:

Only to the extent that it does not impact business day-to-day operations

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

No

Please give reasons for your answer.:

Bad guys are not limited to Iran and DPRK

Yes

Please comment on your answer.:

As above

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

No

Please comment on your answer.:

If its doing its job already, don't fix what's not broken

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

Please share your comments below.:

Lessen the load on businesses.

1.8 Are the requirements in section 58 still appropriate?

Unsure

Please comment on your answer.:

You could provide a copy of section 58 so I could read it...

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

Send out focused updates instead of cluttering it up with everything else as well

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

Please share your comments below.:

A bit more prescription would help the audit teams bring a bit more consistency to their audits

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

You missed the boat by not mandating RealMe as the gold standard for CDD early on, and not making it more available. You have another opportunity now as I understand it will be used for verification for vaccine passports, meaning millions of people across the country will be forced to use/create/update their RealMe credentials.

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

Yes

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

That's your job. But businesses have enough of a load on them already.

What role should guidance play in providing further clarity?:

Need to be careful that guidance is not inconsistent across different supervisors. Also need to be careful that supervisor auditors are being consistent in application, as otherwise it causes confusion.

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

No

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

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

No

Please give reasons for your answer.:

A very small business with limited resources has exactly the same obligations as a very large business with huge resources. The impact of the AML/CFT load on the smaller business's productivity is huge. I think potentially the size of the transaction should be looked at as a factor in how far to go with AML/CFT. If its a \$50million transaction then it should need more than a \$5,000 transaction. Of course if it's a recurring transaction then that needs to be looked at too. The reality is, valuing office/admin time at a sensible rate, you've got at least 1-2hrs AML/CFT work for an average family trust, it eats into the average profit margin on that job to the point where a \$5k transaction is hardly worth doing.

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

Unsure

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

No more red tape please. Got enough already. If you can free up smaller businesses a bit you should do so.

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?:

That's the golden question. If a business is low-risk then does it have AML/CFT obligations?

Yes

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

Unsure

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

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

Unsure

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

Provide section 157(3) so I can understand the question please

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

No

Please give reasons for your answer.:

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

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

Yes

Please give reasons for your answer.:

That's pretty obvious isn't it?

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

Anything simplified is a good thing.

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

No

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

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

Unsure

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

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

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

Yes

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

You cannot load all obligation on businesses to mitigate their risk, and then turn around and tell them they are not being inclusive. They are in business to make money, and business by definition involves risk. If they decide the risk is not worth it because of rules that you have created making them responsible if something goes wrong, then perhaps you need to have a good hard look at the rules.

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

Please share your comments below.:

You have two aims here, firstly to prevent money from going overseas to terrorists, and secondly to allow money to go overseas to family, and the thing is that these two actions look identical to the third or fourth party involved in the transaction.

With any new bunch of rules there are going to be a bunch of people adversely affected. In business that would be hospitality and retail during lockdown- you've got to feel for butchers and grocers who can't trade while their competitors literally have the market to themselves. The world isn't fair. You have to balance compliance with FATCA, with how you are going to look after immigrant money.

1.23 Are there any other unintended consequences of the regime?

Yes

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

Great question, I could write a 10,000-word essay on this.

We are in commercial real estate and cannot understand why commercial leasing would be captured as an activity. The person already owns the property, they want a return on it, it's vacant, so of course they want a tenant. Isn't that obvious?

Given that to buy the property in the first place they would have had to use a lawyer, and to get a deed of lease in place they also need to use a lawyer, and lawyers are reporting entities, then why are real estate agents responsible to recheck something that has already been checked/will be checked by another reporting entity? Suggested action- exclude commercial leasing from being a required activity.

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

Unsure

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

Only if it's voluntary. I am extremely wary of Govt mandating 'collaboration' which is, of course, a forced approach leading to yet more yards of red tape, limitations and costs.

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

Please share your comments below.:

Public sector gets out of the way and lets private sector get on with it.

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

Yes- govt departments are, by definition, staffed with people whose job it is to de-risk everything. My perception is that to a govt department, productivity is not important, safe is important. When this comes down to a govt supervisor auditing a private sector business on whether the private business's mandated risk-based approach is 'correct', then that is the stuff of nightmares.

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

Unsure

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

Potentially but only if useful to the private sector. A strong feedback loop on what is considered 'useful' would be very important.

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

Yes

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

Feedback is always a good thing. Do an annual survey and collect suggestions plus a free text box for new survey questions to ask, put those suggestions / questions to a vote from the private sector, select the best and work with those.

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

Yes

Please give reasons for your answer.:

Yes, I'm fine with those guys being enabled to request information, although I'm not so sure on them then sharing that information with other Govt depts outside counter-terrorism/Police. Need to work out how to give the non-reporting businesses safe harbour to provide that information without being caught by their Privacy Act obligations though.

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

Please share your comments below.:

Case-by-case basis. I think they are busy enough to only ask for stuff that they need to verify an active case. Where there's smoke there's fire. If you wanted to constrain it you would have to realise that you would be limiting their effectiveness

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

Unsure

Please explain your answer:

I do not support Govt collecting information from businesses on an ongoing basis without good reason, especially when it infringes on the Privacy rights of the customers using that business and the customer themselves may not be expressly aware. Happens enough already

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

What constraints are needed?:

Exactly. It's the golden question with all data collection, sorry it's a bit beyond me to answer that one.

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

Yes

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

I'm ok with that, should be in line with the powers Police have to seize funds etc

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

Please share your comments below.:

Well exactly. You can't, so obviously they would only use it where it is a case of imminent risk. My experience with the police is they tend to give a bit of rope to let criminals incriminate themselves before they act, so they have enough evidence to successfully prosecute later. If they decided to freeze/seize the funds I would trust their judgment that would be the right thing to do in the circumstances.

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

Yes

Please give reasons for your answer.:

No point making a separate act for that

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

Please describe below and give reasons for your answer.:

Whichever one would normally be responsible for it. DIA or FMA?

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

Please share your comments below.:

No there's enough there already

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

Please share your comments below.:

My experience with secondary legislation is it tends to tie everything up in knots.

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

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

I do not see the point in having 3 supervisors. There should only be 1 supervisor as per Aus.

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

Yes

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

The police are invariably more practical than the 3 supervisors. I'm ok with that, they should just make the COP up and send it to the 3 supervisors who can then tweak it as needed, pass it back by the police to make sure it's still relevant, and then send it on to their relevant sectors. Be much easier if there was only one supervisor.

1.40 Are Codes of Practice a useful tool for businesses?

Unsure

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

They can be or they can be a massive restrictor.

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

Yes

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

Of course

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

Please share your comments below.:

Always reasonable and useful. But they are only explanatory, not the law themselves.

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

Yes

Please give reasons for your answer.:

Anything making it more responsive to industry needs would be great.

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

Please share your comments below.:

Please don't get me started on how govt works...

The problem is you have 3 sector supervisors. You need 1.

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

No

Please give reasons for your answer.:

Not a useful tool for business. Very useful for Govt.

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

Please share your comments below.:

That is your call. Definitely should not be introduced without consultation with industry

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

Unsure

Please give reasons for your answer.:

Freeing up the FIU is a good thing. But I'm just not sure about that whole privacy thing

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

Yes

Please share your comments below.:

The whole AML/CFT Act thing is a privacy disaster. Its core aim is intrusive of privacy. I really think that large chunks of the Privacy Act should be rewritten with the AML/CFT Act in mind, as currently it is unfair on businesses.

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

Please share your comments below.:

Definitely. It adds to the risk of businesses being sued under the Privacy Act, and for things which are completely outside their power to control.

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

Unsure

Please give reasons for your answer.:

Same as above. Privacy issues

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

Please share your comments below.:

Definitely. you need to rewrite the Privacy Act and somehow I can't see that being done.

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

Unsure

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

For our sector, real estate agencies are already subject to a 'fit and proper' type regime and licensing requirements under the Real Estate Agents Act. Lawyers are the same, accountants are a bit different though. I see no need for additional red tape/restrictions in this regard for our specific industry sector, you could simply use the licensing requirement under the Act we are subject to, as qualification. Lawyers could use their registration process likewise.

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

Please share your comments below.:

As above

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

Yes

Please give reasons for your answer.:

I dislike the whole idea of making a licensing regime. It invariably results in more costs and more red tape for businesses. We have enough already.

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

No

Please give reasons for your answer.:

Not for my sector, reasons already been given.

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

Please share your comments below.:

Don't establish one. If you do, please bear in mind you have already added a huge amount of cost and restriction to business through the whole AML/CFT Act already. Cost should be completely borne by Govt as that is the only party that gets any benefit from it.

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

Yes

Please give reasons for your answer.:

I see no reason to duplicate existing licensing requirements i.e. for lawyers/real estate agencies

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

Please share your comments below.:

Use them

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

Please share your comments below.:

Plenty. Don't go there, if you do need to then it probably needs to apply to all to prevent discrimination. I don't like it.

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

Please give reasons for your answer.:

NO. We have enough cost added to our operations already. I see no point in duplicating this regime, it could simply be incorporated into the Real Estate Agents Act for our sector. We do not need yet another barrier and cost added to doing business, let alone unwillingly funding another entire red tape generating department. Why can't the Govt pay for it, if it wants it? Why put the cost on industry?

No

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

Please share your comments below.:

Don't charge a levy. We already have one payable under the REA.

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

Please share your comments below.:

Just don't charge one.

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

No

Please give reasons for your answer.:

'flexible and responsive' just means more red tape and more employees in yet another govt department, funded by... us.

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

Please share your comments below.:

I'm not interested in paying a levy. This whole thing has cost our business enough already.

2. Scope of the AML/CFT Act

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

Please share your comments below.:

you probably just need to insert a definition into the Act of what 'ordinary course of business' means in relation to each sector the Act covers.

Yes

Please give reasons for your answer.:

As above, put a definition in for each sector

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

Please share your comments below.:

No comment

2.3 Should 'ordinary' be removed?

No

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

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

Yes

Please give reasons for your answer.:

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

Yes

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

Bound to, haven't looked at it in depth but there is a real problem there with businesses avoiding obligations simply by using a different business model. If this is going to apply it should be model-agnostic.

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?

Yes

Please give reasons for your answer.:

But please don't make businesses submit 2 reports, that is dumb.

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

Unsure

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

Outside my area of expertise

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

Yes

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

'other than sums paid as fees for professional services to the Reporting Entity'

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

No

Please give reasons for your answer.:

Opens up a large can of worms

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

Unsure

Please give reasons for your answer.:

Outside my expertise

How could it be improved?:

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

No

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

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

Yes

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

Get a lawyer to look at it and give an opinion

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

Unsure

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

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

Yes

Please give reasons for your answer.:

Whether it's cash or not makes no difference to real estate agents, why should it to a high value dealer?

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

Plenty... but if a HVD has a compliance program to deal with cash, then surely they can just extend it a bit to cover non-cash as well.

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

Please share your comments below.:

Outside my area of expertise

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

Yes

Please give reasons for your answer.:

Pretty obviously they should be included

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

Please share your comments below.:

Just amalgamate them

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

No

Please give reasons for your answer.:

More red tape = bad

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

Please share your comments below.:

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

No

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

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

Please share your comments below.:

Unsure

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

Depends how much you need to comply with FATF. More compliance cost is not a good thing.

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

Please share your comments below.:

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

2.25 Should criminal defence lawyers have AML/CFT obligations?

No

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

Unsure how they would do this without incriminating their clients which is a bit of a dichotomy

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

Not Answered

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

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

Yes

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

Plenty as above, either they are defending their client or not.

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

Yes

Please give reasons for your answer.:

I have no love for insurance companies. They're really good at paperwork, be free... as long as they don't then on-charge the costs to their customers (which is likely)

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

Tailored to specific risks

Please give reasons for your answer.:

I see no reason why they would have full compliance duties, they only have limited risk in certain areas.

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

Please share your comments below.:

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

Yes

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

Your call

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

Unsure

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

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

Unsure

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

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

Yes

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

Obviously

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

Yes

Please give reasons for your answer.:

I thought accountants were already covered, if only part of their duties are then you might as well make it all or nothing

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

Please share your comments below.:

Outside my area of expertise

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

No

Please give reasons for your answer.:

Massive compliance obligations and as if the thief is going to tell you they're a thief...

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

Please share your comments below.:

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

No

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

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

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

Please share your comments below.:

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

Please share your comments below.:

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

No

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

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

Please share your comments below.:

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

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

Unsure

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

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

Unsure

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

2.48 Should we issue any new regulatory exemptions?

Unsure

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

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

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

No

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

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

Unsure

Please give reasons for your answer.:

Don't have enough context to answer that question

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

Please share your comments below.:

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

No

Please give reasons for your answer.:

Either an entity is a reporting entity or not, doesn't matter who it's owned by.

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

Please share your suggestions below.:

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

Yes

Please give reasons for your answer.:

As previous I believe there should be a sliding scale of compliance, and low-value sums should not trigger any compliance obligations at all.

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

Please share your comments below.:

As above

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

Yes

Please give reasons for your answer.:

Makes it easier to interpret the law

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

Please share your comments below.:

Outside my area of expertise, ask a lawyer

3. Supervision, regulation, and enforcement

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

No

3.1 Please indicate why? :

Stupid having 3 supervisors. Should just be 1.

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

Single supervisor responsible for all entities

3.2 Please provide context for your choice:

Just makes it way easier to achieve consistency across all sectors.

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

No

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

Make 1 supervisor not 3

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

No

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

1 supervisor

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

Yes - the functions and powers are appropriate

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

3.5 What amendments are required:

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

Yes - AML/CFT Supervisors should be able to conduct onsite inspections where REs are operating from a dwelling house

Please explain your answer:

Saying 'no' is basically admitting that they can't supervise RE's operating from a dwelling house.

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

Basically if they want to be an RE then they have to allow inspection, but they have the option of refusing and being suspended

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

Please share your thoughts:

Great idea to do remote, but almost impossible to get a full sense of how the whole system works especially if it is not all digitalised.

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

Yes

Please explain your answer:

Only where applicable

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

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

Unsure

Please explain your answer:

Not applicable to my business so haven't studied it

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

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

Unsure

Why or why not?:

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

Unsure

If yes, what should the standards be?:

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

One of the issues I have heard is that supervisor auditors have conflicting standards. If they are meant to be auditing for the supervisor and their decisions on what is and what isn't acceptable varies depending on the auditor, then how can a consultant auditor possibly get it right?

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

AML/CFT supervisors

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

Please explain your answer:

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

Please share your thoughts:

We do not need or want higher costs.

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

None.

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

Unsure

Please explain your answer:

Not interested in making any further complications to what is already a very complicated space.

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

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

Unsure

Please explain your answer:

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

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

Unsure

Please explain your answer:

If yes, what should the standards look like?:

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

AML/CFT supervisor(s)

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

Please explain your answer:

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

No

What do you use agents for?:

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

No

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

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

Unsure

Please explain your answer:

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

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

Unsure

Please explain your answer:

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

Unsure

Please explain your answer:

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

Unsure

Please provide further detail:

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

Yes

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

I have no idea but they should be proportionate. \$2mill to a bank like Westpac is a laughable fine for something systematic throughout their whole organisation. Whereas a \$2million fine for most small real estate agents would well and truly put them out of business.

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

Unsure

Please provide further detail:

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

Please share your thoughts:

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

Please share your thoughts:

Compliance officers do hold a certain amount of responsibility for the performance of the business under the AML/CFT Act. I think they should definitely be held accountable if their performance is poor, and offered protections if they did their job properly but were ignored by senior management.

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

Yes

Please provide your comments in the box below:

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

Unsure

Please provide your thoughts:

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

4. Preventive measures

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

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

There is a plethora of ways that CDD can be complied with, and some of them don't cut it. It wasn't until the first audit that I discovered that using an electronically verified provider who was checking multiple databases was actually a good thing and that by using them consistently meant that all our CDD was at a base level, instead of relying on other reporting entities data who invariably had different or lower standards. Quite a lot of the CDD issues identified in that audit were a result of relying on other reporting entities CDD instead of running them through our own electronic verification program ourselves.

How could these challenges be resolved?:

In my opinion the Act missed the boat by not mandating the RealMe product, made by govt for govt, as the only safe way that CDD could be verified. Of course it was not readily available at that time, and is only now becoming more available, so it wasn't practical to do that and would have relied on excellent inter-department coordination as well as the lawmakers latching onto what was going on- which was probably all too much to ask...

I note that you have another chance to fix this, with everyone having to sign up to a RealMe account to get their vaccination passport, this could be piggybacked on to reset and restart using the whole RealMe process as a gold standard CDD method, instead of it falling by the wayside and a whole lot of private entities jumping in who by all accounts do almost as good a job, without many/any setup hassles.

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

No

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

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

Unsure

Please share your thoughts:

Beware of unintended consequences. This could be something where rather than prescribing the customer in law, more guidelines would be helpful, which can set out examples of particular entity structures and which owners are considered beneficial and need CDD. I note that some examples were set out originally but these were very broad in nature and in my opinion only captured extremely simple examples.

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

What do you think?:

If there are clear rules in Australia and feedback can be gained from Oz as to how that has panned out, then it could be worth looking at, but I would definitely be putting a proposed ruleset together and putting it out to industry for feedback and tweaking BEFORE taking it to the legislation draft stage.

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

Please share your thoughts:

All it will do is give businesses less flexibility on how to apply the rules. This will result in more consistency but also some very frustrating incidents where people get the book thrown at them simply because of the structure they chose to implement some years earlier with no knowledge of what would ensue. A family trust springs to mind...

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

No

Please provide comments below :

If CDD was required for every offer, this would slow down the whole process of making an offer significantly. Where there are up to 12 offers on a property, and if 5 of them involve a family trust or there are multiple owners, the workload on the agent and the admin team would increase exponentially to the point where it could be unsustainable if there weren't clear systems and processes in place and the offerors had to pay an admin fee to cover the extra expenses. It would wreck a lot of agents business models out there.

It would be a lot more sensible to require the SUCCESSFUL purchaser to provide CDD within, say, 5 working days of the successful offer. This could have the result of dragging out the settlement, but so be it.

One other thing- the agent might carefully undertake CDD correctly on the purchaser, but what happens if the 'or nominee' option is taken up by the purchaser (as is their right) and the entity is switched before settlement, after the agent has finished their obligations and released the deposit? This often happens in the commercial setting.

4.7 What challenges do you anticipate would occur if this was required? How might these be addressed? What do you estimate would be the costs of the change?

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

If CDD was required for every offer, this would slow down the whole process of making an offer significantly. Where there are up to 12 offers on a property, and if 5 of them involve a family trust or there are multiple owners, the workload on the agent and the admin team would increase exponentially to the point where it could be unsustainable if there weren't clear systems and processes in place and the offerors had to pay an admin fee to cover the extra expenses. It would wreck a lot of agents business models out there.

And what happens to commercial leases, does this mean we need to CDD every lease? Make some leases not worth doing- where we get a \$10k pa office, the lease commission on it is say \$1500 + GST, if you show multiple parties through and have 2-3 offers, and then have to CDD each offeror... it's just too hard.

How might the challenges be addressed?:

It would be a lot more sensible to require the SUCCESSFUL purchaser to provide CDD within, say, 5 working days of the successful offer. This could have the result of dragging out the settlement, but so be it.

The ADLS ASP and ATL forms would need to be altered to allow for this in the template forms rather than relying on the agent to put it into Further Terms.

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

This would be a massive structural shift in agent obligations, work and costs. And I assume would be enforced rigorously by both REA and DIA. I do not like it one little bit.

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

Other

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

I think conduct CDD on the customer at the time of the agency agreement, and conduct CDD on the purchaser after their offer has been successful. This does not allow for nominees, but in my opinion, because every sale of property needs a lawyer on both sides to actually change names on titles, then the nominee change should be the lawyers responsibility to CDD and NOT on the real estate agent.

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

Yes

Please provide further detail below:

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

Yes

Please provide further detail below:

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

Unsure

Please provide your comments in the box below:

Makes no difference to us as we CDD all required parties anyway. Don't do purchasers yet but we're not obligated to, but sounds like that could change... :(

I think because 'suspicious' is rather a subjective term, you would not achieve much by doing that. you would find some people with not much better to do would CDD everyone because they prefer safe to productivity, and other busy people would not CDD anyone they didn't have to- because they have no time to be suspicious. You would need to define 'suspicious' which as I say is completely subjective and depends on the personality involved. I don't think this is something you can actually turn into sensible law without getting every dairy owner CDD'ing someone buying a bottle of milk with cash.

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

Standard customer due diligence

What should be the requirements regarding verification?:

There are no good answers to this. As above, a lot of us (real estate agents etc) this does not apply to. These questions should be aimed at just those specific sectors (financial) where they apply.

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

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

Please provide your comments in the box below:

As they do currently

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

Please provide your comments in the box below:

I think there are enough controls in place already and have not seen any instances of potential abuse of our trust account processes in 7 years of real estate.

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?

Unsure

Please share your thoughts:

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

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

Apply only to law firm trust accounts

Please provide your comments in the box below:

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

Please provide your comments in the box below:

No comment

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

No

Please share your thoughts:

Is getting verification of people's residential addresses really more important than getting their email address, these days?

4.19 Are the obligations to obtain and verify information clear?

Yes

Please provide your comments in the box below:

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

Unsure

Please provide your comments in the box below:

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

Please provide your comments in the box below:

No

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

No

Please provide your thoughts :

As far as companies and registered trusts go, the NZ companies register does an excellent job of providing most information about whether a legal entity is still operating and still in existence, if we could simply rely on what is in there as proof then that would be ok, but I doubt that would keep you guys happy. As far as legal arrangements go- that sounds like a massive can of worms which we as real estate agents have no qualifications or training to determine what is what in this regard. Where you basically need a law degree and training in forensic accounting to determine what is going on, that is about 4 steps above most real estate agents heads. Leave it to the lawyers.

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?

No

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

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

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

Massive considering all the other changes you have already outlined. We do commercial real estate and often there are professional trustees involved. What you are saying is we have to have verified insight into the rules that govern these trustees. I can imagine quite a lot of resistance from these players in providing these rules, and in the case of a multi-storey office building where you are getting a general agency for some small office spaces, the customer is large, complex and important and the space you are leasing is small and unimportant and you are one agent of say 4, this is unsustainable in this regard not only for the agent but also the customer.

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

No

Please provide further details below:

Enough damage done already. PLEASE don't make it more complicated.

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

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?

Unsure

Please provide your thoughts:

This is badly worded- 2 separate questions, asked in 2 different ways. Answering one provides the opposite answer to the other. Try again.

I see no point in the whole 'source of wealth' thing- it's pretty much a box-ticking exercise and well above most real estate agents heads if they got provided a set of financial statements to examine. In practice what happens is they obtain verification from their lawyer or accountant, but all this does is increase the admin cost.

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

Yes

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

Hard to determine but considering all the other changes raised so far the cumulative effect would be to roughly double for most reporting entities, and depending on how the purchaser CDD had to occur, to triple or 10x for most real estate agents.

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?

Unsure

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

Out of my area of expertise

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

Other

Please provide your comments in the box below:

Out of my area of expertise

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

Out of my area of expertise

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

Unsure

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

I have more had challenges in how that was interpreted / how to apply it in different situations.

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

Please provide your thoughts:

Definitely need to improve guidance. It would be easy enough for your team to provide a set of scenarios with different structures showing who the beneficial owners are in a particular structure, in a searchable format on the supervisor's website, so someone like myself can easily look it up to see what the best practice is for a particular customer structure rather than having to try to determine it myself. This could be like a wiki helpdesk being continually added to and would greatly help clarify the challenge of CDD'ing the right people.

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?

Unsure

Please provide your thoughts:

Beware of unintended consequences. Where it's a real estate agent like ourselves, how can we possibly understand the different means and methods of complex control of a large corporate business? If we're made liable for this that significantly ups our risk level, we no longer need to just be real estate agents but also lawyers and accountants.

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

I'm not so sure about this...

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

Always

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

That was how we set up our AML/CFT structure on advice from our consultant

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

Yes

Please provide your thoughts:

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

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

Unsure

Please provide your thoughts below:

If it makes it easier and means less CDD needed, then that has to be a positive, but I'm not sure that's what you mean.

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

Unsure

Please provide your thoughts:

Outside my area of expertise

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

Unsure

Please provide your thoughts:

I'm not quite sure what is meant here and what the consequences would be.

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

FATF Standards

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

Mainly consistent

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

Issue regulations

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

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

No

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

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

Unsure

If so, what would be the impact?:

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

Other

Please provide any comments you have in the box below:

Rather than lumping the obligation on businesses, what say you change the trust law to make it an obligation ON THE TRUSTEES to provide to any reporting entity that requests it, what these different classes are, within 12 months of the law? If it is not provided then provide a way for businesses to complain about it to someone that can do something about it, rather than hitting the business for non-compliance.

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

Yes

Please provide further details below:

Definitely, means we would have to go through every trust deed carefully and ensure that we are splitting out the different classes. Means major changes to how we enter and retain that data too- which would then result in more complex audits and more chances to be non-compliant

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

Unsure

Please provide your thoughts:

I'm always on for making it easier for businesses, but I don't think that's your intention in asking the question.

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

Yes

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

Exactly as above, need to allow for more online-only standards. As previously stated you missed the boat with RealMe

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

Yes

Please provide your comments in the box below:

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

No

What other verification requirements could be included?:

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

Please provide your comments in the box below:

Yes, should be able to use:

- for real estate agents, the REA public register to verify names etc
- for anyone, a record of title for verifying residential address

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

No

What challenges have you faced? :

We went with a EV provider who does a very good bundle including PEP, address and ID verification all in one. First audit picked up that we weren't doing that consistently so we made a rule that we did it for everyone including when we got CDD info off other reporting entities. But strictly speaking, this could be and probably should be replaced by RealMe.

How could those challenges be addressed?:

Use RealMe for everyone, the idea behind it was perfect - set up a national database run by Govt that everyone can use to verify identities without risk. This would make it easy for reporting entities by taking away the options to do anything else. Pity for all the current CDD providers that have jumped into the gap since, but that's business.

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

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

I just completely don't see the need for it, especially if not required by FATF in most situations. A lot of people are tenants or sell their house and move, and of course don't think of telling you they have done that, so your information carefully collected is out of date and you don't know it. It's part of a bygone era, it would be more valuable collecting their email address.

4.53 What have been the impacts of those challenges?:

As above

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

When should address information be verified?:

Why bother verifying? I don't see the need of it at all. if you had to, for enhanced CDD maybe

How should verification occur?:

As previously outlined

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

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

I'm not sure what you mean by this. If the client isn't high risk then why bother collecting it?

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

Yes- remove the requirement for collecting address verification for simplified and standard CDD

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

No

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

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

Unsure

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

Not keen on increasing the level of risk for business as far as compliance goes.

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

No

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

How should we make the measures mandatory?:

When should the measures be mandatory?:

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

Yes

Please provide further detail below :

Please do this, I'm not sure how you would but sounds great

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

Yes

Why? Please provide your response in the box below:

Anything to make it easier to do CDD for a large organisation

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

Yes

Why or why not? Please elaborate:

PLEASE! It's crazy doing ECDD on your average family trust. Seriously this whole CDD thing is something that people didn't even know would be a consequence when they set up the trust in the first place. There have been massive losses of privacy since, like do you think the trustees when they set up the trust knew that they would have to disclose source of wealth, the entire trust deed and any amendments, verification of all trustees and named beneficiaries, etc etc to every reporting entity they come across? It's crazy.

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

Please provide further detail below:

i think this is something you would need to spell out in legislation.

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

Yes

Please provide further detail below:

I think so

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

Unsure how you would determine this, I'm not a trust expert

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

No

Please provide further detail below:

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

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

Yes

Please provide any further comments in the box below:

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

No

Why? Please provide your comments in the box below:

Enough red tape already thanks

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

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

It would mean a complete rethink of how we hold data. Estimate a \$10k job for the database designer for all the different changes you have discussed so far, and probably another admin person, and that's just for our small business of 4.

Yes - ongoing CDD would be triggered more often

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

No

Why? Please provide further detail below:

Enough red tape already

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

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

Please provide your response in the box below:

Obviously if the reporting entity has no visibility of transactions, I do not know how you could make them liable to review them. What else is there to monitor and what would trigger it and why?

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

No

Please provide further information below:

What reviews would you consider to be appropriate?:

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

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

Don't go there.

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

No

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

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

No

Please provide further information below:

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

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

Introducing a timeframe or 'sinking lid' for existing (pre-Act) customers

Why? Please provide further details below:

I think this part of the Act has been abused particularly by accountants and lawyers. It needs a cut-off to force them to confront reality.

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

Take it the other way and mandate all companies and business owners and trustees and trusts to provide a CDD pack on a nationwide AML/CFT platform such as RealMe that reporting entities can then download.

This takes the compliance risk off the reporting entities and places it on the govt where it should be.

What would be the cost implications of the options?:

Massive, but they have been avoiding them without good reason simply because they thought they could.

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?

No

Why? Please provide more information below:

Conducting CDD or ECDD is now part of our standard business practice, we make it clear to every customer we come in contact with that we will not do business with them unless they comply, if they go to any other agent I would expect them to do the same. So there are no options for them. Tipping off is not even relevant in this situation

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

Yes

Please provide any further information below:

Good idea

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

Other

If other, please provide details in the box below:

Not sure on this

Why? Please provide further detail below:

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

No

What are those challenges?:

If yes, how could we address those challenges?:

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

Yes

Please provide more detail below:

Massive problems, basically have to build a separate database to do this.

If yes, how could we address those challenges?:

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

No

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

Just increases compliance cost and likelihood of failing audits.

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?

Unsure

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

Why? Please provide any additional information:

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

No

Please provide any additional information below:

We did get picked up in audit for not doing PEP checks regularly. Have altered that now and use an EV package which does a PEP check by default. So now not a problem, but of course it still adds to our costs.

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

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

No

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

We haven't had a single PEP case show up yet.

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

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

As previous we haven't had a single PEP case yet.

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?

Unsure

Please provide any additional information below:

I think any expansion of the definition could be dangerous. Just how far do you go with that? I mean, you look at all the court orders around name suppression for various offences, it's not only politicians, it's also businessmen, sports stars, etc etc- anyone that is wealthy or well-known usually gets the tick. NZ is by default a small nation and people just are well-known. Where would you start and stop?

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

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

No

Please provide any further comments in the box below:

I'm not in favour of that. There is enough scrutiny over all that side of things already with other govt processes.

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

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

No more complications, please...

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

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

We don't have that so can't tell you.

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

No

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

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

Yes

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

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

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

As previous it's part of our EV process.

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?

Yes

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

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

No

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

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

No

4.91 Please provide any further comments in the box below:

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

Do you follow the requirements in the Act

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

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

Yes

4.93 Please provide any further comments in the box below:

I don't like this option at all but with a yes/no answer I have no choice.

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

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

Large until covered by EV process as it eventually would be

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

Yes

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

outside my area of expertise

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

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

outside my area of expertise

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

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

We don't have any identified so far

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

No

4.98 Please provide your comments in the box below:

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

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

More compliance

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

No

Please provide your comments in the box below:

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

I answered no

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

Please provide your comments in the box below:

In line with FATF standards, if you have to

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

Please provide your comments in the box below:

Not prescriptive at all.

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

Please provide your comments in the box below:

Lots of support. \$10k per business would be a good start

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

Currently these are given by the Police GOAmI site, unsure whether you are aware of this. This system is a bit tedious though, they email you to tell you there's an update but not what it is, and make you login and open that particular message before you find out. They could just stick it in the email- it's not exactly confidential information as far as I'm concerned...

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

Please provide your comments in the box below:

No, they already are via the above.

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

Please provide your comments in the box below:

This is a really curly one, I don't have any answers on this.

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

Please provide your comments in the box below:

If it's a foreign-sounding name we do

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

Please provide your comments in the box below:

Please provide a API-ready database that providers/customers can use to either automatically or manually match a customer name against the watchlist. That way there is one standard and rather than lumping the requirement and cost on businesses, you actually help them comply. Don't just legislate- do something about it!

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

Please provide your comments in the box below:

Please provide a API-ready database that providers/customers can use to either automatically or manually match a customer name against the watchlist. That way there is one standard and rather than lumping the requirement and cost on businesses, you actually help them comply. Don't just legislate- do something about it!

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

Please provide your comments in the box below:

Please provide a API-ready database that providers/customers can use to either automatically or manually match. That way there is one standard and rather than lumping the requirement and cost on businesses, you actually help them comply. Don't just legislate- do something about it!

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

Please provide your comments in the box below:

Outside my area of expertise

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

Yes

Please provide your comments in the box below:

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Yes

Please provide your comments in the box below:

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

No

Why or why not?:

Outside my area of expertise

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

Yes

If yes, what are your views?:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Yes

Why?:

This is not a yes/no answer. I think the higher the better, so \$1500. And alter the Act accordingly to up the limit on that as well.

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

If so, how?:

Outside my area of expertise

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

Unsure

If yes, what are your views?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

If yes, what are your views?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Why or why not?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

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

Outside my area of expertise

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

Unsure

If yes, what are your views?:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Yes

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

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

No

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

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

Unsure

Please provide your comments in the box below:

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

Please provide your comments in the box below:

I think it's clear enough

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

If yes, what are your views?:

Outside my area of expertise

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

Unsure

If yes, what are your views?:

Outside my area of expertise

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

No

Please provide your comments in the box below:

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

No

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

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

Yes

Please provide your comments in the box below:

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

Please provide your comments in the box below:

Not at all. We are real estate agents not money remitters

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

Please provide your comments in the box below:

None

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

Yes

If so, what provisions do you use?:

2. But we also run it through our EV provider so we are only relying on the base documentation and not the proof of it.

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

Yes

Please provide your comments in the box below:

A lot of RE's don't do their CDD to the required standard

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

No

If so, what?:

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

No

Please provide your comments in the box below:

Remove it to remove the complications

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

Please provide your comments in the box below:

If it's not consistent with FATF, what is the point? Isn't the point of this whole ridiculous red tape exercise to keep FATF happy?

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

No

Why or why not?:

We are a real estate agency. Not in the business of being a CDD supplier sorry, it's just a compliance thing we have to do on the way past.

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

No

Please provide your comments in the box below:

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

No

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

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

Yes

Please provide your comments in the box below:

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

No

Why?:

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

No

Please provide your comments in the box below:

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

No

Please provide your comments in the box below:

How would you prove all that to the satisfaction of the supervisor/auditor?

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

Yes

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

Definitely. really hard to prove

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

No

Please provide your comments in the box below:

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

Yes

If so, how would those reliance relationships work?:

Anything to avoid duplication would be a good thing. Why doesn't Govt mandate that each entity has to do CDD to the Govt's satisfaction, and hold CDD on behalf of all reporting entities in an online portal, and then RE's can simply login and download the CDD pack for the appropriate entity? Could use RealMe and just simplify the whole thing.

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

Please provide your comments in the box below:

None

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

Yes

Please provide your comments in the box below:

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

Yes

Please provide your comments in the box below:

I thought it did already

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

Yes

Please provide your comments in the box below:

If you have to

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

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Yes

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

Shouldn't they be reviewed annually? There are new decisions and cases coming out all the time that alter 'best practice'.

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

Unsure

Please provide your comments in the box below:

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

Please provide your comments in the box below:

Is the obligation meant to be useful to businesses, or more of a tool for Govt to keep an eye on whether businesses are complying?

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

Please provide your comments in the box below:

Whatever

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

Yes

Please provide your comments in the box below:

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

Please provide your comments in the box below:

Outside my area of expertise

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

Yes

If not, what threshold would you prefer?:

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

Yes

Please provide your comments in the box below:

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

Please provide your comments in the box below:

Outside my area of expertise

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

Please provide your comments in the box below:

Outside my area of expertise

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?

Yes

If so, what could that process look like?:

Outside my area of expertise

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

Please provide your comments in the box below:

It depends whether you want to force compliance or you want cooperation with goodwill. I think the law is about forcing compliance at the moment, which is inevitably going to result in defensive reporting. As far as the 'low quality' bit- why don't you tweak the systems so an SAR can be updated with additional information?

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

Please provide your comments in the box below:

As above- can't update a SAR

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

Unsure

Please provide your comments in the box below:

What constitutes 'low level offending' in the eyes of the law? How is a business meant to determine this?

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

Unsure

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

What about the Privacy Act?

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

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

yes apply to FIU

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

Unsure

Why or why not?:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

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

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

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

Unsure

Please provide your comments in the box below:

Outside my area of expertise

5. Other issues or topics

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

Yes

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

i think that would be helpful

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

Unsure

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

Outside my area of expertise

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

Yes

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

Outside my area of expertise

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

Please share your suggestions below.:

I'm ok with any of those

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

Unsure

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

Outside my area of expertise

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

Please share your suggestions below.:

Outside my area of expertise

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

Unsure

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

Outside my area of expertise

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

No

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

It's a privacy disaster. Use RealMe.

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

Yes

Please give reasons for your answer.:

Good idea to mandate deletion after a few years

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

Please share your suggestions below.:

Outside my area of expertise

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

Unsure

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

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

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

Unsure

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

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

Please share your comments below.:

I think it's always going to be carnage unless there is a central system.

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

Use RealMe as a central system

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

Please share your comments below.:

I think it's a prime thing for Realme

How can we overcome those challenges?:

Mandate it for everyone

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

Yes

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

I think that would be a good thing. Start off by forcing the regulators to talk to each other

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

Please share your suggestions below.:

Digitise everything. Any paper-based requirements are pointless in lockdown conditions. That means the way you mandate CDD etc has to change.

6. Minor changes

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

Please share your comments below.:

Information sharing- if conducting enquiries on behalf of other nations, what is to stop that being used by a foreign govt to persecute an opposition politician, for example?

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

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

No

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