

Response ID ANON-Z596-YZ83-V

Submitted to AML/CFT Act review
Submitted on 2021-11-15 09:48:48

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:

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:

██████████@privatebox.co.nz

1. Institutional arrangements and stewardship

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

Yes

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

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

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

Unsure

Please comment on your answer.:

The effect of the act is to prevent. As CDD requirements are stringent enough to persuade people not to sign up. Also - it's not in a businesses interest to have high risk customers to "detect" if ML/FT actions might be occurring. It is much easier to say no to that customer and move on.

So the effect of the Act is to push nefarious activites to entities that do not report under the Act correctly.

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.:

Sounds like a good idea.

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.:

Some kind of official body should designate the country. For example, the FATF AML deficiency list or UN sanctions list.

Unsure

Please comment on your answer.:

I am not sure how proliferation financing is different from standard ML.

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?

Unsure

Please comment on your answer.:

Not exposed to these so cannot comment.

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

Please share your comments below.:

An NZ based country risk register would help. For example - we have customers from 63 different countries, each with their own risk profile. We are often deciding on our own what risk to assign to these countries. It would be nice to have this predefined and updated by supervisor.

1.8 Are the requirements in section 58 still appropriate?

Yes

Please comment on your answer.:

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

Example of each requirement. For example - it took us about 5 years to find out what "nature" meant as its different to the dictionary meaning (which is "the basic or inherent features, character, or qualities of something") as opposed to "how they will use our service".

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

Please share your comments below.:

It is often hard to know which regulations apply to my business.

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

I would favour less prescription. Or - have all prescriptions required on a single page document that is easy to understand for my sector (TSCP).

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.:

I think this is kind of achieved via supervisor guidance material around what "safe harbour" looks like.

What role should guidance play in providing further clarity?:

You should have:

- 1) Safe harbour examples
- 2) Best practise / gold standard example

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

Unsure

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.:

There needs to be more help for small businesses around scoping the size of their ML risk. For example - someone who has only NZ customers might have very low risk.

It would nice to have some flow charts or questionnaires designed to help small operators decide how much time and money they should invest into their programme.

It could be based on the risk factors for each sector. For example a TSCP that helps foreign trusts should be very high risk - the operator needs to find this out pretty quick and then pointed in the right direction for advice.

A list of registered advisers could be maintained. I've had to go through 3 different advisers until I found one that was actually useful. This has cost me thousands of dollars.

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::

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

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

Yes

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

No

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

The Minister of Justice is very risk adverse.

It would be nice to have someone who is more practically minded - perhaps with some business ownership or management experience.

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

Yes

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

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

Yes

Please give reasons for your answer.:

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

Risk of the business of course.

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

Yes

Please give reasons for your answer.:

Gosh - that would make it easier.

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

Please.

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

Yes

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

Yes. However I do not know the the answer might be.

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::

Make Real Me verified service more affordable to small business. It was going to cost me over \$20k to get signed up and then \$12 per verification.

These needs to be more around the \$1k/yr mark and 50c per verification.

De-risking is a probably the biggest issue with the AML Act. We do it all the time.

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.:

Can't think of anything here sorry. Its a tough one.

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?:

We had some services that we only provided some of the time (like depositing cheques on behalf of customers) that we dropped in order to avoid the compliance burden. We only did this 2-10 times a year.

There could be some limit where some low number or low risk activity doesn't have to be tracked to the extent of other business activities. Not sure how you can resolve this.

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

Yes

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

I tried to start a TCSP sector group with some other reporting entities but they were not interested.

It would be nice to have sector representation of some kind.

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

Please share your comments below.:

Each sector (casinos, virtual assets service providers, accountants, lawyers etc) could have their own industry group to represent their concerns to government and help create guidance for that sector.

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

Sector participation

Who would fund it?

How would you stop it from being dominated by a single, well funded reporting entity?

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

Yes

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

See above.

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?:

Fund and help co-ordinate sector involvement.

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.:

Absolutely.

But I don't see any changes to the AML act should be required for this. The Police can ask for information already.

If they really need it (and the entity isn't cooperative) they can get a court order.

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.:

We would need objective and independent over sight to ensure abuse didn't happen.

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

Yes

Please explain your answer:

It would be good for feedback from FIU to come back about high risk individuals or entities so the reporting entity could focus their efforts in the correct direction!

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?:

I can't see anything outside the normal FIU/ reporting entity relationship needed.

Perhaps it would be nice that the FIU limited the number of high risk individuals they were tracking. For example - not tracking every single STR.

There should be a time limit on it.

It shouldn't apply to non-reporting entities.

If FIU were tracking more than 10 individuals from a single reporting entity perhaps the reporting entity should be reimbursed for their efforts (eg. \$1k per year per tracking)

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.:

Most reporting entities would be very happy in getting some feedback (any feedback) from the FIU and I am sure this sort of intelligence would be greatly appreciated.

Perhaps it doesn't need to be mandatory. It could be "requested".

Failure to follow these requests could be feed back in their supervisor.

If the reporting entity has a history of not accepting these requests then the supervisor could investigate.

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

Please share your comments below.:

Current non tipping off processes could be used. Although I don't believe the non tipping off actually works. The criminal will still be suspicious.

However - even the simple fact something is stopped without an obvious reason is enough to tip me off!

For example - if a payment from an overseas party was stopped by a bank and they stated it was due to "our policy" or some other vague reason, I would know they had AML concerns about this transactions as they didn't specify what was wrong with it.

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

Unsure

Please give reasons for your answer.:

I don't know what Targeted Financial Sanctions are. We are a TCSP and do not have financial transactions.

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

Please describe below and give reasons for your answer.:

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

Please share your comments below.:

Seems ok.

Would be good to know when regulations get updated - or that all regulations were in a simple, easy to follow format.

At the moment we need to read the regulations act every year. This doesn't feel like a good use of time.

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

Please share your comments below.:

Single page list of regulations and precriptions that apply to each sector.

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

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

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

Unsure

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

1.40 Are Codes of Practice a useful tool for businesses?

Yes

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.:

Identity verification seems to have side stepped address verification. This would be good to have it included.

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.:

The DIA seemed to be reluctant to accept our alternative method of ID'ing customers.

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

Please share your comments below.:

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

Yes

Please give reasons for your answer.:

Seems like a good idea.

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.:

Supervisor and sector industry body.

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

Yes

Please give reasons for your answer.:

Anything that makes things simpler seems like a good idea.

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.:

I would be worried about the supervisor making these rules on their own as they often seem out of touch.

It would need to be the supervisor in partnership with the industry and with some form of supervision (perhaps FIU?)

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

Yes

Please give reasons for your answer.:

That sounds amazing!

There should be an API that if you submit and SAR additional information could be returned from FIU automatically. For example - number and nature of other SAR's filed on the same name(s).

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

No

Please share your comments below.:

The API should only return data is that is matched to the reporting entites SARs.

For example - Acme Limited has previous SAR / STR filed. When a different reporting entity files an STR / SAR the return data could specify previous details.

This should be automated to avoid admin.

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.:

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

Yes

Please give reasons for your answer.:

As long as it follows the privacy act I can see no reason for not doing it.

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.:

I think once we have shared the information with the FIU we expect them to use the information.

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

Yes

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

International standardisation makes alot of sense.

For example - an Australian competitor of ours does not need to complete AML on their customers.

We would be happy to participate with this as long as it was fit for purpose.

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.:

I don't know if using the existing regime via FSPR makes sense. We do not conduct financial transactions on behalf of our customers. We provide a mailing and / or company address for our customers.

I don't know where it would best fit.

MBIE do have a "registered postal operator" process. Perhaps it could follow something similar?

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.:

Perhaps the companies website could be expanded to include some of this vetting?

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

Yes

Please give reasons for your answer.:

I ticked yes - but I really don't know. Seems like a good idea but the devil will be in the details.

From a customers point of view having a TSCP "Licensed for AML" doesn't seem to make sense.

We do get challenged by customers often that we are asking for too much information when completing CDD. It would be good to point to X register to say it a requirement.

Remitters and virtual asset service providers should be caught under the existing FSPR requirements..?

Trust and company service providers should be caught under the FSPR if they are handling cash on the customers behalf.

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.:

Simplest form I think would be a completed AML Audit with 80% pass rate. eg. No more than 20% of the audit should need remediation or further work.

The AML Licensee should have a commitment to complete outstanding audit items within an reasonable time frame.

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.:

That seems to make sense.

1) Ensure the FSPR have the same (or more stringent requirements).

If an entity doesn't fit into (1) then AML license is required.

Perhaps that means all FSP's are automatically given a license?

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.:

It should be aware of existing licensing requirements and not duplicate any.

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.:

I think all non-FSP reporting entities should be licensed.

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.:

It should be a nominal amount like \$150/yr per reporting entity.

Then there could be an hourly component to read the audit report every 3 years. So those that have large and complex audits will cost more.

Yes

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.:

All reporting entities.

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.:

It should very based on risk, size and complexity of business.

If you take my suggestion of basing it off a time for the licensor to digest the reporting entities audit then that should reflect that larger organisations will pay more.

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?

Unsure

Please give reasons for your answer.:

Government never really seems to be more flexible and or responsive if they get more money. The opposite seems to happen.

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.:

Sector specific advisory groups!

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.:

Yes - the Act should be clear about what is included or not.

Yes

Please give reasons for your answer.:

The Act should be clear about when something is included or not.

For example if an activity is less than 1% of turnover perhaps it should be excluded unless the activity is with a foreign country that has poor AML protections.

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

Please share your comments below.:

My ideas are:

1) Percentage of turnover. However, if the reporting entity is looking to avoid compliance they could charge \$0 for that service and make it up in other services.

2) So - perhaps it should be clear what very high risk activities look like, and have those included eg. Foreign trusts etc.

2.3 Should 'ordinary' be removed?

Unsure

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.:

There should be a simple exemption mechanism for each supervisor to decide whether a reporting entity should be included or not.

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.:

If its a risky activity some action should be taken by the entity to mitigate this risk.

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

Unsure

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

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

Yes

Please give reasons for your answer.:

Sounds like a good idea.

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

Yes

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

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

Yes

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

Well, its the difference between clients money and the entities money.

So you could use "invoiced" or "billed".

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

Unsure

Please give reasons for your answer.:

Unless the reporting entity has to handle this fee themselves then it should not be included.

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

Yes

Please give reasons for your answer.:

Just get specific about what is included or not. The ML/FT risks are known so just get specific.

How could it be improved?:

Legal persons needs be to made clear to not include natural persons.

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

Yes

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

I fought for a long time to make natural persons to not be included under legal persons. It was painful.

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?

No

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

Section 5 seems to be pretty clear.

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

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

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

Please share your comments below.:

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

Yes

Please give reasons for your answer.:

If they are dealing in high value items for cash 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.:

Not sure.

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

Yes

Please give reasons for your answer.:

1,000

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.:

1,000

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

No

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

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

Please share your comments below.:

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

Not Answered

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

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

No

Please give reasons for your answer.:

There is no formal declaration of this position required by the Companies Act so it seems unless there was a pressing ML/FT risk associated with it, it does seem to be unnecessary.

Anyone offering nominee directorships and / or shareholders should be caught by the act.

If a company secretary / agent ever were to be included in the companies act then yes - it should be included by the AML act too.

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.:

Over \$20k per year.

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

We act as registered office service for around 700 companies. We only provide additional services like annual returns for about 2-3 companies. Most directories can file the necessary documents themselves.

2.25 Should criminal defence lawyers have AML/CFT obligations?

Unsure

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

That's a tricky one!

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.:

Defence lawyers could be targetted by criminals if they found out they were "narked" on by their lawyer!

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

Yes

Please give reasons for your answer.:

All high value financial activity should be covered by the act.

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?

Full obligations

Please give reasons for your answer.:

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

Please share your comments below.:

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

Yes

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

I don't know.

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.:

Yes - you always need to be clear about the obligations.

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

Yes

Please give reasons for your answer.:

All financial activities should be captured by the act.

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.:

Maintain a central register of licensed tax agents.

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?

Yes

Please give reasons for your answer.:

Foreign owned entites seem to be higher risk for ML/FT.

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

Please share your comments below.:

Copies of bank statements.

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

Yes

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

Makes sense.

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

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

Please share your comments below.:

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

Please share your comments below.:

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

No

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

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

Please share your comments below.:

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

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

Not Answered

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

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

Unsure

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

2.48 Should we issue any new regulatory exemptions?

Yes

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

Dealing with customers correspondance! There is little or no risk of ML/FT of dealing with a customers correspondance on their behalf. I have never seen any evidence of ML/FT via mail.

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?

Yes

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?:

I answered yes because we provide this service to our customers.

So we use 1 (us).

We provide an introduction service to our clients to potential directors.

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

Yes

Please give reasons for your answer.:

If the parent company has this as a service then the ML/FT risks have been covered off by their current AML programme.

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.:

Not sure. Perhaps more often audit cycle? Like every 1 or 2 years instead of 3..?

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?

Unsure

Please give reasons for your answer.:

Seems to make sense.

However, there is lots of cases of invoice fraud occurring in government agencies... so not sure.

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.:

If a loan is below \$1000 then it could be excluded.

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.:

If loans to single person total more than \$1000 then they need to qualify for AML.

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

Yes

Please give reasons for your answer.:

Where the act can be clear it should be.

For what its worth, I think any entity that has an association with NZ and conducts financial activities should be captured by the act.

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

Please share your comments below.:

If the companies registered address is in NZ and / or financial services are sold here.

3. Supervision, regulation, and enforcement

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

Unsure

3.1 Please indicate why? :

DIA used to be a terrible supervisor. Very hard to get advice etc.

They have actually improved lately (over the past 2 years or so). Seems like they are better resourced.

So - I am not sure now!

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

Regulatory bodies as supervisors - eg. Law Society

3.2 Please provide context for your choice:

Seems like a good idea that an industry body that is more familiar with a sector would be better at supervising it.

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?

Yes

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

In my battle to get "natural person" ungrouped from "legal person" it would have been nice to have some other body to bring this issue to - so it could be applied consistently across FATF and the supervisors.

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?

Yes

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

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:

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

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

Please share your thoughts:

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

No

Please explain your answer:

You need to see a business inner workings to get an idea of what goes on.

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:

I've never understood DBGs or what they are used for.

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

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

Unsure

Why or why not?:

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

Yes

If yes, what should the standards be?:

Auditors should be audited regularly.

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

Not sure.

But I would like a way to confirm an auditor that works with us is suitably qualified to do an audit.

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

Ministry of Justice

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

Unsure.

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:

If you standardised the quality of audits you could rely on audits as a mechanism to give reporting entities more freedom in other areas.

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

Not much.

It would be good to have a central registrar of qualified auditors so I know I am not getting a cowboy.

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

Yes

Please explain your answer:

If an auditor is involved with companies that have warnings, fines or court action then they should be struck off the "approved auditor list".

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:

Gosh - that's a tricky one. I don't know!

It took me 3 attempts to find a decent consultant to help us with our AML programme. This wasted time and money.

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

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

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:

AML Solutions in Auckland have been wonderful in giving advice (now that they are no longer our auditors).

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?

Unsure

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

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

Unsure

Please provide further detail:

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

Please share your thoughts:

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

Please share your thoughts:

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

No

Please provide your comments in the box below:

There should be a court order required in order to liquidate a company to recover costs.

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?:

1. Convincing customers its necessary
2. Verifying customers details in a cost-effective and time reduced way
3. Identifying beneficial ownership for trusts
4. Identifying beneficial ownership for overseas companies

How could these challenges be resolved?:

1. Sector specific examples of CDD requirements so we could show customers "Because we manage your correspondance on your behalf we need to ID the account owner, the directors and all shareholders of your business".
2. Make Real Me verified cheaper and easier to us. It should be \$1k/yr and 50c per loockup instead of \$20k/yr and \$12 per lookup. That is not feasible for SMB.
3. Create a standardised mechanism to verify trusts control. Either a public register or playbook for getting the required info from the trust deed (for example - the things required by a lawyer working on the clients behalf can provide in place of us trying to comprehend a trust deed).
4. Create a 'how to' guide for each jurisdiction around the world on how to confirm ownership details for entities in those countries.

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

Yes

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

The long belief at DIA that natural people were included in "legal persons". Oh my gosh - what a battle.

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

Yes

Please share your thoughts:

More clarity is always good.

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

What do you think?:

Perhaps a lower version of CDD can be done in low risk situations - like just fullname, year of birth and residential country. At least we can check a watchlist with these details to make sure they are not a PEP etc.

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:

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

Unsure

Please provide comments below :

Perhaps the lawyer doing the conveyancing should make sure the CDD has been completed? What if the one of the parties does not have a real estate agent - who vets them?

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?:

How might the challenges be addressed?:

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

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

Not Answered

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

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?

Not Answered

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:

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?

Not Answered

What should be the requirements regarding verification?:

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:

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

Please provide your comments in the box below:

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?

Not Answered

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?

Not Answered

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:

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

Not Answered

Please share your thoughts:

4.19 Are the obligations to obtain and verify information clear?

Not Answered

Please provide your comments in the box below:

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

Not Answered

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:

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?

Unsure

Please provide your thoughts :

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?

Not Answered

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:

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?

Unsure

Please provide further details below:

For our business we do not have financial transactions. We are TCSP. We provide a correspondence address and / or registered office addresses for businesses and companies. There is no financial transaction. Asking for source of funds is often met with skepticism - and really, what funds are we trying to verify?

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

TCSP should be exempt from source of funds unless handling funds on their customers behalf.

Or perhaps if the transactions is above \$1000 for example.

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

Yes

Please provide your thoughts:

For our business we do not have financial transactions. We are TCSP. We provide a correspondence address and / or registered office addresses for businesses and companies. There is no financial transaction. Asking for source of funds is often met with skepticism - and really, what funds are we trying to verify?

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:

We lose about 10 customers a year because of this required at a cost of around \$5k per year.

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:

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?

Not Answered

Please provide your comments in the box below:

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

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

No

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

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

Please provide your thoughts:

Provide guidance on how to get beneficial ownership for overseas entities.

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?

Yes

Please provide your thoughts:

Our approach should be standardised with other countries.

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

- 1) Any shareholder that is also a director.
- 2) The person (or persons) that have the majority shareholding. Eg. The largest shareholders to add up to 51%+.

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

Never

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

Not required so we don't do it.

We ID everybody and it's very painful process.

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

No

Please provide your thoughts:

We would save money and time I believe. It's a good idea.

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:

Try to keep this simple - it looks like that gets a bit complicated.

Simplify and standardise please!

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

Unsure

Please provide your thoughts:

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

Not Answered

Please provide your thoughts:

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

FATF Standards

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

We pretty much do this.

Although if we cannot identify the ownership structure we normally do not onboard them as a customer (mainly due to difficulties verifying ownerships structure for overseas entities).

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 a Code of Practice

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

Code of practice is easier to update isn't it - so just stick with that I think.

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?

Yes

If so, what would be the impact?:

I think it would make it slightly simpler for us.

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?

Issue a Code of Practice

Please provide any comments you have in the box below:

I like code of practice as they promise "safe harbour" which is good - as most of these rules are complicated so its nice to know if we follow one thing we will be ok.

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:

It would make things simpler for us.

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:

Guidance on how to deal with overseas entities would be helpful.

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?:

COP ignores address verification. It would be nice if this was included.

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

Unsure

Please provide your comments in the box below:

The majority of our customers are overseas. Be nice if there was more info different jurisdictions or examples of best practise.

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?

Yes

What other verification requirements could be included?:

Yes - code of conduct for identifying enties (domestic and international) seems like a very good idea!

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:

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?

Yes

What challenges have you faced? :

1. The main challenge is when we have proof of address from one country and their ID is from another eg. A Kiwi who lives in Australia. This means it is unlikely we will get a match in database for either country.

2. We use selfie videos or video calls to make sure the person matches their ID. If the person holds up their ID next to their face surely this should be as good as meeting someone face to face?

3. I worry about storing all these copies of very private documents for such a long period (5 years after they cease being customer).

How could those challenges be addressed?:

1. Don't know!

2. Issue guidance to say this is ok.

3. Issue guidance on how to best look after these documents.

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?:

1. Some of our customers are using our service specifically because they do not have an address

2. Customers often have not received letters in the last 12 months. They have only received emails from utility, gov agency etc.

3. Employees of businesses do not want to share their home residential address on behalf of their company to a third party (us).

4. Some people do not have their address in a database that we can verify electronically

5. Some people move quite a lot so getting a match can be a challenge. We sometimes ask for the last few addresses and keep trying until we get a match - it seems a little silly.

6. A big challenge has been the formatting of addresses. So many countries have different address formats, several of which are so different to what we use it becomes difficult to work out what information relates to what section to verify electronically.

4.53 What have been the impacts of those challenges?:

It costs us lots of extra time, we might not be able to onboard the customer (lost revenue) but mostly it just annoys our customers to the point they will take to social media and / or review sites and trash our reputation! "I did everything they asked but their dumb system can't verify me!"

We estimate it costs us about \$50-\$100 per week in lost revenue (~\$4k per year). The reputational damage can't really be measured but it is an important factor.

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

When should address information be verified?:

For high risk accounts and / or activities.

For example - foreign own trusts. All parties should be address verified.

How should verification occur?:

3 methods:

1) Certified proof of address *with* verification with the certifier.

2) Copy of proof of address *with* EIV of this address

3) Send them a letter with a secret code to confirm they are really where they say they are.

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? :

Ask for proof of address on a regular basis from high risk individuals eg. every 12 months?

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

Criminals are likely to lie about where they are and have a method for doing so. It is ok for law enforcement to use their sleuthing skills to find the bad guys.

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?:

We don't deal with financial transactions so the extra steps seem a bit silly.

However - we do ask every customer about nature & purpose. Which I see is on the FATF list.

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:

It should only be required if financial transactions are present.

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?

Unsure

Please provide further detail below :

Simplified CDD is applied in so few cases of our customers that we tend to ignore this clause and just ID everyone.

It is very silly that in a large organisation we have to get details for the account holder, directors and shareholders to have a mailbox! Help!

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

Yes

Why? Please provide your response in the box below:

It is very silly that in a large organisation we have to get details for the account holder, directors and shareholders to have a mailbox! Help!

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?

Unsure

Why or why not? Please elaborate:

Only if they are conducting financial transactions. Otherwise it is a bit silly asking for source of funds.

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:

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:

Foreign own trusts.

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

Foreign own trusts.

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

Unsure

Please provide further detail below:

We don't have financial transactions so its a bit weird to monitor their account.

We have a general blanket rule that we will discuss as a group any unusual behaviour to see if extra action is taken.

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

You could make different kind of monitoring needed for financial trasnactions vs non-financial activities (to make it easier for us to know if we are doing the right thing or not).

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?

No

Please provide any further comments in the box below:

A customers identity does not change over time - it is silly to "re-verify" them unless for some reason the previous CDD attempt does not match current CDD requirements.

For example - we didn't have a selfie video required in 2016. Now we do. So, if there was a material change in the account we would get this done.

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

Unsure

Why? Please provide your comments in the box below:

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?:

Unsure

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

Unsure

Why? Please provide further detail below:

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:

We have interpreted "account" to mean an account holder with us (eg. not just "bank account") which to us means - every customer.

It makes sense that enough is known about a customer at the beginning of a relationship to know if their behaviour is unusual or not during the relationship. This could be regulated that is fine - however, it would be good to make it obvious which activites are included / not included for non-financial activity.

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?

Yes

Please provide further information below:

Differentiate between non-financial activity. Make it obvious what monitoring is required in either case (if any).

What reviews would you consider to be appropriate?:

Perhaps a regular review of the account based on risk weighting is enough. You should have enough information to know how a customer is likely to behave so you probably just need to manually review a customer to see if they did act in this way.

Although to be honest these reviews haven't really helped us find any bad eggs. It has helped us obtain up to date CDD information if our internal process or external requirements had changed.

The most common way for us to notice unusual or suspicious behaviour is through our team noticing something weird and reporting it at our weekly high risk meetings.

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?:

It would be nice to know exactly what we should be doing around non-financial monitoring (if any).

I think the ML/FT risk is going to happen via financial transactions. So financial institutions need to make sure their monitoring is good. For DNFBP it doesn't seem to add much value to the system.

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?

Yes

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

We monitor:

1. Credit card details - we use issuing country as part of our risk profiling
2. IP address - we use IP location as part of our risk profiling (including flagging VPNs as high risk)
3. As a mail forwarding company we also hold destination country information for customers - so the country risk of the destinations can help influence a customers risk profile over time.

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?

Unsure

Please provide further information below:

If so - it has to be "fit for purpose" in reducing ML/FT risk. Identify where ML/FT risk and ask for monitoring around those areas.

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

Depends on what has ML/FT risk. For us - mail has little (or no!?) ML/FT risk so it seems a little silly to monitor. However - it makes up 98% of business.

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?

Making the trigger an 'or' rather than an 'and'

Why? Please provide further details below:

I thought it was this already and we had been following this process already!

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

Require all accounts require some kind of account review (either manual or automatic) every X years (depending on risk profile).

What would be the cost implications of the options?:

Some kind of baseline account monitoring seems sensible.

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

Yes

Why? Please provide more information below:

More clarity is always good.

It is unclear if asking for CDD documentation will make a paranoid criminal get tipped off or not. It will in some cases and not in others.

More than once when we have gone back to an individual to request more docs as we have suspicions they have not responded. So it is unlikely to get more information anyways.

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:

Proof of source of funds would make any criminal quake in their boots. However, a DNFBP has no business asking for source of funds so its likely to tip them off.

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

Should it apply only to business relationships (rather than occasional transactions or activities)?

If other, please provide details in the box below:

Why? Please provide further detail below:

In many cases you can get away with it without arousing suspicion, but in other instances it may be obvious in which case it would do more harm.

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

Yes

What are those challenges?:

Requesting source of funds for DNFBP

If yes, how could we address those challenges?:

Exempt DNFBP for requesting source of funds.

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:

Its just the time and effort to keep things updated. Our worse ones are the staff training and vetting registers.

If yes, how could we address those challenges?:

Make it clear what minimum standard is required to reduce ML/FT for each sector.

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

Unsure

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

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

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?

Yes

Please provide any additional information below:

To identify a PEP we only need Fullname, year of birth and residential country. This is less than what is required for CDD.

For some parties associated with a customer it would be good that this reduced set of attributes were allowed in order to make sure the parties are not on a watchlist.

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

Make it obvious where a reduced set of personal information is ok to use to check certain lower risk individuals (eg. beneficiaries of a trust for example).

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?:

In the entire history of our business we have only ever had 1 PEP and it was deemed ok at the time. In this time period we have around 15,000 customers.

The reward for the effort doesn't seem warranted for additional steps!

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?:

No different.

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

No

Please provide any additional information below:

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?

Unsure

Please provide any further comments in the box below:

I thought domestic PEPs were included!

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 increase as we currently doing it.

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

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

In the single case of a PEP it was obvious the mailbox was used for personal use so further action was taken.

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?

Yes

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?

No

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?:

We use Trulioo watchlist service. <https://www.trulioo.com/product/aml-watchlist-services>

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?

Are there other ways you deal with domestic PEPs

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

We treat them the same.

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:

We do this already.

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?:

We do this already.

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

No

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

I am not sure.

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

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

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

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

Discussion with management about onboarding them. If we do take them on then there will be increased monitoring and SAR.

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?

Yes

4.98 Please provide your comments in the box below:

We do this already.

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?:

Nothing extra as we are currently doing this.

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

Yes

Please provide your comments in the box below:

More guidance in good. Keep it simple and standardise across sectors and jurisdictions.

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

No idea sorry.

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:

As a DNFBP we should be exempt.

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:

As a DNFBP we should be exempt.

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

Please provide your comments in the box below:

As a DNFBP we should be exempt.

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

It should not be a manual process.

Whatever watchlist provider is used - they should check the relevant lists as required by NZ gov.

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:

Its more about making sure whatever list checker they are using is updated in the last month or so.

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 tricky one.

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:

We watchlist all parties that are deemed to require CDD.

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:

Safe harbour is a great idea.

You could issue some guidance around automated watchlist checks similar to the EIV notes that have been issued.

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:

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:

Exemption for DNFBNs please!

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:

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

Not Answered

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:

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

Unsure

Please provide your comments in the box below:

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

Yes

Please provide your comments in the box below:

Some of our customers receive donations which we may forward (via courier) to their bank on their behalf. Donations are normally less than \$150NZD.

Some customers used to receive payment for invoices via cheque which are no discontinued for the most part. Sometimes the value of these would be above \$1000NZD. The customer may request these items be forwarded (eg. couriered) to their bank for deposit.

For context in the past 12 months we have done this about 10 times for our customers with the value being between \$150 - \$300NZD.

We have not seen any ML/FT risk associated with these activities.

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:

n/a

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

Not Answered

Please provide your comments in the box below:

n/a

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

Not Answered

Please provide your comments in the box below:

n/a

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

Not Answered

Why or why not?:

n/a

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

Not Answered

Why or why not?:

n/a

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

Not Answered

Why or why not?:

n/a

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:

n/a

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:

n/a

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

Not Answered

Why or why not?:

n/a

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:

n/a

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:

Perhaps the use of VPNs vs Anonymous VPNs as part of our risk profiling of customers.

Some customers have requested to make payment via crypto which we do not currently support. However, I do not see a reason why not in the future (as we will still be CDD'ing the customer and would only be receiving payment for services rendered).

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?:

I thought it was already required?

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:

Yes. That is a good idea.

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:

It is a lot of effort (and sometimes we forget to do it) however we always catch up with our next internal review and / or external audit.

I thought it was required in the normal course of compliance so no extra cost at the moment.

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?:

New technology is much faster than regulation. It should be the form of advisories from our supervisor on best practice. And then once something is settled down - then safe harbour code of practice and / or regulation.

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

Unsure

If yes, what are your views?:

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:

They should definitely be caught by the act.

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

Yes

Why or why not?:

1500 makes a lot of sense.

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?:

It is a good balance between risk and work required.

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

No

Please provide your comments in the box below:

Just make it obvious. Any good coder should be able to automate this process as part of their trading software.

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

No

Why or why not?:

It seems a bad idea to try to make new tech fit old terms.

It is better to create a new term and regulations to fit the new tech.

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

Not Answered

Please provide your comments in the box below:

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:

As DNFBP this doesn't apply to us. It would be nice to make this obvious in the act.

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

Unsure

If so, how?:

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

Unsure

If yes, what are your views?:

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:

n/a

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

No

Why or why not?:

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:

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

Please provide your comments in the box below:

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

Yes

Why or why not?:

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

Not Answered

If yes, what are your views?:

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

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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

Please provide your comments in the box below:

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

Not Answered

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

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

Not Answered

If yes, what are your views?:

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

Please provide your comments in the box below:

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

Not Answered

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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

Please provide your comments in the box below:

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

No

Please provide your comments in the box below:

This is a silly idea. DNFBP should only be receiving funds for supplying services them (eg. payment of fee's).

If they are receiving funds for other reasons then yes - they should be included.

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

Please provide your comments in the box below:

Yes.

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

Unsure

Please provide your comments in the box below:

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

If yes, what are your views?:

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

Not Answered

If yes, what are your views?:

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

Not Answered

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?

Not Answered

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?

Not Answered

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:

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

Please provide your comments in the box below:

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

Not Answered

If so, what provisions do you use?:

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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:

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

Not Answered

Why or why not?:

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

Not Answered

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?

Unsure

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

I have no idea what a DBG is or what it is good for.

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why?:

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

Not Answered

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.

Unsure

Please provide your comments in the box below:

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

Not Answered

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

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

Not Answered

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?

Not Answered

If so, how would those reliance relationships work?:

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:

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

Not Answered

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?

Unsure

Please provide your comments in the box below:

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:

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:

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?

Yes

Please provide your comments in the box below:

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?

Not Answered

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

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

Yes

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:

Some kind of guidance around selecting a suitably qualified auditor.

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:

Maintain a central register for country risk from NZ perspective. Provide an API for automatic lookup of risk.

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

Not Answered

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:

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?

Unsure

Please provide your comments in the box below:

As long as it gets included in international watchlists its a good idea.

If not - having to check 2 list sources for individuals or entities would increase burden of work.

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:

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

Please provide your comments in the box below:

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?

Not Answered

If so, what could that process look like?:

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:

Well, if we make a SAR then we are exempt from prosecution. This makes submitting SAR's pretty attractive if we have *any* concerns!

For context - we submit 1-3 reports per year.

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

Please provide your comments in the box below:

More active feedback from FIU for what is useful or not.

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

Unsure

Please provide your comments in the box below:

We don't know what will be useful for FIU so its better to give them everything we have right?

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?:

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)?

Unsure

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

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

Not Answered

Why or why not?:

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:

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

Yes

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

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?

Yes

Please provide your comments in the box below:

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

Yes

Please provide your comments in the box below:

Mongrel Mob member with ankle bractlet driving mercs, ford ranger and other souped up cars!

5. Other issues or topics

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

Unsure

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

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

Unsure

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

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

Unsure

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

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

Please share your suggestions below.:

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

Not Answered

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

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

Please share your suggestions below.:

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

Unsure

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

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

No

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

Ensure basic level of encryption and or storage requirements (eg. if digital copies they should be stored somewhere that cannot be accessed from internet for example).

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.:

There should be a deadline for getting deleting PPI.

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.:

Doesn't the act say 5 years past the end of the customer relationship? Perhaps it should be 5 years.

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.:

Real Me Verified should be cheaper, easier to use.

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

Why not make it free for reporting entities?

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.:

Price

How can we overcome those challenges?:

Make it cheaper.

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.:

Mail forwarding companies in Australia are treated differently here. It would be nice to standardise this.

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

Please share your suggestions below.:

6. Minor changes

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

Please share your comments below.:

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

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

Not Answered

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