

Response ID ANON-Z596-YZN4-K

Submitted to AML/CFT Act review
Submitted on 2021-11-18 15:02:56

Tell us a bit about yourself

1 What age group are you in?

50-64

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:

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?

No

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

The act is overkill. You're strangling business, invading peoples privacy, for little benefit, and the majority of New Zealanders who are no risk of money laundering pay the price of this draconian, bureaucratic monstrosity. I have had to cut my income down considerably in order to be doing no captured activities because it is offensive philosophically, and just a nuisance practically.

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

Get rid of the damned thing.

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

No

Please comment on your answer.:

I don't even know what this means in practical terms?

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?

No

Please comment on your answer.:

Oh go away LOL.

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

Not Answered

Please give reasons for your answer.:

Not Answered

Please comment on your answer.:

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

No

Please comment on your answer.:

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

Please share your comments below.:

You shouldn't share people's private information in a free world.

1.8 Are the requirements in section 58 still appropriate?

Not Answered

Please comment on your answer.:

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

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

Please share your comments below.:

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

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

No

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

What role should guidance play in providing further clarity?:

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

Yes

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

Absolutely. For small tax agencies and accountancy firms, the time, work and cost involved to comply with this dreadful act is out of all proportion to the gains.

I complete financial statements and tax returns for central Canterbury farmers: none of these people should be getting bothered by the AML. It's insane.

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.:

It's overkill that an accountancy firm working for Canterbury farmers has the same regulatory work as an Auckland city firm with Chinese clients and Russian Oligarchs.

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

Yes

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

Have a de minimus rules: transactions, clients, etc below \$10million are outside the act.

Anything like that.

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 to date - for example tax transfers - has been useless.

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

Unsure

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

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

Not Answered

Please give reasons for your answer.:

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

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

Not Answered

Please give reasons for your answer.:

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

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

Not Answered

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

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

Not Answered

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::

Yes. It can delete itself from the statutes. Give us our lives, including our private lives, back.

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.:

The regime can keep out of the relationship between people and their bank. No purpose for the regime to be there.

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?:

It's mothballing the economy.

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

No

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

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

Please share your comments below.:

No AML regime.

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

Government department power creep and empire building.

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

Not Answered

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

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

Yes

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

Yes, but we all know nothing would be acted on.

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

Yes

Please give reasons for your answer.:

Yes to this: but only on specific threats. Not fishing expeditions which the whole AML is based on.

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.:

Answered above.

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

No

Please explain your answer:

Again, it must not just be a fishing expedition for information.

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'm sitting here stunned you even have the effrontery to ask this.

The very regime ensures privacy and human rights are destroyed. From the very concept.

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

No

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

This power would be abused by the state.

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

Please share your comments below.:

?

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

No

Please give reasons for your answer.:

This sounds like the jurisdiction of foreign affairs.

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

Please describe below and give reasons for your answer.:

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

Please share your comments below.:

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

Please share your comments below.:

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?

Not Answered

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

1.40 Are Codes of Practice a useful tool for businesses?

Not Answered

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

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

Not Answered

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

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Yes

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

Not Answered

Please share your comments below.:

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

Please share your comments below.:

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?

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

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

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

No

Please give reasons for your answer.:

New Zealand has enough licencing monopolies. No more. And again, how much more time would a licencing regime incur? Answer: too much.

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

Please share your comments below.:

Don't establish a licencing regime. Please.

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?

Not Answered

Please give reasons for your answer.:

Don't establish a licencing regime.

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.:

Just don't.

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

Please share your comments below.:

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

Please give reasons for your answer.:

LOL.

I think you can figure this one out from by above answers. NO.

This damned regime is already a huge cost burden on the entire country, to catch a very minute minority. It's absolutely not targeted in any way at all thus so wasteful.

No

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

Please share your comments below.:

Don't levy. Our economies are crippled by regulation already, to say nothing of Covid. Just stop this nonsense.

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.:

No levy.

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

No

Please give reasons for your answer.:

No levy.

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

Please share your comments below.:

I want the regime gone.

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

Please give reasons for your answer.:

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

Please share your comments below.:

2.3 Should 'ordinary' be removed?

Not Answered

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

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

No

Please give reasons for your answer.:

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

Not Answered

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?

Not Answered

Please give reasons for your answer.:

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

Not Answered

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'?

Not Answered

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

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

Not Answered

Please give reasons for your answer.:

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

Not Answered

Please give reasons for your answer.:

How could it be improved?:

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

Not Answered

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

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

Not Answered

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

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

Not Answered

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?

Not Answered

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?

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

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.:

NO. No. No.

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.:

Terminal compliance cost: I'd retire (not joking).

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

Hedging my bets on this one.

2.25 Should criminal defence lawyers have AML/CFT obligations?

No

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

This would obstruct the course of law as no 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?

Not Answered

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

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

Not Answered

Please give reasons for your answer.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

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

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

Not Answered

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?

Not Answered

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?

Not Answered

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

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

No

Please give reasons for your answer.:

This is the only reason I'm answering this survey.

No, please do not put the preparation of financial accounts and tax statements into the AML. I see nothing gained by this, for yet again more compliance cost that cannot be justified. I have already in my own practice - accounting and tax work for farmers - divested myself of all captured services, including the income stream from these, because the cost of complying for my small sized client base is not worth it: if you bring in this measure then that will be myself early retired (so I better work on my savings). Both practically, and in principle, I would find the AML work for this activity as well as pointless, too costly, and frankly too repugnant.

Please don't do this.

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

Please share your comments below.:

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

No

Please give reasons for your answer.:

It would increase the costs of charities that is better spend on the object of the charity Many of these charities are not 'wealthy' and I could see this cost ending some charities. Everyone loses. Just leave them alone.

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

Please share your comments below.:

None.

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?

Not Answered

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

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

Not Answered

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?

Not Answered

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?

Not Answered

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

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

Please share your comments below.:

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

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

Not Answered

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

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

Not Answered

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

2.48 Should we issue any new regulatory exemptions?

Not Answered

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

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

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

Not Answered

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

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your suggestions below.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.:

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

Not Answered

Please give reasons for your answer.:

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

Please share your comments below.: