

Response ID ANON-Z596-YZAV-8

Submitted to AML/CFT Act review
Submitted on 2021-11-26 12:08:55

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:

Grenadier Real Estate Limited

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:

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?:

How could these challenges be resolved?:

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?:

Nominee Shareholders and Nominee Directors can be difficult to identify if not advised by the customer.

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?

Not Answered

Please share your thoughts:

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

What do you think?:

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?

No

Please provide comments below :

The consultation document recognises the potential for compliance costs to double.

If we had to identify every buyer who puts forward an offer (or registers to bid at auction) then the compliance would be onerous and incur significant extra cost, a lot more than double.

We would also have to identify multiple people who may or may not end up purchasing the said property.

It would seem unreasonable in the case of a multi offer to identify say 15 parties when only 1 party purchases the property.

While real estate is an attractive vehicle for money laundering, this is reflected in the degree to which supporting industries associated with a real estate transaction are already required to act as gatekeepers against money laundering. At a minimum, a purchaser will be verified by their lawyer. If they are borrowing money they will also be verified by their bank and potentially their financial advisor/broker. If they move to sell the asset within a short period of time, they will then be verified as a vendor by their real estate agent.

As above, there appears to be an assumption that CDD would occur for one purchaser only. This would require that verification took place after the agreement to purchase became unconditional – by which point CDD should have already been completed by the purchaser's lawyer.

If we required a purchaser to provide their information prior to presenting a contract, this would open the industry up to having to complete numerous CDDs per transaction

- For every bidder prior to auction

- For every purchaser wishing to participate in a deadline/multi

The additional work involved in doing this would be significant and far more than double what we are currently doing. Further, money launderers could avoid this check by using the and/or nominee function. While their solicitor would pick this up and be required to complete CDD at the time of conveyancing, the pre-contract check is rendered redundant.

If CDD on a purchaser was required only once a binding contract had been entered into, this would be a double up of effort with what solicitors are currently required to do.

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?:

There is nothing to prevent an individual engaging in money laundering from selling their home privately. Private transactions do not involve a real estate agency, and therefore rely upon the party's lawyer for the purposes of AML. Requiring real estate agents to complete formal CDD is likely to encourage money launderers to sell their properties privately, completely removing one potential checkpoint from the transaction (see comment below re the option of defining certain purchasing activities as suspicious rather than requiring CDD on every purchaser)

Unlike the relationship between the agent and vendor, there is no contractual relationship between the agent and the purchaser – how would we compel the purchaser to provide the information required to complete CDD? This is a key question, the implications of which are linked to the question of timing. If we required a purchaser to provide their information prior to presenting a contract, this would open the industry up to having to complete numerous CDDs per transaction

- For every bidder prior to auction

- For every purchaser wishing to participate in a deadline/multi

The additional work involved in doing this would be significant and far more than double what we are currently doing. Further, money launderers could avoid this check by using the and/or nominee function. While their solicitor would pick this up and be required to complete CDD at the time of conveyancing, the pre-contract check is rendered redundant.

If CDD on a purchaser was required only once a binding contract had been entered into, this would be a double up of effort with what solicitors are currently required to do.

How might the challenges be addressed?:

With great difficulty.

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

For our business likely \$200k per annum.

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

Current timing is appropriate for both vendor and purchaser

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?

Not Answered

Please provide further detail below:

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

Yes

Please provide further detail below:

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

No

Please provide your comments in the box below:

I don't see that this is practicable as how would we compel a purchaser to provide the required documentation?

Would a compromise be to require real estate agents to report certain defined happenings via a suspicious activity report? This would effectively add a hurdle for those acting suspiciously without impacting everyone – keeping in mind that solicitors will complete CDD for all.

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?

Not Answered

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?

Not Answered

Please provide further details below:

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

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

Not Answered

Please provide your thoughts:

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

Not Answered

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

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?

Not Answered

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?

Not Answered

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:

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?

Not Answered

Please provide your thoughts:

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

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

Not Answered

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

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

Not Answered

Please provide your thoughts:

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

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

Not Answered

Please provide your thoughts below:

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?

Not Answered

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?

Not Answered

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

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?

Not Answered

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

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

Not Answered

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?

Not Answered

If so, what would be the impact?:

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

Not Answered

Please provide any comments you have in the box below:

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

Not Answered

Please provide further details below:

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?

Not Answered

Please provide your thoughts:

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?

Not Answered

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

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

What other verification requirements could be included?:

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

Please provide your comments in the box below:

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?

Not Answered

What challenges have you faced? :

How could those challenges be addressed?:

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?:

4.53 What have been the impacts of those challenges?:

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

When should address information be verified?:

How should verification occur?:

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? :

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

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?

Not Answered

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

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

Not Answered

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

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

Not Answered

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?

Not Answered

Please provide further detail below :

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

Not Answered

Why? Please provide your response in the box below:

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?

Not Answered

Why or why not? Please elaborate:

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?

Not Answered

Please provide further detail below:

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

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

Not Answered

Please provide further detail below:

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

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

Not Answered

Please provide any further comments in the box below:

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

Not Answered

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?:

Not Answered

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

Not Answered

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:

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?

Not Answered

Please provide further information below:

What reviews would you consider to be appropriate?:

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

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

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?

Not Answered

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

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

Not Answered

Please provide further information below:

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

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

Why? Please provide further details below:

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

What would be the cost implications of the options?:

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?

Not Answered

Why? Please provide more information below:

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

Not Answered

Please provide any further information below:

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)?

Not Answered

If other, please provide details in the box below:

Why? Please provide further detail below:

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

Not Answered

What are those challenges?:

If yes, how could we address those challenges?:

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

Not Answered

Please provide more detail below:

If yes, how could we address those challenges?:

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

Not Answered

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?

Not Answered

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?

Not Answered

Please provide any additional information below:

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

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

Not Answered

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

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?:

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?

Not Answered

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?

Not Answered

Please provide any further comments in the box below:

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?:

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

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

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?

Not Answered

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?

Not Answered

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?:

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?

Not Answered

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?

Not Answered

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?

Not Answered

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?

Not Answered

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

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

Not Answered

4.93 Please provide any further comments in the box below:

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?:

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?

Not Answered

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

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?:

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?

Not Answered

4.98 Please provide your comments in the box below:

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

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

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

Not Answered

Please provide your comments in the box below:

4.101 What support would businesses need to conduct this assessment?

Please provide your comments in the box below:

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:

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:

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

Please provide your comments in the box below:

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

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:

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:

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:

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:

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:

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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:

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:

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:

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?:

4.121 If you are an MVTTS 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?:

4.122 Should we issue regulations to explicitly require MVTTS 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?:

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

Please provide your comments in the box below:

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

Please provide your comments in the box below:

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?:

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

Please provide your comments in the box below:

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:

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?

Not Answered

Why or why not?:

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:

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:

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

Not Answered

Why or why not?:

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

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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

Not Answered

Why?:

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

Not Answered

Please provide your comments in the box below:

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

Not Answered

Why or why not?:

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:

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

Not Answered

If so, how?:

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

Not Answered

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:

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?

Not Answered

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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:

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?

Not Answered

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?

Not Answered

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

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

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.

Not Answered

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?

Not Answered

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?

Not Answered

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?

Not Answered

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?

Not Answered

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:

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:

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below:

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

Please provide your comments in the box below:

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:

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

Please provide your comments in the box below:

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

Not Answered

Please provide your comments in the box below:

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?

Not Answered

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)?

Not Answered

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?

Not Answered

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?

Not Answered

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?

Not Answered

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?

Not Answered

Please provide your comments in the box below: