

## Response ID ANON-Z596-YZAG-S

Submitted to AML/CFT Act review  
Submitted on 2021-11-26 19:23:28

### 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:

Not on behalf of, but I work in the legal industry in a management role.

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:

██████████@gmail.com

### 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?

Yes

Please comment on your answer.:

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.:

But this should be the role of Police, Customs, etc, and NOT the private sector. NZ's small-medium business backbone cannot be shouldered with additional regulatory burden, for a less than 1% gain.

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.:

Use a separate Act. That's big or specific business stuff - not the realm of most reporting entities

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.:

as above, use a separate Act. What about the Terrorism Suppression Act? That would make sense.

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

Please share your comments below.:

no comment

1.8 Are the requirements in section 58 still appropriate?

No

Please comment on your answer.:

Rather than a blanket approach seemingly taken by the regulators, the "must have regard to" provisions should be pulled back to the factors that are relevant to the business. E.G., if a R.E. only sends money overseas, for estate distributions (for example), what's the point of enforcing a country risk assessment? In that case it's just a compliance requirement, for no purpose.

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

Use plain English. Provide examples. Minimise words - most of the Res and guidance material is far too wordy.

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

Please share your comments below.:

The regulators/Act force unnecessary compliance in mandated areas, sometimes not relevant, but when there are practical and reasonable questions around interpreting the vague aspects of the Act/Regs, they put it back on to the R.E. with a "at your risk" response.

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

Not sure

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.:

Code of Practice? But minimum standards should be set out in the Act.

What role should guidance play in providing further clarity?:

See above under 1.9

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.:

As an example, see above under 1.8.

Also, why treat an estate as a trust, requiring ECDD? That's nonsensical. ML through an estate is a one-time offer.

Pleasing to see clarity around small value disbursements for the legal sector, but some interpretation is still illogical (receiving funds before invoicing is treated differently to receiving funds after invoicing. Why? it's the same transaction.

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 a massive compliance burden for no benefit to the business. It's spawned a huge industry around compliance. Massively disruptive to business and clients. Costs clients more.

I doubt any small to medium business could hand on heart say they understand all their obligations and fully comply.

It's disproportionate to the risk.

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::

See above.

e.g. accountants and the requirements for CDD on tax transfers. I need to do CDD if I'm transferring a credit from husband to wife? from one year to another?

IRD can transfer without conducting CDD!

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?

Unsure

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

Some should be available through the Regulator, with a review process to the Minister

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

Yes

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

Probably should also include consideration of the R.E. (size, scope, activities, etc) as one criteria

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

No

Please give reasons for your answer.:

Sometimes it's impossible to comply, even if the risk is medium or high

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

N/A

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

Unsure

Please give reasons for your answer.:

Not another prescriptive burden!

But if so, they only absolute minimal specific requirements

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

Yes. Why regurgitate previously provided material?

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

Unsure

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

There is always court.

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::

Significantly reduce compliance cost burdens on R.E.

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.:

Blanket exemption for "Mum and Dad" who don't have a criminal record, particularly with accountants/lawyers

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?:

Compliance costs.

"Petty" compliance - sledgehammer and nut analogy

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

Unsure

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

If you do, only the big businesses with the set up and systems - again, SMEs just don't have the budget for systems needed to add more

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

Please share your comments below.:

A centralised and official ID service, which R.E.s can access to complete VOI.

IRD has most people in it's database, and a unique IRD number, and it's a government agency - so why not use that? A R.E. checks a name and DOB and gets a yes/no result.

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

No. Only government willingness to assist.

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. Huge reduction in compliance costs and reinventing of the wheel. Save customers having to repeatedly provide the same information to multiple parties.

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?:

The Regulators should attend to this, surveying R.E.s and reporting on that.

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.:

with your example given, makes sense. And would be more targeted than the current scattergun approach.

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.:

Should be a specific and reasonable threat assessment.

Could be subject to a JP/Judge's consent

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

No

Please explain your answer:

That's fishing. There needs to be a specific and reasonable threat expectation

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?:

See above 1.29

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.:

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

Please share your comments below.:

N/A

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.:

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.:

Unsure

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.:

unsure

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.:

Should be an elected official, not a CEO/CE.

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

No

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.:

They could / should be worded more simply. Plain English. Not legal speak with double negatives and so forth which you have to read carefully, linking one part to another.

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?

No

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.:

They are helpful, but if you need an explanatory note, the COP is not written in a way that's easy to follow or understand. Fix that, and we can dispense with the explanatory note - removing one more document!

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

Unsure

Please give reasons for your answer.:

For fixing bugs/problems only

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?

No

Please give reasons for your answer.:

Isn't that like a COP?

If we need to do something, it should be in the Act. ONE place to find information, not the Act, the guidelines, the COP, the ...

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.:

N/A

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.:

Otherwise, really, why are we providing that information?  
But, for AML/CFT purposes only.

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

Unsure

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.:

e.g. lawyers. Have responsibilities and obligations under the Lawyers & Conveyancers Act, Rules, etc. Rather than a vague which one overrides the other, that should be clearly spelt out in one or other Act.

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

Unsure

Please give reasons for your answer.:

it's the AML/CFT Act. Nothing more. That's what it should focus on.

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.:

N/A

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

No

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.:

Through the current industry bodies (CAANZ, NZLS, REANZ, etc)

But, no additional costs! We're only doing this for the public benefit, so the public should pay - not clients, not reporting entities.

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.:

see above - REANZ, CAANZ, NZLS, etc

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

No

Please give reasons for your answer.:

More paper work and bureaucracy and costs

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.:

See earlier responses. Public benefit - public cost.

No benefit to R.E. - no cost to R.E.

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?

Unsure

Please give reasons for your answer.:

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.:

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.:

No. R.E.'s already bear a highly disproportionate burden of costs.

Not Answered

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.:

No cost - see above

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 cost - see above

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 cost - see above

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.:

No cost - see above

## 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.:

Not Answered

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.:

Some business could inadvertently do something which could conceivably be captured under AML/CFT Act. The types of businesses should be clearly defined. No room for error.

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?

Unsure

Please give reasons for your answer.:

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

Unsure

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

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.:

Should include the R.E.'s fees and any incidental disbursements, third party costs or payments that could / would usually be expected to be incurred for the type of transaction (e.g. search fees, LINZ registration fees, expert witness costs, LIM, Companies Office registration charges, etc) DIA's view is narrow, and recently negated by an Exemption/Regulation. Let's take a practical approach.

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

Yes

Please give reasons for your answer.:

See above

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?

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?

Unsure

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.:

\$10,000 seems reasonable, given it's the cash reporting level

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.:

see above.

We very infrequently receive cash.

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?

Yes

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.:

A secretary isn't usually an owner or decision maker - so 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.:

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

2.25 Should criminal defence lawyers have AML/CFT obligations?

Yes

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

Not sure what, but it seems pointless to make property lawyers conduct CDD and report on "normal" clients, but criminal lawyers not have some obligations to report on those who are significantly more likely to be involved in ML activities.

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.:

privilege

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

No

Please give reasons for your answer.:

Money laundering? through insurance?

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?

No

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

I've read the Act. guidelines, etc. I didn't know it was included

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.:

Again, why? What's the ML/FT risk and activity? There is none.

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?

Yes

Please give reasons for your answer.:

if they send funds overseas

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

Please share your comments below.:

report they they send funds overseas, or not,  
Report which countries and potentially recipient details

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?

Unsure

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

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

Unsure

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

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

Unsure

Please give reasons for your answer.:

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

Please share your comments below.:

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

Please share your comments below.:

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

No

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

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

Please share your comments below.:

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

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

Unsure

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

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

Unsure

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

2.48 Should we issue any new regulatory exemptions?

Unsure

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

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

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

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?:

a corporate trustee for a family trust is a common occurrence.

Usually the clients who have the trust, and a professional (accountant/lawyer) are involved

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.:

It's usually treated as part of the R.E.'s function anyway.

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?

Unsure

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?

Yes

Please give reasons for your answer.:

Why not use the same \$10,000 cash threshold?

Will simplify and remove cost/pressure from those most likely to be affected by those increased costs

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?

No

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.:

### 3. Supervision, regulation, and enforcement

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

Yes

3.1 Please indicate why? :

Seems to work, and the regulators work well together

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

Single supervisor responsible for all entities

3.2 Please provide context for your choice:

I don't consider regulatory bodies to be the appropriate supervisors - conflict of interest, etc.

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?

Not Answered

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

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?

Not Answered

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:

Same rules should apply to all business, regardless of where they operate from

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

A required notice period prior to visits

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?

Unsure

Please explain your answer:

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?

No

Please explain your answer:

I'm not aware of one in the legal sector. The requirements are prohibitive.

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?:

Auditor. Should be CAANZ or ACAMS approved.  
Audit - a minimum expectation set, but no more.

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

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

Ministry of Justice

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

Please explain your answer:

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

Please share your thoughts:

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

Despite the marketing spin, R.E.s bear costs for AML. There are no benefits.

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

No

Please explain your answer:

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?

No

Please explain your answer:

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

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

No

Please explain your answer:

If yes, what should the standards look like?:

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

Not Answered

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

Please explain your answer:

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

Yes

What do you use agents for?:

Assistance with training, preparation of compliance docs

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?

Yes

Please provide further detail:

There should be no penalty for a Compliance Officer. Penalties should be for the R.E. and owners/directors, but a CO is often an employee.

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?

No

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:

There should be no penalty for a Compliance Officer. Penalties should be for the R.E. and owners/directors, but a CO is often an employee.

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?

Unsure

Please provide your comments in the box below:

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

Unsure

Please provide your thoughts:

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

#### 4. Preventive measures

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

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

inability for some clients to provide photo id.

inability for some clients to provide physical proof of address.

No central ID repository.

over-bureaucratic rules around verification.

Cost.

Time burden

Inadequate systems available for the size of business.

How could these challenges be resolved?:

central ID repository.

Do away with requirement to prove address - it serves no purpose, and I don't have to prove my address to initiate a change of address.

Enable acceptance of a reasonable standard photocopy, rather than sighting original, or original certified copy. With modern technology, why can't I sight a person and their ID via Zoom and do it that way?

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

No

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

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

No

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 :

It's already being done by the lawyer / conveyancer - why triplicate things?

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?:

Cost

Reluctance or a non-client to provide information

Who would bear the costs? The purchaser has no contract with the RE agent.

How might the challenges be addressed?:

central ID repository

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

+/- \$100 per person, more if a company or trust is involved

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

Other

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

Current is ok for vendor, but cannot work for purchaser (purchaser doesn't enter into the agency agreement!)

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

No

Please provide further detail below:

confusion around the occasional transaction, or a transaction on behalf of. E.g. estate distribution. Does a R.E. need to conduct CDD on the beneficiary?

Also, Simplified CDD is not simple. e.g. a council. Why require CDD information on the officials (CEO, matter instructor, etc) - they are not the client.

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:

the business relationship test should stand.

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

Standard customer due diligence

What should be the requirements regarding verification?:

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:

Good question. Probably it's not possible to do so.

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

Please provide your comments in the box below:

I see theoretical risks, but operating within the legal environment, for many firms, the risk is negligible. This is due to the type of client (NZ), and expected work (i.e. not unusual).

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?

Apply to any DNFBP that holds funds in its trust account

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?

No

Please share your thoughts:

AS above, requiring address verification is meaningless

4.19 Are the obligations to obtain and verify information clear?

Yes

Please provide your comments in the box below:

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

No

Please provide your comments in the box below:

See above re address.

Nature and purpose - in most cases that's obvious.

SOF/SOW - in most cases that's almost impossible to obtain to DIA expectations (what small business / trust gets its accounts audited, for example!)

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

Please provide your comments in the box below:

No

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

No

Please provide your thoughts :

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?

Yes

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

Companies extract

Charities Register extract

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:

Depends on the requirements. But no cost increase is justified.

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?

Yes

Please provide your thoughts:

Mum and Dad trusts, property owning trusts, personal investment trusts should be exempt

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:

additional time and cost

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?

No

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

only is there was no obvious / relevant link between the life covered and the beneficiary.

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?

Yes

Please provide your comments in the box below:

see above

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?

Yes

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

corporate trustees, with accounting / law firm partners/directors as directors or shareholders of the corporate trustee.

in most cases it's obvious that the client (other trustees) are the real "owner" - the use of professionals just makes additional AML requirements for no clear benefit.

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

Please provide your thoughts:

ignore professional trustees / corporate trustees for mum and dad type trusts. Perhaps set a limit. Ignore anything with a trust total asset of \$3m or less.

4.32 Should we issue a regulation which states that businesses should be focusing on identifying the "ultimate" beneficial owner? If so, how could "ultimate" beneficial owner be defined?

Unsure

Please provide your thoughts:

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?

Always

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?

Yes

Please provide your thoughts:

additional compliance costs

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:

not sure of the intent / value of this

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?

NZ AML/CFT Supervisor guidance on Beneficial Ownership

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

don't know

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:

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?

Yes

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?

Issue a Code of Practice

Please provide any comments you have in the box below:

pretty much that is the current expectation anyway

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

No

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?

Yes

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?

Yes

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

see above, re inability to provide an address document and inability to provide photo ID. Fixed, by use of a central ID repository based on IRD number.

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

Unsure

Please provide your comments in the box below:

Yes, but could be worded in a clearer way

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

No

What other verification requirements could be included?:

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

Please provide your comments in the box below:

Obtain IRD number  
Obtain NHI number  
Centralised ID repository

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? :

Finding one that meets all the requirements.

Why should R.E.s have to find this through a 3rd party and pay for it? Why not simply enable R.E.s to access the government held data for a Yes/No search?

How could those challenges be addressed?:

see above

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?:

Addresses change. A person "between properties". retirement village residents. Homeless or transient people, those living on boats or in motorhomes

4.53 What have been the impacts of those challenges?:

Additional time and expense, inability to comply with IVCOP, compliance costs with recording, etc

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

When should address information be verified?:

No requirement

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? :

Link to IRD number

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

Link to IRD number

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

No

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

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

Issue a Code of Practice

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?

No

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

How should we make the measures mandatory?:

When should the measures be mandatory?:

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

Yes

Please provide further detail below :

Obtain the name of the organisation, the name of the person to give instructions, and remove the requirement to verify that.

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:

Because you're working with the entity, not the individual (who often has no control over flow of funds, etc)

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?

No

Why or why not? Please elaborate:

Should remove it for low value trusts. See earlier comments

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:

See earlier comment about an asset value threshold (for NZ trustee trusts)

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:

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

trusts with total assets over (say) \$3m  
trusts with overseas resident trustee

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

No

Please provide further detail below:

For some types of R.E.s the concept of ongoing CDD and account monitoring are irrelevant. Account monitoring might work for a bank, but not a lawyer.

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

restrict account monitoring to banks

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

Yes

Please provide any further comments in the box below:

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

No

Why? Please provide your comments in the box below:

It's already in the guidance

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?

No

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:

Lawyers. We review when a new instruction (Matter) is received. That could be a week after the first one, or 10 years later.

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?



Unsure

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?:

probably nil

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

No

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

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

No

Please provide further information below:

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

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

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

Why? Please provide further details below:

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?

Unsure

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?

Yes

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?

Yes

Please provide more detail below:

So much information is required, so many registers

If yes, how could we address those challenges?:

Minimise the requirements

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

No

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

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:

Identifying whether a person may be / may be relate to a PEP

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

Provide a free PEP check tool

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?:

Haven't come across one yet

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

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

Haven't come across one yet

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

Unsure

Please provide any additional information below:

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:

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?:

Haven't come across one yet

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:

Thought it was already there? "within the last 12 months"

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?:

Enquire / ask

Free PEP check tool if we suspect

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?

No

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

Require it, or don't, or set out in what situations you require it. Even DIA can't agree on whether we should do a PEP check for all, or just some, clients.

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?

Yes

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:

In 99.9999% of the time, the answer will be "not a PEP". So why increase ongoing and overall compliance costs for that 0.0001%?

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:

Don't consider domestic PEPs. By definition, isn't a PEP.

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:

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?

No

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?

No

4.98 Please provide your comments in the box below:

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

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

Probably increase our direct costs by \$10,000 P.a. or more, plus possibly an additional staff member - all up say \$60,000 p.a.

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

No

Please provide your comments in the box below:

Perhaps banks and money remitters - no one else

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:

We would need a really easy name match ability through a government web site

4.105 How should businesses receive timely updates to sanctions lists?

Please provide your comments in the box below:

See above. Don't send them out. We've no realistic way of retaining them and using them to match against our client database.

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:

See above. Don't send them out. We've no realistic way of retaining them and using them to match against our client database.

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:

See above. Don't send them out. We've no realistic way of retaining them and using them to match against our client database.

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:

a manual "does this name/country look suspicious" thought process

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:

We would need a really easy name match ability through a government web site

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:

We would need a really easy name match ability through a government web site

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:

through police FIU

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:

through police FIU

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

Unsure

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?

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 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?:

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?:

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:

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:

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 MVTS 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:

cryptocurrencies. Haven't come across them yet.

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?

Unsure

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?

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:

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

Unsure

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?

Unsure

Why?:

\$1000. Simplicity for R.E.s

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

Unsure

Please provide your comments in the box below:

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

Yes

Why or why not?:

Their location is unknown

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

Yes

Please provide your comments in the box below:

Enhanced CDD required?

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:

the language is archaic. Why not simply "electronic transfer of funds" - which means something to R.E.s

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

Yes

If so, how?:

See above

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:

None

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?:

the compliance costs associated would be disproportionate to the negligible benefit gained and the value of funds transferred.

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:

the compliance costs associated would be disproportionate to the negligible benefit gained and the value of funds transferred.

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?

No

Why or why not?:

The Act is not meant to make business impossible. It's there to monitor, not prevent.

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

Yes

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?

No

If yes, what are your views?:

As a law firm respondent, this obligation should be on the banks. all transfers go through their systems.

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?

Unsure

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

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

No

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

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

Yes

Please provide your comments in the box below:

Clarity is good

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:

terminology - is cash really cash? wire transfer terminology.  
The way its' worded you have to read a couple of parts to get that an NZ wire transfer is not reportable.

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:

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?

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?

No

Please provide your comments in the box below:

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

No

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

\$10,000. Same as for cash movements.

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

Unsure

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?

Yes

If so, what provisions do you use?:

agent

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

Yes

Please provide your comments in the box below:

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?

Unsure

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?

No

Why or why not?:

We would get bombarded with requests to provide information

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?

Yes

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

Groups or alliances of law firms / accounting firms / etc

They deal in the same markets, probably have similar suppliers and client types.

One could collect and then pass on. Clients would save money (potentially)

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

Yes

Please provide your comments in the box below:

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

Unsure

Why?:

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

Unsure

Please provide your comments in the box below:

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

No

Please provide your comments in the box below:

How, practically, can you be satisfied?

The only way is to get a copy of that information

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?

Unsure

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?

Unsure

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:

As long as there is no personal liability

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?

No

Please provide your comments in the box below:

again, additional compliance costs

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:

Provide a list of Approved countries, and at risk countries, even with a few words around them  
OK / ok for inwards / OK for outwards / apply caution / not permitted.  
And reissue say six monthly

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

Unsure

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?

Unsure

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:

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?

Yes

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?

Unsure

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?

No

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:

## 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.:

Make it a multiple of the cash / declaration shortfall. i.e. \$10,000 cash = \$40,000 fine. Deportation for non NZers.

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?

Yes

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

It is not necessary to carry large cash amounts - to do so is suspicious of itself.

Seize, yes.

Search - not sure.

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.:

unsure

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?:

A central ID register, held by government (See idea about IRD mentioned earlier). R.E.s access and get a yes/no - nothing else.

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

No

Please give reasons for your answer.:

in this day and age with complex computer systems and multiple backups, it's virtually impossible to comply with a requirement to delete data after a specified time.

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.:

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

No

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

It should, in my view, override privilege. A crim can talk to a lawyer, and suddenly it's privileged.

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

reasonable belief of physical harm

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

No

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

it's ambiguous

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.:

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

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.:

How can we overcome those challenges?:

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

Unsure

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

While acknowledging the need for controls and prevention of ML/FT, the compliance costs of small to medium businesses and their clients/customers are huge. Think of a number, and it won't be enough.

There is massive duplication of effort. Clients are having to go through CDD numerous times. See in Auckland - see a real estate agent and a lawyer. But in Nelson and you see another lawyer. 3 lots of CDD for the same person. Probably cost \$300-500 in additional costs and that is where 99% of the affected population is not involved in ML/FT. There has to be a more efficient and fairer and less costly means to achieve the same objective.

Working in a law firm, we spend collectively hours, days, week, and months complying. But is it achieving anything other than ticking the box? No. We file PTRs. We have not in 3 years filed 1 SAR. We don't expect we ever will.

The single best thing that could be done is to introduce a government backed ID verification system based on IRD number. Everyone needs one to sell property. There is no valid reason not to do so.

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.: