

aml

From: [REDACTED]@linfoxag.com>
Sent: Tuesday, 30 November 2021 6:59 pm
To: aml
Cc: [REDACTED]
Subject: ACM New Zealand Limited: Submission on the Review of the AML/CFT Act
Attachments: ACM Submission AML CFT Statutory Review Consultation 2021 3452-3174-4535 Final.pdf

Dear Ministry of Justice,

ACM New Zealand Limited is pleased to attach its submission in response to the Ministry's Consultation on its Statutory Review of the AML/CFT Act.

We would be pleased to participate in any further review opportunities or conversations in relation to the cash in transit sector.

Please let us know if you require any further information.

Yours sincerely

[REDACTED]
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I am currently working Monday to Thursday and will respond to your email as soon as possible

AML Team
Department of Internal Affairs
PO Box 805
Wellington, New Zealand 6140

By email: aml@justice.govt.nz



30 November 2021

Dear Sir/Madam

ACM New Zealand Limited – Submission on the Review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act)

Thank you for the opportunity to submit our views on and experiences of the AML/CFT Act.

I confirm that we have reviewed the Terms of Reference for the Review and the Ministry of Justice's Statutory Review of the AML/CFT Act Consultation Document (**Review**).

ACM is pleased to present this submission, which will focus on our specific concerns regarding:

- Domestic CIT providers should be exempt (inconsistency between NZ and international laws)
- Cost of compliance
- Privacy issues and the degree of difficulty in verifying customers under the Customer Due Diligence requirements

About ACM

ACM New Zealand Limited (**ACM**) is a wholly-owned subsidiary of Linfox Armaguard Pty Ltd, which is itself wholly-owned by Linfox Pty Limited (both Australian registered private companies).

ACM operates a cash-in-transit (**CIT**) business across New Zealand. Pursuant to section 5 of the AML/CFT Act, ACM is a financial institution and a reporting entity.

ACM's submission

1. Domestic CIT providers should be exempt from the AML/CFT Act (inconsistency between NZ and international laws)

ACM is supportive of the position that the NZ AML/CFT regime should be risk-based and that the risk-based approach should also ensure that an AML/CFT regime is flexible and adapts to changes in risks, and that resources are allocated efficiently and in proportion to levels of risk.

We refer to page 32 onwards of the Review as it applies to potential new regulatory exemptions. In our view CIT services relating to domestic cash movements are demonstrably low risk of money laundering and terrorism financing.

We submit that CIT providers should be exempt from the AML/CFT Act as applies to activities of (i) transferring money or value for, or on behalf of, a customer; and (2) safe keeping or administering of cash or liquid securities on behalf of other persons (i.e. the domestic movements and storage of cash).

This would bring NZ AML/CFT regulation in line with international laws, including harmonising with the Australian position.

a) CIT services pose a low money laundering/financing of terrorism risk and are not an established money laundering typology

The Review, at page 123, considers the benefits of harmonisation of the AML/CFT Act with Australian AML regulation. We strongly believe that exempting CIT providers from the AML/CFT Act (as applies to domestic services) would achieve greater efficiencies for business and that the risk and context of CIT services in NZ is not dissimilar to that in Australia.

ACM is wholly-owned by Linfox Armaguard, Australia's largest CIT provider. Our Group used to be able to leverage AML/CFT expertise and compliance across Australia and NZ, but now ACM bears the sole costs of AML compliance as CIT providers in Australia are no longer AML regulated.

The underlying policy premise of the deregulation of CIT operators under the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (**Aust AML Act**) is that the inherent ML/FT risks associated with domestic CIT services are considered to be low or even negligibleⁱ. Neither the Financial Action Task Force (**FATF**) nor Asia/Pacific Group on Money Laundering (**APG**) has identified domestic movements of cash as a money laundering typology.

ACM submits that there is some inconsistency in the New Zealand Department of Internal Affairs (**DIA**) risks assessments as to ML/FT risks in the cash transport sector as set out below.

The DIA's Phase 1 Sector Risk Assessment of September 2018 (**SRA 2018**) identifies the sector as medium risk, however the Cash Transport Sector Risk Assessment of April 2014 and the Financial Intelligence Unit National ML/TF Risk Assessment both record the overall rating as low riskⁱⁱ.

The DIA has recognised that the sector risk is variable depending on the type of customers serviced, the nature, size and complexity of products and services offered, the methods of delivery, customer types and the country risk.

We respectfully submit that the DIA's SRA 2019 referencing the FATF position that ML/TF through physical transportation of cash is a key typology is somewhat misrepresented, as the FATF study referenced is based on and reflective of money laundering risk of *cross border transportation of cash*ⁱⁱⁱ rather than domestic movements of cash.

ACM only deals with customers who have a New Zealand bank account and will only accept payment for cash deliveries and make payment for cash collections into and out of those NZ bank accounts. Therefore, any ML/TF sector vulnerabilities to placement, layering or integration would be mitigated by the customer having already been properly identified by the bank at which it holds its account. The Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2017 (**Aust AML Amendment Act**) enacted the deregulation of CIT operators from all anti-money laundering and countering the financing of terrorism obligations. It was passed into Australian law in early December 2017 and became effective on 3 April 2018.

The reasons for the Aust AML Amendment Act as it applies to the deregulation of the CIT industry in Australia are essentially based on the policy position that *there are no inherent ML/FT risks associated with the domestic transportation of cash from one place to another by CIT operators and FATF standards do not require countries to apply AML/CFT regulation to CIT operators*^{iv}.

In its 2016 Report on the Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Associated Rules and regulations (**the Australian AG Report**), the Australian Government Attorney-General's Department recommended that the Aust AML Act be amended so as to not apply to cash-in-transit operators. This report recognised that services provided by CIT operators pose a low ML/TF risk and that CIT operators are already regulated under various Australian State and National security licensing regimes.

The Aust AG Report provides that: "*Securely moving cash using a licensed third party operator within Australia is not, in itself, a money laundering typology and the FATF standards do not require countries to apply AML/CTF regulation to CIT operators*"^v.

The physical movement of cash internationally across borders is, however, an established money laundering typology^{vi}. The risks associated with such movements of cash are monitored as part of the cross-border reporting regime under the AML/CFT Act. As noted above, ACM acknowledges and

ⁱ See the Australian Government Attorney General's Department, Final Assessment Regulation Impact Statement May 2017, part 1: What is the Policy Problem? Deregulating the cash-in-transit sector (page 5)

ⁱⁱ See Department of Internal Affairs' Cash Transport Sector Risk Assessment 2014 and Financial Institutions Sector Risk Assessment December 2019, part 12, Sector risks – cash transport

ⁱⁱⁱ FATF Standards, recommendation 32, which defines physical *cross border* transportation as "... any in-bound or out-bound physical transportation of currency ... from one country to another country .."

^{iv} Australian Government Attorney General's Department, Report on the Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Associated Rules and Regulations, April 2016, section 4.1 Removal of existing designated services

^v Ibid

^{vi} FATF Report, Money Laundering Through the Physical Transportation of Cash, October 2015

agrees that the cross-border AML obligations would continue to apply, notwithstanding any sector exemption granted pursuant to this submission.

b) CIT providers are already regulated through the Private Security Personnel Licensing Authority regime

ACM and its relevant employees and other licensed CIT service providers are already subject to licensing obligations under the Private Security Personnel and Private Investigators Act 2010 Licensing Authority in New Zealand (the **PSPPI Act**).

The DIA's Phase 1 Sector Risk Assessment recognises that cash transport providers and all persons and companies guarding property (including cash) are required to be licensed or certified in accordance with the PSPPI Act. This process involves a significant regime of approval process including each applicant's criminal history, mental health, experience, competence and skills. The DIA acknowledges that this process may mitigate some of the risks associated with rogue employees, but goes on to state that *such registration does not address the issue of the client using cash transport services to launder illicit funds*^{vii}. ACM submits that its internal policies of only supplying services to customers with a New Zealand bank account and only processing payments and receipts through those New Zealand bank accounts effectively eliminates the risk that our services could be used to launder money.

c) CIT customer due diligence and reporting functions under the AML/CFT Act are largely duplicated as most are also reported by other New Zealand Financial Institutions

All of ACM's customers have provided ACM with New Zealand bank account details for the purposes of electronic funds transfers (e.g. for the purposes of change supply or for ACM to pay to customer's the value of physical currency collected and processed). As all New Zealand banks are required to have satisfied CDD requirements under the AML/CFT Act, there is no additional ML/FT benefit achieved by CIT operators duplicating that process.

The majority of movements of physical currency performed by ACM are on behalf of New Zealand banks or large to medium retail customers. These cash collections and deliveries result in the receipt or depositing of equivalent values of funds into or out of a nominated bank account. Where such cash movements are equal to or greater than \$10,000, they would be reportable as PTR's by each of ACM and the corresponding financial institution. Consequently, there will be a duplication of PTR's in relation to the same transaction.

By way of example, where ACM is required to collect cash from a retail company and deliver those funds to a bank, and those funds are equal to or greater than \$10,000, ACM will be required to lodge a PTR in relation to the movement of physical cash from the customer's premises to the bank and the bank is required to lodge a PTR in relation to the deposit of the physical cash into the customer's bank account. Such duplication of information does not combat the scale or nature of financial crime in New Zealand.

The likelihood of money laundering or financing of terrorism being facilitated through the domestic collection, delivery or storage of cash to a bank, retail or commercial customer is low, particularly as the cash value originates from or is deposited to ACM's customer's bank account.

It has also been recognised in an Australia context that there is potential for overlap and duplication of CDD and reporting requirements between CIT operators and other financial institutions. The collection and delivery of cash were removed as 'designated services' under the Aust AML Act as it was recognised that where CIT operators deposit prescribed threshold values of cash into accounts on behalf of customers, the authorised deposit-taking institution accepting the deposit will still have CDD and prescribed transaction reporting obligations in relation to the same customer and the transaction^{viii}.

The ML/FT risk associated with payments to bank accounts is low, both as a result of the customer due diligence processes routinely performed by the financial institutions in setting up bank accounts, and as a result of the prescribed transaction and suspicious activity reporting to be submitted by the financial institution. CIT providers generally do not have relationships with, nor visibility over, 'end-user'

^{vii} Financial Institutions Sector Risk Assessment December 2019, page 38.

^{viii} Aust AG Report, part 4.1, p 22

transaction information (e.g. ACM's customers' customers), which tends to be where the suspicious activity, such as placement or layering might arise.

2. The significant compliance costs associated with the AML/CFT Act places an undue financial and regulatory burden on CIT providers

We support the position outlined in the Review that compliance costs should be proportionate to risks for individual businesses and across the economy in general.

ACMs compliance with the AML/CFT regime has resulted in significant imposts on our businesses which are disproportionate to the risks associated with the services provided to our customers. As above, since our Australian-based CIT operations ceased being AML regulated in Australia, we cannot share the costs burden of AML compliance between the two jurisdictions.

ACM's internal and external AML/CFT compliance costs are estimated at over NZ\$150,000 per annum. We have included at Appendix A, a table showing ACM's estimated compliance costs over an average 12 month period.

ACM has experienced a significant increase in regulatory burden and associated cost since the introduction of the AML/CFT regime and we believe that CIT providers have shouldered a greater burden than other financial service providers, as information required to be collected in compliance with AML/CFT Act obligations have not traditionally been captured in a CIT context.

The collection, retention and reporting of the information required to verify beneficial owners in on-boarding a customer, reporting suspicious activity and submitting PTRs is of no direct benefit to ACM as it may be to other reporting entities (for example, for the purposes of marketing additional products and services or considering the likelihood of loan default) and is a significant impost on our business.

With significantly lower cash usage in recent years, accelerated by the COVID-19 crisis, CIT providers' cash volumes have dropped and businesses have been impeded. High infrastructure costs, costs of maintaining trucks and cash counting and processing equipment and attracting and maintaining security-qualified employees have increased. As above, compliance costs are an additional and significant burden on CIT providers.

If domestic cash movements (CIT services) were exempt from the AML/CFT Act there would not be a material increase in ML/TF risk, but there would be a significant decrease in CIT providers' costs associated with AML/CFT compliance activity. Those savings could be reinvested into NZ business development activities, employee training, and technology and security product and service development and may ultimately result in lower services costs to customers.

These factors will contribute to ensuring private CIT provider's continuing provision of services in New Zealand and increased employment and promotion opportunities for New Zealanders. ACM and the Linfox Group's investment in and contributions to safe and secure transport and storage of cash in New Zealand increases the public's confidence in a strong and effective financial system.

Domestic CIT services providers' low ML/TF risk does not justify the costly compliance regime and, as set out in part 1 of this submission, above, is not reflective of FATF recommendations.

ACM acknowledges and agrees, that to the extent that services are provided outside of domestic cash transport and storage (e.g. cross border movements of cash), CIT service providers would continue to be AML reporting entities and subject to applicable compliance with the AML/CFT Act.

ACM's compliance or otherwise with the AML/CFT Act is unlikely to have material bearing on public confidence in the financial system. We submit that ACM's compliance with its own security protocols, its insurance requirements, bank customer contracts and licensing requirements under the PSPPI Act will have a greater impact on public confidence in the New Zealand financial system.

3. Privacy issues and the degree of difficulty in verifying customers under the Customer Due Diligence requirements

Our experience is that the Act requires ACM to collect and retain a large amount of personal information from its customers and the person acting on behalf of the customer to set up the account. We are concerned that the requirements do not properly balance the purposes of the Act with the need to protect people's information and other privacy concerns. We also believe that the requirement to obtain verified copies is cumbersome, time consuming, costly, outdated and no longer applicable in a world of improved technology.

For example, collecting verified copies of documents showing the residential address information (including bank statements) from a retail customer's store manager or accounts' personnel (as the person acting on behalf of the customer) is often met with significant concern and resistance from those individuals. While we store that information securely on a separate AML 'drive' and make all reasonable efforts to delete emailed copies etc, we believe that it is information that does not reduce the risk of ML/TF and that the greater risk relates to the collecting, sending of and storing personal information.

In our view better options would be to:

1. make RealME or similar central ID verification service available free or low-cost, where all reporting entities can subscribe to a Government-managed service that gives us effectively an 'ID tick' if we input some less sensitive information relating to a New Zealand resident (e.g. IRD number). The concept of the digital identity program is exciting and we would strongly support such an initiative; and
2. Verification should be able to be obtained by facetime/videolink or similar or even via the person sending a 'selfie' with their ID. This is now widely accepted practice and would certainly shortcut our customer onboarding processes.

ACM is supportive of the Review (p. 121) in that we would welcome technological advancement to improve regulatory and compliance effectiveness. However, we are only too well-aware that often such products come at a significant subscription price, which can increase compliance costs at a time when our business is impaired. We urge the Ministry of Justice, in undertaking the Review, to consider service providers' costs associated with uplifted technology.

ACM has zero tolerance for money laundering and our business, like all those in the financial services industry, will only benefit from New Zealand maintaining a safe, trusted, and legitimate economy.

We welcome the Ministry of Justice's Review and would be pleased to participate in further conversations regarding the Review if the opportunity arises.

Contact

If you have any questions about this submission or require any further information, please contact me at [REDACTED] [@linfoxag.com](mailto:[REDACTED]@linfoxag.com) or by telephone on [REDACTED]

Yours sincerely



[REDACTED]
Associate General Counsel
Linfox Armaguard Group (including ACM New Zealand Limited)

Appendix A
ACM New Zealand Limited – Estimated Costs of AML Compliance

ACM's estimated AML/CFT compliance costs per annum				
ACM/ Linfox Armaguard Business Area	Description of work	Time Spent	Estimate internal cost (PA)	External costs
Audit	Independent review (2 yearly)	3 audit team members for a total of 2 weeks for each independent review Approx. 230 work hours every 2 years	A\$11,000	
IT	<ul style="list-style-type: none"> • Analysis for annual report • PTR build, report and rectification works (M. Parslow) • CIO Management and review 	2 hours 38 hours 2 hours	A\$3,150	
Revenue Assurance	Setting up account and amending customer details	(1 – 1.5 hours per month) 15 hours per year	A\$675	
Credit Control Team	Company checks, credit checks, PEP checks External checking costs	30-45 mins per new account (Approx. 120 in 12 months) 36 working hours	A\$1,800	A\$35 per check x 120 PA \$4,200
Business Development	CDD enquiries and assistance	Approx. 120 customers onboarded (average 4 hours per onboarded customer)	NZ\$19,200	
Legal	<ul style="list-style-type: none"> • Reviewing and responding to CDD queries 	Approx. 250 working hours per	A\$22,500	

	<ul style="list-style-type: none"> • Monthly reporting • AML independent review processes • Updating policies and procedures • Updating RA and Programme • Instructing external providers • Training, research and keeping up with AML supervisors • Receipt of external advice and review 	year		
ACM Management team (including AML Compliance Officer)	<ul style="list-style-type: none"> • Report and update at monthly management review meetings • Attending training • Reviewing and keeping abreast of AML developments and supervisor communications, reviewing of AML policies and procedures, CDD queries 	8 hours per month (Approx 400 hours per year)	NZ\$15-20,000	
HR/Training	Drafting training materials, implementing training programs across New Zealand and Australian head office (support to NZ)		A\$2,000	
ACM and Linfox Armaguard Training	Online training program rolled out to <ul style="list-style-type: none"> • ACM road crew and branch staff; • Linfox Armaguard head office support staff 	Online course takes approx. 45 minutes per person	NZ\$11,250 A\$8,100	
ACM and Linfox Armaguard Operations teams	Updating Ops Manuals Account monitoring Considering and preparing suspicious matter reporting	10 hours	A\$700 NZ\$500	
Totals: Internal/External			A\$49,925 Plus NZ\$48,450 (Approximately NZ\$148,000)	A\$4,200
TOTAL				Approx NZ\$152,000 per annum