

# Response ID ANON-3AUB-ZFBJ-Q

Submitted to **Tackling money laundering and terrorist financing**

Submitted on **2016-09-09 15:52:07**

## Introduction

### 1 What is your name and your role/title?

**Name:**

James Nell Director

### 2 What is your email address?

**Email:**

jamesn@mackaybailey.co.nz

### 3 Are you responding to this consultation because you are a:

business that does or may have to comply with the AML/CFT Act?

**respondent type - other:**

### 4 Is this submission:

your own personal views?

### 5 Which "Phase Two" sector/s (if any) do you belong to, are associated with or have expertise in?

Accounting

### 6 Which "Phase One" sector/s (if any) do you belong to, are associated with or have expertise in?

**Phase one FMA other:**

**Phase one DIA other:**

### 7 Organisation profile

**Organisation size:**

20

New Zealand - Single location (Auckland, Hamilton, Wellington, Christchurch or Dunedin)

## Sector-specific issues and questions

### Accountants

**10 How should AML/CFT requirements apply to the accounting sector to help ensure the Act addresses the risks specific to it? For example, which business activities should the requirements apply to? At what stage in a business relationship should checks, assessments and suspicious transaction reports be done? Who should be responsible for doing them?**

**Accountants-1:**

I am concerned at the planned extent of Phase II AML/CFT application to services provided by public practice accountants acting for private individuals and SME businesses. Our clients will not react well to additional compliance cost that they will have to bear the financial burden for. Until now sectors subject to AML/CFT rules have not tended to directly pass on the cost of additional time associated with AML/CFT compliance. Clients of accounting and legal firms will bear this cost in addition charges for time taken with compliance obligations.

Accountants who are members of Chartered Accountants Australia and NZ are subject to a code of ethics and regulation by the Institute. When taking on any clients or assignments we are already bound by these rules therefore do not need additional regulation to increase the cost for our clients.

Accountants tend to have a long-term business relationship with their clients over many years. Asking long-term clients to prove who they are and sources of funds will be offensive to many and we as the requestor risk a backlash from clients as a result.

I don't see the benefit of subjecting these clients to additional compliance cost.

I already see anecdotal evidence of clients not wishing to change financial services provider because they cannot face the AML/CFT compliance involved. It has become a barrier to changing provider or starting a new venture. In addition to this I have noted instances where clients have invested in with a financial services provider in their personal names rather than their existing Company or Trust that may be a more suitable investment vehicle from a long-term ownership or risk management perspective to avoid what they see as excessive compliance requirements.

The rules should be limited as much as possible to persons acting as nominee and transacting funds through trust accounts. For most other transactions, the entity or person has to open a bank account and is therefore subject to AML/CFT compliance requirements already. Extending the requirements simply requires persons or business to provide the same information to multiple different entities potentially for the same transaction which is a costly and inefficient duplication of effort.

Using a simple company formation example, I estimate the AML/CFT compliance would add around two hours of additional time to collect identification verification from directors and shareholders that, much of the time we have known for years. At a charge-out rate of \$150 per hour, this equates to \$300 + GST of additional cost essentially doubling the cost of a company formation.

I don't believe that the proposed rules strike the right balance between increased compliance costs and reduced criminal activity. They will add additional compliance cost to the vast majority who are not engaged in illegal activity. SME businesses need less compliance cost not more!

**11 Given the level of risk associated with advisory and assurance services (for example, tax advice, bookkeeping and auditing), should these activities be subject to AML/CFT obligations even where the business is not involved in a transaction for their client?**

**Accountants-2:**

I do not believe that there is a significant level of risk associated with advisory, tax advice and bookkeeping services particularly when these services are provided to SME businesses. If AML/CFT compliance is required for these areas, the Canadian approach is preferable.

**Supervision**

**19 Do you think any of our existing sector supervisors (the Reserve Bank, the Financial Markets Authority and the Department of Internal Affairs) are appropriate agencies for the supervision of Phase Two businesses? If not, what other agencies do you think should be considered? Please tell us why.**

**Supervision-1:**

I would question what experience the current sector supervisors have in the Phase II industries. From an accountants perspective, I do not relish the thought of another agency supervising our activity in addition to the current industry body. If Chartered Accountants Australia & NZ becomes the supervisory body, the cost should not be met by the industry.

**20 Are there other advantages or disadvantages to the options in addition to those outlined above?**

**Supervision-2:**

**Implementation period & costs**

**21 What is the necessary lead-in period for businesses in your sector to implement measures they will need to put in place to meet their AML/CFT obligations?**

**Implementation-1:**

It depends how extensive the compliance obligations are and whether they apply to existing clients or only new clients coming on board post enactment. A four year implementation period would seem reasonable.

**22 Where possible, please tell us how you calculated how long it will take to develop and put in place AML/CFT requirements.**

**Implementation-2:**

Too hard to gauge without greater detail on extent of compliance obligations.

**Enhancing the operation of current AML/CFT laws**

**Proposal: expanded reporting to the Police financial intelligence unit**

**23 Should the current requirement to report suspicious transactions be expanded to reporting suspicious activities? Please tell us why or why not.**

**Reporting-1:**

**Proposal: information sharing**

**24 Should industry regulators be able to share AML/CFT-related information with government agencies?**

**Info sharing-1:**

**25 Should AML/CFT supervisors be able to share customers' AML/CFT-related personal information with government agencies?**

**Info sharing-2:**

**26 What are the appropriate circumstances under which the FIU can share financial intelligence with government agencies (such as the sector supervisors, industry regulators, intelligence agencies, IRD and Customs) and reporting entities? What protections should apply?**

**Info sharing-3:**

**27 What restrictions should be placed on information sharing?**

**Info sharing-4:**

**Proposal: reliance on third parties**

**28 Are the existing provisions that allow reporting entities to rely on third parties to meet their AML/CFT obligations sufficient and appropriate? If not, what changes should be made?**

**Third parties-1:**

The current provisions are too narrow and should be expanded as much as possible. I think that there should be an ability for customers to verify at least identity to one firm or agency and other firms and business can then rely on that third party to verify their customers. The current system where by a customer has to provide compliance information to a number of firms often for the same transaction is very inefficient.

**Proposal: simplified customer due diligence**

**30 Should the simplified customer due diligence provisions be extended to the types of low-risk institutions we've proposed above? If not, why?**

**Diligence-1:**

Yes. To reduce compliance costs.

**31 Should we consider extending the provisions to any other institutions?**

**Diligence-2:**