22 September 2016

Ministry of Justice
National Office
Justice Centre
19 Aitken Street
Wellington
By email: aml@justice.govt.nz

To whom it may concern

ANZ submission on the consultation paper: Improving New Zealand's ability to tackle money laundering and terrorist financing.

Thank you for the opportunity to provide feedback on the proposed amendments to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act).

ANZ Bank New Zealand Limited (ANZ) supports the proposals to broaden the business sectors that are subject to the AML/CFT Act in order to strengthen the effectiveness of New Zealand's anti-money laundering regime. Enhancing our AML/CFT regime in line with FATF Recommendations is an important part of building New Zealand's reputation as a jurisdiction with a strong commitment to combatting money laundering and terrorist financing.

ANZ is particularly interested in the consultation proposals relating to the supervisory model. For the reasons set out in Appendix I, ANZ considers a single supervisor may be favourable, however this is a complex area that requires much greater consideration and consultation to be given before any change is made to the existing multi-agency model.

ANZ also considers that the various proposals to reform the AML/CFT Act set out in Part 6 of the consultation paper will help to improve the overall effectiveness of the regime.

The key messages we would like to draw to the Ministry's attention are summarised in the following table. More information on these key messages is provided in Appendix I, followed by detailed responses to the specific questions from the consultation paper in Appendix II along with ANZ's additional suggestions.

Key messages

1. **ANZ supports the proposals to extend the AML/CFT Act to include those additional business sectors set out in Part 3 of the consultation paper.**

2. **ANZ considers a single supervisory model is likely to be the most effective and efficient model for NZ AML/CFT supervision. However, ANZ submits that before this model is adopted, full consultation of all elements of a single supervisory framework should be undertaken including cost benefit analysis.**

3. **In the interests of bringing new business sectors into the regime in the most expedient and cost effective manner, ANZ supports the new business sectors being supervised by one or more of the existing AML/CFT Supervisors. ANZ does not support a multi-supervisory model approach, outside of the existing supervisors.**

4. **ANZ queries the need to extend reporting obligations to also include suspicious activity reporting.**

5. **ANZ supports increased information sharing powers between the FIU and AML/CFT Supervisors and between reporting entities themselves, where the information sharing is necessary for a purpose aligned to those set out in the AML/CFT Act.**

6. **ANZ considers that the simplified CDD proposals are appropriate, and should also extend to regulated foreign financial institutions carrying on business in low risk jurisdictions.**

About ANZ

ANZ is the largest financial institution in New Zealand. The ANZ group comprises brands such as ANZ, UDC Finance, ANZ Investments New Zealand, ANZ New Zealand Securities and Bonus Bonds.

ANZ offers a full range of financial products and services including a significant range of financial advisory services, personal banking, institutional banking and wealth management products and services. ANZ is a Qualifying Financial Entity and employs one of the largest QFE Adviser networks as well as Authorised Financial Advisers.

Contact for submission

ANZ is keen to discuss our submission directly with Ministry of Justice officials. Please contact me to arrange.

Once again, we thank the Ministry of Justice for the opportunity to provide feedback on the proposals to strengthen the AML/CFT Act.

Yours sincerely

Steve Cumber

Head of Financial Crime

Appendix I – Key messages

ANZ addresses each of the key messages in turn.

1. ANZ supports the proposals to extend the AML/CFT Act to include those additional business sectors set out in Part 3 of the consultation paper.

ANZ supports the inclusion of lawyers, accountants, real estate agents, conveyancers, high value goods dealers and additional gambling service providers as reporting entities under the AML/CFT Act. Enhancing our AML/CFT regime in line with FATF Recommendations is an important part of building New Zealand's reputation as a jurisdiction with a strong commitment to combatting money laundering and terrorist financing.

ANZ considers that the proposed scope of services that would trigger the Act's requirements for businesses in these sectors appear appropriate to manage the money laundering risks present in these sectors.

ANZ observes that legal professional privilege naturally conflicts with one of the primary purposes of the AML/CFT Act, which is to deter and detect money laundering. ANZ offers up some suggestions on how this conflict might be addressed in its response in Appendix II to the consultation question relating to legal professional privilege.

2. ANZ considers a single supervisory model is likely to be the most effective and efficient model for NZ AML/CFT supervision. However, ANZ submits that before this model is adopted, full consultation of all elements of a single supervisory framework should be undertaken including cost benefit analysis.

In ANZ's experience, the Reserve Bank is well placed to supervise AML/CFT Act compliance in the banking sector. In addition to having a deep understanding of the operating models of banks, the AML/CFT expertise within the AML/CFT supervisory function of the Reserve Bank is of a very high standard.

Notwithstanding this, there is a real opportunity to consider whether an alternative model would deliver better outcomes for New Zealand aligned to deploying regulatory resources where they are most needed to detect and deter money laundering and terrorism financing risks.

ANZ believes that a single supervisor model is likely to deliver the greatest consistency of supervision for all reporting entities and provide the supervisor with the greatest oversight of all money laundering and terrorism financing risks across sectors. However, the alternative supervision proposals being consulted on do not consider broader aspects to supervision - such as whether the intelligence function of the FIU would best sit within a single supervisor (a model that exists in Australia under AUSTRAC and in Canada under FINTRAC).

The alternative proposals also do not provide any cost benefit analysis. It is therefore extremely difficult to submit in an informed way in favour of an alternative supervision regime.

3. In the interests of bringing new business sectors into the regime in the most expedient and cost effective manner, ANZ supports the new business sectors being supervised by one or more of the existing AML/CFT Supervisors. ANZ does not support a multi-supervisory model approach, outside of the existing supervisors.

ANZ fully supports the proposals to bring the new business sectors into the regime, which must be the priority for this Phase Two reform. Accordingly, ANZ considers that bringing the new business sectors into the regime under the supervision of one or more of the existing AML/CFT Supervisors would best meet the Ministry's timing objectives with the least disruption and cost impacts.

ANZ would fully support, in the interests of exploring whether an alternative model could deliver better outcomes for New Zealand, a future review of the supervisory model. The review should go beyond the scope of the proposals set out in the consultation paper and consider the best alternative models of supervision appropriate for the New Zealand context. International models, local experiences and recommended best practices should be key factors in considering in which model would best meet New Zealand's needs.

ANZ does, however, have strong reservations about the merits of expanding the current number of AML/CFT Supervisors. ANZ specifically draw's the Ministry's attention to a Transparency International UK report of November 2015 titled "*Don't Look, Won't Find: weaknesses in the supervision of the UK's Anti-Money Laundering Rules*", which can be found at the following link:

http://www.transparency.org.uk/publications/dont-look-wont-find-weaknesses-in-the-supervision-of-the-uks-anti-money-laundering-rules/

The report is critical of the UK's supervisory model, which sees 27 sector agencies responsible for AML/CFT supervision in the UK. The report analysed 22 of the 27 supervisors, and the following was included amongst its findings:

- Of the 22 AML supervisors across all sectors, none are providing a proportionate or credible deterrent to those who engage in complicit or wilful money laundering.
- 20 of the 22 supervisors fail to meet the standard of enforcement transparency.
- Only 7 out of the 22 supervisors adequately control conflicts of interest between their private sector lobbying role and their enforcement responsibilities.
- The mish-mash regulatory structure undermines effective implementation of legislation and leaves the UK open to the threat of money laundering. It also presents an inconsistent, unclear and unhelpful environment for businesses that are intending to abide by the rules.
- During a 12 month period, the entire real estate sector submitted a total of 179 Suspicious Activity Reports (SAR), or 0.05% of all SARs in the UK. This was deemed to be very low when considering allegations that billions of pounds of corrupt money is used to purchase property in the UK.
- It recommended that a "radical overhaul" of the supervisory system be considered, including consolidating the number of supervisors into a "super" supervisor - similar to AUSTRAC in Australia and FINTRAC in Canada.

We suggest that New Zealand would be setting itself up for a repeat of the UK experience if government was to adopt Alternative 2 noted in the consultation paper (multiple agencies with self-regulatory bodies).

4. ANZ queries the need to extend reporting obligations to also include suspicious activity reporting.

ANZ queries the need to extend the current obligations under section 40 of the AML/CFT Act to also require reporting of suspicious activity. As it currently stands, section 40 requires a reporting entity to report any transaction *or proposed transaction* where a suspicion is formed that the transaction or proposed transaction relates to money laundering or various other criminal offences. The inclusion of "proposed transactions" already encompasses activities that do not ultimately result in a financial transactions being undertaken.

If the obligations under section 40 are to be extended to include the reporting of suspicious activity, ANZ considers that it will be necessary for the AML Supervisor(s) to provide very clear guidance to industry as to what constitutes a suspicious activity as compared with a proposed transaction, in order that the legislative intent is met and to ensure quality reporting of relevant information to the FIU.

5. ANZ supports increased information sharing powers between the FIU and AML/CFT Supervisors and between reporting entities themselves, where the information sharing is for a purpose aligned to those set out in the AML/CFT Act.

ANZ supports the information sharing proposals set out in the consultation paper, noting that they are a little unclear in terms of the proposed scope.

ANZ submits that increased information sharing is desirable in terms of enhancing New Zealand's ability to combat money laundering and terrorism financing activities. The parameters around information sharing powers need to be clearly defined, and must be aligned to the AML/CFT Act's objective to deter and detect money laundering and terrorism financing.

As a practical observation, ANZ notes that AML/CFT supervisors typically only receive very limited customer information from reporting entities in the course of carrying out their supervisory functions (for example, when sample customer files are provided on request in the course of examining a reporting entity's compliance with aspects of the AML/CFT Act). Rather, the larger beneficiary of customer information is the FIU (in the form of suspicious transaction reports). Accordingly, ANZ is unclear on the purpose of the proposal seeking to allow AML/CFT supervisors to share customer information with other government agencies. ANZ also questions what legitimate need a government agency not involved in the supervision, investigation or enforcement of AML/CFT related matters has for customer information provided by a reporting entity to an AML/CFT supervisor.

ANZ generally supports the proposal for FIU to have enhanced ability to share intelligence information with government enforcement agencies where the purpose of that information sharing is to detect, deter or investigate money laundering or terrorism financing activity. ANZ notes that the FIU is able to share customer information/financial intelligence with other enforcement agencies already in performing its mandated functions.

ANZ submits that the AML/CFT regime would benefit significantly if reporting entities were able to share financial intelligence / customer information with other reporting entities in appropriate and tightly defined circumstances. This would greatly enhance the ability for reporting entities to more accurately and effectively investigate suspicious activity where an activity or transaction occurs that involves another reporting entity (for example, where a payment is made from an ANZ account to an account held at another trading bank in suspicious circumstances). It would also enhance the ability for reporting entities to rule out activity that might otherwise appear suspicious in the absence of additional information that the reporting entity doesn't have access to.

In relation to this submission, ANZ draws the Ministry's attention to section 314(b) of the USA Patriot Act, which provides US financial institutions with the ability to share information with one another in order to better identity and report potential money laundering and terrorist activities. Financial institutions must establish and maintain procedures to safeguard the security and confidentiality of shared information, and must only use shared information for strictly limited purposes. A useful factsheet relating to section 314(b) can be found at the following link:

https://www.fincen.gov/statutes_regs/patriot/pdf/314bfactsheet.pdf

6. ANZ considers that the simplified CDD proposals are appropriate, and should also extend to regulated foreign financial institutions carrying on business in low risk jurisdictions.

ANZ supports the proposal to extend simplified CDD to SOEs and majority-owned subsidiaries of publicly traded entities in New Zealand and in low risk overseas jurisdictions.

ANZ submits that it would also be appropriate to extend simplified CDD to regulated foreign financial institutions operating in low risk overseas jurisdictions. Examples of these institutions are banks that are regulated for AML/CFT purposes in a low risk foreign jurisdiction but which are not publicly listed on an overseas exchange. There is typically a large amount of publicly available information that exists as to their management and ownership structures, and these institutions are lower risk from a money laundering perspective due to their regulated nature.

Appendix II – Responses to questions in the Consultation Paper: Improving New Zealand's ability to tackle money laundering and terrorist financing

#	Topic / Question	ANZ response
	Lawyers	
1	How should AML/CFT requirements apply to the legal services 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?	ANZ considers that the proposed scope of legal services that would trigger the Act's requirements appears appropriate to manage the money laundering risks present in this business sector. A consistent set of compliance obligations under the AML/CFT Act should apply across all reporting entities. Accordingly, customer due diligence should be the responsibility of the reporting entity and be completed at the commencement of a lawyer/client relationship. Similarly, obligations to report suspicious transactions (or activities, if required) should arise in accordance with the AML/CFT Act's current requirements.
2	Is the existing mechanism that protects legal professional privilege appropriate for responding to money laundering and terrorist financing, and for the legal profession to comply with its expected obligations under the Act? If not, what else is required?	ANZ notes that legal professional privilege appears to sit in natural conflict with a primary purpose of the of the AML/CFT Act regime, which is to detect and deter money laundering activity. Legal professional privilege can serve to defeat the reporting of suspicious transactions that would otherwise have to be reported by a reporting entity operating in another business sector. That said, ANZ recognises the importance of legal professional privilege as a fundamental pillar of the New Zealand legal system. ANZ also notes, however, that lawyers own ethical rules provide some additional safeguards that help to deter and detect money laundering, in that lawyers: • must not assist any person in an activity the lawyer knows to be fraudulent or criminal; • must not knowingly assist in the concealment of fraud or crime; • must disclose confidential information which relates to the anticipated or proposed commission of a crime punishable by imprisonment for three years or more; and • may disclose confidential information which relates to the anticipated commission of a crime or fraud. It would be preferable for the AML/CFT Act to more closely align with these ethical standards, providing greater clarity around the circumstances where it may be appropriate to set aside legal professional privilege in order to report a suspicious activity or transaction. ANZ considers that the current definition of "privileged communication" in section 42 of the AML/CFT Act is too broad, with the words "or assistance" at the end of s42(b) leaving the provision open to an unduly broad interpretation of whether a communication passing between lawyer/client may be subject

		to legal professional privilege.
	Accountants	
1	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?	ANZ considers that the proposed scope of accounting services that would trigger the Act's requirements appears appropriate to manage the money laundering risks present in this business sector. A consistent set of compliance obligations under the AML/CFT Act should apply across all reporting entities. Accordingly, customer due diligence should be the responsibility of the reporting entity and be completed at the commencement of an accountant/client relationship. Similarly, obligations to report suspicious transactions (or activities if required) should arise in accordance with the AML/CFT Act's current requirements.
2	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?	ANZ considers that tax advisers, auditing services and accounting bookkeepers should be subject to AML/CFT regulation. Whilst these business sectors may not be involved in undertaking financial transactions for clients, their services place them in a strong position to detect suspicious activity. A shift to an activity based rather than transaction based suspicious reporting regime may further strengthen the case for their inclusion in the AML/CFT regime.
	Real estate and conveyancing	
1	How should AML/CFT requirements apply to the real estate and conveyancing sectors to help ensure the Act addresses the risks specific to them? 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?	ANZ considers that the proposed scope of real estate and conveyancing services that would trigger the Act's requirements appears appropriate to manage the money laundering risks present in these business sectors. A consistent set of compliance obligations under the AML/CFT Act should apply across all reporting entities. Accordingly, customer due diligence should be completed at the commencement of an estate agent or conveyancer/client relationship. Similarly, obligations to report suspicious transactions (or activities, if required) should arise in accordance with the AML/CFT Act's current requirements.
2	Should businesses in the real estate sector that engage in property development have obligations under the Act? If yes, in what circumstances?	Often real estate developed by a property developer is marketed and sold through a real estate agent, although this will not always be the case. However, the subsequent conveyance (transfer of property) is required to be completed by a lawyer or conveyancer. Accordingly, with other reporting entities involved in the marketing (real estate agents) or sale and purchase of the developed property (lawyer/conveyancer), ANZ does not see an obvious need to include property developers within the AML/CFT regime.
3	At what stage should a client of a real estate agent become a customer for the purposes of customer due diligence?	In the context of a real estate transaction, ANZ suggests that a business relationship is entered into between a real estate agent and client at the point in time when the estate agent is instructed/engaged to act for a vendor (in the sale of a property) or when the estate agent receives an offer to buy a

		property from a prospective buyer (in a property purchase). ANZ considers that there is a risk that suspicious activity may not be detected and reported if the business relationship between an estate agent and prospective buyer in a property purchase transaction is deemed only to have been entered into upon an offer becoming unconditional. If this is the case, an estate agent would only have obligations to report suspicious activity in relation to the unconditionally approved buyer of a property and not in relation to any suspicious activity witnessed during the sale process with other prospective buyers who also make offers on the subject property.
	High Value Goods	
1	Should the Act apply to all dealers of high-value goods or just particular ones?	For the reasons noted in the consultation paper – particularly the risk of a "displacement effect" if only certain types of high value goods are included – ANZ suggests that it would be appropriate for all businesses dealing in high value goods for cash be included as reporting entities under the AML/CFT Act. This is likely to create a more effective money laundering detection and deterrent regime than only including certain high value goods dealers within the regime. ANZ appreciates that it will be a challenge to raise awareness of compliance obligations across a wide range of business sectors, particular those not already subject to regulatory supervision or without industry bodies. However, other government agencies that hold a relationship with all businesses operating in New Zealand (e.g. Inland Revenue, MBIE via the New Zealand Business Number) may be able to assist AML Supervisors in promoting awareness across businesses in these sectors.
2	What is the appropriate threshold for cash transactions that would trigger AML/CFT customer due diligence and reporting requirements? Please tell us why.	ANZ suggests that a $10,000 cash threshold be introduced.
	Gambling Sector	
1	How should AML/CFT requirements apply to the gambling 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?	ANZ considers that the proposed scope of gambling related services set out in the consultation paper should be subject to the AML/CFT Act. A consistent set of compliance obligations under the AML/CFT Act should apply across all reporting entities. Accordingly, customer due diligence should be completed at the commencement of a customer relationship. Similarly, obligations to report suspicious transactions (or activities, if required) should arise in accordance with the AML/CFT Act's current requirements.
2	Should there be a threshold that would trigger AML/CFT customer due diligence and	ANZ suggests that, in order to create a level playing field in the gambling sector, it would be appropriate to require gambling sector businesses to conduct customer due diligence enquiries

	reporting requirements for cash transactions related to gambling and betting activities with customers who don't have an account with you? If so, what would be an appropriate threshold? Please tell us why.	when they conduct cash transactions of $6,000 of more (in line with current requirements for casinos).
	Supervisory model	
1	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.	ANZ considers that some of the Phase Two businesses, such as those in the gambling sector, would logically fall under an existing AML/CFT Supervisor's area of expertise, but otherwise expresses no view as to which businesses should be supervised by which of the existing three AML/CFT Supervisors.
2	Are there other advantages or disadvantages to the options in addition to those outlined above?	In ANZ's experience the Reserve Bank is well placed to supervise AML/CFT Act compliance in the banking sector. In addition to having a deep understanding of the operating models of banks, the AML/CFT expertise within the supervisory function of the Reserve Bank is of a very high standard. Speed of delivery of the Phase Two reforms appears to be a priority for government. An advantage of bringing the new business sectors into the regime under the supervision of one or more of the existing AML/CFT Supervisors is that this is likely to be the least disruptive and most cost effective option to implement. Notwithstanding this, there is a real opportunity to consider whether an alternative model would deliver better outcomes for New Zealand aligned to deploying regulatory resources where they are most needed to detect and deter money laundering and terrorism financing risks. ANZ believes that a single supervisor model is likely to deliver the greatest consistency of supervision for all reporting entities and provide the supervisor with the greatest oversight of all money laundering and terrorism financing risks across sectors. However, the alternative supervision proposals being consulted on do not consider broader aspects to supervision - such as whether the intelligence function of the FIU would best sit within a single supervisor (a model that exists in Australia under AUSTRAC and in Canada under FINTRAC). The alternative proposals also do not provide any cost benefit analysis. It is therefore extremely difficult to submit in an informed way in favour of an alternative supervision regime. ANZ would fully support, in the interests of exploring whether an alternative model could deliver better outcomes for New Zealand, a future review of the supervisory model. The review should go beyond the scope of the proposals set out in the consultation paper and consider the best alternative models of supervision appropriate for the New Zealand context. International models, local experiences and recommended best practices should be key factors in considering in which model

		would best meet New Zealand's needs. ANZ does, however, have strong reservations about the merits of expanding the current number of AML/CFT Supervisors. ANZ specifically draw's the Ministry's attention to a Transparency International UK report of November 2015 titled "Don't Look, Won't Find: weaknesses in the supervision of the UK's Anti-Money Laundering Rules", which can be found at the following link: http://www.transparency.org.uk/publications/dont-look-wont-find-weaknesses-in-the-supervision-of-the-uks-anti-money-laundering-rules/ The report is critical of the UK's supervisory model, which sees 27 sector agencies responsible for AML/CFT supervision in the UK. The report analysed 22 of the 27 supervisors, and the following was included amongst its findings: • Of the 22 AML supervisors across all sectors, none are providing a proportionate or credible deterrent to those who engage in complicit or wilful money laundering. • 20 of the 22 supervisors fail to meet the standard of enforcement transparency. • Only 7 out of the 22 supervisors adequately control conflicts of interest between their private sector lobbying role and their enforcement responsibilities. • The mish-mash regulatory structure undermines effective implementation of legislation and leaves the UK open to the threat of money laundering. It also presents an inconsistent, unclear and unhelpful environment for businesses that are intending to abide by the rules. • During a 12 month period, the entire real estate sector submitted a total of 179 Suspicious Activity Reports (SAR), or 0.05% of all SARs in the UK. This was deemed to be very low when considering allegations that billions of pounds of corrupt money is used to purchase property in the UK. • It recommended that a "radical overhaul" of the supervisory system be considered, including consolidating the number of supervisors into a "super" supervisor - similar to AUSTRAC in Australia and FINTRAC in Canada. For these reasons, ANZ does not support Alternative 2 (multiple agencies with self-regulatory bodies). We strongly suggest that New Zealand would be setting itself up to repeat the UK experience were government to adopt this model.
	Implementation period and costs	
1	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?	ANZ makes no submission.

2	Where possible, please tell us how you calculated how long it will take to develop and put in place AML/CFT requirements.	ANZ makes no submission.
	Expanded reporting to the Financial Intelligence Unit of NZ Police	
1	Should the current requirement to report suspicious transactions be expanded to reporting suspicious activities? Please tell us why or why not.	ANZ queries the need to extend the current obligations under section 40 of the AML/CFT Act to also require reporting of suspicious activity. As it currently stands, section 40 requires a reporting entity to report any transaction *or proposed transaction* where a suspicion is formed that the transaction or proposed transaction relates to money laundering or various other criminal offences. The inclusion of "proposed transactions" already encompasses activities that do not ultimately result in a financial transactions being undertaken. If the obligations under section 40 are to be extended to include the reporting of suspicious activity, ANZ considers that it will be necessary for the AML Supervisor(s) to provide very clear guidance to industry as to what constitutes a suspicious activity as compared with a proposed transaction, in order that the legislative intent is met and to ensure quality reporting of relevant information to the FIU.
	Information Sharing	
1	Should industry regulators be able to share AML/CFT-related information with government agencies?	ANZ considers that the information sharing proposals set out in the consultation paper are a little unclear in terms of the proposed scope. ANZ submits that increased information sharing is desirable in terms of enhancing New Zealand's ability to combat money laundering and terrorism financing activities. The parameters around information sharing powers need to be clearly defined, and must be aligned to the AML/CFT Act's objective to deter and detect money laundering and terrorism financing. ANZ would not support any proposal that would see AML/CFT Supervisors being able to share AML/CFT related information with other government agencies not involved in the supervision, investigation or enforcement of AML/CFT related matters.
2	Should AML/CFT supervisors be able to share customers' AML/CFT-related personal information with government agencies?	AML/CFT supervisors typically only receive very limited customer information from reporting entities in the course of carrying out their supervisory functions (for example, when sample customer files are provided in the course of examining a reporting entity's compliance with aspects of the AML/CFT Act). Rather, the larger beneficiary of customer information is the FIU (in the form of suspicious transaction reports). ANZ notes that the FIU is able to share customer information/financial intelligence with other enforcement agencies in performing its mandated functions.
3	What are the appropriate circumstances under which the FIU can share financial	ANZ supports the proposal for FIU to have enhanced powers to share intelligence information with government enforcement agencies where the purpose of that information sharing is to

	intelligence with government agencies (such as the sector supervisors, industry regulators, intelligence agencies, IRD and Customs) and reporting entities? What protections should apply?	detect, deter or investigate money laundering activity. ANZ also considers that reporting entities should be able to share financial intelligence / customer information with other reporting entities in appropriate circumstances. This would greatly enhance the ability for reporting entities to more accurately and effectively investigate suspicious activity where an activity or transaction occurs that involves another reporting entity (for example, where a suspicious payment is made from an ANZ account to an account held at another trading bank). ANZ draws the Ministry's attention to section 314(b) of the USA Patriot Act, which provides US financial institutions with the ability to share information with one another in order to better identity and report potential money laundering and terrorist activities. Financial institutions must establish and maintain procedures to safeguard the security and confidentiality of shared information, and must only use shared information for strictly limited purposes. A useful factsheet relating to section 314(b) can be found at the following link: https://www.fincen.gov/statutes_regs/patriot/pdf/314bfactsheet.pdf
4	What restrictions should be placed on information sharing?	ANZ considers that information sharing should only be permissible where it is reasonably necessary in order to meet the AML/CFT Act's objectives.
	Reliance on third parties	
1	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?	ANZ considers that the existing provisions allowing reporting entities to rely on third parties (including agents, other reporting entities and other members of a designated business group) are sufficient and appropriate to assist a reporting entity in meeting AML/CFT Act obligations. ANZ also believes that it is both appropriate and necessary for a reporting entity to retain responsibility for all compliance obligations undertaken by a third party. ANZ would not support shifting to a model where a reporting entity (A) was able to be absolved of compliance obligations where those obligations were being met on A's behalf by a third party. Retaining responsibility for compliance obligations is an important safeguard to ensure that each reporting entity has sufficient "skin in the game" to ensure obligations are being appropriately managed by third parties.
	Trust and company service providers	
1	Should the scope of the provision requiring persons providing trust and company services to comply with the AML/CFT Act be extended to activities carried out in the ordinary course of business, rather than just when they're the only or principal part of a business?	In order to ensure a level playing field across all reporting entities, ANZ supports the scope of services provided by trust and company service providers being expanded to an "ordinary course of business" test rather than the existing "only or principal part of business" test.

	Simplified customer due diligence	
1	Should the simplified customer due diligence provisions be extended to the types of low-risk institutions we've proposed above? If not, why?	ANZ supports the proposal to extend simplified CDD to SOEs and majority-owned subsidiaries of publicly traded entities in New Zealand and in low risk overseas jurisdictions.
2	Should we consider extending the provisions to any other institutions?	ANZ submits that it would also be appropriate to extend simplified CDD to regulated foreign financial institutions operating in low risk overseas jurisdictions. Examples of these institutions are banks that are regulated for AML/CFT purposes in a low risk foreign jurisdiction but which are not publicly listed on an overseas exchange or majority-owned by a publicly listed entity. There is typically a large amount of publicly available information that exists as to their management and ownership structures, and these institutions are lower risk from a money laundering perspective due to their regulated nature.
	Additional submissions	
1	Register of reporting entities	ANZ considers that the AML/CFT regime would benefit from a centralised public register of all reporting entities. This would benefit AML/CFT Supervisors as well as reporting entities seeking to place reliance on each other for various aspects of the AML/CFT Act. The register should contain contact details of the AML/CFT Compliance Officer of each reporting entity.
2	Exemption for self-issued debt securities quoted on a regulated exchange	ANZ notes that it put forward to the Ministry in September 2014 an exemption application seeking an exemption from the whole of the Act's requirements where ANZ issues tier 1 regulatory capital debt securities to the public, noting that the exemption could equally apply to any quoted debt securities and on a class wide basis. ANZ requests that the Ministry does everything reasonably possible to issue this consultation paper, or class exemption, as soon as it can. As a related observation, ANZ considers that it would be appropriate for exemption making powers to sit with a newly created single AML/CFT supervisor, if government elects to adopt this supervisory model. The ability of a single supervisor to promptly grant exemptions has been demonstrated by the ability of the FMA to grant FMCA exemptions within a six week timeframe.