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AML/CFT Consultation Team
Ministry of Justice
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PHASE TWO OF THE AML/CFT ACT

As New Zealand's leading credit bureau and collections business, Dun & Bradstreet (New Zealand) Limited (D&B) welcomes the opportunity to make a submission to the Ministry of Justice in respect of Improving New Zealand's ability to tackle money laundering and terrorist financing, particularly Phase Two extensions of the AML/CFT Act.

International consistency for the detection and investigation of criminal behaviour is a universally accepted requirement. On this basis, the Phase Two changes should be included as quickly as possible. Noting that the current Government intention is to pass the law no later than the end of July 2017, D&B encourages its adoption at the earliest opportunity.

D&B strongly supports the Ministry's view that the extended Act should come into force as soon as is practically feasible, and suggests that rather than delay the application of the changes, time to adapt to new obligations can be achieved by declaring a regulatory action policy that focuses on education rather than enforcement for the first six months from the introduction of the new laws, together with the publication of additional guidance for affected entities that is specific to their circumstances.

As noted by the Ministry, the proposal to broaden the AML/CFT obligations to additional business sectors is consistent with the international standards set by the Financial Action Task Force. D&B concurs with the Ministry's view that "strengthening the AML/CFT regime will help maintain public and international business confidence in New Zealand's overall financial system. It will also help ensure New Zealand continues to play an effective role in international efforts to counter organised crime and terrorism." (Source: <http://www.justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/extending-the-aml-cft-act/whats-happening/>).

Lawyers, accountants, real estate agents, high-value goods dealers, those taking bets on behalf of others and maintaining betting accounts will have additional obligations to conduct customer due diligence by obtaining identity documentation and verifying identity in the context of their own risk assessment and compliance programme.



D&B would like to address the following issues affecting Phase Two: the regulators responsible for AML/CFT law and regulatory guidance, high value goods transaction monitoring, the use of technology to assist with compliance, and a legislative gap between what is required to be done for identity verification and the ability to access data about individuals.

Regulators Responsible & Guidance

Currently there are multiple regulators for the AML/CFT Act. From an approach consistency perspective, D&B respectfully suggests that a single regulatory body is preferable. There is also a need to publish more guidance on specific issues, with examples of how compliance can be achieved rather than prescriptive requirements that require a particular path to be adopted.

High Value Goods Transaction Monitoring

While FATF only requires certain high value goods transactions to be monitored, D&B is supportive of all high value goods transactions being monitored and subject to identity verification. The regulation of some, not all, types of high value goods is ineffective, shifting illicit behaviour towards any category that is less regulated.

Technology To Address the Costs of Compliance

Any expansion of monitoring and risk assessment requires a greater number of events be considered efficiently and effectively. Therefore D&B is supportive of the increased use of electronic verification processes, and increased and continuing recognition by the AML/CFT regulators that private data sources can be as reliable and independent as government data sources.

Legislative Gap

There is a legislative gap in the area of identity verification, where those who will need access to information to perform this activity properly won't have access to that information.

Under the Credit Reporting Privacy Code 2004 (CRPC), credit reporters are permitted to disclose information for the purpose of verifying the identity of an individual in accordance with the requirements of the AML/CFT Act. However, this service can only be provided to (a) a prospective insurer, or that prospective insurer's agent and (b) a credit provider, or that credit provider's agent (Rule 11(2)).

There are no specific provisions of the AML/CFT Act or AML/CFT Regulations which override the CRPC.



Accordingly, there is a 'gap' between the scope of the AML/CFT Act and the CRPC which means that D&B cannot provide identity verification services to the entities that are, or may become, subject to AML/CFT requirements unless they are also lenders or insurers.

This issue was noted in Amendment #7 to the CRPC, where the New Zealand Privacy Commissioner saw merit in the expansion of those data access rights to insurers as stated above. However, the Phase Two extensions of the AML/CFT Act indicate the need to expand these data access rights further, within the well established data governance regime that includes the CRPC, Privacy Commissioner oversight, and assurance reporting by credit reporters including D&B.

D&B supports greater and more transparent sharing of credit information to support AML/CFT obligations. This enhancement of data access rights must occur before the effective date of the Phase Two changes in order to practically support the enhancement of identity verification processes.

D&B respectfully submits that addressing the legislative gap can be quickly efficiently and effectively addressed before the introduction of the Phase Two changes via CRPC change, and suggests that the CRPC consultation and change process be completed this calendar year to co-ordinate this exercise with the introduction of the new AML/CFT obligations. Any party with AML/CFT obligations must have practical tools available to them in order to help meet those obligations.

D&B remains at your disposal to discuss these issues in more detail. D&B would welcome the opportunity to further discuss our position on these matters with relevant stakeholders.

Yours faithfully

Mary O'Leary

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