

Submission

Improving New Zealand's ability to tackle money laundering and terrorist financing – Ministry of Justice Consultation Paper.

Introduction

Thank you for the opportunity to provide a submission on the Ministry of Justice Consultation Paper on Phase Two of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**).

This submission is on behalf of Suncorp New Zealand (**SNZ**). SNZ is the operating name of a number of companies in the Suncorp Group of companies that are undertaking business in New Zealand. SNZ includes Asteron Life Limited (**Asteron**), Asteron Retirement Investment Limited (**ARIL**), AA Life Services Limited (**AA Life**) and Vero Insurance New Zealand Limited (**VINZL**).

Asteron and ARIL, amongst other activities, carry on *financial services* under the Act, namely issuing life insurance policies and/or administering or managing funds on behalf of other people. Asteron and ARIL together form the Suncorp Life New Zealand Designated Business Group and are supervised by the Reserve Bank of New Zealand in respect of their obligations under the Act. Neither VINZL nor AA Life have any obligations under the Act.

The operations of SNZ are carried out over a number of locations in New Zealand.

Part 3: Sector-specific issues and questions

As a business already subject to the Act and not directly affected by Phase Two of the regime, SNZ has limited comment on the questions in part 3.

In relation to the high-value goods sector, SNZ considers that the \$10,000 cash threshold proposed is too low. As part of the motor vehicle insurance operations carried out by SNZ, we have relationships with a number of dealers that may be affected by the proposed requirements relating to cash transactions. SNZ's view is that a \$10,000 threshold would potentially affect a number of legitimate purchases of motor vehicles and add to compliance costs for the sector that are not justified by the AMLCFT risk. For example, in some sectors of society cash is more prevalent – particularly with the decline in use of cheques. SNZ suggests a higher threshold, in line with the international standard recommended by the Financial Action Task Force (**FATF**) for dealers in precious metals and stones, is used.

Part 4: Supervision

Questions 1 and 2 – We are not clear from the consultation paper whether consideration is being given to alternative supervision models for **all** supervised business or only for Phase Two businesses. The comments below assume that any change in supervision model would be implemented for all supervised businesses under the Act.

SNZ's view is that the existing multi-agency supervision model and existing sector supervisors works well. RBNZ's supervision effectively balances the risk posed by businesses in the sector it supervises with the requirements of the Act and this reflects the knowledge and experience developed since the regime was put in place. All of the existing supervisors have built up knowledge of the sectors they are supervising since the implementation of the Act and any change to the current model would risk losing that specialised knowledge. In addition, moving away from the current model would add significant costs and disruption to both the government and to supervised entities.

SNZ acknowledges that there may be some gaps in the knowledge of the current supervisors in relation to Phase Two sectors but believes that those gaps would be more easily filled by the existing

supervisors than by a completely new supervisor gaining knowledge on **all** supervised sectors (Phase One and Phase Two). SNZ suggests that Department of Internal Affairs (**DIA**) would perhaps be best placed to supervise some or all of the Phase Two entities as the nature of the Phase Two businesses is closer to those currently supervised by DIA than FMA or RBNZ. However SNZ also acknowledges that different Phase Two sectors may more comfortably sit with different current supervisors.

While SNZ supports the concept of other government or statutory agencies supervising Phase Two sectors where those agencies may be more familiar with the relevant sectors, it is not sure that any particular agency would have familiarity with more than one Phase Two sector and this could lead to a number of new supervisors. This would significantly add to the government's cost, risk inconsistencies in approach between supervisors (which is not currently a significant issue with the limited number of supervisors) and, potentially, led to overlap between supervisors.

The risk of inconsistency and overlap, as identified in the consultation paper is also a significant drawback of alternative 2 in the consultation paper; as are the additional costs and disruption. Accordingly SNZ's preference is that the current supervision model is retained and that Phase Two sectors are supervised by the most appropriate existing supervisor.

Part 5: Implementation Period and costs

As a Phase One entity, SNZ has no comment on this part.

Part 6: Enhancing the AML/CFT Act

Should the current requirement to report suspicious transactions be expanded to reporting suspicious activities?

SNZ does not support this concept. While SNZ accepts that, in principal, increased reporting may provide valuable information to the Financial intelligence unit of the NZ Police (**FIU**), the compliance costs to SNZ are not justified given the risk which SNZ's business poses. Reporting suspicious activity would require relatively significant changes to SNZ processes which would greatly increase its compliance costs.

For a business such as SNZ which, demonstrably, has a very low risk of being used for either ML or TF, the costs of compliance would outweigh any benefit. We note the FATF suggestion is for reporting *any suspicious activity regardless of amount*. This is inconsistent with New Zealand's current risk-based approach to AML/CFT and seems impractical, particularly if an entity is going to be required to report activity that it has nothing to do with but that it may have become aware of. For example, is a reluctance to provide identification by a client suspicious? We understand in some jurisdictions this would be caught.

SNZ understands other jurisdictions, including Australia and the United Kingdom, require suspicious activities to be reported and this has led to increased costs, confusion over what constitutes suspicious activity and over reporting to the FIU. We think this is likely to happen in New Zealand. In addition, given the resource constraints currently affecting FIU, SNZ suggests that significantly increasing the number of investigations it needs to undertake could adversely affect the quality of those investigations.

If suspicious activity reporting is going to be introduced, SNZ supports restricting its introduction to sectors where there is a greater risk of ML or TF and where the additional benefits would outweigh the additional costs.

Information sharing questions:

1. SNZ agrees industry regulators should be able to share AML/CFT related information with government agencies for the purposes outlined in the consultation paper, provided that clear guidelines and controls are in place to prevent any misuse.

2. SNZ's view is that the existing restrictions on sharing customers' AML/CFT related information are appropriate and any loosening of those restrictions risks interfering with customers' privacy. There are appropriate avenues in the Privacy Act and other relevant legislation to share information where it is required for a legitimate purpose.

Reliance on third parties: SNZ believes, in general, the existing provisions that allow reporting entities to rely on third parties are operating effectively and do not need to be changed. We understand there are some in the industry who believe enhancements can be made to facilitate easier reliance on past due diligence but we are unsure how this may work. We would welcome further detail on proposed changes and the chance to comment further once that detail is available.

Trust and company services providers: SNZ has no comment on this section. SNZ is not involved in the provision of these services.

Simplified customer due diligence: SNZ supports extending simplified customer due diligence to the types of low risk institutions proposed in the consultation paper for the reasons set out in the paper.

Conclusion

Thank you for the opportunity to comment on this matter. If you have any questions please do not hesitate to contact us.

Asteron Life Limited and Asteron Retirement Investment Limited.