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Response to New Zealand's consultation paper on Phase Two of the AML/CFT Act

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Introduction

Thomson Reuters welcomes the opportunity to respond to this consultation and thanks the New Zealand Ministry of Justice for facilitating a public discussion about Phase Two of the AML/CFT Act. We support the Ministry of Justice's aims to extend the anti-money laundering and counter financing of terrorism (AML/CFT) regime to a number of new businesses and professions, including lawyers, accountants, real estate agents, conveyancers, certain high-value goods dealers and gambling service providers.

Thomson Reuters believes that to be effective the AML/CFT regime needs to capture all designated non-financial businesses and professions (DNFBPs). An effective AML/CFT framework is necessary to protect New Zealand's economy from the harm associated with financial crime, organised crime and terrorist financing — both domestically and internationally. As organisations such as the Financial Action Task Force have demonstrated, cracking down on the laundering of proceeds of crime is an effective way to identify and mitigate predicate offences. The need for a robust AML/CFT framework in New Zealand is heightened by the recent spate of terrorist attacks around the globe and the concerns surrounding so-called "foreign fighters". The Panama Papers and the Government Inquiry into Foreign Trust Disclosure Rules ("Shewan Inquiry") have also demonstrated the need for New Zealand to have a comprehensive and effective regulatory framework in place to protect its reputation as clean, transparent and low-corruption jurisdiction.

In submitting our response, we draw upon Thomson Reuters global experience and expertise in the AML/CFT field, as well as our team of regulatory analysts from the world's major financial centres.
Should you have any questions concerning our response, we would be delighted to make ourselves available to discuss in more detail.

Yours faithfully,

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About Thomson Reuters

Thomson Reuters is the world's leading source of news and information for professional markets. Our customers rely on us to deliver the intelligence, technology and expertise they need to find trusted answers. The business has operated in more than 100 countries for more than 100 years.

Thomson Reuters is a leading service provider and thought leader in Third-Party Risk Management and Anti-Money Laundering (AML) solutions. Our Customer and Third-Party Risk proposition offers a range of financial crime solutions providing expertise, content, software and services to banks, as well as other financial and non-financial institutions (e.g. corporates, casinos and high-value goods dealers). We also participate and provide leadership in international and cross-company initiatives to fight corruption and improve transparency.

Industry service offerings

1) AML / Know Your Customer (KYC)

Thomson Reuters is a leading service provider for banks and corporates concerned with combating fraud and financial crime. We offer a number of risk management solutions that check and reveal hidden risks in business relationships and human networks, and ensure that relevant employees have access to the key information to make compliant decisions. One of our solutions in the Know Your Customer (KYC) market is the OrgID managed service. Through our **OrgID platform** we build a KYC record with and for the Financial Institutions' end clients that unwraps the beneficial owners and related parties, screens them against PEP and sanctions lists, checks for adverse information and negative news and maintains ongoing monitoring on the end-client data, proactively updating records. The end client maintains control of any private information, logging on to the web-based portal to release their KYC records to their chosen counterparties. This enables financial institutions to manage the cost of KYC compliance, substantially reducing the time and effort taken to onboard new customers by increasing efficiency in their compliance operations.

OrgID brings together a number of our market-leading risk solutions to verify the identity of clients, provide ongoing, proactive identity monitoring to detect changes in legal status, as well as assisting with due diligence requests. This service could be made available on a per search basis to even the smallest of reporting businesses in New Zealand. This would provide cost effective access to a rigorous, global client due diligence service at a fraction of the cost of each business undertaking Client Due Diligence independently.

Another of Thomson Reuters key products is **World-Check**, a comprehensive source of highly structured intelligence on heightened risk individuals (e.g. PEPs) and entities that help companies identify their customers and prevent money laundering; to-date, there are over 2.5 million World-Check profiles. We employ hundreds of specialist researchers who speak more than 60 local languages and cover 240+ countries and territories, in order to monitor hundreds

of thousands of information sources as well as over 400 sanctions, watch, and regulatory enforcement lists. World-Check only uses open source information. We also offer **Enhanced Due Diligence (EDD),** or enhanced background reports, on any high-risk entity or individual anywhere in the world. Additionally, following recent changes to regulation in many jurisdictions, such as the European Union's Fourth Money Laundering Directive (4MLD), financial institutions are now required to identify and takes steps to verify the ultimate beneficial owners (UBO) of their customers and clients; EDD offers a structured approach to assist companies with this UBO identification.

2) Supplier and Third-Party Risk

In today's business environment, organisations are increasingly being held responsible for the actions of suppliers, vendors and partners in addition to their own internal activities; Thomson Reuters is committed to tackling corruption and providing robust risk management solutions to tackle supplier and third-party risk. We offer a holistic solution which enables our customers to identify and assess the risk that their third parties may expose them to. This includes initial screening, detailed background reports on any high-risk third parties and determining risks associated with particular countries in which third parties may be based.

3) Regulatory and Compliance Risk

Another area of focus for Thomson Reuters is helping companies and individuals to understand the different global regulations that affect them and their businesses. We have a **Compliance Learning** program that offers over 800+ courses to train employees on laws, regulations and internal corporate policies that apply to their job responsibilities. This enables businesses to educate their employees in an interactive, customizable way while reducing risk and encouraging compliant behaviors. In addition, we offer **Regulatory Intelligence**, a one-stop tool that provides global coverage of over 600 regulatory bodies and over 1,000 rulebooks, exclusive news, analysis and practical guidance. Both of these solutions are continually updated to respond to the latest regulatory and legislative changes.

4) Transaction monitoring

It can be very difficult for financial service institutions to monitor the extremely high volumes of transactions that pass through the organisation on a daily basis. To address this challenge, Thomson Reuters also offers a transaction monitoring solution designed to protect against financial crime and uses pre-built risk scenarios to identify and alert companies to unusual patterns of customer activity that differ from expected behavior, and which may require further investigation.

<u>Fighting Human Trafficking and Modern Slavery</u>

- Thomson Reuters is deeply committed to using its capabilities to help its customers and partners fight against human trafficking and modern slavery. Through World-Check, we

currently collect data and profile over 60,000 individuals and entities linked to child and slave labour, migrant smuggling, sex trafficking and human trafficking.

- On 18 November 2015, at the Trust Women conference, sponsored by the Thomson Reuters Foundation, we announced a proposal for Thomson Reuters to create **a central, global platform to assist in the fight against slavery and human trafficking** in supply chains to benefit NGOs and civil society, as well as corporations and financial institutions. This database would work to expand our current content offering.

- At present, efforts to tackle slavery and human trafficking are limited by the quantity and quality of data on individuals and entities involved in acts of slavery and the accessibility of such data. Much existing data is siloed and opaque and initial efforts to share data risk remain partial and fragmented.

- As a result, Thomson Reuters is developing a comprehensive transactional platform to share data and provide actionable information to those with the capacity to have a real impact. Data will be contributed by specialist NGOs and other front-line actors working across different regions and areas of focus. Thomson Reuters will gather that data, ensure it meets the key quality assurance criteria expected by the most sophisticated users, and provide the expertise in data management and infrastructure to facilitate its use and analysis.

- The private sector, as well as governments across the world, would be able to utilise a readily accessible tool that enables it to better understand their exposure to the risks of slavery in their supply chain and to access the right information to take action.

External Engagements

World Economic Forum: Partnering Against Corruption Initiative (PACI)

- Thomson Reuters is also a member of the Board of the World Economic Forum's anti-corruption initiative (PACI) working with representatives from multiple industries and civil society on projects to improve transparency.

Thomson Reuters Response:

Overview

We agree that Phase Two of the AML/CFT regime should apply to the legal profession, accountants, real estate agents and conveyancers, high-value good dealers and some additional parts of the gambling sector.

In conducting reviews and research internationally, our experience has shown that organised crime and criminals have used trust accounts, administrative services such as offshore shell companies and trust structures to hide funds obtained through illegitimate means. The real estate market and shell companies appear to have become a significant channel through which organised crime has been able to obtain assets or send funds overseas to finance terrorist activities

Some industry sectors have expressed concerns that Phase Two businesses will have to invest significant time, money and resources in complying with the Act. In order to promote compliance with the regime, the New Zealand Government may need to ensure the regime is flexible enough to allow smaller firms to take a streamlined, risk-based approach that reflects the scale of their operations. Often these professions are the gatekeepers to conducting business in the economy. Organised criminals have relied on accountants, lawyers and other professional service providers to set up opaque corporate structures to hide illegitimate funds. Indeed there has been a difference between the innocent bystander and those who have willfully turned a blind eye to the businesses of their clients. This is borne out in the many examples in the consultation paper.

One of the important issues of dealing with small businesses is not to put a heavy burden on those businesses but to make reporting occur when the circumstances show that there are real suspicious indicators that require the business to file a Suspicious Transaction Report (**STR**).

We also believe New Zealand should consider consolidating its tripartite supervisory agencies into a single, dedicated AML/CFT supervisory agency. As this submission explains, supervision and enforcement is fundamental to the effectiveness of a country's AML/CFT infrastructure. When the Financial Action Task Force (FATF) conducts its fourth round mutual evaluation visit to New Zealand in 2020 it will be looking specifically at measures of effectiveness.

Thomson Reuters believes that the introduction of the second phase of New Zealand's AML/CFT regime is an opportune time to establish a dedicated regulatory oversight body, possibly housed within one of the existing agencies. This body could also merge with the New Zealand Police Financial Intelligence Unit to create a dedicated centre for AML/CFT regulatory excellence, similar to the combined FIU/regulator model in Australia.

Part 3: Sector-specific questions

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?

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?

Thomson Reuters response:

We are of the view that the legal profession should be included in the AML/CFT regime. One of the main risks for lawyers is receiving money into their trust accounts and establishing trusts and corporate structures for individuals who might use them for illegitimate purposes. One of the principle protections for clients of lawyers is legal professional privilege which has been embedded in Common Law principles. The AML/CFT regime needs to respond to this issue, though we would note that an appropriate balance has already been struck under the Financial Transactions Reporting Act 1996, which included suspicious matter reporting obligations in certain circumstances.

The main issue is that the lawyers should be under more comprehensive obligations to make a STR in relation to funds being paid into the trust account and identify the individual or corporate entity that paid those funds and disclose the beneficial owner. At present, STR reporting levels from law firms are low in relation to the risks associated with this sector. In this regard, lawyers should be required to adopt a risk-based approach in determining the legitimacy of their clients' source of funds. A suspicious transactions report should be made within a prescribed period if a suspicion arises that the transaction might involve money laundering, proceeds of crime or terrorist financing.

The other issue is that when lawyers set up trusts and corporate structures for clients due diligence should be required to ensure that it is not for an illegitimate purpose, such as laundering the proceeds of criminal activity, financing terrorism or tax evasion.

One of the other issues is that lawyers often prepare corporate structures, trusts, act as nominees and provide administrative services for companies. Currently, these may be under the principle of "client professional privilege" and therefore it is difficult for regulators and enforcement authorities to obtain documents. However, in the fight against criminal activity, law enforcement agencies should have a right to review legal files in restricted circumstances where there is evidence or suspicion of criminal operations in respect of money laundering and terrorist activities.

There should be specific legislation for lawyers who fail to conduct any due diligence or willfully turn a blind eye to money laundering and terrorist financing (ML/TF) risks.

It would also be effective to publish industry guidance to help participants understand these requirements. For example, in the instance of the guidance published by the UK Law Society, privilege does not extend to documents which themselves form part of a criminal or fraudulent act, or communications which take place in order to obtain advice with the intention of carrying out an offence. In addition, it states that if a lawyer knows the transaction they are working on is a principal offence, then the lawyer also commits an offence. In that case the communications relating to the transaction and may be disclosed. Lastly, if a lawyer suspects he or she is unwittingly involved in fraudulent activity at the behest of his client and he has prima facie evidence of this, then in certain situations this information will not be subject to 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 reports be done? Who should be responsible for doing them?

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

Thomson Reuters response:

We are of the view that the accounting profession should be included in the AML/CFT regime. The main issue for accountants is receiving money into their trust accounts and establishing trusts and corporate structures for individuals who might seek to use them for illegitimate purposes. We are of the view that this should extend to advisory services, taxation advice and auditing — even if there is no direct client involved. Reviews and work in this area can reveal money laundering or other illegal activities.

The main issue is that accountants should be under an obligation to make a STR if they form a suspicion in relation to ML/TF risks. Accountants should be required to identify the individual or corporate entity that paid those funds and be required to disclose the beneficial owner. We have seen many examples where accountants set up numerous trusts and corporate vehicles for clients for illegitimate purposes and also for tax evasion. In this regard, accountants should be required to adopt a risk-based approach in determining the legitimacy of their clients' sources of funds. Accountants are one of the gatekeepers to the economy that can view a client's affairs and form an opinion whether income or funds flow is from an illegitimate source.

One of the other issues is that accountants often prepare corporate structures, trusts, act as nominees and provide administrative services for companies. In these circumstances accountants should be required to disclose suspicious transactions.

There should be specific legislation for accountants who fail to conduct any due diligence or willfully turn a blind eye to ML/TF risks.

Suspicious Transactions Reports (**STRs**) should be filed when an accountant becomes aware of circumstances of individuals setting up structures for criminal use or to avoid AML/CFT detection.

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?

2. Should businesses in the real estate sector that engage in property development have obligations under the Act? If yes, in what circumstances?

3. At what stage should a client of a real estate agent become a customer for the purposes of customer due diligence?

Thomson Reuters response:

We are of the view that the real estate industry and property developers should be included in the AML/CFT regime. The main risk for real estate agents is the practice of receiving money into their trust accounts for the purchase of properties.

There are many examples internationally where real estate agents and developers have wittingly and unwittingly been used to launder money through real estate purchases and development projects. Often, real estate agents do not conduct checks on individuals, identities or companies and trusts when receiving funds, from both domestic and international sources. Additionally, there are usually no searches undertaken to verify whether funds are from legitimate sources. In practice, and despite the obligations under the FTR Act, real estate agents often accept deposits of funds without conducting any genuine checks and there are limited reviews by oversight bodies.

Real estate agents and developers should be required to undertake due diligence on their clients and be under an obligation to review the client's circumstances and the source of money

at the time when the deposit of the purchase is made or when any money is deposited into a real estate agent's or developer's trust account or personal account.

A real estate agent or developer's obligations should commence when any money is received by a purchaser or vendor and/or when they sign a legally binding contract.

There should be specific legislation for real estate agents and developers who fail to conduct any due diligence or willfully turn a blind eye to ML/TF risks.

High-value goods:

1. Should the Act apply to all dealers of high-value goods or just particular ones?

2. What is the appropriate threshold for cash transactions that would trigger AML/CFT customer due diligence and reporting requirements? Please tell us.

Thomson Reuters response:

Thomson Reuters supports the inclusion of dealers in high-value goods, including auction houses in the AML/CFT regime. The main issue for these dealers is that they can trade in items such as precious stones and artworks that have a currency on the black market internationally and have been well established as effective vehicles for laundering money.

There are many examples internationally where diamond merchants have been used to launder money or pass assets on for illegitimate purposes[1] [2].

Dealers in high-value goods, especially precious stones and art, should be required to undertake due diligence into their clients at the time of purchase and, in some circumstances, even at the time of enquiry. Dealers should be under an obligation to review the client's circumstances and clarify the source of money at the time of purchase or when they receive deposits into their trust, company or personal accounts. There should also be obligations on high-value dealers to lodge STRs if suspicions are raised when enquiries are made about the purchase of goods or the transfer of goods internationally.

The obligations for dealers in high-value goods should commence when any deposit or amount of NZ$10,000 or more is received from a customer and/or when they sign a legally binding contract for goods exceeding NZ$10,000. Where there are grounds for forming a suspicion, a dealer should be required to lodge an STR within prescribed time frames.

[1] http://www.fatf-gafi.org/documents/news/ml-tf-through-trade-in-diamonds.html

[2] http://www.reuters.com/article/us-australia-outflows-china-idUSKCN0UZ2T5

There should be specific legislation for dealers in high-value goods who fail to conduct any due diligence or willfully turn a blind eye to ML/TF risks.

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?

2. Should there be a threshold that would trigger AML/CFT customer due diligence and 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.

Thomson Reuters response:

The AML regime should apply to all sections of the gambling sector to address the specific risks associated with money laundering, tax evasion and other financial crimes. This is an area for concern with not all participants in the New Zealand gambling sector subject to the first phase of the AML/CFT Act.

There are numerous issues in relation to casinos and sports betting companies that facilitate both cash and electronic funds transfers. The review should also address the risk associated with international clients opening accounts in partner casinos in one country and then transferring chips or equivalent value to a casino in another jurisdiction. The FATF has warned that so-called foreign holding accounts (FHAs) are increasingly being used for money laundering and to finance terrorism. These accounts are used by casino chains to make customers' assets available across jurisdictions without physically transferring the funds. Instead they use "book entries" to make the funds available to the gambler in another jurisdiction, a strategy that has proven highly popular among gamblers from countries with capital controls, such as China.

We believe that as part of the review of the AML/CFT Act the government should clarify whether these types of transactions are being adequately reported upon (e.g.if they exceed the transaction reporting threshold or if suspicions arise). In Australia, for instance, these transfers are deemed to be remittances under the country's anti-money laundering laws and are disclosed to AUSTRAC as per any other cross-border funds transfer.

We believe that all entities that are active in the gambling sector should be covered under New Zealand's AML/CFT regime. This would not only reduce risk but would also create a level playing field across the gambling sector (with most gambling service providers already being regulated). We believe the businesses that should be covered by these reforms include (but are not limited

to) the New Zealand Racing Board, the New Zealand Lotteries Commission and gambling "junket operators".

At present, New Zealand runs the risk that money laundering activity is concentrated in the unregulated parts of the industry.

All gambling operators should be obligated to report not only on gambling activity but also attempts of individuals to gamble (where suspicions arise) and any transfers that exceed the NZ$10,000 reporting threshold.

There should be specific legislation for all casino operators who fail to conduct due diligence or willfully turn a blind eye to ML/TF risks.

Part 4: Supervision

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.

2. Are there other advantages or disadvantages to the options in addition to those outlined above?

Thomson Reuters response:

New Zealand should consider consolidating its three existing AML/CFT supervisors and the FIU into a single, dedicated AML/CFT regulatory agency. As the FATF has pointed out, supervision and enforcement is fundamental to the effectiveness of a country's AML/CFT infrastructure. When the FATF conducts its fourth round mutual evaluation visit to New Zealand in 2020 it will be looking specifically at measures of effectiveness.

We would note that in its fourth-round mutual evaluation report on Australia the FATF looked specifically at AUSTRAC's effectiveness as an AML/CFT supervisory agency.

Thomson Reuters believes that New Zealand stands the best chance of securing a positive mutual evaluation in 2020 if it makes moves to consolidate its AML supervisory and intelligence functions. We believe this will become even more critical with the introduction of the second phase of the regime.

Without a consolidated regulatory body for phase two, New Zealand runs the risk that AML/CTF skills, talent and supervisory expertise will be spread too thinly across a raft of disparate agencies and self-regulatory organizations (SROs). Industry experts in New Zealand have told Thomson Reuters that multi-agency supervision in tranche two may make it difficult for agencies to source the required level

of expertise within the domestic market. They have said it is far more efficient to bring the AML/CFT resources together into a single, dedicated and coordinated agency.

Thomson Reuters is also concerned by the relatively low level of industry guidance that the existing supervisors have published since the inception of the first phase of the AML/CFT Act. We believe this work has been hampered by the need to coordinate industry guidance across three different agencies. This is just one example of the operational inefficiencies that arise in a multi-supervisory agency model.

The introduction of the second phase of New Zealand's AML/CFT regime is an opportune time to establish a dedicated regulatory oversight body, possibly housed within one of the existing agencies (such as the Reserve Bank of New Zealand or the Financial Markets Authority). This body could also merge with the New Zealand Police Financial Intelligence Unit to create a dedicated centre for AML/CFT regulatory excellence, similar to the combined FIU/regulator model that exists in Australia.

A single regulatory agency would also benefit from greater policy coordination, intelligence and skill sharing with AUSTRAC, as both countries would have a single point of contact for AML/CTF regulation, intelligence and supervision.

The single regulatory agency may also be more practical in instances where enforcement action needs to be coordinated across a number of industry sectors. Thomson Reuters believes that if the government provides resourcing for a single regulatory agency it will send a clear message to reporting entities — and those with criminal intent — that New Zealand takes AML/CFT compliance seriously and is not a "safe haven" for illicit funds.

Part 5: 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?

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

No comment

Part 6: Enhancing the AML/CFT Act

1. Should the current requirements to report suspicious transactions be expanded to reporting suspicious activities? Please tell us why or why not.

Thomson Reuters response:

The existing definition should be expanded to include all "suspicious matters" that may arise. In Australia numerous cases of money laundering and terrorism financing have been detected as a result

of suspicious matter reports that were filed to AUSTRAC following a customer enquiry, despite the fact that a transaction was not initiated. In many cases criminal groups will undertake "scoping visits" at reporting entities to identify weaknesses or collect information about internal systems and controls prior to initiating a transaction. In fact, it is most likely that transactions will not proceed through reporting entities with the most robust controls and most effectively trained front-line staff. It is critical that reporting entities are required (and indeed legally enabled) to report any suspicions that may arise prior to the initiation of a transaction. This requirement is especially important in the case of terrorism financing or "foreign fighters", where time is critical. Reporting entities should be encouraged to report their suspicions as early as possible to the FIU, not to wait for a suspicious transaction to take place.

1. Should industry regulators be able to share AML.CFT-related information with government agencies?

2. Should AML / CFT supervisors be able to share customers' AML/CFT related personal information with government agencies?

3. 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?

4. What protections should apply? What restrictions should be placed on information sharing?

No comment

Proposal: 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?

Thomson Reuters response:

The AML/CFT Act allows for a reporting entity to place reliance on another reporting entity, which has a business relationship with the customer concerned, and where they have conducted CDD to the standard required by the Act and Regulations. This other entity may provide to the reporting entity the relevant identity information prior to the reporting entity establishing a business relationship/occasional transaction being conducted with the client and the relevant verification information may be forwarded as soon as is possible, but within five working days after the business relationship is established/occasional transaction is conducted. The other reporting entity must consent to conducting the customer due diligence procedures for the reporting entity and to providing all the relevant information to the reporting entity.

The wording "must consent to conducting the customer due diligence procedures for the reporting entity" seems to indicate that the other reporting entity is conducting the CDD as an agent, whereas the rest of the section seems to indicate that the information was previously obtained by the other

reporting entity in its normal course of business and is now being shared with the reporting entity. It would be helpful if the review clarified this issue.

Proposal: 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 the business?

Thomson Reuters response:

The FATF's description of Trust and Company Service Providers in their report on Money Laundering Using Trust and Company Service Providers[3] is broad. It includes "all those persons and entities that, on a professional basis, participate in the creation, administration and management of trusts and corporate vehicles."

As these business activities are considered to pose a risk, it does not make sense to exclude certain service providers simply because they do not exclusively offer these services. Some entities, such as lawyers, offer services to create trusts and corporate vehicles. By only considering entities which exclusively offer those specific activities, the regime excludes a large number of potential sources of information and opens up a significant vulnerability to ML/TF activity.

The FATF recommendations also requires trust and company service providers to report suspicious transactions for a client when, on behalf of or for a client, they engage in a transaction in relation to activities that are described in Recommendation 22(e). Therefore, if an entity is excluded, then there may be a number of suspicious transactions not reported as the entity does not fall under the Act.

[3] http://www.fatf-gafi.org/media/fatf/documents/reports/Money%20Laundering%20Using%20Trust%20and%20Company%20Service%20Providers..pdf