

**Hon Ginny Andersen**  
Minister of Justice

**Proactive release – Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023**

Date of issue: 18 September 2023

The following document has been proactively released in accordance with Cabinet Office Circular CO (23) 4.

No.	Document	Comments
1	<b>Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023</b>  <i>LEG Minute</i>  Cabinet Office <i>Meeting date: 22 06 2023</i>	Released in full.
2	<b>Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023</b>  <i>Cabinet Paper and Summary</i>  Office of the Minister of Justice <i>Lodged: 20 06 2023</i>	Some information has been withheld in accordance with section 6(c) of the OIA to avoid prejudicing the maintenance of the law.  The legislative instruments are publicly available from <a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a> .
3	<b>Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023</b>  <i>Cabinet Minute</i>  Cabinet Office <i>Meeting Date: 22 06 2023</i>	Out of scope redactions



# Cabinet Legislation Committee

## Minute of Decision

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### Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023

Portfolio                      Justice

On 22 June 2023, the Cabinet Legislation Committee:

- 1        **noted** that on 26 October 2022 the Cabinet Economic Development Committee agreed to 80 regulatory changes across five regulatory packages to be issued under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 [DEV-22-MIN-0244];
- 2        **agreed** to amend the regulatory exemption for court-appointed liquidators to include court appointed liquidators appointed under the Limited Partnerships Act 2008;
- 3        **agreed** to declare the New Zealand based subsidiary of Entain who will be carrying out the day-to-day operations of most of the TAB NZ's functions, as a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- 4        **agreed** to expand existing regulatory exemptions for the TAB NZ to cover the subsidiary referred to in paragraph 3 above;
- 5        **noted** that the following regulations give effect to the decisions referred to in paragraphs 1 to 4 above;
  - 5.1      Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023 [PCO 25538/4.0];
  - 5.2      Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Amendment Regulations 2023 [PCO 25102/12.0];
  - 5.3      Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023 [PCO 25539/2.0];
  - 5.4      Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023 [PCO 25540/2.0];
  - 5.5      Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Amendment Regulations 2023 [PCO 25541/2.0];
- 6        **authorised** the submission to the Executive Council of the regulations listed in paragraph 5 above;

- 7 **noted** that the amendments within the regulations listed in paragraph 5 above commence in three phases; 43 amendments on 31 July 2023, 35 amendments on 1 June 2024, and 3 amendments on 1 June 2025;
- 8 **noted** that 12 of the proposals agreed to in paragraph 1 above will be pursued either in a Statutes Amendment Bill, through the next available legislative vehicle, operational guidance, or through the Ministerial exemption process under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Andrew Little (Chair)  
Hon Willow-Jean Prime  
Hon Dr Duncan Webb

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG



# Cabinet Legislation Committee

## Summary

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### Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023

**Portfolio** Justice

**Purpose** This paper seeks authorisation for approval to the Executive Council of five regulations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT Act).

**Previous Decisions** In October 2022, the Cabinet Economic Development Committee (DEV) noted that the Ministry of Justice had concluded its statutory review of the AML/CFT Act, and that a number of short-term regulatory changes could be made to improve the functioning of the AML/CFT regime [DEV-22-MIN-0244].

**Proposal** This paper gives effect to the above decision by authorising the submission to the Executive Council of the:

- Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023;
- Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Amendment Regulations 2023;
- Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023;
- Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023; and,
- Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Amendment Regulations 2023.

The combined effect of these five regulations will be to better tailor the burden of regulation to actual AML/CFT risks, to update terminology and definitions, and to improve information sharing provisions. There is also an amendment to transfer the AML/CFT obligations currently upon TAB New Zealand to the new subsidiary entity it has recently agreed to establish with Entain.

**Impact Analysis** A regulatory impact assessment was submitted when substantive policy

decisions were made.

<b>Compliance</b>	Parliamentary Counsel certified the regulations on 19 June 2023 as being in order for submission to Cabinet, subject to their being made upon recommendation of the Minister of Justice in accordance with section 154(2) and (3) of the AML/CFT Act.
<b>Timing Matters</b>	The amendments within the regulations will come into effect in three stages; most on 31 July 2023, others on 1 June 2024, and the remaining few on 1 June 2025.
<b>Communications</b>	The Ministry of Justice will engage with relevant entities once the regulations are published in the Gazette.
<b>Consultation</b>	Paper prepared by MoJ). MBIE (Commerce and Consumer Affairs), Customs, RBNZ, MFAT, DIA, Privacy Commissioner, Police, SFO, and IRD were consulted. The Treasury and DPMC (Prime Minister) were informed.

The Minister indicates that LEG ministers were consulted.

The Minister also indicates that discussion has occurred with the government caucus.

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### **The Minister of Justice recommends that the Committee:**

- 1 note that on 26 October 2022 the Cabinet Economic Development Committee agreed to 80 regulatory changes across five regulatory packages to be issued under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 [DEV-22-MIN-0244];
- 2 agree to amend the regulatory exemption for court-appointed liquidators to include court appointed liquidators appointed under the Limited Partnerships Act 2008;
- 3 agree to declare the New Zealand based subsidiary of Entain who will be carrying out the day-to-day operations of most of the TAB NZ's functions, as a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- 4 agree to expand existing regulatory exemptions for the TAB NZ to cover the subsidiary referred to in paragraph 3 above;
- 5 note that the following regulations will give effect to the decisions referred to in paragraphs 1 to 4 above;
  - 5.1 Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023 [PCO 25538/4.0];
  - 5.2 Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Amendment Regulations 2023 [PCO 25102/12.0];
  - 5.3 Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023 [PCO 25539/2.0];

- 5.4 Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023 [PCO 25540/2.0]; and
- 5.5 Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Amendment Regulations 2023 [PCO 25541/2.0].
- 6 authorise the submission to the Executive Council of the regulations listed in paragraphs 5.1 to 5.5 above;
- 7 note that the amendments within the regulations listed in paragraph 5 above commence in three phases: 43 amendments on 31 July 2023, 35 amendments on 1 June 2024, and 3 amendments on 1 June 2025;
- 8 note that twelve of the proposals agreed to in paragraph 1 above will be pursued either in a Statutes Amendment Bill, through the next available legislative vehicle, operational guidance, or through the Ministerial exemption process under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Sam Moffett  
Committee Secretary

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**Hard-copy distribution:**  
Cabinet Legislation Committee

## **In Confidence**

Office of the Minister of Justice

Chair, Cabinet Legislation Committee

# **Anti-Money Laundering and Countering Financing of Terrorism Regulations Amendment Regulations 2023**

## **Proposal**

- 1 This paper seeks authorisation for submission to the Executive Council of five regulations made under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Regulations):
  - 1.1 Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023;
  - 1.2 Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Amendment Regulations 2023;
  - 1.3 Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023;
  - 1.4 Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023; and
  - 1.5 Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Amendment Regulations 2023.

## **Executive Summary**

- 2 The Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) regime is a risk-based system that detects and deters money laundering and terrorism financing, and fulfils relevant international obligations. In 2021/22, the Ministry of Justice (the Ministry) conducted a statutory review of New Zealand's AML/CFT Act (the Act), finding that it generally provides a sound regulatory regime to detect and deter money laundering and terrorism financing. However, some areas for improvement were identified.
- 3 The Ministry's findings broadly reflect those of the Financial Action Task Force (FATF) when they conducted a mutual evaluation of New Zealand in 2021. FATF found that improvements are needed in our AML/CFT regime and placed New Zealand into enhanced follow up. This is a more intensive reporting process for countries found to have deficiencies.
- 4 Following the statutory review, Cabinet agreed to a package of short-term regulatory changes whilst work continues on recommendations requiring further development and consultation [DEV-22-MIN-0244 refers]. The Regulations make changes to five

existing regulatory packages proclaimed under the Act. The changes provide regulatory relief, make the regime clearer, address areas of risk and improve compliance with international standards.

- 5 The draft regulations were publicly consulted on over a six-week period, focussing on whether the drafting meets the policy intent, and whether any unintended consequences had been created. The Ministry held workshops with relevant public sector agencies, an AML/CFT Industry Advisory Group (IAG) and specific submitters. Changes were made to over half of the proposed regulations in line with submissions.
- 6 If the bulk of these regulatory changes commence by June 2024, officials anticipate that New Zealand's compliance with international standards will have improved sufficiently to allow exit from its current period of FATF enhanced reporting requirements.

## **Background**

### ***The AML/CFT regime helps keep New Zealand safe from illicit capital***

- 7 The AML/CFT regime improves New Zealand's safety by making it harder for criminals to profit from their offending. Similarly, by making it harder to finance terrorism the Act disrupts terrorist activities, both in New Zealand and worldwide. The Act also generates the largest and most detailed financial intelligence available to the government and law enforcement agencies. This results in wide-ranging benefits, such as improving protection of markets from distortion, maintaining the reputation of New Zealand businesses, enhancing national security, combatting terrorism, disrupting and dismantling serious and organised crime (including transnational organised crime), protecting New Zealand from bribery, corruption, and foreign interference, and restraining criminal assets.
- 8 These outcomes are achieved by imposing obligations on businesses that provide specific financial and non-financial services, known as reporting entities. At a very high level, the Act requires reporting entities to assess their money laundering and terrorism financing risks, identify and know their customers, report suspicious activities and certain transactions, and maintain various records.

### ***The Ministry has comprehensively reviewed the AML/CFT Act and made recommendations for improvement***

- 9 A statutory review of the Act was conducted by the Ministry in 2021/22, concluding in a comprehensive report which was considered by Cabinet and tabled in Parliament [DEV-22-MIN-0244 refers]. The review was focused on assessing the performance of the Act since 2017 as well as whether any changes to the Act were necessary or desirable. The findings and recommendations were based on industry feedback and agency views.
- 10 Overall, the Ministry concluded that the Act provides for a generally sound regulatory regime that provides the basis to detect and deter money laundering and terrorism financing. However, there are some issues that prevent the regime from being the best it can be for New Zealand.



- 11 The Ministry made a series of recommendations to improve New Zealand's AML/CFT framework, separated into short, medium, and long-term changes:
- 11.1 The short-term changes are those where the Ministry has made a clear recommendation for what change is needed and which can be implemented through issuing new or amending existing AML/CFT regulations. This includes relaxing various requirements that cause unnecessary challenges or uncertainty for businesses, and addressing specific areas of risk.
  - 11.2 The medium-term changes are those that can be achieved through operational changes, such as the issuing of further guidance for businesses, as well as other potential regulatory changes that require further policy work and engagement with the private sector before a clear recommendation can be made.
  - 11.3 The long-term changes require the Act to be amended. Many of these changes are straightforward, however, there are some potentially foundational changes that may need to be made to the AML/CFT regime. These foundational changes largely relate to moderate technical issues in the Act that lead to significant effectiveness gaps. The details of these changes require further policy work and engagement or co-design with the private sector.

***Changes to the AML/CFT regime are required to increased New Zealand's compliance with international standards***

- 12 The Ministry's findings broadly reflect the findings of the FATF when they conducted the most recent mutual evaluation of New Zealand in 2021.
- 13 The FATF is the global money laundering and terrorism financing watchdog. The inter-governmental body sets international standards that aim to prevent these illegal activities and the harm they cause to society. New Zealand is required to undergo periodic assessments known as a mutual evaluation, which is an assessment of the country's actions to tackle money laundering and the financing of terrorism, and the proliferation of weapons of mass destruction.
- 14 Whilst our regime is effective in many respects, the FATF found that major improvements are needed to strengthen supervision and implementation of preventive measures, to improve the transparency of legal persons and arrangements, and to ensure that targeted financial sanctions are being effectively implemented. Most of these issues relate directly to the Act.
- 15 Following mutual evaluations, all countries are placed into some form of follow up process to monitor and report on progress made to address their AML/CFT risks and deficiencies. As the evaluation found significant technical deficiencies in our AML/CFT regime, New Zealand was placed into enhanced follow up. This is a more intensive follow up process for countries with significant deficiencies or countries making insufficient progress. We are required to report back to the FATF annually until we have made sufficient progress to exit this enhanced follow-up process.
- 16 The third follow-up assessment of New Zealand by FATF is due in July 2024. If the bulk of regulatory changes recommended by the review are issued by July 2023 and

effective by June 2024, it is expected that New Zealand's AML/CFT compliance will have increased sufficiently to allow exit from the enhanced follow-up process.

## **Policy**

### ***Cabinet previously agreed to a package of AML/CFT regulatory changes***

- 17 On 26 October 2022 Cabinet agreed to a package of 80 short-term regulatory changes stemming from the Ministry's review, whilst work continues on recommendations requiring further development and consultation in the medium and long term [DEV-22-MIN-0244].
- 18 Cabinet invited me to report back to the Cabinet Legislation Committee no later than June 2023 with the amendment regulations. This ensures that the commencement date of certain key regulations falls no later than June 2024, positioning New Zealand to exit FATF enhanced follow up.
- 19 The Regulations make amendments to five regulatory packages proclaimed under the Act. This includes revoking, inserting, and clarifying requirements in the following:
  - 19.1 AML/CFT (Cross-border Transportation of Cash) Regulations 2010
  - 19.2 AML/CFT (Definitions) Regulations 2011
  - 19.3 AML/CFT (Exemptions) Regulations 2011
  - 19.4 AML/CFT (Requirements and Compliance) Regulations 2011
  - 19.5 AML/CFT (Prescribed Transactions Reporting) Regulations 2016

### ***The Regulations provide regulatory relief and respond to immediate issues***

- 20 The changes provide regulatory relief, make the regime clearer and easier to comply with and improve compliance with FATF standards, positioning New Zealand to exit enhanced follow up in 2024. The amendments also respond to immediate issues identified by the statutory review, including:
  - 20.1 Definitions and terminology that are out of date, unclear, or not fit-for-purpose;
  - 20.2 Obligations which are set to a standard of risk higher than actual risk, causing unnecessary costs to business;
  - 20.3 Gaps in regulations relating to known high-risk areas of cash, virtual assets, high-risk countries, and high-risk customers;
  - 20.4 Limited visibility of remittance networks and consequent limited levels of assurance;
  - 20.5 Areas of the FATF Standards where New Zealand currently falls short, including information relating to wire transfers; and

- 20.6 Inability to share information between agencies and the AML/CFT regime where information has been supplied or obtained under legislation not listed in the AML/CFT Act.

## **An exposure draft of the Regulations underwent public and agency consultation**

### ***As a result of consultation, changes have been made to over half the proposed amendments***

- 21 The Ministry sought the public's views on the drafting of the Regulations over a six-week period. The proposed amendments are largely technical in nature; the focus of the consultation was therefore on whether the drafting of the Regulations was clear and met the policy intent, and whether it created any unintended consequences.
- 22 55 submissions relating to 60 of the 80 drafted regulations were received. During this time, the Ministry held workshops with relevant public sector agencies, the IAG, and met with specific submitters where this assisted in developing their submission.
- 23 As a result of the consultations and submissions received, changes were made to over half of the 80 proposed regulations. The changes to the drafting:
- 23.1 Improved clarity;
  - 23.2 Covered loopholes, gaps, and unintended consequences; and
  - 23.3 Changed the timing of when some of the regulations come into effect: regulations desired by industry will come into effect as soon as possible, whilst the regulations that are most substantively increasing obligations will have a two-year implementation period.
- 24 Following these changes, a second draft was sent to agencies and the IAG.

### ***Narrowing the exemption for online marketplaces has generated considerable discussion***

- 25 One amendment which has been particularly contentious is the narrowing of the exemption from AML/CFT reporting requirements for online marketplaces. Currently, online marketplaces are excluded from the definition of a reporting entity, and therefore are exempted from all AML/CFT obligations.
- 26 The statutory review found that there are risks of money-laundering and terrorism financing when an online marketplace is handling funds. To address this risk, the review recommended replacing this blanket exemption for online marketplaces with an appropriate exemption for some AML/CFT obligations, based off a risk assessment for online marketplaces if there are aspects which are demonstrably low risk.
- 27 The Department of Internal Affairs (DIA) conducted the risk assessment, and from this risk assessment, a new narrowed regulatory exemption was drafted.

- 28 This proposed new regulation:
- 28.1 Keeps an exemption from all AML/CFT obligations for buyers and sellers where financial transactions associated with the purchase occur outside the online marketplace ecosystem, but
  - 28.2 Applies AML/CFT obligations for financial transactions associated with a purchase that occurs inside the online marketplace ecosystem for buyers or sellers whose transactions exceed \$10,000 over a 12-month period.
- 29 Two submitters disagreed with this new drafting. Officials from the Ministry and DIA met with one of the submitters, as they were not able to attend the statutory review workshop focussed on this regulation. Both the Ministry and DIA strongly consider that the exemption should be narrowed so that services that allow financial transactions to be conducted through the online marketplace are brought within the AML/CFT regime. **Section(6)(c)**
- 30 However, officials did recommend making two changes to the new narrowed exemption following these submissions. In particular:
- 30.1 No AML/CFT obligations should apply in relation to customers that are buyers or sellers whose transactions do not exceed \$10,000 over a 12-month period, other than requirements relating to suspicious activity reporting. Previously this threshold only applied to buyers, and therefore all AML/CFT obligations would have applied to all sellers regardless of the volume of their sales.
  - 30.2 Extending the implementation period to 2 years. Previously the new narrowed regulation had a 1-year implementation period.
- 31 DIA, as the relevant AML/CFT supervisor, are working with online marketplaces to ensure they are actively involved and supported going forward.

***Agreement is sought for an amendment to the Court Appointed Liquidators exemption***

- 32 As part of the regulatory package, Cabinet agreed to exempt non-court appointed liquidators from appropriate and relevant AML/CFT obligations where they are incompatible with the nature of the liquidator's work where there is a low risk of money laundering.
- 33 During consultation on the exposure draft it was raised that the regulation, as drafted, would not cover liquidators appointed under the Limited Partnerships Act 2008. Officials discussed this with the DIA (the relevant supervisor) and agreed that this was a drafting oversight; the exemption should include non-court appointed liquidators appointed under the Limited Partnerships Act 2008 as this is consistent with the intent of the regulation as agreed to by Cabinet.
- 34 However, this oversight also occurs in the existing regulatory exemption for court-appointed liquidators. To keep the exemptions consistent where applicable, officials

recommended making an amendment to the court appointed liquidators' regulatory exemption to include court appointed liquidators appointed under the Limited Partnerships Act 2008.

- 35 As the court-appointed liquidators regulation is outside the scope of what was considered and agreed upon at Cabinet, I am seeking your agreement to it now.

***Twelve amendments have been removed from the regulatory package***

- 36 Officials and the Parliamentary Counsel Office (PCO) have been unable to successfully draft twelve regulatory amendments which were agreed by Cabinet. Further PCO examination has identified that the relevant regulatory making powers do not clearly cover these intended changes.

- 37 Six of the previously proposed changes require technical non-controversial amendments to the Act. I have therefore referred these to the Associate Minister of Justice for inclusion in the Statutes Amendment Bill:

37.1 Clarifying two terms in the definition of 'Designated Non-Financial Business Professional';

37.2 Clarifying one term in the definition of 'occasional transaction';

37.3 Clarifying that address verification is not required under standard customer due diligence;

37.4 Extending the timeframe for submitting a prescribed transaction report; and

37.5 Extending the timeframe for law firms to submit a suspicious activity report.

- 38 There are a further three regulatory amendments that require more substantive amendments to the Act:

38.1 Exempting a person receiving accompanied cash from submitting a border cash report;

38.2 Prescribing the process that reporting entities must follow when conducting enhanced customer due diligence on trusts; and

38.3 Requiring border cash reports when moving stored value instruments and casino chips into or out of New Zealand.

These amendments will be pursued through the next available legislative vehicle. Waiting for the next legislative vehicle will have a minor impact on the overall policy intention. In the interim, officials will consider whether operational guidance can be used to effect the first two proposals.

- 39 There are three proposed regulatory exemptions that further PCO review have identified do not clearly fit within the relevant regulatory empowering provision. These proposals would fit better within the Ministerial exemption making power:

- 39.1 Enabling members of a designated business group to share a compliance officer;
- 39.2 Enabling money or value transfer service operators to disclose information relating to suspicious activity reports; and
- 39.3 Enabling a senior manager of a customer to delegate authority to employees to act on behalf of the customer by electronic means.

I have referred these to officials to consider whether they should be made through the relevant Ministerial exemption process.

## **TAB NZ & Entain Partnering Agreement**

- 40 The Minister for Racing noted at Cabinet on 22 May 2023 his intention to approve a partnering agreement between TAB NZ and Entain under section 54 of the Racing Industry Act 2020. The agreement was subsequently approved on 23 May 2023 [DEV-23-MIN-0084 refers]. The agreement will allow for a New-Zealand based subsidiary of Entain (the subsidiary) to take over the day-to-day operations of most of the TAB NZ's functions.
- 41 At the point at which this happens, the subsidiary is carrying out most of the TAB NZ's functions, the subsidiary needs to be brought within the AML/CFT regime and have the same AML/CFT obligations as the TAB NZ currently does. If this does not happen, the betting activities will transfer to the subsidiary under the partnership agreement, but the corresponding AML/CFT obligations will not. Transferring the corresponding AML/CFT obligations will ensure that the money-laundering and terrorism financing risks continue to be regulated and supervised throughout the partnership agreement.
- 42 I am therefore seeking your agreement to issue regulations prescribing the subsidiary as a reporting entity under the AML/CFT Act, in the same way as the TAB NZ is, and bring the subsidiary within the regulatory exemptions provided for the TAB NZ.
- 43 I have considered whether these regulations are necessary, as the subsidiary could be considered as carrying out two of the functions of a 'financial institution' and captured as a reporting entity in that way. Officials have advised, however, that there are risks in relying on this capture. Treating the subsidiary as a financial institution would mean that some, but not all, of their activities relating to betting would attract AML/CFT obligations. This would therefore be a reduction in the supervision and regulation of the subsidiary's carrying out of betting activities compared to the current regulation and supervision of TAB NZ's carrying out betting activities. Doing so would increase risks of money-laundering and terrorism financing in New Zealand.
- 44 In addition, I consider that as the subsidiary will be taking over the day-to-day operations of most of the TAB NZ's functions, the clearest and most efficient way to bring the subsidiary within the AML/CFT regime is for the AML/CFT regime to recognise the subsidiary in the same way it does the TAB NZ.

## **Timing and 28-day rule**

- 45 A waiver of the 28-day rule is not sought.

## **Commencement**

- 46 The Regulations will be gazetted simultaneously, before commencing in three phases:
- 46.1 43 regulations providing relief to businesses or clarifying existing obligations will commence 31 July 2023;
  - 46.2 35 regulations which increase obligations on businesses but are needed for exit of FATF enhanced follow-up will commence 1 June 2024; and
  - 46.3 3 regulations which increase obligations on businesses and are not needed for exit of FATF enhanced follow-up will come into effect on 1 June 2025, to allow sufficient implementation time in the private sector. These relate to the requirement to risk rate new customers and narrowing the exemption for online marketplaces.

## **Compliance**

- 47 The Regulations comply with each of the following:
- 47.1 the principles of the Treaty of Waitangi;
  - 47.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 47.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 47.4 the principles and guidelines set out in the Privacy Act 2020;
  - 47.5 relevant international standards and obligations; as referenced above, these regulatory amendments will improve New Zealand's compliance with the FATF standards (refer paragraph 20); and
  - 47.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

## **Regulations Review Committee**

- 48 There are no grounds for the Regulations Review Committee to draw the disallowable instrument or regulations to the attention of the House of Representatives as a Standing Order requirement.

## **Certification by Parliamentary Counsel**

- 49 The Parliamentary Counsel Office is considering Crown Law advice and this may result in a qualified certificate.

## **Impact Analysis**

- 50 A Regulatory Impact Statement (RIS) was prepared in accordance with the necessary requirements and was submitted at the time the policy relating to the regulatory amendments was approved [DEV-22-MIN-0244].

## **Publicity**

- 51 The Ministry will engage with AML/CFT supervisors to ensure that reporting entities are aware of the regulatory changes as soon as they gazetted.
- 52 The changes will also be published on the Ministry's website.

## **Proactive release**

- 53 I propose to proactively release this paper after the Regulations have been gazetted, subject to redaction as appropriate under the Official Information Act 1982.

## **Consultation**

- 54 The following agencies were consulted on this paper: Department of Internal Affairs, Financial Markets Authority, Reserve Bank of New Zealand, New Zealand Police, New Zealand Customs Service, Ministry for Business, Innovation and Employment, Ministry of Foreign Affairs and Trade, Inland Revenue, The Treasury, Serious Fraud Office, and Office of the Privacy Commissioner.

## **Recommendations**

I recommend that the Cabinet Legislation Committee:

- 1 note that on 26 October 2022 the Cabinet Economic Development Committee agreed to 80 regulatory changes across five regulatory packages proclaimed under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 [DEV-22-MIN-0244];
- 2 agree to amend the regulatory exemption for court-appointed liquidators to include court appointed liquidators appointed under the Limited Partnerships Act 2008;
- 3 agree to declare the New Zealand based subsidiary of Entain who will be carrying out the day-to-day operations of most of the TAB NZ's functions, as a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- 4 agree to expand existing regulatory exemptions for the TAB NZ to cover the subsidiary referred to in recommendation 3 above;
- 5 note that the following regulations will give effect to the decisions referred to in recommendation 1 to 4 above;
  - 5.1. Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023;
  - 5.2. Anti-Money Laundering and Countering Financing of Terrorism (Cross-border Transportation of Cash) Amendment Regulations 2023;
  - 5.3. Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023;



- 5.4. Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023; and
  - 5.5. Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Amendment Regulations 2023.
- 6 authorise the submission to the Executive Council of the regulations listed in recommendation 5 above;
  - 7 note that the regulations listed in recommendation 5 above commence in three phases: 43 regulations on 31 July 2023, 35 regulations on 1 June 2024, and 3 regulations on 1 June 2025;
  - 8 note that twelve of the proposals agreed to in recommendation 1 above will be pursued either in the Statutes Amendment Bill, through the next available legislative vehicle, operational guidance, or through the Ministerial exemption process under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Authorised for lodgement

Hon Kiri Allan

Minister of Justice



# Cabinet

## Minute of Decision

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### Report of the Cabinet Legislation Committee: Period Ended 23 June 2023

On 26 June 2023, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 23 June 2023:

Out of scope

LEG-23-MIN-0101     **Anti-Money Laundering and Countering Financing of  
Terrorism Regulations Amendment Regulations 2023**     CONFIRMED  
Portfolio: Justice

Out of scope

