

Hon Kiri Allan

Minister of Justice

Proactive release – Documents relating to Implementing the recommendations of the AML/CFT statutory review

Date of issue: 22 March 2023

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

N o.	Document	Comments
1.	Implementing the recommendations of the AML/CFT statutory review <i>Cabinet Paper</i> Ministry of Justice <i>26 October 2022</i>	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none">• S9(2)(F)(iv)• S9(2)(J)• S6(a)
2.	DEV-22-MIN-0244: Implementing the Recommendations of the AML/CFT Statutory Review <i>Cabinet Committee Minute</i> Cabinet Legislation Committee <i>26 October 2022</i>	Some information has been withheld in accordance with the following sections of the OIA: <ul style="list-style-type: none">• S9(2)(F)(iv)• S9(2)(J)

IN CONFIDENCE

Office of the Minister of Justice

Chair, Cabinet Economic Development Committee

Implementing the recommendations of the AML/CFT statutory review

Proposal

- 1 This paper seeks agreement to the recommendations made by the Ministry of Justice **(the Ministry)** following the statutory review of the Anti-Money Laundering and Countering Financing of Terrorism **(AML/CFT)** Act 2009. In particular, it seeks agreement:
 - to progress a number of immediate changes in the short term through issuing new, or amending existing, AML/CFT regulations; and
 - to officials conducting further policy work and engagement with the public over the medium and long term with a view to issuing further AML/CFT regulations and progressing a Bill in s9(2)(f)(iv) to amend the AML/CFT Act.
- 2 A summary of the findings from New Zealand's Financial Action Task Force **(FATF)** Mutual Evaluation and the statutory review of the AML/CFT Act is attached as **Appendix 1**. The full list of short-term regulatory changes is attached to the paper as **Appendix 2**, and an overview of the medium and long-term changes is attached as **Appendix 3**. The Ministry's report on the statutory review of the AML/CFT Act **(the Report)** is also attached as **Appendix 4**.

Executive Summary

- 3 The AML/CFT regime is a risk-based system that detects and deters money laundering and terrorism financing and implements relevant international obligations. The Ministry conducted a review of the AML/CFT Act in close collaboration and engagement with other agencies and the private sector. The Ministry considered that the AML/CFT 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.
- 4 These findings broadly reflect the findings of the FATF when they conducted the most recent mutual evaluation of New Zealand in 2021. The evaluation found that "New Zealand has implemented an AML/CFT system that is effective in many respects. Particularly strong results are being achieved in relation to the confiscation of proceeds of crime. New Zealand also has a good understanding of its money laundering and terrorist financing risks, uses financial intelligence and investigates and prosecutes ML/TF activity effectively, and co-operates with its international partners well. However, 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."
- 5 Importantly, areas where the FATF identified New Zealand as having strong results stem from non-AML/CFT legislation (such as the Criminal Proceeds (Recovery) Act

2009). Areas identified as needing major improvement almost all stem from the AML/CFT Act.

- 6 Following mutual evaluations, all countries are placed into some form of follow up process to monitor and report on progress made by countries 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 on progress to improve our system until we have made sufficient progress to exit this enhanced follow-up process.
- 7 I have agreed at a high-level to the Ministry's proposals in the Report to progress the consideration and implementation of the review's recommendations over the short, medium, and long term:
 - 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. If these changes are issued by s9(2)(f)(iv) and in effect by s9(2)(f)(iv), New Zealand could exit its current enhanced international reporting process referenced above (paragraph 6). A small number of changes could come into effect from s9(2)(f)(iv) and, subject to further consultation, other changes may need to come into effect post-s9(2)(f)(iv) (depending on the nature of the compliance impacts that will result from the change).
 - the **medium-term changes** are those that can be achieved through operational changes, such as issuing further guidance for businesses, as well as through other potential regulatory changes that require further policy work and engagement with the private sector before a clear recommendation can be made. These changes could be progressed with the goal of issuing new regulations by s9(2)(f)(iv)
 - the **long-term changes** are those which require the AML/CFT Act to be amended. Many of these changes are straightforward, however, there are some potentially foundational changes to the AML/CFT regime that should be considered, which would require further policy work and engagement or co-design with the private sector. These changes would need to be contained in a Bill that would be introduced into the House by the end of s9(2)(f)(iv) in order to help New Zealand avoid a poor rating in our next mutual evaluation.
- 8 I am seeking Cabinet's approval of the package of short-term changes. These changes will generally address specific areas of concern, make the regime clearer for businesses, provide regulatory relief, and improve compliance with the FATF standards.
- 9 If Cabinet agrees to this package of short-term changes, I propose that the regulations be issued by s9(2)(f)(iv) and subsequently enable New Zealand to exit the enhanced follow-up assessment process.
- 10 I also recommend that Cabinet agree to officials conducting further policy work and engagement with the private sector to progress the medium-term and long-term changes according to the timeline outlined above.

Background

- 11 Money laundering is a process that criminals use to 'clean' money that has been obtained through crime. Successful money laundering allows criminals to amass illicit wealth and furthers the cycle of criminality by making funds available for reinvestment in crime. These crimes cause direct financial losses to individuals, community harm, and in some cases, loss of human life.
- 12 Dirty money in New Zealand is typically generated through drugs, fraud, and tax evasion, particularly by gangs and organised criminal groups generating large amounts of physical cash that requires laundering. Overseas criminals are also attracted to New Zealand's reputation as a safe country that is free from corruption. As such, transnational organised crime groups seek to hide funds in New Zealand or exploit New Zealand companies or trusts. This can tarnish New Zealand's reputation and, in doing so, affect our economy.
- 13 Terrorism financing refers to how funds are raised, moved, or used to facilitate planning, preparation, or commission of a terrorist act. The risk of large-scale terrorism financing in New Zealand is low, but we are vulnerable to small-scale domestic terrorism financing, including by lone actors who self-raise funds, e.g., through legal employment. The consequences of this type of terrorism being carried out in New Zealand are devastating, as was seen in the terrorist attack on the Christchurch masjidain on 15 March 2019.

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

- 14 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 AML/CFT Act disrupts terrorist activities, both in New Zealand and worldwide. The AML/CFT 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.
- 15 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 AML/CFT 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.
- 16 The regime also involves a wide range of agencies to deliver the outcomes, specifically the Ministry, the Department of Internal Affairs (**DIA**), Financial Markets Authority (**FMA**), Reserve Bank of New Zealand (**RBNZ**), New Zealand Police's Financial Intelligence Unit (**FIU**), and the New Zealand Customs Service. The Ministry is responsible for administering the AML/CFT Act and overall regime, while DIA, FMA, and RBNZ are collectively responsible for supervising reporting entities and ensuring they comply with the AML/CFT Act. The FIU is responsible for receiving, analysing, and disseminating financial intelligence to be used by other law enforcement agencies, while Customs is responsible for addressing risks of cross-border cash movements and sanctioning falsely or undeclared cash at the border.

New Zealand is a member of the Financial Action Task Force

- 17 The Financial Action Task Force (**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.
- 18 As outlined in paragraph 4 above, New Zealand's most recent mutual evaluation concluded in February 2021. The details of this evaluation and what it means for New Zealand are outlined in **Appendix 1**.
- 19 New Zealand's next mutual evaluation is also on the horizon: it is currently scheduled to begin in s9(2)(i) and the previous Minister of Justice pledged to the FATF that New Zealand would remedy its significant technical compliance deficiencies by this time. The three packages of work outlined below, and changes to the Companies Act 1993 (as being led by the Ministry of Business, Innovation and Employment) would need to be progressed in order to achieve this.

The Ministry of Justice has comprehensively reviewed the AML/CFT regime

- 20 A statutory review of the AML/CFT Act was required under section 156A to be commenced no later than 1 July 2021 and completed within 1 year by the Ministry. The Ministry has fulfilled the statutory obligation to review the operation of the provisions of the AML/CFT Act and provided me with a comprehensive report (the Report) on 30 June 2022, which is attached as **Appendix 4**. The review was focused on assessing the performance of the AML/CFT Act since 2017 as well as whether any changes to the AML/CFT Act were necessary or desirable. As such, the review assessed the extent to which the AML/CFT Act has achieved its purposes as well as the cost and maturity of the regime and its consistency with Te Tiriti o Waitangi. The findings and recommendations were based on industry feedback, agency views, and the FATF's conclusions in New Zealand's Mutual Evaluation Report.
- 21 Overall, the Ministry considered that the AML/CFT 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.
- 22 The AML/CFT Act should support a more risk-based approach in line with FATF standards. The Ministry identified some overly prescriptive requirements and that more guidance needs to be provided to businesses. For example, the AML/CFT Act requires all businesses to treat trusts as high risk and apply enhanced scrutiny (even when they may be low risk) and expects all businesses to comply to the same standard irrespective of their size or risk profile. Additionally, the schedule for updating the National Risk Assessment of Money Laundering and Terrorism Financing (**NRA**) [DEV-19-MIN-0270 refers] has not been met. The now outdated NRA undermines the strategic risk-based approach.
- 23 The Ministry also considers that the regime is not sufficiently resourced to deliver its functions. The Ministry received clear feedback from the private sector and agencies that the level of resourcing is preventing the regime from being responsive to industry needs and the changing financial crime landscape. The insufficient resource levels, along with an absence of mechanisms to ensure appropriate resource allocation across the regime, is likely contributing to the operation of the AML/CFT Act not being

sufficiently risk-based. These issues are likely further compounded by multiple agencies having to coordinate their efforts to deliver services in the regime, such as supervision.

Statutory Review Findings

- 24 As outlined above, the report identified multiple issues that prevent the regime from being the best it can be for New Zealand. The Ministry made over 200 recommendations in response to these issues, the majority of which require amendments to the AML/CFT Act. However, many of the Ministry's recommendations can be achieved through secondary legislation or through operational changes, such as issuing further guidance. Early regulatory and operational changes offer significant benefits to law enforcement outcomes, reductions in compliance costs, and would ensure that New Zealand makes the necessary improvements to its compliance with the FATF Standards to exit its enhanced follow up reporting process (see paragraph 20).
- 25 The nature of the changes that would be made in the short, medium, and long-term is as follows:
- 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. The full detail of these changes is outlined in the next section and includes relaxing various requirements that cause unnecessary challenges or uncertainty for businesses, improving information sharing, and addressing some areas of risk.
 - 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.
 - the **long-term changes** are those which require the AML/CFT 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 AML/CFT 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.
- 26 To ensure this work is appropriately coordinated across the various agencies within the regime, the Ministry will update the National AML/CFT Strategy by the end of 2022 in consultation with the other AML/CFT agencies. This was last updated in September 2021 [DEV-21-MIN-0183.01 refers] and outlines the various work that agencies have committed to completing. The National Coordination Committee, established by the AML/CFT Act, is responsible for managing the delivery of the National AML/CFT Strategy and can then have oversight of the work each agency is doing to implement the various recommendations outlined in the Report.

Short-term changes would improve the regime and FATF compliance

- 27 I recommend making several changes to the AML/CFT regime through issuing new or amending existing AML/CFT regulations (detailed in **Appendix 2**). The attached statutory review outlines the issues these changes respond to and the potential impacts of these changes.

- 28 At a high-level, this package of changes responds to the following issues:
- Gaps in regulations relating to known high-risk areas of cash, virtual assets, high-risk countries, and high-risk customers. These gaps mean that important intelligence is not being provided, small cash purchases of high-value goods are occurring through pawnbrokers, and generally that important AML/CFT obligations do not match the level of risk in these areas. These are also all areas where we do not comply with FATF standards.
 - There is limited visibility of how remittance networks operate (such as who their agents are and who is responsible for their compliance) which means there is limited assurance about whether relevant obligations are being met.
 - The FATF Standards require information on the parties to a wire transfer to be available to all financial institutions that are part of a chain of transactions and to government agencies. This enables transactions to be traced internationally and suspicious transactions to be identified. We do not currently meet these standards.
 - Agencies that observe money laundering and other harms are currently unable to share information with the AML/CFT regime if the information was supplied or obtained under legislation not listed in section 140 of the AML/CFT Act.
 - Many definitions and terminology are out of date, unclear, or not fit-for-purpose. This means the regime does not work as effectively as possible to detect and prevent money laundering and terrorism financing and places a higher cost on business to comply with their obligations.
 - Some obligations are set to a standard of risk higher than actual risk, causing unnecessary costs to business.
- 29 If these changes are made, I anticipate the regime would provide regulatory relief to businesses (such as relaxing address verification requirements). In addition, these changes would make the regime clearer and easier to comply with for businesses.
- 30 Some of the changes increase obligations on businesses, particularly in areas of risk, however, these are expected to have only minor impact on businesses and were consulted on with the private sector through the Statutory Review process.
- 31 Finally, officials anticipate that these changes would improve compliance with the FATF Standards such that New Zealand would be found to have remedied enough of its technical compliance deficiencies to exit enhanced follow up.

Medium- and long-term changes require more work, but should be progressed

- 32 As noted, the Ministry has also recommended a series of changes to be progressed over the medium-term and long-term. These changes are outlined at a high level in **Appendix 3** and include operational changes (e.g. further guidance), further regulatory changes, and amendments to the AML/CFT Act itself.
- 33 While some of the changes are straightforward, most require further work by officials before Cabinet can consider whether the changes should be made. For example, some of the changes require agencies to conduct further risk assessments to identify the best option, while others would benefit from co-design and detailed engagement with the private sector. Nevertheless, I consider that many of the changes have the

potential to significantly improve the effectiveness and efficiency of the AML/CFT regime, and result in cost savings to both government and the private sector.

- 34 I note that New Zealand's next mutual evaluation is currently scheduled to begin in s9(2)(j), and that New Zealand is expected to have addressed most, if not all, of the findings of the previous mutual evaluation by that stage. However, changes must be made in enough time for them to be implemented and improve the effectiveness of the regime, which means that changes ideally need to be made three years before the mutual evaluation begins.

s6(a)

- 36 I recommend that Cabinet agree to officials undertaking the necessary work to implement the medium- and long-term changes, subject to other governmental priorities. If Cabinet agrees, I intend to report back to Cabinet by s9(2)(f)(iv) to seek agreement to release a public consultation paper on the remaining policy issues.
- 37 I anticipate that long-term amendments would be contained in a Bill that would be introduced by s9(2)(f)(iv), with medium-term changes progressed through issuing regulations also s9(2)(f)(iv). Making the changes in this timeframe would allow enough time for the changes to be properly implemented and to avoid a poor rating in our next mutual evaluation.

Financial Implications

- 38 There are no financial implications resulting from the proposals in this paper. Any costs associated with guidance and supervision from these regulations will be met from existing departmental baselines.
- 39 However, many of the medium and long-term recommended changes in the statutory review, if implemented, would have financial implications and result in costs to the Crown. I anticipate seeking Cabinet decisions about changes that have financial implications as part of seeking agreement to legislative changes following consultation, as these decisions will be impacted by any changes to the agencies involved in the regime. This is likely to be s9(2)(f)(iv).

Legislative Implications

- 40 The proposed changes require amendments to existing AML/CFT regulatory instruments and the introduction of new regulations. s9(2)(f)(iv). This timeframe will provide sufficient time for an exposure draft to be released and submitted on by businesses, but also ensure the regulations are made in time for New Zealand's June 2024 follow up assessment by the FATF. I anticipate that most regulatory changes will come into effect s9(2)(f)(iv), but some changes could come into effect earlier or later depending on the nature of the compliance impacts that will result from the change.
- 41 Cabinet previously agreed to consolidate the existing AML/CFT regulatory instruments into one instrument [DEV-20-MIN-0040 refers]. I propose to use this process to give effect to that decision subject to Cabinet's confirmation that this is still appropriate.

Impact Analysis

Regulatory Impact Statement

- 42 A panel within the Ministry of Justice has reviewed the Regulatory Impact Statement. The panel considers that the information and analysis summarised in the Regulatory Impact Statement meets the Quality Assurance criteria. In reaching this conclusion, the panel noted that more consultation, especially with Māori, would be preferable. The panel took into account that this is the first of three tranches of work and that subsequent tranches will provide further opportunities for stakeholder engagement.

Climate Implications of Policy Assessment

- 43 The Ministry for the Environment was consulted and confirmed that the CIPA requirements do not apply to the proposals in this paper as the threshold for significance is not met.

Population Implications

- 44 The proposal to relax address verification requirements is likely to positively impact people who lack access to adequate and secure housing as well as people in rural communities. The AML/CFT Act currently requires all reporting entities to verify a person's address using reliable and independent source information, but this can be challenging for people who do not have permanent shelter. Further, as people do not commonly carry proof of address, the requirement to verify address can be challenging for people in rural communities who need to travel potentially considerable distances to access financial and non-financial services.
- 45 Similarly, the proposal to relax customer due diligence requirements for low-risk trusts is likely to have a positive impact on Māori through making it easier for Māori trusts established under Te Ture Whenua Māori Act 1993 to operate. The AML/CFT Act mandates that all trusts, including Māori trusts, are subject to enhanced levels of scrutiny. Māori trusts can have complex ownership arrangements with large numbers of beneficiaries, and the mandatory requirements for trusts can make it disproportionately difficult for Māori trusts to operate.

Human Rights

- 46 Three proposals engage the freedom of expression affirmed in section 14 of the New Zealand Bill of Rights Act 1990 (**NZBORA**) by compelling people and businesses to provide information. These are the proposals to require additional reporting regarding cross-border movements of cash, to require non-financial businesses to report information about their customer to the FIU, and to require remitters to maintain a list of their agents. However, given the money laundering and terrorism financing risks associated with cross-border movements of cash, international funds transfers, and remitters, I consider that these limitations can be reasonably justified in a free and democratic society as required by section 5 NZBORA.
- 47 The proposal to prohibit New Zealand banks from forming correspondent banking relationships with banks based in the Democratic People's Republic of Korea (**DPRK**) engages the freedom of association affirmed in section 17 NZBORA. However, this prohibition has been called for by the FATF to mitigate the significant global money laundering threat posed by the DPRK and the DPRK's consistent failure to address significant deficiencies in its AML/CFT regime. Given that correspondent relationships

with DPRK banks would expose New Zealand's economy to significant financial crime risks, I consider this limitation can also be reasonably justified in a free and democratic society.

Consultation

- 48 Officials carried out extensive consultation on the proposed regulatory changes through the statutory review. This included the release of a public discussion document [DEV-21-MIN-0183.01 refers], establishing an industry advisory group, and targeted engagement with the private sector to confirm what recommendations should be made in the Report. As such, the proposed regulatory changes are those where there is consensus between the public and private sector as to the change that should be made. The Ministry has published all non-confidential submissions it received from the public, and summaries of submissions related to each of the proposals are contained in the Report.
- 49 The following agencies were consulted throughout the statutory review: 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, Ministry for the Environment, Ministry of Social Development, Ministry for Primary Industries, Commerce Commission, Inland Revenue, Office of the Privacy Commissioner, and the Real Estate Agents Authority.
- 50 Given the technical nature of some of the changes, I recommend releasing an exposure draft of the regulations for public consultation once drafted by the Parliamentary Counsel Office. This will ensure that the businesses impacted by the changes are able to advise of any unforeseen consequences or implementation challenges in advance of the regulations being issued.
- 51 The Privacy Commissioner acknowledges the importance of having a robust AML/CFT regime and making progress on adopting the FATF recommendations. By their nature, AML/CFT regimes involve public and private agencies collecting, using, storing, and disclosing vast amounts of information, including personal information. Therefore, officials must be mindful of coexisting privacy expectations, for example, the importance of the relevant agencies taking and further processing only what they need and that personal information is handled and kept securely at every point in the information chain. The Commissioner expects that the relevant agencies will ensure that personal privacy is sufficiently considered in the further design and implementation of the regime, and will consult with his Office as appropriate.

Communications

- 52 I am under a statutory obligation to table the Report in the House of Representatives as soon as practicable after it had been provided to me by the Ministry. I propose to do this following Cabinet's decision on the proposals in this paper. I will also issue a press release announcing the release of the Report and Cabinet's decisions at this time.

Proactive Release

- 53 I propose to proactively release this paper and supporting material for the statutory review on the Ministry's website, subject to redactions as appropriate and consistent with the Official Information Act 1982.

Recommendations

The Minister of Justice recommends that the Committee:

- 1 **Note** that the Ministry of Justice has concluded its statutory review of the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009 and broadly found that the Act provides a sound regulatory regime that provides the basis to detect and deter money laundering and terrorism financing, but that there are some issues that prevent the regime from being the best it can be for New Zealand.

Short-term regulatory changes

- 2 **Agree** to the short-term regulatory changes outlined in **Appendix 2**.
- 3 **Confirm** Cabinet's previous decision to consolidate existing AML/CFT regulatory instruments into one regulatory instrument [DEV-20-MIN-0040 refers].
- 4 **Invite** the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office to give effect to recommendations 2 and 3 above.
- 5 **Agree** that the Ministry of Justice may publicly consult with an exposure draft of the regulations.
- 6 **Invite** the Minister of Justice to report back to the Cabinet Legislation Committee no later than s9(2)(f)(iv) with regulations giving effect to recommendation 2, so that the amendment regulations come into force no later than s9(2)(f)(iv) and position New Zealand to exit Financial Action Task Force (FATF) enhanced follow up.

Medium- and long-term changes

- 7 **Note** that New Zealand's next FATF Mutual Evaluation Report is currently scheduled to begin in s9(2)(i) and would require any new laws to be passed by s9(2)(f)(iv) to be influential in this review.
- 8 **Agree** that, subject to priorities, officials should continue working on the medium- and long-term changes outlined in **Appendix 3** with a view to seeking Cabinet's agreement for further regulatory and legislative changes by s9(2)(f)(iv).
- 9 **Note** that the Ministry of Justice will update the AML/CFT National Strategy by the end of 2022 to coordinate the various pieces of work required by agencies to progress the medium- and long-term changes.

Public announcement

- 10 **Note** that the Minister of Justice intends to announce any short-term changes agreed upon by Cabinet, and table the Report of the Statutory Review in the House in accordance with their statutory obligations.

Authorised for lodgement

Hon Kiri Allan

Minister of Justice

Appendix 1: Findings from the mutual evaluation and statutory review of the AML/CFT Act

FATF Mutual Evaluation

The evaluation analysed compliance with various New Zealand laws and regulations. The evaluation also considered the effectiveness of the wider system to combat money laundering and terrorism financing. This includes the AML/CFT Act regulatory regime, relevant law enforcement, and our national coordination. Overall, the evaluation found that:

“New Zealand has implemented an AML/CFT system that is effective in many respects. Particularly strong results are being achieved in relation to the confiscation of proceeds of crime. New Zealand also has a good understanding of its money laundering and terrorist financing risks, uses financial intelligence and investigates and prosecutes money laundering and terrorist financing activity effectively, and co-operates with its international partners well. However, major improvements are needed to strengthen [the effectiveness of] 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.

In terms of technical compliance, New Zealand fundamentally overhauled its AML/CFT regime with the introduction of the AML/CFT Act 2009. This was extended in 2018 to cover all DNFBP [Designated Non-Financial Businesses and Professions, such as the legal and accountancy professions] sectors. The [AML/CFT] Act also covers most Virtual Asset Service Providers as a type of financial institution. While this is significant progress, further work is needed to fully embed AML/CFT measures among DNFBPs, and a number of preventive measures need reform to meet the FATF Standards. New Zealand also needs to improve its technical framework in relation to Targeted Financial Sanctions, beneficial ownership of legal persons and arrangements and the powers and responsibilities of supervisors.”

Importantly, areas where New Zealand was identified by the FATF as having strong results stem from non-AML/CFT legislation (such as the Criminal Proceeds (Recovery) Act 2009). Areas identified as needing major improvement almost all stem from the AML/CFT Act.

New Zealand has been placed into an enhanced follow-up assessment process due to the number of significant technical deficiencies in the AML/CFT Act, the Companies Act 1993 and the previous Trusts Act. This process requires regular reporting back on progress towards addressing identified weaknesses in the regime. Follow-up reports are required every year until New Zealand makes sufficient progress in improving compliance with the FATF's standards.

The first follow-up report occurred in June 2022. As a result of the Trust Act 2019 coming into effect, New Zealand was able to achieve a re-rating of one of the identified technical deficiencies to being “largely compliant” but remained in enhanced follow up due to the remaining areas identified above where New Zealand does not comply with the FATF's standards.

Statutory Review

At a high level, the statutory review of the AML/CFT Act found that:

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- The AML/CFT Act is not as effective as it could be due to the lack of an up-to-date national assessment of risks and a number of important gaps in the AML/CFT Act's measures to deter money laundering and terrorism financing. Furthermore, the AML/CFT Act's ability to effectively enable detection and deterrence of money laundering is heavily impacted by the low level of resourcing for the regime as well as issues in how easy it is for businesses to submit reports to the FIU.
- There are multiple issues across the fundamental components of the regime which prevent the regime from being risk-based and actively preventing money laundering and terrorist financing. These components include the purposes of the AML/CFT Act, the approach the regime should take to regulation, and how the various agencies are structured and operate.
- The regime needs calibration to use a more risk-based approach to reduce costs for industry. For example, customer due diligence (**CDD**) obligations currently take an overly prescriptive 'one-size-fits-all' approach. A more risk-based approach could reduce the overall effort to conduct CDD and thus ease compliance costs. Some obligations are unnecessary in various low-risk sectors or products, at a cost to businesses.
- At the same time, the AML/CFT Act creates some areas of potential ambiguity where it is not explicit about obligations in some high-risk circumstances or has not been updated to manage some risks. The AML/CFT Act should explicitly include some specific high-risk activities in reporting and due diligence obligations, including where there is an implied obligation. The AML/CFT Act should also explicitly include some businesses that are currently either not covered in all circumstances or covered by other legislation, specifically some virtual asset services and pawn brokers.
- Multiple definitions and terminology for existing activities or services are not fit-for-purpose, especially given technological advancements.
- Businesses which provide captured activities to or in New Zealand do not have the same obligations as businesses based in New Zealand due to the current territorial scope of the AML/CFT Act.
- There are no specific AML/CFT-specific registration or licensing frameworks; instead, the regime relies on other sector-specific frameworks, such as the Financial Services Provider Register. This approach was criticised by the FATF and results in some sectors not having any registration requirements, other sectors not being subject to sufficient 'fit and proper' or 'market entry' checks, and some high-risk sectors not being licensed when they arguably should be.
- AML/CFT penalties, that can be applied against businesses which fail to comply with the AML/CFT Act, are not as effective, proportionate, and dissuasive as they should be.
- Improvements need to be made to the AML/CFT Act's financial intelligence framework to improve its effectiveness, including the position of the Financial Intelligence Unit and a greater ability to share information within the regime. Suspicious activity reporting, prescribed transaction reporting, and border cash reporting all need enhancing.

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Appendix 2: Short-Term Regulatory Changes

Thematic area	Recommendation	Statutory Review Report paras
Addressing areas of risk – cash	1. Amend the definition of “stored value instruments” in clause 15 of AML/CFT (Definitions) Regulations 2011 and clause 15 of the AML/CFT (Exemptions) Regulations 2011 to be technology neutral to capture electronic or digital forms of stored value.	548-551
	2. Amend the exemption to no longer apply to pawnbroker activities that meet the definition of high-value dealer and clarify that pawning is not captured under the Act as providing a loan.	518-522
	3. Require people to submit border cash reports when moving stored value instruments and casino chips into or out of New Zealand.	939-946
	4. Require border cash reports to be submitted 72 hours before the cash arrives in or leaves New Zealand for unaccompanied cash movements.	947-949
	5. Exempt certain vessels, such as cruise ships, from border cash reporting requirements for cash being carried for vessel-related purposes that does not leave the vessel.	953-958
	6. Exempt persons from being required to submit a border cash report if they have received an accompanied cash movement to ensure that BCRs are only required in respect of receiving unaccompanied cash.	953-958
Addressing areas of risk – high-risk countries	7. Prohibit businesses from establishing or maintaining correspondent relationships with Democratic People’s Republic of Korea banks, in line with the Call for Action issued by the Financial Action Task Force.	881-885
Addressing areas of risk – high-risk customers	8. Prescribe that customer due diligence must be conducted if a person seeks to conduct an activity or transaction through a reporting entity that is (a) outside a business relationship, (b) not an occasional transaction or activity, and (c) where there may be grounds to report a suspicious activity as per section 39A of the Act	705-707
	9. Prescribe that reporting entities must obtain, as part of customer due diligence, information about legal form and proof of existence, ownership and control structure, and powers that bind and regulate, and verify this information according to the level of risk.	690-692
	10. Prescribe that reporting entities must differentiate in their AML/CFT compliance programme when information must be obtained and verified regarding source of wealth or source of funds, or both, as is required to mitigate the risks.	693-700

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Thematic area	Recommendation	Statutory Review Report paras
	11. Prescribe that reporting entities must implement any additional enhanced customer due diligence measures at the start and for the duration of a business relationship as are required to mitigate the risks and provide a list of potential additional measures the reporting entity may apply.	693-700
	12. Declare that simplified CDD is not appropriate where there may be grounds to report a suspicious activity as per section 39A of the AML/CFT Act.	738-740
Addressing areas of risk – <i>virtual assets</i>	13. Define virtual asset service providers as a type of reporting entity using the definition provided by the Financial Action Task Force.	490-494
	14. Prescribe that all virtual asset transactions at or above NZD 1,000 are occasional transactions, including virtual asset to virtual asset transfers.	495-498
	15. Prescribe virtual asset transfers as international wire transfers unless the entity is satisfied otherwise. Appropriate identity and verification requirements should also be prescribed that reflect the nature and risk of the underlying transactions, such as differentiating between hosted and unhosted wallets.	499-503
Clarifying definitions and exemptions	16. Define that a reporting entity that undertakes captured activities other than relating to its category of reporting entity must comply with the Act.	535-536
	17. Exclude from the definition of “trust and company service provider” persons whose only activity is “managing client funds (other than sums paid as fees for professional services), accounts, securities, or other assets” if that person is already captured as a financial institution.	537-538
	18. Specify that “sums paid as fees for professional services” in the definition of “managing client funds” only applies to the reporting entity’s own professional fees.	539-541
	19. Clarify the scope of “engaging in or giving instructions on behalf of a customer to another person” and the extent to which it captures processing or preparing invoices and applies to real estate transactions.	542-545
	20. Limit the exclusion of cheque deposits in the definition of “occasional transaction” only to deposits made at a bank, non-bank deposit taker, or similar institution in line with the original policy intent.	426-552
	21. Define “legal arrangement” to include unincorporated societies and any other types of legal arrangements to ensure that forming or operating those arrangements attracts AML/CFT obligations.	426-552
	22. Amend clause 15 of the AML/CFT (Definitions) Regulations 2011 and clause 15 of the AML/CFT (Exemptions) Regulations 2011 to clarify the extent to which they apply to the bulk-selling of stored	426-552

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Thematic area	Recommendation	Statutory Review Report paras
	value instruments to a corporate customer, in circumstances in which each stored value instrument complies with the relevant threshold and is intended for a different recipient.	
	23. Clarify that the definition of “debt collection services” in clause 22 of the AML/CFT (Exemptions) Regulations 2011 only relates to the collection of unpaid debt rather than the collection of any funds owed by one person to another.	581-582
	24. Clarify that the exemption provided by clause 9 of the AML/CFT (Exemptions) Regulations 2011 applies to hotel providers which only undertake currency exchange transactions below NZD 1000.	581-582
	25. Amend the definition of nominee director in clause 11 of the AML/CFT (Requirements and Compliance) Regulations 2011 to exclude instances where the director is required or accustomed to follow the directions of a holding company or appointing shareholder.	738-740
	26. Revoke clause 21 of the AML/CFT (Definitions) Regulations 2011 and replace with a more tailored exemption for online marketplaces following a risk assessment of the relevant activities.	569-572
	27. Clarify the scope of clause 18A of the AML/CFT (Definitions) Regulations 2011, by limiting the application of the exclusion to financial institutions only.	575-576
Clarifying obligations – customer due diligence	28. Require reporting entities to obtain the identity of the settlor or protector of a trust, nominees in relation legal persons, and other equivalent positions for other types of legal arrangements to ensure reporting entities are taking reasonable steps to verify the beneficial ownership of these customers.	679-689
	29. Clarify that the definition of beneficial owner includes a person with ultimate ownership or control, and only applies to a “person on whose behalf a transaction is conducted” that meets this threshold, whether directly or indirectly.	679-689
	30. Revoke clause 24 of the AML/CFT (Exemptions) Regulations 2011 in relation to trust accounts.	679-689
	31. Explicitly require that reporting entities risk-rate new customers as well as require reporting entities to consider and update risk ratings as part of ongoing customer due diligence and account monitoring over the course of a business relationship.	717-719
	32. Clarify that the requirement of section 31(4)(a) and (b) to review a customer’s account activity, transaction behaviour and customer due diligence information (or for an existing customer, other information held) is according to the level of risk involved.	720-725
	33. Require reporting entities to, according to the level of risk involved and as part of ongoing customer due diligence, update (for a post-Act customer) or obtain (for an existing customer) customer due diligence information if required.	720-725

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Thematic area	Recommendation	Statutory Review Report paras
	34. Require reporting entities to regulatory review any customer's activities described in the definition of designated non-financial business or profession in section 5(1) of the Act where applicable.	726-727
	35. Clarify the application of AML/CFT obligations in circumstances where a designated non-financial business or profession has a repeat client but does not have ongoing instructions, activities, or transactions occurring within a business relationship.	738-739
	36. Clarify the point at which customer due diligence is required by a designated non-financial business or profession if a non-captured activity transitions into a captured activity.	738-739
	37. Prescribe that when establishing a facility for a trust, the relevant trust is the customer (and not the trustee(s) who may be the facility holder).	729-732
	38. Prescribe appropriate customer due diligence obligations for the formation of a legal person or legal arrangement. This should include a requirement to identify and verify the identities of the beneficial owners of the (to be formed) legal person or arrangement, as well as any person acting on their behalf.	729-732
	39. Prescribe the customer as the relevant legal person or arrangement when acting or arranging for someone to act as a nominee director, nominee shareholder or a trustee.	729-732
	40. Prescribe that the references to countries with insufficient AML/CFT systems or measures in place in sections 22(1)(a)(ii), 22(1)(b)(ii), and 57(1)(h) refers exclusively to those countries identified by the Financial Action Task Force as being high-risk jurisdictions subject to a Call to Action.	877-880
	41. Clarify that a conjunction agent (acting for a real estate agent whose client is a vendor) does not have any direct obligations to conduct customer due diligence on the vendor, but that suspicious activity reporting obligations continue to apply.	738-740
	42. Amend clause 12 of the AML/CFT (Requirements and Compliance) Regulations 2011 to state "a customer ...that is b) a limited partnership or overseas limited partnership with a nominee general partner".	738-740
Clarifying obligations – record keeping	43. Require reporting entities to keep records of prescribed transaction reports, account files, business correspondence, and written findings for five years.	746-748
Clarifying obligations – reliance	44. Prescribe that the relying party must consider the level of country risk if the relied-on party is not in New Zealand when engaging in section 33(2)(e) reliance.	834-841
	45. Prescribe that the relying party to take steps to satisfy itself when engaging in section 33(2)(e) reliance that the relied-on party has record keeping measures in place and will make verification information available as soon as practicable on request, but within five working days.	834-841

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Thematic area	Recommendation	Statutory Review Report paras
	46. Prescribe that the relevant AML/CFT supervisor is required to approve formation of a designated business group.	853-861
	47. Prescribe that an overseas member of a designated business group must conduct customer due diligence to level required by the AML/CFT Act.	853-862
	48. Clarify that “verification information” (for the purposes of these sections 32 to 34 of the AML/CFT Act) means a copy of the records used by the relied-on party to verify customer identity.	853-862
Clarifying obligations – use of new technologies	49. Require businesses to assess the money laundering and terrorist financing risks associated with new products and new business practices. The risk assessment should consider new delivery mechanisms, as well as the use of new or developing technologies for new and existing products. The risk assessment must be conducted before the technology or product is used.	806-809
Improving transparency of payments	50. Prescribe that all forms of money or value transfer service systems, including informal remittance, are subject to wire transfer provisions.	810-814
	51. Require ordering institutions to obtain and transmit name and account or transaction numbers for an originator and beneficiary of an international wire transfer below NZD 1,000 and specify that this information does not need to be verified unless there may be grounds to report a suspicious activity report.	815-818
	52. Issue regulations to require an ordering institution to keep records of then beneficiary account number or unique transaction numbers for five years.	819-823
	53. Require intermediary institutions to include in their compliance programme the reasonable steps they will take to identify wire transfers lacking required information and the risk-based policies and procedures they will apply when a wire transfer lacking the required information is identified.	824-829
	54. Require intermediary institutions to keep records for five years where technological limitations prevent the relevant information about the parties from being transmitted with a related domestic wire transfer.	824-829
	55. Require beneficiary institutions to specify in their compliance programme the reasonable steps they will take to identify international wire transfers lacking required originator and beneficiary information. These measures should be risk-based and can include post-event or real time monitoring where feasible and appropriate.	830-833
	56. Prescribe or exempt specific transactions (e.g., MT202s and certain currency exchange transactions) from requiring prescribed transaction reporting, including requiring reports when a remittance provider deposits cash into a beneficiary’s bank account to settle an inbound remittance.	918-921

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Thematic area	Recommendation	Statutory Review Report paras
	57. Require designated non-financial businesses or professions to submit a prescribed transaction report when undertaking or receiving international wire transfers through another reporting entity on behalf of an underlying client. The report should include relevant information it holds as well as information necessary to enable the FIU to match complementary prescribed transaction reports submitted by other businesses.	922-926
	58. Declare that a designated non-financial business or profession is not the ordering or beneficiary institution of a wire transfer when undertaking or receiving international wire transfers through another reporting entity on behalf of an underlying client.	922-926
Information sharing	59. Include within scope of section 140 the following Acts: Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, Animal Welfare Act 1999, Biosecurity Act 1993, Child Support Act 1991, Commerce Act 1986, Corrections Act 2004, Defence Act 1990, Environment Act 1986, Fisheries Act 1996, Food Act 2014, Forests Act 1949, Gaming Duties Act 1971, Immigration Act 2009, Policing Act 2008, Student Loans Scheme Act 2011, Trusts Act 2019 and Wine Act 2003.	454-459
Providing regulatory relief	60. Exempt companies that act as a trustee or nominee from AML/CFT obligations where the company is controlled by and delivering services on behalf of a parent reporting entity in New Zealand that has full AML/CFT responsibilities for activities of the nominee or trustee company subject to further engagement with the sector to determine how control should be defined and the appropriate amount of oversight that the parent reporting entity should maintain over the companies.	583-586
	61. Exempt Crown-Owned Enterprises, Crown agents and other relevant Crown entities from AML/CFT obligations where they engage in low-risk activities (e.g. where the Crown is the sole customer of the activity, or where the Crown entity uses public funds to provide loans to the public with appropriate conditions necessary to manage any residual risks).	587-590
	62. Exempt registered charities from AML/CFT obligations providing loans to customers below where the maximum amount that can be loaned to a customer is no more than NZD 6,000. This exemption should include conditions which limit the loans to one per customer and restrict the ability to repay loans quickly and in cash.	591-594
	63. 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 and terrorism financing.	581
	64. Exempt all reporting entities from conducting address verification for all customers, beneficial owners and persons acting on behalf of a customer other than when enhanced CDD is required and instead require businesses to verify, according to the level of risk, that an address is genuine.	672-676

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Thematic area	Recommendation	Statutory Review Report paras
	65. Declare that reporting entities can use reliable (but not independent) verification data, documents, or information in circumstances where a reliable and independent source of information does not exist. This does not apply to biographical information or information regarding source of wealth or source of funds.	677-678
	66. Prescribe the process that reporting entities must follow when conducting enhanced customer due diligence on trusts, including identifying types of trusts that are suitably low risk and other factors to consider when assessing the level of risk. Where trusts are suitably low-risk, exempt reporting entities from the requirement to verify relevant information about the source of wealth or source of funds.	701-704
	67. Enable a senior manager of a customer (that has been identified and verified in accordance with sections 19-20) to delegate authority to employees to act on behalf of the customer by electronic means with appropriate conditions and requirements to manage any residual risks.	714-716
	68. Extend the timeframe for law firms to submit a suspicious activity report to allow enough time for law firms to determine whether any information within a SAR is privileged.	905-909
	69. Extend the timeframe for submitting PTRs from 10 to 20 days.	936-938
	70. Expand the exemption in clause 24AC of the AML/CFT (Exemptions) Regulations 2011 to include reporting entities subject to an order issued under section 252 of the Customs and Excise Act 2018 as well as in respect of any suspicious associates who are identified in the process of complying with the relevant order.	581-582
	71. For a customer that is a vendor, amend clause 24A of the AML/CFT (Definitions) Regulations 2011 to require customer due diligence to be conducted prior to listing the property, or prior to the sale and purchase agreement being signed (whichever is earlier).	738-740
	72. Issue regulations to enable members of a designated business groups to share a compliance officer.	853-862
Remitters	73. Require reporting entities to include in their compliance programme relevant policies, procedures, and controls for the functions undertaken by an agent on its behalf, training and vetting of agents, and a requirement to maintain a list of its agents.	628-632
	74. Exempt master agents from being a reporting entity in relation to training, monitoring and other assurance activities undertaken for a network of sub-agents (on behalf of a remittance provider) to clarify that in these circumstances, the master agent acts on behalf of the principal remittance provider.	798-802

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Thematic area	Recommendation	Statutory Review Report paras
	75. Exempt a remitter, its master agent and if necessary, any sub-agent, from tipping off restrictions under section 46, to ensure remitters, master agents, and sub-agents can share information about suspicious activities between themselves when necessary for the purposes of AML/CFT compliance.	798-802
	76. Require remitters who control both the ordering and beneficiary end of a wire transfer to consider information from both sides of the transfer to determine whether a suspicious activity report is required. If so, the report should be submitted to the Financial Intelligence Unit in any countries affected by the suspicious transfer.	803-805
	77. Amend clause 6A AML/CFT (Exemptions) Regulation 2011 to exclude remitters or money or value transfer service businesses from the scope of the exemption.	927-928
	78. Clarify that the originator or beneficiary of a wire transfer is the underlying customer, not the remittance provider's agent.	819-823
Removing redundant regulations	79. Revoke clause 10 of the AML/CFT (Exemptions) Regulations 2011 which provides a limited exemption for special remittance cards, subject to final confirmation that it is no longer in use.	573-574
	80. Revoke clause 8 of the AML/CFT (Exemptions) Regulations 2011 applying to a transaction that occurs outside of a business relationship but is not an occasional transaction.	746-747

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Appendix 3: Medium- and Long-Term Changes

Category	Explanation
Address verification	Long term: incorporate short-term regulatory changes into the Act
Agency powers	Long term: make minor changes to the powers of AML/CFT supervisors to conduct inspections; provide additional powers for the FIU to obtain financial intelligence and freeze transactions, subject to further engagement with the Privacy Commissioner
Agents	Long term: provide definitions and more explicit requirements for how and when agents can be used to fulfil AML/CFT obligations
Audits	Medium term: develop a code of practice that provides explicit provisions for what independent audit must contain to comply with the AML/CFT Act Long term: create auditor standards or require registration, licensing, or accreditation if necessary to improve the quality of audits
Border Cash Reporting	Long term: define imports and exports, provide further investigative powers to Customs, and increase the penalties for providing no or false border cash declarations
Beneficial ownership	Long term: amend the definition of beneficial ownership to improve clarity and consistency
Capture points	Medium term: review whether fintech providers offering open banking solutions and commerce or marketplace operators should be captured as reporting entities, amend and revoke various exemptions, issue further regulatory exemptions to cover various low-risk situations Long term: amend various definitions of captured activities to provide further clarity and incorporate short-term regulatory changes in the Act
Customer Due Diligence	Medium term: look at reducing duplication of CDD across the regime, including through incorporating the Digital Identity Trust Services Framework, repeal and replace the Identity Verification Code of Practice, clarify various obligations, increase obligations in high-risk situations, and look at simplifying obligations in low-risk situations Long term: incorporate short and medium-term regulatory changes in the Act, review whether enhanced CDD for trusts is still required, and clarify various requirements
Correspondent banking	Long term: amend correspondent banking requirements to improve clarity and ensure they apply to all financial institutions
Countermeasures	Long term: amend the countermeasure making power to ensure it is sufficiently broad and can apply to specific transnational organised crime groups if necessary
Designated Business Groups	Long term: potentially repeal and replace designated business group requirements with mandatory group-level compliance obligations
Guidance	Medium term: issue further guidance on a variety of topics, such as using beneficial ownership registers, keeping records, conducting risk assessments, applying a risk-based approach, using technology, and understanding the territorial scope of the Act.
High Value Dealers	Medium term: assess the risks of buying and selling high value goods other than through cash transactions Long term: overhaul the requirements for high value dealers, including increasing obligations for dealers and expanding the list of high-value goods
Information sharing	Medium term: approve a FIU direct data access arrangement with agencies that have a demonstrable need to access FIU information Long term: clarify various information sharing provisions in the AML/CFT Act
Institutional arrangements	Medium term: formalise and consolidate existing advisory group arrangements into a single representative body, consider how the National Coordination Committee could operate to resolve issues of inconsistency Long term: potentially change which agencies are involved in delivering the Act and how they are structured and operate, increase the amount of funding for the regime and potentially change how the regime is resourced.

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Offences and penalties	Long term: expand and enhance the offence and penalty regime to ensure that effective, proportionate, and dissuasive penalties can be applied in all instances, irrespective of the size of the business or how it is structured
Politically Exposed Persons	Long term: enhance the requirements with respect to foreign politically exposed persons to ensure New Zealand businesses are appropriately managing the risks, include domestic politically exposed persons within the AML/CFT Act with appropriate risk management obligations
Prevention	Medium term: strengthen existing prevention-focused obligations and introduce any further appropriate obligations through regulations Long term: introduce further prevention-focused obligations through amending the Act, such as additional prohibitions on using cash
Privacy	Long term: include further privacy protections in the Act, such as limiting the length of time the FIU can retain various types of financial intelligence
Prescribed transaction reporting	Medium term: include or exclude additional types of transactions as requiring prescribed transaction reports, amend the reporting thresholds, review and adjust the reporting requirements
Purpose of the Act	Long term: amend the purpose of the Act to support the risk-based approach, implementation of targeted financial sanctions, combatting proliferation financing, and clarify the Act's intended outcomes
Risk-based approach	Medium term: update various risk assessments to provide more relevant information, provide further guidance and tools to assist businesses, create a centralised source of information and resources for businesses, develop a framework for sharing dynamic and/or live risk information, and identify further opportunities for regulatory exemptions or simplifying obligations Long term: allow for the National Coordination Committee to request the production of risk assessments, amend and clarify the risk assessment requirements in the Act
Record keeping	Long term: reconcile the Act's record keeping obligations with other legislation and clarify the timeframe within which businesses are required to comply with requests to produce records
Registration & licencing	Long term: establish a registration regime that ensures that all reporting entities are required to register, establish a licensing regime for high-risk sectors that are not licensed under other legislation
Reliance	Long term: review reliance settings to improve efficiencies, including whether the approved entity provisions are viable
Suspicious Activity Reports	Medium term: review goAML's functionality to determine whether it can be made more user friendly, adjust settings for reporting for some sectors Long term: review the legislative reporting obligations to ensure they appropriately facilitate the provision of accurate and high-quality intelligence, expand circumstances in which reports can be shared
Secondary legislation	Medium term: progress operational improvements to the Ministerial exemptions process Long term: adjust secondary legislation making powers to ensure legislation can be appropriately issued and efficiently administered in all circumstances
Territorial scope	Long term: define the Act's territorial scope
Targeted Financial Sanctions	Long term: impose additional obligations on businesses to ensure they are effectively implementing targeted financial sanctions without delay
Wire transfers	Long term: repeal and replace wire transfer terminology and ensure businesses cannot execute incomplete wire transfers

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Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Implementing the Recommendations of the AML/CFT Statutory Review

Portfolio Justice

On 26 October 2022, the Cabinet Economic Development Committee:

Background

1 **noted** that:

- 1.1 the Ministry of Justice has concluded its statutory review of the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009;
- 1.2 broadly, the review found that the Act provides a sound regulatory regime that provides the basis to detect and deter money laundering and terrorism financing, but that there are some issues that prevent the regime from being the best it can be for New Zealand;

Short-term regulatory changes

- 2 **agreed** to the short-term regulatory changes outlined in Appendix 2 to the paper under DEV-22-SUB-0244;
- 3 **confirmed** Cabinet's previous decision to consolidate existing AML/CFT regulatory instruments into one regulatory instrument [DEV-20-MIN-0040];
- 4 **invited** the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office to give effect to paragraphs 2 and 3 above;
- 5 **agreed** that the Ministry of Justice may publicly consult with an exposure draft of the regulations;
- 6 **invited** the Minister of Justice to report back to the Cabinet Legislation Committee no later than s9(2)(f)(iv) with regulations giving effect to the above paragraphs, s9(2)(f)(iv)

Medium- and long-term changes

- 7 **noted** that s9(2)(j) and would require any new laws to be passed by s9(2)(j) to be influential in this review;

- 8 **agreed** that, subject to priorities, officials should continue working on the medium- and long-term changes outlined in Appendix 3 to the paper under DEV-22-SUB-0244, with a view to seeking Cabinet's agreement for further regulatory and legislative changes ^{s9(2)} _{(f)(iv)} ;
- 9 **noted** that the Ministry of Justice will update the AML/CFT National Strategy by the end of 2022 to coordinate the various pieces of work required by agencies to progress the proposed medium- and long-term changes;

General

- 10 **noted** that the Minister of Justice intends to announce any short-term changes agreed upon by Cabinet, and to table the Report of the Statutory Review in the House in accordance with their statutory obligations.

Janine Harvey
Committee Secretary

Present:

Hon David Parker (Chair)
Hon Damien O'Connor
Hon Stuart Nash
Hon Willie Jackson
Hon Michael Wood
Hon Kiri Allan
Hon Priyanca Radhakrishnan
Hon Meka Whaitiri
Hon Phil Twyford
Hon Kieran McAnulty
Rino Tirikatene MP
Dr Deborah Russell MP

Officials present from:

Office of the Prime Minister
Officials Committee for ERS