



Strategi Institute

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*A manual for
real estate agents*



STRATEGI INSTITUTE

**ANTI-MONEY LAUNDERING/COUNTERING
FINANCING OF TERRORISM**

Version 5 (June 2024)

About this manual

Welcome to the Strategi Institute AML/CFT Manual. This manual has all the material you will need to enable you to meet your 'reporting entity' obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (hereafter referred to as the Act). In particular, the manual will provide you with the key information, processes and templates to undertake your mandatory risk assessment and develop your tailored AML/CFT policies and procedures.

On 10 August 2017, the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017 was passed to bring real estate agents into its fold from 1 January 2019 (if they provide certain specified services, set out in the definition of *designated non-financial business or profession (DNFBP)* in section 5(1) of the Act, in the ordinary course of business). There was no transition period so real estate agents with obligations under the Act have been required to comply from 1 January 2019.

This manual is designed primarily for small- to medium-sized real estate agencies with 2-20 staff, when they conduct captured activities which fall within the scope of the Act. The manual can be used by larger real estate agencies, but the methodologies suggested here may be too simplistic. Larger real estate agencies may have dedicated in-house compliance staff and may require sophisticated systems and processes to be put in place to handle specific ML/FT (money laundering/ financing of terrorism) risks they are likely to face. Our sister company, Strategi Limited, will be happy to provide tailored advice to these larger real estate agencies.

This manual is to be used as a guide only and suggests the level of detail that an AML/CFT risk assessment and AML/CFT programme should contain in order to be compliant with the current regulation, legislation, and the Code of Professional Conduct and Client Care. Do not automatically accept the suggested template wording that is provided. Your policies and procedures MUST be relevant to your agency and the risks it faces. Accordingly, there will be sections of this manual that can be deleted or modified to suit your requirements.

In 2013 the Act was introduced in New Zealand, and banks, casinos and a range of financial service providers (collectively known as Phase 1 reporting entities) came under its grip. Strategi Group (comprising Strategi Limited, and Strategi Institute Limited) was a key player in assisting these reporting entities to get up to speed quickly with the then new AML/CFT compliance regime. Using that accumulated experience, and expertise, Strategi Institute can provide you with ongoing AML/CFT assistance via education programmes, while Strategi Limited can provide you with your three-yearly AML/CFT audit.

In preparing this manual, Strategi Institute referred to the Act and relevant regulations, the relevant joint supervisory guidelines published by the AML/CFT supervisors, Codes of Practice, National Risk Assessment 2019 (FIU), the Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019 (by the Department of Internal Affairs (DIA)), the AML/CFT Risk Assessment and Programme: Prompts and Notes for DIA reporting entities – December 2017, User Guide: Annual AML/CFT Report by Designated Non-Financial Businesses and Professions – March 2018 (published by the DIA), the Amended Identity Verification Code of Practice 2013, the Identity Verification Code of Practice – Explanatory Note updated in July 2021, the Guideline: Real Estate Agents published, in August 2018, by the DIA including the new regulation for nominee directors and nominee general partners July 21, the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023; Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023, guidelines updated and issued by the AML/CFT supervisors in April and May 2024 that include ‘Beneficial Ownership Guideline’, Enhanced Customer Due Diligence Guideline’, ‘Customer Due Diligence: Companies Guideline’, Customer Due Diligence: Limited Partnerships Guideline’ and ‘Customer Due Diligence: Trusts Guideline’.

Please note:

1. The word *customer* is used in some instances, and the word *client* in others. This is because the Act uses the word customer when describing some matters such as customer due diligence, whereas the real estate profession (and the Real Estate Agents Act 2008) uses the word client. We have attempted to map this usage in the manual. As a result, when the context is the Act, it refers to *customer*. When the context is other than the Act, *client* is used.
2. Real estate agents fall under the *designated non-financial business practice* category as provided by s 5(a) of the Act. To maintain consistency with the Act and the Real Estate Agents Act 2008, this manual will refer to the ‘agency’ rather than ‘business’, ‘company’, or ‘firm’.

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Document control

Serial	Version number/details of amendment	Author	Date
1	New document version 1	D Greenslade	1 September 2018
2	<ul style="list-style-type: none"> a. Updated Financing of Terrorism section to include expanded description. b. Updated sector risk assessment (SRA) National Money Laundering and Terrorism Financing Risk Assessment, released by the Financial Intelligence Unit (FIU) of NZ Police in, November 2019. c. Addition of Wire Transfers section. d. Updated Corruptions Perception Index to reflect 2019 results. e. Amended risk assessment in relation to tax returns. Addition of Annual Report section in AML/CFT Programme template.	V Ciurlionis	1 October 2020
3	<ul style="list-style-type: none"> a. Updated all references to ‘two year’ audit under s59 of AML/CFT Act, to ‘three year’. b. Amended CDD and enhanced CDD references throughout document to reflect need to conduct CDD and enhanced CDD on nominee directors, shareholders and general partners. c. Updated to reflect changes introduced by AML/CFT (Definitions) Amendment Regulations 2021 d. Add definition of designated business group in section 1.11 	J Ganly	21 September 2021
4	Updated all references to the most up to date documents released by authors.	R McGee	
5	Updated to reflect applicable changes in stages 1 and 2 introduced by <ul style="list-style-type: none"> • Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023 • Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023 Considered the following guidelines issued by the AML/CFT supervisors in April 2024: <ul style="list-style-type: none"> • Updated ‘Beneficial Ownership Guideline’ 	A Alvarado/ D Greenslade	6 June 2024

	<ul style="list-style-type: none"> • Updated Enhanced Customer Due Diligence Guideline' • Updated 'Customer Due Diligence: Companies Guideline' • Customer Due Diligence: Limited Partnerships Guideline' <p>Considered guideline issued in May 2024: Updated 'Customer Due Diligence: Trusts Guideline'</p>		
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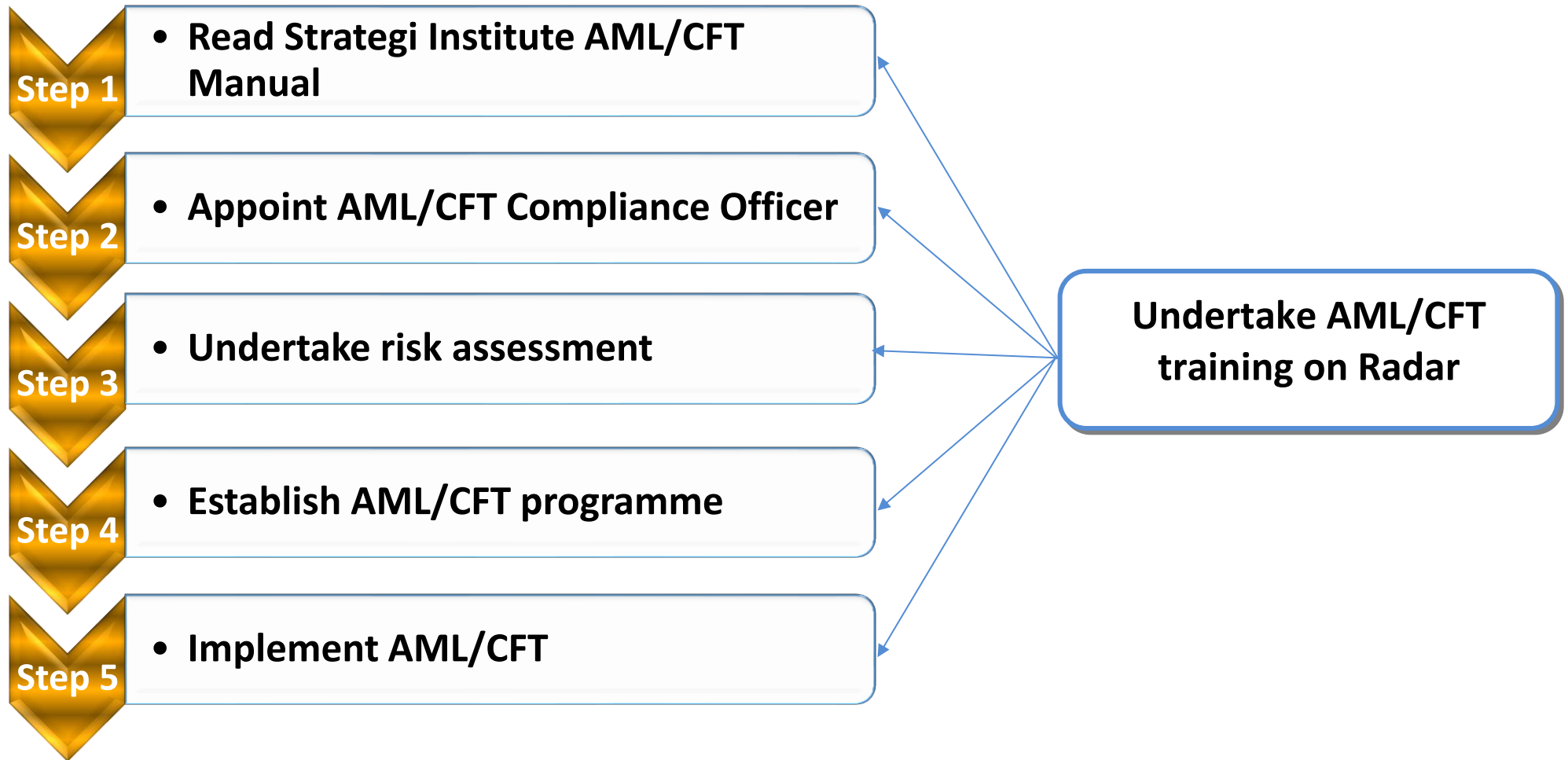
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Developing your AML/CFT programme



Section One: Overview

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1.0 Introduction

New Zealand’s AML/CFT regime, directed at combating transnational and organised crime, is comprised of two phases: Phase 1, and Phase 2.

Phase 1, which came into effect on 30 June 2013, applied the AML/CFT regime to banks, casinos, and financial institutions.

Phase 2 came into effect via the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017. Phase 2 applied the AML/CFT regime to lawyers, conveyancers, accountants in practice, real estate agents (*all collectively known as Designated Non-Financial Businesses or Professions (DNFBPs)*), sports and race betting, and businesses that deal in certain high-value goods (e.g. cars, boats, jewellery, precious metals and stones, artefacts and art).

As per the implementation schedule for Phase 2, the AML/CFT regime has applied to real estate agents since 1 January 2019.

The purposes of the AML/CFT Act are to:

- detect and deter money laundering and the financing of terrorism (ML/FT); and

- maintain and enhance New Zealand’s international reputation by adopting, where appropriate in the New Zealand context, recommendations issued by the Financial Action Task Force (FATF); and
- contribute to public confidence in the financial system.

Phase 2 implementation improves the integrity and stability of New Zealand’s financial systems by expanding the transparency of financial transactions in New Zealand. This will give our international partners greater comfort when dealing with New Zealand businesses and ensure international trading opportunities remain open to New Zealand entities.

New Zealand’s AML/CFT regime was evaluated by the FATF in 2020. The findings were issued in a report dated April 2021 (Refer to the DIA website). It is important that our AML/CFT regime is assessed as being both technically compliant and effective. This is because New Zealand’s AML/CFT regime – or any perceived gaps in it – directly affects New Zealand’s international trade reputation.

1.1 Territorial scope of the Act

The Act applies to entities carrying out certain specified activities in New Zealand (known as ‘reporting entities’). If the specified activities are carried out wholly outside New Zealand, then the Act does not apply. In such cases, the AML/CFT obligations prevailing (if any) in the jurisdiction from where the financial activities are carried out may apply.

1.2 Definitions

Money Laundering (ML): ML is the process of making ‘dirty’ money, obtained through illegal activities, look ‘clean’ and strip it of its criminal past. In ML, the original source of the money is ‘illegitimate’.

ML typically happens in three stages:

1. Placement: The proceeds of criminal activities are ‘placed’ or introduced into the financial system.
2. Layering: Layering involves a single transaction or series of multiple complex transactions. The objective is to return the dirty money back to the launderer in a manner that appears to be legitimate income. E.g. the buying and selling of real estate or the buying and selling of securities through an unregistered or registered trading platform such as NZX.
3. Integration: The launderer reintegrates the ‘laundered and cleansed’ funds back for their use through the normal financial system.

Terrorist Financing (TF): TF is providing financial support to terrorists. The source of money involved in TF can be legitimate, unlike ML.

To understand the linkage between money laundering and financing of terrorism, it may help to know that the methods used to launder money are essentially the same as those used to hide the sources of funds and their uses for terrorist financing. Funds used to support terrorism may originate from legitimate sources, criminal activities or both. If the source can be concealed, it remains available for future terrorist financing activities. Similarly, it is important for terrorists to conceal the use of the funds so that the financing activity goes undetected.

1.3 When does the Act apply?

The Act applies to a **real estate agent** who carries out, in the ordinary course of business, one or more activities described in the definition of designated non-financial business or profession (DNFBP).

Section 5(1) of the Act describes these activities:

- a. acting as a formation agent of legal persons or legal arrangements (e.g. setting up trusts, or companies for clients);
- b. acting as, or arranging for a person to act as, a nominee director or nominee shareholder or trustee in relation to legal persons or legal arrangements;
- c. providing a registered office or a business address, a correspondence address, or an administrative address for a company, or a partnership, or any other legal person or arrangement (unless it's solely for a service which isn't covered by the Act);
- d. managing client funds (other than sums paid as fees for professional services), accounts, securities, or other assets;
- e. providing real estate agency work to effect a transaction; and
- f. engaging in or giving instructions on behalf of a customer to another person for any conveyancing, a transaction, the transfer of a beneficial interest in land or other real property, and other transactions listed in section 5(1).

The terms 'real estate agency work' and 'transaction' are defined in section 4(1) of the Real Estate Agents Act 2008 and are explained below:

Real estate agency work:

- a. means any work done or services provided, **in trade**, on behalf of another person for the purpose of bringing about a **transaction**; and
- b. includes any work done by a branch manager or salesperson under the direction of, or **on behalf of an agent** to enable the agent to do the work or provide the services described in paragraph (a); but does **not** include:

- i. the provision of general advice or materials to assist owners to locate and negotiate with potential buyers; or
- ii. the publication of newspapers, journals, magazines, or websites that include advertisements for the sale or other disposal of any land or business; or
- iii. the broadcasting of television or radio programmes that include advertisements for the sale or other disposal of any land or business; or
- iv. the lending of money on mortgage or otherwise; or
- v. the provision of investment advice; or
- vi. the provision of conveyancing services within the meaning of the [Lawyers and Conveyancers Act 2006](#).

Transaction means any 1 or more of the following:

- a. the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land;
- b. the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the [Residential Tenancies Act 1986](#) applies);
- c. the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the [Land Transfer Act 2017](#);
- d. the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the [Retirement Villages Act 2003](#); and
- e. the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).

Example

Lucy Best is a real estate agent holding a real estate agent's licence issued by The Real Estate Authority (REA). Lucy is engaged by Joe Bloggs to sell his investment property. As part of the work, Lucy:

- a. Provides guidance to Joe about how to prepare the property for sale, and
- b. Undertakes marketing of the property in local real estate publications.

In addition to the above, Lucy obtains a LIM report for the property, organises open homes, keeps a list of potential buyers and the offers made by them, and presents those offers to Joe. Lucy explains how to complete the sale, and purchase agreement and recommends a few legal firms for undertaking the conveyancing.

In the above example, the work done by Lucy, except for the work described in 'a', and 'b', constitutes real estate agency work. The work done is for the purpose of bringing about the sale of the investment property (i.e. the transaction is the sale of the investment property).

- f. Engaging in, or giving instructions on behalf of a client to:
 - carry out a real estate transaction (as defined in section 4(1) of the Real Estate Agents Act 2008);

- carry out a transaction on behalf of any person in relation to the buying, transferring or selling of a business or legal person (for example, a company) and any other legal arrangement;
- creating, operating, and managing a legal person and any other legal arrangement; or
- transfer a beneficial interest in land or other real property.

Of the list of activities described in ‘a’ to ‘f’ above, real estate agents most likely carry out, in the ordinary course of business, the two activities below:

- i. Real estate agency work; and
- ii. Managing client funds.

Accordingly, the Act will apply to the real estate agents when they carry out one or both of the above two activities.

1.4 When does the Act not apply?

Property management activities undertaken by the real estate agents (including managing client funds when providing property management activities) are excluded from the Act. This exclusion is under Regulation 21B of the AML/CFT (Definitions) Regulations 2011. Accordingly, the following activities are not captured by the Act:

- a. Negotiating with prospective residential tenants on behalf of clients (broadly the work of finding residential tenants, and negotiating residential rentals etc.);
- b. Collecting, holding or disbursing money for the use, maintenance, or repairs, improvement or oversight of any property (commercial or residential); and
- c. Handling money (e.g. holding or making payments) for the advertising of any property (commercial or residential).

Note: Acting, or offering to act, for reward in respect of the negotiation, grant approval, or assignment of a tenancy agreement for commercial premises (whether described as a lease, tenancy agreement, right to occupy, or otherwise) in relation to commercial premises (within the meaning of section 2(1) of the Residential Tenancies Act 1986) is not a ‘property management activity’.

Reporting entities are exempt from all provisions of the Act when they provide a relevant service, that usually attracts AML/CFT obligations, to a recipient who is related (i.e. a ‘related entity’). This exclusion is found in Regulation 16 of the AML/CFT (Exemptions) Regulations 2011. Accordingly, a reporting entity (A) is ‘related’ to the other party, the recipient of the services (B) if:

- a) B is A’s holding company or subsidiary,
- b) There is another body corporate to which A and B are both related,
- c) A controls B, or vice versa,
- d) A and B are both controlled by a third person,
- e) A and B are in partnership,

- f) The businesses of A and B are carried on in a way so that the separate businesses are not readily identifiable.

Note: This is not an exhaustive list of parties that may be ‘related entities’ and therefore exempt from the AML/CFT Act in relation to services provided by A to B. See *Regulation 16 of the AML/CFT (Exemptions) Regulations 2011* for the complete list.

1.5 What does ‘ordinary course of business’ mean?

The Act applies to a real estate agent only if they undertake the activities described in the definition of DNFBP in the ‘ordinary course of business’ (unless any regulation or notice has declared the business, i.e. the real estate agency, not to be a reporting entity for the purposes of the Act). The two activities that real estate agents are most likely to carry out are real estate agency work to effect a transaction and managing client funds.

The other activities (described in the definition of DNFBP) are less likely to be relevant to real estate agents. These activities are:

- Acting as a formation agent for legal persons or legal arrangements;
- Acting as, or arranging someone to act as, a nominee director, nominee shareholder or trustee; and
- Providing an office or address for a company or legal arrangement.

If, however, real estate agents conduct any of the above activities in the ordinary course of business, then it is important to understand what ordinary course of business means. This is explained below.

Arriving at a conclusion whether (or not) an activity undertaken is, or is likely to be, in the ordinary course of business is largely a matter of common sense, or judgement. On that basis, a real estate agency should consider certain factors that may assist in determining whether (or not) an activity is likely to be considered ‘in the ordinary course of business’ and hence caught under the Act. Some of the factors are:

- a. How frequently is the activity undertaken? If it is undertaken regularly, then it is likely to be considered in the ordinary course of business.
- b. Have significant resources (e.g. staff) been allocated for undertaking the activity? If yes, then it is likely to be considered in the ordinary course of business.
- c. Is that activity advertised on the website, or marketing brochures? If yes, then it is likely to be with the intention to generate revenue and so likely to be considered in the ordinary course of business.

It is important to consider the above factors together when determining whether an activity undertaken is (or is likely to be) 'in the ordinary course of business'.

1.6 Role of real estate agents in AML/CFT

Some of the services provided by real estate agents are often used by criminals to hold and move funds without being detected. The FIU has stated that the real estate sector is highly susceptible to ML as its research indicates that real estate is the money laundering 'asset of choice'.¹ The professional services provided by real estate agents are attractive to money launderers because they are widely available. Buying and selling property assists in disguising the origin of funds. In addition, the buying and selling of property involves high-value transactions which allows offenders to move large amounts of laundered funds without raising suspicion. An offender's relationship with a real estate agent will usually be of a short duration, further aiding the offender in avoiding detection.

Effectively, the services offered by real estate agents create additional steps in the ML/FT chain by real estate being used to introduce illicit funds into the legitimate economy. Due to the sheer amount of real estate transactions nationally each year, the real estate sector has been assessed as having a **medium-high** inherent risk of ML/FT by the DIA in the Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019.

1.7 AML/CFT – a 'risk-based' regime

New Zealand has adopted a 'risk-based' approach to AML/CFT. This will be one of the biggest challenges facing real estate agencies having AML/CFT obligations. In a risk-based regime, no prescriptive guidance is available on how to comply. Each real estate agency (that is a reporting entity) is required to identify and assess their ML/FT risks and implement systems and controls to adequately mitigate the identified risks. The upside of this approach is the flexibility for the reporting entity to target the available resources at 'high-risk' areas and minimise the compliance costs.

A risk-based approach recognises that there can never be a zero-risk situation. Every client type, service, or transaction presents some degree (no matter how small) of ML/FT risk, and reporting entities must determine the level of ML/FT exposure they can tolerate. The risk-based approach does not exempt low-risk clients, and services from being subject to AML procedures. It is only that the appropriate procedures will be less onerous than for those thought to present a higher level of risk.

¹ Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019

For real estate agents, the risk-based approach allows the flexibility to approach AML/CFT obligations using specialist skills and responsibilities. This requires real estate agents to take a wide and objective view of their activities and clients and have a good understanding of the ML/FT risks and be able to exercise sound judgement. This, in turn, requires the building of expertise including for example, through training, recruitment, taking professional advice, and learning by doing.

The alternative, and likely sub-optimal, approach is that resources are either applied evenly, or that resources are targeted, but on the basis of factors other than risk. This can inadvertently lead to a tick-box approach with a focus on meeting regulatory requirements rather than on combating money laundering or terrorist financing efficiently and effectively.

However, a risk-based approach is not without its challenges. Real estate agents may find that some staff members are uncomfortable making risk-based judgements. This may lead to overly cautious decisions, or disproportionate time spent documenting the rationale behind a decision. This may also be true at various levels of management of real estate agencies. To make it worse, in situations where management fails to recognise, or underestimates, the risks, a culture may develop that allows for inadequate resources to be devoted to compliance, leading to potentially significant compliance failures.

1.7.1 How to implement a risk-based AML/CFT regime

A risk-based approach involves taking the following steps:

- Identify and assess the ML/FT risks arising from particular clients, services, and the geographical areas of operation of the agency and its clients (this is explained in Section Three, Preparing the risk assessment);
- Manage and mitigate the assessed risks by the application of appropriate and effective measures, procedures and controls (this is explained in Section Four, Developing an AML/CFT programme);
- Continuously monitor the procedures and controls put in place to combat ML/FT risks; and
- Ensure through initial and ongoing training, uniform application of the procedures, and controls across the agency.

What does this mean for you?

If your agency is relatively small, with only low risk clients (e.g. 'Mum and Dad' type clients) or consists mainly of clients you have previously dealt with and you deal in simple and straightforward sales and purchases, then a risk-based regime means your risk assessment and AML/CFT programme could be relatively short and simple.

1.8 Real estate agents' key AML/CFT obligations

If you are a reporting entity, your key AML/CFT obligations are:

- Appointment of an AML/CFT compliance officer within the agency;
- A written risk assessment; and
- An AML/CFT programme including your policies, procedures, and controls for:
 - Managing and mitigating the risks identified in the risk assessment
 - Vetting of staff (if you have any)
 - Training of relevant staff (if you have any)
 - Applying appropriate customer due diligence (CDD)
 - Reporting suspicious activities
 - Reporting prescribed transactions
 - Ensuring adequate record keeping
 - Managing, and mitigating risks of ML/FT
 - Keeping the AML/CFT programme up-to-date
 - Preventing products and/or transactions that favour anonymity being used for ML/FT
 - Ensuring your agency adheres to its AML/CFT programme
 - Reviewing your AML/CFT programme and getting it audited.

1.9 Consequences for non-compliance with the Act

A reporting entity that fails to comply with the various requirements of the AML/CFT Act may face penalties ranging from a formal warning or enforceable undertakings, (this is an undertaking of a certain course of action a reporting entity makes to an AML/CFT supervisor, which is enforceable by law), to serious criminal and civil penalties.

Penalties range from fines up to \$200,000 for an individual, and up to \$2 million for entities. Examples of breaches could include failure to conduct CDD as prescribed; failure to establish, implement, or maintain an AML/CFT programme; failure to keep records, and failure to submit prescribed transactions report.

Certain offences (such as relating to suspicious activity reports) can attract a fine up to \$300,000 and/or a term of imprisonment up to two years for individuals, and a fine up to \$5 million for an entity.

Note: The information above relating to breaches and penalties is for illustrative purposes only. This is not an exhaustive list of offences and penalties under the AML/CFT Act. Refer to Part 3 of the Act for complete information relating to offences and penalties.

1.10 Annual report

Every year (or as required by the DIA) you MUST file an annual report. The report must be in the prescribed form and submitted between 1 July and 31 August each year to cover the preceding 12 months until 30 June.

The annual report provides information to the DIA about how you are complying with your obligations under the Act.

Refer to Appendix 10 for details of the information that must be contained in the annual AML/CFT Report. The form and the content of the annual report is prescribed by Schedule 2A of *The Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011*.

1.11 Designated Business Groups (DBG)

A member of a designated business group (**DBG**) can rely on another member to carry out some obligations on their behalf, as set out in section 32 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **Act**). These obligations include conducting the risk assessment, parts of an AML/CFT programme, and making suspicious activity reports or prescribed transaction reports.

A designated business group is defined in section 5(1) of the Act.

Related real estate agents or subsidiaries of real estate agents can form DBGs in some cases, where each member is a reporting entity in New Zealand (or the equivalent in another country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes). Additionally, other related entities, companies, limited partnerships, law firms, conveyancers, trusts etc can form DBGs if they satisfy the definition in the Act.

Refer to Section 5(1) of the Act for the full definition of a designated business group.

Section Two: AML/CFT checklists

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2.0 Introduction

You must prepare two key documents to meet the requirements of the Act. These are:

1. A risk assessment; and
2. An AML/CFT programme.

The following two checklists contain a series of questions/activities that need to be considered/undertaken when developing these documents for your agency.

It is important to understand that meeting the requirements is more than just creating the documents. The reporting entity actually needs to undertake the work - not just follow a template.

Work your way through each question/activity and cross reference to the guidance provided in Sections Three and Four of this manual for further explanation on what is required.

These checklists may need to be provided at a later date to your AML/CFT auditor, or any other person who needs information on how the agency's risk assessment and AML/CFT programme were put together.

2.1 Risk assessment checklist

Serial	Activity	Yes/No/NA	Comment
Have we identified the aspects of our work that may be susceptible to ML/FT?			
1.	Have we taken into account applicable guidance material produced by the DIA or the FIU, current at the time of preparing the risk assessment? <i>(Examples of the applicable guidance material include the FIU's National Risk Assessment 2019, DIA's Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019, FIU's Quarterly Typology Reports, etc.)</i>		
2.	Have we used a valid, and reliable, methodology to prepare our risk assessment?		
3.	Have we clearly defined risk?		
4.	Have we considered the inherent risks of ML/FT in preparing the risk assessment? <i>(Inherent risks are the risks of ML/FT <u>before</u> applying risk mitigation measures)</i>		
5.	Have we addressed the residual risks of ML/FT in preparing the risk assessment? <i>(Residual risks are the risks of ML/FT that continue to be faced by the agency after the application of risk mitigation measures)</i>		
6.	Is the risk assessment clear, concise, and effective, and prepared in a manner that helps the AML/CFT compliance officer to explain it to the staff, and senior management of the real estate agency?		
7.	Have we made a list of products and services we offer, which may allow our clients to hide their identity? <i>(E.g. products that may be purchased with cash, or services that may allow movement of funds in a rapid manner, making it hard to trace.)</i>		
8.	Have we addressed the ML/FT risk presented by occasional transactions, and activities undertaken by clients through our agency?		

Serial	Activity	Yes/No/NA	Comment
9.	Have we identified the way we deliver our services and products? <i>(E.g. face-to-face; Zoom; Teams; telephone; email)</i>		
Have we identified the aspects of our work that may be susceptible to ML/FT?			
10.	Have we identified our client types? <i>(E.g. Individuals, family trusts, charitable trusts, companies, NZ non-residents)</i>		
11.	Do we have any clients who could qualify as politically exposed persons (PEPs)? <i>(An individual who holds, or has held in the immediately preceding 12 months, <u>in any overseas country</u> the position of:</i> <ul style="list-style-type: none"> • <i>Head of State/country/government</i> • <i>Government minister (or equivalent senior politician)</i> • <i>High-ranking member of the armed forces</i> • <i>Senior foreign representative, ambassador, high commissioner</i> • <i>Board chair, CEO, CFO of any state enterprise located overseas</i> • <i>A spouse/partner/child/child's spouse or partner/parent of any of the above referred persons is also PEP.</i> <i>Refer to Appendix 3 for the definition of a PEP).</i>		
11A	Have we established whether any of our clients that are companies have nominee shareholders or directors, and whether any of our clients who are limited partnerships/overseas limited partnerships have nominee general partners?		
12.	Do we have clients who run their own business?		
13.	If yes to '12' above, are any of these clients involved in a cash intensive business?		
14.	Is any client business likely to involve potential for a high level of corruption (e.g. arms dealers)?		
15.	Do we have clients who conduct business through their lawyers or accountants?		
16.	Do we have clients referred to us by accountants and lawyers?		

Serial	Activity	Yes/No/NA	Comment
17.	Have we identified the countries our agency deals with?		
18.	Have we checked if any of our clients are from countries subject to UN sanctions or embargoes? <i>(See Appendix 4 for a list of these countries)</i>		
Have we identified the aspects of our work that may be susceptible to ML/FT?			
19.	Have we checked if any of our clients are from countries considered as tax havens? <i>(See Appendix 4 for list of these countries)</i>		
20.	Have we checked if any of our clients are from countries having significant levels of corruption? <i>(See Appendix 4 for list of these countries)</i>		
21.	Have we checked if any of our NZ non-resident clients are from countries associated with illicit drug production and/or trans-shipment? <i>(See Appendix 4 for list of these countries)</i>		
22.	Do we deal with shell companies?		
23.	Do we deal with shell banks? <i>(A shell bank is an entity that is formed and authorised to carry on banking business in a country, e.g. NZ, but does not have a physical presence in that country.)</i>		
24.	Do we rely on overseas person/s to conduct customer due diligence? <i>(E.g. identity verification and address verification for overseas clients)</i>		
Having identified the risks, have we assessed the likelihood of our agency being used for ML/FT?			
25.	Have we undertaken the exercise of rating the likelihood that the aspect/s of our agency we identified as susceptible to ML/FT could actually result in ML/FT?		

Serial	Activity	Yes/No/NA	Comment
Reviewing the risk assessment			
26.	Does the risk assessment describe how we will keep it current? <i>(E.g. registering with websites of organisations like DIA, and the FATF to receive periodic updates on AML/CFT - this should be included in the description. Providing version control to the risk assessment document may help in demonstrating this requirement.)</i>		
27.	Have we diarised to periodically review our risk assessment to identify any deficiencies? <i>(E.g. every six months)</i>		
Audit of risk assessment			
28.	Have we decided who will be our independent AML/CFT auditor?		
29.	If we intend to appoint an internal person to audit the risk assessment, then have we selected that person?		
30.	If the auditor is an internal person, then have we ensured that person had no involvement in setting up the risk assessment programme?		
31.	Have we considered training requirements for the internal person to be appointed as our risk assessment auditor?		

2.2 AML/CFT programme checklist

Once you have completed and reviewed your risk assessment you need to prepare an AML/CFT programme. This document needs to describe how you meet your AML/CFT obligations via systems, procedures, documents and training, in order to mitigate the risks that are identified in your risk assessment.

To assist you with this, refer to the below table - it describes the key parameters to ensure your programme is sufficiently detailed. The AML/CFT programme guidance in Section Three provides detail on what is required to be addressed in each element of the programme.

Serial	Activity	Tick when complete
1.	Have we taken into account applicable guidance material produced by the DIA or the FIU, current at the time of preparing the AML/CFT programme? <i>(Examples of the applicable guidance material include the FIU's National Risk Assessment 2019, DIA's Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019, FIU's Quarterly Typology Reports, etc.)</i>	
2.	Is the AML/CFT programme based on the risk assessment?	
3.	Is the AML/CFT programme clear, concise, and effective and prepared in a manner that helps the AML/CFT compliance officer to explain it to the staff, and senior management of the real estate agency?	
4.	Have we appointed a designated person (AML/CFT compliance officer) responsible for administering, and maintaining the AML/CFT programme?	
5.	Have we considered appointing a deputy to the AML/CFT compliance officer to fill the role when the AML/CFT compliance officer is absent, or away?	
6.	Have we ensured the AML/CFT compliance officer reports to the senior manager as per that requirement under the Act?	
7.	Vetting Does our AML/CFT programme contain policies, procedures, and controls for vetting senior managers, AML/CFT compliance officer and any other employees whose roles involve AML/CFT duties? <i>(If applicable, include vetting by third parties in this above description.)</i>	

Serial	Activity	Tick when complete
8.	<p>Training</p> <p>Does our AML/CFT programme contain policies, procedures, and controls for training on AML/CFT matters for senior managers, AML/CFT compliance officers and all other employees with roles involving AML/CFT duties?</p> <p><i>(Describe the scope and nature of the training, who delivers it, how frequently it is delivered, how knowledge understanding is assessed, and how you track who has completed the training.)</i></p>	
9.	<p>Customer due diligence (CDD) (including on-going CDD)</p> <p>9.1 Does our AML/CFT programme, based on risk assessment completed earlier, describe how we undertake CDD on our clients?</p> <p><i>(This includes documenting the policies, procedures and controls around the CDD that the agency undertakes. It also includes describing how the requirements of the Amended Identity Verification Code of Practice 2013 (IVCOP) are met.)</i></p> <p>9.2 If applicable, does our AML/CFT programme describe the policies, procedures, and controls when we rely on CDD conducted on our behalf by another person?</p> <p>9.3 Does the AML/CFT programme describe how we handle exceptions to the IVCOP?</p> <p><i>(Include policies, procedures and controls around the circumstances under which exceptions may occur and the approval process to deal with those exceptions.)</i></p> <p>9.4 Does the AML/CFT programme describe how we deal with clients who are PEPs and clients who are companies/limited partnerships/overseas limited partnerships with nominee directors, shareholders, and/or general partners?</p> <p>9.5 Does the AML/CFT programme describe how we define, and identify if there has been a material change in the nature, and purpose of a business relationship with our clients?</p> <p><i>(The Act does not provide a standard definition of material change, but it should be based on your risk assessment, and the activities undertaken in the ordinary course of business.)</i></p> <p>9.6 Does the AML/CFT programme describe the client types our agency will not form a business relationship with?</p> <p>9.7 Does the AML/CFT programme describe the triggers that will prompt undertaking a review of CDD?</p> <p>9.8 Does the AML/CFT programme describe the circumstances in which we will not establish or continue a business relationship with a customer if we are unable to conduct CDD in accordance with the Act?</p> <p>9.9 Does the AML/CFT programme describe policies, procedures and controls for undertaking on-going CDD?</p>	
9.10	Does the AML/CFT programme describe policies, procedures and controls when relying on third parties to complete CDD or enhanced CDD actions.	

Serial	Activity	Tick when complete
10.	Account monitoring/Transaction monitoring Does the AML/CFT programme describe policies, procedures and controls for account (or transaction) monitoring?	
11. 11.1 11.2	Written findings Does the AML/CFT programme describe policies, procedures and controls for maintaining written findings relating to business relationships and transactions with countries that do not have, or have insufficient, AML/CFT systems in place (which also includes any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action)? Does the AML/CFT programme describe policies, procedures and controls for maintaining written findings on any activity that is likely by nature to be related to ML/FT?	
12. 12.1 12.2 12.3 12.4	Suspicious activity reports (SARs) Does the AML/CFT programme describe policies, procedures and controls for reporting suspicious activities to the New Zealand Police FIU? Does the AML/CFT programme describe policies, procedures and controls to manage tipping off provisions in the Act? Does the AML/CFT programme describe policies, procedures and controls to ensure we submit SARs within the required three-day time frame prescribed by the Act? Does the AML/CFT programme describe policies, procedures and controls for submitting suspicious property reports under the Terrorism Suppression Act 2002?	
13.	Prescribed transactions reports (PTRs) Does the AML/CFT programme describe policies, procedures and controls for submitting PTRs? <i>(Depending on the services offered, there may NOT be an obligation to submit PTRs. If the obligation does not apply, then provide a simple description explaining why the obligation does not apply. In this circumstance there is no requirement to describe policies, procedures, and controls relating to filing PTRs.)</i>	
14.	Record keeping Does the AML/CFT programme describe policies, procedures and controls to ensure the record keeping requirements of the AML/CFT Act are met?	

Serial	Activity	Tick when complete
15.	<p>Products and transactions that favour anonymity</p> <p>Does the AML/CFT programme describe policies, procedures and controls for ensuring prevention of the use of products and transactions favouring anonymity?</p> <p><i>(If you do not offer products, or undertake transactions, favouring anonymity, then there may NOT be an obligation to describe in detail the policies, procedures, and controls relating to ensuring their prevention. If the obligation does not apply, then provide a simple description explaining why the obligation does not apply. In this circumstance there is no requirement to describe policies, procedures, and controls relating to ensuring prevention of the use of products and transactions favouring anonymity.)</i></p>	
16.	<p>Managing and mitigating risk</p> <p>Does the AML/CFT programme describe the policies, procedures, and controls to manage and mitigate risks:</p> <ul style="list-style-type: none"> • when introducing new products or services; • against new or emerging ML/FT methods; and • identified in the risk assessment. 	
17.	<p>Ensuring compliance with the AML/CFT programme</p> <p>Does the AML/CFT programme describe the policies, procedures and controls that set out how the agency will monitor and manage compliance with the AML/CFT programme?</p>	
18.	<p>Review of the AML/CFT programme</p> <p>Does the AML/CFT programme describe the policies, procedures, and controls to review the AML/CFT programme, including a description about how it will be kept current?</p>	
19.	<p>Audit of the AML/CFT programme</p> <p>Does the AML/CFT programme describe the policies, and procedures in place to appoint an auditor to audit our AML/CFT programme every three years, or at any other time prescribed by the regulations, or at the request of the DIA?</p>	

Section Three: Preparing the risk assessment

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3.0 Introduction

The obligations under the AML/CFT Act (the Act) for real estate agents came into effect on 1 January 2019. These obligations only apply to real estate agents who undertake certain activities, specified in the Act, in the ordinary course of business.

If you have obligations under the Act, you **MUST** have in place:

- A written risk assessment;
- An AML/CFT programme, which includes your policies, procedures, and controls for:
 - Managing and mitigating the risks identified in your risk assessment
 - Vetting of staff;
 - Training of relevant staff;
 - Applying appropriate customer due diligence (CDD) specifically when and how you will apply;
 - Simplified

- Standard
- Enhanced
- Using third parties to assist you with any part of CDD;
- Suspicious activity reports (SARs);
- Prescribed transaction reports (PTRs);
- Ensuring adequate records are kept;
- Keeping your AML/CFT programme up-to-date;
- Preventing products and/or transactions that favour anonymity being used for ML/FT;
- Ensuring your agency adheres to its AML/CFT programme; and
- The review and audit of your AML/CFT programme.

This section and the two following, provide guidance on the three key obligations. This section covers the preparation of the risk assessment, Section Four focuses on the preparation of the AML/CFT programme, and Section Five covers the audit of your risk assessment and AML/CFT programme.

3.1 Preparing your risk assessment

3.1.1 What is a risk?

A risk is the chance or possibility of something happening that will have a negative effect. The level of risk reflects the likelihood of the unwanted event, and the severity of the potential consequences of the unwanted event. Put differently, risk can also be defined as the likelihood of an event and the consequence of that event.

3.1.2 What is a risk assessment?

Undertaking a risk assessment means assessing the risk of money laundering/financing terrorism (ML/FT), you as a reporting entity, may reasonably expect to face in the course of your business.

3.1.3 What is a risk assessment methodology?

A risk assessment methodology is the reporting entity's documented process, and approach for conducting the risk assessment. A methodology document typically includes:

- a. A detailed description of procedures to follow in undertaking the risk assessment;
- b. The scoring system used along with definitions and weights;
- c. A statement as to the frequency of updates to the methodology; and

- d. The use of the risk assessment methodology in designing or shaping the AML/CFT programme.

3.1.4 Legal obligations relating to risk assessments

A risk assessment must:

- Be set out in writing;
- Identify the ML/FT risks your agency reasonably expects to face, having regard to:
 - the nature, size, and complexity of your agency
 - the products and services offered
 - the way products and services are delivered
 - the types of customers dealt with
 - the countries dealt with
 - the institutions dealt with
 - any applicable guidance material produced by AML/CFT supervisors relating to risk assessments
 - any other factors that may be provided for in regulations;
- Enable you to determine the level of risk involved in relation to your obligations under the Act;
- Enable you to prepare an AML/CFT programme to manage and mitigate the identified risks (applying the risk assessment);
- Include a description of how you will keep it up to date (review of the risk assessment); and
- Be audited (audit of the risk assessment).

3.2 Produce a written risk assessment

This requirement is self-explanatory and will be met when real estate agents put in place their risk assessment using the guidance provided in each of the following steps below.

3.2.1 Identify ML/FT risks your agency is likely to face

Based on your knowledge and understanding of your agency, you should be in a position to identify the ML/FT risks your agency is likely to face. Section 58(2) of the Act prescribes the factors you must consider when identifying risks. These are listed below:

1. The nature, size, and complexity of your business

An agency with two or three real estate agents, is likely to be less complex than an agency with a large number of real estate agents. An agency that does not accept cash from its clients is likely to be at less risk compared to an agency accepting cash.

2. The products and services your agency offers

Products and services that may allow your clients to hide their identity or move money in a way that is hard to trace, are likely to be at higher risk.

3. The way your agency delivers products and services

The real estate sector involves more face-to-face interaction with customers than other sectors which provides greater opportunity to identify suspicious activity and to verify a customer's identity.

4. The types of customers your agency deals with

'Mum and dad' type customers, individuals earning salaried income, and retirees, are less likely to be considered high risk compared to, for example, customers who run their own business (especially if operating that business on a cash basis). Similarly, customers who are politically exposed persons (PEPs²), and customers who are companies/limited partnerships/overseas limited partnerships with nominee directors, shareholders, or general partners are high-risk customers requiring appropriate customer due diligence to be carried out before onboarding. Family trust customers (with the settlors and any protectors) require a high level of customer due diligence compared to customers who are natural persons.

5. The countries your agency deals with

If you provide real estate services to non-residents you may be required to conduct a country risk assessment. Countries associated with high rates of corruption or terrorism, countries considered to be tax havens, and countries with few AML/CFT laws, are considered 'high risk' compared to countries having stringent AML/CFT laws and belonging to the FATF. Similarly, countries subject to UN sanctions, embargoes or similar, (e.g. Iran, Iraq, Somalia) are considered high-risk countries. (Refer to Appendix Four for a list of these countries.)

6. The institutions your agency deals with

If your agency has relationships with shell companies (companies which serve as a vehicle for business transactions without themselves having any significant assets or operations. These companies, often, exist only on paper and have no physical presence or staff working for them) then it is likely to be exposed to a higher risk than some of the standard institutions such as NZ-registered companies and banks.

² Information on PEPs provided in Appendix 3

Examples of clients posing a high ML/FT risk are those:

- Involved in cash-intensive businesses which may be used by criminals to mask illegally obtained funds (antique dealers, arms dealers, etc.).
- With a history of changing lawyers, banks and/or real estate agents.
- Either under- or over-valuing properties.
- Involved in a large number of real estate transactions. For example, the buyer/seller has a history of 'flipping' properties.
- There is a significant distance between the agent/agency and the customer.
- In respect of whom the source of funds is unusual (such as an unrelated party funding fees, or a tax liability) and no legitimate explanation is provided by the customer.

Appendix Four provides examples of:

- States or entities under UN sanctions;
- Countries lacking adequate AML/CFT systems/measures or controls;
- Countries with higher level of corruption (Corruption Perceptions Index for 180 countries across the globe);
- Tax havens; and
- Countries associated with illicit drug production and/or transshipment.

3.2.2 Tips on how to identify your risks³

1. Write a list of all the types of customers, institutions, products and services, delivery methods, and countries your agency deals with. These are the factors you should consider when assessing the risk to your agency.
2. Next, while reading each of the previously listed 'factors' ask yourself (and record the answers):
 - What is it about the nature, size and complexity of your agency that makes it vulnerable to ML/FT? Write this above the list, as it relates to all products, delivery methods etc.
 - Of the products or services your agency offers, which ones, when considered with the rest of your agency, are vulnerable to ML/FT? Note the reasons each product/service is vulnerable alongside the product/service. Do this with all factors below, too.
 - How does the way your agency deliver its services make it vulnerable to ML/FT? (E.g. meeting customers face-to-face before providing any services is likely to present a low risk of ML/FT, compared to accepting engagements and providing services without first meeting customers face-to-face.)
 - Do you have relationships with any financial institutions that may make the agency vulnerable to ML/FT (e.g. 'shell' companies or institutions from poorly regulated countries)?

³ Based on *Guide for Real Estate Agents* published by the DIA

- Of the countries your agency deals with, which countries are considered to be corrupt/to have low AML/CFT standards/to be associated with profitable crime or terrorism? If you do not know about a country, you may wish to err on the side of caution and treat it as higher risk.
- Of the types of clients your agency deals with, taking into account all of the above, which types are more likely to be able to launder money or finance terrorism through your business?

Refer to Appendix 9 for a worksheet to help you identify relevant risks.

3.3 What information a real estate agency should obtain to assess the risk of ML/FT?

An agency may demonstrate that it has obtained the appropriate information for assessing the risk that a business relationship or one-off transaction will involve ML/FT risk, where it collects certain information, or takes into account the following:

(Note: The information described in the table below is illustrative, and not exhaustive)

Parameter	Description of information
Customer type risk	<ul style="list-style-type: none"> a. Type (e.g. natural persons, trusts, etc.), volume and value of activity expected. b. Source of funds, e.g. nature and details of occupation or employment. c. Details of any existing relationships with the real estate business/agency. d. The client's purpose in entering into any activity/transaction forming the basis of the proposed engagement or the client's purpose in seeking services where not related to a specific transaction. e. Type of business activities (or employment - as the case may be depending on the customer type). f. If an entity, has it been subject to insolvency proceedings, or is it in the course of being (or has it been) dissolved/struck off?

Parameter	Description of information
	<p>g. If an individual, has s/he been subject to bankruptcy proceedings, or disqualified as a director?</p> <p>h. If a company or limited partnership/overseas limited partnership, then are there any nominee directors, shareholders or general partners?</p>
Service risk	<p>a. Ability to make payments to, or receive from, third parties.</p> <p>b. Ability for customers to maintain anonymity.</p>
Delivery risk	<p>a. Ability for the client to deal through intermediaries.</p> <p>b. Non face-to-face relationships – service delivered exclusively by post, telephone, internet etc. where there is no physical contact with the client.</p>
Country risk	<p>a. Countries clients deal with (or countries where clients’ business is conducted from). The following types of countries or territories may be considered to present a higher risk:</p> <ul style="list-style-type: none"> • those that are generally considered to be un-cooperative in the fight against money laundering and the financing of terrorism; • those identified by the FATF as having strategic deficiencies of ML/FT; and • those that are vulnerable to corruption, e.g. those with poor ratings in Transparency International’s Corruption Perception Index. <p>b. Countries subject to UN or EU sanctions, if clients have dealings with such countries</p>
Institution risk	<p>a. Possibility of having to deal with shell banks on behalf of clients.</p> <p>b. Possibility of having to deal, on behalf of clients, with institutions with poor AML/CFT measures.</p>

3.4 Assess the risks you have identified

The aim is to rate the likelihood and severity that the aspects of your agency that you have identified as susceptible to ML/FT, could result in ML/FT.

- The risk assessment is based on determining the frequency (likelihood of occurrence) and the severity. Consider assessing the likelihood first.
- Allow for all the different situations which currently arise in your agency (or are likely to arise in the foreseeable future, e.g. from proposed new products, services, or client types). For example, a long-standing, well-known client from a high-risk country (e.g. A NZ resident working in a high-risk country) may pose a lower risk than a new client (e.g. new migrant to NZ) from the same country.
- The end result of this step will be a likelihood rating for each of the at-risk areas of your agency. For example, you could rate each area as either very likely, likely, possible, or unlikely to be used for ML/FT. These ratings will allow your agency to apply the appropriate standard of customer due diligence in your AML/CFT programme.

An example of this likelihood rating could be:

Unlikely	Likely	Very likely
There is very little chance of ML/FT occurring in this area of your agency.	There is a moderate chance of ML/FT occurring in this area of your agency (perhaps 10% of such transactions).	There is a high chance of ML/FT occurring in this area of your agency (perhaps 20% of such transactions).

3.4.1 Inherent vs residual risk

The DIA (the AML/CFT supervisor for real estate agents) expects reporting entities to address inherent risks in the risk assessment.

Inherent risk is the risk of ML/FT to the reporting entity in the absence of any actions it may take to alter either the risk's likelihood or impact. Put differently, in assessing the inherent risks of customer types, types of services, and products, etc. you do not take into account your current business practices which reduce or mitigate your risks (such as asking for source of funds, asking for identity, etc.) This is because the inherent risks do not vary by reporting entities or region. A reporting entity's familiarity with a particular customer type, or a product, or service, etc. should factor into

adjusting the residual risk by the implementation of appropriate controls, and not into adjusting the inherent risk.

Residual risk is the risk of ML/FT that remains after the application of necessary controls to reduce the likelihood or impact of the risk. An acceptable level of residual risk is determined by the risk tolerance (or risk appetite) of the reporting entity (i.e. the real estate agency).

Example 1

If a real estate agency has a large number of family trust clients, then the inherent risk of ML/FT to the agency from this customer type is high. However, the agency may know all its family trust clients, all the trustees may be based in New Zealand, and maybe natural persons (mum and dad type), and the real estate agency may have a robust customer due diligence process in place making the high inherent risk low. Likelihood rating reflects the chances of ML/FT occurring before any controls are taken into account (i.e. the likelihood rating assesses the risk based on who you deal with/ how you deal with/ what services you offer them etc.)

Example 2

If you have identified migrants as a higher risk area, then the likelihood of one of these clients using your business for ML/FT will depend on factors such as whether:

- The client is from a country that is considered high risk (for example because they have high instances of illegal drug trafficking or weak/inadequate AML/CFT legislation);
- The client is new or an existing customer;
- The client is a PEP from a country that is internationally known for high corruption rates amongst government officials/politicians;
- The services that your business offers this client could be used to transfer funds across borders; and
- Your agency offers this client the opportunity to conduct transactions through internet-based trading accounts.

Continuing with the example, if your business has existing clients from countries that are known to have high instances of illegal drug trafficking and you offer these clients real estate services without requiring a face-to-face contact, then you would probably rate the likelihood of your agency being used for ML/FT by those clients as “very likely”.

Your AML/CFT programme should then address this high risk with appropriate control measures.

Source: Risk Assessment Guideline released by the three AML/CFT supervisors (Financial Markets Authority, Reserve Bank of NZ, and the Department of Internal Affairs)

3.4.2 Assessing severity

You can think of the consequences in terms of how it may affect your agency and the resulting damage it could cause to your agency.

Severity is assessed as low, medium, or high.

Using a common typology⁴ of depositing cash in the financial system, the severity matrix can be built as shown below:

Low	Medium	High
No cash is received by the agency. All clients pay electronically or by a NZ bank account cheque for services rendered.	Some clients may pay fees by cash. This accounts for 2% to 5% of your client base. The clients are usually those who operate a home-based business and are well-known to us.	Clients pay by cash for the services rendered. 5% to 10% of your clients are in this category. These clients are new migrants who may be looking to buy property within the first few weeks of arrival into New Zealand and may not have set up a bank account.

3.5 Applying the risk assessment

Your risk assessment must enable you to prepare a comprehensive AML/CFT programme. It must enable you to meet your obligations under the Act and the AML/CFT Regulations, especially obligations to conduct CDD (and ongoing CDD). This is covered in Section Four relating to developing your AML/CFT programme.

The risk assessment can be applied in a number of different ways, including to determine:

- The extent of due diligence required to be undertaken for each client (e.g. requiring senior management approval to onboard certain types of customers such as PEPs);
- The frequency and scope for reviewing the risk assessment; and
- The training requirements for staff in roles involving AML/CFT duties.

⁴ Method used for ML/FT

3.6 Keeping your risk assessment up to date (review of the risk assessment)

The Act requires you to describe how you will keep your risk assessment current. You can do this by describing how you plan to stay up to date with ML/FT methods, and how you will change your risk assessment if ML/FT methods change in a way which affects the risks faced by your agency.

Example wording

- *The staff professional development plan prepared at the beginning of each year contains a reference to undertaking CPD training on AML/CFT via the Radar platform offered by Strategi Institute.*
- *The AML/CFT compliance officer subscribes to the updates on the websites of organisations such as (but not limited to) FATF, and DIA.*
- *The AML/CFT compliance officer reads and familiarises him/herself with the Quarterly Typology Report published by the FIU of NZ Police. This gives the AML/CFT compliance officer information about new techniques used by money launderers worldwide. Using this information, an assessment is made as to whether our agency could be susceptible to similar ML/FT risks.*

3.6.1 How frequently should the risk assessment be reviewed?

Although the Act does not prescribe the frequency for reviewing risk assessments, at a minimum and as best practice, the risk assessment should be reviewed at least annually. A review of the risk assessment may be warranted in the following situations:

- When a new service is introduced;
- When new markets/clients are targeted, or
- In the event of changes to the Act or the Regulations.

3.6.2 Audit of the risk assessment

The Act requires you to ensure that your risk assessment is audited every three years (or during a different time period prescribed by regulations, or at any other time as required by DIA).

The audit must be undertaken by a person not involved in the development of your risk assessment, or the establishment, implementation, or maintenance of your AML/CFT programme (described in Section Four). Section Five provides detailed information about the audit of your risk assessment.

Section Four: Developing an AML/CFT programme

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4.0 Introduction

NOTE: The pre-requisite for preparation of an AML/CFT programme is completion of your risk assessment.

Your AML/CFT programme MUST be based on your risk assessment. Therefore, before you start to develop your AML/CFT programme, you should have completed your risk assessment as described in Section Three of this manual.

Your AML/CFT programme must take into account the risks your agency can reasonably expect to face from ML/FT.

4.1 What is an AML/CFT programme?

An AML/CFT programme is a written record of the policies (i.e. a set of expectations), procedures (day-to-day actions required to meet the expectations set) and controls (tools to ensure the agency meets the expectations set by undertaking the required actions) you have in place to manage the risks you have identified in your risk assessment and comply with your AML/CFT obligations. The policies, procedures and controls must be adequate, effective, and sufficiently robust to reasonably address the risks identified in the risk assessment. Refer to Appendix 8 for a sample AML/CFT programme.

For example, if you rated a particular type of client as “high risk” in your risk assessment, then your customer due diligence (CDD) in your AML/CFT programme should reflect this risk rating with adequate and effective policies, procedures, and controls.

This could include a policy to conduct enhanced due diligence on such customers, the procedures for doing so and the controls necessary to ensure that happens.

4.2 Who is responsible for your AML/CFT programme?

It is a requirement of the AML/CFT Act (s 56(2)) that you designate an employee of your agency as an AML/CFT compliance officer.

You can fulfil the role yourself if there are no employees (e.g. a sole real estate agency), as it does not have to be a standalone position. In many small real estate agencies, a single person may be responsible for the functions of front office, back office, money laundering reporting, and senior

management. This fact should be taken into account in designing a risk-based AML/CFT programme. The type and extent of measures to be taken for implementing the AML/CFT programme should be appropriate in relation to the size of the real estate agency.

If you choose not to fulfil this role yourself and you have an assistant or a PA/secretary, that person can be the compliance officer and report to you (you may be the director of your company/agency and/or the senior manager, i.e. a person in a position to influence the management or administration of the agency). The AML/CFT compliance officer can carry out other duties not related to AML/CFT compliance.

If you do not wish to act in the role then you must appoint a suitable person to act as an AML/CFT compliance officer.

A job description for an AML/CFT compliance officer is in Appendix 11.

Tip

It is best practice (i.e. not a requirement prescribed by the Act) to nominate, where possible, a second person to take over the role of the AML/CFT compliance officer to cover situations when the AML/CFT compliance officer is away on leave, or he/she resigns and finding an appropriate replacement takes time.

The AML/CFT compliance officer must have the competence, knowledge, and skill to perform the role. The recommended qualification for this role is the AML/CFT compliance officer (level 4) micro-credential provided by Strategi Institute Limited. This is an NZQA approved course and provides NZQA credits plus CPD hours.

4.3 Key elements of a robust AML/CFT programme

An effective AML/CFT programme begins with the establishment of a strong governance framework clearly outlining:

- a. A culture of compliance;
- b. Senior management/board support and oversight of the AML/CFT responsibilities of the agency as a reporting entity;
- c. Appointment of an AML/CFT compliance officer with well-defined responsibilities and the appropriate training;
- d. A robust procedure for undertaking and maintaining the risk assessment;
- e. A robust customer due diligence framework;
- f. A robust suspicious activity and prescribed transactions reporting programme;
- g. Provision for initial and ongoing AML/CFT training, customised for staff, and senior management according to their roles;

- h. Incorporation of AML/CFT compliance into job descriptions and performance evaluations of appropriate personnel;
- i. A robust procedure for periodic reviews of the risk assessment, and the AML/CFT programme; and
- j. The procedure for undertaking independent audits prescribed by the Act.

4.3.1 How to cultivate a strong culture of compliance

A culture of compliance is one in which the management and the staff of the real estate agency always do the right thing because they know what is expected of them (and that the agency will support them), and where compliance issues are not hidden or suppressed for fear of retribution, or retaliation.

While there is no right or wrong way to build a compliance culture, real estate agencies can create a compliance culture through:

- a. Ensuring the efforts to manage and mitigate the risks of ML/FT are not compromised by revenue interests;
- b. Assigning adequate human and financial resources to the compliance function;
- c. Embedding compliance into business processes (e.g. client onboarding, ongoing relationship management, etc.)
- d. Providing role-specific customised training on AML/CFT matters;
- e. Requiring everyone to attest to a code of conduct as a condition of employment; and
- f. Clear communication, and enforcement of consequences for non-compliance with the Act.

4.4 How to use the AML/CFT risk assessment to develop the AML/CFT programme

A risk assessment can be used in many ways to develop the AML/CFT programme. For example:

- Development of an AML/CFT strategy for the agency (e.g. discontinue, and prohibit provision of services to customers who do not supply customer due diligence information – such as information about the source of their funds);
- Allocation of resources (e.g. investing in PEP checking tools to test the PEP status of customers);
- Development of targeted initial, and on-going AML/CFT training for staff, and senior management;
- Development of account monitoring procedures, and controls; and
- Deciding the frequency for reviewing the AML/CFT procedures, and controls.

4.5 Minimum requirements for an AML/CFT programme

There are a number of minimum requirements that must be described by all AML/CFT programmes. Even if a particular requirement does not apply to your agency, there must be a section in the programme that explains that the requirement is not applicable, and the reasons why it is not applicable. The next sections in this part of the manual consider each of the minimum requirements that must be addressed.

4.6 Vetting

Vetting is checking someone's background to determine their suitability for a position in your agency, making sure they are who they claim and the information they have provided is correct. Its purpose is to avoid hiring a person who may use your agency (or allow their associates to use your agency) for ML/FT.

Under the Act, your AML/CFT programme must set out your policies, procedures and controls for vetting senior managers, your AML/CFT compliance officer, and any other employees whose roles involve AML/CFT duties.

You must take into account the risks identified in your risk assessment in designing your policies, procedures and controls for vetting of employees, including vetting by third parties. You should then relate these risks to the roles performed by the employees.

Policies, procedures, and controls can require:

- Checks to identify any criminal convictions prospective or current employees may have. (The process for obtaining a person's criminal record be found on the Ministry of Justice's website);
- Character references or any other background checks including criteria for managing any negative or undesirable information;
- Different levels of vetting for different staff, depending on the level of ML/FT risk your agency faces from people in those positions, and
- People who conduct background checks on prospective or current staff to have the appropriate skills and experience to do so.

If you already have comprehensive and effective policies in place for staff vetting you could include them in this section of your AML/CFT programme if they are suitable for AML/CFT purposes.

Example of Vetting described in an AML/CFT programme

My agency has twelve employees:

- *an office manager;*
- *four salespeople;*
- *one branch manager (who is also the AML/CFT compliance officer), and*
- *six real estate agents, including myself.*

At the time of becoming a licensed real estate agent, I satisfied the Fit and Proper person requirements prescribed by the Real Estate Authority (REA). I am also a member of the Real Estate Institute of New Zealand (REINZ) and subscribe to the Code of Professional Conduct and Client Care (Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012) and the REINZ Codes of Agency Practice.

The branch manager has been employed by me for over 20 years and I have no reason to doubt her integrity and moral character.

I have the following policy, procedure, and control to meet the AML/CFT requirements.

Policy:

- *To recruit new staff using reputable employment agencies who conduct appropriate criminal history checks before referring the candidate for an interview. If recruitment is undertaken via referrals then the following is required:*
 - *Criminal history check;*
 - *Credit check using Equifax, and*
 - *Two referees.*
- *It is our policy to vet ALL staff, regardless of position or status within the agency, prior to recruitment or engagement.*

Procedure

- *Obtain written confirmation from the recruitment agency, before conducting the interview, that they have completed a satisfactory criminal history check, and reference check from two referees.*
- *In those situations, not involving a recruitment agency, obtain a candidate's written approval for conducting a criminal history check, credit check, and reference check from at least two referees.*
- *Maintain written records on the candidate's file of the reference checks conducted internally by myself as well as those by the recruitment agencies.*
- *As part of ongoing employee due diligence, we may undertake criminal history checks of all staff (regardless of position or status within the agency), every two years.*

Control

- *The offer of employment is not made without appropriate vetting as described above.*

4.7 Training

The main purpose for providing AML/CFT training is to ensure that relevant employees are aware of the risks of ML/FT faced by your agency and how they should respond when confronted with such risks.

Under the Act, your AML/CFT programme must set out your policies, procedures and controls for training on AML/CFT matters for senior managers, your AML/CFT compliance officer and any other employees with roles involving AML/CFT duties.

Training should highlight to everyone in the agency, the importance of the contribution they can individually make to the prevention and detection of ML/FT. There is a tendency, in particular, on the part of more junior staff, to mistakenly believe that the role they play is less pivotal than that of their senior colleagues. Such an attitude can lead to failures to disseminate important information (e.g. suspicious activity of clients) because of mistaken assumptions that the information will have already been identified and dealt with appropriately by senior colleagues.

It is common for agencies to give training on AML/CFT to staff without any formal record being kept of that training (e.g. through on-the-job training). If training is given on the job then the trainer should make a note of what was covered in the session and sign and date that record. If you cannot produce records of employee training, then there may be no defence against a prosecution for failing to report a suspicion of ML/FT.

Your AML/CFT programme could document the following:

- The scope and nature of the training (e.g. you could include training on relevant AML/CFT legislation, your AML/CFT policies, procedures and controls, your ML/FT risks (as set out in your risk assessment), trends and techniques of ML/FT, and how to identify unusual behaviour).
- Tasks or duties which can only be carried out by staff who have had appropriate AML/CFT training.
- How you will apply the AML/CFT training, including frequency and delivery methods. The frequency of training events can be influenced by changes in legislation, regulation, professional guidance, case law and judicial findings (both domestic and international), as well as by changes in the agency's risk profile and procedures.
- A risk-based approach to training. This means staff undertaking client-facing duties (such as on-boarding, suspicious activity monitoring, etc.) can be provided more frequent training (e.g. every quarter to ensure they are aware of new red flags identified by the FIU in its quarterly typology reports). Senior management and staff not in roles involving AML/CFT duties can be provided training on an annual basis in the form of refresher training.

- How you will track that relevant staff have completed the required training.
- How training is tailored for different employees depending on the tasks carried out.
- When training should be completed. The agency should ensure new staff are trained promptly (e.g. within three months of joining the agency). Subsequent on-going training can comprise of concise updates to help refresh and expand employees' knowledge and to remind them how important effective AML/CFT work is.
- Whether and how employees are assessed for knowledge, application and retention of the AML/CFT training.

Example of Training described in an AML/CFT programme

- *We recognise one of the most important tools available to us to assist in the prevention and detection of ML/FT is to have well-trained staff alert to the potential risks of ML/FT. Our policy, procedure, and control are designed on this basis.*

Policy

- *Provide adequate, and relevant initial, and ongoing AML/CFT training to enable staff, and senior management, to fulfil their respective responsibilities under the AML/CFT Act.*

Procedure

- *At the beginning of each year, as part of my professional development as a licensed real estate agent, I identify the areas relating to new legislation, such as AML/CFT, I need to be trained on.*
- *I also sit with my staff to identify the areas of development they would like to undertake during the year. One of the elements in this plan is to keep up-to-date with the legislation (including AML/CFT).*
- *We have registered with Strategi Institute Limited (SI) for the use of their online CPD platform Radar. SI is our preferred provider of AML/CFT training. We undertake CPD modules relating to AML/CFT (e.g. AML/CFT risk assessment, development and maintenance of an AML/CFT programme, Introduction to 'Identity Verification Code of Practice' etc.) annually. The training is delivered online and includes a series of questions which are marked to confirm we have understood the material.*
- *The areas covered in the AML/CFT training include (but are not limited to):*
 - *Background on ML/FT;*
 - *Suspicious activities, and red flags for real estate agents;*
 - *Amended Identity Verification Code of Practice 2013;*
 - *How to complete a risk assessment and AML/CFT programme;*
 - *Consequences of non-compliance with the Act; and*
 - *CDD and suspicious activity reporting.*
- *The AML/CFT compliance officer undertakes AML/CFT modules on Radar that are relevant to her role as the AML/CFT compliance officer.*

- Radar automatically records the training we have completed and the CPD hours allocated by SI.
- The effectiveness of the AML/CFT training is measured by reviewing the score achieved by the person completing the CPD module on Radar.
- I also include the AML/CFT training, undertaken using Radar, in my CPD log that I am required to maintain to comply with the rules set by the Real Estate Authority.
- We also subscribe to the updates on the websites of DIA and the FATF to keep up-to-date on the AML/CFT legislation. In addition, we subscribe to Strategi ezines, which carry information on AML/CFT updates.
- As a member of REINZ I may also undertake relevant AML/CFT training offered by them.
- We may also obtain AML/CFT training by attending road shows conducted by DIA, the FIU and other relevant organisations on AML/CFT.

Control

- The AML/CFT compliance officer reviews the CPD log every year to ensure relevant training on AML/CFT matters is undertaken by everyone in the agency.
- For new recruits, the AML/CFT compliance officer checks relevant initial AML training has been provided before they are actively involved in the day-to-day operations involving AML/CFT duties.

In addition, undertaking on-going (or refresher) AML/CFT training is included in the job descriptions of all staff, and senior management (as part of meeting all the compliance obligations applicable to our agency), and completion of that training is one of the requirements taken into account at the time of annual performance appraisals. The CPD log (or the training log) of each staff member (including senior management) is reviewed by the AML/CFT compliance officer (or the manager of the staff member – e.g. branch manager) to check the AML/CFT training required to be undertaken during the year, has actually been undertaken.

4.8 Customer due diligence

Customer due diligence (CDD) is the process through which you develop an understanding about your customers and the ML/FT risks they pose to the agency. CDD is the cornerstone of an AML/CFT programme. CDD involves gathering and verifying information about the identity (e.g. full name, date of birth, relationship to the customer, address, etc.) the nature, and purpose of the business relationship of a customer, any beneficial owners and representatives of the customer (i.e. persons acting on behalf of the customer), and any person on whose behalf a transaction is conducted that is a customer of your customer, if that person has **“ultimate ownership or control of your customer”**. The CDD must be conducted before the real estate agent enters into an agency agreement with the customer.

Note: Where real estate agency work is conducted in relation to a commercial lease transaction, CDD can be conducted after the agency agreement is signed, but must be conducted before an offer to lease is presented to the landlord.

Robust CDD procedures are vital for a reporting entity because they:

- a. form an essential part of risk management, for example, by providing the basis to identify, assess, mitigate, and manage risk of ML/FT;
- b. help to protect the reporting entity by reducing the likelihood of it becoming a vehicle for, or a victim of, ML/FT;
- c. help the reporting entity, at the time the CDD is carried out, to take comfort that the customers and other parties included in a business relationship are who they say they are, and that it is appropriate to provide them with the product or service requested, and
- d. help the reporting entity to identify, during the course of an ongoing business relationship, factors which are unusual, and which may lead to knowing, suspecting, or having reasonable grounds for knowing or suspecting, that persons involved in the business relationship may be carrying out ML/FT.

Persons seeking to engage in ML/FT activities through your agency will try to mask their identity, hide the illegal source of their funds, and/or mask the identity of the beneficiaries of those funds. Effective CDD is required to counter this.

Real estate agents should identify, and verify, the identity of their customers in sufficient detail to provide them with reasonable assurance that the information they have is an appropriate and sufficient indication of the customer's true identity.

For real estate agents, the customer (i.e. the client) is the person with whom the agent has *entered into an agency agreement with*. An agent will only need to conduct CDD on this party and not on the other party or parties to the transaction. The only exception to this is in the case of "occasional clients."

Occasional clients are people that conduct an "occasional activity" or "occasional transaction" through your real estate agency. The terms "occasional activity" and "occasional transaction" are defined in section 5(1) of the Act:

- **Occasional activity:** an activity that does not involve a business relationship between the reporting entity and the reporting entity's customer.
- **Occasional transaction:** a cash transaction that is equal to or above the applicable threshold value, or wire transfer carried out or received by the agent over \$1,000, that occurs outside of a business relationship. Cash means physical currency and includes a cheque, bill of exchange,

promissory note, bearer bond, traveller's cheque, money order, and postal order. Note: the threshold value can vary for different situations.

Example

Jane, of Jane Doe Real Estate Limited (JDRE), has entered into an agency agreement with Chloe and Kevin Clarkson ("the vendors", and hence the client) to sell their house. JDRE is a licensed real estate agent (and Jane Doe is also a licensed real estate agent).

Lisa and Thomas Browne ("the purchasers"), have agreed to purchase the property and have signed a sale and purchase agreement with the vendors.

The purchasers have given JDRE \$10,000 NZD in cash as a deposit for the property. JDRE is holding this in their trust account.

In this scenario, Jane has already fulfilled her obligation to conduct CDD on her clients (i.e. the vendors) before she entered into an agency agreement with them.

In addition, Jane has an obligation to conduct CDD on the purchasers as they are an "occasional client" because they are conducting an "occasional transaction" with Jane and JDRE.

Some payments will not attract CDD or other AML/CFT obligations.

Where a DNFBP (i.e a real estate agent) receives a payment from a customer for the purpose of making a payment to one of the below parties, the transaction is not captured by the AML/CFT Act and the real estate agent does not have to conduct CDD in relation to the transaction:

1. A New Zealand government department, the New Zealand Police, or a local authority;
2. A barrister; or
3. Any other third party carrying out business in New Zealand, where the payment relates to the provision of a service by that business, which is wholly ancillary to the real estate agent's service, and where the value of the transaction (or series of transactions) is less than \$1,000.

This means that if a real estate agent receives a payment from a customer (of less than \$1,000) for the purpose of paying another business for a service that is necessary to support the real estate agent's service, it may not attract AML/CFT obligations.

Refer to *Regulation 24AB, Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011* for further details.

There are three types of CDD under the Act depending on your customer, and the type of transactions they conduct. They are:

- standard CDD;
- simplified CDD, and
- enhanced CDD.

The CDD programme should set out what level of CDD you will apply to your customers and the circumstances under which each type of CDD is undertaken.

4.8.1 Standard CDD

For most agencies standard CDD will likely be the norm for the majority of their customers. Standard CDD involves the collection of identity information of the customer, any beneficial owner of the customer, or any person acting on behalf of the customer.

Generally, standard CDD will apply when you establish a business relationship with a new customer. For your existing customers, standard CDD may be required depending on the level of risk involved. You will also need to conduct standard CDD on existing customers where there is a material change in the nature or purpose of the business relationship, and if you have insufficient information about them. For example, a customer (a family trust) you dealt with previously and prior to you having obligations under the Act, requests your services in respect of selling a property. However, there are now new trustees. As you have not dealt with the new trustees previously, you will not have any CDD information about them and so will need to conduct CDD for the customer.

The type of information required to meet standard CDD is:

- The person's full name;
- The person's date of birth;
- If the person is not the customer, the person's relationship to the customer;
- The person's address or registered office;
- The person's company identifier or registration number;
- Information on the nature and purpose of the proposed (or existing) relationship with the customer,
- If the customer is a company, the existence and name of any nominee director and/or nominee shareholder,
- If the customer is a Limited Partnership or Overseas Limited Partnership, the existence of and name of any nominee general partner;
- If the customer is a trust, the settlor(s) and any protector(s); and
- Any information prescribed by regulations.

The reporting entity must have specific verification requirements for each type of customer mentioned above and must be according to the level of risk involved.

Most of the above requirements will be met by real estate agents who adhere to the identity verification requirements prescribed by the Amended Identity Verification Code of Practice 2013.

The requirement to collect information on the nature, and purpose of the proposed business relationship with the customer will be satisfied when you sign an agency agreement with the customer that describes the nature and purpose of engagement with the customer.

4.8.2 Simplified CDD

Simplified CDD is required when dealing with customers such as government departments, local authorities, the New Zealand Police, the New Zealand Security Intelligence Service, registered banks, licensed insurers, and certain listed companies.⁵

Most small- and medium-sized real estate agencies will not have a need for this CDD type in the ordinary course of their business.

4.8.3 Enhanced CDD⁶

Enhanced CDD is required when:

- Your risk assessment indicates a 'high' risk level, or
- You deal with certain customer types such as a trust, a non-resident customer from a country that has insufficient AML/CFT measures in place (which also includes any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action), a customer who is a politically exposed person, a customer who is a company with a nominee director or shareholder, or a limited partnership/overseas limited partnership with a nominee general partner etc.

Enhanced CDD requires collection and verification of the same information as standard CDD as well as, according to the risk level identified, the collection and verification of information relating to the source of the funds or wealth of the customer.

Enhanced CDD may also include some of the measures below:

- Seeking additional independent and reliable sources to verify information provided by the customer.
- Taking additional measures to better understand the background, and the financial situation of the customer (e.g. undertaking open source research, undertaking reference checks with providers of other professional services (e.g. customer's lawyer, accountant, obtaining (where applicable) audited financial statements for the past three years, obtaining and verifying any former name (such as maiden name), etc.

⁵ Refer section 18(2) of the Act and regulation 5 of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011.

⁶ Refer section 22 of the AML/CFT Act for a full list of specific situations (in addition to trust customers) requiring you to conduct an enhanced CDD.

- Undertaking increased monitoring of the customer's transactions, and greater scrutiny of those transactions. An example is setting lower thresholds for transactions connected with the business relationships.

Enhanced CDD in respect of trusts requires you to undertake the following:

- Trusts other than charitable trusts and discretionary trusts:** Obtain information about the name and date of birth of each beneficiary of the trust.
- Charitable trusts:** Obtain information about the objectives of the charitable trust.
- Discretionary trusts and trusts with more than 10 beneficiaries:** Obtain descriptions of each class or type of beneficiary.

In respect of 'b' and 'c' above, the trust deed may contain the required information. You must obtain a copy of the trust deed for your records to meet the requirement of enhanced CDD.

If enhanced CDD is needed for a business relationship, "additional enhanced measures" must be taken if source of funds or wealth information is insufficient.

4.9 CDD and beneficial ownership⁷

The Act requires conducting CDD not only on the customer, but also on the beneficial owner(s) of the customer.

It is important to know who the beneficial owner(s) are so you can make appropriate decisions about the level of ML/FT risk associated with your customer.

A beneficial owner is a natural person, not a company or organisation. An individual who:

- Has effective control of the customer; or
- Owns more than 25% of the customer, or
- Is a person on whose behalf any transaction is conducted that is a customer of our customer" and has "ultimate ownership or control of our customer".

If an individual satisfies any one element, or any combination of the above three elements, then s/he is the beneficial owner.

Identifying beneficial ownership of a customer is an obligation that **MUST** be satisfied, regardless of the level of risk associated with the customer. Once the beneficial owner is identified, the appropriate level of CDD can be applied.

⁷ Refer Appendix 2 for the full text of the Beneficial Ownership Guideline.

4.10 Source of funds, or source of wealth

Under s23(a) and 24(1)(b) of the Act, reporting entities are required to take reasonable steps, depending on risk, to verify information on the source of funds or wealth of the customer.

The source is NOT where the money is being transferred from (which, in most situations is likely to be a bank account). Source and wealth both point to where the funds originated.

The *source of funds* refers to funds that a customer has acquired in connection with a particular business relationship, or a particular transaction. These form the basis for requiring a business relationship between the customer and the reporting entity. For example, a customer may acquire funds by selling a business and then decide to purchase property which they would like the real estate agent to provide their services for.

On the other hand, the *source of wealth* refers to funds that the customer has acquired over a prolonged period of time and that make up the customer's entire body of wealth (total funds). When determining the source of wealth, the emphasis is on obtaining information on the customer's activities that indicate how the customer acquired the wealth. For example, the source of the customer's wealth may consist of savings accumulated from salary payments over the previous 20 years, or an inheritance.

The information about the source of funds, and the source of wealth, must be obtained when undertaking enhanced due diligence, both when establishing the business relationship, as well as on an ongoing basis for the duration of that relationship.

The following table provides examples of information sources to help determine the source of funds. It should be emphasised that the measures described in the table should be applied according to the customer risk level. The list is merely illustrative.

Serial	Type of funds	Possible information to establish source of funds, or wealth
1	Salary savings	<ul style="list-style-type: none">• Employer's name and address• Nature of employer's business• Pay slips• Bank statements evidencing salary credits into the customer's account with the amount reasonably matching the amount on the pay slips.

Serial	Type of funds	Possible information to establish source of funds, or wealth
2	Sale of securities	<ul style="list-style-type: none"> • Manner of the sale (through a broker, through a financial adviser, through the bank, etc.) • Quantity and value of the securities sold • Contracts evidencing the sale.
3	Sale of property	<ul style="list-style-type: none"> • Sale and purchase agreement for the property sold • Manner of sale (e.g. private sale, through a real estate agency, at the auction, etc.) • How long the seller owned the property.
4	Loan	<ul style="list-style-type: none"> • Loan agreement evidencing the amount of loan, and other relevant details • The purpose of the loan (e.g. debt restructuring, undertaking business expansion, etc.).
5	Inheritance	<ul style="list-style-type: none"> • Amount inherited • Probated Will evidencing the name of the testator/testatrix, and the relationship of the person receiving the inheritance.
6	Business profits	<ul style="list-style-type: none"> • Audited financial statements for the past three years • Bank statements.

Example of CDD from an AML/CFT programme

- *The agency conducts standard CDD for new customers identified as low risk when establishing a business relationship with them. In respect of existing customers, the agency conducts standard CDD only if there has been a material change in the nature or purpose of the agency relationship, or if the agency holds insufficient information about the existing customer.*
- *Examples of material change include (but are not limited to):*
 - *A natural person customer changing their occupation from a salaried job to starting their own business activity;*
 - *A trust customer changing its trustees;*
 - *A limited liability customer changing its shareholding;*
 - *A natural person customer going on secondment to a jurisdiction with insufficient ML/FT controls;*
 - *A natural person customer becoming a 'Politically exposed person' (PEP); and*
 - *The customer is wanting to sell/buy within a short period after purchasing or selling.*
- *The agency conducts simplified CDD when dealing with customers such as government departments, local authorities, the New Zealand Police, the New Zealand Security Intelligence Service and certain listed companies. Currently, the agency does not have any customers in this category.*
- *When conducting standard CDD, the practice will gather extra details about the legal structure of their clients/customers (legal persons and legal arrangements), like proof of their existence, who owns and controls them, and any rules they follow.*
- *When dealing with companies, limited partnerships, partnerships and trusts, the practice will need more information beyond just their name.*

This additional information includes things that evidence that they:

- *exist and are legitimate,*
- *who owns them,*
- *who controls them, and*
- *what rules or laws they operate under.*

If the customer is a trust, we will obtain, in addition to the above, information relating to the powers that bind and regulate the trust. This could be the trust deed and any deeds of appointment or amendment; as well as the information about the settlor(s) and any protector(s) of the trust. For a natural person, this should include obtaining their names and dates of birth.

- *The agency takes a risk-based approach to obtaining information relating to the customer.*
- *After completing initial CDD action and after reviewing information gathered, the agency will consider the money laundering/terrorist financing risk of the company. If this is determined as low, the practice will ask the client or any person(s) representing the client if any director, shareholder, or general partner is a 'nominee'. The response should be recorded by way of file note. If the agency considers the company or limited partnership to be medium or high risk,*

then the agency will consider developing an attestation form that the person representing the company or limited partnership sign acknowledging that there are no nominee directors, shareholders or general partners involved.

- *The agency conducts standard CDD if a person seeks to conduct a transaction through us outside of a business relationship, provided it is not an occasional transaction and there are grounds to report a suspicious activity.*
- *The agency subjects a customer to enhanced CDD in the event a suspicious activity is suspected even if simplified CDD would typically suffice.*
- *The agency conducts enhanced CDD for customers who are trusts (family trusts or charitable trusts), NZ non-resident customers from countries having insufficient AML/CFT measures (which also includes any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action), or customers who could qualify as PEP, or customers who are companies with a nominee director or shareholder, or a limited partnership/overseas limited partnership with a nominee general partner.*
- *The agency has a policy to verify the identity of all new clients. In respect of existing clients, we ensure we hold, as a minimum, their full name, date of birth and last known address. If they request a new service or request an 'unusual' amount of services such as being involved in multiple sale and purchases of property or businesses, then we will undertake standard or enhanced CDD, depending on the risk they impose.*
- *The client base of the agency comprises 90% 'Mum and dad' type clients who are either New Zealand citizens or New Zealand permanent residents. These clients are very low risk requiring standard CDD. 10% of the clients are family trust clients requiring enhanced CDD.*
- *The documents used to conduct the standard CDD are based on the documents prescribed by the Amended Identity Verification Code of Practice 2013 (IVCOP). A typical requirement is in Appendix 6.*
- *The verification is face-to-face, or by copies of documents certified by persons prescribed by the IVCOP. In respect of family trust clients we also ask for a copy of the trust deed together with any amendments and supplements.*
- *In respect of the family trust clients, the Settlers are 'Mum and Dad'. The trustees are 'Mum and Dad' and a professional trustee. The professional trustee is a NZ-based accountant or a solicitor (member of the CAANZ or the Law Society). The trust assets mostly comprise of an investment portfolio and/or a family home. The Settlers (who are also the Protectors having the power to 'hire and fire' trustees) are the beneficial owners.*
- *With family trusts, we ask for information about the source of funds. This could be the following:*
- *If the funds are from the sale of property, then a certified copy of sale and purchase agreement evidencing date of settlement, and price.*

- *If the funds are from the sale of investments, then a certified copy of the statement from the investment company (with whom the investment was held).*
- *We also ask for and retain a copy of the trust deed on the client's file.*
- *The agency requires staff to undertake training to understand the meaning of 'beneficial owner' of a customer. The training is provided online by Strategi Institute through the Radar platform. Staff undertake the relevant CPD module, designed by Strategi Institute, and their knowledge is tested via an online test.*
- *Irrespective of the type of CDD undertaken, we subject all customers to a PEP check, using the electronic PEP checking tool MemberCheck. If a customer is a PEP then we will obtain senior management approval to commence the business relationship.*
- *It is our policy not to enter into a business relationship with customers who are not able to provide satisfactory customer due diligence information (including information about the source of funds).*
- *The agency considers the following extra measures if standard enhanced CDD rules of establishing source of wealth and/or source of funds are not enough to adequately reduce the risk of money laundering and financing terrorism.*
- *In addition, when conducting enhanced CDD, the agency must be able to know when it is necessary to obtain and verify customer information regarding the source of funds or the source of wealth, and both the source of funds and the source of wealth.*
- *Where we have an existing business relationship, we would terminate that relationship if the customer fails to provide relevant customer due diligence information, requested as part of our ongoing due diligence. The business relationship will be terminated if the customer fails to provide us with the requested due diligence information within 20 working days of the request made. When we terminate a business relationship, any funds or other assets received will be returned to the customer even if the funds were received from a third party, unless the customer directs the funds to be paid to the source. During that period we will monitor the customer's transactions and file a suspicious activity report if the situation warrants.*
- *We will not on-board customers from FATF defined high-risk, and non-cooperative jurisdictions.*

4.11 Ongoing CDD and account monitoring

A customer intent on acquiring your services to facilitate ML/FT may present themselves as a legitimate client. S/he may engage you in relation to a corrupt transaction well into the business relationship, after having won your trust by satisfying your CDD measures and by dealing with you over a period of time. In this scenario, CDD alone would not prevent abuse of your professional standing. Ongoing monitoring is, therefore, a logical inclusion in the efforts to combat ML/FT.

Therefore, the Act places an obligation on real estate agencies to monitor the transactions carried out by (and on behalf of) customers throughout the duration of the business relationship. The aim of this is to enable the agency to remain aware of the scale and nature of the customer's business affairs and to enable the agent to become aware of transactions which are so unusual, in size or nature, that they might give a reason to suspect ML/FT. Ongoing monitoring may also help to ensure that CDD data is kept up to date.

Ongoing CDD requires you to regularly review information about the business relationship you have with your customers. Account monitoring involves reviewing account activity and transaction behaviour. You can do this using a manual or electronic system to review the transactions that occur and to detect patterns or unusual transactions. Your account monitoring requirements will be determined by the factors considered in your risk assessment. For some reporting entities a manual system will not be adequate. For example, if you process a large number of transactions or have a large customer base, a manual system may not allow you to adequately monitor transactions. However, for a small real estate agency, a good client relationship management system (CRM) that will record client details and enable filtering of clients will be sufficient. In most instances, staff training and knowledge of what to look for, plus a general sense of ML/FT awareness should be sufficient to detect a change in behaviour of certain clients.

The ongoing CDD and account monitoring you conduct must allow you to identify any inconsistencies between what you know about your customer, and the transactions they undertake. To do this you must consider what you know about the customer's use of your products and services as well as the risk rating for the customer type according to your AML/CFT risk assessment. You must also consider the type of CDD undertaken when the business relationship was established and your current assessment of the level of risk involved. This will allow you to identify grounds for suspicious transaction reporting.

Depending on risk levels, entities must update and verify customer information during regular reviews, considering the adequacy of information and when CDD was last conducted.

Regular reviews of information about designated non-financial business or profession activities are also necessary.

Example of Ongoing CDD described in an AML/CFT programme

- *We undertake ongoing CDD following a risk-based approach, or on a risk-sensitive basis. That approach is based on establishing 'normal' expected activity for each of our customers at the time of customer onboarding. These expected activity profiles are used to compare actual activities.*

- *The expected activity profiles are based on customer types (i.e. natural persons, trusts, limited liability companies), geography (i.e. NZ-based, out of NZ-based in jurisdictions with robust AML/CFT measures, out of NZ-based in jurisdictions with insufficient ML/FT measures (including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action), etc.), and nature of business/occupation (i.e. salaried, cash intensive businesses, unemployed, etc.).*
- *In the event customers' activities, through our agency, are found to be in variance with their expected profile (created in the manner described above), then we engage with those customers to update the CDD information held on our records.*
- *Depending on risk levels, the practice updates and verifies customer information during regular reviews, considering the adequacy of information and when CDD was last conducted. The practice also conducts regular reviews of information about designated non-financial business or profession activities if necessary.*
- *The frequency of review would be determined by the risk rating of the client as mentioned above, the extent of due diligence undertaken when the client was onboarded and what sort of changes have occurred in the practice or in the type of transactions undertaken with us.*
- *Ongoing CDD is also undertaken as appropriate opportunities arise such as:*
 - *when a previously inactive engagement recommences;*
 - *whenever there is a change of control and/or ownership of the customer, such as change of trustees, change of directors or senior managers in a business, and major shareholder change or whenever there is business sale, merger, etc.;*
 - *when the business is introducing new products or services which increase the risk of ML/TF; and*
 - *where any cause for concern, or suspicion, has arisen (in such cases, care is taken to avoid making any disclosure which could constitute tipping off).*
- *The transactions undertaken by clients are of the type that can be monitored manually.*

4.12 CDD conducted on your behalf

The Act permits you, in certain circumstances, to rely on CDD conducted on your behalf by another person who is:

- Your agent; or
- A reporting entity that consents to do so; or
- A resident in a country:

- with sufficient AML/CFT systems and measures in place; and
- supervised or regulated for AML/CFT purposes, and
- who consents to do so.

A person or reporting entity (that is not your agent) that you rely on, must have a business relationship with the customer concerned. They must have conducted CDD to at least the standard required by the Act and provided you with relevant identity and verification information. Where CDD is conducted on your behalf by a member of your designated business group, or a person that is not your agent, the relevant verification information must be provided to you as soon as practicable, but no later than five working days after the relationship is established or the occasional transaction is conducted. If a reporting entity is a member of a designated business group and is relying on an overseas member for CDD, it must ensure that the overseas member meets comparable standards to the AML/CFT Act or consider the risk level of the relevant country appropriately.

If your agency relies on CDD conducted on your behalf by another person, then s 57(k) of the Act requires your AML/CFT programme to set out:

- policies, procedures and controls for circumstances under which you rely on CDD conducted on your behalf, and
- the procedures which will be followed by the person conducting CDD on your behalf.

Your policies, procedures and controls will have to be adequate and effective to detect and deter the ML/FT risks that your risk assessment has identified. For example, you could set out how a person resident in another country will conduct CDD on a trust in that country before you enter into a business relationship with the trust.

You are responsible for the adequacy of the CDD conducted on your behalf. This means it is desirable for you to communicate your relevant policies, procedures, controls and CDD requirements clearly to the third party. It is also desirable for you to check periodically whether the third party is carrying out CDD to the required standard.

In the case of a typical small real estate agency, the CDD will be carried out by the staff within the agency at the time of engagement so there is no requirement to rely upon third party CDD. However, there could be instances such as:

- A customer is overseas or incapacitated and there is a Power of Attorney who has signing rights.
- The agency has offices around New Zealand and agents (usually contractors or franchisees) are meeting new clients and undertaking CDD on your behalf.
- A new client who is a New Zealand citizen and resident but is temporarily working overseas and now wishes to avail your services (e.g. buy or sell property).

Example of Third Party CDD as described in an AML/CFT programme

There are limited circumstances when we may rely on third parties conducting CDD on our behalf. This may happen when customers are referred to us by other real estate agents, accounting practices, or law firms, for providing real estate services.

Policy

- *It is our policy to put in place a written agreement with the third party setting out what we expect from them and what we must obtain from them as part of CDD prior to undertaking the work for the customers.*

Procedure

- *An agreement is put in place with any third party (or parties) we decide to rely on for the purpose of fulfilling our CDD obligations.*
- *The AML/CFT compliance officer checks the identification documents obtained and verified on our behalf.*
- *In the case of any discrepancies (e.g. if the attestation wording is incorrect, or the attestation does not indicate the date the document is verified by the agent) the AML/CFT compliance officer will notify the third party and obtain another set of correctly verified or certified documents before providing services to the customer.*
- *Records of the CDD documentation (including communication with the third party (or parties)) is held on customer files.*

Control

- *The AML/CFT compliance officer, when undertaking a review of our compliance with the AML/CFT programme, checks customer records where we relied on third parties for undertaking CDD on our behalf.*
- *The AML/CFT compliance officer obtains and keeps on file, information about the type of AML training provided (and how it was provided) to the relevant persons of the third party to ensure those persons are fully familiar with the requirements of the Act as they relate to obtaining the customer identity and verifying that identity.*
- *The agreement with the third party (or parties) contains provisions describing when we may terminate the agreement (e.g. for unsatisfactory performance when undertaking CDD on our behalf).*

Note: If the agency does not rely on CDD conducted on its behalf by another person, then the AML/CFT programme can state this in the section relating to CDD.

4.13 Exception handling process

A reporting entity choosing to rely on the IVCOP, for identity verification of customers (that are natural persons) assessed by the reporting entity to be high risk, must have appropriate exception handling procedures in place.

The IVCOP prescribes different types of documents a reporting entity may use to undertake verification of customers' identity. However, there will always be some customers (for example the very young, or the very old) who don't have the required identification documents. The exception handling policy, procedures, and controls enable a reporting entity to deal with such circumstances.

It is important to remember exceptions are just that – they should not turn into normal business practice. As an example, exception handling should only be used where the person genuinely does not hold the identification documents, not where they have just left them at home.

Example of Exception Handling section from an AML/CFT programme

An exception occurs when an existing customer, or a potential new customer, is unable to provide the identity verification documents prescribed by the IVCOP.

Policy

Customers not in a position to provide identity documents, prescribed by the IVCOP will only be on-boarded on a case-by-case basis and with the approval of the AML/CFT compliance officer.

Procedure

- *The AML/CFT compliance officer has prescribed alternative documents for identity verification purposes when a customer cannot supply identity documents as prescribed by the IVCOP. The alternative documents are:*
 - a. *For persons under 18 years of age, a birth certificate or a student identity card.*
 - b. *For persons over 18 years of age, who are unable to produce a primary photographic identification, the acceptable document is the passport-size photograph of the customer along with an Identifier Statement of the person who has known the customer for a minimum period of 12 months before the date of on-boarding. In addition, the identity of the Identifier should be verified using the documents prescribed by the IVCOP.*
- *Staff undertaking identity verification by such means, must record the reasons for making the exception, and retain the record on the customer's file.*
- *In the event the customer is unable to supply the documents described in a (i), or (ii), then the customer must not be on-boarded, and the AML/CFT compliance officer must be informed.*

Control

- *At the end of each month the AML/CFT compliance officer undertakes a review of files of new customers to ascertain if any customer was on-boarded by making an exception to our*

standard procedure of only obtaining identification documents prescribed by the IVCOP. This check reveals if the exception handling procedure was correctly followed at the time of onboarding.

- *If the above check reveals the exception handling procedure was not correctly followed, then additional training is provided by the AML/CFT compliance officer to the relevant staff member.*

4.14 Written findings

Your AML/CFT programme must contain policies, procedures, and controls to examine and keep written findings on any activity that is likely by its nature to be related to ML/FT. You must also examine and keep written findings on any complex or unusually large transactions, and unusual patterns of transactions with no obvious economic or lawful purpose.

Your policies, procedures, and controls must also set out how you will monitor, examine, and keep written findings relating to relationships and transactions with countries that do not have, or have insufficient, AML/CFT systems in place. Your AML/CFT programme must include additional measures that restrict any dealings with these countries.

It is unlikely a small- to medium-sized real estate agency offering simple services such as the buying and selling of residential family homes to ‘Mum and Dad’ type clients, will be involved in activities related to ML/FT.

Example of Written Findings section from an AML/CFT programme

The agency is aware of the requirement to keep written findings of any activity that is likely to be related to ML/FT. This awareness is maintained via the training programme undertaken by all staff annually. It would be rare to have complex or unusually large transactions or transactions that have no obvious economic benefit as the agency does not deal with clients intending to undertake transactions of this type.

Policy

- *We keep written findings relating to complex or unusually large transactions, or unusual patterns of transactions that have no obvious economic benefit, or any other activity we regard as being particularly likely by its nature to be related to ML/FT.*

Procedure

- *As the first step, we provide in-depth training to staff to ensure they can identify complex or unusually large transactions, or transactions having no obvious economic purpose. The training is provided by using examples of red flags described in publications such as the FIU*

quarterly typology reports. The training is undertaken via the online education platform Radar (we subscribe to), provided by the Strategi Institute.

- *If a staff member identifies clients intending, or enquiring about using our services, to undertake transactions we do not undertake in the normal course of conducting our business, then they will discuss the matter with the AML/CFT compliance officer or a partner. The discussions may trigger the requirement to file a suspicious activity report and that decision will rest with the AML/CFT compliance officer.*
- *We maintain a register that records transactions of the type described above, whether or not such transactions are actually undertaken.*

Control

- *The AML/CFT compliance officer reviews the register recording the transactions of the type described above when reviewing the compliance of the agency with its AML/CFT programme. A report of the review findings is provided to senior management of the agency.*

4.15 Suspicious activity reporting

Under s40 of the Act, if a person conducts, or seeks to conduct, a transaction through your agency and you have reasonable grounds to suspect the activity, or proposed activity, is or may be involved in criminal activity, you must make a suspicious activity report (SAR) to the FIU. This must be reported as soon as practical, but no later than three working days after forming a suspicion.

An activity does not have to be completed before you can notify the FIU. You can submit SARs to the FIU about proposed activities as well. For example, if you turn a client away because you are not comfortable with the explanation they give you about the source of their funds, you should still submit a SAR with the information you have collected.

Your AML/CFT programme must contain policies, procedures, and controls for reporting suspicious activities to the FIU (including, if applicable, filing suspicious property reports (SPRs) under the Terrorism Suppression Act 2002).

goAML Web is the method prescribed by the FIU to file SARs. You must first register on the goAML Web in order to file SARs. Appendix 12 provides guidance on how to register a reporting entity on goAML Web.

4.15.1 Identifying suspicious activity

Identifying a suspicious activity may be largely based on your 'gut feeling'. Generally, a suspicious activity may often be one which is inconsistent with a client's known legitimate business or personal activities, or with the normal business of a client of that type. Therefore, the key to recognition is finding out enough about the client's business (or personal situation) with a view to be able to identify that a transaction, or a series of transactions is unusual. However, it is important to bear in

mind that an activity which appears unusual is not necessarily suspicious. In the first instance, an unusual activity will likely form the basis for further investigation, which in turn may require a judgement as to whether the activity is actually suspicious.

Suspicion falls short of proof based on well-founded evidence, but it should still be based on some foundation. A vague feeling of unease will not suffice.

A particular sector (e.g. real estate), or business, may be subject to a greater degree of inherent risk of ML/FT. However, an assessment that there is a higher than normal risk of ML/FT is not alone a sufficient basis for suspecting ML/FT.

The test for whether a person holds a suspicion is an objective one. If someone thinks a transaction is suspicious, they are not expected to know the exact nature of the criminal offence, or that particular funds were definitely from that crime. They may have noticed something unusual or unexpected and, after making enquiries, the facts do not seem normal or make commercial sense. There does not have to be evidence that money laundering is taking place for there to be a suspicion.

Real estate agents should exercise a healthy level of professional scepticism and make reasonable enquiries if they come across information which could form the basis of a suspicion.

4.15.2 Red flags or indicators of suspicion

In the real estate context, some red flags or indicators of suspicion could be a customer who:

- Provides conflicting information to different staff members within the agency or conflicting information to the same staff member.
- Invests in property at significantly higher or lower prices than market value.
- Is looking to re-sell property shortly after purchase for less than the price it was purchased for.
- Is located a significant and unexplained distance from the real estate agent.
- Appears to be secretive and unwilling to provide information about source of funds, or source of wealth, proof of identity, etc.
- Requests documentation standards be waived.
- Provides identification documents that are expired.
- Attempts to threaten or bribe staff (or the salesperson) in order to circumvent identification.
- Provides disconnected telephone number(s) or refuses to provide a contact number.
- Requests proceeds from the sale of the property be sent to a high AML/CFT risk jurisdiction not normally associated with the jurisdiction(s) the client resides in.
- Has an account for which several persons have signature authority, and where these persons appear to have no relation to each other.

- Is not concerned about the level of fees.
- Deposits funds into your trust account but ends the transaction for no satisfactory reason within a very short period of making that deposit.
- Is involved in a cash-extensive business.

Example of Suspicious Activity Reporting section from an AML/CFT programme

Policy:

- *The agency will report all suspicious activities to the FIU. The policy for reporting is based on a 'gut feel' during client interactions. The agency believes, 'if something seems not right, then it probably isn't'.*
- *All staff are required to alert, in person, or in an email, the AML/CFT compliance officer of any incident prompting suspicion. The AML/CFT compliance officer has the authority to authorise and forward the suspicious activity report (SAR) prepared in consultation with the staff involved. In the absence of the AML/CFT compliance officer, staff must report to one of the managers in the agency.*
- *In addition, the agency follows a strict 'No tipping off policy' with respect to reporting suspicious activities.*
- *The agency is aware of its obligations to submit suspicious property reports under the Terrorism Suppression Act 2002. However, it is our policy not to assume a role giving us control of clients' property (i.e. real or personal property of any description, whether situated in New Zealand or elsewhere and whether tangible or intangible, including any interest in the tangible or intangible property). For this reason we do not consider it necessary to implement detailed procedures and controls relating to submission of suspicious property reports.*

Procedure:

- *The relevant staff member alerts the AML/CFT compliance officer about the suspicious nature of the activity. The following information should be provided to the AML/CFT compliance officer:*
 - *Date and description of unusual activity/transaction.*
 - *Date noted.*
 - *Date and description of initial research and/or EDD measures (if relevant).*
 - *Explanation of why SAR should or should not be submitted.*
- *The AML/CFT compliance officer and the staff member discuss the circumstances surrounding the suspicion.*
- *If appropriate, the relevant staff member provides ALL the supporting evidence to the AML/CFT compliance officer.*

- *On the basis of the above the AML/CFT compliance officer will make the final decision about submitting the SAR to the FIU.*
- *The AML/CFT compliance officer files the SAR using the goAML Web reporting tool. The SAR is filed as soon as practicable but no later than 3 working days after forming the suspicion.*
- *The AML/CFT compliance officer will maintain a record of the date the SAR is submitted, and the feedback, if any, from the FIU (e.g. date the SAR was rejected by the FIU and the reasons provided thereof). If the SAR was re-submitted, then the AML/CFT compliance officer will maintain a record of the date it was re-submitted. Any follow-up actions taken following the submission of the SAR will also be recorded by the AML/CFT compliance officer*
- *If the urgency of the situation warrants, then the AML/CFT compliance officer may orally file the SAR, with the NZ Police, within the prescribed three-day limit. However, the oral submission will be followed by filing the SAR using the goAML web tool (and this filing is also required to be done within the three-day prescribed limit after forming a suspicion). Examples of urgent situations could be if the client is already a part of ML/FT investigation, or the client is permanently leaving New Zealand.*
- *The AML/CFT compliance officer keeps the senior management informed of filing the SAR.*
- *All SAR records and records in relation to filing those SARs will be held for five years (or a longer period if specified by the DIA).*

Control

- *The agency has training in place for all staff to identify suspicious activities relevant to our situation. The training is undertaken through Strategi Institute. New staff are provided with this training within ten days of induction and before they commence active duties involving AML/CFT obligations. On-going refresher training is also provided to all staff (in roles involving AML/CFT duties). Completion of this training is taken into account when undertaking annual appraisals.*
- *The AML/CFT compliance officer reports to the senior management the number of SARs filed, including reporting NIL if no SARs are filed in any given year.*
- *The agency holds all the relevant records relating to the filing of SARs separate to the records holding client files. These records are held by the AML/CFT compliance officer. Access to these records is only given to the AML/CFT compliance officer, and one designated member of the senior management of the agency.*

4.15.3 Monitoring suspicious activity

Suspicious activity reporting is an important tool for reporting entities to help the FIU in its efforts to combat ML/FT.

The AML/CFT supervisors have expressed concern about the continued low-level of suspicious transaction reports (called suspicious activity reports from 1 July 2018). Some of the reasons they have identified for this include:

- a. Lack of targeted training of staff, and senior management (e.g. red flags training for client facing front line staff);
- b. Inadequate monitoring of clients' activities/transactions;
- c. Lack of a robust internal referral process for potentially suspicious activities (e.g. whistleblowing policies⁸);
- d. Poor documentation, or lack thereof to record and escalate suspicious activities, and
- e. Lack of interest from senior management whose sole focus is on growing the client base.

4.15.4 Tipping off

Tipping off is letting the client know they are (or may be) a subject of suspicion of ML/FT activities. Tipping off could occur at the stage of initial contact with the client, during the processing of transactions or obtaining information when investigations are being conducted on a suspicion or even after reporting to the FIU.

All members of staff (including senior management) must be made fully aware of their personal obligations under tipping-off legislation. They need to know what to say to a client and what to do to avoid alerting the client to the concerns of the reporting entity relating to the potential or actual ML/FT activities of the client.

Section 46(2) of the Act prohibits tipping off. It states a reporting entity must not disclose to ANY person, information about the SAR, or information identifying the person preparing or filing the SAR (in their capacity as the employee of the reporting entity). However, the following persons are excluded:

- i. a Police employee who is authorised by the Commissioner to receive the information; or
- ii. the reporting entity's AML/CFT supervisor; or
- iii. an officer or employee of the reporting entity, for any purpose connected with the performance of that person's duties; or
- iv. a lawyer, for the purpose of obtaining legal advice or representation in relation to the matter, or
- v. another member of a designated business group of which the reporting entity is a member, to the extent necessary for the reporting entity to decide whether to make a suspicious activity report.

A breach of s 42 of the Act (i.e. making unlawful disclosure of SARs for the purpose of obtaining a pecuniary benefit or prejudicing any ML/FT investigation) is a serious offence (under s 94 of the Act). Under s 100 of the Act, the reporting entity or the person committing the offence is liable to a fine of up to \$5 million (for an entity), and up to \$300,000 or imprisonment of up to two years or both (for individuals).

⁸ <https://www.publicservice.govt.nz/resources/protected-disclosures-act-2022/>

In view of the serious consequences of tipping off, the agency's internal procedures should clearly set out what is expected of individuals who form suspicions or obtain knowledge of possible money laundering.

The internal procedures should specify in what form staff may report their suspicion and to whom. The reports can take any form specified by the agency in internal procedures, e.g. emails, in writing, supplemented by copies of third-party documents and working papers but the agency should ensure that, whatever forms the reporting takes, relevant personnel are aware of the procedures to be used.

Consideration should be given to how to minimise the number of copies of reporting information held within an agency. The agency may wish to consider whether it is advisable to specify telephone or face to face contact with the AML/CFT compliance officer as the preferred initial reporting method, with the reporting records being created by the AML/CFT compliance officer, supplemented as necessary with copy information from client files.

It is recommended that all details of *internal reports* are held by the AML/CFT compliance officer and excluded from client files. The duty to report is a matter which does not fall within the delivery of professional services to clients and accordingly reporting details are not required to be placed on client files. Exclusion of information from *client* files assists in avoiding inadvertent or inappropriate disclosure of information and provides some protection against the threat of tipping off. Client files should retain only that information relevant to, and required for, the professional work being undertaken.

All relevant staff should receive training in line with their responsibilities and activities. Real estate agencies should consider, and provide, training to support staff in relation to tipping off and confidentiality, so that they know not to repeat sensitive information outside work or at inappropriate times. If their roles bring them into contact with clients, clients' funds, clients' accounts, or identification procedures, they should be aware of what constitutes tipping off and the consequences for them and the agency for inadvertent tipping off. Staff and senior management's awareness of the law can be restricted to practical application of how to avoid tipping off, and the agency's relevant policies and procedures. They are neither expected to, nor required to become experts in the law.

Example of a 'tipping off' scenario

An over-enthusiastic newly-licensed real estate agent, believing that she has spotted money laundering when negotiating a sale and purchase agreement for a prospective buyer, is overheard by the prospective buyer telling her branch manager about her suspicions. The real estate agent has therefore inadvertently tipped off the client.

Commissioner's orders and Production orders

If a reporting entity is subject to a Commissioner's order, or production order to provide information to the Police, relevant to an intelligence gathering enquiry, they will be temporarily exempt from certain obligations under the AML/CFT Act. This is to avoid compromising Police investigations and tipping off the person who is subject to the inquiry.

Under the temporary exemption (for a period of 30 days) the reporting entity is not required to conduct enhanced CDD, ongoing CDD, and account monitoring on a person subject to the inquiry, and is exempt from the prohibition on doing business with a person on whom CDD cannot be conducted. The exemption only applies for 30 days, unless otherwise notified by the Police.

This exemption is found in *Regulation 24AC, Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Regulations 2011*.

4.16 Wire transfers

A "wire transfer" is a transaction carried out on behalf of a person (the originator) through a reporting entity by electronic means with a view to making an amount of money available to a beneficiary (who may also be the originator) at another reporting entity.

Given that wire transfers present a high risk of money laundering, the Act prescribes additional CDD procedures for wire transfers. These additional CDD provisions are dependent on whether the reporting entity is an Ordering or Beneficiary Institution in relation to each transaction it is involved in (as defined above).

When sending a wire transfer over NZ\$1,000 on behalf of a client, the RE (as the Ordering Institution) must undertake CDD as required under this section on the client requesting the wire transfer (being the originator of the wire transfer).

As part of complying with wire transfer requirements, the RE should obtain the following information:

- a. the originator's full name; and
- b. the originator's account number or other identifying information that may be prescribed and allows the transaction to be traced back to the originator; and
- c. one of the following:
 - i. the originator's address;
 - ii. the originator's national identity number;
 - iii. the originator's customer identification number; or
 - iv. the originator's place and date of birth.
- d. information that gives the name of the beneficiary and the account number of the beneficiary or any unique transaction references that allows the transaction to be traced.

If the wire transfer is a domestic wire transfer, the RE may identify the originator by obtaining the originator's account number or other identifying information that may be prescribed and allows the transaction to be traced back to the originator.

According to the level of risk involved, the RE must verify the originator's identity (and any other information (if applicable), for example, source of wealth for a trust or a PEP). The documents which can be used for verification are the same as for standard CDD (or Enhanced CDD). Verification of the originator's identity must be carried out **BEFORE** the wire transfer is ordered.

Where the RE acts as a beneficiary institution in respect of a wire transfer, it must —

- a. use effective risk-based procedures for handling wire transfers that are not accompanied by all the information specified above; and
- b. consider whether the wire transfer constitutes a suspicious activity.

When making international wire transfers of less than \$1,000, as an ordering institution, the RE must include specified identification information about the originator and beneficiary.

Regulation 15A (Requirements and Compliance) requires the RE in addition to the above information, to ensure the following information accompanies each wire transfer:

- a. The originator's full name;
- b. The originator's customer/account number or other identifying information that may be prescribed and allows the transaction to be traced back to the originator;
- c. the name of the beneficiary; and
- d. the beneficiary's account number or the beneficiary's unique transaction reference number.

Verification is only necessary if there are grounds to report suspicious activity.

4.17 Prescribed transaction reporting

Under s 48A of the Act, if a person conducts a prescribed transaction through your agency, then you have an obligation to report that transaction to the FIU.

A prescribed transaction (as defined in s 5(1) of the Act) is a transaction conducted, through the reporting entity, that is:

- An international wire transfer valued at NZ\$1,000 or more; or
- A domestic physical cash transaction i.e. a transaction taking place in New Zealand involving physical currency – cash and bearer negotiable instruments (examples include traveller's cheques, promissory note, bearer cheque, money order, etc. These are instruments that do not carry the name of the payee) that are exchanged for physical (NZ) currency) valued at NZ\$10,000 or more.

These transactions, operationally, are referred to as international fund transfers (IFTs) and large cash transactions (LCTs), respectively.

Prescribed transactions reports (PTRs) need to be reported as soon as practicable but within 10 working days from the date the transaction took place. PTRs can be submitted manually, one-by-one, via the goAML Web reporting tool. PTRs can also be submitted by undertaking automated reporting available through the FIU xml schema.

Failure to comply with PTR obligations may attract pecuniary penalties. The maximum amount of a pecuniary penalty is \$200,000 for individuals, and \$2 million for an entity.

Tip

It is a minimum requirement under s 57(da) of the Act to include, in the AML/CFT programme, policies, procedures, and controls your agency has in place for reporting prescribed transactions. Even if prescribed transactions are not undertaken through your agency, you should, as best practice, include a section headed up *Prescribed Transactions Reporting* and briefly explain why you are not required to describe the policy, procedure, and control relating to submission of PTRs. If you do not reference the requirement to report prescribed transactions in your AML/CFT programme (even if they are not undertaken through your agency) the DIA may believe you are not aware of the obligation under the Act to report prescribed transactions.

Example of Reporting Prescribed Transactions, from an AML/CFT programme

Policy

- *The agency has a policy to report all prescribed transactions, using the goAML Web tool to the FIU of the NZ Police.*

Procedure

- *The prescribed transactions report is filed by the AML/CFT compliance officer, or in their absence by an appropriate staff member trained in filing PTRs.*
- *At the time of client on-boarding we obtain information from the client, about the possibility of them undertaking transactions that would meet the definition of a prescribed transaction. This provides us with information about the possible value, and volume, of prescribed transactions that may be undertaken by clients.*
- *Each time a transaction that meets the definition of a prescribed transaction is undertaken, that transaction is suitably identified in the ledger maintained for each client.*
- *A weekly review of clients' ledgers is undertaken by the AML/CFT compliance officer to compile the prescribed transactions that have been undertaken by clients.*
- *The AML/CFT compliance officer, on the basis of the above review of prescribed transactions, will manually enter into the goAML Web online form, the information about each prescribed transaction.*

Control

- *The AML/CFT compliance officer has undertaken appropriate training relating to the use of goAML web-based tool for reporting prescribed transactions.*
- *The AML/CFT compliance officer undertakes a weekly check of client ledgers to note and compile the prescribed transactions identified by the staff. These weekly checks act as a trigger for the AML/CFT compliance officer to submit a PTR.*
- *The report is submitted within 10 working days from the date the transaction is undertaken.*
- *The AML/CFT compliance officer, on submission of the PTR, appropriately notes this in the client's records.*
- *Each month a report is generated through the client transaction recording system that describes any prescribed transactions undertaken by clients. This report is reconciled with the record maintained by the AML/CFT compliance officer relating to filing of PTRs.*
- *The AML/CFT compliance officer provides a report to the senior management in respect of PTRs submitted to the FIU.*
- *In the absence of the AML/CFT compliance officer, an appropriately trained person within the agency will undertake submission of PTRs as required.*

A small- to medium-sized real estate agency may not have clients who undertake prescribed transactions. Sample wording, in that instance, for this section of an AML/CFT programme is below:

Example of wording if agency has no clients undertaking prescribed transactions

- *Our agency does not undertake international wire transfers valued at NZ\$1,000 or more, or domestic physical cash transaction valued at NZ\$10,000 or more. Before we provide a service, we always meet with clients in a face-to-face setting and obtain information about the nature and type of transactions they intend to undertake through our agency.*
- *It is our policy not to engage with clients intending to undertake transactions of the above type.*
- *We, therefore, do not consider it necessary to put in place procedures and controls to deal with prescribed transaction reporting.*

4.18 Record keeping

Your AML/CFT programme must include adequate and effective policies, procedures and controls for the record keeping requirements (described in sections 49 to 54 of the Act). Records must be kept for a minimum of five years after a transaction or wire transfer has been completed, or a business relationship has ended. This includes records:

- necessary to enable transactions to be readily reconstructed;
- necessary to enable the nature of the evidence for identification and verification to be obtained;
- relevant to the establishment, or nature and purpose, of a business relationship;
- relating to risk assessments, AML/CFT programmes, and audits;
- relating to copies of suspicious activity reports filed (if any), and written findings, and
- relating to staff vetting, and AML/CFT training undertaken.

Your record keeping policy and procedures should describe how you manage the retention of your records, e.g. how and where your records will be stored, and whether there is a formal retention and disposal schedule.

If your records are not in English, then your AML/CFT programme will have to set out how the records can be easily accessed and readily converted into English.

Tip

Records related to reports of suspicious activity, records of *internal reports describing the circumstances leading to forming a suspicion*, the real estate agency's consideration of same, any subsequent reporting decision, etc., are all vital records. They may form the basis of a defence to accusations of money laundering and related offences.

Records of these types are NOT likely to form part of the working papers relating to client assignments. Such records should be stored separately and securely as a safeguard against tipping off and inadvertent disclosure to someone, in the agency, making routine use of client working papers (and where the existence or otherwise of an internal report or external report is not relevant to the purpose for which they are examining the client files.)

Example of Record Keeping section from an AML/CFT programme

Policy

- *It is our policy to retain records of specific information (described below) for a minimum period of five years from the date of completion of a transaction, or from the end of a business relationship, or (where applicable) from the date a suspicious activity report is filed.*
- *In addition, it is our policy to hold the record of any suspicious activity report, or investigation, separately from the main client file. This is a safeguard against an unwarranted or accidental disclosure which could result in prejudicing an investigation or committing the 'tipping-off' offence.*

- *Specific information referred to above includes (but is not limited to):*
 - a. *Customer due diligence records comprised of:*
 - i. *client identification information;*
 - ii. *copies of original documentation used for identity verification;*
 - iii. *copies of certified documents used for identity verification;*
 - iv. *copies of records relating to PEP checks undertaken;*
 - v. *information on the ownership and control structure of the client business;*
 - vi. *identification and verification information on any beneficial owners if applicable;*
 - vii. *information and records on the purpose and nature of the relationship;*
 - viii. *information relating to source of funds, and source of wealth, and*
 - ix. *records of having conducted ongoing monitoring of the relationship and client activity.*
 - b. *Records of terms of engagement with clients, records of transactions, account statements provided to clients, etc.*
 - c. *Records of suspicious activity reports filed (if any), including records of the actions/decisions taken arising from the analysis of a report (on that subject) which may be received from a staff member.*
 - d. *Records of prescribed transaction reports submitted (if any).*
 - e. *Records of all decisions and reasons for how the report from the staff member was responded to, or how the decision to report or not to report externally to the FIU was reached.*
 - f. *Records of risk assessments, AML/CFT programmes, AML/CFT audit reports, and Annual AML/CFT reports.*
 - g. *Records of AML/CFT training provided, and received, including the recording of attendance lists at training sessions; staff declarations of awareness of the Act, the regulations, and the Amended Identity Verification Code of Practice; records of training for new staff to show they are aware of the agency's AML/CFT policy; and records of any on-the-job training provided.*
 - h. *Records of dealings with countries with insufficient AML/CFT measures including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action.*
 - i. *Records of activities, and client behaviour patterns that may be associated with ML/FT.*
 - j. *Records will be kept as original documents, or photocopies, or scans of original documents, and electronically.*

Procedure

- *We use MyDesktop and SharePoint as our electronic record keeping system. MyDesktop is our email tool. Client communication is held electronically in respective client folders.*
- *In addition, we maintain a hard copy client file that holds information relating to client identity and verification, copies of cheques issued by clients to product providers, client*

information booklet etc. (We are in the process of scanning all hard copies so they can be held electronically against the client's record in Microsoft Outlook).

- *SharePoint is used to hold copies of our risk assessment, AML/CFT programme, audits, and annual AML/CFT reports.*
- *All electronic systems are backed up nightly and backed-up material is stored off-site in a secure location. All backup systems are fully encrypted.*

Control

- *We have a retention and disposal schedule to readily identify records to be retained or destroyed.*
- *The AML/CFT compliance officer checks, each year, the record keeping procedures described above are adhered to.*

4.19 Products and transactions that favour anonymity

Your AML/CFT programme must explain how you will prevent the use, for ML/FT, of products and transactions that might favour anonymity.

Enhanced CDD on its own may not be sufficient to prevent ML/FT through products and transactions that favour anonymity, for example, products that permit online transactions. This is because without effective account monitoring, it can be difficult to ensure that the account holder does not permit another person to operate the account.

If you offer products or services that favour anonymity, your AML/CFT programme must have adequate and effective policies, procedures, and controls to detect, and deter, the use of such products and services to launder money or finance terrorism. These may allow for monitoring the client's transactions to detect anomalies in your knowledge of the client's business and the transactions that are being conducted through the account. For example, this may include checking the physical address provided by the client against the location/s from where the client logs on.

A small- to medium-sized real estate agency offering simple services such as buying and selling residential family homes and small businesses to 'Mum and Dad' type clients, is unlikely to offer transactions that favour anonymity.

Example of wording if agency does not offer products or services that favour anonymity

- *My agency does not offer products or services that favour anonymity. We take no part in any arrangement a client may have outside of their business relationship with us where they may engage in transactions favouring anonymity.*
- *Before we provide a service, we always meet with clients in a face-to-face setting, obtain information about the identity of the client, and verify that identity.*
- *It is our policy not to engage with clients requesting anonymity, and we would consider filing a suspicious activity report in such circumstances.*
- *We therefore do not consider it necessary to put in place procedures and controls to deal with clients undertaking transactions favouring anonymity.*

4.20 Managing and mitigating risk

No matter how robust and effective your AML/CFT controls, money launderers and criminals will continue to attempt to move illicit funds undetected and will, from time to time, succeed. No system of checks will detect and prevent ALL money laundering or terrorist financing. A risk-based approach will, however, help to manage, and mitigate the risk of ML/FT provided this approach is underpinned by a realistic assessment of the threat of the agency being used in connection with ML/FT. The strategies to manage and mitigate the risks of the agency being used for ML/FT activities are typically aimed at preventing the activity from occurring through a mixture of deterrence (e.g. appropriate CDD measures), detection (e.g. monitoring and suspicious activity reporting), and record-keeping (e.g. to facilitate investigations).

One of the key functions of the AML/CFT programme is to describe how the risks identified and analysed in the risk assessment, are managed, and mitigated. Your AML/CFT programme must include policies, procedures and controls that continue to manage and mitigate the ML/FT risks identified in your risk assessment, any new products and services you may offer and new, or emerging, ML/FT methods. Your AML/CFT programme should also describe how you deal with any breaches of the Act, regulations made under the Act, and the Amended Identity Verification Code of Practice.

Example of section Managing and Mitigating Risk, from an AML/CFT programme

Our risk assessment identified our agency as having a very low level of risk of ML/FT. The primary reason for this is because of the type of clients we deal with, the manner in which we offer services (face-to-face), and the type of services we offer (simple real estate transactions such as the sale and purchase of local residential properties for NZ-based customers).

However, we are aware that ML/FT risks are not static. Below describes our policy, procedure, and control in place to manage and mitigate ML/FT risks to our agency.

Policy

- *Our policy to manage and mitigate ML/FT risks is to adopt a sound risk-based approach staying up-to-date with ML/FT methods and undertaking regular training on building awareness of new ML/FT methods being adopted by criminals. We believe alert, and well-trained staff is the best defence for combating ML/FT risks to our agency.*

Procedure

- *We are aware, the DIA's sector risk assessment rates the inherent ML/FT risk for real estate agents as 'medium-high'. However, our risk assessment has identified the overall residual risk of ML/FT to the agency to be 'low' (with the inherent risk being medium). The 'low' residual risk rating is on the basis of:*
 - a. Employing strict CDD measures tailored to the assessed risk of each customer. As an example, a customer based in NZ may be assessed as low risk but the same customer may be assessed as high risk if that customer relocates to a jurisdiction with insufficient ML/FT measures), and*
 - b. Obtaining additional information about the customer or their business when that is appropriate to their assessed ML/FT risk (e.g. understanding the source of customer's funds).*
- *In addition, our appetite for the ML/FT risks is very low. Against this background, we undertake the following measures to manage and mitigate ML/FT risks to our agency:*
 - *Undertaking robust CDD on customers at the time of onboarding;*
 - *Undertaking ongoing monitoring of customer transactions, and business relationships;*
 - *Providing staff with initial and ongoing AML/CFT training that is relevant to their roles, and*
 - *Keeping our AML/CFT compliance officer up-to-date on the emerging ML/FT methods (e.g. red flags) relevant to real estate agents by subscribing to the updates from the FATF, DIA, FIU, and similar organisations, and using those updates to provide training to relevant staff involved in AML/CFT duties.*

Control

- *The AML/CFT compliance officer provides a report to senior management describing the findings from the annual review of the risk assessment, and the AML/CFT programme.*
- *The risk assessment and the AML/CFT programme is updated following the review and is subject to version control.*
- *Completion of training, identified in the review, as a requirement for the effective discharge of responsibilities by the relevant staff, is included in the staff performance appraisals.*

4.21 Ensuring compliance with the AML/CFT programme

Your AML/CFT programme must have policies, procedures and controls that set out how your agency will monitor and manage compliance with the AML/CFT programme. Effective oversight and monitoring of the AML/CFT programme must be in place to ensure continued compliance with it.

Policies, procedures and controls relevant to managing compliance with the AML/CFT programme should also set out how you will communicate and train staff on aspects of your AML/CFT programme relevant to their roles.

Example of section Ensuring Compliance with the AML/CFT programme

Policy

- *The agency ensures compliance with the AML/CFT programme via ongoing monitoring of the various components constituting the AML/CFT programme, and ongoing training of everyone in the agency.*

Procedure

- *All staff and senior management were initially exposed to the AML/CFT obligations using the Strategi Institute AML/CFT manual. We are a small agency and all staff are cross-trained on AML/CFT. New staff will receive AML/CFT training as part of their induction and on-the-job training. Everyone will receive annual ongoing training via completion of the Strategi Institute AML/CFT modules contained on Radar.*
- *At the regular staff meetings AML/CFT issues are discussed, documented, and training needs (if any) are identified.*
- *A training log for each staff member is maintained and this records the training completed by each of them.*
- *The agency subscribes to the AML/CFT updates on the web sites of DIA/FATF/FIU etc. to keep up to date with the new methods of ML/FT that may affect the agency. If any new ML/FT method is reported, then the relevant area within the agency is reviewed to assess its susceptibility.*
- *If applicable, relevant changes are made to that process and the AML/CFT programme is updated. A version control is provided on the AML/CFT programme and the risk assessment.*
- *The AML/CFT compliance officer undertakes an annual review of the AML/CFT programme and checks the compliance of the agency with that programme in its entirety. The review results are used to identify the areas of weakness (e.g. breaches of the Act) within the agency and provide targeted training to the relevant staff. A breach register is maintained and reviewed by management. Following the review, the risk assessment and the AML/CFT*

Programme are updated (by the AML/CFT compliance officer) and provided with an appropriate version number.

- *The senior management of the agency provides the necessary oversight on AML/CFT matters and strive to build a culture of compliance across the agency. This includes management undertaking the annual refresher training provided by the AML/CFT compliance officer. All the training is undertaken through Radar (the online education platform provided by Strategi Institute).*

Control

- *This is exercised via the AML/CFT compliance officer who is required to provide a report to the directors about the compliance of the agency with the AML/CFT programme.*
- *Appropriate oversight is provided by management on the basis of this report. In addition, a three-yearly AML/CFT audit through Strategi is undertaken and suggestions made by Strategi are implemented in the relevant areas of the agency.*
- *The agency recognises that three years between AML/CFT audits is a long time and changes to regulations, supervisor guidance and risks may have occurred. Consequently, approximately 12-18 months after the last audit, the agency engages Strategi Ltd to undertake an independent review of the AML/CFT risk assessment and programme and undertake a small CDD sample to ensure everything is in order.*

4.22 Review and audit of the AML/CFT programme

You must review your AML/CFT programme to ensure it:

- remains current;
- identifies any deficiencies;
- takes into account any applicable guidance material produced by DIA or the FIU relating to AML/CFT programmes, and
- makes any changes necessary to address them.

For example:

- If you find that the AML/CFT training you have outlined in your AML/CFT programme is insufficient you must take steps to address this, or
- If your risk assessment changes, you must consider whether your AML/CFT programme should be amended to reflect the changed risk.

Example of section Review and Audit from an AML/CFT programme

- *We review our AML/CFT programme every year. The review is integrated into our agency's annual business planning exercise. If there is likely to be a change in the nature of our agency, such as targeting a different market segment or dealing with offshore clients, then we will review our AML/CFT procedures to ensure they are still sufficient or to assess if they need to be upgraded. This process will involve reviewing the risk assessment and updating the AML/CFT programme. If as part of our AML/CFT compliance officer's regular reading of the FATF website and DIA website, we notice some changes or recommendations then we will review these and where applicable add to our procedures.*
- *We undertake, every three years (or at any other time required by the DIA, or by the regulations), an audit of our AML/CFT programme (and the risk assessment). The audit is undertaken by Strategi. Strategi is independent of the agency and was not involved in developing our risk assessment or the AML/CFT programme.*

Section Five: Audit of risk assessment and AML/CFT programme

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5.1 Your legal obligations

As a reporting entity under the Act, you **MUST** undertake an audit of your risk assessment and your AML/CFT programme every three years, or during a different time period prescribed by regulations, or when asked by the DIA. There are two separate audits - one of your risk assessment and one of your AML/CFT programme. However, these can be conducted at the same time.

You **MUST** provide the audit report to the DIA if/when requested.

5.2 What is an AML/CFT audit?

An audit is a systematic check of your AML/CFT risk assessment and AML/CFT programme by an independent and suitably qualified person (the auditor). The audit is separate to your own review of your AML/CFT risk assessment and AML/CFT programme.

The outcome of the audit is a written report on whether you meet the minimum requirements for your AML/CFT risk assessment and AML/CFT programme; the programme was adequate and effective throughout a specified period; and whether any changes are required to the risk assessment and/or the AML/CFT programme.

5.3 Difference between an audit of AML/CFT risk assessment and an audit of AML/CFT programme

Audit of the AML/CFT risk assessment	Audit of the AML/CFT programme
<p>The audit is limited to assessing whether the risk assessment:</p> <ul style="list-style-type: none"> • Is set out in writing. • Identifies the ML/FT risks your agency reasonably expects to face, having regard to: <ul style="list-style-type: none"> - the nature, size, and complexity of your agency; - the products and services your agency offers; - the way your agency delivers products and services; - the types of customers your agency deals with; - the countries your agency deals with; - the institutions your agency deals with; - any applicable guidance material produced by AML/CFT supervisors relating to risk assessments, and - any other factors that may be provided for in regulations. • Enables you to determine the level of risk involved in relation to obligations under AML/CFT Act. • Enables you to prepare an AML/CFT programme to manage and mitigate the identified risks (i.e. apply the risk assessment). 	<p>The audit will assess the compliance of the AML/CFT programme with all of the obligations below and considers whether your AML/CFT programme:</p> <ul style="list-style-type: none"> • Is based on the risk assessment undertaken as prescribed by s58 of the AML/CFT Act. • Includes adequate and effective procedures, policies, and controls for: <ol style="list-style-type: none"> a. vetting— <ul style="list-style-type: none"> • senior staff; • the AML/CFT compliance officer, and • any other employee that is engaged in AML/CFT-related duties. b. training on AML/CFT matters for the following employees: <ul style="list-style-type: none"> • senior staff; • the AML/CFT compliance officer, and • any other employee that is engaged in AML/CFT related duties. c. complying with customer due diligence requirements (including ongoing customer due diligence and account monitoring); d. reporting suspicious activities; e. reporting prescribed transactions; f. record keeping; g. setting out what the reporting entity needs to do, or continue to do, to manage and mitigate the risks of money laundering and the financing of terrorism; h. examining, and keeping written findings relating to— <ul style="list-style-type: none"> • complex or unusually large transactions; • unusual patterns of transactions that have no apparent economic or visible lawful purpose; and • any other activity that the reporting entity regards as being particularly likely by its nature to be related to money laundering or the financing of terrorism.

Audit of the AML/CFT risk assessment	Audit of the AML/CFT programme
<ul style="list-style-type: none"> • Enables you to check that the risk assessment is up to date. 	<ul style="list-style-type: none"> i. monitoring, examining, and keeping written findings relating to business relationships and transactions from or in countries that do not have or have insufficient anti-money laundering or countering financing of terrorism systems in place (including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action) and have additional measures for dealing with or restricting dealings with such countries; j. preventing the use, for money laundering or the financing of terrorism, of products (for example, the misuse of technology) and transactions (for example, non-face-to-face business relationships or transactions) that might favour anonymity; k. determining when enhanced customer due diligence is required and when simplified customer due diligence might be permitted; l. providing when a person who is not the reporting entity may, and setting out the procedures for the person to, conduct the relevant customer due diligence on behalf of the reporting entity, and m. monitoring and managing compliance with, and the internal communication of and training in, those procedures, policies, and controls. <ul style="list-style-type: none"> • Whether the policies, procedures, and controls: <ul style="list-style-type: none"> a. Are based on your AML/CFT risk assessment; b. Are adequate, and c. Have operated effectively throughout the period.

5.4 What will your audit do?

The audit will provide you with an independent assessment of your AML/CFT risk assessment and AML/CFT programme. You will receive another person's view of how well your AML/CFT risk assessment and AML/CFT programme are designed and working.

The findings of the audit may influence the degree of supervision you could expect from the DIA.

5.5 How is an AML/CFT audit different from a financial audit?

A standard financial audit focuses on number reconciliations and number crunching. An AML/CFT audit looks at compliance with the Act, the AML/CFT risk assessment, the AML/CFT programme, and identifies any gaps/weaknesses that may exist in terms of its content, controls, and operation.

Content, in the context of an AML/CFT audit, means written policies, procedures, controls, training, monitoring, and reporting. A consequence of ineffective auditing may lead to potential AML/CFT violations, such as failing to report suspicious activity or failing to adequately undertake CDD.

A poorly undertaken audit may result in the reporting entity remaining unaware of actual or potential weaknesses in its AML/CFT programme. This may result in AML enforcement action by its AML/CFT supervisor (DIA) costing the reporting entity dearly - both in terms of reputational damage and fiscal penalties.

5.6 Who can audit?

- The Act states that the person conducting the audit of the AML/CFT risk assessment and AML/CFT programme **MUST** be independent (i.e. not involved in development of your AML/CFT risk assessment, or the establishment, implementation, or maintenance of your AML/CFT programme) and appropriately qualified.
- The person undertaking the audit must have relevant skills experience and knowledge of the Act and the Regulations.
- You must be able to justify to the DIA how your AML/CFT auditor is appropriately qualified.
- Strategii Limited (Strategii), the sister company of Strategii Institute Limited, is an AML/CFT auditor with experience of auditing Phase 1 reporting entities supervised by the DIA, FMA, and RBNZ.
- Strategii is independent as it was not involved in the establishment, implementation or maintenance of the risk assessment and AML/CFT programme. Its sister training company, Strategii Institute, provided a manual and guidance notes on how to go about conducting the risk assessment and developing the AML/CFT programme. The Act does not require you to appoint

the same person to conduct the AML/CFT risk assessment audit and the AML/CFT programme audit. However, it makes economic sense to have Strategi undertake both audits concurrently.

5.7 What is the outcome of the AML/CFT audit?

The AML/CFT auditor will present a written report after the audit. The report will contain certain minimum requirements and it could contain additional reporting based on the agreed deliverables between you and the auditor.

The report will contain the following:

- A title that includes the words 'Independent AML/CFT Audit'
- The period covered by the audit (e.g. 1 January 2020 to 31 December 2023).

Plus, the following minimum content:

- Whether your AML/CFT risk assessment and your AML/CFT programme meet the requirements of the Act. If not, which requirements are not met, and why?
- Whether your AML/CFT programme is functioning as required and intended?
- A description of the methods used to determine the adequacy and effectiveness of your AML/CFT risk assessment and your AML/CFT programme.
- The date and signature of the auditor.

Optional content includes:

- Identification of areas to be accorded highest priority for improvement.
- Recommendations for rectifying non-compliance.
- Any weaknesses in your systems and processes, such as, but not limited to, your procedures for identifying or reporting suspicious activities.

5.8 Matters to consider before undertaking the AML/CFT audit

Undertaking the prescribed AML/CFT audit should not be taken lightly. Several important points need to be considered to ensure you comply with all the requirements under the Act.

The matters you should consider are:

- **Whether the audit should be undertaken internally or externally**

The Act requires the auditor to be uninvolved in the development of your AML/CFT risk assessment, or the establishment, implementation, or maintenance of your AML/CFT programme. If you wish to appoint an internal person to undertake your AML/CFT audit, then

you should critically examine if the person could be considered “independent”. There is unlikely to be adequate separation of duties in a small- to medium-sized real estate agency.

- **Experience and skill of the auditor**

Select the auditor with appropriate experience and skills. Ask any potential auditor about their background and qualifications. This information will help you make your decision in selecting the appropriate auditor.

- **Level of assurance desired from the auditor**

The AML/CFT Act does not require your auditor to provide a specific level of assurance, however the auditor can perform two types of audits:

1. A limited assurance audit in which the conclusion is expressed in a negative form, or
2. A reasonable assurance audit in which the conclusion is expressed in a positive form.

The reasonable assurance audit is more in-depth than a limited assurance audit. In a limited assurance audit, there is an increased risk that the auditor may not become aware of a significant non-compliance with the Act. In a reasonable assurance audit the extent of the detail with which the audit will assess your compliance is likely to be more than a limited assurance audit.

- **Expectations of your AML/CFT Supervisor (DIA)**

The DIA may take into account the robustness and adequacy of your audit in determining the extent of your supervision. A reasonable assurance audit may offer a greater level of comfort compared to a limited assurance audit, depending on the nature, size and complexity of your business.

- **Your desired deliverables from the audit**

Do you want the auditor to only highlight the areas identified as non-compliant or do you also want the auditor to make recommendations for rectifying non-compliance and identify areas for improvement?

Strategi Institute recommends you embrace the best practice approach of engaging with the auditor, not only for identifying the areas of non-compliance, but also for receiving comprehensive feedback on how to rectify the identified non-compliance.

5.9 What should you do with the AML/CFT audit report?

- Any non-compliant areas identified in the audit report should be addressed as a priority.
- In your annual AML/CFT Report to the DIA you must state whether you have made the necessary changes to address issues raised (if any) in the audit report.

5.10 How to get the best out of the audit, and the auditor

The very nature of the auditor/reporting entity (i.e. client) relationship creates a certain degree of friction between the auditor and the client. The AML Supervisor requires the auditor to be independent, which often creates some misperceptions about the auditor. The reporting entity pays the auditor for an independent report assessing the compliance of the reporting entity's AML/CFT risk assessment, and the AML/CFT programme, with the Act - a critical assessment, if you will—even though it's human nature to dislike criticism.

Since the commencement of the Act in June 2013, Strategi has undertaken hundreds of independent AML/CFT audits for Phase 1 reporting entities supervised by the DIA, FMA, and RBNZ. In its experience, some reporting entities view the audit at best as a necessary evil and at worst as a threat. Reporting entities often have some common misperceptions about auditing that can be stumbling blocks to working closely with auditors. The three common misconceptions are:

1. The purpose of the audit is to detect and uncover money laundering and fraud

The purpose of the audit is described in the Act and in supervisory guidance. The discovery of any irregularities is the by-product of the audit but certainly not the main focus.

2. The auditor is the adversary of the reporting entity's management

The auditor is neither a friend nor foe of the management. The auditor is independent, maintaining a distance, exercising a healthy professional scepticism, and expecting timely, transparent, and thorough answers to his/her questions.

3. The auditor checks every CDD record and transaction

Some AML/CFT compliance officers believe the auditor will check every CDD record and client transaction. The reality is the auditor does not have the time or the resources to check every CDD record and transaction. Instead, the auditor relies on statistical sampling methods to look at a small but representative percentage of a reporting entity's client base to test the overall accuracy and draws conclusion about the population using the selected sample size.

Keep in mind that the auditor has a job to do. Working closely and cooperatively with the AML/CFT auditor will speed up the process and avoid the trap of an unpleasant and risky adversarial situation.

Below are some of the tips to consider to build a healthy professional relationship with the auditor:

- Co-operate and support the auditor with the audit work;
- Avoid common audit misconceptions described above;
- Avoid seeing the audit as a threat;

- Provide quick responses to the requests for information by the auditor, avoiding long delays in delivering the requested documents;
- Provide clear, and concise answers to the enquiries from the auditor, and
- Be open in discussing contentious issues (e.g. determining beneficial ownership, undertaking PEP checks, account monitoring, etc.) with the auditor.

Appendix One: Definition of Designated Non-Financial Business or Profession

(Section 5 of the AML/CFT Act)

Designated non-financial business or profession means—

- a) a law firm, a conveyancing practitioner, an incorporated conveyancing firm, an accounting practice, a real estate agent, or a trust and company service provider, who, in the ordinary course of business, carries out 1 or more of the following activities:
 - (i) acting as a formation agent of legal persons or legal arrangements:
 - (ii) acting as, or arranging for a person to act as, a nominee director or nominee shareholder or trustee in relation to legal persons or legal arrangements:
 - (iii) providing a registered office or a business address, a correspondence address, or an administrative address for a company, or a partnership, or for any other legal person or arrangement, unless the office or address is provided solely as an ancillary service to the provision of other services (being services that do not constitute an activity listed in this subparagraph or subparagraphs (i), (ii), and (iv) to (vi)):
 - (iv) managing client funds (other than sums paid as fees for professional services), accounts, securities, or other assets:
 - (v) providing real estate agency work (within the meaning of [section 4\(1\)](#) of the Real Estate Agents Act 2008) to effect a transaction (within the meaning of section 4(1) of the Real Estate Agents Act 2008):
 - (vi) engaging in or giving instructions on behalf of a customer to another person for—
 - (A) any conveyancing (within the meaning of [section 6](#) of the Lawyers and Conveyancers Act 2006) to effect a transaction (within the meaning of [section 4\(1\)](#) of the Real Estate Agents Act 2008), namely,—
 - the sale, the purchase, or any other disposal or acquisition of a freehold estate or interest in land:
 - the grant, sale, or purchase or any other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the [Residential Tenancies Act 1986](#) applies):
 - the grant, sale, or purchase or any other disposal or acquisition of a licence that is registrable under the [Land Transfer Act 2017](#):
 - the grant, sale, or purchase or any other disposal or acquisition of an occupation right agreement within the meaning of [section 5](#) of the Retirement Villages Act 2003:
 - (B) a transaction (within the meaning of [section 4\(1\)](#) of the Real Estate Agents Act 2008); or
 - (C) the transfer of a beneficial interest in land or other real property; or
 - (D) a transaction on behalf of any person in relation to the buying, transferring, or selling of a business or legal person (for example, a company) and any other legal arrangement; or

- (E) a transaction on behalf of a customer in relation to creating, operating, and managing a legal person (for example, a company) and any other legal arrangement; and
- b) includes a person or class of persons declared by regulations to be a designated non-financial business or profession for the purposes of this Act; but
- c) excludes a person or class of persons declared by regulations not to be a designated non-financial business or profession for the purposes of this Act.

Appendix Two: Beneficial Ownership Guideline

AML/CFT

Anti money laundering and countering financing of terrorism

Beneficial Ownership Guideline

April 2024



Introduction

1. This guideline is to support reporting entities in meeting the requirement to conduct customer due diligence (**CDD**) on the beneficial owner(s) of their customer under sections 11-26 of the Anti-Money Laundering and Countering Financing of Terrorism (**AML/CFT**) Act 2009 (the **Act**).
2. This guideline has been updated following a new regulation¹ that took effect on 31 July 2023 relating to the definition of beneficial owner under the Act. The new regulation was implemented following recommendations made in the Ministry of Justice's [Statutory Review](#) of the Act.
3. This guideline applies primarily in relation to customers who are legal persons or legal arrangements. The guideline provides information on how to identify the individual(s) (i.e. the natural person(s)) that meet the definition of beneficial owner and the steps that must be taken to verify their identity and be satisfied that they are the beneficial owner(s).
4. You should keep in mind that the AML/CFT regime is risk-based. A risk-based approach allows you flexibility in the measures you take to verify the identity of the beneficial owner(s) of your customer. Your evaluation of the money laundering and terrorism financing (**ML/TF**) risks associated with your customer must be based on your risk assessment as detailed in your AML/CFT programme. Refer to the AML/CFT supervisors Risk Assessment Guideline² and AML/CFT Programme Guideline³ for further information.
5. This guideline is based on the requirements of the Act and has been produced by the AML/CFT supervisors under section 132(2) of the Act. This guideline does not constitute legal advice.
6. Examples provided in this guideline are suggestions to help you meet your obligations under the Act. They are not exhaustive and are illustrative in nature.
7. Section 57(2) of the Act requires you to have regard to this guideline, it is important that you have read and taken this guideline into account when developing your AML/CFT programme. After reading this guideline, if you still do not understand any of your obligations you should contact your AML/CFT supervisor or seek legal advice.

Why is identifying the beneficial owner important?

8. Knowing the underlying person(s) that owns or controls your customer enables you to make informed decisions about the associated level of ML/TF risk. A key task when conducting CDD is to identify and according to the level of risk involved, verify the identity of the beneficial owner(s) of your customer.⁴

¹ [Regulation 5AA AML/CFT \(Definitions\) Regulations 2011](#)

² [Risk Assessment Guideline](#)

³ [AML/CFT Programme Guideline](#)

⁴ Note you are not required to check beneficial ownership for a customer eligible for simplified CDD. This only applies in limited circumstances for types of customers that are already subject to transparency and public disclosure. Refer to s18-21 of the Act for these types of customers.

9. Sometimes identifying and verifying who your customers' beneficial owner(s) are may be difficult. This could be because the ownership structure is complex but legitimate. However, a criminal enterprise may also deliberately try to hide the true owners and controllers of its business and its assets.
10. Difficulties in identifying and verifying the identity of a beneficial owner(s), may indicate there is an attempt to conceal this from you.

Who is the beneficial owner?

11. The definition of beneficial owner under section 5 (1) of the Act is:
Beneficial owner means the individual who—
 - (a) has effective control of a customer or person on whose behalf a transaction is conducted; or
 - (b) owns a prescribed threshold of the customer or person on whose behalf a transaction is conducted.
12. Effective 31 July 2023, Regulation 5AA of the AML/CFT (Definitions) Regulations 2011 states that the beneficial owner-
 - (a) includes a person with ultimate ownership or control of the customer, whether directly or indirectly:
 - (b) includes a person on whose behalf a transaction is conducted that is a customer of a customer, but only if the person meets the requirement set out in paragraph (a).
13. Your task is to determine all of the individual(s) who are the beneficial owner(s) of your customer. A beneficial owner is always an individual (i.e. a natural person), not a company, partnership, trust or other organisation. The individual may be an individual in a personal or professional capacity. There may be layers of ownership (for example holding companies) that you need to look through to determine the beneficial owner. Your customer may have more than one beneficial owner.
14. You must obtain information on the identity of all beneficial owners and according to the level of risk involved, verify this information. Our view of what this means is set out in paragraphs [16] to [28] below.
15. Note that if your customer is an individual, section 11(2) of the Act allows you to treat that person as the beneficial owner unless there are reasonable grounds to make you suspect that they are acting on behalf of another person. Where there are grounds to suspect this, you will need to establish the identity of all parties - the person who is being acted for (who is the customer), any beneficial owner(s) of the customer and the person acting on their behalf – noting that “acting on behalf of” is not part of the beneficial ownership definition. Refer to paragraphs [45] to [49] below for more information.

The test to identify beneficial ownership

16. Each time you apply the test of beneficial ownership to a customer you must consider both elements (a) and (b) of the definition of beneficial owner in the Act, in combination with Regulation 5AA. These elements are:
 - (a) who owns more than 25 percent of the customer.⁵ Regulation 5AA clarifies that a beneficial owner includes a person who ultimately owns the customer, whether directly or indirectly. Examples are set out in paragraph [29] to [38] below.
 - (b) who has effective control of the customer. Regulation 5AA clarifies that a beneficial owner includes a person who ultimately controls a customer, whether directly or indirectly. “Effective control” is not defined in the Act, however we provide some examples at paragraph [39] to [40] below.
17. Regulation 5AA also clarifies that a customer of a customer, being a person on whose behalf a transaction is conducted (sometimes referred to as “POWBATIC”), will only be a beneficial owner in limited circumstances, as outlined in paragraphs [41] to [44] below.
18. ‘Ownership’ and ‘control’ are not mutually exclusive. A beneficial owner is an individual who satisfies either or both of the above elements.
19. There are also overlaps between ‘ultimate ownership’, ‘ultimate control’ and ‘effective control’. The use of the term ‘ultimate’ in Regulation 5AA clarifies that the individual’s ownership or control may be indirect, for example through a nominee arrangement (formal or informal) or through several layers of ownership. A beneficial owner may be an individual that is not the legal owner of more than 25 percent of the customer and/or for whom there is no formal record of being a person with decision making powers.

Obtaining information relating to the beneficial owner(s)

20. If you want to conduct business with a customer, you must always identify and verify the identity of the beneficial owner(s).
21. To determine who the beneficial owner(s) are, you must obtain information on any person who owns more than 25 percent of the customer and any person who has effective control of the customer. This includes any individual with ultimate ownership or control, such as indirectly through formal or informal arrangements (refer paragraph [19] above). You must obtain information on all persons that meet the definition of beneficial owner.
22. You should establish the customer’s ownership structure and understand the ownership at each layer. In many cases, your customer will be readily and quickly able to provide information regarding its beneficial owner(s). In other cases, you may need to inquire further into a complex ownership or control structure and understand the ownership or control at each layer. When there are complex ownership layers and no reasonable explanation for them you should consider the possibility that the structure is being used to hide the beneficial owner(s).

⁵ Regulation 5 of the AML/CFT (Definitions) Regulations 2011.

Applying a risk-based approach to verification

23. Once you have obtained information on the beneficial owner(s) of your customer, you must then take reasonable steps to verify their identity (including name and date of birth) so that you are satisfied you know who the beneficial owner(s) is.⁶
24. You must obtain information to identify the beneficial owner(s) of a customer, regardless of the level of risk associated with that customer.
25. However, when deciding what steps to take to correctly verify the identity of the beneficial owner(s) and satisfy yourself you know who they are, the Act permits you to take a risk-based approach commensurate with the level of ML/TF risk they pose.
26. The extent of your verification process may vary according to the level of risk involved. However, if you do not take reasonable steps to verify the beneficial owner's identity so that you are satisfied according to the level of risk involved that you know who the beneficial owner(s) is, CDD has not been completed. In such cases, you must not establish a business relationship or conduct an occasional transaction or occasional activity for the customer, you must terminate any existing business relationship and consider whether to make a suspicious activity report (section 37 of the Act).
27. Your process for assessing customer risk and deciding how to identify and verify beneficial ownership should be set out in your AML/CFT programme. There should be procedures, policies and controls (PPCs) to ensure you apply consistent steps depending on the level of risk. These steps may vary depending on the different types of legal person or legal arrangement you have as a customer. Where you consider the level of ML/TF risk requires it (based on your risk assessment and AML/CFT programme), you should conduct enhanced CDD.
28. Your PPCs should be based on your risk assessment. For a lower risk customer, the verification you undertake can be less extensive. However, if a customer is higher risk, the extent of the verification you undertake of its beneficial ownership must be robust. There should be controls in your AML/CFT programme to ensure this occurs. This could include escalating decisions to a higher level for sign off, including prior to establishing a new business relationship or undertaking an occasional transaction or occasional activity.

Ownership or control

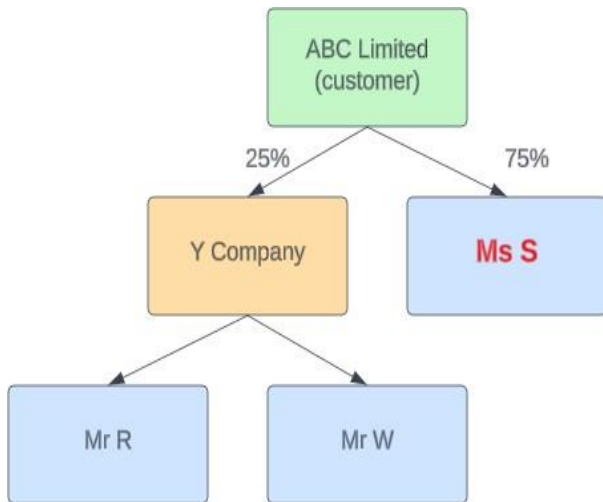
29. To determine the beneficial owner(s) of your customer, you will need to understand the ownership and control structure (i.e. the legal structure of any corporate vehicles such as companies, partnerships and trusts):⁷

⁶ Refer to the Identity Verification Code of Practice 2013 for best practice relating to standard CDD verification of a person's name and date of birth. A more rigorous approach may be required for higher risk persons.

⁷ Note that effective 1 June 2024, there are specific requirements in Regulation 11 and 11A of the AML/CFT (Requirements and Compliance) Regulations 2011 to obtain and verify information regarding the legal form and proof of existence, ownership and control structure and powers that bind and regulate legal persons and legal arrangements (that are customers), and relating to the settlor(s) and protector(s) of trusts. This extends existing requirements to obtain information and verify the existence and name of a nominee director or nominee shareholder (for companies), and a nominee general partner (for limited partnerships).

30. **Companies** – For a customer that is a company, your starting point should be the percentage allocation of shares to shareholders. You should note ownership can be split into parcels of 25 percent or less, but relationships between the parties may give an individual aggregated ownership that amounts to more than 25 percent. This may occur through multiple layers of ownership.

Diagram 1 – Ownership of company



ABC Limited (the customer) has two shareholders - an individual, Ms S, who owns 75% and Y Company, which owns 25%.

Y Company is owned equally by two individuals – Mr R and Mr W. Ms S is the only individual who owns more than 25% of ABC Limited. You determine that Ms S is not a nominee shareholder.

Only Ms S is a beneficial owner based on the ownership test.

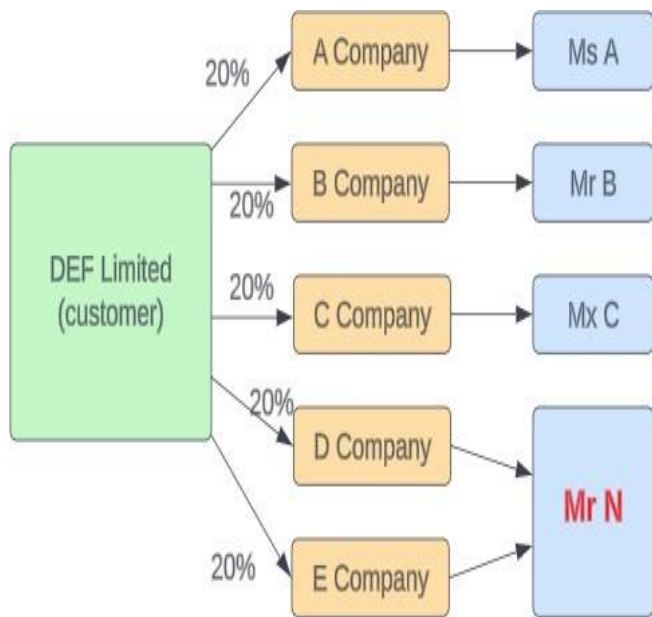
Diagram 2 – More complex ownership of company

DEF Limited (the customer) has five direct owners each owning 20% shareholding.

All five owners are companies. Two of them (D Company and E Company) are wholly owned by Mr N. The other three companies (A Company, B Company and C Company) are respectively owned by Ms A, Mr B and Mx C.

You determine there are no nominee shareholders in this structure.

Only Mr N is a beneficial owner based on the ownership test.



31. For a company, you also need to consider if there are formal or informal arrangements, such as nominee director or shareholder agreements. A person whose instructions or directions a nominee director or nominee shareholder follows, or is accustomed to follow, is likely to be a beneficial owner (due to being a person with ultimate ownership and/or control).

Diagram 3 – Company ownership with nominee shareholder⁸

GHI Limited (the customer) has five owners each owning 20% shareholding.

Three of the owners are companies (A Company, B Company and C Company). All three companies are owned by Ms J.

The other two owners are Mr T and Mr A. You determine Mr A is nominee shareholder, accustomed to following the instructions of Mr T. This means that Mr T has direct ownership of 20% and indirect ownership of a further 20% of the customer (through the nominee agreement).

Both Ms J and Mr T are beneficial owners based on the ownership test.

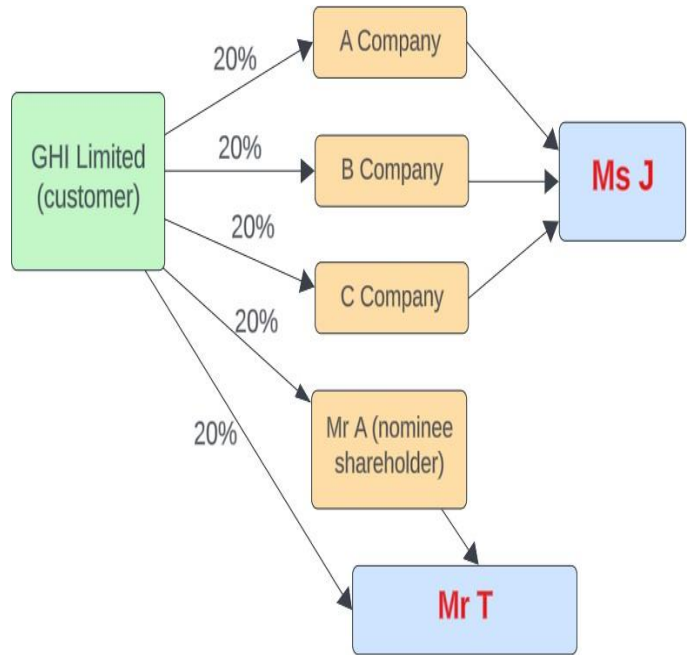
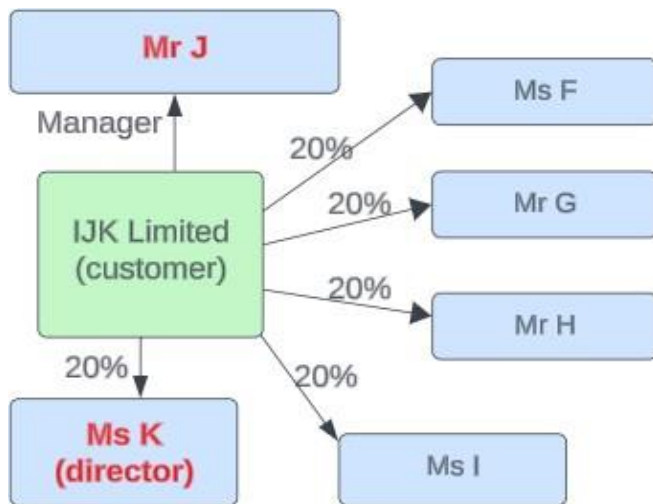


Diagram 4 – Company ownership with multiple shareholders



Mr J is employed as the manager of IJK Limited (the customer) and responsible for all managerial decisions.

IJK Limited has five direct owners, each owning 20%. One of these shareholders, Ms K, is also the director and able to appoint the manager.

There are no owners with more than 25% shareholding and therefore no beneficial owners based on the ownership test.

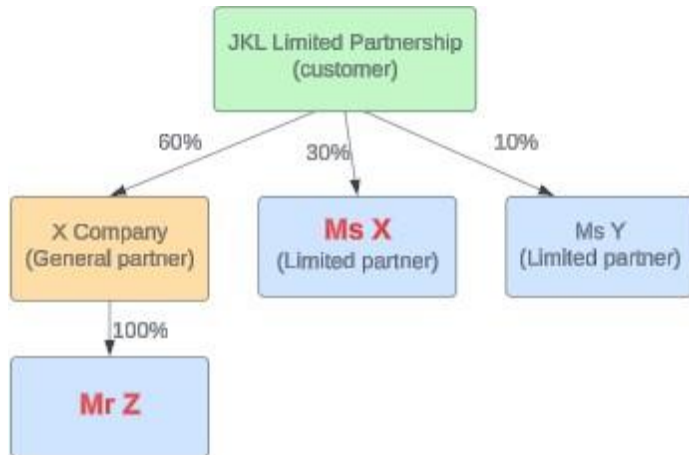
However, both Ms K (as director) and Mr J (as the manager) are beneficial owners on the basis of effective control.

32. **Partnerships** – Most partnerships have simple and transparent structures, and the beneficial owner(s) are likely to be easily identifiable. However, a limited partnership is a separate legal person, and can have a more complex structure with two types of partners, general and limited partners. As with companies, limited partnerships may also have formal

⁸ Note that CDD requirements apply to nominee shareholder also – refer Companies Guideline.

or informal arrangements and a nominee general partner.⁹ Again, a person whose instructions the nominee general partner follows, or is accustomed to follow, is likely to be a beneficial owner of the partnership as they will be a person with ultimate control.

Diagram 5 – Limited partnership structure



JKL Limited Partnership (the customer) has one general partner and two limited partners.

The general partner, X Company, has 60% ownership of assets/distribution and voting rights of the limited partnership.

You determine X Company is not a nominee general partner. Mr Z is the 100% shareholder in X Company. Ms X has 30% assets/distribution and voting rights in JKL Limited Partnership. Ms Y has 10%.

Both Mr Z and Ms X are beneficial owners based on the ownership and effective control test.

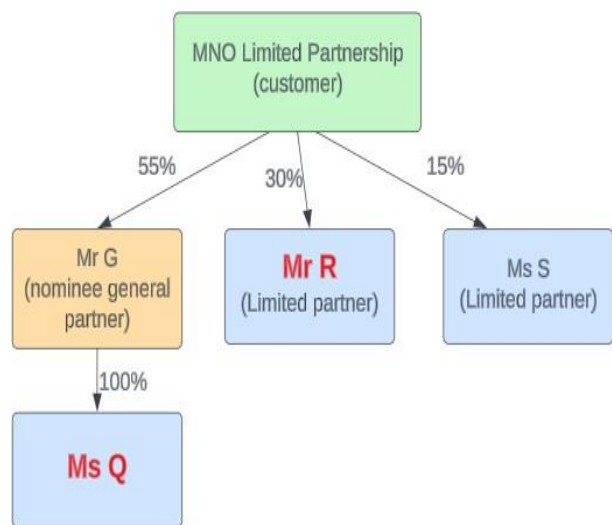
Diagram 6 – Limited partnership with nominee general partner¹⁰

MNO Limited Partnership (the customer) has one general partner and two limited partners.

The general partner, Mr G, has 55% ownership of assets/distribution and voting rights of the limited partnership. You determine Mr G is a nominee general partner, accustomed to following the instructions of Ms Q. This means that Ms Q has indirect ownership of 55% of the limited partnership as well as indirect effective control.

Mr R has 30% assets/distribution and voting rights in MNO Limited Partnership. Ms S has 15%.

Both Ms Q and Mr R are beneficial owners based on the ownership and effective control test.

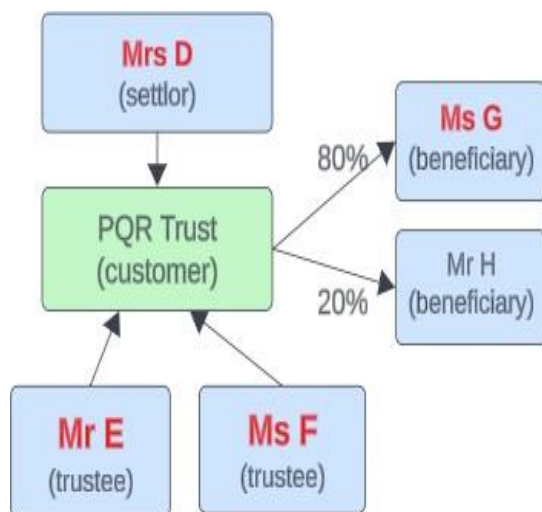


⁹ There are also specific requirements in the AML/CFT (Requirements and Compliance) Regulations 2011 to obtain information and verify the existence and name of a nominee general partner.

¹⁰ Note that CDD requirements apply to nominee general partners also – refer Limited Partnership Guideline.

33. **Trusts** – Trusts do not usually have a legal personality. However, a trust is a legal arrangement. ¹¹ In addition the Act and associated regulations prescribe requirements in various circumstances in which the customer is a trust, as well as prescribing the trust or a legal arrangement as the customer in other circumstances. ¹²
34. Therefore, when providing services captured by the Act to a trust, the trust (and not the trustees) is your customer for the purpose of the Act.
35. For a customer that is a trust, various individuals may meet the definition of beneficial owner for different reasons. First and foremost, the trust deed should be analysed to assist to determine the beneficial owner(s) (whether due to ownership or control). Any trustee that has control element over the trust is a beneficial owner. In addition, any beneficiary of the trust that has a vested interest of more than 25 percent in the trust property is a beneficial owner.
36. Other individuals may also be a beneficial owner due to the control element, depending on the terms of the trust. This may include an individual (other than a trustee) who has effective control over the trust, specific trust property, or with the power to amend the trust's deeds, or remove or appoint trustees. This might also include a settlor, a protector or special trustee, or one or more beneficiaries of the trust.

Diagram 7 – Trust structure



PQR Trust (the customer) has two trustees, Mr E and Ms F, that have authority over trust property and to make disbursements by the trust.

The settlor, Mrs D, has the power to amend the trust deed and to remove or appoint trustees.

The trust has two beneficiaries, Ms G who has a vested interest of 80% in the trust property, and Mr H who has a 20% vested interest.

Mr E and Ms F are beneficial owners as they have effective control of the trust. You also determine that Mrs D has effective control as she has the power to amend the trust deed and to remove or appoint trustees.

Ms G is a beneficial owner on the basis of the ownership test.

¹¹ As defined in s5(1) of the Act.

¹² Refer s22(1) of the Act, Regulation 11A of the AML/CFT (Requirements and Compliance) Regulations 2011. Also Regulations 5E and 5G of the AML/CFT (Definitions) Regulations 2011.

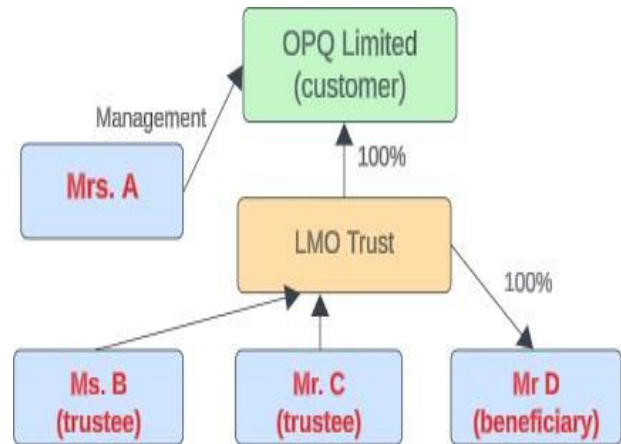
Diagram 8 – Company ownership structure with a trust¹³

Mrs A is employed as the manager of OPQ Limited (the customer) and responsible for all managerial decisions

OPQ Limited is 100% owned by LMO Trust. LMO Trust has two trustees, Ms B and Mr C, who have effective control of the trust and its voting rights in relation to OPQ Limited. This includes being able to appoint the manager.

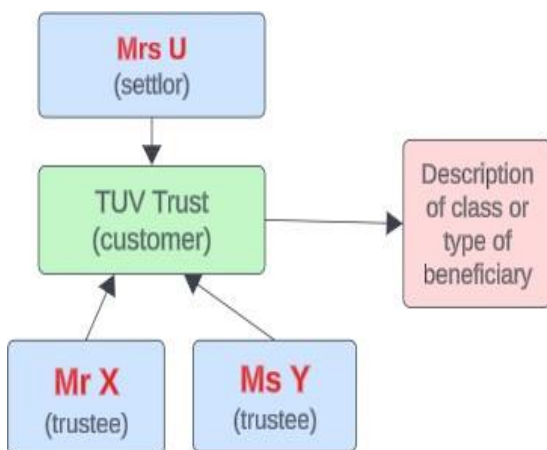
LMO Trust has one beneficiary Mr D, who has 100% vested interest in trust property.

Mrs A, Ms B and Mr C are all beneficial owners of OPQ Limited as they have effective control of the company. As the only beneficiary of LMO Trust, Mr D is a beneficial owner based on the ownership test.



37. A common type of trust used in New Zealand is a discretionary trust. When a trust is a discretionary trust, the trustees decide who of the discretionary beneficiaries to benefit from the trust and when distributions of a trust’s income or capital are made. Therefore, a beneficiary of a discretionary trust does not have a vested interest in trust property until the trustees exercise this discretion. In turn, this means a beneficiary of a discretionary trust cannot be a beneficial owner based on the ownership test until the trustees exercise this discretion (although a beneficiary could still be a beneficial owner if they have effective control). This is consistent with the requirements of the Act in relation to a customer that is a discretionary trust, which only require you to obtain a description of each class or type of beneficiary.¹⁴

Diagram 9 – Discretionary trust



TUV Trust (the customer) has two trustees, Mr X and Ms Y that have authority over trust property and to make distributions by the trust. The settlor, Mrs U, has the power to amend the trust deed and to remove or appoint trustees.

Mr X, Ms Y and Mrs U are beneficial owners of the trust as they have effective control of the trust.

The trust is a discretionary trust. There are no named beneficiaries and therefore no beneficial owners based on the ownership test (when you establish the business relationship with the trust).

¹³ If a trust is part of the ownership structure of a company and there is a higher level of ML/TF risk, for example there is no apparent economic or lawful purpose, enhanced CDD may be required under section 22(1)(c) or (d).

¹⁴ Section 23(2)(b)(i)

38. **Note** - For some types of customers, when you apply the beneficial ownership test in relation to ownership, it will become clear this is spread over a large number of individuals with no one person owning more than 25 percent. For example, a co-operative with a large number of members is likely to have no individual owning more than 25 percent. In this case, the effective control element of the beneficial ownership test will determine the beneficial owner(s).

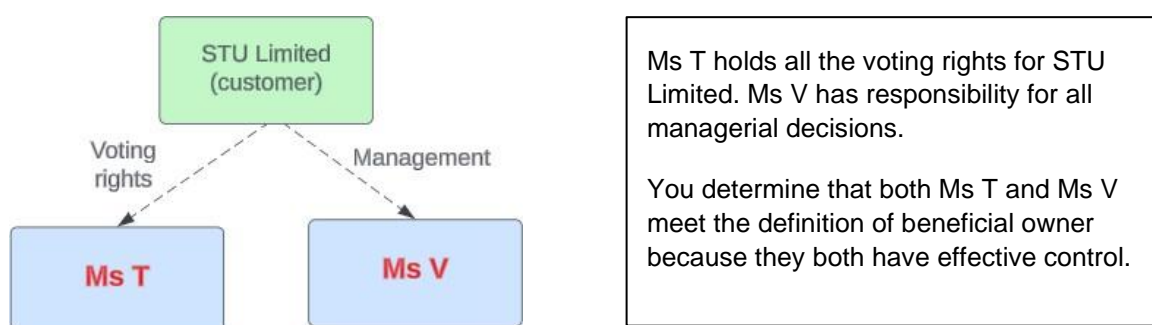
Effective control

39. Regardless of whether there is a person that meets the ownership element of the beneficial ownership test, an individual can still be a beneficial owner solely because of their control over the customer. An example is an individual who exercises responsibility for senior management decisions, or similar.

40. Understanding the management and governance structure of your customer will assist you to establish those individual(s) with effective control of the customer. In deciding the effective controller(s), you should consider the following:

- those individuals with the ability to control the customer and/or dismiss or appoint those in senior management positions,
- those individuals holding more than 25 percent of the customer's voting rights,
- those individuals (for example, the CEO) who hold senior management positions, and
- trustees, settlors and protectors of trusts (where applicable).

Diagram 10 – Effective control



Person on whose behalf a transaction is conducted (POWBATIC)

41. Effective 31 July 2023, regulation 5AA clarifies when a person on whose behalf a transaction is conducted is a beneficial owner of a customer.

42. This is particularly important for those circumstances where your customer has underlying customers and conducts transactions for them through your reporting entity. Under the new regulation, it is now clarified that a customer of your customer is only a beneficial owner in limited circumstances.

43. As a result, there is no requirement that you obtain and verify the identity of your customer's underlying customer as part of your CDD obligations for beneficial owners, **except** when *that underlying customer is a person who (directly or indirectly) has ultimate ownership or control of your customer*. In practice, this could only occur in circumstances when your customer is conducting a transaction for its ultimate owner (direct or indirect) or a person with ultimate control of it. Therefore you should already have determined this person as a beneficial owner. Your AML/CFT programme should have PPCs to identify a beneficial owner that meets this threshold.¹⁵

Example: Trust and Company Services – Your customer may be a legal person or legal arrangement formed to provide a service (including conducting transactions) for its underlying owners or controllers. It may be part of a wider, and potentially complex, legal structure operating specifically for this purpose. There may be a law firm, accounting practice or other professional acting with you on your customer's behalf.

44. Note that the new regulation does not remove the requirement to obtain and verify information relating to the underlying customer of your customer when enhanced CDD is triggered (for example under s22(1)(c) or (d) of the Act). However, in these circumstances, this is because the underlying customer is the potential source of funds (or wealth) of the particular transaction (and/or situation) that has triggered enhanced CDD. It is not because they are a beneficial owner. For further information regarding enhanced CDD, refer to our **Enhanced CDD Guideline**.

Acting on behalf of a customer

45. Acting on behalf of a customer is not part of the beneficial ownership definition; it is part of your other CDD obligations under the Act. The distinction is important because in many instances the person acting on behalf of a customer is not a beneficial owner of the customer. Information on 'acting on behalf' is included in this guideline to help reporting entities understand this distinction.
46. Acting on behalf of the customer is when a person is authorised to carry out transactions or other activities with you on behalf of the customer. That does not mean, and is entirely distinct from, a person who owns or has effective control of your customer. 'Authority to act' should therefore not be confused with effective control. Sections 16(1)(c) and 20(1) of the Act refer to acting on behalf of a customer.
47. An example of acting on behalf of a customer is when an individual has authority to sign on accounts or authorise financial transactions or the sale or purchase of assets owned by the customer. Further examples of a person acting on behalf of a customer are included in the [acting on behalf of a customer fact sheet](#).

¹⁵ Separate and distinct from the question of beneficial ownership, if you provide a facility to the underlying customer of your customer, so that the underlying customer is your customer, you will have CDD obligations in respect of that underlying customer unless an exemption applies. CDD obligations arise in these circumstances because you are providing a facility to the underlying customer, and not because the underlying customer is a beneficial owner.

48. The Act requires you to obtain the name, date of birth and address of any person acting on behalf of your customer and their relationship to the customer. You must then, according to the level of risk involved, take reasonable steps to verify this information so that you are satisfied you know who the person is and that they have authority to act on behalf of your customer.
49. Where you have an existing business relationship with a customer and you have previously conducted CDD on that customer, the Act allows simplified CDD on any new person acting on behalf of the customer. You must obtain the full name and date of birth of the new person, and their relationship to the customer and according to the level of risk, verify this information so you are satisfied you know who the person is and that they have authority to act for the customer.¹⁶

Record keeping

50. You should keep records of all decisions and retain CDD and relevant records in a readily auditable manner. It is important for you to record the rationale behind any decision that you make. Anyone reading the notes years later should be able to understand how and why you made a risk-based decision. You must keep your records for a minimum of five years after an occasional transaction or occasional activity has been completed or a business relationship has ended (whichever is later).¹⁷

Further information

51. This guideline only covers the key concepts relating to beneficial ownership. Examples of the application of these key concepts to particular situations, or types of customers, are available as individual guidelines.

¹⁶ Section 18(3), 19-20.

¹⁷ Section 49-52 of the Act.

Source: <https://www.fma.govt.nz/assets/Guidance/Guideline-beneficial-ownership-guideline.pdf>

Appendix Three: Politically Exposed Person

Politically exposed person (PEP)

Politically exposed person means—

- a) an individual who holds, or has held at any time in the preceding 12 months, in **any overseas country** the prominent public function of—
 - i. Head of State or head of a country or government; or
 - ii. Government minister or equivalent senior politician; or
 - iii. Supreme Court Judge or equivalent senior Judge; or
 - iv. Governor of a central bank or any other position that has comparable influence to the Governor of the Reserve Bank of New Zealand; or
 - v. Senior foreign representative, ambassador, or high commissioner; or
 - vi. High-ranking member of the armed forces; or
 - vii. Board chair, chief executive, or chief financial officer of, or any other position that has comparable influence in, any State enterprise; and
- b) An immediate family member of a person referred to in paragraph (a), including—
 - i. A spouse; or
 - ii. A partner, being a person who is considered by the relevant national law as equivalent to a spouse; or
 - iii. A child and a child's spouse or partner; or
 - iv. A parent; and
- c) having regard to information that is public or readily available,—
 - i. Any individual who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close relationship, with a person referred to in paragraph (a); or
 - ii. Any individual who has sole beneficial ownership of a legal entity or legal arrangement that is known to exist for the benefit of a person described in paragraph (a).

Source: Section 5 of the AML/CFT Act 2009

Appendix Four: Country Risk Examples

When you undertake a risk assessment you must consider the ML/FT risk with regard to the countries your clients are based in, and countries they conduct their business in or through, as well as any overseas institutions that you may deal with.

Some factors to consider during this assessment are:

- Membership of the Financial Action Task Force (FATF), or a FATF regional body, for example, the Asia/Pacific Group on Money Laundering (APG). FATF and APG routinely assess the effectiveness of their member countries' AML/CFT systems and measures. Countries belonging to these bodies are likely to pose very low level of ML/FT risk. (Table 1)
- Countries subject to sanctions, embargoes or similar measures. These countries may pose a higher ML/FT risks. (Table 2)
- Countries identified by credible sources, such as FATF, as lacking adequate AML/CFT systems/measures or controls. (Table 3)
- Countries identified by credible sources as supporting FT⁹.
- Countries identified by credible sources as having significant levels of corruption. (Table 4)
- Countries identified by credible sources as being tax havens. (Table 5)
- Countries materially associated with production and/or transnational-shipment of illicit drugs. (Table 6)

⁹ Countries generally associated with production and/or transnational-shipment of illicit drugs and identified by credible sources as having significant levels of corruption could also be considered as supporting FT.

Table 1: Asia-Pacific group members

Membership of the Financial Action Task Force (FATF), or a FATF regional body, for example, the Asia/Pacific Group on Money Laundering (APG).

Afghanistan	Australia	Bangladesh	Bhutan, Kingdom of
Brunei Darussalam	Cambodia	Canada	China, People's Republic of
Cook Islands	Fiji	Hong Kong, China	India
Indonesia	Japan	Korea, Republic of Korea (South Korea)	Lao People's Democratic Republic
Macao, China	Malaysia	Maldives	Marshall Islands, Republic of
Mongolia	Myanmar	Nauru	Nepal
New Zealand	Niue	Pakistan	Palau
Papua New Guinea	Philippines	Samoa	Singapore
Solomon Islands	Sri Lanka	Chinese Taipei	Thailand
Timor-Leste	Tonga	United States of America	Vanuatu
Vietnam			

Source: <http://www.apgml.org/members-and-observers/members/default.aspx>

Table 2: States or entities under UN Sanctions

New Zealand is obligated to sanctions issued by the United Nations. Currently the United Nations Security Council imposes sanctions measures on, or relating to, the following States or entities:

North Korea	Iran	South Sudan	Mali
Central African Republic	Yemen	Guinea Bissau	Libya
Eritrea	Lebanon	Al Qaida and Taliban	Somalia
Democratic Republic of the Congo	Sudan	Iraq	

Source: <https://www.mfat.govt.nz/en/peace-rights-and-security/un-sanctions/>

Table 3: Countries lacking adequate AML/CFT systems/measures or controls

Jurisdictions subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing (ML/FT) risks emanating from the jurisdictions– February 2024..

Iran
Democratic People's Republic of Korea (DPRK)

Jurisdiction subject to a FATF call on its members and other jurisdictions to apply enhanced due diligence measures proportionate to the risks arising from the jurisdiction – February 2024

Myanmar

Jurisdictions under increased monitoring collaborate with FATF to address strategic deficiencies in countering money laundering, terrorist financing, and proliferation financing. When the FATF places a jurisdiction under increased monitoring, it implies a commitment to swiftly resolve identified deficiencies within agreed timeframes, subjecting the country to increased monitoring, often referred to as the "grey list. The following countries had their progress reviewed by the FATF since October 2023 and are jurisdictions under Increased Monitoring published on 23 February 2024:

Bulgaria	Kenya	South Africa
Burkina Faso	Mali	South Sudan
Cameroon	Mozambique	Syria
Democratic Republic of the Congo	Namibia	Tanzania
Croatia	Nigeria	Türkiye
Haiti	Philippines	Vietnam
Jamaica	Senegal	Yemen

No longer subject to FATF Increased Monitoring (23 February 2024):

Barbados, Gibraltar, Uganda, United Arab Emirates

Source: <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-february-2024.html>

<https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-february-2024.html>

Table 4: Corruption Perceptions Index

The Corruption Perceptions Index prepared by Transparency International is a measure that ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 – 100, where 0 means that a country is perceived as highly corrupt and 100 means it is perceived as very clean. A country's rank indicates its position relative to other countries and territories included in the index. The data for the Corruption Perceptions Index 2023 is given below:

Country	Score 2023	Rank	Country	Score 2023	Rank	Country	Score 2023	Rank	Country	Score 2023	Rank	Country	Score 2023	Rank
Denmark	90	1	Australia	75	14	United Arab Emirates	68	26	Qatar	58	40	Fiji	52	53
Finland	87	2	Hong Kong	75	14	Taiwan	67	28	Czechia	57	41	Saudi Arabia	52	53
New Zealand	85	3	Belgium	73	16	Chile	66	29	Dominica	56	42	Malta	51	55
Norway	84	4	Japan	73	16	Bahamas	64	30	Italy	56	42	Mauritius	51	55
Singapore	83	5	Uruguay	73	16	Cabo Verde	64	30	Slovenia	56	42	Croatia	50	57
Sweden	82	6	Iceland	72	19	Korea, South	63	32	Costa Rica	55	45	Malaysia	50	57
Switzerland	82	6	Austria	71	20	Israel	62	33	Saint Lucia	55	45	Greece	49	59
Netherlands	79	8	France	71	20	Lithuania	61	34	Poland	54	47	Namibia	49	59
Germany	78	9	Seychelles	71	20	Portugal	61	34	Slovakia	54	47	Vanuatu	48	61
Luxembourg	78	9	United Kingdom	71	20	Latvia	60	36	Cyprus	53	49	Armenia	47	62
Ireland	77	11	Barbados	69	24	Saint Vincent and the Grenadines	60	36	Georgia	53	49	Jordan	46	63
Canada	76	12	United States	69	24	Spain	60	36	Grenada	53	49	Kuwait	46	63
Estonia	76	12	Bhutan	68	26	Botswana	59	39	Rwanda	53	49	Montenegro	46	63

Romania	46	63	Kosovo	41	83	Gambia	37	98	Turkey	34	115	Mali	28	136
Bulgaria	45	67	South Africa	41	83	Zambia	37	98	Angola	33	121	Paraguay	28	136
Sao Tome and Principe	45	67	Vietnam	41	83	Algeria	36	104	Mongolia	33	121	Cameroon	27	140
Jamaica	44	69	Colombia	40	87	Brazil	36	104	Peru	33	121	Guinea	26	141
Benin	43	70	Côte d'Ivoire	40	87	Serbia	36	104	Uzbekistan	33	121	Kyrgyzstan	26	141
Ghana	43	70	Guyana	40	87	Ukraine	36	104	Niger	32	125	Russia	26	141
Oman	43	70	Suriname	40	87	Bosnia and Herzegovina	35	108	El Salvador	31	126	Uganda	26	141
Senegal	43	70	Tanzania	40	87	Dominican Republic	35	108	Kenya	31	126	Liberia	25	145
Solomon Islands	43	70	Tunisia	40	87	Egypt	35	108	Mexico	31	126	Madagascar	25	145
Timor-Leste	43	70	India	39	93	Nepal	35	108	Togo	31	126	Mozambique	25	145
Bahrain	42	76	Kazakhstan	39	93	Panama	35	108	Djibouti	30	130	Nigeria	25	145
China	42	76	Lesotho	39	93	Sierra Leone	35	108	Eswatini	30	130	Bangladesh	24	149
Cuba	42	76	Maldives	39	93	Thailand	35	108	Mauritania	30	130	Central African Republic	24	149
Hungary	42	76	Morocco	38	97	Ecuador	34	115	Bolivia	29	133	Iran	24	149
Moldova	42	76	Albania	37	98	Indonesia	34	115	Pakistan	29	133	Lebanon	24	149
North Macedonia	42	76	Argentina	37	98	Malawi	34	115	Papua New Guinea	29	133	Zimbabwe	24	149
Trinidad and Tobago	42	76	Belarus	37	98	Philippines	34	115	Gabon	28	136	Azerbaijan	23	154
Burkina Faso	41	83	Ethiopia	37	98	Sri Lanka	34	115	Laos	28	136	Guatemala	23	154

Honduras	23	154	Eritrea	21	161	Democratic Republic of the Congo	20	162	Turkmenistan	18	170	Yemen	16	176
Iraq	23	154	Afghanistan	20	162	Myanmar	20	162	Equatorial Guinea	17	172	South Sudan	13	177
Cambodia	22	158	Burundi	20	162	Sudan	20	162	Haiti	17	172	Syria	13	177
Congo	22	158	Chad	20	162	Tajikistan	20	162	Korea, North	17	172	Venezuela	13	177
Guinea-Bissau	22	158	Comoros	20	162	Libya	18	170	Nicaragua	17	172	Somalia	11	180

Source: Transparency International (<https://www.transparency.org/en/cpi/2023>)

Table 5: Tax havens

Four key factors are used to determine whether a jurisdiction is a tax haven. The first is that the jurisdiction imposes no, or only nominal, taxes. The 'no' or 'nominal' tax criterion is not sufficient, by itself, to result in characterisation as a tax haven. The OECD recognises that every jurisdiction has a right to determine whether to impose direct taxes and, if so, to determine the appropriate tax rate. An analysis of the other key factors is needed for a jurisdiction to be considered a tax haven. The three other factors to be considered are:

- Whether there is a lack of transparency
- Whether there are laws or administrative practices that prevent the effective exchange of information for tax purposes with other governments on taxpayers benefiting from the no or nominal taxation.
- Whether there is an absence of a requirement that the activity be substantial

Transparency ensures that there is an open and consistent application of tax laws among similarly situated taxpayers and that information needed by tax authorities to determine a taxpayer's correct tax liability is available (e.g., accounting records and underlying documentation).

With regard to exchange of information in tax matters, the OECD encourages countries to adopt information exchange on an "upon request" basis. Exchange of information upon request describes a situation where a competent authority of one country asks the competent authority of another country for specific information in connection with a specific tax inquiry, generally under the authority of a bilateral exchange arrangement between the two countries. An essential element of exchange of information is the implementation of appropriate safeguards to ensure adequate protection of taxpayers' rights and the confidentiality of their tax affairs.

As on 28 June 2017, **Trinidad and Tobago** is the only one jurisdiction that still meets the current criteria to be considered not to have made sufficient progress towards satisfactory implementation of the agreed tax transparency standards.

Source:

<https://www.oecd.org/tax/transparency/brief-and-FAQ-on-progress-on-tax-transparency.pdf>

<https://www.taxjustice.net/2017/06/28/empty-oecd-tax-haven-blacklist-undermines-progress/>

Table 6: Countries associated with illicit drug production and/or transshipment

Production and sale of illicit drugs is a global phenomenon. Some countries are only producers of illicit drugs whereas some are nodal points for their transportation across the globe. Narcotics, stimulants, depressants (sedatives), hallucinogens, and cannabis are five categories of illicit drugs. These categories include many drugs legally produced and prescribed by doctors as well as those illegally produced and sold outside of medical channels. ML/FT risk is likely to arise in case of illegally produced drugs sold outside of medical channels.

General information on illicit drugs

- **Cannabis** (*Cannabis sativa*) is the common hemp plant, which provides hallucinogens with some sedative properties, and includes marijuana (pot, Acapulco gold, grass, reefer), tetrahydrocannabinol (THC, Marinol), hashish (hash), and hashish oil (hash oil).
- **Coca** (mostly *Erythroxylum coca*) is a bush with leaves that contain the stimulant used to make cocaine. Coca is not to be confused with cocoa, which comes from cacao seeds and is used in making chocolate, cocoa, and cocoa butter. **Cocaine** is a stimulant derived from the leaves of the coca bush.
- **Depressants** (sedatives) are drugs that reduce tension and anxiety and include chloral hydrate, barbiturates (Amytal, Nembutal, Seconal, phenobarbital), benzodiazepines (Librium, Valium), methaqualone (Quaalude), glutethimide (Doriden), and others (Equanil, Placidyl, Valmid).
- **Drugs** are any chemical substances that effect a physical, mental, emotional, or behavioral change in an individual.
- **Drug abuse** is the use of any licit or illicit chemical substance that results in physical, mental, emotional, or behavioural impairment in an individual.
- **Hallucinogens** are drugs that affect sensation, thinking, self-awareness, and emotion. Hallucinogens include LSD (acid, microdot), mescaline and peyote (mexc, buttons, cactus), amphetamine variants (PMA, STP, DOB), phencyclidine (PCP, angel dust, hog), phencyclidine analogues (PCE, PCPy, TCP), and others (psilocybin, psilocyn).
- **Hashish** is the resinous exudate of the cannabis or hemp plant (*Cannabis sativa*).
- **Heroin** is a semisynthetic derivative of morphine.
- **Mandrax** is a trade name for methaqualone, a pharmaceutical depressant.
- **Marijuana** is the dried leaf of the cannabis or hemp plant (*Cannabis sativa*).
- **Methaqualone** is a pharmaceutical depressant, referred to as mandrax in Southwest Asia and Africa.
- **Narcotics** are drugs that relieve pain, often induce sleep, and refer to opium, opium derivatives, and synthetic substitutes. Natural narcotics include opium (paregoric, parepectolin), morphine (MS-Contin, Roxanol), codeine (Tylenol with codeine, Empirin with codeine, Robitussin AC), and thebaine. Semisynthetic narcotics include heroin (horse, smack), and hydromorphone (Dilaudid). Synthetic narcotics include meperidine or Pethidine (Demerol, Mepergan), methadone (Dolophine, Methadose), and others (Darvon, Lomotil).
- **Opium** is the brown, gummy exudate of the incised, unripe seedpod of the opium poppy.
- **Opium poppy** (*Papaver somniferum*) is the source for the natural and semisynthetic narcotics.
- **Poppy straw** is the entire cut and dried opium poppy-plant material, other than the seeds. Opium is extracted from poppy straw in commercial operations that produce the drug for medical use.
- **Qat** (kat, khat) is a stimulant from the buds or leaves of *Catha edulis* that is chewed or drunk as tea.
- **Quaaludes** is the North American slang term for methaqualone, a pharmaceutical depressant.
- **Stimulants** are drugs that relieve mild depression, increase energy and activity, and include cocaine (coke, snow, crack), amphetamines (Desoxyn, Dexedrine), ephedrine, ecstasy (clarity, essence, doctor, Adam), phenmetrazine (Preludin), methylphenidate (Ritalin), and others (Cylert, Sanorex, Tenuate).

Country List

COUNTRY	ILLICIT DRUGS
Afghanistan	world's largest producer of opium; poppy cultivation increased 10 percent, to 201,000 hectares in 2016, while eradication declined significantly; the 2016 crop yielded an estimated 4,800 mt of raw opium, a 43% increase over 2015; the Taliban and other anti-government groups participate in and profit from the opiate trade, which is a key source of revenue for the Taliban inside Afghanistan; widespread corruption and instability impede counterdrug efforts; most of the heroin consumed in Europe and Eurasia is derived from Afghan opium; Afghanistan is also struggling to respond to a burgeoning domestic opiate addiction problem; a 2015 national drug use survey found that roughly 11% of the population tested positive for one or more illicit drugs; vulnerable to drug money laundering through informal financial networks; illicit cultivation of cannabis and regional source of hashish
Albania	active transshipment point for Southwest Asian opiates, hashish, and cannabis transiting the Balkan route and - to a lesser extent - cocaine from South America destined for Western Europe; significant source country for cannabis production; ethnic Albanian narco trafficking organizations active and expanding in Europe; vulnerable to money laundering associated with regional trafficking in narcotics, arms, contraband, and illegal aliens
Angola	used as a transshipment point for cocaine destined for Western Europe and other African states, particularly South Africa
Anguilla	transshipment point for South American narcotics destined for the US and Europe
Antigua and Barbuda	considered a minor transshipment point for narcotics bound for the US and Europe; more significant as an offshore financial centre
Argentina	a transshipment country for cocaine headed for Europe, heroin headed for the US, and ephedrine and pseudoephedrine headed for Mexico; some money-laundering activity, especially in the Tri-Border Area; law enforcement corruption; a source for precursor chemicals; increasing domestic consumption of drugs in urban centres, especially cocaine base and synthetic drugs

COUNTRY	ILLICIT DRUGS
Armenia	illicit cultivation of small amount of cannabis for domestic consumption; minor transit point for illicit drugs - mostly opium and hashish - moving from Southwest Asia to Russia and to a lesser extent the rest of Europe
Aruba	transit point for US- and Europe-bound narcotics with some accompanying money-laundering activity; relatively high percentage of population consumes cocaine
Australia	Tasmania is one of the world's major suppliers of licit opiate products; government maintains strict controls over areas of opium poppy cultivation and output of poppy straw concentrate; major consumer of cocaine and amphetamines
Austria	transshipment point for Southwest Asian heroin and South American cocaine destined for Western Europe; increasing consumption of European-produced synthetic drugs
Azerbaijan	limited illicit cultivation of cannabis and opium poppy, mostly for CIS consumption; small government eradication program; transit point for Southwest Asian opiates bound for Russia and to a lesser extent the rest of Europe
Bahamas	transshipment point for cocaine and marijuana bound for US and Europe; offshore financial centre
Bangladesh	transit country for illegal drugs produced in neighbouring countries
Barbados	one of many Caribbean transshipment points for narcotics bound for Europe and the US; offshore financial centre
Belarus	limited cultivation of opium poppy and cannabis, mostly for the domestic market; transshipment point for illicit drugs to and via Russia, and to the Baltics and Western Europe; a small and lightly regulated financial centre; anti-money-laundering legislation does not meet international standards and was weakened further when know-your-customer requirements were curtailed in 2008; few investigations or prosecutions of money-laundering activities
Belgium	growing producer of synthetic drugs and cannabis; transit point for US-bound ecstasy; source of precursor chemicals for South American cocaine processors; transshipment point for cocaine, heroin, hashish,

COUNTRY	ILLICIT DRUGS
	and marijuana entering Western Europe; despite a strengthening of legislation, the country remains vulnerable to money laundering related to narcotics, automobiles, alcohol, and tobacco; significant domestic consumption of ecstasy
Belize	major transshipment point for cocaine; small-scale illicit producer of cannabis, primarily for local consumption; offshore sector money-laundering activity related to narcotics trafficking and other crimes
Benin	transshipment point used by traffickers for cocaine destined for Western Europe; vulnerable to money laundering due to poorly enforced financial regulations
Bolivia	world's third-largest cultivator of coca (after Colombia and Peru) with an estimated 36,500 hectares under cultivation in 2015, a 3 percent increase over 2014; third largest producer of cocaine, estimated at 255 metric tons potential pure cocaine in 2015; transit country for Peruvian and Colombian cocaine destined for Brazil, Argentina, Chile, Paraguay, and Europe; weak border controls; some money-laundering activity related to narcotics trade; major cocaine consumption
Bosnia and Herzegovina	increasingly a transit point for heroin being trafficked to Western Europe; minor transit point for marijuana; remains highly vulnerable to money-laundering activity given a primarily cash-based and unregulated economy, weak law enforcement, and instances of corruption
Brazil	second-largest consumer of cocaine in the world; illicit producer of cannabis; trace amounts of coca cultivation in the Amazon region, used for domestic consumption; government has a large-scale eradication program to control cannabis; important transshipment country for Bolivian, Colombian, and Peruvian cocaine headed for Europe; also used by traffickers as a way station for narcotics air shipments between Peru and Colombia; upsurge in drug-related violence and weapons smuggling; important market for Colombian, Bolivian, and Peruvian cocaine; illicit narcotics proceeds are often laundered through the financial system; significant illicit financial activity in the Tri-Border Area

COUNTRY	ILLICIT DRUGS
British Virgin Islands	transshipment point for South American narcotics destined for the US and Europe; large offshore financial centre makes it vulnerable to money laundering
Brunei	drug trafficking and illegally importing controlled substances are serious offenses in Brunei and carry a mandatory death penalty
Bulgaria	major European transshipment point for Southwest Asian heroin and, to a lesser degree, South American cocaine for the European market; limited producer of precursor chemicals; vulnerable to money laundering because of corruption, organized crime; some money laundering of drug-related proceeds through financial institutions
Burma	world's second largest producer of illicit opium with an estimated poppy cultivation totalling 55,500 hectares in 2015 and an estimated potential production of 647 mt of raw opium; Shan state is the source of 91% of Burma's poppy cultivation; lack of government will to take on major narco trafficking groups and lack of serious commitment against money laundering continues to hinder the overall antidrug effort; major source of methamphetamine and heroin for regional consumption
Cabo Verde	used as a transshipment point for Latin American cocaine destined for Western Europe, particularly because of Lusophone links to Brazil, Portugal, and Guinea-Bissau; has taken steps to deter drug money laundering, including a 2002 anti-money laundering reform that criminalizes laundering the proceeds of narcotics trafficking and other crimes and the establishment in 2008 of a Financial Intelligence Unit
Cambodia	narcotics-related corruption reportedly involving some in the government, military, and police; limited methamphetamine production; vulnerable to money laundering due to its cash-based economy and porous borders
Canada	illicit producer of cannabis for the domestic drug market and export to US; use of hydroponics technology permits growers to plant large quantities of high-quality marijuana indoors; increasing ecstasy production, some of which is destined for the US; vulnerable to narcotics money laundering because of its mature financial services sector

COUNTRY	ILLICIT DRUGS
Cayman Islands	major offshore financial centre; vulnerable to drug transshipment to the US and Europe
Chile	transshipment country for cocaine destined for Europe and the region; some money laundering activity, especially through the Iquique Free Trade Zone; imported precursors passed on to Bolivia; domestic cocaine consumption is rising, making Chile a significant consumer of cocaine
China	major transshipment point for heroin produced in the Golden Triangle region of Southeast Asia; growing domestic consumption of synthetic drugs, and heroin from Southeast and Southwest Asia; source country for methamphetamine and heroin chemical precursors, despite new regulations on its large chemical industry; more people believed to be convicted and executed for drug offences than anywhere else in the world, according to NGOs
Colombia	illicit producer of coca, opium poppy, and cannabis; world's leading coca cultivator with 159,000 hectares in coca cultivation in 2015, a 42% increase over 2014, producing a potential of 495 mt of pure cocaine; the world's largest producer of coca derivatives; supplies cocaine to nearly all of the US market and the great majority of other international drug markets; in 2016, the Colombian government reported manual eradication of 17,642 hectares; Colombia suspended aerial eradication in October 2015 making 2016 the first full year without aerial eradication; a significant portion of narcotics proceeds are either laundered or invested in Colombia through the black market peso exchange; Colombia probably remains the second largest supplier of heroin to the US market; opium poppy cultivation was estimated to be 1,100 hectares in 2015, sufficient to potentially produce three metric tons of pure heroin
Congo, Democratic Republic of the	traffickers exploit lax shipping controls to transit pseudoephedrine through the capital; while rampant corruption and inadequate supervision leave the banking system vulnerable to money laundering, the lack of a well-developed financial system limits the country's utility as a money-laundering centre
Costa Rica	transshipment country for cocaine and heroin from South America; illicit production of cannabis in remote areas; domestic cocaine consumption, particularly crack cocaine, is rising; significant

COUNTRY	ILLICIT DRUGS
	consumption of amphetamines; seizures of smuggled cash in Costa Rica and at the main border crossing to enter Costa Rica from Nicaragua have risen in recent years
Cote d'Ivoire	illicit producer of cannabis, mostly for local consumption; utility as a narcotic transshipment point to Europe reduced by ongoing political instability; while rampant corruption and inadequate supervision leave the banking system vulnerable to money laundering, the lack of a developed financial system limits the country's utility as a major money-laundering centre
Croatia	primarily a transit country along the Balkan route for maritime shipments of South American cocaine bound for Western Europe and other illicit drugs and chemical precursors to and from Western Europe; no significant domestic production of illicit drugs
Cuba	territorial waters and air space serve as transshipment zone for US- and European-bound drugs; established the death penalty for certain drug-related crimes in 1999
Cyprus	minor transit point for heroin and hashish via air routes and container traffic to Europe, especially from Lebanon and Turkey; some cocaine transits as well; despite a strengthening of anti-money-laundering legislation, remains vulnerable to money laundering; reporting of suspicious transactions in offshore sector remains weak
Czechia	transshipment point for Southwest Asian heroin and minor transit point for Latin American cocaine to Western Europe; producer of synthetic drugs for local and regional markets; susceptible to money laundering related to drug trafficking, organized crime; significant consumer of ecstasy
Dominica	transshipment point for narcotics bound for the US and Europe; minor cannabis producer
Dominican Republic	transshipment point for South American drugs destined for the US and Europe; has become a transshipment point for ecstasy from the Netherlands and Belgium destined for US and Canada; substantial money laundering activity in particular by Colombian narcotics traffickers; significant amphetamine consumption

COUNTRY	ILLICIT DRUGS
Ecuador	significant transit country for cocaine originating in Colombia and Peru, with much of the US-bound cocaine passing through Ecuadorian Pacific waters; importer of precursor chemicals used in production of illicit narcotics; attractive location for cash-placement by drug traffickers laundering money because of dollarization and weak anti-money-laundering regime; increased activity on the northern frontier by trafficking groups and Colombian insurgents
Egypt	transit point for cannabis, heroin, and opium moving to Europe, Israel, and North Africa; transit stop for Nigerian drug couriers; concern as money laundering site due to lax enforcement of financial regulations
El Salvador	transshipment point for cocaine; small amounts of marijuana produced for local consumption; significant use of cocaine
Estonia	growing producer of synthetic drugs; increasingly important transshipment zone for cannabis, cocaine, opiates, and synthetic drugs since joining the European Union and the Schengen Accord; potential money laundering related to organized crime and drug trafficking is a concern, as is possible use of the gambling sector to launder funds; major use of opiates and ecstasy
Ethiopia	transit hub for heroin originating in Southwest and Southeast Asia and destined for Europe, as well as cocaine destined for markets in southern Africa; cultivates qat (khat) for local use and regional export, principally to Djibouti and Somalia (legal in all three countries); the lack of a well-developed financial system limits the country's utility as a money laundering centre
France	metropolitan France: transshipment point for South American cocaine, Southwest Asian heroin, and European synthetics French Guiana: small amount of marijuana grown for local consumption; minor transshipment point to Europe Martinique: transshipment point for cocaine and marijuana bound for the US and Europe
Georgia	limited cultivation of cannabis and opium poppy, mostly for domestic consumption; used as transshipment point for opiates via Central Asia to Western Europe and Russia
Germany	source of precursor chemicals for South American cocaine processors; transshipment point for and consumer of Southwest Asian heroin, Latin

COUNTRY	ILLICIT DRUGS
	American cocaine, and European-produced synthetic drugs; major financial centre
Ghana	illicit producer of cannabis for the international drug trade; major transit hub for Southwest and Southeast Asian heroin and, to a lesser extent, South American cocaine destined for Europe and the US; widespread crime and money-laundering problem, but the lack of a well-developed financial infrastructure limits the country's utility as a money-laundering centre; significant domestic cocaine and cannabis use
Greece	a gateway to Europe for traffickers smuggling cannabis and heroin from the Middle East and Southwest Asia to the West and precursor chemicals to the East; some South American cocaine transits or is consumed in Greece; money laundering related to drug trafficking and organized crime
Grenada	small-scale cannabis cultivation; lesser transshipment point for marijuana and cocaine to US
Guatemala	major transit country for cocaine and heroin; it is estimated that 1,000 mt of cocaine are smuggled through the country each year, primarily destined for the US market; in 2016, the Guatemalan government estimated that an average of 4,500 hectares of opium poppy were being cultivated; marijuana cultivation for mostly domestic consumption; proximity to Mexico makes Guatemala a major staging area for drugs (particularly for cocaine); money laundering is a serious problem; corruption is a major problem
Guinea-Bissau	increasingly important transit country for South American cocaine en route to Europe; enabling environment for trafficker operations due to pervasive corruption; archipelago-like geography near the capital facilitates drug smuggling
Guyana	transshipment point for narcotics from South America - primarily Venezuela - to Europe and the US; producer of cannabis; rising money laundering related to drug trafficking and human smuggling
Haiti	Caribbean transshipment point for cocaine en route to the US and Europe; substantial bulk cash smuggling activity; Colombian narcotics traffickers favour Haiti for illicit financial transactions; pervasive corruption; significant consumer of cannabis

COUNTRY	ILLICIT DRUGS
Honduras	transshipment point for drugs and narcotics; illicit producer of cannabis, cultivated on small plots and used principally for local consumption; corruption is a major problem; some money-laundering activity
Hong Kong	despite strenuous law enforcement efforts, faces difficult challenges in controlling transit of heroin and methamphetamine to regional and world markets; modern banking system provides conduit for money laundering; rising indigenous use of synthetic drugs, especially among young people
Hungary	transshipment point for Southwest Asian heroin and cannabis and for South American cocaine destined for Western Europe; limited producer of precursor chemicals, particularly for amphetamine and methamphetamine; efforts to counter money laundering, related to organized crime and drug trafficking are improving but remain vulnerable; significant consumer of ecstasy
India	world's largest producer of licit opium for the pharmaceutical trade, but an undetermined quantity of opium is diverted to illicit international drug markets; transit point for illicit narcotics produced in neighbouring countries and throughout Southwest Asia; illicit producer of methaqualone; vulnerable to narcotics money laundering through the hawala system; licit ketamine and precursor production
Indonesia	illicit producer of cannabis largely for domestic use; producer of methamphetamine and ecstasy; President WIDODO's war on drugs has led to an increase in death sentences and executions, particularly of foreign drug traffickers
Iran	despite substantial interdiction efforts and considerable control measures along the border with Afghanistan, Iran remains one of the primary transshipment routes for Southwest Asian heroin to Europe; suffers one of the highest opiate addiction rates in the world, and has an increasing problem with synthetic drugs; regularly enforces the death penalty for drug offences; lacks anti-money laundering laws; has reached out to neighbouring countries to share counter-drug intelligence
Ireland	transshipment point for and consumer of hashish from North Africa to the UK and Netherlands and of European-produced synthetic drugs; increasing consumption of South American cocaine; minor

COUNTRY	ILLICIT DRUGS
	transshipment point for heroin and cocaine destined for Western Europe; despite recent legislation, narcotics-related money laundering - using bureaux de change, trusts, and shell companies involving the offshore financial community - remains a concern
Israel	increasingly concerned about ecstasy, cocaine, and heroin abuse; drugs arrive in country from Lebanon and, increasingly, from Jordan; money-laundering centre
Italy	important gateway for and consumer of Latin American cocaine and Southwest Asian heroin entering the European market; money laundering by organized crime and from smuggling
Jamaica	transshipment point for cocaine from South America to North America and Europe; illicit cultivation and consumption of cannabis; government has an active manual cannabis eradication program; corruption is a major concern; substantial money-laundering activity; Colombian narcotics traffickers favour Jamaica for illicit financial transactions
Kazakhstan	significant illicit cultivation of cannabis for CIS markets, as well as limited cultivation of opium poppy and ephedra (for the drug ephedrine); limited government eradication of illicit crops; transit point for Southwest Asian narcotics bound for Russia and the rest of Europe; significant consumer of opiates
Kenya	widespread harvesting of small plots of marijuana; transit country for South Asian heroin destined for Europe and North America; Indian methaqualone also transits on way to South Africa; significant potential for money-laundering activity given the country's status as a regional financial centre; massive corruption, and relatively high levels of narcotics-associated activities
Korea, North	at present there is insufficient information to determine the current level of involvement of government officials in the production or trafficking of illicit drugs, but for years, from the 1970s into the 2000s, citizens of the Democratic People's Republic of (North) Korea (DPRK), many of them diplomatic employees of the government, were apprehended abroad while trafficking in narcotics; police investigations in Taiwan and Japan in recent years have linked North Korea to large illicit shipments of heroin and methamphetamine

COUNTRY	ILLICIT DRUGS
Kyrgyzstan	limited illicit cultivation of cannabis and opium poppy for CIS markets; limited government eradication of illicit crops; transit point for Southwest Asian narcotics bound for Russia and the rest of Europe; major consumer of opiates
Laos	estimated opium poppy cultivation in 2015 was estimated to be 5,700 hectares, compared with 6,200 hectares in 2014; estimated potential production of between 84 and 176 mt of raw opium; unsubstantiated reports of domestic methamphetamine production; growing domestic methamphetamine problem
Latvia	transshipment and destination point for cocaine, synthetic drugs, opiates, and cannabis from Southwest Asia, Western Europe, Latin America, and neighbouring Baltic countries; despite improved legislation, vulnerable to money laundering due to nascent enforcement capabilities and comparatively weak regulation of offshore companies and the gaming industry; CIS organized crime (including counterfeiting, corruption, extortion, stolen cars, and prostitution) accounts for most laundered proceeds
Lebanon	Lebanon is a transit country for hashish, cocaine, heroin, and fen ethylene; fen ethylene, cannabis, hashish, and some opium are produced in the Bekaa Valley; small amounts of Latin American cocaine and Southwest Asian heroin transit country on way to European markets and for Middle Eastern consumption; money laundering of drug proceeds fuels concern that extremists are benefiting from drug trafficking
Liberia	transshipment point for Southeast and Southwest Asian heroin and South American cocaine for the European and US markets; corruption, criminal activity, arms-dealing, and diamond trade provide significant potential for money laundering, but the lack of well-developed financial system limits the country's utility as a major money-laundering centre
Liechtenstein	has strengthened money laundering controls, but money laundering remains a concern due to Liechtenstein's sophisticated offshore financial services sector
Lithuania	transshipment and destination point for cannabis, cocaine, ecstasy, and opiates from Southwest Asia, Latin America, Western Europe, and

COUNTRY	ILLICIT DRUGS
	neighbouring Baltic countries; growing production of high-quality amphetamines, but limited production of cannabis, methamphetamines; susceptible to money laundering despite changes to banking legislation
Macau	transshipment point for drugs going into mainland China; consumer of opiates and amphetamines
Macedonia	major transshipment point for Southwest Asian heroin and hashish; minor transit point for South American cocaine destined for Europe; although not a financial centre and most criminal activity is thought to be domestic, money laundering is a problem due to a mostly cash-based economy and weak enforcement
Madagascar	illicit producer of cannabis (cultivated and wild varieties) used mostly for domestic consumption; transshipment point for heroin
Malaysia	drug trafficking prosecuted vigorously, including enforcement of the death penalty; heroin still primary drug of abuse, but synthetic drug demand remains strong; continued ecstasy and methamphetamine producer for domestic users and, to a lesser extent, the regional drug market
Malta	minor transshipment point for hashish from North Africa to Western Europe
Mauritius	consumer and transshipment point for heroin from South Asia; small amounts of cannabis produced and consumed locally; significant offshore financial industry creates potential for money laundering, but corruption levels are relatively low and the government appears generally to be committed to regulating its banking industry
Mexico	major drug-producing and transit nation; Mexico is estimated to be the world's third largest producer of opium with poppy cultivation in 2015 estimated to be 28,000 hectares yielding a potential production of 475 metric tons of raw opium; government conducts the largest independent illicit-crop eradication program in the world; continues as the primary transshipment country for US-bound cocaine from South America, with an estimated 95% of annual cocaine movements toward the US stopping in Mexico; major drug syndicates control the majority of drug trafficking throughout the country; producer and distributor of ecstasy; significant money-laundering centre; major supplier of heroin

COUNTRY	ILLICIT DRUGS
	and largest foreign supplier of marijuana and methamphetamine to the US market
Micronesia, Federated States of	major consumer of cannabis
Moldova	limited cultivation of opium poppy and cannabis, mostly for CIS consumption; transshipment point for illicit drugs from Southwest Asia via Central Asia to Russia, Western Europe, and possibly the US; widespread crime and underground economic activity
Montserrat	transshipment point for South American narcotics destined for the US and Europe
Morocco	the world's largest producer and exporter of cannabis; total production for 2015-2016 growing season estimated to be 700 metric tons; shipments of hashish mostly directed to Western Europe; transit point for cocaine from South America destined for Western Europe; significant consumer of cannabis
Mozambique	southern African transit point for South Asian hashish and heroin, and South American cocaine probably destined for the European and South African markets; producer of cannabis (for local consumption) and methaqualone (for export to South Africa); corruption and poor regulatory capability make the banking system vulnerable to money laundering, but the lack of a well-developed financial infrastructure limits the country's utility as a money-laundering centre
Nepal	illicit producer of cannabis and hashish for the domestic and international drug markets; transit point for opiates from Southeast Asia to the West
Netherlands	major European producer of synthetic drugs, including ecstasy, and cannabis cultivator; important gateway for cocaine, heroin, and hashish entering Europe; major source of US-bound ecstasy and a significant consumer of ecstasy; a large financial sector vulnerable to money laundering
New Zealand	significant consumer of amphetamines

COUNTRY	ILLICIT DRUGS
Nicaragua	transshipment point for cocaine destined for the US and transshipment point for arms-for-drugs dealing
Nigeria	a transit point for heroin and cocaine intended for European, East Asian, and North American markets; consumer of amphetamines; safe haven for Nigerian narco traffickers operating worldwide; major money-laundering centre; massive corruption and criminal activity; Nigeria has improved some anti-money-laundering controls, resulting in its removal from the Financial Action Task Force's (FATF's) Non-cooperative Countries and Territories List in June 2006; Nigeria's anti-money-laundering regime continues to be monitored by FATF
Pakistan	significant transit area for Afghan drugs, including heroin, opium, morphine, and hashish, bound for Iran, Western markets, the Gulf States, Africa, and Asia; financial crimes related to drug trafficking, terrorism, corruption, and smuggling remain problems; opium poppy cultivation estimated to be 930 hectares in 2015; federal and provincial authorities continue to conduct anti-poppy campaigns that utilizes forced eradication, fines, and arrests
Panama	major cocaine transshipment point and primary money-laundering centre for narcotics revenue; money-laundering activity is especially heavy in the Colon Free Zone; offshore financial centre; negligible signs of coca cultivation; monitoring of financial transactions is improving; official corruption remains a major problem
Papua New Guinea	major consumer of cannabis
Paraguay	major illicit producer of cannabis, most or all of which is consumed in Brazil, Argentina, and Chile; transshipment country for Andean cocaine headed for Brazil, other Southern Cone markets, and Europe; weak border controls, extensive corruption and money-laundering activity, especially in the Tri-Border Area; weak anti-money-laundering laws and enforcement
Peru	until 1996 the world's largest coca leaf producer, Peru is now the world's second largest producer of coca leaf, though it lags far behind Colombia; cultivation of coca in Peru was estimated at 53,000 hectares in 2015, an increase of 14 per cent over 2014; second largest producer of cocaine, estimated at 380 metric tons of potential pure cocaine in

COUNTRY	ILLICIT DRUGS
	2015; finished cocaine is shipped out from Pacific ports to the international drug market; increasing amounts of base and finished cocaine, however, are being moved to Brazil, Chile, Argentina, and Bolivia for use in the Southern Cone or transshipment to Europe and Africa; increasing domestic drug consumption
Philippines	domestic methamphetamine production has been a growing problem in recent years despite government crackdowns; major consumer of amphetamines; longstanding marijuana producer mainly in rural areas where Manila's control is limited
Poland	despite diligent counter narcotics measures and international information sharing on cross-border crimes, a major illicit producer of synthetic drugs for the international market; minor transshipment point for Southwest Asian heroin and Latin American cocaine to Western Europe
Portugal	seizing record amounts of Latin American cocaine destined for Europe; a European gateway for Southwest Asian heroin; transshipment point for hashish from North Africa to Europe; consumer of Southwest Asian heroin
Romania	major transshipment point for Southwest Asian heroin transiting the Balkan route and small amounts of Latin American cocaine bound for Western Europe; although not a significant financial centre, role as a narcotics conduit leaves it vulnerable to laundering, which occurs via the banking system, currency exchange houses, and casinos
Russia	limited cultivation of illicit cannabis and opium poppy and producer of methamphetamine, mostly for domestic consumption; government has active illicit crop eradication program; used as transshipment point for Asian opiates, cannabis, and Latin American cocaine bound for growing domestic markets, to a lesser extent Western and Central Europe, and occasionally to the US; major source of heroin precursor chemicals; corruption and organized crime are key concerns; major consumer of opiates
Saint Kitts and Nevis	transshipment point for South American drugs destined for the US and Europe; some money-laundering activity
Saint Lucia	transit point for South American drugs destined for the US and Europe

COUNTRY	ILLICIT DRUGS
Saint Vincent and the Grenadines	transshipment point for South American drugs destined for the US and Europe; small-scale cannabis cultivation
Saudi Arabia	regularly enforces the death penalty for drug traffickers, with foreigners being convicted and executed disproportionately; improving anti-money-laundering legislation and enforcement
Senegal	transshipment point for Southwest and Southeast Asian heroin and South American cocaine moving to Europe and North America; illicit cultivator of cannabis
Serbia	transshipment point for Southwest Asian heroin moving to Western Europe on the Balkan route; economy vulnerable to money laundering
Singapore	drug abuse limited because of aggressive law enforcement efforts, including carrying out death sentences; as a transportation and financial services hub, Singapore is vulnerable, despite strict laws and enforcement, as a venue for money laundering
Slovakia	transshipment point for Southwest Asian heroin bound for Western Europe; producer of synthetic drugs for regional market; consumer of ecstasy
Slovenia	minor transit point for cocaine and Southwest Asian heroin bound for Western Europe, and for precursor chemicals
South Africa	transshipment centre for heroin, hashish, and cocaine, as well as a major cultivator of marijuana in its own right; cocaine and heroin consumption on the rise; world's largest market for illicit methaqualone, usually imported illegally from India through various east African countries, but increasingly producing its own synthetic drugs for domestic consumption; attractive venue for money launderers given the increasing level of organized criminal and narcotics activity in the region and the size of the South African economy
Spain	despite rigorous law enforcement efforts, North African, Latin American, Galician, and other European traffickers take advantage of Spain's long coastline to land large shipments of cocaine and hashish for distribution to the European market; consumer for Latin American cocaine and North African hashish; destination and minor

COUNTRY	ILLICIT DRUGS
	transshipment point for Southwest Asian heroin; money-laundering site for Colombian narcotics trafficking organizations and organized crime
Suriname	growing transshipment point for South American drugs destined for Europe via the Netherlands and Brazil; transshipment point for arms-for-drugs dealing
Switzerland	a major international financial centre vulnerable to the layering and integration stages of money laundering; despite significant legislation and reporting requirements, secrecy rules persist and nonresidents are permitted to conduct business through offshore entities and various intermediaries; transit country for and consumer of South American cocaine, Southwest Asian heroin, and Western European synthetics; domestic cannabis cultivation and limited ecstasy production
Syria	a transit point for opiates, hashish, and cocaine bound for regional and Western markets; weak anti-money-laundering controls and bank privatization may leave it vulnerable to money laundering
Taiwan	regional transit point for heroin, methamphetamine, and precursor chemicals; transshipment point for drugs to Japan; major problem with domestic consumption of methamphetamine and heroin; rising problems with use of ketamine and club drugs
Tajikistan	Tajikistan sits on one of the world's highest volume illicit drug trafficking routes, between Afghan opiate production to the south and the illicit drug markets of Russia and Eastern Europe to the north; limited illicit cultivation of opium poppy for domestic consumption; significant consumer of opiates
Tanzania	targeted by traffickers moving hashish, Afghan heroin, and South American cocaine transported down the East African coastline, through airports, or overland through Central Africa; Zanzibar likely used by traffickers for drug smuggling; traffickers in the past have recruited Tanzanian couriers to move drugs through Iran into East Asia
Thailand	a minor producer of opium, heroin, and marijuana; transit point for illicit heroin en route to the international drug market from Burma and Laos; eradication efforts have reduced the area of cannabis cultivation and shifted some production to neighbouring countries; opium poppy cultivation has been reduced by eradication efforts; also a drug money-laundering centre; minor role in methamphetamine production

COUNTRY	ILLICIT DRUGS
	for regional consumption; major consumer of methamphetamine since the 1990s despite a series of government crackdowns
Timor-Leste	NA
Togo	transit hub for Nigerian heroin and cocaine traffickers; money laundering not a significant problem
Trinidad and Tobago	transshipment point for South American drugs destined for the US and Europe; producer of cannabis
Turkey	key transit route for Southwest Asian heroin to Western Europe and, to a lesser extent, the US - via air, land, and sea routes; major Turkish and other international trafficking organizations operate out of Istanbul; laboratories to convert imported morphine base into heroin exist in remote regions of Turkey and near Istanbul; government maintains strict controls over areas of legal opium poppy cultivation and over output of poppy straw concentrate; lax enforcement of money-laundering controls
Turkmenistan	transit country for Afghan narcotics bound for Russian and Western European markets; transit point for heroin precursor chemicals bound for Afghanistan
Turks and Caicos Islands	transshipment point for South American narcotics destined for the US and Europe
Ukraine	limited cultivation of cannabis and opium poppy, mostly for CIS consumption; some synthetic drug production for export to the West; limited government eradication program; used as transshipment point for opiates and other illicit drugs from Africa, Latin America, and Turkey to Europe and Russia; Ukraine has improved anti-money-laundering controls, resulting in its removal from the Financial Action Task Force's (FATF's) No cooperative Countries and Territories List in February 2004; Ukraine's anti-money-laundering regime continues to be monitored by FATF
United Arab Emirates	the UAE is a drug transshipment point for traffickers given its proximity to Southwest Asian drug-producing countries; the UAE's position as a major financial centre makes it vulnerable to money laundering; anti-money-laundering controls improving, but informal banking remains unregulated

COUNTRY	ILLICIT DRUGS
United Kingdom	producer of limited amounts of synthetic drugs and synthetic precursor chemicals; major consumer of Southwest Asian heroin, Latin American cocaine, and synthetic drugs; money-laundering centre
United States	world's largest consumer of cocaine (shipped from Colombia through Mexico and the Caribbean), Colombian heroin, and Mexican heroin and marijuana; major consumer of ecstasy and Mexican methamphetamine; minor consumer of high-quality Southeast Asian heroin; illicit producer of cannabis, marijuana, depressants, stimulants, hallucinogens, and methamphetamine; money-laundering centre
Uruguay	small-scale transit country for drugs mainly bound for Europe, often through sea-borne containers; law enforcement corruption; money laundering because of strict banking secrecy laws; weak border control along Brazilian frontier; increasing consumption of cocaine base and synthetic drugs
Uzbekistan	transit country for Afghan narcotics bound for Russian and, to a lesser extent, Western European markets; limited illicit cultivation of cannabis and small amounts of opium poppy for domestic consumption; poppy cultivation almost wiped out by government crop eradication program; transit point for heroin precursor chemicals bound for Afghanistan
Venezuela	small-scale illicit producer of opium and coca for the processing of opiates and coca derivatives; however, large quantities of cocaine, heroin, and marijuana transit the country from Colombia bound for US and Europe; significant narcotics-related money-laundering activity, especially along the border with Colombia and on Margarita Island; active eradication program primarily targeting opium; increasing signs of drug-related activities by Colombian insurgents on border
Vietnam	minor producer of opium poppy; probable minor transit point for Southeast Asian heroin; government continues to face domestic opium/heroin/methamphetamine addiction problems despite longstanding crackdowns; enforces the death penalty for drug trafficking
World	cocaine: worldwide coca leaf cultivation in 2013 likely amounted to 165,000 hectares, assuming a stable crop in Bolivia; Colombia produced slightly less than half of the worldwide crop, followed by

COUNTRY	ILLICIT DRUGS
	<p>Peru and Bolivia; potential pure cocaine production increased 7% to 640 metric tons in 2013; Colombia conducts an aggressive coca eradication campaign, Peru has increased its eradication efforts, but remains hesitant to eradicate coca in key growing areas</p> <p>opiates: worldwide illicit opium poppy cultivation increased in 2013, with potential opium production reaching 6,800 metric tons; Afghanistan is world's primary opium producer, accounting for 82% of the global supply; Southeast Asia was responsible for 12% of global opium; Pakistan produced 3% of global opium; Latin America produced 4% of global opium, and most was refined into heroin destined for the US market (2015)</p>
Zambia	<p>transshipment point for moderate amounts of methaqualone, small amounts of heroin, and cocaine bound for southern Africa and possibly Europe; a poorly developed financial infrastructure coupled with a government commitment to combating money laundering make it an unattractive venue for money launderers; major consumer of cannabis</p>
Zimbabwe	<p>transit point for cannabis and South Asian heroin, mandrax, and methamphetamines en route to South Africa</p>

Source: Central Intelligence Agency (US)

<https://www.cia.gov/the-world-factbook/>

Appendix Five: Examples of suspicious transactions (red flags)

Account Transactions

Transactions conducted through accounts operated in the following circumstances may give reasonable grounds for suspicion:

- Customers who wish to maintain a number of trustee or client accounts that do not appear consistent with the type of business, including transactions involving nominee names.
- Customers who, for no apparent or logical reason, have numerous accounts and deposit cash to each of them in circumstances where the total credit, if or when combined together, would be a large amount.
- Customers who have active accounts with several financial institutions within the same locality, particularly when the institution is aware of a regular consolidation process from such accounts prior to a request for onward transmission of funds.
- Matching payments paid-out with credits paid-in by cash on the same or previous day.
- Payments in large third-party cheques endorsed in favour of the customer.
- Customers who give conflicting information to different staff members.
- Large cash withdrawals from a previously inactive account, or from an account which has just received an unexpected large credit from abroad.
- Reluctance to use normal banking facilities, for example, avoiding high interest rate facilities for large balances.
- Large number of individuals making payments into the same account without adequate explanation.
- Customers who appear to be acting together, simultaneously using separate tellers to conduct large cash transactions or foreign exchange transactions.
- Company representatives who avoid contact with bank staff when opening accounts or making business transactions.
- Substantial increases in deposits of cash or negotiable instruments by a professional firm or company, using client accounts or in-house company or trust accounts, especially if the deposits are promptly transferred between other client company and trust accounts.

Example

A money launderer secures the co-operation of a trader whose takings are in cash. The trader banks criminal money along with normal takings and is paid a fee for each transaction.

Cash Transactions

Cash transactions involving the following types of activities may give reasonable grounds for suspicion:

- Company accounts that are dominated by cash transactions, for example, an absence of other monetary instruments normally associated with commercial businesses, such as cheques or credit cards.
- Frequent exchanges of cash into other currencies, where there appears to be no logical explanation for such activity.
- Transfers of large sums of money to or from overseas locations with instructions for payment in cash.
- Accounts operated by customers who refuse to provide appropriate identification or use misleading identification or make it difficult to verify information. Bank accounts may be opened with forged documentation, which is difficult to detect.
- Several transactions conducted on the same day and at the same branch of a financial institution with a deliberate attempt to use different tellers.
- Cash deposits or withdrawals fall consistently just below occasional transaction thresholds. This practice is commonly referred to as *structuring* or *smurfing* and is often used to avoid threshold amounts that trigger identification requirements.

Example

A drug dealer converts cash at a Bureau de Change into larger denomination notes to reduce bulk. The money is then taken to another country where it is deposited into a bank account.

Complex and unusually large transactions

Complex transactions often involve several different types of transactions or breaks in the chain of ownership of the funds. These types of transactions will normally have no apparent economic or obvious purpose. If it is suspected that a particular transaction is not legitimate, it should be reported and, as far as possible, the background and results be made available to assist the FIU if required.

Customer Characteristics

Unusual transactions that are out of character with known customer routines or behaviour may give reasonable grounds for suspicion:

- Stated occupation of an individual does not correspond with the type of transactions conducted.
- Unusual discrepancies in identification, such as, name, address or date of birth.
- Individuals involved in cash transactions who share addresses, particularly when the addresses are also business locations.

- Customers seemingly acting together simultaneously using separate tellers to conduct large cash transactions or foreign exchange transactions.
- Company representatives who avoid contact with bank staff when opening accounts or making business transactions.
- Funds generated by a business owned by individuals originating from the same country on the list of locations of specific concern⁴ or involvement of several individuals originating from the same country on that list, acting on behalf of similar types of businesses. This also applies to individuals sending or receiving funds from locations of specific concern.

Deposits and withdrawals

The following types of deposits and withdrawals may give reasonable grounds for suspicion:

- Inactive accounts that contain a minimal sum and then unexpectedly receive a deposit, or several deposits, followed by constant withdrawals that continue until the sum has been completely removed.
- Deposits that contain counterfeit notes or forged instruments, as well as cash that has an unusual appearance or smell.
- Large cash deposits using automatic teller machines (ATMs) or drop boxes to avoid direct contact with bank staff.

International transactions

Off-shore international activity: The following types of off-shore international activity may give reasonable grounds for suspicion:

- Use of letters of credit and other methods of trade finance to move money between countries, where such trade is not consistent with the customer's usual business.
- Customers who make regular, large payments, including electronic transfers, that are unable to be clearly identified as genuine transactions to, or receive regular and large payments from, countries which are commonly associated with the production, processing or marketing of drugs, or tax haven countries.
- Build-up of large balances, not consistent with the known turnover of customer's business, and subsequent transfer to accounts held overseas.
- Unexplained electronic fund transfers by customers on an *in-and-out* basis or without passing through an account.
- Frequent cashing of travellers' cheques or foreign currency drafts, particularly if originating from overseas.

Wire transfers: The rapid growth of electronic payments has been made possible by the ongoing development of the electronic transfer mechanisms operated by the Society for Worldwide Interbank Financial Telecommunications System (SWIFT). In many respects this system is a money launderer's dream, offering considerable scope to imitate the patterns and behaviour of legitimate transactions. In addition, there is no obvious institutional and functional separation between the

transfer of licit monies and the transfer of the proceeds of drug trafficking or other forms of crime. Differentiation is virtually impossible, thereby meeting another requirement of effective money-laundering, ensuring that you 'know your customer' especially their overall financial profile will assist you in identifying the difference between legitimate and suspicious transactions of this nature.

Example

A business transfers criminal funds internationally with every appearance of legality, by acquiring false invoices from business partners abroad, or by using invoices from overseas subsidiaries.

Investment related transactions

The following types of investments may give reasonable grounds for suspicion:

- Purchase of securities to be held by the financial institution in safe custody, where this does not appear appropriate given the customer's apparent worth.
- Back-to-back deposit/loan transactions with subsidiaries or affiliates of overseas financial institutions in known drug trafficking areas.
- Requests by customers for investment management services (either foreign currency or securities) where the source of the funds is unclear or not consistent with customer's normal business activity or worth.
- Buying and selling a security for no discernible purpose or in circumstances that appear unusual.

Example

An unemployed person receives and sends several wire transfers or makes daily maximum cash withdrawals at different locations over a wide geographic area.

Retail investment products

These examples have been structured around the basic processes within any investment business, for example, sales, dealing and settlements. This list is not exhaustive and individual examples are not totally exclusive to any one type of industry or firm and should be read in their context and their applicability within the particular firm or business assessed.

Sales and dealing staff

New business: Compared to long-standing customers, new customers are more likely to be laundering money through an investment business by using one or more accounts for a short period of time, as well as using false names and fictitious companies. Investment may be undertaken directly with a New Zealand investment business or indirectly via an intermediary who doesn't ask

too many awkward questions, especially in a jurisdiction where money laundering is not legislated against or where the rules are not rigorously enforced.

The following situations may give reasonable grounds for suspicion when presented individually or in conjunction with other circumstances. Additional inquiries may dispel, or confirm, such suspicions. Such transactions may include those that:

- Require customer identification, of a personal client, for whom verification of identity proves unusually difficult and who, for no apparent reason, is reluctant to provide details.
- Involve a corporate/trust client when there are difficulties and delays in obtaining copies of accounts or documents of incorporation, where these are required by the institution.
- Involve a client with no apparent reason for using the service, for example, clients with distant addresses who could find the same service closer to their home base.
- Are not normally conducted by the institution, however, the client insists on using the institution's services when his/her needs could be more easily serviced elsewhere.
- Involve a new investor who is introduced by an overseas bank, affiliate, or other investor, both of whom are based in countries where the production of drugs or drug trafficking is prevalent, or the source of whose money is obscure.
- Involve an unknown counterparty.

Intermediaries: There are many clearly legitimate reasons for a client's use of an intermediary. The use of intermediaries, however, does introduce further parties into the transaction, reducing its transparency and depending on the designation of the account, preserving anonymity. This is also a useful tactic which may be used by the money launderer to delay, obscure, or avoid detection. Any apparently unnecessary use of an intermediary in the transaction could give reason for suspicion.

Dealing patterns: The aim of the money launderer is to introduce as many layers as possible. This means that the money will come from a number of sources and pass through a number of different people or entities. Long-standing and apparently legitimate customer accounts may be used to launder money innocently, as a favour, or due to the exercise of undue pressure. The following types of transactions may give reasonable grounds for suspicion:

- A large number of security transactions across a number of jurisdictions.
- Transactions not in keeping with the investor's normal activity, the financial markets in which the investor is active, and the business that the investor operates.
- Buying and selling a security with no discernible purpose or in circumstances that appear unusual.
- Low-grade securities purchased in an overseas jurisdiction then sold in New Zealand and high-grade securities purchased with the proceeds.
- Bearer securities held outside a recognised custodial system.

Abnormal transactions: The following types of transactions may give reasonable grounds for suspicion:

- A number of transactions, carried out by the same counterparty, in small amounts of the same security, each purchased for cash and then sold in one transaction, the proceeds being credited to an account different from the original account.
- Any transaction in which the nature, size or frequency appears unusual. Early termination of packaged products, for example, at a loss due to front end loading, early cancellation, especially where cash had been tendered and/or the refund cheque is to a third party.
- Transfer of investments to apparently unrelated third parties with no explanation proffered.
- Transactions that are not in keeping with normal practice in the market to which they relate, for example, with reference to market size and frequency, or at off-market prices.
- Other transactions linked to the suspicious transaction, which could be designed to disguise money and divert it into other forms or other destinations or beneficiaries.

Settlements

Payment: Money launderers will often have substantial amounts of cash to dispose of and will use a variety of sources. Cash settlements through an independent financial consultant may not necessarily be suspicious, although, large or unusual settlements of securities, dealings, or settlements in cash to a large securities house will usually provide good reason for further enquiry. Examples of what may be unusual settlement payments include:

- A number of transactions, carried out by the same counterparty, in small amounts of the same security, each purchased for cash and then sold in one transaction.
- Large transaction settlements by cash.
- Payment by way of third-party cheque or money transfers where there is a variation between the account holder, the signatory, and the prospective investor.
- Purchases of shares through summary accounts held by banks with security houses. Such purchases show the bank and not the money launderer as the purchaser of the shares.

Delivery: Bearer securities, held outside a recognised custodial system, are portable and anonymous instruments, which may serve the purposes of the money launderer well. Presentation in settlement or as collateral may in some circumstances give reason for suspicion, as might settlement made by way of bearer securities from outside a recognised clearing system.

Disposition: As previously stated, the aim of money launderers is to take *dirty* money and turn it into *clean* money or to use it to finance further criminal activity, for example, more drug shipments. The aim of many criminals will be to remove the money from the country in which it originated so it can be passed on to other criminal elements where it is ultimately destined. The methods used will often be deliberately complex to make tracing the final beneficiaries difficult. The following situations may give reasonable grounds for suspicion:

- Payment to a third party without any apparent connection with the investor.
- Settlement, either by registration or delivery, of securities to be made to an unverified third party.
- Abnormal settlement instructions including payment to apparently unconnected third parties.

Secured and unsecured lending

The following types of activities may give reason for suspicion:

- While it may be a source of relief to the lender when a customer, who has struggled with a loan or line of credit, suddenly repays in full, such an occurrence may, in some circumstances, be so unusual or unexpected that it may be considered suspicious.
- The early settlement of what appears to be a routine loan, however, may also lead to suspicion particularly if it involves cash. This is a classic money laundering technique that has been detected on numerous occasions overseas.
- A request to borrow against assets held by the financial institution or a third party such as another institution, where the origin of the assets is not known, or the assets are inconsistent with the customer's standing.
- A request by a customer for the financial institution to provide or arrange finance where the source of the customer's financial contribution to a deal is unclear, particularly where property is involved.

Shell companies

Shell or front companies consist of nothing more than the basic company documents, they are typically asset less firms that can provide a legitimate-looking front to an illegal operation, criminal organisations favour the use of these entity types in New Zealand due to our good reputation and perceived lack of corruption which will give the appearance of legitimacy to bogus deals. The ease with which these shell companies can be set up here unfortunately means NZ has been linked to past cases of money laundering and arms trafficking. . A money launderer may establish a company or companies in a country with an offshore banking centre or tax haven. The company's articles of association allow it to conduct banking business, including foreign exchange. With the appropriate amount of capital, it can actually register as a bank. The company may then issue bearer shares so that no-one will be able to identify the actual owner. Criminal money can then be deposited into the company, changed into other currencies, and transferred abroad through regular channels.

Lawyers' transactions

The following scenarios may give reasonable grounds for suspicion:

- A transaction is proposed, however, the client is not the person being dealt with. The client wants a lawyer to act on behalf of their niece or elderly relative, for example, who is unknown, not available for contact, and has not provided any instructions.
- A client requests a lawyer to hold a sum of money on the client's behalf, which is unrelated to any particular transaction or the provision of any legal services and where there is no other reasonable explanation for it being held by the lawyer.
- New client approaches a firm with a simple proposition. Once access has been gained to the firm's trust account, the proposal is radically changed or developed.

- Client uses lawyer's trust account for transactions that may be more appropriately conducted through a bank or other type of account.
- Client wants to deposit a sum of cash into a firm's trust account pending the proposed purchase of a house in New Zealand. The purchase never eventuates or falls through and the client requests a transfer of the funds to a third party without providing an adequate reason for the transfer.
- Payment to a lawyer by means of a cheque drawn on an account other than that of the client in circumstances where no sound reason is given for the third-party making funds available.
- Clients or representatives providing conflicting information to different members of a law firm.

Example

A client requests a number of trust accounts within a law firm, which are not consistent with his/her business or affairs, including transactions that involve nominees.

Real estate transactions

The following scenarios may give reasonable grounds for suspicion:

- Initial deposit is paid by purchaser with a large amount of cash.
- Initial deposit is paid with a cheque from a third party, for example, an associate or relative (other than a spouse).
- A purchaser uses a significant amount of cash to close a real estate deal.
- Property is purchased in the name of a nominee, for example, an associate or relative (other than a spouse).
- Purchaser refuses to put his/her name on any document associated with the property or uses a different name on contracts, agreements, or deposit receipts, etc.
- Client unsatisfactorily explains the last-minute substitution of the purchasing party's name.
- Client purchases property without inspecting location.

Example

A client purchases multiple properties within a short time period and appears to be indifferent regarding the location, condition and likely repair costs etc. of each property.

Source: NZ Police, Best Practice Guidelines for Financial Institutions, Guideline: Real Estate Agents, DIA, August 2018.

Appendix Six: Identity Verification Requirements

1. As a part of conducting customer due diligence under the AML/CFT Act 2009, most real estate agencies who are reporting entities, will likely follow the customer identity verification requirements prescribed by the Amended Identity Verification Code of Practice 2013 (IVCOP).
Complying with a code of practice is not mandatory. The AML/CFT regime allows for flexibility and scope for innovation because reporting entities can opt out of a code of practice. However, if fully complied with, codes of practice operate as a 'safe harbour'.

If a reporting entity opts out of the code of practice it does **not** receive the benefit of the safe harbour. In these circumstances, the reporting entity must comply with the relevant statutory obligation by some other equally effective means. In addition, the reporting entity must have provided written notification to its AML/CFT supervisor that it has opted out of compliance with the code and intends to satisfy its obligations by some other equally effective means.

IVCOP provides a suggested best practice for all reporting entities conducting name and date of birth identity verification on customers (that are natural persons) they have assessed to be low to medium risk. The IVCOP, however, does **not** prescribe how reporting entities may undertake verification of customer's address (which is also a requirement under the Act).

Identification involves obtaining from the customer a range of information about him or her ("identity information"). Verification involves confirming some of that information against documents, data or information obtained from a reliable and independent source

Identity verification may be carried out using documents prescribed by the IVCOP or by undertaking electronic verification of customer's name and date by birth.

During the process of identity verification reporting entities can either undertake document verification face-to-face with a customer, **or** rely on the copies of documents provided by the customer, which have been certified by a trusted referee (*See Serial 2 below for a list of trusted referees*). When the reporting entity undertakes identity verification on the basis of document certification, it is **not** obtaining the relevant documents and verifying them face-to-face.

Face-to-face document verification occurs when the customer presents original document(s) to the reporting entity; the reporting entity then takes a photocopy of the document(s) and confirms in writing that the document is a true copy of the original. In order to conduct documentary verification of a customer's name and date of birth, the following is required:

1. One form of the following primary photographic identification:
 - a) New Zealand passport
 - b) New Zealand certificate of identity issued under the Passports Act 1992
 - c) New Zealand certificate of identity issued under the Immigration New Zealand Operational Manual that is published under section 25 of the Immigration Act 2009
 - d) New Zealand refugee travel document issued under the Passports Act 1992
 - e) emergency travel document issued under the Passports Act 1992
 - f) New Zealand firearms licence

- g) overseas passport or a similar document issued for the purpose of international travel which:
 - i. contains the name, date of birth, a photograph, and the signature of the person in whose name the document is issued; and
 - ii. is issued by a foreign government, the United Nations, or an agency of the United Nations.
- h) a national identity card issued for the purpose of identification, that:
 - i. contains the name, date of birth and a photograph of the person in whose name the document is issued, and their signature or other biometric measure included where relevant, and
 - ii. is issued by a foreign government, the United Nations or an agency of the United Nations.

OR

- 2. One form of the following primary non-photographic identification:
 - a) New Zealand full birth certificate
 - b) certificate of New Zealand citizenship issued under the Citizenship Act 1977
 - c) a citizenship certificate issued by a foreign government
 - d) a birth certificate issued by a foreign government, the United Nations, or an agency of the United Nations

in combination with a secondary or supporting form of photographic identification, for example:

- e) New Zealand driver licence
- f) 18+ Card
- g) valid and current international driving permit as defined in rule 88(1)(b) of the Land Transport (Driver Licensing) Rule 1999 and a licence from another country with a translation.

Points 2 (e) – (g) above are not an exhaustive list of secondary or supporting forms of photographic identification that may be acceptable. Reporting entities must ensure they are satisfied that any secondary or supporting photographic identification they accept is independent and reliable.

Confirmation that the identity information presented in the secondary or supporting form of photographic identification is consistent with the records held by a reliable and 5 independent source (for example the information that is recorded for the purposes of the Births, Deaths, Marriages, and Relationships Registration Act 1995 or the Citizenship Act 1977 by the Department of Internal Affairs can be substituted for the primary non-photographic identification required in points 2(a)-(d).

OR

- 3. The New Zealand driver licence and, in addition, one of the following:

- a) confirmation that the information presented on the driver licence is consistent with records held in the National Register of driver licences.
- b) confirmation that the identity information presented on the New Zealand driver licence is consistent with the records held by a reliable and independent source (for example the information that is recorded for the purposes of the Births, Deaths, Marriages, and Relationships Registration Act 1995, the Citizenship Act 1977, or the Passports Act 1992 by the Department of Internal Affairs).
- c) a document issued by a registered bank that contains the person's name and signature, for example a credit card, debit card or eftpos card.
- d) a bank statement issued by a registered bank to the person in the 12 months immediately preceding the date of the application.
- e) a document issued by a government agency that contains the person's name and signature, for example a SuperGold Card as defined in the Social Security (SuperGold Card) Regulations 2007.
- f) a statement issued by a government agency to the person in the 12 months immediately preceding the date of the application, for example a statement from the Inland Revenue Department.

The copies of documents obtained from the customer may be verified or certified using the wording similar to the wording below:

i. Verification of documents:

a) Photo image documents:

I confirm I have sighted the original and this is a true copy that represents a true likeness of the individual.

[Staff name]

[Job title]

[Name of the agency]

[Signature]

[Date]

(E.g. "I confirm I have sighted the original and this is a true copy that represents a true likeness of the individual.")

Ben Brown

Licensed Real Estate Agent

Bill & Ben Real Estate Ltd

[Signature]

31 January 2024)

b) Non-photo image documents:

I confirm I have sighted the original and this is a true copy of the original document.

[Staff name]
[Job title]
[Name of the agency]
[Signature]
[Date]

(E.g. "I confirm I have sighted the original and this is a true copy of the original document.")

Bill Brown
Licensed Real Estate Agent
Bill & Ben Real Estate Ltd
[Signature]
31 January 2024)

ii. Certification of documents (Certified by a Trusted Referee)

a) Photo image ID:

I certify this is a true copy of the original document which I have sighted, and it represents a true likeness of the individual.

[Certifier's name]
[Certifier's occupation]
[Signature]
[Date]

(E.g. "I certify this is a true copy of the original document, which I have sighted, and it represents a true likeness of the individual.")

Dale Lawson
Solicitor
[Signature of Dale Lawson]
31 January 2024)

b) Non-photo image documents:

I have sighted the original and certify that this is a true copy of the original document.

[Certifier's name]
[Certifier's occupation]
[Signature]
[Date]

(E.g. "I have sighted the original and certify that this is a true copy of the original document.")

Dale Lawson

Solicitor

[Signature of Dale Lawson]

31 January 2024)

2. Trusted referee

- i. In New Zealand a trusted referee must be at least 16 years of age and one of the following:
 - a. Commonwealth representative (as defined in the Oaths and Declarations Act 1957)
 - b. Member of the police
 - c. Justice of the peace
 - d. Registered medical doctor
 - e. Kaumatua (as verified through a reputable source)
 - f. Registered teacher
 - g. Minister of religion
 - h. Lawyer (as defined in the Lawyers and Conveyancers Act 2006)
 - i. Notary public
 - j. New Zealand Honorary consul
 - k. Member of Parliament
 - l. Chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996)
 - m. A person who has the legal authority to take statutory declarations or the equivalent in New Zealand.
- ii. Certification when overseas
When certification occurs overseas, copies of international identification provided by a customer resident overseas must be certified by a person authorised by law in that country to take statutory declarations or equivalent in the customer's country.
- iii. In addition, the trusted referee must **not** be:
 - a. related to the customer; for example, a trusted referee cannot be their parent, child, brother, sister, aunt, uncle or cousin
 - b. the spouse or partner of the customer
 - c. a person who lives at the same address as the customer
 - d. a person involved in the transaction or business requiring the certification.
- iv. The trusted referee must sight the original documentary identification and make a statement to the effect that the documents provided are a true copy and represent the identity of the named individual (link to the presenter).
- v. Certification must include the name, signature, and the date of certification. The trusted referee must specify their capacity to act as a trusted referee from section 2 I (a)-(m) described above.
- vi. Certification must have been carried out in the three months preceding the presentation of the copied documents.

iii. Electronic identity verification

Identity verification may be carried out electronically. To conduct electronic identity verification of a customer's name and date of birth, a reporting entity must:

- a. verify the customer's name from either:
 - a. a single independent electronic source that is able to verify an individual's identity to a high level of confidence; or
 - b. at least two independent and reliable matching electronic sources.
- b. verify the customer's date of birth from at least one reliable and independent electronic source.

Reporting entities should refer to the *Identity Verification Code of Practice – Explanatory Note updated in July 2021* for clarification of the criteria that sources must meet to satisfy the requirement of independence and reliability.

Reporting entities must check the person's details against their customer records, to ensure that no other person has presented the same identity information or documents.

When determining what type of electronic sources will be considered reliable and independent, reporting entities must have regard to:

- a. accuracy;
- b. security;
- c. privacy;
- d. method of information collection;
- e. whether the electronic source has incorporated a mechanism to determine whether the customer can be linked to the claimed identity (whether biometrically or otherwise);
- f. whether the information is maintained by a government body or pursuant to legislation; and
- g. whether the information has been additionally verified from another reliable and independent source.

Reporting entities that use electronic identity verification methods must include information in their AML/CFT compliance programme that describes:

- a. the forms of electronic identity verification that are considered reliable and independent and in what circumstances they will be used for the purposes of identity verification;
- b. how the methods have regard to the matters described in clause 17; and
- c. any additional methods that will be used to supplement electronic identity verification or otherwise mitigate any deficiencies in the verification process.

Source: Amended Identity Verification Code of Practice 2013 and the updated explanatory note: Electronic Identity Verification July 2021

Appendix Seven: AML/CFT risk assessment for Bill & Ben Real Estate Ltd

Policy owner	Sally Smart
Approver	Board of directors
Review time frame	Six monthly
Next review date	January 2025

Document history

Version	Date	Amendments
V1	1 July 2024	First release. Approved by board.

1. Introduction

- a. We, Bill & Ben Real Estate Limited (B&B), are a medium-sized real estate agency comprised of one office manager, eight licensed salespeople, one branch manager and five licensed real estate agents. The branch manager, Sally Smart, is also the AML/CFT compliance officer. Bill and Ben Brown are the directors of the agency and are also two of the five licensed real estate agents.
- b. We provide the following services to our clients:
 - i. Interview clients to determine their needs i.e. what kind of property they are seeking to purchase (or rent);
 - ii. Compare a property with similar properties that have recently sold in order to determine the property's competitive market price;
 - iii. Provide advice to clients on market conditions and prices of particular properties in particular areas;
 - iv. Accompany buyers to view property;
 - v. Assist with and promote the sale of properties for vendors through advertisements and open homes;
 - vi. Present offers to vendors, and
 - vii. Coordinate and assist with sale and purchase agreements; oversee the signing of documents and the disbursement of funds.

2. Approach for preparing the risk assessment

- a. We are a reporting entity by virtue of being a designated non-financial business or profession as defined in the AML/CFT Act 2009 (the Act).
- b. We adopted a risk-based approach in preparing our risk assessment, and AML/CFT programme. That approach comprised of:
 - i. Obtaining knowledge about the Act, and how it applies to our agency. Our two directors, the AML/CFT compliance officer, and other staff undertook training using the online education platform Radar provided by our outsourced training partner Strategi Institute Limited. The training covered areas such as (but not limited to) preparing the risk assessment, and AML/CFT programme, understanding beneficial ownership, understanding the application of Amended Identity Verification Code of Practice 2013 (IVCOP) when verifying the identity of clients, various typologies used by criminals to launder money, etc. The AML/CFT compliance officer has also completed the AML/CFT compliance officer micro-credential (Level 4) course provided by Strategi Institute Limited.
 - ii. Having regard to the Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019, by the Department of Internal Affairs (DIA - our AML/CFT Supervisor). We realise, the SRA assesses real estate agents as presenting a medium-high (inherent) risk of ML/FT.

- iii. Taking into account the National Risk Assessment (NRA) published by the Financial Intelligence Unit (FIU) of New Zealand Police, and the typology reports published by the FIU.
- iv. Taking into account the Guideline: Real Estate Agents August 2018, published by the DIA.
- v. Using the Outsourcing your CDD requirements: Guidance note issued by the FMA and DIA in 2021.
- vi. Using the Guidance: Customer Due Diligence – Sole traders and partnerships issued by the AML/CFT supervisors in October 2022.
- vii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023.
- viii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023.
- ix. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Report) Amendment Regulations 2023.
- x. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023.
- xi. Using the updated 'Enhanced Customer Due Diligence Guideline' issued by the AML/CFT supervisors in April 2024.
- xii. Using the updated 'Customer Due Diligence: Companies Guideline' issued by the AML/CFT supervisors in April 2024.
- xiii. Using the 'Customer Due Diligence: Limited Partnerships Guideline' issued by the AML/CFT supervisors in April 2024.
- xiv. Using the updated 'Customer Due Diligence: Trusts Guideline' issued by the AML/CFT supervisors in May 2024.
- xv. Assessing our agency, using the knowledge obtained by the above means, for vulnerability to ML/FT. That assessment comprised of taking into account the following aspects:
 - The nature, size, and complexity of the business undertaken through our agency;
 - The type of products, and services we offer;
 - The method by which we deliver products, and services to customers;
 - The type of customers we deal with;
 - The countries we deal with;
 - The institutions we deal with, and
 - The applicable guidance material (described previously) published by the DIA, and FIU.

In addition, we will assess the ML/FT risks to our agency taking into account any other factors that may be provided for in regulations (as and when they are released).

- c. We define 'risk' as the chance or likelihood of criminals using our agency for laundering money or using our services to undertake activities relating to financing terrorist activities, and its consequences for our agency.

Our risk assessment addresses 'inherent' risks (being the risks we face before considering the measures in place to mitigate them), but also assesses residual risks (risks that remain after putting the mitigation measures in place). We recognise the ML/FT risks cannot be reduced to 'zero' irrespective of controls in place. Money launderers will always attempt to use us to further their criminal intentions and in that context, we will always be at risk of ML/FT (albeit of a lower magnitude based on the strength of our controls).

- d. We have carefully considered the appropriate methodology for assessing the likelihood, and impact (or consequence) of ML/FT occurring within each aspect of our agency. As such we are not strangers to ML/FT. We were subject to the Financial Transactions Reporting Act 1996 (FTRA) (predecessor to the current AML/CFT Act 2009) and had to comply with some identity verification, record-keeping and suspicious transaction reporting requirements. However, these obligations only apply in limited circumstances under FTRA. Using our accumulated knowledge of FTRA, and the training on the expanded obligations under the Act, we have implemented a robust risk management framework appropriate for our agency.
- e. Our approach has been to make a subjective, qualitative judgment on the likelihood and impact of ML/FT occurring within each aspect of our agency. We made this judgment based on careful consideration of the factors described above in the overall context of our agency, the sector risks identified in the SRA, and our experiences to date. In addition, we also considered how the ML/FT risks may work together in certain situations we may face. As an example, assisting in the purchase of a property by a family trust for a client from a high-risk country, with trustees based worldwide may present a higher risk of ML/FT compared to setting up a family trust for a client where the settlors, and trustees are 'Mum and Dad' and all based in New Zealand.
- f. In preparing this risk assessment, we have also considered the risk of FT. The NRA states that "there is a risk that the low level of observable terrorism threat may lead to complacency. Recent events in New Zealand have emphasised the need to raise awareness of FT across sectors."

Regardless of the comparably low threat given by the high consequences of terrorism financing globally, New Zealand reporting entities should take adequate steps to prevent the misuse of financial services and professional services.

Terrorist groups may exploit our services specifically to monitor the activities of financial entities within their areas of control in order to manage revenues better and minimise losses.

As a reporting entity, we are cognisant of the activities that may trigger FT and ensure that we take the necessary steps to identify, investigate, and report such activities to the FIU.

Our judgments are recorded later in this risk assessment. In making the judgments relating to the impact of ML/FT on us, we considered:

- i. Reputational damage to us;
- ii. Financial loss to us through pecuniary penalties from the AML/CFT supervisor, and
- iii. The size of the transactions undertaken through our agency. The laundering of large amounts of money is likely to have greater consequences than where smaller amounts are involved. We do receive reasonably large money into our trust account from time to time.

3. Overall risk assessment of B&B

The overall inherent risk of ML/FT to our agency is assessed as **medium** with the overall residual risk assessed as **low**.

4. Likelihood and impact risk ratings used by us are below:

a. Likelihood ratings

Unlikely	Likely	Very likely
There is very little chance of ML/FT occurring in this area of our agency.	There is a moderate chance of ML/FT occurring in this area of our agency (perhaps 10% of such transactions).	There is a high chance of ML/FT occurring in this area of our agency (perhaps 20% of such transactions).

b. Impact ratings

Low	Medium	High
No cash is received by the agency. All clients pay electronically or by transfer from a NZ bank account. Clients are based in New Zealand.	Some clients may pay fees by cash. This accounts for 2% to 5% of my client base. The clients are usually those who operate a home-based business and are well-known to us.	Clients pay by cash for the services rendered. 5% to 10% of my clients are in this category. These clients are new migrants who may be looking to buy property within first few weeks of arrival into New Zealand and may not have set up a bank account.

5. Exception handling procedure

The risk-based approach of the Act provides us the flexibility to take a common sense approach to implementing the regime in our agency. Accordingly, we follow the below process in assessing the risks and managing them through our AML/CFT programme. All exceptions are approved by the AML/CFT compliance officer.

- a. Customers resident in New Zealand, or who are New Zealand citizens, are assessed low risk of ML/FT and normally subject to standard customer due diligence (CDD). However, were they to

reside in jurisdictions outside New Zealand, Australia, and the UK, then they would be subject to enhanced CDD.

- b. Customers with an unusual source of funding e.g. uses several different sources of funds without logical explanations, funds coming from a business but the property is being held in a different name to the business.
- c. Customers who purchase property without properly viewing/checking out the property prior.
- d. Property purchases that are not consistent with the customer's occupation or income i.e. the purchase price is significantly outside of the customer's means.
- e. Customer significantly under or over-values the property e.g. vendor is disinterested in obtaining a higher price.
- f. Customer sells property a short time after purchasing.
- g. Customers who have no logical purpose to lease or rent premises.

A record of all exceptions is maintained in the files of respective clients.

Exception handling is part of the training provided to new staff before they assume the role involving AML/CFT duties. Refresher training for existing staff includes training on this subject.

6. Assessing the ML/FT risks of various factors affecting the agency

Below describes the various factors we took into account, and the risk rating of each factor, in arriving at the overall risk rating of medium for our agency.

6.1 Nature, size and complexity of the agency

B&B Real Estate is a medium-sized real estate agency comprised of one office manager, eight licensed salespeople, one branch manager and five licensed real estate agents. The branch manager, Sally Smart, is also the AML/CFT compliance officer. Bill and Ben Brown are the directors of the agency and are also two of the five licensed real estate agents.

We provide the following services to our clients:

- a) Interview clients to determine their needs i.e. what kind of property they are seeking to purchase (or rent);
- b) Compare a property with similar properties that have recently sold in order to determine the property's competitive market price;
- c) Provide advice to clients on market conditions and prices of particular properties in particular areas;
- d) Accompany buyers to view property;
- e) Assist with and promote the sale of properties for vendors through advertisements and open homes;
- f) Present offers to vendors, and
- g) Coordinate and assist with sale and purchase agreements; oversee the signing of documents and the disbursement of funds.

We predominantly have clients from New Zealand but occasionally have clients who are based or working overseas. We perform enhanced CDD on these clients and as a matter of policy, we do not

deal with overseas clients where we are unable to satisfactorily verify their identity and the source of funds.

Customers utilising stored value instruments (SVIs) will be deemed high risk and subject to enhanced CDD. An SVI is a type of payment that stores a certain value of money for future use. It can be in the form of a physical card, a digital token, or a mobile app. SVIs are often used for quick transactions, allowing for purchases to be made without using traditional cash or credit cards. SVIs can be intangible and therefore may not take a physical form like a card or token. Stored value instruments cannot be used to store or represent virtual assets e.g. cryptocurrencies or other digital currencies that exist solely in electronic form. Stored value instruments are primarily designed to store and facilitate the use of fiat currency (government-issued money like dollars or euros) or other traditional forms of payment, rather than virtual assets. Our agency does not accept any transactions using SVIs.

On the basis of all the above, we believe the inherent risk of ML/FT to our agency is medium.

By undertaking robust CDD, meticulous transaction monitoring, subscribing to the AML/CFT updates from the DIA, FATF, and the FIU, and ongoing training through Strategi Institute, the residual risk of ML/FT to our agency is Low.

6.2 Products and services offered

Types of products and services we offer	In the context of our agency, are the products and/or service vulnerable to ML/FT? (If yes, why? If not, why not?)	Inherent likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low//Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
<p>Real estate agency work such as:</p> <p>Interview clients to determine the price they are expecting to receive from the sale of the property.</p> <p>Compare a property with similar properties that have recently sold in order to determine the property's competitive market price.</p> <p>Provide advice to clients on market conditions and prices of particular properties in particular areas.</p> <p>Organise open homes.</p> <p>Present offers to vendors.</p> <p>Co-ordinate and assist with sale and purchase agreements; oversee the signing of documents and the disbursement of funds.</p>	<p>Yes.</p> <p>Real estate agency work of the type described in the adjacent column is a captured activity.</p>	<p>Likely.</p>	<p>Trust clients where the beneficial ownership cannot be easily established through the trust deed.</p> <p>Clients in a hurry to sell below the market price.</p> <p>Clients selling a short time after purchasing.</p>	<p>Medium to High.</p>	<p>Enhanced CDD required for clients who are trusts.</p> <p>Measures to mitigate the ML/FT risks include onboarding customers on face-to-face meetings, undertaking open-source research (in addition to PEP checks) to check if the client was involved in any illegal activities, etc.</p>	<p>Medium.</p>

Types of products and services we offer	In the context of our agency, are the products and/or service vulnerable to ML/FT? (If yes, why? If not, why not?)	Inherent likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low//Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
Advertise properties for sale on the agency's website	No.	Not provided because this is an excluded activity and is not constituted as "real estate agency work"	Not applicable for the reasons explained in the adjacent column	Not assessed for the reasons explained in the adjacent column	Not applicable for the reasons explained in the adjacent column	Not applicable for the reasons explained in the adjacent column
Provide a trust account to hold funds for a client in order to make a payment to a vendor/purchaser or a solicitor on their behalf.	Yes. A trust account may be used to deposit funds from third parties, thereby hiding the true ownership of funds.	Likely.	Clients refusing to provide information about the source of funds. Clients requesting fund remittances to third parties and not providing a logical explanation for the relationship with third parties.	High.	Enhanced CDD required for clients (obtaining information about the source of funds and verifying that information, undertaking PEP checks, etc.)	Medium.

Sample Risk Assessment - Needs to be tailored to you

6.3 Delivery methods

Method of service delivery	In the context of our agency, are the delivery methods vulnerable to ML/FT? (If yes, why? If not, why not?)	Inherent Likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low/Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
Face-to-face	No. In a face-to-face situation we are able to ask for and verify the identity of the customer. In addition, we can use our accumulated business experience, people skills and questioning techniques to elicit information from the customer to assess ML/FT threats arising from the face-to-face method of service delivery.	Normally unlikely.	Client acting on behalf of company or trust – difficulty identifying the beneficial owner. Client is not concerned about the fees/commission/expenses. Client is based in a location which is too distant from the location of the agency and the client is unable to provide logical reasons for not wanting to engage with professionals close to where the client is based.	Low to Medium	In-depth questioning during the face-to-face meeting with clients to satisfy ourselves, the answers to on-boarding questions (e.g. nature and purpose of business) are logical and there exists a genuine economic reason for engaging with us.	Low
Telephone and internet (email/skype)	Yes But usually, the only interaction via these methods is to make an appointment for advice or service.	Likely	The client is not interested in meeting face-to-face and seems intent on communicating via phone or internet.	High	Enhanced CDD is required to verify identity, source of funds, and reasons for no face-to-face interaction e.g. temporarily working overseas or incapacitated in some way.	Medium

6.4 Countries we deal with

Country	In the context of our agency, does the country present a high risk of ML/FT? (If yes, why? If not, why not?)	Inherent Likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low/Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
New Zealand	No. Robust AML/CFT measures put in place by NZ.	Unlikely	None	Low	No	Low
China	No. Inadequate AML/CFT measures	Likely	Above average Corruption Index	Medium	Yes. Conduct enhanced CDD such as: - Request additional independent and reliable sources to verify information provided by the customer; and Increased monitoring of the customer's transactions.	Low
India	Yes. Inadequate AML/CFT measures	Likely	Non-compliance with FATF 40 + 9 Recommendations	High	Yes. Conduct enhanced CDD such as: - Request additional independent and reliable sources to verify information provided by the customer; and - Increased monitoring of the customer's transactions.	Medium

We check the FATF page on any potential clients that have originated from countries with insufficient AML/CFT systems or measures. Click the link and enter the name of the country of origin of the intended customer to see if it comes up as a high-risk jurisdiction. <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions.html>

6.5. Institutions we deal with

Types of institutions we deal with	In the context of our agency, does the institution present a high risk of ML/FT? (If yes, why? If not, why not?)	Inherent Likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low/Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
Major NZ banks	No for NZ due to robust AML/CFT measures.	Unlikely for NZ.	None	Low	No	Low
Chinese banks and Indian banks.	Yes for China and India due to inadequate measures.	Likely for China and India.	Above average corruption index. Non-compliance with FATF 40 + 9 Recommendations.	Medium/High	Yes. Conduct enhanced CDD such as: - Request additional independent and reliable sources to verify information provided by the customer, and - Increased monitoring of the customer's transactions.	Medium
Reputable legal firms in NZ	No for NZ due to robust AML/CFT measures put in place by these institutions.	Unlikely for NZ.	None	Low	No	Low
Chinese and Indian law firms.	Yes for China and India due to inadequate measures.	Likely for China and India.	Above average corruption index. Non-compliance with FATF 40 + 9 Recommendations.	Medium/High	Yes, for China and India. Conduct enhanced CDD such as: - Request additional independent and reliable sources to verify information provided by the customer; and	Medium

					- Increased monitoring of the customer's transactions.	
Accountants in NZ.	No. Robust AML/CFT measures put in place by NZ.	Unlikely	None	Low	No	Low

6.6. Customers we deal with

Types of customers we deal with	In the context of our agency, does the customer present a high risk of ML/FT? (If yes, why? If not, why not?)	Inherent Likelihood rating of ML/FT (Unlikely/Likely/Very Likely)	Factors indicating severity of ML/FT	Inherent risk level (Low/Medium/High)	Is any extra CDD required? If yes, provide a brief description of the measures taken to mitigate ML/FT risks	Residual risk (Low/Medium/High)
Natural persons resident in NZ or NZ citizens.	No. These clients are either salaried or in small businesses which are not cash intensive. These clients set up family trusts, or companies as part of robust estate planning strategies.	Likely	Clients assessed as PEPs	Low	Generally, no additional CDD required. However enhanced CDD undertaken if a client is assessed as a PEP.	Low
Family trusts, and/or charitable trusts	Yes. Trusts have the potential to hide beneficial ownership of funds.	Likely	Settlor(s), or any protector(s) and/or trustees of family trusts residing in jurisdictions identified by credible sources (e.g. FATF) to be presenting a high risk of ML/FT due to lack of robust AML/CFT laws.	High	Yes. Obtaining and verifying the source of funds held in trust. We will apply extra CDD measures documented in our AML/CFT programme relating to verifying the information of the settlor(s) or any protector(s) of the trust.	Low

Limited liability companies	Yes	Likely	<p>Directors residing in jurisdictions identified by credible sources (e.g. FATF) to be presenting a high risk of ML/FT due to a lack of robust AML/CFT laws.</p> <p>Beneficial owners cannot be easily determined due to the complex ownership structure. The nature of the entity makes it difficult to identify in a timely manner the true beneficial owner of the company.</p>	High	<p>Yes</p> <p>Obtaining information about the nature of the business carried out by the company.</p> <p>Studying at least the last two years' financial statements of the company to examine any irregularities (such as loans made by the company, capital injection received by the company and the source of that capital, etc.).</p> <p>Enhanced CDD required if company has any nominee directors or shareholders.</p> <p>We will apply extra CDD measures documented in our AML/CFT programme relating to verifying the existence of any person(s) representing the client if any director or shareholder is a 'nominee'.</p>	Medium
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Sample Risk Assessment - Needs to be tailored to your business

7. Reviewing the risk assessment, and keeping it up to date

- a. We believe the ML/FT risks faced by our agency are dynamic. Criminals continuously use innovative ways to launder money and we, as gatekeepers to the financial system, understand the importance of remaining alert to the changing typologies of money laundering that pose a risk to our agency being used as a vehicle for ML/FT.
- b. Undertaking periodic reviews of our risk assessment, keeping it up-to-date, and correspondingly updating the AML/CFT programme is how we combat the ML/FT risks faced by our agency.
- c. The AML/CFT compliance officer is responsible for reviewing the risk assessment and keeping it up to date. The review is undertaken every six months (or earlier if circumstances warrant, such as making a business decision to offer a new service, or on-board customers from countries different to the ones we normally do business with, etc.).
- d. Below describes our procedure to review the risk assessment, and ensure it is current.
 - i. The AML/CFT compliance officer has a six-monthly bring-up (a reminder) in their calendar that triggers the review requirement. A similar reminder (as a backup – in the event the AML/CFT compliance officer is away on leave) is also in the calendar of Ben Brown.
 - ii. A discussion is held by the AML/CFT compliance officer with the two directors to understand if the agency has any plans, over the next six months, to offer new services, target clients from jurisdictions different to the jurisdictions currently dealt with, introduce new methods of delivering services, etc.
 - iii. In the light of that discussion, and on the basis of a review of the information on ML/FT received by subscribing to the updates from the DIA, FIU, FATF, and Strategi Ltd. The AML/CFT compliance officer undertakes a review of our risk assessment. The outcome of that review results in the AML/CFT compliance officer updating the risk assessment in the appropriate manner. The review process also involves reviewing our existing client base to check the possibility of our clients resorting to similar ML/FT methods described in the above updates (if any and if applicable to our agency). The risk ratings assigned to the various factors (e.g. nature, size, and complexity of the agency, types of customers we deal with, how we deliver services, etc.) will be reviewed to ensure they continue to remain current at all times.
 - iv. The risk assessment is subject to version control. Once updated, the risk assessment is provided with appropriate version number, and submitted to the directors for approval.
 - v. The AML/CFT compliance officer keeps a record of the updated risk assessment (including supporting documents used for updating the risk assessment, and a record of the discussion with the directors in relation to updating the risk assessment).
- e. If appropriate, the AML/CFT compliance officer will organise refresher training for the directors, and all staff involved in AML/CFT activities. A record is kept of all such training.

8. Audit of our risk assessment

We undertake an independent audit of our risk assessment every three years (or during a different time period prescribed by regulations, or at any other time at the request of our AML/CFT supervisor (the Department of Internal Affairs (DIA))).

We have appointed Strategi Ltd to audit our risk assessment. Strategi was not involved in putting in place our risk assessment and is independent of our agency.

We recognise that three years between AML/CFT audits is a long time and changes to regulations, supervisor guidance and risks may have occurred. Consequently, approximately 12-18 months after our last audit, we engage Strategi Ltd to undertake an independent review of our AML/CFT risk assessment and programme and undertake a small CDD sample to ensure everything is in order.

Sample Risk Assessment - Needs to be tailored to your business

Appendix Eight: AML/CFT programme of Bill & Ben Real Estate Ltd

Policy owner	Sally Smart
Approver	Board of directors
Review time frame	Six monthly
Next review date	January 2025

Document history

Version	Date	Amendments
V1	1 July 2024	First release. Approved by board.

1. Introduction

- a. This AML/CFT programme of Bill & Ben Real Estate Limited (B&B) is based on the risk assessment v1 dated 1 July 2024, and is prepared to meet the requirements of s57 of the AML/CFT Act 2009 (Act).
- b. The AML/CFT programme of B&B sets out the policies, procedures, and controls necessary to detect ML/FT and to manage and mitigate the risk of it occurring.
 - The policies set out the expectations, standards, and behaviours;
 - The procedures set out day-to-day actions required by the staff, and
 - The controls are the tools used to ensure ongoing compliance of B&B with the Act.

2. Designated AML/CFT compliance officer

- a. Sally Smart is the designated AML/CFT compliance officer of B&B reporting to Ben Brown (one of the two directors of B&B). A copy of the job description, describing the responsibilities as the AML/CFT compliance officer is in Appendix 11.
- b. In the absence of Sally Smart, Henry Hogs (one of the other licensed real estate agents) will assume responsibility as the AML/CFT compliance officer. Henry reports to Ben Brown.

3. Approach for preparing the AML/CFT programme

- a. As previously described, our AML/CFT programme is based on our risk assessment.
- b. In preparing the AML/CFT programme, our approach comprised:
 - i. Obtaining knowledge about the Act, and how it applies to our agency. Our two directors, the AML/CFT compliance officer, and staff undertook training using the online education platform Radar provided by our outsourced training partner Strategi Institute Limited. The training covered areas such as (but not limited to) preparing the risk assessment, and AML/CFT programme, understanding beneficial ownership, understanding the application of Amended Identity Verification Code of Practice 2013 (IVCOP) when verifying the identity of customers, various typologies used by criminals to launder money, etc. The AML/CFT compliance officer has also completed the AML/CFT compliance officer micro-credential (Level 4) course provided by Strategi Institute Limited.
 - ii. Having regard to the Designated Non-Financial Businesses and Professions and Casinos Sector Risk Assessment - December 2019, by the DIA - our AML/CFT Supervisor. We realise, the SRA assesses real estate agents as presenting a Medium-high (inherent) risk of ML/FT.
 - iii. Taking into account the National Risk Assessment (NRA) published by the FIU, and the typology reports published by the FIU.
 - iv. Using the Outsourcing your CDD requirements: Guidance note issued by the FMA and DIA in 2021.
 - v. Using the Guidance: Customer Due Diligence – Sole traders and partnerships issued by the AML/CFT supervisors in October 2022.
 - vi. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023.

- vii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023.
- viii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Report) Amendment Regulations 2023.
- ix. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023.
- x. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023.
- xi. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Amendment Regulations 2023.
- xii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Report) Amendment Regulations 2023.
- xiii. Considering the impacts of the Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2023.
- xiv. Using the updated 'Beneficial Ownership Guideline' by the AML/CFT supervisors in April 2024.
- xv. Using the updated 'Enhanced Customer Due Diligence Guideline' issued by the AML/CFT supervisors in April 2024.
- xvi. Using the updated 'Customer Due Diligence: Companies Guideline' issued by the AML/CFT supervisors in April 2024.
- xvii. Using the 'Customer Due Diligence: Limited Partnerships Guideline' issued by the AML/CFT supervisors in April 2024.
- xviii. Using the updated 'Customer Due Diligence: Trusts Guideline' issued by the AML/CFT Supervisors in May 2024.

In addition, we will keep our AML/CFT programme up to date each time our risk assessment is updated and relevant regulations are amended. At that time, we will ensure our directors, and staff have been provided with relevant training to ensure everyone is familiar with the updated AML/CFT programme. The AML/CFT compliance officer is responsible to provide that training.

On the following pages our policies, procedures, and controls in relation to the various elements forming part of our AML/CFT programme are described. These elements are prescribed by s57 of the Act.

4. Elements of the AML/CFT compliance programme

a. Vetting

Our agency is comprised of four employees:

- a. Bill Brown, and Ben Brown (both directors and licensed real estate agents);
- b. Henry Hogs (licensed real estate agent), and
- c. Sally Smart - AML/CFT compliance officer (and branch manager).

At the time of becoming licensed real estate agents, all licensed real estate agents in our agency, satisfied the Fit and Proper person requirements prescribed by the Real Estate Authority (REA). As current members of the Real Estate Institute of New Zealand (REINZ), all agents subscribe to the Code of Professional Conduct and Client Care (Real Estate Agents Act (Professional Conduct and Client Care) Rules 2012) and the REINZ Codes of Agency Practice.

Sally Smart has been employed by us for the past five years and we have no reason to doubt her integrity, and moral character. The directors are acquaintances of her family, are knowledgeable of her finances and believe there is nothing untoward in her spending lifestyle to be concerned about her posing a risk of ML/FT to the agency.

We have the following policy, procedure, and control to meet the AML/CFT requirements relating to vetting:

Policy

- To recruit new staff using reputable employment agencies who conduct appropriate criminal history checks before referring the candidate for an interview. If recruitment is undertaken via referrals, then the following is required:
 - Criminal history check;
 - Credit check using Equifax, and
 - Two referees.
- It is our policy to vet ALL staff, regardless of position or status within the agency, prior to recruitment or engagement.
-

Procedure

- Obtain written confirmation from the recruitment agency, before conducting the interview, that they have completed a satisfactory criminal history check, and reference check from two referees.
- In those situations, not involving a recruitment agency, obtain a candidate's written approval for conducting a criminal history check, credit check, and reference check from at least two referees.
- Maintain written records on the candidate's file of the reference checks conducted internally by myself as well as those by the recruitment agencies.
- As part of ongoing employee due diligence, we may undertake criminal history checks of all staff (regardless of position or status within the agency), every two years.

Control

- The offer of employment is not made without appropriate vetting as described above.

b. Training

We recognise one of the most important tools available to us to assist in the prevention and detection of ML/FT is to have well-trained staff alert to the potential risks of ML/FT. Our policy, procedure, and control are designed on this basis.

Policy

- Provide adequate, and relevant initial, and ongoing AML/CFT training to enable the AML/CFT compliance officer, the directors, and all staff involved in AML/CFT roles to fulfil our respective responsibilities under the AML/CFT Act.

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Procedure

- At the beginning of each year, as part of professional development as licensed real estate agents, and members of REINZ, the directors, and the AML/CFT compliance officer identify the areas relating to new legislation, such as AML/CFT, they and other staff need to be trained on. This includes undertaking AML/CFT refresher training modules available on the Radar online education platform plus attending the Strategi Institute AML/CFT webinars and reading the monthly AML/CFT newsletter produced by Strategi.
- The AML/CFT compliance officer and directors undertook training using the online education platform Radar provided by our outsourced training partner Strategi Institute Limited. The training covered areas such as (but not limited to) preparing the risk assessment and AML/CFT programme, understanding beneficial ownership, understanding the application of the Amended Identity Verification Code of Practice 2013 (IVCOP) when verifying the identity of clients, various typologies used by criminals to launder money, etc. The AML/CFT compliance officer has also completed the AML/CFT compliance officer micro-credential (Level 4) course provided by Strategi Institute.
- Throughout the year, the AML/CFT compliance officer and the directors undertake additional reading of Supervisor newsletters and guidance plus read the FIU and other relevant updates.
- The areas covered in the AML/CFT training include (but are not limited to):
 - Background on ML/FT;
 - Suspicious activities, and red flags for real estate agents;
 - Amended Identity Verification Code of Practice 2013;
 - How to complete a risk assessment and AML/CFT programme;
 - Consequences of non-compliance with the Act; and
 - CDD and suspicious activity reporting.
- Radar automatically records the training we have completed and the CPD hours allocated by Strategi Institute.
- The effectiveness of the AML/CFT training is measured by reviewing the score achieved by the person completing the CPD module on Radar.

- All licensed real estate agents in the agency also include the AML/CFT training, undertaken using Radar in their respective education log (or CPD log), required to be maintained to comply with the requirements of the REA, membership to REINZ and the Real Estate Agents Act 2008.
- We also subscribe to the updates on the websites of the DIA and the FATF to keep up to date on the AML/CFT legislation. In addition, we subscribe to Strategi ezines, which carry information on AML/CFT updates.
- As members of REINZ we may also undertake relevant AML/CFT training offered by them.
- We may also obtain AML/CFT training by attending road shows conducted by the DIA, the FIU, and other relevant organisations on AML/CFT.

Control

- The AML/CFT compliance officer reviews the education log (or CPD log) of the two directors, and the licensed real estate agents in the agency to ensure relevant training on AML/CFT matters is undertaken by everyone in the agency. The CPD log of the AML/CFT compliance officer is checked by one of the two directors to ensure the AML/CFT compliance officer has undertaken the relevant AML/CFT training.
- For new recruits, the AML/CFT compliance officer checks relevant initial AML training has been provided before they are actively involved in the day-to-day operations involving AML/CFT duties.
- In addition, undertaking ongoing (or refresher) AML/CFT training is included in the job descriptions of all staff, and directors (as part of meeting all the compliance obligations applicable to our agency), and completion of that training is one of the requirements taken into account at the time of annual performance appraisals. The education log (or CPD log) of each staff member (including directors) is reviewed by the AML/CFT compliance officer to check the AML/CFT training required to be undertaken during the year, has actually been undertaken.

c. Customer due diligence

Our risk assessment has identified some of our customers to pose a high inherent risk of ML/FT. Accordingly, our policies, procedures, and controls are designed to minimise the ML/FT risks at the time of on-boarding, as well as throughout the period of the business relationship with customers.

Policy

- All customers who request a product and/or service that is captured under the act are subject to CDD. As a real estate agency, we define our customers based on Regulation 5B of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2023 as:
 - (1) The definition of customer in section 5(1) of the AML/CFT Act, customer—
 - a) means a client of that real estate agent; and

- b) excludes any party to a real estate transaction on whose behalf the real estate agent is not carrying out real estate agency work; but
- c) despite paragraph (b), includes a person who conducts an occasional transaction with a real estate agent.

(2) Considering the above, 'client' has the meaning given in section 4(1) of the Real Estate Agents Act 2008.

- The agency conducts standard CDD for new customers identified as low risk when establishing a business relationship with them. In respect of existing customers, the agency conducts standard CDD only if there has been a material change in the nature or purpose of the agency relationship, or if the agency holds insufficient information about the existing customer.
- Examples of material change include (but are not limited to):
- A natural person customer changing the occupation from a salaried job to starting their own business activity;
 - A trust customer changing its trustees;
 - A limited liability customer changing its shareholding;
 - A natural person customer going on secondment to a jurisdiction with insufficient ML/FT controls, and
 - A natural person customer becoming a 'Politically exposed persons' (PEP).
- The agency conducts simplified CDD when dealing with customers such as government departments, local authorities, the New Zealand Police, the New Zealand Security Intelligence Service and certain listed companies. Currently the agency does not have any customers in this category.
- As part of standard CDD, where the agency deals with a customer who is a company, limited partnership or overseas limited partnership, as part of CDD, we are required to establish the existence and name of any nominee director, shareholder or general partner and take reasonable steps to verify this information.
- When conducting standard CDD, we will gather extra details about the legal structure of their clients/customers (legal persons and legal arrangements), like proof of their existence, who owns and controls them, and any rules they follow.
- When dealing with companies, limited partnerships, partnerships, and trusts, we will need more information beyond just their name. This additional information includes things that evidence that they:
 - exist and are legitimate,
 - who owns them,
 - who controls them, and
 - what rules or laws they operate under.

If the customer is a trust, we will obtain, in addition to the above, information relating to the powers that bind and regulate the trust. This could be the trust deed and any deeds of appointment or amendment; as well as the information about the settlor(s) and any

protector(s) of the trust. For a natural person, this should include obtaining their names and dates of birth.

- We take a risk-based approach to obtaining information relating to the customer.
- After completing the initial CDD action and after reviewing the information gathered, we will consider the money laundering/terrorist financing risk of the company. If this is determined as low, we will ask the client or any person(s) representing the client if any director, shareholder, or general partner is a 'nominee'. The response should be recorded by way of a file note. If we consider the company or limited partnership to be medium or high risk, then we will consider developing an attestation form that the person representing the company or limited partnership sign acknowledging that there are no nominee directors, shareholders, or general partners involved.
- We will conduct standard CDD if a person seeks to conduct a transaction through us outside of a business relationship, provided it is not an occasional transaction and there are grounds to report a suspicious activity.
- We will subject a customer to enhanced CDD in the event a suspicious activity is suspected even if simplified CDD would typically suffice.
- The agency conducts enhanced CDD for customers who are trusts (family trusts or charitable trusts), NZ non-resident customers from countries having insufficient AML/CFT measures including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action, or customers who could qualify as PEP, customers who are companies with a nominee director, or customers who are a limited partnership/overseas limited partnership with a nominee general partner.
- The agency has a policy to verify identity of all new clients. In respect of existing clients, we ensure we hold, as a minimum, their full name, date of birth and last known address. If they request a new service then we will undertake standard or enhanced CDD, depending on the risk they impose.
- Irrespective of the type of CDD undertaken, we subject all customers to PEP check, using the electronic PEP checking tool MemberCheck. If a customer is a PEP, then the AML/CFT compliance officer is informed and undertakes additional investigation. The AML/CFT compliance officer will then discuss the situation with the directors to obtain approval or otherwise to commence the business relationship.
- If after following the standard enhanced CDD rules of establishing the source of wealth and/or source of funds isn't enough to adequately reduce the risks of money laundering and financing terrorism, then we will take extra steps to verify and monitor our customers.
- These additional measures may involve gathering more detailed information about the client/customer and their financial activities to ensure they are not involved in illegal activities like money laundering or funding terrorism.

- It is our policy not to enter into a business relationship with customers who are not able to provide satisfactory customer due diligence information (including information about the source of funds).
- Where we have an existing business relationship, we will terminate that relationship if the customer fails to provide relevant customer due diligence information, requested as part of our ongoing due diligence. The business relationship will be terminated if the customer fails to provide us with the requested due diligence information within 20 working days of the request made. When we terminate a business relationship, any funds or other assets received will be returned to the customer even if the funds were received from a third party, unless the customer directs the funds to be paid to the source. During that period, we will monitor the customer's transactions and file a suspicious activity report if the situation warrants.
- We will not on-board customers from FATF defined high-risk, and non-cooperative jurisdictions.

Procedure

- The initial meeting with the customer is undertaken to understand the nature, and type of service they require. If the nature of service is of the type that falls within the definition of activities captured by the Act, then a decision is made about the type of CDD to be undertaken for that customer.
- The services (i.e. our activities) we provide that are caught by the Act are:
 - Presenting offers to vendors;
 - Coordinating and assisting with sale and purchase agreements, and
 - Overseeing the signing of documents and the disbursement of funds.
- The services we provide that are not caught by the Act are:
 - Interviewing clients to determine their needs i.e. what kind of property they are seeking to purchase (or rent);
 - Comparing a property with similar properties that have recently sold in order to determine the property's competitive market price;
 - Providing advice to clients on market conditions and prices of particular properties in particular areas;
 - Accompanying buyers during visits to and inspections of property, and
 - Assisting with and promote the sale of properties for vendors through advertisements and open homes.
- The office manager undertakes the relevant type of CDD (as per our policy described above) by obtaining the relevant documents, and verifying them. We adhere to the requirements of the Amended identity Verification Code of Practice 2013 (IVCOP). The documents we request from the customer to verify their identity are the documents described in the IVCOP (Appendix 6).
- In the absence of the AML/CFT compliance officer, one of the directors will act as the backup AML/CFT compliance officer. The directors are also fully trained to undertake the relevant CDD in the unlikely event of both the AML/CFT compliance officer and office manager being unavailable.
- All customers are subject to PEP checks using MemberCheck.

- In the event a customer is unable to supply documents prescribed by the IVCOP then we adhere to the exception handling procedure. That procedure is below:
 - a) For persons under 18 years of age, a birth certificate or a student identity card.
 - b) For persons over 18 years of age, who are unable to produce a primary photographic identification, the acceptable document is the passport size photograph of the customer along with an Identifier Statement of the person who has known the customer for a minimum period of 12 months before the date of on-boarding. In addition, the identity of the Identifier should be verified using the documents prescribed by the IVCOP.
 - c) Staff undertaking identity verification by such means, must record the reasons for making the exception, and retain the record on the customer's file. In the event the customer is unable to supply the documents described above, then the customer must not be on-boarded, and the AML/CFT compliance officer must be informed.
- When obtaining the information relating to source of funds (as part of enhanced CDD) we obtain the following documents:
 - In case of customers where salary constitutes the source of funds, bank statements evidencing salary credits into the customer's account with the amount reasonably matching the amount on the pay slips;
 - A copy of the sale and purchase agreement for the sale of property, in those cases where the source of funds is from the sale of property;
 - In case of customers where inheritance is the source of funds, we obtain a copy of the probated Will evidencing the name of the testator/testatrix, and the relationship of the person receiving inheritance, and
 - Audited financial statements for the past three years in respect of customers where business profits constitute the source of funds.

(The above list is illustrative, and not exhaustive.)
- We consider the following extra measures if standard enhanced CDD rules of establishing source of wealth and/or source of funds are not enough to adequately reduce the risk of money laundering and financing terrorism:
 - Requesting more detailed source of wealth/funds Documentation: Requesting detailed documentation to ascertain the legitimate sources of the client's/customer's funds, including bank statements, tax returns, business records, or investment portfolios.
 - Transaction Monitoring: Implementing processes and or systems to monitor and analyse the client's/customer's financial transactions for any suspicious activities, such as large or frequent cash deposits, withdrawals, or transfers to high-risk jurisdictions.
 - Risk-Based Approach: Tailoring the level of scrutiny and monitoring based on the assessed risk assigned to the client/customer, considering factors such as their geographical location, business activities, transaction patterns, and the nature of the products or services being provided.
- In addition, when conducting enhanced CDD, we must be able to know when it is necessary to obtain and verify customer information regarding:
 - the source of funds or the source of wealth; and
 - both the source of funds and the source of wealth.

Control

We are conscious of our role as gatekeepers to the financial system and believe in having robust controls in place to ensure every new customer is onboarded only after following our CDD procedures. To this end we:

- Provide initial training (through Strategi Institute), to the new staff in the role involving customer onboarding duties, relating to the procedures for obtaining, and verifying the identity of customers
- Provide refresher training (through Strategi Institute) to the above staff (including the AML/CFT compliance officer, the licensed real estate agents, and the directors (because they may be required to undertake CDD in certain circumstances such as when the relevant staff member is away).
- Check, at the time of annual performance appraisals, that each staff member has actually undertaken the CDD training relevant to their role.
- The AML/CFT compliance officer undertakes a six-monthly review of customer files, selected on a sampling basis, to check the CDD undertaken has been undertaken according to the policies, and procedures of the agency. The findings are reported to the directors, and where applicable, used to provide additional CDD training.

Ongoing CDD and account monitoring

Ongoing CDD requires us to regularly review information about the business relationship we have with our customers. Account monitoring involves reviewing account activity and transaction behaviour. We do this using a manual system to review the transactions that occur and to detect patterns or unusual transactions.

The ongoing CDD and account monitoring allows us to identify any inconsistencies between what we know about our customer, and the transactions they undertake. To do this we consider what we know about our customer's use of our services as well as the risk rating for the customer type according to our AML/CFT risk assessment. We also consider the type of CDD undertaken when the business relationship was established and our current assessment of the level of risk involved. This allows us to identify grounds for suspicious transaction reporting.

- We undertake ongoing CDD using a risk-based approach, or on a risk-sensitive basis. That approach is based on establishing 'normal' expected activity for each of our customers at the time of customer on-boarding. These expected activity profiles are used to compare actual activities. The expected activity profiles are based on customer types (i.e. natural persons, trusts, limited liability companies), geography (i.e. NZ-based, out of NZ-based in jurisdictions with robust AML/CFT measures (including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action), out of NZ-based in jurisdictions with insufficient ML/FT measures, etc.), and nature of business/occupation (i.e. salaried, cash intensive businesses, unemployed, etc.)

- In the event customers' activities, through our agency, are found to be in variance with their expected profile (created in the manner described above), then we engage with those customers to update the CDD information held on our records.
- Depending on risk levels, we update and verify customer information during regular reviews, considering the adequacy of information and when CDD was last conducted. We also conduct regular reviews of information about designated non-financial business or profession activities if necessary.
- The frequency of review would be determined by the risk rating of the client as mentioned above, the extent of due diligence undertaken when the client was onboarded and what sort of changes have occurred in the agency or the type of transactions undertaken with us.
- Ongoing CDD is also undertaken as appropriate opportunities arise such as:
 - when a previously inactive engagement recommences;
 - where the frequency of transactions the customer uses our services for, exceeds the 'normal' amount;
 - whenever there is a change of control and/or ownership of the customer, such as change of trustees, change of directors or senior managers in a business, and major shareholder change or whenever there is a business sale, merger, etc.;
 - when the business is introducing new products or services which increase the risk of ML/TF; and
 - where any cause for concern, or suspicion, has arisen (in such cases, care is taken to avoid making any disclosure which could constitute tipping off).
- The transactions undertaken by clients are of the type that can be monitored manually.

Sample AML/CFT Pro

CDD conducted on our behalf

Most of the time we do not rely on a third party to undertake CDD on our behalf, however, third party CDD on our behalf may happen in limited circumstances. Third party CDD may happen when customers are referred to us by other agencies for providing services (such as the sale and purchase of property). Below describes our policies, procedures, and control for CDD conducted on our behalf.

Policy

- It is our policy to put in place a written agreement with the third party setting out what we expect from them and what we must obtain from them as part of CDD, prior to undertaking the work for the customers.

-

Procedure

- An agreement is put in place with any third party (or parties) we rely on for the purpose of fulfilling our CDD obligations.
- The AML/CFT compliance officer checks the identification documents obtained and verified on our behalf.
- In the case of any discrepancies (e.g. if the attestation wording is incorrect, or the attestation does not indicate the date the document is verified by the agent) the AML/CFT compliance officer will notify the agent and obtain another set of correctly verified or certified documents before providing services to the customer.
- Records of the CDD documentation (including communication with the third party (or parties)) are held on customer files.

Control

- The AML/CFT compliance officer, when undertaking a review of our compliance with the AML/CFT programme, checks customer records where we relied on third parties for undertaking CDD on our behalf.
- The AML/CFT compliance officer obtains and keeps on file, information about the type of AML training provided (and how it was provided) to the relevant persons of the third party to ensure those persons are fully familiar with the requirements of the Act as they relate to obtaining the customer identity, and verifying that identity.
- The agency agreement contains provisions describing when we may terminate the agreement (e.g. for unsatisfactory performance when undertaking CDD on our behalf).

d. Reporting suspicious activities

Below describes our policies, procedures, and controls relating to the reporting of suspicious activities.

Policy

- The agency will report all suspicious activities to the FIU of the NZ Police. The policy for reporting is based on 'gut feel' during client interactions. The agency believes, if something seems not right, then probably it isn't.
- Any incident causing suspicion must be notified to the AML/CFT compliance officer who will form an opinion as to whether the activity is suspicious. A recommendation will be made to the director regarding reporting the suspicion to the FIU. If jointly, it is agreed that the activity is suspicious, then the AML/CFT compliance officer will lodge a suspicious activity report (SAR) via goAML.
- In addition, the agency follows a strict 'no tipping off' policy in respect of reporting suspicious activities.
- The agency is aware of its obligations to submit suspicious property reports under the Terrorism Suppression Act 2002. However, it is our policy not to assume a role giving us control of customers' property (i.e. real or personal property of any description, whether situated in New Zealand or elsewhere and whether tangible or intangible, including any interest in the tangible or intangible property). For this reason, we do not consider it necessary to implement detailed procedures and controls relating to the submission of suspicious property reports.
-

Procedure

- A staff member alerts the AML/CFT compliance officer about the suspicious nature of the activity and provides the following:
 - Date and description of unusual activity/transaction.
 - Date noted.
 - Date and description of initial research and/or EDD measures (if relevant).
 - Explanation of why a SAR should, or should not be, submitted.
- The information is discussed between the directors and AML/CFT Compliance officer and a joint decision is made as to whether to file a SAR.
- The AML/CFT compliance officer and the staff member discuss the circumstances surrounding the suspicion.
- If appropriate, the relevant staff member provides ALL the supporting evidence to the AML/CFT compliance officer.
- Once the decision is made, the AML/CFT compliance officer will file the SAR using the goAML Web reporting tool. The SAR is filed as soon as practicable but no later than three working days after forming the suspicion.
- The AML/CFT compliance officer will maintain a record of the date the SAR is submitted, and the feedback, if any, from the FIU (e.g. date the SAR was rejected by the FIU and the reasons provided thereof). If the SAR was re-submitted, then the AML/CFT compliance officer will

maintain a record of the date it was re-submitted. Any follow-up actions taken following the submission of the SAR will also be recorded by the AML/CFT compliance officer

- If the urgency of the situation warrants, then the AML/CFT compliance officer may orally file the SAR, with the NZ Police, within the prescribed three-day limit. However, the oral submission will be followed by filing the SAR using the goAML Web tool (also required to be done within the three-day prescribed limit after forming a suspicion).
- Examples of urgent situations could be if the customer is already a part of a ML/FT investigation, or the customer is permanently leaving New Zealand.
- The AML/CFT compliance officer keeps the senior management informed of filing the SAR.
- All SAR records, and records in relation to filing those SARs will be held for five years (or a longer period if specified by the DIA).
- All staff in roles involving AML/CFT duties are provided, annually, refresher training on identifying suspicious activities (i.e. red flags relevant to the real estate agent's business), and tipping off provisions. The training is provided using Radar – the online education platform of Strategi Institute.

-

Control

- The agency has training in place for all staff to identify suspicious activities relevant to our situation. The training is undertaken through Strategi Institute. New staff is provided this training within ten days of induction and before the staff commences active duties involving AML/CFT obligations. On-going refresher training is also provided to all staff (in roles involving AML/CFT duties). Completion of this training is taken into account when undertaking annual appraisals.
- The AML/CFT compliance officer reports to the directors the number of SARs filed, including reporting NIL if no SARs are filed in any given year.
- The agency holds all the relevant records relating to the filing of SARs separate to the records holding client files. These records are held by the AML/CFT compliance officer. Only the AML/CFT compliance officer and one of director have access to these records.

e. Reporting prescribed transactions

A prescribed transaction is a transaction, conducted through our agency, that is:

- An international wire transfer valued at NZ\$1,000 or more, or
- A domestic physical cash transaction, i.e. a transaction taking place in New Zealand involving physical currency – cash and bearer negotiable instruments that are exchanged for physical (NZ) currency), valued at NZ\$10,000 or more.

- Our agency does not undertake international wire transfers valued at NZ\$1,000 or more, or domestic physical cash transactions valued at NZ\$10,000 or more. Before we provide a service, we always meet with clients in a face-to-face setting and obtain information about the nature and type of transactions they intend to undertake through our agency. It is our policy not to engage with clients intending to undertake transactions of the above type.

- We, therefore, do not consider it necessary to put in place procedures and controls to deal with prescribed transaction reporting.

[Delete the wording below if the RE is not an ordering institution]

- As an ordering institution, if we make international wire transfers of less than \$1,000, then we must ensure the following information accompanies each wire transfer:
 - a. the originator's full name;
 - b. the originator's customer/account number or other identifying information that may be prescribed and allows the transaction to be traced back to the originator;
 - c. the name of the beneficiary; and
 - d. the beneficiary's account number or the beneficiary's unique transaction reference number.
- Verification is only necessary if there are grounds to report suspicious activity.

f. Record keeping

Below describes our policies, procedures, and controls relating to record keeping.

Policy

- It is our policy to retain records of specific information (described below) for a minimum period of five years from the date of completion of a transaction, or from the end of a business relationship, or (where applicable) from the date a suspicious activity report is filed.
- In addition, it is our policy to hold the record of any suspicious activity report, or investigation, separately from the main customer file. This is a safeguard against an unwarranted or accidental disclosure which could result in prejudicing an investigation or committing a 'tipping-off' offence.
- Specific information referred to above includes (but is not limited to):
 - a. Customer due diligence records comprised of:
 - i. client identification information;
 - ii. copies of original documentation used for identity verification;
 - iii. copies of certified documents used for identity verification;
 - iv. copies of records relating to PEP checks undertaken;
 - v. information on the ownership and control structure of the client business;
 - vi. information on any person on whose behalf our customer is conducting a transaction that determines that customer/person has ultimate ownership or control over our customer;
 - vii. identification and verification information on any beneficial owners if applicable;
 - viii. information and records on the purpose and nature of the relationship;
 - ix. information relating to source of funds, and source of wealth, and
 - x. records of having conducted ongoing monitoring of the relationship and client activity.

- b. Records of terms of engagement with clients, records of transactions, account statements provided to clients, etc.
 - c. Records of suspicious activity reports filed (if any), including records of the actions/decisions taken arising from the analysis of a report (on that subject) which may be received from a staff member.
 - d. Records of prescribed transaction reports submitted (if any).
 - e. Records of all decisions and reasons for how the report from the staff member was responded to, or how the decision to report or not to report externally to the FIU was reached.
 - f. Records of risk assessments, AML/CFT programmes, AML/CFT audit reports, and annual AML/CFT reports.
 - g. Records of AML/CFT training provided, and received, including the recording of attendance lists at training sessions; staff declarations of awareness of the Act, the regulations, and the Amended Identity Verification Code of Practice; records of training for new staff to show they are aware of the agency's AML/CFT policy; and records of any on-the-job training provided.
 - h. Records of dealings with countries with insufficient AML/CFT measures, including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action.
 - i. Records of activities, and client behaviour patterns that may be associated with ML/FT.
 - j. Records will be kept as original documents, or photocopies, or scans of original documents, and electronically.
- We comply with the record-keeping requirements for transactions that are not occasional transactions that occur outside of our business relationships.

[Delete if the RE does not intend to or is not an ordering institution]

- As an ordering institution in a transaction involving wire transfer, we must keep a record of beneficiary names and account numbers or unique transaction reference numbers.
- These records must be kept for at least 5 years:
 - i. if the wire transfer is from a customer with whom the business has a business relationship, after the end of that business relationship; or
 - ii. if the wire transfer is an occasional transaction, after it is completed.

[Delete if the RE does not intend to or is not an intermediary institution]

- As an intermediary institution handling international wire transfers, we must keep a record of information received if for technological reasons the ordering institution was unable to obtain/retain the required information about the originator. This information must be passed to the beneficiary institution as soon as possible.

Procedure

- We use Xero, and Dropbox as our electronic record keeping system. In addition, we use Microsoft Outlook as our email tool. Client communication is held electronically in respective client folders.

- In addition, we maintain a hard copy client file that holds information relating to client identity and verification, copies of cheques issued by clients for services, client information booklet etc. (We are in the process of scanning all hard copies so they can be held electronically against the client's record in Microsoft Outlook).
- Dropbox is used to hold copies of our risk assessment, AML/CFT programme, audits, and annual AML/CFT reports.
- All electronic systems are backed up nightly and backed-up material is stored off-site in a secure location. All backup systems are fully encrypted.
-

Control

- We have a retention and disposal schedule to readily identify records to be retained or destroyed. The AML/CFT compliance officer checks, each year, the record keeping procedures described above are adhered to.

g. Written findings

Below describes our policies, procedures, and controls relating to maintain written findings on any activity that is likely by its nature to be related to ML/FT. We are aware of our obligation to examine and keep written findings on any complex or unusually large transactions, and unusual patterns of transactions with no obvious economic or lawful purpose.

The agency is aware of the requirement to keep written findings of any activity that is likely to be related to ML/FT. This awareness is maintained via the training programme undertaken by the AML/CFT compliance officer, the directors, and all staff involved in AML/CFT activities annually. It would be rare to have complex or unusually large transactions or transactions that have no obvious economic benefit as the agency does not deal with customers intending to undertake transactions of this type.

Policy

- We keep written findings relating to complex or unusually large transactions, or unusual patterns of transactions that have no obvious economic benefit, or any other activity we regard as being particularly likely by its nature to be related to ML/FT.

Procedure

- As the first step, we provide in-depth training to staff to ensure they can identify complex or unusually large transactions, or transactions having no obvious economic purpose. The training is provided by using examples of red flags described in publications such as the FIU quarterly typology reports. The training is undertaken via the online education platform Radar (we subscribe to), provided by the Strategi Institute.
- If a staff member identifies clients intending, or enquiring about using our services, to undertake transactions we do not undertake in the normal course of conducting our business, then they will discuss the matter with the AML/CFT compliance officer or the directors. The discussions may trigger the requirement to file a suspicious activity report and that decision will rest with the AML/CFT compliance officer and the directors.

- We maintain a register, recording transactions of the type described above, whether or not such transactions are actually undertaken.

Control

- The AML/CFT compliance officer reviews the register recording the transactions of the type described above, when reviewing the compliance of the agency with its AML/CFT programme. A report of the review findings is provided to the directors.

h. Products and transactions that favour anonymity

B&B is a small real estate agency and does not offer products or transactions favouring anonymity.

- Our agency does not offer products or services that favour anonymity. We take no part in any arrangement a client may have outside of their business relationship with us where they may engage in transactions favouring anonymity.
- Before we provide a service, we always meet with clients in a face-to-face setting, obtain information about the identity of the client, and verify that identity.
- It is our policy not to engage with clients requesting anonymity, and we would consider filing a suspicious activity report in such circumstances.
- We therefore do not consider it necessary to put in place procedures and controls to deal with clients undertaking transactions favouring anonymity.

i. Managing and mitigating risk

No matter how robust and effective our AML/CFT controls, money launderers and criminals will continue to attempt to move illicit funds undetected and will, from time to time, succeed. No system of checks will detect and prevent *ALL* money laundering or terrorist financing. A risk-based approach will, however, help to manage, and mitigate the risk of ML/FT provided this approach is underpinned by a realistic assessment of the threat of the agency being used in connection with ML/FT. The strategies to manage and mitigate the risks of the agency being used for ML/FT activities are typically aimed at preventing the activity from occurring through a mixture of deterrence (appropriate CDD measures), detection (monitoring and suspicious activity reporting), and record-keeping (to facilitate investigations).

Our risk assessment identified our agency as having a **medium** inherent risk of ML/FT with the overall residual risk assessed as **low**. The primary reasons for this are because of the type of clients we deal with, the manner in which we offer services (face-to-face), and the type of services we offer (straight-forward sales and purchases of property, rentals of residential property to family-type clients, lease of small business premises, property management for landlord clients).

We are aware however, that ML/FT risks are not static. Below describes our policy, procedure, and control in place to manage and mitigate ML/FT risks to our agency.

Policy

- Our policy to manage, and mitigate ML/FT risks is to adopt a sound risk-based approach, staying up to date with ML/FT methods, and undertaking regular training, on building awareness of new ML/FT methods being adopted by criminals. We believe alert, and well-trained staff are the best defence for combating ML/FT risks to our agency.

Procedure

- We are aware that the DIA's sector risk assessment rates the inherent ML/FT risk for real estate agents as 'medium-high'. However, our risk assessment has identified the overall residual risk of ML/FT to the agency to be 'low' (with the inherent risk being medium). The 'low' residual risk rating is on the basis of:
 - a. Employing strict CDD measures tailored to the assessed risk of each customer. As an example, a customer based in NZ may be assessed as low risk but the same customer may be assessed as high risk if that customer relocates to a jurisdiction with insufficient ML/FT measures (including any country identified by the Financial Action Task Force as being a high-risk jurisdiction subject to a call for action), and
 - b. Obtaining additional information about the customer or their business when that is appropriate to their assessed ML/FT risk (e.g. understanding the source of customer's funds).
- In addition, our appetite for the ML/FT risks is very low. Against this background, we undertake the following measures to manage and mitigate ML/FT risks to our agency:
 - Undertaking robust CDD on customers at the time of onboarding.
 - Undertaking ongoing monitoring of customer transactions and business relationships.
 - Providing staff with initial and ongoing AML/CFT training that is relevant to their roles.
 - The AML/CFT compliance officer keeping up to date on the emerging ML/FT methods (e.g. red flags) relevant to real estate agents by subscribing to the updates from the FATF, DIA, FIU, and Strategi Institute, and using those updates to provide training to relevant staff involved in AML/CFT duties.

Control

- The AML/CFT compliance officer provides a report to the directors describing the findings from the annual review of the risk assessment, and the AML/CFT programme.
- The risk assessment and the AML/CFT programme is updated following the review and is subject to version control.
- Completion of training, identified in the review, as a requirement for the effective discharge of responsibilities by the relevant staff, is included in the staff performance appraisals.

j. Ensuring compliance with the AML/CFT programme

Below describes our policy, procedure, and control in place to ensure compliance of our agency with the AML/CFT programme.

Policy

- The agency ensures compliance with the AML/CFT programme via ongoing monitoring of the various components constituting the AML/CFT programme, and ongoing training of everyone in the agency.

Procedure

- The AML/CFT compliance officer has completed the AML/CFT compliance officer micro-credential (Level 4) course. All staff and directors are initially exposed to the AML/CFT obligations using the Strategi Institute AML/CFT manual. We are a small agency, and all staff are cross trained on AML/CFT. New staff will receive AML/CFT training as part of their induction and on-the-job training. Everyone will receive annual ongoing training via completion of the Strategi Institute AML/CFT modules on Radar.
- The compliance officer and director undertake more detailed AML/CFT training by completing additional AML/CFT modules on Radar, reading updates from the DIA, FATF, FIU and reading the monthly AML/CFT newsletter produced by Strategi.
- All staff attend the CPD refresher webinar on red flags provided via Strategi Institute Ltd.
- Induction training for new staff includes the completion of CPD modules relating to their AML/CFT obligations.
- Results from our three yearly audit plus 18-month review are discussed and where necessary, specific training for staff is implemented.
- If there are changes to the AML/CFT legislation, regulation, and supervisor guidance, then we review our processes against the changes and where applicable, change them. This will result in new training for staff and the issue of a new version of the AML/CFT risk assessment and Programme.
- We undertake an annual review of the AML/CFT risk assessment and programme.
- The AML/CFT compliance officer and director strive to build a culture of AML/CFT compliance within the agency.

Control

- This is exercised via the AML/CFT compliance officer who is required to provide a report to the board about the compliance of the agency with the AML/CFT programme. Appropriate oversight is provided by the board on the basis of this report. In addition, a three-yearly AML/CFT audit is undertaken by Strategi and suggestions made by Strategi are implemented in the relevant areas of the agency.

k. Review and audit of the AML/CFT programme

- We review our AML/CFT programme every year. The review is integrated into our agency's annual business planning exercise. If there is likely to be a change in the nature of our agency, such as targeting a different market segment or dealing with offshore clients, then we will

review our AML/CFT procedures to ensure they are still sufficient or to assess if they need to be upgraded. This process will involve reviewing the risk assessment and updating the AML/CFT programme. If as part of our AML/CFT compliance officer's regular reading of the FATF website and DIA website, we notice some changes or recommendations then we will review these and where applicable add to our procedures.

- We undertake, every three years (or at any other time required by the DIA, or by the regulations), an audit of our AML/CFT programme (and the risk assessment). The audit is undertaken by Strategi. Strategi is independent of the agency, and was not involved in developing our risk assessment or the AML/CFT programme.
- We recognise that three years between AML/CFT audits is a long time and changes to regulations, supervisor guidance and risks may have occurred. Consequently, approximately 12-18 months after our last audit, we engage Strategi Ltd to undertake an independent review of our AML/CFT risk assessment and programme and undertake a small CDD sample to ensure everything is in order.

I. Annual AML/CFT Report

- • We will prepare and submit an Annual Report on our Risk Assessment and AML/CFT Programme in the prescribed form to the DIA. The Annual Report is due for submission to the DIA on or before 31 August each year.

Appendix Nine: Risk assessment - Identifying your risks

1. The types of clients the agency deals with:

(List the types of clients the agency deals with, e.g. 'Mum & Dad'; family trusts, companies, etc.)

2. The countries the agency deals with:

(List the countries the agency deals with, e.g. 'New Zealand, Australia, UK, etc.)

3. The products and services the agency provides:

(List the types of products and services the agency deals with, e.g. 'Company registration and formation, acting as nominee directors or trustees, managing trust account or IRD online account, etc.)

4. The institutions the agency deals with:

(List the types of institutions the agency deals with, e.g. 'NZ banks')

5. The manner in which the agency provides the products and services:
(List the manner in which the products and services are provided to clients e.g. 'face-to-face, internet, etc.)

6. Is there anything pertaining to the nature of the agency, its size or complexity likely to make the agency vulnerable to ML/FT?
(Consider 1 to 5 above in making the decision relating to the possibility of the agency being a target for ML/FT activities, etc.)

Appendix Ten: Information that must be contained in annual AML/CFT report

Annual AML/CFT report by designated non-financial businesses and professions

This form is to be completed by designated non-financial businesses and professions.

Part 1: Contact details and organisation structure

These questions are requesting information about your organisation such as contact details and organisational structure.

Answer **all** questions in this part.

Part 1	Annual report question	Guidance
1	Period of report	
1.1	Period that this report covers: <i>[specify year]</i> This is the period referred to as “during the year” or “at the end of the year” by this form.	Your report should cover the most recent 1 July to 30 June period.* Please state the calendar years this covers (e.g., 1 July 2020 to 30 June 2021). * The first report you complete may only cover a part year, depending on when your business began offering products and services captured by the Act.
2	Contact details	
2.1	<i>Entity registration details</i> Reporting entity’s legal name: Type of entity (natural person, company, partnership, other legal person, trust): Registered or company incorporation number, or equivalent (if applicable): Trading name(s) (if different from legal name):	Make sure that you answer all parts of this question, or write “N/A” if a question is not applicable.
2.2	<i>Physical address</i> Street name and number: Suburb or town: City: Postcode:	If you have more than one physical address, provide details of the main address from where the activities captured by the Act are conducted. Include information such as unit or floor number.

2.3	<p><i>Postal address (if different from physical address)</i> Street name and number or PO Box: Suburb or town: City: Postcode:</p>	<p>If you have more than one postal address, provide details of the address where we can contact your AML/CFT compliance officer (see 2.4 below).</p>
2.4	<p><i>Other contact details</i> Full name of reporting entity's AML/CFT compliance officer: Reporting entity's AML/CFT contact email address (if available): Reporting entity's AML/CFT contact telephone number (if available): Reporting entity's website (if available):</p>	<p>AML/CFT compliance officer means the person designated as a compliance officer under section 56 of the Act⁷ (the person who administers and maintains the AML/CFT programme for your reporting entity). The AML/CFT contact email address can be that of the AML/ CFT compliance officer for your entity.</p>
2.5	<p>What sector(s) best describe your business activities. Select 1 or more of the following:</p> <ul style="list-style-type: none"> • Accounting practice • Bookkeeping • Barrister sole • Barrister and solicitor • Law firm • Incorporated conveyancing firm • Conveyancing practitioner • Real estate agent • Trust and company service provider • Other <i>[specify]</i> 	<p>These sector groupings describe the business activities that are captured by the Act. Select all of the sector(s) that apply. You can select more than one. If you select "other" please specify what the sector is.</p>
3	Organisation structure	
3.1	<p>Is your reporting entity a branch or a subsidiary of an offshore parent? <i>Yes/No</i> If "yes", specify: <i>[branch or subsidiary]</i></p>	<p>In this question, branch means the New Zealand place of business of an overseas company. Subsidiary means a company that is controlled by another company, as defined in section 5 of the Companies Act 1993.⁸ Your business is a subsidiary of another company if that other company controls your business or holds at least half of the shares.</p>

⁷ Section 56, AML/CFT Act: <http://bit.ly/2znn4Dd>

⁸ Section 5, Companies Act 1993: <http://bit.ly/2EqTM8E>

Part 1	Annual report question	Guidance
3.2	In what country is your largest owner based? <i>[specify]</i> If your reporting entity does not have a clear owner, in what country is your largest beneficial owner based? <i>[specify]</i>	<p>Largest owner means the person or entity that either directly or indirectly owns the largest proportion of the reporting entity.</p> <p>Largest beneficial owner means the individual who:</p> <ul style="list-style-type: none"> - owns the largest shareholding of your reporting entity; or - has decision-making control (effective control) of your reporting entity (such as board members and directors who control your entity); or <p>The <i>Beneficial Ownership Guideline</i> provides more detail about the meaning of the terms “beneficial owner” and “effective control”.⁹</p>
3.3	How many people work for your reporting entity? <i>[specify]</i>	Include all staff members currently employed by your business both in New Zealand and overseas.
3.4	Number of physical branch/ office locations in New Zealand (exclude agent’s branch location): <i>[specify number]</i>	This question applies whether or not the reporting entity is a branch itself (Q. 3.1). Apart from the main physical address of the reporting entity, include the number of physical places in New Zealand from which you conduct activities captured by the Act or regulations to reflect the total number of physical locations.
3.5	Number of New Zealand subsidiaries: <i>[specify number]</i>	If your reporting entity controls any other companies in New Zealand, then specify the number. Please include corporate trustee companies. Subsidiary means a company that is controlled by another company, as defined in section 5 of the Companies Act 1993. ¹⁰ Only include subsidiaries conducting a relevant activity. A relevant activity is an activity that attracts obligations under the Act or regulations.
3.6	If known, number of physical branch/office locations outside New Zealand: <i>[specify number or state “unknown”]</i>	Only include physical locations outside New Zealand where a captured activity is conducted. A captured activity is an activity that is captured by the Act or regulations. Please refer to the definition of ‘designated non-financial business or profession’ in section 5 of the Act for a list of captured activities.
3.7	Number of subsidiaries located or incorporated outside New Zealand: <i>[specify number]</i>	Subsidiary means a company that is controlled by another company, as defined in section 5 of the Companies Act 1993. ¹¹ A company is a subsidiary of the reporting entity if the reporting entity controls the company's business or holds at least half of the shares.

⁹ Beneficial Ownership Guideline:

[https://www.dia.govt.nz/Pubforms.nsf/URL/AMLCFT_BeneficialOwnershipGuideline_Dec2017.pdf/\\$file/AMLCFT_BeneficialOwnershipGuideline_Dec2017.pdf](https://www.dia.govt.nz/Pubforms.nsf/URL/AMLCFT_BeneficialOwnershipGuideline_Dec2017.pdf/$file/AMLCFT_BeneficialOwnershipGuideline_Dec2017.pdf)

¹⁰ Section 5, Companies Act 1993: <http://bit.ly/2EqTM8E>

¹¹ Section 5, Companies Act 1993: <http://bit.ly/2EqTM8E>

Part 2: AML/CFT risk assessment and programme

The questions in Part 2 relate to **designated business groups** (see below for definition) and request information on your AML/CFT risk assessment and programme, including your processes for **customer due diligence**.

Answer **all relevant** questions in this part.

Part 2	Annual report question	Guidance
Notes		<p>A designated business group (DBG) is defined in section 5 of the Act.¹²</p> <p>A DBG is a group of two or more eligible persons (reporting entities) who have elected in writing, notified their AML/CFT supervisor, and had the supervisor confirm their eligibility, to form a group to enable some obligations under the Act to be met on a shared basis. Guidelines for the scope and formation of DBGs are available on the DIA website.¹³</p> <p>A member of a DBG can rely on another member to carry out some AML/CFT obligations on their behalf, as set out in section 32 of the Act.¹⁴ These include risk assessments, parts of an AML/CFT programme, and making suspicious activity reports or prescribed transaction reports.</p> <p>If you are a member of a DBG, you may allow another member to answer this Part on your behalf. However, please note that you are responsible for the accuracy of information provided.</p> <p>One annual report must be completed for EACH reporting entity in the DBG.</p>
4	Designated business group questions	
4.1	<p>Are you a member of a DBG? <i>Yes/No</i></p> <p><i>[If you answer No, then complete Part 2 and the rest of this form as applicable.]</i></p>	<p>If you are not a member of a DBG, you do not need to answer 4.2 but you do need to complete the rest of Part 2 and the rest of this form as applicable.</p> <p>If you are a member of a DBG, go to question 4.2.</p>
4.2	<p>If you answered “yes” to 4.1, are you completing Part 2 on behalf of the DBG? <i>Yes/No</i></p> <p><i>[If you are not completing the form for the DBG, please note the legal name of the DBG reporting entity completing Part 2 for you. Then leave the rest of Part 2 blank and go to Part 3. You are required to answer all parts of this form.]</i></p>	<p>Only answer this question if you are a member of a DBG.</p> <p>If you are completing Part 2 of this form on behalf of the DBG, answer “yes”.</p> <p>If you are not, then note the legal name of the reporting entity for the DBG and leave the rest of Part 2 blank.</p>

¹² Section 5, AML/CFT Act: <http://bit.ly/2xHGfmy>

¹³ Designated Business Group Guidelines: <http://bit.ly/2y4KpFa>

Part 2	Annual report question	Guidance
5	AML/CFT risk assessment	
5.1	<p>Does your risk assessment meet the requirements of section 58 of the Act?</p> <p><i>Meets all/Meets some/Meets none</i></p>	<p>Section 58 of the Act specifies what the risk assessment must cover.¹⁵</p> <p>The risk assessment must identify the ML/TF risks in your business, explain how you will ensure that the assessment remains current, and enable you to determine the level of risk involved in relation to the Act.</p> <p>(1) The risk assessment must identify the ML/TF risks in your business, explain how you will ensure that the assessment remains current, and enable you to determine the level of risk involved in relation to the Act.</p> <p>(2) To “meet all” the requirements, your risk assessment must address the following areas:</p> <ul style="list-style-type: none"> a) the nature, size, and complexity of your business; and b) the products and services offered; and c) the methods by which your business delivers products and services to your customers; and d) the types of customers your business deals with; and e) the countries your business deals with; and f) the institutions your business deals with; and g) any applicable guidance material produced by AML/CFT supervisors or the Commissioner relating to risk assessments; and h) any other factors that may be provided for in regulations. <p>(3) The risk assessment must be in writing and—</p> <ul style="list-style-type: none"> a) identify the risks faced by your business in the course of your business; and b) describe how the reporting entity will ensure that the assessment remains current; and c) enable your business to determine the level of risk involved in relation to relevant obligations under the Act and regulations. <p><i>Please note:</i> If your risk assessment does not address all these areas then it cannot “meet all” the requirements. In addition, your risk assessment should take into account and reference any relevant guidance issued by your AML/CFT supervisor.</p> <p>Refer to the <i>Risk Assessment Guideline</i> for more information.¹⁶</p>

¹⁵ Section 58, AML/CFT Act: <http://bit.ly/2ly11Dz>

¹⁶ Risk Assessment Guideline: <http://bit.ly/2sdlv83>

Part 2	Annual report question	Guidance
5.2	If your risk assessment meets only some of the requirements of section 58 of the Act, list all subsections that it is not fully compliant with (eg, sections 58(1), 58(2) (a) to (h), 58(3)(a) to (c)). <i>[list, using commas to separate each entry]</i>	Make sure you list all subsections in section 58 ¹⁷ that your risk assessment is not fully compliant with.
5.3	When was the most recent internal review of your risk assessment completed? <i>[date]</i>	Internal review means that someone within your business checks your risk assessment to make sure it is current, identifies any weaknesses, and makes changes as necessary. If you have not reviewed your risk assessment since it was initially prepared, insert the date it was first prepared. Section 59 of the Act specifies the requirements for review and audit of AML/CFT programmes and risk assessments. ¹⁸
5.4	Has your risk assessment been independently audited? <i>Yes/No</i>	Independent audit means a systematic check of your risk assessment by an independent and suitably qualified person, resulting in a written report. Further information is available in the <i>Guideline for Audits of Risk Assessments and AML/CFT Programmes</i> . ¹⁹
5.5	If you answered “yes” to 5.4, when was the most recent audit of your risk assessment completed? <i>[date]</i>	Only answer this question if you answered “yes” to 5.4.
5.6	If you answered “yes” to 5.4, did the most recent audit of your risk assessment highlight any deficiencies? <i>Yes/No</i>	Only answer this question if you answered “yes” to 5.4.
5.7	If you answered “yes” to 5.4 and 5.6, have you made the changes identified as being necessary in the most recent audit? <i>Yes, complete/Not yet complete</i> If you answered “Not yet complete” please explain: <i>[insert detailed explanation]</i>	Only answer this question if you answered “yes” to 5.4 and 5.6. If you have not made all the changes, then you need to answer “Not yet complete” and briefly explain what changes are yet to be made and your plans for making these changes.

¹⁷ Section 58, AML/CFT Act: <http://bit.ly/2ly11Dz>

¹⁸ Section 59, AML/CFT Act: <http://bit.ly/2xJWm2P>

¹⁹ Guideline for Audits of Risk Assessments and AML/CFT Programmes: [https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT-Audit-Guideline-October-2019.pdf/\\$file/AMLCFT-Audit-Guideline-October-2019.pdf](https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT-Audit-Guideline-October-2019.pdf/$file/AMLCFT-Audit-Guideline-October-2019.pdf)

Part 2	Annual report question	Guidance
5.8	During the year, did you introduce a new service or activity regulated by the Act (e.g., a new product, service or channel) that is not considered in your risk assessment? <i>Yes/No</i>	Are you conducting a new activity or providing a new service to your customers that is regulated by the Act (see definition of “designated non-financial business or profession” in section 5 of the Act ²⁰) and not considered in your risk assessment?
6	AML/CFT programme	
6.1	Does your AML/CFT programme meet the requirements of section 57 of the Act? <i>Meets all/Meets some/Meets none</i>	Section 57 of the Act specifies what your AML/CFT programme must cover. ²¹ Your AML/CFT programme must be based on your risk assessment and include adequate and effective procedures, policies and controls for: <ul style="list-style-type: none"> • Vetting and training staff • Complying with customer due diligence (CDD) requirements • Reporting suspicious activities and transactions • Prescribed transaction reporting • Record keeping • AML/CFT risk management <p>Customer due diligence (CDD) is the process through which you identify and develop an understanding of your customers and the ML/TF risks they pose to your business.</p>
6.2	If your AML/CFT programme meets only some of the requirements of section 57 of the Act, list all paragraphs that it is not fully compliant with. Use commas to separate each entry: <i>[list relevant paragraphs from section 57(1)(a) to (l)]</i>	Make sure you list all paragraphs in section 57 ²² that your AML/CFT programme is not fully compliant with. You may wish to add a brief explanation of how you intend to reach compliance with these sub-sections.
6.3	When was the most recent internal review of your programme completed? <i>[date]</i>	Internal review means that someone within your business checks your AML/CFT programme to make sure it is current, identifies any weaknesses, and makes changes as necessary. Your AML/CFT programme should describe how often it is reviewed, and you should keep a record of the reviews. If you have not reviewed your AML/CFT programme since it was initially prepared, insert the date it was first prepared.

²⁰ Section 5, AML/CFT Act: <http://bit.ly/2xHGfmy>

²¹ Section 57, AML/CFT Act: <http://bit.ly/2h2nN59>

²² Section 57, AML/CFT Act: <http://bit.ly/2h2nN59>

Part 2	Annual report question	Guidance
6.4	Has your programme been independently audited? <i>Yes/No</i>	Independent audit means a systematic check of your AML/CFT programme by an independent and suitably qualified person resulting in a written report. Section 59 of the Act ²³ specifies the requirements for review and audit of AML/CFT programmes and risk assessments. Further information is available in the <i>Guideline for Audits of Risk Assessments and AML/CFT Programmes</i> . ²⁴
6.5	If you answered “yes” to 6.4, when was the most recent audit of your programme completed? <i>[date]</i>	Only answer this question if you answered “yes” to 6.4.
6.6	If you answered “yes” to 6.4, did the most recent audit of your programme highlight any deficiencies? <i>Yes/No</i>	Only answer this question if you answered “yes” to 6.4.
6.7	If you answered “yes” to 6.4 and 6.6, have you made the changes identified as being necessary in the most recent audit? <i>Yes, complete/Not yet complete</i> If you answered “Not yet complete”, please explain: <i>[insert detailed explanation]</i>	Only answer this question if you answered “yes” to 6.4 and 6.6. If you have not made all the changes, then you need to answer “Not yet complete” and briefly explain what changes are yet to be made, and your plans for making these changes.
6.8	Do you have procedures to identify and verify the identity of: a. a new customer (including the customer’s beneficial owners or any person acting on behalf of a customer)? <i>Yes/No</i> b. a person seeking to conduct an occasional transaction or occasional activity through your reporting entity? <i>Yes/ No</i>	Do you have processes and systems in place to make sure your customer is who they say they are? The Act defines beneficial owner as the individual who has effective control of a customer or person on whose behalf a transaction is conducted; or owns a prescribed threshold of the customer or person on whose behalf a transaction is conducted. The customer or person could be a legal person or legal arrangement. An occasional transaction means the transaction is one off and is above a certain threshold (as set out in the AML/CFT (Definitions) Regulations 2011). ²⁵ An occasional activity means an activity captured by the Act that occurs outside of a business relationship between a reporting entity and the reporting entity’s customer. A business relationship means a business, professional, or commercial relationship between a reporting entity and a customer that has an

²³ Section 59, AML/CFT Act: <http://bit.ly/2xJWm2P>

²⁴ Guideline for Audits of Risk Assessments and AML/CFT Programmes: [https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT-Audit-Guideline-October-2019.pdf/\\$file/AMLCFT-Audit-Guideline-October-2019.pdf](https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT-Audit-Guideline-October-2019.pdf/$file/AMLCFT-Audit-Guideline-October-2019.pdf)

²⁵ AML/CFT (Definitions) Regulations 2011: <https://www.legislation.govt.nz/regulation/public/2011/0222/latest/DLM3845896.html?src=qs>

Part 2	Annual report question	Guidance
	c. an existing customer, according to the level of risk involved, if there has been a material change in the nature or purpose of the business relationship and your reporting entity considers that it has insufficient information about the customer? <i>Yes/No</i>	<p>element of duration or that is expected by the reporting entity, at the time when contact is established, to have an element of duration. Definitions for all terms are in section 5 of the Act.²⁶</p> <p>For question 6.8(c), sufficient procedures mean you have clearly defined what a material change in the nature and purpose of the business relationship is in your policies, procedures and controls documents.</p>
6.9	Do you have exception handling procedures for issues related to customer due diligence (CDD) (e.g., clause 4 of the Amended Identity Verification Code of Practice 2013)? <i>Yes/No</i>	<p>Exception handling procedures are the systems or processes you have in your AML/CFT programme for dealing with situations when a customer cannot provide the required identification (i.e., a process you use when a new customer has no or insufficient forms of identification).</p> <p>The <i>Amended Identity Verification Code of Practice 2013</i> provides suggested best practice and should be read in tandem with the <i>Explanatory Note</i>.²⁷</p>
6.10	Outside a DBG, do you outsource any CDD requirements to third parties (as set out in sections 32 to 34 of the Act)? <i>Yes/No</i>	This includes any external person or entity completing CDD as a reporting entity, or equivalent in another country, in accordance with section 33, ²⁸ or as an agent for your business under section 34 of the Act. ²⁹ This does not include any member of your DBG who conducts your CDD under section 32. ³⁰
6.11	Do you use electronic processes to fulfil the statutory requirement to monitor accounts as required under section 31 of the Act? <i>Yes/No</i>	<p>By electronic processes we mean if you rely on electronic or automated systems to monitor accounts.</p> <p>Section 31³¹ sets out the requirements for ongoing CDD and account monitoring, in order to make sure that the reporting entity can identify any suspicious activities. This includes determining the level of risk involved and regularly reviewing the customer's activity.</p> <p>Ongoing account monitoring means you must regularly review your customer's business relationship with you (i.e., the nature of their "account" with you) and their transactional behaviour and activities if you have been involved in assisting these to take place.</p>

²⁶ Section 5, AML/CFT Act: <http://bit.ly/2xHGfmy>

²⁷ Amended Identity Verification Code of Practice: [https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf/\\$file/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf](https://www.dia.govt.nz/pubforms.nsf/URL/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf/$file/AMLCFT_Amendment-to-IDVCOP-2013-FINAL-October-2013.pdf)

²⁸ Section 33, AML/CFT Act: <http://bit.ly/2nQNm8F>

²⁹ Section 34, AML/CFT Act: <http://bit.ly/2BdPsrn>

³⁰ Section 32, AML/CFT Act: <http://bit.ly/2hjDuF3>

³¹ Section 31, AML/CFT Act: <http://bit.ly/2z1eCIX>

Part 3: Products, services and customers

This section provides DIA with valuable information to help us support you by better understanding your business and what products and services it offers. Question 7.8 is optional. Answer **all** other questions in this part.

Part 3	Annual report question	Guidance
A	Products and services	
Note	How to determine whether advice provided to your customer is captured	<p>There will be circumstances where you give advice in relation to a captured activity (without necessarily then carrying out the activity). Generally, advice alone, in the absence of any actual captured activity on the reporting entity's part, will not be caught by the definition of "designated non-financial business or profession".</p> <p>It may be that in practice you expect to provide a mixture of advice and captured activities for a customer over a period of time. In those circumstances, you would need to conduct CDD to the required level prior to establishing a business relationship with the customer (and prior to providing any advice).</p> <p>You also need to be aware of your obligations to report suspicious activities, which can include requests or enquiries about particular services you offer from potential new customers (regardless of whether you ultimately provide those services).</p>
7.1	<p>Do you act as a formation agent of legal persons or arrangements? <i>Yes/No</i></p> <p>If you answered "yes", estimate how many of the following you have formed in the last year. <i>Select the estimated number.</i></p> <ul style="list-style-type: none"> Companies: 0; 1–10; 11–100; 101–999; 1000+ Trusts (excluding charitable trusts): 0; 1–10; 11–100; 101–999; 1000+ Partnerships (including limited partnerships): 0; 1–10; 11–100; 101–999; 1000+ Charities (including charitable trusts and other charitable entities): 0; 1–10; 11–100; 101–999; 1000+ Other: <i>[specify]</i> 	<p>By legal person we mean a person or entity with legal rights and responsibilities. It can include a company.</p> <p>The Act³² defines a legal arrangement as a trust, a partnership, a charitable entity, or any other prescribed arrangement that involves a risk of money laundering or terrorism financing.</p> <p>If you have formed any "other" legal persons or arrangements, then you need to specify what they were, as well as estimating the total number.</p> <p>Trust means a legally binding arrangement where a group of assets are held together</p>

³² Section 5, AML/CFT Act: <http://bit.ly/2xHGfmy>

Part 3	Annual report question	Guidance
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7.2	<p>Do you act as, or arrange for a person to act as, a nominee director or nominee shareholder or trustee in relation to legal persons or legal arrangements? <i>Yes/No</i></p> <p>If you answered “yes”, estimate:</p> <ul style="list-style-type: none"> the number of nominee directorship roles your reporting entity holds: <i>[number]</i> the number of nominee shareholder roles your reporting entity holds: <i>[number]</i> the number of trustee roles your reporting entity holds: <i>[number]</i> 	<p>If you act, or arrange for a person to act, as a nominee director, nominee shareholder, or trustee in the ordinary course of your business, then you need to estimate the numbers of these roles your reporting entity holds.</p> <p>If you are conducting a captured activity in your personal capacity (as opposed to in your professional capacity) you are not captured by the Act.</p>
7.3	<p>Do you provide a registered office or a business address, a correspondence address, or an administrative address for a company, or a partnership, or any other legal person or arrangement?*</p> <p><i>Yes/No</i></p> <p>If you answered “yes”, estimate the number of companies, partnerships, or other legal persons or arrangements that your reporting entity provides these services to. Select the estimated number.</p> <ul style="list-style-type: none"> Companies: 0; 1–10; 11–100; 101–999; 1000+ Trusts (excluding charitable trusts): 0; 1–10; 11–100; 101–999; 1000+ Partnerships (including limited partnerships): 0; 1–10; 11–100; 101–999; 1000+ Charities (including charitable trusts and other charitable entities): 0; 1–10; 11–100; 101–999; 1000+ <p>*Unless the office or address is provided solely as an ancillary service to the provision of other services.</p>	<p>Estimate the number of each type of entity you provide a registered office/business address for, unless it is provided only as an ancillary service to other services (that are not captured by the Act) you are providing the customer. Include sole traders.</p> <p>This question refers to the number of customers that you provide with solely a registered/correspondence/administrative address, as well as those that you provide a registered/correspondence/administrative address to in addition to other captured activities (such as managing client funds).</p>
7.4	<p>Do you manage client funds (other than sums paid as fees for professional services), accounts, securities, or other assets? <i>Yes/No</i></p> <p>If you answered “yes”, estimate the value of funds managed in the last reporting year (period between 1 July – 30 June). Select the estimated value.</p> <p>0; \$1–999,999; \$1,000,000–\$9,999,999; \$10,000,000–\$49,999,999; \$50,000,000 and over</p>	<p>Manage client funds means any instance where you receive or hold your client’s funds and control the flow or payment of those funds (including via your trust accounts). Please exclude payments for your own professional fees.</p> <p>Note that the terms “customers” and “clients” are used interchangeably in the Act and regulations.</p>

7.5	Do you provide real estate agency work (within the meaning of section 4(1) of the Real Estate Agents Act 2008) to effect a transaction (within the meaning of section 4(1) of that Act)? <i>Yes/No</i>	<p>Please do not include residential property management.</p> <p>Section 4 of the Real Estate Agents Act 2008 defines real estate agency work as follows:³³</p> <p>real estate agency work or agency work—</p> <ul style="list-style-type: none"> a. means any work done or services provided, in trade, on behalf of another person for the purpose of bringing about a transaction; and b. includes any work done by a branch manager or salesperson under the direction of, or on behalf of an agent to enable the agent to do the work or provide the services described in paragraph (a); but c. does not include— <ul style="list-style-type: none"> i. the provision of general advice or materials to assist owners to locate and negotiate with potential buyers; or ii. the publication of newspapers, journals, magazines, or websites that include advertisements for the sale or other disposal of any land or business; or iii. the broadcasting of television or radio programmes that include advertisements for the sale or other disposal of any land or business; or iv. the lending of money on mortgage or otherwise; or v. the provision of investment advice; or vi. the provision of conveyancing services within the meaning of the Lawyers and Conveyancers Act 2006;
7.6	Specify which of the following services you engage in or give instructions on behalf of a customer to another person for: <ul style="list-style-type: none"> a. any conveyancing (within the meaning of section 6 of the Lawyers and Conveyancers Act 2006) to effect a transaction (within the meaning of section 4(1) of the Real Estate Agents Act 2008, and as specified in 	Select all of the following services which you engage in. Conveyancing as defined in section 6 of the Lawyers and Conveyancers Act: ³⁴ <ul style="list-style-type: none"> a. means— <ul style="list-style-type: none"> i. legal work carried out for the purpose of effecting or documenting any transaction or prospective transaction that does or would create, vary, transfer, or extinguish a legal or equitable estate, interest, or right in any real property; and ii. legal work carried out for the purpose of effecting or documenting a sale or purchase of a business, whether or not land is involved; and

³³ Section 4, Real Estate Agents Act 2008: <http://bit.ly/2E9wgOb>

³⁴ Section 6, Lawyers and Conveyancers Act 2006: <http://bit.ly/2EaeqdY>

Part 3	Annual report question	Guidance
	<p>paragraph (a)(vi)(A) of the definition of “designated non-financial business or profession” in section 5(1) of the Act);</p> <p>b. a transaction within the meaning of section 4(1) of the Real Estate Agents Act 2008;</p> <p>c. the transfer of a beneficial interest in land or other real property;</p> <p>d. a transaction on behalf of any person in relation to the buying, transferring, or selling of a business or legal person (for example, a company) or any other legal arrangement;</p> <p>e. a transaction on behalf of a customer in relation to creating, operating, and managing a legal person (for example, a company) or any other legal arrangement.</p>	<p>b. includes legal work carried out for the purpose of effecting or documenting—</p> <ol style="list-style-type: none"> i. a lease of land; or ii. the grant of a mortgage or charge over any interest in land; or iii. the creation of a trust affecting any real property or any interest in land; and <p>c. includes any legal services that are incidental to, or ancillary to, any work of a kind described in paragraph (a) or paragraph (b); and</p> <p>d. includes, in particular, the presenting of any instrument for registration under the Land Transfer Act 1952 or the Deeds Registration Act 1908 and the carrying out of any other work required by either of those Acts to be performed by, or on behalf of, persons seeking to effect registration of instruments; but</p> <p>e. does not include the legal work involved in the preparation or drafting of a will; and</p> <p>f. despite paragraph (d), does not include the work (not being legal work) involved in an agent of a practitioner or incorporated firm presenting an instrument for registration under the Land Transfer Act 1952 or the Deeds Registration Act 1908</p> <p>A transaction as defined in section 4(1) of the Real Estate Agents Act³⁵ means any one or more of the following:</p> <ol style="list-style-type: none"> a. the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land; b. the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the Residential Tenancies Act 1986 applies); c. the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the Land Transfer Act 1952; d. the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the Retirement Villages Act 2003; <p>the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).</p> <p>Both 7.6(d) and (e) (in the left column: transactions on behalf of) mean undertaking any one of the activities mentioned, not a combination of all activities at once.</p>
7.7	<p>Estimate the total value of the transactions listed in 7.6 above (excluding your professional fees) for the last year. Select the total estimated value.</p> <p>0; \$1–999,999; \$1,000,000–\$9,999,999; \$10,000,000–\$49,999,999; \$50,000,000 and over</p>	<p>Add together the total value of all transactions for all the services listed in question 7.6, but do not include any professional fees obtained for these services (please also exclude any commission earned).</p>

³⁵ Section 4(1), Real Estate Agents Act: <http://bit.ly/2E9wgOb>

Part 3	Annual report question	Guidance
B	Supplementary activities	
Note		This section provides DIA with valuable information to help us support you by better understanding your business and its needs.
7.8	<p>Select whichever of the following activities you provide:</p> <ul style="list-style-type: none"> a. accepting deposits or other repayable funds from the public; b. lending to or for a customer, including consumer credit, mortgage credit, factoring (with or without recourse), and financing of commercial transactions (including forfeiting); c. financial leasing (excluding financial leasing arrangements in relation to consumer products); d. transferring money or value for, or on behalf of, a customer; e. undertaking financial guarantees and commitments; f. trading for, or on behalf of, a customer in any of the following using the person's account or the customer's account: <ul style="list-style-type: none"> i. money market instruments (for example, cheques, bills, certificates of deposit, or derivatives); ii. foreign exchange; iii. exchange, interest rate, or index instruments; iv. transferable securities; v. commodity futures trading; g. participating in securities issues and the provision of financial services related to those issues; h. managing individual or collective portfolios; i. safe keeping or administering of cash or liquid securities on behalf of other persons; j. investing, administering, or managing funds or money on behalf of other persons; k. issuing, or undertaking liability under, life insurance policies as an insurer. 	<p>Select all of the activities that you provide.</p> <p>In question 7.8(a), accepting deposits or other repayable funds includes for property transactions.</p> <p>In question 7.8(d), this includes transferring to or from a trust account.</p>
c	Supplementary questions (answer all these questions)	

Part 3	Annual report question	Guidance
7.9	<p>Do you accept cash (physical currency or bearer negotiable instruments)? <i>Yes/No</i></p> <p>If you answered “yes”, estimate what percentage of your business involves cash: <i>[percentage]</i></p>	<p>Physical currency means the coins or printed money (whether of New Zealand or of a foreign country) that is designated as legal tender.</p> <p>A bearer negotiable instrument is a non-cash monetary instrument, which may contain the instruction “pay to the bearer”. Examples of bearer negotiable instruments include cheques, promissory notes, traveller’s cheques, bearer bonds, money orders and postal orders.</p> <p>If you accept cash (physical currency or bearer negotiable instruments), then you must estimate the percentage of your total income that is formed through cash.</p>
7.10	<p>Do you send/receive funds from other countries (including the payment of fees either on your own behalf or on behalf of someone else)? <i>Yes/No</i></p> <p>If you answered “yes”, estimate the total value of transactions for the past year. Select the estimated total value of transactions for the past year.</p> <p>0; \$1–999,999; \$1,000,000–\$9,999,999; \$10,000,000–\$49,999,999; \$50,000,000 and over</p> <p>List your 3 most common products and/or services (described in sections A to C above):</p> <ol style="list-style-type: none"> 1. <i>[specify]</i> 2. <i>[specify]</i> 3. <i>[specify]</i> 	<p>For this question, this includes sending or receiving overseas payments of professional fees (including from an overseas branch of your company). Make sure you include these in the total amount.</p> <p>Please only include the products and services captured by the Act. Refer to the products and services described in sections A to C above (Part 3, questions 7.1 – 7.8).</p>
8	Customers (including clients)	
8.1	<p>Estimate how many customers you conducted CDD on this year in the course of carrying out activities regulated by the Act:</p> <p><i>[estimate number]</i></p>	<p>Customer due diligence (CDD) is about knowing your customer and verifying their identity. It is also the process through which you develop an understanding of your customers, the kind of activities you can expect them to undertake through your business, and the ML/TF risks they pose to your business.</p> <p>This relates to the customers to whom you have provided services that include the activities that are captured by the Act. Refer to the guidance³⁶ for your sector for further information on CDD.</p> <p>Please include any beneficial owners or other individuals/entities associated with a customer on whom CDD was also conducted. The total should reflect the number of times CDD was conducted. E.g., if your customer was a company, and you conducted CDD on all four of the beneficial owners of the company as part of the onboarding process, the</p>

³⁶ Codes of Practice and Guidelines, DIA: <http://bit.ly/2gQ3lev>

Part 3	Annual report question	Guidance
		<p>number of times CDD conducted would add up to five (the company plus the four beneficial owners of the company on whom CDD was conducted).</p> <p>Please also include existing customers for whom <i>ongoing CDD</i> have been conducted.</p> <p>If you have not on-boarded any new customers, then the answer may be zero. You should state why this is the case.</p>
8.2	<p>Estimate how many of the customers referred to in question 8.1 above are:</p> <ul style="list-style-type: none"> • classified as politically exposed persons (PEPs) (include your customers that are beneficially owned or are controlled by, or for the benefit of, a PEP): [number] • a trust or another vehicle for holding personal assets: [number] • an overseas government body: [number] • a New Zealand resident individual: [number] • a New Zealand resident entity (including companies, partnerships, trusts, charities, and other incorporated or unincorporated entities): [number] • a non-resident individual: [number] • a non-resident entity (including companies, partnerships, trusts, charities, and incorporated societies): [number] 	<p>Customers who fit into more than one category should be included in all relevant categories (e.g., if a customer is a non-resident individual who is also a politically exposed person, then they should be included in both counts).</p> <p>Politically exposed persons (PEPs) are individuals (and their family and close associates) who, by virtue of their position in public life, may be vulnerable to corruption. New Zealand legislation currently limits this concept to foreign PEPs.</p> <p>Beneficial owner means someone who owns 25% or more of a customer that is a company, trust or other organisation, and/or someone who ‘controls’ a customer (e.g. board members and directors who control a company).</p> <p>Vehicle for holding personal assets are entities such as trusts or shell companies or personal investment companies that hold personal assets.</p> <p>Overseas government bodies means any overseas government or body or agency or inter-governmental organisation; or an organisation controlled by an overseas government.</p> <p>New Zealand resident individuals are natural persons who are ordinarily resident in New Zealand. It does not include entities.</p> <p>Please note that the residency (citizenship) status of customers is not relevant in this question.</p> <p>New Zealand resident entities (including companies, partnerships, trusts, charities, and other incorporated or unincorporated entities) includes:</p> <ul style="list-style-type: none"> • Any type of New Zealand entity or organisation that is incorporated/registered/etc. in New Zealand, and has a principal place of business in New Zealand, even if the owners/controllers/directors/trustees are overseas • New Zealand government bodies/agencies <p>It does not include individuals or overseas entities.</p> <p>Non-resident individuals are natural persons who are not ordinarily resident in New Zealand.</p> <p>Non-resident entities (including companies, partnerships, trusts, charities, and incorporated societies) includes any type of entity or organisation (whether or not it is incorporated/registered/etc. in New Zealand) that does not have its principal place of business in New Zealand. It does not include overseas government bodies.</p>

Part 3	Annual report question	Guidance
8.3	<p>Indicate whether you use the following methods to carry out CDD on new customers who requested new activities subject to the Act during the annual reporting year. If so, please indicate the most common method.</p> <ol style="list-style-type: none"> 1. Face-to-face (over the counter, other than intermediaries) 2. Non face-to-face (including electronic, telephone, post and all other types of remote access – other than intermediaries) 3. Domestic intermediaries/ agents/third-party referral (exclude your reporting entity’s employees) 4. Overseas intermediaries/ agents/ third-party referral (exclude your reporting entity’s employees who are acting as advisors working outside the main offices) 5. Other <p><i>[Indicate from 1–5 which is the most common method of acceptance for you or enter N/A]</i></p>	<p>Rank the methods used for CDD in order of most common (1) to least common (5). Note that this refers to new customers and to the CDD process – it isn’t about your general methods of interactions with customers after CDD has been carried out. If you use another method, select “other” and specify the method(s).</p> <p>If you do not use a particular method, enter “N/A”.</p> <ol style="list-style-type: none"> 1. Face-to-face (over the counter, other than intermediaries) includes “over-the-counter” or similar interaction between your staff and the customer. Include, for example, meetings in your offices and interactions with employees of your customer. (Exclude interactions via an intermediary – refer to methods 3 and 4 below). 2. Non face-to-face (including electronic, telephone, post and all other types of remote access – other than intermediaries) includes any other method except interaction with customers via an intermediary (see methods 3 and 4 below). 3. Domestic intermediaries/agents/third-party referral (exclude your reporting entity’s employees) includes all third parties and intermediaries who are physically located and operating in New Zealand. Intermediaries include all third parties making referrals and introductions of business. Include accountants, solicitors, brokers and agents, whether independent or tied advisers. Exclude your reporting entity’s employees even where those employees do not work at the reporting entity’s main address. 4. Overseas intermediaries/agents/third-party referral (exclude your reporting entity’s employees who are acting as advisors working outside the main offices) includes all third parties and intermediaries who are not primarily physically located and operating in New Zealand. Intermediaries include all third parties making referrals and introductions of business. Include accountants, solicitors, brokers and agents, including independent or tied advisers. Exclude your reporting entity’s employees working abroad.

Part 4: Captured activities

The questions in this part are requesting information about particular activities that are captured by the AML/CFT Act. Answer **all questions relevant** to your reporting entity.

Part 4	Annual report question	Guidance
9	Sector-specific questions	
Note	Only answer questions relevant to your sector, but ensure that you answer all the questions in that section.	Note that there will be circumstances where you give advice in relation to a captured activity (without necessarily then carrying out the activity). Generally, advice alone, in the absence of any actual captured activity on your part, will not be caught by the definition of “designated non-financial business or profession”. If you expect to provide a mixture of advice and captured activities for a customer over a period of time, then this should be included.
	All designated nonfinancial business groups or professions (DNFBPs)	
9.1	Do you incorporate companies or form trusts or other legal structures or arrangements in jurisdictions outside New Zealand? <i>Yes/No</i>	
9.2	If the answer to 9.1 above is “yes”, please select the 3 most common jurisdictions in which you incorporate companies, or form trusts or other legal structures or arrangements: <i>[select from drop down list]</i>	Only answer this question if you answered “yes” to 9.1. Select the countries from the drop-down menu.
9.3	Do you handle the receipt and transmission of customer/client money? <i>Yes/No</i>	This excludes payment of fees for services you provide.
9.4	Do you manage customer/client bank accounts? <i>Yes/No</i>	Managing payments to or from your customers’ accounts, including via your trust accounts, is captured. With the exception of payments for professional fees, any instance where you receive or hold customer funds and distribute those funds will also be captured. The key determining factor is whether you have control over the flow of money – if you do have control, then your activity is captured.

Part 4	Annual report question	Guidance
9.5	For your customers and clients who are overseas corporations with shares in bearer form, do your policies provide for maintaining the physical control of those bearer-shares to ensure that ownership of the corporate entity does not change without your knowledge? <i>Yes/No/ N/A</i>	We want to know if you have a way of ensuring that you can track ownership of bearer-shares for customers who are overseas corporations.
9.6	Do you provide AML/CFT regulated services to other DNFBPs in New Zealand? <i>Yes/No/Unknown if customers are DNFBPs</i>	We want to know if you have customers that are also AML/CFT reporting entities in New Zealand (e.g., lawyers, accountants, or trust and company service providers).
9.7	Do you provide AML/CFT regulated services to other DNFBP equivalents located overseas? <i>Yes/No/Unknown if customers are DNFBP equivalents</i>	We want to know if you have customers in overseas countries that are also regulated by AML/CFT legislation in those countries.
9.8	When providing AML/CFT regulated services, do you use intermediaries or agents within New Zealand? <i>Yes/No</i>	A reporting entity may authorise a person to be its agent and rely on that agent to conduct CDD and obtain any information required for CDD records. “Agent” is not defined in the Act; instead, the ordinary principles of agency law apply.
9.9	When providing AML/CFT regulated services, do you use intermediaries or agents based overseas? <i>Yes/No</i>	
9.10	If you answered “yes” to question 9.9, list the overseas countries your intermediaries are based in: <i>[list]</i>	Only answer this question if you answered “yes” to 9.9. Select the countries from the drop-down list.
	Questions for real estate agents, conveyancing practitioners, and lawyers carrying out conveyancing activities	
Note	Only answer these questions if you are a real estate agent, conveyancing practitioner, or a lawyer who carries out conveyancing activities.	A real estate agent is a licensed agent who carries out real estate work, as defined in section 4 of the Real Estate Agents Act 2008. ³⁷ A conveyancing practitioner means a person who holds a current practising certificate issued by the New Zealand Society of Conveyancers, as defined in section 4 of the Real Estate Agents Act 2008. ³⁸

³⁷ Section 4, Real Estate Agents Act: <http://bit.ly/2E9wgOb>

³⁸ Section 4, Real Estate Agents Act: <http://bit.ly/2E9wgOb>

Part 4	Annual report question	Guidance
		<p>Conveyancing as defined in section 6 of the Lawyers and Conveyancers Agents Act 2006:³⁹</p> <p>a. means—</p> <ul style="list-style-type: none"> i. legal work carried out for the purpose of effecting or documenting any transaction or prospective transaction that does or would create, vary, transfer, or extinguish a legal or equitable estate, interest, or right in any real property; and ii. legal work carried out for the purpose of effecting or documenting a sale or purchase of a business, whether or not land is involved; and <p>b. includes legal work carried out for the purpose of effecting or documenting—</p> <ul style="list-style-type: none"> i. a lease of land; or ii. the grant of a mortgage or charge over any interest in land; or iii. the creation of a trust affecting any real property or any interest in land; and <p>c. includes any legal services that are incidental to, or ancillary to, any work of a kind described in paragraph (a) or paragraph (b); and</p> <p>d. includes, in particular, the presenting of any instrument for registration under the Land Transfer Act 1952 or the Deeds Registration Act 1908 and the carrying out of any other work required by either of those Acts to be performed by, or on behalf of, persons seeking to effect registration of instruments; but</p> <p>e. does not include the legal work involved in the preparation or drafting of a will; and</p> <p>f. despite paragraph (d), does not include the work (not being legal work) involved in an agent of a practitioner or incorporated firm presenting an instrument for registration under the Land Transfer Act 1952 or the Deeds Registration Act 1908</p>
9.11	<p>Have you received cash as part of a real estate transaction? Yes/No</p> <p>If you answered yes, how often in the last year? How much? NZ\$[amount]</p>	<p>Cash includes both physical currency and bearer-negotiable instruments</p> <p>A bearer-negotiable instrument is a non-cash monetary instrument, which may contain the instruction “pay to the bearer”. Examples of bearer-negotiable instruments include cheques, a bill of exchange, promissory notes, traveller’s cheques, bearer bonds, money orders and postal orders.</p> <p>A transaction as defined in section 4 of the Real Estate Agents Act means any one or more of the following:⁴⁰</p> <ul style="list-style-type: none"> a. the sale, purchase, or other disposal or acquisition of a freehold estate or interest in land; b. the grant, sale, purchase, or other disposal or acquisition of a leasehold estate or interest in land (other than a tenancy to which the Residential Tenancies Act 1986 applies); c. the grant, sale, purchase, or other disposal or acquisition of a licence that is registrable under the Land Transfer Act 1952:

³⁹ Section 6, Lawyers and Conveyancers Act 2006: <http://bit.ly/2Eaeqdy>

⁴⁰ Section 4, Real Estate Agents Act: <http://bit.ly/2E9wgOb>

Part 4	Annual report question	Guidance
		<p>d. the grant, sale, purchase, or other disposal or acquisition of an occupation right agreement within the meaning of the Retirement Villages Act 2003:</p> <p>e. the sale, purchase, or other disposal or acquisition of any business (either with or without any interest in land).</p>
9.12	Are you providing residential property sales or services (e.g., people buying homes)? <i>Yes/No</i>	Residential property means any property used, or intended to be used, exclusively or principally for residential purposes.
9.13	Are you providing commercial property sales or other services? <i>Yes/No</i> If you answered “yes” to both 9.12 and 9.13, what is the estimated split between residential and commercial property sales and services? <i>[percentage]</i>	<p>Commercial property means any property used, or intended to be used, exclusively or principally for commercial purposes. Please include commercial leasing.</p> <p>Only answer the second part of this question if you answered “yes” to both 9.12 and 9.13.</p>

Part 5: Ministerial exemption

These questions relate the conditions of a ministerial exemption. Answer **all relevant** questions.

Part 5	Annual report question	Guidance
10	Conditions of ministerial exemption	
Note		The questions in Part 5 relate to reporting entities that have been granted an exemption from the Act by the Minister of Justice. If your ministerial exemption exempts you from section 60 of the Act ⁴¹ (requirement for an annual AML/CFT report) in relation to all relevant services, then you are not required to complete any parts of the annual report. (Unless and until a ministerial exemption is granted, reporting entities will be expected to comply with obligations under the Act.)
10.1	Have you been granted any ministerial exemption that is subject to conditions? <i>Yes/No</i>	
10.2	Provide a description of your compliance with all conditions on any such exemption.	Only answer this question if you answered “yes” to 10.1.

Part 6: Declaration and signature

Declaration and signature

Source: [https://www.dia.govt.nz/diawebsite.nsf/Files/AML-CFT-2021/\\$file/AMLCFT-Annual-Report-User-Guide-DNFBP-June-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/AML-CFT-2021/$file/AMLCFT-Annual-Report-User-Guide-DNFBP-June-2021.pdf)

⁴¹ Section 60, AML/CFT Act: <http://bit.ly/2gQqiUa>

Appendix Eleven: Sample Job Description for AML/CFT Compliance Officer

Position Title: AML/CFT Compliance Officer

Reporting to: Director

Role Purpose: Responsible for the creation, administration, and compliance of the AML/CFT obligations of the agency in accordance with the AML/CFT Act 2009

Key duties associated with this role

1. Develop, implement, review, and update the risk assessment for the agency in consultation with the Director.
2. Based on the assessed ML/FT risk exposure for the agency, develop, implement, review, and update the AML/CFT programme in consultation with the Director.
3. Undertake ongoing monitoring of, and managing compliance with, the procedures, policies, and controls comprising the AML/CFT programme.
4. Provide guidance to the staff in undertaking appropriate customer due diligence.
5. Make final decisions, in consultation with the Director, on the 'suspicious' nature of business activities reported by the staff. If appropriate, then report them within the prescribed time period, to the FIU of NZ Police.
6. File, if applicable, prescribed transactions reports with the FIU of NZ Police.
7. Keep current with the latest ML/FT activities by proactively subscribing to the AML/CFT information updates from agencies like the FATF, the DIA, etc., and update management knowledge on ML/FT risks the agency is likely to face and help the agency take proactive remedial action.
8. Advise the management on AML/CFT implications when onboarding new clients and offering new products and services.
9. Be the first point of contact between the DIA and the agency about all matters relating to compliance with AML/CFT.
10. Ensure all staff undertake regular AML/CFT training on the AML/CFT policies, procedures, and controls of the agency and maintain appropriate training records.
11. Ensure the agency meets the record keeping obligations under the AML/CFT Act 2009.
12. Undertake vetting new recruits and staff due diligence as per the requirements of the AML/CFT Act 2009.
13. Appoint, in consultation with the Director, the AML/CFT auditor for the agency, ensure the AML/CFT audits are undertaken once every three years or as directed by the DIA, or during a different time period prescribed by regulations, and implement relevant improvements identified in the audits.
14. Implement improvements, in consultation with the Director, based on the feedback, if any, from the DIA on AML/CFT matters for the agency.
15. Ensure the annual AML/CFT report is correctly prepared and submitted on time to the DIA
16. Design, in consultation with the Director, appropriate reporting metrics on AML/CFT, and prepare reports at a pre-determined frequency (e.g. quarterly) for the Board of Directors.
17. Assist the Director in developing a culture of compliance within the agency on AML/CFT matters.

Appendix Twelve: How to register a reporting entity on goAML
Web v.5

Best Practice

Guidance Note

How to register a Reporting Entity on
goAML Web

April 2024

Version Number: 5



strategi

Introduction

Reporting entities are required to report suspicious activities in a prescribed form to the Commissioner of Police. That prescribed form, and the means by which it must be submitted, is goAML Web.

All reporting entities must register with the Financial Intelligence Unit (FIU) before they can access goAML Web. If you do not register on the goAML Web, then you will not be able to file a suspicious activity report (SAR), when you need to. Failing to report a SAR may result in a fine of up to \$300,000 and/or imprisonment of up to two years for individuals, and a fine of up to \$5 million for entities.

This guidance note describes how reporting entities can register as a user of goAML Web.

How to register on goAML Web

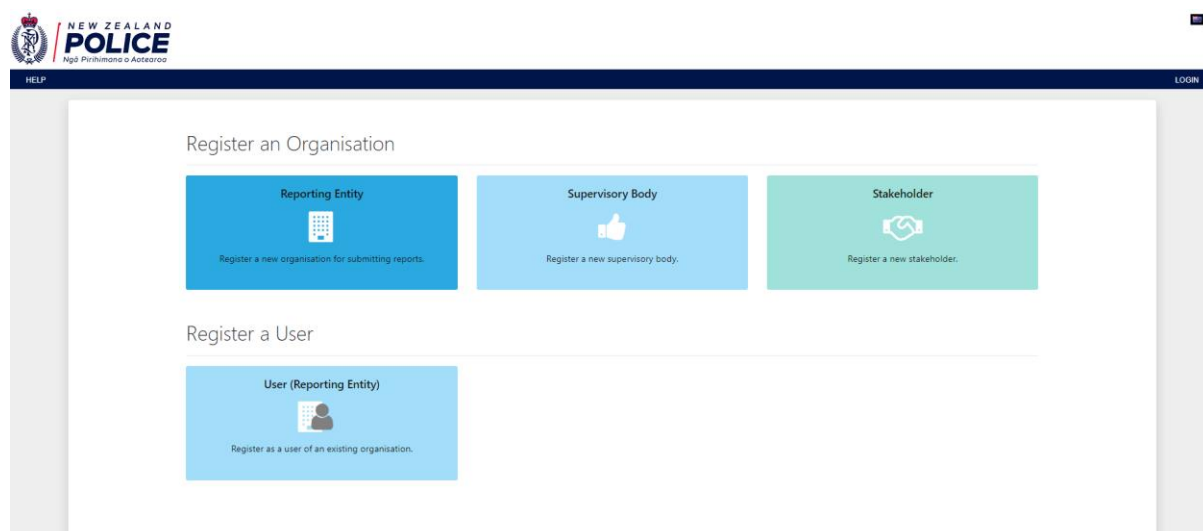
The following instructions will guide you through the process to register your entity on goAML Web.

The person who registers on behalf of the reporting entity will automatically be assigned administrator rights. Therefore, it is recommended that the AML/CFT Compliance Officer or Manager, be the person registering on behalf of the reporting entity. However, other approved users of goAML can be updated at any time and assigned to another person within the business.

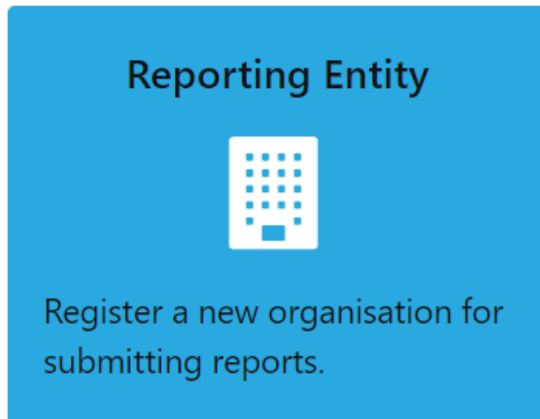
To start the registration process, please visit:

<https://fiu.police.govt.nz/Content/#/register>

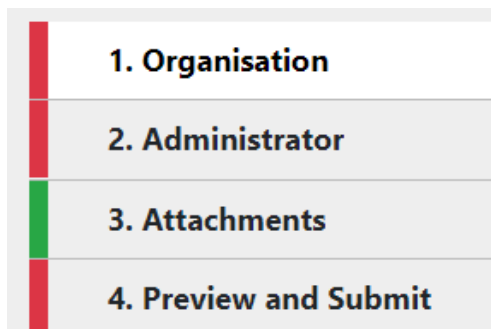
[The following web page will be displayed](#)



The registration page is divided into two sections: Register an Organisation and Register a User. Click on reporting an entity (see icon below)



You will note in the top left-hand corner that there are 4 steps that need to be worked through to register your organisation. These must be completed in the order listed.



The first step is to register your organisation.

This section contains both mandatory and optional fields. The mandatory fields must be completed before moving to the next section. Mandatory fields are highlighted in red. Optional fields are not required to be completed to finish the registration. However, it is best practice to complete these fields (where applicable) and provide all the reporting entity's details on goAML Web. Optional fields are highlighted in 'red' in the images shown below.

1. Organisation

2. Administrator

3. Attachments

4. Preview and Submit

Cannot submit until the form is complete

Cancel

Organisation

Organization Business Type is required!

Name is required!

acronym is required!

Email is required!

is financial

Swift/Bic

Incorp. Num

Commercial Name

Incorporation Legal Form

Incorp. City

Incorp. State

Incorp. Country

Name of holding company

Contact Person is required!

URL

+ Addresses*

#1

Type is required!

Address is required!

DO NOT USE

Postcode

* Country

Suburb

Comments

+ Phones*

#1

Contact Type is required!

Comm. Type is required!

Country Prefix

Extension

Comments

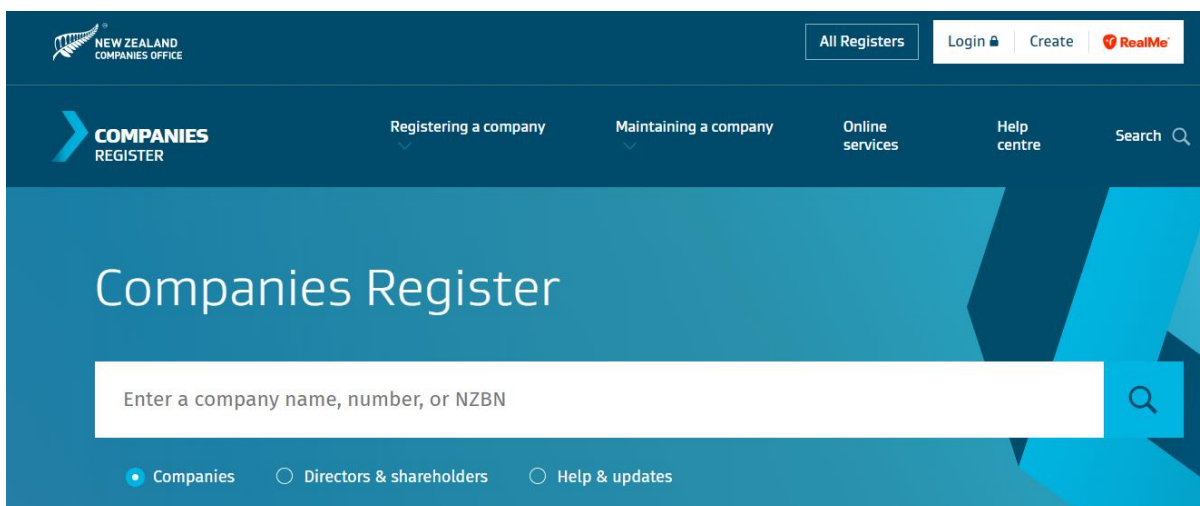
Area Code + Number is requir...

Mandatory fields:

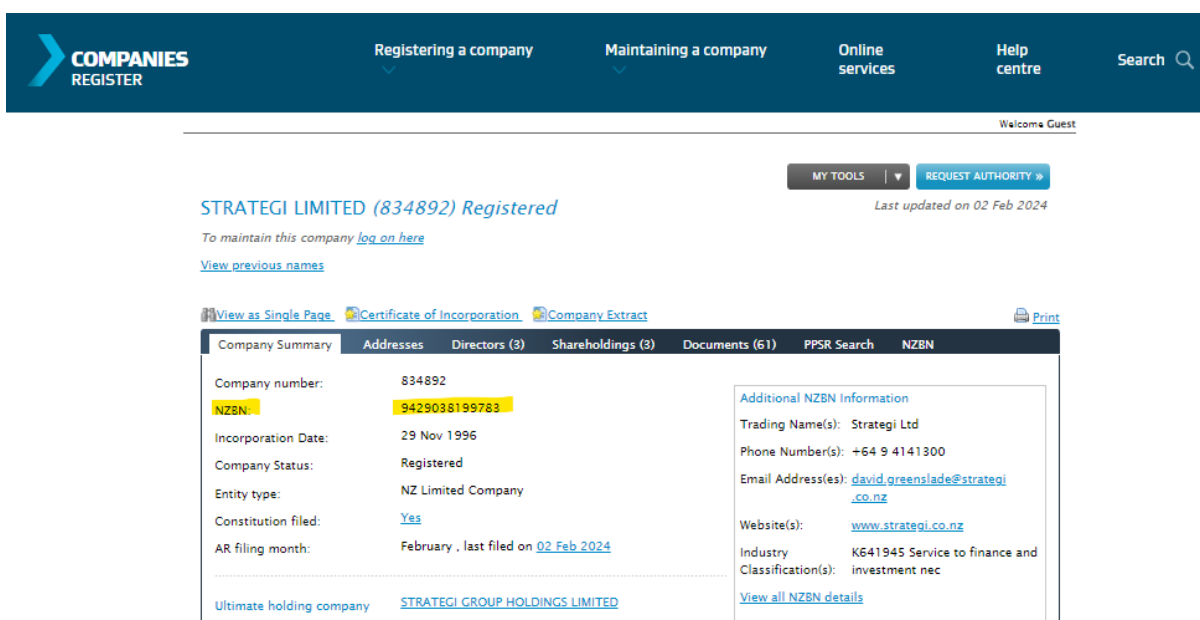
- Organisation Business Type: Select your organisation's business type by clicking on the drop-down box (refer to Appendix A for a list of options).
- Name: Enter the legal name of the business (e.g. ABC Limited, rather than ABC).
- Acronym: Enter an appropriate acronym for the name of the business (e.g. ABC Limited's acronym could be ABC. It is up to you to enter an appropriate acronym for the business).
- Email: Enter the email address of the contact person in the business.
- Contact person: enter the name of the contact person for your organisation.

Optional fields:

- Swift/Bic: This code is only applicable to banks and hence, simply enter 'N/A'.
- Contact person: Enter the name of the AML/CFT Compliance Officer or the Manager. This field is not mandatory at present but is likely to become mandatory in the near future. While anyone within the business can be the contact person, it is recommended the AML/CFT Compliance Officer or the Manager be made the contact person within the business.
- Incorporation Number: Enter the New Zealand Business Number (NZBN) of the business. The NZBN can be found on the Companies Office website. To find out the NZBN of your business, visit <https://companies-register.companiesoffice.govt.nz> and type the name of your business in the box 'Enter a company name, number, or NZBN' and click 'Search', see an example below.



The NZBN is highlighted in 'yellow' in the image below (this is an example only and you need to enter your company's details in order to find your company's NZBN).



- Commercial Name: If applicable, enter the trading name of your business, otherwise leave blank.
- Incorporation Legal Form: Enter the incorporated legal form of the business (refer to Appendix B for a list of various legal forms a business may take. You are most likely to be a 'limited liability company' or a 'sole proprietorship').
- Incorporation City: Enter the city where the business was incorporated.
- Incorporate State: New Zealand does not have states, therefore enter 'N/A'.
- Incorporated Country: Select 'New Zealand' by clicking on the drop-down box.
- Name of holding company: If applicable, enter the name of the holding company, otherwise leave blank.
- URL: This is your company's website address. Enter the URL link to the entity's website. For example, Strategi's URL is highlighted in 'yellow' as shown in the image below.



Once the above fields are completed, move onto completing the Phones* section, this is displayed below.


- **Phones:**

Mandatory fields:

- Contact Type: Select the appropriate option by clicking on the drop-down box (refer to Appendix C for the list of options).
- Communication Type: Select the appropriate option by clicking on the drop-down box (refer to Appendix D for the list of options).
- Area Code + Number: Enter the area code (e.g. Auckland's area code is 09) as well as the phone number of the business.

Optional fields:

- Country Prefix: Enter the country prefix where your business phone line is located (e.g. New Zealand's country prefix is 64).
- Extension: If applicable, enter the extension number, otherwise leave blank.
- Comments: Leave this field blank.

You can provide more than one phone number by clicking on the  sign next to 'Phones' and following the same steps described above.

Next, move onto completing the address section as shown below.


- **Addresses:**

Mandatory fields:

- Type: Select the appropriate option by clicking on the drop-down box
- Address: Enter the address of the business.
- City: Enter the city.
- Country: Select 'New Zealand' is prepopulated for you.

Optional fields:

- DO NOT USE: Leave this field blank.
- Postcode: Enter the post code.
- Suburb: Enter the suburb.
- Comments: Leave this field blank.

You can provide more than one Address if required by clicking on the  sign next to 'Addresses' and following the same steps described above.

Information added to each section will be auto saved as you move through the form.

The next step is to now move to the next section 'Administrator' which is done by clicking on 2. Administrator section as shown below.

2. Administrator

The following page will be displayed:

Administrator

User Name is required! <input type="text"/>	Password is required! <input type="password"/>	Confirm Password is required! <input type="password"/>	Title <input type="text"/>
First Name is required! <input type="text"/>	Last Name is required! <input type="text"/>	Email is required! <input type="text"/>	Gender <input type="text"/>
Birth Date d/MM/yyyy <input type="text"/>	DO NOT USE <input type="text"/>	Nationality <input type="text"/>	Occupation <input type="text"/>
NZDL <input type="text"/>	Passport Number <input type="text"/>	Passport Country <input type="text"/>	

+ Addresses*

▼ #1

Type is required! <input type="text"/>	Address is required! <input type="text"/>	DO NOT USE <input type="text"/>	City is required! <input type="text"/>
Postcode <input type="text"/>	* Country NEW ZEALAND <input type="text"/>	Suburb <input type="text"/>	
Comments <input type="text"/>			

+ Phones*

▼ #1

Contact Type is required! <input type="text"/>	Comm. Type is required! <input type="text"/>	Country Prefix <input type="text"/>	Area Code + Number is requi... <input type="text"/>
Extension <input type="text"/>	Comments <input type="text"/>		

Mandatory fields:

- User Name: Enter the user name you wish to use when you log in. When selecting a user name, it is recommended to select a generic user name that is easy to remember. This is the username that will be used when logging into goAML Web.
- Email: Enter your work e-mail address. Once the registration is completed, confirmation of the registration will be sent to this email address. This email address will also be used to notify you of messages sent to you from the goAML Web secure message board.
- Password: Enter a password for use when you log in. Please use a strong password and do not disclose this password to anyone. Passwords must be between 5 and 10 characters. (Tip: Choose a password with a combination of upper and lower case letters, numbers and keyboard symbols such as @\$%^&*()_+).
- Confirm Password: Re-enter the password previously entered.
- First Name: Enter your first name.
- Last Name: Enter your last name.

Optional fields:

- Gender: Select your gender by clicking on the drop-down box. The options are 'Male' and 'Female' or 'other'.
- Title: Enter your title (e.g. Mr, Ms, Dr, etc).
- Birth date: Enter your date of birth.
- Nationality: Select your nationality by clicking on the drop-down box.

- Occupation: Enter your occupation within the business.
- NZDL: Enter your New Zealand Driver Licence number if applicable, otherwise leave blank.
- Passport: If providing your passport details, then click 'Yes' and provide your passport number and the country of issue.

Once the above fields are completed, move onto completing the administrator Phones* section as shown below.

The screenshot shows a form section titled 'Phones*' with a green plus sign. Underneath, there is a dropdown menu labeled '#1'. To the right of the dropdown are three red error messages: 'Contact Type is required!', 'Comm. Type is required!', and 'Area Code + Number is requi...'. Below these error messages are four input fields: 'Extension', 'Comments', 'Country Prefix', and 'Area Code + Number is requi...'. The 'Contact Type' and 'Comm. Type' fields are dropdown menus, while the others are text boxes.


- **Phones:**

Mandatory fields:

- Contact type: Select the appropriate option by clicking on the drop-down box (refer to Appendix C for the list of options).
- Communication type: Select the appropriate option by clicking on the drop-down box (refer to appendix D for the list of options).
- Area Code + Number: Enter the area code (e.g. Auckland's area code is 09) as well as your phone number.

Optional fields:

- Country prefix: Enter the country prefix where your business is located (e.g. New Zealand's country prefix is 64).
- Extension: If applicable, enter the extension number, otherwise leave blank.
- Comments: Leave this field blank.

You can provide more than one phone number by clicking on the  sign next to 'Phones' and following the same steps described above.


Once the above fields are completed, move onto completing the administrator addresses* section as shown below.

- **Addresses:**

Mandatory fields:

- Type: Select the type of address by clicking on the drop-down arrow (refer to Appendix A for a list of address types).
- Address: Enter your address.
- City: Enter the city.
- Country: Enter the country.

Optional fields:

- DO NOT USE: Leave this field blank.
- Postcode: Enter the post code.
- Suburb: Enter the suburb.
- Comments: Leave this field blank.
- You can provide more than one address by clicking on the  sign next to 'Addresses' and following the same steps described above.

After completing the 'Administrator' section, you can move to the next section, 'Attachments', again this is accessed by clicking the attachments sections on the upper left-hand area of the screen as shown below.

3. Attachments

i. Attachments:

This section is not mandatory at the time of registering on the goAML Web and does not need to be completed to complete the registration.

This section can be used to attach any document by clicking on 'Choose File', selecting the document from your file directory, and finally clicking on 'Upload' once you have selected the file you would like to upload. See below for an example from goAML Web.

Attachments		
File Name	File Size	
BankTransactions - April 2013.xls	257024	✗
Bank Transactions_2.xls	241152	✗
Bank Transactions_1.xls	241152	✗

No file selected.

After completing the previous sections ('Organisation', 'Administrator' and 'Attachments'), click onto the preview and Submit Icon as shown below

4. Preview and Submit

All information previously entered will be displayed. Preview the data, if there are errors update with the correct information, then return to the Preview and Submit page. If there are no errors enter the CAPTCHA code into the blank field as shown below and select 'Submit New Organisation' (the CAPTCHA code can be changed if you click on the refresh button (the arrow forming a circle) on the right hand side of the text box).

Enter the code above in the box below.

Once the application is submitted, an automatic email notification will be received from goAML Web, with a reference number (to track the application), to the email address provided by the person registering on behalf of the reporting entity.

Once the reporting entity is registered, a registration confirmation email will be sent by the FIU.

For more information contact:

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Appendix A:

Organisation Business Type:

1. Accountant or Bookkeeper
2. Bank
3. Broker or Custodian
4. Building Society
5. Cash Transport
6. Casino
7. Charitable Trust
8. Collective Investment Scheme
9. Credit Unions
10. Crypto Currency
11. DIMS
12. Debt Collection
13. Derivatives Issuer
14. Equity Crowd funding platform
15. Factorings
16. Finance Company
17. Financial Adviser
18. Financial Leasing
19. Foreign Exchange
20. High Value Dealer
21. Investment Company
22. Issuer of Securities
23. Law Firm
24. Licenced Supervisor
25. Life Insurer
26. Managed Investment Scheme Manager
27. Money Services Business
28. NBNDTL
29. Nominee Service Provider
30. Non-Bank Credit Card
31. Non-Bank Deposit Taker
32. Payment Provider
33. Payroll
34. Peer to Peer Lending provider
35. Real Estate
36. Remittance
37. Safe Deposit
38. Securities Dealer
39. Stakeholder
40. Stored Value Card
41. Supervisory Body
42. TCSP
43. Tax Pooling
44. Trust & Loan Company
45. Trustee Corporation
46. Wager and Gaming Services

Appendix B:

Incorporation Legal Form:

1. Aktiengesellschaft (AG)
2. Company
3. Corporation
4. General Partnership
5. GmbH
6. Incorporated
7. Limited
8. Limited Liability Company
9. Limited Liability Partnership
10. Limited Partnership
11. Look Through Company
12. Other
13. Partnership
14. Private Limited Company
15. Proprietary Limited Company
16. Public Limited Company
17. Sociedad Anonima (S.A.)
18. Societas Europaea (S.E.)
19. Sole Proprietorship
20. Trust
21. Unknown
22. Unlimited
23. Unlimited Proprietary

Appendix C:

Contact Type:

1. Branch Address (this may apply to all entity types with branch locations)
2. Business address

Appendix D:

Comm. Type:

1. Fax
2. Landline phone
3. Mobile phone
4. Other
5. Pager
6. Satellite phone
7. Unknown