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# Anti-Money Laundering and Countering Financing of Terrorism

## Information Pack

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# Frequently Asked Questions

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## *What is anti-money laundering and countering financing of terrorism (AML/CFT)?*

Money laundering is a term used to describe the process by which criminals disguise the illegal origins of their money (proceeds of crime) by making them appear derived from a legitimate source.

Terrorism financing refers to the provision or collection of funds that provide financial support to those who encourage, plan or engage in terrorism. Financers of terrorism use similar techniques to money launderers to avoid detection by authorities and to protect the identity of those providing and receiving the funds.

### AML/CFT Legislation

The [Anti-Money Laundering and Countering Financing of Terrorism Act 2009](#) (“the Act”) came fully into effect on 30 June 2013 and was introduced to combat these illegal activities.

The Act seeks to contribute to public confidence in New Zealand’s financial system and bring New Zealand into line with international standards to detect and deter money laundering and terrorism financing.

In addition to the Act, the following Regulations also apply:

- [Anti-Money Laundering and Countering Financing of Terrorism \(Cross-border Transportation of Cash\) Regulations 2010](#)
- [Anti-Money Laundering and Countering Financing of Terrorism \(Definitions\) Regulations 2011](#)
- [Anti-Money Laundering and Countering Financing of Terrorism \(Requirements and Compliance\) Regulations 2011](#)
- [Anti-Money Laundering and Countering Financing of Terrorism \(Prescribed Transactions Reporting\) Regulations 2016](#)

### What does the Act do?

The Act places obligations on New Zealand’s financial institutions and casinos (“reporting entities”) to apply measures to detect and deter money laundering and financing of terrorism.

These measures make it difficult for criminals to launder money and finance terrorism. This in turn enhances the reputation of individual businesses, and of New Zealand as a safe place in which to do business.

The Act provides:

- a regime for the supervision, monitoring and enforcement of AML/CFT obligations by three supervisors: the Reserve Bank of New Zealand, the Financial Markets Authority and the Department of Internal Affairs
- a set of requirements for reporting entities (such as customer due diligence, account monitoring and suspicious transaction reporting requirements)
- civil and criminal offences; and
- a framework to detect and deter money laundering and terrorist financing.

#### Who is covered by the Act requirements?

A business is a “reporting entity” under the Act if it is:

1. A financial institution and undertakes one of the described financial activities in the ordinary course of business
2. A casino
3. A trust and company service provider (e.g. a company or trust formation agent)
4. Certain financial advisers.

#### What do businesses need to do?

Businesses that fall within the definition of reporting entity under section 5 of the Act and Sections 16 and 17 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011 need to have:

- a *Risk Assessment* of the money laundering and financing of terrorism risk that could be expected in the course of running the business
- an *AML/CFT Programme* based upon their Risk Assessment, that includes policies, procedures and controls to detect, deter, manage and mitigate money laundering and the financing of terrorism, including:
  - *Vetting and Training in AML/CFT* for senior managers and employees engaged in AML/CFT duties
  - *Customer Due Diligence* processes, including customer identification and verification of identity, *Account and Transaction Monitoring*
  - *Suspicious Transaction Reporting, Auditing and Annual Reporting* systems and processes
  - *Record Keeping*.
- an *AML/CFT Compliance Officer* appointed to administer and maintain the AML/CFT Programme.

#### How does the Act affect consumers?

The types of documents consumers need to provide to verify their identity may vary for different transactions or services. Consumers may also be asked for additional information about their identity or their transactions as part of a business' ongoing monitoring of customer activity.

**Why should we be interested in preventing money laundering and countering of financing of terrorism?**

It is important we take action to prevent New Zealand businesses and the New Zealand financial system from being used for the purpose of criminal activity. This will help to maintain our international reputation and stop our country from becoming a safe harbour for money laundering and financing of terrorism. It will also help maintain public confidence in New Zealand's financial system.

# Technical FAQs

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## What is a Reporting Entity Risk Assessment?

Businesses are required to assess the money laundering and financing of terrorism risk that they may reasonably expect to face in the course of their business.

In making this assessment, the Act requires that a firm consider:

- the nature, size and complexity of its business
- the products and services it offers
- the methods by which it delivers products and services to its customers
- the types of customers it deals with
- the countries it deals with
- the institutions it deals with
- any applicable guidance material produced by AML/CFT supervisors or the Commissioner relating to Risk Assessments; and
- any other factors that may be provided for in regulations.

Businesses also need to consider whether any of their products involve new or developing technologies which may favour customer anonymity. The Act also specifies that firms must consider particular activities such as wire transfers and correspondent banking relationships.

A business's AML/CFT Programme must be based on its Risk Assessment.

## What is a Sector Risk Assessment?

The Sector Risk Assessment (SRA) is a review of the characteristics of certain sectors of the financial system to assess the level of risk of money laundering occurring in that sector (and an outline of any particular risks in that area).

## What is the purpose of a SRA?

A SRA is intended to help AML/CFT supervisors to understand the money laundering risks across the sector they will supervise. The SRA is intended to assist reporting entities by providing guidance on the specific risks relevant to their sector or sub-sector.

## What should businesses do with it / use it for?

Businesses are required to undertake a risk assessment of their business and should use the information in the SRA to help determine the risks that are relevant to their business. They should then incorporate any relevant risks in their own business money laundering/terrorist financing risk assessment.

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## Can businesses apply for exemption from the Act?

The Act provides for two types of exemptions - Regulatory exemptions and Ministerial exemptions.

Regulatory exemptions are set out in the following Regulations, which exempt some entities, transactions and services from the Act or parts of the Act:

- [Anti-Money Laundering and Countering Financing of Terrorism \(Exemptions\) Regulations 2011](#)
- [Anti-Money Laundering and Countering Financing of Terrorism \(Publication of Class Exemption\) Notice 2013](#)
- [Anti-Money Laundering and Countering Financing of Terrorism \(Class Exemptions\) Notice 2014](#)
- [Anti-Money-Laundering and Countering financing of Terrorism \(Exemptions\) Amendment Regulations 2016.](#)

The Minister of Justice may grant a Ministerial exemption from any or all provisions of the Act. Exemptions may be granted for businesses, transactions, products, services or customers and may be subject to conditions. Exemptions can be granted on an individual basis or for an entire class of entity, transaction, etc.

Before an exemption can be granted, consideration must be given to:

- the purposes of the Act and the Financial Transactions Reporting Act 1996
- the risk of money laundering and financing of terrorism
- the impact on the prevention, detection, investigation, and prosecution of offences
- the level of regulatory burden on a business
- whether the making of the Regulation would create an unfair advantage for a business or would disadvantage other reporting entities; and
- the overall impact that making the regulation would have on the integrity of; and compliance with, the AML/CFT regulatory regime.

Refer to [Anti-Money Laundering and Countering Financing of Terrorism \(Ministerial Exemption Form\) Regulations 2011.](#)

## Shared Compliance Officer for Designated Business Groups

A *Designated Business Group* (DBG) relates to a group of two or more related reporting entities that have elected in writing to form a group to enable some obligations under the Act to be met on a shared basis.

Whilst the Act does not extend this to sharing a Compliance Officer, a Ministerial exemption has been approved for this purpose. This enables a single Compliance Officer to administer and maintain the AML/CFT programmes of every reporting entity that is a member of a DBG. This is intended to improve effectiveness by sharing compliance expertise across the DBG, as well as reducing compliance costs for those reporting entities within it.

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# Supervisors and Government Bodies

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Different government agencies are tasked with supervising (regulating) businesses to ensure they follow the requirements under the Act.

## Supervisors

### *Reserve Bank of New Zealand*

Supervises banks, life insurers and non-bank deposit takers (including finance companies that take deposits from the public, building societies and credit unions), for the purpose of promoting the maintenance of a sound and efficient financial system.

[www.rbnz.govt.nz](http://www.rbnz.govt.nz)

### *Financial Markets Authority (FMA)*

Supervises trustees and issuers of securities (including KiwiSaver and superannuation schemes), licensed supervisors, auditors, fund managers, brokers and custodians, financial advisers, derivatives issuers, DIMS providers and peer to peer lending and equity crowd funding service providers

<https://fma.govt.nz>

### *Department of Internal Affairs (DIA)*

Supervises casinos, non-deposit taking lenders, money changers, money remitters, payroll remitters, debt collectors, factors, financial leasers, safe deposit box vaults, non-bank credit card providers, stored value card providers and cash transporters and other reporting entities that are not supervised by the Reserve Bank or the Financial Markets Authority.

[www.dia.govt.nz](http://www.dia.govt.nz)

## Other Government Bodies

### *Ministry of Justice*

Is responsible for drafting and administering the Act and Regulations.

<https://www.justice.govt.nz>

### *New Zealand Police Financial Intelligence Unit (FIU)*

Provides financial intelligence relating to suspicious transactions, money laundering, the financing of terrorism and other serious offences. It collects and collates information provided by external parties and reporting entities, especially banks and other financial institutions. It monitors large amounts of cash crossing our borders, and supports investigations into money laundering.

<http://www.police.govt.nz>

### *New Zealand Customs*

Deals with border cash reporting and the consequences, including seizure and prosecution, for non-reporting.

[www.customs.govt.nz](http://www.customs.govt.nz)

**If you are a business that needs to comply with AML/CFT obligations, but you are unsure who your supervisor is, contact any of the three supervisors listed above.**

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# Media Contacts

For any media queries relating to AML/CFT, please contact the media team for the relevant agency:

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