

31 October 2017

AML/CFT Consultation Team

Ministry of Justice

Wellington email: aml@justice.govt.nz

**Implementation of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009: Consultation Paper on Draft Regulations (Tranche 1)**

The FSF is grateful for the opportunity to comment on the above consultation paper. By way of background, the Financial Services Federation (“FSF”) is the industry body for the responsible and ethical finance and leasing providers of New Zealand. We have nearly sixty members and associates providing financing, leasing, and credit-related insurance products to more than 2 million New Zealanders. Our affiliate members include internationally recognised legal and consulting partners. A list of our members is attached as Appendix A.

The FSF’s comments on the Consultation Paper are made on the basis that FSF’s consumer credit provider members are financial reporting entities under Phase 1 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“AML/CFT Act”) and have taken their compliance obligations in regard to this Act very seriously. The FSF has also been very supportive of the Phase 2 AML/CFT reforms to bring other businesses within the coverage of the Act.

The FSF’s answers to the questions raised in the Consultation Paper follow.

1. **Are the details to be contained in suspicious activity reports clear?**

The FSF believes that the details to be contained in suspicious activity reports as set out in Schedule 1 of the Regulations are clear.

1. **Do you anticipate any challenges for reporting entities to provide the details to complete suspicious activity reports?**

The FSF believes that the difficulty for reporting entities in reporting suspicious activities rather than transactions will be in determining what exactly suspicious activity is.

The tendency for entities wishing to be compliant with the regulations could be to over-report any behaviour which might be potentially suspicious. The FSF regularly interacts with the Financial Intelligence Unit (“FIU”) of the New Zealand Police in order to understand the types of transactions they would deem to be suspicious to ensure that these are being adequately reported. It is envisaged that FSF and its members would continue this engagement to ensure a similarly high level of compliance with the requirement to report suspicious activity.

1. **Are there other matters that should also be required in suspicious activity reports?**

The FSF is unable to think of any other details that could be included in suspicious activity reports.

1. **Are the questions in the new draft annual report form (Schedule 2A) clear?**

The FSF notes that the questions in the new draft annual report form are very similar to those of the current form with the exception that questions 17-22 of the current form relating to Trust and Company Service Providers have been removed. On that basis, the FSF believes they will be sufficiently clear to existing financial reporting entities.

1. **Do you anticipate any challenge for the relevant reporting entities to provide the information to complete the form?**

The FSF does not anticipate any challenge to current financial reporting entities to provide the information to complete the form.

1. **Are there other matters that should also be required in the new draft annual report form?**

The FSF is unable to think of any other details that could be included in suspicious activity reports.

1. **Do you have any other comments about the new draft annual report form?**

The FSF has no further comment to make about the new draft annual report form.

1. **Do you agree that financial institution activities should be excluded from being an “occasional activity” for the purposes of the AML/CFT Act?**

The FSF agrees with the list of financial institution activities described in the proposed regulations as not being occasional activities.

1. **Why/why not?**

The list of activities described in the proposed regulations are not, in the view of the FSF, “occasional transactions” as described in the Consultation Paper as being cash transactions that occur outside of a business relationship. In the opinion of the FSF, all the activities listed under new regulation 24A would require a business relationship between the financial reporting entity and the customer concerned.

1. **Do you have any comments on the proposed technical amendments? Please be clear which regulation you are referring to.**

The FSF has no comment to make with regard to the proposed technical amendments which all seem to be reasonable in the view of the FSF.

The FSF has no further comment to make with regard to the proposed amendments to AML/CFT regulation. If the FSF can be of any further help in this regard, however, please do not hesitate to make contact.

With kind regards,



Lyn McMorran

EXECUTIVE DIRECTOR

FSF Membership List as at 1st August 2017

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Debenture Issuers - (NBDT)Non-Bank Deposit Takers | Vehicle Lenders | Finance Company Diversified Lenders | Credit ReportingOther | Insurance | Affiliate Members |
| RatedAsset Finance (B)Flexi Cards (BB+) Non-RatedMutual Credit Finance Gold Band Finance Limited | BMW Financial ServicesBranded Financial ServicesCommunity Financial Services Go Cars Finance LtdEuropean Financial ServicesHonda Financial Services LtdMercedes-Benz Financial ServicesMotor Trade FinanceNissan Financial Services NZ LtdOnyx Finance LimitedToyota Finance NZYamaha Motor Finance Leasing ProvidersCustom FleetFleet Partners NZ LtdORIX NZSG FleetLease Plan | L & F Holdings (Trading as Advaro Limited)Avanti Finance Caterpillar Financial Services NZ LtdCentracorp Finance 2000Finance NowFuture FinanceGeneva FinanceHome DirectInstant FinanceJohn Deere Financial Latitude FinancialPioneer Finance LtdSouth Pacific LoansThe Warehouse Financial Services GroupThorn Group Financial Services LtdTurners Finance Limited | EquifaxCentrixDebt Collection AgenciesBaycorp (NZ) Dun & Bradstreet (NZ) Limited | Autosure Protecta Insurance Provident Insurance Corporation LtdSouthsure Assurance | American Express International (NZ) LtdAML SolutionsBuddle FindlayChapman TrippEYFinzsoftKPMGPWCSimpsonWesternFintechPaul Davies LawHPD Software LtdTotal (58 members) |