

31 October 2017

AML/CFT Consultation Team

Ministry of Justice

Wellington email: [aml@justice.govt.nz](mailto: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 Reporting  Other | Insurance | Affiliate Members | |
| Rated  Asset Finance (B)  Flexi Cards (BB+)  Non-Rated  Mutual Credit Finance  Gold Band Finance Limited | BMW Financial Services  Branded Financial Services  Community Financial Services  Go Cars Finance Ltd  European Financial Services  Honda Financial Services Ltd  Mercedes-Benz Financial Services  Motor Trade Finance  Nissan Financial Services NZ Ltd  Onyx Finance Limited  Toyota Finance NZ  Yamaha Motor Finance  Leasing Providers  Custom Fleet  Fleet Partners NZ Ltd  ORIX NZ  SG Fleet  Lease Plan | L & F Holdings (Trading as Advaro Limited)  Avanti Finance  Caterpillar Financial Services NZ Ltd  Centracorp Finance 2000  Finance Now  Future Finance  Geneva Finance  Home Direct  Instant Finance  John Deere Financial  Latitude Financial  Pioneer Finance Ltd  South Pacific Loans  The Warehouse Financial Services Group  Thorn Group Financial Services Ltd  Turners Finance Limited | Equifax  Centrix  Debt Collection Agencies  Baycorp (NZ)  Dun & Bradstreet (NZ) Limited | Autosure  Protecta Insurance  Provident Insurance Corporation Ltd  Southsure Assurance | American Express International (NZ) Ltd  AML Solutions  Buddle Findlay  Chapman Tripp  EY  Finzsoft  KPMG  PWC  SimpsonWestern  Fintech  Paul Davies Law  HPD Software Ltd  Total (58 members) |