NZ AML SUMMIT: Questions and Answer
9 March 2017

1. What is being done to remove AML as a barrier to entry to new investments. What initiatives are underway to create an AML proven credential for data sharing?

   New clients will always be subject to CDD or EDD and a logical step would be to reduce this burden through identy verification and data sharing. We are aware of companies looking at these options however there will of course be issues of compliance with the Privacy Act 1993 which will have to be considered. This is not an easy fix and we are looking forward to seeing a working model.

2. What is acceptable when clients have mail sent to a PO Box? Is an electric bill showing address for service acceptable?

   The Amended Identity Verification Code of Practice 2013 is silent as to what documents may be used for proof of residential address so there is no definitive list of documents. In our experience, most entities will accept a utility bill showing the address where there is no other address verification available.

3. What are our CDD or EDD obligations as a Financial Services Provider when onboarding international financial corporations that may or may not be regulated or even have their own AML programme. Do we need to ensure they have good AML policies in place before we can onboard them (in regard to their own clients) or do we conduct CDD on the corporation itself only?

   It will depend on whether the entity is acting for itself or as an intermediary:

   - If it is acting for itself, then you will need to complete CDD in line with the AML/CFT Act. The factors you have mentioned may be factored in assessing the risk of the customer and whether or not enhanced CDD will apply.
   - If you are onboarding an international financial institution as an intermediary (e.g. they are presenting pooled funds for investment), you will need to look at the application of the managing intermediary exemptions. Further guidance on the managing intermediary exemptions is available on the FMA website.

4. What is the best method of capturing the Nature and Purpose of a business relationship i.e. on a application form, system, checklist?

   It will depend on the reporting entity's onboarding process but all three of the mentioned approaches is recommended:

   - The application form is as useful place to start collection of information (although further follow-up with the customer may be required).
   - The system will optimally have fields for recording the information collected. This is important so that staff can access nature and purpose information when undertaking ongoing CDD and account monitoring.
   - Given the focus on nature and purpose, we recommend that CDD checklists specifically include a reference to the collection of this information.

5. Does ongoing CDD need to be in the form of a review or would ongoing update of existing customers' files as we interact with them suffice?

   It depends on the nature of the reporting entity and the assessed risk of its customers. In some cases, undertaking ongoing CDD "at the next possible opportunity" (e.g. when the customer next comes into a branch) may be sufficient. For other entities, higher risk customers may continue to operate an account without necessarily making contact with the reporting entity. In these cases, the reporting entity may need to actively seek updated CDD and consider controls (including possible termination) where that CDD is not

forthcoming. We recommend looking at the recent guidance reports issued by the FMA which cover these areas.

In terms of practical implementation, we have found that ongoing CDD tends to work best when the customer has a reason to interact with the reporting entity – e.g. further investment or loan. In other cases, reporting entities will often have a natural point of contact for updating this information e.g. financial advisors who will often meet with customers at least annually.

6. Have the banks completed CDD on all their existing customers?

   The short answer is no, although we know of some that have set themselves deadlines for doing so. The current expectation of supervisors is that entities will have a programme for reviewing and, where necessary, updating the CDD information for existing customers particularly those that pre-date the AML/CFT Act coming into force. Ongoing CDD is a risk-based exercise so entities should start by identifying their higher risk customers and focussing on updating them first.

7. If I file a prescribed transaction report (**PTR**), do I still need to file an STR/SAR?

   Yes, these are treated as two separate obligations – e.g. if you accepted $20,000 and thought that was suspicious, you would need to file a prescribed transaction report (as it is over the threshold of NZ$10,000) and then file an STR/SAR as you have determined it to be suspicious.

8. Should PTR procedure be included in the AML Compliance programme?

   Yes, this will need to be included. Reporting entities should also look closely at the Phase 2 amendment bill as there will be other changes that will need to be made to compliance programmes – e.g. expansion of application of simplified due diligence, or suspicious transaction reporting becomes suspicious activity reporting.

9. What about private sales of vehicles? I can buy and sell a car with no questions asked on Trademe, etc.

   Private sales are unlikely to be captured under Phase 2 as they will not be in the ordinary course of business – see the guideline on ordinary course of business issued by the AML/CFT Supervisors.

10. Australia has an organisation where if your business is a part of it, banks cannot close your account. Do we have one? Will we get one?

    We understand this to mean you are referring to the Australian Remittance and Currency Providers Association (http://www.arcpa.org.au/) which is an industry body. Some remitters have previously looked at establishing such a group in New Zealand but there was little support. There may be more support now but someone will have to take the lead.

11. Why is NZ more strict with regulations than Australia which is a larger country with more risk?

    There are two factors in play here – timing and interpretation:

    - New Zealand was "late to the party" in enacting updated AML/CFT legislation and as such our legislation was in line with a later, more advanced version of the FATF Recommendations. By way of example, our definition of beneficial ownership was stricter than Australia although this has now been essentially eliminated with updates to the Australian legislation. Also Australia has had more time to consider the application of the FATF Recommendations so in many cases the guidance is more developed although this will reduce over time.
    - Although most nations have implemented the FATF Recommendations, differences in interpretation mean that there are differences in application across jurisdictions.

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We have selected 10 questions out of the many submitted that we were able to answer based on available guidance. If you had a question directed at one of our speakers or the Supervisors which wasn't addressed on the day or in this follow-up response, please feel free to make contact directly and relay your query.

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If you have a question, please check our FAQs first - it may save you time.

If you can't find the answer you're looking for, please use our online question form or email us at questions@fma.govt.nz or call us on one of the numbers listed below.

General enquiries: 0800 434 567

Complaints: 0800 434 566

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Please note all calls are recorded.

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