



Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017

Public Act 2017 No 35
Date of assent 10 August 2017
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017.

2 Commencement

- (1) This Act (except sections 69, 71, 72(2) to (5), and 73) comes into force on the day after the date on which it receives the Royal assent.
- (2) Sections 69, 71, and 73 come into force on 1 August 2019 or on an earlier date appointed by the Governor-General by Order in Council.
- (3) Section 72(2) comes into force on 1 January 2019 or on an earlier date appointed by the Governor-General by Order in Council.
- (4) Section 72(3) comes into force on 1 August 2019 or on an earlier date appointed by the Governor-General by Order in Council.
- (5) Section 72(4) comes into force on 1 July 2018 or on an earlier date appointed by the Governor-General by Order in Council.
- (6) Section 72(5) comes into force on 1 October 2018 or on an earlier date appointed by the Governor-General by Order in Council.

3 Principal Act

This Act amends the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **principal Act**).

Part 1

Amendments to principal Act

4 Section 4 amended (Overview)

- (1) Replace section 4(3)(b) with:
 - (b) subpart 2 includes provisions dealing with requirements on reporting entities to report suspicious activities and protection of persons making suspicious activity reports:
- (2) In section 4(5)(a), replace “suspicious transaction reports” with “the reporting of suspicious activities and prescribed transactions”.

5 Section 5 amended (Interpretation)

- (1) In section 5, insert in their appropriate alphabetical order:

accounting practice means—

- (a) an accountant in public practice on his or her own account in sole practice:
- (b) in relation to 2 or more accountants in public practice, and practising in partnership, the partnership:
- (c) an incorporated accounting practice

approved entity means an entity—

- (a) that is prescribed by regulations as an approved entity; or
- (b) that comes within a class of entities prescribed by regulations as a class of approved entities

conveyancing practitioner has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

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 1952;
 - 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

high-value dealer—

- (a) means a person who is in trade and in the ordinary course of business, buys or sells all or any of the following articles by way of a cash transaction or a series of related cash transactions, if the total value of that transaction or those transactions is equal to or above the applicable threshold value:
- (i) jewellery:

- (ii) watches:
 - (iii) gold, silver, or other precious metals:
 - (iv) diamonds, sapphires, or other precious stones:
 - (v) paintings:
 - (vi) prints:
 - (vii) protected foreign objects (within the meaning of section 2(1) of the Protected Objects Act 1975):
 - (viii) protected New Zealand objects (within the meaning of section 2(1) of the Protected Objects Act 1975):
 - (ix) sculptures:
 - (x) photographs:
 - (xi) carvings in any medium:
 - (xii) other artistic or cultural artefacts:
 - (xiii) motor vehicles (within the meaning of section 6(1) of the Motor Vehicle Sales Act 2003):
 - (xiv) ships (within the meaning of section 2(1) of the Maritime Transport Act 1994); and
- (b) includes any person who carries out the activities referred to in paragraph (a) as a registered auctioneer (within the meaning of section 4(1) of the Auctioneers Act 2013); but
- (c) does not include any person, to the extent that the person is engaged in providing services other than the buying or selling of articles referred to in paragraph (a), including the following services:
- (i) mining precious metals or precious stones:
 - (ii) manufacturing jewellery:
 - (iii) crafting or polishing precious stones; and
- (d) does not include any person to the extent that the person is engaged in the buying or selling of precious metals or precious stones for industrial purposes

incorporated conveyancing firm has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

incorporated law firm has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

law firm means—

- (a) a barrister or a barrister and solicitor who is practising on the barrister's or barrister and solicitor's own account in sole practice:
- (b) in relation to 2 or more barristers and solicitors practising law in partnership, the partnership:

(c) an incorporated law firm

lawyer has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

legal arrangement means—

- (a) a trust:
- (b) a partnership:
- (c) a charitable entity (within the meaning of section 4(1) of the Charities Act 2005):
- (d) any other prescribed arrangement (being an arrangement that involves a risk of money laundering or the financing of terrorism)

non-bank deposit taker has the meaning given to NBDT by section 5 of the Non-bank Deposit Takers Act 2013

occasional activity—

- (a) means an activity—
 - (i) that is specified in section 6(4) in relation to a reporting entity (other than an occasional transaction); and
 - (ii) that does not involve a business relationship between the reporting entity and the reporting entity's customer; and
- (b) includes an activity or a class of activities declared by regulations to be an occasional activity for the purposes of this Act; but
- (c) excludes an activity or a class of activities declared by regulations not to be an occasional activity for the purposes of this Act

occasional transaction or activity means—

- (a) an occasional transaction:
- (b) an occasional activity

privileged communication has the meaning set out in section 42

real estate agent has the same meaning as the definition of agent in section 4(1) of the Real Estate Agents Act 2008

real estate agency work has the same meaning as in the definition of that term in section 4(1) of the Real Estate Agents Act 2008

regulator—

- (a) means a professional body responsible under any New Zealand enactment for enforcing the regulatory obligations of a particular industry or profession whose members are subject to this Act; and
- (b) includes any other body prescribed in regulations

search warrant means a warrant issued under section 117

suspicious activity report—

- (a) means a report made under section 40:
- (b) includes—
 - (i) a suspicious transaction report made under this Act; and
 - (ii) a suspicious transaction report made under the Financial Transactions Reporting Act 1996

trust and company service provider means a person (other than a law firm, a conveyancing practitioner, an incorporated conveyancing firm, an accounting practice, or a real estate agent) who carries out any of the activities described in paragraphs (a)(i) to (vi) of the definition of designated non-financial business or profession

- (2) In section 5, replace the definition of **designated business group** with:

- designated business group** means a group of 2 or more persons in which—
- (a) each member of the group has elected, in writing, to be a member of the group and the election is in force; and
 - (b) each election was made in accordance with regulations (if any); and
 - (c) no member of the group is a member of another designated business group; and
 - (d) each member of the group is—
 - (i) related to each other member of the group within the meaning of section 2(3) of the Companies Act 1993 and is—
 - (A) a reporting entity resident in New Zealand; or
 - (B) a person that is resident in a country that has sufficient AML/CFT systems and is supervised or regulated for AML/CFT purposes; or
 - (ii) providing a service under a joint venture agreement to which each member of the group is a party; or
 - (iii) a government department named in Schedule 1 of the State Sector Act 1988, a State enterprise under the State-Owned Enterprises Act 1986, or a Crown entity under section 7 of the Crown Entities Act 2004; or
 - (iv) related to 1 or more of the entities referred to in subparagraph (iii) through the provision of common products or services; or
 - (v) a body corporate that is—
 - (A) either a company (within the meaning of section 2(1) of the Companies Act 1993) or an overseas company within the meaning of that section; and
 - (B) related (within the meaning of section 12(2) of the Financial Markets Conduct Act 2013) to every body corporate in

- the designated business group or proposed designated business group; and
- (C) either a reporting entity resident in New Zealand or a person who is resident in a country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes; or
 - (vi) a related law firm, or a subsidiary of a law firm, that is a reporting entity in New Zealand (or the equivalent body in another country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes); or
 - (vii) a related conveyancer, or a subsidiary of a conveyancer, that is a reporting entity in New Zealand (or the equivalent body in another country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes); or
 - (viii) a related accounting practice, or a subsidiary of an accounting practice, that is a reporting entity in New Zealand (or the equivalent body in another country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes); or
 - (ix) a related trust and company service provider, or a subsidiary of a trust and company service provider, that is a reporting entity in New Zealand (or the equivalent body in another country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes); or
 - (x) a related real estate agent, or a subsidiary of a real estate agent, that 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); or
 - (xi) a related high-value dealer, or a subsidiary of a high-value dealer, that is a reporting entity in New Zealand (or an equivalent person resident outside New Zealand in a country that has sufficient AML/CFT systems and that is supervised or regulated for AML/CFT purposes); or
 - (xii) a group of reporting entities, if the entities are each money transfer agents or sub-agents and each entity is related to every other entity in the designated business group or proposed designated business group in either of the following ways:
 - (A) one of those entities is a money transfer agent and the other entities are the sub-agents of those agents:
 - (B) those entities are each sub-agents of the same money transfer agent; or
 - (xiii) an entity or a class of entities prescribed by regulations; and

- (e) each member of the group satisfies any conditions in subsection (3) that apply to that member
- (3) In section 5, replace the definition of **existing customer** with:
existing customer, in relation to a reporting entity, means a person who was in a business relationship with the reporting entity immediately before any provisions of this Act began to apply to the reporting entity
- (4) In section 5, definition of **financial institution**, paragraph (a)(vii), replace “for the person’s own account or for the accounts of customers in any of the following:” with “for, or on behalf of, a customer in any of the following using the person’s account or the customer’s account:”.
- (5) In section 5, replace the definition of **law enforcement purposes** with:
law enforcement purposes means—
- (a) the prevention, disruption, detection, investigation, and prosecution of—
- (i) any offence under this Act; or
 - (ii) a money laundering offence; or
 - (iii) any offence within the meaning of that term in section 243(1) of the Crimes Act 1961; or
 - (iv) an offence under the Terrorism Suppression Act 2002:
- (b) the enforcement and administration of—
- (i) this Act;
 - (ii) the Criminal Proceeds (Recovery) Act 2009;
 - (iii) the Misuse of Drugs Act 1975;
 - (iv) the Terrorism Suppression Act 2002;
 - (v) the Mutual Assistance in Criminal Matters Act 1992;
 - (vi) the Customs and Excise Act 1996:
- (c) the performance by the New Zealand Security Intelligence Service or the Government Communications Security Bureau of its functions under the Intelligence and Security Act 2017:
- (d) the detection and prevention of the harms specified in section 58(2) of the Intelligence and Security Act 2017:
- (e) any purpose or action referred to in paragraphs (a) to (d) relating to, or taken in respect of, legislation of an overseas jurisdiction that is broadly equivalent to the enactments referred to in those paragraphs
- (6) In section 5, definition of **occasional transaction**, paragraph (a), replace “over” with “equal to or above”.
- (7) In section 5, definition of **prescribed transaction**, paragraphs (a) and (b) (as inserted by section 5(1) of the Anti-Money Laundering and Countering Finan-

cing of Terrorism Amendment Act 2015), replace “value greater than” with “value equal to or above”.

- (8) In section 5, definition of **reporting entity**, replace paragraph (a) with:
- (a) means—
 - (i) a casino;
 - (ii) a designated non-financial business or profession;
 - (iii) a financial institution;
 - (iv) a high-value dealer;
 - (v) the New Zealand Racing Board; and
- (9) In section 5, repeal the definition of **suspicious transaction report**.
- (10) In section 5, definition of **transaction**, replace paragraph (c) with:
- (c) excludes the following:
 - (i) the placing of any bet unless authorised under the Racing Act 2003;
 - (ii) participation in gambling (as defined in section 4(1) of the Gambling Act 2003) unless authorised under the Racing Act 2003;
 - (iii) a transaction or class of transactions declared by regulations not to be a transaction for the purposes of this Act
- (11) In section 5, replace the definition of **wire transfer** with—
- wire transfer**—
- (a) means 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; and
 - (b) includes a transfer or transaction, or class of transfers or transactions, declared by regulations to be a wire transfer for the purposes of this Act; but
 - (c) excludes—
 - (i) transfers and settlements between financial institutions or other reporting entities if both the originator and the beneficiary are financial institutions or other reporting entities acting on their own behalf; and
 - (ii) credit and debit card transactions if the credit or debit card number accompanies the transaction; and
 - (iii) any other transfer or transaction or class of transfers or transactions declared by regulations not to be a wire transfer for the purposes of this Act.
- (12) In section 5, insert as subsections (2) to (4):

- (2) For the purposes of paragraph (d)(xii) of the definition of **designated business group** in subsection (1),—
- money transfer agent**, in relation to a money transfer provider, means a reporting entity that has a representation agreement with a money transfer provider
- money transfer provider** means a person who, under a representation agreement, authorises a money transfer agent to carry on money transfer services on behalf of the money transfer provider and to engage sub-agents for the purpose of carrying on those services in New Zealand
- money transfer services** means the provision of remittance services that are carried on, otherwise than by a bank, under a single brand, trade mark, or business name
- representation agreement** means a written agreement between a money transfer provider and a money transfer agent, or between a money transfer agent and a sub-agent, that states the terms on which the money transfer agent, or the sub-agent, carries on money transactions for customers relating to creating, operating, and managing companies
- sub-agent** means a reporting entity that has a representation agreement with a money transfer agent.
- (3) For the purposes of paragraph (e) of the definition of **designated business group** in subsection (1), a condition of membership is that the contact person of a designated business group must notify the relevant AML/CFT supervisor, in writing within 30 days, of any of the following:
- (a) the withdrawal of a member from the designated business group:
 - (b) the termination of the designated business group:
 - (c) any other change in the details previously notified to any AML/CFT supervisor in respect of the designated business group.
- (4) For the purpose of applying the definitions of **designated non-financial business or profession** and **designated business group**, a reporting entity must take into account guidance (if any) on the application of those definitions issued by the relevant AML/CFT supervisor.

6 Section 6 replaced (Application of this Act to reporting entities)

Replace section 6 with:

6 Application of this Act to reporting entities

- (1) Subject to subsections (2) and (3) and to Schedule 1, this Act (as amended by the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017) applies to any reporting entity that is in existence at the commencement of this section or that comes into existence on or after the commencement of this section.

- (2) Sections 39A to 41 and 43 to 47 (as inserted by section 25 of the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017) do not apply until 1 July 2018 or an earlier date appointed by the Governor-General by Order in Council.
- (3) This Act—
- (a) does not apply to a law firm, a conveyancing practitioner, or an incorporated conveyancing firm until 1 July 2018 or an earlier date set by the Governor-General by Order in Council:
 - (b) does not apply to an accounting practice until 1 October 2018 or an earlier date set by the Governor-General by Order in Council:
 - (c) does not apply to a real estate agent until 1 January 2019 or an earlier date set by the Governor-General by Order in Council:
 - (d) does not apply to the New Zealand Racing Board or a high-value dealer until 1 August 2019 or an earlier date set by the Governor-General by Order in Council:
 - (e) in the case of a trust and company service provider that immediately before the commencement of this section was a reporting entity under regulation 17 of the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011, applies on and after the date on which this section comes into force:
 - (f) in the case of a trust or company service provider to which paragraph (e) does not apply, applies on 1 July 2018 or an earlier date set by the Governor-General by Order in Council.
- (4) This Act applies to a reporting entity only to the extent that,—
- (a) in the case of a reporting entity that is a financial institution, the financial activities undertaken by that entity fall within the activities described in the definition of financial institution in section 5(1):
 - (b) in the case of the New Zealand Racing Board, it carries out the following:
 - (i) the conduct of betting under section 50 of the Racing Act 2003:
 - (ii) the operation of accounts or provision of vouchers:
 - (c) in the case of a law firm, conveyancer, incorporated conveyancing firm, accounting practice, real estate agent, or other designated non-financial business or profession, the activities carried out by that reporting entity are activities described in the definition of designated non-financial business or profession in section 5(1):
 - (d) in the case of a high-value dealer,—
 - (i) the high-value dealer carries out activities described in the definition of high-value dealer in section 5(1); and
 - (ii) if subparagraph (i) applies, the high-value dealer—

- (A) must conduct standard customer due diligence under sections 14(1)(b), 15, and 16:
 - (B) may rely on third parties under sections 32 to 34:
 - (C) must comply with the prohibitions under section 37 if the high-value dealer is unable to conduct standard customer due diligence:
 - (D) may report suspicious activities to the Commissioner under section 40(5) (in which case sections 44 to 46 (which relate to suspicious activities) apply to the high-value dealer):
 - (E) must report prescribed transactions equal to or above the applicable cash threshold under sections 48A and 48B:
 - (F) must keep records of any suspicious activity reports under section 49A:
 - (G) must keep identity and verification records under section 50 when standard customer due diligence is conducted:
 - (H) must keep records of any audits under section 51(1)(b), (2), and (3):
 - (I) must audit its AML/CFT compliance obligations under section 59A if requested by an AML/CFT supervisor:
- (e) in the case of a casino, the casino carries out activities that may give rise to a risk of money laundering or financing of terrorism.

7 Section 7 amended (Amounts not in New Zealand currency)

- (1) In section 7(1), after “Act”, insert “or regulations”.
- (2) In section 7(1)(a), replace “exceeds” with “is equal to or above”.

8 New section 7A inserted (Transitional, savings, and related provisions)

After section 7, insert:

7A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

9 Section 11 amended (Customer due diligence)

After section 11(5), insert:

- (6) Subsections (1) and (3) and sections 14 to 31 do not apply in relation to the provision of services by a reporting entity to a customer that, in relation to that reporting entity, are not, under section 6(4), activities to which this Act applies.

10 Section 14 amended (Circumstances when standard customer due diligence applies)

- (1) Replace section 14(d) with:
 - (d) any other circumstances specified in subsection (2) or in regulations.
- (2) In section 14, insert as subsections (2) and (3):
 - (2) For the purposes of subsection (1)(d), as soon as practicable after a reporting entity becomes aware that an existing account is anonymous, the reporting entity must conduct standard customer due diligence in respect of that account.
 - (3) Despite subsections (1) and (2), a real estate agent must conduct standard customer due diligence at the times, and with any other modifications, specified in regulations.

11 Section 16 amended (Standard customer due diligence: verification of identity requirements)

In section 16(3)(b), replace “and account monitoring” with “and account monitoring or (if the reporting entity is not a financial institution) through other appropriate risk management procedures”.

12 Section 18 amended (Circumstances when simplified customer due diligence applies)

- (1) Replace section 18(2) with:
- (2) The following are customers for the purposes of subsection (1):
 - (a) a listed issuer (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013) that is the issuer of quoted voting products (within the meaning of that Act):
 - (b) a government department named in Schedule 1 of the State Sector Act 1988:
 - (c) a local authority, as defined in section 5(2) of the Local Government Act 2002:
 - (d) the New Zealand Police:
 - (e) a State enterprise (within the meaning of section 2 of the State-Owned Enterprises Act 1986) and a new State enterprise (as listed in Schedule 2 of that Act):
 - (f) a body that—
 - (i) corresponds to a State enterprise or a new State enterprise (as defined in paragraph (e)); and
 - (ii) is located in a country that has sufficient AML/CFT systems:
 - (g) the New Zealand Security Intelligence Service:
 - (h) a person licensed to be a supervisor or statutory supervisor under the Financial Markets Supervisors Act 2011, when the person acts for itself:

- (i) a trustee corporation, within the meaning of section 2(1) of the Administration Act 1969, when the trustee corporation acts for itself;
 - (j) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004;
 - (k) an organisation named in Schedule 4 of the Public Finance Act 1989;
 - (l) a company named in Schedule 4A of the Public Finance Act 1989;
 - (m) a government body that—
 - (i) corresponds to a government department named in Schedule 1 of the State Sector Act 1988; and
 - (ii) is located in an overseas jurisdiction that has sufficient AML/CFT systems;
 - (n) a registered bank within the meaning of section 2(1) of the Reserve Bank of New Zealand Act 1989;
 - (o) a licensed insurer within the meaning of section 6(1) of the Insurance (Prudential Supervision) Act 2010;
 - (p) a company, or a subsidiary (within the meaning of section 5(1) of the Companies Act 1993) of that company,—
 - (i) whose equity securities are listed in New Zealand or on an overseas stock exchange that has sufficient disclosure requirements; and
 - (ii) that is located in a country that has sufficient AML/CFT systems in place;
 - (q) any other entity or class of entities specified in regulations.
- (2) After section 18(3), insert:
- (3A) Despite subsections (1) to (3), a real estate agent must conduct simplified customer due diligence at the times, and with any other modifications, specified in regulations.

13 Section 22 amended (Circumstances when enhanced customer due diligence applies)

- (1) In section 22(1)(e), replace “regulations” with “section 22A or regulations”.
- (2) After section 22(5), insert:
- (6) Despite subsections (1) to (5), a real estate agent must conduct enhanced customer due diligence at the times, in the circumstances, and with any other modifications specified in regulations.

14 New section 22A inserted (Enhanced customer due diligence required for certain activities requiring suspicious activities report)

After section 22, insert:

22A Enhanced customer due diligence required for certain activities requiring suspicious activities report

- (1) This section applies to an activity—
 - (a) that the reporting entity concerned (other than a high-value dealer) is required to report to the Commissioner under section 40; and
 - (b) that is not otherwise exempt from the customer due diligence requirements or from all the requirements of the Act; and
 - (c) that is conducted, or sought to be conducted,—
 - (i) by an existing customer; or
 - (ii) by a customer engaging in an occasional transaction or activity.
- (2) For the purposes of section 22(1)(e), as soon as practicable after a reporting entity becomes aware that the reporting entity must report the suspicious activity under section 40, a circumstance occurs in which the reporting entity must conduct enhanced customer due diligence in respect of that activity.

15 Section 23 amended (Enhanced customer due diligence: identity requirements)

- (1) Replace section 23(b) with:
 - (b) the additional information referred to in subsection (2) and any additional information prescribed by regulations.
- (2) In section 23, insert as subsection (2):
 - (2) For the purposes of subsection (1)(b), a reporting entity must obtain,—
 - (a) in the case of a trust other than a trust to which paragraph (b) applies, the name and the date of birth of each beneficiary of the trust;
 - (b) in the case of a customer that is a discretionary trust or a charitable trust or a trust that has more than 10 beneficiaries, a description of—
 - (i) each class or type of beneficiary;
 - (ii) if the trust is a charitable trust, the objects of the trust.

16 Section 24 amended (Enhanced customer due diligence: verification of identity requirements)

In section 24(3)(b), replace “and account monitoring” with “and account monitoring or (if the reporting entity is not a financial institution) through other appropriate risk management procedures”.

17 Section 27 amended (Wire transfers: identity requirements)

- (1) In section 27(1), replace “over” with “equal to or above”.
- (2) In section 27(1)(d), replace “regulations” with “section 27A or regulations”.
- (3) In section 27(5)(b), replace “suspicious transaction” with “suspicious activity”.

18 New section 27A inserted (Other identifying information prescribed in relation to wire transfers)

After section 27, insert:

27A Other identifying information prescribed in relation to wire transfers

- (1) Information that gives the name of the beneficiary of a wire transfer and the account number of that beneficiary or any unique transaction reference that allows the transaction to be traced is prescribed for the purposes of section 27(1)(d).
- (2) In the case of a domestic wire transfer, any information that enables the transaction itself to be identified and traced to the originator is prescribed to be other identifying information for the purposes of section 27(2).

19 Section 29 amended (Corresponding banking relationships)

In section 29(3), after “Act”, insert “or regulations”.

20 Section 31 amended (Ongoing customer due diligence and account monitoring)

In section 31(2)(b), replace “suspicious transaction under section 40(1)(b)” with “suspicious activity under paragraph (b) of the definition of that term in section 39A”.

21 Section 32 amended (Reliance on member of designated business group)

- (1) In section 32(1)(a)(ii), replace “, but no later than 5 working days,” with “on request by the reporting entity, but within 5 working days of the request,”.
- (2) In section 32(1)(d), replace “suspicious transaction” with “suspicious activity or prescribed transaction”.
- (3) After section 32(1), insert:
 - (1A) A reporting entity (**member A**) that is a member of a designated business group may rely on another member of the group (**member B**) to make prescribed transaction reports under this Act or regulations.

22 Section 33 amended (Reliance on other reporting entities or persons in another country)

- (1) In section 33(2)(c)(ii), replace “, but no later than 5 working days, after the business relationship is established or the occasional transaction is conducted” with “on request by the reporting entity, but within 5 working days of the request”.
- (2) After section 33(3), insert:
 - (3A) However, a reporting entity relying on a third party to conduct the customer due diligence procedure is not responsible for ensuring that customer due dili-

gence is carried out in accordance with this Act if the following conditions are met:

- (a) the reporting entity is acting in good faith when relying on a third party; and
- (b) the reporting entity has reasonable cause to believe the reporting entity that is relied on has conducted relevant customer due diligence procedures to at least the standard required by this Act and regulations; and
- (c) the reporting entity being relied on is an approved entity or is within an approved class of entities; and
- (d) the conditions (if any) prescribed by regulations are complied with.

23 Section 36 amended (Protection of personal information and designated business groups)

- (1) In section 36(5)(a), replace “suspicious transactions report” with “suspicious activity report”.
- (2) In section 36(5)(b), replace “suspicious transaction” with “suspicious activity”.

24 Section 37 amended (Prohibitions if customer due diligence not conducted)

- (1) In section 37(d), replace “suspicious transactions report” with “suspicious activity report”.
- (2) In section 37(e), replace “suspicious transaction” with “suspicious activity”.
- (3) In section 37, insert as subsection (2):
- (2) A reporting entity is not prohibited by subsection (1)(a) or (b) from establishing or continuing a business relationship with a customer in respect of an activity that is not specified in section 6(4) in relation to that reporting entity.

25 Subpart 2 of Part 2 replaced

Replace subpart 2 of Part 2 with:

Subpart 2—Suspicious activity reports

39A Interpretation

For the purposes of this subpart,—

service—

- (a) means an activity that is carried out by a reporting entity; but
- (b) does not include an activity unless section 6(4) applies this Act to the reporting entity in relation to the activity

suspicious activity means an activity undertaken in circumstances—

- (a) in which—

- (i) a person conducts or seeks to conduct a transaction through a reporting entity; or
- (ii) a reporting entity provides or proposes to provide a service to a person; or
- (iii) a person requests a reporting entity to provide a service or makes an inquiry to the reporting entity in relation to a service; and
- (b) where the reporting entity has reasonable grounds to suspect that the transaction or proposed transaction, the service or proposed service, or the inquiry, as the case may be, is or may be relevant to—
 - (i) the investigation or prosecution of any person for a money laundering offence; or
 - (ii) the enforcement of the Misuse of Drugs Act 1975; or
 - (iii) the enforcement of the Terrorism Suppression Act 2002; or
 - (iv) the enforcement of the Proceeds of Crime Act 1991 or the Criminal Proceeds (Recovery) Act 2009; or
 - (v) the investigation or prosecution of an offence (within the meaning of section 243(1) of the Crimes Act 1961).

40 Reporting entities to report suspicious activities

- (1) Subsections (3) and (4) apply to reporting entities other than high-value dealers.
- (2) Subsection (5) applies to high-value dealers.
- (3) If this subsection applies, the reporting entity must, as soon as practicable but no later than 3 working days after forming its suspicion, report the activity, or suspicious activity, to the Commissioner in accordance with section 41.
- (4) Nothing in subsection (3) requires any person to disclose any information that the person believes on reasonable grounds is a privileged communication.
- (5) A high-value dealer may report a suspicious activity to the Commissioner.

41 Nature of suspicious activity report

- (1) Except as provided in subsection (2), a report under section 40 must—
 - (a) be in the prescribed form (if any); and
 - (b) contain the details prescribed by regulations; and
 - (c) contain a statement of the grounds on which the reporting entity holds the suspicions referred to in paragraph (b) of the definition of suspicious activity in section 39A; and
 - (d) be signed by a person authorised by the reporting entity to sign suspicious activity reports (unless the report is forwarded by electronic means); and
 - (e) be forwarded, in writing, to the Commissioner—

- (i) by way of secure electronic transmission by a means specified or provided by the Commissioner for that purpose; or
 - (ii) by another means (including, without limitation, by way of transmission by fax or email) that may be agreed from time to time between the Commissioner and the reporting entity concerned.
- (2) If the urgency of the situation requires, a suspicious activity report may be made orally to any Police employee authorised for the purpose by the Commissioner, but in any such case the reporting entity must, as soon as practicable but no later than 3 working days after forming its suspicions, forward to the Commissioner a suspicious activity report that complies with the requirements in subsection (1).
- (3) The Commissioner may confer the authority to receive a suspicious activity report under subsection (2) on—
- (a) any specified Police employee; or
 - (b) Police employees of any specified rank or class; or
 - (c) any Police employee or Police employees for the time being holding any specified office or specified class of offices.

42 Privileged communication defined

- (1) A communication is a **privileged communication** if—
- (a) it is a confidential communication (oral or written) (including any information or opinion)—
 - (i) that passes between—
 - (A) a lawyer and another lawyer in their professional capacity; or
 - (B) a lawyer in his or her professional capacity and his or her client; or
 - (C) any person described in subsubparagraph (A) or (B) and the agent of the other person described in that subsubparagraph (or between the agents of both the persons described) either directly or indirectly; and
 - (ii) that is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; or
 - (b) it is a communication (including any information or opinion) that—
 - (i) is subject to the general law governing legal professional privilege; or
 - (ii) is specified in section 53, 54, 55, 56, or 57 of the Evidence Act 2006.
- (2) However, a communication is not a privileged communication—

- (a) if there is a prima facie case that the communication or information is made or received, or compiled or prepared,—
 - (i) for a dishonest purpose; or
 - (ii) to enable or aid the commission of an offence; or
 - (b) if, where the information wholly or partly consists of, or relates to, the receipts, payments, income, expenditure, or financial transactions of any specified person, it is contained in (or comprises the whole or a part of) any book, account, statement, or other record prepared or kept by the lawyer in connection with a trust account of the lawyer within the meaning of section 6 of the Lawyers and Conveyancers Act 2006.
- (3) For the purposes of this section, references to a **lawyer** include a firm in which the lawyer is a partner or is held out to be a partner.

43 Auditors may report suspicious activities

- (1) Despite any other enactment or any rule of law, this section applies to a person who, in the course of carrying out the duties of that person's occupation as an auditor, has reasonable grounds to suspect, in relation to any activity, that the activity is relevant to—
- (a) the investigation or prosecution of any person for a money laundering offence; or
 - (b) the enforcement of the Misuse of Drugs Act 1975; or
 - (c) the enforcement of the Terrorism Suppression Act 2002; or
 - (d) the enforcement of the Proceeds of Crime Act 1991 or the Criminal Proceeds (Recovery) Act 2009; or
 - (e) the investigation or prosecution of an offence (within the meaning of section 243(1) of the Crimes Act 1961).
- (2) A person may report an activity referred to in subsection (1) to the Commissioner.

44 Protection of persons reporting suspicious activities

- (1) Subsection (2) applies to a person who—
- (a) discloses or supplies any information in any suspicious activity report; or
 - (b) supplies any information in connection with any suspicious activity report, whether at the time the report is made or afterwards.
- (2) No civil, criminal, or disciplinary proceedings lie against a person to whom subsection (1) applies—
- (a) in respect of the disclosure or supply, or the manner of the disclosure or supply, by that person of the information referred to in that subsection; or

- (b) for any consequences that follow from the disclosure or supply of that information.
- (3) If any information is reported under section 43 to any Police employee by any person, no civil, criminal, or disciplinary proceedings lie against that person—
 - (a) in respect of the disclosure or supply, or the manner of the disclosure or supply, of that information by that person; or
 - (b) for any consequences that follow from the disclosure or supply of that information.
- (4) However, subsections (2) and (3) do not apply—
 - (a) if the information was disclosed or supplied in bad faith; or
 - (b) if, in the case of information disclosed or supplied by a lawyer, there were reasonable grounds to believe that the information was a privileged communication but the lawyer disclosed it or supplied it despite the existence of those grounds.
- (5) Nothing in this section applies in respect of proceedings for an offence under any of sections 92 to 97.

45 Immunity from liability for disclosure of information relating to money laundering transactions

- (1) This section applies if—
 - (a) a person does any act that would constitute, or that the person believes would constitute, an offence against section 243(2) or (3) of the Crimes Act 1961; and
 - (b) in respect of the doing of that act, that person would have, by virtue of section 244 of the Crimes Act 1961, a defence to a charge under section 243(2) or (3) of that Act; and
 - (c) that person discloses to any Police employee any information relating to a money laundering transaction (within the meaning of section 243(4) of the Crimes Act 1961), being a money laundering transaction that constitutes (in whole or in part), or is connected with or related to, the act referred to in paragraph (a); and
 - (d) that information is so disclosed, in good faith, for the purpose of, or in connection with, the enforcement or intended enforcement of any enactment or provision referred to in section 244(a) of the Crimes Act 1961; and
 - (e) that person is otherwise under any obligation (whether arising by virtue of any enactment or any rule of law or any other instrument) to maintain secrecy in relation to, or not to disclose, that information.
- (2) If this section applies, then, without limiting section 44 and despite the fact that the disclosure would otherwise constitute a breach of that obligation of secrecy or non-disclosure, the disclosure by that person, to that Police employee, of

that information is not a breach of that obligation of secrecy or non-disclosure or (where applicable) of any enactment by which that obligation is imposed.

46 Disclosure of information relating to suspicious activity reports

- (1) This section and section 47 apply in respect of the following information:
 - (a) any suspicious activity report;
 - (b) any information the disclosure of which will identify, or is reasonably likely to identify, any person—
 - (i) as a person who, in his or her capacity as an officer or employee of a reporting entity, has handled a transaction in respect of which a suspicious activity report was made; or
 - (ii) as a person who has prepared a suspicious activity report; or
 - (iii) as a person who has made a suspicious activity report;
 - (c) any information that discloses, or is reasonably likely to disclose, the existence of a suspicious activity report.
- (2) A reporting entity must not disclose information to which this section relates to any person except—
 - (a) a Police employee who is authorised by the Commissioner to receive the information; or
 - (b) the reporting entity's AML/CFT supervisor; or
 - (c) an officer or employee of the reporting entity, for any purpose connected with the performance of that person's duties; or
 - (d) a lawyer, for the purpose of obtaining legal advice or representation in relation to the matter; or
 - (e) 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.
- (3) A Police employee may disclose information to which this section applies only for law enforcement purposes.
- (4) An AML/CFT supervisor may disclose information to which this section applies only to the Police for law enforcement purposes.
- (5) A person to whom a function or power has been delegated under section 134 may disclose information to which this section applies only to the AML/CFT supervisor that made the delegation.
- (6) A person (**person A**) referred to in subsection (2)(c) to whom disclosure of any information to which that subsection applies has been made must not disclose that information except to another person of the kind referred to in that subsection for the purpose of—
 - (a) the performance of person A's duties; or

(b) obtaining legal advice or representation in relation to the matter.

- (7) A person referred to in subsection (2)(d) to whom disclosure of any information to which that subsection applies has been made must not disclose that information except to a person of the kind referred to in that subsection for the purpose of giving legal advice or making representations in relation to the matter.
- (8) Any other person who has information to which this section applies may disclose that information only to the Police for law enforcement purposes.

47 Disclosure of information in proceedings

- (1) No person may disclose, in any judicial proceeding (within the meaning of section 108(4) of the Crimes Act 1961), any information contained in a suspicious activity report unless the Judge or, as the case requires, the person presiding at the proceeding is satisfied that the disclosure of the information is necessary in the interests of justice.
- (2) Nothing in this section prohibits the disclosure of any information for the purposes of the prosecution of any offence against section 93 or 94.

48 Disclosure of personal information relating to employees or senior managers

An AML/CFT supervisor that has, in the performance and exercise of its functions and powers under this Act, obtained personal information about employees or senior managers may disclose that information to another government agency for the following purposes if the AML/CFT supervisor is satisfied that the agency has a proper interest in receiving the information:

- (a) law enforcement purposes:
- (b) the detection, investigation, and prosecution of any offence under the following Acts:
- (i) the Companies Act 1993:
 - (ii) the Financial Advisers Act 2008:
 - (iii) the Financial Service Providers (Registration and Dispute Resolution) Act 2008:
 - (iv) the Gambling Act 2003:
 - (v) the Reserve Bank of New Zealand Act 1989:
 - (vi) the Financial Markets Conduct Act 2013.

26 New section 49A inserted (Obligation to keep reports of suspicious activities)

After section 49, insert:

49A Obligation to keep reports of suspicious activities

- (1) If a reporting entity reports a suspicious activity to the Commissioner, the reporting entity must keep a copy of that report.
- (2) The reporting entity must keep a copy of the report for—
 - (a) a period of at least 5 years after the report is made; or
 - (b) any longer period that the AML/CFT supervisor for the reporting entity, or the Commissioner, specifies.

27 Section 51 amended (Obligation to keep other records)

- (1) In section 51(1)(c), after “the business relationship”, insert “; and”.
- (2) After section 51(1)(c), insert:
 - (d) any other records prescribed by regulations made under section 153.
- (3) Replace section 51(2) with:
 - (2) The records relating to risk assessment, AML/CFT programmes, and audits must be kept for a period of at least 5 years after the date on which they ceased to be used on a regular basis.

28 Section 57 amended (Minimum requirements for AML/CFT programmes)

- (1) In section 57, after “programme must”, insert “be in writing and”.
- (2) In section 57(d), replace “suspicious transactions” with “suspicious activities”.
- (3) In section 57, insert as subsection (2):
 - (2) In developing an AML/CFT programme, a reporting entity must have regard to any applicable guidance material produced by AML/CFT supervisors or the Commissioner relating to AML/CFT programmes.

29 Section 59 replaced (Review and audit of risk assessment and AML/CFT programme)

Replace section 59 with:

59 Review and audit of risk assessment and AML/CFT programmes

- (1) A reporting entity (other than a high-value dealer) must review its risk assessment and AML/CFT programme to—
 - (a) ensure that the risk assessment and AML/CFT programme are up to date; and
 - (b) identify any deficiencies in the effectiveness of the risk assessment and the AML/CFT programme; and
 - (c) make any changes to the risk assessment or AML/CFT programme identified as being necessary under paragraph (b).
- (2) A reporting entity (other than a high-value dealer) must ensure that its risk assessment and AML/CFT programme are audited every 2 years or during a dif-

ferent time period prescribed by regulations, or at any other time at the request of the relevant AML/CFT supervisor.

59A Audit of compliance with AML/CFT obligations

A high-value dealer must ensure that its compliance with its AML/CFT obligations under section 6(4)(d)(ii), and any regulations, is audited when the relevant AML/CFT supervisor requests.

59B Who carries out audit

- (1) An audit under section 59 or 59A must be carried out by an independent person, appointed by the reporting entity, who is appropriately qualified to conduct the audit.
- (2) A person appointed to conduct an audit is not required to be—
 - (a) a chartered accountant within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996; or
 - (b) qualified to undertake financial audits.
- (3) A person appointed to conduct an audit must not have been involved in—
 - (a) the establishment, implementation, or maintenance of the reporting entity's AML/CFT programme (if any); or
 - (b) the undertaking of the reporting entity's risk assessment (if any).
- (4) The audit of a risk assessment under section 59 is limited to an audit of whether the reporting entity's risk assessment fulfils the requirements in section 58(3).
- (5) A reporting entity must provide a copy of any audit to its AML/CFT supervisor on request.

30 Section 68 amended (Reports about movement of cash into or out of New Zealand)

In section 68(1)(a), replace “more than” with “equal to or above”.

31 Section 69 amended (Reports about receipt of cash from outside New Zealand)

In section 69(a), replace “more than” with “equal to or above”.

32 Section 70 amended (Reporting requirements)

- (1) In section 70(a), replace “the prescribed form” with “the appropriate prescribed form”:
- (2) Replace section 70(d) with:
 - (d) be provided to a Customs officer or any other prescribed person,—
 - (i) in the case of accompanied cash, at the time prescribed for the purposes of this subparagraph; and

- (ii) in the case of unaccompanied cash, at the time prescribed for the purposes of this subparagraph.

33 Section 76 amended (Protection for AML/CFT supervisors)

In section 76, after “Act”, insert “or regulations”.

34 Cross-heading above section 92 amended

In the cross-heading above section 92, replace “*transaction*” with “*activity*”.

35 Section 92 amended (Failing to report suspicious transaction)

- (1) In the heading to section 92, replace “**transaction**” with “**activity**”.
- (2) In section 92(a), replace “a transaction” with “an activity”.
- (3) In section 92(b), replace “the transaction or the proposed transaction” with “the activity or the proposed activity”.
- (4) In section 92(c), replace “the transaction or the proposed transaction” with “the activity or the proposed activity”.
- (5) In section 92, insert as subsection (2):
 - (2) It is a defence to a prosecution under this section if a reporting entity believes on reasonable grounds that the documents or information relating to the activity were privileged communications.

36 Section 93 amended (Providing false or misleading information in connection with suspicious transaction reports or prescribed transaction reports)

- (1) In the heading to section 93, replace “**suspicious transaction**” with “**suspicious activity**”.
- (2) In section 93, replace “suspicious transaction” with “suspicious activity”.

37 Section 94 amended (Unlawful disclosure of suspicious transaction reports or prescribed transaction reports)

- (1) In the heading to section 94, replace “**suspicious transaction**” with “**suspicious activity**”.
- (2) In section 94(2)(b), replace “any transaction or proposed transaction that is the subject of a suspicious transaction report” with “any activity or proposed activity that is the subject of a suspicious activity report”.

38 Section 95 amended (Failure to keep or retain adequate records relating to suspicious transactions or prescribed transactions)

- (1) In the heading to section 95, replace “**suspicious transactions**” with “**suspicious activities**”.
- (2) In section 95, replace “suspicious transaction” with “suspicious activity”.

- 39 Section 96 amended (Obstruction of investigation relating to suspicious transaction reports or prescribed transaction reports)**
- (1) In the heading to section 96, replace “suspicious transaction” with “suspicious activity”.
 - (2) In section 96, replace “suspicious transaction” with “suspicious activity”.
 - (3) In section 96, insert as subsection (2):
 - (2) It is a defence to a prosecution under this section if the reporting entity believes on reasonable grounds that the documents or information were privileged communications.
- 40 Section 99 amended (Time limit for prosecution of offences relating to civil liability act and suspicious transaction reports or prescribed transaction reports)**
- In the heading to section 99, replace “suspicious transaction” with “suspicious activity”.
- 41 Section 102 amended (Offence to obstruct AML/CFT supervisor)**
- In section 102, after “Act”, insert “or regulations”.
- 42 Section 106 amended (Failure to report cash over applicable threshold values moved into or out of New Zealand)**
- (1) In the heading to section 106, replace “over” with “equal to or above”.
 - (2) In section 106, replace “over” with “equal to or above”.
- 43 Section 107 amended (Failure to report cash over applicable threshold value received by person in New Zealand from overseas)**
- (1) In the heading to section 107, replace “over” with “equal to or above”.
 - (2) In section 107, replace “over” with “equal to or above”.
- 44 Section 111 amended (Offence to obstruct or not to answer questions from Customs officer)**
- In section 111(1), after “Act”, insert “or regulations”.
- 45 Section 117 amended (Search warrant)**
- In section 117(4), after “3,”, insert “4,”.
- 46 Section 130 amended (AML/CFT supervisors)**
- Replace section 130(1)(c) with:
- (c) for designated non-financial businesses or professions and high-value dealers, the Department of Internal Affairs, or another AML/CFT supervisor prescribed for the purpose, is the relevant AML/CFT supervisor:

- (d) for the New Zealand Racing Board, casinos, non-deposit-taking lenders, money changers, and other reporting entities that are not covered by paragraphs (a) to (c), the Department of Internal Affairs is the relevant AML/CFT supervisor.

47 Section 132 amended (Powers)

- (1) In section 132(1), after “Act”, insert “or regulations”.
- (2) After section 132(3), insert:
- (4) Nothing in this section requires any person to disclose any privileged communication.

48 Section 133 amended (Matters relating to conduct of on-site inspections)

In section 133(5), replace “lawyer” with “person”.

49 Section 137 amended (Power to use information obtained as AML/CFT supervisor in other capacity and vice versa)

- (1) In section 137(2), after “Reserve Bank of New Zealand Act 1989”, insert “, the Insurance (Prudential Supervision) Act 2010, and the Non-bank Deposit Takers Act 2013”.
- (2) In section 137(3), after “Reserve Bank of New Zealand Act 1989”, insert “, the Insurance (Prudential Supervision) Act 2010, and the Non-bank Deposit Takers Act 2013”.
- (3) In section 137(6), after “the Gambling Act 2003”, insert “, the Racing Act 2003, and the Charities Act 2005”.
- (4) In section 137(7), after “the Gambling Act 2003”, insert “, the Racing Act 2003, and the Charities Act 2005”.

50 Section 139 amended (Power to disclose information supplied or obtained as AML/CFT supervisor)

- (1) In the heading to section 139, delete “**supplied or obtained as AML/CFT supervisor**”.
- (2) In section 139,—
- (a) after “government agency”, insert “or any regulator”;
- (b) after “the agency”, insert “or regulator”.
- (3) In section 139, insert as subsections (2) and (3):
- (2) If not authorised under any other provision of this Act, disclosure of any information between a government agency, a regulator, the Commissioner, the New Zealand Customs Service, an AML/CFT supervisor, or reporting entities, or to or from any of those parties, may be made for law enforcement purposes in accordance with regulations made under section 139A.

- (3) Nothing in this section limits the Privacy Act 1993 (which permits certain disclosures in addition to those authorised under this section).

51 New section 139A inserted (Regulations relating to information sharing)

After section 139, insert:

139A Regulations relating to information sharing

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for the purpose of section 139(2)—
- (a) specifying the type of information that may or may not be disclosed;
 - (b) prescribing the conditions under which the information may be disclosed and the conditions applying to the use of that information (for example, conditions relating to storage, copying, access, and the return of information).
- (2) Before recommending the making of regulations under this section, the Minister must consult—
- (a) the agencies and regulators that may be affected by the proposed regulations; and
 - (b) the Privacy Commissioner; and
 - (c) any other person or body that the Minister considers may be affected by the proposed regulations.

52 Section 140 amended (Power to use and disclose information supplied or obtained under other enactments for AML/CFT purposes)

- (1) In section 140(1), after “subsection (2) if”, insert “the disclosing entity has reasonable grounds to believe that”.
- (2) Replace section 140(2) with:
- (2) The enactments referred to in subsection (1) are—
- (a) the Charities Act 2005;
 - (b) the Companies Act 1993;
 - (c) the Criminal Proceeds (Recovery) Act 2009;
 - (d) the Customs and Excise Act 1996;
 - (e) the Financial Advisers Act 2008;
 - (f) the Financial Markets Authority Act 2011;
 - (g) the Financial Markets Conduct Act 2013;
 - (h) the Financial Service Providers (Registration and Dispute Resolution) Act 2008;
 - (i) the Financial Transactions Reporting Act 1996;
 - (j) the Gambling Act 2003;

- (k) the Goods and Services Tax Act 1985:
- (l) the Income Tax Act 2007:
- (m) the Insurance (Prudential Supervision) Act 2010:
- (n) the Lawyers and Conveyancers Act 2006:
- (o) the New Zealand Institute of Chartered Accountants Act 1996:
- (p) the Non-bank Deposit Takers Act 2013:
- (q) the Proceeds of Crime Act 1991:
- (r) the Racing Act 2003:
- (s) the Real Estate Agents Act 2008:
- (t) the Reserve Bank of New Zealand Act 1989:
- (u) the Secondhand Dealers and Pawnbrokers Act 2004:
- (v) the Tax Administration Act 1994:
- (w) the Terrorism Suppression Act 2002:
- (x) any other Act prescribed by regulations.

53 Section 142 amended (Financial intelligence functions of Commissioner)

- (1) In section 142(a), replace “suspicious transaction” with “suspicious activity”.
- (2) Replace section 142(b)(ii) with:
 - (ii) information for reporting entities on their obligations to report suspicious activities and prescribed transactions, and how to meet those obligations:
- (3) In section 142(c), replace “suspicious transaction” with “suspicious activity”.
- (4) In section 142(d), replace “suspicious transaction” with “suspicious activity”.
- (5) In section 142(e), replace “suspicious transaction” with “suspicious activity”.
- (6) In section 142(f), replace “suspicious transaction” with “suspicious activity”.
- (7) In section 142(g), replace “suspicious transaction” with “suspicious activity”.
- (8) In section 142(h), replace “suspicious transaction” with “suspicious activity” in each place.
- (9) After section 142(k), insert:
 - (ka) receive and analyse financial intelligence relating to law enforcement purposes from international authorities authorised to perform functions broadly equivalent to the Commissioner’s financial intelligence functions:
- (10) In section 142(l), after “New Zealand Customs Service,”, insert “regulators,”.

54 Section 143 amended (Powers relating to financial intelligence functions of Commissioner)

- (1) In section 143(a), replace “a suspicious transaction report or a prescribed transaction report received by the Commissioner” with “information received by the Commissioner under this Act”.
- (2) In section 143(b), replace “suspicious transaction reports” with “suspicious activity reports”.
- (3) In section 143(b), after “with”, insert “regulators and”.
- (4) Insert as subsection (2):
- (2) Nothing in this section requires any person to disclose any privileged communication.

55 Section 144 amended (Delegation of powers of Commissioner)

In section 144(1), after “inspector”, insert “or an equally senior or more senior Police employee”.

56 Section 145 amended (Guidelines relating to reporting of suspicious transactions)

- (1) In the heading to section 145, replace “**transactions**” with “**activities**”.
- (2) In section 145(1)(a),—
 - (a) after “a transaction”, insert “or other activity”:
 - (b) after “the transaction”, insert “or other activity”.
- (3) In section 145(1)(b), replace “suspicious transaction report relating to such a transaction” with “suspicious activity report relating to such an activity”.
- (4) In section 145(2), after “transaction”, insert “or other activity”.
- (5) In section 145(3), after “transaction”, insert “or other activity”.
- (6) In section 145(4),—
 - (a) after “transaction”, insert “or other activity”:
 - (b) after “transactions”, insert “or other activities”.

57 Section 146 amended (Consultation on proposed guidelines)

- (1) In section 146(1), after “transaction”, insert “or other activity”.
- (2) In section 146(2), after “transaction”, insert “or other activity”.
- (3) In section 146(3), after “transaction”, insert “or other activity”.

58 Section 147 amended (Availability of guidelines)

In section 147, after “transaction”, insert “or other activity”.

59 Section 148 amended (Review of guidelines)

- (1) In section 148(1), after “transaction”, insert “or other activity”.

- (2) In section 148(2), after “transaction”, insert “or other activity”.

60 Section 153 amended (Regulations)

Replace section 153(d) with:

- (d) prescribing amounts or thresholds that are required to be prescribed for the purposes of this Act or regulations (and 1 or more amounts or thresholds may be prescribed for the purposes of different provisions of this Act or regulations):

61 Section 154 amended (Regulations relating to application of Act)

- (1) After section 154(1)(a), insert:

- (ab) exempting or providing for the exemption of any financial activity or class of financial activities described in the definition of financial institution in section 5 from all or any of the provisions of this Act:
- (ac) declaring an entity or a class of entities to be an approved entity or approved class of entities for the purposes of section 33(3A):

- (2) After section 154(1)(h), insert:

- (ha) declaring an activity or a class of activities to be, or not to be, an occasional activity for the purposes of this Act:

- (3) In section 154(2)(a), delete “and the Financial Transactions Reporting Act 1996”.

- (4) Repeal section 154(3)(c) and (5).

62 New section 156A and cross-heading inserted

After section 156, insert:

Review provision

156A Review of operation of Act

- (1) The Minister of Justice must, not later than 1 July 2021, refer to the Ministry of Justice for consideration the following matters:
- (a) the operation of the provisions of this Act since the commencement of this section; and
- (b) whether any amendments to this Act are necessary or desirable.
- (2) The Ministry must report on those matters to the Minister of Justice within 1 year of the date on which the reference occurs.
- (3) The Minister of Justice must present a copy of the report provided under this section to the House of Representatives as soon as practicable after receiving it.

63 Section 157 amended (Minister may grant exemptions)

- (1) In section 157(1), replace “, in the prescribed form, exempt any” with “exempt either or both”.
- (2) In section 157(1)(a), replace “entities; or” with “entities:”.
- (3) After section 157(1), insert:
 - (1A) The Minister may grant an exemption—
 - (a) to an individual reporting entity on application by that entity in a manner and form approved by the chief executive (if any):
 - (b) to a class of reporting entities on the Minister’s own motion or on application by 1 or more reporting entities made in a manner or form approved by the chief executive (if any).
- (4) Repeal section 157(3)(a).
- (5) In section 157(4), after “disallowable instrument”, insert “but not a legislative instrument”.
- (6) In section 157(5), after “this section”, insert “is a legislative instrument and”.

64 New section 159A and cross-heading inserted

After section 159, insert:

Resolution of disputes about privilege

159A Procedure for testing assertions that document privileged

- (1) If any person refuses to disclose any information or document on the grounds that it is a privileged communication and that section 132(4), 133(5), or 143(3) applies, the Commissioner, an AML/CFT supervisor, or that person may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid.
- (2) For the purposes of determining that application, the District Court Judge may require the information or document to be produced to the District Court Judge.

65 Section 160 and cross-heading repealed

Repeal section 160 and the cross-heading above section 160.

66 Sections 162 and 163 repealed

Repeal sections 162 and 163.

67 Schedule 1 amended

- (1) In the Schedule 1 heading, replace “s 160” with “s 7A”.
- (2) In the Schedule 1 1 heading, replace “and savings provisions” with “savings, and related provisions”.
- (3) In Schedule 1, above clause 1, insert:

Part 1**Transitional, savings, and related provisions relating to Financial Transactions Reporting Act 1996**

- (4) In Schedule 1, after clause 3, insert the Part 2 set out in Schedule 1 of this Act.

68 Consequential amendments to principal Act

The principal Act is amended in the manner set out in Schedule 2.

Part 2**Amendments to other enactments and repeal****69 Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011**

- (1) This section amends the Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Regulations 2011.
- (2) Revoke regulations 8 and 9.
- (3) Replace regulation 20(1) with:

- (1) A person is not a reporting entity, for the purposes of the Act, by reason only that the person carries out a relevant service in the ordinary course of the person's business as an executor, an administrator, or a trustee in respect of services provided in the administration of an estate or, in the case of a trustee, in respect of services provided to beneficiaries of a family trust.

70 Amendment to Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016

- (1) This section amends the Anti-Money Laundering and Countering Financing of Terrorism (Prescribed Transactions Reporting) Regulations 2016.
- (2) Replace Schedule 2 with the Schedule 2 set out in Schedule 3 of this Act.

71 Amendments to Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011

- (1) This section amends the Anti-Money Laundering and Countering Financing of Terrorism (Requirements and Compliance) Regulations 2011.
- (2) Revoke regulations 4 to 7 and the cross-headings above regulations 4, 5, and 5A.

72 Amendments to Financial Transactions Reporting Act 1996

- (1) This section amends the Financial Transactions Reporting Act 1996.
- (2) Repeal section 3(1)(g).
- (3) Repeal section 3(1)(j).
- (4) Repeal section 3(1)(l) and (la).

(5) Repeal section 3(1)(m).

73 Financial Transactions Reporting Act 1996 repealed

The Financial Transactions Reporting Act 1996 (1996 No 9) is repealed.

Schedule 1

Amendments to Schedule 1 of principal Act

s 67

Part 2

Transitional provisions relating to Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017

4 Application for exemption

Any application for an exemption under section 157 that has been lodged but not determined by the Minister, immediately before the commencement of this clause, must be determined by the Minister under section 157 (as amended by section 63 of the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2017 (the 2017 Act)).

Suspicious transaction reports continue until 1 July 2018 or earlier date appointed by Order in Council

5 Reporting entity must continue to report suspicious transactions

Despite section 25 of the 2017 Act, in the period between the commencement of this clause and 1 July 2018 or an earlier date appointed by the Governor-General by Order in Council,—

- (a) a reporting entity must comply with sections 40, 41, and 43 to 48 (as they read before the commencement of section 25 of the 2017 Act) (which relate to suspicious transaction reports); and
- (b) a reporting entity and any other person may rely on section 42 of the principal Act (as inserted by section 25 of the 2017 Act); and
- (c) a reporting entity must not comply with sections 39A, 41, and 43 to 48 (as inserted by section 25 of the 2017 Act); and
- (d) for the purposes of giving effect to paragraphs (a) and (c), section 42 (as inserted by section 25 of the 2017 Act) and sections 139, 140, 140A, 142, 143, 144, 145, 146, 147, 148, 153, and 154 (as amended or inserted by sections 50 to 61 of the 2017 Act) apply with any necessary modifications; and
- (e) subject to paragraphs (b) and (d), for the purposes of, and to the extent necessary for, giving effect to paragraphs (a) and (c), this Act (as it read before the enactment of the 2017 Act) continues in force.

6 Treatment of existing suspicious transaction reports

If, on the commencement of section 25, the Commissioner of Police holds 1 or more suspicious transaction reports given to the Commissioner before the com-

mencement of section 50, the provisions of this Act (as amended by the 2017 Act) apply to those reports as if they were suspicious activity reports.

7 Exemption powers apply immediately to new reporting entities

Any reporting entity or class of reporting entity to which, under section 6(3), this Act does not yet apply but will apply at a future date may, on or after the commencement of this clause, apply for an exemption under section 157, and the powers and duties conferred by sections 157 to 159 in relation to applications for exemptions apply immediately.

Schedule 2

Consequential amendments to principal Act

s 68

In section 5, definition of **customer**, paragraph (b)(ii), replace “occasional transaction” with “occasional transaction or activity”.

In section 14(b), replace “occasional transaction” with “occasional transaction or activity”.

In section 16(2), replace “occasional transaction” with “occasional transaction or activity”.

In section 18(1)(b), replace “occasional transaction” with “occasional transaction or activity”.

In section 20(2), replace “occasional transaction” with “occasional transaction or activity”.

In section 22(1)(b), replace “occasional transaction” with “occasional transaction or activity”.

In section 22(2)(b), replace “occasional transaction” with “occasional transaction or activity”.

In section 22(5)(b), replace “occasional transaction” with “occasional transaction or activity”.

In section 24(2), replace “occasional transaction” with “occasional transaction or activity”.

In section 26(1), replace “occasional transaction” with “occasional transaction or activity”.

In section 26(3), replace “occasional transaction” with “occasional transaction or activity”.

In section 26(3), after “that transaction”, insert “or other activity”.

In section 30, replace “occasional transaction” with “occasional transaction or activity”.

In section 32(1)(a)(i) and (ii), replace “occasional transaction” with “occasional transaction or activity”.

In section 33(2)(c)(i), replace “occasional transaction” with “occasional transaction or activity”.

In section 37(c), replace “occasional transaction” with “occasional transaction or activity”.

In section 39(1), replace “occasional transaction” with “occasional transaction or activity”.

In section 50(3)(b), replace “occasional transaction” with “occasional transaction or activity” in each place.

In section 50(3)(c)(ii), replace “occasional transaction” with “occasional transaction or activity”.

After section 154(1)(g), insert:

- (ga) declaring an activity or a class of activities to be, or not to be, an occasional activity and the circumstances and conditions in which an activity or a class of activities is to be, or not to be, an occasional activity for the purposes of the Act.

Schedule 3
New Schedule 2 inserted

s 70

Schedule 2
Information to be included in section 48A(1) report

s 48A

Part 1
Details to be contained in international wire transfer report

1 General

For the reporting entity,—

- (a) the name of the reporting entity:
- (b) the business address of the reporting entity:
- (c) the name of the reporting entity's AML/CFT supervisor.

2 Transaction details

For each transaction,—

- (a) the branch or location where the transaction took place in New Zealand (if relevant):
- (b) the country where the transaction took place (if not New Zealand):
- (c) the date and time of transaction:
- (d) the mode of the transaction (ie, wire transfer):
- (e) the type of funds (eg, cash deposit, deposit from electronic funds):
- (f) the amount in New Zealand dollars:
- (g) the amount in foreign currency (if applicable):
- (h) the exchange rate (if applicable):
- (i) the unique transaction reference number:
As available
- (j) the branch or city or region where the transaction took place if not in New Zealand:
- (k) the Internet Protocol address of the originator.

3 Transaction details in relation to originator or beneficiary

For each transaction by international wire transfer,—

- (a) the information to be provided where the reporting entity's customer is the originator of the transaction (and not the information in paragraph (b)) is as follows:
 - (i) the name of the beneficiary of the international wire transfer:
 - (ii) the account number for the beneficiary of the international wire transfer:
 - (iii) the country where the beneficiary account is held or the location of the beneficiary (city or region, if available):
 - (iv) any other details of the location of the beneficiary account or beneficiary, as available:
 - (v) any other identifying information regarding the beneficiary of the international wire transfer, as available:
- (b) the information to be provided where the reporting entity's customer is the beneficiary of the international wire transfer (and not the information in paragraph (a)) is as follows:
 - (i) the name of the originator of the international wire transfer:
 - (ii) the account number for the originator of the international wire transfer:
 - (iii) the country where the originator account is held or the originator is:
 - (iv) any other details of the location of the originator account or the originator, as available:
As available
 - (v) any other identifying information regarding the originator of the international wire transfer.

4 Customer details

- (1) For each customer party to the transaction,—
 - (a) their name:
 - (b) either their account number or unique customer identifier or both (if applicable):
 - (c) their date of birth (if applicable):
 - (d) their identity document number:
As available
 - (e) the type of account or facility:
 - (f) the physical address of each customer party to the transaction or (if the customer party is a company) the address of its registered office:
 - (g) the phone number of each customer party to the transaction:

- (h) any other identifying information regarding each customer party to the transaction.
- (2) For each person acting on behalf of a customer,—
- As available*
- (a) the name of the person:
 - (b) their account number or unique customer identifier:
 - (c) their date of birth (if applicable):
 - (d) their identity document number:
 - (e) if the customer is not a natural person, identifying information that allows the transaction to be traced back to the person originating the transaction on behalf of the customer.

Part 2

Details to be contained in domestic physical cash transaction report

5 General

For the reporting entity,—

- (a) the name of the reporting entity:
- (b) the business address of the reporting entity:
- (c) the name of the reporting entity's AML/CFT supervisor.

6 Transaction details

For each transaction,—

- (a) the branch or location and where the transaction took place:
- (b) the date and time of transaction:
- (c) the mode of transaction (eg, in person, ATM, or other relevant system or channel):
- (d) the type of funds (eg, cash):
- (e) the amount in New Zealand dollars:
- (f) the amount in foreign currency (if applicable):
- (g) the exchange rate (if applicable):
- (h) the unique transaction reference number.

7 Customer details

(1) For each customer party to the transaction,—

- (a) their name:
- (b) either their account number or unique customer identifier or both (if applicable):

- (c) their date of birth (if applicable):
 - (d) their identity document number:
As available
 - (e) the type of account or facility:
 - (f) the physical address of each customer party to the transaction or (if the customer party is a company) the address of its registered office:
 - (g) the phone number of each customer party to the transaction:
 - (h) any other identifying information regarding each customer party to the transaction.
- (2) For each person acting on behalf of a customer,—
- (a) the name of the person:
As available
 - (b) their account number or unique customer identifier:
 - (c) their date of birth (if applicable):
 - (d) their identity document number:
 - (e) if the customer is not a natural person, identifying information that allows the transaction to be traced back to the person originating the transaction on behalf of the customer.

Legislative history

| | |
|----------------|---|
| 13 March 2017 | Introduction (Bill 248–1) |
| 23 March 2017 | First reading and referral to Law and Order Committee |
| 13 July 2017 | Reported from Law and Order Committee (Bill 248–2) |
| 1 August 2017 | Second reading |
| 2 August 2017 | Committee of the whole House (Bill 248–3) |
| 3 August 2017 | Third reading |
| 10 August 2017 | Royal assent |

This Act is administered by the Ministry of Justice.