

The New AML Regime - is there a Silver Lining

19 April 2018

by [Nicola Hankinson](#)

If you have tried to open a bank account recently or move some funds from overseas you will no doubt have heard of [Anti-Money Laundering/Countering Financing of Terrorism](#) (AML/CFT, or AML for short).

Over the last decade countries around the world have been updating their legislation and regulations to help ensure that funds transferred through their country are 'above board' (ie have not been sourced illicitly, illegally or used to fund terrorist activity). Activities that are in any way suspicious are reported through to the appropriate authority^[1]. New Zealand is one of these countries. We are a member of the [Financial Action Task Force \(FATF\)](#), which was set up to develop an effective system to combat "money laundering, terrorist financing and other related threats to the integrity of the international financial system". In New Zealand 'suspicious activities' are required to be reported through to the [Financial Intelligence Unit \(FIU\)](#) of the New Zealand Police.

WHAT IS MONEY LAUNDERING?

"Money laundering is the process criminals use to 'clean' the money they make from crimes such as fraud, dealing in illegal drugs and tax evasion. By making the money look like it comes from a legitimate source, they can cover their tracks and avoid detection. They do this by buying, selling and channelling funds through things such as property, expensive goods and financial services. They then spend the money or use it to fund criminal activities.

Money laundering makes it harder for authorities to find out where 'dirty' money comes from, stop crime, prosecute criminals, and seize illegally earned money and assets. People who finance terrorism use similar methods to money launderers to channel funds to violent causes and to disguise who is providing and receiving the money"^[2].

The AML regime in New Zealand is phased, with those institutions considered to be at higher risk of ML/FT designated as "Phase 1" entities (banks, casinos, insurers and other financial institutions) and a range of other entities, including accountants, lawyers and real estate agents designated as

“Phase 2” entities. For accountants the ‘rubber hits the road’ on **1 October 2018**, meaning firms like ours are thinking quite carefully about the regime and ensuring that we are ready to comply.

The questions playing on people’s minds are: Will the AML regime bring much change to the accounting profession? Will there be many transactions to report? The stats are staggering with the Ministry of Justice estimating that **\$1.35 billion** from the proceeds of fraud and illegal drugs is laundered through legitimate businesses in New Zealand each year^[3]. That is a lot of money! The recently released *Guideline: Accountants – Complying with the AML/CFT Act 2009* considers that: *“Both domestic and international evidence suggests that using gatekeepers, **such as accountants**, is a way for criminals to create a false perception of legitimately acquired wealth”*. This makes sense to me.

Putting my criminal hat on for a moment, if I wanted to make my funds look ‘clean’ I would absolutely look to legitimise them by using a firm of professional, credible accountants. The Guidelines include a number of cases where criminals used accountants to set up companies and trusts, directing a series of complex transactions and commingling funds from their legitimate and criminal activities to ‘layer’ and disguise the true nature of the illegitimate funds.

The AML regime will undoubtedly lead to an increase in compliance costs for accountancy firms as additional client identification and verification, ongoing monitoring and reporting is required, as well as the development of a risk assessment, compliance programme, annual reporting and biennial audits.

However, on the bright side. One of the key phrases of the AML regime is **‘KYC’, Know Your Clients**. This could well be the silver lining or the magic bullet. As accountants, we inherently know our clients well, we are interested in their businesses, in understanding how they work and what makes them tick. This will be instrumental in helping us comply with the requirements of the AML regime. KYC will form the basis of our processes for complying with the risk-based AML regime and will help us to continue to add value to your business.

As an eternal optimist, a dedicated accountant and a proud Kiwi, I am glad that New Zealand is taking a strong stance to protect the integrity of the international financial system and taking appropriate action to keep our beautiful country safe and our reputation as responsible global citizens rosy.

^[1] The DIA, as supervisor of the AML regime for Phase 2 entities, requires reporting of suspicious activities (ie services or transactions that are inconsistent with a client’s usual activities and are indicative of underlying criminal activity) and prescribed transactions (over, or including, \$10,000 cash or \$1,000 international wire transfer).

^[2] justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/what-is-aml-cft/

^[3] justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/