



Anti-Money Laundering

Frequently Asked Questions

What is money laundering?

Money laundering describes the process by which criminals make ‘dirty’ money obtained from their criminal activities look legitimate, or ‘clean’.

They aim to make this dirty money look like it has come from a legitimate source, and therefore difficult to connect with its criminal past. Once that is achieved, criminals can introduce their dirty money into the financial system undetected.

From there, the money can be transferred between bank accounts or financial products in New Zealand or abroad, or used to purchase goods and services, including real estate assets. (1)



What is an AML/CFT programme?

An Anti-Money Laundering/Counter Finance Terrorism (AML/CFT) programme sets out a reporting entity’s internal policies, procedures and controls to detect money laundering and financing of terrorism and to manage and mitigate the risk of it occurring. The programme must be in writing and be based on its risk assessment.

Certain elements of a programme are specifically required by the Act, including:

- vetting senior managers and AML staff
- training senior managers and AML staff
- customer due diligence, including enhanced Customer Due Diligence (CDD) and simplified CDD
- reporting suspicious transactions
- monitoring and record keeping
- monitoring and managing compliance with the AML/CFT programme.

Risk-based systems and controls should be based on the nature, size and complexity of a reporting entity’s business, along with any money laundering and financing of terrorism risks it may face. (1)

Why should we make these changes in our business?

Like any law, businesses and individuals are required to follow the legislation imposed by the government.

In addition, complying with the AML/CFT regime will make it harder for criminals to launder money and provides a significant disincentive to commit crime making New Zealand and the wider society a safer place. There is a societal benefit in complying with this law and is linked to our values of doing the right thing and people first. (3)

What’s the easiest way for my sales business to ensure we are compliant?

It is imperative to attend salespersons training on the matter and work with your compliance officers if you need help understanding on AML/CFT. This FAQ is not a how to comply and will not remove the need for training. (3)



What happens if I don't make the changes in my business for the incoming AML law reforms?

Like all laws, in the most serious of cases anyone who do not follow the law, can be punished. However, more importantly a significant reputational risk is likely should you not adhere to the laws. (3)



What steps should be taken if the Seller does not provide ID during customer due diligence or will not disclose where they got the money from to buy the property they are selling?

ID verification is a core requirement of customer due diligence and will be required in all instances. Verification of the source of funds/source of wealth is required in certain circumstances. If the client will not provide the required information, you cannot onboard them (sign the agency agreement). Moreover, this is considered a suspicious activity and should be reported as such. This should be referred in the first instance to the compliance officer as a suspicious activity. (3)

Do we need to get certified copies of IDs?

If the sales person collects the IDs in person then they are carrying out internal verification. In this case there is no need to get certified copies. Like the overseas example, if the salesperson cannot verify the documents, they can get them certified in the same manner as described. There are third party suppliers that can help, but speak to your compliance officer if your businesses have this as it comes with additional cost. (3)



What if someone doesn't have a passport and they don't drive?

There are many different types of documents that can be used under the **Amended Identity Verification Code of Practice 2013** but there will always be some people, for example the very young, who don't have the required identification documents. In order to comply with the code you will need to put in place exception handling procedures for these customers. Note that exception handling should only be used where the person genuinely does not hold the identification documents, not where they have just left them at home. This exception will be for the compliance officer to make with approval from a senior manager. The reasons for the exception must be documented and stored and made available to the supervisors and/or the auditors upon request. (1)

My client is currently residing overseas, however they own a house in New Zealand. How do I verify their address and what address would we use in this case?

The address you would need to verify would be where they are currently residing, even if it is overseas. (2)



How do I verify the identity and address of a non-NZ resident client?

You will need to get the same information as if they were based in New Zealand. As the salesperson does not see the paperwork, certified copies will be acceptable. Certification will be as per local laws, for example if a Justice of the Peace is accepted as a valid certification method in the overseas jurisdiction where the person is living, then this will suffice. From there, it can be emailed and the listing can commence. However, original documents must be posted and filed once arrived. (3)

How do I verify the address of a trust?

You can refer to the Trust Deed to verify the address of a trust. You should take steps to confirm this is the current address. If the trust does not have an address, you should obtain the address of the person or persons acting on behalf of the trust. (2)



What is a politically exposed person?

In summary, a PEP is a person, or an immediate family member or someone who has close business ties to that person, who holds or has held (in the preceding 12 months) a prominent public function in a foreign country. This may be because they are or were a head of state, senior politician, or an official with a public profile, such as a Supreme Court Judge, or a highly ranked military official. It could also be because they had authority and influence in a state enterprise in any country. PEPs can be exposed to bribery or corruption or their respected status may be misused (knowingly, or unknowingly) to legitimise otherwise suspect transactions. (4)

How do I know if someone is a politically exposed person?

The following website can be used to conduct PEP checks: <https://namescan.io/FreePEPCheck.aspx>. The website hosts a free PEP Check based on a limited collection of publicly available, open source data, which has not been vetted. The website also has a paid service, which utilises daily updated, premium data from the Thomson Reuters World-Check database and is therefore more accurate than the free check.

It must be determined whether every client is a politically exposed person, no matter what country they are from. Your compliance program will give more clarity on the level of checks for each country. If you determine the vendor is a PEP you will need to perform enhanced due diligence on this vendor irrespective of how the ownership of the property is structured.



What happens to the copies of the passports taken on the phones of the salespeople?

If your business have engaged with AML Solutions an APP can be downloaded for the collection of ID verification. A copy of the ID, for example a passport, is scanned and sent to the secure AML Hub. The passport picture is not stored on salespeople's phones. The AML Hub is secure and a select number of people have access to it. This information is compiled and allows the agency to have a compliant AML/CFT programme.

What happens if my business has not engaged with AML Solutions?

Please refer to the privacy safeguards as outlined by your compliance officer.



This is too hard, I will just lose the listing!

Remember that in order to open a bank account you must identify yourself. Since July 1, when you purchase property, in order to use a solicitor or conveyancer, you need to identify yourself. Similarly, if you start using an Accountant from 1 October 2018, you need to identify yourself. Carrying out customer due diligence is just another thing that will become business as usual for the real estate professional just as it has for banks, lawyers and accountants. Remember, the motivation to sell should ensure the vendors comply with the regime. Finally, others in other industries have adapted, so will we. (3)

What if we comply, lose a listing and my competitor does not comply and takes the listing?

Simply put they are breaking the law. There are steps in place around auditing to identify this, so they will only benefit in the short term from this criminal activity. (3)



Surely all sales will now go privately to avoid the AML/CFT regime?

Whilst the listing will go undetected, when the transfer of title occurs, Lawyers and Conveyancers are also required to carry out due diligence on the buyers and sellers and the sale will be captured by AML/CFT.

It is possible that the vendor sells privately and handles the title privately, but this would be highly unusual and if the purchaser uses a lawyer or conveyancer, then this is a suspicious activity and should be reported by the purchaser's solicitor. (3)

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Sources

1. https://fma.govt.nz/compliance/amlcft/faqs/#Money_laundrying
2. https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Anti-Money-Laundering-Frequently-Asked-Questions-for-DIA-Reporting-Entities?OpenDocument
3. Knowledge obtained from attending AML training and reading DIA Guidelines for Real Estate Agents
4. <https://www.dia.govt.nz/AML-CFT-GuidelineLawyers-and-Conveyancers>