

# Departmental Disclosure Statement

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Anti-Money Laundering and Countering Financing of Terrorism (Supervisor, Levy, and Other Matters) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Justice.

The Ministry of Justice certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

23 June 2025

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## Part One: General Policy Statement

The Anti-Money Laundering and Countering Financing of Terrorism (Supervisor, Levy, and Other Matters) Amendment Bill (the Bill) amends the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Act). It has the objectives of:

- reducing business compliance costs;
- improving regulatory effectiveness and efficiency;
- continued regulatory compliance with related international obligations; and
- providing sufficient funding for the regulatory system.

The Bill introduces a single supervisor for anti-money laundering (AML) and countering the financing of terrorism (CFT) obligations on regulated entities. The single supervisor is being introduced to reduce complexity in the regulatory system, thereby increasing its efficiency and effectiveness and allow for reduced compliance costs.

The regulatory functions and powers of the agencies have been updated. The changes are required in order to ensure effective and timely intervention in regulated activity. The single supervisor requires the powers usually available to a financial sector regulator in order to meet international standards to combat money laundering and terrorism financing.

The Bill extends the delegation of secondary legislation under the Act in order to better enable risk-based regulation and allow for the reduction of regulatory compliance through a differentiated approach to setting and enforcing obligations for AML/CFT.

These changes are necessary and desirable as the current level of complexity in the supervisory system, and high level of prescription in regulations, are inhibiting the ability of the system to effectively and efficiently address high-risk regulated activity while also reducing obligations in low-risk situations.

An industry levy is being introduced for partial cost recovery for regulatory services. The levy will fund changes intended to provide regulatory relief, while continuing to meet international standards for AML/CFT. The levy is being introduced on the basis of principles for cost recovery and the approach to funding comparable systems.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<p><i>Report on the review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009</i>, Ministry of Justice (July 2022)</p> <p><a href="https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf">https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf</a></p> <p><i>Personal banking services: Final competition report</i>, Commerce Commission (August 2024)</p> <p><a href="https://comcom.govt.nz/_data/assets/pdf_file/0019/362035/Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf">https://comcom.govt.nz/_data/assets/pdf_file/0019/362035/Final-report-Personal-banking-services-market-study-20-August-2024-Amended-27-August-2024.pdf</a></p>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p><i>AML/CFT Supervisory Model Regulatory Impact Statement</i>, Ministry of Justice (September 2024)</p> <p><i>AML/CFT Funding Model Regulatory Impact Statement</i>, Ministry of Justice (September 2024)</p> <p><i>AML/CFT Stage 1 Cost Recovery Impact Statement</i>, Ministry of Justice (September 2024)</p> <p>These three reports have been released together</p> <p><a href="https://www.justice.govt.nz/assets/Documents/Publications/AMLCFT_Release_Pack_FINAL.pdf">https://www.justice.govt.nz/assets/Documents/Publications/AMLCFT_Release_Pack_FINAL.pdf</a></p> <p>Some information contained within the reports has been withheld in accordance with the following sections of the OIA:</p> <ul style="list-style-type: none"><li>• section 9(2)(a) to protect the privacy of natural persons, including that of deceased natural persons;</li><li>• section 9(2)(d) to avoid prejudice to the substantial economic interests of New Zealand; and</li><li>• section 9(2)(f)(iv) to maintain the constitutional convention which protects the confidentiality of advice tendered by Ministers of the Crown and officials.</li></ul>	

<b>2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
<p>The proposals did not meet the threshold for Ministry for Regulation review.</p>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
Pages 63, 100 to 101, and 119 to 130 in the bundled release. <a href="https://www.justice.govt.nz/assets/Documents/Publications/AMLCFT_Release_Pack_FINAL.pdf">https://www.justice.govt.nz/assets/Documents/Publications/AMLCFT_Release_Pack_FINAL.pdf</a>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>NO</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>NO</b>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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The Ministry of Justice provides New Zealand's delegate to the intergovernmental Financial Action Task Force (FATF), which sets international standards for anti-money laundering and countering the financing of terrorism.

Continued (and improved) compliance with those standards has been considered throughout the development of this advice and is an objective of the Bill. Experts in other government departments that make contributions to FATF, including the Ministry of Foreign Affairs and Trade, were also consulted during the formation of the policy advice and drafting of the Bill.

### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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The Ministry of Justice does not consider there to be the potential for the Bill to affect Māori rights and interests protected by the Treaty of Waitangi.

### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>NO</b>
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Crown Law identified an issue in respect of the breadth of power of entry into private dwellings potentially provided under clause 23 of the Bill. This has been resolved through the introduction of subsection 133A(2)(b) to clause 23 of the Bill.

### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>NO</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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## Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	Yes
<p>Clause 8 was inserted at the request of industry, who wanted the protections afforded under Subpart 2 of Part 2 of the Act when voluntarily reporting suspicious activities encountered during the ordinary course of their business. Clause 7 updates the definition of suspicious activity to include Clause 8. Clause 8 is not a mandatory obligation and provides legal protection for current voluntary reporting that may include personal information.</p> <p>Application of existing supervisory provisions for already regulated sectors are being transferred from the Financial Markets Authority (FMA) and Reserve Bank of New Zealand (RBNZ) to the Department of Internal Affairs in Part 2 of the Bill. The scopes of those provisions are not changing. Clauses 10, 22, 24, and 28 also contain transfer amendments.</p> <p>Clause 21(5) strengthens the ability of the supervisor to require an interview that may result in the collection of personal information. Clause 21(8) clarifies timeliness requirements for existing provisions for production of information that may include personal information.</p> <p>Schedule 1 of the Bill insets a new Part 3 into Schedule 1 of the Act. Clause 9 of Schedule 1 of the Bill enables the transfer and use of personal information currently held by the FMA and RBNZ for the purposes of AML/CFT supervision to and by DIA.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>A meeting was held with the Office of the Privacy Commissioner (OPC) to discuss drafting issues before the Bill was prepared; the policy underpinning these provisions was discussed. It was agreed that any exclusion to the applicability of the Privacy Act 2020 would be limited.</p> <p>A draft of the Bill was provided to the Privacy Commissioner.</p> <p>A meeting was held with OPC to discuss the draft Bill. That earlier draft of the Bill enabled the transfer of supervisory information and actions from the FMA and RBNZ to occur under clause 9 of Schedule 1 of the Bill without there being any breach of the Privacy Act 2020.</p> <p>Feedback was received on limiting the Privacy Act carve-out contained in Clause 9(4) to Information Privacy Principles 8 and 11. The absence of this limitation of exclusion, as discussed prior to the drafting of the Bill, was an oversight that has been corrected.</p>	

## External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The policy work underpinning the Bill was based upon the findings and recommendations of the Statutory Review of the AML/CFT Act (the Review). The final report of the Review was tabled in Parliament on 7 November 2022.</p> <p>The Review focused on how the AML/CFT Act had performed since 2017 as well as whether any changes were necessary or desirable. The Review assessed the extent to which the AML/CFT Act had achieved its purposes, the cost and maturity of the regime, and its consistency with Te Tiriti o Waitangi.</p> <p>The Review included two rounds of consultation; the first based on a public discussion document and the second an iterative consultation with targeted groups of private sector stakeholders to develop recommendations for change.</p> <p>The findings and recommendations were based on private sector and community feedback on the discussion document, agency views, and the FATF's findings and conclusions in New Zealand's last mutual evaluation.</p> <p>The Commerce Commission also consulted and reported on how AML/CFT obligations affect personal banking services, with many of its findings and recommendations drawing on the earlier work of the Review.</p> <p>The specific changes included in the Bill were consulted with the FMA and RBNZ. The Bill itself has not been publicly consulted.</p> <p><i>Report on the review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009</i>, Ministry of Justice (July 2022)</p> <p><a href="https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf">https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf</a></p>	

## Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>The Department of Internal Affairs undertook a due diligence exercise, to confirm its ability to become the single supervisor for AML/CFT, after Cabinet made its related policy decisions. Participating agencies did not identify any impediments or new information that would affect the advice provided to Cabinet or potentially have a bearing on Cabinet's decisions.</p>	



## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
The levy enabled through the Bill is limited to cost-recovery of the regulatory system.	

### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

### Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

### Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

### Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

## Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p>Clause 29(2) empowers the <b>definition in delegated legislation of three terms</b> used in the Act. This is correcting an oversight in the amendments made in 2017 when the matters to be defined were introduced into the scope of the Act.</p> <p>The terms are:</p> <ul style="list-style-type: none"> <li>(a) declaring a person or class of persons to be, or not to be, a designated non-financial business or profession for the purposes of this Act:</li> <li>(b) declaring an arrangement to be a legal arrangement for the purposes of this Act:</li> <li>(c) declaring a person to be, or not to be, an ordering institution for the purposes of this Act.</li> </ul> <p>Clause 32 transfers several <b>existing powers to make exemptions</b> from application of the Act. These are moved from regulation currently made by Order in Council on the recommendation of the Minister, to rule and notice-making powers to be exercised by the Ministry of Justice, DIA and Financial Intelligence Unit in their respective areas of regulatory authority. Ministerial exemptions under section 157 of the Act are unaffected.</p> <p>These clauses are designed to be used to supplement the broader settings provided on the applicability of the Act that will remain in regulation. They will apply to subsets of financial transactions or arrangements, or in particular situations or instances, rather than being able to rule particular industry sectors in or out of the application of AML/CFT obligations. Use of exemption powers under the new section 156F must be consistent with regulation.</p> <p>The regulation-driven nature of current exemptions under section 154 of the Act was considered a necessary cost to provide certainty under a complex split-supervisory model for AML/CFT. The Statutory Review of the AML/CFT Act found the costs too high for the benefit they provided and recommended reform of them. Refer section 3.5 of the final report of the Review and recommendation 39 in particular.</p> <p>The reform of supervision through the Bill allows a more efficient and effective approach to be taken to secondary legislation. These delegations are equivalent to the powers provided to other financial-sector regulators in New Zealand, and allow for risk-based regulation to reduce unnecessary compliance costs.</p> <p>For example, at present a request for an exemption for a specific reporting measure for a particular type of transaction must go through the same process as a request to exempt an industry sector from the entirety of the application of Act. As a result there is a backlog of requests for exemptions to the Act and this is likely to continue unless these reforms are made. Under the Bill, exemption powers under the Act will be differentiated by scope and related decision-making allocated accordingly, including by notice through clause 32.</p>	

4.7. [Continued]	YES
<p>Section 154H under clause 32 of the Bill requires the notice-maker to have regard to:</p> <ul style="list-style-type: none"> <li>(a) the intent and purposes of this Act and any regulations; and</li> <li>(b) the risk of money laundering and the financing of terrorism, including where appropriate, the risk associated with a reporting entity, the products and services offered by the reporting entity, and the circumstances in which the products and services are provided; and</li> <li>(c) the impact on the prevention, detection, investigation, and prosecution of offences; and</li> <li>(d) the level of regulatory burden on a reporting entity; and</li> <li>(e) whether the notice would create an unfair advantage for a reporting entity or would disadvantage other reporting entities; and</li> <li>(f) the overall impact that the notice would have on the integrity of, and compliance with, the AML/CFT regulatory regime.</li> </ul> <p>Section 156I under clause 32 requires the notice-maker to consult affected parties, their representatives, interested agencies, and the Minister before making any rule. The rule-maker must make copies of the proposed notice available for inspection by any person who so requests before the notice is made.</p> <p>Any notice issued must include an explanation of the reason for making it. Notices are secondary legislation subject to the publication requirements of Part 3 of the Legislation Act 2019. Notices are presented to the House of Representatives and disallowable instruments.</p> <p><i>Report on the review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009</i>, Ministry of Justice (July 2022)</p> <p><a href="https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf">https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf</a></p>	

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p><b>Codes of Practice, administrative and procedural processes, and setting reports and forms</b> are all currently prescribed in regulation under the Act.</p> <p>Clauses 12 to 16, 20, 24(3), 25(2), and 26 to 32 give effect to changes to current delegations under Subpart 5 of Part 2 and sections 153 and 154 of the Act – from the Minister to agencies under the Bill (except report and form setting).</p> <p>The Statutory Review of the AML/CFT Act considered delegated legislation and recommended changes to it. Refer section 3.5 of the final report of the Review and recommendation 39 in particular.</p> <p>As with exemptions, delegated legislation under the Act is currently a creature of the complex administrative system created under it. The Review found that costs to the private sector, public, and government of requiring consistency through regulation outweighed the perceived benefits when the Act was drafted.</p> <p>Changes to supervisory arrangements under the Bill enables appropriate delegation of secondary instruments. Doing so will enable improved provision of guidance and advice to reporting entities, and a significant reduction in burden for the private sector, government, and ultimately the public.</p> <p>This benefit will result from a more responsive regulator that is able to take a differentiated risk-based approach to setting, monitoring, and enforcing AML/CFT obligations.</p> <p>The protections put in place for the granting of exemptions (outlined above) apply equally to other notices enabled through the Bill in clause 32. Rules made under clause 32 do not require consistency with regulations, as they do not relate to the matters, but otherwise have equivalent protection in place to notices made under the same clause. Clause 13 contains equivalent protection to rule-making for codes of practice issued by the supervisor.</p> <p>The approval of forms under clause 33 is not secondary legislation.</p> <p>The Bill creates new <b>levy-making powers</b> to be given effect through regulation under clause 30 of the Bill. The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations providing for the levies.</p> <p>The new section 155C under clause 30 sets out the matters to which the Minister must have regard when recommending the making of levy regulations.</p> <p>These matters include a national strategy and regulatory work programme for AML/CFT that will be consulted by agencies with industry and published as set out in clause 26 of the Bill, as well as additional consultation specifically on the levy amount and its apportionment between levy-paying entities under clause 30.</p> <p>The Chief Executive of the Ministry of Justice may grant exceptions to the levy under clause 30. Clause 26 requires an annual report by the Ministry of Justice on the work programme and use of the levy, and a review by the Ministry and report to the Minister on levy funding three years after regulations are made or significantly amended. The report must be published within 6 months of provision to the Minister.</p> <p><i>Report on the review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, Ministry of Justice (July 2022)</i></p> <p><a href="https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf">https://www.justice.govt.nz/assets/AMLCFT-Statutory-Review-Final-Report.pdf</a></p>	

#### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>