



Te Tari Taiwhenua
Internal Affairs

Te Kāwanatanga o Aotearoa
New Zealand Government

DIA's Approach to Regulation of Anti-Money Laundering and Countering Financing of Terrorism

2022



DIA's purpose

The Department of Internal Affairs (DIA) serves and connects people, communities and government to build a safe, prosperous and respected nation.

As part of achieving its purpose, DIA aims to minimise harm to people and communities through regulated activities¹.

1. Ngā Takune – Strategic Intentions 2019-2023



Anti-money laundering and countering financing of terrorism goals

The vision of New Zealand, and its international partners, is a financial system free from criminal abuse. This is so that communities are kept safe from the harms of crime and trust in the financial system is protected. This vision will be achieved by keeping financial systems free of laundered money and preventing terrorism financing and proliferation².

Therefore, the goals of New Zealand's anti-money laundering and countering financing of terrorism (AML/CFT) system are to:

- detect and deter money laundering and the financing of terrorism,
- maintain and enhance New Zealand's international reputation, and
- contribute to public confidence in the financial system.

Within New Zealand's AML/CFT system, DIA's AML/CFT goals are to:

- build the capability and effectiveness of reporting entities³ in detecting and preventing their businesses from being used by criminals and terrorists to hide or move money through the financial system, and
- support New Zealand and international efforts to make it difficult for criminals and terrorists to exploit financial systems.

2. Proliferation is the financing of weapons of mass destruction

3. A reporting entity is a business that has obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.



DIA's approach to regulating AML/CFT in summary

We work within a formal New Zealand government system of agencies with roles and responsibilities in relation to specified sectors, and collective oversight. These, in turn, operate within an international AML/CFT framework with our counterparts overseas.

We use our knowledge of reporting entities, their sectors, and money laundering and terrorism financing (ML/TF) typologies⁴ and risks, to target and prioritise our regulatory work. Our regulatory activities assist reporting entities to understand and identify their ML/TF risks, comply with AML/CFT legislation and submit high quality reports so that our partner agencies can detect, investigate and prevent crime.

We also work with a wider network of organisations who have roles and relationships that can be leveraged to increase the effectiveness of the AML/CFT system. These include the peak bodies for the regulated sectors, who are responsible for professional licensing, and other organisations such as industry groups and membership bodies.

4. A typology is a method by which money can be laundered or terrorism financed.



Authorising framework

The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the AML/CFT Act) provides the legal framework for DIA's anti-money laundering regulatory functions, setting out the risk based requirements that reporting entities must establish and maintain, and their reporting obligations.

DIA is one of three New Zealand AML/CFT supervisory agencies. The Reserve Bank of New Zealand (RBNZ) and the Financial Markets Authority (FMA) are the other two. Each agency assesses and reviews the level of ML/TF risk across the reporting entities they supervise and monitors and enforces reporting entities' compliance with the AML/CFT Act.

Table 1: AML/CFT supervisors and the reporting entities they regulate

 Te Tari Taiwhenua Internal Affairs	 Reserve Bank of New Zealand Te Pūtea Matua	 FMA <small>FINANCIAL MARKETS AUTHORITY TE MANA TĀTAI HOKOHOKO</small>
Accounting practices Law firms Conveyancers Real estate agents High value dealers Casinos TAB New Zealand Trust and company service providers Money remitters Virtual asset service providers Other financial service providers not supervised by RBNZ or FMA, including: <ul style="list-style-type: none"> — non-bank non-deposit taking lenders — money changers — payroll remitters — debt collectors — factors — financial lessors — safety deposit box providers — non-bank credit card providers — cash transporters — tax poolers — means of payment providers 	Banks Life Insurers Non-bank deposit takers	Providers of client money and property services Derivatives issuers Discretionary investment management services Equity crowd funding service providers Financial advice providers Managed investment scheme managers Issuers of securities Licensed supervisors Peer to peer lending providers

The New Zealand Police Financial Intelligence Unit (FIU) collects, analyses and shares financial information received under the AML/CFT Act, including information relating to ML/TF and similar offences, and aids in criminal investigations.

DIA works with the RBNZ, FMA and other government agencies to ensure the AML/CFT Act is implemented and achieves its objectives. We participate in cross agency work (e.g. financial intelligence, policy), system governance committees, and joint supervisor work (e.g. co developed guidance).



The role of reporting entities in New Zealand's AML/CFT system

In New Zealand's AML/CFT system, reporting entities have an important role in combatting and disrupting serious crime. They are the first line of defence in protecting the financial system from criminal abuse.

The AML/CFT Act takes a risk-based approach and places the onus on reporting entities to identify, mitigate and manage their ML/TF risks. Reporting entities must understand the risks associated with their services, the ways they deliver their services and their customers. This enables them to respond to their ML/TF risks and implement procedures and controls to combat them.

DIA's approach to regulation recognises that reporting entities are important players in the AML/CFT system. DIA, reporting entities, and other government agencies, including law enforcement and national security agencies, share a common interest in, and responsibility for, creating a financial system free from criminal abuse. Supporting, working with and building the AML/CFT capability of the reporting entities we supervise is critical to DIA achieving its AML/CFT purpose and goals.

DIA's regulatory approach and principles

Our approach to regulation is to:

- develop a comprehensive understanding of ML/TF risks and typologies and share this across the sectors we supervise so that reporting entities are able to better understand and manage their ML/TF risks.
- build a culture of effective AML/CFT compliance across the reporting entities we supervise. We recognise that most entities want to meet their obligations and do their part to deter, and protect their businesses from, criminal misuse but may need assistance to do so.
- identify reporting entities who are not adequately managing and mitigating their ML/TF risks and work with them to better meet their obligations.
- take action where there is serious or systemic non-compliance by reporting entities to prevent future non-compliance, maintain public confidence in New Zealand's financial system, and ensure that those entities that meet their AML/CFT obligations are not disadvantaged.

Operating principles

Our regulatory approach is underpinned by four key principles. These principles inform how we conduct ourselves when undertaking our functions, including when we exercise our powers and engage with the reporting entities we supervise.

- **Risk-based and intelligence-led** – we use risk assessment and analysis, and our knowledge of our reporting entities and sectors, to drive our regulatory approach and to target and prioritise our work.
- **Outcome-focused** – we direct our efforts to where we can have maximum impact on achieving our AML/CFT goals. Our priority is to ensure that reporting entities are implementing policies, procedures and controls to effectively manage the ML/TF risks faced by their businesses.
- **Fair and proportionate** – while we use a consistent approach to decision-making, our choice of compliance activity is informed by professional knowledge and expertise and is appropriate and proportionate to the particular circumstances.
- **Efficient and effective** – we allocate our resources and design our regulatory activities to effectively achieve our goals while minimising costs to business and the government.

DIA's approach to engaging with reporting entities

Reporting entities can expect the method and intensity of their interactions with DIA to vary. This is because reporting entities have different ML/TF risk profiles. We focus our work towards those entities, sectors, activities or transactions where the ML/TF risks are higher or may be evolving.

Our approach to our work is based on an understanding that most people are willing and able to comply, some are willing but unable, a smaller number will comply if pressure is applied, and a few will choose to not comply.

DIA's risk-based approach to monitoring compliance

Reporting entities' capability and capacity to identify, mitigate and manage their ML/TF risks varies. We use a risk-based approach to identify and prioritise reporting entities for compliance assessment. We consider a range of factors, including the reporting entity's ML/TF risk exposure, its compliance history, information from other agencies about the entity or its customers, transaction and suspicious activity reporting to the FIU, and any broader issues or emerging risks we identify across the entity's sector.

Our approach is adaptive – as an entity's ML/TF risks change and its effectiveness at managing its ML/TF risks develops, we may use different types of assessment tools.



Regulatory activities

To tailor our regulatory activities to the risk profile and circumstances of reporting entities, and to ensure our resources are effectively allocated, we group our regulatory activities according to their **type** and **intensity** (see Table 2).

The types of activity we engage in are:

- **Building capability** – activities that we undertake to improve understanding of ML/TF risks and to support reporting entities to meet their obligations and lift their capability in the management of their ML/TF risks.
- **Monitoring** – activities that we undertake to understand whether reporting entities are meeting their obligations and managing their ML/TF risks.
- **Responding** – activities that we undertake, where reporting entities are not meeting their obligations and managing their ML/TF risks, to ensure they meet their obligations or are penalised for not meeting their obligations, depending on the type and level of non-compliance.

By **intensity**, we mean the level of engagement between DIA and the reporting entities, and the time and resource commitment required from both sides.

At any time, we may engage in a range of the above activities based on a particular entity's ML/TF risk exposure and our assessment of how well they are meeting their obligations and managing their risks.



Table 2: Regulatory activities grouped by type and intensity of engagement

Type of Regulatory Activity			
Intensity of Engagement	Building Capability	Monitoring	Responding
	<ul style="list-style-type: none"> Individualised guidance on the legislation and operational issues Presentations to operational level staff to help them understand DIA expectations 	<ul style="list-style-type: none"> Investigations (civil or criminal) In-depth compliance assessments (including on-site) 	<ul style="list-style-type: none"> Criminal proceedings Injunctions or civil penalty proceedings Enforceable undertakings Formal warnings (published and unpublished)
	<ul style="list-style-type: none"> Facilitating and attending industry forum events Meet with industry bodies Targeted communications to businesses with identified capability gaps Providing feedback 	<ul style="list-style-type: none"> On-site inspections (could take a broad or narrow look at obligations) 	<ul style="list-style-type: none"> Remedial direction and monitoring of remediation programs Requiring a reporting entity to conduct an independent audit
	<ul style="list-style-type: none"> Communication campaigns to improve business awareness of AML/CFT obligations Development and publication of guidance and information material in consultation with industry to help businesses meet AML/CFT obligations Publishing information about ML/TF risks (for DIA sectors, their activities and transactions) 	<ul style="list-style-type: none"> Off-site assessments (could take a broad or narrow look at obligations, types of reporting entities or transactions) Monitoring of reporting entity activity 	<ul style="list-style-type: none"> One-to-one engagement with businesses with identified capability gaps

Exercising enforcement powers

The consequences of inadequate AML/CFT systems and controls can be very serious for the New Zealand financial system. Where there has been non-compliance with the AML/CFT Act, we may take enforcement action against a reporting entity.

Where there is minor or technical non-compliance that does not warrant formal enforcement action, DIA will work with the reporting entity to enable it to appropriately respond and remediate issues in a timely manner.

Enforcement actions available to DIA

DIA has four enforcement actions under the Act it can take. We can:

- issue a **formal warning**, which requires a reporting entity to take specified actions to ensure compliance with the AML/CFT Act.
- accept an **enforceable undertaking** detailing the specific actions a reporting entity will take to ensure compliance with the AML/CFT Act. If DIA considers that a reporting entity has breached an enforceable undertaking, DIA can apply to the Court for orders to require the reporting entity to comply with the undertaking or pay a penalty.
- seek restraining or performance **injunctions** and/or **civil penalties** in the High Court.
- undertake a **criminal prosecution**.

Why DIA considers enforcement action

Depending on the circumstances, DIA takes enforcement action to:

- deter and detect ML/TF.
- ensure appropriate and proportionate action in response to breaches of the AML/CFT Act.
- achieve current and future compliance by the reporting entity.
- deter and denounce non-compliance with the AML/CFT Act.
- mitigate the risk of ML/TF occurring through a reporting entity.
- maintain the integrity and reputation of New Zealand's financial system.

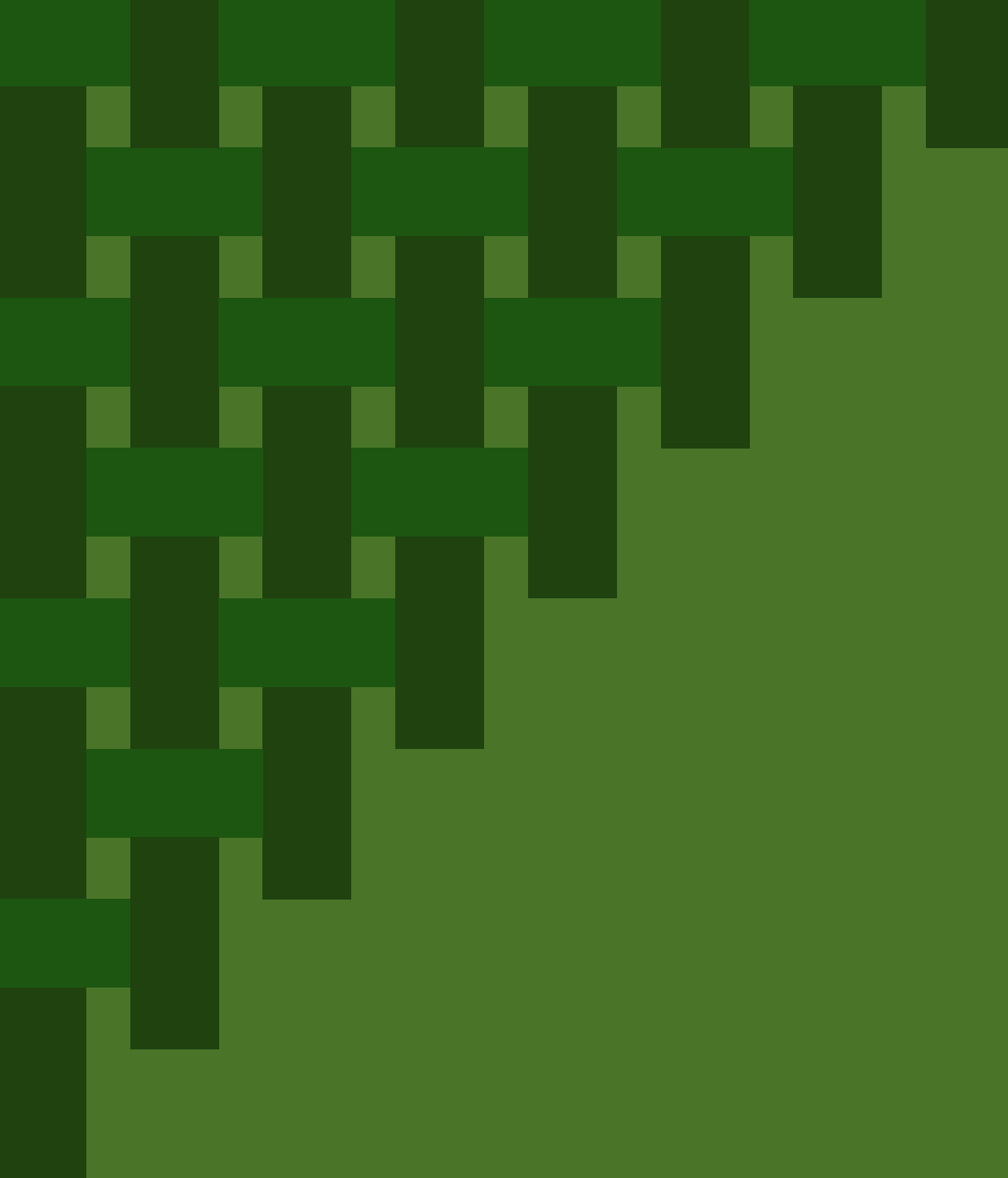
How DIA decides about taking enforcement action

When considering whether enforcement action is appropriate, and which enforcement action to use, DIA considers the circumstances of each case including:

- the nature of the non-compliance, e.g. the type and severity of the non-compliance, whether it is systemic, intentional, or an isolated/one-off breach.
- the ML/TF risk associated with the reporting entity.
- the reporting entity's willingness and effort to comply, e.g. compliance history, level of engagement with DIA.
- whether the non-compliance was voluntarily reported by the reporting entity. Voluntary disclosure does not preclude formal enforcement action but is a factor we will consider. It may also be relevant to which enforcement action is taken and any penalty considerations.

When considering a matter for prosecution, DIA acts in accordance with the DIA's **Prosecution Policy** and the Solicitor-General's Prosecution Guidelines.





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