

Submission

to the

Governance and Administration Select Committee

on the

Statutes Amendment Bill

4 December 2024



About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.

2. The following eighteen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
 - Bank of New Zealand
 - China Construction Bank (New Zealand) Limited
 - Citibank N.A.
 - The Co-operative Bank Limited
 - Heartland Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - Industrial and Commercial Bank of China (New Zealand) Limited
 - JPMorgan Chase Bank N.A.
 - KB Kookmin Bank Auckland Branch
 - Kiwibank Limited
 - MUFG Bank Ltd
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited

Contact details

3. If you would like to discuss any aspect of this submission, please contact:

Antony Buick-Constable
Deputy Chief Executive & General Counsel
antony.buick-constable@nzba.org.nz

Sam Schuyt
Associate Director, Policy & Legal Counsel
sam.schuyt@nzba.org.nz



Introduction

4. NZBA welcomes the opportunity to provide feedback to the Governance and Administration Select Committee (**Select Committee**) on the Statutes Amendment Bill (**Bill**). NZBA commends the work that has gone into developing the Bill.
5. Our submission focuses on proposed amendments to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**) contained in clauses 9-12 of the Bill.

General Comments

6. NZBA does not have a view on clauses 9 and 11, as the proposed amendments in these two clauses do not have a material impact on our members.
7. We support the proposal to extend the timeframe for prescribed transaction reports from 10 working days to 20 working days after the transaction. However, in our view this amendment is unlikely to result in material regulatory relief.

Verification of identity requirements

8. NZBA understands that the intent behind clause 10 is to align with recommendation 114 from the Ministry of Justice's (**MoJ's**) statutory review of the Act: in essence, to reduce compliance burden for reporting entities and customers by only requiring address verification as part of enhanced customer due diligence (**ECDD**).¹
9. We support the intent to reduce compliance burden through aligning address verification with the risk involved (noting our comments at paragraph 13 below). However, we submit that the drafting of the clause will not achieve its intended aim.
10. The current wording lacks clarity and will likely require further guidance from supervisors. Certain interpretations of the proposed wording could lead to no address verification relief actually being delivered. In particular:
 - 10.1. The drafting of clause 10 still requires a reporting entity to “verify” information obtained under s 15(d) of the Act – i.e. a customer’s address. As such, even if a customer is assessed as lower risk or “non-high risk”, a reporting entity may still be required to take positive steps to verify a customer’s address.
 - 10.2. There are no verifiable sources / databases to achieve this in New Zealand without seeking further information from the customer. We note that the Companies Office does not solve this as not all addresses will be listed and the addresses on the Companies Office are not necessarily verified.

¹ See recommendation 114 at page 193 of MoJ's [Report on the review of the Anti-Money Laundering and Countering Finance of Terrorism Act 2009](#).



11. If the Select Committee intends for the Act to require address verification only in situations with higher risk (noting our preference is for full removal, as set out in paragraph 13 below), we would suggest that a modified version of address verification requirement set out in clause 10(2) of the Bill is applied to s 24 of the Act, rather than s 16, i.e.:

11.1. Retain the proposed language in clause 10(1) of the Bill

11.2. Remove from clause 10(2) the proposed addition of s 16(1)(b)(i) to the Act

11.3. Insert a new clause 11, which amends s 24(1) of the Act to only require address verification in certain circumstances where ECDD applies, as follows:

24 Enhanced customer due diligence: verification of identity requirements

(1) A reporting entity must—

(a) conduct the verification of identity requirements for standard customer due diligence set out in section 16; and

(b) where section 22(1)(c) or section 22(1)(d) apply, take reasonable steps to verify the information obtained under section 15(d); and

(c) [...]

12. This would, in effect, make it clear that taking steps to verify address is only required in certain instances where ECDD applies for high risk customers or activity.

Full removal of address verification

13. Further to previous submissions we have provided, NZBA strongly recommends removing the requirement to verify address information entirely.² We continue to challenge what value address verification provides in relation to mitigating or deterring money laundering or terrorism financing, noting that:

13.1. Subsequent addresses provided by a customer do not need to be verified, and residential address can and does change on short or no notice.

13.2. Address verification requirements can have a disproportionate impact on vulnerable customers, for example those in transient housing situations or recently released prisoners.

13.3. A requirement to verify a customer's address depending on the level of risk may lead to different outcomes for different reporting entities, creating confusion for customers. For example, one reporting entity may assess a

² See row 4.50 at page 30 of [NZBA's submission on the MoJ's review of the AML/CFT Act](#).



customer as “low” risk and another at “low medium” or “medium” risk. Under the current drafting, this would require a customer to provide address verification to one reporting entity and not the other.

14. We understand, based on comments provided by the MoJ, that address verification was proposed to not be fully removed as part of the recent changes to AML/CFT regulations on the basis that this would require a legislative change.³
15. As we are now looking at an amendment to the Act itself, we submit that the value of address verification as an effective measure should be revisited in its entirety, and suggest that the requirement to verify a customer’s address be removed completely from the Act.

³ See the MoJ’s comments that twelve proposed changes needed to be addressed in primary legislation rather than in regulations as part of its 2023 [announcement to change AML/CFT regulations](#).