New Zealand Banking Association
Te Rangapū Pēke

Submission

to the

Ministry of Justice

on the

Draft AML/CFT National Strategy and Work Programme

29 August 2025

NEW ZEALAND BANKING ASSOCIATION – TE RANGAPŪ PĒKE
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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 seventeen 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
- Rabobank New Zealand Limited
- SBS Bank
- TSB Bank Limited
- Westpac New Zealand Limited

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the Ministry of Justice (**MoJ**) on the draft AML/CFT National Strategy and Work Programme (**Strategy**).

5. We have set out in this submission our initial views on the material circulated in advance of, and shared during, the workshops held in Auckland and Wellington to discuss the draft Strategy (**Consultation Materials**).

Purpose of the National Strategy – Survey Questions 5 - 8

6. The Consultation Materials state that the proposed goal of the Strategy is:

> *To make New Zealand a safe place to do business and provide the direction for New Zealand to:*
>
> *1. be the best place for legitimate business by protecting our financial sector and simplifying AML/CFT compliance;*
>
> *2. become the hardest place for criminals to do business by making it extremely difficult to move illicit money;*
>
> *3. stay ahead of evolving financial crime.*

7. While in principle NZBA fully supports having goals to improve the AML/CFT regime and make it harder for criminals to commit crime, we have concerns with the strategy as framed. NZBA submits that this goal has no actionable objectives or measurable outcomes. It is not a substantive goal, as much as it is a vision statement, which will be difficult to track progress against. Further, there is an inherent tension between the first two statements which may further impact the ability to effectively achieve both without clearer targets and linked activities. We also note that there are few actions in the work programme to meet the third goal above.

8. In our view, it would be more sensible to align the goal of the Strategy with the purpose of existing legislation, and where appropriate, Financial Action Task Force (**FATF**) recommendations.

9. For example, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**Act**) sets out its purpose at section 3:

> *The purposes of this Act are—*
>
> *(a) to detect and deter money laundering and the financing of terrorism; and*
>
> *(b) to maintain and enhance New Zealand's international reputation by adopting, where appropriate in the New Zealand context, recommendations issued by the Financial Action Task Force; and*
>
> *(c) to contribute to public confidence in the financial system.*

10. Further, we reiterate concerns raised at the workshops with the concept of "simplifying" compliance. NZBA considers that working towards "effective" compliance would be more appropriate.

11. Whatever form the goal of the Strategy ultimately takes, we consider that it needs to link to clear measures and baselines, and that the work programme needs to be connected to these measures and their impacts on reporting entities.

Priority "shifts" for the Strategy – Survey Questions 9 -12

12. A number of the items listed under the heading "National Strategy – Shifts" are declarative statements of basic elements of AML/CFT actions (e.g. "Ensuring crime doesn't pay"; "Focus supervision and law enforcement operations towards high-risk sectors used by organised crime groups"; "Support our financial sector to identify potential sanctions evasion"; and "Prevent criminals from abusing New Zealand companies and trusts").

13. We do not consider these to be "strategic shifts" and – similar to the goals of the Strategy – do not include any practical mechanisms which indicate how progress might be measured or success achieved. As above, we consider the final "shifts" need to be connected to measures and baselines to ensure their appropriateness.

14. Similarly, the statement "The transition to a single supervisor leads to a supervisor with expertise and practice to effectively supervise in a risk-based manner" is implicit and the core reason for adopting a single supervisor model. By definition, a supervisor is expected to supervise effectively. We do not consider this to be an appropriate element of an outward-facing national AML/CFT strategy or a substantive shift in policy approach.

15. The proposed shift "Getting AML/CFT obligations out of the way for ordinary New Zealanders" is not a substantive, measurable shift in strategy. This shift has not adequately considered in this instance that minimum measures are required to properly apply a risk-based approach, and prioritise higher risk sectors or customers. We again note our preference for achieving "effective" compliance, rather than "simplifying", which ties directly to this proposed shift.

16. As noted in the workshops, NZBA members do not want AML/CFT obligations to "get out of the way"; it is better in our view to ensure that people are educated, engage with and understand the reason behind their AML/CFT obligations (please see the purposes of the Act set out at paragraph 9 above). To apply a risk-based approach to higher risk customers, a minimum standard of AML/CFT obligations for low-risk customers is required.

17. As a more general comment on the "shifts", we consider that much of what is stated is duplicative, and that all substantive points could be consolidated– for example, "Shifts"

7 and 8 would likely be sufficient, subject to appropriate measures and baselines being set out in connection.

Work Programme – Survey Questions 13 - 25

18. As a general comment on the work programme, we consider that it requires significant re-working, which should be done in consultation with reporting entities. The combination of a high number of targets, some of which we consider to be overly ambitious, a lack of clear prioritisation, and the inclusion of a number of actions that we consider to be 'business as usual', create a programme that is confusing and will be difficult to implement. While the Consultation Materials note that MoJ has considered the "capacity of the system to deliver and absorb the changes", it is not clear how this has been considered in the absence of clear links between the proposed actions in the programme and their impacts on reporting entities.

    18.1. For example, the action to "develop and support passage of legislation" is part of MoJ's core AML/CFT function, and it is unclear why it is included as a priority action.

19. In respect of prioritisation, we submit that the first priorities of the programme should be ensuring resource and capability within the Department of Internal Affairs (**DIA**) for supervision of financial institutions, and sufficient support to the New Zealand Police Financial Intelligence Unit (**FIU**) to enhance their analytics, intelligence and reporting capabilities; they are the recipients of all suspicious activity reports and prescribed transaction reports so are therefore best placed to 'follow the money', which is ultimately and primarily where and how reporting entities will identify money laundering (**ML**) and financing of terrorism (**FT**). More generally, we submit that further consideration should be given to integrate the work programme across MoJ, DIA and FIU to achieve this.

20. The review of prescribed transaction reporting obligations should also be in the first phase, and near the top of the priority list.

21. We also consider that a gap analysis should be carried out against the proposed work programme and impacted reporting entities / industries to ensure effective change management. It is important to consider how a work programme would be rolled out or implemented; as raised before with MoJ, the current approach of multiple bills 'drip feeding' changes across a prolonged period of time is inefficient and costly, significantly increasing regulatory burden/friction which is one of the things Government is trying to reduce.

Comments on specific proposals

22. One proposal in Appendix 1 of the Consultation Materials is to increase onsite inspections for the five major banks from every three years to every two years, "due to their materiality in the financial system". However:

22.1. banks are likely the most regulated and the most compliant sector: the banking sector was identified in the 2024 AML/CFT National Risk Assessment (**NRA**) published by the FIU in March 2025 as having the strongest control measures of any sector to mitigate AML/CFT vulnerabilities[1]. While banks may be material in the financial system in the sense of being systemically important to financial stability, that is **not** the same as AML/CFT materiality; banks are **not** amongst the sectors identified in the NRA as abused for ML across the high-risk crimes[2];

22.2. biennial onsite inspections when combined with triennial section 59 independent audits would result in banks being in a near-constant cycle of either preparing for, undergoing or remediating from an inspection or audit, limiting capacity to both deal with ordinary business and uplift systems; and

22.3. regulatory resource would be better focussed, in our view, on those sectors which are at greatest risk of being abused for financial crime, along with providing guidance and intelligence to inform effective regulation.

23. Some of the target measures set out in the Appendix – particularly those attributed to FIU – are not stretch targets, and are in fact lower than current forecasts, for example the target to "restrain at least $75m of criminal proceeds each year".

24. We consider such targets are inappropriate to include within a work programme to be co-funded by industry, particularly given the forecasted funding has included these activities and increased the levy on that basis.

25. We reiterate the need for further consultation with industry before the work programme is finalised, particularly given that the funding for the work programme is to be provided by the levy.

Comments on levy approach – Survey Questions 26 and 27

26. We reiterate the comments made in respect of the proposed levy in our two previous submissions on the topic, in particular that:

[1] Further the FATF Mutual Evaluation Report for New Zealand dated April 2021 states that:
a) at paragraph 26: "*The implementation of AML/CFT controls by banks and other large FIs is generally of a good standard*";
b) at paragraph 319(a): "*Large banks largely demonstrated effective implementation of preventive measures commensurate with their risks.*";
c) at paragraph 325: "*Banks demonstrated a good understanding of their ML/TF risks*"; and
d) at paragraph 326: "*Banks also have a comprehensive understanding of their AML/CFT obligations*".

[2] The NRA identified the following as sectors abused for high-risk crimes: real estate sector; high value dealers; casinos; law firms and accounting practices; NBDT (Non-Bank Deposit Takers) to a lesser extent.

26.1. We consider that the levy should be risk-based, and proportionate to that risk, rather than simply earnings-based, which would result in the burden primarily falling on highly compliant reporting entities such as banks. We are also concerned about using prescribed transaction reports (**PTR**) as a factor to determine the levy given the known issues with that requirement[3][4]. PTR obligations are legal obligations which apply to all reporting entities and are not optional. There is, however, variable understanding, maturity and compliance in relation to PTRs; the need to review and 'overhaul' the PTR regime was voiced and supported by industry and all three AML Supervisors in one of the early IAG workshops in 2022.

26.2. We submit that an appropriate levy should be based on the level of ML/FT risk that a sector poses, and particularly the extent to which any given sector is abused for high-risk crimes. This is on the basis that regulation and monitoring of those entities is more resource-intensive, and therefore more costly compared to the regulation of those entities which pose lower risk of abuse for high-risk crimes.

26.3. A levy based on the Australian regime would not be appropriate in the New Zealand context – the Australian regime has not yet introduced phase 2 entities. The New Zealand levy should in our view ensure appropriate spread across all in scope reporting entities, which is not achieved through the current modelling.

27. We understand that it was discussed at one of the workshops on the Consultation Materials that MoJ had considered applying a blanket levy across all reporting entities, but that this was rejected due to administrative difficulties.

28. While we do not oppose larger or higher-risk reporting entities paying a greater share of the levy, we consider that administrative difficulty is not sufficient justification for excluding a vast number of reporting entities from the levy. Further, other elements of

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[3] For example, the NRA states that:

"A vulnerability is that the PTR threshold, set at $1000 for international electronic transfers and $10,000 for cash, excludes reporting of high volume-low value transactions that may be used by criminal networks to evade detection.

The PTR framework also should not operate the default mechanism which absolves regulated financial market participants of any further obligation to detect, deter and report suspicious financial activity."

[4] The FATF Mutual Evaluation Report for New Zealand dated April 2021 states at paragraph 378 that "*For DNFBPs [Designated non-financial businesses and profession], the [FATF] assessment team noted a lack of clarity as to the exact information to be reported in PTRs and who needed to report in a transaction chain. Some reporting entities, particularly some DNFBPs, were of the view that such reporting is of more relevance to banks*".

the regime do require input from all reporting entities – for example, all reporting entities must submit an annual report.

29. We also question, in relation to slide 24 of the Consultation Materials, why "front load recovered amounts" are proposed for the year from 1 July 2026 – when DIA assumes its supervisory role – to 1 July 2027, when the levy comes into effect. If the intention is to recover expenditure for work in the year before the levy comes into force, then a key focus of the levy should be, in our view, to establish the single supervisor, with an equivalent decrease in focus for additional work programme activities.

30. In terms of the required notice period for a levy, we submit that 12 months is reasonable.