

# Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill

20 April 2017

**Chartered Accountants Australia and New Zealand**

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Chartered Accountants Australia and New Zealand ABN 50 084 642 571 (CA ANZ).  
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## Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand is a professional body comprised of over 117,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations. We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation professional accountants across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.

In formulating its submissions, Chartered Accountants Australia and New Zealand takes a best practice, public policy perspective. That is, we endeavour to provide comment on a “what is best for New Zealand” basis.

We recognise Government’s legitimate right to set policy direction. We comment on those policies and also make comment on their practical implementation. Our public policy perspective means we endeavour to provide comment free from self-interest or sectorial bias.

20 April 2017

The Chair  
Law and Order Committee  
Parliament Buildings  
Wellington 6160

## Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill

We welcome the opportunity to comment on the Anti-Money Laundering and Countering Financing of Terrorism Amendment Bill.

We fully support the Government's efforts to combat money laundering and financing of terrorism and the policy objectives of the AML/CFT Act. We recognise the importance of New Zealand meeting its obligations as a member of the Financial Action Task Force (FATF). As a professional accounting body we are committed to acting in the public interest and contributing to a robust system to prevent criminals from using New Zealand for illegal activities.

Our submissions relate to:

- application of the Bill to “accountants in public practice”;
- recognition of existing regulatory frameworks;
- the transitional period and timing of application; and
- the use of some potentially misleading terminology.

We wish to appear before the Committee to discuss our submission and answer any questions the Committee may have. Please contact Zowie Pateman, Acting Reporting Leader, via email; [zowie.pateman@charteredaccountantsanz.com](mailto:zowie.pateman@charteredaccountantsanz.com).

Yours sincerely



**Peter Vial**  
New Zealand Country Head



**Zowie Pateman**  
Acting Reporting Leader

## Application to the Accounting Profession

The definition of ‘accounting practice’ in section 5 of the Bill refers to “an accountant in public practice”. This term is not itself defined. There is no universally recognised definition of “accountant in public practice”. Any individual can hold themselves out to be an accountant. Some accountants are members of professional bodies such as Chartered Accountants Australia and New Zealand. Other accountants are not members of any professional body.

We recommend that the Bill defines “accountant in public practice” as a member of a professional accounting body, who offers accounting services to the public. Our members operate through a range of different structures, so any definition should include all entity types.

If “accountant in public practice” is defined as suggested above, then ‘accountants’ who are not members of professional bodies but are carrying out activities that are in-scope are likely to fall within the definition of “trust and company service provider” (TCSP), which is designed to be a catch-all category under the Bill.

In our view it is important that the Bill differentiates between accountants in public practice, who are governed by existing regulatory frameworks and professional standards and accountants in public practice who are not governed by regulatory frameworks and professional standards. Unregulated accountants in public practice are likely to pose the greater risk.

How non-member 'accountants' will be identified for supervision purposes remains a key risk to the integrity of the proposed regime. An indication of the number of people who practise as 'accountants' but are not members of any professional body is the number of registered tax agents. Inland Revenue's records indicate that 2,608 of its 5,449 registered tax agents are not members of CA ANZ. The Business Compliance Impacts report (Deloitte, September 2016) refers to 433 people who are either bookkeepers or members of Certified Practising Accountants (CPA). This combined information suggests that there are approximately 2,500 individuals practising as tax agents who are not members of a professional accounting body. For the Bill to achieve its desired objectives we believe it is imperative that accountants in public practice who are not members of any professional body are subject to an equally robust, but proportional, monitoring regime.

## Recognition of existing regulatory mechanisms

The Financial Markets Authority (FMA) is the oversight body for financial advisors, licensed auditors and registered audit firms. It monitors compliance with the relevant legislation and standards. The FMA's enforcement tools include criminal prosecutions and civil penalty proceedings.

CA ANZ is responsible for regulating its members. We do this by reviewing the operation of our members' practices on a cyclical basis or using a risk-based approach, depending on the services offered. The review looks at members' policies and procedures that are designed to ensure compliance with our Rules and Code of Ethics. One of the fundamental principles of our Code of Ethics is integrity and there is a requirement for members to act in accordance with enactments and other requirements that relate to the practice of accountancy. Non-compliance may result in a member being subject to the disciplinary process with sanctions including removal of membership and monetary penalties.

To avoid duplication of effort and undue compliance costs we recommend that the existing regulatory mechanisms should be taken into account for our members. It is in the public interest for the market to have access to quality service providers who are well regulated. We suggest that the AML supervisor has a positive obligation to coordinate with professional accounting bodies and, where appropriate, to leverage existing regulatory mechanisms.

## Transitional Period

As currently drafted, the Bill requires accounting practices to have the required systems and processes in place prior to 1 October 2018. Much of the success of the regime will rely on reporting entities having sufficient systems in place to ensure they understand and can comply with their obligations. We have approximately 2,000 accounting practices, 95% of which are either sole practitioners or firms with two to five principals. The majority of our members are likely to have limited resource to implement such a significant change in such a short timeframe.

The timeline for the reform indicates the regulations, guidance and codes of practice may not be in place until mid-2019. In our view, the fact that this is after the effective date for the accounting profession will not assist compliance.

We recommend a minimum transitional period of two years after the Bill is enacted. This would still be before the next FATF mutual evaluation of New Zealand in 2020, so New Zealand would still meet its international obligations.

## Terminology

Clause 22 of the Bill sets out review and audit requirements in relation to the risk assessment and AML/CFT programme. The terms 'review' and 'audit' have specific technical meanings in the accounting profession. To avoid any unintended consequences from the use of the word 'review', we recommend replacing the term 'review' with 'evaluate' in section 59(1).

In terms of the 'audit', what is envisaged is actually an 'other assurance engagement' so we recommend replacing the term 'audit' with 'other assurance engagement' throughout. This is with the exception of section 59B(5) where we recommend replacing the term 'audit' with 'assurance report'.

The External Reporting Board (XRB) is an independent Crown Entity that issues auditing and assurance standards which prescribe how auditing and assurance engagements should be conducted. Various New Zealand enactments now require auditing and assurance engagements to comply with the auditing and assurance standards issued by the XRB. We recommend that other assurance engagements performed under the Act also be required to comply with the standards issued by the XRB. In doing so, this:

- ensures there is a uniform platform against which the supervisors can measure the quality of the work carried out and the quality of the reports issued;
- achieves competitive neutrality; and
- ensures reporting entities are getting value for money.

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