

November 2014

# Anti-Money Laundering and Countering Financing of Terrorism Monitoring Report

1 July 2013 to 30 June 2014

This report should be read by:

- Reporting Entities supervised by the FMA
- Auditors
- Compliance managers
- Directors
- General managers
- Legal counsel
- Regulatory managers
- Risk managers

# About the FMA

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The FMA is an independent Crown entity with a mandate to promote and facilitate the development of fair, efficient and transparent financial markets. We work with financial markets participants to raise standards of good conduct, ethics and integrity and to achieve best standards of practice and compliance.

[www.fma.govt.nz](http://www.fma.govt.nz)

AUCKLAND OFFICE | Level 5, Ernst & Young Building | 2 Takutai Square, Britomart | PO Box 106 672 | Auckland 1143  
WELLINGTON OFFICE | Level 2 | 1 Grey Street | PO Box 1179 | Wellington 6140

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# Introduction

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The *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* (AML/CFT Act) and associated Regulations, came into full effect on 30 June 2013. The AML/CFT Act's purpose is to deter and detect money laundering and terrorist financing (ML/TF).

The entities, collectively referred to as Reporting Entities (REs), that the FMA supervises to ensure compliance with the AML/CFT Act include: issuers of securities; trustee companies; futures dealers; collective investment schemes; brokers; financial advisers; crowd funding service providers and peer-to-peer lending service providers.

The year to 30 June 2014 was the first year for the FMA supervision of AML/CFT. During this time we conducted 27 onsite monitoring visits and nine desk-based reviews of REs. In these reviews we focused on the obligations and compliance of REs under the AML/CFT Act. In particular, we looked at REs' assessments of the ML/TF risks inherent in their businesses, and the establishment of the AML/CFT compliance programme supported by

relevant policies and procedures. We also looked into the effectiveness of current tools in deterring and detecting ML/TF risks. We concentrated on ensuring a spread of monitoring visits across our various sub-sectors of REs.

Each review was followed up with feedback reports and other action as required. Our visits were to brokers, futures dealers, trustee companies, collective investment schemes (fund managers), and financial advisers (both firms and individuals).

In this report we summarise our monitoring results to help REs gain a better understanding of our expectations. The purpose of this work is to help REs make improvements to their systems and processes to ensure compliance with the AML/CFT Act and deter and detect ML/TF. We have also included a specific section to assist businesses in getting value from their AML/CFT audit. This is based on our observations from reviewing AML/CFT audits that we brought forward during 2014.

This report is not intended to be a substitute for obtaining legal advice.

# Obligations of a Reporting Entity

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## What is a Reporting Entity?

Section 5 of the AML/CFT Act defines an RE as a 'financial institution' or a casino and anyone else declared by regulation to be an RE, for example certain financial advisers.

## Obligations of a Reporting Entity

REs' obligations are extensive and are outlined in Part 3 of the AML/CFT Act. They include:

- customer due diligence (CDD) (sections 10 – 31) which includes three levels of due diligence an RE must undertake
- reliance on third parties (sections 23 – 36)
- prohibitions where CDD cannot be undertaken (sections 37 – 39), which includes circumstances where an RE cannot establish a business relationship with a customer
- suspicious transaction reporting (sections 40 – 48)
- record keeping (sections 49 – 55).

Compliance with AML/CFT requirements includes the following:

- establishing, implementing and maintaining an AML/CFT programme and appointing an employee as an AML/CFT compliance officer (section 56)
- undertaking an assessment of the risk of ML/TF in the RE's business (section 58) (risk assessment)
- review and audit of the risk assessment and AML/CFT programme (section 59)
- preparation and submission of an annual AML/CFT report to their supervisor (section 60).

# The FMA's regulatory philosophy

We have a range of powers and remedies that do not require litigation. These powers and remedies allow us to respond to misconduct or potential harm more immediately than litigation would allow, and enable us to respond to a wider range of misconduct or potential harm.

Where possible, we require REs to rectify breaches on a 'voluntary compliance' basis and address cases where the risk of ML/TF occurring may have increased as a result of non-compliance with the AML/CFT Act.

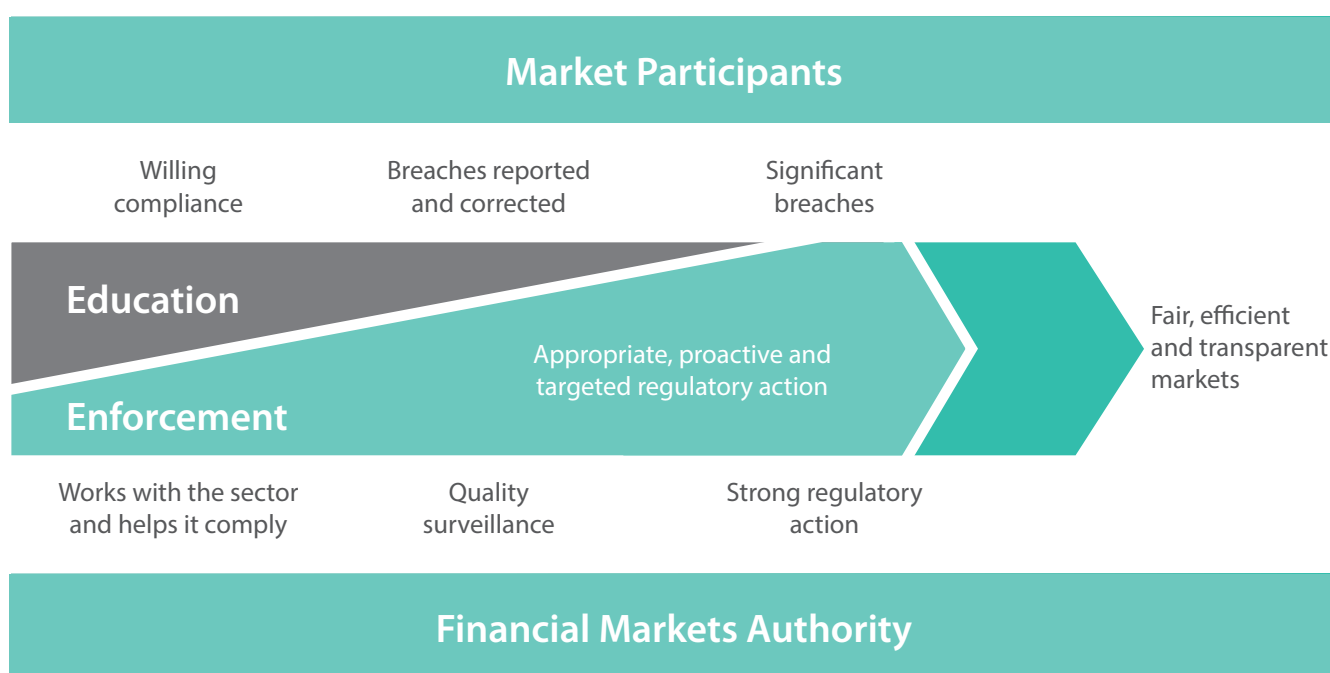
If voluntary compliance is not achieved, we will use our enforcement powers proportionately. For example, we have previously issued a small number of non-public warnings under section 80 of the AML/CFT Act. Litigation is also a possibility in more serious breaches.

In some cases, while the new regime is still being bedded in, we have requested that REs review processes, procedures and controls in relation to their AML/CFT programme. We have also suggested areas of improvement and in these instances we will not take any further action.

## Our risk-based regulatory philosophy

We work with co-regulators to:

- support the financial markets sector to understand and willingly comply with our expectations
- encourage participants to promptly report and correct regulatory breaches
- identify significant breaches and address them promptly
- work to minimise regulatory burden for participants dealing with multiple regulators
- ensure our education, surveillance and enforcement functions work cohesively to ensure a strong deterrent effect.



# Supervision and monitoring

## Reporting Entities we supervise

REs that we supervise are prescribed in section 130(1)(b) of the AML/CFT Act. As at the end of August 2014, they included:

Issuers of securities	90
Trustee companies	11
Futures dealers	14
Collective investment schemes	77
Brokers	14
Financial advisers	588
Crowd funding service providers	2
Peer-to-peer lending service providers	1
<b>Total</b>	<b>796*</b>

\* Note – this number is changing constantly as more entities register and deregister on the Financial Services Providers Register (FSPR).

The size and complexity of REs within these sub-sectors varies considerably from one-person financial adviser businesses to larger multi-national financial institutions. This range has resulted in different levels of sophistication for AML/CFT programmes, including from those REs that have endeavoured to undertake obligations themselves through to those that have used external consultants to assist. In these instances, external consultants might assist with the production of risk assessments, AML/CFT programmes and related policies and procedures.

## The FMA's approach to supervision

Our approach to supervising AML/CFT obligations was published on our [website](#) in June 2013.

It identifies our key focus areas as being risk assessments and AML/CFT programmes, including CDD, customer transaction monitoring, AML/CFT compliance officer, management information and REs' own compliance monitoring and management. A key focus has also been ensuring REs are aware of their obligations and have implemented systems and processes to help them comply with the AML/CFT Act.

## The FMA's monitoring programme

We are committed to an open and educative approach to help REs gain a better understanding of their responsibilities under the AML/CFT Act. The purpose of our monitoring visits is to ensure ML/TF risks are being mitigated and to evaluate REs' compliance with the AML/CFT Act so they can raise their standards if necessary.

In our first year of monitoring, we concentrated on ensuring a spread of monitoring visits and desk-based reviews across the various sub-sectors of REs. Each review was followed up with feedback reports and other necessary actions. Our visits were to brokers, futures dealers, trustee companies, collective investment schemes (fund managers) and financial advisers (both firms and individuals).

## Monitoring reviews we undertook

Sub-sector	On-site	Desk based	Total
Trustee companies	3		3
Futures dealers	5	1	6
Collective investment schemes	7	3	10
Brokers	6		6
Financial advisers	6	5	11
<b>Total</b>	<b>27</b>	<b>9</b>	<b>36</b>

Note – although we did not specifically target issuers, some of the REs we visited are issuers too. We base our monitoring on the sector risk assessment. As part of this assessment, issuers came out the lowest risk.



# Our findings and observations

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## General comments

Overall, we have been pleased with the attempts made by REs to comply with the AML/CFT Act. It is clear that a number of REs have put considerable effort into getting ready by June 2013. Preparations have included having an independent person carry out pre-implementation and preparedness audits of their risk assessment and AML/CFT programme, and implementing improvements identified via the audit process.

However, despite these efforts we did find some instances of non-compliance in a large proportion of our visits. While some cases were minor, in others we considered that REs' efforts to comply with their obligations under the AML/CFT Act simply did not meet expectations. Often there was a lack of support for AML/CFT compliance from senior management. This is of particular concern to us, as effectiveness of the AML/CFT regime will be substantially reduced if issues are not escalated and addressed at a senior level.

During our reporting period we issued three formal warnings to REs under section 80 of the AML/CFT Act. We also brought forward the audit of five entities in response to concerns we had about compliance with the AML/CFT Act.

## Key observations

### Risk assessments

Our key concerns around risk assessments are the adoption of a generic type of risk assessment and not clearly linking ML/TF risks to the RE's business. This includes the failure to consider all risk categories as required in S58 (2) of the AML/CFT Act.

A number of risk assessments prepared by REs have lacked focus on whether or not their business is vulnerable to ML/TF, and as a result they are unable to adequately identify where the risks may lie. In some instances there was insufficient detail on the nature, size and complexity of the business and overall lack of detail about customers (e.g. whether they were trusts, companies or individuals) and the risk each customer posed.

There was no separation of non-active customers or low risk investors (e.g. KiwiSaver) from those customers who invested in riskier products. Some REs are therefore not identifying the areas of higher risk to assist in targeting their monitoring efforts, and many risk assessments lacked clear structure in how they were documented.

### Good practice

An explanation of the identified risks to the RE of ML/TF should be included in the risk assessment. Regular and documented reviews of the assessment should be conducted to ensure it remains current.

### AML/CFT Programme

One area of concern for us has been the disconnect, in some instances, between the risk assessment and the AML/CFT programme. In these cases REs appear to be unaware of the need for the risk assessment to be used to develop the AML/CFT programme. We have seen some instances where the AML/CFT programme has been made up of cutting and pasting from supervisor guidelines and sections of the AML/CFT Act. In the worst cases, there have not been any policies or procedures to support the AML/CFT programme, or when developed, they have not been implemented in practice. We are also concerned to find instances where the AML/CFT compliance officer is not an employee of the RE, and in some cases has not been adequately trained or made fully aware of their obligations - namely the AML/CFT Act and published guidelines.

### Good practice

The AML/CFT programme should include an explanation on how the programme relates to their risk assessment and evidence of regular reviews of the AML/CFT programme to ensure it remains current. The programme should also include supporting documented policies and procedures that link back to the AML/CFT programme.



## Transaction monitoring and suspicious transaction reporting

Ongoing customer transaction monitoring is one of the most important areas of the AML/CFT programme. There is evidence that some REs have not yet properly developed a transaction monitoring system, or are relying on third parties to carry this out on their behalf, with no agreement in place as to responsibilities for the various related activities. When asked, some of these entities cannot explain to us what criteria they use to identify a transaction as unusual. This leads to a lack of procedure or process for investigation and documenting suspicious or unusual transactions. It is of concern that a lack of procedure and process has led to a low number of suspicious transaction reports (STR) being filed with the Police Financial Intelligence Unit.

### Good practice

Some REs have fully automated transaction monitoring systems with rules that are fit for purpose and reflect the risk assessment. This ensures effort is put into areas of identified risk of ML/TF. Where an external provider is used, there is a clearly documented understanding of responsibilities and regular reviewing.

## Customer due diligence (CDD)

Having processes in place to appropriately identify and verify customers is critical to an effective AML/CFT programme. CDD is the cornerstone of the AML/CFT regime and REs must have proper systems, processes and policies in place to undertake this. This also extends to adequate frontline staff training in CDD requirements.

## Nature and purpose

Obtaining information on the 'nature and purpose' of the proposed business relationship is a requirement for both standard CDD (section 17(a)) and enhanced CDD (section 25). We have seen examples where REs have relied on customers completing a section on the customer application form with little detail. For example, in the investment section, writing something like 'investments' without any further explanation as to what form of investment was to be made, how often and to what value.

## Three levels of customer due diligence

In some instances, we have noticed a lack of understanding of the three levels of CDD and the different requirements for each level. This has resulted in incomplete identification documentation, especially relating to trusts and the person who is acting on behalf of a customer. It also extends to verification requirements as detailed in the Identity Verification Code of Practice (Code of Practice). With enhanced CDD there appears to be a lack of understanding of requirements when obtaining information relating to the source of funds or the wealth of the customer (section 23(a)) and verification of this information (section 24(1)(b)).

## Identity Verification Code of Practice

We have noticed that in a number of instances the correct identification documents have not been obtained under the Code of Practice. This also extends to the verification of these documents. In some instances where certification of documents has been carried out:

- the 'certifier' has not been an 'independent' person
- scanned copies of certified documents have been received but not the original certified copy
- employees e.g. authorised financial advisers of an RE, have 'certified' sighting the original document.

Certifying is addressed under the Code of Practice, including who can 'certify' documents.

### Good practice

All levels of CDD are clearly identified, with written policies and procedures supporting this. This is reinforced by ongoing staff training for new and existing customer focused staff. Procedures also clearly identify when the Code of Practice is to be used and provide a clear understanding of who can certify identity documentation.

### Management oversight

It is important that senior management devote time and effort into ensuring compliance with their business's obligations under the AML/CFT Act. Based on our monitoring, REs that have engaged external specialist assistance in developing their risk assessment and AML/CFT programme, or that have engaged an independent external consultant to review what has been prepared internally, have generally been prepared to a better standard and displayed a greater level of compliance.

Senior management should ensure that relevant staff are suitably trained in AML/CFT and that there is a process for ongoing training and training of new staff. There should also be procedures in place to ensure that if the person tasked with AML/CFT responsibilities is away from the office for a period of time, the necessary controls continue to operate.

We have seen instances where there is a lack of regular AML/CFT reporting to senior management and recommend that this is incorporated into regular compliance reporting. We have also seen evidence of regular AML/CFT reporting to management, and we encourage this practice to ensure the AML/CFT programme culture is adopted from the top down.

### Good practice

We have observed that AML/CFT programmes are often more effective when REs have developed internal control self-assurance programmes to provide ongoing reporting to management on the programmes' operational effectiveness.

# Independent audits of risk assessment and compliance programme

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## Audit Reports

Unless requested by their AML/CFT supervisor, REs are not required to provide copies of their AML/CFT audit reports.

During 2014, we brought forward the completion date for an independent audit of the risk assessment and AML/CFT programme for 82 REs we supervise. We did this to reduce the risk that insufficient audit resources would be available if all REs' audits were due at the same time, on 30 June 2015.

Over the period we have reviewed 50 reports that we have received to date from the 82 REs that we requested them from. This request of our REs resulted in considerable engagement with them regarding their audits, and in particular, identifying how they could get the best value out of their AML/CFT audit. The reports have allowed us to assess the effectiveness of the risk assessments performed and the AML/CFT programmes developed (as concluded by their auditors), as well as the expertise and quality of the auditors performing the AML/CFT audit service.

## Entities and individuals offering AML/CFT audit services are diverse

- AML/CFT specialist consultant firms and individuals.
- Specialist regulatory compliance consultant firms and individuals.
- Audit and accounting firms.
- Other REs (although we have not yet received any reports from REs offering AML/CFT audit services).
- Internal auditors of large REs.

## Observations

- The auditors' AML/CFT audit findings were largely similar to those we identified on our monitoring visits.
- Most REs have some remediation work to undertake post-audit, as identified by their auditor.
- The audit reports submitted range from single page audit opinion, to detailed reports with comprehensive information on the RE and its AML/CFT programme (often the shorter audit reports are underpinned by separate reports provided to management with more detailed commentary).
- Around 20 percent of the audit reports we requested identified issues that were significant enough for us to contact the RE to discuss further, and in some cases required further action.
- Approximately 10 percent of the reports we received gave us cause for concern in the ability of the auditor to effectively perform an AML/CFT audit, or the quality of the audit work performed. These concerns were communicated to the RE.

We recognise that REs want additional clarity from us about what they should expect from an auditor, and if the report provided by their auditor will provide them (and us) with the assurance they require. To assist with this, we have included in the back of this report a comprehensive table to help businesses get value from their AML/CFT audit.

We encourage REs to view the audit as an opportunity to help ensure compliance. By engaging a qualified and experienced professional to perform an independent check of their risk assessment and AML/CFT programme, REs can address any issues and have greater confidence in their compliance arrangements. A good audit will reduce the likelihood that we will need to carry out a direct supervisory visit.

## Outcomes from our monitoring

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We expect senior management within REs to consider our findings and ensure that the controls, processes and procedures operating in their organisations are adequate and meet the expectations of the AML/CFT Act. The AML/CFT programme compliance is not a separate activity to the business; it is an essential element of day-to-day business operations and must always be followed.

Here is a list of key controls REs should consider adopting to help ensure their compliance with the AML/CFT Act.

- Written programme of staff training for AML/CFT for existing staff on an ongoing basis and for new staff.
- Regular internal review (i.e. by sample testing) of new customer files to ensure compliance with CDD requirements.
- Regular review of customer transactions to identify unusual activities.
- Where an external provider is used for transaction monitoring, ensure agreements with the provider clearly explain responsibilities and are regularly reviewed and 'fit for purpose'.
- Appropriate staff vetting procedures.
- Regular reporting to senior management of AML/CFT matters.
- Regular (at least annually) and evidenced review and testing of their risk assessment and AML/CFT programme. This will provide a level of assurance to senior management that their requirements under the AML/CFT Act are being fulfilled or if not, help them develop a remediation plan.

## Future monitoring

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We will continue to carry out onsite monitoring visits and desk-based reviews and will focus on the areas that we outline in this report. We will also be reviewing audit reports as they come to hand and the information that is provided in the annual AML/CFT reports.

We will continue to engage with REs and their advisers on matters that arise, and we will engage with relevant industry bodies to facilitate education and assistance for their sectors. We will also speak at relevant AML/CFT events on an ongoing basis. Where appropriate, we will look to provide additional guidance material.

We will be paying particular attention to information obtained from the first Annual AML/CFT Reports. These were completed for the period 1 July 2013 to 30 June 2014 and submitted to us prior to 30 August 2014.

We will also continue to request that some REs provide us with copies of independent audits of their risk assessments and AML/CFT programmes as part of our monitoring.

## Working with other agencies

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We are one of three supervisors under the AML/CFT Act and we will continue to work with the other AML/CFT supervisors (the Reserve Bank and the Department of Internal Affairs) to manage issues as they arise and ensure consistency across the supervisors.

We will also engage with the Police Financial Intelligence Unit and other government agencies through the National Co-ordination Committee which includes the Ministry of Justice, Customs, Inland Revenue and Ministry of Foreign Affairs and Trade.

From a global perspective, our monitoring will take into account all relevant information provided by our international counterparts with whom we share information.

## Getting the best outcome from your AML/CFT Audit

# Getting the best outcome from your AML/CFT Audit

The *Anti-Money Laundering and Countering Financing of Terrorism Act 2009* (AML/CFT Act) and its Regulations place obligations on New Zealand's Reporting Entities (REs) to detect and deter money laundering and terrorism financing (ML/TF).

The AML/CFT Act requires REs to audit their risk assessment and AML/CFT programme every two years or when asked by their supervisor. Please refer to section 59 of the AML/CFT Act and the 'Guideline for audits of risk

assessments and AML/CFT programmes' available on our [website](#) for more information.

The table and information that follows has been formulated from questions we have received from the REs we supervise. This information is intended to help our REs, especially small financial adviser businesses, get value from their AML/CFT Audit. Adopting all (or any) of these items in discussions with auditors is optional, but we believe that by considering these suggestions, REs are more likely to achieve the best possible results from their audit.

Does your audit report include?	Explanation
Audit title	The title should include the words 'Independent AML/CFT Audit' of 'Entity Name', FSP No. etc. Or if it covers multiple entities, all entity details.
Period	The report should tell you the period which the audit covers e.g. July 2013 – June 2014.
Auditor details	Your auditor's name, address etc.
Overview of the entity	This demonstrates that the auditor knows and understands the RE business. It should include the activities of the RE that bring it into scope of the AML/CFT Act (i.e. why is this entity a RE?). A description of the business, products, and its management structure is also useful for readers of the report.
Overview of the AML/CFT programme history	This overview can include when the AML/CFT programme was first finalised (i.e. formally approved) and implemented. It can include any changes (when and what) to versions subsequent to implementation date.
Experience and qualifications	<p>A simple overview of how the auditor is suitably qualified to conduct your audit. This might comment on their AML/CFT experience and knowledge, auditing qualifications (and how they stay current), and/or industry knowledge. You should expect that your auditor:</p> <ul style="list-style-type: none"> <li>• has the required expertise of the AML/CFT Act and its Regulations</li> <li>• understands your industry</li> <li>• has audit experience.</li> </ul> <p>Where we are unfamiliar with your auditor, we may ask you to explain to us why you believe your auditor is appropriately qualified to conduct the audit. Your regular accountant or lawyer may not be suitably qualified so you should check this prior to engaging them. We have rejected audit reports received because we were not provided with the necessary evidence to satisfy us that the auditor was appropriately qualified.</p>



Does your audit report include?	Explanation
Independence	<p>The report should confirm the auditor’s independence and explain any other services they may have provided in addition to the audit. Some points to consider are detailed below.</p> <ol style="list-style-type: none"> <li>1. Does your auditor have a financial interest in your business?</li> <li>2. Will their interests be harmed by the results of an audit or do they have conflicting interests? An example of where we may have concerns about conflicting interests (and thus independence) is where two REs decide to audit each other’s AML/CFT programmes.</li> <li>3. Is there perceived independence from your business? Whether or not the auditor is really independent doesn’t matter when there is no perceived independence. It is essential that the auditor not only acts independently, but appears independent too.</li> <li>4. Will we conclude that your auditor’s objectivity is beyond question? An example of where we may have concerns about objectivity is where an auditor has provided AML/CFT consulting services to the RE prior to the audit (beyond a readiness type check).</li> </ol> <p>We have rejected audit reports received because we were not provided with the necessary evidence to satisfy us that the auditor was appropriately independent.</p>
Scope and type of audit i.e. limited or reasonable assurance	<p>This includes what will and will not be covered during the audit, including what you have agreed the auditor will review. This should be explained so any reader of the report can clearly understand it. It may also be useful if the auditor explains the number of samples tested (if this is the basis of their conclusion in a particular area).</p> <p>As an RE, your auditor may offer you a limited versus reasonable assurance audit. These terms come from financial audit terminology and can be quite confusing when all you really want to know is what you’re doing wrong and how to fix it. Basically, a reasonable assurance audit is giving you and the FMA greater comfort that you are meeting your minimum requirements. It does so by going into more depth (typically greater testing) during the audit than would a limited assurance audit. The type of audit selected is up to you, as both would meet minimum requirements.</p> <p>For your first audit you may wish to have a more in depth audit to assure yourself that you are meeting the minimal requirements. For your next audit, you may wish to have a reduced scope if, for example, there hasn’t been a lot of change to your RE since your more in depth audit. As with all AML/CFT considerations, it would be wise to take a risk-based approach.</p>
Criteria	<p>This includes the minimum requirements you, as the RE, will be audited against. This ensures you receive the right level of assurance that you are meeting your regulatory obligations.</p>
Managements’ responsibilities	<p>This includes the responsibilities that rest with management. This is especially helpful for larger REs where it is important to provide feedback to management as a result of the audit.</p>
Auditors’ responsibilities	<p>This includes the responsibilities that rest with the auditor.</p>

Does your audit report include?	Explanation
<p>The auditor's approach or summary of work performed</p>	<p>It is useful if the auditor provides a description of the methods used to determine the adequacy and effectiveness of your AML/CFT programme. For example:</p> <ul style="list-style-type: none"> <li>• checking the risk assessment and programme against prescribed requirements</li> <li>• assessing the adequacy of the AML/CFT programme</li> <li>• testing effectiveness in key areas.</li> </ul> <p>Your auditor should:</p> <ul style="list-style-type: none"> <li>• set out the law (what the auditor is checking against)</li> <li>• explain what they examined (how the auditor agreed your AML/CFT programme against the law)</li> <li>• document findings (areas of compliance and non-compliance).</li> </ul> <p>All primary areas of your AML/CFT programme must be examined and reported on. It should be clear to you in which areas you are:</p> <ul style="list-style-type: none"> <li>• compliant</li> <li>• non-compliant.</li> </ul> <p>Your auditor should not attempt to gloss over significant areas of non-compliance by telling you that you are partially compliant in particular areas, where clearly the more correct conclusion is non-compliance. If your report states that you are partially compliant in a particular area, the exceptions identified should be minor and few.</p>
<p>Reference material</p>	<p>Reference materials should include any standards, codes of practice or guidance notes the auditor referred to during the audit. This assists you with reference information or further help when completing any remedial actions after the audit.</p>
<p>An executive overview/summary</p>	<p>This section should include:</p> <ul style="list-style-type: none"> <li>• key findings and the methodology the auditor used to rate their findings and any risks they identified</li> <li>• an overview of the time frame they expect will be required to address any gaps found.</li> </ul>
<p>Audit opinion or conclusion</p>	<p>This section should include the elements detailed below.</p> <ul style="list-style-type: none"> <li>• Whether or not the auditor considers you as the RE to be compliant with the AML/CFT Act, and if they have identified any breaches and any remedial actions required to address any weaknesses. Depending on the type of RE you are, you may have an obligation to report these breaches to the FMA and outline how you are addressing the breach.</li> <li>• The auditors' recommended course of action to rectify non-compliance issues. This may include recommendations on the highest priorities for rectifying non-compliance.</li> </ul> <p>You should know that auditors can only provide an opinion based on what they have seen or what has been disclosed to them. They can never tell you that you are absolutely compliant. We do not expect the auditor to state this and nor should you.</p>

Does your audit report include?	Explanation
Signature	The date and signature of the auditor should be included.
Appendix - Audit findings	<p>If the audit is more in depth, it will usually provide a table of matters reviewed, observations and any remedial actions required (possible solutions to your issues). This will help you keep on track to address these issues.</p> <p>This will often be a starting point for the planning of future assurance checks or your next audit.</p>
Management comment	You can request that you are provided with an opportunity to respond directly in the report to any issues (particularly material ones) identified. These comments should include an explanation of the actions you intend to take to address the issues and a time frame for resolution. Management comments demonstrate buy-in and acceptance of the issue to the FMA (remember it's not the auditor's issue, it's your issue). If you disagree with the issue, you should also be provided with an opportunity in the report to explain why.

### Other things to consider about your audit

Cost consideration	<p>The likely cost of the audit is a factor in deciding on an auditor, but this should not be the only factor or the most important. This is your money you are spending, so make sure you get value by obtaining a quality audit that is going to be meaningful and informative, providing you with the level of assurance that is required.</p> <p>Your AML/CFT programme should be designed to operate to prevent activities that could facilitate ML/TF. Engaging a capable auditor who can identify compliance issues in your programme is critical. If issues are not identified and addressed early in the regime, the cost to remediate may be significantly higher.</p> <p>For example, if your customers have not had appropriate customer due diligence (CDD), we may require you to go back and address all customers on-boarded since 1 July 2013.</p>
More on cost	<p>You are engaging a professional person or organisation to understand your business and AML/CFT programme, review your documentation and policies, perform testing, interview staff and write a report. This takes time and effort and with that comes cost. We encourage you to take time to understand what actions your auditor is carrying out, so you have a greater appreciation for the associated costs and benefits. For very small, non-complex entities, you may reasonably expect a smaller cost, but the basic activities the auditor must perform should not change.</p> <p>It is reasonable that your auditor takes a risk-based approach and concentrates the greater part of their efforts in certain areas (such as CDD and transaction monitoring). However they are examining broad compliance with the AML/CFT Act so are likely (and expected) to at least touch on most areas of your AML/CFT programme.</p>
Audits – don't be afraid	We understand that many of our REs are unfamiliar with audits and auditors and may have some apprehension. Auditors are not trying to catch you out or trip you up. They are professional people providing you with a service primarily designed to improve your compliance with the AML/CFT Act. They know your industry and your business so we encourage you to consider this audit as an opportunity to improve.

You're going to have issues	<p>Your auditor will almost certainly identify issues with your risk assessment and/or AML/CFT programme. Given the AML/CFT regime only came into full effect on 30 June 2013, it would be surprising if you didn't have any issues while your programme is being bedded down. The audit is an opportunity for you to have those issues identified and subsequently corrected.</p> <p>We also encourage you to engage early with us when significant issues are identified, to discuss the matter and to review the actions that you propose to take. In cases where issues are appropriately addressed, we would be unlikely to engage further on these issues.</p>
Types of issues	<p>There may be a number of terms your auditor uses to explain issues and their severity. These should be clear to you (and us) so that you can prioritise remediation efforts.</p> <ul style="list-style-type: none"> <li>• Typically any areas of non-compliance with the AML/CFT Act should be addressed to a point where you are then compliant. Auditors can use terms such as 'breach' and 'material/significant' to describe these types of issues. In these instances the expectation is that you take immediate corrective action to remediate the issue. When the auditor provides you a recommendation to address these types of issues, you should not mistake the requirement to take corrective action as optional – the recommended solution proposed by the auditor might be optional but the need to fix the issue is not.</li> <li>• Your auditor may find areas where you can make process improvements. Auditors can use terms such as 'process improvement' and 'value add' to describe these types of issues. For example, there may be alternative, more efficient ways of achieving compliance to processes you have adopted. For these types of issues the need to address them is optional.</li> </ul>
Help your auditor	<p>Before the audit begins, you should have an agreed engagement letter with your auditor. This should clearly set out the expectations. Your auditor will need access to staff, records etc. You should not hamper the auditor in their work as this may result in delays and additional costs. Your auditor may ask for copies of some of your documentation before they start on-site, or while they attempt to cost the audit or work out a timescale. This is perfectly normal. As an RE you are unique and so is your documentation. The audit and by extension cost, timescale etc. will need to be adapted to your unique situation.</p>
Tone of the report	<p>This is a formal process. Findings and conclusions should be factual and devoid of emotion.</p>
Findings and results should be clear	<p>The report should be simple and easy to read, with findings (particularly material issues) clearly documented. There should be no attempt to 'bury bad news' in the report. Significant issues should be given prominence.</p>
Tell your auditor	<p>REs often know before their auditor begins the audit where they have concerns or are likely to have issues. By explaining this to your auditor up front, your auditor can adapt the audit accordingly. Many auditors have significant experience in addressing areas where remediation is required. Don't be afraid to ask them for help and recommendations. You should consider working towards building an ongoing relationship with your AML/CFT auditor, based on mutual trust and respect over a period of time. This will come with having honest conversations with your auditor.</p>

Don't ignore your issues	<p>If your auditor identifies issues of non-compliance (i.e. those that require corrective action rather than simply best practice recommendations), we expect that you will take reasonable and timely steps to address them. If we select your entity for a monitoring visit in the future, your audit report will be requested and we will likely start with any issues identified. If there are long outstanding material issues, we will consider a more forceful response.</p> <p>Ignoring small 'best practice' type issues may not affect your compliance with the AML/CFT Act now, but in our experience, small issues can become more significant at a later date and make remediation much more difficult.</p> <p>The Annual AML/CFT Report that you recently completed asked if you have made the changes identified as being necessary in your most recent independent audit. These responses will be considered along with the audit report if we perform a monitoring visit to your RE.</p> <p>Finally, your auditor will provide recommendations but they can't require you to do something. Remediation is your responsibility.</p>
Build relationships and compliance history with the FMA	<p>If we receive an audit report we believe has been completed to a good standard, it will influence our monitoring behaviour. For example, we take a risk-based approach to our inspection programme and a good audit (with good outcomes) will likely reduce the need for us to have a direct engagement with your RE.</p>
Exemptions	<p>You cannot be given an exemption from having to have an AML/CFT audit performed. If you are a RE you must have an audit performed (just as you must complete an Annual AML/CFT Report).</p>

## The content the FMA expects to see in your AML/CFT Audit and good practice suggestions for our REs

Minimum Requirement	Good practice: consider having your auditor comment on these areas
<p><b>1. Risk Assessment</b></p> <ul style="list-style-type: none"> <li>Whether the Risk Assessment complies with all obligations in section 58(3) of the AML/CFT Act.</li> <li>Nature and extent of the risk assessment and its application.</li> </ul>	<ul style="list-style-type: none"> <li>The design, clarity and positioning of your risk assessment.</li> <li>Is there a clear overview of your business – type, nature, size, complexity?</li> <li>Have you completed an appropriate summary of your key ML/TF risks and risk areas?</li> <li>How well you have applied the National and Sector Risk Assessments.</li> <li>A review of the methodology you used to rate the risks.</li> <li>How you described your approach to keeping your risk assessment current.</li> <li>Other considerations, such as your employee risk.</li> <li>How effectively your risk assessment communicates key and emerging risks to staff.</li> </ul>
<p><b>2. AML/CFT Programme</b></p> <ul style="list-style-type: none"> <li>Whether the AML/CFT Programme complies with all of the obligations in section 57 of the AML/CFT Act.</li> <li>Whether the policies, procedures and controls are based on the risk assessment.</li> <li>Whether the policies, procedures and controls are adequate.</li> <li>Whether the policies, procedures and controls have operated effectively throughout the period.</li> </ul>	<ul style="list-style-type: none"> <li>Design, clarity, positioning of your AML/CFT programme.</li> <li>How effectively the risk assessment drives and influences your AML/CFT programme.</li> <li>A review of the processes you applied for CDD including if electronic verification is being used.</li> <li>How ongoing account monitoring is achieved.</li> <li>The triggers identified as high risk for transaction monitoring.</li> <li>The suspicious transaction reporting (STR) filed and registration with goAML.</li> <li>Record keeping practices.</li> <li>How you as the RE will stay current with AML/CFT information, guidance notes, emerging risks etc.</li> <li>Staff training material.</li> <li>Staff understanding of the policies.</li> <li>Support and training for your AML/CFT compliance officer.</li> <li>Governance and culture of your organisation in regard to ML/TF risk.</li> <li>Any assurance testing and reporting being completed internally.</li> <li>Triggers for review and updating your AML/CFT programme.</li> <li>Any key gaps in your control environment.</li> <li>How well you have described your oversight of third parties and any assurance activity you have developed in this area.</li> <li>Your process for on-boarding new customers who are Politically Exposed Persons (PEPs) or entering into new banking relationships.</li> <li>Review of reporting to senior managers.</li> </ul>

# Glossary

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**AML/CFT Act** Anti-Money Laundering and Countering Financing of Terrorism Act 2009

**CDD** Customer due diligence

**Code of Practice** Identity Verification Code of Practice

**FMA** Financial Markets Authority

**ML/TF** Money laundering/terrorist financing

**PEP** Politically Exposed Person

**RE** Reporting Entity

**STR** Suspicious transaction reporting



AUCKLAND OFFICE  
Level 5, Ernst & Young Building  
2 Takutai Square, Britomart  
PO Box 106 672  
Auckland 1143

WELLINGTON OFFICE  
Level 2  
1 Grey Street  
PO Box 1179  
Wellington 6140

[www.fma.govt.nz](http://www.fma.govt.nz)  
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