

1 December 2021

Submitted via aml@justice.govt.nz

AMLCFT Review Team
Ministry Of Justice
Wellington

RE: Review of the AML/CFT Act Consultation Document

Community wellbeing is enhanced where all have access to the essential services we need for our health, wellbeing and social participation. Lowering barriers for accessing essential services for all must be a priority for all decision makers.

FinCap welcomes the opportunity to comment on the Ministry of Justice Review of the AML/CFT Act Consultation Document (**Consultation Document**).

Too often FinCap hears from financial mentors who are concerned that some in Aotearoa are denied access to bank accounts or other essential services. At times when we follow up with the institutions who are denying access, we are told that AML (Anti Money Laundering requirements) is responsible for the barrier. Financial mentors are also sometimes told the same when advocating for whānau at a local level. The review which the Consultation Document is part of must establish whether AML is causing such issues in the community and work out how to overcome this if so. We are also keen to raise some issues around access to identification documentation and a gap in services that are potentially even more harmful due to AML requirements.

We expand on these comments further below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 200+ local, free financial mentoring services across Aotearoa. These services support more than 70,000 people in financial hardship annually. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

Response to Consultation Document questions 1.21, 1.22 and 1.23

The Consultation Document questions 1.21, 1.22 and 1.23 ask for information on what can be done about consequences from the AML/CFT regime as well as how the regime could better protect access to banking services.

We support more work through the process the Consultation Document is part of to get to the bottom of how to overcome access being denied to essential services. Often the scenarios described

to us by financial mentors involve issues providing identification although there are some where people face exclusion due to previous offences. Either way, denying essential services is unacceptable in Aotearoa and only leads to avoidable hardship issues that create more work for financial mentor's precious time.

Also, through a welcome and constructive discussion between financial mentors, Corrections and Westpac it was also revealed that some leaving prison are knocked back on obtaining a bank account in the Westpac New Start pilot¹ due to AML. The bank said this was on the basis of previous offences that mean people did not meet the bank's requirements on AML. Again, we assert no one should be denied essential services and where there are concerns around criminal activity a work around with additional safeguards could be an alternative.

We are concerned by commentary around banks avoiding rather than managing risks in this space in the Consultation Document. We have heard such views from other sources – that a conservative approach to AML is limiting access to bank accounts for people already disadvantaged. If this review does reveal that such organisations are putting the health, wellbeing and social participation of some whānau in the 'too hard basket' then we recommend requirements for essential service providers, like banks, to offer essential services, like basic bank accounts, with whatever it takes.

Recommendation: The AML/CFT review establish whether or not AML is an absolute barrier to all in Aotearoa having access to banking services.

Recommendation: If organisations providing essential services are not making the effort to keep all in Aotearoa connected then all whānau be given clear rights to banking services. Australian Banking Association definitions of a basic bank account could be a precedent for what all should have a right to.²

At times we also hear that people not having identification documentation is the reason they cannot get through an AML barrier or are otherwise excluded by a bank or government department.

An example is that those leaving prison may not have had the opportunity to take up an initiative under Hokai Rangi 6.2³ to get identification through the Automobile Association as the cost involved is not funded. This means they cannot progress through the Westpac New Start banking pilot⁴ if it is accessible when they leave prison. This means this person will have to jump through hoops to even set up having money put in to another person's account where they are vulnerable to theft.

Alternatively, FinCap has also been shown situations where a person leaving prison ends up jumping through hoops and engaging with an unfunded Total Money Management service (provided by some services that offer financial mentoring) in order to just have a mechanism to receive payments. A solution to many issues may be wider work to make sure all find obtaining appropriate identification documentation free and simple.

Recommendation: The review investigates how to improve access to identification documentation for all in Aotearoa.

¹<https://www.westpac.co.nz/rednews/westpac-offers-bank-accounts-to-help-newly-released-prisoners-re-integrate-into-society/>

² See 44b. <https://www.ausbanking.org.au/banking-code/#The%20Banking%20Code%20of%20Practice>

³ https://www.corrections.govt.nz/_data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf

⁴<https://www.westpac.co.nz/rednews/westpac-offers-bank-accounts-to-help-newly-released-prisoners-re-integrate-into-society/>

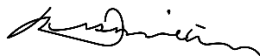
We also want to specifically point out that community services are providing Total Money Management support (where a service manages all of a person's financial affairs) without specific funding due to a gap in support for communities. As pointed to in the example above, these services may be experiencing additional demand caused by AML requirement where they are instead generally aiming to help people overwhelmed by managing paying bills independently.

We encourage the review team to proactively reach out and consult directly with those who provide Total Money Management as this service provision is outside of FinCap's expertise and no longer funded by the Ministry of Social Development's strengths-based building financial capability funding model. A list of all services offering financial mentoring in Aotearoa with contact details and a flag for those that do or previously did offer Total Money Management is available at <https://www.moneytalks.co.nz/find-help-now/>. Again, the issue of a gap in community support provided by community services may be a wider piece of work relevant to the consequences of AML and this review.

Recommendation: The review reach out to Total Money Management services and check whether they are facing issues contributed to by AML.

Please contact Jake Lilley, senior policy advisor at FinCap on 027 278 2672 or at jake@fincap.org.nz to discuss any aspect of this submission.

Ngā mihi,



Ruth Smithers
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FinCap