

MAY 2021

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EDITOR'S NOTE



AMLSolutions hosted their sixth annual AMLSummit a couple of weeks ago. It was a fantastic opportunity to catch up with other service providers and reporting entities to share our experiences, as well as the shared pain with some of the behaviours in the AML space.

There were fantastic sessions run by Martin Dilly, highlighting the importance of differentiating between a client's source of wealth and their source of funds, and Fiona Hall cautioning us all on 'Regulatory Creep'. But, the clear winner over the two days (or at least he received the most applause) was the NZ Police sniffer dog demonstration - showing off his money hunting prowess. On that note, when AML is getting you down, cheer up the end the week with a bit of #fridayfloof.

Here at the TIC Co., we are gearing up for the Ministry of Justice's legislative review which is set to start in a couple of weeks. We have been invited to be a part of the discussions and will be championing the introduction of industry bodies and codes of practice for AML/CFT providers. Remember that you can have your say and be involved in the collaborative review process. Feel free to reach out to our team if there is anything you would like us to highlight on your behalf.

DR. ALICE TREGUNNA
Editor-in-Chief



Technology in AML with
Daniel Rogers



LawFest 2021 with
Andrew King



5 Minutes with an Expert:
Andrew Weston

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TECHNOLOGY IN AML



BY DANIEL ROGERS
CEO & FOUNDER OF AVID AML



Every corrupt act in the world, from modern day slavery, human trafficking, organ trafficking, tax avoidance, to child sex exploitation is made possible by money laundering. Combatting this is our collective challenge but without technology the fight could be lost.

WHAT PROBLEM ARE WE TRYING TO SOLVE?

To understand what problem technology is helping with we need to understand the problem we are trying to solve. The term anti-money laundering glosses over the problem. So let's reframe the conversation.

What we are trying to achieve is the protection of businesses, industries, economies and society from being exploited by criminals - criminals trying to launder the proceeds of fraud, tax evasion, terrorist financing, human trafficking, child sex exploitation and modern day slavery.

Criminals are always a step ahead and know how to exploit weaknesses in systems and processes.

When considering the larger world of transnational organised crime it must be assumed they have significant resources and access to a sophisticated market of enterprising criminal software developers to develop technologies to protect their 'operations'. Larger financial organisations and multinational firms are entering a Digital Arms Race to outsmart and outpace the other.

Smaller firms may fly under their radar for the moment but it won't be long before technology will drive criminal behaviour, not just our response to their actions. Detecting their behaviours is near impossible without using technology to separate the needle from the haystack.

TECHNOLOGY AUTOMATES AND SIMPLIFIES

Digital transformation has historically focused on front line staff and on revenue generation. The risk posed by money laundering is now trending towards redirecting attention to implementing Regulatory Technology (RegTech) to protect organisations from money laundering, tax evasion and drug trafficking – all manner of financial crime.

We are seeing the beginning of a digital transformation and simplification of manual processing and activities across business.

There are a lot of moving parts in any organisation - add anti-money laundering compliance into the mix & it becomes harder to comply.

The four pillars of compliance are complicated enough:

- 1** *Compliance Officer;*
- 2** *Tailored Internal Policies, Procedures, and Controls;*
- 3** *Ongoing, Relevant Training of Employees; &*
- 4** *Independent Review for Compliance.*

But there is a fifth pillar:

- 5** *Risk-Based Analysis for Customer Due Diligence and Ongoing Customer Due Diligence.*

Core tasks such as real-time identity and watchlist verification, beneficial ownership structures, nature and purpose of relationship, and dynamic risk scoring enable **ongoing customer due diligence** and offer a '**whole of customer**' **AML view**.

- Beneficial owner information can be gathered and assembled from internal and external sources, providing full network analysis of beneficial owners, ultimate beneficial ownership and related parties. This enables the organisation to uncover potential links, threats, and provide insights in visual form to assist case investigation. These trigger events can also be delivered for immediate investigation.
- Utilising the nature and purpose of the relationship enables the integration of know your customer (KYC) information with ongoing monitoring and is critical in the effective measurement and assessment of customer risk.

Technology enables the analysis of the information garnered from the onboarding process. It should analyse the customer's:

- risk profile;
- their intended use of the firm's products and services; and
- related parties and external relationships.

In addition to this, **where events that alter the customers profile take place**, like watch-list updates, it should:

- 1.trigger changes to the customer's risk profile;
- 2.interact with transaction monitoring; and
- 3.alert the compliance manager.

It is time consuming and cumbersome staying on top of beneficial ownership requirements using outdated word or excel documents.

Without the use of technology it is difficult to build and display multiple, complex layers of legal ownership, which is key to understanding beneficial ownership, effective control, key managers or associations. Add the risk they pose to the business onto this and it becomes near impossible.

This can't be static, however. It must be updated when any new activity is identified - at time of the customer review or when an insight alerts the compliance manager of an updated risk.

IBM AML REGTECH INNOVATIONS NOTES THAT

"...Even though the role of technology in fighting financial crime keeps growing we are actually just at the start of what's going to be the next wave of technology.

It involves both the digitalization of all things financial and the adoption of new tools to both execute financial transactions and safeguard the financial system."

The Financial Action Task Force (FATF) guidelines encourage firms to consider using reputable technology-driven solutions to minimise the risk of error, find efficiencies in their AML / CFT processes and foster a culture of compliance. These solutions have become more affordable, and more tailorable. This is particularly important for small firms that have less resources available to manage AML compliance.

ONBOARDING WITH EASE

Introducing technology and automation reduces risk and the cost of client onboarding. Empowering the first line of defence by giving compliance teams access to on-boarding tools embeds the right culture of compliance from the start.

Reducing the touch-points for customers not only improves speed of service, but also reduces the time needed to manage Know Your Customer and Ongoing Due Diligence obligations.

Technology is becoming more affordable and importantly, is being simplified for easy adoption and use.

AML technology is no longer the domain of the big banks - software like Avid AML's has been designed for small to medium-sized financial and non-financial firms.

By automating the Know Your Customer process for anti-money laundering, firms can accelerate onboarding and account opening, increase speed to revenue, improve the customer experience and most importantly, ensure that they remain compliant.

This ability to automate will allow firms to take a risk-based approach to compliance, rapidly onboard the low risk cases, all the while focusing skilled resources on cases that the technology has identified as high-risk.

HOW TECHNOLOGY CAN SOLVE THE BURDEN ON COMPLIANCE TEAMS

FEATURE

Firms are still relying on manual processing to a large extent

Labour is the largest driver of compliance costs and represents a significant part of a firm's compliance spend. The on-boarding process in particular can be very labour intensive with information still being captured via email and in person. In the most part, labour intensive anti-money laundering compliance is repetitive and manual, results in increased errors, increased operational and legal risk and tends to push anti-money laundering compliance costs higher.

Labour intensive compliance also impacts staff

LexisNexis True Cost of Financial Crime Compliance Global Report found firms are also also worried about staff retention, with 67% of firms concerned about job satisfaction as a result of increasing burden on staff. That is nothing to be complacent about.

Daniel Wager, LexisNexis Vice President of Global Financial Crime urges firms to invest in technology to relieve pressure on compliance staff. Reporting entities should take advantage of affordable technology that is available to manage key challenges, simplify, or even remove some of the Know Your Customer (KYC) and Customer Due Diligence log-jams.

Technology should remove laborious screening and provide compliance team insights and risks requiring attention. The human touch is valuable, therefore it is important that it adds to the task, rather than performing it.

Aligning teams with technology can also provide a 'one customer' view including identity verification, address verification, politically exposed persons (PEP's), known close associates and sanctions risk screening, nature and purpose of relationship, and transaction monitoring to better inform a firm's decision making and management of risk.



Strategi note that one of the most common AML/CFT audit failings is the lack of PEP's & sanctions screening. Without the right tools this task can be cumbersome, time consuming, increase labour cost, and can be fraught with risk.

VALUING YOUR STAFF

Technology should **replace repetition**, dig deeper to investigate anomalies and automate workflow management. Implementing technology-based solutions is not about replacing highly skilled and knowledgeable staff, but rather **ensuring that these staff are not devalued** by performing tasks that could be easily automated.

THE STAKES ARE HIGH

The stakes are high and the risks are real.

Gun runners, drug dealers, human traffickers, tax avoiders and **the who's who of the underworld** will do whatever it takes to stay out of the limelight. But when things turn bad there is no hiding from the fallout. Even the most reputable firms pay a heavy price of a damaged reputation, sanctions and fines including personal **liability for non-compliance**.

ALTHOUGH 49% OF GLOBAL ORGANIZATIONS ARE VICTIMS OF FRAUD AND ECONOMIC CRIME, MANY ARE NOT FULLY AWARE OF THE FULL EXTENT OF THEIR RISK EXPOSURE.



Getting your compliance programme wrong & relying too heavily on manual process runs the risk of creating customer frustration and customer concern that they too may be exposed to non-compliance.



BRINGING IT ALL TOGETHER

With the rise of financial crime, the costs associated with compliance, and the growing threat of digital disruption, it has never been more important for firms to embrace technology that streamlines the compliance process.

Effective regulation technology is no longer a 'nice to have', it's essential for the future of the reduction of financial crime.

Technology's biggest competitor is you.

Compliance teams are doing the heavy lifting technology should be doing. Of course there is a pay-off, but is the pay-off worth it and will the future you thank you for it?

Employees encounter subtle obstacles in their day-to-day roles.

Whether that be complexity of policies and processes, gaps in knowledge, gaps in capability or varying degrees of individual attention to detail. My own experience has shown varying levels of attention to compliance. Some follow corporate policy to a tee while others are more focused on getting the deal done with compliance being seen as a hindrance to their roles, not a core part of their roles.

Simplification and automation can remove these obstacles to reduce the burden of compliance on staff. A compliance culture is adopted more readily when changes to processes and technology can be implemented with ease.

Technology should automate much of the repetitive work where it's easy to miss a beat but also where the human eye is not as adept as technology in finding the anomalies. A culture of compliance should simplify and streamline the process so that, in the money launderers' eyes, the whole firm is alert and aware.

Introducing technology to the firm's risk management workflow improves staff satisfaction, build on firm wide efficiencies and can reduce the negative costs associated with compliance or non-compliance.

The right technology can not only strengthen compliance teams and reduce labour costs, but it can also have a positive effect on profitability and risk externalities. It is not just about managing direct costs, but also indirect costs, direct risks and opportunity costs.

Having the right AML Programme in place with the right technology will help protect your firm against organised crime. An effective compliance culture needs to be enterprise-wide with the buy-in from organisations at all levels.

The more people aware of the risk, the harder it will be for launderers to identify and utilise the firm to launder the proceeds of modern day slavery, human trafficking, organ trafficking, tax avoidance or child sex exploitation.

Daniel Rogers
CEO & Founder of [Avid AML](#)



COLLABORATING & NETWORKING IN PERSON AGAIN!

BY ANDREW KING,
FOUNDER OF **LegalInnovate**

In late March, 280 legal professionals from across Aotearoa gathered in person in Auckland for the premier legal innovation and technology event on the New Zealand calendar.

Like so many events globally, LawFest had considerable disruption and challenges from the COVID-19 pandemic to run the event in person. However, in Aotearoa we have been fortunate to be able to bring together again the legal and technology community to celebrate, collaborate, network and learn about legal innovation – and all in person.

The last year has reinforced why we need to innovate and leverage technology – LawFest 21 demonstrated how we can go about this! The event was once again a must for anyone interested in driving efficiency in their organisation.



THE KEY HIGHLIGHTS

The one-day event was a great opportunity to hear from leaders and change-makers in the innovation space. The programme provided something for everyone, from those new to technology, to those currently at the forefront of legal innovation. Over 20 amazing speakers, delivered practical insights of what they are doing, together with how they started, as delegates learned from their stories of success and failure and what they did next.



Mary O'Carroll, President of CLOC and Google legal operations guru was the opening keynote and inspired and challenged thinking. Mary discussed how legal operations are shaping all our futures and explored what's next for the legal industry, challenging us to think about our own roles and ask ourselves "what will I change" and "what will I keep".

The other fantastic keynote was **Gus Balbontin**, who provided an energetic and highly entertaining session on adapting. Gus challenged us to face the future with courage and an open mind, whilst warning us if we don't deliver to our customers what they want, we risk becoming obsolete.



Grant Pritchard, a senior in-house Lawyer at Spark and President of ILANZ delivered an inspiration and thought-provoking session on the critical topic of mental wellbeing for lawyers. Grant shared his own raw experiences, offering practical ideas and strategies to improve wellbeing for individual lawyers, teams and firms, including the Umbrella model and the role of technology in supporting better mental health.

A CATALYST FOR CHANGE

Throughout the day we heard how the disruption of COVID-19 was the catalyst for change that many resisted for so long. Those that were reluctant to innovate or invest in technology now appreciate why they need to, together with the value of investing further going forward. Barriers to change quickly disappeared, as many were forced to make changes within weeks that previously may have taken years to implement.

The opening keynote panel featured **Emma Priest** of Blackstone Chambers, **Julian Benefield** of Foodstuffs, **Hayden Wilson** of Dentons Kensington Swan, together with **Louise Taylor** of Russell McVeagh with their journeys as they (and their organisations) adopted new ways of working and found opportunity amid the chaos of COVID-19. They shared key lessons they learned along the way and discussed whether the pandemic is a critical stepping-stone to the wider transformation of legal services.

The event culminated in a fascinating conversation on what the future holds for the profession and the delivery of legal services with **Nick Whitehouse** of Onit AI Center of Excellence, **Maria Sopoaga** of Auckland Council, **Jarrod Coburn** of Portia, together with **Helen Mackay** of Juno Legal. They identified what is possible and how we can better adapt in this ever-changing world.



Bringing the fast-paced event together superbly was the MC, **Erin Ebborn** of Portia.



Above

The final panel at LawFest 2021: "The Future for the Profession"

SEEING THE GREAT LEGAL TECH

LawFest continues to be the only legal event in New Zealand providing the opportunity to meet and see the leading legal technology in one place on one day. Even with border restrictions, we still had the largest turn out of legal tech exhibitors at the event, with many first timers all displaying their latest solutions for the legal industry. Like the attendees these legal tech companies enjoyed the opportunity to meet with existing and potential clients once again – and doing so in-person.

The interest in the legal tech solutions, has led to the development of a '**Demo Day**' to showcase the organisations providing legal tech products and services. New Zealand's inaugural Demo Day will be a free event on 11 August, where you can see first-hand the legal technology solutions in New Zealand, and then available to watch at any stage OnDemand - to enhance awareness of the great legal tech now available.

FIND OUT MORE!

With LawFest 21 behind us, the focus now shifts to LawFest 22 where we will look to explore further how to adapt and thrive in an ever-changing legal market.



In the meantime, if you want to find out more you can see all these sessions OnDemand. This features all the sessions from LawFest 2021 as part of over 50 speakers from New Zealand and abroad providing practical insights of how to innovate and leverage technology.

Andrew King is the founder of Legal Innovate. He helps lawyers and their organisations successfully innovate through leveraging technology to improve the way they deliver legal services now and into the future. Legal Innovate brands include LawFest, LegalTech Hub and E-Discovery Consulting.

5 MINUTES WITH AN EXPERT: ANDREW WESTON



CO-FOUNDER OF AVID-AML
MANAGING DIRECTOR OF PROPELLER HEAD



Can you tell us about your current role and some background information on your career?

Currently, my primary role is that of CTO for Avid AML. At this point, that means actively designing and building Avid's core platform, as well as planning for its longer-term needs.

A small amount of my time is still committed to running Propellerhead, a software services business specialising in enterprise solutions. Prior to joining Avid AML I dedicated 20 years to growing and guiding Propellerhead to the point where the company could act as a self-managing entity.

Over this time we have delivered large-scale solutions for Auckland Transport, Spark, MYOB, government agencies such as the Ministry of Education, NZ Post, and NZ Customs.

My focus has always been on the challenge of delivering reliable, secure software at scale. This type of work demands we operate at our technical best and be extremely well honed in our delivery practices.

What is the most rewarding part of your role?

One of the aspects I am finding most rewarding with Avid is the challenge to craft a platform that will scale and is sufficiently reliable to meet the needs of a global user base. It demands my full focus and builds on my many years of working to solve similar issues. One big difference these days is the ready availability of very "serious" open source technologies that we can employ to help us create an enterprise-grade platform right from the start.

For instance, Google has made Istio, their service mesh technology, available for organisations like ours to use to deliver microservices within a "trustless" architecture. Just a few years ago this approach would only have been available to large, well-resourced organisations. We are also able to achieve immediate scale in data analytics using cloud-based services from Elasticsearch (Elastic Cloud) and MongoDB (Atlas).

While the technologies themselves are cool, it's even more exciting to see them being assembled to create a platform that has a "whole of customer" approach to anti-money laundering (AML). That is, the technology has made it far easier to integrate aspects of anti-money laundering components like electronic identification, watchlist screening, nature and purpose risk profiling and transaction monitoring that have previously been met by separate, not well connected, software systems.

What made you interested in the RegTech industry and anti-money laundering / countering financing of terrorism?

First and foremost, I like the technical challenge of working on a regtech solution with global ambitions. It has a mix of challenges I personally find invigorating; it has to scale, it must be secure — our clients need to know their data is well protected, and it has to be "smart" — we should be able to help our users detect fraudulent or risky behaviour in their customer base.

Technology aside, I also like to think I can contribute to a fairer world — one that sees a more just distribution of wealth, less corruption, and less harm from criminal activity. If I step back a little it is easy to see how we might contribute to such things as reducing tax avoidance and helping in the detection of human trafficking. I love the fact that we can use technology for good in this way.

Interleaved amongst all of this is the ability to use more recent advances in technology to lower the overall cost of solutions such as ours. It means we can create solutions that are both powerful and affordable. One of our primary objectives is to put anti-money laundering software into the hands of those that might not otherwise have had access to such software.



Above

Andrew Weston

Co-Founder and Chief Technology Officer

Avid AML

What technology trends do you see playing out in AML?

At the top end of the market — banks and large financial institutions — there is an increasing trend away from pure rules-based systems toward employing AI to detect and flag risky behaviour. In an increasingly sophisticated digital world, deterministic rules are no longer sufficient to detect bad actors. They can employ technology to open up a greater number of "entry points" into financial systems than we have the resources to manage. Entry points can range from traditional financial transactions to prepaid debit cards to the trade in crypto assets such as non-fungible tokens (NFTs).

Machine learning has the ability to help evolve anomaly detection simply by identifying unusual patterns of behaviour in the data. This approach alone won't be sufficient to filter out bad actors — the complexity and nuances of transaction context will typically require human judgement to make a final determination.

So, we can think of AI as a decision support tool — it will be useful for analysing data at scale, reducing noise, and flagging risky transactions for further investigation by a human.

Automation, and AI in particular, will also play an increasingly important role in customer due diligence. There is a broad spectrum of incorporating everything from natural language processing of publicly available documents, to automatic profiling based on online "fingerprints" (LinkedIn, social media, etc.) to digital identity verification. Again, at this stage AI enhances rather than replaces a human's judgement.

At this early point in Avid's history, our focus is on clever use of technology to lower the cost of compliance for small to medium organisations around the world. Our view is that straightforward tools can help organisations come to grips with anti-money laundering / countering the financing of terrorism legislation, freeing up time and energy to focus on their core business.

Our near-term road map includes:

1

ADVANCED ANALYTICAL TOOLS FOR FRAUD DETECTION

2

**NATURE & PURPOSE WITH ULTIMATE BENEFICIAL OWNERSHIP
TO COMPLY WITH CURRENT REGULATORY TRENDS**

3

**RELATIONSHIP GRAPHING TO SHOW CONNECTIONS BETWEEN
ENTITIES AND RELATED PARTIES**

4

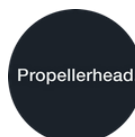
TOOLS THAT SUPPORT INVESTIGATION AND REPORTING.

"Technology should be seen as an integral part of regulatory compliance. It automates and simplifies processes and reduces the cost of compliance."

What would you consider to be a key thing people forget or do not understand when it comes to AML/CFT?

Knowing your customer can't be achieved in a siloed environment. Verifying identification, or completing watch-list screening, or monitoring transactions only tells part of the customer story. If the objective is to protect against fraud, human trafficking, modern day slavery and tax avoidance then we need to see a 'whole of customer view'.

That undertaking can not be achieved without technology - it isn't possible for this information to be collated, analysed or presented without technology (e.g, searching for politically exposed persons, adverse media, associates or sanctions would take weeks to get an accurate response).



The 5

Stages of AML Acceptance

Awareness, Awkwardness and AML



It does not apply to me...

Although ignorance can be bliss, it is your social and cultural responsibility to understand what level of AML checks and due diligence apply to your transaction. Captured activities are a popular defence to AML denial, but it is crucial to have a comprehensive understanding of what is and is not a captured activity. Reporting entities are often at risk of being exploited by criminals, through the creation of structures to facilitate money laundering or simply due to wilful blindness, this resulting in predicate offences.

While client confidentiality is an important part of the relationship that many professionals have with their clients, confidentiality cannot be used as a shield for money laundering or terrorist financing activity. However, the AML/CTF regime should provide an appropriate balance between the confidentiality requirements of legitimate clients, and the needs of law enforcement. *"But it costs too much!"* There are a lot of different options out there at the moment and it seems that people are comparing apples to oranges. In most cases, onboarding should cost you tens not hundreds per client when you are bringing an AML provider in to support you.

I don't want to do it...



I don't understand...

There are certainly a lot of acronyms to wrap your head around, AML, CFT, CDD, IDV, FIU, FATF, OCDD, EDD, the list goes on. Perhaps the most important acronym, that appears to have been overlooked in New Zealand, is KYC. Know Your Customer - this is a fundamental for most businesses regardless of the sector you operate in. Keep this at the forefront of your mind. The beauty of the risk based regime is that you can make judgement calls. But, be sure to have accurate record keeping showing the decision making process and enough detail should you need to reconstruct transactions.

As an essential aspect of risk management and compliance, AML is not going to disappear. Despite what you may be hearing - you cannot outsource your liability, the responsibility, fines and prison sentences rest with you. Due diligence checks are intended to be a snapshot in time and need to be inline with your understanding of your client. If you require help, there are many different options out there, but it is important that any assistance sought, is tailored to your business. There is no-one size fits all solution.

Just make it go away...



Help Me...

Collaboration is key! Not only with the regulators but also with AML outsource suppliers, as well as everyone else involved in the process.



Review your current situation and see which stage your business is at, let's start to change the narrative of AML Acceptance.



INSIGHTS INTO THE 2021 FATF MUTUAL EVALUATION OF NEW ZEALAND

FEATURE

BY: LLOYD KAVANAGH, PARTNER
SAM SHORT, SOLICITOR
OF MINTERELLISONRUDDWATTS

At the end of April, the Financial Action Task Force (FATF), in conjunction with the Asia-Pacific Group on Money Laundering (APG), released its long-awaited Mutual Evaluation Report of New Zealand's anti-money laundering and countering financing of terrorism (AML/CFT) system (Mutual Evaluation).

This article provides insights on:

- what will follow the Mutual Evaluation;
- the key findings of the Mutual Evaluation; and
- the background and process of the Mutual Evaluation.

The purpose of mutual evaluations like this is to provide an international peer review of the level of technical compliance that the subject country has with the 40 FATF Recommendations and the level of effectiveness of its AML/CFT system, and to recommend to the government of the subject country how that system could be strengthened.

Accordingly, while that would be primarily of interest to the AML/CFT supervisors and other governmental bodies in that regulatory sphere, identifying where the system itself could be strengthened, reporting entities may find assistance in it for assessing where risk sits in their particular business models.

The Mutual Evaluation, as well as previous releases on New Zealand, can be found on the FATF's website.

FOLLOWING THE MUTUAL EVALUATION

With the Mutual Evaluation now released, that precondition for the upcoming statutory review of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act) has been met. We expect that to formally commence in July 2021, and to result in a report to the Government in mid-2022.

Given the findings of the Mutual Evaluation, we expect this review to carefully examine a number of areas of the regime, and ultimately recommend strengthening the regime further to bring it into line with (or at least closer to) what the FATF has suggested. The significant detail and numerous recommendations provided by the Mutual Evaluation should assist in this respect.

We also expect that the private sector will use the statutory review as an opportunity to raise with the Government many of the issues and practical challenges being experienced under the AML/CFT Act. Some of these issues and challenges will pull in the opposite direction from the recommendations, especially where they would result in additional cost from a regime seen by some as disproportionate to the risk experienced in New Zealand.

Whether or not the Government acts on either the recommendations of the statutory review or private sector submissions remains to be seen. However, if there is a will to do so, there would potentially be time to make changes to the AML/CFT Act before the end of the current term of Parliament (expected to be in late 2023).

It should be borne in mind that the previous mutual evaluation in 2009 coincided with and is seen as the prompt for the enactment of the AML/CFT Act, and the 2013 follow-up report was ultimately the genesis of the Phase 2 reforms which expanded the regime to accountants, lawyers and real estate agents (amongst others). Accordingly, it is very possible that this Mutual Evaluation will likewise result in material changes.

THE KEY FINDINGS OF THE MUTUAL EVALUATION

The Mutual Evaluation's findings landed about where they were expected to, being substantially positive with the New Zealand regime recognised as effective and technically compliant in many respects but still needing improvement on certain matters to bring them up to the high standards of the FATF.

In respect of the FATF's 11 immediate outcomes, the New Zealand system's effectiveness was found to be high in respect of 2, substantial in respect of 4, and moderate in respect of 5.

In respect of the 40 FATF Recommendations, New Zealand was said to be compliant with 8, largely compliant with 20, and partially compliant with 12.

This can be contrasted with the 2009 mutual evaluation, where New Zealand was said to be compliant with 8, largely compliant with 17, partially compliant with 6, and noncompliant with 18 (as there were 49 in the previous iteration of the FATF Recommendations). While the number of Recommendations with which we are compliant has not changed, there has generally been upwards movement in the other categories.

The Mutual Evaluation is structured around seven substantive chapters, each with its own findings and recommended actions. We set out a summary of these below.

NATIONAL AML/CFT POLICIES AND COORDINATION

According to the FATF, New Zealand showed a robust understanding of its AML/CFT risks, with two iterations of a National Risk Assessment (NRA) and the supervisors' Sector Risk Assessments (SRAs). The NRA was seen as comprehensive and methodologically sound, although the risk ratings of the SRAs were not directly comparable.

New Zealand was also found to have national AML/CFT policies and activities that largely address identified money laundering (ML) or terrorist financing (TF) risks, and in some cases (such as around high-value dealers and prescribed transaction reporting) extends further than the FATF standards. However, some identified risks (such as around beneficial ownership and unregistered money or value transfer services (MVTs)) remained, yet to have reforms or policy decisions made.

The FATF commented on the New Zealand ministerial exemption regime, to note the absence of an express requirement for there to be proven low ML/TF risk before one is granted and to suggest that

New Zealand review its existing exemptions (particularly historical and transitional ones) to ensure they do all relate to low ML/TF risk.

Also discussed positively was New Zealand's approach to asset confiscation (both locally and abroad, and throughout a range of types of assets) as a key strategic means of disrupting criminal activity, with ambitious targets and impressive results. While insufficient priority had been placed on ML investigation and prosecution, it was recognised that actions had been taken to increase this focus.

Domestic coordination and cooperation were identified specifically as strengths of the New Zealand regime, with strong traditions of collaboration, and a very high degree of formal and informal cooperation, between the authorities.

The New Zealand authorities were also recognised for their substantial outreach to the private sector, to assist its participants in understanding the risks identified by the NRA and SRAs.

NATIONAL AML/CFT POLICIES AND COORDINATION

Recommended actions for New Zealand to take in this respect include:

- continuing to ensure national policies and activities address the ML/TF risks from beneficial ownership of legal persons and arrangements and unregistered MVTs providers;
- continuing work to understand ML/TF risks, including new and emerging ones, by completing the third NRA, which should allow for direct comparison between the different SRAs;
- continuing to have authorities work through coordination measures, and fostering a shared understanding of TF elements of broader counter-terrorism efforts;
- progressing work on coordination and development of policies to counter proliferation financing (another, less-known, target of the FATF); and
- reviewing its exemption regime to ensure exemptions take place strictly on the basis of proven low ML/TF risk.

LEGAL SYSTEM AND OPERATIONAL ISSUES

The FATF found that New Zealand authorities widely (and increasingly) used financial intelligence to support a spectrum of investigations. Law enforcement agencies generally had the necessary resources and skills to make use of this, although it had tended to be used more by specialised national police units than their local counterparts (at least in respect of starting investigations).

The Financial Intelligence Unit (FIU) put a significant part of its resources towards supporting the operational needs of law enforcement agencies. It also had a focus on known targets that corresponded with those operational needs, but more sophisticated tools would allow it to capitalise on the potential of financial intelligence to detect criminal activity by unknowns and contribute significantly towards the detection and investigation of ML.

Law enforcement agencies were seen as making use of the full range of investigative techniques, being skilled and excellently trained to conduct complex financial investigations. Communication and coordination among them, and other authorities, was found to be strong, both formally and informally.

While the growth in the number of ML cases investigated and charges laid was mainly in line with identified risks, the FATF commented that the

pursuit of ML in respect of professional gatekeepers and tax offences did not reach what was expected based on the risk environment.

The FATF also identified an apparent reluctance on the part of some law enforcement officers (albeit not the specialist units that investigate ML) to expend resources pursuing ML prosecutions where convictions for the predicate offences or confiscation of proceeds were considered sufficiently dissuasive.

New Zealand authorities had shown the capability to successfully prosecute ML cases throughout the spectrum of complexity, as well as to successfully pursue complex multijurisdictional ML investigations. The penalties imposed were also seen as consistent with New Zealand's ML risk profile (as well as its wider criminal justice system).

New Zealand was said to have made full and effective use of alternative measures, such as asset recovery and confiscation tools, as an important policy objective. However, despite these having demonstrated a significant dissuasive and disruptive effect, the FATF expressed the view that confiscation is not generally accepted as an alternative to prosecuting ML.

LEGAL SYSTEM AND OPERATIONAL ISSUES

Recommended actions for New Zealand to take in this respect include:

- the FIU implementing sophisticated tools for prioritisation, database integration and analysis of financial intelligence to enhance its ability to directly identify new targets and trends, and conduct outreach to encourage more use of proactive financial intelligence products;
- the FIU continuing its guidance and outreach activities to ensure reporting entities understand their reporting obligations, are able to quickly and seamlessly report, and have access to typology and indicator information;
- encouraging and providing guidance to law enforcement agencies to use FIU proactive financial intelligence products to launch financial investigations into new targets;
- the FIU incorporating a tracking and feedback mechanism into its case management to track the use of its products and financial intelligence accessed by law enforcement agencies;
- the FIU maintaining and leveraging its strong relationships with law enforcement agencies and the financial sector to maximise the support it provides;
- sustaining the recent increase in ML investigation and prosecution, including maintaining and monitoring targets, articulating the role of ML in strategies to disrupt serious and organised crime, and collecting up-to-date and comprehensive statistics to monitor performance;
- considering developing prosecution guidelines for ML, to promote a consistent and effective approach;
- continuing the focus on the detection, seizure, and confiscation of cross-border criminal assets; and
- ensuring effective, proportionate, and dissuasive sanctions are applied for non-declared transportation of cash.

TERRORIST FINANCING AND FINANCING OF PROLIFERATION

While New Zealand was seen to have limited exposure to TF risk (primarily in the form of lone actors likely to be self-funded), its level of investigations and prosecutions (noting that no cases had reached the level of prosecution to date) of TF align with its risk profile. In the investigations it did pursue (particularly following the March 2019 Christchurch attacks), it had shown a strong and effective operational capacity, including effective coordination and information sharing mechanisms.

The New Zealand sanctions regime, operating through some automatic adoption of, and some domestic designations that follow, United Nations Security Council (UNSC) sanctions, was said to have made active and appropriate use of these domestic designations.

However, it could be further strengthened by considering additional designations (given the greater difficulty of pursuing undesignated entities

for TF) or increasing guidance and outreach (as there was significant variation in levels of knowledge and understanding of those obligations, as well as some inconsistency in which entities receive notifications of updates).

In the absence of a clear legal mandate to do so, the AML/CFT supervisors did not directly supervise sanctions implementation, and reporting entities held differing views as to which agency they should contact about sanctions issues.

In respect of proliferation financing, New Zealand did not have a consolidated list of sanctioned persons or entities, nor was there a process in place to notify reporting entities of changes to those sanctions. Counter-proliferation guidance and outreach to, and supervision of, reporting entities had been limited, although authorities had previously taken broader counter-proliferation measures.

Recommended actions for New Zealand to take in this respect include:

- authorities continuing to work through appropriate mechanisms to respond to new and emerging TF risks, and to draw on the operational experiences of the Christchurch investigation;
- authorities ensuring that prosecutors have the required tools to prosecute TF in all instances;
- the Police continuing to develop understanding of financial intelligence relating to TF;
- competent authorities working to ensure all reporting entities receive timely updates to counter-terrorism financing sanctions designations and counter-proliferation financing sanctions designations from an appropriate authority;
- giving clear powers and mandate to an appropriate agency or agencies to supervise and enforce counter-terrorism financing sanctions obligations and counter-proliferation financing sanctions obligations;
- continuing to build on the active use of UNSC sanctions designations and considering designating further terrorist entities in line with risks identified in the NRA;
- addressing technical compliance shortcomings related to sanctions authorisations to mitigate the possibility of them being missed;
- considering options to increase monitoring or supervision of charities identified under the NRA as having a moderate vulnerability to TF abuse;
- completing planned work to assess proliferation financing risk, and using that to target enhanced outreach on sanctions obligations, the introduction of sanctions supervision, and to inform whole-of-government coordination on counter-proliferation financing sanctions;
- ensuring outreach and guidance to reporting entities makes clear the respective roles of the different agencies with respect to counter-terrorism and counter-proliferation sanctions; and
- considering developing proliferation financing investigation standard operating procedures.

PREVENTIVE MEASURES

The broad trends identified by the FATF (with some variation around certain types of entity) were as one would expect, with reporting entities that were larger, had fallen within the AML/CFT regime for longer, or could draw on international compliance expertise and resources showing a greater understanding of ML/TF risks and AML/CFT obligations, while those that were smaller or newer to the regime were still developing that understanding.

In a similar vein, the implementation of policies and controls commensurate with the level of risks identified through individual risk assessments tended to be better amongst the larger reporting entities. Some smaller entities were observed having AML/CFT controls that were not clearly based on identified risks, or viewing the risk-based approach as subjective in nature. Some entities (notably banks), rather than implementing mitigating measures, were seen to de-risk by terminating relationships outright.

Customer due diligence (CDD) and record-keeping compliance followed a similar pattern, with adequate measures generally in place for the larger reporting entities but varying levels of compliance and sophistication of processes amongst smaller entities.

Ongoing CDD updates for legacy customers were observed as a general challenge for reporting entities, especially in the banking sector.

Enhanced CDD compliance (such as around politically exposed persons, trusts or correspondent banks) also varied by entities' size and international exposure. Entities that more recently became regulated tended to have less sophisticated measures. The lack of a trust register was identified as a particular obstacle in conducting enhanced CDD for those relationships.

Processes around reporting obligations (such as for suspicious activities and prescribed transactions) were seen to have practical and technical limitations due to the nature of the reporting system (for instance, with restrictions on uploading more than one transaction at a time), as well as being labour-intensive and time-consuming. Volumes of suspicious activity reporting were considered low relative to sectors' risk.

Compliance culture and internal controls were also found to have varied by size and international engagement, with larger entities tending to have sufficient resources designated for compliance and more sophisticated and defined procedures.

PREVENTIVE MEASURES

Recommended actions for New Zealand to take in this respect include:

- further developing the understanding of ML/TF risks by the newly supervised entities;
- enhancing the understanding and implementation of smaller and newer entities of their obligations;
- rectifying the technical compliance issues regarding preventive measures;
- ensuring that MVTs network providers and agents are appropriately managed and monitored;
- strengthening implementation of measures around identification and approval of politically exposed person relationships and designated persons under sanctions;
- ensuring that all reporting entities are registered with the FIU, and resolving practical issues around this registration and reporting; and
- continuing efforts to improve suspicious activity reporting from under-reporting sectors.

SUPERVISION

The FATF recognised that the New Zealand approach to registration was not through a comprehensive and dedicated reporting entity register, but rather relied on a disparate array of other regimes' registration requirements, of varying scrutiny and completeness.

The three AML/CFT supervisors were found to have overall good understanding of the ML/TF risk profiles of their sectors and supervised reporting entities, despite some important gaps (such as their most recent SRAs only having assessed inherent risk, rather than considering controls or mitigation measures already in place).

All three were recognised as having reasonable risk-based supervisory frameworks, combining on-site inspections, desk-based reviews, and outreach activities. One particular concern that was raised was that the on-site inspection of registered banks (which was the primary tool for supervising their compliance) was of insufficient scope and depth relative to their complexity and risk. This was attributed to limited resourcing of the Reserve Bank of New Zealand (Reserve Bank). Further, the supervision of more recently regulated entities was also less developed and more limited.

The FATF commented that, while the supervisors were generally effective in their taking of remedial

action, and demonstrated a willingness to impose civil sanctions, their ability to impose effective, proportionate and dissuasive sanctions needed improvement in some areas (for instance, the court process required is resource-intensive). The civil pecuniary penalties that had been imposed in previous cases were considered to be low compared to the seriousness of the breaches. Further, given the above nature of New Zealand's approach to licensing and registration, many reporting entities had no licence or registration for a supervisor to suspend, restrict or withdraw.

Reporting entities interviewed by the FATF indicated that they had a good working relationship, and good communication, with their respective supervisors. This was said to be affected positively by supervisor action. The exception to this, again, was the entities newer to the regime, where the impact of supervisor action could not yet be properly assessed.

The supervisors were also said to have released a wide range of guidance and conducted outreach activities, both together and individually. The interviewed reporting entities generally considered this useful, while noting that some guidance was outdated, there was a lack of some sector-specific guidance, and there was insufficient guidance on how to comply with prescribed transaction reporting obligations and on sanctions implementation.

SUPERVISION

Recommended actions for New Zealand to take in this respect include:

- addressing shortcomings around licensing and registration of reporting entities (including considering an AML/CFT-specific registration regime);
- enhancing sanctions available to AML/CFT supervisors to ensure there is a sufficient range that are proportionate and dissuasive;
- ensuring the appropriate scope and depth of supervision for all the different categories of its supervisory population, taking into account sector-specific vulnerabilities (with a particular focus on the Reserve Bank);
- continuing to deepen supervisor understanding of ML/TF risks within their supervised sectors and institutions (particularly around those newer to the regime) by extending the data sources used for SRAs; and
- continuing to provide guidance and feedback to reporting entities (with particular mention of prescribed transaction reporting).

LEGAL PERSONS AND ARRANGEMENTS

The FATF commented on the lack of a central source of information on legal arrangements (most notably trusts), and how the absence of a domestic trusts register (and only sporadic registration by certain kinds of trusts) meant that the actual number of trusts in use was unknown.

New Zealand, and the supervisors in particular, were said to have a clear understanding of the risks of misuse of legal persons and arrangements, with limited liability companies, limited partnerships and trusts identified in the 2019 NRA as the most likely to bear AML/CFT abuse.

While measures to mitigate this potential for misuse had been implemented, there remained gaps (particularly around beneficial ownership information and nominee directors and shareholders).

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Reporting entities that were interviewed identified the lack of a central source of beneficial ownership information as being a burden and an obstacle to enhanced CDD processes. Similarly, the lack of a complete register of trust and company service providers could allow their provision of nominee services to be concealed from reporting entities.

Information requirements were found to be backed by a range of sanctions, but with some of those sanctions not having been exercised it wasn't clear whether they were proportionate, dissuasive, and effective. While the ability to deregister companies was considered to have been an effective sanction, there was a lack of sanctions to bring to bear against individuals.

Recommended actions for New Zealand to take in this respect include:

- introducing measures to improve the availability of accurate and up-to-date beneficial ownership information on legal persons and domestic express trusts (including considering a beneficial ownership register and a trust register);
- implementing measures to mitigate the ML/TF risk of nominee shareholders and directors;
- ensuring trustees disclose their status to reporting entities when dealing with them;
- ensuring that proportionate and dissuasive sanctions are available and enforced for breaches of basic and beneficial ownership information requirements; and
- developing a complete trust and company service provider register.

New Zealand, while not a major financial centre, was recognised as an important regional remittance centre for the South Pacific, and as being exposed to transnational ML/TF risks by its open economy. It was seen as providing constructive and timely mutual legal assistance, with positive feedback from other jurisdictions. The same was said of extradition requests.

GH

Recommended actions for New Zealand to take in this respect include:

- reviewing and strengthening the efficiency of its mutual legal assistance and extradition regime;
- maintaining better statistics on mutual legal assistance, extradition and exchanging basic and beneficial ownership information of legal persons and arrangements, to facilitate effective case management and monitoring risk on an ongoing basis; and
- continuing to improve the already-good cross-border supervisory cooperation (especially between the Reserve Bank and AUSTRAC in Australia, as the home regulator of New Zealand's four major banks).

Other (informal) international cooperation was also considered a strength of New Zealand, being largely effective in exchanging information and supporting operational activity with foreign counterparts. The assistance and training provided to Pacific Island jurisdictions by law enforcement agencies and AML/CFT supervisors was also recognised.

THE BACKGROUND AND PROCESS OF THE MUTUAL EVALUATION

The assessment team for the Mutual Evaluation consisted of experts from the Russian Federation, Hong Kong, Australia, Bahrain, and India, with support from the FATF and APG Secretariats. It was then reviewed by experts from the Cook Islands, Malaysia, and the United States of America.

The report was based on information both provided by New Zealand (with documents submitted in September and November 2019) and obtained by the assessment team during its 26 February to 15 March 2020 on-site evaluation. The follow-up face-to-face meeting was then, due to the ongoing COVID-19 pandemic, conducted virtually in November 2020.

The Mutual Evaluation was then discussed and adopted at the FATF's February 2021 Plenary meeting (its second Plenary under the current German Presidency).

As a result again of the pandemic, the Plenary met virtually for the third time, following the June and October Plenaries last year.

The Mutual Evaluation was one of the FATF's fourth round of mutual evaluations for its members. The typical timeline for this round of mutual evaluations has the process generally running around 6 months on either side of the on-site, with publication expected within 6 weeks of post-approval reviews.

However, the almost year-long period between the 15 March 2020 end of the on-site and the late February 2021 Plenary discussion, and the 9 weeks between the 25 February 2021 end of the Plenary and the 29 April 2021 publication, reflect the disruption that the pandemic has brought.

Below

Lloyd Kavanagh, Partner
MinterEllisonRuddWatts



Above

Sam Short, Solicitor
MinterEllisonRuddWatts

EVENTS & OPPORTUNITIES

WOMEN IN AI FOR SOCIAL GOOD

Tuesday, 8 June 2021



From healthcare, to finance, education and government, artificial intelligence (AI) is reshaping every part of our lives. It is also helping solve some of the world's greatest challenges. However, women account for less than 25 percent of the AI workforce.

Please join NZ Tech's next event to discuss women in AI for social good. Be inspired by Dr Mahsa Mohaghegh's vision to increase female participation in AI, for the benefit of all. She will be joined by a panel of guest speakers to explore female-led AI that's good for the world. Join the conversation, network and create valuable connections.

[Register and find out more here.](#)

THE AML/CFT WORKSHOP (AUCKLAND)

Wednesday, 16 June 2021



Facilitated by Fiona Hall, this workshop will focus on issues that practitioners have raised, as well as developments in the law and NZ regime, including:

- Meeting obligations in relation to politically exposed persons (PEPs).
- Drilling down to the beneficial owner.
- Transaction and activity monitoring.
- Updated regulations and review of legislation.
- The FATF Mutual Evaluation and what it means for reporting entities.
- Recent warnings and prosecutions and supervisor powers.

It will show lawyers how to practically apply the legislation and meet compliance obligations in an effective and efficient way that recognises the particular risks of different practices.

[Register and find out more here.](#)



INAUGURAL AML & FINANCIAL CRIME CONFERENCE - AUSTRALASIA

Monday 21st June - Tuesday 22nd June 2021

As part of ACAMS' International Annual Conference Series, this Conference will provide insights on some of the latest developments in the anti-money laundering and counter-financing of terrorism regulatory environment and the dynamic sanctions landscape.

With prominent speakers from all over the globe, and Australasia, it's an event not to be missed!

[Register and find out more here.](#)

INDUSTRY UPDATES

RBNZ TAKES LEGAL ACTION AGAINST TSB BANK

The Reserve Bank is taking TSB Bank to court over breaches of the AML/CFT Act which the bank has acknowledged.

RBNZ said it had filed a statement of claim in the High Court as an escalated response to TSB's non-compliance with the law.

[READ MORE](#)

SFO FRAUD CHARGES COULD BE LARGEST IN NZ HISTORY

The Serious Fraud Office has filed five charges against Christchurch-based economist Kelly Tonkin relating to false accounting, forging a fake audit letter and making false statements to cause losses or induce new investors.

[READ MORE](#)

OPERATION IDA

\$10.2m worth of property, vehicles, cash, jewellery and bank accounts was seized by police.

Operation Ida is the third instalment of the Financial Crime Group's crackdown on high-end money launderers over the course of a year. Across all three operations, more than \$21m has been restrained by police and 28 people charged.

[READ MORE](#)

NZ URGED TO UPDATE MONEY LAUNDERING PROSECUTION GUIDELINES

New Zealand's anti-money laundering and counter-terrorism financing measures have been marked as adequate but a review has identified some gaps.

[READ MORE](#)

INDEPENDENT AML/CFT AUDITS

The DIA has provided some guidance around the importance of independent AML/CFT audits.

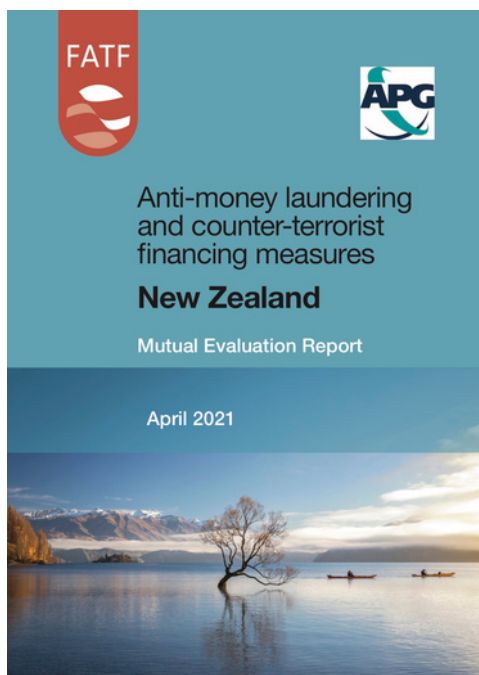
They have also provided recommendations around how to choose an auditor and how to address any issues that your independent auditor may have raised.

[READ MORE](#)

NZ FIU SUSPICIOUS ACTIVITY REPORT

The latest edition of the NZ FIU Suspicious Activity Report is out! This month focuses on what a good SAR looks like and what the threshold is for reporting. It builds on their 2018 SAR Guidance to provide a more digestible overview of how to improve your reports to the FIU.

[READ MORE](#)



THE FATF'S 2021 MUTUAL EVALUATION REPORT ON NZ'S AML/CFT MEASURES IS OUT NOW!

FATF reports identify what countries are doing right – and where they need to improve – in relation to anti-money laundering and counter-terrorist financing frameworks.

THE VERDICT:

- COMPLIANT ON 8 RECOMMENDATIONS
- LARGELY COMPLIANT ON 20 RECOMMENDATIONS
- PARTIALLY COMPLIANT ON 12 RECOMMENDATIONS

New Zealand has achieved notable results tackling money laundering, particularly in recovering criminal proceeds. The task force found there were key areas that needed improving, including supervision of the private sector, financial institutions, lawyers, and accountants, to detect and prevent money laundering.

FIND THE REPORT AND A SUMMARY OF THE FATF'S FINDINGS [HERE](#).

TRUST, INTEGRITY & COMPLIANCE COMPANY

We're hiring!



Key Skills

- Understanding of NZ AML/CFT law and its application is helpful, but not imperative
- Competent in customer service and communication, both via phone and email
- IT literate
- Excellent research skillset
- Excellent data-entry skills
- Meticulous record-keeping
- Good eye for detail
- Being proficient in another language is a bonus.

Job Information

- AML Analyst
- Full-time role (37.5 hours)
- Certified living wage employer

Interested?

Send your CV and a cover letter explaining why you'd be great for this role, including how your values align with our vision to careers@ticc.nz.