

DECEMBER 2020

# **FIRE & FORGET**

**MARTIN DILLY**

# **REFRESHED REGULATIONS**

**PAULA MILNE**

# **FINANCIAL CRIME AND PROFESSIONAL SPORT**

**JONATHAN VAN DER VALK**

# **REVAMP OF THE VATICAN'S AML DEPARTMENT**

**STEPHEN RAE**

# **ATTIC**

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# EDITOR'S NOTE



It has been a year of looking out for each other, forming new friendships and building on our relationships across the industry. A key mission of ours for 2020 was to continue our support of private/public cooperation, which is crucial for the success of the AML/CFT regime. We are happy to report that the majority of players in this space have begun to work together to secure desirable outcomes for the supervisors, private entities and the general public.

In particular, we would like to take the opportunity to acknowledge ACAMS support of our initiatives - particularly for our Women in AML networking group. Thank you to DINZ's for inviting us to contribute to the debates around trust models, digital identity, privacy and codes of practice. Cheers to the OPC for helping us on our journey to be awarded the Privacy Trust Mark. Last but not least, a big high-five to all of you who have contributed to ATTIC this year whether through supplying opinion pieces, letting us know about your achievements in the AML/CFT space or through spreading the word across your networks. We value your efforts and we could not have achieved this without you. ATTIC continues to go from strength to strength and the growing recognition throughout New Zealand and overseas has been fantastic.

It has been an 'interesting' year and at times I am sure we have all stated that '2020 just has to be a write off'. I am fortunate to be part of a fantastic team that have continued to go above and beyond. I am proud that we have risen to the challenges together and that the rewards are now flowing. I am happy to report that the team is definitely ending on a high, with large and exciting projects kicking off in the new year.

**DR. ALICE TREGUNNA**  
Editor-in-Chief



**Fire & Forget with Martin Dilly**



**5 Minutes with an Expert:  
Kirsty Campbell**



**Refreshed Regulations with  
Paula Milne**

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# FIRE & FORGET

BY MARTIN DILLY  
DIRECTOR, MARTIN DILLY AML LIMITED

## UNDERSTANDING YOUR RISKS FROM OUTSOURCING CUSTOMER DUE DILIGENCE

'Fire and forget' is a military term used to describe a type of missile which does not require further guidance after launch (such as illumination of the target or wire guidance), and can hit its target without the launcher being in line-of-sight of the target. It is also a term I regularly use to describe how some reporting entities (REs) are utilising customer due diligence (CDD) outsource providers.

In the AML/CFT context, I often see a RE simply 'firing' off their customer onboarding files to a provider and 'forgetting' about them as long as they receive a positive confirmation (through a sign-off sheet or portal) that CDD was 'OK'. In addition, many REs also seem to forget that:

- the risk associated with the accurate completion of CDD remains with the RE; and
- it is not as simple as engaging such a provider – the RE will need to consider how the outsourcing fits into its overall AML/CFT risk profile and framework.

There has been an exponential uptake by REs in the use of third-party CDD outsource providers over the last two years. These third-party providers essentially undertake CDD on an RE's customers including determining beneficial ownership and, in some cases, undertaking enhanced CDD investigation.

I distinguish these providers from those which provide electronic identity verification (EIV) services being essentially access to relevant databases in order to assist entities in meeting the requirements of Part 3 of the Amended Identity Verification Code of Practice 2013 (Code of Practice).

This exponential uptake has been driven by a number of factors:

- Such providers are a reasonably recent introduction to the market and there has been a pent-up demand for such services.
- 'Phase 2' REs – essentially lawyers, accountant and real estate agents - have shown an appetite for such services, driven by the structures of these businesses.

- COVID-19 lockdowns meant that REs that would have typically undertaken face-to-face verification, were not able to use that method effectively so looked to alternatives.

Having had an opportunity to audit REs using a variety of such providers, I have seen the benefits of such services for entities, with the provider being able to take care of the more mechanical, time-consuming aspects of CDD, freeing up staff time or allowing for REs who lack appropriately-skilled staff to undertake the CDD in the first place. The ability to access a pool of trained AML/CFT analysts that specialise in CDD is certainly attractive to organisations where they may not be able to justify hiring one internally (provided they can find one – AML resource is always seemingly in short supply). My audits picked up a number of risks and considerations, however, that entities have not contemplated in their adoption of such services.

### Use of third-party AML/CFT tools and services

Before looking specifically at CDD outsourcing services, it is worth discussing use of third-party AML/CFT tools and services generally. Too often I see REs looking to acquire tools before they have determined what they need to build, that is, the RE has not undertaken a risk assessment or a gap analysis of current processes against the obligations of the Act. Such tools and services can provide important parts of an RE's programme (and in some cases may prove essential in meeting certain obligations), however, they should not be viewed as a 'magic bullet' for the challenges in your programme.

With any AML/CFT tool, you should understand:

- the limitations of the tool itself – what does it do and what doesn't it do;
- your limitations in using it – for example, do you lack the data necessary to fully utilise the features of transaction monitoring software; and
- how it fits into the rest of your AML/CFT toolbox.

## THE BASIS FOR OUTSOURCING

Entities may outsource the CDD process to an agent under s34 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the Act):

“Subject to any conditions that may be prescribed by regulations, a reporting entity may authorise a person to be its agent and rely on that agent to conduct the customer due diligence procedures and obtain any information required for customer due diligence under this Act or regulations.”

This section is stated broadly and is certainly less prescriptive than s33 (which allows an RE to rely on CDD undertaken by another RE) but the general best practice rules for use of agents apply. At a high level, ensuring compliance by agents means ensuring that they are completing the obligations in line with your standards (which should be in line with relevant legislation and guidance) while mitigating the risk that this is being completed by a third-party, where oversight will likely be less than that of your own staff.

The number one thing to remember is that the RE remains liable for compliance with the Act, so it will need to ensure that it is satisfied that the outsource process meets the requirements of the Act and associated guidance. You can outsource the mechanics of CDD, but you can't outsource the risk.



**Above**  
Martin Dilly,  
Director  
Martin Dilly AML Limited

## RECOMMENDATIONS

With this in mind, I set out below my recommendations for REs considering the use of third-party CDD outsource providers:

**Update risk assessment** – The RE should ensure that its Risk Assessment (completed under s58 of the Act) assesses the risk posed by using an agent channel. Any specific risks identified should then be addressed in its AML/CFT Programme.

**Update the CDD process** - The RE's CDD processes should be updated including a consideration of how the provider's process meets the requirements of the Act and Code of Practice. In particular, it should set out how the EIV process meets Part 3 of the Code of Practice, including relevant data sources and linking of identity to the presenter.

**Determination of customer risk** – The process to determine the customer risk should be clear – does the RE determine the customer risk (and therefore the level of CDD required) prior to sending the customer file to the provider, or is the risk level determined by the provider in line with the parameters agreed? Where the provider is determining risk, it should be in line with the RE's AML/CFT risk framework including the Risk Assessment.



## RECOMMENDATIONS CONTINUED...

**Agreement on CDD approach** – The RE should be satisfied that the approach by the provider to CDD is in line with its own. By way of example, I have seen different approaches between providers as to the treatment of trusts in company structures both in respect of determination of beneficial owners and as to whether enhanced CDD should apply in these circumstances. The RE should ensure that it is satisfied with the approach taken.

**Loss of information** – Where a RE shifts from using an internal CDD process to an outsourced one, it should ensure that all information it was collecting is also captured in the amended process. The main example I have seen of this is the capture of information relating to the nature and purpose of the business relationship which was included in the original process but not replicated in the outsource procedure.

**Access to underlying proof of verification** – The RE should ensure that it is provided with supporting verification information which is able to be checked by staff (e.g. company extracts, trust deeds, proof of EIV and politically exposed person checks). It is not sufficient to simply rely on a statement from the provider that CDD has been completed. As a general rule, a confirmation from a provider should not be viewed as a green light to onboard the customer. It may simply be confirmation that the mechanical aspects of CDD have been completed but there may be some risk matters arising from the CDD which should be considered prior to onboarding.

From an audit perspective, I cannot rely on a RE telling me it has done CDD on a customer, they need to show me that they have done it – this is the same whether it is completed by staff of the RE, or by an agent.

**Checking by staff** - Staff should review the outcome of any outsourced CDD to ensure it matches their understanding from the customer. This is a particular area of risk. By way of example, the staff member may think they are dealing with a straightforward New Zealand company, ABC Limited. The CDD completed by the provider shows that the shareholding of ABC Limited goes up through a number of higher-risk jurisdictions and includes some complex structures. If the staff member simply sees the sign-off sheet saying that CDD is completed, they will not appreciate the risk posed by the customer. Tying this back to my missile analogy above, it is important that staff of the RE maintain 'line of sight' on the target customer.

**Treatment of exceptions** – The RE will need to determine with the provider the rules around granting CDD exceptions:

- Is the provider able to make a decision or will all exceptions be approved by the RE?
- Where the RE confirms any exception, which staff member(s) can do this?

In any case, all exceptions should be clearly documented and maintained for easy reference.

**Assurance** – In addition to checking by staff generally, compliance staff of the RE should be undertaking assurance over the process to gain comfort that it is being completed to the standard required by the RE – e.g. through sampling a selection of files.

**Limitations of enhanced CDD** – Enhanced CDD completed by a third-party will naturally be limited where that third-party does not have knowledge of the nature of the business relationship or size of transactions involved. As such, where enhanced CDD is undertaken by a provider, staff should ensure that the following is included on each relevant customer file:

- appropriate collected information on source of funds/wealth (SOF/W) – e.g. the customer's explanation of the relevant SOF/W which may include the staff member's knowledge of the customer's circumstances where relevant;
- the assessed risk level of the customer (e.g. while the customer may be a trust, there will be a difference between a NZ family trust vs. a trust domiciled in a higher risk jurisdiction) with supporting notes to justify the decision; and
- supporting verification documents together with supporting notes as to why the RE considers the steps taken to verify the SOF/W are reasonable given the risk assessed.

**Timeliness of CDD** - The RE should seek confirmation of the timeliness of the information held by the provider, that is, has the CDD been completed specifically for the RE or was it already held by the provider having previously been completed for another entity? If it is already held, the RE should seek assurances as to how the provider ensures that the information is still current (e.g. that the beneficial owners have not changed since the CDD was last undertaken).

**Sharing of suspicious activity report (SAR) information** – A RE should not share any information relating to a SAR with the outsource provider to ensure compliance with the tipping-off provision in s46 of the Act. This may be an issue where a RE requires the provider to undertake enhanced CDD in accordance with s22A of the Act, but where it may be difficult to undertake enhanced CDD where the provider is unaware of the nature of the suspicion.

**Privacy and data security** – The RE should seek comfort around the security of customer data including relevant privacy controls. Especially with the new Privacy Act 2020 that came into effect on 1 December, it is important for REs to be aware of these changes.

**Protection of RE-specific information** – In the course of completing CDD, an RE may give the provider some information to assist the process such as the nature of the transactions being undertaken or knowledge around SOF/W of the customer. An RE should seek assurances that such information will not be stored with customer information where it may be accessible by, or available to, other REs.

**Use of information** – The RE should seek assurances around the use of customer information generally. Where a provider has access to essentially the customer lists of enough legal, accounting and stockbroking firms, for example it may be able to ascertain from the customers being onboarded and the timing of the onboarding the likelihood of certain transactions occurring, especially in a small market such as New Zealand. The RE may want to seek assurances around controls in this area including staff training on use of information and even potentially the provider's policy on share trading by staff.

## CONCLUSION

As stated earlier, the use of a specialist outsource CDD provider has proved beneficial to a number of REs, where the accuracy of the mechanical aspects of CDD was improved over that undertaken by internal staff. Important considerations for initial implementation and ongoing use of these providers has often been overlooked in the excitement to remove some of the busy work of CDD from the RE's daily activities. My recommendations above seek to highlight these areas.

It is also my hope that REs use the time saved from outsourcing the mechanical aspects of CDD to better focus on the risk-based aspects of CDD (including enhanced CDD and account monitoring), the intricacies of which continue to evade many REs.



# 5 MINUTES WITH AN EXPERT: KIRSTY CAMPBELL

AN INTERVIEW WITH [KIRSTY CAMPBELL](#) BY ALICE TREGUNNA

Kirsty is a professional director and commercial adviser who has held a range of roles in corporate finance, banking, law and regulation.

She is a Public Trust board member, an independent director of NZHL, Salt Funds, Toitū Envirocare and New Plymouth PIF Guardians. She is also a member of the NZ Markets Disciplinary Tribunal and the ArcAngels Advisory Board, amongst other governance roles.

Her previous roles include Simplicity NZ (Independent Director), the Financial Markets Authority (Head of Supervision) and ANZ Commercial Banking.

Kirsty is a Chartered Member of the Institute of Directors, an Accredited Investment Fiduciary®, a certified member of INFINZ and a member of Global Women. She has a Bachelor of Law (Hons) and a post-graduate Diploma in Legal Practice, from the University of Edinburgh.



## **What roles have you held in the New Zealand AML sector?**

Whilst at the FMA, I was Head of Supervision, which included AML/CFT monitoring for FMA's reporting entities.

I also sat on the NZ National Co-ordination Committee representing FMA and attended a couple of FATF Plenaries representing FMA/NZ.

I also completed APG Assessor Training – now that was fun! Mind you, that's all old hat now.



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# KIRSTY'S 3 TOP TIPS FOR AML/CFT EFFECTIVENESS

Kirsty shares her words of wisdom as a professional director and commercial advisor with extensive experience in the compliance industry.

1

Have a **really good CRM** with the ability to capture and store customer information securely and in a way that informs your relationship with them and truly allows you to assess the ML/TF risk – and enhance your customer value proposition at the same time. It's not just a compliance exercise!

2

**Are you being rewarded for the risk you are taking?** Understanding your ML/TF risks means you can understand whether or not it's worth maintaining or growing a customer relationship or supporting a product. If you are getting paid peanuts but taking on significant regulatory risk, then why do it? It's not good business.

3

**Ask the experts!** If in doubt, get help (or at least get trained). The AML/CFT Act is an awkward wee beastie and can be hard to interpret sometimes. The guidance (understandably) is principle-based and so can be hard to apply in practice. Do you really know where the lines are drawn?

Don't try and design, build and operate an AML/CFT framework by yourself unless you really know what you are doing.



# TIS THE SEASON FOR REFRESHED REGULATIONS



BY PAULA MILNE

Director, Paula Milne Consulting Limited

"Helping businesses prevent and deter financial crime through detection, prevention and compliance. Specialising in AML/CFT (audit and advisory), fraud, anti-bribery, anti-corruption and sanctions advisory."

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## THE SPIRIT OF THE ACT

Over the holidays if your mind starts to turn to 2021 it must surely turn to the much-anticipated refresh of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and supporting regulations. This presents an opportunity to right some of the wrongs, get some needed clarity and to further enhance our legislation based on our learnings. However, in order to improve regulations, we must first remind ourselves of the purposes of the Act and we must keep these purposes front of mind:

**To detect and deter money laundering and financing of terrorism.**

**To maintain and enhance NZ's international reputation.**

**To contribute to public confidence in the financial system.**

## THE WISH LIST

So here is what am I putting on my Christmas wish list for 2021 regulatory change.



## CLEAR AND PLAIN LANGUAGE

There is a lot of ambiguity in certain sections of the AML/CFT Act. In section 31 of the Act, as set out below, there is ambiguity in the language used - what is meant by 'regularly'? What is meant by 'review'?

This applies to section 14 as well - how does one distinguish 'material change' from an immaterial change? How does a reporting entity identify when they have 'insufficient information' about their customer?

This ambiguity must be removed in order for reporting entities to understand and effectively comply with the Act.

### Ongoing CDD (Section 31)

Ongoing customer due diligence and account monitoring.

(4) When conducting ongoing customer due diligence and undertaking account monitoring, a reporting entity must do at least the following:

- (a) **regulatory review the customer's account activity and transaction behaviour**; and
- (b) **regularly review any customer information obtained** under the CDD sections, or, in relation to an **existing customer, any customer information the reporting entity holds about the customer**; and
- (c) anything prescribed by regulations.

### When Standard CDD is Required

**Section 14(c)** - Circumstances when standard customer due diligence applies:

(c) If, in relation to an existing customer, and according to the level of risk involved-

- (i) there has been a **material change** in the nature or purpose or the business relationship; and
- (ii) The reporting entity considers that it **has insufficient information** about the customer

## PUBLIC EDUCATION CAMPAIGN

While there has been some good work by the various regulatory bodies to help the public understand the importance and requirements of NZ's AML/CFT regime, this work needs to continue in order to get the public on-side with these changes.

**Below**

Paula Milne

Director

Paula Milne Consulting Limited



## IMPACT ASSESSMENT

When making changes to the legislation it is important for law makers to understand the impact of those changes on reporting entities. Without understanding the cost, burden and impact on law-abiding customers/clients there is a risk that the costs outweigh the rewards. There must be an understanding that by choosing one option over another means that limited funds for compliance may not be used as effectively as they can, such as truly targeting high ML/TF risk areas.

## NZ ENTITY PUBLIC REGISTER

There should be a public register for New Zealand trusts, companies, and partnerships in order for these entities' beneficial owners to be easily identified and verified.

## LICENSING OF REMITTERS

Banks, financial markets providers, corporate trustees and other entities trusted with money flow need to be licensed and be able to proactively demonstrate a certain level of care and due diligence for its clients and to encourage trust in the finance sector and the economy. So why not the remittance sector? This would certainly help banks get more comfort around banking them.



## CODE OF PRACTICE

While not technically part of the regulatory refresh I didn't want to let an opportunity pass by to raise awareness of the challenges in the Code of Practice and hope that a refresh of the Code closely follows the refreshed regulations. Here are but a few of my thoughts:

- The Code of Practice seems to provide limited options for the verification of international customers. New Zealand reporting entities do business all over the world and those people may not travel and have a passport so options for verifying them under the Code are essentially nonexistent.
- While certification of identification documents must have been done in the past 3 months, other secondary documents only needs to be dated in the past 12 months. Anyone else confused?
- Perhaps we could remove the requirement for the statement around representing the identity of the person, shouldn't we rather have it as a recommendation as this is the number one failing for certifications?
- Also, while I'm on a roll the certifier having to be outside of the transaction, what's with that? Wouldn't the lawyer acting for them or a trusted referee who also knows them be a better certifier than an outside person? If they are a trusted referee, then shouldn't we do just that – trust them?

## NAUGHTY OR NICE?

Whilst the following are all important aspects of complying with the AML/CFT Act, there are certain refinements that can be made to secure them a position on the Nice list:

### PRESCRIBED TRANSACTION REPORTING (PTR)

A prescribed transaction is an international wire transfer of \$1,000 or more conducted through a reporting entity or a domestic physical cash transaction of a value equal to or above \$10,000.

- Banks alone have spent approximately NZD 20 million on PTR and most of this cost was associated with setting thresholds for transactions such as International Funds Transfers (IFTs) and Large Cash Transactions (LCTs). On the other hand, however, the removal of these thresholds would likely result in the same cost being incurred again.
- While PTRs are intended to add further transparency to the financial system, improving the detection and disruption of organised crime, is the PTR scope too broad? There have been in my opinion some unintended scenarios that technically must be reported but don't add a lot of value from an intelligence perspective.



# NAUGHTY OR NICE?



## ENHANCED DUE DILIGENCE (EDD) ON SUSPICIOUS ACTIVITY REPORTS (SARs) AND ON ALL TRUSTS

The higher level nature of Enhanced Due Diligence (EDD) poses the risk of 'tipping off'. It is such a fine line between asking for information around certain transactions in order to meet source of funds obligations, potentially exiting in order to manage risk appetite, and between the tipping off of provisions which carry criminal penalties.

- **EDD on SARs:** Reporting entities are immediately in breach when they fail to obtain EDD on these transactions, however there is a tension with tipping off. On the other hand, if one is truly suspicious, you are then unlikely to receive the information required to complete enhanced CDD. Maybe the solution is to remove this as a legal requirement but encourage it as best practice?
- **EDD on Trusts:** Whilst we acknowledge that trusts do pose a higher risk, there are so many other entity types that are not called out specifically. It should also be recognised that the NZ environment allows an excess of trusts so many legitimate customers may be disproportionately impacted. Perhaps we could focus on higher risk trusts?



## ADDRESS VERIFICATION

Currently address verification is required for all entities where standard due diligence and above is required, how about just conducting address verification on individuals/entities that require enhanced due diligence? Returning to my earlier statements on understanding the impact versus reward. We live more and more in a digital world where physical address verification is getting harder and harder.



## MINISTERIAL EXEMPTIONS

- Let's bring ministerial exemptions into the legislation to ensure that they always remain current and are easy to find in one simple location - that would be on the nice list.
- On the naughty list is the wording on the specified and licensed intermediaries exemptions, these are a nightmare to navigate.



# NAUGHTY OR NICE?




## THE IMPORTANCE OF MONITORING

Regulatory mandated audits every three years are beneficial in many ways but relying solely on only auditing in this time period makes way for a variety of issues. In the event that you have been doing something that doesn't meet good practice or worse, that your methods are simply wrong, then three years of remediation is a lot harder than two years and more so one year.

The absence of an audit requires that there must be very robust compliance monitoring in place to retain proper due diligence practices, this monitoring having focus on some higher risk entities.

While on the subject of audits, there should always be a follow-up with the auditor to ensure that the actions completed to resolve the audit issues have been completed to the standard expected by the auditor, otherwise you could end up with repeat audit issues which are not beneficial to the reporting entity.



## POLITICALLY EXPOSED PERSONS (PEPs)

"Politically-Exposed Persons" (PEPs) are individuals who, by virtue of their position in public life, may be vulnerable to corruption. The New Zealand legislation currently limits this concept to foreign PEPs, and does not include domestic (New Zealand-based) PEPs.

- Should domestic (NZ) PEPs be included?
- What timeframe should reporting entities adhere to when determining whether a customer is a PEP or not? Should this be before boarding or 'as soon as practicable' as stated in the Act?
  - By the way, what is meant by 'as soon as practicable'?

Well, that brings us to the end of my Christmas wish list and ideas for having a nice regulatory environment that still stops all the naughty people from their nefarious activities. I am sure there are many more and I will contemplate these further as I build my New Year's Resolutions List.

*Paula Milne*  
CONSULTING



# DR. AML

The Financial Action Task Force (FATF) reviewed New Zealand's AML practices in 2020 and their findings are expected in February 2021. Having been ten years since their last review do not be surprised that there will be areas to be addressed.

It has become increasingly evident that there are still significant gaps in the AML/CFT regime and that in some areas we are not going far enough and in others we seem intent on making things difficult with no obvious benefit.

The Expiring Regulations Updates from the DIA for December 2020 will address some key pain-points for reporting entities and reflect the current risk environment. For example, agencies involved in commercial leasing will be happy to hear the CDD timing change to commercial leasing, made in response to the undue burden placed on agencies, and duplicate due diligence being conducted on landlords by multiple agencies. More information on these changes can be found [here](#), or on the following page.

The supervisors have already forewarned us that they will be taking increased action in 2021 - signalling that the 'grace period' for reporting entities has ended.

DIA has been the most active in terms of taking civil and criminal enforcement action and I would expect this trend to continue - hazarding a guess (and hoping) the legal sector will begin to come under increased scrutiny.

The statutory review of the AML/CFT Act must commence by July 2021 and be completed within a year.

There are ripples occurring across the supervisors as well as providers in the AML/CFT sector. In 2021 keep an eye out for developments in the **following spaces**:

CODE OF  
PRACTICE FOR  
AML/CFT  
PROVIDERS

TRUST  
FRAMEWORK

EXPECTATIONS  
OF GDPR  
STANDARDS

DIGITAL  
IDENTITY

STATUTORY  
REVIEWS OF THE  
AML/CFT  
REGIME



Want to know more?  
Contact me: [draml@ticc.nz](mailto:draml@ticc.nz)

# EXPIRING REGULATIONS UPDATE

DECEMBER 2020

As is intended, New Zealand's anti-money laundering and countering financing of terrorism (AML/CFT) system adapts as the risks of money laundering and terrorism financing evolve.



## NEW REGULATIONS



- **Low-risk payments** will be excluded from the AML/CFT Act when are received from clients to pay certain types of low-risk payments.

- **Limited partnerships** will be able to join a designated business group if they are related to the other members of the designated business group.
- **AML/CFT audits** will be required every three years. In some cases, the DIA can request more regular or less regular audits, if this is the case, you will be notified by the DIA.
- A new regulation will be put into place to reduce the likelihood for a business to **unintentionally tip off** people who are subject to a Police inquiry. An exemption will apply, for 30 days unless otherwise notified by the Police, from having to conduct enhanced due diligence in respect of the subject of Commissioner's Order. A Commissioner's Order is when the Commissioner of Police requires information relevant to a suspicious activity report or prescribed transaction report.
- Entities have to **obtain information** from customers, who are companies and clarify if there are any nominee director relationships or nominee shareholder relationships.



## UPDATES



- AML/CFT obligations continue to apply to both ordering and beneficiary institutions where a **wire transfer of more than \$1000** is conducted and the reporting entity does not have a business relationship with the person sending the funds or where the entity receives funds from a person with which they do not have a business relationship with.
- AML/CFT obligations do not apply when carrying out services as an executor, an administrator, or a trustee in respect of services provided in the administration of an estate or, in the case of a trustee, in respect of services provided to beneficiaries of a family trust. **This applies to the administration of estates and family trusts.**
- AML/CFT obligations do not apply to **property management activities** even when you provide other real estate services that do attract AML/CFT obligations.
- **Commercial leasing:** real estate agents will only be required to conduct customer due diligence on the landlord when an offer to lease is presented, rather than when they sign an agency agreement.
- **Reporting entities that are liquidators.** If it is appointed by the High Court, there is no requirement to conduct initial customer due diligence on the liquidated company. However, it is noted that requirements will continue to relate to payments to beneficial owners, wire transfers, prescribed and suspicious activity reporting.



The Ministry of Justice has advised that the timeframes for amending these regulations has changed and the Ministry now aims to have new regulations in force by July 2021.

# THE FINANCIAL CRIME CASE FOR A GLOBAL ANTI- CORRUPTION AGENCY FOR PROFESSIONAL SPORTS



By Jonathan van der Valk  
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Article originally published by RUSI



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**THE CORRUPTION AND ILLICIT FINANCIAL FLOWS  
PERMEATING THE SPORTS WORLD UNDERMINE ITS INTEGRITY.  
COULD A WORLD ANTI-CORRUPTION BODY FOR SPORTS BE  
THE ANSWER?**

In September 2020, football's international governing body, FIFA, and the United Nations Office on Drugs and Crime (UNODC) met in Vienna to sign a memorandum of understanding, underpinning their cooperation to address the threats posed by crime to professional sports. At the meeting, FIFA President Gianni Infantino pledged to fund a global anti-corruption body for sports. For its part, the UNODC confirmed it would take part in an initial consultation process for this body which FIFA says will include sports organisations, intergovernmental authorities, governments and specialist agencies. The objective? To establish an independent, multi-sports, multi-agency international entity to investigate abuse cases in sports. With evidence suggesting illicit finance in sports is mounting, would such an initiative overturn this trend?



## ILLCIT FINANCE IN SPORTS WHAT'S THE SCORE?

Corruption touches professional sports in many ways, including through match-fixing, bribery, money laundering, and commercial corruption. There are also numerous entry and exit points for illicit finance. The selection process for sports competitions is open to corruption, as are the purchase of assets such as clubs and players using illicit finance. Sponsorship, and the buying and selling of rights, can be tainted; and the manipulation of competition results is exploited through illegal and unregulated betting and gambling.

The focus on illicit finance via corruption in sports is not new. In 2009, for example, the global illicit finance watchdog, the Financial Action Task Force (FATF), published a report on money laundering through the football sector. More recently, the EU's 2019 supranational risk assessment of money laundering and terrorist financing included professional football as a sector representing burgeoning money-laundering risk, due to the sport's 'complex organisation and lack of transparency'. In August 2020, Europol, the EU agency for law enforcement cooperation, issued a situation report on the involvement of organised crime groups (OCGs) in sports corruption, underscoring how corruption facilitates financial crime. The annual worldwide estimate of criminal proceeds from betting-affiliated match-fixing, for one, is a staggering €120 million.

Financial crime related to sports corruption does not, however, end with football. In fact, most sports are at risk for different reasons. Due to their association with violence, boxing, wrestling and other fighting sports have for decades been linked to the criminal underworld, and high-value sports such as horse-racing offer plenty of ways for large amounts of money to be laundered. Europol estimates that between 2014 and 2018 almost 500 tennis matches were manipulated, with large networks of betting mules used by OCGs to bet small amounts on lower tier tennis matches simultaneously.



## WHY DOES ILLICIT FINANCE IN SPORTS MATTER?

The coronavirus pandemic has brought a new urgency to examining the need for a global anti-corruption body as the finances of sports are stretched. The pandemic presents a glaring opportunity for nefarious actors to exploit sports professionals' salary reductions, or industry delays in payments, to continue to bribe and launder. Aside from the damage caused by criminality related to sports corruption, failing to identify and disrupt illicit finance in the sports world damages its integrity, and undermines its developmental benefits worldwide.

## WHAT HAS BEEN TRIED SO FAR?

At an international level, efforts have gradually intensified. A joint EU and Council of Europe initiative, 'Keep Crime out of Sport' enacts the principles adopted by the 2014 Convention on the Manipulation of Sports Competitions, designed as a legally binding treaty to address match-fixing. In November 2017, Resolution 7/8 on Corruption in Sport was adopted at the seventh session of the Conference of the States Parties to the UN Convention against Corruption (UNCAC). The Resolution urges the 183 states party to the UNCAC to encourage and implement, 'robust legislative and law enforcement measures', and support 'technical assistance needs', promoting capacity building initiatives and cooperation between law enforcement agencies and relevant sports-related organisations and stakeholders. Moreover, the G20 Anti-Corruption Working Group, established in 2010, included sports integrity as a priority agenda item at their 2017 Hamburg Summit, urging sports organisations to intensify their fight against corruption by fostering, 'the highest global integrity and anti-corruption standards'. Discussions at the Summit proposed the International Partnership against Corruption in Sport, a coalition of actors including the UNODC, the OECD and The Commonwealth to 'strengthen and support efforts to eliminate corruption and promote a culture of good governance' around sport, as an instrument for this work. Initiatives, though, have thus far focused on high-level principles and policy frameworks, which are yet to translate into measurable and effective action.

## WHY IS A NEW BODY NEEDED NOW?

It is clear the illicit finance related to sports corruption is complex and reaches across borders. FIFA's vision is for a body that provides, 'trusted reporting lines, a global pool of experts that can be promptly mobilised to provide local specialist case management and care support to victims, witnesses, and whistleblowers, as well as establishing standardised sanctions and disciplinary measures and screening processes' to hinder movement between regions and sports. Despite the array of frameworks and treaties in place, a duplication in responsibilities and membership is currently evident, and a joined-up approach is lacking. The new body could be a standard-setter, implementing actionable policies to thwart illicit finance and exposing sports to those with the experience and legal and financial expertise to address corruption and illicit finance. A single body could pool resources across sports and multilateral organisations to properly support targeted investigations – including financial analysis – and would ensure the sharing of information, expertise and best practice, creating a more efficient and effective mechanism to combat illicit finance in sport.

***"Failing to identify and disrupt illicit finance in the sports world damages its integrity, and undermines its developmental benefits worldwide."***

Whether there is genuine desire to tackle sports corruption, though, is open to debate, and a new international body would only have as much power as it is given. Certainly, agreeing its scope in a landscape already congested with international treaties and inter-sport bodies will be difficult. Securing national buy-in will be challenging too.

Scope and authority aside, inevitable questions will be asked about FIFA's suitability to lead the consultation process. Although professional football is the primary location of illicit finance and FIFA is well placed to play this role, it is mired in corruption scandal itself. In 2015 several senior officials were indicted by the US Department of Justice on charges of bribery, fraud and money laundering, including the acceptance of \$150 million in bribes over two decades. Although then FIFA President Sepp Blatter's tenure quickly fell into ruin, his replacement, Gianni Infantino, has recently also become subject of an investigation into his possible collusion with Michael Lauber, a Swiss attorney who resigned in July 2020 over his conduct related to a corruption investigation examining FIFA.

Regardless of who leads this consultation, in order to create impact and change, a new agency must facilitate cooperation between the sports industry (including governing bodies, clubs, officials and athletes), law enforcement, governments and the betting industry. The sports community must take this moment, in a world where the focus on financial crime and proceeds of corruption is high, to recognise the vulnerability it embodies, and take urgent, concerted and considered action.

*The views expressed in this Commentary are the author's, and do not represent those of RUSI or any other institution.*

# POPE FRANCIS ANNOUNCES REVAMP OF THE VATICAN'S AML DEPARTMENT FOLLOWING DECADES OF CONTROVERSY



BY STEPHEN RAE  
FOR AML INTELLIGENCE

**The Vatican has announced a major re-organisation of its AML unit following a review ordered by Pope Francis.** In the wake of decades of financial scandals, controversy and intrigue the Holy See said it was revamping its financial intelligence and anti-money-laundering unit.

Vatican officials said Saturday the changes involve the governance and organisation of the unit, which has been renamed the Supervisory and Financial Information Authority (ASIF). Up until now the department was called the Financial Information Authority (AIF).

Its functions include "supervision aimed at the prevention and countering of money laundering and the financing of terrorism," according to the a statute announced over the weekend.

The Vatican said ASIF's activities were being divided into three units:

- Vigilance
- Rules and legal affairs, and
- Financial information.

**AML**  
Intelligence

Carmelo Barbagallo, the new ASIF president and a former Italian central bank official, said the changes ordered by Pope Francis would strengthen the entity's financial supervisory responsibilities.

In signing off the statute, Pope Francis cited the Holy See's "progressive implementations of supervisory offices regarding anti-laundering, combating terrorism and the proliferation of the arms of mass destruction."

The changes follow a visit by inspectors of the Council of Europe's Moneyval agency on measures to prevent money-laundering and funding terrorism. The Moneyval team is due to report on its findings in late April 2021.

**"FINANCIAL SCANDALS HAVE DOGGED THE VATICAN FOR DECADES – ONE OF THE LATEST CENTERS ON A LONDON REAL ESTATE DEAL INVOLVING A \$350 MILLION VATICAN INVESTMENT."**



Pope Francis is intent on bringing greater accountability and transparency to the Vatican, building on efforts forged by his predecessor, Benedict XVI, the Associated Press reported.

Financial scandals have dogged the Vatican for decades – one of the latest centers on a London real estate deal involving a \$350 million Vatican investment. Vatican investigators are currently looking into the case. Getting oversight of the Vatican finances and introducing changes has been a priority for Francis – albeit he has met resistance from within at every turn.

Since being inaugurated in 2013 he has overseen the recruitment of experienced personnel from the worlds of business and finance to fill top jobs in the Roman Curia – the Vatican’s ultra conservative and secretive bureaucracy which has been hugely resistant to reform.

The outside executives have been attempting to bring the Vatican’s accounting and budgeting processes up to international standards. Reforms have been accelerating this year, with several papal edicts establishing procedures, notably around public tenders to prevent corruption and conflicts of interest.

Much has been written about the Institute for Religious Works, the opaque body colloquially known as the Vatican bank and described as “the most secret bank in the world.”

Soon after his inauguration in March 2013 Francis ordered a task force to scrutinise the bank. In a further attempt at reform in 2014 he set up the Secretariat for the Economy in charge of all economic activity in the Vatican City.

Aides to the the 83-year-old Argentine Pontiff have reportedly voiced their frustration at the resistance of the Roman Curia to the long overdue oversight of the Church’s finances. The Pontiff has even called the bureaucrats “the last court that remains in Europe,” saying it’s filled with careerists and gossips.

Observers have described how the Curia has fiercely circled the wagons against transparency and accountability. Some officials have even been refusing to give up the privileges that control of the Vatican’s mammoth finances has bestowed on them.

“The Roman Catholic leader hears them out, then urges them to forge ahead. ‘I don’t understand any of this stuff. Talk to each other, and don’t lose your sense of humor,’ he says. ‘But we have to keep going. I won’t stop,’” Bloomberg quoted the Pope as saying.

The announcement of the new statutes Saturday and the revamp of the AML department marks one of the most significant internal Church moves of the Pontiff.



HAPPY HOLIDAYS  
HAPPY HOLIDAYS  
HAPPY HOLIDAYS  
HAPPY HOLIDAYS



We can all agree that 2020 has been a rollercoaster of a year, however we would like to thank all of our incredible clients and collaborators for your continuous support throughout these 'unprecedented times'.

On behalf of the TIC Co. team, we would like to wish you a happy festive season and we hope you get all the rest and relaxation you need so that we can kick 2021 off with a bang!

Ngā mihi o te Kirihimete me te Tau Hou to you and your whānau.



**HOLIDAY  
HOURS:**

December 24: Open  
December 25 & 28: Closed  
January 1 & 4: Closed  
January 5: Open



'TIS THE SEASON  
HOLIDAY OFFICE HOURS

DECEMBER 24: OPEN  
DECEMBER 25 & 28: CLOSED  
JANUARY 1 & 4: CLOSED  
JANUARY 5: OPEN

WE WILL BE OPERATING WITH A REDUCED CREW FROM  
DECEMBER 23 2020 - JANUARY 8 2021

UPCOMING

# EVENTS & OPPORTUNITIES

## 2021 AML SUMMIT

Thursday, 13 May - Friday, 14 May 2021



The 2021 AML Summit will take place on Thursday 13th May and an optional AML Workshop will be run the following day on Friday 14th May. This practical conference will explore the latest AML/CFT expectations, guidance and developments involving attendees in live discussions on critical topics. A networking function will be held from 5 pm - 7 pm and will provide further opportunity to network with AML/CFT Professionals. The optional second day will explore practical insights on AML/CFT compliance and discuss guidance in a workshop setting to assist you with day to day complexities.

To learn more and get tickets, [click here](#).

## ANTI-FINANCIAL CRIME HOT TOPICS SYMPOSIUM

Thursday, 25th February 2021



This AFC Hot Topics Symposium will focus on helping AFC professionals to navigate the “new normal” in this unprecedented year amidst the Covid-19 outbreak.

They will take a deeper look at emerging fraud typologies with the advent of the pandemic, the change in the sanctions landscape post-Brexit, how to harness new technologies to better identify and mitigate risk, and will also examine the AFC culture in the UK region.

To learn more and register, [click here](#).  
Save \$50 before 15 January 2021!

## KICKSTART 2021 WITH THE ANNUAL ARBITRATION AND CRIME WORKSHOP!

This workshop organised by the Competence Centre Arbitration and Crime brings together leading arbitrators, lawyers, academics and other experts from around the world to discuss various hot topics related to corruption and money laundering.

**Date:** Friday, 8 January 2021

To learn more and register for this free, online workshop, [click here](#).

Arbitration and crime: enforcement of awards, tainted assets, transnational public policy, sports arbitration

Virtual Workshop  
Fri 8 January 2021



# INDUSTRY UPDATES

## FATF AMENDED STANDARDS

The FATF has amended its Standards to reflect the threat posed by the proliferation of weapons of mass destruction. Countries and financial institutions are now required to identify, assess and mitigate the risks of proliferation financing, and enhance domestic cooperation and information sharing.

[READ MORE](#)

## FMA'S ANNUAL REPORT - 2020

The FMA has released their 2020 Annual Report, highlighting their key work from the 2019/2020 financial year, including their response to the COVID-19 crisis, and a range of enforcement activity.

[READ MORE](#)

## PRIVACY ACT 2020

The new Privacy Act came into effect on 1 December. Does your organisation understand these changes? Is your business prepared for these changes?

[READ MORE](#)

## TRADE-BASED MONEY LAUNDERING

Recognising trade-based money laundering is difficult, particularly when there is a lack of understanding of this technique.

A [new FATF-Egmont Group report](#) aims to help public and private sector with the challenges of detecting trade-based money laundering.

[READ MORE](#)

## OPERATION BROOKINGS

Continuing on from their raids in October, Police have charged Xiaoyu Lu, a wealthy businessman, with providing a financial service while unregistered, 28 counts of money laundering, and obtaining by deception. He has denied the charges and is awaiting trial.

[READ MORE](#)

## NZ FIU SUSPICIOUS ACTIVITY REPORT

The NZ FIU have released the latest issue of their Suspicious Activity Report.

From a recap of the recent FIU / ACAMS Conference to a round-up of recent AML/CFT news from around the world, you're in for an interesting read!

[READ MORE](#)

## LAWFEST 2021 WEDNESDAY 3 MARCH 2021

The TIC Company is proud to be sponsoring LawFest 2021 - New Zealand's premier legal innovation + technology event!

Join us alongside many other leading industry experts to gain exciting insights from lawyers, legal technologists, innovators and more. [Registration is now open!](#)



[LawFest 21](#) will be a wonderful opportunity for the legal + technology community to come together as we emerge battered but not beaten from the COVID-19 pandemic, share our stories of innovation and ingenuity in a time of crisis and discover new ways to deliver legal services.

To discover resources and legal tech solutions to help you innovate and improve the way you deliver legal services now and into the future, visit [LegalTechHub](#).



2021 NZ

# CYBER SECURITY SUMMIT

DEFENCE | TECHNOLOGY | PEOPLE

24 Feb 2021 | Te Papa, Wellington

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For more information and to register for the Summit, [click here](#).

Join us to learn how you can create a culture of cyber security in your  
organisation!

