

15 September 2016

AML/CFT Consultation Team
Ministry of Justice
SX10088
Wellington

Email: aml@justice.govt.nz

Dear Sir/Madam

Ministry of Justice Consultation Paper on Phase Two of the AML/CFT Act: *Improving New Zealand's ability to tackle money laundering and terrorist financing*

Introduction

The External Reporting Board (XRB) is pleased to have the opportunity to comment on the Ministry's Consultation Paper: *Improving New Zealand's ability to tackle money laundering and terrorist financing* (Consultation Paper).

The XRB is an independent Crown Entity responsible for financial reporting strategy and the development and issue of accounting and auditing & assurance standards in New Zealand.

The functions of the XRB are set out in section 12 of the Financial Reporting Act 2013. In relation to the preparation and issue of auditing and assurance standards, the XRB has a mandate under the Act to prepare and issue auditing and assurance standards.

The auditing and assurance standards issued by the XRB include professional and ethical standards for assurance practitioners.

Specific comment

Professional and Ethical Standard 1 (Revised) *Code of Ethics for Assurance Practitioners*¹ (PES 1) sets out the fundamental principles and basic tenets of professional and ethical behaviour and conduct that apply to assurance practitioners in New Zealand. In August 2016, the New Zealand Auditing and Assurance Board (NZAuASB), a sub-committee of the XRB, amended² PES 1 by adding a new section 225 on *Responding to Non-Compliance with Laws and Regulations*.

¹ PES 1 is based on the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA), published by the International Federation of Accountants (IFAC). PES 1 is accessible on: <https://www.xrb.govt.nz/includes/download.ashx?ID=144996>

² The amendments to PES 1 are based on similar amendments to the IESBA's *Code of Ethics for Professional Accountants* and are effective from 15 July 2017 with early application is permitted. The amendments to PES 1 *Amendments to Professional and Ethical Standard 1 (Revised) Responding to Non-Compliance with Laws and Regulations* is accessible on: <https://www.xrb.govt.nz/includes/download.ashx?ID=144995>

PES 1 now includes requirements that deal with the responsibilities of assurance practitioners and the actions they must take when they encounter, or are made aware of, non-compliance or suspected non-compliance with laws or regulations in the course of providing a professional service to a client (section 225 of PES 1).

Examples of the laws and regulations that assurance practitioners need to address include those relating to money laundering, terrorist financing and proceeds of crime (paragraph 225.6 of PES 1). Actions assurance practitioners must take include complying with laws and regulations that govern the reporting of non-compliance or suspected non-compliance to an appropriate authority (paragraph 225.20 of PES 1).

PES 1 applies to all assurance practitioners providing assurance services, whether these relate to financial statements or some other subject specific matter, and whether these relate to audits or other assurance services (for example, reviews of financial statements). PES 1 does not apply to other accountants in public practice who provide other professional services³.

While we would support advisory and assurance services being subject to AML/CFT obligations, please note that the requirements of PES 1 and therefore the direct responsibilities of assurance practitioners cover only non-compliance by their client or those charged with governance, management or other individuals working for or under the direction of their client (paragraph 225.9).

We make no comment about other aspects of the Ministry's Consultation Paper.

If you have any queries or require clarification of any matters in this submission, please contact Lay Wee Ng (laywee.ng@xrb.govt.nz) or me.

Yours sincerely



Warren D Allen
Chief Executive
External Reporting Board

³ It should be noted that IESBA's international standard applies more broadly to all professional accountants. New Zealand's PES 1 applies only to assurance practitioners. The professional bodies in New Zealand will need to assess the extent to which IESBA's international standard applies to accountants (other than assurance practitioners) who provide other professional services.