

**Statutes Amendment Bill: Part 2 –
Amendment to the Anti-Money
Laundering and Countering
Financing of Terrorism Act 2009**

**Submissions from The Law
Association AML/CFT Law
Committee**

INTRODUCTION

The Law Association of New Zealand (TLANZ) is an independent membership organisation representing approximately 6,750 members of the New Zealand legal profession. TLANZ supports expert committees, including the Anti-Money Laundering and Countering Financing of Terrorism (AML & CFT) Committee, which engage in legal review and policy advocacy on issues affecting the profession and the public interest.

This submission focuses on Part 2 of the omnibus Statutes Amendment Bill ("**Bill**"), specifically Clause 10, which proposes an important amendment to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("**AML/CFT Act**").

The AML & CFT Committee ("**the Committee**") comprises senior lawyers and law firm practice managers with significant expertise in advising on and addressing the complexities of the AML/CFT Act. The Committee appreciates the opportunity to provide its views on Clause 10 of the Bill. The other clauses 9, and 11-12, are supported in current form.

As part of its ongoing monitoring of developments in the AML/CFT framework, the Committee has carefully reviewed the proposed amendment. Many of the Committee's members, as well as practitioners represented by TLANZ, are either reporting entities themselves or work within reporting entities. Accordingly, this submission offers practical insights into the challenges faced by lawyers and their clients in ensuring compliance with the AML/CFT Act.

EXECUTIVE SUMMARY

In brief overview, the Committee submits that:

- i. We support the principle behind the amendment to remove or reduce the burden of the address verification rule in AML/CFT Customer Due Diligence ("**CDD**") process.
- ii. We do not support Clause 10 of the Bill in its current form, which falls short of the suggestions and submissions at the time the Ministry of Justice Statutory Review during 2021-2022 considered the need for and utility of address verification.
- iii. Reporting entities should instead be exempted from conducting address verification for all customers, beneficial owners and persons acting on behalf of a customer except in cases where enhanced due diligence is required.
- iv. Clause 10 of the Bill does not remove the requirement to verify an address but rather provides for an address to be verified "according to the level of risk involved in the transaction". Leaving a large area of risk-based evaluation still to be done by each reporting entity does not in practical terms afford much compliance burden relief from the status quo.
- v. We do not support Clause 10 of the Bill in this form, further because of the difficulty in obtaining reliable documentary proof for some clients particularly where living arrangements and personal circumstances are increasingly varied, and people are more transient in the modern era.
- vi. The requirement to verify the address of a client, beneficial owner of a client, or any person acting on behalf of a client could be removed from the AML/CFT Act, as an alternative to Clause 10, and in that regard it would be important to highlight the following factors:

- a) Alternative Risk Management: There are other verification methods, such as electronic ID verification, that may be equally or more effective at mitigating risks.
 - b) Risk-Based Approach: The decision to remove the address verification should align with a risk-based approach where efforts are concentrated on recognized higher-risk transactions and clients.
 - c) Operational Benefits: Removing this requirement can streamline processes, reduce operational costs and duplication, and improve customer satisfaction with AML law.
 - d) Client Accessibility: Removing this requirement could reduce barriers for clients to obtain goods and services, particularly those who face challenges with maintaining or verifying a physical address.
- vii. Ultimately, the Committee believes that the requirements to verify an address as set out in Clause 10 of the Bill provide little practical change to the current requirements under s 16 of the Act. Whilst removing some verification burden in theory, it will in practice force each regulated business reporting entity to consider the level of risk each time and, in all likelihood, default back to a standard of verifying address most or all of the time – as now occurs.
- viii. The benefits of removing the requirement, except in cases of enhanced CDD, provides a much greater benefit to reporting entities. They already have to understand and manage situations of enhanced due diligence as part of their AML/CFT Act compliance programme obligations.

SUBMISSIONS

1. Part 2 of the Bill introduces four amendments to the AML/CFT Act, and this submission focuses specifically on Clause 10. It is anticipated that Part of the Bill may be divided into its own amendment Bill when it returns to the House. Clause 10 amends section 16 of the AML/CFT Act to clarify that an address of a customer, beneficial owner of a customer, or any person acting on behalf of a customer only has to be verified by a reporting entity *according to the level of risk involved in the transaction*.
2. This proposed change allows (indeed, requires) a reporting entity to consider the level of risk involved to decide on the reasonable steps it should take to verify the address (and registered office). It is left to the reporting entity to work out what is appropriate, but it is not clear what the implications are from the italicised phrase above. That phrase has proven to be a notoriously vague and inconsistent standard of wording for businesses to try to apply in other places where it is used in the AML/CFT Act.
3. This is different to the regulation proposed in the 2023 AML/CFT draft amendment regulations (which subsequently did not proceed due to needing legislative rather than delegated regulatory change). The 2023 regulation aimed to exempt a reporting entity from conducting address verification for all customers, beneficial owners and persons acting on behalf of a customer *other than when enhanced CDD is required* and instead require businesses to verify, according to the level of risk, that an address is genuine. This drafting removed the requirement to link an address to the client, while clause 10 of the Bill does not.

4. The Committee submits that the introduction of Clause 10 in this current form provides little change from the current requirements under s 16 of the Act, and there will be little practical relief or advantage to reporting entities.
5. The change introduced by Clause 10 does not set out what the implications are for reporting entities who are later deemed not to have taken sufficient steps to verify the address of a client. The verification of address does not fall within the AML/CFT Amended Identity Verification Code of Practice 2013 which provides a safe harbour of other identity verification. There is currently no safe harbour provided for address verification.
6. The Committee supports the removal of the need for address verification as part of compliance relief measures. That would open up two options to improve the current clause 10:
 - (a) As per the 2023 AML/CFT draft amendment regulations, adjust the wording to instead exempt address verification *other than when enhanced CDD is required*; or
 - (b) remove the requirement to verify address altogether, which was raised in the Ministry of Justice Statutory Review report (para 673, see Appendix to this Submission) and which most submitters supported, with the Ministry noting “*less support for the alternative option of verifying that an address was genuine*”.
7. We understand informally that Ministry of Justice officials are aware that many industry sectors feel the current Clause 10 proposed wording does not deliver what the Statutory Review Report suggested, and the Ministry may be contemplating an Amendment Paper to the Bill, but there is no public information about what that may propose.
8. The following policy and practical considerations apply equally to s 16 of the AML/CFT Act and Clause 10 of the Bill, and support both of the options in 6(a) or (b) above:
 - (a) **Increasing Transience of People:** Today, individuals are more mobile than ever before, moving frequently for work, study, or personal reasons. This makes it increasingly difficult to obtain reliable, consistent documentary proof of address for many people. As a result, requiring such proof may create unnecessary barriers for those who are transient.
 - (b) **Challenges with Address Verification via Email:** Many documents, including those that may be required for address verification, are now sent electronically rather than through traditional postal means.
 - (c) **Use of Initials Instead of Full Names:** There are instances where accounts are held in reference to initials rather than full legal names. This can lead to difficulties in matching address documentation to the account holder. This discrepancy can complicate the verification process.
 - (d) **Challenges for Clients Who Do Not Own or Lease Property:** Some clients may face difficulties providing proof of address if they do not own the property they live in or are not named as tenants on a lease. For example, individuals who live in properties held in a trust, or who reside with family members or friends, may not be able to provide standard proof of address such as utility bills or lease agreements in their name.

- (e) **Flating or Boarding Situations:** Clients who are flatting (living in shared accommodation) or boarding may not have utility bills or other formal documentation in their names, making it impossible for them to provide the usual proof of address. This issue disproportionately affects younger people or individuals in temporary housing arrangements, who are often unable to meet standard address verification requirements.
 - (f) **Living in Non-Traditional Housing (e.g., Campervans):** A growing number of individuals live in non-traditional forms of housing, such as campervans, where they may not have a fixed address at all. These individuals would find it extremely difficult, if not impossible, to provide conventional proof of residence, highlighting the need for more flexible and inclusive verification methods.
9. The limitation of the address verification requirement as set out in the 2023 AML/CFT draft amendment regulations would better address these challenges and ensure that the process is more inclusive and accessible for a broader range of people. Removing address verification altogether, as proposed in the Statutory Review Report, is an equally viable option.
10. Apart from the difficulties some clients face in obtaining documentary evidence there are other factors supporting the removal of the requirement to verify a client's address as set out below:
- (i) Alternative forms of verification can be helpful tools.
 - (ii) Client address verification can be redundant.
 - (iii) Client address verification can be problematic.
 - (iv) Operational efficiency; and
 - (v) Regulatory evolution and industry push for flexibility, including developments yet to come under the Digital Identity Services Trust Framework.

Alternative Forms Of Verification Can Be Equally Effective

11. The Committee has considered the potential for alternative forms of verification to achieve equally effective outcomes. These alternatives provide modern, secure, and efficient ways to meet compliance obligations while reducing unnecessary burdens on reporting entities.
- **Other Methods of Identity Verification:** If a reporting entity considers the level of risk involved it decides on the reasonable steps to take to verify address which could involve using one or more digital tools and technology to verify a client, such as biometric authentication, electronic identification, and databases with reliable public records.
 - **Electronic Documents:** Reporting entities that provide e-commerce or other digital services could verify identity by electronic means through their portal/website, including two-factor authentication, electronic filings, tax and other filings, and online bank account verifications. These electronic alternatives are often more accurate and secure.

Client Address Verification Can Be Redundant

12. The Committee has identified additional challenges and limitations associated with address verification, particularly for certain client demographics and in the context of evolving technologies.

- **Address Not Always Indicative of Risk:** The requirement to verify a client's physical address may not always indicate an AML/CFT risk and not add significant value in assessing risk. Some reporting entities are using an agent to send a link to client to verify their identity through electronic methods (e.g., biometric checks, ID verification via trusted providers).
- **Focus on Risk-Based Approach:** AML/CFT regulations are designed to adopt a risk-based approach allowing resources to be focused on higher-risk clients and transactions. Wording that focuses on Enhanced CDD situations would align with that. If a client's identity has already been verified satisfactorily, requiring address verification could be an unnecessary step, especially for low-risk clients.

Client Address Verification Can Be Problematic And Of Limited Utility

13. Over time under existing AML/CFT Act applications in practice, the rule requiring address verification in every case has created unnecessary difficulties and business transaction delays, and on the other hand also delivered decreasing benefits in terms of usable law firm intelligence to fight financial crime.

- **Difficulty for Some Clients:** Some clients, particularly in mobile or transient populations, may not have a stable or verifiable physical address (e.g., homeless individuals, expatriates, those living in areas with unreliable postal services, or individuals using temporary addresses). Requiring address verification for these individuals could create unnecessary barriers to services, leading to exclusion.
- **Limited utility for law enforcement purposes** – a need to formally verify address may have made sense in 2009 when the law was passed. However time and technology has moved on. In 2024, given the extent to which people may regularly change addresses, or easily provide a false address, or even that a utility bill or bank statement may be sent only to a PO Box or only to an email address, this information is of diminished utility for police and other law-enforcement investigations. It would be more meaningful in the modern technological era to require (for example) verification of a mobile phone number than address, given the ability for police to track phone numbers and to requisition telecommunication supplier records.

Operational Efficiency

14. It is the Committee's view that the operational implications of removing the address verification requirement (altogether, or except for enhanced CDD) will have these beneficial implications:

- **Simplifying Compliance Processes:** Removing the address verification requirement could streamline the client onboarding process and reduce time and resources devoted to this task. Faster onboarding means lower compliance cost and more efficient use of resources, particularly in sectors that require faster customer onboarding (e.g. lawyers, real estate agents, fintech, digital banks).
- **Cost Savings:** Address verification often involves manual checks (e.g. requesting, following up, sending, and receiving physical documents), which can be costly and time-consuming for both the client and the service provider. Removal of address verification

requirement may mean resources could then be deployed in carrying out other compliance activities such as account and transaction monitoring i.e. detecting patterns of activity, suspicious activities, and transactions.

- **Uptake of modern technologies and practices:** As businesses and financial services providers become increasingly digitised, regulatory authorities may consider making the verification process more adaptable to current technologies and practices. Removing address verification could be a step toward modernising AML/CFT frameworks to make them more practical in the context of new business models and digital ID frameworks.

CONCLUSION

Thank you for the opportunity to make submissions in respect of Part 2 of the Bill. While the Committee appreciates the intent of Clause 10 to introduce a risk-based approach and regulatory relief, we are concerned that the proposed changes do not sufficiently improve on the practical challenges and redundancies associated with the current requirements. The retention of address verification obligations, even under a risk-based framework, risks perpetuating inefficiencies and placing unnecessary burdens on reporting entities without delivering meaningful compliance benefits.

The Committee strongly advocates for a more progressive approach, such as removing address verification requirements entirely, or except in enhanced CDD scenarios - and tasking the Ministry to explore alternative verification methods that better align with modern technologies and practices. This would streamline compliance processes, reduce costs, and enhance the operational efficiency of New Zealand's AML/CFT regime while maintaining its effectiveness at fighting financial crime.

The Law Association AML/CFT Law Committee is available for further engagement, including meetings or oral presentations, to discuss any aspect of its submission if the Committee would find that helpful (preferably via Teams if required, given our mainly Auckland location). Should clarification be needed on any matters raised, please contact **Moira McFarland**, the TLA AML/CFT Law Committee Executive, by email at Moira.McFarland@thelawassociation.nz or DDI: 09 30742, on behalf of the Committee Convenor and Deputy Convenor.

Ngā mihi | Regards,



Gary Hughes
Convenor
AML/CFT Law Committee
The Law Association of New Zealand



Claudia Shan
Deputy Convenor
AML/CFT Law Committee
The Law Association of New Zealand

APPENDIX

Extract from the Ministry of Justice Statutory Review 2022

Verifying address information

672. One of the Act's current requirements is to verify the address of a customer, a beneficial owner of a customer or a person acting on behalf of a customer. Address verification was included as a measure to ensure accuracy of a person's identity information as well as further enabling transactions to be traced around the economy and thereby support law enforcement investigations. We noted that most countries do not have this requirement and identified a range of challenges with the verification requirement. This includes negative impact on financial inclusion and disproportionate compliance costs.
673. We considered the compliance burden that this requirement places on businesses and examined opportunities to reduce it. We identified several options for changing the current address verification requirements:
- **the requirement to verify address could be removed or reduced:** the requirements could be removed for all or some types of persons (i.e., natural persons, legal persons or legal arrangements), or required only in high-risk situations
 - **an alternative approach to verifying address could be prescribed:** businesses could instead be required to take reasonable steps, according to the level of risk involved, to verify that the address provided is a genuine address. For example, by using the NZ Post address finder system.
674. Almost all submitters supported removing or reducing address verification requirements. Many questioned its usefulness for combatting money laundering or terrorism financing and others highlighted the disproportionate compliance cost. There was less support for the alternative option of verifying that an address was genuine. This was viewed as unnecessary and potentially problematic for persons outside of New Zealand. This view was also expressed during private sector engagement in April 2022.
675. Overall, we agree with industry feedback and recommend significantly reducing address verification requirements through issuing regulations in the short term. Doing so will enable businesses to better deploy their finite compliance resource to other AML/CFT obligations and take a more risk-based approach. However, we also consider that a requirement to verify a person's address is useful in some higher risk circumstances to deter criminals from providing a false address and support law enforcement investigations. Accordingly, we recommend continuing to require address information to be verified in high-risk circumstances (i.e., when enhanced CDD is triggered). For other standard CDD circumstances, we recommend further analysis to determine if there is benefit in requiring businesses to verify that an address is genuine in some circumstances. If so, this requirement should be introduced.
676. We also note that for customers that are legal persons or legal arrangements with complex ownership structures, establishing where the registered office or the location or place of business may be useful as part of the wider CDD process. In addition, we note the FATF Standards require address information to be verified for legal persons or legal arrangements as one of the CDD requirements. Given that address information must still be obtained, and the verification requirement remains in enhanced CDD situations, we consider any adverse impact on compliance with the FATF Standards to be negligible.

Recommendation

- R114. Issue regulations to exempt the address verification requirement for all customers, beneficial owners and persons acting on behalf of a customer other than when enhanced CDD is required. As part of this process, and for customers requiring standard CDD, consider whether regulations should be introduced requiring businesses to verify an address as genuine according to the level of risk. These changes should then be amended in the Act itself.