

AML/CFT Co-ordination Committee

Terms of Reference (November 2020)

1. Purpose and functions

1.1. Primary role of the AML/CFT Coordination Committee

1.1.1. The AML/CFT Coordination Committee (“the Committee”) is established to ensure the necessary connections between AML/CFT supervisors, the Commissioner of Police (“the Commissioner”), and other agencies involved in the AML/CFT regulatory system to ensure the consistent, effective, and efficient operation of the AML/CFT regulatory system.

1.2. Functions of the AML/CFT Coordination Committee

1.2.1. The AML/CFT Act 2009 sets out the functions of the Committee. These are to:

- a) facilitate necessary information flows between the AML/CFT supervisors, the Commissioner, and other agencies involved in the operation of the AML/CFT regulatory system;
- b) facilitate the production and dissemination of information on the risks of money laundering offences and the financing of terrorism in order to give advice and make decisions on AML/CFT requirements and the risk-based implementation of those requirements;
- c) facilitate cooperation amongst AML/CFT supervisors and consultation with other agencies in the development of AML/CFT policies and legislation;
- d) facilitate consistent and coordinated approaches to the development and dissemination of AML/CFT guidance materials and training initiatives by AML/CFT supervisors and the Commissioner;
- e) facilitate good practice and consistent approaches to AML/CFT supervision between the AML/CFT supervisors and the Commissioner;
- f) provide a forum for examining any operational or policy issues that have implications for the effectiveness or efficiency of the AML/CFT regulatory system;
- g) per s 130(4), appointing an AML/CFT supervisor if the supervisors cannot agree on which supervisor is to be a reporting entity’s supervisor.

1.3. AML/CFT Coordination Committee in relation to policy advice

1.3.1. The Ministry of Justice is the lead agency for providing policy advice to the Minister of Justice. However, the Committee can provide a forum for examining both operational and policy issues as required.

1.3.2. For the avoidance of doubt, Committee members can provide independent advice directly to their own Ministers on AML/CFT matters. Appropriate consultation on such advice may be undertaken with other Committee members as required.

1.4. Resolving issues of supervisory coverage

1.4.1. In the first instance, the AML/CFT supervisors are required to determine the appropriate supervisor for a reporting entity where areas of regulation overlap.

- 1.4.2. If the AML/CFT supervisors cannot agree on which supervisor will supervise a reporting entity, the Committee will appoint the supervisor for that entity. The final decision will be made by the Chair following discussion by the Committee.

1.5. Working Groups

- 1.5.1. The Committee can, as required, establish a Working Group where detailed and/or ongoing discussion of AML/CFT issues is required.
- 1.5.2. Any Working Group must have a Terms of Reference which provides, at minimum, the composition of the Working Group, the focus area, the frequency of meetings, and any decision-making powers delegated to the Working Group (if any).
- 1.5.3. Any Working Groups established by the Committee will keep the Committee informed about their operations.

1.6. Interaction with Oversight Committee

- 1.6.1. The Ministry of Justice has established an Oversight Committee which is comprised of senior managers from the core AML/CFT agencies. The purpose of the Oversight Committee is to consider and engage with strategic issues that may impact the AML/CFT system, as well as consider significant resourcing decisions.
- 1.6.2. The Committee can refer strategic issues, significant resourcing decisions, and unresolved matters to the Oversight Committee for guidance as required.
- 1.6.3. The Committee will keep the Oversight Committee informed about its operations while established.

1.7. Interaction with other partners

- 1.7.1. The Committee will engage external partners who are engaged in or support activity with the ambit of the Financial Action Task Force framework.
- 1.7.2. To assist with this engagement, the Committee may create an engagement strategy to determine joint approaches to engagement (where applicable) and outline mechanisms to work with other coordination bodies, agencies (domestic and international), and the private sector.

2. Membership

2.1. Chair of the Committee

- 2.1.1. The Chief Executive of the Ministry of Justice (or a suitable delegate) will perform the role of Chair of the AML/CFT Coordination Committee.

2.2. Committee composition

- 2.2.1. Under the AML/CFT Act, the minimum membership of the Committee consists of:
 - a) a representative of the Ministry of Justice;
 - b) a representative from the New Zealand Customs Service;
 - c) a representative from each of the supervisory agencies, and;
 - d) a representative of the New Zealand Police Commissioner.
- 2.2.2. The Chair may, from time to time, invite other persons employed in a government agency to participate in the AML/CFT Coordination Committee. The following agencies will have a standing invitation to attend and participate in the Committee meetings:

- a) Inland Revenue Department
 - b) Serious Fraud Office
 - c) New Zealand Intelligence Community
 - d) Ministry of Defence
 - e) Ministry of Business, Innovation, and Employment
 - f) Ministry of Foreign Affairs and Trade
 - g) Department of Prime Minister and Cabinet
- 2.2.3. Each agency will be represented by senior-level officials who are able to make decisions on behalf of their agency. The appropriate level of seniority is agreed between each agency and the Chair, giving consideration to the sufficiency of specialty and expertise in the areas outlined above and the subject matter before the AML/CFT Coordination Committee.

2.3. Role of members

- 2.3.1. Members are required to attend meetings, and generally assist the Committee to carry out its functions, as described above.
- 2.3.2. If Members are unable to attend a meeting, they should send a suitable delegate to attend in their place and ensure the delegate is sufficiently briefed to assist the Committee to carry out its functions.

2.4. Conflicts of interest

- 2.4.1. Members must perform their functions in good faith, honestly and impartially and avoid situations that might compromise their integrity or otherwise lead to conflicts of interest.
- 2.4.2. When members believe they have a conflict of interest on a subject that will prevent them from reaching an impartial decision or undertaking an activity consistent with the Committee's functions, they must declare that conflict of interest. The AML/CFT Coordination Committee will, at an early stage, develop a policy for managing conflicts.

3. Consideration of matters

3.1. Consideration during meetings

- 3.1.1. Matters for the Committee's consideration should be submitted as a paper. Matters for consideration can be put to the Committee orally with leave of the Chair.
- 3.1.2. If the matter requires the Committee to make a decision, the paper should provide sufficient information to enable a decision to be made. The submitting agency or working group should also provide a recommendation to the Committee regarding the decision. The Committee will make any required decision by consensus.

3.2. Consideration between meetings

- 3.2.1. If required, the Committee can consider matters and make decisions between meetings via email and with leave of the Chair.
- 3.2.2. In deciding whether to provide leave for a matter to be considered outside of a meeting, the Chair should consider the urgency and significance of the matter requiring decision.

4. Committee meetings

4.1. Secretariat support

4.1.1. The Ministry of Justice will provide Secretariat support to the Committee.

4.2. Meeting frequency

4.2.1. The Committee will endeavour to meet six times per year. If the need arises, ad hoc meetings can be called to allow for discussions on urgent matters.

4.2.2. The Secretariat will confirm meeting dates for the Committee and produce a schedule on a six-monthly basis.

4.3. Process for developing a meeting agenda

4.3.1. The Secretariat will develop and circulate the agenda ten working days prior to the meeting. Before circulating the agenda, the Secretariat will seek the Chair's approval of the proposed agenda.

4.3.2. To assist with developing the agenda, the Secretariat will, fifteen working days prior to the date of a meeting, seek potential agenda items from Committee members.

4.4. Process for submitting papers for a meeting

4.4.1. Papers for consideration at a meeting must be submitted to the Secretariat seven working days prior to the meeting. Papers submitted less than seven working days prior to the meeting will not be considered except with leave of the Chair.

4.4.2. The Secretariat will review papers against the relevant action point (if applicable) and to confirm the paper meets the required standard. The Secretariat will liaise with the submitting agency if significant edits are required to the paper.

4.4.3. The Secretariat will circulate all final papers no less than five working days prior to a meeting. Any late papers will be circulated once finalised.

4.5. Process for circulating minutes and record of action points

4.5.1. The Secretariat will attend all Committee meetings and record the discussion and action points.

4.5.2. Following the meeting, the Secretariat will produce minutes of the meeting and a record of action points. The action points will capture what action is required (including whether a paper is required), which agency is responsible for the action point, and the timeframe in which the action should be completed. Agencies should direct any questions regarding action points to the Secretariat, who will raise the question with Chair.

4.5.3. The minutes and action points will be circulated to Committee members as draft minutes five working days following the meeting.

4.5.4. The Committee will consider the draft minutes at the following meeting. If the Committee approves the draft minutes, the minutes become the authoritative record of that meeting.

5. Forward planning

5.1. Mechanisms for forward planning

- 5.1.1. To ensure the Committee is maintaining the necessary connections in order to ensure the consistent, effective and efficient operation of the AML/CFT regulatory system, the Committee shall establish the following mechanisms for forward planning:
 - a. An issue register, which records issues or areas of concern with the operation of the AML/CFT regime on an enduring basis;
 - b. A work programme, which records agreed and prioritised areas of work that require resource from more than one agency;
 - c. A forward agenda, which provides an indication of future discussions and reporting to the Committee.

5.2. Issue register

- 5.2.1. Issues with the AML/CFT regime that are identified by agencies can be placed on an issue register following approval from the Secretariat.
- 5.2.2. Recording an item on the register does not necessarily mean that the Committee will commission the work to be done.

5.3. Work programme

- 5.3.1. A work programme will be developed by the Committee at the start of each year. The work programme will be reviewed as needed, but at minimum every six months.
- 5.3.2. Matters of strategic importance which will require input and contribution from more than one AML/CFT agency can be placed on the work programme following agreement of the Committee.
- 5.3.3. A scoping note must be prepared and provided to the Committee for consideration before a matter can be agreed to be placed on the work programme. The scoping note must cover the issue, objectives, product, process, timeline, reporting, and resources.
- 5.3.4. Following consideration of a scoping note, the Committee can agree to place an item on the work programme.
- 5.3.5. Items will be prioritised based on resources available and strategic priorities.
- 5.3.6. Items on the issue register can be adopted into the work programme following agreement from the Committee.

5.4. Forward agenda

- 5.4.1. The forward agenda will be prepared and agreed at the first Committee meeting of each year.
- 5.4.2. The Committee must review the forward agenda at the end of each meeting.

6. Updates

6.1. Agency updates

- 6.1.1. The Secretariat will, each month including those where the Committee does not meet, call for agency updates and provide a date which they must be submitted by.
- 6.1.2. Any updates provided after the specified date will only be included in the agency updates with leave of the Chair.
- 6.1.3. The Secretariat will circulate agency updates to the Committee members and observers.

7. Accountability and reporting

7.1. Accountability

- 7.1.1. The Committee is accountable to the Minister of Justice in terms of fulfilling its statutory functions. Accountability for the performance of the AML/CFT supervisory agencies and the Commissioner is to their own Ministers via usual accountability mechanisms.

7.2. Reporting requirements

- 7.2.1. The Committee will report annually to the Minister of Justice against its work programme or as appropriate or necessary, on the operation and effectiveness of the AML/CFT system.

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