

**INVESTMENT SAVINGS & INSURANCE  
ASSOCIATION OF NZ INC**

SUBMISSION

ON THE

MINISTRY OF JUSTICE

THIRD DISCUSSION DOCUMENT

*Anti-Money Laundering and Countering  
the Financing of Terrorism*

21 December 2006



**I.S.I**

## **Introduction**

- 1 The Investment Savings and Insurance Association ("ISI") welcomes the opportunity to comment on the Ministry's third discussion document *Anti-Money Laundering and Countering the Financing of Terrorism: Supervisory Framework*.
- 2 ISI represents the companies that issue and manage life insurance, superannuation and managed funds in New Zealand. Reserve Bank financial statistics for the quarter ending 30 September 2006 indicate that this industry is responsible for assets in excess of \$62 billion. A list of our member companies appears at the end of this document.
- 3 ISI members have an obvious interest in legislation that affects the relationship between financial services companies and their customers. The nature of that relationship will vary considerably depending on the type of financial product the customer holds.
- 4 We accept that NZ is not immune to money-laundering and the financing of terrorism and that effective measures should be put in place to reduce the opportunities for these activities to occur. However, we are pleased to see that the discussion document acknowledges the need to balance an effective supervisory framework, while at the same time imposing the least amount of cost on industry.
- 5 ISI members have a particular interest in the proposals generally, as indicated by the fact we have made submissions on the Ministry's two previous discussion documents in this area.

## **General Comment**

- 6 As a general comment, we note that the discussion document is reasonably light on detail, and so it is difficult to respond with detailed comments. In particular, there is limited discussion on proposed legislative models, which will invariably have an effect on how the supervisory framework is implemented. We request the opportunity to comment further as detailed proposals are developed.

## **5 – Supervisory framework**

- 7 We are pleased to note the principle of consistency is first on the Ministry's list of regulatory design principles. As an association which represents a wide range of interests, we are concerned that all companies that will be subject to the supervisory framework are treated equally, and no group is given a competitive advantage over another. We are also concerned to ensure that companies who are dealing with more than one regulator are

able to implement consistent standards across their organisation, rather than different standards for different supervisors.

- 8 We are pleased to see that the Ministry has recognised the need for effective coordination of the supervisory framework. We support the proposal to continue Financial Intelligence Unit (“FIU”) responsibility for suspicious transactions and use industry ‘supervisors’ for ensuring compliance with AML/CFT requirements.
- 9 However, ISI members are currently also considering proposals in the MED Review of Financial Products and Providers (“RFPP”) which will introduce ‘regulators’ for insurance and collective investment schemes. We strongly recommend that the Ministry of Justice proposals are coordinated with those of MED to ensure that our members are not subject to unnecessary costs and inefficiencies due to dealing with multiple supervisors. An ISI member company issuing both insurance and collective investments will (under the RFPP proposals) be answerable to two regulators. In that situation we strongly recommend that the AML/CFT requirements should be consistent across all parts of the business and, where it is essential that parties deal with multiple supervisors, there should be a facility for them to have a “lead supervisor” to minimise compliance difficulties.

#### **6 – Requirements to regulate and supervise**

- 10 ISI accepts the proposed registration of “financial institutions” which is also a proposal of the RFPP. As most ISI members are already registered with the Companies Office this will not be a significant extra compliance issue and it will satisfy the requirements for working with other financial institutions offshore. Taking into account the proposal that financial institutions will be supervised as well as registered, we would not support a registration process that involved significantly more compliance than the existing system.
- 11 We note that the Registrar of Companies will not be registering those DNFBPs that will be registered by their own various SROs. While we accept the efficiencies that that will allow, we understand that one of the key objectives of registration is to ensure that there is an easily accessible public record of financial institutions. Accordingly, we recommend that the details of all DNFBPs should be available on a public web site.

#### **7 - Supervisory functions and powers**

- 12 We submit that the supervisors should be required to undertake public education initiatives to explain to the public how new anti-money laundering requirements will affect them on a practical level (for example, educating the public as to why they will be subject to more stringent identification checks).

- 13 We also submit that supervisors should have an ongoing educative role, particularly in the area of Politically Exposed Persons (*PEP's*). This should include identification of PEP's and ongoing information regarding them.
- 14 We do have some concerns regarding the experience of potential supervisors in the area of identifying emerging risks, monitoring existing risks and assessing various risk-based models. Supervisors will also need considerable experience of the relevant sectors in order to determine the default requirements for those financial institutions that choose not to apply a risk-based approach.
- 15 Furthermore, we note the suggestion that supervisors will be able to decide "how and where they target their supervisory resources". While we agree with the risk based approach, we are mindful to note that if only high risk products will be targeted by supervisors, then there will be a strong disincentive to offer these products. This could lead to a reduction in financial products available to the customer.
- 16 We question the need for the proposal on page 15 of the discussion document that supervisors must conduct onsite visits, or commission expert third parties to do so. If there is documented policy or practice which meets a determined standard we consider that onsite visits should not be conducted without reasonable cause.
- 17 ISI has some concerns regarding the proposed powers of the FIU. We agree that it is appropriate for the FIU to have enforcement powers in respect of STRs but we would not support a proposal that the FIU should have a general power to investigate. We consider that the powers currently available to the FIU under section 44 of the Financial Transactions Reporting Act are sufficient for investigating suspected offences.

### **8 – Supervisory models**

- 18 We note that the insurance industry does not currently have a proposed supervisor, although the RFPP proposes that insurance will be 'regulated' by the Reserve Bank. Is it conceivable the insurance industry will be regulated by two different supervisors? Furthermore, is it possible that elements of the insurance industry will come under different stages of the implementation? At this stage it does not appear clear what the Ministry's approach to the insurance industry will be. We would appreciate the opportunity for discussion on the appropriate supervisory model taking into account, as noted above, that many ISI members issue both insurance and collective investments.

### **9 - Two staged implementation of supervisory reforms**

- 19 The two-stage implementation of the supervisory framework does have benefits, in that companies whose core function is not that of a financial institution have longer to implement the systems and processes that will be

required to comply with the new supervisory framework. However, we note that bigger companies, who will have to respond to the new supervisory framework across their whole business, will have a shorter timeframe in which to achieve this. While we recognise it is more important to get the “core” businesses compliant, hence the shorter timeframe, we suggest that it will be unrealistic to achieve the required changes in one year. One key reason for this is the shortage of skilled labour. With all financial institutions attempting to implement changes at once, in both New Zealand and Australia, the demand for skilled people and services (including software development) will be very tight. We suggest that the time frame is extended to at least three years for financial institutions to comply.

#### **10 – Proposed AML/CFT supervisory framework**

- 20 We submit that any advisory group established should have formalised inclusion of the private sector in the decision making process. This will ensure the aims of consultation and transparency are met, and ensure that practical recommendations are made.

## **ISI Members**

American International Assurance  
AMP Financial Services  
Asteron Life Ltd  
AXA New Zealand  
BNZ Investments and Insurance  
CIGNA Life Insurance NZ Ltd  
Equitable Group  
Fidelity Life Assurance Co Ltd  
Gen Re LifeHealth  
Hannover Life Re of Australasia Ltd  
ING New Zealand Ltd  
Medical Assurance Society NZ Ltd  
Munich Reinsurance Co of Australasia Ltd  
Public Trust  
RGA Reinsurance Co. of Australia Ltd  
Save and Invest Ltd  
Sovereign Ltd  
Swiss Re Life & Health Australia Ltd  
TOWER Limited  
Westpac/ BT Funds Management Ltd

## **ASSOCIATE MEMBERS**

Bell Gully Buddle Weir  
Bravura Solutions  
Buddle Findlay  
Burrowes and Company  
Chapman Tripp  
Davies Financial & Actuarial Ltd  
Deloitte Touche Tohmatsu  
Ernst & Young  
InvestmentLink (New Zealand) Ltd  
KPMG  
Kensington Swan  
Melville Jessup Weaver  
Mercer Human Resource Consulting Ltd  
Morningstar Research Ltd  
Phillips Fox  
PricewaterhouseCoopers  
Russell Investment Management  
Russell McVeagh  
Simpson Grierson