

The Treasury

Budget 2017 Information Release

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[1]	to prevent prejudice to the security or defence of New Zealand or the international relations of the government	6(a)
[4]	to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial	6(c)
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[33]	to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials	9(2)(f)(iv)
[34]	to maintain the effective conduct of public affairs through the free and frank expression of opinions	9(2)(g)(i)
[36]	to maintain legal professional privilege	9(2)(h)
[37]	to enable the Crown to carry out commercial activities without disadvantages or prejudice	9(2)(i)
[38]	to enable the Crown to negotiate without disadvantage or prejudice	9(2)(j)
[39]	to prevent the disclosure of official information for improper gain or improper advantage	9(2)(k)
[40]	Not in scope	

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) and section 18 of the Official Information Act.

Anti-Money Laundering and Countering Financing of Terrorism Reforms: Phase II

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Purpose

- 1. The purpose of this paper is to seek agreement to one substantive change to the Anti-money Laundering and Countering Financing of Terrorism Amendment Bill and to agree funding decisions.

Comment

- 2. Cabinet agreed policy decisions in October 2016 [CAB-16-MIN-0552 refers], including timelines for implementation for phase II entities and the release of an exposure draft to enable further consultation with businesses with the purpose of reduce the costs of compliance.
- 3. This paper notes that following consultation, the cost of compliance on businesses has significantly reduced from an estimated \$1.6 billion Net Present Value (NPV) over a ten year period to an estimated \$0.8 billion to \$1.1 billion NPV over ten years. This reduction is primarily the result of a reduced number of expected reporting entities rather than a reduction in the average compliance burden. However, some businesses can make choices that will affect how much it costs them to comply, and the compliance cost range given above reflects this. The issuing of guidelines by DIA is also expected to enable businesses to further reduce their compliance burden.
- 4. In October, Cabinet agreed that the implementation of the regime be staggered. This paper seeks agreement to change the previously agreed implementation timeframes following concerns expressed during consultation.

	Previous Commencement Period Following Enactment	Commencement Period Now Proposed
Lawyers and conveyancers	6 months	12 months
Accountants	12 months	15 months
Real estate agents	18 months	18 months
New Zealand Racing Board	18 months	24 months
High value dealers	24 months	24 months

- 5. The Government Inquiry into the Foreign Trust Disclosure Rules recommended consideration be given to early revocation of the current exemption for lawyers and accountants from AML/CFT reporting requirements when dealing with foreign trusts. The Government response to this recommendation was that lawyers and accountants would be included in AML/CFT requirements as soon as practicable, but that due to issues around legal privilege and regime supervision this would form part of the more substantial AML/CFT reform programme.
- 6. The then Minister of Revenue noted that AML/CFT reforms were being expedited in a press release announcing the Government’s response to the recommendations made by the Inquiry. The proposed extension to the transitional periods for lawyers and accountants may result in comment to the effect that the revocation is not being expedited, as previously signalled publicly.

7. New Crown operating and capital funding is being sought. This included \$0.393 million in operating costs in 2016/17 and ¹³³¹ in operating funding across the four year forecast period. Capital funding of \$2.09 million is also sought for new IT capability for DIA.
8. Following a refinement of the number of reporting entities, base costs of supervision have reduced compared to those identified in October but additional costs are now included for the production of guidelines to support businesses to reduce their compliance costs. The October paper identified that NZ Police would also be seeking new funding as part of the reforms. The Police portion was agreed in the Safe, Confident and Resilient Communities package pre-committed against Budget 2017 on 24 January.
9. Funding is being sought ahead of the Budget process to meet timeframes for getting legislation passed and implemented by July 2018. While there is likely to be some benefit in allowing implementation planning to commence, Treasury is not aware of any critical imperative for agreeing funding ahead of the Budget and our first preference is for funding decisions to be taken through the Budget process, allowing for more rigorous assessment and prioritisation against other initiatives.
10. Treasury is broadly comfortable with the approach DIA and Justice have taken to the number of FTEs required. However, we consider the costs require further testing and this is not been possible in the time available. Many of the costs appear high on an FTE basis and some are based on DIA averages rather than being marginally costed.
11. If Ministers wish to agree funding ahead of the Budget, we recommend the following approach.
 - The new operating funding be a charge against the between-Budget contingency established at Budget 2016. As this contingency has no funding available for 2016/17, there will be a \$0.393 million negative impact on OBEGAL in 2016/17, offset by a corresponding increase in OBEGAL in future years.
 - Capital funding be a pre-commitment against the Budget 2017 capital allowance.
 - Funding for 2016/17 be agreed now.
 - Funding for 2017/18 onwards be set aside in a tagged contingency and Joint Ministers can then agree to the release of the funding when they are comfortable with the costings.
12. Cost-benefit analysis has been completed using CBAX and has estimated a positive return on investment between 1.11 to 1.14. Identified benefits include revenue to the Crown in the form of residual funds from forfeited assets. These funds first go towards recovering legal costs and costs of trials, with residual funds sitting in the notional proceeds of crime fund administered by the Ministry of Health.
13. A RIS has been completed and assessed by Treasury's Regulatory Quality team as meeting the regulatory criteria.

Treasury Recommendation

14. We recommend that decisions on funding be taken through the Budget 2017 process but that you **support** the other recommendations in the paper. If Ministers wish to agree funding now we recommend funding beyond 2016/17 be placed in a tagged contingency. Appropriate alternate recommendations are attached if you wish to use them.

The following table goes into the Executive Summary of the paper

		Recommend	Regulatory Impact Statement	Fiscal Implications (\$m GST excl.)					Treasury Comment
				16/17	17/18	18/19	19/20	Out years	
Anti-money laundering and Countering Financing of Terrorism Reforms: Phase II		Partially Support	Meets requirements	<i>Operating</i>					If Ministers wish to make funding decisions ahead of the Budget we recommend funding for 16/17 be appropriated now and outyear funding be placed in a tagged contingency to be drawn down following a review of the costings.
				[33]					
				<i>Capital</i>					
				-	2.090	-	-	-	

Alternative Recommendations

Insert following recommendation 10, in place of existing recommendations 11-19.

11. **Approve** the following changes to appropriations to give effect to this policy decision, with a corresponding impact on the operating balance:

	\$m – increase/(decrease)				
	2016/17	2017/18	2018/19	2019/20	2020/21 & Outyears
Vote Internal Affairs					
Minister of Internal Affairs					
Multi-Category Expenses and Capital Expenditure: Regulatory Services MCA Departmental Output Expense: Regulatory Services (funded by revenue Crown)	0.393				
Total Operating	0.393				

12. **Agree** that the proposed changes to appropriations for 2016/17 above be included in the 2016/17 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
13. **Note** that the between-Budget contingency established as part of Budget 2016 is exhausted for 2016/17;
14. **Agree** that the expense in paragraph 11 above be a charge against OBEGAL, but that it correspondingly impacts the total remaining in the Budget 2016 between-Budget contingency for 2017/18 and subsequent years;
15. **Agree** to establish the below tagged contingency with the operating expenses as a charge against the between-Budget contingency established through Budget 2016, and the capital expenses as a pre-commitment against the Budget 2017 capital allowance:
16. **Note** that the funding below covers both the Ministry of Justice and the Department of Internal Affairs funding requirements;

Tagged Contingency:	2016/17	2017/18	2018/19	2019/20	2020/21 & Outyears
AML Phase II funding					
Operating	-	[33]			
Capital	-	2.090	-	-	-

17. **Agree** that the draw down of the above contingency be contingent on a review of the Department of Internal Affairs' overhead costings for this initiative;
18. **Agree** that authority to approve draw down from the tagged contingency be delegated to the Minister of Justice, the Minister of Internal Affairs and the Minister of Finance;

19. **Note** that the capital pre-commitment will reduce capital funding available for initiatives in Budget 2017 by commensurate amounts;