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AML/CFT - Phase 2 extension: Can New Zealand lead the world?

(With demonstrably better crime prevention *outcomes*, not just *output* measures)

1. The evaluation draft suggests that government has decided only marginally to improve New Zealand's capacity to detect and prevent serious crime, which seems a bit odd.
2. It is of course open for government to choose that path as any other, so I didn't intend to make further submissions suggesting scope for better outcomes for New Zealand.
3. Having read the summary of submissions, however, there may be a more prosaic explanation, hence this letter.
4. The summary prepared for officials by an outside agency was constrained by a format addressing pre-specified technical issues. Elements of submissions addressing higher-order issues of policy effectiveness and outcomes, such as mine (here, [5pp](#) and [3pp](#)) didn't fit the format, so their key points may not have reached officials or policymakers.
5. Policymakers may of course disregard any submissions, and if mine were disregarded, as this letter may be too, I have no complaint. New Zealand's AML/CFT regime, and its resultant policy effectiveness, or not, is a matter entirely for government.
6. Moreover, the proposal fills some gaps, and notwithstanding an obvious exception (retaining fragmented supervision by multiple supervisors) presents incremental improvements. (As I observed to journalists in NZ, [here](#), and Australia, [here](#)).
7. Notwithstanding those positive changes, the proposal doesn't address *fundamental* policy issues facing policymakers globally. It just continues the old "incremental approach" (filling gaps and adding reporting entities) regarded by parliamentarians elsewhere no longer appropriate. The current system's lack of effectiveness prompted a Canadian Senate committee to say that "the time for examination of fundamental issues has arrived."
8. Not so, here, it seems. The result is that the phase 2 extension should bring New Zealand into line with international standards, by old-school *output* measures proven to be ineffective. From a contemporary *outcomes* perspective, however, the proposals will likely make a small but not significant difference to New Zealand's ability to substantially (and demonstrably) improve its capacity to detect, prosecute and prevent serious crime.
9. That would be unfortunate. Not just for the obvious reason, that many criminals might continue operating, just within a different set of displacement gaps. Nor even because it offers up New Zealand as a case study for academics studying policy effectiveness gaps.
10. More importantly, it seems to me at least, are some missed(?) opportunities for 'NZ Inc':

- a) The opportunity for New Zealand to help other countries, and itself, actually achieve significantly (and demonstrably) better crime prevention outcomes.

There is a world of difference between the old outputs-oriented approach of making more rules, and the modern outcomes-oriented focus on rules that work, in this case, by substantially (and demonstrably) improving New Zealand's capacity to detect, prosecute and prevent serious crime and terrorism.

- b) New Zealand could also use a remarkable opportunity that makes New Zealand uniquely placed to help other countries unlock many billions of dollars of criminal assets (and for New Zealand to benefit from a share of those forfeitures).
- c) To capitalise on New Zealand's existing leadership narrative for outcomes.

By some of the most compelling crime prevention *outcome* measures (curiously missing from official documents, which still mostly cite *output*-oriented metrics) New Zealand already fares significantly better than many other countries. This offers an opportunity to advance a leadership narrative for outcomes, rather than simply following along with more of the same incremental outputs others have tried unsuccessfully.

- d) For New Zealand potentially to lead change within FATF itself.

Rather than just follow FATF rules, New Zealand has an opportunity to lead change within FATF itself, and which could potentially lead to changes that allow FATF's new 'effectiveness' rules to actually meet their intended results, globally. (Analysis of the new effectiveness framework, and from the 26 mutual evaluations conducted to date suggest considerable untapped opportunity to lead such change).

Each of these opportunities is usefully complemented by New Zealand's recent top-equal ranking in the corruption-perception stakes.

Sincerely,



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About the author. Formerly a lawyer and management consultant of 25 years, I will next month complete a 3-year PhD research program with the supervision of Professors Jason Sharman, Patrick Weller, AJ Brown and Dr Duncan McDonnell of Griffith University, and external examiners internationally. The research fills a knowledge gap in the role of professional facilitators (lawyers, accountants and real estate agents) enabling financial transactions with proceeds of crime in New Zealand. It developed and operationalised a methodology to identify and assess every relevant transaction within specified parameters where professionals facilitated certain transactions with proceeds of crime. The research places new evidence and existing literature on the money laundering vulnerabilities of professional facilitators within an overarching policy effectiveness and outcomes framework. Analysis and assessment was based not against simplistic and arguably futile measures such as whether rules are in place, or whether they match FATF recommendations, but whether the rules work, by achieving higher-order crime detection and prevention policy objectives. The thesis also assesses and extends existing measures for assessing the effectiveness of international and national anti-money laundering policies, and uses the new evidence-base to develop practical assessment tools, methodologies and research to support the conversion of professional facilitators unwittingly enabling financial transactions with criminal proceeds into more effective sentinels.