

Financial Intelligence Unit
New Zealand Police

NATIONAL RISK ASSESSMENT 2010

Anti-Money Laundering/Countering Financing of Terrorism

FOREWORD

Welcome to the inaugural *National Risk Assessment 2010 - Anti Money Laundering/Countering Financing of Terrorism* report. This report has been produced by the New Zealand Police Financial Intelligence Unit, part of the recently established Financial Crime Group, and represents an important step for New Zealand's continued compliance to Financial Action Task Force (FATF) recommendations and the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act 2009.

Money laundering and terrorist financing are global issues and New Zealand has a responsibility to ensure that it creates and maintains an environment hostile to these offences, and part of meeting this responsibility is the valid and reliable assessment of risk. This risk assessment provides a preliminary overview of the AML/CFT issues affecting New Zealand from a law enforcement perspective and aims to generate knowledge and understanding to inform priority setting and aid decision makers.

It is important to understand the assessment of risk against a backdrop of ongoing monitoring and reviewing of risk, and this requires effective communication and consultation between stakeholders. This liaison and sharing of information ensures risk management plans remain relevant to objectives and progress made can be reviewed and evaluated. This in turn enables decision makers to exchange ideas, clarify any uncertainty and ultimately make better and more confident choices.

Key elements to implementing such an approach remain both the extent to which we understand the risk environment, and the degree to which mechanisms are in place that promote collaboration and intelligence sharing across agencies. To this end the Financial Intelligence Unit will also be producing a Quarterly Typology Report which I envisage will play an important part in maturing and refining the National Risk Assessment process and will provide a forum to disseminate information to our partner agencies.

This risk assessment recognises that while risk can be mitigated and managed, zero risk is unobtainable. Not only would zero risk be impossible it would be undesirable as measures to achieve it would be disproportionate, intrusive, unwieldy and expensive. In short, the assessment and management of risk has to be tempered by common sense and the realisation that there will always be some form of residual risk. The National Risk Assessment represents an opportunity for law enforcement agencies, the AML/CFT Supervisors (Reserve Bank, Department of Internal Affairs and Securities Commission) and reporting entities to bring this common sense to bear on AML/CFT issues. These issues can have far reaching and very serious consequences, including direct links with organised crime and, as demonstrated overseas, terrorist financing.

The Financial Crime Group and I look forward to greater contact with the AML/CFT Supervisors and reporting entities over the coming year and the production of the 2011 National Risk Assessment.

Kind regards

Detective Superintendent Peter Devoy
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New Zealand Police

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Structure of the National Risk Assessment 2010

The National Risk Assessment is presented in two parts; the risk assessment itself and a supporting document. The content of each is outlined below:

EXECUTIVE SUMMARY:

This section provides a brief overview of the identified key AML/CFT risks, topics and issues.

INTRODUCTION:

This section provides information on risk assessments, the reasons behind the National Risk Assessment, the scope of the document and the methodology used.

CHAPTER 1: Extent of money laundering and terrorist financing in New Zealand

This chapter addresses the complex issue of quantifying money laundering and terrorist financing and looks at the issues faced by law enforcement.

CHAPTER 2: Typologies, indicators, case studies and risk

This chapter examines current AML/CFT risks and typologies in New Zealand in terms of current impact

and risk over the next 12 months and beyond. Predicate offending and Suspicious Transaction Reporting is analysed and terrorist financing addressed. Case studies are provided.

CHAPTER 3: Forecast and emerging trends

This chapter looks at forecast and emerging risks and possible AML/CFT vulnerabilities over the next 12 months and beyond. This chapter also examines the limitations of the current findings and risk assessment.

CHAPTER 4: Law enforcement strategies

This section summarises legislative and law enforcement responses to the issue of AML/CFT.

CHAPTER 5: Conclusions and law enforcement recommendations

The final chapter posits some conclusions and makes some suggestions/recommendations on the way forward for the National Risk Assessment.

SUPPORTING DOCUMENT: Annex 1-9

This section contains further information in relation to methodology, international case studies, Asset Recovery Unit information and Suspicious Transaction Reportdata.

EXECUTIVE SUMMARY

Introduction

The Anti-Money Laundering/Countering Financing of Terrorism (AML/CFT) Act was introduced into New Zealand law in 2009. The New Zealand Police National Risk Assessment, required under the AML/CFT Act, aims to provide decision makers with valid and reliable information to inform, direct and prioritise interventions and resources. It is not a threat assessment.

- Risk is determined by considering the likelihood of an event combined with the consequence of that event
- Threat is determined by considering the intent of an entity combined with the capability of that entity. Only risk is considered in this document

This 2010 risk assessment lays the foundation for a more robust and mature risk assessment in 2011 and beyond. This document has a high level of New Zealand Police content and represents a law enforcement focused assessment of risk and vulnerability.

It is envisaged that the 2011 risk assessment will be an all source fusion document, utilising the Sector Risk Assessments, and will more accurately depict the AML/CFT environment.

Extent of money laundering and terrorist financing in New Zealand

Knowledge gaps exist in relation to the full extent of financial businesses operating in New Zealand. Currently there is no AML supervision except (to a limited extent) for banks and casinos. Many entities will not be subject to supervision until implementation of the second tranche of the AML/CFT Act.

In addition, greater awareness of AML/CFT legislation, new technology, limited regulation and/or supervision have highlighted continued intelligence gaps in relation to money laundering and terrorist financing techniques. The full nature and extent of money laundering and terrorist financing is unknown and more work on these topics will be required.

Money laundering prosecutions in New Zealand continue to be low, primarily the result of perceptions of complexity around financial investigations, low enforcement priority and limited resources

Predicate offence charges that had the potential for associated money laundering charges in 2009 totalled

77,648. Of these offences 0.2% were prosecuted for money laundering. Of these prosecutions 34% resulted in money laundering convictions.

- Estimating the extent of money laundering in New Zealand is complex with large variations in amounts dependant on methodology. A rough estimate of NZ\$ 1-1.5 billion has been suggested by this assessment though further research is required
- From 1 December 2009 to 30 July 2010, an estimated total of NZ\$20million has been restrained by New Zealand Police most of which consists of real estate
- Up to 31 August 2010, an estimated NZ\$1.3million of assets have been subject to a forfeiture order

In terms of terrorist financing, there have been no convictions in New Zealand since the introduction of the Terrorism Suppression Act in 2002. Given the nature of the offending information and intelligence holdings on this topic are limited.

Typologies, indicators, case studies and risk

Money laundering and terrorist financing typologies are constantly adapting. Within this dynamic risk environment cash intensive industries continue to represent ongoing risk.

While raw data indicates that Suspicious Transaction Reporting decreased since 2004 this is an artefact of backlogs and changes in counting practices. Current data indicates a steady increase in reporting with a further anticipated increase over the next 12 months. It is assessed that the quality of Suspicious Transaction Reports has improved. Registered Banks continue to generate the most Suspicious Transaction Reports followed by Money Remitters and Casinos.

The most prevalent predicate offences for money laundering are drug-related with the most dominant typology the purchase of valuable assets.

Suspicious Transaction Reports

Suspicious transaction reports are the main source of information available to the Financial Intelligence Unit to detect suspected money laundering offences. A Suspicious Transaction Report can indicate that money laundering activity is occurring through a transaction or a series of transactions and can also direct investigators to identify a predicate offence. An investigation can be launched to determine whether or not offending has taken place. Investigators can access these records under the usual statutory authorisation, for example, with a search warrant. There are no monetary thresholds for reporting.

Fraud predicate offending is assessed as more prevalent than data suggests. The most numerous typologies observed from Suspicious Transaction Reports are the use of wire transfers followed by use

of nominees, currency exchange/cash conversion and gaming activities.

- ♦ The typologies which are assessed as currently having the most impact on New Zealand are the purchase of valuable assets/commodities and wire transfers by money remittance services
- ♦ The typologies assessed as presenting the highest risk if they increase over the next 12 months were the use of wire transfers by money remittance services followed by the purchase of valuable commodities/assets, the use of shell companies, the use of nominees/trusts/third parties and trade based money laundering
- ♦ Multiple typologies are noted in Suspicious Transaction Reports with use of wire transfers in combination with another typology the most common method

The risk presented to New Zealand by terrorist financing is assessed as low. However, identifying and developing valid and reliable indicators and warnings for this offending is still required. Issues remain in relation to the dissemination of CFT information via the National Risk Assessment.

Forecast and emerging trends

It is assessed that the following trends and vulnerabilities will potentially have the most impact on the AML/CFT environment in New Zealand:

- ♦ New technology and evolving typologies presenting dynamic risk
- ♦ Identity theft and identity fraud represent a clear and ongoing vulnerability in AML/CFT measures
- ♦ Criminals adapting to new legislation faster than law enforcement agencies and the AML/CFT Supervisors
- ♦ Increased sophistication of money laundering.
- ♦ Continued involvement by organised crime groups and money laundering in relation to illicit drugs
- ♦ Continued limited capability and capacity within both public and private sectors in meeting AML/CFT requirements
- ♦ A lack of focus on fraud and financial crime in general by law enforcement agencies
- ♦ Poor use/interpretation of legislation leading to weak legal decisions and restrictive precedent.
- ♦ Continued knowledge and intelligence gaps in relation to money laundering and terrorist financing
- ♦ Vulnerabilities and trends have to be considered in the context of Sector Risk Assessments (due to be released in 2011)

Law enforcement strategies

New Zealand Police have recently established the Financial Crime Group which is made up of the Financial Intelligence Unit and Asset Recovery Units.

- ♦ The Financial Intelligence Unit now has greater capability and capacity and is responsible for the production of the National Risk Assessment and the new Quarterly Typology Report. In addition, the Financial Intelligence Unit continues to develop and monitor Information Sharing Agreements with overseas jurisdictions
- ♦ Legislation now enables the proceeds of crime to be forfeited to the Crown based on the civil standard of proof rather than being dependent on a criminal conviction
- ♦ Law enforcement initiatives include a whole of government organised crime strategy, the methamphetamine control strategy, the organised crime control strategy and the proactive financial offender targeting process

Conclusions and law enforcement recommendations

Money laundering and terrorist financing are global issues. As such it is important that New Zealand is not perceived as a weak international link and should use existing/future AML/CFT measures properly and to their full extent in order to combat these offences.

This initial risk assessment aims to generate knowledge and understanding to inform priority setting.

- ♦ Risk should be considered in context; international or national, strategic or operational, criminal environment or business environment
- ♦ Responses to risk should be grounded in common sense with zero risk unattainable
- ♦ Importantly future risk assessments should use a methodology that meets decision maker's needs

It is recommended that the AML and CFT elements of both the National Risk Assessment and the Quarterly Typology Reports are separated to avoid potential confusion and issues around security classifications.

Raising the profile of AML/CFT and financial crime in general is recommended. To achieve this there should be an emphasis on utilising the close and intrinsic link of money laundering with organised crime which has a high degree of cross-government focus and priority.

It is recommended that greater focus be paid to identity theft and identity fraud given their current and increasing importance in AML/CFT measures.

It is recommended that the role of the newly instigated Quarterly Typology Report include identifying and reporting on emerging typologies and risks, the provision of AML/CFT indicators and warnings, dissemination of financial intelligence and the updating of relevant policies and procedures.

INTRODUCTION

The 2010 National Risk Assessment is the first national risk assessment produced by the New Zealand Police Financial Intelligence Unit. This assessment fulfils both a specific statutory function, and is a part of the Financial Intelligence Units wider education and information outreach programme.

The Financial Crime Group and the Financial Intelligence Unit

The Financial Crime Group was established on the 1st December 2009 and is made up of four Asset Recovery Units (located in Auckland, Hamilton, Wellington, and Christchurch), a core administrative/analytical team and the Financial Intelligence Unit. The Financial Crime Group will lead New Zealand Police's efforts against detecting and deterring financial crime.

The Financial Intelligence Unit has been operational since 1996 and one of its core functions is to receive, collate, analyse and disseminate information contained in Suspicious Transaction Reports, Suspicious Property Reports and Border Cash Reports.

The Financial Intelligence Unit is a member of the Egmont Group of Financial Intelligence Units, which allows access to other international government agencies for information sharing purposes. It also develops specific financial intelligence sharing arrangements with other similar units round the world.

Significant work has been undertaken by the Financial Intelligence Unit to develop and implement the new AML/CFT Act 2009 including the enhancement of inter-agency co-operation and communication with relevant stakeholders.

Background

New Zealand and the FATF

The inter-governmental body, Financial Action Task Force on Money Laundering (FATF), sets international standards against which most developed countries measure their ability to combat money laundering and terrorist financing.

Tasked with leading international efforts against money laundering and terrorist financing by the G7 and G20, the FATF assesses countries against a set of recommendations (40 recommendations in relation to money laundering and nine 'Special Recommendations' in relation to terrorist financing), which represent a best practice standard for AML/CFT systems. These are commonly referred to as the 40+9 Recommendations.

New Zealand is a member of both the FATF and the Asia Pacific Group which is a FATF Style Regional Body or FSRB.

In general, compliance with the FATF recommendations is increasingly viewed by many

countries as indicative of the robustness of a country's AML/CFT measures².

The Asia Pacific Group (APG)

The APG was established in 1997 to facilitate the implementation and enforcement of the FATF recommendations in the Asia-Pacific region. New Zealand was one of its founding members. The APG develops knowledge and understanding of money laundering and terrorist financing methods and trends (typologies) occurring in the region. Annual typologies reports are prepared by the APG based on the collection of jurisdictional data in relation to money laundering and terrorist financing techniques identified throughout the year within each respective region.

New Zealand became a member of the FATF in 1990 and is committed to adopting the FATF Recommendations as the standard to build its AML/CFT capability. Compliance with these recommendations maintains a country's international reputation as a nation that is fully committed to anti-money laundering, combating the financing of terrorism, and anti-corruption efforts³. New Zealand, as part of its FATF Mutual Evaluation report in 2009, was found to be broadly compliant with most of the FATF recommendations but with some issues; for example in relation to resourcing, absence of AML/CFT supervision and inadequate Customer Due Diligence provisions.

The AML/CFT Act 2009

The New Zealand Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Act became law in October 2009. It is the result of a review of AML/CFT legislation aimed largely at achieving compliance with the FATF recommendations.

Under the AML/CFT Act, New Zealand's financial sector will be divided into three sectors; supervised by the Reserve Bank of New Zealand, Department of Internal Affairs and Securities Commission of New Zealand. The AML/CFT Act currently covers only financial institutions and casinos. A planned second phase of AML/CFT law reform may potentially extend coverage to other firms, including real estate agents, lawyers, accountants, conveyancers, bullion dealers, jewellers and other high value dealers⁴.

The AML/CFT Act will ultimately replace the Financial Transactions Reporting Act 1996, bringing with it a new era in attacking the financial base of crime. It is envisaged that the new legislation will facilitate cooperation amongst reporting entities⁵, Supervisors, government agencies, law enforcement and regulatory agencies to collectively combat money laundering and terrorist financing.

Part of this collective approach involves the production of risk assessments at all levels of New Zealand's financial sector. The National Risk Assessment, produced by the New Zealand Police, is a statutory function under the AML/CFT Act and aims to identify weaknesses in New Zealand's AML/CFT systems and facilitate the strengthening of controls. It should be noted that AML/CFT Supervisors are not statutorily required to produce a risk assessment.

Global Money Laundering and Terrorist Threat Assessment

In July 2010 the FATF Global Money Laundering and Terrorist Financing Threat Assessment (GTA) report provided an assessment of the global systemic money laundering and terrorist financing threats. The document is based on in-depth typology studies and the FATF's Strategic Surveillance Initiative. The GTA document concluded that *'...it is important to identify and prioritise issues that require the most immediate attention'* and that the GTA report will *'...provide a tool that can help governments make decisions about how to best utilise resources and set priorities for regulatory institutions and the criminal justice system.'*

This is New Zealand's first National Risk Assessment and builds on the aspirations of the GTA document. Given that the AML/CFT Act is not yet in force this document reflects the current situation based on the Financial Transactions Reporting Act 1996, New Zealand Police data and Supervisor feedback and expertise.

Purpose

The purpose of a risk assessment (refer Annex 1 for more information) is to provide decision makers with an accurate picture of current, emerging and longer term risks. Under s.142 (k) of the AML/CFT Act the primary audience for the National Risk Assessment is the Ministry, Ministry of Justice, AML/CFT Supervisors and the New Zealand Customs Service. The National Risk Assessment will also be useful to others such as reporting entities and law enforcement agencies.

This risk assessment is intended to do the following:

- ♦ Examine money laundering and terrorist financing methods used in New Zealand
- ♦ Determine how often these methods are used
- ♦ Provide indicators of money laundering and terrorist financing techniques
- ♦ Discuss law enforcement responses to and controls of money laundering and terrorist financing
- ♦ Identify gaps in New Zealand's AML/CFT systems and controls
- ♦ Assess current and future risks posed by money laundering and terrorist financing

- ♦ Determine the relevance of those risks to New Zealand
- ♦ Provide predictive analysis to identify future risks
- ♦ Provide a foundation for the mitigation and management of risks and the reduction of residual risks
- ♦ Highlight any identified critical or residual risk areas that will directly impact on New Zealand in relation to AML/CFT

Scope

The development and maintenance of a National Risk Assessment is the responsibility of the Commissioner of Police and delegated for production to the New Zealand Police Financial Intelligence Unit. In future, the National Risk Assessment will be informed by Sector Risk Assessments prepared by the three AML/CFT Supervisors (the Reserve Bank, Department of Internal Affairs and the Securities Commission) However, their input is not limited to Sector Risk Assessments. This first iteration of the National Risk Assessment does not include specific risk assessments from these agencies which are due in 2011.

This initial National Risk Assessment does incorporate feedback and input from the Supervisors and acts as a framework document providing the foundations for a more robust and mature risk assessment process in 2011.

It is important to note this risk assessment does not provide specific risk management or mitigation strategies. It is planned that specific risk management/mitigation issues will be covered in later Financial Intelligence Unit products; such as intelligence reports, outreach meetings and periodicals.

A section on the nature, extent and supervision of the New Zealand financial sector is included in the Support Document and provides a degree of context to the risk assessment. It is envisaged more comprehensive coverage of the financial environment will be provided by the Sector Risk Assessments (refer Support Document Annex 2 for further information).

Methodology

An important consideration for this assessment was to ensure it was clear, understandable and succinct. As such a separate Support Document, containing a number of Annexes, has been produced to accompany the National Risk Assessment.

This assessment was produced using a variety of sources, assessment tools and both qualitative and quantitative data including:

- ♦ Consultation and interview with government and law enforcement agencies including:

- New Zealand Police
 - Financial Intelligence Unit
 - Financial Crime Group
 - New Zealand Customs Service
 - Ministry of Justice
 - Department of Internal Affairs
 - Reserve Bank of New Zealand
 - Securities Commission
 - Ministry of Economic Development
- ♦ A Delphi group exercise, utilising subject matter experts from the Financial Intelligence Unit, was used to determine current impacts/future risks over the next 12 months in relation to typologies⁶
 - ♦ An Ishikawa diagram exercise, utilising subject matter experts from the Financial Intelligence Unit, was used to determine emerging trends, issues and vulnerabilities⁷
 - ♦ Literature review
 - ♦ New Zealand Police investigations/case studies
 - ♦ Other law enforcement investigations and case studies including New Zealand Customs
 - ♦ International investigations and case studies

Risk Assessment

Risk assessment is the process of risk identification, analysis and evaluation. The assessment of risk is best achieved through a combination of professional judgement and actuarial measures.

In this case it was undertaken using subject matter experts from the Financial Intelligence Unit and both qualitative and quantitative police data. (Refer to Annex 1 for further details on risk and risk assessment)

The purpose of a risk assessment and subsequent management is to anticipate problems and limit the consequences of anticipated/unanticipated events. A good risk assessment provides timely and accurate reporting to assist decision makers and can enhance the credibility and reputation of the agency undertaking the assessment. A key use of risk assessment is to assist in prioritising risk and directing resource and strategies.

For the purposes of this initial National Risk Assessment the following key assumptions are made:

Risk is a measure of the likelihood of an event and the consequence of that event.

Risk can be static or dynamic.

Threat is a measure of intent and capability.

Threat can be further defined in terms of the characteristics of any intended target

Definition of Money Laundering

In New Zealand law money laundering offence is defined in s243 of the Crimes Act 1961. The key elements of the money laundering offence are:

- ♦ Dealing with, or assisting in dealing with, any property for the purpose of concealing it, and
- ♦ Knowing or believing that such property is the proceeds of a serious offence, or being reckless as to whether it is the proceeds of a serious offence

Under New Zealand’s current money laundering legislation, property, including money, is capable of being laundered. There are three internationally accepted phases for the money laundering process⁸:

Table i: Money Laundering Phases

Phase	Description	Example
Placement	Cash enters the financial system.	Proceeds of selling cannabis deposited into a bank account.
Layering	Money is involved in a number of transactions.	Money is transferred into other bank accounts that have been set up and international travel tickets are purchased.
Integration	Money is mixed with lawful funds or integrated back into the economy, with the appearance of legitimacy.	International travel tickets are cancelled, which results in a reimbursement cheque being issued to the suspect, minus cancellation fees. Money is used to buy goods and services, property or invested

Money laundering can be described as: *The process by which income and assets derived from illegal activity are converted into or disguised as apparently legitimate income. Illicit proceeds may be laundered to avoid detection of criminal activity, to preserve the fruits of crime, or to further criminal enterprise*⁹.

Definition of Terrorist Financing

Terrorist financing is criminalised in New Zealand under the Terrorism Suppression Act 2002. Under this legislation it is an offence to:

- ♦ Collect funds intended to be used for a terrorist act or intended for an entity known to carry out terrorist acts (punishable by a maximum of 14 years imprisonment)
- ♦ Knowingly deal with any property owned or controlled by a designated terrorist entity (punishable by a maximum of seven years imprisonment)
- ♦ Make financial services available to a designated terrorist entity (punishable by a maximum of seven years imprisonment)

CHAPTER 1

Extent of money laundering and terrorist financing in New Zealand

MONEY LAUNDERING

Quantifying the extent of money laundering is complicated. Every serious offence¹⁰ committed, where proceeds of crime are generated, requires some form of money laundering in order to disguise the illegal origins of the funds. In the 2009 calendar year, for example, 77,648 charges were laid for serious offences that had the potential to be predicate offences for money laundering¹¹.

In addition it is estimated that illicit drug sales, including cannabis and methamphetamine, generate between NZ\$1.4 and NZ\$2.2 billion per annum¹². Other factors to consider are Suspicious Transaction Reports (involving a total of NZ\$340 million between 1 December 2009 and 31 May 2010) and the role of the Official Assignee. As of June 2010, the Official Assignee held a total of NZ\$64,738,014¹³ from restrained or forfeited assets generated from serious crime, a large proportion of which is real estate.

To provide some international context, in 2009 the United Kingdom's Serious and Organised Crime Agency (SOCA) estimated that taking its criminal and civil powers together they denied access to over NZ\$500 million of assets¹⁴. However, it is important to note the use of the term 'asset denial' as opposed to the concept of asset recovery as used by New Zealand Police¹⁵.

International Monetary Fund estimates of money laundering

Despite the inherent difficulties in determining an exact figure of money laundering globally, the International Monetary Fund estimates that it lies between two and five percent of the world Gross Domestic Product (GDP), approximately C\$900 billion to C\$2.25 trillion (2008).

Source: International Monetary Fund, 2010.

Using International Monetary Fund estimates of money laundering equating to 2-5% of global GDP¹⁶ would result in money laundering costs in New Zealand of between NZ\$3.83 billion and NZ\$9.57 billion annually¹⁷. However, there is currently little evidence to support this figure.

Australian quantitative estimates of money laundering in 2004 (using a number of different methods) produced estimated costs of less than half the lowest IMF figures¹⁸. The Australian Institute for Criminology

in 2004 conservatively estimated that the proceeds of crime from money laundering amounted to AUS\$2.8 billion - \$6.3 billion.¹⁹

In a broad approximation, if New Zealand reflected the Australian situation then the extent of money laundering would be closer to NZ\$1.5 billion. This estimate is in line with the 2009 FATF New Zealand Mutual Evaluation Report estimate of money laundering costs of over NZ\$1 billion²⁰. More research on this topic will be required to determine a more reliable and valid estimation.

In the past, the majority of criminal proceeds were laundered through mainstream banking. However, since 2007 a higher degree of complexity has been observed, for example, investment in real estate, the creation of shell companies and the use of international money transfers to construct an intricate money trail. With new technologies, sophisticated money launderers and a lack of regulation, money laundering typologies have constantly adapted, creating difficulties for law enforcement to fully determine the amount of money laundering in New Zealand.

TERRORIST FINANCING

In terms of terrorist financing, there have been no convictions in New Zealand since the introduction of the Terrorism Suppression Act in 2002. As reported in the FATF 2009 Mutual Evaluation Report New Zealand agencies consider the risk of terrorist financing to be low.

To date a total of 51 Suspicious Property Reports have been submitted since 2004. These reports are submitted when any property is suspected of being associated with terrorist financing. Subsequent analysis however, determined that there was no evidence to suggest the financing of terrorism.

Despite low numbers of Suspicious Property Reports the identification of issues and typologies in connection with terrorist financing activity is important in assisting in closing existing information gaps.

For instance, international experience has identified terrorist entities use the services of informal remittance providers to carry out international funds transfers. However, the nature and extent of informal remittance providers currently operating in New Zealand is not fully comprehended.

Estimates of the amounts involved in terrorist financing have not been made in this document with the recognition that proving terrorist financing is difficult and the information holdings on this topic are limited. As such, developing and maintaining valid and

reliable indicators and warnings is suggested as a prudent course of action. It is envisaged that the forthcoming Quarterly Typology Reports will go some way to addressing these issues as will the role of the Financial Intelligence Unit Field Intelligence Officer who will have oversight of this topic.

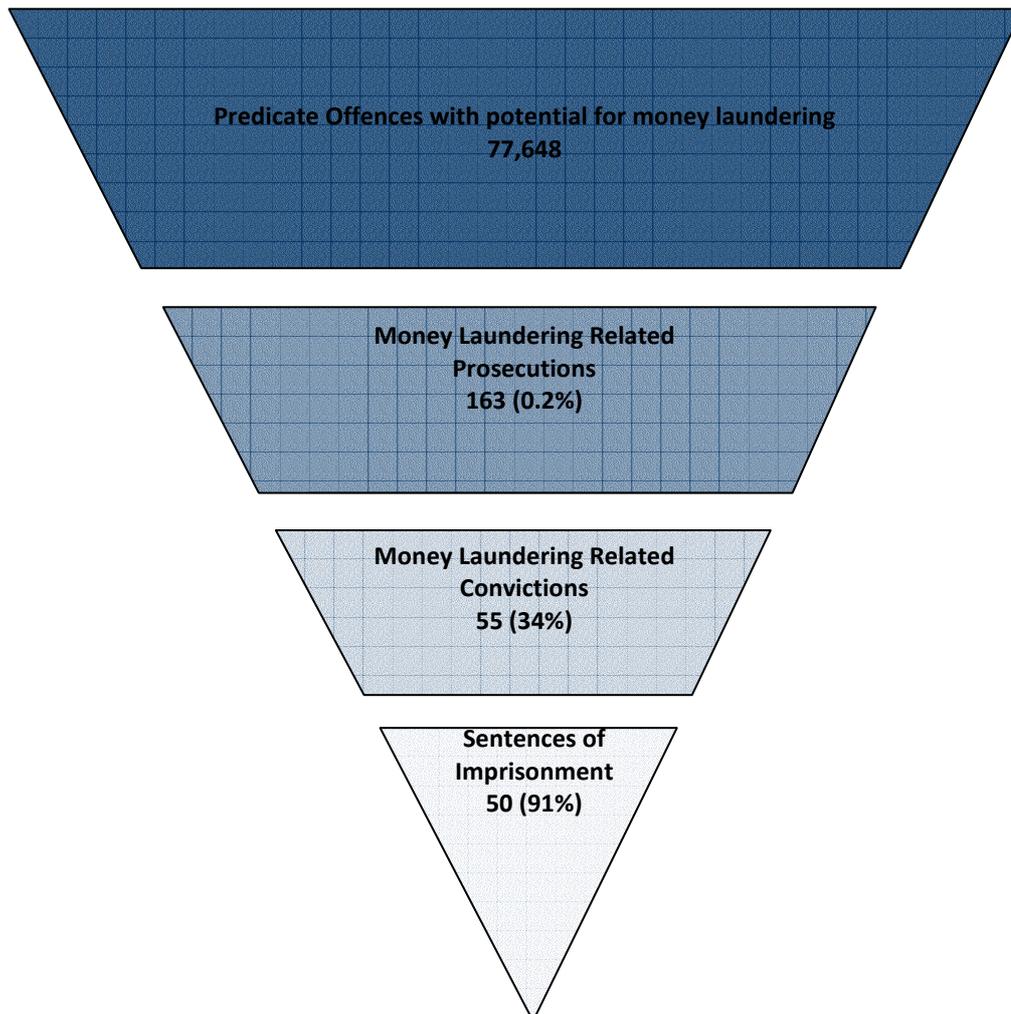
In terms of potential links between terrorist financing and corruption, the FIU assess the risk of terrorism financing arising from, or associated with, corruption is low. New Zealand is ranked 1st out of 179 countries in Transparency International's Corruption Perceptions Index and available data does not indicate any link between corruption and terrorism financing.

However, some corruption in connection with money laundering has occurred (see case studies section) though this typology is rare in New Zealand.

MINISTRY OF JUSTICE STATISTICS²¹

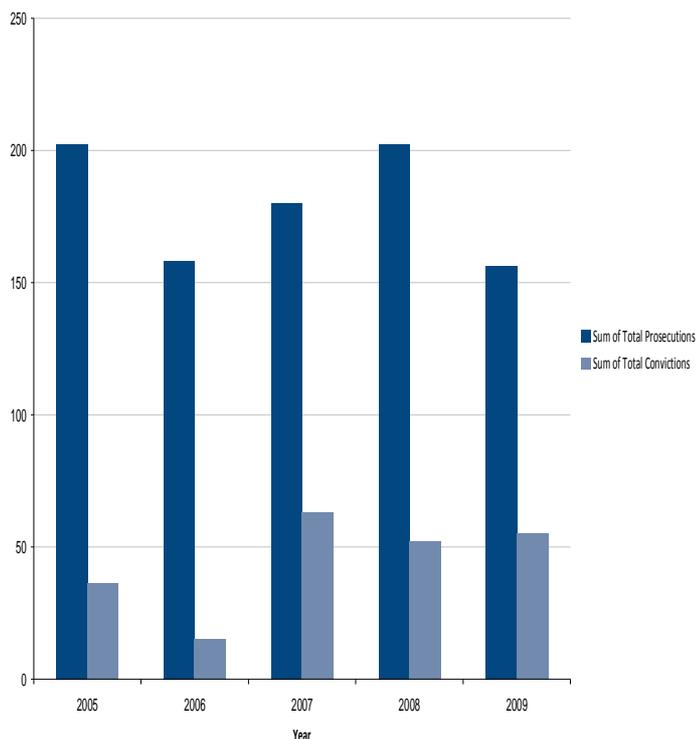
In 2009, New Zealand Police laid charges for 70,695 serious offences that had the *potential* to be predicate offences for money laundering²². Other law enforcement agencies laid 6,953 such charges. The total amount of potential predicate charges laid for 2009 was 77,648. For the same period, 163 money laundering charges were laid resulting in 108 charges not proven and 55 convictions. This equated to a conviction rate of 34%²³. This data is represented in Figure 1.1 below:

Figure 1.1: Figures for predicate offences to imprisonment (2009-2010)



Ministry of Justice statistics also show that between 2005 and 2009 there were 905 money laundering related charges laid. Of these, 221 (24%) resulted in a money laundering conviction. Graph 1.1 below shows the relationship between charges and convictions between 2005 and 2009.

Graph 1.1: Money laundering prosecutions in comparison with convictions (2005-2009)



MONEY LAUNDERING CHARGES/CONVICTIONS

There are a number of possible reasons for the low number of money laundering charges and convictions, including perceptions that money laundering investigations are difficult, lengthy and resource intense. Other perspectives are that tracing funds and proving money laundering when international

transactions have taken place in countries known to have weak AML/CFT controls are difficult.

Another factor behind the low rates of charges and prosecutions is low compliance with the Financial Transactions Reporting Act 1996 and low rates of Suspicious Transaction Reporting within certain areas of New Zealand's financial sector. This is largely the result of inadequate regulation and as such, there are intelligence gaps as to the frequency, nature and extent of money laundering within some sectors²⁴.

In July 2006, the Financial Intelligence Unit conducted a survey amongst New Zealand Police Crime Managers in relation to money laundering prosecutions which supports the reasons given above for low level of charges and convictions. In addition to the perceived complexity of money laundering investigations and the belief such investigations require financial expertise, the key issues for law enforcement were a lack of resources and time²⁵.

Since then, New Zealand Police has established the Financial Crime Group which consists of Asset Recovery Units and the Financial Intelligence Unit. Further, the Financial Intelligence Unit has increased staff numbers, including a Liaison and Training Manager, a Senior Research Officer and a Field Intelligence Officer to collect and report on emerging money laundering and terrorist financing trends.

It is anticipated the collaborative approach of the Financial Crime Group will improve law enforcement knowledge, as well as assist in increasing the number of money laundering convictions.

Measures to rectify some of the shortcomings identified above are currently underway and are detailed in Chapter 4 - Law Enforcement Strategies. However, it is suggested that further work on identifying the drivers and commonalities behind the low numbers of money laundering charges would be of benefit.

CHAPTER 2

Typologies, indicators, case studies and risks

Section 1

Typologies and indicators

The term typology refers to the methods employed to launder money and finance terrorism. The typologies addressed in this document are based on the Asia Pacific Group typologies. However, they have been adapted, in consultation with AML/CFT Supervisors, in keeping with the New Zealand environment. For the purposes of this section money laundering and terrorist financing are dealt with separately.

Risk is considered to be a measure of the likelihood of an event and the consequence of that event.

Likelihood

The likelihood of an event occurring is influenced by a number of factors, including an organisation/s successful implementation of control strategies and legislative provisions. Likelihood also considers factors such as trends, available intelligence, offender characteristics and opportunity

In a risk assessment three main factors should be considered - static factors, stable dynamic factors and acute dynamic factors. Static risk gives a clear picture of historic static factors, a 'foundation' in terms of assessing level of risk using facts that have already occurred.

From the level of risk indicated by the static risk we can then look at the presence of things that can change slowly which are considered to be stable dynamic risk factors, this presents a picture of how to track slow changes in risk over time.

Then it is necessary to understand the factors that can change quickly which are considered to be acute dynamic risk factors. These may occur over a short time period and can have marked effect in increasing risk.

To understand these factors well, work must first be done to get baseline information. This is what this first National Risk Assessment aims to provide.

It must be noted that this is a generic risk assessment and risk and impact are considered in the context of the AML/CFT environment. It is envisaged that as the

Consequence

Consequences take into consideration the effect of an event occurring including the impact on an organisation/s, financial loss, media response, available resources, impact on the community and risk to reputation.

AML/CFT risk assessment process matures and becomes more refined further iterations of the National Risk Assessment will use more specific risk assessment tools²⁶ producing more nuanced risk assessments.

The money laundering typologies listed below are followed by a short description and a list of possible indicators (refer Annex 1, 5 and 6 for full definitions). The list of possible indicators is not exhaustive. The typologies list also provides the following:

- ♦ a rating of assessed current impact of a typology
- ♦ a rating of likelihood of a typology increasing over the next 12 months
- ♦ a rating of consequence of an increase of this typology over the next 12 months
- ♦ a rating of assessed risk over the next 12 months

Note: The risk ratings should be considered as a guide to prioritisation rather than an absolute level of assessed risk.

GENERAL INDICATORS

These indicators are present in many of the typologies used in money laundering and terrorist financing.

- ♦ Transactions involving locations with poor AML/CFT regimes or high exposure to corruption
- ♦ Significant and/or frequent transactions in contrast to known or expected business activity
- ♦ Significant and/or frequent transactions in contrast to known employment status
- ♦ Ambiguous or inconsistent explanations as to the source and/or purpose of funds
- ♦ Where relevant, money presented in unusual condition, for example, damp, odorous or coated with substance
- ♦ Where relevant, nervous or uncooperative behaviour exhibited by employees and/or customers.

Section 2

Risk Assessment

The rating of risk within a risk assessment serves an important role in assisting the prioritisation process. In this document, risk is assessed within the context of law enforcement and the money laundering and terrorist financing environment. As such the risk ratings should be interpreted by AML/CFT Supervisors and reporting entities in relation to their respective contexts and in reference to their reporting environment.

CURRENT IMPACT

Current impact was assessed by the Financial Intelligence Unit using the consequence statement definitions (refer to Annex 6) within the context of the money laundering environment.

The top three typologies currently assessed as impacting most on New Zealand are:

- ♦ wire transfers by money remittance (transferring the proceeds of crime from one person to another via money remittance services)
- ♦ the purchase of valuable assets (for example vehicles or property)
- ♦ the purchase of valuable commodities. (for example gems or precious metals)

Other typologies assessed as impacting on New Zealand are:

- ♦ the abuse of shell companies (registering New Zealand companies/trusts with internationally based directors and/or shareholders in order to open bank accounts to facilitate money laundering)
- ♦ nominees/trusts/third parties (utilising other people to carry out transactions in order to conceal the true identity of persons controlling the proceeds of crime)
- ♦ trade based money laundering (for example manipulating invoices and overstating the value of shipments)
- ♦ cancel credits/overpayments (for example casino chips purchased, followed by limited or no gambling, then a refund cheque is requested)
- ♦ electronic transfers (transferring proceeds of crime from one bank account to another via financial institutions)
- ♦ gatekeepers/professional services (for example utilising lawyers or brokers to establish seemingly legitimate business activities)

- ♦ cash deposits (placement of cash into the financial system)
- ♦ investment in capital markets (for example laundering proceeds of crime using stock/bonds as well as futures trading /currency speculation)

The classic money laundering typologies of co-mingling (combining proceeds of crime with legitimate business takings), structuring (separating large transactions into small transactions to avoid scrutiny) and smurfing (utilising third parties or groups of people to carry out structuring) are all also assessed as impacting on the money laundering environment.

RISK OVER THE NEXT 12 MONTHS

The typology assessed as presenting the highest risk, over the next 12 months was wire transfers by money remittance services. The next highest risk assessed typologies were:

- ♦ the purchase of valuable assets
- ♦ the purchase of valuable commodities
- ♦ abuse of shell companies
- ♦ nominees/trusts/third parties

These were closely followed by cancel credits/overpayments, electronic transfers, co-mingling, gatekeepers/professional services and cash couriers (concealing the movement of currency from one jurisdiction to another using people, luggage, mail or any other mode of shipment without declaration)

The results of the risk assessment was supported by information provided by Asset Recovery Units in highlighting the impact and risk presented by the purchase of valuable assets and commodities as a method of money laundering.

Of note was the unknown nature of underground and alternative banking and the difficulty in determining its current impact on New Zealand. It is envisaged that future work on this typology will be required, especially given its suspected role in terrorist financing²⁷.

Table 2.1 below serves a dual purpose; to provide context in terms of the current impact presented by certain typologies and the risk presented by these typologies if they increase over the next 12 months.

Likelihood of an increase was assessed by the Financial Intelligence Unit and took into account numerous variables, including possible mitigation measures.

Section 3

Typologies -

It is important to understand the following section looks at risk associated with a typology not with a reporting entity. For instance, 'wire transfer via remitters' does not consider money remittance as an industry but rather as a method and trend of money laundering.

WIRE TRANSFERS — transferring proceeds of crime from one person to another via money remittance services.

Possible indicators (specific)

- ♦ Significant and/or frequent cash payments for transfers
- ♦ Transfers to or from locations that have poor AML/CFT regimes or high exposure to corruption
- ♦ Transfers to high-risk countries or known tax havens
- ♦ Transfers to numerous offshore jurisdictions with no business rationale
- ♦ Multiple transfers sent to same person overseas by different people
- ♦ Same home address provided by multiple remitters
- ♦ Departure from New Zealand shortly after transferring funds
- ♦ Reluctant to provide retailer with identification details

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Severe	Almost Certain	Major	Very High 20

PURCHASE OF VALUABLE COMMODITIES — laundering proceeds of crime by purchasing valuable commodities, for example, precious metals or gems.

Possible indicators (specific)

- ♦ Customers requiring safe custody arrangements with financial institution
- ♦ Significant and/or frequent cash purchases of valuable commodities
- ♦ Regular buying and selling of valuable commodities which does not make economic sense

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Severe	Likely	Major	High 16

PURCHASE OF VALUABLE ASSETS — laundering proceeds of crime by purchasing valuable assets, for example, property or vehicles.

Possible indicators (specific)

- ♦ Purchase/sale of real estate above/below market value irrespective of economic disadvantage
- ♦ Cash purchases of valuable assets with cash and/or cash deposits for valuable assets
- ♦ Low value property purchased with improvements paid for in cash before reselling
- ♦ Rapid repayment of loans/mortgages with cash or funds from an unlikely source

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Severe	Likely	Major	High 16

SHELL COMPANIES²⁸ — registering New Zealand companies with internationally based directors and/or shareholders in order to open bank accounts to facilitate money laundering and/or terrorist financing by unverified beneficiaries.

Possible indicators (specific)

- ♦ Large numbers of companies registered with the same office address
- ♦ Address supplied is a "virtual office"
- ♦ Accounts/facilities opened/operated by company formation agents
- ♦ Lack of information regarding overseas directors/beneficiaries
- ♦ Complex ownership structures
- ♦ Structures where there is no apparent legitimate economic or other rational

Additional Indicators²⁹:

- ♦ The same natural person is the director of a large number of single director companies
- ♦ The same person (natural or corporate) is the shareholder of a large number of single-shareholder companies
- ♦ Use of one of a small number of New Zealand 'agents' who undertake transactions with the companies register

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Likely	Major	High 16

NOMINEES, TRUSTS, FAMILY MEMBERS OR THIRD PARTIES – utilising other people to carry out transactions in order to conceal the true identity of persons controlling proceeds of crime.

Possible indicators (specific)

- ♦ Customers using family members or third parties, including the use of children's accounts
- ♦ Transactions where third parties seem to be retaining a portion of funds, for example, "mules"
- ♦ Accounts operated by someone other than the account holder
- ♦ Many transactions conducted at various financial institutions and/or branches, in one day
- ♦ Significant and/or frequent transactions made over a short period of time

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Likely	Major	High 16

TRADE-BASED MONEY LAUNDERING – manipulating invoices, often in connection with international trade, by overstating the value of a shipment providing criminal entities with a paper justification to either launder proceeds of crime and/or send funds overseas to finance terrorism.

Possible indicators (specific)

- ♦ Invoice value greater than value of goods
- ♦ Discrepancies in domestic and foreign import/export data
- ♦ Suspicious cargo movements
- ♦ Suspicious domestic import data
- ♦ Discrepancies in information regarding the origin, description and value of the goods
- ♦ Discrepancies with tax declarations on export declarations
- ♦ Sudden increase in online auction sales by particular vendors (online auction sites)
- ♦ Unusually frequent purchases between same buyers and vendors (online auction sites)

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Likely	Major	High 16

CANCEL CREDITS OR OVERPAYMENTS – laundering proceeds of crime by overpaying, then requesting refund cheques for the balance.

Possible indicators (specific)

- ♦ Casino gaming machines loaded with cash, credits cancelled and a refund cheque requested
- ♦ Casino chips purchased, followed by limited or no gambling, then a refund cheque requested
- ♦ Frequent cheque deposits issued by casinos
- ♦ Significant and/or frequent payments to utility companies, for example, electricity providers
- ♦ Frequent cheque deposits issued by utility companies, for example, electricity providers
- ♦ Significant and/or frequent payments for purchases from online auction sites
- ♦ Frequent personal cheque deposits issued by third parties

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Likely	Moderate	High 15

ELECTRONIC TRANSFERS – transferring proceeds of crime from one bank account to another via financial institutions.

Possible indicators (specific)

- ♦ Transfers to or from locations that have poor AML/CFT regimes or high exposure to corruption
- ♦ Transfers involving accounts located in high-risk countries or known tax havens
- ♦ Transfers to offshore jurisdictions with no business rationale
- ♦ Multiple transfers sent to same person overseas by different people
- ♦ Departure from New Zealand shortly after transferring funds
- ♦ Transfers of funds between various accounts that show no economic sense (i.e. multiple transfers incurring bank fees where one single transfer would have been sufficient)

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Almost Certain	Moderate	High 15

CO-MINGLING – combining proceeds of crime with legitimate business takings.

Possible indicators (specific)

- ♦ Significant and/or frequent cash deposits when business has EFTPOS facilities
- ♦ Large number of accounts held by a customer with the same financial institution
- ♦ Accounts operated by someone other than the account holder
- ♦ Merging businesses to create layers
- ♦ Complex ownership structures
- ♦ Regular use of third party accounts

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Almost Certain	Moderate	High 15

GATEKEEPERS/PROFESSIONAL SERVICES – utilising "professionals" to establish seemingly legitimate business activities, for example, lawyers, accountants, brokers, company formation agents.

Possible indicators (specific)

- ♦ Accounts and/or facilities opened and/or operated by company formation agents
- ♦ Gatekeepers that appear to have full control
- ♦ Known or suspected corrupt professionals offering services to criminal entities
- ♦ Accounts operated by someone other than the account holder

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Almost Certain	Moderate	High 15

CASH DEPOSITS – placement of cash into the financial system.

Possible indicators (specific)

- ♦ Large cash deposits followed immediately by withdrawals or electronic transfers

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Almost Certain	Moderate	High 15

SMURFING – utilising third parties or groups of people to carry out structuring.

Possible indicators (specific)

- ♦ Third parties conducting numerous transactions on behalf of other people
- ♦ Many transactions conducted at various financial institutions and/or branches, in one day
- ♦ Accounts operated by someone other than the account holder

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Likely	Moderate	High 12

CREDIT CARDS, CHEQUES, PROMISSORY NOTES – instruments used to access funds held in a financial institution, often in another jurisdiction.

Possible indicators (specific)

- ♦ Frequent cheque deposits in contrast to known or expected business activity
- ♦ Multiple cash advances on credit card facilities
- ♦ Credit cards with large credit balances
- ♦ Transactions inconsistent with intended purpose of facility

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Likely	Moderate	High 12

CASH COURIERS – concealing the movement of currency from one jurisdiction to another using people, luggage, mail or any other mode of shipment, without declaration.

Possible indicators (specific)

- ♦ Transactions involving locations with poor AML/CFT regimes or high exposure to corruption
- ♦ Customers originating from locations with poor AML/CFT regimes/high exposure to corruption
- ♦ Significant and/or frequent cash deposits made over a short period of time
- ♦ Significant and/or frequent currency exchanges made over a short period of time

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Likely	Moderate	High 12

STRUCTURING – separating large transactions into small transactions to avoid scrutiny and detection from financial institutions.

Possible indicators (specific)

- ♦ Many transactions conducted at various financial institutions and/or branches, in one day
- ♦ Small/frequent cash deposits, withdrawals, electronic transfers made over a short time period
- ♦ Multiple low value domestic or international transfers

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Almost Certain	Minor	High 10

ABUSE OF NON-PROFIT ORGANISATIONS – raising funds to finance terrorism using non-profit organisations (charities) to conceal the source and nature of funds, as well as to facilitate distribution.

Possible indicators (specific)

- ♦ Known or suspected criminal entities establishing trust or bank accounts under charity names
- ♦ Transfers to or from locations that have poor AML/CFT regimes or high exposure to corruption
- ♦ Transfers involving accounts located in high-risk countries or known tax havens
- ♦ Transfers to numerous offshore jurisdictions with no business rationale
- ♦ Entities that use third parties to distribute funds or have weak financial governance mechanisms

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Minor	Possible	Moderate	High 9

INVESTMENT IN CAPITAL MARKETS — laundering proceeds of crime by using any market in which securities are traded, for example, the stock and bond markets, as well as futures trading and currency speculation.

Possible indicators (specific)

- ◆ Securities accounts opened to trade in shares of only one listed company
- ◆ Transaction patterns resemble a form of market manipulation, for example, insider trading
- ◆ Unusual settlements, for example, cheques requested for no apparent reason, to third parties
- ◆ Funds deposited into stockbroker's account followed immediately by requests for repayment
- ◆ Limited or no securities transactions recorded before settlement requested

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Major	Possible	Moderate	High 9

OTHER PAYMENT TECHNOLOGIES — utilising emerging or new payment technologies to facilitate money laundering and/or terrorist financing.

Possible indicators (specific)

- ◆ Excessive use of stored value cards
- ◆ Significant and/or frequent transactions using mobile telephone services

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Possible	Moderate	High 9

UNDERGROUND BANKING/ALTERNATIVE REMITTANCE SERVICES — transferring proceeds of crime from one person to another via informal banking mechanisms.

Possible indicators (specific)

- ◆ Significant and/or frequent cash payments for transfers
- ◆ Cash volumes and transfers in excess of average income of migrant account holders
- ◆ Transfers to or from locations that have poor AML/CFT regimes or high exposure to corruption
- ◆ Transfers involving accounts located in high-risk countries or known tax havens
- ◆ Transfers to countries that are not destination countries or usual remittance corridors
- ◆ Large transfers from accounts to potential cash pooling accounts
- ◆ Significant and/or frequent transfers recorded informally using unconventional book-keeping
- ◆ Significant and/or frequent transfers requested by unknown or intermittent customers
- ◆ Numerous deposits to one account followed by numerous payments made to various people

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	UNKNOWN	Possible	Minor	Medium 6

TRUSTED INSIDERS/CORRUPTION — collusion, coercion or bribery of financial institution staff by customers, particularly high-profile individuals, for instance, government officials, business executives, celebrities or individuals known or suspected of being involved in serious crime.

Possible indicators (specific)

- ◆ Customers regularly targeting the same employees
- ◆ Employees relaxing standard AML/CFT procedures to facilitate transactions
- ◆ Employees exhibiting sudden wealth and/or assets in contrast to remuneration
- ◆ Employees avoiding taking annual leave
- ◆ Sudden improvement in employee's sales performance
- ◆ Employees adopting undue levels of secrecy with transactions
- ◆ Customers regularly targeting young and/or inexperienced employees

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Minor	Unlikely	Moderate	Medium 6

CASH EXCHANGES – exchanging low denomination notes for high (also known as refining) as a means to launder proceeds of crime, as well as reduce large volumes of cash obtained from serious crime.

Possible indicators (specific)

- Significant and/or frequent cash exchanges from small to large denominations (refining)

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Moderate	Possible	Minor	Medium 6

CURRENCY CONVERSION – converting one currency into another as a means to launder proceeds of crime, as well as reduce large volumes of cash obtained from serious crime.

Current impact on New Zealand assessed as:

Possible indicators (specific)

- Significant and/or frequent New Zealand or foreign currency exchanges
- Opening of foreign currency accounts with no apparent business or economic purpose

	Current Impact	Likelihood of an increase	Consequence of an increase	Assessed Risk
Money Laundering	Minor	Possible	Minor	Medium 6

Table 2.1 Summary of risk - Money Laundering

Typology	Current Impact	Likelihood of increase	Consequence of increase	Assessed Risk
Wire transfers - remittance services	Severe	Almost Certain	Major	Very High 20
Purchase valuable commodities	Severe	Likely	Major	High 16
Purchase of valuable assets	Severe	Likely	Major	High 16
Shell companies	Major	Likely	Major	High 16
Nominees, Trusts, 3rd parties etc.	Major	Likely	Major	High 16
Trade based money laundering	Moderate	Likely	Major	High 16
Cancel credits or overpayments	Major	Almost Certain	Moderate	High 15
Electronic Transfers	Major	Almost Certain	Moderate	High 15
Co-mingling	Major	Almost Certain	Moderate	High 15
Gatekeepers, Professional Services	Major	Almost Certain	Moderate	High 15
Cash Deposits	Major	Almost Certain	Moderate	High 15
Smurfing	Major	Likely	Moderate	High 12
Credit Cards, Cheques etc.	Moderate	Likely	Moderate	High 12
Cash Couriers	Moderate	Likely	Moderate	High 12
Structuring	Major	Almost Certain	Minor	High 10
Abuse of non-profit organisations	Minor	Possible	Moderate	High 9
Investment in capital market	Major	Possible	Moderate	High 9
Other payment technologies	Moderate	Possible	Moderate	High 9
Underground banking etc.	UNKNOWN	Possible	Minor	Medium 6
Trusted Insider/Corruption	Minor	Unlikely	Moderate	Medium 6
Cash exchanges	Moderate	Possible	Minor	Medium 6
Currency Conversion	Minor	Possible	Minor	Medium 6

Section 4

Terrorism Financing Risks

In terms of risk, terrorist financing presents a difficult topic to assess in relation to New Zealand. Whilst the risk presented by terrorist financing is assessed as low³⁰ the potential repercussions, both domestic and international, could have a wide range of consequences, including reputational damage to New Zealand.

As such a general assessment has been undertaken in this document rather than a specific risk assessment exercise as used with money laundering typologies.

Suspicious Property Report (SPR)

If a financial institution deals with an individual or organisation and there are reasonable grounds for suspicion a Suspicious Property Report must be completed, pursuant to section 43 of the Terrorism Suppression Act 2002.

As stressed in the introduction, risk assessment has to consider context. In the New Zealand context it is useful to consider the wider international experience of terrorist financing and what we can learn from it.

The 2009 FATF Strategic Surveillance Survey showed illicit funds that are laundered through the financial system come from a variety of sources³¹. Key findings from both the 2008 and 2009 FATF Strategic Surveillance Surveys were as follows:

- ♦ The primary techniques identified for moving terrorist funds were the physical movement of cash (e.g. cash couriers); wire transfers involving cash deposits and withdrawals, and alternative remittance systems
- ♦ Similar to criminal networks, terrorist organisations also derive funding from a variety of criminal activities ranging in scale and sophistication from low-level crime to involvement in serious organised crime
- ♦ A noteworthy proportion of money laundering and terrorist financing activity involves cash
- ♦ Financial crime (particularly fraud), trafficking in narcotics/cigarettes/ weapons/human beings/diamonds and petty crime are the most commonly identified sources of terrorist financing
- ♦ Terrorist organisations raise funds through legitimate and illicit activities, but more commonly through a mixture of both
- ♦ Fund raising/donation, charities and Non-Profit Organisations (NPOs) and small cash intensive businesses are the most prevalent 'legitimate' sources of funding

Most jurisdictions were not able to identify any new trends in the movement of terrorist funds in the 2009 survey. However, some new techniques were identified while not necessarily indicating a trend. This included:

- ♦ Use of new payment methods
- ♦ Involvement of transactions related to the purchase and export of cars
- ♦ Involvement of a property holding company to collect funds and disguise their final destination
- ♦ Links with trafficking in weapons
- ♦ Trade-based activities

The Terrorism Suppression Act 2002:

Terrorism is broadly defined as certain types of acts that are "...carried out for the purpose of advancing an ideological, political, or religious cause, and with the following intention: (a) to induce terror in a civilian population; or (b) to unduly compel or to force a government or an international organisation to do or abstain from doing any act" Part 1, Section 5(2a) and 2(b)

While there have been no convictions for terrorist financing in New Zealand, exposure to the risks of terrorist financing may be facilitated by the following factors:

- ♦ Increased globalisation
- ♦ The increasing movement of money, business and people around the world
- ♦ Continuation of underground banking
- ♦ Potential home grown radicalisation
- ♦ The ease and anonymity of using the internet
- ♦ Political events - domestic and overseas
- ♦ Real or perceived participation by New Zealand in overseas conflicts
- ♦ Ongoing knowledge and intelligence gaps

However, it should be borne in mind that it is often difficult to prove that terrorist financing is occurring and investigations can take a lot of time and resources. Investigations into terrorist financing may also require considerable covert elements due to the nature of the way the money is collected and moved. In addition, difficulties establishing liaison with non-aligned countries would hinder a successful terrorist financing prosecution.

Further compounding the potential difficulties are the issues in relation to using intelligence obtained from classified sources as evidence which needs to be balanced with the need of protecting sources.

Given these factors, the need to develop valid and reliable indicators and warnings of terrorist financing becomes apparent. For instance, an increase in cash couriers going to a particular country of concern may

be an indication of terrorist financing and as such Border Cash Reports may provide a warning of this activity.

It is possible that investigations into terrorist financing may not necessarily end in a prosecution but will rather provide vital information and intelligence identifying networks and typologies. This in turn can lead to more effective detection and disruption strategies. Monitoring such investigations, domestic and international, is almost certainly going to be of value in the production of indicators and warnings.

It is envisaged this will be a function of the new Quarterly Typology Report and will come under the responsibilities of the Financial Intelligence Unit Field Intelligence Officer.

For further reading in relation to the FATF recommendations on Terrorist Financing please refer to the 'FATF IX Special Recommendations' dated 22 October 2004 available at <http://www.fatf-gafi.org/dataoecd/8/17/34849466.pdf>.

Section 5

Predicate offences and money laundering methods

The tables attached in Annex 7 show data obtained from New Zealand's Asset Recovery Units for the period 1 December 2009 to 31 May 2010. A sample of 88 cases were analysed from New Zealand's four main centres; specifically, Auckland (25), Hamilton (25), Wellington (22) and Christchurch (16). It should be noted in 10 of the 88 cases (11%) the method of money laundering was not specified. In 58 cases (66%) however, the primary method of money laundering was the purchase of valuable assets and in 55 of these 58 cases (95%), the predicate offence was drug-related.

Due to the size of the dataset and the focus of the Asset Recovery Units these figures should be interpreted with caution. Future assessments will involve larger datasets, which will provide more accurate results and a more robust indication of money laundering and, where appropriate, terrorist financing trends in New Zealand.

It should also be noted that the data recorded by the Asset Recovery Units was collected using the Asia-Pacific Group typologies, rather than the methods adapted for the New Zealand environment, as referred to in the previous section.

National Asset Recovery Unit data indicates most predicate offences recorded were drug-related; specifically, the manufacture and supply of cannabis and/or methamphetamine. Money laundering as an offence in its own right was also recorded. Other offences included forgery, receiving stolen goods, fraud, and organised crime. These offences accounted for 12 cases (14%) of the 88 reported by the Asset Recovery Units. This is supported by FATF Mutual Evaluation Reports showing that the most frequent sources of criminal proceeds laundered are narcotics trafficking followed by various fraud schemes³².

The prevalence of drug offending as a predicate offence appears at odds with previous New Zealand Police data³³ and some overseas experience where fraud represents a more common predicate offence in money laundering convictions.

For instance, from 31 December 2003 to 30 June 2008 three quarters of money laundering related files investigated by New Zealand Police related to fraud. Based on New Zealand Police statistics, the number of

fraud offences decreased between 2005 and 2009. However, these figures contrast with the 2008 KPMG Fraud Survey which stated there had been a significant increase in the number and value of reported frauds since their 2006 survey.

Taking this information the Financial Intelligence Unit assesses the following:

- ♦ Where money laundering charges result in convictions this is most likely associated with fraud offences
- ♦ Where assets are seized by Asset Recovery Units this is more likely associated with drug offending
- ♦ Where money laundering has taken place it is likely that law enforcement agencies do not pursue this avenue of investigation as much as they could, focussing instead on the predicate offences
- ♦ Where the predicate offence is drug related it is possible laying additional money laundering charges is perceived as confusing the case at Court, and as such money laundering charges are not proceeded with

Table 2.2 below shows predicate offences and corresponding typologies on a national level during 1 December 2009 to 31 May 2010. The sizeable relationship between drug-related offences and the purchase of valuable assets is almost certainly due to the prevalence of drug transactions involving cash. It reflects the ease with which assets can be purchased from agencies such as car dealers or real estate agents. The decision to purchase valuable assets with cash proceeds of crime also avoids scrutiny by regulated financial institutions.

Further, the large representation in respect of the purchasing of valuable assets could also be the result of limitations in financial investigations. Specifically, valuable assets can be easily identified by investigating officers and ownership of valuable assets being easily obtainable.

The other less common typologies would require further analysis and investigation to ascertain the money laundering methods, which almost certainly accounts for the lower representation of these typologies in intelligence holdings. For instance, identifying shares purchased with the proceeds of crime.

Table 2.2: Predicate and money laundering offences with corresponding typologies on a National level (1 Dec 2009-31 may 2010)

	Predicate Offence/Money Laundering						Total
	Drug Manufacture/Supply	Forgery	Money Laundering	Receiving stolen goods	Fraud	Organised Crime related	
Purchase of valuable assets	55	-	1	1	1	-	58
Use of nominees	10	-	-	-	-	-	10
Not specified	9	-	-	-	1	-	10
Mingling (business investment)	7	-	-	-	-	1	8
Use of gatekeepers	6	-	-	-	-	-	6
Use of wire transfers	4	1	-	-	-	-	5
Use of credit cards/cheques etc	3	-	1	-	-	-	4
Currency exchange/cash conversion	-	-	2	-	-	-	2
Gaming activities	1	-	1	-	-	-	2
Use of offshore banks/businesses	1	-	-	-	-	-	1
Use of foreign bank accounts	-	-	-	-	1	-	1
Investment in capital markets	1	-	-	-	-	-	1
Use of shell companies	-	-	-	-	1	-	1
Total	97	1	5	1	4	1	109

Section 6

Case Studies

Below are a number of domestic case studies. Where applicable the primary typologies have been highlighted. It is anticipated that more case studies will be provided in the Financial Intelligence Unit Quarterly Typology reports with further emphasis on indicators and warnings as well as new and evolving typologies. International case studies are provided in Annex 4.

Also included in this section is a detailed case study in relation to the criminal exploitation of the New Zealand company registration process. This has been included to highlight some of the serious risks and national reputational damage presented by the 'shell company' money laundering typology

GOVERNMENT INVOICE FRAUD

PRIMARY TYPOLOGIES:

ASSOCIATION WITH CORRUPTION

PURCHASE OF VALUABLE ASSETS

An executive employee, formerly responsible for information technology within one of New Zealand's district health boards, was imprisoned for defrauding the organisation of almost NZ\$17 million over a six year period. During this time, the executive, together with an associate, fraudulently obtained approximately NZ\$25,000 each per week. The associate registered a company to invoice the board for IT-services that were never provided. The executive then authorised payment of the invoices, which were not questioned by the board's accounting staff. The stolen money was used to purchase properties, vehicles and boats, as well as pay for personal expenses, for example, Inland Revenue payments. A substantial amount of money was also deposited into personal bank accounts.

MANUFACTURE AND SUPPLY OF CANNABIS

PRIMARY TYPOLOGIES:

CURRENCY EXCHANGE/CASH CONVERSION

PURCHASE OF VALUABLE ASSETS

Over an 18-month period, an unemployment beneficiary carried out numerous cash exchanges at his local bank. He claimed the money had been made from selling food at festivals. Following surveillance on his address, search warrants located over 2kg of dried cannabis, electronic scales, deal bags and a purpose-built cannabis growing room. The financial investigation estimated that the offender had illegally obtained almost NZ\$70,000 from cannabis sales and had exchanged approximately NZ\$30,000 cash from low to high denominations. He had also purchased

US\$4,000 cash and around NZ\$7,000 worth of bonus bonds.

IMPORTATION OF CRYSTAL METHAMPHETAMINE AND PRECURSOR CHEMICALS

PRIMARY TYPOLOGIES:

USE OF GATEKEEPERS/PROFESSIONALS

USE OF SHELL COMPANIES

An organised crime group used New Zealand registered companies to act as a cover for facilitation of drug smuggling into New Zealand. The shell companies had been registered by accountants, as well as the offenders. Numerous companies and bank accounts had been created for the importation of legitimate goods. The legitimate goods served as a front for the importation of crystal methamphetamine and precursor chemicals for the manufacture of methamphetamine. The New Zealand Customs Service located 95kg of methamphetamine concealed in the bottom of paint tins and 150kg pseudoephedrine hidden in plaster bags. The seizure had a combined street value of NZ\$135 million.

FRAUDULENT INVESTMENT SCHEME

PRIMARY TYPOLOGIES:

USE OF WIRE TRANSFERS

GAMING ACTIVITIES

An Australian investigation into allegations of fraud revealed a large investment scheme that involved the deception of both Australian and New Zealand citizens. The main offender portrayed himself as a wealthy Australian on holiday and spent most of his time gambling in New Zealand casinos. Australian authorities alleged the subject had defrauded a number of Australian citizens into giving him considerable amounts of money under the pretence of investing in high yield returns on the New Zealand stock exchange. During his time in New Zealand, the offender received several international money transfers from Australian "investors". Most of the money was used for gambling purposes, however he also transferred funds to various people in Australia, including his wife. The offender has been extradited back to Australia.

FRAUDULENT NEW ZEALAND COMPANIES

PRIMARY TYPOLOGIES:

IDENTITY FRAUD/FALSE IDENTIFICATION

USE OF NOMINEES

An unemployment beneficiary established over 20 New Zealand companies and registered each one as a GST business with the Inland Revenue. He used associates to act as director/shareholders of the companies and also utilised new or existing (relatively inactive) bank accounts in their names to receive GST

refunds. The offender submitted his returns to the Inland Revenue electronically and would arrange for the refunds to be deposited into the bank accounts. The funds were then withdrawn and used to pay for personal expenses. Over a two year period, the offender obtained more than NZ\$200,000.

CROSS BORDER MONEY LAUNDERING

PRIMARY TYPOLOGIES:

USE OF GATEKEEPERS/PROFESSIONALS,

USE OF FOREIGN BANK ACCOUNTS

USE OF WIRE TRANSFERS

A Brazilian national and his de-facto partner are currently the subjects of arrest warrants in New Zealand following an international investigation into suspected money laundering. In late 2002, the accused and his family moved to New Zealand despite being on bail in Brazil for a number of criminal charges. Soon after their arrival, they opened a number of bank accounts, allegedly in the presence of an immigration lawyer. It has been established that during a three month period, over NZ\$3.5 million was deposited into their bank accounts via international money transfer. In mid-2003, the accused and his family left New Zealand and have not yet returned. In their absence, however, 40 accounts were opened by the immigration lawyer on their behalf. He is also

suspected of transmitting funds through his trust account, as well as witnessing Statutory Name Change documentation for the accused and his family. The immigration lawyer is currently facing money laundering charges.

POSSESSION AND SUPPLY OF BENZYLPIPERAZINE AND CANNABIS

PRIMARY TYPOLOGIES:

PURCHASE OF VALUABLE ASSETS

STRUCTURING/SMURFING

The owner of a "party pill" shop was imprisoned for possession and supply of benzylpiperazine and cannabis. Benzylpiperazine, otherwise known as BZP, was previously sold at party pill outlets as a "recreational" substance until 2008 when it was criminalised in New Zealand as a Class-C controlled drug. Financial inquiries revealed that the offender had purchased a number of bonus bonds with cash. On at least one occasion, he insisted on purchasing NZ\$9,000 worth of bonus bonds, claiming that he "knew the bank policy on transactions over NZ\$10,000". Following his arrest, it was discovered that he had purchased almost NZ\$25,000 worth of bonus bonds.

Criminal exploitation of New Zealand company registration process

The OFCANZ-led multi-agency Taskforce BAEL was established in February 2010 in response to the 12 December 2009 incident in which an aircraft leased by a New Zealand registered company was detained in Thailand while transporting 35 tonnes of weapons from North Korea to Iran.

Among the Taskforce's objectives was to identify opportunities to make New Zealand's company registration process less vulnerable to exploitation, including increased information sharing between relevant agencies.

The Taskforce's findings built upon earlier work conducted by the FIU in 2009 which found the lack of accountability around company registration was enabling transnational criminal entities to facilitate aspects of their activities in significant numbers. In 2010, for example, reporting from Canada indicated Mexico's notorious Sinaloa drug cartel (earlier in the 2000's) was found to have used four New Zealand registered companies purporting to be banks (all shell companies with no physical presence in New Zealand) as vehicles to launder money. Taskforce BAEL also found that, for the period between January 2006 and February 2010, a total of 134 requests from overseas law enforcement authorities were received by various New Zealand agencies in respect to 143 New Zealand companies suspected of either direct or indirect involvement in off-shore criminal activity.

In addition to FIU and OFCANZ findings, online reporting indicates Romanian organised crime entities have been exploiting New Zealand company registration to facilitate crimes including money laundering and tax fraud/evasion. In one particular case New Zealand shell companies were part of a complex financial structure to launder €8 million embezzled from an oil services company in Romania.

However, the exploitation is not confined to Romania or Eastern Europe with the FIU fielding enquiries in relation to New Zealand registered companies from around the world.

Exploitation of New Zealand's company registration processes to facilitate crimes can also involve domestic offenders. For example, millions of dollars worth of tax has been evaded through the use of New Zealand shell companies by individuals operating labour gangs in the horticultural industry.

In addition to the high direct costs associated with the criminal exploitation of company registration, the probable damage caused to New Zealand's reputation is likely to be significant, potentially with its own economic impact. This has been evidenced in negative reporting from the influential World-Check organisation and in FIU analysis undertaken as part of the NRA 2010.

In response to these issues, a number of legislative and procedural changes aimed at strengthening New Zealand's company registration regime have been recommended, and in some cases already implemented. Further policy work to address the vulnerabilities highlighted by OFCANZ and the FIU will be ongoing throughout 2011 led by the Ministry of Economic Development (MED).

FATF have also recently published a report titled 'Money Laundering using Trusts and Company Providers' on 12 December 2010 which examines the global nature and extent of this issue and the enormous financial impact it can have.

Notes:

Online reporting from Romania ([www.reportingproject.net/offshore/dated 15/11/10](http://www.reportingproject.net/offshore/dated%2015/11/10)) indicates that New Zealand and its company registration process is seen as an effective tool to shield criminal activity and hide the proceeds of crime. The online report was commissioned by the Organized Crime and Corruption Reporting Project (OCCRP), a consortium of investigative centres, journalists and media organisations throughout the Balkans and Eastern Europe.

World-Check produces 'risk intelligence' to reduce customer exposure to potential threats posed by the organisations and people they do business with. More than 4,500 institutions, including over 49 of the world's top 50 banks and 200 enforcement and regulatory agencies, use the World-Check database of known heightened-risk individuals and businesses to screen their customers, associates, transactions and employees for potential risk. The World Check article in relation to New Zealand was published on 29 December 2009.

Section 7

Suspicious Transaction Reports

The Financial Intelligence Unit receives a large number of Suspicious Transaction reports from a broad range of agencies. Suspicious Transaction Reports can be received electronically, by fax, by email, in hard copy or on disk. It is anticipated that once the AML/CFT Act becomes fully implemented all Suspicious Transaction Reports will be received electronically.

In the six month period between 1 December 2009 and 31 May 2010, a total of 2,329 Suspicious Transaction Reports were received by the Financial Intelligence Unit from various financial institutions. Based on the assumption they involved money laundering and/or terrorist financing, of the 2,329 Suspicious Transaction Reports received 1,831 were able to be broadly categorised into an Asia-Pacific Group typology.

The National Risk Assessment for 2011 will utilise full year data.

As shown in Table 2.3, 498 Suspicious Transaction Reports were unable to be categorised into an Asia-Pacific Group typology, however, they were considered suspicious due to the nature of the transaction.

Table 2.3: Suspicious Transaction Reports unable to be categorised (1 Dec 2009 - 31 May 2010)

	Transaction Type			Total
	Deposit Withdraw	Cash Withdraw	Cash Deposit	
Money Remitter	-	-	2	2
Credit Union	-	2	2	4
Casino	-	-	10	10
Registered Bank	70	110	302	482
Total	70	112	316	498

Suspicious Transaction Reports may include more than one instance of suspicious activity and from the remaining Suspicious Transaction Reports 2,241 instances could be categorised using one of the Asia Pacific Group typologies. This information is tabled in Annex 8.

The majority of Suspicious Transaction Reports submitted during this time period involved the following:

- ♦ Wire transfers - mainly banks and remitters (833) (36%)

- ♦ Use of nominees (317) (14%)
- ♦ Currency exchange/cash conversion (220) (9%)
- ♦ Gaming activities (208) (9%)
- ♦ Use of credit cards (124) (5%).

It should be noted that 662 (79%) of the 833 wire transfers involved cash or an initial cash deposit before the transaction took place.

Four hundred and ten Suspicious Transaction Reports were able to be categorised into two typologies indicating that the use of multiple typologies during one transaction is not uncommon. This information is tabled in Annex 9. Of the 410 multiple typology Suspicious Transaction Reports there were:

- ♦ 47 that included wire transfers and nominees (11%)
- ♦ 42 that included wire transfers and shell companies (10%)
- ♦ 41 that included wire transfers and offshore bank accounts (10%)
- ♦ 24 that included wire transfers and structuring/smurfing (6%)
- ♦ 17 that included structuring/smurfing and nominees (4%)

Table 2.4 shows the number of Suspicious Transaction Reports received, together with the corresponding financial institution. Registered Banks submitted the highest number of Suspicious Transaction Reports (67%), followed by money remittance services (18%). The least number were submitted by the insurance sector. These figures are consistent with previous years

Table 2.4: Suspicious Transaction Reports and corresponding financial institutions (1 Dec 2009 - 31 May 2010)

Financial Institution	Number of STRs
Insurance	1
Building Society	3
Betting Agency	3
Share broker	4
Real Estate	7
Credit Union	13
Cooperative	- ³⁴
Govt Entity	16
Lawyer	21
Bureau-de-Change	25
Finance Company	50
Casino	220
Money remitter	409
Registered Banks	1,557
Total	2,329

Table 2.5 below shows an apparent reduction and then increase in Suspicious Transaction Reporting

trends 2004-2009. The reasons behind this trend are assessed by the Financial Intelligence Unit to be a result of the post 2001 backlog of suspicious transaction reporting, and changes due to data reorganisation skewing 2004-06 data.

Currently the Financial Intelligence Unit are noticing an increase in Suspicious Transaction Reporting, better quality of reporting, and evidence of more awareness around the reasons for reporting. Of note is the increase in reporting from money remitters and casinos; both cash intensive environments.

From 2007 to 2009 there has been an increase in Suspicious Transaction Reporting and it is anticipated this trend will also be evident in 2010. It is assessed by the Financial Intelligence Unit that this increase will be ongoing over the next 12 months and into the medium term reflecting greater AML/CFT awareness and compliance from reporting entities.

However, it should be noted that high numbers of Suspicious Transaction Reports do not necessarily indicate high levels of criminality; it may represent appropriate levels of reporting and/or over reporting. The converse is true for low levels of reporting.

Table 2.5 Suspicious Transaction Reports received and corresponding financial institutions (2004-2009³⁵)

Financial Institution	2004	2005	2006	2007	2008	2009	Total
Insurance	0	0	1	0	2	1	4
Building Society	17	12	26	25	27	15	122
Co-operative	6	1	4	4	1	-	16 ³⁶
Betting Agency	44	27	28	17	13	13	142
Share broker	0	0	1	1	0	3	5
Real Estate	2	6	6	9	8	9	41
Credit Union	28	22	21	36	40	24	171
Govt Entity	-	-	-	-	-	10	10
Lawyer	15	18	9	14	13	23	92
Bureau-de- Change	63	63	31	63	69	96	385
Finance Company	1	3	0	1	8	15	28
Casino	37	51	55	100	395	705	1343
Money Remitter	14	35	237	620	807	1026	2739
Registered Bank	6527	5979	3606	2965	2802	2992	24871
Total	6754	6217	4025	3855	4185	4932	29969

Note: Some small discrepancies are evident between the data in Table 2.5 and previous Financial Intelligence Unit products. This is due to slight variances in compilation criteria and does not impact significantly on the Suspicious Transaction Reports data.

Section 8

Summary of data

In reviewing the data from this chapter the following matters are of note:

- ♦ It is assessed that cash intensive industries (such as money remitters and casinos) remain very attractive to money laundering activity
- ♦ Available data from Asset Recovery Units (which by their nature have a focus on restraining items of value) indicates that valuable assets and commodities represent the most common money laundering method and currently have the greatest impact on New Zealand
- ♦ Wire transfers by money remittance represents a vulnerability and currently has a large impact on New Zealand
- ♦ The typologies assessed as presenting the greatest risk over the next 12 months if they increase are wire transfers by money remittance services followed by the purchase of valuable commodities/assets, the use of shell companies, the use of nominees/trusts/third parties and trade based money laundering
- ♦ The top three typologies include two that are not being addressed by phase one of the AML/CFT reforms. The main risks (other than that posed by wire transfers) over the next 12 months are areas not fully addressed by phase one. However, it is envisaged that phase two of the AML/CFT reforms should address these issues.
- ♦ Drug offending is the primary predicate offence though fraud is assessed as being under reported in relation to money laundering
- ♦ Suspicious reporting activity is increasing, despite initial signs of a decrease, and reporting quality has improved
- ♦ The number of Suspicious Transaction Reports are anticipated to continue to increase as new and enhanced AML/CFT compliance measures become business as usual
- ♦ Casinos and money remitters have greatly increased their Suspicious Transaction Reporting
- ♦ Knowledge gaps exist in relation to alternative/informal money remitters and underground banking structures
- ♦ Terrorist financing currently poses a low risk and is assessed as continuing to pose a low risk over the coming 12 months
- ♦ Generation of reliable and valid indicators and warnings is required in order to mitigate risk and provide advance warning of money laundering and terrorist financing activity

CHAPTER 3

Forecast and emerging trends

Section 1

Potential issues over the next 12 months

Beyond the typologies discussed in Chapter 2 there are a large number of factors and variables impacting on the New Zealand AML/CFT environment. A few of the major issues are listed here. Some preliminary mitigation measures are suggested though more targeted risk management proposals will be covered by later documents; primarily the Quarterly Typology Report.

In this section probability statements (Almost Certain, Likely, Possible, Unlikely, Rare) are used to provide an indication of the likelihood of the concerns impacting on New Zealand over the next 12 months (refer to Annex 5 for further information).

Recognising the limitations of this initial national risk assessment and utilising the information currently available to the Financial Intelligence Unit the following have been identified as presenting concerns over the next 12 months.³⁷

PERSONNEL

- It is **likely** full AML/CFT training for law enforcement agencies will not be rolled out within the next 12 months. This will negatively impact on law enforcement agencies ability to identify and combat these crime types.
- It is **likely** greater education and awareness of New Zealand Police staff and other law enforcement and partner agencies in relation to money laundering will be required. Opportunities exist for improved training in relation to money laundering which is **likely** to result in higher numbers of money laundering charges being brought before the Courts.
- Potential mitigation strategies include increased AML/CFT training, raising law enforcement agency awareness of the Financial Intelligence Unit and how it can assist investigations, and increasing the profile of the Financial Crime Group in general.

MATERIALS

- It is **likely** the new AML/CFT legislation will need time to embed itself and for relevant regulations and compliance issues to become business as usual.

- It is **likely** demand for Asset Recovery Units will outstrip available resources. This has the potential to negatively impact on law enforcement agencies to identify and combat these crime types and limit the amount of assets restrained and forfeited. It is **likely** that this will also limit the amount of proactive work undertaken by these units.
- Potential mitigation strategies include more resources for the Financial Crime Group/Asset Recovery Units and effective prioritisation of resources.

MEASUREMENTS

- It is **almost certain** that the quality of data collection will affect how AML/CFT initiatives are evaluated and how asset seizure is monitored. Poor recording standards have the potential to undermine the work undertaken by law enforcement and partner agencies through inaccurate evaluations and unreliable targeting.
- It is **possible** that some reporting entities will engage in 'defensive reporting' in relation to suspicious transaction reporting. Defensive reporting is where a reporting entity submits Suspicious Transaction Reports where little or no suspicion exists in order to appear compliant with regulations. This activity masks genuine reporting and skews the resulting data and could impact on any potential investigations.
- Potential mitigation strategies include the early adoption of uniform reporting standards, targeted analysis of Suspicious Transaction Reports to determine if defensive reporting is occurring.

ASSETS

- It is **almost certain** criminals will increase the sophistication of hiding assets from law enforcement agencies over the next 12 months especially in response to the new AML/CFT legislation and the successes of the Asset Recovery Units. For instance, putting assets under the name of spouses or family members or buying shares via third parties.
- Potential mitigation strategies include greater liaison between law enforcement and partner agencies to increase situational awareness and knowledge of their business areas, updated typology and asset seizure reporting via the forthcoming Quarterly Typology Report and regular debriefs from the Asset Recovery Units.

TECHNOLOGY

- It is **likely** advances and developments in technology will be used to facilitate money laundering in New Zealand. For example, the use of internet payment systems, E-currency and mobile banking.
- It is **likely** criminals will adopt and adapt technological advances faster than law

enforcement and partner agencies can respond to them.

- ♦ It is **possible** new technology will facilitate the production of fraudulent identity documents or bypass existing security measures and so undermine customer due diligence measures.
- ♦ It is **likely** internet services such as online casinos and betting agencies will provide further avenues for money laundering and challenges in terms of regulation and policing.
- ♦ Potential mitigation strategies include law enforcement agencies and Supervisors maintaining situational awareness, monitoring overseas developments, exploring the use of biometrics in determining identity and the production of Financial Intelligence Unit intelligence products to inform Sectors.

METHODS

- ♦ It is **possible** customer due diligence measures are over reliant on relatively low security forms of identification. With many AML/CFT measures dependant on customer due diligence identity fraud and identity theft is **likely** to present as a major challenge.
- ♦ It is **likely** new typologies will emerge, modify and develop over the next 12 months. For instance, potential typologies include:
 - the use of white label Automatic Teller Machines by organised crime groups
 - increased numbers of second hand gold dealers in shopping malls used to launder the proceeds of crime
 - the use of pre-paid cards
 - greater use of on-line auction sites to facilitate the sale of stolen goods
 - the use of larger denomination bills such as the 500 Euro note to refine large amounts of low denomination notes
 - online casino and betting used to launder money
 - the abuse of carbon credits
- ♦ It is **possible** criminals will identify and exploit loopholes in legislation or weaknesses in law enforcement procedures.
- ♦ Potential mitigation strategies include the generation of reliable and valid indicators and warnings, domestic and international sharing of information and intelligence between Financial Intelligence Units. The production and dissemination of the Quarterly Typology Report will also be an element in mitigating risk.

ENVIRONMENT

- ♦ It is **almost certain** organised groups and entities will continue to be heavily involved in money laundering. It is **almost certain** this will involve

the proceeds of illicit drugs and other forms of crime. It is **likely** organised crime groups and entities will evolve and adapt money laundering methods in anticipation and in response to law enforcement strategies. This is **likely** to produce an environment where risk becomes very dynamic.

- ♦ The illicit drug market generates the most instances of money laundering, but it is assessed as **likely** that the contribution of fraud offending to money laundering is underreported. However, it is **unlikely** fraud will become a priority for law enforcement in the next 12 months resulting in continued under reporting of fraud related money laundering.
- ♦ It is **possible** the implementation of new legislation and regulations could cause confusion. It is **possible** this confusion will lead to continued perceptions of AML/CFT being complex and hard to investigate; both by law enforcement and supervisory agencies.
- ♦ It is **almost certain** significant intelligence and information gaps exist in the holdings of both public and private agencies. These gaps mean that determining levels of risk and the allocation of resources is potentially flawed and can lead to poorly informed decisions.
- ♦ It is **likely** the implementation of the AML/CFT Act will increase the number of Suspicious Transaction Reports as financial institutions endeavour to become compliant with their obligations under the Act.
- ♦ It is **likely** the implementation of the AML/CFT Act will result in an increase in compliance measures making it harder to launder money through the financial sector. It is **possible** this will lead to an increase in non-declared cash departing New Zealand via cash couriers in an effort to avoid AML/CFT measures and greater numbers of Border Cash Reports.

Border Cash Reports (BCRs)

Sections 68-71 of the AML/CFT Act 2009 (as of 16 October 2010) require persons entering or leaving New Zealand to declare cash in excess of a proscribed threshold (currently NZ\$9999.99) by completing a Border Cash Report. The New Zealand Customs Service administers this requirement.

- ♦ It is **likely** the introduction of the AML/CFT Act will lead to higher rates of detection, disruption and prosecution of money laundering due to increased awareness and the adoption of AML/CFT programmes. It is **possible** this will impact on law enforcement and Courts resourcing.
- ♦ Potential mitigation strategies include increased AML/CFT training, raising law enforcement agency

awareness of AML/CFT issues, increased liaison with overseas Financial Intelligence Units, greater communication with law enforcement intelligence units (such as the Egmont Group³⁸), greater resources for New Zealand Customs Service to intercept non-declared cash movements and increasing the profile of the Financial Crime Group in general.

COMMUNICATIONS AND REPUTATION

- ♦ It is assessed as **unlikely** New Zealand will lapse into serious non-compliance with the FATF Recommendations.
- ♦ Combating organised crime and the illicit drug trade continues to be a priority for New Zealand Police and it is **possible** AML/CFT measures, as part of organised crime activity, will be subject to close public, political and media scrutiny. As such expectation management will be of benefit to ensure realistic expectations of new police units, new legislation and the role of the AML/CFT Supervisors.
- ♦ Potential mitigation strategies include effective prioritisation methods, continued adherence to the FATF 40+9 recommendations, monitoring

overseas jurisdictions and expectation management through media and law enforcement communications.

PROSECUTIONS

- ♦ It is **almost certain** low conviction rates and relatively light sentencing tariffs will continue to make money laundering a low risk/low consequence activity for criminals. It is **likely** that a perceived lack of effective deterrents will do little to impede money laundering activity.
- ♦ It is **likely** money laundering offending will continue to be seen as ancillary to the predicate offences rather than a primary offence in its own right.
- ♦ It is **possible** laying money laundering charges will be perceived as complicating matters and being resource intensive.
- ♦ Potential mitigation strategies include effective prioritisation methods to target the worst offenders and improved education of law enforcement, Court and supervisory personnel in relation to AML/CFT measures and prosecutions.

Section 2

Potential vulnerabilities

This section highlights some issues that may impact on AML/CFT over the medium and long term. The identification and research into potential AML/CFT vulnerabilities will be one of the key aspects of the proposed Quarterly Typologies Report. Some potential vulnerabilities already identified, though not yet prioritised, include the following:

- ♦ Future resourcing of the Financial Intelligence Unit and Asset Recovery Units should be linked to demand and risk through progressive monitoring and assessment
- ♦ New Zealand Police need to consider money laundering investigations in conjunction with other serious investigations; including organised crime and the illicit drugs market
- ♦ Co-ordination between AML/CFT Supervisors, New Zealand Police, Financial Intelligence Unit and other relevant competent authorities is required in order to share information, formulate standard practices and procedures and develop training to avoid an uncoordinated response to AML/CFT responsibilities and enforcement
- ♦ With an increase in customer due diligence and other compliance measures cash couriers may become a more attractive method for transferring funds without leaving an audit trail
- ♦ As stated in the FATF Global Threat Assessment document *'...the use of false or stolen identities has the potential to undermine all of the preventive measures in the FATF Recommendations, as they are based on the logic that users of the financial system present credible identification documents.'* However, the absence of a specific offence code for this type of offending means there are no official crime statistics available to accurately determine the nature and extent of identity crime reported to New Zealand Police. There is currently no central collection point for the recording of instances of identity crime which occur in the wider public and private sectors³⁹
- ♦ Identity crime offending recorded between 2005 and 2009 often involved the misuse of identity documents. Passports and driver licences are commonly targeted as they are widely accepted by public and private sector organisations as prima facie evidence of identity⁴⁰. The criminal

use of these document remains a key vulnerability in relation to AML/CFT measures

- ♦ There are ongoing risks relating to the ability of criminals to exploit statutory name change processes. Name changes facilitate a wide range of criminal activity and checks for legitimacy to prevent or limit the approval of multiple name changes would help reduce some of the risk⁴¹
- ♦ New technology is usually adopted by criminals faster than law enforcement
- ♦ With an increase in compliance requirements a subsequent increase in Suspicious Transaction Reporting could exert significant pressure on existing resources; both for law enforcement and the AML/CFT Supervisors
- ♦ International barriers are increasingly less important in the financial environment. Countries with weak AML/CFT present a barrier to effective law enforcement and cooperation between jurisdictions
- ♦ Continued intelligence and knowledge gaps, for instance in relation to alternative banking systems (see below)

Alternative banking systems

Hawala is an alternative or parallel remittance system. It exists and operates outside of, or parallel to 'traditional' banking or financial channels. It was developed in India, before the introduction of western banking practices, and is currently a major remittance system used around the world.

It is but one of several such systems; another well known example is the 'chop', 'chit' or 'flying money' system indigenous to China, and also, used around the world. These systems are often referred to as 'underground banking'; this term is not always correct, as they often operate in the open with complete legitimacy, and these services are often heavily and effectively advertised.

The components of hawala that distinguish it from other remittance systems are trust and the extensive use of connections such as family relationships or regional affiliations.

Unlike traditional banking or even the 'chop' system, hawala makes minimal (often no) use of any sort of negotiable instrument. Transfers of money take place based on communications between members of a network of hawaladars, or hawala dealers.

For more information refer to:
<http://www.interpol.int/public/financialcrime/moneylaundering/hawala/default.asp>

Section 3

Limitations of current findings

SECTOR RISK ASSESSMENTS

This inaugural National Risk Assessment has not drawn on any Sector Risk Assessments as they are yet to be finalised. This document is heavily reliant on New Zealand Police data and its knowledge and understanding of money laundering and terrorist financing.

As the risk assessment process matures and refines it is anticipated there will be greater synchronisation between the Financial Intelligence Unit and the AML/CFT Supervisors, including Sector Risk Assessments.

Also of note is that the Supervisors may not be able to fully participate in the collection, collation and analysis necessary to produce a comprehensive Sector Risk Assessment until they can exercise their full supervision powers under the AML/CFT Act. At present the Supervisors are largely reliant on goodwill from the supervised sectors in order to obtain information. Pre-AML/CFT Act Sector Risk Assessments may therefore be less comprehensive than post-AML/CFT Act products.

DEFINITIONS OF RISK

A limitation in researching this document was that jurisdictions and agencies often use the terms 'risk' and 'threat' interchangeably⁴². This has led to problems comparing assessments internationally and between agencies.

With further research and ongoing comparison between jurisdictions it is likely this matter can be resolved in later versions of the National Risk Assessment.

Understanding and adoption of terminology around static, stable dynamic and acute dynamic risk factors also needs to be considered.

METHODOLOGY

The risk assessment tools and methodology used are those used within New Zealand Police and are the same as those used by the Egmont Group in their Tactical Analysis Workshop training package.

However, potential problems in relation to consistency and compatibility arise when the methodology is applied to the FATF risk assessment methodology and to the wider AML/CFT environment.

As recognised throughout this document the methodologies used will need to be deconflicted as the risk assessment process develops. It is likely that this will be a key aspect of the next National Risk Assessment.

TIME FRAME

The next iteration of the National Risk Assessment is anticipated to have the benefit of a full year of Financial Intelligence Unit collection, collation, analysis and report production.

KNOWLEDGE AND INTELLIGENCE GAPS

The production of the National Risk Assessment has proved valuable in identifying New Zealand Police knowledge and intelligence gaps in the New Zealand AML/CFT environment.

While it is unlikely that these gaps will ever be fully addressed their identification will assist in the allocation of resources to determine, as much as possible, the nature and extent of money laundering and terrorist financing.

LACK OF BASELINE DATA

As this is the first National Risk Assessment the lack of baseline data was anticipated. Further iterations of the National Risk Assessment will assist in developing accurate baseline data and so create a foundation for valid and reliable analysis.

DISSEMINATION OF RESTRICTED INFORMATION

The nature of terrorist financing will mean certain information will be classified and subject to security control measures. However, with wide dissemination the National Risk Assessment has limited capacity to provide in-depth CFT information.

To address this issue and enable continued wide dissemination two versions of this document (one unclassified and essentially open source and another version incorporating classified information) may need to be produced.

CHAPTER 4

Law Enforcement strategies

Section 1

Legislative response

In the past two years, the New Zealand Government has put in place a number of laws and enforcement strategies to enhance the prevention and detection of money laundering and terrorist financing.

CRIMINAL PROCEEDS (RECOVERY) ACT 2009

This legislation established a new regime for the forfeiture of property gained through criminal activity. It is designed to deter serious crime and money laundering through preventing individuals and groups from profiting from criminal activity and reducing their ability to finance their operations. A conviction for a predicate offence is no longer necessary before proceeds of crime action can be taken and a civil standard of proof applies.

Specifically; the Crown only needs to prove on the balance of probabilities that a person, directly or indirectly, financially benefited from a serious offence or significant criminal activity, irrespective of whether the crime was substantiated in court or not.

ANTI-MONEY LAUNDERING AND COUNTERING FINANCING OF TERRORISM ACT 2009

This legislation enhances New Zealand's AML/CFT regime and improves compliance with the FATF 40+9. Key enhancements include:

- ♦ The appointment of AML/CFT Supervisors to monitor risk and reporting entities in the financial sector to ensure that adequate AML/CFT measures are in place. Supervisors have the power to investigate reporting entities and enforce compliance with the AML/CFT Act
- ♦ Financial institutions will be required to conduct enhanced due diligence on customers and transactions that represent a greater level of money laundering risk. For example, when a customer seeks to conduct a complex or unusual transaction that has no apparent economic or lawful purpose
- ♦ The Financial Intelligence Unit has the power to access all records from financial institutions that are relevant to the analysis of Suspicious Transaction Reports with or without a search warrant
- ♦ The AML/CFT Act will replace the Financial Transactions Reporting Act

Identity theft and fraud

There are a number of interventions being developed or underway in the New Zealand Government which aim to improve identity verification and combat identity crime.

Examples include:

Evidence of Identity (EOI) Standard is part of a suite of Authentication Standards developed to provide a framework for consistent authentication and good process practices for government agencies in the initial establishment and subsequent confirmation of an identity.

Online Data Validation Service (DVS) has been developed as a way of proving identity to government agencies/private organisations which meet security, privacy and integrity criteria.

Identity Assurance Framework outlines a structural approach to the coordination of identity assurance activity across government.

iGovt Identity Verification Service (IVS) is a way for people to verify their identity to government agencies online in real time up to a high level of confidence using an iGovt ID.

The Cross Government Biometrics Group's role is to provide leadership on biometric technologies, and to ensure that relevant information and experiences are shared across government.

'Identity at the Border' is a Border Sector Governance Group work programme which developed a multi-agency agreed set of border identity management principles and recommendations to address current key weaknesses /opportunities in border identity processes.

New Zealand is advancing agreements with Five Country Conference (FCC) partners over 2010/2011 to enable secure fingerprint matching of high risk foreign nationals.

A number of agencies are exploring greater use of biometrics, such as face, fingerprint and voice, in order to reduce reliance on traditional identifiers and combat identity fraud.

FINANCIAL SERVICE PROVIDERS (RESOLUTION AND DISPUTE RESOLUTION) ACT 2008

This legislation requires persons in the business of providing financial services to be registered which will assist regulators to identify entities subject to the AML/CFT Act. Persons such as lawyers who will not be subject to the AML/CFT Act until phase 2 of the legislation is enacted are not required to register.

It also imposes some basic fit and proper tests on persons involved in the management or direction of registered financial service providers. For example, undischarged bankrupts and persons convicted of money laundering or terrorist financing offences are prohibited from serving as directors or senior managers of a financial service provider and are also prohibited from holding a controlling interest in a financial service provider. These measures improve New Zealand's compliance with the FATF 40 + 9 recommendations.

Section 2

Law enforcement response

NEW ZEALAND POLICE - FINANCIAL CRIME GROUP

The Financial Crime Group has around 50 staff members, which includes experienced detectives, managers, and financial and performance analysts. It is expected to grow as referrals increase.

Financial Intelligence Unit

The Financial Intelligence Unit has grown in capacity to include 19 sworn and non-sworn staff (when fully staffed). One of its core functions is to receive, collate, analyse and, if considered appropriate, disseminate information contained in Suspicious Transaction Reports, Suspicious Property Reports and Border Cash Reports.

To expand analysis capabilities the Financial Intelligence Unit also has direct access to the New Zealand Police database that records criminal histories and other potentially relevant intelligence. In addition, a range of financial and administrative information is utilised by the Financial Intelligence Unit, such as consumer credit records, company registration, vehicle ownership and telephone subscriber records.

The Financial Intelligence Unit also participates in the AML/CFT co-ordination committee led by the Ministry of Justice (see page 6 for further information).

Asset Recovery Units - Facts and Figures

From a sample of 88 assessed cases (1 December 2009 to 31 May 2010) the following was evident:

- 95% of predicate offending is related to drugs
- 85% of money laundering was via purchase of valuable assets
- Thirty eight cases have led to Restraining Orders, with a total of \$19.7 million worth of assets now in the custody of the Official Assignee
- Assets include large sums of cash and bank accounts, cars, motorcycles, antique collections, and plant equipment
- \$1.3 million worth of assets has been made subject to Forfeit Orders
- Much of these assets have been taken from organised gangs, disrupting their ability to continue their criminal offending

Asset Recovery Units

Improvements to New Zealand's AML legislation occurred in December 2009 with the implementation of the Criminal Proceeds (Recovery) Act 2009 and the establishment of the New Zealand Police Asset Recovery Units. In the first six months of operation, the Asset Recovery Units have investigated more than 140 cases. These cases have been referred from all 12 Police Districts, New Zealand Customs service, the

Department of Corrections, and from overseas law enforcement agencies such as the Australian and United Kingdom Police.

NEW ZEALAND POLICE - NATIONAL INTELLIGENCE CENTRE

The National Intelligence Centre (NIC) became operational in December 2008 and is the focal point for collecting and analysing intelligence in relation to New Zealand's criminal environment, including money laundering and terrorist financing. The NIC provides national direction and coordination around intelligence products, manages processes and advises on staff and people in intelligence, including overseeing professional development and intelligence training.

ORGANISED AND FINANCIAL CRIME AGENCY NEW ZEALAND (OFCANZ)

OFCANZ was established in July 2008 and is hosted by New Zealand Police. OFCANZ aims to disrupt organised crime using a strategic, multi-agency approach. It contributes to detecting and preventing money laundering and terrorist financing through:

- Multi-agency operations to disrupt the activities of organised crime groups through prosecutions and asset seizures
- Co-operation with overseas law enforcement agencies to disrupt transnational crime
- Increasing awareness of organised crime, including money laundering, through liaison with the private sector and contributing to policy and legislative changes

NEW ZEALAND POLICE - OTHER RELEVANT SPECIALIST UNITS

Special Investigation Groups

There are three Special Investigation Groups operating in Christchurch, Wellington and Auckland. The role of these units is to investigate matters of national security, including investigating persons suspected of involvement in terrorist activity or terrorist financing. Any investigation into possible terrorism is tasked to the Special Investigation Groups. If necessary, they are also supported by other investigative units within New Zealand Police.

Auckland Metro Crime and Operations Support (AMCOS)

AMCOS is focused on specialist support and service. It is a consortium of units brought together to provide assistance to Metropolitan Auckland, and in some cases on a wider regional, national, or even international basis. AMCOS has 240 Constabulary staff and 61 Non Constabulary staff, and consists of two main groups Metro Crime and Metro Operations.

COMBINED LAW AGENCY GROUP (CLAG)

CLAG is a formal interagency cooperative established under charter in November 1999. Its mission statement is: *"To facilitate the sharing of information and resources between government agencies to combat transnational, complex and organised crime in New Zealand"*.

NEW ZEALAND SECURITY INTELLIGENCE SERVICE (NZSIS)

The main function of NZSIS is to obtain, correlate and evaluate intelligence relevant to national security⁴³. Terrorist financing is one of the security concerns that NZSIS examine. NZSIS staff members receive regular specialised domestic and international training on terrorist financing and other security concerns.

SERIOUS FRAUD OFFICE

The Serious Fraud Office was established in 1990, under the Serious Fraud Act 1990. In December 2009, it was agreed by Cabinet that its functions should be expanded and provided increased funding for serious financial crime prevention, investigation and prosecution. The Serious Fraud Office is funded in relation to 'complex or serious fraud' investigations and prosecutions, as distinct from any dishonesty offence which may be committed and will ordinarily be a New Zealand Police matter to investigate.

The Serious Fraud Office report that with limited resources, they focus on cases which are small in number, but large in terms of the scale of the alleged fraud and/or the impact they have on public confidence in the administration of the law or the integrity of the business sector⁴⁴.

MINISTRY OF FISHERIES

The Ministry of Fisheries is responsible for monitoring the fisheries sector, developing policy and operational advice for the Government, and developing and administering legislation, rules and regulations. Compliance services in the fisheries sector are provided by the Ministry of Fisheries. In relation to AML this can include detecting and prosecuting key offenders, and disrupting the supply of poached or black-market seafood. For instance, paua poaching is often linked to organised crime groups with successful prosecutions leading to seizure and forfeiting of vehicles and dive gear related to the offending⁴⁵.

NEW ZEALAND CUSTOMS SERVICE (CUSTOMS)

Customs is principally concerned with managing security and community risks associated with the flows of people, goods and crafts in and out of New Zealand and by collecting customs and excise revenue.

Customs Officers operate at international airports and seaports while Customs also has specialised investigations and intelligence units based in Auckland, Wellington and Christchurch.

Customs plays a major role in detecting, investigating and preventing the importation of drugs and other prohibited goods into New Zealand and is also involved in commercial fraud investigations into possible breaches of the Customs and Excise Act 1996. It does not, however, carry out the subsequent proceeds of crime or money laundering investigations connected to the predicate offences. This is considered the responsibility of the New Zealand Police.

There are no Customs staff devoted solely to border cash reporting or money laundering work, although officers from investigations, intelligence, inspections, airports, audit and policy have some involvement in the Customs response, including liaison with New Zealand Police.

The Financial Transactions Reporting Act 1996 required persons entering or leaving New Zealand to declare cash in excess of a prescribed amount. Specifically all persons entering or leaving New Zealand had to report possession of NZ\$9,999.99 cash or more or foreign equivalent by completing a Border Cash Report. Customs administers this requirement. To provide some context, in 2008 over 2,500 Border Cash Reports were submitted to the Financial Intelligence Unit.

This aspect of the Financial Transactions Reporting Act 1996 has now been superseded by sections 68-71 of the AML/CFT ACT 2009 though the reporting threshold remains NZ\$9,999.99.

DEPARTMENT OF INTERNAL AFFAIRS (DIA)

The DIA currently has responsibilities under the Gambling Act 2003 to ensure gambling-related entities, such as casinos, adhere to the legislation and supporting regulations. The Gambling Act 2003 allows for a limited form of AML/CFT supervision via audits of compliance with casino Minimum Operating Standards.

The DIA works in partnership with the New Zealand Police in instances where money laundering offences have been detected in Casinos. The DIA has extensive processes, procedures and resources to ensure that its regulatory auditing responsibilities can be performed. These systems are being adapted to include AML/CFT supervision responsibilities.

Section 3

Law enforcement initiatives

PROACTIVE FINANCIAL OFFENDER TARGETING PROCESS

This is a new initiative undertaken in partnership by the Financial Intelligence Unit and the National Intelligence Centre. The process consists of three strands; prioritisation, assessment and targeting. The process has been developed to make the best use of the intelligence gathered as a result of Suspicious Transaction Reports from various financial institutions. This is a developing process and the recorded results will take some time to be evaluated, however, early indications are that the process is being well received.

METHAMPHETAMINE CONTROL STRATEGY

Given the direct and highly robust link between the illicit drug market and money laundering, interventions should focus on the financial aspects of the illicit drug trade.

In October 2009 the New Zealand Government released *Tackling Methamphetamine: An Action Plan* which outlined a multi-pronged approach for reducing the supply of, demand for and harm caused by methamphetamine and its precursors.

In line with the government action plan, New Zealand Police also launched the *Methamphetamine Control Strategy* in November 2009 which seeks to improve intelligence holdings to enable the most effective interventions to reduce the availability of methamphetamine and its precursors.

As the *Tackling Methamphetamine: An Action Plan* and the *Methamphetamine Control Strategy* are in their early stages, the extent to which they will result in decreased methamphetamine availability or use is unclear. Increased focus in this area is likely to result in positive gains⁴⁶.

ORGANISED CRIME CONTROLS STRATEGY

Money laundering is intrinsic to legitimising proceeds of crime. As organised crime and other serious offending increases, there will be a commensurate increase in money laundering. Following on from the *Methamphetamine Control Strategy* the New Zealand Police *Organised Crime Control Strategy* is envisaged to have a strong anti money laundering and financial crime element.

NATIONAL STRATEGIC ASSESSMENT

The *National Strategic Assessment 2010* is based on contributions from District Strategic Assessments as well as a wide range of police stakeholders. In addition, information was formally requested from 50 external agencies, including 19 non-government bodies. This body of reporting was fused with additional research on national and international trends. The Assessment, which has a section on financial crime and terrorist financing, is focused on informing decision makers as they consider strategic priorities over the next five years.

The Assessment is also intended to help New Zealand Police and partner agencies understand where knowledge gaps exist and prioritise resources with in an environment of increasing demands⁴⁷.

WHOLE OF GOVERNMENT ORGANISED CRIME PROJECT

This project, lead by the Ministry of Justice, concerns the development of a whole of government plan to combat organised crime. This is broadly defined as economically motivated, and systematically commissioned, serious crime. The project's aim is to identify measures that can support the organisation and coordination of activity and resources deployed across agencies to counter organised crime with maximum effectiveness and efficiency.

Rather than focusing on specific crime types, the project intends to look at illicit markets in a supply chain framework: the aim being to identify common and important features of supply chains across different illicit markets, and more broadly to the systematic commission of economically motivated, serious crime⁴⁸.

NEW ZEALAND CUSTOMS INITIATIVES

Customs has established a taskforce which has successfully increased interceptions of pseudoephedrine, ephedrine and methamphetamine at the border through utilising enhanced targeting and risk profiling techniques. Given the nexus between illicit drugs and money laundering it is anticipated this will have an impact on the cross border money laundering environment.

Further initiatives may include greater focus on cash couriers as compliance measures and enhanced customer due diligence divert money laundering activity away from wire transfers. The use of cash detecting dogs and improved offender profiling could be future intervention/disruption/detection options.

CHAPTER 5

Conclusions and law enforcement recommendations

Section 1 Conclusions

The assessment and management of risk has to be tempered by common sense and the recognition that some residual risk will always be present. In addition responses to risk should be flexible and proportionate. Risk should be considered in context; be it international or national, strategic or operational, criminal environment or business environment. Importantly any risk assessment should use a methodology that meets decision maker's needs.

Compliance with the FATF 40+9 recommendations minimises the risk to New Zealand and business communities from money laundering and terrorist financing, leading to a reduction in crime and making communities safer. Compliance with the FATF Recommendations also enhances New Zealand's international reputation. A valid and reliable risk assessment will inform and assist this process and provide decision makers with the information they need to prioritise interventions and target limited resources.

In the absence of the Sector Risk Assessments it remains problematic to consider the wider regulatory issue from a law enforcement perspective.

It is safe to assume that a weak regulatory framework in the area of money laundering and terrorist financing increases the prospect organised criminals and terrorists will exploit a country's financial system

for criminal ends. This would have negative consequences on a country's economy, society, and, importantly, on victims of crime⁴⁹.

However, the AML/CFT Act provides a basis for a strong regulatory framework that is largely compliant with international standards and provides a good level of AML/CFT management; especially once stage 2 of the policy reforms is complete.

This needs to be complemented by strong operational activity to ensure that AML/CFT has an appropriate profile and the regime is effectively implemented.

This risk assessment has articulated what has been widely expected from a law enforcement perspective:

- ♦ Cash intensive and poorly regulated industries represent a current and future high level of risk
- ♦ Money laundering requires a higher law enforcement focus than it currently receives
- ♦ Training and education for law enforcement, supervisory and reporting entity personnel around AML/CFT needs to be increased
- ♦ The number of Suspicious Transaction Reports will increase as reporting entities becoming increasingly compliant with the AML/CFT Act which will impact on New Zealand Police (and AML/CFT Supervisors) resources
- ♦ Organised crime groups and entities continue to feature heavily in money laundering, especially in connection to Asian organised crime
- ♦ There are intelligence gaps and shortcomings in understanding the nature and extent of AML/CFT issues
- ♦ The impact of new technology, evolving typologies and emerging financial tools has the potential to circumvent the management and mitigation of risk even before such measures can be fully enacted and regulated

Ongoing work on these topics will be required.

Section 2

Way forward and law enforcement recommendations

This is the first National Risk Assessment and aims to provide a foundation for future risk assessments. It is anticipated that as processes and procedures mature and lines of communication become more efficient, future iterations of this document will more closely represent a true fusion of information from all stakeholder agencies.

For instance, communication and collaboration with the Inland Revenue Department during 2011 may provide a different and valuable perspective on the money laundering environment within New Zealand. In addition, more analysis of Border Cash Reports may provide improved indicators and warnings in relation to cash couriers.

Assuming the planned second phase of AML/CFT reforms takes place, the AML/CFT Act will apply to a wide range of financial and non-financial businesses. This will make the National Risk Assessment into a more comprehensive cross sector document.

A key element in producing the next National Risk Assessment will be the Quarterly Typology Report to be produced by the Financial Intelligence Unit.

Quarterly Typology Report

It is planned that this document will provide the following:

- provision of AML/CFT indicators and warnings
- reporting on financial crime intelligence
- reporting on asset recovery
- identification of emerging typologies, trends and risks
- assist in focusing resources on real AML/CFT risks
- contribute to maintenance and updating of relevant policies and procedures

The Quarterly Typology Report will also act as a forum where the Financial Intelligence Unit can provide information on the law enforcement sector in relation to AML/CFT and financial crime in general.

In addition to the Quarterly Typology Report the Financial Intelligence Unit has increased capability in relation to training, is developing better information sharing processes between private and public bodies and has greater provision for developing information sharing agreements with other jurisdictions.

The performance of the Asset Recovery Units over the next year will also provide an indication of the emerging issues in relation to money laundering.

Another key aspect of future work in relation to AML/CFT will be the production of the Sector Risk Assessments.

In regards to recommendations and potential mitigation strategies specific to identified vulnerabilities some are contained in Chapter 3, though they are by no means exhaustive.

It is anticipated that further iterations of the National Risk Assessment will become more sensitive to the money laundering and terrorist financing environment. Future risk assessment will provide more specific assessments incorporating static, stable dynamic and acute dynamic risk factors in addition to reflecting better structured professional judgement.

The following general law enforcement recommendations are suggested:

- Continued communication and collaboration between New Zealand Police and the AML/CFT Supervisors in producing the 2011 AML/CFT National Risk Assessment, the new Quarterly Typology reports and the Sector Risk Assessments
- Separation of the AML and CFT elements of the National Risk Assessment/Quarterly Typology Reports to avoid potential issues in relation to security clearances, classified reporting and dissemination
- Agreement to be reached and maintained on the methodology of risk assessment between AML/CFT Supervisors
- Efforts to raise the profile of AML/CFT and financial crime in general should utilise their close and intrinsic link to organised crime. Organised crime has a high degree of cross government focus and priority, and as such presents a useful vehicle to further AML/CFT measures
- It is suggested that greater focus be paid to identity theft and identity fraud given their increasing importance in AML/CFT measures

ENDNOTES

¹ FATF Mutual Evaluation Report 2009 combined with FIU Business Object search dated 19 August 2010.

² (<http://www.justice.govt.nz/policy-and-consultation/crime/anti-money-laundering-and-countering-the-financing-of-terrorism/global-aml-cft-initiatives> - accessed 9 August 2010).

³ (<http://www.justice.govt.nz/policy-and-consultation/crime/anti-money-laundering-and-countering-the-financing-of-terrorism/global-aml-cft-initiatives> - accessed 9 August 2010).

⁴ Note that phase 2 isn't required by legislation and policy decisions on phase 2 coverage have not yet been made.

⁵ Only entities covered by the 1st phase of AML/CFT Act requirements will be reporting entities. Entities covered by the proposed 2nd phase are more accurately described as Designated Non-Financial Businesses and Professions and do not fall within the financial sector.

⁶ The Delphi method is based on the principle that forecasts from a structured group of experts are more accurate than those from unstructured groups or individuals and is a systematic, interactive forecasting method. In the production of the National Risk Assessment members of the Financial Intelligence Unit answered questionnaires (both in a group setting and anonymously) in relation to the impact and risk associated with money laundering typologies. After the questionnaires, a facilitator provided a summary of the experts' forecasts from the previous round as well as the reasons they provided for their judgments. The experts were encouraged to reconsider their earlier answers in light of the replies of other members of their panel. The theory behind this method is that during the process the 'range' of the answers will decrease and the group will converge towards the 'correct' answer. The mean or median scores determine the results in this case the risk ratings and current impact statements in relation to the typologies.

⁷ The use of an Ishikawa Diagram (also called a Fish Bone Diagram or Cause and Effect Diagram) was used in the context of the National Risk Assessment to provide a structure for professional knowledge and as a tool to work through the causes of a problem; in this case money laundering. The benefit of the Ishikawa method was that it made the subject matter experts in the Financial Intelligence Unit (who provided formal and informal input) consider a wide range of causal factors in relation to a problem, rather than just the ones that were most obvious. The Ishikawa approach in this instance combined brainstorming with the use of a 'concept map' using traditional Ishikawa categories such as methods, materials, measurements and assets as well as specific law enforcement categories such as prosecutions.

⁸ Rapley, Money Laundering: Globalisation's Adrenalin [1998] NZLJ 410 cited in FIU document 'Money Laundering Enforcement in New Zealand: Trends and Issues 2005-2010'

⁹ CIB Training Program, Association Offences Module, CIB 006.

¹⁰ A serious offence is defined in the Crimes Act 1961 as an offence punishable by five years or more.

¹¹ Ministry of Justice Statistics, 2009.

¹² National Drug Intelligence Bureau (NDIB) Statistics, 2010.

¹³ NZ\$46,070,172 is held under the Proceeds of Crime Act 1991 and NZ\$18,667,842 is held under the Criminal Proceeds (Recovery Act) 2009.

¹⁴ SOCA Annual report 2009-10 - £238 million of assets denied - p.20

¹⁵ Asset denial is described as preventing criminals from benefiting from the proceeds of crime by depriving them of, or otherwise denying them access to, their assets - SOCA Annual report 2009-10, P.11

¹⁶ Trends and Issues in crime and criminal justice (No. 342) - Money laundering in and through Australia, 2004 - John Stamp and John Walker, Australian Institute of Criminology, August 2007.

¹⁷ Based on figures released by the International Monetary Fund New Zealand's estimated GDP for 2010 is NZ\$191.477 billion.

¹⁸ Trends and Issues in crime and criminal justice (No. 342) - Money laundering in and through Australia, 2004 - John Stamp and John Walker, Australian Institute of Criminology, August 2007.

¹⁹ http://www.futuredirections.org.au/admin/uploaded_pdf/1266993042-FDIstrategicAnalysisPaper-2February2010.pdf - accessed 7 September 2010

²⁰ Mutual Evaluation Report of New Zealand, October 2009.

²¹ This information presents charge-based data; specifically, the number of criminal charges laid in courts. It does not represent the number of individuals charged, as an individual can face more than one charge. The statistics for making false or misleading cash reports are sourced from the Ministry of Justice and only pertain to court cases. Fines issued for failing to make a cash report by the New Zealand Customs Service are not represented. For cases where more than one sentence was imposed, only the most severe sentence imposed is shown.

²² Predicate offences included abduction, kidnapping, robbery, burglary, theft, fraud, drug, financial regulations, bribery, import/export offences punishable by five years imprisonment or more. Figures excluded offences against environmental regulations.

²³ Ministry of Justice Statistics, 2009.

²⁴ Ibid.

²⁵ Money laundering trends in New Zealand.

²⁶ Assessment of the current impact of typologies and the risk presented by an increase in these typologies were obtained via a FIU Delphi group. In the absence of fully completed Sector Risk Assessments the assessment is primarily based on law enforcement agency data.

²⁷ There are a large number of open source studies/publications which link alternative/underground banking to terrorist financing (for instance refer to worldcheck.com).

²⁸ In addition, there is also the risk of exploitation of other corporate forms, particularly limited partnerships.

²⁹ Provided by MED 7/02/2011 via email

³⁰ FATF Mutual Evaluation Report 2009 with 2009 updates from FIU holdings

³¹ FAFT Working Group on Typologies - DRAFT FATF GLOBAL MONEY LAUNDERING AND TERRORISM FINANCING THREAT ASSESSMENT - A view of how and why criminals and terrorists abuse finances, the effect of this abuse and the steps to mitigate these threats - 21 June 2010, Hotel Okurra, Amsterdam, the Netherlands.

³² FATF Working Group on Typologies - DRAFT FATF GLOBAL MONEY LAUNDERING AND TERRORISM FINANCING THREAT ASSESSMENT - A view of how and why criminals and terrorists abuse finances, the effect of this abuse and the steps to mitigate these threats - 21 June 2010, Hotel Okurra, Amsterdam, the Netherlands.

³³ New Zealand AML/CFT Gap Analysis 2008 - New Zealand Police/FIU

³⁴ Numbers unknown for this reporting period

³⁵ FATF Mutual Evaluation Report 2009 with 2009 updates from FIU holdings

³⁶ FIU Gap Analysis data - up to 30 June 2008

³⁷ Risks were identified using Ishikawa analysis within the FIU during August 2010 and in consultation with the wider FCG.

³⁸ <http://www.egmontgroup.org/> - accessed on 8 September 2010

³⁹ National Strategic Assessment 2010 - New Zealand Police/NIC

⁴⁰ National Strategic Assessment 2010 - New Zealand Police/NIC

⁴¹ National Strategic Assessment 2010 - New Zealand Police/NIC

⁴² Money Laundering in Canada December 2009 - RCMP Criminal Intelligence, Strategic Intelligence Assessment, Project SAFEHAVEN

⁴³ Security is defined in Section 2, New Zealand Security Intelligence Service Act 1969.

⁴⁴ http://www.sfo.govt.nz/Serious_Fraud_Office_files/SFO%20SOI%202010.pdf - accessed 9 August 2010

⁴⁵ http://www.fish.govt.nz/NR/rdonlyres/C6BB8930-AC33-40C7-AA7AF88999ADB46D/0/Fisheries_BIM_0.pdf. Accessed 19 August 2010

⁴⁶ National Strategic Assessment 2010 - New Zealand Police/NIC

⁴⁷ National Strategic Assessment 2010 - New Zealand Police/NIC

⁴⁸ Ministry of Justice draft consultation document dated 4 September 2010 - All of Government organised crime strategy development

⁴⁹ (<http://www.justice.govt.nz/policy-and-consultation/crime/anti-money-laundering-and-countering-the-financing-of-terrorism/global-aml-cft-initiatives> - accessed 9 August 2010).