



17 January 2020

Uddhav Kirtikar
Director
Compliance Plus Limited

Via email: Uddhav@complianceplus.co.nz

45 Pipitea St
PO Box 805
Wellington 6140
New Zealand
Phone +64 4 495 7200
Fax +64 4 495 7222
Website dia.govt.nz

Dear Uddhav

Official Information Act (“OIA”) request dated 5 December 2019 (ref OIA19200460)

Thank you for your OIA request dated 5 December 2019 to the Department of Internal Affairs (the “Department”) in which you requested the following information relating to the administration of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“AML/CFT Act”):

- 1. The KPIs of all the staff working in Department's AML/CFT Group;*
- 2. Copies of the instructions the Department provides relevant staff in its AML/CFT Group for how they should assess a reporting entity's (as under the AML/CFT Act) AML/CFT risk assessment and programme's design. This includes the templates that Departmental staff use to prepare their AML/CFT Act supervisory reports;*
- 3. Copies of the instructions the Department provides relevant staff in its AML/CFT Group for how they should assess an AML/CFT Act reporting entity's AML/CFT programme's implementation; and*
- 4. The set of questions that the Department provides relevant staff in its AML/CFT Group that are to be asked to relevant people who work in an AML/CFT Act reporting entity that is supervised by the Department.*

Part 1 - The KPIs of all the staff working in Department's AML/CFT Group.

The Department has performance measures for the total number of desk-based reviews and onsite inspections conducted, but these measures do not relate to the performance indicators of specific officials.

All staff within the AML Group have personal development plans (“PDPs”) which include individual objectives. The Department is unable to release the PDP objectives of specific individuals as these objectives constitute personal information and it is necessary to protect the privacy of natural persons in accordance with section 9(2)(a) of the OIA.

The Department considers that the withholding of information under section 9(2)(a) is not outweighed by other considerations which render it desirable, in the public interest, to make this information available.

Part 2 - Copies of the instructions the Department provides relevant staff in its AML/CFT Group for how they should assess a reporting entity's AML/CFT risk assessment and programme's design. This includes the templates that Departmental staff use to prepare their AML/CFT Act supervisory reports.

The Department has interpreted this part of your request as asking for the specific instructions to officials of the AML Group explaining how to make a decision on an assessment of the design and implementation of a reporting entity's AML/CFT risk assessment and programme design.

We consider that any information relating to how AML Group officials plan a desk-based review or onsite inspection is out of scope of this part of your request.

When undertaking desk-based reviews of the AML/CFT risk assessment and compliance programme, officials utilise their knowledge of the obligations and expectations set out in the AML/CFT Act, which is built through experience, training and mentoring opportunities. With this knowledge in mind, officials apply their professional judgement and experience to determine whether compliance requirements are met, partially met, or not met.

Prior to finalising, all desk-based review reports are subject to a peer review process by a more senior colleague. This process ensures accuracy of findings and consistency of desk-based reviews across the Department's AML regulatory staff.

Reporting entities are required to apply a risk-based approach to meet their AML/CFT compliance obligations. The correct application of a risk-based approach results in risk assessments and compliance programmes that are specific to each reporting entity. This specificity does not lend itself to prescriptive instructions for assessing an AML/CFT risk assessment and AML/CFT programme that can be universally applied in all circumstances. Therefore, the Department does not hold any "instructions" as per the description in the above first paragraph of the response to this part of your request. Therefore, this part of your request is refused under section 18(g) of the OIA.

This part of your request extended to include a request for the templates that Department officials use to prepare their AML/CFT Act supervisory reports. The Department holds two templates in relation to supervisory reports which are attached to this letter. The titles of the template reports are outlined below:

- Anti-money Laundering and Countering Financing of Terrorism On-site Inspection Report Template – labelled as Document 1; and
- Anti-money Laundering and Countering Financing of Terrorism Desk-Based Review Report Template – labelled as Document 2.

Part 3 - Copies of the instructions the Department provides relevant staff in its AML/CFT Group for how they should assess an AML/CFT Act reporting entity's AML/CFT programme's implementation.

For the reasons explained in our response to Part 2 of your request, the Department does not hold any instructions for the implementation of compliance programmes. Therefore, this part of your request is refused under section 18(g) of the OIA.

Part 4 -The set of questions that the Department provides relevant staff in its AML/CFT Group that are to be asked to relevant people who work in an AML/CFT Act reporting entity that is supervised by the Department.

The Department has interpreted this part of your request as one which asks for the questions that the Department provides relevant officials in the AML Group concerning the methodology for undertaking an onsite inspection of a reporting entity (referred to as “standard questions”).

Generally, the questions asked by officials prior to and during onsite inspections are based on the matters that need to be assessed for the reporting entity in question, any issues that arise at the onsite inspection, and the findings of the Department. As the questions asked are specific to the reporting entity and reflect the particular risk-based approach adopted by the reporting entity, the Department does not hold any standard questions. Therefore, this part of your request is refused under section 18(g) of the OIA.

Recourse to the Ombudsman

If you are dissatisfied with the Department’s decision on your request for information, you have the right, under section 28 of the OIA, to make a complaint to the Office of the Ombudsman. The Office of the Ombudsman can be contacted by phone on 0800 802 602, via post at PO Box 10152 Wellington, or via email to info@ombudsman.parliament.nz.

Yours sincerely

A handwritten signature in black ink, appearing to be 'MS', with a horizontal line extending to the right.

Mike Stone
Director
AML Group