

Territorial scope of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009

What is this guideline for?

1. This guideline is designed to assist businesses to determine whether they have obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“the AML/CFT Act”).
2. If you do have obligations under the AML/CFT Act, further information about your obligations is provided in separate guidelines and is available from your AML/CFT supervisor.
3. This guideline is provided for information only and cannot be relied on as evidence of complying with the requirements of the AML/CFT Act. It does not constitute legal advice and cannot be relied on as such.
4. After reading this guideline, if you still do not understand any of your obligations you should seek legal advice, or contact your AML/CFT supervisor.

Territorial scope of the AML/CFT Act

5. The AML/CFT Act contains a set of compliance obligations for reporting entities.
6. Reporting entities include financial institutions and casinos, with financial institutions further defined by reference to a list of financial activities carried on. The financial activities must be carried on in New Zealand in the ordinary course of business.
7. This implies a place of business in New Zealand from where the activity is directed. This is likely to include New Zealand staff and / or infrastructure that provide the means to carry on the activity. A financial activity may also be carried on in New Zealand by an overseas entity where the entity is actively and directly advertising or soliciting business from persons in New Zealand to such an extent that requires it to be registered under the Companies Act 1993.

8. Therefore, the following applies when determining whether a person is a reporting entity for the purposes of the AML/CFT Act:
- An entity incorporated or formed in New Zealand which carries on financial activities wholly outside New Zealand will not be a “reporting entity” under the AML/CFT Act.[1]
 - An overseas entity registered or required to be registered under the Companies Act 1993 as carrying on business in New Zealand and engaged in one or more of the activities listed in the financial institution definition in the Act in New Zealand will be a “reporting entity” under the AML/CFT Act.[2]
 - An overseas entity that is not required to be registered under the Companies Act 1993 as carrying on business in New Zealand is unlikely to be a “reporting entity” under the AML/CFT Act.[3]

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^[1] An entity in this category will be subject to AML / CFT requirements in the country where its financial activities are conducted.

^[2] An entity in this category will be subject to AML / CFT requirements in its home country and New Zealand AML / CFT requirements in respect of its New Zealand activities.

^[3] An entity in this category will only be subject to home country AML / CFT requirements.