

PRESENTERS



Henry Brandts-Giesen, Partner, Kensington Swan, Auckland

Henry is a partner and Head of Private Wealth at Kensington Swan. He is an experienced corporate, commercial and financial services lawyer, with specialities in private wealth structuring, family business succession and dispute resolution. Henry is one of a small group of lawyers in NZ with experience and expertise in FATCA, the Common Reporting Standard and the Anti-Money Laundering regulatory regimes.



Neil Russ, Partner, Buddle Findlay, Auckland

Neil is a partner in Buddle Findlay's tax practice and has over 25 years' experience as a tax and finance practitioner in England and New Zealand. He is an expert in all New Zealand taxes, and has extensive experience advising banks, New Zealand and foreign corporates, funds and other investors on cross-border and domestic transactions. Neil is the Convenor of the NZLS Tax Law Committee.

Cover and text stocks used in this publication are from Forestry Stewardship Council certified mills, manufactured under the environmentally responsible paper manufactured environmental management system ISO 14001, using pulp from well managed forests and other controlled sources.

CONTENTS

1	INTRODUCTION.....	1
2	BACKGROUND.....	3
3	COMPLIANCE OBLIGATIONS.....	7
4	WIRE TRANSFERS	9
	WHAT IS A PRESCRIBED TRANSACTION?.....	9
	WHAT IS A WIRE TRANSFER?.....	9
	WHAT IS THE RELATIONSHIP BETWEEN PTRS AND WIRE TRANSFERS?.....	10
	PTRS IN RELATION TO A WIRE TRANSFER.....	11
	<i>Why are they necessary?</i>	11
	<i>How to submit PTRs</i>	11
	<i>What information is to be included in a PTR?</i>	12
	ENHANCED CUSTOMER DUE DILIGENCE AND IDENTITY REQUIREMENTS IN RELATION TO A WIRE TRANSFER.....	12
	<i>Who are the parties to a wire transfer?</i>	12
	<i>What are the CDD and identity requirements?</i>	13
	<i>Record keeping and retention</i>	14
5	SUSPICIOUS ACTIVITY REPORTS	17
	FORMING A SUSPICION.....	17
	WHAT MUST BE REPORTED IN A SAR.....	18
	HOW TO SUBMIT A SAR	18
	TIPPING OFF.....	19
	AUDITORS.....	19
	COMMISSIONER OF POLICE INFORMATION-GATHERING POWERS.....	19
6	LEGAL PROFESSIONAL PRIVILEGE.....	21
	GENERAL COMMON LAW LEGAL PROFESSIONAL PRIVILEGE.....	21
	SECTION 42 OF THE AML/CFT ACT	21
	LEGAL ADVICE PRIVILEGE.....	22
	LITIGATION PRIVILEGE	22
	WHEN PRIVILEGE DOES NOT APPLY.....	22
	PROTECTION UNDER THE AML/CFT ACT	23
	CONTINUING TO ACT AFTER FILING A SAR.....	23
	TERMS OF ENGAGEMENT	24
	DIA FLOWCHART	25
	IF IN DOUBT, SEEK ADVICE	25
7	CONFIDENTIALITY	27
8	PROPOSAL FOR A REGISTER OF BENEFICIAL OWNERSHIP IN NEW ZEALAND	29
9	PRACTICAL CDD ISSUES FACED BY PRACTITIONERS, AND CAPTURED ACTIVITIES AT THE MARGIN	31
	FOREIGN LAW FIRMS	31
	WELL-KNOWN CLIENTS	31
	ELDERLY CLIENTS	31
	TRUSTS OWNING COMPANY CLIENTS	32
	TAX TRANSFERS	32
	INSTALMENT ARRANGEMENTS WITH INLAND REVENUE	32
	TESTAMENTARY TRUSTS	33
	COMPANIES OFFICE FILINGS	33
	TRUST ADVICE.....	33
	TRUST FORMATION.....	33
	ORDINARY COURSE OF BUSINESS ISSUES	34
	MORE THAN ONE AML OFFICER?	34
	HOW DO YOU KNOW WHEN A PERSON IS A POLITICALLY EXPOSED PERSON OR NOT?	34