



Submission to the

Government Administration Committee

on the

Identity Information Confirmation Bill

1 December 2010

Contact: Ashlar Colebrook
Policy Advisor
New Zealand Bankers' Association
ashlar.colebrook@nzba.org.nz
DDI: 04 802 3350

SUBMISSION BY THE NEW ZEALAND BANKERS' ASSOCIATION TO THE GOVERNMENT ADMINISTRATION COMMITTEE ON THE IDENTITY INFORMATION CONFIRMATION BILL

1. Thank you for the opportunity to comment on the Identity Information Confirmation Bill.

ABOUT NZBA

2. Established in 1891, the New Zealand Bankers' Association (NZBA) is a non-profit unincorporated association funded by member banks. In conjunction with its members, NZBA develops and promotes the banking industry viewpoint in policy discussions and in the media. NZBA also facilitates good practices in the banking industry.
3. NZBA works with its members on a consensus basis to provide a range of services including:
 - collective submissions on public policy and regulation which affect banks in relation to, for example, taxation, consumer credit, privacy, terrorism and money laundering
 - development of the self-regulatory Code of Banking Practice
 - communication on non-competitive industry issues.
4. Membership of the NZBA is open to any bank registered under the Reserve Bank of New Zealand Act 1989.
5. This submission is made on behalf of the members of the NZBA:

ANZ National Bank Limited

ASB Bank Limited

Bank of New Zealand

Bank of Tokyo-Mitsubishi UFJ Limited

Citibank, N A

The Hongkong and Shanghai Banking Corporation Limited

Kiwibank Limited

Rabobank New Zealand Limited

TSB Bank Limited

Westpac New Zealand Limited

SUBMISSION

6. NZBA supports the objectives of the Bill and the development of a government electronic identity confirmation service. NZBA believes the Bill has the potential to reduce fraud and compliance costs in the private sector, and NZBA supports measures that go towards hindering identity theft and money laundering.

Privacy

7. NZBA supports measures that let consumers and businesses transact easily within the market. NZBA believes strict measures should be put in place around the access to and use of information to protect customer privacy and the security of personal information.

Agencies

8. NZBA queries whether information will be available to be accessed by companies based offshore (ie. with customers in New Zealand)? Will the information be able to be shared between government agencies? Will agencies be able to share confirmed information with parent or related companies?
9. Clause 10(1)(a) provides that the Department of Internal Affairs (DIA) may enter into a confirmation agreement with an agency having regard to the nature of the agency's undertaking or activity, whether the agency has a genuine need to use the confirmation service in carrying out that undertaking or activity and the agency's policies and practices relating to the privacy and security of information.
10. NZBA suggests a defined list is needed from which to select the different "natures" of undertaking or activity. NZBA queries what will constitute a genuine need? NZBA suggests that regulation will be required around agency policies and practices.

11. Clause 11(3)(j) will require agencies to have processes for monitoring compliance, including keeping records in respect of identity information checks. The provision does not provide guidance about which processes are necessary and sufficient. NZBA considers that this requirement could be onerous in large organisations with numerous employees who can initiate a confirmation service search. Guidelines, including key checks and processes that are required, would be helpful.
12. NZBA also queries what other information may be included in a confirmation agreement between DIA and an agency using the service, further to clause 11(4) of the Bill.

Search Requests

13. NZBA submits that a search request form should be provided to ensure a standard format for submitting information. It should also be possible to submit forms online.

Confirmation Service

14. NZBA believes New Zealand Transport Agency databases should be included in the recorded information that is checked when a search is made as driver licences are the most common form of identification that banks currently accept.
15. Will the Bill (clause 9(2)) allow the confirmation service to be used for specific identity documents only? (eg. there are some specific areas of the AML/CFT Act that require confirmation of a NZ drivers licence only.)
16. Will the Bill prevent a confirmation service from utilising other sources of identity information not mentioned in the Bill?
17. Will the confirmation be available instantly, or will it require processing time (i.e. will customers need to leave and return, or can they be notified immediately by the bank of the result of the confirmation request)?
18. Will operation of the confirmation service be able to be outsourced by the Government? If so, adequate protections will need to be put in place, for customers and agencies, regarding the sharing of personal information.

19. NZBA believes that advice should be sought from the Ministry of Justice about the compatibility of the Bill with the AML/CFT Act, and related legislation. Under the AML/CFT Act, reporting entities are required to conduct customer due diligence on current customers. A positive aspect of the Bill could be that banks are able to use an electronic confirmation service to assist with an identity check of current customers, which will minimise the inconvenience and cost of having those customers provide identity information again. We believe that the service should be available to the private sector well before the compliance date of the AML/CFT legislation.

Search Results

20. Will the service provide details of all previously known names, including aliases and name changes on marriage? What implications will this have when checking the Births Deaths and Marriages Register?
21. It appears from the Bill that reasons for a "not consistent" result will not be given and this could mean that a "not consistent" result is given just because of a mistake when typing in a name. In this instance it would be helpful to know the reason behind the "not consistent" result, to better ascertain the level of risk a bank is facing.
22. Subclause 9(7) provides that where an individual is deceased, where there is a name change or where there is other related information about the status of the recorded information, the search will result in an "exception" result. In such cases, the requesting agency can contact the confirmation service for information about which of these circumstances applies. NZBA submits that, to prevent unnecessary delays, rather than requiring the agency to contact the confirmation service to clarify the exception information, the confirmation service should simply supply the agency with the exception information.
23. Subclause 9(8) says that identity information may be treated as consistent with recorded information despite any variation as a result of pronunciation or punctuation. NZBA believes that identity information should also be treated as consistent where there are obvious misspellings of names.

Consent

24. What will constitute consent when an individual asks an agency to check the register? Likewise, what will constitute withdrawal of consent?
25. NZBA queries whether consent can continue after a bank account is closed? As agencies, banks will have responsibilities for maintaining records for a number of years after a banking relationship ceases. Can banks still complete an ID check when all relationships have been closed but the information may need to be re-checked (eg. for audit, monitoring or investigative purposes or where people change their names and reapply for funds under different names using different identification)?
26. NZBA submits that, rather than each agency keeping a 'consents database' recording the expiry of every consent, DIA should provide this as part of the confirmation service.

Confirmation of ID information

27. Banks, and other agencies, will still need to ensure themselves that the individual presenting the identification is the rightful claimant of the identity. The confirmation service will help banks by confirming that identification information is consistent with what is presented.

Alternative processes where ID information cannot be confirmed

28. NZBA strongly suggests that "safe harbour" guidelines should exist around "alternative processes." Alternative processes may well be necessary for individuals who are not New Zealand citizens.

Fees and charges

29. If search requests need to be resubmitted under clause 9(3), because it is impracticable for the confirmation service to comply, will the service fee be re-charged for the same enquiry? NZBA submits that a new service fee should not be payable.
30. Fees and charges, payable under a confirmation agreement, should be set at rates that are "fair and reasonable", and increases in those rates should not exceed increases in the Consumer Price Index or inflation.

Recordkeeping

31. Once confirmation of information has been established, will the information and the result of the confirmation inquiry be destroyed, or kept by the organisation who has received confirmation?

Consultation

32. NZBA believes extended time frames for public consultation should be put in place when the Government considers legislating to allow the use of the information for a purpose other than for which it was originally intended.