

## REGULATORY INTELLIGENCE

## New Zealand's central bank takes on first major money laundering investigations

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New Zealand's central bank is well advanced in its first major investigations into anti-money laundering and counter financing of terrorism (AML/CFT) compliance failures, as it ramps up its financial crime compliance enforcement presence. The AML supervisor for banks is investigating TSB Bank and another institution for failures in their risk assessments and compliance programmes. The regulator is also working with 8 banks that have filed late transaction reports, amid a heightened enforcement climate on both sides of the Tasman.

The announcement in the Reserve Bank of New Zealand's latest [Financial Stability Report](#) follows months of conjecture from within the country's AML community. Sources in New Zealand said it was likely the case against TSB would lead to formal enforcement action, possibly with the parties reaching an agreed penalty.

Barrister Gary Hughes, of Akarana Chambers, said the RBNZ was under some pressure to take court action, especially in a year when New Zealand's AML regime is due for a Financial Action Task Force (FATF) periodic evaluation.

"The RBNZ has been something of a laggard in enforcement. Out of our three AML/CFT supervisors, the Department of Internal Affairs (DIA) has far and away been [the most active in court proceedings to date](#)," said Hughes, who is an expert in financial crime and misconduct law.

TSB said it was "continuing to actively remediate the issues identified by the Reserve Bank" and is providing regular updates to the AML/CFT supervisory agency on its progress. The bank has set aside a provision for a "prospective liability" but a TSB spokesperson said the size of the provision was confidential.

John Kelly, TSB chairman, said in a written statement to Thomson Reuters Regulatory Intelligence that the regulatory action related to compliance breaches. He said there was no evidence that money laundering had occurred through the bank.

"TSB acknowledges that it has needed to address some areas of its AML/CFT compliance, and a significant programme of work has been in place for some time to achieve this. We are committed to cooperating with the Reserve Bank to ensure we make improvements to address these issues, many of which had been self-identified by TSB," Kelly said.

"There has been an intense period of organisational change at TSB since July 2018 and the board is pleased with the significant progress that has been made on proactively improving our risk maturity and compliance."

TSB is a community-owned bank headquartered in New Plymouth, in the Taranaki region on the North Island of New Zealand. Donna Cooper began as TSB chief executive in July 2018 and has been focusing on improving the bank's regulatory compliance programme.

Cooper said TSB was investing heavily in improving the bank's compliance "maturity" in areas such as AML/CFT reporting, control testing and assurance.

"This programme is a critical priority for us. We're implementing effective solutions to address these issues and will continually challenge ourselves to improve," Cooper said.

### "Patterns of non-compliance"

The RBNZ said it is also investigating another bank for AML/CTF breaches, though it did not name the institution in its latest enforcement report. Sources in New Zealand said this investigation was at an earlier stage and it was still unclear whether the investigation would lead to formal enforcement action.

The RBNZ said it would take enforcement action in cases where supervisors are "concerned about an entity's non-compliance — for example, the non-compliance is material — or there is a pattern of non-compliance." The supervision and enforcement teams work alongside each other on major cases.

"Enforcement investigates the matter and makes a recommendation as to what action to take, allowing the supervisor to continue to work with the entity to bring it into compliance," the RBNZ said.

Hughes said TSB had marked itself as a candidate to be "first bank off the rank", as it was given a formal warning by RBNZ back in 2016 for inadequacies in reviewing and updating its AML/CFT risk assessment.

"Once you're in the system with a warning, there won't often be a second warning. Having said that, there is nothing to suggest any actual money laundering took place — compared with, say, Westpac Australia and its LitePay wire transfers to the Philippines. As far



as we can tell, TSB has had a massive remediation programme underway since 2019 and has made comments about constructive dialogue with the regulator. So although it is just a hunch, and nobody has yet even confirmed legal action is on foot, we might expect to see this enforcement action resolved by way of an agreed penalty outcome eventually."

### **Regulatory confusion**

Transaction reporting under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/ CFT Act) continues to be a focus area for the Reserve Bank. In keeping with the tougher enforcement climate in Australia, banks have ramped up their pre-emptive reporting of breaches to the RBNZ.

A total of 8 banks in New Zealand have disclosed reporting compliance failures over the past 6 months. Most of the breaches involve failing to report prescribed transactions within 10 days, such as International Funds Transfers (IFTs) and Large Cash Transactions (LCTs).

"Most of these instances involved a small number of transactions and were due to technical error, human error, or coding error. However, prescribed transaction reporting (PTR) is an important requirement, and the Reserve Bank is continuing to investigate these issues," it said.

Hughes added that PTRs remain an area of "confusion and difficulty" for many reporting entities in the New Zealand market.

"During 2020 it has become apparent that even the three AML/CFT supervisors don't quite agree on their interpretation of the technical aspects — and these may differ also from the Police Financial Intelligence Unit's interpretations. This is really a messy area that's crying out for some clarification."

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