

Anti-money laundering information

Under Phase 2 of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 real estate agents are required to conduct anti-money laundering and countering financing of terrorism customer due diligence on all clients (vendor/seller) before the real estate agent enters into an Agency Agreement with the client (vendor/seller).

To meet those obligations the licensee is required at the time of appraisal/listing a property to obtain information and documentation from the vendor/seller that identifies the legal name(s) of the 'beneficial owner(s)/real person(s), who are selling the property.

These guidelines have been developed to assist the licensee and vendor/seller through a five-step process.

1 Customer due diligence (CDD)

The licensee must establish the full legal name(s) of the 'beneficial owner(s)/real person(s)' who are selling the property.

2 'Beneficial owner/real person' proof of identity

When the licensee has established who the 'beneficial owner(s)/real person(s)' are they must obtain formal documentation to prove the identity of those persons.

3 'Beneficial owner/real person' verification of documentation

When the vendor/seller has provided the formal documentation that identifies the 'beneficial owner(s)/real person(s)' they must provide proof that the documentation that has been provided belongs to the person that has provided it.

4 Nature and purpose

The licensee must obtain property details and assess the sale.

5 Document recording

The licensee must then give all of that information to the licensee's branch administrator/branch manager for it to be recorded.

1 Customer due diligence (CDD)

A property will be owned by:

- individual(s)
- trust(s)
- company(ies)
- other entities

Client due diligence is where the licensee is required to identify who the 'beneficial owner(s)/real person(s)' are. The 'beneficial owner(s)/real person(s)' are not just the registered proprietors shown on the Certificate of Title. For AML purposes they are the entities who have an interest in the property.

When the licensee is initially contacted by the prospective vendor they should:

- Obtain a Certificate of Title for the property to establish who the registered proprietors are on the title document.

If the registered proprietors are individuals in their own right the licensee must establish from the vendor if there is also a family trust involved in the property. The family trust might not be shown as a registered proprietor on the title but they are an entity that has an interest in the property.

For individual registered proprietors:

- Commence the personal identification/verification process on each individual registered proprietor

For individual registered proprietors who have a family trust involved in the property:

- Ask the individual owners to provide a copy of the family trust deed or if there is no trust deed available ask for the contact details of the other trustees
- Commence the personal identification/verification process on each 'beneficial owner/real person'

For registered proprietors in the name of a Trust:

- Ask the owners to provide a copy of the trust deed and establish the names of the trustees
- Commence the personal identification/verification process on each of those persons

For registered proprietors in the name of a company:

- Ask the owners to provide a copy of the company registration certificate and establish who is entitled to sign the documents and who has a 25% or greater ownership in the company
- Commence the personal identification/verification process on each of those persons

For registered proprietors in the name of a club or society; a co-operative; a sole trader and/or partnership:

- Ask the owners to provide a copy of the deed/ registration certificate and establish who has the authority to sign the documents
- Commence the personal identification/verification process on each of those persons

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'Beneficial owner/real person' proof of identity

Once the full legal name(s) of the 'beneficial owner(s)/ real person(s)' have been established, documentation that can prove the identity of those persons must be obtained.

This documentation must be obtained for EACH AND EVERY 'beneficial owner(s)/ real person(s)'

The licensee is to ask each of the beneficial owners to provide identity documents.

There are three identification options that can be used:

Option 1: Photographic identification

One of the following:

NZ passport: Must contain the name, date of birth, a photograph and the signature of the person named

NZ refugee travel document: Must contain the name, date of birth, a photograph and the signature of the person named

NZ certificate of identity: Must contain the name, date of birth, a photograph and the signature of the person named

NZ firearms licence: Must contain the name, date of birth, a photograph and the signature of the person named

Overseas passport: Must contain the name, date of birth, a photograph and the signature of the person named

National identity card: Must contain the name, date of birth, a photograph and the signature of the person named

Option 2: Non-photographic identification

One of the following:

NZ birth certificate: With – NZ driver licence or International Driving Permit or 18+ card

Certificate of NZ citizenship: With – NZ driver licence or International Driving Permit or 18+ card

Citizenship certificate issued by a foreign government: With – NZ driver licence or International Driving Permit or 18+ card

Birth certificate issued by a foreign government: With – NZ driver licence or International Driving Permit or 18+ card

Option 3: NZ driver licence identification

NZ driver licence: With – bank card or SuperGold card or IRD letter

Note:

Other supporting documentation may be used on a case-by-case basis.

3 'Beneficial owner/real person' verification of documentation

When the licensee has been provided with identification documentation they are required to verify that it belongs to the 'beneficial owner(s)/real person(s)' that provided it.

That can be by:

Face-to-face:

If the licensee has been dealing directly with the 'beneficial owner(s)/real person(s)' on a face-to-face basis they are to complete a licensee/'beneficial owner(s)/real person(s)' certification form.

Trusted Referee (New Zealand based 'beneficial owner(s)/real person(s)'):

If the licensee has not met the 'beneficial owner(s)/real person(s)' on a face-to-face basis the identification

document provided must be accompanied by a certificate signed by a trusted referee (a list detailing who can be a trusted referee is attached).

The Trusted Referee Certificate must state that the trusted referee has sighted the original documents and that the documents are a true copy and represent the identity of the named individual.

Statutory declarations (Overseas based 'beneficial owner(s)/real person(s)'):

When certification occurs overseas, copies of international document identification provided by the 'beneficial owner(s)/real person(s)' must be certified by a person authorised by law in that country to take statutory declarations or equivalent in the 'beneficial owner(s)/real person(s)' country.

4 Nature and purpose

The licensee must record details of the property – type, structure and make an assessment as to the nature of the sale. They must also 'assess' the nature of the listing and if there is anything unusual or unexpected they must record that.

5 Document recording

The '**Beneficial owner/real person' – proof of identity documentation** and the '**Beneficial owner/real person' verification of documentation** is then to be recorded.



ATTENTION

PROVING YOUR IDENTITY

From 1 July 2018, lawyers and conveyancers are required to verify the identity¹ of their clients in accordance with anti-money laundering legislation. If your lawyer cannot verify your identity in line with the legislation, they will not be able to act for you. If your lawyer cannot act for you, you may not be able to satisfy the conditions of your property purchase and will not be able to settle your property purchase or sale.

As identity verification can take days and sometimes weeks if a trust or company is involved, we **strongly recommend** that you contact your lawyer as soon as possible to have your identity verification completed.

The below gives an **indication** of some the documents your lawyer may ask you to present in person or as a certified document as part of this process:



Individuals:

Passport, NZ Firearms Licence or NZ Driver Licence with another document such as a bank statement or statement issued by a Government agency. You will also need to provide a document with your residential address (for example, a utility bill).



Trusts:

The Trust Deed and, for all trustees and settlors, the information required for individuals as noted above, together with information regarding the Trust's source of funds or wealth. Additional information may also be required for beneficiaries and appointers.



Companies:

Details of the company, together with the information for individuals noted above for every individual with more than a 25% shareholding, all individuals with effective control of the company and all individuals acting on behalf of the company. Information regarding source of funds or wealth may also be required.

Note: The above list is not exhaustive and is indicative only. Your lawyer will assist you with the specific requirements in relation to your situation.

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¹ Lawyers are required to complete a "Customer Due Diligence" process in accordance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009