

Submission on discussion document: *Increasing the Transparency of the Beneficial Ownership of New Zealand Companies and Limited Partnerships*

Your name and organisation

Name	Graeme Cosgrove
Organisation	Milford Asset Management Limited

Please select if your submission contains confidential information:

I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this for consideration by MBIE.

Responses to discussion document questions

1	<p>Do you agree with the nature of the problem? Do you have any views on the size of the problem? Do you have any evidence to support these views?</p> <p>Milford is supportive of moves to identify and implement tools which will assist reporting entities to reduce the administrative burden currently involved with identifying beneficial owners. In our view however, the options described in Section 4 of the Discussion Document need to take account of (i) the AML/CFT legislation prescribed threshold of more than 25% ownership and (ii) the NZ venture capital/private equity model and its use of limited partnerships. We expand on the reasons for our view in our responses to questions 6 and 13 following.</p>
2	<p>What do you think are the benefits from increased transparency of beneficial ownership information?</p>
3	<p>Do you have any information on your organisation's current compliance costs to supply or collect beneficial ownership information?</p> <p>Do you think your compliance costs would increase, decrease or stay the same under the different options? Would the change be significant?</p>
4	<p>What impact do you think the options would have on businesses deciding whether to register as a company or limited partnership?</p>
5	<p>Do you have any comments on our preliminary assessment of the options?</p>

6

What is your preferred option?

A modified option 3 whereby the register would only require information to be provided in respect of those persons holding more than 25% of the entity concerned is our preferred option. This approach would be consistent with the AML/CFT prescribed threshold.

7

What are your views on who should be captured as a beneficial owner of a corporate entity?

8

What information do you think should be collected about beneficial owners?

9

What information about beneficial owners do you think should not be publicly available, and in what circumstances?

10

What are your thoughts on the obligations that should be placed on beneficial owners? Do you have any views on how these obligations should be enforced?

11

When do you think corporate entities should update the beneficial ownership information that they hold?

12

What are your views on the enforcement mechanisms that should be available to the Registrar?

13

Do you think there are any types of corporate entities that should be excluded from the options?

We consider that limited partnerships offered in New Zealand to “wholesale investors” as defined in clause 3(2) and 3(3)(a) of schedule 1 of the Financial Markets Conduct Act 2013 could be excluded from the options as described. This would be our preferred approach if option 3 is not modified in the manner described in our response to question 6 above.

Limited partnerships of this type constitute the most common structure adopted by entities active in the private equity/venture capital sphere in New Zealand. A limited partnership is generally preferred as a funding vehicle over other types of managed investment schemes as the limited partnership better suits the inherently illiquid nature of the underlying investments and the long-term nature of those investments. Wholesale investors who choose to commit to these schemes are aware that their investment carries with it a higher level of risk, is for the longer term, and that a ready market to trade their investment will generally not be available.

Entities offering this form of limited partnership are concerned to ensure that only appropriately qualified investors invest in their scheme, with the objective being that only

persons of sufficient financial substance and sophistication will participate. The general partner/manager of a wholesale, broad-based limited partnership can be expected to have considerable familiarity with their investor base; an investor base that may well extend to dozens or even hundreds of investors.

From an anti-money laundering standpoint, the general partner/manager of this type of limited partnership will be an AML/CFT reporting entity and will be conducting customer due diligence on its investors at the outset of the partnership. The general partner/manager will also have ongoing obligations in terms of reporting suspicious activities and transactions. From this perspective, the paper's options can be seen as duplicating customer due diligence already undertaken by the general partner/manager; and noting that the general partner/manager will have ongoing CDD obligations leading to reporting obligations should suspicions arise.

We do have a concern in relation to the potential disincentive to private equity/venture capital investment that option 3 implies. Investors in these wholesale limited partnerships may well be committing significant sums to the investment and would likely consider their privacy to be significantly compromised should their personal information be subject to disclosure without appropriate safeguards.

We note the suggestion in paragraph 138 that option 3 could be applied to companies and that option 2 would apply to limited partnerships. In our view, for the type of limited partnership we have described, option 2 may still amount to a sub-optimal outcome as it would be administratively burdensome with little apparent benefit created. The general partner/manager will already hold much of this information and, as mentioned, will have existing AML/CFT reporting obligations.

14

What are your thoughts on how frequently, and in what circumstances, the registers should be updated?

15

What are your views on what verification should be undertaken?

16

What are your views on having a unique identification number for beneficial owners?

17

Do you have any views on whether any changes are needed to the requirements for company share registers?

18

Are there any other factors that MBIE should consider?

19

Do you have any thoughts on any additional measures that could be taken to combat the misuse of corporate entities?

20	Are there legitimate purposes for using a nominee director? What would the implications be if nominee directors were expressly prohibited?
21	Do you have any information about problems with companies or limited partnerships on the overseas registers?
22	Do you think there should be obligations on companies and limited partnerships on the overseas registers to provide information about their beneficial owners?
23	Do you have any information about problems related to TCSPs?
24	Are there any other areas of concern?

Other comments