

19 March 2021

Hugh Dixon  
Acting Director- Rules, Exemptions & MOUs  
Policy and Rules  
AUSTRAC  
PO Box 5516  
West Chatswood NSW 1515  
Email: [aml\\_ctf\\_rules@austrac.gov.au](mailto:aml_ctf_rules@austrac.gov.au)

Dear Mr Dixon

**Explanatory Note for Consultation and draft amendments to Chapters 3, 6, 7 and 10 of the AML/CTF Rules**

We refer to AUSTRAC's Explanatory Note. In principle, we support AUSTRAC's proposed amendments in the consultation document, which will support the reforms to the *Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Act 2020* (Phase 1.5 reforms) (Act).

We understand from our engagement, that AUSTRAC's approach to Part 7.2 of the Act will be risk based, with AUSTRAC providing clarification that it expects 'regular' risk assessments to be conducted, at least every two years. We note that AUSTRAC makes is clear that the timeframe of periodic reviews will be based on the reporting entity's circumstances (designated services assigned a high-risk rating may need more regular reviews than those deemed low risk). We support this as it aligns with our key principles about ensuring scalable and proportionate approaches, not a 'one size fits all'.

We further support reporting entities being able to rely on 'safe harbour' provisions if they can adequately meet the 'Deemed Compliance' test set out in Part 7.3.5. We understand that when a reporting entity is relying on 'Deemed Compliance', their record keeping requirements will only need to show that the deemed compliance conditions under Part 7.3.5 continue to be met, which is less onerous than normal record keeping requirements for case-by-case reliance.

It is important that the record keeping requirements balance the objectives of strengthening governance, accountability and transparency without causing unnecessary compliance complexities and costs and impeding competition, innovation, customer choice and accessibility.

AUSTRAC's intention to provide guidance notes to further clarify the amendments made to Chapter 7 will help educate members about their obligations. In particular, to ensure a consistent industry approach, it will be important that AUSTRAC provides examples of what an appropriate written record for case-by-case reliance would look like.

We note the changes to Section 127 in the Act which will expand 'designated agencies' to include 'Commonwealth, State and Territory agencies'. We understand that currently all Memorandums of Understanding with overseas agencies are available on the AUSTRAC website. Given the likely increase in the number of agencies included, it would be helpful to have a consolidated list of all agencies which are authorised to receive AUSTRAC data available on the AUSTRAC website for easy reference.

A continued focus on improving efficiency, competition and innovation within the finance sector will support Australia's economic recovery. We believe that any reforms to law should be implemented in a manner that will:

- promote choice in and access to consumer and business finance
- drive competition and innovation in Australia's financial services industry
- support economic and social participation across our community.

We would appreciate the opportunity to continue our engagement with AUSTRAC on these reforms, and to provide you with further information about the specialised products, services and technologies offered by our members, including our smaller lenders.

Should you wish to discuss our feedback further, or require additional information, please contact me or Chalisa Parekowhai, Associate Director Policy at [chalisa@afia.asn.au](mailto:chalisa@afia.asn.au) or 02 9231 5877.

Yours sincerely,



Karl Turner

**Executive Director, Policy & Risk Management**