

27 June 2025

AUSTRAC
4 National Circuit,
Braddon ACT 2600
Email: reform@austrac.gov.au

Subject: **Second public consultation on the new AML/CTF Rules**

Dear Reforms Team,

Australian Custodial Services Association submission for the second public consultation on the new AML/CTF Rules

The Australian Custodial Services Association (ACSA) is the peak industry body representing members of Australia's custodial and investment administration sector. Our mission is to promote efficiency and international best practice for members, our clients, and the market. Members of ACSA include, J.P. Morgan, HSBC, State Street, BNP Paribas Securities Services, BNY Mellon, Citi, Clearstream, Netwealth and The Northern Trust Company.

Collectively, the members of ACSA hold securities and investments in excess of AUD \$5.0 trillion in value in custody and under administration for Australian clients comprising institutional investors such as the trustees of major industry, retail and corporate superannuation fund, life insurance companies, responsible entities and trustees of wholesale and retail investment funds, and various forms of international investors into Australia.

ACSA is an industry body representing members of Australia's custodial and investment administration sector and maintains a close association with the Australia Financial Markets Association (AFMA). In preparing this submission ACSA acknowledges comments contained in the AFMA submission on the Department's Consultation Papers regarding modernising Australia's AML/CTF regime.

Response to Consultation Questions.

General

1. Are there any rules within ED2 Rules where you don't understand what outcome AUSTRAC is trying to achieve?

No response

2. What aspects of the ED2 Rules would most benefit from increased explanation in the explanatory statement, or in AUSTRAC regulatory guidance?

No Response

Business groups

3. Are there circumstances where persons should not be considered to be within a business group for the purpose of subsection 6(6A) of the Amended AML/CTF Act, which excludes services to be provided within a business group from being designated services?

No response

Reporting groups

4. Are there circumstances where a reporting group that is a business group would join with other reporting entities, or reporting groups that are formed by election? What business needs would this service? Please provide practical examples of such structures, if possible.

Section 1-9 Reporting group that is a business group, Lead entity: It might be beneficial to add that, amongst a group of entities, the appointed lead entity will be responsible to appoint the AML/CTF Compliance officer and ensure that the AML/CTF Compliance officer is fit & proper.

Customer due diligence

5. Are there additional types of customers to whom section 5-15 (regarding deemed compliance for beneficial ownership for certain customers) should be available?

No response

6. Feedback on the ED1 Rules expressed some interest in opening up alternate identification and verification under section 5-17 of ED2 Rules) to non-individuals. If you are a current reporting entity, what are the circumstances that you currently apply alternate identification procedures to businesses and trusts, and what do you do to mitigate ML/TF risk in those circumstances?

No response

7. Section 37B of the Amended AML/CTF Act requires CDD reliance arrangements to be subject to regular assessment by the relying reporting entity. AUSTRAC's intention is to continue the substance of the requirements in Chapter 7 of the AML/CTF Rules 2007, but is seeking feedback from current reporting entities on how due diligence on CDD reliance arrangements has operated since the framework was introduced in 2020.

Risk matrix and risk score – the annual risk assessment result captures the risk scoring and the driving factors therefore a separate risk matrix is not mandatory.

Enrolment details

8. Does enrolment sufficiently cover all legal structures which are commonly used in your sector? Are there other legal structures should enrolment details of the AML/CTF Rules accommodate?

If you are a current reporting entity or you provide the new virtual asset-related designated services - can the definition of 'virtual assets' mirror the definition set by ASIC?

9. AUSTRAC is interested in understanding the number of website domains through which a reporting entity provides designated services to understand the impost of requiring this information in enrolment applications and keeping this information up to date. Do any reporting entities provide designated services through platforms operated by third parties, which would require more granular detail to be provided (e.g. subdomains or URLs)?

No response

Threshold transaction reports and suspicious matter reports

10. The updated reportable details for threshold transaction reports and suspicious matter reports aspire to strike a balance between obtaining actionable financial intelligence, and the impost involved in making the report to AUSTRAC. This is acknowledged by the reporting obligations only extending to providing information where it is known to the reporting entity. Notwithstanding, AUSTRAC welcomes reporting entities to provide feedback identifying particular details which may present a disproportionate effort to provide in a report.

8-3 Reports of suspicious matters—information about the person in relation to whom the suspicious matter reporting obligation arose for the reporting entity Information about the person—individual: (c) the person’s date of birth; (d) the person’s place of birth; (e) the person’s gender; (f) the country or countries of which the person is a citizen; (g) the country or countries the person is treated as being a resident of for the purposes of that country’s tax laws; (h) the person’s residential address; (i) the person’s business addresses and postal addresses; (j) the person’s telephone number; (k) the person’s email address; - Some of these information may be difficult to obtain in real time if the subject in this situation is not a direct customer of the bank in consideration of the TAT of 3 and 1 business days respectively for AML & terrorist financing related SMR, therefor will be provided on a best effort basis.

(2) If the person in relation to whom the suspicious matter reporting obligation arose for the reporting entity is not an individual, the report must contain the following information (as applicable and to the extent that the information is known): (d) the country or countries the person is treated as being a resident of for the purposes of that country’s tax laws; (k) information about the legal form of the person (such as a partnership, company or trust); (l) the full names of the person’s beneficial owners; (n) if the person is an express trust, the following information: (i) the kind of trust (such as discretionary trust, bare trust or unit trust); (ii) the full name of the trustee; (iii) the full name of any settlor, appointor, guardian or protector of the trust; (iv) the full names of the beneficiaries of the trust, or if it is not possible to identify each beneficiary because of the nature of the trust, a description of each class of beneficiary - Some of these information may be difficult to obtain in real time if the subject in this situation if not a direct customer of the bank in consideration of the TAT of 3 and 1 business days respectively for AML & terrorist financing related SMR therefor will be provided on a best effort basis.

11. Are there any reportable details where it is not clear what is required?

No response

Travel Rule

12. AUSTRAC understands that tokenised card numbers are conveyed from the merchant acquirer to the card issuer when seeking authorisation for a payment. Does the card issuer subsequently pass on the tokenised card number to the merchant acquirer when confirming that the payment is authorised or is the card number itself passed on? Should the tokenised card number be specified under Division 2 of Part 7 of the new AML/CTF Rules in relation to card-based pull payments?

No response

13. Are additional payment systems required to be recognised in the AML/CTF Rules, specifically regarding Part 7 transfers of value? If yes, please specify which systems and explain why they are required to be recognised, e.g. any technical limitations related to messaging formats, why these limitations exist, and whether the payment system may be used for international payments or are restricted to domestic payments.

No response

Conclusion

ACSA welcomes AUSTRAC's efforts to enhance regulatory clarity for AML/CTF obligations. We appreciate the opportunity to provide this feedback and look forward to continued collaboration with AUSTRAC on these important regulatory developments.

Yours sincerely

David Travers
Chief Executive office
Australian Custodial Services Association
Email: david.travers@acsa.com.au
Ph: 0466576471

About ACSA

www.acsa.com.au

Custodians provide a range of institutional services, with clients typically favouring a bundled approach to custody and investment administration. Solutions may include traditional custody and safekeeping, investment administration, foreign exchange, securities lending, tax and financial reporting, investment analytics (risk, compliance and performance reporting), investment operations middle office outsourcing and ancillary banking services.

These services represent key investment back office functions – often representing the client’s asset book of record and essential source data in relation to the investments they hold.

The key sectors supported by ACSA members include large superannuation funds and investment managers, as well as other domestic and international institutions.

ACSA works with peer associations, regulators and other market participants on a pre-competitive basis to encourage standards, promote consistency, market reform and operating efficiency.

Note: The views expressed in this letter are prepared by ACSA for the purposes of consideration by ASIC in response to Consultation Paper 381 - Updates to INFO 225: Digital assets: Financial products and services and should not be relied upon for any other purpose. The comments in this letter do not comprise financial, legal or taxation advice and should not be regarded as the views of any particular member of ACSA.