

# AUSTRAC



**Australian Government**

**Australian Transaction Reports  
and Analysis Centre**

## AUSTRAC'S COMPLIANCE STRATEGY

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## Rising to meet international standards

- FATF 40 + 9 recommendations.
- October 2005 mutual evaluation report on Australia.
- International good practice is to take a market oriented approach so that regulation to promote safety is not at the expense of a dynamic and innovative financial system.
- Regulated entities are themselves best placed to assess and manage their ML/TF risk exposure, and well run entities should be regulated with a 'lighter touch'.



## Creating value by managing ML/TF risk

- **Financial management industry takes ML/TF risk management seriously because...**
- Investing in ML/TF risk management creates value by addressing risks of damage or destabilisation to vital Australian financial assets:
  1. **Sovereign risk** – compromising Australia’s international standing as a safe financial centre with a sound institutional infrastructure.
  2. **Horizon risk** – favouring potentially transient short-term gains over the entity’s long-term best interests.
  3. **Reputational risk** – damaging the commercial value of the brand name.



## The challenge of a complex market

- Ranges from large complex banks to small, community based alternative remitters, and includes relevant individuals.
- No statutory power for universal and compulsory licensing, registration or census taking.
- Regulated population defined functionally (as providers of designated services) rather than institutionally (as industry sectors).
- A major goal for AUSTRAC is to identify and understand the new and partially invisible segments of the total regulated population.
- AUSTRAC has initiated outreach and search programs to track down regulated entities presently hidden from view and get them enrolled.



## Identification of high risk entities

- Our starting point is that entities rated **High Risk** warrant closer compliance attention.
- Risk for this purpose is the likelihood and materiality of an entity's failure to meet the letter and spirit of the AML/CTF regime.
- **Likelihood** refers to the probability of compliance failure – this component can be partly wound back by effective risk management.
- **Materiality** refers to the potential scale of the consequences – this component is essentially fixed, in the short-term at least.



## A new role; a new challenge

- AUSTRAC has a strong international reputation as a modern financial intelligence unit, but its standing as an industry regulator has to be earned.
- AUSTRAC has set the goal to build a new compliance capacity equal to our FIU expertise in order to effectively and credibly perform its new role as an industry regulator - **a major challenge**.



## Building capacity in the regulator's role

- AUSTRAC on-site inspection activity will strive to be:
  - **more assertive** in stance
  - **more comprehensive** in coverage
  - conducted by a **sufficient number of suitably skilled staff.**
- Building AUSTRAC's compliance capability will include:
  - Upgrading AUSTRAC's information gathering & risk assessment systems
  - Recruiting, targeted at senior levels to deliver new compliance capabilities
  - Training and development and specialisation to deepen expertise
  - Developing new on-site inspection strategies and expanding coverage
  - Developing additional strategic surveillance techniques
  - Liaising more closely with other regulators, especially APRA and ASIC



## Compliance objective

- To ensure ‘good practice’ ML/TF risk management across the regulated population.
  
- In doing so, to have regard to:
  - the compliance burden on industry
  - the benefits of a risk based approach
  - competitive neutrality
  - competition and economic efficiency.

(s.212 AML/CTF Act)



## Principles for compliance supervision

- **Persuasion** - a general preference for negotiating voluntary rectification and promoting deterrence v. moving quickly to formal intervention and statutory sanctions.
- **Consistency** - similar treatment of like entities, but a tailored approach to distinctive groups, and more intensive supervision of higher risk entities.
- **Proportionality** – remedies that fit their purpose, that are commensurate with the gravity of the problem being addressed, and that are realistic and practical.
- **Accountability** – measures to ensure that compliance (and enforcement) activity is conducted professionally, objectively, fairly and reasonably.



## Key compliance techniques

- Risk rating and case prioritisation.
- On-site inspection program.
- Desk reviews.
- Thematic studies.
- Annual consultations.
- Liaison with other regulators (APRA, ASIC ....)



## Addressing on-site inspections

- What cycles are appropriate?
- What methodologies for different industry groups?
- What methodologies for different statutory obligations?
- What expectations of board committees, internal/external auditors?
- How to deal with large numbers of smaller entities?
- How to coordinate and share information with other regulators?
- Matching the skill sets of AUSTRAC's frontline supervisors to the needs of the inspection



## Criteria for enforcement action

- Entity has fundamentally failed to adequately assess its own ML/TF risk exposure, and is unlikely to in reasonable time.
- Entity has persistently failed to voluntarily rectify material deficiencies in its ML/TF risk management system.
- Entity has clearly and unreasonably denied legitimate access to its managers, premises or records.
- Entity is secretive, uncooperative and suspected of dishonesty in its approach to compliance and relationship with the regulator.
- Entity is considered on reasonable grounds likely to respond in an aggressive and adversarial manner to a legitimate regulatory decision or action.
- Entity is suspected on reasonable grounds to have committed a criminal offence or civil penalty contravention, or be likely to.



## AUSTRAC accountability

- Statutory and policy obligations on staff to act honestly, objectively, in good faith, and in accordance with administrative law.
- Prospect of performance audits by the Auditor-General of the agency's administration of the legislation.
- Prospect of investigation by the Commonwealth Ombudsman if regulated entities complain about agency conduct.
- Appearances before Parliamentary Committees, including Senate Estimates.
- Merits and/or judicial reviews of relevant decisions by the Administrative Appeals Tribunal and/or Federal Court.
- Internal governance disciplines, including a proposed Enforcement Committee with broad and high level representation.

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## **AUSTRAC Website**

<http://www.austrac.gov.au>

## **AUSTRAC Help Desk**

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