



4th April 2011

Cost recovery – Large entity definition
AUSTRAC
PO Box 13173
Law Courts PO
MELBOURNE VIC 8010

By email:

Dear Sir/Madam

**AFMA Submission on AUSTRAC Cost Recovery Proposal – further consultation
about the definition of a large entity**

Thank you for the opportunity to comment on the revised definition of a large entity as set out in the email from the AUSTRAC Chief Executive Officer on 22nd March 2011.

The below comments should be read in conjunction with AFMA's previous submissions about the cost recovery proposal.

Definition of large entity

As you are aware, AFMA did not support the definition of a large entity as set out in the Cost Recovery Impact Statement exposure draft. AFMA's submission dated 1 March 2011 made some suggestions as to how the cost recovery model might be changed so that it more accurately reflects the level of money laundering risk, and consequent supervision costs, posed by the business activities undertaken by an entity.

The revised definition of a large entity is now based on a measure of EBITDA at a corporate group level.

There is a divergence of views among AFMA members about the appropriateness of EBITDA as a measure for cost recovery. For the reasons set out below we recommend that AUSTRAC treats this as an interim solution.

There is no obvious correlation between the level of EBITDA and the level of money laundering risk posed by an entity. The large entity component is effectively a charge on an entity that is able, through its own efforts and enterprise, to generate income through its business operations. EBITDA is an artificial test in that a higher (or lower) level of revenue is not an indicator that more (or less) supervision by AUSTRAC is

required, and consequently, that a reporting entity should pay a higher (or lower) levy component.

Volume and value reporting component

None of AFMA's suggested changes in relation to the volume and value reporting component have been taken up. AFMA members remain concerned in particular about what are viewed as excessive and disproportionate reporting fees on large value transactions. There is no empirical evidence that the value of transactions poses more risk and that revenue ought to be derived from the value of the transactions. Indeed, the reporting obligations in Australia for both IFTIs and suspicious transaction reports under section 41 of the AML/CTF Act operate without any minimum threshold.

Conclusion

The revised definition of a large entity should be treated as an interim solution.

AFMA believes that the cost recovery model as presently constructed implies that our members will pay charges that are disproportionate to the risks and costs associated with their business. However, as indicated in the earlier submissions, AFMA understands that cost recovery is Government policy, and there may now be little opportunity for further substantive change to the model at this stage of the process because of the legislative timetable.

AFMA's position in principle remains that cost recovery should be based on a rigorous analysis of the money laundering and terrorism financing risk posed by particular types of business activity and the supervision costs associated with monitoring those activities and ensuring compliance with the AML/CTF Act. AFMA re-iterates its request for a review of the operation of the cost recovery model after 2 years, or at most 3 years, rather than 5 years as proposed in the first discussion paper. Many AFMA members will be subject to both the large entity component and the large transaction value reporting component and the associated inequities should be removed as soon as possible. We strongly urge AUSTRAC to work towards the development of this type of model within a timeframe that will enable it to be included in this review.

Once the levy is introduced, any significant increases to the amount to be recovered should only be instituted in accordance with a transparent process where the proposed underlying methodology and detail of costings is available to the industry for consultation.

Yours sincerely

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Director Market Operations