

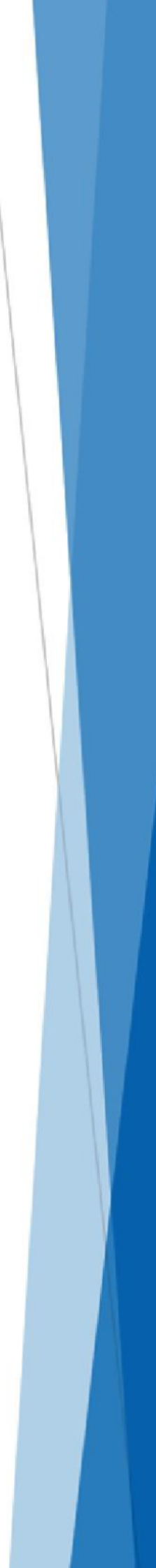


Australian Banking
Association



ABA Submission on the Anti-Money Laundering and
Counter-Terrorism Financing Amendment Bill 2026
Parliamentary Joint Committee on Intelligence and Security

8 May 2026





ABA submission to the PJCIS

The Australian Banking Association (ABA) welcomes the Committee's review of the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2026 (the Bill). Banks are central to Australia's AML/CTF regime and have a direct interest in ensuring the legislative framework is proportionate and workable.

In January 2026 the ABA engaged with the Department of Home Affairs on the proposed reforms that now form the basis of this Bill.

The ABA made a formal submission on the Department's consultation paper on 21 January 2026, addressing the proposed AUSTRAC CEO power to restrict or prohibit high-risk products, services and delivery channels and the proposed amendment to the definition of financing of terrorism (*ABA Submission on the Consultation Paper – 2026 Reforms to the AML/CTF Act*).

The ABA also provided the Department with feedback on proposed minor technical amendments to the AML/CTF Act on 23 January 2026, responding to the Department's five proposed amendments and proposing six additional amendments (*ABA Feedback – Minor Technical Amendments to the AML/CTF Act*).

We attach copies of both documents for the Committee's reference and commend the detail to the Committee. This covering submission does not repeat that detail but restates the key matters the ABA considers should be examined as part of the Committee's review.

Schedule 1 of the Bill: AUSTRAC CEO power to restrict or prohibit high-risk mechanisms

The ABA supports the introduction of a new power for the AUSTRAC CEO to restrict or prohibit high risk products, services and delivery channels used to provide designated services. The financial crime environment is evolving rapidly, and the regulatory framework must be able to respond to emerging threats, new technologies and changes in financial sector infrastructure. At the same time, it is essential that any new power is exercised with appropriate safeguards, in a way that preserves room for innovation and avoids unintended impacts on well-regulated sectors with mature AML/CTF programs.

In this context, the ABA has publicly identified the risks posed by crypto ATMs, which have been linked to significant scam-related activity, high risk cash-based transactions and the rapid movement of illicit funds. AUSTRAC's own data underscores the scale of this problem.¹ Crypto ATMs in Australia handle approximately 150,000 transactions and move close to \$275 million each year. After interviewing 90 of the 100 most prolific crypto ATM users in Australia at the start of 2025, AUSTRAC estimated that approximately 85 per cent were scam victims or money mules who had been coerced into moving suspected illicit funds through crypto ATMs. Notably, the 60 to 70 age group were identified as among the largest users of crypto ATMs in the country - a demographic particularly vulnerable to scam-related coercion.

These figures, drawn from AUSTRAC's own intelligence, demonstrate that crypto ATMs present a clear and well-documented risk profile warranting regulatory intervention. Given the absence of a demonstrable

¹ AUSTRAC, 'Scams, fraud and other illicit activity: AUSTRAC puts crypto ATM operators on notice' (Media Release): <https://www.austrac.gov.au/news-and-media/media-release/scams-fraud-and-other-illicit-activity-austrac-puts-crypto-atm-operators-notice>.



legitimate use case, the ABA supports the application of restrictions or prohibitions on crypto ATMs as an appropriate first exercise of this new power.

While the case for this power is clear, so too is the need for it to be exercised within a robust procedural framework. The Bill adopts several process safeguards the ABA recommended, including a 30-day minimum public consultation period, mandatory consultation with relevant regulators, and parliamentary oversight through the legislative instrument and disallowance framework. We ask the Committee to consider the following matters, which were not reflected in the Bill, to ensure the power is appropriately scoped, subject to independent oversight, and aligned with comparable regulatory frameworks:

- **Scope:** The power applies to all designated services. The ABA's position is that it should be limited to registrable services (remittance and virtual asset service providers). Banks are already subject to prudential supervision by APRA and market conduct regulation by ASIC, both of which hold comparable product intervention powers. Extending the AUSTRAC CEO's power to ADIs creates overlapping regulatory authority without a corresponding uplift in risk mitigation.
- **Independent review:** There is no merits review mechanism for a decision to restrict or prohibit a high-risk mechanism. ASIC's comparable Product Intervention Power is subject to Administrative Appeals Tribunal review. The absence of independent review for a power with significant commercial consequences is a gap the Committee should examine.
- **Duration:** The three-year maximum duration is significantly longer than the 18-month limit under ASIC's Product Intervention Power. A shorter initial period would allow industry and the community to assess the practical impact before renewal.
- **Public interest:** The Bill requires the restriction to be "necessary in the public interest" but does not define the term. Innovation, efficiency and the broader value of the service to consumers should be mandatory considerations, consistent with the approach taken in ASIC's framework.
- **Implementation and liability:** Entities forced to exit products or services need adequate implementation timeframes, safe harbour from civil liability, and clarity on how the prohibition interacts with tipping-off restrictions.

Schedule 2 of the Bill: Definition of financing of terrorism

The ABA supports the amendments to expressly include offences related to state sponsored terrorism within the definition of financing of terrorism, and to enable regulations to prescribe offences under the Charter of the United Nations Act 1945 and the Autonomous Sanctions Act 2011. These changes ensure the AML/CTF Act remains aligned with the Criminal Code Amendment (State Sponsors of Terrorism) Act 2025, Australia's broader counter-terrorism and sanctions framework, and FATF Recommendation 6. The ABA has no outstanding concerns with this Schedule.

Schedule 3 of the Bill: Technical amendments

The ABA acknowledges that the Bill addresses several matters raised in our January feedback. In particular, we welcome the amendments to the definitions of domestic and foreign politically exposed person (Schedule 3, Part 2), which adopt the ABA's recommendation to make these definitions work correctly for overseas permanent establishments. We also welcome the amendments to the legal professional privilege process under sections 49 and 202.

A number of matters raised in the ABA's January feedback were not reflected in the Bill. We invite the Committee to consider these outstanding items:



- **Sanctions screening for persons acting on behalf of the customer:** The Bill removes the PEP screening obligation for persons acting on behalf of a customer under section 28(2)(e), which the ABA welcomes. However, the Bill retains the obligation to screen those same persons for targeted financial sanctions. The ABA's position is that this residual obligation should also be removed, for both operational and substantive reasons.

On a practical level, PEP and sanctions screening are typically conducted concurrently. Retaining the sanctions obligation for persons acting on behalf limits the operational efficiency uplift this amendment was intended to deliver.

More fundamentally, the retained obligation is not supported by the underlying sanctions risk. Sanctions obligations are triggered by designation, ownership or control of the relevant assets, or knowledge of indirect benefit — not by agent status alone. A person acting on behalf of a customer does not, by virtue of that role, own or control those assets. Reporting entities do not generally hold or rely on agent-level data for sanctions risk purposes unless there is a specific risk indicator, and where such indicators exist, enhanced measures (including CDD and risk assessments) are already applied regardless of agent status. Screening agents by default does not materially enhance sanctions compliance outcomes.

FATF Recommendation 12 does not require measures beyond the customer and beneficial owner. Consistent with our January feedback, the ABA's position is that the reference to "any person acting on behalf of the customer" should be removed from section 28(2)(e). The obligation is not supported by risk, is not required by FATF standards or international practice, and does not deliver a meaningful uplift in sanctions compliance outcomes.

- **Definition of "senior manager":** The current definition creates practical complexities for large, complex financial institutions. The ABA has offered to work with the Department on alternative drafting that preserves the policy intent whilst providing banks with the necessary flexibility to nominate the most appropriate person.
- **Periodic CDD for dormant customers:** Section 30(2)(c) requires periodic CDD reviews for all customers with a business relationship, including dormant accounts where the customer cannot be contacted and has no incentive to cooperate. The ABA proposed a targeted exemption, subject to conditions, consistent with international practice. Draft legislative text was provided.
- **Event-driven ongoing CDD:** The phrase "at a frequency" in section 30(2)(c) may require fixed periodic review cycles even where no risk-relevant trigger has occurred. International practice and the FATF Recommendation 10 Interpretive Note support a shift toward event-driven approaches. Amending this phrase would allow reporting entities to keep pace with their international peers.
- **Section 64(3) and (4): "pass on" wording:** The term "pass on" is not technology-neutral and does not reflect how merchant payments operate. Replacing it with "ensure that the transfer message includes" would align the provision with FATF Recommendation 16.

The ABA supports the policy objectives of the Bill. The banking industry is committed to an effective, risk-based AML/CTF regime that protects the Australian community and financial system. We ask the Committee to consider the matters set out above and in our attached January submissions. We would be pleased to provide any further information or assistance the Committee may require during its review.

Policy Lead: **Emily Gamaroff** (Associate Policy Director) Emily.Gamaroff@ausbanking.org.au

About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

Department of Home Affairs - Proposed Technical Amendments

The Australia Banking Association (ABA) welcomes the opportunity to comment on the Department of Home Affairs' proposed minor technical amendments to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. We understand these proposed technical amendments will form part of the upcoming 2026 AML/CTF Amendment Bill, in addition to the new legislative power and amendments to the definition of terrorism financing which the Department are consulting on. The ABA supports targeted technical changes that resolve unintended consequences and enhance the clarity and effectiveness of the AML/CTF framework.

Item 1. Turning off politically exposed persons due diligence for persons acting on behalf of customers

Section 28 introduced by the AML/CTF Amendment Act requires that businesses under the regime must conduct due diligence on their customers. Paragraph 28(2)(e) requires businesses to establish whether the customer, any beneficial owner of the customer, any person on whose behalf the customer is receiving the designated service, *or any person acting on behalf of the customer* is either a politically exposed person (PEP) or subject to targeted financial sanctions.

This amendment would remove the requirement in paragraph 28(2)(e) for businesses to consider if a person acting on behalf of a customer is a PEP. This is not required by the Financial Action Task Force.

ABA Feedback

Under the current drafting of s 28(2)(e), reporting entities may face practical challenges, potential customer impacts, and inconsistencies with international practice. Members consider that the blanket obligation is not proportionate to the ML/TF/PF risk presented by persons acting on behalf of a customer.

While we are supportive of the proposed amendment to the PEP CDD requirements under s28(2)(e), as it better aligns with FATF standards and removes low-value effort, we would appreciate further clarification on the policy intent and precise scope of the proposed change to section 28(2)(e). In particular, whether the amendment removes only the PEP obligation or removes the entire reference to “any person acting on behalf of the customer.”

If the intention is solely to remove PEP screening for “any person acting on behalf of the customer” from s28(2)(e), reporting entities would still be required to conduct targeted sanctions screening for these individuals, industry may still need to maintain processes to identify and screen them (for sanctions). In practice, this could limit the efficiency uplift given PEP and Sanctions screening is conducted simultaneously.

The preferred interpretation of the proposed amendment – being the removal of the obligation on “any person acting on behalf of the customer” – would better align to the FATF requirements and overseas AML/CTF regulatory regimes. FATF Recommendation 12, does not require Politically Exposed Persons related measures beyond the Customer or Beneficial Owner. In our members’ view, this is proportionate with the risk posed, as the funds / assets belong to the Customer and Beneficial Owner, and not the individual acting on their behalf. Additionally, The Australian Sanctions Office requires financial institutions to establish whether “a customer (or certain associated persons) is designated for targeted financial sanctions”. This allows sufficient flexibility to consider in which circumstances a “person acting on behalf of the customer” could pose a risk to the reporting entity of breaching targeted financial sanctions.

Clarification from Home Affairs on the intent and precise scope of this proposed amendment would be appreciated.

Item 2. Section 49 notice legal professional privilege forms are returned to the agency that issued the notice

Under section 49, agencies including the Australian Federal Police, the Australian Border Force and the National Anti-Corruption Commission can issue notices to require a person to provide additional information, or produce documents, in relation to information that is provided to AUSTRAC.

However, a person can submit a form claiming legal professional privilege (LPP) in relation to information disclosed under section 49. Currently the form must be provided to AUSTRAC and only AUSTRAC can challenge claims made in response to a section 49 notice.

This amendment would allow these forms to be returned to the agency that issued the notice. Additionally, the amendment would allow the issuing agency to challenge claims made in response to a section 49 notice, rather than only AUSTRAC.

ABA Feedback

Support the proposal. However, in addition to s49 notice, both s167 and s202 notices may also be issued by various government agencies and permit reporting entities submit an LPP form to the AUSTRAC CEO for information or document believed to be legally privileged. We request that changes to whom the LPP form should be submitted be applied consistently.

Item 3. AML/CTF Rule making power on updating enrolment and registration details

This amendment would allow for the AML/CTF Rules to require businesses to update their AUSTRAC enrolment details in response to changes to what constitutes ‘enrolment details’. Likewise, a power will be made to require businesses to update their registration details in response to changes to what information is required for registration with AUSTRAC.

These powers will provide a trigger for reporting entities to update their information where new information requirements are introduced, ensuring all information provided to AUSTRAC is up to date.

No ABA Feedback

The ABA makes no comment on this proposed change at this time.

Item 4. Section 45 AML/CTF Rule making power

Section 45(2) introduced by the AML/CTF Amendment Act gives AUSTRAC the power to specify in relation to value transfer and reporting purposes when value is ‘in a country’.

The Department will amend this section so that AUSTRAC can specify both when value is in a country, or when value is in a foreign country. This will give AUSTRAC flexibility to trigger reports where Australian Virtual Asset Service Providers (VASPs) are dealing with VASPs in foreign countries where their location is unclear. In this case, the requirement to provide an International Value Transfer Service report will be triggered.

ABA Feedback

Support the proposal. However, the term ‘international value transfer service’ is referenced within travel rule provisions in the Rules regarding value transfers made via BECS, where modified travel rule information can be passed on (s8-4, s8-5 of the Rules). As such, the interpretation on whether the value is in a country or a foreign country will have a flow-on effect on these provisions and should be taken into account.

Additionally, we note that travel rule applies to both reporting entities in Australia and their permanent establishment overseas. References to a ‘foreign country’ should be country agnostic – although the Act does not specifically define ‘foreign country’, the Acts Interpretation Act defines it to be any country outside Australia. For instance, for value transfers made from an overseas permanent establishment to Australia, value made available in Australia should instead be treated as in a foreign country.

Item 5. Aligning the test for ongoing CDD with the test in the AML/CTF Rules.

Subparagraph 30(2)(c)(i) introduced by the AML/CTF Amendment Act currently triggers ongoing customer due diligence where ‘the reporting entity has doubts about the adequacy or veracity of ‘Know Your Customer’ information relating to the customer’. This could be read as a subjective test, which would be based on the reporting entity’s personal perspective.

In the AML/CTF Rules, AUSTRAC uses the formulation of ‘there are reasonable grounds to doubt the adequacy or veracity’, which is an objective test and is an easier benchmark of behaviour to prove, as it removes personal bias or subjectivity. This amendment will align the test for ongoing customer due diligence, introduced by the AML/CTF Amendment Act, with the test in the AML/CTF Rules, and ensure the AML/CTF Act applies a consistent objective test.

No ABA Feedback

The ABA makes no comment on this proposed change at this time.

ABA Proposed Technical Amendments

While the Department is considering proposed amendments to the AML/CTF Act, our members respectfully request reconsideration of the following priority matters:

- 1) The definition of **senior manager** within the Act
- 2) The application of ongoing periodic Customer Due Diligence (CDD) reviews to Customers which are dormant under s.30(2)(c)
- 3) Enhancement of s.30(2)(c) to align the Ongoing Customer Due Diligence (OCDD) approach to strategic industry direction globally
- 4) Section 5 Definitions - ‘domestic politically exposed person’ – paragraphs (a) and (b)
- 5) Section 5 Definitions - ‘nested services relationship’
- 6) Sections 64(3) & s64(4) - Obligations of ordering institutions

1) **Definition of Senior Manager**

Issue

“**senior manager** of a reporting entity means an individual who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the reporting entity”

We acknowledge and respect the importance of having experienced and sufficiently senior person(s) as responsible for:

- Approving the AML/CTF Policies of the Reporting Entity
- Approving the ML/TF Risk Assessment of the Reporting Entity; and
- Approving or be informed of certain customer relationships (i.e. high-risk politically exposed persons, nested services relationships, correspondent banking relationships).

The seniority prescribed within the definition in the Act requires flexibility - particularly for large, complex and highly regulated financial institutions. In our experience, the decision on whether it is appropriate to approve specific customer relationships, is best made within a financial institution, by a senior member with specific responsibilities and knowledge associated with AML/CTF compliance and ML/TF risk management.

There are practical challenges with how the currently defined term *Senior Manager* interplays with the obligations of Senior Managers under APRA’s Prudential Standards.

Request

While we appreciate the policy intent behind the definition, these issues underline the need for a more workable and proportionate approach. We have raised these concerns

in previous ABA submissions and would welcome the opportunity to work with the Department on alternative drafting options that achieve the intended policy outcomes without creating unintended consequences for larger or more complex reporting entities. We believe a few minor technical changes to the definition could resolve this issue.

2) Application of periodic CDD reviews to Customers which are dormant

Introduction:

Section 30(2)(c) of the Act requires that if reporting entities have a business relationship with an existing Customer, they must:

- (i) ...review and, where appropriate, update and reverify customer KYC information relating to the customer at a frequency appropriate to the ML/TF risk of the customer; and
- (ii) Perform equivalent activities on a trigger event basis, such as if the Reporting Entity has doubts on the veracity of the KYC information it maintains, or any other trigger event specified in the AML/CTF Rules.

We fully support the need to have effective processes, systems and controls to ensure reporting entities continue to know their customers throughout the life of the business relationship.

Issues:

A material portion of Customer accounts can at some stage become dormant and inactive e.g. the Customer holding an account with a reporting entity has ceased to conduct any transactions on the account for extended periods of time (for instance, two years). Whilst the Customer no longer has an 'active' business relationship with the reporting entity, the classification of holding an 'Account' as a Designated Service under s.6 of the Act requires firms to comply with the obligations in s.30(2)(c) to Customers.

It is practically extremely challenging to perform periodic CDD Reviews of Customers CDD information in relation to Dormant Customers as:

- The Customer contact information has not been updated by the Customer as they are no longer using the account(s). In which case, the Reporting Entity often has no means of contacting the Customer.
- Even where Customer contact information is valid, the Customer has no incentive to cooperate with the Reporting Entity to provide information or documentation.
- Reporting Entities are also unable to unilaterally close Customer accounts without cooperation from the Customer.

International practice:

The private sector in overseas markets often adopts exclusions from application of periodic CDD Reviews to such Customers.

The challenge unique to the Australian market, is the specification of Designated Services within the AML/CTF Act which results in the holding of an account (irrespective of whether it's being used) as a 'business relationship' triggering the OCDD obligation. Whereas in other markets, firms have sufficient flexibility to determine what constitutes a 'business relationship', subject to the periodic CDD obligation.

International practice also recognises the need for firms to maintain processes, systems and controls to mitigate the risk of dormant customer relationships re-activating at a future point in time, for instance, UK Joint Money Laundering Steering Group Part I:

“5.7.6 Firms should also have systems and procedures to deal with customers who have not had contact with the firm for some time, in circumstances where regular contact might be expected, and with dormant accounts or relationships, to be able to identify future reactivation and unauthorised use.”

International practice to handle Dormant Customer accounts is to exclude them from the *periodic* CDD Review obligations, provided the Reporting Entity maintains effective systems, processes and controls to block the Customers' accounts, so no transactions or services can be provided until a full review of the CDD record is completed, and where necessary, updated. For the avoidance of doubt, Dormant Customer accounts continue to be subject to ongoing sanctions screening to identify a need to freeze the account and comply with sanctions obligations.

Request:

We respectfully request an amendment to the AML/CTF Act to allow Reporting Entities flexibility to adopt a pragmatic and appropriate approach to managing the ML/TF/PF risks of these Customer relationships.

The scope of the amendment request is:

- a. Limited to the periodic CDD Review obligation only (i.e. does not extend to any 'trigger' events mandated under s.30(2)(c), or other equivalent obligations under the AML/CTF Act and AML/CTF Rules);
- b. Does not extend to our obligation to identify if the Customer or their connected parties are subject to sanctions (i.e. such records must still in our view, be subject to ongoing sanctions screening);
- c. Is conditional upon the Reporting Entity maintaining controls to ensure the Customer cannot perform any transaction or receive any other designated service until a review of the KYC information is completed;

The text in **red** below is one potential option through which this could be achieved, Section 30(2)(c) AML/CTF Act:

(c) if the reporting entity has a business relationship with a Customer —review and, where appropriate, update and reverify KYC information relating to the customer at a frequency appropriate to the ML/TF risk of the customer, and if either of the following occur:

(i) the reporting entity has doubts about the adequacy or veracity of the KYC information relating to the customer;

(ii) circumstances specified in the AML/CTF Rules;

Note: the obligation in this paragraph (excluding sub-paragraphs (i) and (ii)) does not apply to business relationships limited to designated service item 1, provided the reporting entity maintains systems, processes and controls to ensure application of this requirement prior to the Customer undertaking any other designated service in the future.”

3) Enhancement of s.30(2)(c) to align the Ongoing Customer Due Diligence (OCDD) approach

International market practice to OCDD has shifted in recent years, due to technological enhancements, away from fixed periodic review cycles of existing Customer relationships to a dynamic event-driven approach.

For instance, the increased capability of behavioural profiling of Customer activity, greater availability of third-party data providers including utilities (including government utility concepts such as COSMIC in Singapore) and the increased sophistication and effectiveness of ‘trigger based’ reviews of Customer portfolios in alignment with the wider obligations in the AML/CTF Act and Rules (for example, s.30(2)(b), s.30(2)(c)(i) and (ii), s.32(d) and 6-24 of the AML/CTF Rules).

Issue:

Section 30(2)(c) of the AML/CTF Act allows reporting entities a risk-based *frequency* to review the KYC information relating to the Customer. Due to the use of the term “at a frequency”, this section could be interpreted as requiring each customer to be subject to a review of their KYC information periodically, based on a pre-determined interval, or passage of time, even if no other trigger events – which are more directly linked to a reporting entity’s assessments of where ML/TF risks are likely to arise or be heightened – have occurred with respect to the customer.

FATF Recommendations:

- The FATF Recommendation 10 guidance does not specify the mechanism (i.e. periodic or event-driven) through which firms must conduct OCDD. The Interpretative Note to Recommendation 10 provides latitude, taking into account the risk and the degree to which the Customers’ identity has previously been verified adequately.

“Recommendation 10

- These requirements should apply to all new customers, although financial institutions should also apply this Recommendation to existing customers **on the basis of materiality and risk, and should conduct due diligence on such existing relationships at appropriate times.”**

“G. EXISTING CUSTOMERS

- 13. Financial institutions should be required to apply CDD measures to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships **at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.**

The equivalent provisions in other major financial centres are more risk-based and less prescriptive, in the sense that they do not mandate ‘periodic’ reviews.

United Kingdom:

“s.28(11) The relevant person must conduct ongoing monitoring of a business relationship, including—

(a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person's knowledge of the customer, the customer's business and risk profile;

(b) *undertaking reviews of existing records and keeping the documents or information obtained for the purpose of applying customer due diligence measures up-to-date.*”

Singapore:

Notice 626 issued by the Monetary Authority of Singapore,

“6.24 A bank shall ensure that the CDD data, documents and information obtained in respect of customers, natural persons appointed to act on behalf of the customers, connected parties of the customers and beneficial owners of the customers, are relevant and kept up-to-date by undertaking reviews of existing CDD data, documents and information, *particularly for higher risk categories of customers.*”

Whilst the above obligations capture the intent of the FATF Recommendation, it is not prescriptive on the mechanisms for achieving the outcome. Furthermore, in Singapore the emphasis on a risk-based approach is more explicit.

Request:

Given the direction of international market practice to shift away from periodic CDD review approaches, in favour of trigger event driven ones, we request your consideration to amend the AML/CTF Act, to allow Reporting Entities greater flexibility in the way they meet this requirement.

Such an amendment will allow reporting entities to keep pace with our international peers as technology continues to advance and can future-proof the AML/CTF Act, in a manner which remains compliant with the FATF Recommendations.

One potential means through which this could be accomplished would be to amend the phrase ‘at a frequency’.

4) Section 5 Definitions - ‘domestic politically exposed person’ – paragraphs (a) and (b)

Issue

The amended Act applies to a reporting entity that provides a designated service through a permanent establishment in Australia and overseas. However, the definition of ‘domestic politically exposed person’ is centred around the provision of designated services in Australia only, rather than being local jurisdiction focused.

Where a designated service is provided at a permanent establishment overseas (‘OPE’), the references to “Commonwealth” and “State or Territory” will have the effect of treating, from an OPE’s perspective, an Australian PEP as a domestic PEP, rather than a foreign PEP. For example:

- applying the current domestic PEP definition in the amended Act, the provision of a designated service by a reporting entity with a permanent establishment in the UK to the Prime Minister of Australia, will be considered as the provision of a designated service to a domestic PEP rather than a foreign PEP from the UK OPE’s perspective. This will have an impact on the applicability of ECDD trigger in s32(c).
- For the same UK OPE, the provision of a designated service to the UK’s Prime Minister does not meet either of the definitions of domestic or foreign PEPs.

We infer from the Explanatory Statements to the Rules, paras. 220, 406 and 408 that the above was not the policy intent.

Request

To make the definition of ‘*domestic politically exposed person*’ – non-Australian centric so that it works both for the provision of designated services in Australia and overseas.

To consider whether the definition of ‘foreign politically exposed person’ will also need to be amended if the Department is of the view that the term is to be interpreted as politically exposed persons who hold prominent public functions or positions outside of Australia only – as such an interpretation would result in domestic PEPs in an OPE being treated as foreign PEPs.

Consequential amendments to the Rules

AML/CTF Rules:

- Rule 1-5
- Rule 5-5(2)
- Rule 6-23(3) and
- Rule 6-24(2)

5) Section 5 Definitions - ‘nested services relationship’

Issues

The current definition is broad and appears to covers any designated services “used” by remitter or virtual asset service provider (VASP) to provide any “services” to their own customers in a different jurisdiction. This broad scope causes interpretation and implementation challenges specifically:

- i. the “use” of any designated services by remitter or VASP; and
- ii. the “services” provided to their clients’ customers.

We understand that this expansive definition is intended to align with the concept of “correspondent banking relationship” as defined in the Act, which is similarly broad. However, under s96 of the Act, due diligence assessments for correspondent banking relationships are specifically limited to those “that will involve a vostro account”, rather than all such relationships. The qualifier – “that will involve a vostro account” - was added by the Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2017 (Act No 130, 2017 | C2017A00130), which took effect on 3 Apr 2018:

- Prior to the 2018 amendment, the due diligence assessment was required for all correspondent banking relationships;
- The 2017 proposal clarified that “the intention is that the due diligence requirements under Part 8 only apply to vostro accounts. This is consistent with the FATF’s international standards and international banking practice.” (see para. 123, Revised Explanatory Memorandum, Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2017)

Similarly, for “nested services relationship”, only those designated services similar to “vostro account” – that is, processes or executes transactions for its customer’s customers - poses higher risk than others, therefore requires those due diligence assessment akin to correspondent banking due diligence (CBDD) (see page 8 of the FATF Guidance on Correspondent Banking Services, “Correspondent banking services encompass a wide range of services which do not all carry the same level of ML/TF risks. Some correspondent banking services present a higher ML/FT risk because the correspondent institution processes or executes transactions for its customer’s customers.”). However, the due diligence akin to CBDD is prescribed for the entire broadly defined “nested services relationship” without any further qualifier.

Therefore, to reflect the policy intent, we recommend that the 2026 AML/CTF Amendment Bill adopt similar considerations as the 2017 Amendment Act, limiting due diligence assessment to relationships that “processes or executes transactions for its customer’s customers”. This can be achieved by Including qualifier directly in the definition of “nested services relationship”, thereby avoiding multiple amendments throughout the Act and Rules.

Request

nested services relationship means a relationship that involves the provision of a designated service by a reporting entity that is a remitter, virtual asset service provider

or financial institution to a customer that is a remitter, virtual asset service provider or financial institution where:

- (a) the reporting entity provides the designated service **that involves processing or executing transactions** at or through a permanent establishment in one country; and
- (b) the customer uses the designated service to **provide services to process or execute transactions for** its own customers at or through a permanent establishment in another country; and
- (c) the relationship is not a correspondent banking relationship.

Consequential amendments to the Rules

Nil.

6) Sections 64(3) & s64(4) - Obligations of ordering institutions

Issue

The term “pass on” in s64(3) & (4) is not technology neutral, posing application challenges for current payment solutions and does not provide adequate futureproofing for emerging technologies within the payments industry.

For instance, as outlined in s1-4 of the Rules, a merchant payment involves “the beneficiary institution initiates the transfer by sending the payer’s instruction for the transfer to the ordering institution”. In this process, the ordering institution does not technically “pass on” the payment instruction; rather, it receives the necessary information within the payment instruction and authorises the transaction.

FATF Recommendation 16 also does not require the ordering institution to “pass on” the required information – page 17, FATF Recommendation 16, “Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information, on payments or value transfers and related messages.” This is consistent with FATF Interpretive Note to Recommendation 16, which uses phrasing such as:

- “countries should ensure that financial institutions include with such transfers...”,
- “Information accompanying all cross-border payments or value transfers...should always contain...”,
- “The ordering financial institution should ensure that cross-border payments or value transfers...contain...”

Given these points, we suggest revising the wording of the requirement to reflect the policy intent.

Request

s64(3) If the ordering institution and the beneficiary institution for the transfer of value are not the same person, the ordering institution must ~~pass on~~ **ensure that the transfer message relating to the transfer of value includes** the information specified in the AML/CTF Rules ~~relating to the transfer of value to the next institution in the value transfer chain~~.

Consequential amendments to the Rules

AML/CTF Rules: Rule 8-3 (c) and heading of table column 4.



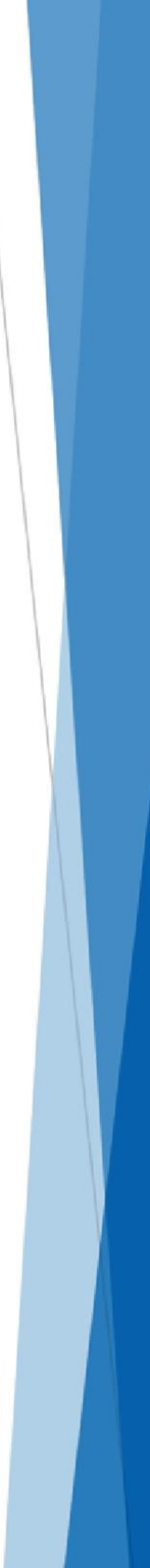
Australian Banking
Association



Submission on the Consultation Paper - 2026 Reforms to the AML/CTF Act

Australian Banking Association

21 January 2026





ABA submission to the Department of Home Affairs

The Australian Banking Association (ABA) welcomes the opportunity to comment on the *Consultation Paper – 2026 Reforms to the AML/CTF Act*. We recognise the growing complexity of Australia’s financial crime landscape and the essential role that banks play in safeguarding customers and supporting national efforts to combat illicit activity. As criminal methodologies evolve and new technologies create novel avenues for misuse, it is essential that Australia’s AML/CTF framework remains robust, risk-responsive and capable of addressing emerging harms. To support this objective, we acknowledge the challenges outlined in the consultation paper and broadly support reforms that strengthen the regime’s ability to respond quickly and proportionately to high-risk products, services and delivery channels.

Within this context, the ABA recognises the particular risks posed by crypto ATMs, which have been linked to significant scam-related activity, high-risk cash-based transactions and the rapid movement of illicit funds. Consistent with the concerns identified by AUSTRAC and law enforcement, and reflecting statements the ABA has made publicly in the interests of consumer protection and financial system integrity, we support the consideration of restrictions or prohibitions on crypto ATMs. While any new power must remain evidence-based, transparent, and supported by appropriate safeguards, we agree that targeted regulatory action on crypto ATMs is justified given the demonstrated risk profile and the absence of a clear legitimate use case. More broadly, we support proportionate measures to address high-risk activity, while emphasising the need for clear safeguards and robust consultation to avoid unintended impacts on innovation and the operation of well-regulated sectors.

We also support the proposed amendment to the definition of ‘financing of terrorism’ in section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). While this change is largely technical in nature, expressly capturing offences related to state-sponsored terrorism is an important step in ensuring the regime remains aligned with Australia’s broader national-security and counter-terrorism objectives. As the consultation paper notes, reporting entities already address risks connected to state-sponsored terrorism through existing reporting obligations and customer due diligence in relevant circumstances. Notwithstanding this, clarifying the scope of these obligations in light of the new Criminal Code offences provides welcome regulatory certainty around policy intent and ensures the AML/CTF Act remains coherent with the wider counter-terrorism and sanctions framework.

Achieving the outcomes intended by these reforms will require ongoing collaboration between government and industry, grounded in our shared commitment to combating financial crime and protecting the community, and banks remain committed to supporting that partnership.



Part 1: Proposed Power for the AUSTRAC CEO to Restrict or Prohibit High-Risk Products, Services, or Delivery Channels

The ABA supports in principle the introduction of a new power for the AUSTRAC CEO to restrict or prohibit high-risk products, services or delivery channels, provided that the proposed new power be limited to registrable services such as remittance and virtual asset providers. It should not extend to all designated services, many of which are delivered by established, highly regulated reporting entities with mature AML/CTF programs. We recognise that the financial crime environment is evolving rapidly, and that the regulatory framework must adapt to new technologies, emerging typologies and changes in financial sector infrastructure. At the same time, it is essential that any new power is exercised in a way that remains proportionate to ML/TF/PF risks, preserves room for innovation, and avoids unintended impacts on well-regulated sectors with mature AML/CTF programs.

We consider that this power should be applied in contexts where the risk is clearly demonstrated, guided by robust assessment and developed through meaningful consultation with industry. Transparent decision-making, meaningful consultation and coordination with other regulators will remain critical to ensure that regulatory responses are targeted, workable and supported by appropriate oversight.

Consultation questions

- 1. Do you have any views on the scope of this power applying to the provision of all designated services, or should the power be limited to registrable services?**
 - **Limiting the Power to Registrable Services:** For appropriate proportionality to the risks within the financial services sector, we recommend that the proposed new power be limited to registrable services such as remittance and virtual asset providers, rather than all designated services - many of which are provided by established, highly regulated reporting entities with mature AML/CTF programs. If the basis for introducing this power was to allow better regulation of registerable remittance and virtual asset services – given that reporting entities in other sectors are already regulated by multiple authorities (e.g. APRA, ASIC) - then it would be appropriate to limit the power in line with this. In addition, ASIC has a very similar Product Intervention Power that applies to those financial services that are regulated. Additionally, we recommend the Government should ensure consistency between the regimes to enable efficiencies in operationalisation.
 - **Clarifying the Term “Registrable (Designated) Services”:** We appreciate that the consultation paper uses the term “registrable (designated) services” to refer to those designated services that must be registered under Part 6 and/or Part 6A of the AML/CTF Act—namely, registrable remittance network providers, registrable remittance service providers and registrable virtual asset service providers. However, “registrable services” is not a defined term in the Act. To ensure clarity and consistency, the new provision should either define the term explicitly or directly reference the existing defined services or the relevant Parts of the Act.
 - **Defining “Products”, “Services” and “Delivery Channels”:** The terms “products”, “services” and “delivery channels” are not separately defined in the AML/CTF Act. To ensure clarity and consistent application, any new provision that empowers AUSTRAC to restrict or prohibit a product, service or delivery channel should clearly specify how these concepts connect to the provision of specific designated services.



Australian Banking Association

- Further guidance would also be valuable on what AUSTRAC considers falling within each category in practice. For example, in the wholesale market, products may be bespoke and structured for a specific customer, counterparty or situation. It is unclear whether AUSTRAC would approach such matters at a class level or assess individual product/service characteristics. Providing clarity on this point would help reporting entities understand the intended scope of the power and assess potential impacts on their operations.
- **Clarifying the Nature of the Restriction or Prohibition:** Further clarity would be helpful on whether the proposed power is intended to restrict the *use* of a product, service or delivery channel, the *offering* of the product or service itself, or both. These distinctions have materially different operational, compliance, and customer implications for reporting entities and should be transparently outlined in the new provision.
- **Scope Implications for Outsourced Service Providers:** Additional guidance is also needed on whether the power could extend to products, services or delivery channels provided by entities that are not reporting entities but perform AML/CTF obligations on their behalf, such as outsourced service providers. If AUSTRAC intends for the power to apply in this way, further detail would be required on how such restrictions would operate in practice, noting that impacted reporting entities would require sufficient time to transition to alternative providers and may need legislative protections to terminate affected contracts.
- **Scope and Impacts to Offshore Permanent Establishments (OPEs):** Further clarity is needed to understand if and how these new powers would apply to OPEs.
- **Exemptions and modifications:** The scope of this authority should be clearly defined so as not to restrict or nullify any existing exemptions and modifications. For instance, if an exemption (including any carve-out) has previously been granted, it is important to clarify whether this would continue to apply under AUSTRAC's powers with respect to those services provided by an exempt entity.

2. **What products, services or delivery channels that enable designated services to be provided pose money laundering, financing of terrorism or proliferation, or serious crime risks that are difficult for reporting entities to manage and mitigate?**

It would assist industry if AUSTRAC provided greater clarity on the types of products, services or delivery channels it is contemplating for potential use of these powers, whether through illustrative examples, insights from emerging-risk analysis, or learnings from higher-risk products identified in overseas markets. Early visibility would enable reporting entities to prepare and contribute more targeted feedback.

We understand that crypto ATMs have been identified as a potential candidate for this power given their higher risk characteristics and the prevalence of money laundering and scam-related activity, with AUSTRAC reporting that the vast majority of transactions involve illicit funds. These machines process hundreds of millions of dollars annually and have been linked to significant consumer harm. The ABA supports increasing regulation and applying appropriate restrictions on crypto ATMs, given the compelling evidence of their misuse and the absence of a clear legitimate use case. However, as with any decision under this proposed power, such action should be subject to the guardrails, clarifications and considerations outlined in this submission.

Decisions regarding other products, services or delivery channels should continue to be made on a case-by-case basis, informed by robust risk assessments and consultation with industry. This approach ensures that regulatory responses remain targeted, proportionate and do not unnecessarily stifle innovation or legitimate commercial activity.



Australian Banking Association

3. What criteria should the AUSTRAC CEO be required to apply when making a decision to restrict or prohibit a high-risk product, service or delivery channel?

When considering whether to restrict or prohibit a high-risk product, service, or delivery channel, AUSTRAC should apply clear and robust criteria to ensure decisions are proportionate and evidence based. Key considerations should include:

- **Necessity and Appropriateness:** AUSTRAC should satisfy itself that restriction or prohibition is the most appropriate legislative solution to manage ML/TF risk. This requires assessing:
 - Whether alternative legislative tools or enhanced systems and controls could sufficiently mitigate the risk.
 - Whether imposing restriction conditions would achieve the same outcome as prohibition without fully removing the product or service.
 - Global practices and lessons from other jurisdictions to identify effective risk mitigation measures short of blanket bans.
- **Clarity on the “high-risk” threshold:** Given that what constitutes a “high-risk” product, service or delivery channel is continually evolving with new technologies, crime types and contextual factors, it would be helpful for AUSTRAC to share, at least at a principles-based level, how it will satisfy itself that the relevant threshold of “high-risk” has been met. Clear guidance on this point would also assist reporting entities to more effectively manage their own ML/TF risks and provide guardrails when designing products, services and delivery channels.
- **Risk Assessment and Demonstrated Harm:** AUSTRAC should demonstrate that the risk presented by the relevant product or service cannot be mitigated through other means and that prohibition is necessary to protect the community and financial system.
- **Operational and Implementation Feasibility:** AUSTRAC should consider the readiness and capacity of the financial system and community to implement changes, including:
 - Complexity and feasibility of system/process changes.
 - Timeframes for implementation and transition.
 - Customer or third-party contracts, liability, and legal risks for regulated entities.
 - Customer engagement and communication requirements.
 - Jurisdictional risks for products/services offered through overseas establishments and potential conflicts with foreign regulatory requirements.
 - Interaction with requirements from other Australian regulators (E.g. APRA, ASIC, ACCC, etc.).
- **Consistency and International Alignment:** AUSTRAC should leverage positions and approaches taken by other jurisdictions where similar issues have been addressed, ensuring alignment with global standards and avoiding unnecessary divergence. The UK FCA appears to have a similar framework in place, has AUSTRAC conducted any assessment of how this is implemented in UK and other equivalent regions. Short Selling was banned/restricted temporarily, during the 2008 GFC in several countries, including Australia and US, by regulators like ASIC and SEC. Were there any learnings from this to consider for this framework?
- **Public Interest:** We note that the consultation paper proposes a criterion requiring AUSTRAC to consider “whether the continued use of the product, service or delivery channel is likely to cause harm to the community that outweighs the public interest in its continued use”. However, what is meant by the “public interest” for the purpose of exercising this power should be clearly articulated. For example, it is unclear whether considerations such as the facilitation of “efficiency, flexibility and innovation in the provision of financial products and services”, which governs ASIC’s product intervention power, would also be relevant in this instance. We



support the inclusion of a criterion that requires AUSTRAC to weigh the demonstrated ML/TF harm against the broader value the product or service provides to consumers and the community when determining whether restriction is proportionate.

Applying these criteria will help ensure that the power is exercised in a targeted, proportionate manner that addresses genuine risks without stifling innovation or imposing undue burdens on regulated entities.

4. Do you have any view on the proposed consultation and legislative instrument requirements when a decision is made and prior to it coming into effect?

We support the principle of industry consultation and the use of legislative instruments to provide transparency and parliamentary oversight. However, several practical considerations should be addressed:

- **Reasonable Implementation Timeframes:** Further to the feedback above, when a decision is made, the timeframe for implementation should reflect the readiness of the community and financial system. This includes the complexity of system changes, contractual obligations, and customer communication requirements.
- **Urgent Situations:** We appreciate that the consultation paper proposes a minimum 30-day consultation period for most decisions but acknowledges that, in certain urgent situations, consultation may not occur. It would be helpful for the legislation to clearly articulate the grounds the AUSTRAC CEO must be satisfied of in order to determine that a decision must be made urgently. Following any such urgent decision, it would also be beneficial for the community, market and reporting entities to receive an explanation of the reasons for the urgent action, to the extent possible while respecting tipping-off prohibitions, law-enforcement sensitivities and national-security constraints. Clear parameters and safeguards in urgent situations would provide greater regulatory certainty for affected entities.
- Without appropriate consultation, entities may face significant challenges in meeting compliance obligations and ensuring operational readiness, including addressing legal, contractual, and customer impacts identified in Question 3. To mitigate these risks, AUSTRAC could consider mechanisms such as transitional periods, targeted regulatory guidance, or temporary relief measures to support compliance without creating undue risk.
- It would also be helpful to understand whether the requirement to make a decision via a legislative instrument also applies to urgent decisions.
- **Access to Risk Assessment:** The proposed consultation and legislative instrument requirements indicate that information will be made publicly available to enable consultation. However, given the sensitivity of high-risk designations, it is important to clarify how this will work in practice. Entities should have a clear avenue to access AUSTRAC's underlying risk assessment to understand the basis for the decision and whether alternative mitigants were considered. Providing this level of transparency will help ensure decisions are proportionate, evidence-based, and allow industry to respond meaningfully during consultation. It is also important to clarify how existing legislative information-sharing and disclosure restrictions, such as those relating to 'AUSTRAC information' under section 121 of the AML/CTF Act, will apply to the information upon which AUSTRAC has based its decisions and to clearly enable all necessary information being shared with affected individuals and internally by entities to stakeholders.
- **Inclusivity of Consultation:** We welcome the proposal for public consultation rather than limiting input to entities AUSTRAC identifies as affected. This broader approach is essential, as organisations developing new products or services may not yet be visible to AUSTRAC but could nonetheless be significantly impacted by a proposed restriction or prohibition.



Providing open consultation ensures these entities—some of which may have already invested substantial resources into innovation—have an opportunity to contribute before decisions take effect.

5. Do you propose any particular safeguards or restrictions to the proposed new power for the AUSTRAC CEO to restrict or prohibit high-risk products, services and delivery channels and, if so, what should those safeguards be?

We consider it essential that robust safeguards accompany any new power enabling the AUSTRAC CEO to restrict or prohibit high-risk products, services, or delivery channels. These safeguards should ensure decisions are transparent, proportionate, and do not unnecessarily stifle innovation or disrupt legitimate financial services. Key safeguards to be considered:

- **Alignment with Existing Regulatory Powers:** Safeguards similar to those built into ASIC's Product Intervention Power are relevant considerations here, in particular:
 - The ability to target specific persons or cohorts of providers rather than imposing blanket restrictions across the entire sector;
 - Requirement for consultation with other regulators of the group to be prohibited (e.g. APRA or ASIC as relevant) when the restriction affects entities within their remit;
 - Whether an order may be time-bound or continuous; and
 - The right to independent review of AUSTRAC's decision.
- **Liability Protections for Affected Entities:** Further, it would be helpful to understand whether any safeguards from liability exist for those providers that are subject to a prohibition or restriction order. In particular, protection from civil liability for discontinuing products or services, and information as to how this may interact with the communication restrictions set out by the prohibition on tipping off. In this regard, AUSTRAC should consider whether section 235 of the AML/CTF Act is sufficiently broad to ensure protections for entities and individuals who are acting in response to the exercise of AUSTRAC's new power.
- **Decision Duration, Review Mechanisms, and Sunset Provisions:** The consultation paper states that the legislative instrument will set out the terms of each decision, including its duration, and provides an example of a three-year minimum period. However, it is unclear whether this timeframe is intended as an illustrative example or as the proposed default duration. We would welcome clarification from AUSTRAC on this point.
- Notwithstanding this, we recommend adopting a shorter duration, particularly during the early stages of implementing a new restriction or prohibition, and especially where the decision is made urgently with limited consultation. A shorter timeframe, similar to ASIC's 18-month limit, would allow industry and the community to observe the practical impact of the measure, provide feedback, and, if necessary, challenge the decision upon expiry.
- The consultation paper proposes an ability for the AUSTRAC CEO to extend or make a decision permanent via a subsequent legislative instrument. It would be helpful for AUSTRAC to outline the criteria (if it's different from the proposed criteria) that would need to be satisfied to justify an extension, and in particular, to support making a decision permanent.
- In addition, the AUSTRAC CEO should have the flexibility to shorten the duration where the underlying risk has been effectively addressed. There should also be a clear and accessible process for affected entities to engage with AUSTRAC for a review once an instrument is in effect, enabling them to present evidence and make submissions regarding whether the restriction/prohibition should be reduced, amended, or allowed to lapse.
- **Transparency and Public Interest:** We recommend that AUSTRAC demonstrates that any use of the power is necessary, proportionate, and genuinely in the public interest. Where AUSTRAC proceeds with a restriction despite contrary submissions from affected entities, the



basis for that decision should be published prior to the instrument coming into effect to allow industry and Parliament to understand the rationale.

- **Retrospective Consultation Where Immediate Action Is Needed:** In circumstances where pre-decision consultation is not possible (e.g., emergencies), AUSTRAC should consider undertaking retrospective consultation with affected parties as soon as practicable to ensure industry has an opportunity to provide input on the ongoing application of the power.
- **Implementation Timeframes:** Impacted reporting entities will require adequate implementation time to assess product terms and conditions, make necessary system changes, and manage customer communications. This is essential to ensure compliance while avoiding unintended disruption to customers or operational processes.
- **Consider limiting the restriction or prohibition to particular cohorts of providers:** Consider limiting any restriction or prohibition to specific cohorts of providers: The consultation paper indicates AUSTRAC's openness to applying targeted restriction conditions rather than full prohibitions. We support this direction, as regulatory responses should be proportionate to the level of risk rather than imposed as blanket sector-wide measures.
- Some new or amended designated services may span multiple sectors. A product offered in both the banking and remittance sectors, for example, may present significantly higher risks in the remittance context due to differences in maturity, scale, and regulatory oversight. Likewise, certain restrictions may be appropriate only for entities with exposure to particular jurisdictional risks, while remaining unnecessary for providers with demonstrably lower risk profiles.
- Comparable powers exercised by ASIC already incorporate this level of nuance and flexibility. AUSTRAC should adopt a similar approach to ensure that its decision-making supports more tailored, risk-sensitive, and effective regulatory outcomes.

6. Are you satisfied that the proposed model adequately captures products, services or delivery channels that enable the provision of designated services that may be high-risk now, or in the future?

Ultimately, this will be subject to whether the above feedback have been adequately considered.

It would also be helpful to understand whether these provisions apply to OPEs and particularly how do they apply if there are conflicting provisions under an offshore jurisdiction's regime?

7. Do you think the proposed offence penalty is sufficient to deter continued use of banned or restricted products, services or delivery channels?

- **Clarification on Scope of Prohibition:** We would welcome greater clarity on the circumstances in which the prohibition applies, including:
 - whether exemptions may be available in limited situations (e.g., where the provision of a prohibited product is incidental or does not create the high risk environment the reforms are intended to address); and
 - whether there would be consequences for dealing with, or banking, a provider of a prohibited service, and what AUSTRAC's expectations would be of reporting entities in monitoring any list of prohibited services.
- **Enforcement Approach:** While the proposal sets out an offence penalty, the consultation paper does not address how enforcement would operate. Existing obligations on unregistered remitters and digital currency exchange providers already function as a de facto prohibition, but enforcement activity against unregistered providers has been limited. It is therefore unclear how effective a blanket prohibition or restriction will be without a clear and practical enforcement path.



Australian Banking Association

- It would also be helpful to understand how this new power is intended to complement AUSTRAC's existing enforcement toolkit. Further clarity on how and when the power would be use - and how AUSTRAC would assess that its use is in the public interest - would support transparency and provide greater certainty for reporting entities.
- **Risk of Unintended Outcomes:** Use of the offence and prohibition powers should be measured and proportionate. Overly rigid or broad application may risk driving high risk activity underground or towards unregulated channels, reducing visibility to the financial system and law enforcement. It will be important to ensure the framework supports risk mitigation rather than unintentionally amplifying ML/TF/PF threats.
- **Implementation Timing and Safeguards:** Penalties should only apply after a prohibition is formally in effect and once entities have been given sufficient time to exit affected customers or services. In cases where an exit requires a longer period due to contractual, operational or customer considerations, there should be safeguards to protect reporting entities acting reasonably and in good faith to comply.

Part 2: Amending the Definition of 'Financing of Terrorism'

We support the proposed amendment to the definition of 'financing of terrorism' in section 5 of the AML/CTF Act, to explicitly include offences related to state-sponsored terrorism and ensure alignment with recent changes to the Criminal Code and relevant sanctions regimes.

Consultation questions

8. What concerns, if any, do you have with the proposed amendment to the definition of 'financing of terrorism'?

The ABA has no concerns with the proposed amendment to the definition of 'financing of terrorism' and is supportive of the changes. We note the importance of ensuring that the AML/CTF Act's definition aligns with the designation of state sponsors of terrorism under the Criminal Code Amendment (State Sponsors of Terrorism) Act 2025, as well as with comparable foreign legislation addressing state-sponsored terrorism.

9. Are the amendments to the definition likely to impact your entity's AML/CTF program, noting your existing obligations and the consequential nature of the amendment?

No comment.

Policy Lead: **Emily Gamaroff** (Associate Director, Policy) Emily.Gamaroff@ausbanking.org.au

About the ABA

The Australian Banking Association advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.