Australian Finance Industry Association

8 May 2026

Senator Raff Ciccone
Chair of Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600
Email: pjcis@aph.gov.au

Via online submission portal

Dear Senator

REVIEW OF THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING AMENDMENT BILL 2026

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia.[1] We appreciate the opportunity to respond to the Parliamentary Joint Committee on Intelligence and Security's Review of the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2026 (**'the Bill'**).[2]

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

INTRODUCTORY COMMENTS

AFIA supports the objective of strengthening Australia's Anti-Money Laundering and Counter-Terrorism Financing (AML-CTF) framework and responding to emerging and evolving financial crime risks. We also recognise the need for AUSTRAC to have effective and agile enforcement tools to intervene to respond to financial crime.

[1] Australian Finance Industry Association (afia.asn.au)
[2] Review of the AML-CTF Financing Amendment Bill 2026

However, AFIA is concerned that the Bill, as currently drafted, confers exceptionally broad and discretionary intervention powers on the AUSTRAC Chief Executive Officer (CEO), without proportionate statutory safeguards, structured decision-making constraints, or mandatory involvement of Australia's financial system regulators.

In particular, Schedule 1 of the Bill establishes a new framework that allows the AUSTRAC CEO to impose restrictions or prohibitions with potentially system-wide consequences extending beyond AML-CTF risk management, absent any requirement for concurrence, approval or formal coordination with the Treasury or the financial regulators[3].

LEGISLATIVE CONTEXT

The Bill amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)* to create a new framework enabling the AUSTRAC CEO to regulate or prohibit "high-risk mechanisms" used to provide designated services (clause 77A). As noted, these changes are primarily implemented through Schedule 1 of the Bill, which insert new operative provisions into the AML-CTF Act.

The Bill introduces new provisions enabling the AUSTRAC CEO, by legislative instrument to restrict the use of a product, service, delivery channel or "thing" or prohibit a reporting entity from using that mechanism to provide a designated service where the AUSTRAC CEO considers this to be in the public interest (subclause 77A (1)).

While AFIA acknowledges the policy intent, the power raises several key legal and regulatory concerns:

1. Breadth of Discretion

The power is framed by reference to the public interest, without further statutory criteria, thresholds, or evidentiary standards. The breadth of application (potentially across sectors and markets) and the absence of defined statutory thresholds beyond public interest considerations creates a high degree of legal uncertainty and limited predictability for regulated entities. The power also has the capacity to reshape how financial services are offered at scale.

2. Scope and Systemic Reach

The power extends to:

- transaction volume or value;
- methods of remittance, exchange or transfer;
- destinations of funds or value; and
- other operational parameters determined by the AUSTRAC CEO (subclause 77A (4)).

[3] The financial system regulators being the Australian Prudential Regulation Authority (APRA), the Reserve Bank of Australia (RBA), and the Australian Securities and Investments Commission (ASIC).

These settings go beyond entity-level compliance and enable intervention in core market infrastructure and financial intermediation mechanisms, with potential material impacts on:

- prudential soundness;
- payments and settlement systems;
- market structure and competition; and
- consumer access to financial services.

3. Absence of Mandatory Regulatory Coordination

While consultation may occur in some circumstances, the Bill does not require:

- concurrence from the Treasury and financial regulators;
- a joint decision-making process; or
- any form of veto or escalation mechanism.

Public consultation alone is not an adequate substitute for mandatory, formal consultation and coordination where decisions may affect financial stability or market functioning.

4. Lack of Structured Decision-Making Requirements

The Bill does not impose an express obligation on the AUSTRAC CEO to:

- undertake a prudential, financial stability or systemic risk assessment;
- consider macroeconomic, market, competition or consumer impacts;
- apply proportionality or least-restrictive tests; or
- Document and publish reasons in a manner commensurate with the significance of the intervention.

These omissions are material, given the nature of the powers and the Bill's capacity to enable rapid, unilateral interventions that may reshape entire market segments.

INTERNATIONAL CONTEXT AND OUTLIER RISKS

AFIA is not aware of comparable jurisdictions that confer similarly broad AML-CTF intervention powers on a single authority without embedded multi-agency controls, financial regulator concurrence or oversight mechanisms.

While the United States permits Treasury-led AML interventions[4], those powers operate within a framework where the regime is distinguishable in several important respects:

- it requires a formal finding of a "primary money laundering concern", supported by defined statutory factors;

[4] USA Patriot Act section 113

- it is embedded within a structured rule-making process, including notice-and-comment obligations[5];
- it involves mandatory inter-agency consultation and coordination, including with prudential and national security authorities[6];
- it incorporates graduated measures, allowing proportionate responses rather than binary prohibitions[7]; and
- it is subject to Congressional notification and oversight obligations as well as accountability mechanisms[8].

The Bill adopts a similarly coercive capability as the US model but does not replicate these safeguards.

Importantly, the power is generally deployed by the US Treasury where the US Treasury concludes that a jurisdiction, institution, transaction class, or financial mechanism poses a "primary money-laundering concern" and that targeted remedial action is insufficient. Final decisions are taken by the US Treasury Secretary, acting through the *Financial Crimes Enforcement Network* (FinCEN), after consultation with prudential and national-security agencies. This is not the approach taken by the Bill on the powers of the AUSTRAC CEO.

This divergence creates a risk that Australia may become an **outlier jurisdiction**, with implications for:

- regulatory coherence;
- international equivalence assessments; and
- investor confidence in the predictability of Australia's financial regulatory framework.

AFIA RECOMMENDATIONS

AFIA recommends that the Bill be amended to introduce appropriate safeguards and align the framework with established principles of financial regulation and administrative law:

1. **Mandatory regulatory concurrence:** Insert a requirement that the AUSTRAC CEO obtain agreement from the Department of Treasury or financial regulators such as the Australian Prudential Regulation Authority (APRA), the Australian Securities Commission (ASIC) and the

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[5] Section 311 also allows Treasury to impose interim final rules without prior notice and comment where it finds "good cause" (e.g. urgency relating to national security). However, even then, post-hoc notice and comment typically follows.

[6] The statute requires consultation with the Secretary of State, the Attorney General, the Federal Reserve, other prudential regulators, and (where appropriate) national security agencies.

[7] Section 311 provides five "special measures", ranging from enhanced record-keeping and reporting obligations (Measures 1–4) to the prohibition or strict conditions on correspondent banking relationships (Measure 5).

[8] Congress does not approve individual s.311 determinations ex ante. Oversight is systemic rather than case-by-case approval.

Reserve Bank of Australia (RBA) (or the Council of Financial Regulators), where measures may affect prudential/financial stability, market integrity, or payments systems.

2. **Ministerial oversight:** Introduce a requirement for approval by the Commonwealth Treasurer for significant or system-wide interventions.
3. **Structured statutory criteria:** Define clearer thresholds for action, including evidentiary standards, risk severity and consideration of whether less restrictive measures are available.
4. **Impact assessment requirements:** Require an explicit, documented assessment addressing prudential/financial stability implications, systemic risk and contagion effects, markets or competition impacts, and consumer access considerations before instruments are made.
5. **Transparency and accountability:** Strengthen requirements for publication of reasons (subject to appropriate confidentiality safeguards), procedural fairness for affected regulated entities, and reporting to Parliament.
6. **Time limits and review mechanisms:** Introduce sunset periods, impose time limits, require mandatory reviews for revocation or variation to ensure measures remain necessary and proportionate.

CLOSING COMMENTS

AFIA supports strong and effective AML-CTF regulation, including extending the powers of the AUSTRAC CEO and appropriately enhancing enforcement tools for AUSTRAC. However, the Bill's current design risks concentrating significantly regulatory authority in a single office without commensurate safeguards.

AFIA urges the Government to recalibrate the new framework to ensure that these powers are exercised in a manner that is proportionate and evidence-based, subject to appropriate institutional oversight, and consistent with Australia's long-standing financial regulatory architecture and international best practice.

Should you wish to discuss our submission or require additional information, please contact AFIA Head of Regulatory Policy, [redacted]

Yours sincerely

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Diane Tate
Chief Executive Officer