



INSTITUTE OF  
**PUBLIC  
ACCOUNTANTS®**

**Submission to the  
Senate Legal and Constitutional  
Affairs Committee on the adequacy and  
efficacy of Australia's AML-CTF regime**

**August 2021**

27 August 2021

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

via online and by email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Sir/Madam

**Inquiry into the adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing (AML-CTF) regime**

The Institute of Public Accountants (IPA) welcomes the opportunity to provide this submission in response to the invitation from the Senate Legal and Constitutional Affairs Committee to provide our insights on Australia's AML-CTF regime.

The IPA is one of the three professional accounting bodies in Australia, representing over 46,000 accountants, business advisers, academics, and students throughout Australia and internationally. Three-quarters of the IPA's members work in or are advisers to small business and SMEs.

The IPA's UK operations have been authorized as a supervisor in the UK regime for several years and their experience informs our submission. They have advised of the extensive and onerous obligations placed on accountants, accounting firms and on supervisors, resulting in significant compliance costs. We have previously advocated that a less complex and less costly regime should be adopted in Australia, which we believe can be achieved without compromising the integrity of the system.

Since its introduction, the IPA has been supportive of the AML-CTF regime and acknowledges that Australia needs to comply with its international obligations; including introducing the second phase of the AML-CTF legislation (tranche 2) to designated non-financial businesses and professions (DNFBPs).

Although tranche 2 of Australia's anti-money laundering laws will expand accountants' obligations, the underlying requirements relating to customer identification and verification procedures would appear to be consistent with existing Accounting Professional and Ethical Standards (APES). These requirements are contained in APES 110 *Code of Ethics for Professional Accountants* (including Independence Standards) and APES 320 *Quality Control for Firms* which are well established and practised by our members.

More recently, the Tax Practitioners Board (TPB) has introduced proof of identity checks for tax practitioners via the Document Verification Service, a national online system that allows

authorised agencies to verify certain identity documents issued by a range of Australian, State or Territory government agencies. Tranche 2 requirements should be made consistent with these existing requirements to facilitate ease of adoption by accounting practices that are designated as DNFBPs. Please refer to the Annexure below.

One challenge for accountants will be to develop and maintain an AML-CTF compliance program to send AUSTRAC threshold transaction reports, international funds transfer reports and suspicious transaction matter reports where required. The compliance costs for some of our members to establish and maintain such compliance programs as small business operators is likely to be burdensome. We note the 2016 Attorney-General's Department Statutory Review of AML-CTF recommended that options be developed for regulating DNFBPs and a cost-benefit analysis of those regulatory options be undertaken. The IPA is supportive of this approach and encourages government and AUSTRAC to work with DNFBPs to provide guidance on developing specialised and tailored programs and reporting templates which would assist compliance with the tranche 2 requirements; and help to contain costs.

The IPA agrees that AML-CTF legislation is critical. However, we ask that compliance costs are carefully considered in terms of the impact on small accounting practices that are designated as DNFBPs under the tranche 2 requirements.

It may be of benefit to the Committee to consider our comments to the ATO in June 2021 on the consultation paper – *Transition to strengthening client verification*, which are relevant in the context of this inquiry. These appear as an annexure below.

Please don't hesitate to contact Vicki Stylianou at  
if you have any queries or require further information.

Yours faithfully

Vicki Stylianou  
Group Executive Advocacy & Policy  
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## ANNEXURE

The *Anti-Money Laundering (AML) and Counter Terrorism Financing (CTF) Act 2006* does not cover second-tier professions, such as accountants, lawyers, and real estate agents. This is despite a recommendation by the Australian Government's Joint Committee on Law Enforcement back in October 2015, recommending this expansion. The United Kingdom and New Zealand have already included accountants as part of their AML laws. If accountants were included as part of the AML-CTF regime there would already be statutory obligations for matters such as, ongoing customer due diligence and suspicious matter reporting. It is not unexpected that the ATO and the TPB are upgrading and implementing their own guidance on client verification.

The draft guidance focuses on measures to intercept attempted identity fraud targeted at registered tax practitioners and their clients. The primary objective for the new guidelines is to strengthen and modernise the practices and controls that registered tax practitioners follow when verifying the identity of their clients. The IPA supports the overall purpose for which these measures are intended. The only caveat is that it does not overburden tax practitioners and fits within the firm's natural business processes. There have been many recent examples where tax practitioners have been used by fraudsters to illegally obtain a financial advantage by stealing another person's identity. The tax profession as guardians of our tax system need to play their role in minimising this increasing risk, particularly in an environment that now relies on technology and remote work practices.

The main points we wish to make in response to the consultation paper are:

- The IPA supports the underlying intent of the guidelines. The guidelines are broadly aligned with the draft TPB guidance on client verification. The purpose is to establish a minimum standard to be applied across the tax profession to ensure due diligence is taking place when engaging new clients, or where there is suspicion that an existing client may have had their identity compromised.
- The consultation paper does not make it clear at the outset that it is a responsibility of the TPB to ensure that tax practitioners should apply reasonable care when it comes to client verification. All tax practitioners are governed by Tax Agent Services Act (TASA). While there is no specific proof of identity requirements under the TASA, there are several provisions that a registered tax practitioner may be found to have breached, if the registered tax practitioner fails to take appropriate proof of identity steps to verify a new or ongoing client's identity, as well as confirming the identity in relation to any representative of new or ongoing clients, and the representative's authority to represent the client (if applicable). The ATO guidance should acknowledge in its introduction that the TPB is the regulator for ensuring that tax practitioners exercise reasonable care in undertaking appropriate proof of identity checks.
- Tax practitioners may be undertaking work referred to them from another intermediary, such as a legal practitioner. There are no examples in the guidance

showing what changes, if any, are required to verify a client's identity when these common day-to-day referrals occur. Can the tax practitioner rely on the originating referrer to undertake the appropriate identity checks or is the tax practitioner required to perform their own checks?

- The transitional approach is welcome. Practitioners will be expected to voluntarily adopt the new standards, with the aim to make it compulsory after an initial transition period. Tax practitioners are not expected to revisit and verify the identity of their entire client base as part of the transitional approach.
- Given the ramifications for the tax profession in adopting the client verification guidelines, we would anticipate that the TPB and the ATO need to engage in an education program to highlight to practitioners what will become compulsory business practice after the initial transition period ends. The professional accounting bodies, including the IPA, will promote good business processes among our members, when onboarding new clients, and will enforce the requirements through our co-regulatory processes. However, the regulators should promote updated expectations prior to new standards becoming mandatory.
- Most practitioners undertake client identity checks as part of their normal business practices. Whether these processes are considered adequate in light of updated guidance, will be an important consideration. This could potentially lead to increased costs.
- It needs to be resolved whether there is an expectation by the ATO that tax practitioners should compare a client's details on government issued identity documents against details held by a Document Verification Service (DVS); and then to use this method an arrangement is needed with an appropriate provider, which comes at a cost. For smaller practitioners, this will be yet another cost which will be difficult to absorb or pass on to clients, many of whom are already experiencing financial distress caused by the pandemic. If there is an expectation that all practitioners use this verification method, then this facility should be provided by the ATO at no cost to the user.
- With respect to relationship verification, sighting documents that proves an individual is acting on behalf of another individual is required. Unless the document specifies the time period the authority is valid for, it becomes problematic for the tax practitioner as to whether the authorisation is still valid. Tax practitioners will need to consider the currency of the documents being used, relative to the task being performed. This is another process which will add to the compliance cost.