Australian Government

Department of Home Affairs

Department of Home Affairs Submission to the Review of the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2026

Parliamentary Joint Committee on Intelligence and Security

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Table of Contents

Introduction 3

Context 3

Australia's legislative environment and emerging risks 3

Consultation 4

Overview of proposed Schedules 5

Schedule 1—Regulating use of high-risk mechanisms 5

Rationale for legislative change 5

Limitations of current regulatory framework 5

Purpose and operation of the new power 5

Safeguards 6

Enforcement 6

Application of provisions 6

Schedule 2—Meaning of financing of terrorism 6

Current legislative provision 7

Schedule 3—Technical amendments 8

Rationale for legislative change 8

Schedule 3 amendments 8

Part 1—Customer due diligence (CDD) 8

Part 2—Politically exposed persons 9

Part 3—Legal professional privilege claims 9

Part 4—Advising the AUSTRAC CEO of certain matters 9

Part 5—International value transfer services 9

Part 6—Document gathering powers 10

Part 7—Miscellaneous 10

Conclusion 10

Introduction

The Department of Home Affairs (the Department) welcomes the opportunity to provide a submission 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). This submission provides further detail to assist the Committee's consideration and should be read alongside the Bill and its explanatory materials.

Overview of the Bill

On 16 October 2025, the Minister for Home Affairs, the Hon Tony Burke MP, announced that legislation to amend the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) would be introduced in the Parliament to give the Australian Transaction Reports and Analysis Centre (AUSTRAC) Chief Executive Officer (CEO) powers to restrict or, if the CEO decides, prohibit high-risk products, services or delivery channels in prescribed circumstances.

The Bill, which was introduced in the House of Representatives on 12 March 2026, will amend the AML/CTF Act to respond to the continuously changing financial crime threat environment. The amendments in the Bill acknowledge the ongoing threat of money laundering and serious crimes to both Australia's financial system and the Australian community, and the need to ensure Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime remains responsive to emerging money laundering, terrorism financing and other financial crime threats both now and in the future.

The Bill contains three schedules of amendments:

- Schedule 1 of the Bill will introduce a new power for the AUSTRAC CEO to restrict or prohibit, via legislative instrument, a reporting entity from using a high-risk mechanism to provide a designated service.
- Schedule 2 of the Bill will amend the definition of financing of terrorism in section 5 of the AML/CTF Act to reference new offences for financing a state sponsor of terrorism, and to enable regulations to be made to prescribe certain offences.
- Schedule 3 makes technical amendments to the AML/CTF Act identified through implementation of the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024* (AML/CTF Amendment Act). These amendments clarify, or put beyond doubt, the operation of provisions of the AML/CTF Amendment Act.

Context

Australia's legislative environment and emerging risks

Australia's AML/CTF regime establishes a regulatory framework for combatting money laundering, terrorism financing, proliferation financing and other serious crimes. At its core, the AML/CTF regime is a partnership between the Australian Government and industry. Through the regulatory framework established by the AML/CTF regime, businesses are asked to play a vital role in effectively detecting and preventing misuse of their sectors and products by criminals seeking to launder the proceeds of their crimes.

AUSTRAC is Australia's AML/CTF regulator and financial intelligence unit. AUSTRAC is equipped with regulatory powers to supervise businesses that are reporting entities under the regime, enforce compliance with AML/CTF obligations and provide a valuable intelligence capability.

Major reforms to the AML/CTF Act were made in 2024 through the AML/CTF Amendment Act. The bulk of these reforms come into force in 2026 and represent a significant step forward in protecting the Australian community from financially enabled crime, including by extending the AML/CTF regime to additional services provided by entities such as real estate agents, accountants and lawyers, alongside simplifying and clarifying the regime to reduce regulatory impacts and support businesses to prevent and detect financial crime.

Since the passage of these amendments, the financial crime environment has continued to change and evolve. Transnational, serious and organised crime networks continue to adapt and develop new ways to exploit our community and financial systems to generate illicit profits and launder the proceeds of crime. As

the Australian Government hardens key parts of the legitimate economy from illicit financing, criminals are finding new ways to exploit emerging technology as well as changes in our financial sector infrastructure.

The Department is the policy department responsible for administering the AML/CTF Act and works closely with AUSTRAC to ensure the legislative frameworks that govern its powers remain up to date in the changing financial crime environment. The Department has worked with AUSTRAC throughout the development of the Bill to ensure that the new power and other amendments are able to be operationalised effectively, and clarify the application of the AML/CTF Act.

Consultation

The Bill was developed with input from AUSTRAC and included consultation with Commonwealth departments, including the Attorney-General's Department, the Department of Foreign Affairs and Trade and the Department of the Treasury where appropriate.

The development of Schedules 1 and 2 of the Bill were also supported by a public consultation process, via the Department's website, during December 2025 and January 2026. Eight submissions were received during the public consultation. The consultation paper and submissions are available on the Department's website at https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/2026-reforms-aml-ctf-act.

Overview of proposed Schedules

Schedule 1—Regulating use of high-risk mechanisms

Rationale for legislative change

Australia's AML/CTF regime is founded on a risk-based approach that seeks to protect the financial system and the community from criminal exploitation, while enabling legitimate and innovative business activity. However, the pace of technological change and the increasing sophistication of criminal methodologies have exposed limitations in the current legislative framework to deal with high-risk mechanisms that present sector-wide risks.

Limitations of current regulatory framework

Under the AML/CTF Act, obligations apply to persons who provide one or more *designated services*. Section 6 of the Act defines designated services by reference to specific business activities conducted by businesses in the financial services, bullion, gambling, remittance, virtual asset services and related sectors. From 1 July 2026, additional designated services will be introduced into the regime to include real estate, certain professional services such as accountants, and dealers in precious metals, stones and products.

All reporting entities must enrol with AUSTRAC and entities that provide *registrable remittance services* or *registrable virtual asset services* are additionally required to be registered under the AML/CTF Act. Within this framework, the AUSTRAC CEO currently has powers to cancel, suspend or impose conditions on the registration of individual entities where the CEO is satisfied that continued registration involves, or may involve, a significant money laundering, terrorism financing, proliferation financing or other serious crime risk. Breaches of registration requirements or conditions are criminal offences.

While these powers provide an important means of mitigating risk at the entity level, they are inherently limited in scope. They apply only to registered entities and require regulatory action to be taken on a case-by-case basis. The AML/CTF Act does not presently allow the AUSTRAC CEO to restrict or prohibit the use of a particular mechanism across a sector, even where that mechanism is demonstrably being exploited in a systemic way.

This limitation has become increasingly significant as financial crime risks have evolved. Emerging technologies and novel business models have delivered substantial benefits to consumers and the economy, but they have also created opportunities for criminal exploitation. For example, AUSTRAC intelligence has identified the exploitation of cryptocurrency ATMs by offenders who coerce or deceive individuals into converting funds into virtual assets. These mechanisms are attractive to criminals because they can obscure the movement of funds and reduce traceability, including through minimal or indirect face-to-face interaction.

Although the AUSTRAC CEO can currently impose conditions on individual virtual asset service providers operating cryptocurrency ATMs, experience has shown that entity-by-entity regulation has not been sufficient to deter or disrupt these services from being exploited by criminals. This has resulted in a regulatory gap where high-risk mechanisms that pose unacceptable harm cannot be addressed decisively or consistently across the sector.

Purpose and operation of the new power

Schedule 1 of the Bill addresses this gap by introducing a new Part 6B into the AML/CTF Act. The new Part provides the AUSTRAC CEO with a targeted power to restrict or prohibit, by legislative instrument, the use of a *high-risk mechanism* to provide a designated service.

Under the new framework, the AUSTRAC CEO must be satisfied that the use of the high-risk mechanism has caused, will cause, or is likely to cause significant harm to the Australian financial system, the Australian community, or both, and that a restriction or prohibition is necessary in the public interest. In determining whether the public interest test is met, the CEO is required to take into account specific matters set out in the legislation, ensuring decisions are grounded in evidence and risk assessment rather than applied as a blunt regulatory response.

Importantly, the new power complements, rather than replaces, existing entity-level powers to restrict or rescind registration under Parts 6 and 6A. While those Parts remain focused on registration status and compliance by individual reporting entities, the new Part 6B enables AUSTRAC to respond to risks that arise

from the inherent misuse of a mechanism itself, regardless of whether it is offered by registered or non-registrable entities.

Safeguards

Recognising the breadth of the new power, Schedule 1 includes a range of significant safeguards to ensure its use is proportionate, transparent and accountable. As a general rule, the AUSTRAC CEO must undertake a minimum 30-day consultation process with the public and relevant agencies before making a restriction or prohibition. This ensures that affected entities and stakeholders can understand the proposed measure, provide evidence, and make submissions.

Any restriction or prohibition must be made by legislative instrument, enabling parliamentary oversight through the disallowance process. The use of legislative instruments ensures that decisions of broad application are subject to parliamentary scrutiny.

The legislation also recognises that there may be exceptional or urgent circumstances where immediate action is required to prevent ongoing harm. In such cases, the AUSTRAC CEO may make an instrument without prior consultation. However, such an instrument can only remain in force for up to six months. To maintain the restriction or prohibition beyond that period, the CEO must undertake a full consultation process, ensuring that urgent measures do not become enduring without appropriate scrutiny.

Any instrument made under the new Part 6B will apply for a maximum initial period of three years. This acknowledges the dynamic nature of financial crime harm and ensures that restrictions or prohibitions are not permanent and must be revisited in light of evolving threats, technological developments and industry practices. While extensions are permitted, they are subject to the same consultation and decision-making requirements as the original instrument.

The new framework does not affect a person's right to seek judicial review of decisions made by the AUSTRAC CEO, preserving established avenues to challenge executive action and the enforceability of instruments.

Enforcement

Schedule 1 introduces offence provisions for breaches of a restriction or prohibition, including where a person subject to an instrument offers to use a prohibited high-risk mechanism to provide a designated service. These offences align with existing offences in Parts 6 and 6A of the AML/CTF Act, such as those relating to providing registrable services while unregistered or in breach of registration conditions.

Aligning the offence structure ensures consistency across the Act and reinforces the principle that all reporting entities are subject to coherent and proportionate penalties where they undermine the integrity of the AML/CTF regime.

Application of provisions

The new power applies to all designated services, not only to those provided by registrable entities. While industry stakeholders expressed some concern about the new power applying to all designated services through the public consultation, the broader application is deliberate. It ensures that AUSTRAC can respond effectively to high-risk mechanisms both now and in the future without the need for repeated legislative amendment, particularly as new business models and delivery channels emerge.

The power is comparable in policy intent to the product intervention power in the *Corporations Act 2001*, which enables the Australian Securities and Investments Commission to intervene where financial or credit products pose a risk of significant consumer detriment. In the AML/CTF context, the intervention is similarly targeted, time-limited and safeguarded, and is intended to address exploitation of the financial system rather than to disrupt legitimate industry activity.

Taken together, the reforms in Schedule 1 strengthen AUSTRAC's ability to respond flexibly and decisively to emerging and sector-wide threats, while ensuring significant safeguards apply to this new power. The new power will fill an identified regulatory gap and support the ongoing effectiveness and credibility of Australia's AML/CTF framework in a rapidly changing threat environment.

Schedule 2—Meaning of financing of terrorism

Overview of amendments

Schedule 2 will amend the definition of financing of terrorism in section 5 of the AML/CTF Act to reference new offences introduced into the *Criminal Code Act 1995* (Criminal Code) by the *Criminal Code Amendment*

(State Sponsors of Terrorism) Act 2025 for financing a state sponsor of terrorism. Specifically, section 112.5 of the Criminal Code establishes the offences of getting funds to, from or for a state sponsor of terrorism. Division 113 of the Criminal Code sets out offences against financing a state terrorist act targeted at Australia.

Paragraph (a) of the definition of financing of terrorism will be amended to expressly include reference to section 112.5 and Division 113 of the Criminal Code. Paragraph (a) currently makes express reference to an offence against section 102.6 (getting funds to, from or for a terrorist organisation) or Division 103 (financing terrorism) of the Criminal Code.

While the Bill will make express reference to the new offences enacted in the Criminal Code, the Department considers that even without the amendments, state sponsored terrorism is still largely covered by existing provisions in the AML/CTF Act. For example, with respect to the obligation to report suspicious matters to AUSTRAC, state sponsored terrorism financing would already be captured by section 41(1)(f)(iii) as it is relevant to the investigation of, prosecution of a person for, an offence against a law of the Commonwealth. This means that a reporting entity would already be required to report suspicions of state sponsored terrorism financing to AUSTRAC.

Similarly, reporting entities already have obligations to apply enhanced due diligence to a customer who is making a transaction to an individual, business or organisation located in a prescribed foreign country, and they must treat transactions associated with prescribed foreign countries as high-risk for the purposes of transaction monitoring. These amendments simply put this beyond doubt.

Schedule 2 will also amend the definition to enable regulations to be made that prescribe offences against the *Charter of the United Nations Act 1945* (COTUNA), offences against the *Autonomous Sanctions Act 2011*, or regulations made under those Acts. This will enable offences against United Nations Security Council Resolution (UNSC) 1267 and its successor resolutions to be prescribed for the purposes of the definition of financing of terrorism. These were removed from the definition of financing of terrorism in 2008 following changes to the COTUNA, where sanctions under UNSC 1267 and its successor resolutions now fall under section 27 of the COTUNA and not section 20 or 21, as is currently set out in the definition of financing of terrorism.

The Department outlined the proposed amendments introduced in Schedule 2 in its public consultation paper. Of note, one submission noted that while reporting entities already address risks connected to state sponsored terrorism through existing reporting obligations and customer due diligence, 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.[1]

Current legislative provision

Under section 5 of the AML/CTF Act, *financing of terrorism* means conduct that amounts to:

(a) an offence against section 102.6 or Division 103 of the *Criminal Code*; or

(b) an offence against section 20 or 21 of the *Charter of the United Nations Act 1945*; or

(c) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a) or (b); or

(d) an offence against a law of a foreign country or a part of a foreign country that corresponds to an offence referred to in paragraph (a) or (b).

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[1] Australian Banking Association submission <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/australian-banking-association-aml-ctf.PDF>.

Schedule 3—Technical amendments

Rationale for legislative change

In addition to extending the AML/CTF regime to additional reporting entities, the AML/CTF Amendment Act amended a range of existing requirements. Throughout implementation, the Department and AUSTRAC have identified several provisions that would benefit from further legislative amendments to clarify, or put beyond doubt, their operation.

The proposed amendments will ensure that Australia's AML/CTF regime is in line with the global standards set by the Financial Action Task Force and avoids triggering obligations for reporting entities where that was not the policy intent. The proposed amendments will ensure that AUSTRAC has up-to-date, consistent information and is able to request both information and documents. The amendments will also provide operational efficiencies where LPP claims are made, by ensuring appropriate agencies and authorised persons receive the relevant LPP form, rather than the form always going to the AUSTRAC CEO first.

Schedule 3 amendments

Schedule 3 makes technical amendments to the AML/CTF Act identified through implementation of the AML/CTF Amendment Act. These amendments clarify, or put beyond doubt, the operation of provisions of the AML/CTF Amendment Act. This includes to:

- amend initial, ongoing and enhanced customer due diligence requirements to make compliance easier for reporting entities
- amend existing definitions under the AML/CTF Act, and introduce new definitions, to ensure that the definitions of domestic politically exposed person and foreign politically exposed person apply appropriately when designated services are provided at or through a permanent establishment in Australia or foreign countries
- amend the process in section 49 of the AML/CTF Act relating to legal professional privilege (LPP) claims to require an entity that originally issued a notice under section 49 to receive the relevant LPP form
- provide that the AUSTRAC CEO can prescribe, through the AML/CTF Rules, requirements for reporting entities to advise the AUSTRAC CEO of changes in enrolment details
- permit international value transfer services reporting to be triggered even where the foreign country from which the value is being transferred or to which the value will be transferred is unknown to the reporting entity
- provide that the AUSTRAC CEO can prescribe, through Rules, certain documents required to be provided in applications for registration on the Remittance Sector Register and Virtual Asset Service Provider Register, and
- include subsection 26G(1) or (2), which deal with complying with AML/CTF policies, in the definition of designated infringement notice provision.

Part 1—Customer due diligence (CDD)

Part 1 of Schedule 3 will amend initial, ongoing and enhanced CDD requirements to make compliance easier for reporting entities. This will ensure Australia's regime is in line with the global standards set by the Financial Action Task Force (FATF), and to avoid adding additional obligations for reporting entities where that was not the policy intent.

Division 1 of Part 1 will make changes to initial CDD requirements. From 31 March 2026, reporting entities will be required to establish whether their 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, or subject to targeted financial sanctions. FATF does not require reporting entities to establish whether any person *acting on behalf of the customer is a politically exposed person*. The Bill will therefore remove this requirement, which will reduce regulatory burden on industry.

Division 2 of Part 1 will make changes to ongoing CDD requirements. From 31 March 2026, reporting entities must review and, where appropriate, update and re-verify know your customer (KYC) information where the reporting entity *has doubts about* the adequacy or veracity of the KYC information relating to the customer. As currently drafted, this trigger relies on the subjective view of the reporting entity, rather than providing an objective test for when a reporting entity is required to review, update and re-verify KYC information. The Bill will amend the requirement for reporting entities to review, update and re-verify KYC information, to require this where the reporting entity *has reasonable grounds to doubt* the adequacy or veracity of the KYC information. This will make clear that the trigger is not intended to rely on the subjective view of the reporting entity.

Division 3 of Part 1 will make changes to enhanced CDD requirements. The amendments are to avoid triggering the obligation for reporting entities to carry out enhanced customer due diligence where a person acting on behalf of the customer is a foreign politically exposed person. These amendments are consequential to the amendments in Division 1 of Part 1.

Part 2—Politically exposed persons

Under section 5 of the AML/CTF Act, the definitions of 'domestic politically exposed person' and 'foreign politically exposed person' are centred around the provision of designated services in Australia, rather than the jurisdiction where a permanent establishment is located. This means that, for reporting entities in a foreign country, the definition has the effect of treating an Australian politically exposed person as a domestic politically exposed person, rather than a foreign politically exposed person.

Part 2 of Schedule 3 will amend the AML/CTF Act to insert definitions of 'Australian politically exposed person' and 'non-Australian politically exposed person' into section 5 of the AML/CTF Act. These new definitions have a *meaning identical to the existing 'domestic politically exposed person' and 'foreign politically exposed person' definitions*. Consequently, the existing definitions of 'domestic politically exposed person' and 'foreign politically exposed person' will be amended to clarify whether a politically exposed person is an Australian politically exposed person or non-Australian politically exposed person based on where the designated service is provided or proposed to be provided. The amended definitions will not affect the overall scope of the general term 'politically exposed person' and will not re-trigger initial customer due diligence where a reporting entity has previously established a customer or related person is a politically exposed person.

Part 3—Legal professional privilege claims

The AML/CTF Amendment Act introduces new provisions to require that where a reporting entity is given a written notice to provide further information, and it is reasonably believed that that information is subject to legal professional privilege (LPP), the reporting entity must give the AUSTRAC CEO an approved LPP form. Part 3 of Schedule 3 will amend the process relating to LPP claims to require the agency that originally issued a notice to receive the relevant LPP form, rather than the AUSTRAC CEO. This avoids the current arrangement where AUSTRAC is required to forward LPP forms to the agencies that issued the notice, leading to operational efficiencies for AUSTRAC.

Part 4—Advising the AUSTRAC CEO of certain matters

The AML/CTF Amendment Act made changes to obligations for enrolment as a reporting entity. However, under the amendments inadvertently did not require entities to make updates where there have been changes to enrolment details. Part 4 of Schedule 3 will address this issue by inserting a head of power to make AML/CTF Rules to require reporting entities to update their enrolment details in response to changes to requirements. The Bill will also provide a head of power to make AML/CTF Rules to require reporting entities to update their registration details in response to changes to what information must be provided to register on the Remittance Service Provider Register and Virtual Asset Service Provider Register.

Part 5—International value transfer services

The AML/CTF Amendment Act introduced new international value transfer services (IVTS) reporting requirements to replace the current international funds transfer instructions. Subsection 45(2) allows the AML/CTF Rules to specify circumstances in which the value is *in* a country. However, it is not always clear what country some virtual asset service providers operate in. Part 5 of Schedule 3 will amend subsection

45(2) to give AUSTRAC the power to specify when value is *in* Australia or is *in* a foreign country, without the foreign country having to be specified. This will permit IVTS reporting to be triggered even where the specific foreign country is unknown to the reporting entity.

Part 6—Document gathering powers

Part 6 of Schedule 3 will permit the AUSTRAC CEO to prescribe, through Rules, certain documents to be required to be provided in applications for registration on the Remittance Sector Register and Virtual Asset Service Provider Register. This is a *clarifying amendment to put beyond doubt* that reporting entities are required to provide *information and documents*, noting the Rules currently enable the prescribing of information required to be provided**.**

Part 7—Miscellaneous

Section 26G provides that reporting entities must comply with new requirements regarding having AML/CTF policies. However, the circumstances under which an infringement notice can be given do not currently include non-compliance with the requirement under section 26G(1) or (2). This amendment will ensure that non-compliance is a designated infringement notice provision. Authorised officers, customs officers or police officers may give infringement notices for contraventions under the AML/CTF Act in certain circumstances

Conclusion

The Department thanks the Committee for the opportunity to make a submission to its review of the Bill. As outlined in this submission, the amendments in the Bill respond to the continuously changing financial crime environment, while also ensuring that existing provisions are clear, with the operation of provisions put beyond doubt. The passage of the Bill is necessary to ensure that Australia's AML/CTF regime remains responsive to emerging money laundering, terrorism financing and other financial crime threats both now, and in the future.

The Department looks forward to assisting the Committee with its Review.