

Australia's AML / CTF reform

Tranche 2 services

February 2025

Overview and key changes

- On 29 November 2024, the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024*, was passed by Parliament, introducing significant reforms to the existing *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.
- A number of new "designated services" will now be subject to AML/CTF laws. Designated services are business activities to which the regime applies. In most cases, these amendments will apply from 1 July 2026.
- **Many businesses will be regulated for the first time** as they will form part of "tranche 2 services" which includes real estate agents and developers, trust and company services providers, legal professionals, accountants, and dealers in precious metals and stones. A greater range of businesses in the payments and digital asset sector may also need to comply with the regime for the first time.
- Affected organisations must ensure that they are equipped with the tools and knowledge to meet their new responsibilities.
- The ease of adaptation and the way in which an organisation responds to these reforms with minimal customer impact will become a business differentiator over the next few years.



Key requirements and common issues

The implementation of the new requirements will have significant implications for organisations that have not been part of the AML/CTF compliance regime in the past. Expect an increase in compliance costs, operational disruptions, and a greater need for improved data management systems – all while navigating a heightened risk of non-compliance once the reforms are bedded down. Based on our experience operationalising AML/CTF Programs, we have rated the complexity relating to each reform that might necessitate a more focused approach in particular areas.

Identifying 'designated services'



Likely requirement: A critical first step for organisations is to understand the detail of the products and services they provide, and whether the provision of those products and services constitute one (or more) in scope designated services.

Complexity: **High** (in some cases).

Our experience: Failing to correctly identify which designated services are being provided, and by which entity (which can be complex in larger corporate groups) will result in non-compliance (with possible penalties). This would have a significant impact on the effectiveness of the overall AML/CTF Program design. Due to the importance of this initial step, and the consequences of getting it wrong, legal advice is often sought to determine what products and services result in the provision of designated services under the Act.

Report certain transactions and suspicious activity



Likely requirement: Submitting Suspicious Matter Reports (SMRs) and Threshold Transaction Reports (any time a transaction with a client involves \$10,000 or more in cash)

Complexity: **High**

Our experience: Reporting is a reoccurring area of failure which can have significant regulatory consequences. It is a critical area of focus for the regulator and technological dependencies exist in many cases. AUSTRAC has made several comments recently concerning a general lack of sufficient and actionable information contained within submitted SMRs.

Develop and maintain an AML/CTF program (which must include an ML/TF risk assessment)



Likely requirement: Conduct an assessment of the ML/TF risk faced by the organisation in providing a designated service. Develop, implement and maintain a group-wide AML/CTF Program to manage the risks identified in the risk assessment, and to ensure that all reporting group members comply with obligations.

Complexity: **Medium**

Our experience: Risk assessments are a critical area of regulatory focus. The risk assessment will now form part of the AML CTF Program itself. These need to be specific and comprehensive – frequently they are criticised for being generic and 'off the shelf'. The adequacy and maintenance of these assessments are a common point of failure for many organisations. The other parts of the AML/CTF Program are policies which respond to the risks faced by the organisation, as documented in the risk assessment.

Enrol with AUSTRAC



Likely requirement: If your business provides a designated service, the reporting entity will be required to enrol with AUSTRAC.

Complexity: **Low**

Our experience: Despite this being a seemingly straightforward task, close attention must be paid to ensure it is prioritised, accurate, current, and then maintained.

Conduct consumer due diligence (CDD)



Likely requirement: Carry out a risk assessment for the individual customer and verify customer identity in a manner that addresses the level of risk determined in that risk assessment.

Complexity: **Medium**

Our experience: The consistent execution of procedures can be challenging. Often reporting entities fail to follow their own CDD procedures. The reforms suggest a more flexible and outcome focussed CDD framework going forward.

Conduct ongoing CDD



Likely requirement: Identifying whether a client's risk rating should be changed, and whether additional 'enhanced procedures' should be followed, such as validating source of wealth and funds.

Complexity: **High** (in some cases).

Our experience: Many organisations struggle to identify risk profile changes and to validate them. Enhanced procedures such as source of wealth and funds enquiries may be difficult to implement in a practical way.

Meet and keep records



Likely requirement: Reporting entities are required to make and securely store records about their CDD measures.

Complexity: **Low**

Our experience: A common area of failure includes the inadequate execution of record-keeping procedures.

What can you do now?

Given the limited capacity within existing compliance functions, consideration needs to be given to the additional resources and investment required to update processes, procedures and operational frameworks and policies to meet the requirements of the AML/CTF regime. A business case for the additional support required will need to be included as part of the change management plan.

Industry & regulator engagement



Guidance and consultation on the practical implications of compliance around the new amendments has been promised by AUSTRAC. Consultation by AUSTRAC on draft amendments to the AML/CTF Rules has begun.

New reporting entities should stay close to relevant regulator correspondence, including subscribing to AUSTRAC alerts, as well as engaging with relevant industry bodies and forums to keep close to the practical implications on the reforms across each sector.

Designated services



A critical first step for organisations is to assess whether the services they provide constitute designated services as detailed in the amendments. Organisations will typically start this process by undertaking a detailed mapping of products, services and processes, with legal advice often being sought to determine what products and services result in the provision of designated services under the Act.

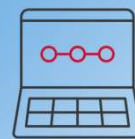
Failing to correctly identify which designated services are being provided, and by which entity (often more complex in larger corporate groups) will result in non-compliance (with possible penalties) and can also have a significant impact on the effectiveness of the overall AML/CTF Program design.



Capability gaps & resourcing

Organisations will need to appoint an AML Compliance Officer at management level. Additional resource capabilities may also be required to support the delivery of the Program, including risk and compliance expertise.

Some organisations may need to consider hiring strategies to fill capability gaps or establish development plans for existing employees to upskill capabilities.



Technology reviews

Changes to existing systems, processes and technology (or investments in new technology) may be required to support the effective delivery of the AML/CTF Program, including transaction monitoring, reporting systems (SMRs and TTRs) and customer due diligence.

Organisations can start to review what existing systems, data points and technology is in place that may support the delivery of the new AML/CTF Program requirements, as well as any identified gaps.

How we can help

MinterEllison has Legal and Consulting experts focused on Financial Crime. We have a unique integrated team of **market-leading risk consultants and legal practitioners**, specialising in understanding AML/CTF obligations, managing and leveraging risks and implementing systems that align with the constant developing regulations in a practical and strategic manner.

Our holistic legal and consulting approach focuses on providing a **tailored and effective plan** in response to the upcoming changes, prioritised to your organisation's needs.

Our integrated services include >



Advise on the **complex legal issues** which will need to be addressed including interpreting the AML/CTF reforms and applying them to your business.



Design a **comprehensive AML / CTF uplift plan** that is appropriate for the size, scale and complexity of your organisation.



Provide a **legal regulatory enforcement lens** to inform ongoing compliance, advise on regulatory engagement and provide legal advice, support, reviews and response following risk events or regulatory action.



Subject matter **expert advisory support** in response to a regulatory action including working with you on your regulatory response and engagement with AUSTRAC and any relevant remediation activities.

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