



**Australian Government**  

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**Australian Transaction Reports  
and Analysis Centre**

**AUSTRAC** e-learning 

## **Module 2**

# **AML/CTF program: Part A (general)**

AML/CTF Programs



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### AML/CTF programs: Part A (general)

#### Module overview

The AML/CTF Act adopts a risk-based approach to AML/CTF. This gives reporting entities the flexibility to address and deal with money laundering and terrorism financing (ML/TF) risks they may reasonably face in ways that are relevant to the nature, size, complexity and resources available to their business. These factors will determine how Part A components are applicable to a business and the level of detail that should be documented in the AML/CTF program.

Smaller and less complex reporting entities and/or those that assess the threat of their business being used for ML/TF to be relatively low can implement relatively straightforward AML/CTF programs. A more sophisticated AML/CTF program may be required by businesses:

- with a range of customer types
- who offer multiple designated services
- who use a variety of delivery methods
- who operate in foreign jurisdictions

as any combination of the above may result in a complex organisation.

Significantly, if your business is captured under the AML/CTF Act, then there is some level of inherent risk that the designated services it provides can be used for criminal purposes. You have a regulatory obligation to manage this inherent risk by implementing an AML/CTF program as part of compliance with the Act.

## Core concepts:

This unit will explore the following core concepts:

- Adding ML/TF risk management to existing risk management strategies
- Oversight by boards and senior management
  - AUSTRAC's AML/CTF program expectations
  - Business complexity resulting from organisational change
- Risk awareness training programs for staff
  - Creating a culture of compliance
- Employee due diligence
- Appointing an AML/CTF Compliance Officer
- Independent review
- AUSTRAC feedback
- Permanent overseas establishments
- Risk indicators for an inadequate Part A
- Part A for designated business groups

## Adding ML/TF risk management to existing risk management strategies

If your business operates in Australia it will probably already have risk management policies, strategies and procedures in place to be compliant with other regulatory obligations, for example:

- workplace relations
- workplace discrimination and bullying
- occupational health and safety.

In this case you are likely to have resources that you can draw upon for your ML/TF risk management. Using these resources will also help you to make AML/CTF a part of your normal business practices.

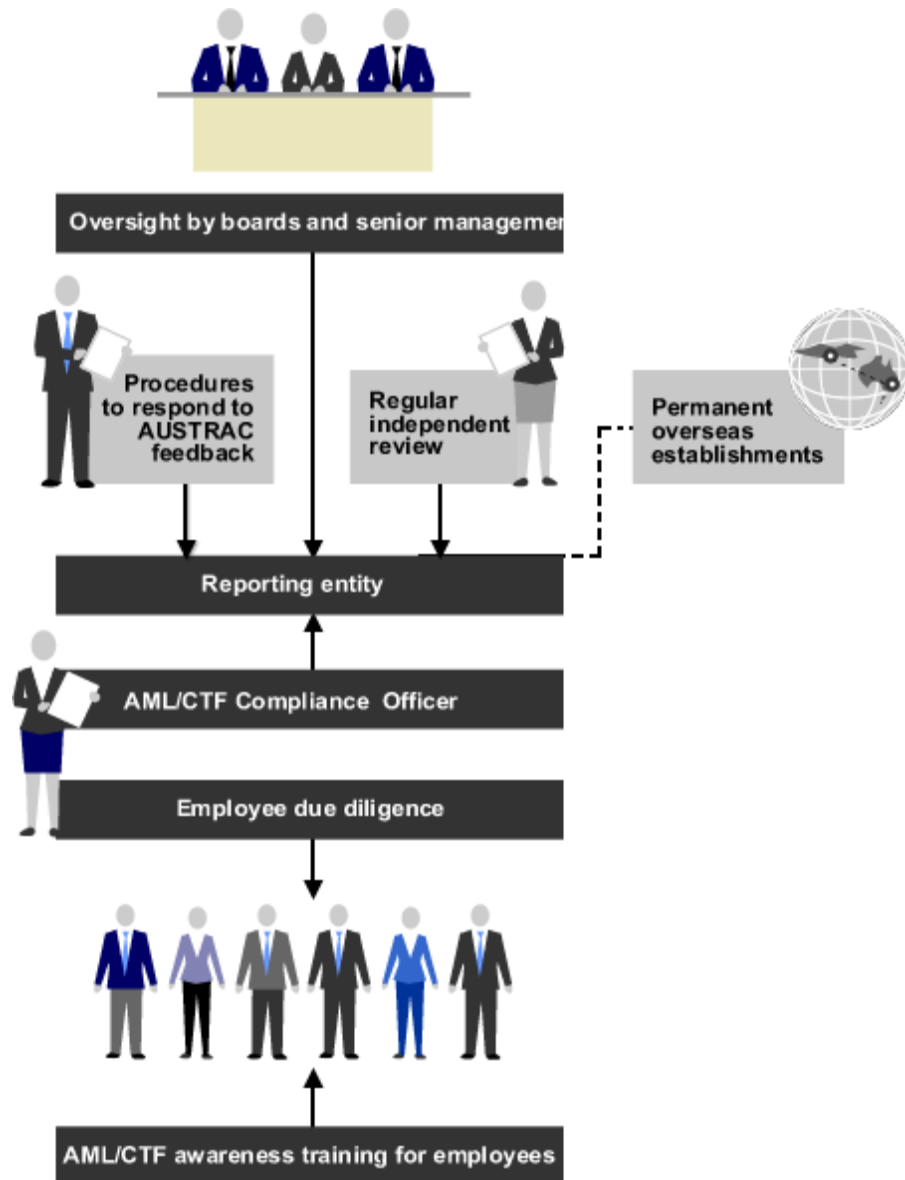
A primary goal of an AML/CTF program is that it should effectively manage the business risks that the business may be used for money laundering or terrorism financing. The primary purpose of Part A of your AML/CTF program is to identify, manage and mitigate the ML/TF risks your business may reasonably face and then deciding how you respond to that assessment. Equally important, and required under section 116 of the AML/CTF Act, is that you document the implementation of your program and retain records of any variations to the program. It may also be beneficial to measure and record how well the program is achieving your specific risk management goals.

The AML/CTF Act requires reporting entities to have a written AML/CTF program comprising Part A (general) and Part B (customer identification). Part A concerns implementing organisational changes in a business. Part B can be described as procedural changes relating to how an organisation determines who its customers are and continuously manages its customer relationships for the purpose of preventing ML/TF. Part B is covered in module 3.

Part A of an AML/CTF program must address the following organisational requirements:

- oversight of the AML/CTF program by boards and senior management
- ML/TF risk awareness training program for employees
- employee due diligence
- appointment of an AML/CTF Compliance Officer
- independent review of AML/CTF program effectiveness and compliance

- processes for assessing and incorporating AUSTRAC feedback to continuously improve AML/CTF procedures
- risk management systems and controls for managing ML/TF vulnerabilities in any permanent establishment in a foreign country.



## Oversight by boards and senior management

Part A of a reporting entity's AML/CTF program must be approved by its governing board and senior management. Board and senior management oversight should also include a review, at set intervals, of the continuing adequacy of the AML/CTF program.

Corporate governance should reflect the structure of a business and demonstrate the philosophy and commitment of its leadership to manage and control its obligations. Corporate governance holds the business's leadership accountable to ensure that AML/CTF processes are developed and implemented and to ensure its control systems facilitate effective monitoring to allow senior management to provide feedback and direction as required.

Communication of AML/CTF policies from management to staff and the flow of ML/TF risk management information up and down the entity's hierarchy are extremely important. Management needs to be confident that controls are in place, that the costs and effectiveness of the AML/CTF program is being measured, that record-keeping and compliance reporting processes, both within your business and to AUSTRAC - are functioning and that ML/TF breaches or incidents are identifiable and can be managed if they happen.

Oversight of the AML/CTF program by boards and senior management may result in:

- identification of ML/TF risks associated with your customer types, types of services, delivery methods, and foreign jurisdictions dealt with: the AUSTRAC-produced *Self-Assessment Questionnaire (SAQ)* is a free resource designed to help businesses work out how they are going to comply with their obligations under the AML/CTF Act. This is available on the AUSTRAC website at: <http://www.austrac.gov.au/saq.html>
- developing and implementing AML/CTF procedures relevant to the nature, size and complexity of your business and the ML/TF risks it may reasonably face
- ensuring sufficient resourcing, both people and funds, to enable the AML/CTF program
- reviewing feedback from AUSTRAC and independent AML/CTF reviews
- reviewing results of audits, checklists, training evaluations, and operational observations of staff performance management relating to following AML/CTF
- managing AML/CTF process improvements
- meeting AUSTRAC's expectations.

## **AUSTRAC's AML/CTF program expectations**

AUSTRAC expects a reporting entity to develop and maintain logical, comprehensive and systematic methods to address each of the components of Part A and Part B of its AML/CTF program. For example, in an AUSTRAC audit a reporting entity would be expected to demonstrate that the risk-based systems and controls suit its particular business (having regard to its nature, size and complexity) and are consistent with prudent and good practices.

The AML/CTF Act and AML/CTF Rules impose some minimum requirements for the systems and controls that must be in place to address business risks. Reporting entities are best placed to assess the ML/TF risk they may reasonably face in providing a designated service. Risk assessment is discussed in detail in module 4.

## **Business complexity resulting from organisational change**

Increasing productivity and profits is a primary goal of business; many entities will actively seek out new opportunities that will not only change their business, but may also change the ML/TF risks that they face. Accordingly senior management may need to reassess how these changes can increase the complexity of their business and alter the risk profiles relating to ML/TF risks.

Generally complexity will increase with:

- a growth in customer numbers or range of customer types
- when entering new markets or increasing the size of the market
- an increase in the number of products or services provided
- the rate of change in any of the above components increases.

Responses to increasing complexity in the business environment may include any or all of the following:

- increases in the size of the business
- greater specialisation and stratification in the structure of the business
- greater specialisation in the knowledge, skills and capabilities of human resources
- changes to policies, systems, processes and procedures.

In a risk-based environment changes in business complexity may lead management to reconsider whether its existing arrangements for its AML/CTF program's governance, management and control systems are adequate.

## Risk awareness training programs for staff

Staff members that are affected by ML/TF risks should understand the business' AML/CTF policies, methods and processes to manage the ML/TF risk and the importance of implementing and maintaining a program.

### AML/CTF Rules

Part 8.2 of the AML/CTF Rules specifies that Part A of an AML/CTF program must include an ML/TF risk awareness training program for employees that meets the requirements set out in the AML/CTF Rules. The training program should be designed to give appropriate training at appropriate intervals for the ML/TF risk that your business may reasonably face. The term 'employees' includes agents and consultants who carry out functions connected with the designated services provided by your business.

Part A of your AML/CTF program should detail how your business will ensure employees are aware of:

- their obligations under the AML/CTF Act and Rules
- the consequences of non-compliance
- the nature and consequences of ML/TF risk they may reasonably face
- the processes and procedures in the AML/CTF program that are relevant to their role.

This type of information is often documented in the form of a business training plan. In this case, an AML/CTF training plan may specify:

- who needs to be trained (i.e. the identified learning audiences)
- what the training will achieve (i.e. the objectives of the training)
- the duration and frequency of training, including refresher training, such as for:
  - induction training when an employee commences to work in the business, or in a section subject to ML/TF risks
  - staff compliance training that might be conducted and the staff members' completions recorded over regular periods, e.g. annually.

Training for AML/CTF compliance might be treated like other compliance training such as occupational health and safety, equal employment opportunity or non-harassment compliance in the workplace.

The training plan may also describe how the training will be conducted, for example:

- on-the-job training, especially for training relevant to a specific role where ML/TF risks must be faced
- induction training for new employees incorporating AML/CTF awareness
- instructor-led training, whether through in-house training units or by external training providers
- online 'e-learning' courses.

The awareness training review worksheet available from the tools and resources section of module 2 will assist you to reflect upon processes that your organisation uses and what can be done to make your AML/CTF program more effective.

## **Creating a culture of compliance**

While the AML/CTF Act requires reporting entities to have an AML/CTF program, risk-based AML/CTF compliance should go beyond just the provision of information. Rather, the staff training component of the AML/CTF program can support the development of staff members' commitment to addressing AML/CTF issues and become a part of the organisation's culture.

Training should convey to staff the importance of combating these criminal activities and that inadvertently or intentionally facilitating these activities can result in legal, reputational and financial damage to the organisation. Damages from being used for ML/TF purposes also exist for individual staff members; ML/TF has negative implications for staff, such as loss of staff pride and confidence in their business, staff motivation, job security and personal legal liability.

Many businesses have a clear set of published values to form their ethics and the behaviour of their staff. The values might be checked to confirm alignment to addressing AML/CTF issues, and might be actively used to support the creation of an AML/CTF compliant culture.

The *AUSTRAC Regulatory Guide* discusses creating a culture of compliance in greater depth in chapter 3. This is located on the AUSTRAC website at: [http://www.austrac.gov.au/regulatory\\_guide.html](http://www.austrac.gov.au/regulatory_guide.html)

## Employee due diligence

The integrity and trustworthiness of staff is of great importance to businesses. Trustworthy staff enhance a business's credibility with customers and contributes to the reputational capital of a business. Employee due diligence refers to the processes whereby a business screens its staff members for ML/TF risk. As it is normal business practice to screen potential employees to ensure their suitability for a position within your organisation this can be extended to address AML/CTF issues, for example:

- is there a process to ensure your employees are screened for ML/TF risk before they are employed?
- what happens when an employee is promoted or does a different job within the business?

A reporting entity should consider the potential ML/TF risks associated with prospective employees and apply screening procedures if appropriate. This also applies to assessing the need for re-screening employees who are transferred or promoted. For example, a reporting entity may determine that frontline staff positions present a lower ML/TF risk than positions in a capital markets area or private banking unit, so that the AML/CTF program will identify whether re-screening is required when a staff member is transferred from a lower risk position to a higher risk position.

The following resources may assist you in deciding which employee screening methods are appropriate for your business.

### **Australian Standard for Employment Screening (AS4811:2006)**

From page 36 of the AUSTRAC Regulatory Guide:

1. The Australian Standard for Employment Screening (AS 4811:2006), which provides a basis for industry or organisation specific screening policies and procedures. This standard is available from the Standards Australia website at [www.standards.org.au](http://www.standards.org.au).
2. The Employment Screening Handbook, which is a companion document to the Australian Standard for Employment Screening, provides a framework for businesses to build an effective employee screening process. This handbook is available from the Standards Australia website at [www.standards.org.au](http://www.standards.org.au).

### **Reference Checking in the Financial Services Industry Handbook**

The Reference Checking in the Financial Services Industry Handbook, which has been developed jointly by the Australian Securities and Investment Commission and Standards Australia as a companion document to the Australian Standard for Employment Screening, provides a reference-checking framework for the financial services industry to minimise the movement of dishonest, incompetent or unethical employees or representatives within the industry. This handbook is available from the Standards Australia web site at [www.standards.org.au](http://www.standards.org.au).

The employee due diligence process review worksheet, which can be downloaded from the tools and resources section of this module, may assist you to improve employee due diligence processes in your workplace.

## Appointing an AML/CTF Compliance Officer

A reporting entity must designate an 'AML/CTF Compliance Officer' at management level. Given the differences in size, complexity and nature of businesses, 'management' may be interpreted broadly to mean a person who undertakes the handling, direction or control of AML/CTF compliance within a business. Under a joint AML/CTF program this officer can represent the entire designated business group. While the AML/CTF Compliance Officer should be at the management level, it is possible for the role can be incorporated with other duties and this may be a practical necessity in a small business. In larger or more complex organisations, the compliance officer's function may be supported by appointing additional staff to AML/CTF compliance activities. What does not change is the need for the responsibilities of the role to be clearly stated and these to be allocated.

In developing and describing the responsibilities of AML/CTF Compliance Officer position, a reporting entity should consider a number of factors including:

- Independence
- Seniority
- Accountability
- reporting lines
- access to executive/board
- relevant skills and experience, including knowledge of the business and AML/CTF legislative obligations.

The AML/CTF Rules do not specify the duties to be undertaken by an AML/CTF Compliance Officer, but the following examples may be appropriate to your business.

1. Ensuring compliance with the AML/CTF Act and Rules subject to the oversight of the board and senior management, including:
  - ML/TF risk awareness training for staff members
  - the employee due diligence program
  - liaison with senior management and/or board on AML/CTF issues
  - organising independent reviews for Part A of the AML/CTF program
  - consideration of AUSTRAC feedback
  - any obligations relating to a permanent establishment in a foreign country.

2. Acting as a contact officer for AUSTRAC matters
3. Contributing to the design, implementation and maintenance of internal AML/CTF compliance policies and procedures, including if applicable:
  - procedures for granting approvals for new designated services or delivery channels
  - ensuring AML/CTF compliance is measured, and if applicable rewarded in the performance review process
  - processes for staff to confidentially report violations of the AML/CTF program
  - updating corporate knowledge of ML/TF risks the business may reasonably face
  - providing leadership and promoting a culture of compliance
  - keep relevant records in accordance with Part 10 of the AML/CTF Act.

#### **The AUSTRAC guidance note 'AML/CTF Compliance Officers'**

The AUSTRAC guidance note *AML/CTF Compliance Officers* available on the AUSTRAC website. It covers:

- legal requirements for AML/CTF Compliance Officers
- what to consider when designating an AML/CTF Compliance Officer
- duties of an AML/CTF Compliance Officer
- using an independent AML/CTF Compliance Officer
- penalties.

It is located on the AUSTRAC website at:

[http://www.austrac.gov.au/guidance\\_notes.html](http://www.austrac.gov.au/guidance_notes.html).

## Independent review

An independent review of Part A of an AML/CTF program must be carried out on a regular basis by an internal or external party determined by the reporting entity (for example, an internal or external auditor). The Australian Standard for Compliance Programs (AS: 3806) recommends that the review should be conducted in accordance with good review and audit practices. The review should be carried out by a competent person who is free from bias and conflict of interest.

A reporting entity will need to decide if the review can be conducted by an internal area such as an internal auditing section (or another 'independent' area) or whether an external reviewer will need to be engaged.

The auditor must be mindful that an AML/CTF program has dual purposes - firstly to comply with legislative requirements, but perhaps more importantly, ensure that the business has good defence against exploitation by criminals with ML/TF intentions and the negative subsequent impact on the business.

Whether the reviewer is internally or externally sourced, in either case it is important to be able to demonstrate the independence and quality of the review process.

The purpose of the review should be to assess:

- the effectiveness of Part A (including the adequacy and performance of ML/TF risk management systems and controls), considering the ML/TF risk of the reporting entity, or of each reporting entity in a designated business group
- whether Part A complies with the relevant AML/CTF Rules and has been effectively implemented
- whether the reporting entity, or each reporting entity in a designated business group, has complied with Part A.

The independent review process can be described by listing its inputs and its outputs.

## ***Review inputs***

Some of the inputs may include:

- whether the AML/CTF program is working effectively
- measures of the extent to which objectives and targets have been met.

Other examples include, but are not limited to:

- the extent and effectiveness of the staff AML/CTF awareness training
- the completion of appointments of staff to AML/CTF roles
- the performance of staff in AML/CTF activities
- the completion of AML/CTF compliance reporting
- the lodgement of AUSTRAC reports
- assessing the effectiveness of communications between the board and senior management, the AML/CTF Compliance Officer and the operational areas conducting AML/CTF actions
- outputs of employee due diligence measures
- AUSTRAC feedback.

## ***Review outputs***

The outputs of the review are its findings and recommendations which should be documented and provided to the governing board or senior management of the reporting entity. In relation to a designated business group, this means the board/management of each reporting entity in the group.

The findings should address the review inputs and provide statistics that support these results. Any instances and episodes that were not expected in the AML/CTF program's implementation plan should be described. Any cases or examples from the business's experience of implementing and managing its AML/CTF program that provide the business with a better understanding and insight into its own processes and culture of compliance may also be documented.

The recommendations include, but are not limited to:

- corrective actions to address compliance failures
- changes to improve the AML/CTF program
- changes to both compliance and operational processes to improve the management of:
  - ML/TF business risks
  - ML/TF regulatory risks.

## **AUSTRAC feedback**

AUSTRAC may provide a reporting entity with feedback on the entity's AML/CTF program or any other industry-wide AML/CTF matters. This feedback will be a key driver in enhancing and maintaining the currency of a reporting entity's AML/CTF program. Your business has an obligation to address any shortcomings to comply with the AML/CTF Act and Rules, even if AUSTRAC does not provide feedback directly.

Part A must include appropriate procedures for the reporting entity, or each reporting entity in a designated business group, to have regard to AUSTRAC feedback, such as recommendations contained in AUSTRAC audit/compliance reports on the reporting entity's ML/TF risk management performance.

## Permanent overseas establishments

Reporting entities are required to identify, mitigate and manage ML/TF risk not only at or through their permanent establishments in Australia, but also for any designated services offered through a permanent establishment in a foreign country. You will need to consider the risks posed by differences in the legal frameworks or AML/CTF controls in those countries and factor those into your program, as well as any ML/TF risks you may reasonably face from customers of those establishments.

Part A of a standard AML/CTF program affects a reporting entity's permanent establishments (defined in section 21 of the AML/CTF Act) in foreign countries, including members of designated business groups, as follows:

- requirements relating to oversight by boards and senior management, designation of an AML/CTF Compliance Officer, independent reviews and consideration of AUSTRAC feedback, **do apply**
- requirements relating to the implementation of appropriate risk-based systems or controls, ML/TF risk awareness training program and employee due diligence program, **do not apply**
- where a reporting entity provides a designated service at a permanent establishment in a foreign jurisdiction which is regulated by AML/CTF laws that are comparable to Australia, the reporting entity need only consider minimal additional systems and controls.

Part A of an AML/CTF program is also designed to ensure that a reporting entity takes actions specified in the AML/CTF Rules relating to providing designated services via a permanent establishment in a foreign country.

## **Risk indicators of an inadequate AML/CTF program**

### **Part A**

There are a number of regulatory risks associated with developing, implementing and managing an AML/CTF program Part A. Examples of these risks include:

- failure to include all the mandatory legislative components
- failure to conduct a proper ML/TF risk assessment
- failure to gain board and/or executive approval for the program
- insufficient or inappropriate employee due diligence (for example, employee screening that is not commensurate with the ML/TF risks associated with the employee's position)
- frequency and level of ML/TF risk awareness training not aligned with potential risk of exposure to ML/TF risk(s)
- changes in business function which are not reflected in the AML/CTF program (for example, no review of the program when a new product or new distribution channel is introduced)
- failure to consider feedback from AUSTRAC (for example, ignoring advice about an emerging ML/TF risk)
- failure to independently review the content, currency and application of the AML/CTF program.

### **Part A for designated business groups**

Part A of an AML/CTF program only applies to standard and joint programs. Special AML/CTF programs only set out customer identification procedures and apply only to reporting entities holding an Australian financial services licence who arranges for a person to receive a designated service (see item 54 of table 1 in section 6 of the AML/CTF Act).

Under a joint program, if each member of the designated business group is associated with each other, then the approval may be given by the board and senior management of the main holding company of the group. Being a member of a designated business group does not mean you must adopt a joint AML/CTF program if you prefer to have your own standard AML/CTF program.

With a joint AML/CTF program, one person may be appointed as Nominated Contact Officer for the designated business group and be responsible for reporting to the board of directors, collating compliance reports and ensuring that the AML/CTF program applicable to the businesses will meet the expectations of AUSTRAC. Each reporting entity is ultimately responsible for compliance with the law.

Certain obligations under the AML/CTF Act may be discharged by another member of the group, for example:

- conducting ongoing due diligence
- lodging AML/CTF compliance reports with AUSTRAC
- making records of designated services
- retaining transaction records
- making and retaining records of customer identification procedures
- providing and retaining copies of customer identification records regarding procedures deemed to have been carried out
- making and retaining records of AML/CTF programs, including variations.

Each reporting entity is ultimately responsible for their compliance with the law.

The factors relevant to a standard program are also relevant to a joint program. A joint program applies when reporting entities elect to become part of a designated business group. However, it may be necessary to undertake a detailed analysis of the business activities of each reporting entity to identify which components of the joint program may need to be modified to meet the needs of individual members. If businesses belonging to a designated business group set out their AML/CTF compliance reports in a joint report, where information for each member is different, the report would set out information for those individual businesses separately.

#### **AML/CTF Rules**

Requirements for joint AML/CTF Programs are contained in chapter 9 of the AML/CTF Rules.

The requirements for standard AML/CTF programs are contained in chapter 8 of the AML/CTF Rules.

AUSTRAC intends to maintain its AML/CTF Programs e-learning application as an evolving resource to reflect changing patterns of behaviour, legislative development and the broader Anti-Money Laundering environment. Should you require further information on the e-learning application, AUSTRAC's operations, the *Financial Transaction Reports Act 1988* (FTR Act) or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), please contact:

**AUSTRAC Help Desk via:**

[help\\_desk@austrac.gov.au](mailto:help_desk@austrac.gov.au) or Telephone 1300 021 037.

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