

**AUSTRAC Annual Regulatory Plan 2011-12
Planned Regulatory Activities**

Title	<p><i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011;</i> <i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery (Collection) Act 2011;</i> and <i>Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) Act 2011</i></p>
Description of issue	<p>Commencing in 2011–12, AUSTRAC will recover the costs of regulating reporting entities regulated under the AML/CTF Act. This is in line with the Australian Government's Cost Recovery Guidelines and similar funding arrangements of other regulators.</p> <p>Consequential amendments were made to the AML/CTF Act to require all reporting entities to enrol with AUSTRAC and provide certain details about their business to AUSTRAC. The consequential amendments were enacted at the same time as the cost recovery legislation. The enrolment details, which a reporting entity will be required to provide to AUSTRAC, will be prescribed in AML/CTF Rules.</p> <p>The amount of levy payable by a leviable entity for the 2011-12 financial year will be determined by the Minister in a legislative instrument known as a Ministerial Determination.</p>
Previous consultation	<p>The <i>Cost recovery for AUSTRAC's regulatory functions</i> discussion paper was released for consultation between 12 November 2010 and 10 December 2010. Three industry consultation forums were also held in Melbourne, Sydney and Brisbane.</p> <p>An exposure draft of the Cost Recovery Impact Statement (CRIS) was released for comment on 11 February 2011.</p> <p>AUSTRAC undertook further consultation regarding an alternative definition of a 'large entity' in relation to cost recovery for AUSTRAC's regulatory functions and the closing date for submissions was Monday 4 April 2011.</p> <p>AUSTRAC also provided the draft AML/CTF Rules in relation to the new compulsory enrolment requirement to industry for consultation.</p> <p><u>Cost recovery model and charging structure:</u></p> <p>In February 2011, AUSTRAC released an exposure draft of a CRIS, which outlines the cost recovery model and charging structure. A final version of the CRIS is available on AUSTRAC's website.</p> <p>The total amount to be collected in a financial year cannot be greater than the costs of AUSTRAC's regulatory activity and will be determined in accordance with the Government's usual budgetary practices and subject to savings measures such as the application of the efficiency dividend. The AUSTRAC supervisory levy will be determined annually by a Ministerial Determination. A draft Ministerial Determination for the 2011–12 financial year is available on the AUSTRAC website.</p> <p><u>Mandatory enrolment of reporting entities:</u></p> <p>Prior to the legislative package passed on 28 June 2011, reporting entities were encouraged to enrol with AUSTRAC, but there was no mandatory requirement for them to do so. Over 17,000 entities have enrolled with AUSTRAC to date; however, AUSTRAC faced challenges in keeping its information about reporting entities up-to-date because it is not mandatory for them to enrol or to maintain the accuracy of their</p>

	<p>enrolment details. Mandatory enrolment will enable AUSTRAC to more accurately identify its regulated population.</p> <p>Details of the information proposed to be collected by AUSTRAC through the enrolment process, together with a draft Privacy Impact Assessment in respect of this obligation, were made available on the AUSTRAC website.</p>
<p>Consultation opportunities</p>	<p>A second draft of the 2011-12 Ministerial Determination will be released for comment in December 2011. The second draft will incorporate data collected by AUSTRAC following compulsory enrolment by reporting entities which will occur during November 2011.</p> <p>An update of the Cost Recovery Impact Statement (CRIS) will be released for comment in 2012 and will incorporate data collected by AUSTRAC following compulsory enrolment by reporting entities.</p> <p>Draft AML/CTF Rules in relation to the new compulsory enrolment requirement will be released for consultation in August 2011.</p> <p>A draft Privacy Impact Assessment (PIA) in respect of compulsory enrolment was made available on the AUSTRAC website in May 2011. This PIA will be updated and released for public comment in the first quarter of 2012.</p>
<p>Expected timetable</p>	<p>Autumn/Winter 2011 Sitings – Legislation passed through Parliament.</p> <p>28 June 2011 – Cost recovery legislation given Royal Assent. Commencement date of mandatory enrolment provisions, to be set by Proclamation, is proposed for 1 November 2011.</p> <p>August 2011 – Draft AML/CTF Rules in relation to the compulsory enrolment requirement to be released for consultation.</p> <p>December 2011 – second draft of the 2011-12 Ministerial Determination (relating to the levy for 2011-12) to be released for comment.</p> <p>2012 – Cost Recovery Impact Statement (CRIS) update to be released for comment.</p> <p>2012 – Draft Privacy Impact Assessment in respect of compulsory enrolment to be updated and released for public comment.</p>
<p>Contact details</p>	<p>By mail: Cost Recovery AUSTRAC PO Box 5516 WEST CHATSWOOD NSW 1515</p> <p>By email: cost_recovery@austrac.gov.au</p> <p>By facsimile: (02) 9950 0054</p>
<p>Date last modified</p>	<p>August 2011</p>

Title	Anti-Money Laundering and Counter-Terrorism Financing Rules
AML/CTF Rules consulted upon and registered during 2010-11	<p>The following AML/CTF Rules have been subject to public consultation and were registered between July 2010 and June 2011:</p> <p>1. Amendments to Chapter 19 (Reportable details for threshold transactions)</p> <p>The amendments which commenced on 21 December 2010 allow a reporting entity to report only the holder of the account and the signatory of the account who may be conducting the transaction, even if there are multiple signatories to the account. The amendments which will commence on 1 October 2011 will require reporting entities to include additional details in Threshold Transaction Reports about those situations where a person conducting a transaction is not the customer.</p> <p>2. Rules relating to pre-commencement customers within a designated business group (DBG)</p> <p>These AML/CTF Rules relate to two circumstances: (1) If a pre-commencement customer comes into a DBG as a result of an assignment, conveyance, sale or transfer of a business to a reporting entity within the DBG, these AML/CTF Rules allow that status to continue in certain circumstances. (2) If a pre-commencement customer is a customer for one reporting entity within a DBG, and is subsequently provided with a designated service by another reporting entity in the same DBG, these AML/CTF Rules allow the pre-commencement status of the customer to continue in certain circumstances.</p> <p>3. Amendments to Chapter 1 AML/CTF Rules</p> <p>These amendments add 'officers' and 'authorised representatives' of Australian credit licence holders as appropriate persons who can certify true copies of documents under the AML/CTF Rules.</p> <p>4. Amendments to Chapter 11</p> <p>These amendments specify the compliance reporting and lodgement periods for 2010 that must be observed by reporting entities.</p> <p>5. Amendments to Chapter 16 (International funds transfer instructions)</p> <p>These amendments will result in there being no difference in the information reported by reporting entities for 'batched' as opposed to 'non-batched' transactions, and also add a requirement to include the name, job title, telephone number and address of the person completing the IFTI-E report.</p> <p>6. Amendments to Chapter 17 (International funds transfer instructions)</p> <p>The <i>Crimes Legislation Amendment (Serious and Organised Crime Act) (No. 2) 2010</i> included a consequential amendment to the AML/CTF Act at section 10 by including the term 'non-financier'. These draft AML/CTF Rules address this consequential amendment to the AML/CTF Act. The Chapter 17 Rules have also been amended in response to issues raised by industry with regard to the provision of international funds transfer instruction reports where money is transferred to a bank account and the customer does not know the full name of the bank or its address. The amendment allows for the use of an identifier such as a BSB, a business number or IBAN which is used as part of the banking systems clearing systems.</p> <p>7. AML/CTF Rules relating to gaming machines</p> <p>The AML/CTF Rules provide a partial exemption from the operation of the AML/CTF Act for some reporting entities that have a total entitlement to operate 15 or less gaming machines within Australia.</p>

<p>AML/CTF Rules consulted upon and yet to be registered</p>	<p>8. AML/CTF Rules relating to electronic funds transfer instructions</p> <p>These AML/CTF Rules include Travelex and KEBA under the 'ordering', 'beneficiary' and 'financial institution' definitions of the AML/CTF Act and also specify them as not being a 'non-financier' under that definition. The effect of these AML/CTF Rules is to regulate international funds transfer instructions (IFTIs) processed by Travelex and KEBA as electronic funds transfer instructions.</p> <p>9. AML/CTF Rules relating to International Uniform Give-Up Agreements</p> <p>These AML/CTF Rules apply to eliminate duplicated customer identification in certain circumstances. Where an executing broker 'gives up' a trade to a clearing broker, customer identification under the Act is duplicated. As a result of these Rules, duplication of customer identification by relevant reporting entities will be avoided.</p> <p>10. AML/CTF Rules regarding extension of exemption for premium funding loans for general insurance policy</p> <p>These AML/CTF Rules apply to extend the exemption from the applicable customer identification procedure relating to premium funding loans for a general insurance policy until 30 June 2012.</p> <p>The following draft AML/CTF Rules have been through public consultation since July 2010 and now are being considered by AUSTRAC for registration:</p> <p>1. Amendments to Chapter 8 (standard AML/CTF programs)</p> <p>These draft amendments to Chapter 8 require reporting entities to expressly state in their standard AML/CTF program what obligations they have under the AML/CTF Act, and to specify in broad terms the systems and controls which they have implemented in regard to those obligations.</p> <p>2. Amendments to Chapter 9 (joint AML/CTF programs)</p> <p>These draft amendments to Chapter 9 require reporting entities to expressly state in their joint AML/CTF program what obligations they have under the AML/CTF Act, and to specify in broad terms the systems and controls which they have implemented with regard to those obligations.</p> <p>3. Draft AML/CTF Rules relating to section 112 of the AML/CTF Act</p> <p>These draft AML/CTF Rules require that customer identification records be maintained by a reporting entity in a manner that is capable of being understood by an authorised officer from AUSTRAC and enable that officer to readily ascertain whether the reporting entity has complied with its obligations.</p> <p>4. Draft AML/CTF Rules relating to the <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i></p> <p>The <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i> allows a compulsory transfer to take place whereby a failing financial institution is transferred to a sound financial institution. When the transferring financial institution provides designated services under the AML/CTF Act, the acquiring reporting entity must conduct customer identification on the transferring customers before providing a designated service to those customers. These draft AML/CTF Rules were previously published for public consultation between 3 March 2011 and 1 April 2011. As a result of industry submissions, these draft AML/CTF Rules no longer require a reporting entity to apply to AUSTRAC regarding an appropriate exemption period. A standard exemption period has been set at 60-days.</p>
--	--

Draft Rules relating to the *Combating the Financing of People Smuggling and Other Measures Act 2011*:

5. Draft AML/CTF Rules specifying information to be included in a registration application

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They specify the information which must be included in an application for registration as a remittance network provider, a remittance affiliate of a registered remittance network provider or an independent remittance dealer.

6. Draft AML/CTF Rules specifying matters to be considered by the AUSTRAC CEO in considering applications for registration

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They specify matters which must be considered by the AUSTRAC CEO when assessing applications for registration.

7. Draft AML/CTF Rules relating to reporting obligations of registered remittance affiliates

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They require registered remittance network providers to report threshold transactions and international funds transfer instructions on behalf of their registered remittance affiliates, and allow registered remittance network providers to lodge suspicious matter reports on behalf of their registered remittance affiliates subject to a written agreement being in place.

8. Draft AML/CTF Rules relating to the Remittance Sector Register

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They allow the AUSTRAC CEO to correct an entry on the Remittance Sector Register and to publish on the AUSTRAC website, information contained in the Register.

9. Draft AML/CTF Rules on suspension of registration from Remittance Sector Register

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They specify the grounds on which a person may be suspended from registration for a period of time as determined by the AUSTRAC CEO.

10. Draft AML/CTF Rules specifying matters to be considered by the AUSTRAC CEO when deciding to cancel a registration

These draft AML/CTF Rules relate to the *Combating the Financing of People Smuggling and Other Measures Act 2011* which amends the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. They specify matters that the AUSTRAC CEO must consider when deciding whether or not to cancel the registration of a person who provides registrable designated remittance services or registrable remittance network provider services. They also allow the AUSTRAC CEO to publish a list of the names of persons whose registration has been cancelled.

<p>AML/CTF Rules registered during 2011-12</p>	<p>Draft AML/CTF Rules relating to ongoing customer due diligence</p> <p>These draft AML/CTF Rules have been proposed as a result of the draft Anti-Money Laundering and Counter-Terrorism Financing Amendment Regulations 2011 which deal with ‘Transactions relating to Iran’.</p> <p>The following AML/CTF Rules have been through public consultation and registered since July 2011:</p> <p>Nil.</p>
<p>Consultation</p> <p>During 2010-11</p>	<p>AUSTRAC undertakes extensive consultation in developing AML/CTF Rules with the Attorney-General's Department, industry, partner agencies, other areas of government and interested groups, including public interest groups dealing with issues such as privacy. All AML/CTF Rules are publicly released in draft form for comment for a period of four weeks (except for those Rules dealing with machinery provisions), and comments are taken into consideration in the final drafting of the Rules.</p> <p>AUSTRAC participates in the Australian Financial Markets Association AML Council, and hosts the AUSTRAC Financial Industry Consultative Forum and AUSTRAC Gambling Consultative Forum. AUSTRAC also holds meetings with industry associations and individual businesses with regard to specific Rules or general matters regarding the AML/CTF regime.</p> <p>In addition, AUSTRAC holds meetings of the AUSTRAC Privacy Consultative Committee, which comprises representatives of privacy, civil liberties and consumer groups as well as representatives from AUSTRAC, its partner agencies and the Office of the Privacy Commissioner.</p> <p>Consultation conducted in 2010-11:</p> <ol style="list-style-type: none"> 1. Amendments to Chapter 19 18 June 2010 to 2 July 2010 and 14 September 2010 to 28 September 2010. 2. Rules relating to pre-commencement customers within a designated business group 14 September 2010 to 12 October 2010. 3. Amendments to Chapter 1 14 September 2010 to 12 October 2010. 4. AML/CTF Rules relating to electronic funds transfer instructions 17 February 2011 to 18 March 2011. 5. AML/CTF Rules relating to the <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i> 3 March 2011 to 1 April 2011. 6. Amendments to Chapter 8 (standard AML/CTF programs) 12 April 2011 to 10 May 2011. 7. Amendments to Chapter 9 (joint AML/CTF programs) 12 April 2011 to 10 May 2011. 8. AML/CTF Rules relating to section 112 of the AML/CTF Act 12 April 2011 to 10 May 2011.

Upcoming	<p>9. AML/CTF Rules amending Chapter 4 (self-managed superannuation funds) 12 April 2011 to 10 May 2011.</p> <p>10. AML/CTF Rules in accordance with the <i>Combating the Financing of People Smuggling and Other Measures Act 2011</i> 27 April 2011 to 25 May 2011.</p> <p>11. Amendments to Chapter 15 21 December 2010 to 28 January 2011 and 29 March 2011 to 19 April 2011.</p> <p>Draft AML/CTF Rules published for public consultation are available on the AUSTRAC website at: www.austrac.gov.au/aml_ctf_rules.html.</p> <p>Consultation conducted in 2011-12: Nil.</p>
Expected timetable	AUSTRAC anticipates making and registering the above AML/CTF Rules during 2011-12.
Contact details	<p>Submissions on draft AML/CTF Rules should be sent to:</p> <p>Director AML/CTF Rules PO Box 13173 Law Courts MELBOURNE VIC 8010</p> <p>Email address: aml_ctf_rules@austrac.gov.au</p>
Date last modified	August 2011.
	Regulatory impact assessment – Enhanced regulation of the remittance sector - Draft AML/CTF Rules
	<p>During the second half of the calendar year, AUSTRAC will consider the regulatory impact of certain draft Rules which address specific obligations on the remittance sector as set out in the <i>Combating the Financing of People Smuggling and Other Measures Act 2011</i> and which take effect 6 months from the date of Royal Assent.</p> <p>The Regulatory Impact Statement published with the release of the Exposure Draft Bill indicated that there was a potential net benefit of between \$17-\$18 million per year from the enhanced regulation of the remittance sector. This range was based on certain assumptions that were made at the time concerning the regulatory model. AUSTRAC, together with the Office of Best Practise Regulation, will consider the possible regulatory impacts of various draft Rules associated with the enhanced registration of remitters. Those Rules which are not considered machinery in nature will be subject to a Regulatory Impact Statement in line with OBPR standards.</p> <p>The draft Rules were subject to public consultation between 27 April 2011 and 25 May 2011, and it is anticipated that commentary received during this process will also inform any Regulatory Impact Statement on these Rules.</p> <p>AUSTRAC is currently consulting with the Office of Best Practice Regulation concerning its requirements.</p>

	<p>AUSTRAC guidance notes</p> <p>AUSTRAC publishes guidance notes to assist reporting entities in meeting their regulatory obligations. AUSTRAC undertakes formal consultations on guidance notes in certain circumstances.</p> <p>The guidance notes may be accessed on the AUSTRAC website at: www.austrac.gov.au/guidance_notes.html</p> <p>Set out below is an update concerning various guidance notes.</p>
<p>Guidance notes published during 2010-11</p>	<p>Guidance notes published during 2010-11</p> <p>AUSTRAC developed and published the following guidance notes which may be accessed on the AUSTRAC website:</p> <p>1. International funds transfer instruction (electronic) – when to report</p> <p>This guidance note assists reporting entities to determine whether certain electronic funds transfer instructions (EFTIs) are reportable under the AML/CTF Act. This guidance note is not relevant to instructions given under a designated remittance arrangement.</p> <p>The consultation period on this guidance note commenced on 9 November 2010 and closed on 7 December 2010.</p> <p>2. Identification requirements in Threshold Transaction Reports (TTRs) from 1 October 2011</p> <p>AUSTRAC has released a guidance note which will assist reporting entities in meeting their obligations to identify both the customer and the individual conducting the transaction. This obligation commences on 1 October 2011 and complements amendments to Chapter 19 the AML/CTF Rules.</p> <p>The consultation period on this guidance note commenced on 16 November 2010 and closed on 30 November 2010.</p> <p>3. Collection of ‘if known’ reportable details in relation to the individual conducting a threshold transaction (where the individual is not the customer of the designated service)</p> <p>This guidance note assists reporting entities in the interpretation of the phrase ‘if known’ and relates to item 2 above. This obligation commences on 1 October 2011 and complements amendments to Chapter 19 the AML/CTF Rules.</p> <p>The consultation period on this guidance note commenced on 16 November 2010 and closed on 30 November 2010.</p> <p>4. Threshold Transaction Reports (TTRs): customers using an ADI other than their account provider when depositing physical currency</p> <p>This guidance note assists reporting entities in understanding the application of the AML/CTF Act and supporting Rules in the reporting of threshold transactions where a person deposits money into a bank account through a branch of another ADI that is not the account provider. This obligation commences on 1 October 2011.</p> <p>The consultation period on this guidance note commenced on 16 November 2010 and closed on 30 November 2010.</p>

<p>Guidance notes published during 2011-12</p>	<p>Guidance note – Verification of identity (e-verification)</p> <p>AUSTRAC released a guidance note in July 2011 to assist reporting entities to understand the new method to satisfy their obligations to verify an individual customer’s identity, through matching personal information provided to a reporting entity by the customer to records held by a credit reporting agency.</p> <p>The guidance note addresses a proposed amendment to the AML/CTF Act and the <i>Privacy Act 1988</i> in the <i>Combating the Financing of People Smuggling and Other Measures Act 2011</i>, which received Royal Assent during 2010-11.</p> <p>The consultation period on this guidance note commenced on 29 March 2011 and closed on 19 April 2011.</p>
<p>Consultation</p>	<p>Consultation completed.</p>
<p>Draft guidance notes to be published during 2011-12</p>	<p>Anti-Money Laundering and Counter-Terrorism Financing Amendment Regulations 2011 – Exposure Draft on Countermeasures</p> <p>Countermeasures applied to Iran</p> <p>Part 9 of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> allows regulations to the AML/CTF Act to impose countermeasures which regulate or prohibit the entering into of transactions with residents of, or companies incorporated in, prescribed foreign countries.</p> <p>The Government has released for consultation draft Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Regulations, as part of a package of measures to counter deficiencies in Iran’s AML/CTF regime. In addition to the draft AML/CTF Regulations released for comment on the Attorney-General’s Department website, AUSTRAC has also released a draft guidance note intended to assist reporting entities to meet their obligations under the draft Regulation.</p> <p>The consultation period on the draft guidance note closed on 19 April 2011.</p>