



Australian Government

Australian Transaction Reports
and Analysis Centre

AUSTRAC SUPERVISION STRATEGY 2011–12



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The information contained herein is current as at the date of this document.

October 2011

Australian Transaction Reports and Analysis Centre (AUSTRAC)
PO Box 5516
West Chatswood NSW 1515

EXECUTIVE SUMMARY

AUSTRAC's purpose is to protect the integrity of Australia's financial system and contribute to the administration of justice through our expertise in countering money laundering and the financing of terrorism.

As Australia's financial intelligence unit (FIU), AUSTRAC collects, retains, analyses and disseminates financial intelligence to revenue, law enforcement, national security, social justice, regulatory and other partner agencies in Australia and overseas. We identify potential money laundering and terrorism financing (ML/TF) cases and provide financial intelligence which enables partner agencies to detect ML/TF activity, investigate financial crimes including tax evasion and secure prosecutions. This supports national priorities to protect national security, apprehend criminals, protect the integrity of Australia's financial markets and maximise revenue collection.

As Australia's anti-money laundering and counter terrorism financing (AML/CTF) regulator, we educate, monitor and work to improve the effectiveness of reporting entities' compliance with the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and the *Financial Transaction Reports Act 1988* (FTR Act). In some circumstances we seek to enforce compliance with these Acts through more formal mechanisms.

These regulatory activities have two key goals:

1. to improve the integrity (both quantity and quality) of transaction reports received by AUSTRAC to assist the FIU and through it, AUSTRAC's partner agencies, in the furtherance of their activities
2. to harden reporting entities' anti-money laundering and counter-terrorism financing programs against use of their services by criminals for ML/TF purposes.

In 2010–11 AUSTRAC focused on achieving higher coverage of our regulated population. There was greater emphasis on targeting supervisory activities towards those entities where improvements in regulatory compliance were likely to contribute more to achieving our key goals. Largely, this focus continues in 2011–12 and will be supported by the overarching Supervision plan.

In addition to the business as usual activities, new areas of focus in 2011–12 will be the implementation of the cost recovery arrangements, mandatory enrolment for reporting entities and enhanced regulation of the remittance sector.



PRIORITIES FOR 2011–2012

In 2011–12 the major priorities for AUSTRAC's supervisory teams will be:

- responding to anomalous compliance behaviour, especially transaction reporting and compliance reporting deficiencies
- responding to partner agency requests for assistance through providing timely information and reviews of reporting entities' activities
- providing guidance, education and training to smaller, less resourced entities
- assessing AML/CTF programs and compliance with 'know your customer' (KYC) obligations
- implementing cost recovery for AUSTRAC's regulatory functions – introduced under the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* and the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*
- implementing mandatory enrolment of reporting entities – introduced under the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) Act 2011*
- implementing enhanced regulation of the remittance sector – introduced under the *Combating the Financing of People Smuggling and Other Measures Act 2011*.

Activities across industry sectors

In 2011–12 AUSTRAC will continue to employ evidence based selection processes to identify reporting entities for supervisory activity.

When a reporting entity's reporting behaviour is found to be outside that expected by AUSTRAC for its industry cohort, AUSTRAC will engage with the reporting entity to determine the basis for this behaviour. AUSTRAC will tailor its engagement with reporting entities to reflect the type of entity and the issues identified, which may include analysis of the preceding year's activities, data and survey results and ML/TF risk profiles.

AUSTRAC delivers its supervisory activities along regional lines, with frontline teams in Brisbane, Sydney and Melbourne. These teams are supplemented by two specialist frontline supervisory units – Referrals and Major Reporters.

AUSTRAC will also continue its broader engagement through information circulars, the monthly e-newsletter, forums and other forms of practical guidance.

Measuring effectiveness

In 2011–12, AUSTRAC plans to triple its supervisory efforts compared to 2010–11, by undertaking 7,000 supervision engagements with reporting entities. In keeping with past practice, AUSTRAC's intensive supervision activity will include both assessment-based work and awareness-building activities.

Assessments will be conducted on those reporting entities which demonstrate anomalous compliance behaviours. It is expected that this intensive assessment activity will apply to at least 1,000 reporting entities.

Another increasingly important activity for 2011–12 will be the development of guidance materials and similar awareness building exercises. The roll-out of the AML/CTF Act has been well embraced by the regulated community, yet it is imperative that front-of-mind awareness be maintained especially amongst the geographically spread industry sectors.

We will continue to gauge the achievement of outcomes resulting from our supervisory activity through identifying and resolving instances of systemic non-compliance, rectifying non-compliance by specific reporting entities, monitoring the impact these activities have on the broader regulated population and the value of AUSTRAC's financial intelligence to our partner agencies.

These key performance indicators will be reported externally on an annual basis through the AUSTRAC annual report.

AUSTRAC - AUSTRALIA'S FIU AND AML/CTF REGULATOR

AUSTRAC's purpose is to protect the integrity of Australia's financial system and contribute to the administration of justice through our expertise in countering money laundering and the financing of terrorism.

AUSTRAC is the interface between reporting entities and government agencies by providing financial intelligence to partner agencies involved in the collection of revenue, law enforcement, national security and financial markets regulation.

Our purpose is achieved through the collaborative efforts of two interdependent functions:

1. As Australia's FIU. We collect, analyse and disseminate financial intelligence to revenue, law enforcement, national security and other partner agencies in Australia and overseas.

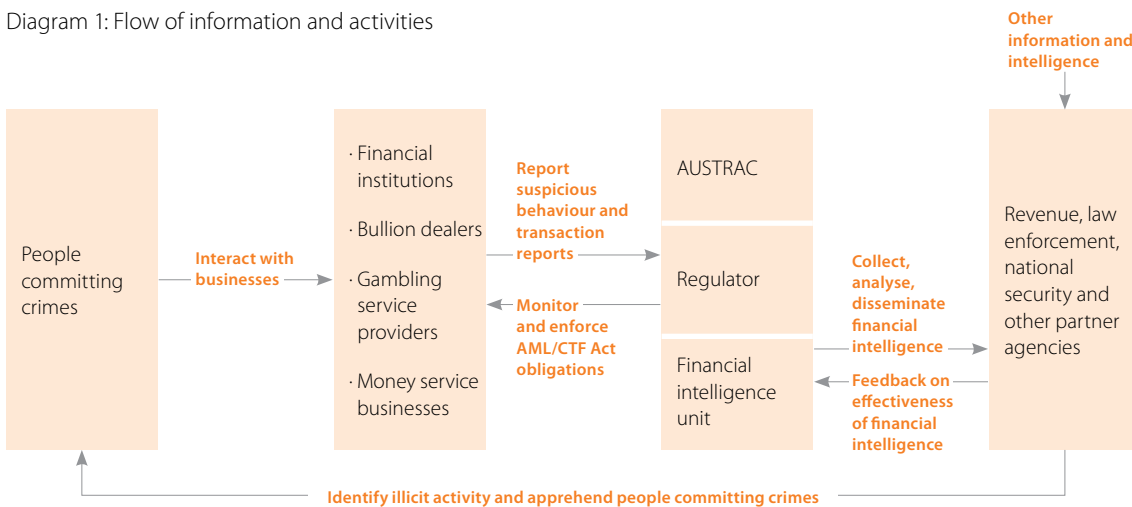
2. As Australia's AML/CTF regulator. We aim to improve the compliance of reporting entities in the money services, financial services, bullion and gambling sectors with their obligations to manage ML/TF risk and submit reports to AUSTRAC. This is designed to maximise the quality of the raw data AUSTRAC receives and enables us to produce financial intelligence of the highest value. We seek to achieve reporting entity compliance through a range of less formal through to more formal mechanisms.

AUSTRAC's dual roles complement each other. Intelligence on entities, trends and emerging concerns helps to inform regulatory efforts about vulnerable and high-risk sectors. Industry supervision is vital for promoting compliance with AML/CTF obligations, not least the transaction reporting upon which our financial intelligence is largely based.

Combining regulatory and financial intelligence also provides a more detailed picture of the money laundering and terrorism financing environment, which benefits not only our own work but also the efforts of partner agencies.

The diagram below shows this flow of information and activities.

Diagram 1: Flow of information and activities



Reporting entities' responsibilities

The AML/CTF Act embodies five key areas that are internationally recognised as best practice in deterring and detecting ML/TF. Broadly speaking, reporting entities are required to:

- 1. Conduct ML/TF risk assessments.** Businesses must understand and manage the ML/TF risks they are exposed to when they provide different products and services, use different distribution channels, deal with different customers and operate in different jurisdictions.
- 2. Implement systems and governance to manage their ML/TF risks.** Businesses must establish appropriate oversight of ML/TF risk by senior management, ensure there is an employee due diligence program and that staff are trained to detect ML/TF behaviour and regularly review the effectiveness of their systems and compliance with their obligations.
- 3. Know their customers.** Businesses must verify the identity of their customers, monitor their customers' behaviour and keep appropriate records of these actions. Financial institutions must also appropriately identify any other financial institutions with which they do business.
- 4. Make themselves known to AUSTRAC.** Currently most reporting entities must advise AUSTRAC that they have obligations under the AML/CTF Act, either through submission of a compliance report (CR) under section 47 or, if they are a remittance service provider, by registering under Part 6 of the AML/CTF Act. As a practical measure, most reporting entities make themselves known through enrolling on AUSTRAC Online. Recent amendments to the AML/CTF Act require all reporting entities to enrol with AUSTRAC and keep their details up to date.
- 5. Report to AUSTRAC.** Businesses must provide reports to AUSTRAC on cash transactions, at or above a \$10,000 threshold (TTR), instructions for international funds transactions (IFTI) and suspicious matters (SMR).

Most must also report regularly on their own compliance with their obligations under the AML/CTF Act through a compliance report.¹

Compliance with these key obligations should result in high quality transaction reporting to AUSTRAC and ultimately an Australian community hostile to money laundering and the financing of terrorism.

The external environment

The Financial Action Task Force (FATF) has developed global standards for combating money laundering and terrorist financing, which are set out in the FATF 40 Recommendations and the 9 Special Recommendations on Terrorist Financing.

In 2010, FATF commenced a review of these Recommendations. Public consultation has been undertaken by FATF and it is expected that the review will be completed in February 2012.

Australia, through the Attorney-General's Department and AUSTRAC, has actively participated in this review.

Australia remains vigilant in addressing matters of international concern, in regard to measures to combat money laundering and terrorism financing. Recent examples are proposed countermeasures against Iran and the introduction of an autonomous sanctions regime.

- **Iran countermeasures.** On 29 March 2011, the Minister for Home Affairs and Justice and the Minister for Foreign Affairs released draft regulations as part of a package of measures to counter the risk of money laundering and terrorism financing posed by Iran.

¹ Holders of an Australian financial services licence who only make arrangements for a person to receive a designated service (such as financial planners) are not required to submit a compliance report.



- Autonomous sanctions.** On 26 May 2011, the *Autonomous Sanctions Act 2011* received Royal Assent. This legislation complements the existing regime and allows the Minister for Foreign Affairs to impose targeted sanctions (that is, financial sanctions, travel bans, arms embargoes etc.) in the absence of, or to supplement, United Nations sanctions. The legislation introduces a range of enforcement options where a breach has been detected.

Money laundering is a critical component of organised criminal activity and imposes significant costs on the Australian community. In November 2009 the Attorney-General launched the Government's Organised Crime Strategic Framework. As part of the Commonwealth Organised Crime Response Plan, a National Threat Assessment on money laundering is being developed.

This National Threat Assessment will provide a consolidated picture of information on the current ML environment and emerging trends, and serve as a baseline for future similar assessments.

Structure of AUSTRAC's supervision function

AUSTRAC's supervision function has evolved and our processes have matured since the commencement of the AML/CTF Act in December 2006. In recognition of the two significant operational elements of AUSTRAC, the agency consists of two Divisions: Supervision and Intelligence.

AUSTRAC's Supervision Division consists of two frontline Supervision branches, AUSTRAC's Legal Branch (whose responsibilities include drafting AML/CTF Rules under the AML/CTF Act) and AUSTRAC's Enforcement team.



Diagram 2: Overarching Supervision Branch structure



Consistent with the structure implemented in 2010, the Supervision Branches remain structured along regional lines. The two Branches led by their respective General Managers oversee reporting entities in the following three regions:

- **North West region** – Queensland, Western Australia, Northern Territory, based in Brisbane
- **Central region** – New South Wales, Australian Capital Territory, based in Sydney
- **South region** – Victoria, South Australia, Tasmania, based in Melbourne.

This structure assists AUSTRAC to meet the challenges posed by a large and geographically dispersed reporting entity population. AUSTRAC engages with industry sectors through its frontline business units which are located in each of these regions.

Two specialist frontline teams supplement the regional teams:

- The **Major Reporters** team has responsibility for the supervision of AUSTRAC's largest reporting entities. The classification of a reporting entity as a major reporter is determined by a combination of:
 - magnitude of transaction reports lodged with AUSTRAC
 - position of the entity within its market
 - business complexity
 - market share.

This reflects the importance of these entities to AUSTRAC's data holdings and their significance to the integrity of Australia's payments system.

- The **Supervision Referrals Unit** enhances partner agency outcomes, particularly investigations involving high-risk industry cohorts, primarily within the alternative remittance sector.

In addition, there are four enabling business units within the Supervision Division:

- **Reporting Entity Operations** is responsible for maintaining census information about AUSTRAC's reporting entities and providing the infrastructure for AUSTRAC's broad-based engagement activities with reporting entities through the AUSTRAC Help Desk and mail-out capabilities.
- **Technical Development and Advice** is responsible for managing processes associated with applications for relief from reporting entities (exemptions and no-action letters) and drafting technical guidance and other explanatory materials for both internal AUSTRAC staff and reporting entities.
- **Data Research and Statistics** is responsible for monitoring the quality, timing and volume of transaction reports lodged with AUSTRAC by reporting entities and undertaking analysis of AUSTRAC's transaction report holdings for supervision purposes. The unit also undertakes primary research to better understand how reporting entities have understood and met their obligations.
- **Planning and Strategic Initiatives** is responsible for strategic planning across the frontline Supervision Branch and supporting regulatory initiatives.

Diagram 2 on page 5 depicts the overarching Supervision Branch structure.



Diagram 3: Level of intensity of supervisory activities

AUSTRAC's supervision activities

Our overarching objective is to monitor reporting entities' compliance with AML/CTF obligations and to develop and maintain AUSTRAC's knowledge base of the regulated population.

Our tactical objective is to maximise our coverage of the regulated population by matching different supervisory activities to the compliance behaviours of different cohorts. This will ensure we use our resources effectively to achieve the greatest impact on the compliance behaviours of the different parts of the regulated population.

AUSTRAC categorises its supervisory activities into three levels of intensity:

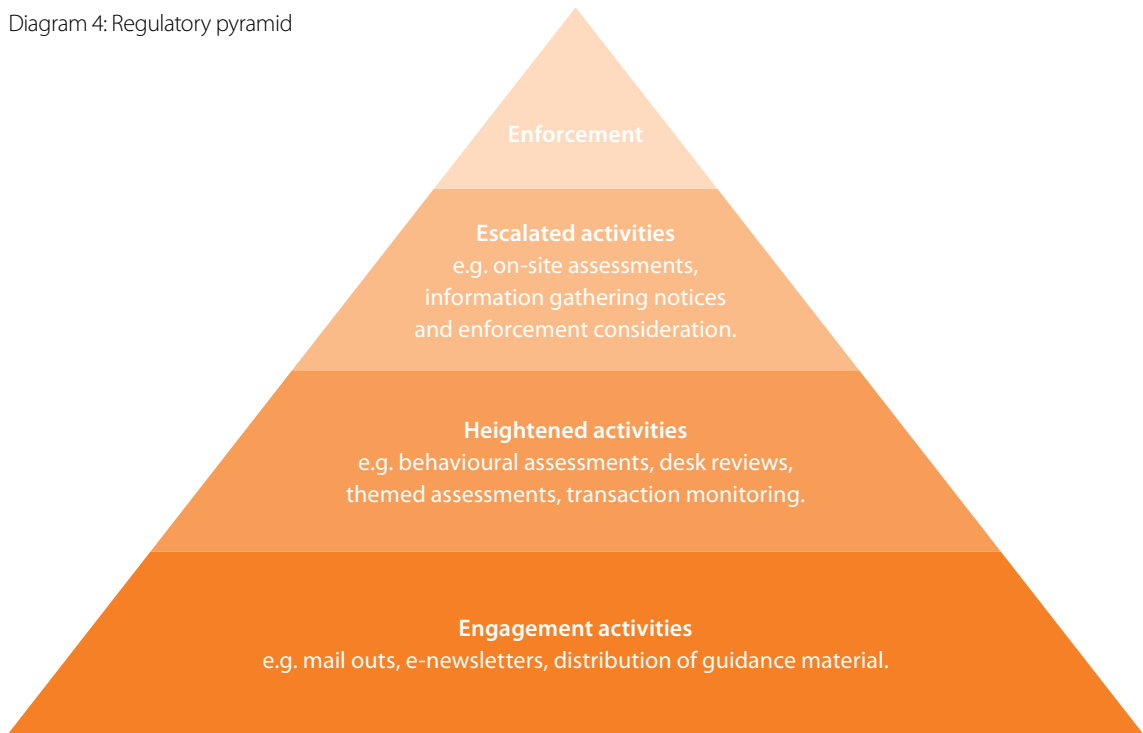
- **Low intensity or 'engagement' activities** such as mail-outs, e-newsletters and the development and distribution of guidance materials.
- **Moderate intensity or 'heightened' activities** such as behavioural assessments, desk reviews, themed reviews and transaction monitoring directed at specific behaviours of groups of reporting entities.
- **High intensity or 'escalated' activities** such as on-site assessments. We tailor these activities to individual reporting entities. They are designed to have a direct impact on improving compliance outcomes. Where these activities do not result in improved compliance, they are likely to result in enforcement action.

Relative application of supervisory activities

Determining which type of activity to use in which circumstance will depend on the:

- AML/CTF risk associated with a reporting entity
- nature and scale of the issue
- impact of the issue on AUSTRAC's intelligence data holdings
- resources available
- type of reporting entity to which the activity is directed
- the compliance history of the reporting entity and willingness to cooperate
- nature of the industry, including its competitiveness, maturity, compliance attitudes and level of support available through industry bodies.

Diagram 4: Regulatory pyramid



SUPERVISION PLAN

Increased supervision scope and penetration

AUSTRAC continuously refines its supervisory methodologies to better engage those sections of the regulated population that need more intensive oversight.

Not all industry sectors or reporting entities display identical ML/TF exposures. AUSTRAC, through analysis of transaction report data, is able to identify these differences and is able to set its expectations about the compliance behaviours of different industry sectors.

Focus on outcomes

The delivery of the Supervision plan will focus on a framework to articulate desired outcomes and evaluate how well the outcomes for all supervision activities are achieved.

The framework involves identifying and prioritising industry cohorts which require supervisory engagement, and then researching and developing the key outcomes which are intended to be achieved from this engagement.

There will not be a major departure from previous supervision activities. However there are adjustments to the mix of activities in recognition that our reasons for engaging with the regulated population are more

than conducting assessments. Other activities include the development and promulgation of guidance, consultation and feedback forums, targeted surveys and the review of current communication materials to reflect audience needs.

Engagement with the reporting entities and industry sectors will include proactive engagement through planned activities as well as work that is undertaken in response to requests from other parts of AUSTRAC or partner agencies.

Activities based on industry sectors

The following sections outline the activities to be undertaken in each industry sector in 2011–12.

Banks and other lenders

The banks and other lenders² sector is made up of a mixture of reporting entities, ranging from very large international banks through to small lenders.

A key focus in the banks and other lenders sector continues to be reporting volumes and accuracy.

For reporting entities which are less likely to incur reporting obligations, we will continue to test whether appropriate policies and procedures are in place to ensure that, when reporting is required, it is undertaken in a timely and accurate manner.

² Note that this section does not apply to reporting entities supervised by the Major Reporters team. Details of the supervisory approach for Major Reporters are set out below.



Non-bank financial services

In 2010–11, our focus was on reporting behaviours in the non-bank financial services sector.

This sector continues to be a flourishing area of transaction reporting activity and a leader in producing new financial products. The introduction of new products brings with it new risks in terms of AML/CTF vulnerabilities. In 2011–12 we will direct our attention to testing the effectiveness of risk-based systems and controls, especially the link between product providers and product promoters.

We especially see the need for practical guidance for smaller businesses operating outside the mainstream financial services domains e.g. non-bank lending.

This guidance will assist to improve understanding of obligations under the AML/CTF Act.

Gambling and bullion

Smaller, less complex reporting entities are commonplace in the gambling and bullion sectors.

Bookmakers, bullion dealers, hotels and clubs, many of whom operate in robust AML/CTF environments, tend to lodge relatively low levels of transaction reports with AUSTRAC.

Greater practical guidance from AUSTRAC is required. The AML/CTF compliance guide for bookmakers was released in 2010. The compliance guide is suitable for bookmakers who are sole traders or who have a small number of employees and is designed to help bookmakers understand and meet their obligations under the AML/CTF Act.

In 2011–12, AUSTRAC will publish compliance guides for the bullion and pubs and clubs sectors, to assist them in meeting their obligations.

Larger entities like casinos and betting exchanges will continue to be subject to compliance assessments on the quality of their transaction reporting to AUSTRAC as well as on specific aspects of their AML/CTF obligations.

Money services businesses

Major legislative changes will be implemented in relation to the money services businesses (MSB) sector in 2011–12.

The *Combating the Financing of People Smuggling and Other Measures Act 2011* will commence operation for the enhanced registration of remittance dealers during this financial year.

AUSTRAC will continue to develop practical guidance for entities within the MSB sector to assist them to understand their obligations under the AML/CTF Act.

Major reporters

The Major Reporters team is responsible for the supervision of AUSTRAC's most significant reporting entities having regard to their market presence and share of transaction reports lodged and includes larger banks and corporate remitters.

Supervisory activity with the major reporters in 2011–12 will involve on-site assessments and reviews and shorter, more narrowly focused reviews of transaction reports.

Importantly, AUSTRAC will consider the adequacy of reporting entities' ongoing assurance or 'fit for purpose' activities relating to their transaction monitoring systems and AML/CTF programs generally.

During 2011–12 AUSTRAC will continue to facilitate forums for reporting entities within the major reporters group to consider issues of compliance as well as financial intelligence.



MEASURING THE VALUE WE ADD

In order to be fully effective, Supervision's activities must:

- enhance AUSTRAC's ability to identify and supply timely information to partner agencies which relates to potential money laundering, financing of terrorism, serious and organised crime
- minimise the possibility that AUSTRAC fails to act on information indicating a breach in a reporting entity's compliance regime
- support AUSTRAC's commitment to international conventions.

At an operational level, the measure of successful supervisory activity will be the breadth (i.e. number of actively engaged reporting entities) and depth (i.e. volume and quality) of compliance behaviours across the regulated population.

In support of this, Supervision will work to improve:

- the validity, completeness, timeliness and relevance of reporting entities' transaction reports information and compliance reporting
- reporting entities' awareness and understanding of their AML/CTF obligations
- the regulated population's awareness of new and emerging threats, weaknesses or criminal trends in the current AML/CTF environment, both domestically and internationally.

IMPLEMENTATION OF NEW LEGISLATION

During the 2011–12 year the commencement of a number of legislative measures will affect the way AUSTRAC supervises the regulated population.

These include:

- implementing cost recovery for AUSTRAC's regulatory functions – under the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Act 2011* and the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Act 2011*
- implementing mandatory enrolment of reporting entities – under the *Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) Act 2011*
- implementing enhanced regulation of the remittance sector – under the *Combating the Financing of People Smuggling and Other Measures Act 2011*
- commencement of the obligation for reporting entities to report third party details in transaction reports from October 2011
- proposed countermeasures against Iran.

AUSTRAC will work to ensure that these measures are implemented successfully and smoothly, and will continue to undertake regular communication with industry and will provide training to its staff to ensure that service standards are maintained.

GLOSSARY

AML/CTF Anti-money laundering and counter-terrorism financing

AML/CTF Act *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

AUSTRAC Australian Transaction Reports and Analysis Centre

FATF Financial Action Task Force: an international inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing

FIU Financial intelligence unit

FTR Act Financial Transaction Reports Act 1988

KYC Know your customer

ML/TF Money laundering/terrorism financing

MSB Money services businesses

Partner agencies The law enforcement, national security, revenue, regulatory and social justice agencies to which AUSTRAC provides information

Reporting:

IFTI International funds transfer instruction; an instruction transmitted electronically into or out of Australia for a transfer of funds regardless of the value

SMR Suspicious matter report; a report submitted to AUSTRAC by a reporting entity when it has reasonable grounds to suspect that provision of a designated service may be relevant to investigation of an offence against an Australian law, including tax evasion, money laundering and terrorism financing

TTR Threshold transaction report; a report submitted to AUSTRAC by a reporting entity where the provision of a designated service involves \$10,000 (AUD) or more in physical currency, or \$10,000 or more in e-currency

Rules AML/CTF Rules are legislative instruments made under the AML/CTF Act



