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**Trustee  
Corporations  
Association  
of Australia**

Cost Recovery Impact Statement-Exposure Draft  
Australian Transaction Reports and Analysis Centre  
PO Box 13173  
Law Courts Post Office  
MELBOURNE VIC 8010

Dear Sir / Madam

**Cost recovery for AUSTRAC's regulatory functions**

The TCA is the peak representative body for the trustee corporations industry in Australia.

It represents 16 organisations, comprising all 8 regional Public Trustees and the great majority of the 11 private licensed trustee company groups.

Our members provide a wide range of financial services to individual, family and corporate clients, including:

- traditional activities, such as estate planning, wills, powers of attorney, deceased estate administration, and management of charitable and other personal trusts.
- superannuation fund trustees / administrators.
- responsible entity for managed investment schemes.
- other corporate activities such as debenture trusteeships, securitisation facilities, and custodial services.

We are pleased to have the opportunity to offer comments on proposed modifications to the components of the cost recovery model for AUSTRAC's regulatory functions.

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Victoria

Tasmanian Perpetual  
Trustees

The Trust Company

We understand that the Public Trustee members of the TCA are making a separate submission.

## **Comments**

### General approach

The Exposure Draft sets out to establish a charging structure that is *'reflective of the exposure to ML/TF risk of reporting entities, the supervisory effort applied by AUSTRAC in regulating different reporting entities and the costs associated with those regulatory activities'*.

We strongly support such a risk-based approach to supervision and cost recovery.

### Large entity component

However, it is questionable in our minds whether the proposed large entity component (LEC) achieves this aim.

We believe that there is no direct relationship between the number of FTE employees in a group, the reporting entities providing designated services within the group, the risks associated with those designated services and the effort and cost associated with AUSTRAC's regulatory activities.

We note that, under the revised definition of a large business, in circumstances where a large corporate group has a number of reporting entities, all entities would be individually classified as a large entity and subject to the LEC levy.

We believe that this is an unreasonably harsh approach.

While a designated business group might have more than 200 FTE employees in total, only a small number of these persons might be engaged in providing designated services.

However, each of those reporting entities would be liable for a sizeable large entity fee even though their exposure to ML/TF risk and the effort and cost of regulatory activities is low.

Consider, for example, a (non-reporting) entity with say 175 FTE employees and 10 reporting entity subsidiaries each with 5 FTE employees (ie: total of 225 FTE employees for the group) .

Under the original definition, none of the reporting entities would have been deemed 'large' and no LEC levy would have been payable.

However, under the alternative definition proposed, each of those reporting entities would be regarded as 'large', thereby resulting in 10 LEC levies of about \$9,120 each or over \$91,000 in total.

### Exemptions

Some reporting entities are exempt from certain aspects of the AML/CTF regime due to their low risk.

However, because they are not exempt from "all operative provisions" they are leviable.

As a result, a reporting entity could have an extremely low AML/CTF risk exposure but be subject to a proportionately very high cost-recovery fee.

Yours sincerely

Ross Ellis  
Executive Director

