



Australian Government

AUSTRAC

Regulator Performance Framework: AUSTRAC self-assessment 2015-16

“ A FINANCIAL SYSTEM **FREE**
FROM CRIMINAL ABUSE ”

Regulator Performance Framework

The Regulator Performance Framework (RPF) was introduced as part of the Federal Government's *Cutting Red Tape* initiative. The framework encourages regulators to undertake their functions with minimal impact necessary to achieve regulatory objectives. It comprises of six mandatory key performance indicators.

The RPF requires AUSTRAC to annually:

- self-assess its performance against the KPIs
- seek stakeholder validation of its assessment against its key performance indicators
- publish its self-assessment report.

Rating scale:



Fully achieved



Partially achieved



Not achieved

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities (REs)



Rating: Fully achieved

Throughout 2015-16, AUSTRAC has demonstrated strong performance against this metric through its effort to support the efficient implementation of AML/CTF regulation into businesses. We do this by increasing awareness and understanding of the AML/CTF risks, providing quality guidance and by actively seeking feedback on how the regime can be improved.

Our involvement in international bodies such as the Financial Action Task Force (FATF), Egmont, the Asia-Pacific Group on Money Laundering (APG) and the International Supervisors Forum (ISF) involving Australia, Canada, New Zealand, United Kingdom and the United States has ensured that the global AML/CTF framework has been applied in Australia, to the benefit of Australia's regulated population.

Our international engagement helps to ensure Australia's consistency with the global standards for AML/CTF regulation and regulatory approaches, benefiting Australian businesses by:

- building understanding of the ML/TF risks Australian businesses face and the mechanisms for managing those risks.
- reducing potential regulatory burden for businesses operating in more than one jurisdiction

1.1 AUSTRAC publications and industry specific guides reflect knowledge gained through industry consultations, engagement with international organisations, and regular environment scanning



Rating: Fully achieved

Industry has been provided with a range of resources to build awareness and resilience to misuse by criminals. These resources included:

- a searchable online case study hub of 66 case studies
- typologies that describe behaviours used to launder illicit funds or transfer financial support for terrorist organisations
- risk assessments about real estate agents and lawyers, internet banking and business express deposit boxes and politically-exposed persons and corruption

- compliance guidance, including on undertaking customer due diligence, identifying politically exposed persons and industry-specific guidance for the gambling sector and remitters.

1.2 AUSTRAC provides opportunities and mechanisms for REs to raise issues and provide feedback on ways to apply changes and suggested improvements to the AML/CTF regulatory regime



Rating: Fully achieved

Extensive consultation with industry has highlighted a range of ideas and perspectives in 2015-16. Most notable was the call for input to the review of the *Anti-Money Laundering Counter-Terrorism Financing Act 2006 (AML/CTF Act)*, on which we worked closely with the Attorney-General's Department.

More than 80 submissions were received in the previous year, which were used as the basis for more than 20 stakeholder roundtable meetings held with various reporting entities (REs), industry bodies, partner agencies and civil society interest groups.

The report to Parliament outlined 84 recommendations to simplify, streamline and enhance the regulatory framework. It drew on input from the consultations and findings from FATF's 2015 review of Australia's AML/CTF regime and technical compliance with international standards.

Other opportunities for formal input from industry included a range of regulatory changes as outlined in below in KPI 2, including contributing to a Post-Implementation Review, a Privacy Impact Assessment and the costings for a Regulation Impact Statement. We also held quarterly policy and compliance forums with the Australian Bankers' Association and the Australian Financial Markets Association. A range of issues and topics of mutual interest have been raised at these meetings.

1.3 AUSTRAC works with international partners where there are national interests and global economic benefits to Australia



Rating: Fully achieved

We recognise the importance of international collaboration because criminals do not respect borders. Developing relationships with our counterparts throughout the world – particularly in our region – helped to

- deliver a coordinated, international response to transnational threats such as terrorism financing
- ensure a consistent regulatory approach and information capture through reports from industry.

We continued to make a strong international contribution through FATF, Egmont, APG and ISF. We also have memoranda of understanding (MoUs) with four overseas regulators to

facilitate consistency in approach to a range of regulatory activities such as risk modelling, regulatory strategies and assessment techniques.

1.4 AUSTRAC supports REs to comply with requirements through the provision of a Contact Centre and systems to enrol, register and submit reports



Rating: Fully achieved

At AUSTRAC, we work to assist REs to comply with AML/CTF requirements through a number of ways including:

- **AUSTRAC's Contact Centre** is often a first point of reference for the REs from a diversity of backgrounds. The Contact Centre provided more than 10,000 individual responses to people by phone and email throughout the year.
- **AUSTRAC Online** is the system for electronically enrolling, registering and submitting reports. The system averages more than 91,000 logons per quarter.

Continual improvement

Our plans to continue to extend the range of publications and guidance include

- continual development of the case study hub to include cases from other countries as well as Australia
- feedback on compliance behaviours
- assessments of ML/TF risks in specific industry sectors
- industry specific guidance.

KPI 2: Communication with regulated entities is clear, targeted and effective



Rating: Fully achieved

AUSTRAC has continued its long standing commitment to clear, targeted and effective communication with REs by:

- calling for input to consultations through our website, direct communications with the 200-plus subscribers to the AML/CTF Rules email list and promotion through the monthly newsletter *AUSTRAC News*
- providing a person-to-person enquiry service through the Contact Centre
- encouraging input from industry bodies, as representatives of industry sectors

- engaging with civil society interest groups.

For AUSTRAC purposes, communication effectiveness is assessed as the right information going to the right audiences at the right time and in a useable manner. Response mechanisms are consistently provided. See also 1.2 which addresses the use of feedback mechanisms.

Effectiveness is also a driver for the Government's accessibility requirements ensuring that information is available for ready consumption irrespective of the platform, system or device being used.

Our approach has ensured that our communication activities are clearly expressed, effectively executed and that we target sectors within our regulated population with relevant information and messages.

2.1 AUSTRAC publishes up-to-date guidance and technical reference material on its website and in a format which meets government accessibility requirements



Rating: Fully achieved

Following a substantial upgrade of AUSTRAC's 1200-page website in 2014, content was further redeveloped in 2015-16 with plain English guidelines in mind and respectful of people from whom English is not a first language. Guidance material was redeveloped to provide a streamlined online hub of technical reference material, replacing three separate types of guidance and advice on the website. The guidance hub is subject to continual update.

We also provided additional guidance on our website for higher-risk sectors, including:

- **gambling** – additional guidance for venues with electronic gaming machines
- **remitters** – additional guidance about renewal processes.

REs were notified of new information and updated guidance through 54 bulk email campaigns – more than 77,000 pieces of correspondence during the year – on topics such as Compliance Report 2015, Industry Contribution levy, methodologies briefs, sanctions, countermeasures and guidance updates. These email campaigns often provided a link to material on our website.

2.2 AUSTRAC's consultation with industry is undertaken in a way that minimises the impact on REs while optimising the opportunity for considered responses from stakeholders



Rating: Fully achieved

We continued our long standing commitment to calling for input from REs through web publishes, direct communications with the 200-plus subscribers to the AML/CTF Rules email list and promotion through the monthly newsletter *AUSTRAC News*

Encouraging feedback from industry bodies, as representatives of industry sectors, has generated valuable input from industry while minimising impact on individual REs.

Industry was invited to provide input on a range of regulatory changes in 2015-16, including draft Rule changes, regulatory costings and privacy impact assessments, nine Rules chapters and a section of the *AML/CTF Act*. The most notable was the call for input to the review of the *AML/CTF Act*, on which we worked closely with the Attorney-General's Department (see KPI 1.2).

2.3 AUSTRAC's advice and decisions are transparent and provided in a consistent and timely manner



Rating: Fully achieved

Decisions impacting REs have been advised in a number of ways according to the requirements of the RE and the circumstance. These include decisions about:

- **applications to register as a remittance service provider** – which are advised through direct contact with the applicant, consistently within the timeframe defined in legislation.
- **enforcement actions** – which are advised directly to the RE. It is standard practice to publish the enforcement on our website
- **exemptions** – which are advised directly to the RE and are published on our website. In 2015-16, we achieved a remarkable improvement in processing time from more than 300 days down to fewer than 100 days. This was accomplished by implementing a revised approach to assessments focussed on ML/TF risk and service-delivery to REs.

We can also opt to issue warning advices to rectify non-compliance or issue a compliance assessment report and have powers to issue Enforceable Undertakings, Infringement Notices, Remedial Directions and Written Notices.

Information on our website is a key means for demonstrating consistency in approach and educating REs and the broader Australian community about our approach.

Continual improvement

We are currently identifying opportunities to continually improve the presentation of readily-accessible online material to assist and support REs. For instance, we are seeking opportunities to enrich our web content with diagrammatical and other visual material to improve our

- compliance and technical guidance
- explanations of decision processes
- compliance priorities.

We are also building on collaboration, with various industry sectors, to develop guidance on AML/CTF compliance obligations specific to the sector. Topics under development for finalisation in 2016-17 include:

- identification of customers of Aboriginal and/or Torres Strait Island heritage
- casino sector reporting of International Funds Transfer Instructions
- superannuation sector risk assessment.

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed



Rating: Partially achieved

Our intelligence-led risk-based framework has provided a robust structure for regulation and enforcement actions. It helped to inform prioritisation of reviews and assessments of compliance. The framework will also inform the new regulation and enforcement strategies – the only aspect of this KPI that was not completed – which will be published in the next reporting period.

3.1 AUSTRAC employs risk-based methodologies and tools that support regulation and enforcement strategies proportionate to the regulatory risk



Rating: Fully achieved

A risk-based compliance and enforcement framework was significantly refined and enhanced during 2015-16.

This framework has informed regulatory decision-making, including the process for responding to breaches of AML/CTF obligations, and identified proactive supervisory activities.

This ensures focus on the most significant risks to business and the integrity of the financial system. Further implementation of this framework will extend into 2016-17.

3.2 AUSTRAC's regulation and enforcement strategies are regularly updated and made publicly available



Rating: Partially achieved

The strategies currently available online, although reflective of our approach, are out of date.

AUSTRAC's new regulation and enforcement strategy documentation is in development, and is expected to be published in the new financial year. It will align with the agency's corporate plan, reducing red tape initiatives and the risk-based framework.

3.3 AUSTRAC recognises the compliance record of REs and takes into account industry-specific risks



Rating: Fully achieved

The risk-based tools, which form part of the framework outlined in KPI 3.1, include consideration of the relative risks of the industry sector and the historical on-record compliance behaviour of the RE.

This aligns with the purpose of AML/CTF regulation, which means that we place a priority on:

- helping REs to strengthen their AML/CTF programs so their services are not used by criminals for money laundering or terrorism financing purposes
- improving the quality and quantity of transaction reports received by AUSTRAC from REs, which in turn improves the quality of financial intelligence we can develop for national security, law enforcement and revenue agencies.

However, AUSTRAC continues to be prepared to exercise the full suite of its powers in the event of non-cooperation and ongoing non-compliance which puts at risk the integrity of the financial system as a whole by increasing Australia's exposure to serious and organised crime, including tax evasion, drug trafficking and terrorism.

Continual improvement

Our new compliance and enforcement strategies need to be finalised and published during the next reporting period. Further refinement of our risk-based approach will extend into 2016-17.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated



Rating: Fully achieved

Streamlined and coordinated approaches to compliance and monitoring have promised efficiency for both AUSTRAC and the REs. Our priority has been to enable businesses to improve their compliance so they minimise the risk of being misused by criminals for money laundering or terrorism financing purposes. However, we have been mindful of the diversity of industry sectors, designated services and business sophistication in our regulatory environment.

4.1 AUSTRAC employs risk-based targeting of regulation and enforcement, taking into account the circumstances and operational needs of a diverse range of REs



Rating: Fully achieved

Understanding the diversity of the regulated population is an essential part of applying the risk-based framework.

Our intelligence-led risk-based framework draws on our understanding of the underlying risk of each industry sector as well as an assessment of various features of the individual business which contribute to its risk profile.

As part of that, information about REs has been collected and verified, such as:

- compliance assessments of AML/CTF Programs prior to registration of independent remittance dealers (IRDs) and remittance network providers (RNPs)
- various types of information about REs – to understand the size and scope of the regulated population including geographic information, designated services offered and reporting behaviours.

This information allows us to employ targeted regulation and enforcement.

4.2 AUSTRAC's regulatory approach uses existing information and includes collaboration with other industry sector regulators



Rating: Fully achieved

Collaboration has been a priority for AUSTRAC. We collaborated with other Australian Government regulators when working with REs in the same industry sectors. This occurred at a range of levels, including strategic CEO forums and project-level activities. Highlights in 2015-16 included working with:

- ASIC and other regulators on issues related to new and emerging FinTech start-up entities in the financial sector
- ATO and Treasury on Customer Due Diligence, in particular, beneficial ownership and control obligations under the AML/CTF regulatory regime in the context of obligations under the OECD Common Reporting Standard (Taxation)
- Council of Financial Regulators Working Group, including Treasury, Reserve Bank, ASIC and APRA on Distributed Ledger Technologies (DLT).

4.3 AUSTRAC's information requests are tailored and only made when necessary to secure regulatory objectives, and only in a way that minimises impact



Rating: Fully achieved

Requests for information from REs create work for those businesses, so we have employed the risk-based framework to tailor requests.

The nature of requests in 2015-16 were considered and tailored. We designed our assessment approaches to reflect the intention to minimise the impost on business in discharging our responsibilities.

For example two key compliance assessment campaigns undertaken in the year employed a tailored approach:

- customer due diligence campaign – targeted REs that were most impacted by the CDD Rule changes and sought information on the pertinent part of the AML/CTF Program and the supporting policies and procedures relating to testing that aspect of their obligation
- electronic gaming venues' transaction monitoring and suspicious matter reporting (SMR) awareness campaign – targeted REs with electronic gaming machines identified through a risk-based methodology and requested information about cheque registers for a specific period. This resulted in improved understanding of key AML/CTF requirements – notably a 43% increase in SMRs from that sector for March to June. The campaign also resulted in actionable intelligence for a partner agency in law enforcement.

4.4 AUSTRAC provides feedback mechanisms to seek industry's views on its regulatory regime



Rating: Fully achieved

As outlined earlier, AUSTRAC invited input from its regulated population on a range of matters impacting the regulatory regime (see 1.2 and 2.2).

As well, plans have been put in place to encourage ongoing exchange of information and perspectives between AUSTRAC and various sectors of the regulated population. This includes the release of feedback reports on compliance behaviours in industry.

Continual improvement

Ongoing development of our internal systems and processes will see continued efficiency improvements.

KPI 5: Regulators are open and transparent in their dealings with REs



Rating: Partially achieved

AUSTRAC has placed importance on making information available to help REs to build resistance to misuse by criminals. This has included sharing information, where possible, and assisting REs to implement robust and meaningful AML/CTF compliance practices. We have achieved all but one element of this KPI.

5.1 AUSTRAC's regulation and enforcement strategies are regularly updated and made publicly available

As outlined earlier (see KPI 3.2), new strategies will be published in the next reporting period, aligned to the risk-based framework.



Rating: Partially achieved

5.2 AUSTRAC's advice and decisions are communicated consistently and in a timely and transparent manner



Rating: Fully achieved

As outlined earlier (see KPI 2.3), AUSTRAC's decisions impacting REs have been advised in a number of ways as soon as practical. This has included direct contact with REs, information on the website and bulk email distribution to REs.

5.3 AUSTRAC's consultation with industry is undertaken in a way that minimises the impact on REs while optimising the opportunity for considered responses from stakeholders



Rating: Fully achieved

As outlined earlier, AUSTRAC has consulted with industry as a matter of course, and industry input was invited for a range of regulatory changes in 2015-16 (see KPIs 1.2, 2.2 and 4.4).

To maximise the opportunity for considered responses, while minimising the impact on individual REs, we

- targeted REs relevant to the topic of consultation
- engaged with industry associations and other representative bodies on a case-by-case basis.

Continual improvement

New regulation and enforcement strategies will be published in the next reporting period, aligned to the risk-based framework.

KPI 6 Regulators actively contribute to the continuous improvement of regulatory frameworks



Rating: Fully achieved

Continuous improvement has been a priority for AUSTRAC. Applying our intelligence-led risk-based framework, continuing to engage with REs and their industry associations and collaborating with our stakeholders in Australia and other countries have contributed to the development of Australia's AML/CTF regime as part of the global community – and will continue to do so.

6.1 The development of AML/CTF Rules, regulations, legislative changes, industry contribution levy and regulation approaches consider feedback gained through consultation with relevant stakeholders



Rating: Fully achieved

At AUSTRAC, we exercised our well-established practices of consultation with industry on a range of matters. Consultation took three key forms:

- issuing a public call for input on the website, with supplementary communications to alert stakeholders
- direct contact with stakeholders most directly impacted by the matter
- working directly with industry associations and other representative bodies, which minimises impact on individual businesses.

As outlined earlier, we undertook consultations in 2015-16 on issues such as AML/CTF Rule changes, the industry contribution and the statutory review of the AML/CTF Act.

As well, we have worked closely with international counterparts to ensure our approach has been consistent with international standards, and we consider industry feedback in this context.

6.2 AUSTRAC regularly shares feedback from industry with the Attorney-General's Department (AGD) to improve the operation of the regulatory framework and administrative processes



Rating: Fully achieved

AGD, which has portfolio and policy responsibility for AUSTRAC, is a key partner in the delivery of a quality, workable regulatory framework which minimises the AML/CTF impost on Australian business.

As a matter of course, officers from AUSTRAC have been liaising with AGD on policy, regulatory, legislative and legal matters. This was particularly pertinent in 2015-16 with the finalisation of review of AUSTRAC's key piece of legislation, the *AML/CTF Act*.

6.3 Stakeholder submissions on the development of the AML/CTF Rules, regulations, legislative changes and industry contribution levy are made public and shared with AGD, the Department of Finance and relevant government regulators

As outlined earlier, AUSTRAC undertook a number of stakeholder consultations in the reporting period (see KPIs 1.2, 2.2, 4.4 and 5.3).

Proposals to share or publish stakeholder submissions were advised at the start of the consultation and were not automatically published on the website. The non-publishing of any submissions respects the individual requests of stakeholders for the non-release of confidential or commercial in-confidence material.

For example:

- redacted versions of submissions on the statutory review of the AML/CTF Act, were published on the AGD website
- redacted versions of submissions on Industry Contribution Levy consultations were published on the AUSTRAC website.

Continual improvement

Ongoing development of our internal systems and processes will see continued efficiency improvements while mindful of the need to maintain a robust system.

Overall conclusion

Overall, in the RPF's first year of implementation, AUSTRAC has demonstrated that

- it has not unnecessarily impeded the efficient operation of regulated entities
- its communication with regulated entities is clear, targeted and effective
- its actions are proportionate to the regulatory risk being managed
- its compliance and monitoring approaches are streamlined and coordinated
- it was open and transparent in our dealings with regulated entities
- it actively contributed to the continuous improvement of regulatory frameworks.

That said, we recognise there is always room to innovate and improve. The role of REs is integral to the ongoing effectiveness of AML/CTF regulation and the protection of the Australian financial sector. Australian business is at the front-line in stopping criminals from making their illicit money look clean, which helps to protect the Australian community from the scourge of serious and organised crime including drug trafficking, fraud, tax evasion and terrorism financing. Working in partnership with industry is the key to our success and embedding best practice regulation is fundamental to ensuring that we maximise the outcomes we can all deliver.