EXPANSION OF AML REGULATION: NEW REGULATED ENTITIES FROM 2026

PRESENTED BY

ANTHONY SEYFORT | PARTNER

MIZU ARDRA | PARTNER

26 MARCH 2025

HWL EBSWORTH

LAWYERS

EXPANSION

- Current regulated entities:
  - Banks, super funds, investment entities, casinos, money remitters, lenders/ financiers, bookmakers, currency exchanges, life insurers, bullion dealers
- New regulated entities ("tranche 2 entities"):
  - Property developers
  - Real estate agents
  - Accountants
  - Lawyers
  - Corporate advisers
  - Other professional service providers
  - Jewellers

HWL EBSWORTH LAWYERS

AGENDA

- Overview of the AML/CTF Regime
- Key Concepts
- Process of Money Laundering
- Key obligations under the AML/CTF Act
- Key components of an AML/CTF Program
- AML/CTF reforms
- Preparing for the reforms

HWL EBSWORTH LAWYERS

OVERVIEW OF THE AML/CTF REGIME

- Purpose of the AML/CTF Legislation
  - Through the AML/CTF regulatory framework, businesses play a vital role in detecting and preventing the misuse of their sectors and products by criminals seeking to launder money and fund terrorism.
  - Financial Action Task Force (**FATF**) is an international body which sets standards for mitigating the ML/TF Risks. The AML/CTF Act is closely based on these international standards.

KEY CONCEPTS

- Key Concepts
  - Money laundering (**ML**): processing criminal profits that disguise their illegal origin (or simply using the proceeds of crime).
  - Terrorism Financing (**TF**): financing of terrorist acts and organisations through provision of any asset.
  - Australia's regulator responsible for combatting ML/TF is AUSTRAC which administers the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (cth) (**AML/CTF Act**).

HWL EBSWORTH LAWYERS

PROCESS OF MONEY LAUNDERING

- **Placement**
  - Initial stage where proceeds of crime are introduced into the financial system.
  - Launderers use various methods to avoid detection.
  - These methods include breaking up large amounts into smaller sums and purchasing series of monetary instruments deposited into accounts in different locations.
- **Layering**
  - Purpose is to conceal the source of the money through a series of transactions and bookkeeping tricks.
  - The launderer engages in a series of conversions or movements of the funds to distance them from the source.
  - For example, the launderer may disguise the transfers as payment for goods or services giving the funds a legitimate appearance.
- **Integration**
  - The purpose is to re-introduce the laundered money back into the economy as legitimate.
  - Having been processed the first two phases, the laundered funds appear as legitimate business earnings.
  - This is the phase where the laundering cycle completes.

HWL EBSWORTH LAWYERS

KEY OBLIGATIONS UNDER THE AML/CTF ACT

- Entities providing "designated services" become "reporting entities" and must:
  - Conduct an AML/CTF Risk Assessment for their business
  - Develop and implement an AML/CTF Program
  - Enrol with AUSTRAC
  - Carry out KYC/customer identification procedures
  - Conduct ongoing customer due diligence
  - Report suspicious matters to AUSTRAC
  - Submit Annual Compliance Reports to AUSTRAC

HWL EBSWORTH LAWYERS

KEY COMPONENTS OF A RISK-BASED AML/CTF PROGRAM

- Operational content of AML/CTF Program
  - Risk assessment
  - Customer identification procedures
  - Transaction monitoring program
  - Ongoing customer due diligence
  - Reporting requirements
- ''Regulatory management" content of AML/CTF Program
  - Board and management oversight
  - Designated AML/CTF compliance officer
  - Personnel due diligence
  - Training
  - AUSTRAC guidance
  - Independent review

REFORMS: EXTENSION TO 'TRANCHE 2' ENTITIES

- The AML/CTF Reforms passed in November 2024
- Importantly, they extend the application of the Australian AML/CTF Regime to "Tranche 2 entities":
  - Real estate brokers and agents, sellers of real property (if no real estate agent)
  - Dealers in precious metals and stones
  - Professional service providers including:
    - Accountants
    - Lawyers
    - Company services providers providing company services such as: selling a shelf company, creating a company or legal arrangement, acting as an office holder, registered office address
    - Consultants like restructuring professionals and others planning or assisting in respect of property or corporate dealings, or providing custody services
- Not included: litigation, general tax advice (unrelated to a transaction)
- Other amendments that apply to all existing AML/CTF regulated entities include changes to customer due diligence, risk assessments, structure of AML/CTF Programs and money transfer services.

HWL EBSWORTH LAWYERS

REFORMS: TIMING

- Commencement for amendments
  - Tipping off reforms to be accelerated: **31 March 2025**
  - Other reforms for existing reporting entities: **31 March 2026**
  - Commencement for new/Tranche 2 reporting entities: **1 July 2026 (enrolment to commence from 31 March 2026)**
- Consultation on AML/CTF Rules
  - First round of consultation on Exposure Draft Rules closed 14 February 2025
  - Expecting second round of consultation before finalisation

HWL EBSWORTH LAWYERS

PREPARING FOR THE REFORMS

- New businesses (Tranche 2 entities) that are covered by the reforms will be need to put in place procedures and processes to comply with the AML/CTF Act
- Initial steps include:
  - Confirm whether any 'designated services' are being provided
  - If they are subject to the regime, develop a ML/TF Risk Assessment and AML/CTF Policies taking into account AUSTRAC Guidance
  - Establish customer due diligence (KYC) procedures and consider engaging external technology providers as appropriate
  - Appoint an AML/CTF Compliance Officer
  - Develop staff AML/CTF training materials

HWL EBSWORTH LAWYERS

CONTACT DETAILS

MIZU ARDRA

PARTNER, MELBOURNE

T +61 3 8644 3828
E mardra@hwle.com.au

ANTHONY SEYFORT

PARTNER, MELBOURNE

T +61 3 8644 3675
E aseyfort@hwle.com.au

HWL EBSWORTH LAWYERS

HWL EBSWORTH

LAWYERS

ADELAIDE | BRISBANE | CANBERRA | DARWIN | HOBART | MELBOURNE | NORWEST | PERTH | SYDNEY