Australian Banking Association

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Director
Policy and Rules
AUSTRAC
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Consultation on guidance on source of funds and source of wealth

The Australian Banking Association (**ABA**) welcomes the opportunity to provide comment on Australian Transaction Reports and Analysis Centre's (**AUSTRAC**'s) consultation on the proposed updated guidance on source of funds and source of wealth.

Our position

The ABA supports AUSTRAC guidance that sets clear regulator expectations on the obligations placed on Reporting Entities (**RE**s). In the case of source of funds and source of wealth (**SFSW**), we note this guidance would serve as an update to relatively new guidance provided in 2021 on this topic.

Banks welcome clarity on AUSTRAC's expectations regarding when an entity may conduct source of funds and source of wealth checks in light of the draft guidance. To this end we provide some feedback below and a marked-up version of the guidance where we think there is value in aligning the language with the rules and ensuring appropriate emphasis on the obligations placed on REs.

Emphasis on the risk-based approach

The ABA considers that there are aspects of this proposed guidance that appears to indicate that SFSW checks[1] should be conducted on all customers and at all times. For example, the guidance states that SFSW triggers should be in place before commencing to provide a designated service to a customer, and as part of ongoing due diligence and monitoring for all customers.

While we generally agree that SFSW checks could occur in a range of contexts and should form part of a RE's AML/CTF program, the draft guidance should emphasise that the risk-based approach continues to apply and that it is a matter for REs to determine when this KYC information should be collected, verified or reverified. We acknowledge there are references to the risk-based approach in the draft guidance, but changes are required in some sections to ensure consistency with the Rules, and to make clear AUSTRAC's expectations.

Banks also consider that the guidance can make the important point that REs may already possess sufficient information on their customers, and that consideration and analysis of that information held by REs can provide a sufficiently accurate picture of a customers SFSW.

Status of current guidance

Banks welcomed the existing guidance implemented in 2021 as it provided clarity on AUSTRAC's expectations in relation to the implementation of SFSW checks, and we seek to understand the status of this 2021 guidance once the new version is implemented. We consider there is scope to consider whether any information that remains relevant from the current version is retained to the extent possible and industry is provided with that consolidated guidance.

For example, the 2021 guidance notes at the outset that SFSW checks are an Enhanced Customer Due Diligence (**ECDD**) measure. The proposed guidance is less clear, and we would welcome clarification on whether there has been a change in expectations on when SFSW checks are to occur. While SFSW checks do not necessarily need to arise in the context of ECDD, but consistent with the

[1] We use "checks" here to include a range of activities, from considering, collecting and/or verifying.

risk appetite of REs, SFSW checks may usually only arise in the ECDD context. We seek to confirm whether AUSTRAC has different expectations to this position as expressed in the 2021 guidance.

Privacy considerations

In conducting SFSW checks, banks are required to comply with the Australian Privacy Principles, as noted in the AML/CTF Rules.[2] We would welcome the guidance referring to the obligations placed on REs in relation to the privacy principles and its interaction with AUSTRACs expectations, particularly as the collection of SFSW information may be sensitive and raise privacy concerns.

In line with the points raised above, the ABA provides a marked-up version of the document with suggested changes.

Thank you for the opportunity to provide feedback. If you have any queries, please contact me.

Yours sincerely,

Prashant Ramkumar
Associate Policy Director,
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[2] For example, under Chapter 2: *Reporting entities should note that in relation to activities they undertake to comply with the AML/CTF Act, they will have obligations under the Privacy Act 1988, including the requirement to comply with the Australian Privacy Principles, even if they would otherwise be exempt from the Privacy Act. For further information about these obligations, please go to http://www.oaic.gov.au or call 1300 363 992.*