Australian Banking Association

28 January 2022

AUSTRAC Industry Contribution
Strategic Intelligence and Policy Branch
AUSTRAC
PO Box 13173, Law Courts
MELBOURNE VIC 8010
By email: Industry_Levy@austrac.gov.au

cc: Department of Home Affairs
By email: antimoneylaundering@homeaffairs.gov.au

AUSTRAC Industry Contribution 2021-22

The Australian Banking Association (ABA) takes the opportunity to provide feedback on the Australian Transactions Reports and Analysis Centre (AUSTRAC) consultation on the industry contribution levy ('the levy') for 2021-22. ABA members comprise many of the largest reporting entities (REs) that fund the annual operation of AUSTRAC.

Our position

The ABA continues to express concern on the inequitable and opaque basis of the recovery of AUSTRAC's costs. ABA have consistently made submissions to previous consultations on the reviews outlining these concerns. The ABA's concerns remain today and are summarised as:

- The levy does not adhere to the government's cost recovery guidelines. These guidelines ensure that costs borne on industry are imposed in a manner that is efficient, consistent, transparent and accountable. The rationale for abandoning this policy as set out in the guidelines in the case of the AUSTRAC industry contribution has not been clearly articulated.
- The levy charged by AUSTRAC has grown dramatically over time and without adequate explanation. The impact of such costs being borne by just very small number of AUSTRAC's Reporting Entities (REs) remains inappropriate and should be re-designed to comply with government's own cost recovery guidelines.
- The inequitable structure of the levy results in a lack of accountability on the significant number of high-risk REs that have no levy obligation. An example of a more appropriate industry funding model is the ASIC Supervisory Cost Recovery Levy. Under this levy, those who create the need for, and benefit from regulation, bear the cost. This introduces an economic incentive to drive the desired regulatory outcomes for the financial system.

2021-22 changes

In addition to the general concerns above, ABA notes several specific concerns with the proposed levy contribution model for 2021-22.

The main changes to the industry contribution levy for 2021-22 may be summarised as:

- growth in appropriations of 2.75 per cent
- an increase of the maximum earnings charge from $2.1 million to $5 million, and
- The introduction of a transaction reporting cap of $14 million (capped at $11,368,737.91 in 2021-22 for REs with earnings above $5 billion but with no clarity on cap for future years).

There is no clear explanation as to how AUSTRAC has arrived at this growth trajectory or change in numbers. The calculations and rationale are difficult to follow and there are no examples of how the calculations are applied to leviable entities. The ABA questions the imposition of a transactions cap of $14 million when the total levy cap is around $11.4 million is not justified or explained.

The impact of these changes impacts unevenly across ABA members, with some REs that report significant IFTI and TTR transactions now being disproportionately impacted with an increase in the levy charged. Given some of these members do not meet the $5 billion dollar earnings threshold, they are likely to see a significant increase in levy amounts without the benefit of the $11.4 million cap. The ABA recommends that the $11.4m cap be applied across industry generally.

Further, the rapidly growing levy as reflected in the forward estimates table (page 16) contains no explanation. There is a year-on-year levy increase of 5 per cent in 2022-23, 1.8 per cent increase in 2023-24 and an extraordinary 9.8 per cent increase in 2024-25. While these figures are sourced from the AUSTRAC portfolio budget statement, there appears to be little explanation for the increases and no link made with the services provided. Again, the ABA emphasises the AUSTRAC levy model needs to adhere to the government's own cost recovery guidelines.

For some ABA members, the lack of explanation and transparency in the calculations and underlying data also make it challenging to attribute the costs across internal business functions/groups.

Finally, in addition to the fact this consultation for 2021/22 levies is happening in the third quarter of the financial year in which it applies, the paper is unclear about what the financial costs payable to AUSTRAC are in the longer term, which is important in enabling banks to forecast longer term costs than the immediate financial year.

Tranche II

As indicated in the ABAs to the Senate Inquiry into the Adequacy and Efficacy of Australia's AML/CTF Regime, we strongly support progressing the Tranche II reforms as a priority. It is vital that Australia addresses gaps in the Australian AML/CTF regime as identified in the FATF Mutual Evaluation Report and the 2018 statutory review of the AML/CTF regime.

Should the above reforms progress, the current AUSTRAC industry contribution model will also need updating, such that it is representative of the AUSTRAC regulated population, the level of AML/CTF risks posed by those different industry sectors and the level of effort required by AUSTRAC to ensure reporting entities in those industry sectors adequately mitigate risks of illegal activity in their sector The ABA strongly recommends AUSTRAC adopt a model similar to that of the ASIC.

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

Yours sincerely,

Associate Policy Director