



# Reforming Australia's anti-money laundering and counter-terrorism financing regime

Overview

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Each year billions of dollars of illicit funds are generated from illegal activities such as drug trafficking, tax evasion, people smuggling, cybercrime, arms trafficking and other illegal and corrupt practices. Money laundering is not a victimless crime. It is a critical facilitator of most serious crimes and undermines the rule of law globally.

Serious and organised criminal groups are driven by illicit profit. It sits at the centre of why they conduct their illegal activities. Laundering this illicit wealth allows them to enjoy the proceeds of crime and to reinvest further criminal activities. Illicit financing facilitates serious crimes across Australia and the world, diverting government resources which could be used for social, health or education services, increasing the burden on law enforcement, and ultimately impacting the most vulnerable in our community. Money laundering and illicit financing also erodes trust in Australia's stable financial system, our government institutions and the equitable application of the rule of law across Australian society.

Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime establishes a regulatory framework for combatting money laundering, terrorism financing and other serious financial crimes. At its core, the AML/CTF regime is a partnership between the Australian Government and industry. No legitimate business wants to unwittingly assist money laundering. Through the regulatory framework, businesses are asked to play a vital role in detecting and preventing the misuse of their sectors and products by criminals seeking to launder money and fund terrorism.

As the Attorney-General announced in April 2023, the Attorney-General's Department (the department) is consulting on reforms to the regime. The reforms aim to ensure it continues to effectively deter, detect and disrupt money laundering and terrorism financing, and meet international standards set by the Financial Action Task Force (FATF), the global financial crime watchdog.

A key element of the reforms is to expand Australia's AML/CTF regime to 'tranche two' entities – lawyers, accountants, trust and company service providers, real estate professionals, and dealers in precious stones and metals. Services provided by these sectors are recognised globally as high risk for money laundering exploitation, but are not currently captured under the AML/CTF regime. Criminal groups are constantly finding new ways to obfuscate the origins of their illicit funds, and also finding new ways to exploit weaknesses in global financial systems. The reforms would protect Australia's economy and systems against exploitation, ensuring Australia does not become a haven for criminals seeking to launder their proceeds or finance their illicit activities, and that funding for terrorists and terrorist organisations is cut off.

Ensuring Australia is compliant with the international standards set by the FATF is a fundamental objective of the proposed reforms. Australia's AML/CTF regime will next be comprehensively assessed by the FATF over 2026-27 where Australia will be assessed against



strengthened standards. A poor assessment risks Australia being 'grey listed' by the FATF, which could have serious consequences for Australia, including tangible economic and gross domestic product (GDP) impacts, and increased threats, risks and burdens for law enforcement.

The reforms also present an opportunity to improve the effectiveness of the regime and ease regulatory burden by simplifying and clarifying the regime to make it easier for businesses to meet their obligations, and modernising the regime to reflect changing business structures and technologies across the economy.

Ultimately, the reforms aim to significantly improve Australia's ability to target illicit financing. They will reduce the ability of criminal actors and autocratic regimes to invest their illicit funds into further criminal activities and disrupt serious crime in the Australian community and in our region.



## Summary of reforms

This is the second series of consultation papers seeking public and industry input on the AML/CTF reforms. These papers respond to feedback received through the first stage of consultation (see below at *Consultation with industry*) and put forward more detailed proposals for the reforms.

The reforms consist of three main components:

- Addressing vulnerabilities in sectors providing certain high-risk services (tranche two sectors) (Papers 1, 2 and 3)
- Modernising digital currency and payments technology-related regulation (Paper 4), and
- Simplifying, clarifying and modernising the AML/CTF regime (Paper 5).

Your feedback is sought on the merits and proposed design of the proposals, including how they can be practically implemented.

The papers in this consultation cover changes relevant to businesses in the following sectors who provide certain, high-risk services:

- [Paper 1](#) – information for **real estate professionals** who are proposed to be brought under the AML/CTF regime.

High-value goods, including real estate, have been identified as a significant money laundering channel in Australia. Criminals buy real estate as a way of laundering or concealing illicit funds as it allows for the movement of a large amount of funds in a single transaction. Asset confiscation cases show the breadth of criminal investment and the scale of criminal wealth that can be laundered and invested this way.

Criminals can purchase a property using large sums of illicit cash, renovate the property to improve its value and sell the property for a capital gain. Laundering illicit funds through the real estate sector not only allows criminals to conceal and enjoy the profits from their crimes, but also poses a risk that property prices may be artificially inflated creating hardship for genuine property buyers seeking affordable housing.

- [Paper 2](#) – information for **professional service providers** are proposed to be brought under the AML/CTF regime.

Legal practitioners, accountants, conveyancers and trust and company service providers provide services that can be exploited to disguise ownership, conceal the origins and purposes of financial transactions, facilitate tax evasion and, ultimately, launder the proceeds of crime.



Operating through or behind a professional adviser can provide a veneer of legitimacy to criminal activity. These practitioners can be used to create complex structures that create distance between criminals and their illicit wealth, and obscure property ownership, providing ideal opportunities for laundering large volumes of illicit funds.

- [Paper 3](#) – information for **dealers in precious metals and precious stones** who are proposed to be brought under the AML/CTF regime.

Precious metals and stones can provide an effective channel to legitimise criminal proceeds, including by storing value, transferring value, and lifestyle consumption. Currently, only bullion dealers are covered by the regime.

Precious metals and stones are highly valuable—their trade is often conducted in cash and they can be held anonymously, making ownership untraceable. Individual items may be small and easily transportable, offering criminals the opportunity to transfer value within or between countries in a manner which minimises the chance of detection. Jewellery transactions and prices can be hard to establish and are particularly vulnerable to under or overvaluation, which can disguise the amount of criminal proceeds being laundered.

- [Paper 4](#) – information for **digital currency exchange providers, remittance service providers and financial institutions**.

The emergence of new payment services and innovative technologies has led to challenges in understanding how the current obligations in the Act apply. Without reform, the AML/CTF regime will not reflect modern business practices, and risks becoming overly burdensome and vulnerable to exploitation by criminal actors.

The paper presents options for expanding the range of digital currency-related services that are regulated and streamlining the framework for regulating transfers of value across borders. It also details proposed approaches to improving and expanding the 'travel rule', as well as simplifying reporting obligations on international funds transfer instructions (IFTIs).

The department proposes that the IFTI and travel rule reporting obligations will not apply to proposed newly regulated tranche two sectors. These obligations relate to transactions conducted by the financial sector.

- [Paper 5](#) – information on the proposed measures to simplify the AML/CTF regime which will apply to **current and new proposed reporting entities**.

Australia's AML/CTF regime can be unduly complex and poorly understood, leading to inadequate money-laundering and terrorism financing prevention practices and lower quality financial intelligence.



The paper details the department's proposed measures to simplify and clarify the regime. The paper presents the proposals to replace the current prescriptive AML/CTF program and Customer Due Diligence (CDD) requirements with clear, risk-based and outcomes-focused obligations. This paper also outlines reforms to ensure appropriate information sharing and risk management.

## Consultation with industry

The department held a first stage of consultation in 2023 supported by a [first consultation paper](#). The intent of the first round of consultation was to test proposed reforms to simplify and modernise the regime, targeting areas that will have the most practical benefits for industry. The first paper also set out the policy justification for extending the regime to professions providing certain high-risk services, including lawyers, accountants, trust and company service providers, real estate professionals and dealers in precious metals and stones (also known as tranche two entities).

The department received 142 submissions in response to the first consultation paper from a range of stakeholders, including private sector organisations, academics and research centres, industry peak bodies, privacy advocates, Commonwealth and state and territory public sector agencies and individuals. Where permission has been given, the majority of these submissions have been published on the [Attorney-General's Department website](#). The department has also been conducting targeted consultation with stakeholders.

## Key themes

Overall, stakeholders supported the proposed reforms to clarify the application of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) and remove ambiguity from the current provisions. Submissions highlighted the need for the department to consider other government reforms, including initiatives such as:

- scams reform underway by the Australian Competition and Consumer Commission and how information sharing could support National Anti-Scams Centre activities
- use of new and evolving technologies, and how this could interact with proposed CDD measures, and
- payments reform and beneficial ownership initiatives.

## Simplification and modernisation of the regime

Existing regulated entities generally supported changes to simplify CDD obligations and AML/CTF program requirements, with most highlighting this as a significant reform priority. Submissions expressed a strong interest in understanding how new technologies like biometric databases and digital identity could be adopted in CDD procedures.



Submissions were broadly supportive of streamlining AML/CTF program requirements and proposals to facilitate and safeguard appropriate information sharing between relevant entities.

### **Regulation of tranche two entities**

Some stakeholder groups were broadly supportive of expanding the AML/CTF regime to cover additional sectors providing certain high-risk services. Others, including some new sectors to be regulated, sought further information on their sector-specific risks and the regulatory impact of being brought into the AML/CTF regime. Many submissions from tranche two entities indicated interest in leveraging existing processes and practices to help avoid duplication and reduce regulatory costs, including for CDD obligations.

## **What are the next steps?**

Feedback received during this consultation period will further inform and shape the proposed reforms to the AML/CTF regime. The final design of the proposed reforms will be subject to government consideration and parliamentary scrutiny.

If the proposed reforms become law, new and currently regulated entities would have time to prepare before the changes commence. To help businesses prepare, Australia's AML/CTF regulator and financial intelligence unit, the Australian Transaction Reports and Analysis Centre (AUSTRAC) would work closely with regulated entities to help them prepare and meet their obligations, including developing comprehensive guidance material.

## **Making a submission**

The department invites submissions on the proposals discussed in this consultation paper. While questions are included in the paper to guide engagement, these are not intended to limit responses.

Submissions and feedback can be submitted on the [department's Consultation Hub](#). The closing date for submissions is Thursday 13 June 2024.

All submissions and the names of persons or organisations that make a submission will be treated as public and may be published on the department's Consultation Hub unless you request that your submission be kept confidential or if we consider (for any reason) that it should not be made public. The department retains discretion about publishing and sharing submissions. We may also redact parts of published submissions if appropriate.

Any submission provided on a confidential basis remains subject to the *Freedom of Information Act 1982*. The department is bound by the Australian Privacy Principles (APPs) in the *Privacy Act 1988* (Privacy Act). The APPs regulate how we collect, use, store and disclose personal information and how you may seek access to, or correction of, the personal information that we hold about you. Refer to our [privacy policy](#) for more information.