

Friday, 16 June 2023

Mr Andrew Warnes
First Assistant Secretary
Criminal Justice Division
Attorney General's Department
3-5 National Circuit
BARTON ACT 2600

By email: economiccrime@ag.gov.au

Dear Andrew

Modernising Australia's Anti-Money Laundering and Counter-Terrorism Financing Regime

Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants ('Professional Accounting Bodies' or 'we') together (and with their respective affiliate bodies) represent over 350,000 professional accountants in Australia, New Zealand and around the world. Our members work in diverse roles across public practice, industry, charities, government and academia.

We support the inclusion of services provided by tranche-two entities and the proposed reforms to modernise the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act). An effective regime that detects and prevents criminal activity protects all Australians and the reputation of the nation as a whole as a modern, fair and transparent place to do business.

Central recommendations

To ensure the inclusion of services provided by tranche-two entities is implemented in the most effective and efficient way, and creates the least disruption to complying businesses, the government should harness, not duplicate, existing regulatory and professional obligations which professional accountants must comply. This is consistent with [recommendation 2](#) of the Legal and Constitutional Affairs References Committee report into "*The adequacy and efficacy of Australia's anti-money laundering and counterterrorism financing (AML/CTF) regime.*"

The accounting profession is highly regulated. Professional accountants are regulated by their professional accounting body and a wide range of statutory regulators depending on the services they provide. This co-regulatory approach significantly reduces the risk of our members being exploited by those undertaking criminal activities.

We acknowledge however that there are inherent vulnerabilities in some accounting services and that not all providers of accounting services are professional accountants. To avoid displacement of the AML/CTF risk, all persons providing the legal, accounting, conveyancing and trust/company services to the public listed in the consultation paper should be subject to obligations under the AML/CTF regime.

Other key points

- AUSTRAC should undertake a sector risk assessment on accounting services to identify and apply a risk rating to specific activities. This will aid persons providing such services to better assess their risks.
- There needs to be a whole-of-government consideration of the impact the implementation of tranche-two will have on the ability of smaller accounting practices to meet other statutory obligations and support the implementation of government initiatives.
- We do not support the Government moving AUSTRAC to a full cost recovery funding mode. The inclusion of tranche-two entities will benefit all Australians and the nation's reputation so the cost of the regulator should be funded by all Australians, not just reporting entities.
- AUSTRAC and the Attorney General's Department should establish an industry working group to support the design and implementation of the AML/CTF regime for tranche-two entities. Post enactment, this group could continue to meet regularly to discuss challenges that arise and potential solutions.

Conclusion

Capturing tranche-two entities in the AML/CTF regime will strengthen the detection and prevention of money laundering and terrorism financing in Australia. The reforms will enhance the robustness of our financial system by providing additional intelligence to law enforcement agencies to aid the detection and prevention of criminals using it for illegal activities.

We back global initiatives to combat this activity and recognise the importance of Australia meeting its obligations as a member of the Financial Action Task Force.

To reiterate, the AML/CTF regime will be most effective and efficient where the government considers the extensive regulatory and professional obligations to which members of the Professional Accounting Bodies are already subject. This submission expands upon this central point.

The attachments include our response to relevant consultation questions, background on the regulation of the accounting profession, and mapping of current AML/CTF obligations against the statutory and professional regulations members of the Professional Accounting Bodies must already meet.

Please contact Gavan Ord, Senior Manager - Business and Investment Policy at CPA Australia, on gavan.ord@cpaaustralia.com.au, Karen McWilliams, Business reform leader at CA ANZ on karen.mcwilliams@caanz.com and Vicki Stylianou, IPA Australia on vicki.stylianou@publicaccountants.org.au to arrange a time to meet.

Sincerely,

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Attachment A – Response to consultation questions*

*Please note that this submission does not include a response to every question

PART 1: Simplifying and modernising the regime

AML/CTF programs

Question 1: How can the AML/CTF regime be modernised to assist regulated entities address their money laundering and terrorism financing risks?

We agree with the Consultation Paper that the current AML/CTF obligations can be confusing and complex. This arises, in part, due to obligations being split across the Act and the Rules, and between Part A and B of an AML/CTF Program.

An important issue requiring clarification is who will be the reporting entity for tranche-two entities. For accountants, will it be the business offering these services or the owners, principals or partners of these firms?

We support the combining of Part A and B of AML/CTF program requirements into a single, streamlined program. Equally, in recognition that most tranche-two entities will be small and micro businesses, updating the language in the Rules is important. Currently, the Rules require that those who must approve and continue to have oversight of the AML/CTF program be the 'governing board' or 'senior management'. These terms flow through into Guides yet are not the natural business language of small and micro entities. Clarity is sought on who this may be. For example, for a sole trader, a single person may design the program, implement the program and be the nominated compliance officer.

Further, clarity is needed between the obligations of the Act, which does not require reporting entities to keep copies of documents relied on to verify a customer's identity, with the Rules, which do require reporting entities to 'collect' sensitive data about a customer. The modernising of the regime should provide clarity that reporting entities need only record data from the document used to identify a client to satisfy both the collection and verification requirements under AML/CTF obligations.

This would also ensure AML/CTF obligations are in line with the Australian Privacy Principle 11, that once a person is identified and there is no further purpose to keeping ID documents, that copy should be immediately destroyed with a record kept of what was sighted.

Further, minimising the retention of copies of identity documents will mitigate the risks emerging with the exponential increase in cybercrime. The cost of cybercrime increased 14 per cent in 2021-22¹. Of particular relevance, the most often reported cybercrime was online fraud (approximately 27 per cent)². As the [ATO states](#) 'Retaining identification documents may increase your risk of being targeted by criminals undertaking identity theft.'

It appears that the key purpose of reporting entities keeping copies of identity documents is to enable them to prove the steps they have taken to comply with customer due diligence (CDD) if audited by

¹ ACSC Annual Cyber Threat Report, July 2021 to June 2022 at <https://www.cyber.gov.au/about-us/reports-and-statistics/acsc-annual-cyber-threat-report-july-2021-june-2022>

² *ibid*

AUSTRAC or for an independent reviewer. Therefore, clarity from AUSTRAC of the key data points to be captured in a record of identity documents used for CDD will benefit all parties.

It should be noted that the Tax Practitioners Board (TPB) recommends tax and BAS agents not retain documentation that identifies clients. Paragraph 24 of [TPB\(PN\) 5/2022 Proof of identity requirements for client verification](#) states that the TPB “does not require or recommend that registered tax practitioners retain copies or originals of identification documents used as evidence to establish the identity of a client or their individual representative.”

Question 2: What are your views on the proposal for an explicit obligation to assess and document money laundering and terrorism financing risks, and update this assessment on a regular basis?

We support the explicit obligation – however this should be expressed once in the Act, rather than several times in the Rules. We recommend that ‘regular’ is replaced with a minimum, for example every three years.

Tranche-two entities will not have the knowledge of how to assess the criminal threat environment when undertaking their risk assessment and will look to the regulator to provide guidance on the risk of designated services. Therefore, we recommend that AUSTRAC work with Professional Accounting Bodies to conduct a risk assessment on specific accounting services.

The mitigation measures should be tailored to both the size of reporting entities and entities with different risk profiles. Guidance material should therefore provide minimum and best practice examples of risk management processes. These should be adapted to suit the systems and processes for small, medium and large accounting practices, and different risk profiles.

We recommend AUSTRAC work with the Professional Accounting Bodies and others to draft minimum risk mitigation measures to ensure they are appropriate and applicable. For tranche-two entities we recommend the development of sector-specific risk assessment templates.

We recommend the guidance material should be updated on a regular basis to reflect evolving and emerging risks, and changes in technology.

Question 4: What kind of entities would you propose to include in a designated business group if membership were no longer limited to regulated entities, and what volume of AML/CTF information would you seek to share?

Question 5: How will a flexible approach that allows an AML/CTF program to incorporate all related entities within a designated business group affect your AML/CTF compliance and risk mitigation measures?

We support the inclusion of related entities that perform functions that support reporting entities follow AML/CTF obligations in a designated business group, whether or not they are reporting entities. This is especially so given the complex structures of some tranche-two service providers, for example, partnerships with associated entities (as defined in section 50AAA of the Corporations Act 2001). This is more commonly known as a service entity, where professionals engage associated entities to provide them with labour hire, recruitment, clerical, administrative and other services.

We support a flexible approach allowing different entities within business groups to adopt different risk structures and controls within the group's risk management process.

Question 7: What guidance would you like to see from AUSTRAC in relation to AML/CTF programs?

As noted in our response to earlier questions, we consider it essential that detailed guidance be developed on AML/CTF programs and risk assessment for tranche-two entities. Such guidance should be tailored to businesses based on size, services offered and their risk profile.

We request sector specific templates for both undertaking a risk assessment and developing an AML/CTF program. The templates should prescribe mandatory information whilst ensuring they do not take away the requirement of judgement. We recommend that the Program template for entities providing accounting services should include the choice to meet obligations by reference to existing statutory and professional standards obligations.

We look forward to aiding AUSTRAC to develop a suite of guides for accounting services similar to existing sector guides.

We also recommend AUSTRAC host a list of software suppliers that meet some basic criteria such a monthly cost of not more than \$10 to provide a solution for small reporting entities. We refer AUSTRAC to the Australian Taxation Office (ATO) and its [Software for Single Touch Payroll](#) page (which includes a link to its [product register](#)).

While we acknowledge the potential risks for AUSTRAC if a listed provider causes harm, we consider the risks would be similar for the ATO, who must have a means to address this risk. We therefore recommend AUSTRAC liaise with the ATO to understand how they have addressed their risk, given they have a significantly higher number of potential users (approximately 700,000 small businesses employers).

Further and in line with the Senate Inquiry's recommendation 1, we consider it critical that AUSTRAC and the Attorney General's Department have the appropriate resources to adequately and effectively implement and manage tranche-two of the regime. We are uncertain whether the funding announced in the Budget for AUSTRAC and the Attorney General's Department would also cover the development of the above recommended guidance and support material and tools for tranche-two entities.

We also consider it critical that AUSTRAC and the Attorney General's Department raise public awareness on the inclusion of tranche-two entities into the AML/CTF regime. This will increase the probability that clients of tranche-two entities will be more accepting of the additional information requests asked of them.

Other

- **Seniority of compliance officer.** For members of the Professional Accounting Bodies, we do not see it as necessary to require their AML/CTF compliance officer be at senior management level. This may be inconsistent with the professional requirements imposed on our members in paragraph 3.14 of [APES 320](#), and paragraph 4.6 of [APES 325](#). These standards require our members to appoint personnel responsible for setting up and maintaining their Risk Management Framework and System of Quality Management to have the necessary skills, knowledge,

experience, commitment, influence and authority within the entity. This combination of attributes is arguably more important than seniority alone.

- **Foreign branches and subsidiaries.** We recommend that before amending the Act to impose specific requirements on reporting entities operating overseas, the government considers whether this is necessary for tax agents and BAS agents, and members of Professional Accounting Bodies. In particular, [TPB\(PN\) 2/2018 Outsourcing and offshoring of tax services](#), issued by the Tax Practitioners Board requires tax agents and BAS agents to have adequate supervision and control arrangements in place when performing tax agent services overseas. [APES GN 30 Outsourced Services](#), issued by the Accounting Professional Ethical Standards Board (APESB) sets out the standards members of the Professional Accounting Bodies should meet when outsourcing an activity, including to a foreign party.

Customer due diligence

Question 8: What are your views on the proposed simplification of the customer due diligence (CDD) obligations as outlined?

We recommend that CDD obligations need to be clear for tranche-two entities i.e., clearly articulate obligations and minimum requirements across different entity types.

Simplification could be considered in two areas:

- having a single due diligence area as the current use of multiple terms (KYC, ongoing, enhanced and simplified due diligence) leads to confusion. Many entities opt for enhanced CDD to be sure they meet compliance obligations with the unintended consequence of misallocating scarce resources. An alternative would be a stepped approach, building from step 1, the minimum requirements, step 2 the situations when enhanced CDD would be undertaken and step 3, once set up, continue to watch and if changes then redo step 2.
- AUSTRAC to clarify when a reporting entity is required to keep personal identification documents. Noting that such a requirement appears contrary to the best practice of only keeping personal details needed to continue to provide a service and increases the risk of reporting entities being targeted by criminals.

Further, the CDD obligations should be aligned with other client verification requirements tranche-two entities must follow. For example, the client verification requirements imposed by the TPB on tax and BAS agents and supported by the ATO.

Guidance developed for the CDD process should use business language and be sector-specific providing worked examples showing when additional CDD would be required. For example, the “Examples in practice on pages 26 – 34 of the New Zealand Government’s [Guideline: Accountants March 2018](#).”

Examples should be constructive and work through how to progress activities based on the risk of the client and services sought, rather than examples of what was not correctly done such as the case

studies in this Consultation paper on pages 20 and 21. We encourage AUSTRAC to work with, and utilise the knowledge of, the professional associations to gather examples for such a Guideline.

Question 9: Do you have suggestions on other amendments to customer due diligence obligations?

We recommend that the regulatory relief provided to tranche-one entities for pre-commencement clients should also be granted to tranche-two entities.

In addition, the CDD obligations should be modernised and flexible to enable it to be linked to the developments in digital identification, including by the Government of an 'economy-wide Digital ID ecosystem'³, MyGovID and director ID.

Other:

- **Politically exposed person.** To reduce compliance costs, we recommend that AUSTRAC maintain a list of politically exposed persons that reporting entities can access at no charge. Such a list should be provided as an API to make the verification process as simple as possible (for example, practice management software could build that API into their customer onboarding process). This would be particularly useful for small practices.
- **High-risk jurisdiction for which the FATF has called for enhanced due diligence.** As above, AUSTRAC should maintain a list of high-risk jurisdictions, and supply such a list as an API to enable it to be embedded in practice management software. This would be particularly helpful for small practices that are time and resource poor.

Revised obligations during COVID-19 pandemic

Question 19: With the ability to use COVID-19 Rules lapsing, what innovations adopted by regulated entities to deliver services online and remotely during the pandemic could be maintained or enhanced in ways that effectively mitigate money laundering and terrorism financing risks?

Remote verification of identity is still an important choice for clients of tranche-two service providers. Several reasons, including sickness and distance, could prevent ID verification taking place in person. We consider it critical that such a process be kept and that it be consistent with the remote verification requirements imposed by the TPB.

We recommend that to avoid conflicting approaches, the AML/CTF Rules adopt the process for remote verification in paragraphs 28 to 29 of [TPB\(PN\) 5/2022 Proof of identity requirements for client verification](#).

³ Page 113 of Budget Paper No. 2 Commonwealth Budget 2023-24

Technological advances should also be incorporated into the guidance as contemporaneously as possible, as businesses are adopting them. For example, the ATO has recently advised that advanced facial recognition technology is an acceptable means of identifying individuals remotely, in addition to the webcam-based visual identification process covered in the guidance.

PART 2: Tranche-two entities

What professional services are proposed to be covered?

Question 23: What services by lawyers, accountants, conveyancers and trust and company service providers should be regulated under the Act so that they can manage their AML/CTF risks? Are there international examples that have worked well for these sectors?

It is difficult to determine which services and transactions should be regulated under the Act without first understanding the underlying risk profile of each service. We therefore recommend AUSTRAC undertake a risk assessment on accounting services to identify and apply a risk rating to specific activities. This will aid persons providing accounting services to better assess their risks.

Tranche two of the AML/CTF regime should be targeted at the specific services and transactions that have inherent vulnerabilities to money laundering rather than sectors (accountants, lawyers etc). Many of the services and transactions listed in the consultation paper are unregulated. Hence, imposing AML/CTF obligations on for example, only professional accountants and lawyers providing that service would leave others unregulated.

We recommend that any entity providing the proposed designated services be regulated under the Act. We do not support the tranche two changes only applying to specified professionals providing such services. This would be both inequitable and creates risk displacement – that is, those looking to launder money will seek providers of these services that are not regulated.

Further, it should be noted that the term 'accountant' is not protected under the law. If the AML/CTF requirements are limited to for example accountants providing a designated service, an accountant could conceivably stop describing themselves as an accountant while continuing to provide the same services to avoid being regulated under the Act.

In other jurisdictions, we have encountered confusion around whether specific activities are captured within tranche two. We recommend that as a start, the government provide clarity around whether the following would be considered designated services:

- being an '[authorised contact](#)' for their client to the ATO (noting that according to the ATO, not only can tax and BAS agents be authorised contacts but also financial counsellors, guardians and debt management companies can be)
- tax transfers
- merger and acquisition activities
- external administrations for the period a registered liquidator has control of a company that is a reporting entity
- trust and company service providers where no financial transactions are carried out on behalf of clients.

Where some tranche-two entities are considered lower risk, consideration should be given to requirements and obligation. For example, in New Zealand there are AML audit cycles that change depending on risk profile i.e., lower risk will have four-year audit cycle, but higher risk entities will have three-year audit cycles.

The consultation paper notes the proposal to exclude, as a rule, services provided for non-commercial purposes. We also recommend explicitly excluding accountants providing accounting services via an 'in house' function. In relation to this, it is important to note that some corporate business groups may be structured such that some accounting and treasury functions are within a separate legal entity, providing services to other entities within the same corporate group. These arrangements may include some commercial service agreement terms between entities. We recommend these exclusions are drafted carefully to ensure these forms of arrangements are not inadvertently captured.

During the implementation of phase two of the AML regime in New Zealand, there was a lack of clarity in relation to the treatment of tax transfers. It took three and a half years of concerted advocacy from CA ANZ⁴ to obtain an exemption for certain tax transfers.⁵ We are keen to ensure clarity around captured activities upfront rather than through extensive and costly legal and advocacy processes.

The key learning from the experience of our members in New Zealand was the need for templates and guides, in business language, to be available before the commencement of their obligations under the AML/CFT regime. Those guides needed to list the specific accounting activities that were captured under the broad terms in the legislation such as 'manage client funds'. Further, the guides need to include relatable examples of mitigation activities and how far entities were expected to investigate to verify the source of wealth and source of funds.

Having such guides available prior to being captured in the regime would have enabled entities to assess how their existing processes aligned with the regime and the degree of uplift needed to meet additional obligations. In speaking with members recently, AML/CFT has become part of their natural business processes and consumers now expect to be asked to verify who they are when seeking services provided by our members.

Question 24: What guidance could be provided to assist those providing proposed legal, accounting, conveyancing and trust/company services in managing these AML/CTF obligations?

We consider it critical that guidance and templates are developed and released on a timely basis, prior to the commencement of the regime. During the tranche two transition period, guidance will be essential to aid entities understand whether they are reporting entities and subject to AML/CTF obligations and if so, how to meet their new obligations.

Such guidance must be written in business language. For example, the guide for [Implementing an AML/CTF program for pubs and clubs](#). Section 1 directs a person to consider the 'criminal threat environment'. This language is not something our members would understand and would be outside the skill set of many persons in tranche-two entities.

⁴ [AML exemption approved | CA ANZ \(charteredaccountantsanz.com\)](#)

⁵ [Anti-Money Laundering and Countering Financing of Terrorism \(Class Exemptions\) Amendment Notice 2022 \(SL 2022/214\) Schedule New Part 16 inserted into Schedule – New Zealand Legislation](#)

There are likely to be a broad range of questions about whether a particular service is a designated service or not. It is not possible to list all the potential questions AUSTRAC may receive on this. We recommend that as part of the implementation of tranche two, AUSTRAC develop a process of capturing questions they receive on its application and publish their responses.

During the implementation of tranche two, entities need certainty around whether their service/s are a designated service. AUSTRAC therefore needs to provide its interpretation of whether a service is a designated service to the community.

Tax agents are familiar with the ATO providing public and private rulings on their interpretation of how tax laws apply to a transaction. This process however can take some time. During the implementation period, AUSTRAC will need to be resourced to provide prompt advice to the market on which services may or may not be designated services.

In New Zealand, the AML supervisor for Designated Non-financial Professions and Businesses (DNFBP) is the Department of Internal Affairs. They have published a list of frequently asked questions⁶ and answers for their reporting entities. These include some questions and answers relating to the DIA's view as to which specific activities under the general FATF headings are captured.

Our members in New Zealand have found the case studies shared by the enforcement bodies, such as the police, have provided the greatest clarification on what services have inherent risks and how tracking the money directly leads to shutting down human trafficking and damaging the drug trade. Hearing how enforcement agencies used the intelligence provided to commence an investigation leading to shutting down the criminal activity, enabled members to improve their AML/CFT program and provide targeted training to their front-line staff. Consideration could be given to AUSTRAC's Financial Investigations Unit providing such examples drawing out the specific services criminals used to legitimise money gained from criminal activities.

We would welcome the opportunity to work collaboratively with AUSTRAC on the development of guidance, templates and other resources. We can use our existing communication channels with our respective memberships to share such guidance and resources from AUSTRAC.

As noted previously, to help tranche-two entities better engage with the current consultation process, we suggest AUSTRAC undertake a sector risk assessment on accounting services to identify and apply a risk rating to specific activities.

We wish to emphasise that small accounting practices in particular, will find it difficult to meet their new AML/CF obligations, regardless of the help provided. Many are facing skills shortages and are therefore already stretched meeting existing statutory and professional obligations, and their clients' needs (which often involves aiding their client to meet their own statutory obligations or assisting them to access government initiatives).

⁶ [AML-CFT Frequently Asked Questions for DIA Reporting Entities - dia.govt.nz](https://www.dia.govt.nz/aml-cft-frequently-asked-questions-for-dia-reporting-entities)

We recommend a whole-of-government consideration of the impact the implementation of tranche two will have on the ability of smaller accounting practitioners in particular to meet other statutory obligations and support clients access government initiatives. This could take the form of other government agencies temporarily freezing the imposition of new or enhanced compliance requirements on accountants and the clients of accountants.

We would welcome being part of an industry working group to meet regularly to design, implement and monitor the impact of capturing the activities of tranche two entities. This has proven successful in New Zealand where direct feedback from an industry working group, for two years post-enactment, has enabled the regime to be amended to ensure it is meeting its objectives.

Question 25: Are there any existing practices within the accounting, legal, conveyancing and trust/company sectors that would duplicate the six key AML/CTF obligations? If so, do you have any suggestions on how these practices could be leveraged for the purpose of AML/CTF compliance?

We welcome the Government's acceptance of the recommendations of the Senate Inquiry, which include that specific consideration be given to the existing regulatory and professional obligations on tranche-two entities.

Please see Attachment 3 where existing AML/CTF obligations are mapped to the statutory and professional obligations for members of the Professional Accounting Bodies. As noted earlier, these do not necessarily apply to all persons providing accounting services.

We however wish to highlight the following statutory and professional obligations imposed on members:

Customer due diligence and ongoing customer due diligence

- [TPB\(PN\) 5/2022 Proof of identity requirements for client verification](#). This TPB practice note applies to all tax and BAS agents and includes minimum Proof of Identity requirements they must undertake before providing tax or BAS agent services to new clients and on an ongoing basis to existing clients as appropriate. These requirements have been informed the AML/CTF Act.
- [APES 320 Quality Management for Non-Assurance Services](#) sets out mandatory obligations and guidance for members of the Professional Accounting Bodies in public practice for the acceptance and continuance of client relationships. This includes considering the integrity and identity of the client, and the nature of their operations and business practices.

Developing and maintaining an AML/CTF Program

- [APES 325 Risk Management for Firms](#) sets out mandatory requirements and guidance for members of the Professional Accounting Bodies in public practice to set up and maintain a risk management framework in their firm in respect of the provision of quality and ethical professional services.
- [APES 320 Quality Management for Non-Assurance Services](#) sets out mandatory obligations and guidance for members of the Professional Accounting Bodies in public practice in respect of establishing and maintaining a system of quality management for non-assurance services.
- [ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information or Other Assurance or Related Services Engagements](#) sets out mandatory obligations on auditors and assurance providers to have a risk-based quality management system that is scalable and tailored to the nature and circumstances of the firm and the engagements being performed.
- We specifically note the following existing practices in relation to managing client monies.

- Members of the Professional Accounting Bodies that manage client monies must meet professional requirements under APES 310 *Client Monies*. This includes having an annual audit of the member's compliance with this standard.
- Accountants in Queensland that manage client monies are obliged under the *Trust Accounts Act 1973* and the accompanying regulations to have their trust account audited within two months of 31 March each year. The accountant must provide to the Queensland Department of Justice and Attorney-General, a statement of the highest amount held in trust during that period and the independent auditor's report.
- Subsection 30-10(3) of the *Tax Agent Services Act 2009* requires registered tax and BAS agents that receive money or other property from or on behalf of a client and hold the money or other property on trust; to account to their client for the money or other property. The TPB has released TPB(I) 15/2012 *Code of Professional Conduct - Holding money or other property on trust* setting out the TPB's view on the scope and meaning of this obligation.

Reporting

- [APES 110 Code of Ethics for Professional Accountants](#) on Non-compliance with Laws and Regulations (NOCLAR). This provides a framework for all members of the Professional Accounting Bodies on how best to act in the public interest when they become aware of non-compliance or suspected non-compliance with laws and regulations. The Code allows members to set aside the principle of confidentiality and report NOCLAR to an appropriate authority, if that is in the public interest. Although NOCLAR does not impose an obligation to disclose a non-compliance, or suspected non-compliance, when there is no legal obligation to do so, members can still disclose such non-compliance to an authority.

We suggest specific consideration is given to how the requirement to report all cash transactions of AUD10,000 or more would be applied to tranche-two entities. Many accountants, through their work, would have access to the client's bank statements and transactions. We suggest that there is little value in an accountant duplicating the financial institution's activities by reporting every transaction and this would create a significant reporting burden.

However, we submit that there would be value in the accountant reporting cash transactions over AUD10,000 which they become aware of through their engagement with the client and providing further details of them. For example, the client may have provided a receipt or explanation for the expenditure. This information would add to the reporting from the financial institution not merely duplicate it.

Employee AML/CTF risk awareness training

Members of the Professional Accounting Bodies must complete a minimum of 120 hours of professional development over a three-year period, with a minimum of 20 hours in any one year of the three-year period. Each of the Professional Accounting Bodies reviews member compliance with these professional development requirements. Members are selected at random to take part in these reviews.

Given this requirement, we would welcome the opportunity to work together with AUSTRAC on the development and delivery of AML/CTF training specific to providers of specified accounting services.

Independent review

All members of the Professional Accounting Bodies that hold a public practice certificate/certificate of public practice, must submit to a periodic review of their compliance with the Code of Ethics and professional standards (including quality control systems). The frequency of such reviews is dependent on risk and the complexity of their practice.

Information on the review programs for each body can be found below:

- CA ANZ's [Quality and Practice Review program](#)
- CPA Australia's [Best Practice Program](#)
- IPA's [Public Practice Quality Assurance Program](#).

Other

Case studies on high-risk sectors

As stated above, it's not the sectors that are high-risk; it is services that are potentially vulnerable to exploitation. We recommend that the next consultation paper avoids describing sectors as high risk. Instead, the case studies should show the vulnerability of particular services to money laundering activities.

Case studies that show how a service has been exploited will help tranche-two entities better engage with the consultation process. It will do this by highlighting where they may have inherent vulnerabilities, rather than stating they are part of a high-risk sector. We and our members wish to help combat money laundering risks in partnership with the government

AUSTRAC funding model

We do not support the Government moving AUSTRAC to a full cost recovery agency. The benefits to be gained by capturing more entities under the AML/CTF regime are for all Australians and the reputation of the nation as a whole as a modern, fair and transparent place to do business. AUSTRAC, as the nation's Financial Intelligence Unit, focus is to gather and disburse actionable intelligence from reporting entities to relevant agencies and protect all Australians from criminal misuse of the financial system. Therefore, we consider that the costs to modernise, expand and regulate the regime should be borne by the more than 14 million Australian taxpayers, not only the, potentially, 100,000 reporting entities.

Enrolment and registration with AUSTRAC

We consider it critical that AUSTRAC develop appropriate processes and communication channels to ensure completeness of 'enrolment and registration' for all persons providing accounting services captured by the AML/CTF regime.

Attachment B – Accounting profession background

For the Professional Accounting Bodies, if members provide the following accounting services to the public, they must be a full member of that body and hold a public practice certificate/certificate of public practice:

- **Auditing and assurance services**, including engagements captured by Australian and International auditing standards such as audits of public companies and self-managed superannuation funds (SMSFs), review engagements, compliance engagements and assurance engagements
- **Bookkeeping**
- **Corporate advisory services**, such as due diligence, mergers and acquisition and IPO
- **Financial planning**
- **Financial reporting**
- **Forensic accounting**
- **Insolvency, bankruptcy and corporate restructure**
- **Management accounting**, such as cash flow forecasting, budgeting and business planning
- **Management/business consultancy**
- **Risk management**
- **Taxation**
- **Valuation services**

For members holding public practice certificates, the Professional Accounting Bodies check that:

- their practice has quality control systems in place to ensure compliance with the Code of Ethics, professional standards, and legal and regulatory requirements through our quality and practice review programs
- they hold appropriate professional indemnity (PI) insurance
- they meet their professional development/education requirements, and
- they comply with the liability capping scheme through the completion of the annual Liability Capping Questionnaire

Members that hold such a certificate are required to comply with professional, ethical and quality standards issued by the [Accounting Professional and Ethical Standards Board](#) (APESB) and the [Auditing and Assurance Standards Board](#) (AUASB). Member compliance with these standards is reviewed on a periodic basis through a quality assurance review/best practice review carried out by the Professional Accounting Bodies (mentioned above).

Members alleged to be in breach of these standards are subject to review by their Professional Accounting Body's investigation and disciplinary process. The penalties for non-compliance can include forfeiture of membership.

Members must complete a minimum of 120 hours of professional development/education over a three-year period, with a minimum of 20 hours in any one year of the three-year period. Each of the Professional Accounting Bodies runs reviews of member compliance with these professional development requirements. Members are selected at random to take part in these reviews.

Members in practice must also hold professional indemnity insurance (PII). Information on the PII requirements for each body can be found below:

- [CA ANZ](#)
- [CPA Australia](#)
- [IPA](#).

Public practitioners from each of the Professional Accounting Bodies can take part in the [Professional Standards Scheme](#) if they conduct public accounting services, hold full membership and have a current limited or full public practice certificate/certificate of public practice.

The Scheme limits liability by capping a civil claim relating to the provision of public accounting services if there is no contrary legislative impediment. Each scheme is approved, regulated and supervised by the [Professional Standards Council](#); an independent statutory body.

Depending on the services accountants provide, they may also have to hold statutory registrations, and be subject to the regulation of the responsible statutory body. Common examples of services that require statutory registrations include tax services, company audits, financial planning/advisory services and insolvency and bankruptcy. It's not uncommon for accountants to hold more than one statutory registration.

The Professional Accounting Bodies have nearly 237,000 members in Australia. According to IBIS World, there are around 35,000 businesses offering accounting services in Australia as at October 2021, employing around 150,000 people and with a market size of around \$26 billion. Of these 35,000 practices, the overwhelming majority are sole practitioners or practices with less than 10 employees.

The below chart sets out the main public accounting services and who regulates such service. For more information on licensing and registration requirements of accountants in Australia, please see CPA Australia's [summary](#).

	Regulated by the Professional Accounting Bodies	Independent statutory regulator				
		ASIC	TPB	ATO	AFSA	Other
Auditing and assurance services.	X	X		X		X
Bookkeeping	X		X	X		
Consumer and commercial credit services	X	X				
Corporate advisory services	X					
Financial Planning	X	X				
Financial reporting	X	X				
Forensic accounting	X					
Insolvency, bankruptcy and corporate restructure	X	X			X	
Management accounting	X					
Management/business consultancy	X					
Risk management	X					
Taxation	X		X	X		
Valuation services	X					

Attachment C – Mapping of statutory and professional requirements for accountants to AML/CTF obligations

The following maps the professional requirements of the Professional Accounting Bodies and the statutory obligations imposed on different accounting services to the AML/CTF regime.

When a reference is first introduced, a link to the standard is included. Following that, it is referred by an abbreviated name.

Non-assurance services such as taxation, financial planning, valuation services, due diligence, financial reporting, consulting services and forensic accounting

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
ML/TF risk assessment		<p data-bbox="1272 571 1839 595"><u>APES 110 Code of Ethics for Professional Accountants</u></p> <p data-bbox="1272 603 1715 627">Section 120 of the Code requires members to:</p> <ul data-bbox="1272 635 1962 735" style="list-style-type: none"> <li data-bbox="1272 635 1888 659">• identify threats to compliance with the fundamental principles <li data-bbox="1272 663 1592 687">• evaluate the threats identified <li data-bbox="1272 692 1962 735">• address the threats by eliminating or reducing them to an acceptable level. <p data-bbox="1272 762 1664 786"><u>APES 325 Risk Management for Firms</u></p> <p data-bbox="1272 794 1910 914">The objective of this standard is to specify the mandatory obligations on members of the Professional Accounting Bodies in practice to establish and maintain a risk management framework to identify, assess and manage key organisational risks.</p> <p data-bbox="1272 954 1899 1010">Such members must document their risk management framework, communicate it to employees and monitor it.</p> <p data-bbox="1272 1050 1966 1137">Paragraph 4.2 mandates that an accounting firm's risk management framework shall include policies and procedures that identify, assess and manage key organisational risks.</p> <p data-bbox="1272 1177 1962 1265">Paragraph 4.3 states that the nature and extent of the policies and procedures will depend on several factors such as the size and the firm's operating characteristics.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Paragraph 6.1 requires firms to document its risk management framework. Under paragraph 6.5, the documentation of the risk management framework should include:</p> <ul style="list-style-type: none"> • procedures for identifying potential risks • the firm's risk appetite • procedures for assessing and managing risks • the treatment of identified risk.
<p>Risk management process</p>	<p>Tax and BAS agents <i>TPB</i> Subsection 30-10(9) of the <i>Tax Agent Services Act 2009</i> requires tax and BAS agents to 'take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of a client'.</p> <p>TPB(I) 17/2013 Code of Professional Conduct – Reasonable care to ascertain a client's state of affairs assists registered tax and BAS agents understand their obligation under the above subsection. It notes that 'reasonable care' is a well-established feature of common law.</p> <p>The information sheet recommends that where the information provided by the client does not seem credible or appears inconsistent with previous pattern of behaviour, the tax or BAS agent should make further enquiries.</p> <p>The information sheet sets out some of the factors that may impact whether reasonable care under the Act is satisfied:</p> <ul style="list-style-type: none"> • the complexity of the transaction • the client's circumstances, including their level of sophistication • the nature of any pre-existing relationship between the registered agent and their client. <p>Subsection 30-10(10) requires tax and BAS agents to 'take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.'</p> <p>TPB (I) 18/2013 Code of Professional Conduct – Reasonable care to ensure taxation laws are applied correctly assists registered tax and BAS agents understand their obligation under the above subsection.</p>	<p>APES 110 Section 120 of the Code requires members to:</p> <ul style="list-style-type: none"> • identify threats to compliance with the fundamental principles • evaluate the threats identified • address the threats by eliminating or reducing them to an acceptable level. <p>APES 325 Paragraph 4.2 mandates that a firm's risk management framework shall include policies and procedures that identify, assess and manage key organisational risks. These risks may include governance risks, business continuity risks and financial risks.</p> <p>Under paragraph 6.5, the documentation of the risk management framework should include:</p> <ul style="list-style-type: none"> • procedures for identifying potential risks • the firm's risk appetite • procedures for assessing and managing risks • treatment of identified risks • training of staff on risk management • procedures for regularly reviewing the Risk Management Framework <p>APES 320 Quality Management for Firms that provide Non-Assurance Services</p> <p>This standard specifies the mandatory obligations on members in practice of the Professional Accounting Bodies to establish and maintain a system of quality management for non-assurance services. The system of quality management should be designed to provide them with reasonable confidence that the:</p> <ul style="list-style-type: none"> • firm and its personnel are complying with professional standards and applicable regulatory requirements; and

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<ul style="list-style-type: none"> • engagement outputs issued or provided by the firm are appropriate in the circumstances. <p>Identify risks and apply controls to manage risks</p> <p>APES 320</p> <p>Paragraph 4.10 mandates that firms shall establish policies and procedures for the acceptance and continuance of client relationships. This includes only undertaking or continuing relationships where they have considered the integrity of the client.</p> <p>Paragraph 4.12 states the matters that should be considered in determining the integrity of the client include:</p> <ul style="list-style-type: none"> • the identity and business reputation of the client's principal owners, key management and related parties • the nature of the client's operations, including its business practice • indications the client might be involved in money laundering or other criminal activity. <p>Paragraph 4.14 mandates that firms shall establish policies and procedures that require them to obtain such information considered necessary before accepting or continue a relationship with a client.</p> <p>Paragraph 4.16 mandates that firms shall establish policies and procedures to obtain information on clients that would have caused it to decline the engagement had that information been available earlier.</p> <p>Such policies and procedures shall include consideration of:</p> <ul style="list-style-type: none"> • becoming aware of non-compliance or suspected non-compliance with laws and regulations • whether there is a requirement for the firm to report the client to regulatory authorities. <p>Monitor and review</p> <p>APES 325</p> <p>Paragraph 5.1 requires firms to establish a monitoring process. This process should be designed to provide reasonable confidence that the risk management policies are relevant, adequate and operating effectively, and that instances of non-compliance are detected.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Paragraph 5.2 mandates that non-compliance with the risk management policies and procedures are to be brought to the attention of the firm's leadership. They shall take appropriate corrective action.</p> <p>Under paragraph 5.3, a designate from the firm's leadership with sufficient and appropriate experience and authority, shall have responsibility for ensuring that such regular reviews occur.</p> <p>APES 320 Paragraph 4.65 mandates that firms shall establish a monitoring process to provide it with reasonable confidence that its System of Quality Management are relevant, adequate, and operating effectively.</p> <p>Paragraph 4.67 suggests that ongoing evaluation of the System of Quality Management should include matters such as:</p> <ul style="list-style-type: none"> • an analysis of developments in legal, regulatory and professional standards and decisions related to acceptance and continuance of engagements • remedial action to improve the system. <p>Paragraph 4.74 mandates that when the findings of a monitoring process indicate there are deficiencies in the firm's System of Quality Management, the firms are to respond and undertake remedial actions.</p>
<p>Appoint an AML/CTF compliance officer</p>		<p>APES 325 Paragraph 4.6 mandates that a firm shall ensure that the personnel assigned responsibility for establishing and maintaining its risk management framework should have the necessary skills, experience, commitment and authority.</p> <p>APES 320 Paragraph 3.14 mandates that that any person or persons assigned operational responsibility for the firm's System of Quality Management shall have the appropriate experience, knowledge, influence and authority within the firm, and sufficient time, to fulfill their assigned responsibility. Such people should also understand their assigned roles and they are accountable for fulfilling them.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
<p>Independent review of Part A of your AML/CTF program</p>		<p>All members of the Professional Accounting Bodies that hold a public practice certificate/certificate of public practice, must submit to a periodic review of their compliance with the Code of Ethics and professional standards (including quality control systems). In other words, this is a condition of holding a practising certificate.</p> <p>The frequency of such reviews is dependent on risk and the complexity of their practice. Information on the review programs for each body can be found below:</p> <ul style="list-style-type: none"> • CA ANZ's Quality and Practice Review program • CPA Australia's Best Practice Program • IPA's Public Practice Quality Assurance Program. <p>APES 320 Paragraph 4.68 suggests that in determining the scope of internal inspections, firms may take account quality reviews conducted by the Professional Accounting Bodies and regulators.</p>
<p>Employee due diligence</p>	<p>Tax and BAS agents Section 30-10(7) of the <i>Tax Agent Services Act 2009</i> Code item 7, Code of Professional Conduct</p> <p>“You must ensure that a *tax agent service that you provide, or that is provided on your behalf, is provided competently.</p>	<p>APES 320 Paragraph 4.20 states that effective recruitment processes and procedures helps firms select individuals of integrity who have the capacity to develop the competence and capabilities necessary to perform their work and possess the appropriate characteristics to enable them to perform competently.</p>
<p>Employee AML/CTF risk awareness training</p>	<p>Tax and BAS agents Paragraph 20-5(1)(d) of the <i>Tax Agent Services Act 2009</i> imposes a mandatory obligation on all registered tax practitioners to have completed continuous professional education (CPE) that meets the TPB's requirements to renew their registration.</p> <p>TPB (EP) Continuing professional education requirements for tax and BAS agents from 1 July 2022 provides an explanation of the TPB's CPE requirements for tax and BAS agents.</p> <p>Tax agents should complete a minimum of 120 hours of CPE over three years. CPE completed should be relevant to the tax agent services provided by the</p>	<p>Members of the Professional Accounting Bodies are required to complete a minimum of 120 hours of professional development over a three-year period, with a minimum of 20 hours in any one year of the three-year period. Each of the Professional Accounting Body reviews member compliance with these professional development requirements. Members are selected at random to participate in such reviews.</p> <p>Members who hold a statutory registration must complete professional development in relation to that specific field.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
	<p>tax agent. The TPB considers that not less than 20 hours of relevant CPE should be completed in any given year of a registered tax agent's CPE period.</p> <p>BAS agents should complete a minimum of 90 hours of CPE over three years. CPE completed should be relevant to the BAS services provided by the registered BAS agent. The TPB considers that not less than 20 hours of relevant CPE should be completed in any given year of a registered BAS agent's CPE period.</p> <p>The TPB considers relevant CPE to be the maintenance of contemporary and relevant knowledge and skills, and the development of relevant personal knowledge and skills.</p> <p>The TPB considers that CPE will be relevant where the registered tax practitioner can demonstrate a sufficient nexus between the activity and the tax agent or BAS services provided by them.</p>	<p>APES 320</p> <p>Paragraph 4.67 suggests that part of the consideration and evaluation of a firm's System of Quality Management should include an analysis of professional development the firm's personnel have been part of.</p> <p>Where the monitoring of processes or investigation of complaints shows deficiencies in the firm's System of Quality Management, paragraph 4.75 suggests one of the remedial actions may include communicating the findings to those responsible in the firm for professional development.</p>
<p>Enhanced customer due diligence when ML/TF risk is high</p>		<p>APES 320</p> <p>Paragraph 4.10 mandates that firms shall establish policies and procedures for the acceptance and continuance of client relationships. This includes only undertaking or continuing relationships where they have considered the integrity of the client.</p> <p>Paragraph 4.12 states the matters that should be considered in determining the integrity of a client include:</p> <ul style="list-style-type: none"> • the identity and business reputation of the client's principal owners, key management and related parties • the nature of the client's operations, including its business practice • indications the client might be involved in money laundering or other criminal activity. <p>Paragraph 4.14 mandates that firms shall establish policies and procedures that require them to obtain such information necessary before accepting an engagement with a new client or continuing an existing engagement.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Paragraph 4.16 mandates that firms shall establish policies and procedures to obtain information on clients that would have caused it to decline the engagement had that information been available earlier.</p> <p>Such policies and procedures shall include consideration of:</p> <ul style="list-style-type: none"> • becoming aware of non-compliance or suspected non-compliance with laws and regulations • whether there is a requirement for the firm to report the client to regulatory authorities. <p>Paragraph 4.17 suggests that in addressing whether to withdraw from an engagement, a firm needs to consider whether there is any professional, legal or regulatory requirement to continue to service the client.</p> <p><u>APES 310 Client monies</u></p> <p>Paragraph 4.10 mandates that the member shall document the process followed to establish the identity of a client and the source of client monies prior to dealing with client monies.</p> <p>Further, paragraph 4.11 mandates that a member shall not deal with client monies if the member believes, on reasonable grounds that they were obtained from, or are to be used for, illegal activities or that dealing with the monies is otherwise unlawful.</p> <p>Paragraph 4.12 specifically prohibits members from dealing in client monies where it is a money laundering transaction or the utilisation of the proceeds of crime.</p>
<p>Monitor customer transactions</p>	<p>Tax and BAS agents</p> <p>TPB(I) 17/2013 Code of Professional Conduct – Reasonable care to ascertain a client's state of affairs assists registered tax and BAS agents understand their obligation to take reasonable care in ascertaining a client's situation. It notes that 'reasonable care' is a well-established feature of common law.</p>	<p>APES 110</p> <p>R111.2 of the Code mandates that members shall not knowingly be associated with work where the member believes it:</p> <ul style="list-style-type: none"> • contains a materially false or misleading statement • contains statements or information provided recklessly • omits or obscures required information where such omission or obscurity would be misleading.

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
	<p>The information sheet recommends that where the information provided by the client does not seem credible or appears inconsistent with previous pattern of claim or statement, the tax or BAS agent should make further enquiries.</p> <p>It is important to note that paragraph 17 states that taking reasonable care does not require registered agents to 'audit', examine or review books and records or other source documents to independently verify the accuracy of information supplied by their clients'.</p>	<p>APES 320</p> <p>Paragraph 4.10 mandates that firms shall establish policies and procedures for the continuance of client relationships. This includes only undertaking or continuing relationships where they have considered the integrity of the client.</p> <p>In considering the client's integrity, paragraph 4.12 suggests that firms consider:</p> <ul style="list-style-type: none"> • indications that the client might be involved in money laundering or other criminal activities • the nature of the client's operations, including its business practices. <p>Paragraph 4.14 mandates that firms shall establish policies and procedures to obtain information necessary to decide whether to continue an existing engagement or acceptance of a new engagement with an existing client.</p> <p>Paragraph 4.15 suggests that in deciding whether to continue a relationship, firms should consider significant matters that have arisen during the client relationship. Unusual transactions may be a significant matter depending on their scale and frequency.</p> <p>Professional accountants maybe engaged to record transactions by clients (for example, a compilation of financial information engagement).</p> <p><u>APES 310 Client Monies</u></p> <p>Paragraph 4.10 mandates that the member shall document the process followed to establish the identity of a client and the source of client monies prior to dealing with client monies.</p> <p>Further, paragraph 4.11 mandates that a member shall not deal with client monies if the member believes, on reasonable grounds that they were obtained from, or are to be used for, illegal activities or that dealing with the monies is otherwise unlawful.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p><u>APES 315 Compilation of Financial Information</u></p> <p>Paragraph 7.3 mandates that where the member forms the view that the information provided by the client includes a misstatement, the member shall consider:</p> <ul style="list-style-type: none"> • making inquiries of management to assess the reliability, accuracy and completeness of the information • assessing internal controls • verifying any relevant matters or information. <p>Paragraph 7.4 mandates that where the client refuses to provide additional information in response to the above inquiries, the member should determine whether to continue to act for the client.</p> <p>Paragraph 11.6 mandates that if during an engagement to compile financial information, the member obtains information that a fraud, misstatement or illegal act has occurred and where the member believe that such an act is the result of actions by those charged with governance, the member shall consider continuing to act for the client. Members also should follow section 360 of APES 110 - <i>Responding to Non-Compliance with Laws and Regulations</i>.</p> <p><u>APES 220 Taxation Services</u></p> <p>Paragraph 5.3 mandates that a member shall not knowingly or recklessly be associated with any arrangement which involves documents or accounting entries that are intended to misrepresent a transaction.</p> <p>Paragraph 7.1 mandates that a member shall not provide taxation services to a client if the information provided by the client contains false or misleading information or omits material information.</p> <p>Further, paragraph 7.2 mandates that members shall not knowingly or recklessly make a statement that by its content or omission, is materially false or misleading</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p><u>APES 225 Valuation Services</u> Paragraph 4.5 mandates that a member shall gather sufficient and appropriate evidence to provide reasonable grounds that the valuation report is properly supported.</p> <p><u>APES 215 Forensic Accounting Services</u> Paragraph 6.1 mandates that a member shall not knowingly or recklessly make a statement or cause another to make a statement that, by its content or by an omission, is false or misleading.</p> <p>Paragraph 6.2 mandates that if a member providing expert witness services becomes aware that written or oral evidence was based on information that was false, misleading or contained material omissions and that situation has not been subsequently disclosed in a report or in oral testimony, the member shall promptly inform, as appropriate, the legal representative of the client or the court. The member shall also consider whether it is necessary to issue a supplementary report.</p> <p><u>APES 345 Reporting on Prospective Financial Information prepared in connection with a Public Document</u> Paragraph 8.1 mandates that a member shall take all reasonable steps in accordance with their terms of engagement to ensure that prospective financial information does not contain false or misleading information, or omit material information.</p> <p>If, after the issue of a public document, the member finds it contains false or misleading information, or omits material information, paragraph 8.3 mandates that the member shall take all reasonable steps to ensure the client takes appropriate action to inform the market.</p> <p>If the member becomes aware that the client has not acted, paragraph 8.5 mandates that the member shall determine whether to continue the engagement with the client.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Paragraph 8.6 mandates that a member shall not knowingly or recklessly make a statement or cause another to make a statement that by its content or omission, is false or misleading in a material manner.</p> <p>APES 230 Financial Planning Services</p> <p>Paragraph 6.3 mandates that members shall gather sufficient appropriate evidence to establish a reasonable basis for their financial planning advice.</p> <p>Paragraph 6.6 mandates that members shall not provide financial planning advice where the member finds the information contains false or misleading information or omits material information.</p>
<p>Customer identification, including 'know your customer', beneficial owners, politically exposed persons and high-risk countries</p>	<p>Tax and BAS agents TPB(PN) 5/2022 Proof of identity requirements for client verification. This TPB practice note applies to all tax and BAS agents and includes minimum proof of identity requirements they must undertake before providing tax or BAS agent services to new clients and on an ongoing basis to existing clients as appropriate. These requirements have been informed the AML/CTF Act.</p> <p>The TPB's guidance states that failure to take appropriate Proof of Identity (POI) steps to verify a client and/or their representative's identity may result in them finding that a tax or BAS agent has breached the Code (Code items 1, 7 and/or 9), ceased to be fit or proper to be registered (s 20-15 TASA), or breached the civil penalty provision in the TASA (s 50-20 of the TASA).</p> <p>As a result, the TPB may impose a sanction, terminate their registration or apply to the Federal Court for a civil penalty to be imposed on them.</p>	<p><i>See section on Enhanced Customer Due Diligence.</i></p> <p>In particular, paragraph 4.12 of APES 320 suggests that when considering the integrity of the client, a member should consider:</p> <ul style="list-style-type: none"> the identity and business reputation of related parties (which could include beneficial owners) the identity and business reputation of the client's principal owners, key management, related parties and those charged with governance (which could include politically-exposed persons) the nature of the client's operations, including its business practices (which could include the jurisdiction the client has operations in).
<p>Managing of client money, securities or other assets</p>	<p>Tax and BAS agents</p> <p>Subsection 30-10(3) of the <i>Tax Agent Services Act 2009</i> requires registered tax and BAS agents that receive money or other property from or on behalf of a client and hold the money or other property on trust; to account to their client for the money or other property.</p> <p>The TPB has released TPB(I) 15/2012 Code of Professional Conduct - Holding money or other property on trust setting out the TPBs view on the scope and meaning of this obligation.</p>	<p>APES 310 Client Monies</p> <p>Members of the Professional Accounting Bodies that manage client monies must meet professional requirements under APES 310 <i>Client Monies</i>. This includes having an annual audit of the member's compliance with this standard.</p> <p>APES 310 sets the standards for members in public practice who manage client monies or who act as an auditor of client monies.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
	<p>Accountants in Queensland</p> <p>Accountants in Queensland that manage client monies are obliged under the <i>Trust Accounts Act 1973</i> (Qld) to have their trust account audited within two months of 31 March each year. The accountant must provide to the Queensland Department of Justice and Attorney-General a statement of the highest amount held in trust during that period and the independent auditor's report.</p>	<p>Paragraph 4.2 mandates that unless an exemption applies, members in public practice shall only hold, receive or disburse client monies through a client's bank account or a trust account, in accordance with the client's agreement and/or instructions. Those instructions should be in writing.</p> <p>Paragraph 4.6 mandates that members in public practice must keep all client monies separate for all other money the member may have (i.e., a separate bank account).</p> <p>Paragraph 4.9 mandates that members in public practice shall take reasonable steps to ensure the client authorises their accountant's professional body to have access to their records in respect of client monies for the purposes of an inspection, quality review or disciplinary proceedings.</p> <p>Paragraph 4.10 mandates that the member shall document the process followed to establish the identity of a client and the source of client monies prior to dealing with client monies.</p> <p>Further, paragraph 4.11 mandates that a member shall not deal with client monies if the member believes, on reasonable grounds that they were obtained from, or are to be used for, illegal activities or that dealing with the monies is otherwise unlawful.</p> <p>Paragraph 4.12 specifically prohibits members from dealing in client monies where it is a money laundering transaction or the utilisation of the proceeds of crime.</p> <p>Paragraph 7.1 mandates that any member in public practice who manages client money shall appoint another independent public practitioner as the auditor of the trust account.</p> <p>The auditor shall ensure that an annual reasonable assurance engagement of the member's compliance with the requirements in APES 310 is performed within three months of the end of the applicable year-end date.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Paragraph 7.8 mandates that the member must inform their professional accounting body and their auditor within five business days of becoming aware of any deficiencies in their trust account, along with corrective action taken.</p> <p>APES 310 also sets out requirements for members of the Professional Accounting Bodies to:</p> <ul style="list-style-type: none"> • open a trust account • operate a trust account • hold a receive client monies in a trust account • disburse client monies • document transactions in respect trust accounts • reconciliations of trust accounts • reporting • operate a client bank account • hold and receive client monies into a client's bank account • disburse client monies from a client bank account • document transactions in respect of client bank accounts • reconciliations of client bank accounts.
<p>Reporting</p>		<p>APES 110</p> <p>The <i>Code of Ethics for Professional Accountants</i> includes sections on how members should manage situations where they become aware of or have a suspicion of non-compliance with laws and regulations (NOCLAR).</p> <p>This provides a framework for all members of the Professional Accounting Bodies on how best to act in the public interest when they become aware of non-compliance or suspected non-compliance with laws and regulations.</p> <p>The Code allows members to set aside the principle of confidentiality and report NOCLAR to an appropriate authority, if that is in the public interest.</p>

AML/CTF obligations	Statutory obligations	Professional Accounting Bodies obligations
		<p>Although NOCLAR does not impose an obligation to disclose a non-compliance, or suspected non-compliance, when there is no legal obligation to do so, members can still disclose such non-compliance to an authority.</p> <p>The requirement on responding to NOCLAR are set out in section 260 (for members in business) and section 360 (for members in public practice) of the Code.</p>

Auditing and assurance services

Auditing and assurance services includes statutory audits of public companies, charities and not-for-profits, self-managed superannuation funds and other and non-statutory engagements.

The below is taken from the Australian Standard on Quality Management, issued by the Auditing and Assurance Standards Board (AUASB), a statutory agency. As it is issued by the AUASB, it is both a statutory obligation and an obligation on members of the Professional Accounting Bodies

AML/CTF obligations	Statutory and professional obligations
ML/TF risk assessment	<p>APES 325 Risk Management for Firms (See above table for non-audit and assurance engagements).</p> <p>ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements</p> <p>This Standard is issued pursuant to section 227B of the <i>Australian Securities and Investments Commission Act 2011</i> and section 336 of the <i>Corporations Act 2001</i>. This Auditing Standard applies to firms that performs:</p> <ul style="list-style-type: none"> • an audit of a financial report for a financial year, or an audit or review of a financial report for a half-year, in accordance with the <i>Corporations Act 2001</i> • an audit or review of a financial report, or a complete set of financial statements, for any other purpose • other assurance engagements • related services engagements. <p>Paragraph 23 requires firms to design and implement a risk assessment process to identify and assess quality risks.</p>

	Paragraph 25 requires firms to identify and assess quality risks to provide a basis for a response.
Risk management process	<p>APES 325 (See above table for non-audit and assurance engagements)</p> <p>Identify risks and apply controls to manage risks</p> <p>ASQM 1</p> <p>Paragraph 23 requires firms to design and implement a risk assessment process to establish quality objectives, identify and assess quality risks and design and implement responses to address those risks.</p> <p>Paragraph 25 requires firms to identify and assess quality risks to provide a basis for a response.</p> <p>Paragraph 27 requires firms to establish policies or procedures that are designed to identify information that indicates additional or modified quality risks or responses are needed due to changes in the nature and circumstances of the firm or its engagements.</p> <p>Paragraph 30 requires firms to establish policies and procedures for the acceptance and continuance of client relationships and specific engagements. Judgement about whether to accept or continue a client relationship should be on the integrity and ethical values of the client (including management, and, when appropriate, those charged with governance).</p> <p>Paragraph A68 suggests that the information obtained to support the firm's judgements about the integrity and ethical values of the client may include the identity and business reputation of the client's principal owners, key management, and those charged with its governance.</p> <p>This paragraph also provides examples of the factors that may influence the nature and extent of the information obtained about the integrity and ethical values of a client. They include:</p> <ul style="list-style-type: none"> • the nature of the client, including the complexity of its ownership and management structure • the nature of the client's operations, including its business practices • indications that the client might be involved in money laundering or other criminal activities • the identity and business reputation of related parties. <p>Paragraph 57 requires firms to prepare documentation of its system of quality management that is sufficient to:</p> <ul style="list-style-type: none"> • support a consistent understanding of the system of quality management by personnel, including an understanding of their roles and responsibilities with respect to the system of quality management • support the consistent implementation and operation of the responses • provide evidence of the design, implementation and operation of the responses, to support the evaluation of the system of quality management

The standard suggests that the following may be relevant in the firm's risk assessment process:

- information regarding complaints and allegations
- the results of external inspections
- information from regulators about the entities for whom the firm performs engagements which is made available to the firm (e.g., irregularities in the entity's financial report or non-compliance with securities regulation).
- regulatory actions and litigation against the firm or other similar firms.

Monitor and review

ASQM 1

Paragraph 35 requires firms to establish monitoring and remediation processes to:

- provide relevant, reliable and timely information about the design, implementation and operation of the system of quality management
- take appropriate actions to respond to identified deficiencies such that deficiencies are remediated on a timely basis.

Paragraph 37 requires firms to consider the following on the nature, extent and timing of monitoring:

- the reasons for the assessments given to the quality risks
- the design of the firm's risk assessment process and monitoring and remediation process
- changes to the system of quality management
- the results of previous monitoring activities
- complaints and allegations
- regulatory requirements or non-compliance with the firm's policies or procedures

Paragraph 40 requires firms to evaluate the findings of monitoring to determine whether deficiencies exist, including in the monitoring and remediation process.

In evaluating identified deficiencies, paragraph 41 requires firms to investigate the root cause/s of identified deficiencies and its possible severity and effect.

Paragraph 41 requires firms to design and implement remedial actions to address identified deficiencies that are responsive to the results of the root cause analysis.

Paragraph 58 requires firms to prepare documentation evidencing the monitoring activities performed, the evaluation of findings and remedial actions to address deficiencies.

Paragraph A139 suggests that monitoring activities may comprise a combination of ongoing monitoring and periodic monitoring activities.

Paragraph A144 suggests that monitoring activities can be scalable. For less complex firms, the monitoring activities may be simple, since information about the monitoring and remediation process may be readily available from the firm's leadership, based on their frequent interaction with the system of quality management.

Appoint an AML/CTF compliance officer	<p>ASQM 1 Paragraph 39 requires that individuals performing the monitoring activities have the competence and capabilities, including sufficient time, to perform the monitoring activities effectively.</p> <p>In the Explanatory Material to the standard at paragraph A34, an individual(s) assigned responsibility for the system of quality management will typically be a partner of the firm so that they have appropriate influence and authority within the firm, as required by paragraph 21. However, based on the legal structure of the firm, there may be circumstances when an individual(s) may not be a partner, but the individual(s) should still have appropriate influence and authority within the firm.</p>
Independent review of Part A of your AML/CTF program	<p>ASIC runs audit inspection and surveillance programs. ASIC's audit inspection program reviews compliance with audit quality and auditor independence requirements. Audit firms to be inspected are selected based on several criteria, with an emphasis on firms auditing publicly listed or public interest entities. The inspection program captures all firms including smaller firms</p> <p>All members of the Professional Accounting Bodies that hold a public practice certificate/certificate of public practice, must submit to a periodic review of their compliance with the Code of Ethics and professional standards (including quality control systems). In other words, this is a condition of holding a practising certificate.</p> <p>The frequency of such reviews is dependent on risk and the complexity of their practice. Information on the review programs for each body can be found below:</p> <ul style="list-style-type: none"> • CA ANZ's Quality and Practice Review program • CPA Australia's Best Practice Program • IPA's Public Practice Quality Assurance Program.
Employee due diligence	<p>ASQM1 Paragraph 32(a) states that personnel are hired to consistently perform quality engagements, including having knowledge or experience relevant to the engagements the firm performs; or perform activities or carry out responsibilities in relation to the operation of the firm's system of quality management.</p>
Employee AML/CTF risk awareness training	<p>Members of the Professional Accounting Bodies are required to complete a minimum of 120 hours of professional development over a three-year period, with a minimum of 20 hours in any one year of the three-year period. Each of the Professional Accounting Body reviews member compliance with these professional development requirements. Members are selected at random to participate in such reviews.</p> <p>Members who hold a statutory registration must complete professional development in relation to that specific field.</p> <p>SMSF auditors ASIC Regulatory Guide RG243 requires approved SMSF auditors to complete 120 hours of professional development over each three-year period. This must include 30 hours of development on superannuation, at least 8 hours of which is development on auditing SMSFs.</p>

<p>Enhanced customer due diligence when ML/TF risk is high</p>	<p>ASQM 1 Paragraph 27 requires firms to establish policies or procedures that are designed to identify information that indicates additional or modified quality risks or responses are needed due to changes in the nature and circumstances of the firm or its engagements.</p> <p>Paragraph 30 requires firms to establish policies and procedures for the acceptance and continuance of client relationships and specific engagements. Judgement about whether to accept or continue a client relationship should be on the integrity and ethical values of the client (including management, and, when appropriate, those charged with governance).</p> <p>Paragraph A68 suggests that the information obtained to support the firm's judgements about the integrity and ethical values of the client may include the identity and business reputation of the client's principal owners, key management, and those charged with its governance.</p> <p>This paragraph also provides examples of the factors that may influence the nature and extent of the information obtained about the integrity and ethical values of a client. They include:</p> <ul style="list-style-type: none"> • the nature of the client, including the complexity of its ownership and management structure • the nature of the client's operations, including its business practices • indications that the client might be involved in money laundering or other criminal activities • the identity and business reputation of related parties. <p>APES 310 <i>(See above table for non-audit and assurance engagements)</i></p>
<p>Monitor customer transactions</p>	<p>APES 110 and APES 310 <i>(See above table for non-audit and assurance engagements)</i></p>
<p>Customer identification, including 'know your customer', beneficial owners, politically exposed persons and high-risk countries</p>	<p>See section on Enhanced Customer Due Diligence.</p> <p>In particular, paragraph A68, which suggests that that the information obtained to support the firm's judgements about the integrity and ethical of a new or existing client may include:</p> <ul style="list-style-type: none"> • the identity and business reputation of the client's principal owners, key management, and those charged with its governance (which could include politically-exposed persons) • the identity and business reputation of related parties (which could include beneficial owners) • the nature of the client's operations, including its business practices (which could include the jurisdiction the client has operations in).
<p>Managing of client money, securities or other assets</p>	<p>APES 310 <i>(See above table for non-audit and assurance engagements)</i></p> <p>Accountants in Queensland <i>(See above table for non-audit and assurance engagements)</i></p>

Reporting

APES 110

(See above table for non-audit and assurance engagements)