

File Name: 2011/18

27 May 2011

AUSTRAC Planning & Strategic Initiatives
PO Box 13173
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Melbourne VIC 8010

RE: REVIEW OF REVISED AUSTRAC SERVICE CHARTER

The Association of Superannuation Funds of Australia (ASFA) would like to provide this submission to the Australian Transaction Reports and Analysis Centre (AUSTRAC) in relation to its recently revised Service Charter.

About ASFA

The Association of Superannuation Funds of Australia (ASFA) is a non-profit, non-political national organisation whose mission is to protect, promote and advance the interests of Australia's superannuation funds, their trustees and their members. We focus on the issues that affect the entire superannuation industry. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

Revised AUSTRAC Service Charter

General Comment

ASFA fully supports the use of comprehensive and clearly articulated service charters which benefit both the organisations themselves and their customers. A well drafted service charter effectively establishes the terms and conditions of the relationship between the organisation and its customers, and is a useful tool for managing the expectations of both parties in terms of their respective obligations to each other. A service charter is also useful in establishing an effective framework under which the organisation's performance can be measured.

As a general comment, ASFA's view is that the information contained in the AUSTRAC Service Charter can be expanded upon in a number of areas as set out below.

Specific Comments on the revised charter

1. Expanding/clarifying information in the Service Charter

- The section headed "What you can expect from us" - we believe the bullet points in this section could be expanded to provide greater detail. As an example, we draw your attention to the ATO's Taxpayers' Charter which provides specific details regarding how it deals with respecting privacy and confidentiality. The other bullet points in this section of the AUSTRAC Service Charter would benefit from similar expansion of content.

- The bullet points under the section headed “Your obligations” could be expanded to provide more detail, in a similar vein to the ATO’s Taxpayers’ Charter.
- The section headed “What to do if you think a decision is wrong” states that a copy of the decision and reasons for the decision will be provided where appropriate and upon request. In our view this section should be expanded to include the steps that a regulated entity or member of the general public can take to lodge a complaint. Details of AUSTRAC’s internal dispute mechanism should be provided including methods available for lodging a complaint - eg. by phone, fax, online or in writing (with address details). If these are the same as the Help Desk, which is the contact point for enquiries, reference should be made to the Help Desk contact details. Information should also be provided in relation to the relevant external dispute resolution mechanism.
- We note that there are a number of references within the Service Charter to actions taking place in a ‘timely manner’ - for example, in the fourth bullet point under the heading “What you can expect from us” regarding AUSTRAC responding to enquiries and requests from regulated entities and members of the public in a clear and timely manner. ASFA’s view is that clarification should be provided as to what constitutes ‘timely manner’. We have been advised by a number of our members about written enquiries they have made to AUSTRAC which have either gone unanswered or have taken months to receive a response. In one case, we have been advised of a written request for relief that was lodged with AUSTRAC over twelve months ago and the organisation in question is still to receive a formal response.

2. Information on performance against service standards

We note that the Service Charter makes reference to the AUSTRAC Annual Report for information on service standard outcomes, with the Service Charter itself only dealing with queries received from reporting entities, including phone calls, email queries and written correspondence. Based on our review of the most recent Annual Report for the 2009-10 financial year, our view is that the deliverables reported on in the Annual Report lack detail on the number of enquiries received, the required response time and the AUSTRAC performance against that requirement. Significantly, the Annual Report appears to be particularly focused on AUSTRAC’s interactions with other Government agencies and less so on its dealings with reporting entities.

This is perhaps reflective of the primary role of AUSTRAC as a provider of services/information to other Government agencies. As stated in our submission dated 25 September 2011 regarding the recovery of AUSTRAC’s compliance costs, the supposed benefits that reporting entities obtain by being regulated by AUSTRAC (i.e. reduction in risk faced and operating in a jurisdiction that complies with the FATF requirements) are at best questionable. ASFA contends that by far the biggest beneficiary of AUSTRAC’s supervisory activities is the Government and its various agencies, not the industry. The absence of performance standards data in the AUSTRAC Annual Report specific to services provided to reporting entities would appear to support this.

If reporting entities are forced to fund AUSTRAC’s supervisory activities going forward, it would seem reasonable and appropriate that AUSTRAC report on, and have its performance as an effective regulator assessed against, measurable standards applicable to the services it supplies to reporting entities (not just other Government agencies).

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If you have any questions or comments on this matter, please feel free to contact Jon Echevarria, Policy Adviser on 02 8079 0859 or by email jechevarria@superannuation.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Graus', is positioned below the closing text.

David Graus
General Manager, Policy and Industry Practice