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**Director**

AML/CTF Rules  
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**SUBMISSION IN RELATION TO RECENTLY RELEASED DRAFT AML/CTF RULES**

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 the following draft AML/CTF Rules recently released by AUSTRAC for comment:

- Draft AML/CTF Rules amending Chapter 4 in relation to Self Managed Superannuation Funds (SMSFs);
- Draft AML/CTF Rules amending Chapter 8;
- Draft AML/CTF Rules amending Chapter 9; and
- Draft AML/CTF Rules relating to section 112 of the AML/CTF Act.

**About ASFA**

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.

**Draft AML/CTF Rules amending Chapter 4**

ASFA fully supports the proposed amendments to Chapter 4 of the AML/CTF Rules which warrant that reporting entities may no longer use the Simplified Trustee Verification Procedure (STVP) in regard to Self Managed Superannuation Funds (SMSFs). ASFA has previously advocated that the transfer of a superannuation benefit from an APRA regulated entity to an SMSF should be a designated service. Our reason for this is that, as an SMSF is not an AML/CTF reporting entity, there is an increased risk of ML/TF activity being conducted through an SMSF.

ASFA recognises that, whilst the majority of SMSFs are fully compliant and managed in accordance with the legislative framework in which they operate, there have been historical instances of fraud and/or criminal abuse perpetrated through SMSFs. As such, we support the proposed amendments that will require reporting entities to conduct a full customer identification procedure when dealing with SMSFs.

In ASFA's view, the proposed amendments will help to minimise the risk of future instances of fraud and criminal abuse being perpetrated by external parties through SMSFs.

### **Draft AML/CTF Rules amending Chapters 8**

ASFA supports the proposed amendments to Chapters 8 which will require reporting entities to include the following in Part A of their standard AML/CTF programs:

- (1) a requirement to specify what their reporting obligations are under sections 41, 43, 45 and 47 of the AML/CTF Act; and
- (2) details of the systems and controls which they have implemented in regard to those obligations.

However, with respect to item (2), ASFA's view is that the wording should be amended such that the requirement is not to provide complete details but rather to enable the reporting entity to describe those systems and controls "in broad terms". ASFA's concern is to ensure that the amount of information required to be provided by a reporting entity regarding their systems and controls is sufficient for regulatory purposes but not overly burdensome.

### **Draft AML/CTF Rules amending Chapters 9**

ASFA supports the proposed amendments to Chapters 9 which will require reporting entities to include the following in Part A of their joint AML/CTF programs:

- (1) a requirement to specify what their reporting obligations are under sections 41, 43, 45 and 47 of the AML/CTF Act; and
- (2) details of the systems and controls which they have implemented in regard to those obligations.

However, with respect to item (2), ASFA's view is that the wording should be amended such that the requirement is not to provide complete details but rather to enable the reporting entity to describe those systems and controls "in broad terms". ASFA's concern is to ensure that the amount of information required to be provided by a reporting entity regarding their systems and controls is sufficient for regulatory purposes but not overly burdensome.

### **Draft AML/CTF Rules relating to section 112 of the AML/CTF Act**

We support the intention of the proposed amendments relating to section 112 of the AML/CTF Act regarding the maintenance of appropriate customer identification records by reporting entities. However, we believe the words underlined below should be added:

"A record made under subsection 112(2) by a reporting entity must be kept by the reporting entity in a form:

- (1) that is capable of being understood by an authorised officer with sufficient experience and/or training to understand such matters; and
- (2) that enables the authorised officer to readily ascertain whether the reporting entity has complied with the obligations under subsection 112(2)."

ASFA's concern is with the use of the words "readily understandable to the authorised officer undertaking the audit" in the explanatory note to the consultation. While it may be implicit that any officer authorised by the AUSTRAC CEO would be capable of performing their assigned task, the words in the explanatory note leave open the possibility that the threshold test is the knowledge level of the authorised officer rather than some more easily understood and applied objective test.

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If you have any queries or comments regarding the contents of our submission, please contact Jon Echevarria, Policy Adviser on (02) 8079 0859 or by email [jechevarria@superannuation.asn.au](mailto:jechevarria@superannuation.asn.au).

Yours sincerely



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