



19 December 2014

Consultation Paper #3 – AUSTRAC Industry Contribution  
Legal and Policy Branch  
AUSTRAC  
PO Box 13173  
Law Courts  
MELBOURNE VIC 8010

**By email:** Policy\_Consultation@austrac.gov.au

Dear Sir/Madam,

### **AUSTRAC Industry Contribution Third Stakeholder Consultation Paper**

The Australian Financial Markets Association (AFMA) is the leading industry association promoting efficiency, integrity and professionalism in Australia's financial markets and provides leadership in advancing the interests of all market participants. AFMA represents over 130 members, including Australian and international banks, leading brokers, securities companies, fund managers, traders in electricity and other specialised markets and industry service providers. The majority of AFMA's members are reporting entities for the purposes of the AML/CTF Act and are subject to the Industry Contribution impost.

We note that this is our third submission in relation to the proposed AUSTRAC Industry Contribution model and our comments below should be read in light of our submissions of 25 July and 24 October 2014.

#### **Change to model and consultation process**

The "AUSTRAC Industry Contribution – Third Stakeholder consultation discussion paper" (**the Third Paper**) discloses a further change to the proposed charging model, namely a reduction in the earnings component and a correlative increase in the transaction value component. The Third Paper states that the basis for this change is "submissions to the second consultation paper raised a number of issues concerning the proposed earnings

component and the emphasis placed on this component in the context of the overall charging model.” The Third Paper does not, however, articulate what the specific concerns were that were raised in these submissions.

Of more concern to AFMA, the Third Paper does not address any of the issues with the previous proposed charging models raised in our previous submissions and provide any explanation as to why these were not reflected in the revised charging model. It is incumbent upon AUSTRAC to provide more detailed explanation as to why some concerns expressed in the consultation process were acknowledged, while others were not. This is particularly the case given that the overall amount to be collected is static, and hence any concessions provided to a certain class of reporting entities must, by definition, be made up by others.

This outcome is apparent from the consequential amendments to the charging model arising from the reduction in the earnings component and the corresponding increase in the transaction value component, the primary consequence of which is to raise the maximum payment amount to \$6,368,341, an increase of approximately 8% from the previous model. We can only assume, in the absence of confirmation in the Third Paper that this increase will be borne by the larger AFMA members and that other AFMA members will generally see a proportionate increase of similar magnitude.

These are material increases that will be magnified in coming years when the proportion of AUSTRAC expenditure recovered by industry contribution increases. Accordingly, we request greater transparency from AUSTRAC as to the rationale for the most recent amendments to the model as set out in the Third Paper.

Moreover, we request that AUSTRAC provide a written response addressing the issues raised in our previous submissions that relate to both the determination of the Industry Contribution model (particularly the inconsistencies with the 2013 Independent Review) and also implementation, such as the remission of penalties in the first year and the removal of the requirement for a Regulatory Impact Statement.

### **Consistency in earnings component**

The Third Paper states (at page 3) that AUSTRAC proposes to refine the charging model “to reduce the factor used to calculate the earnings component for a leviable entity *that is not part of a group* from 0.05 percent to 0.03 percent (emphasis added).” One plausible interpretation of this statement is that a different earnings component applies to reporting entities that are within a Designated Business Group (**DBG**) (0.05 percent) than those that are not (0.03 percent). Any such disparity would clearly have no policy basis.

Through the consultation process on the Third Paper, AFMA has received advice from AUSTRAC that this is not the intention and that the applicable earnings component will be determined equally for all reporting entities regardless of whether they are part of a

DBG. Any ambiguity in relation to this issue needs to be resolved in the final charging model.

**Single invoices in given financial year**

AFMA welcomes the comment in the Third Paper that “in usual circumstances AUSTRAC does not intend to invoice leviable entities more than once in a given financial year.” This is consistent with previous AFMA submissions, which have raised concerns regarding the extent to which subsequent appropriations would disturb budgeting and other governance processes for reporting entities.

Given the importance of this issue, we recommend that AUSTRAC consider whether there may be a potential for entrenching this intention to provide greater comfort to industry, such as through policy principles, the Ministerial Determination or other similar instrument.

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Please contact me on [redacted] if you have any queries or comments.

Yours sincerely,

Rob Colquhoun  
Director, Policy