

ENFORCEABLE UNDERTAKING

***ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING
ACT 2006***

**UNDERTAKING TO THE CHIEF EXECUTIVE OFFICER OF AUSTRAC
FOR THE PURPOSES OF**

SECTION 197 OF THE AML/CTF ACT

BY

YOUR EXPRESS SERVICE (YES) PTY. LTD.

ACN 135 183 443

Definitions

AML/CTF Act means the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)*.

AML/CTF program means an anti-money laundering and counter-terrorism financing program and has the meaning given in section 83 of the AML/CTF Act.

AML/CTF Rules means the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* made under section 229 of the AML/CTF Act.

AUSTRAC means the Australian Transaction Reports and Analysis Centre continued in existence by section 209 of the AML/CTF Act.

AUSTRAC CEO means the Chief Executive Officer of AUSTRAC or his delegate pursuant to section 222 of the AML/CTF Act.

AUSTRAC's Concerns means the concerns referred to in paragraphs 7 to 11 of this enforceable undertaking.

Date of this enforceable undertaking means the date on which it is accepted by AUSTRAC.

Designated service has the meaning given by section 6 of the AML/CTF Act.

Enforceable undertaking means an undertaking given to the AUSTRAC CEO pursuant to subsection 197(1) of the AML/CTF Act.

External Consultant is a person independent to the business that has the appropriate AML/CTF expertise and that has been approved by the AUSTRAC CEO in writing.

A schedule of matters that the AUSTRAC CEO may consider when considering whether a person has the appropriate AML/CTF expertise may be found at Schedule 1 to this document.

International funds transfer instruction has the meaning given by section 46 of the AML/CTF Act.

ML/TF Risk has the meaning given in paragraph 1.2.1 of the AML/CTF Rules.

Registrable designated remittance service has the meaning given in section 5 of the AML/CTF Act.

Remedial Action Plan means the recommendations, made by the External Consultant (who has **been** approved by the AUSTRAC CEO), on steps to take and timeframes within which to take those steps, to rectify the deficiencies identified, pursuant to paragraph 25 of this enforceable undertaking.

Introduction

1. Under section 3 of the AML/CTF Act, the objects of the AML/CTF Act include fulfilling Australia's international obligations designed to combat the laundering of money and the financing of terrorism. Under section 212 of the AML/CTF Act the AUSTRAC CEO is charged with, among other things, promoting compliance with the Act.

Person giving the enforceable undertaking

2. This enforceable undertaking is given to the AUSTRAC CEO by Your Express Service (YES) Pty. Ltd. ACN 135 183 443 (YES) of Westpoint Shopping Centre, '108' Stall WPTM, Level 1, 17 Patrick Street, Blacktown NSW 2148 under section 197 of the AML/CTF Act.

Background

3. YES provides registrable designated remittance services and is a reporting entity for the purposes of the AML/CTF Act.
4. The AML/CTF Act and the AML/CTF Rules impose obligations on reporting entities to, amongst other things, lodge reports with the AUSTRAC CEO and to implement risk-based systems and controls to identify, mitigate and manage the ML/TF risk posed by the provision of certain designated services.
5. YES acknowledges that it has breached provisions of the AML/CTF Act and the AML/CTF Rules as set out in paragraphs 7 to 11 of this enforceable undertaking.
6. YES has offered this enforceable undertaking to the AUSTRAC CEO for the purposes of section 197 of the AML/CTF Act, and the AUSTRAC CEO accepts it to minimise the risk of future contraventions by YES of the AML/CTF Act and the AML/CTF Rules.

AUSTRAC's Concerns

7. AUSTRAC is concerned that YES has contravened, and is continuing to contravene, subsection 81(1) of the AML/CTF Act as a result of its failure to adopt an AML/CTF program, that complies with all of the requirements set out in the AML/CTF Rules, since it commenced providing registrable designated remittance services in November 2009.
8. Specifically, AUSTRAC had concerns that the AML/CTF program adopted by YES on 30 September 2011 did not comply with a number of requirements in the AML/CTF Rules as set out in AUSTRAC's letter of 16 March 2012 to YES. AUSTRAC was concerned that this AML/CTF program did not adequately, or at all:
 - (1) identify, mitigate and manage the ML/TF risks that its business may reasonably face that its provision of designated services might

- (whether inadvertently or otherwise) involve or facilitate money laundering or the financing of terrorism;
- (2) include an AML/CTF risk awareness training program that complied with all of the requirements in the AML/CTF Rules;
 - (3) include an employee due diligence program that complied with all of the requirements in the AML/CTF Rules;
 - (4) include an applicable customer identification procedure that complied with all of the requirements in the AML/CTF Rules; and
 - (5) include an effective transaction monitoring program.
9. AUSTRAC continues to have concerns with YES's revised version of its AML/CTF program, which was provided to AUSTRAC on 10 April 2012, as set out in AUSTRAC's letter of 2 May 2012 to YES. AUSTRAC has ongoing concerns related to:
- (1) the failure to adequately identify, mitigate and manage all of the ML/TF risks that its business may reasonably face when providing designated services, particularly in relation to the foreign jurisdictions with which YES deals with; and
 - (2) the effectiveness of YES's transaction monitoring program.
10. AUSTRAC is concerned that YES has contravened and is continuing to contravene subsection 45(2) of the AML/CTF Act by failing to give the AUSTRAC CEO reports about particular international funds transfer instructions (IFTIs), within 10 business days of receiving those instructions. AUSTRAC is also concerned that particular IFTI reports failed to include all of the required information as specified in Chapter 17 of the AML/CTF Rules.
11. In particular, AUSTRAC is concerned that:
- (1) from 1 August 2011 to 2 January 2012, YES submitted approximately 19% of its IFTI reports more than 10 business days after receiving the instruction; and
 - (2) YES's IFTI reports submitted from 1 August 2011 to 30 November 2011 did not accurately, or at all, contain the required information as specified in Chapter 17 of the AML/CTF Rules.

Acknowledgements by YES of AUSTRAC's Concerns

12. YES acknowledges AUSTRAC's Concerns, and voluntarily offers an enforceable undertaking in the terms of paragraphs 16 to 28 of this enforceable undertaking.
13. YES confirms that it has been offered the opportunity to seek its own legal advice in relation to its obligations under, and to the effect of, this enforceable undertaking.

Commencement of the Enforceable Undertaking

14. This enforceable undertaking comes into effect when:
 - (1) the enforceable undertaking is executed by YES; and
 - (2) the AUSTRAC CEO accepts the enforceable undertaking so executed.
15. Upon the commencement of this enforceable undertaking, YES undertakes to assume the obligations set out in paragraphs 16 to 28 of this enforceable undertaking.

Undertakings

16. Under subsection 197(1) of the AML/CTF Act, YES has offered, and the AUSTRAC CEO has agreed to accept, as an alternative to taking action in the Federal Court, the undertakings as set out in paragraphs 16 to 28 of this enforceable undertaking inclusive.
17. YES undertakes that it will pay the costs of its compliance with this enforceable undertaking.
18. YES will, until the date on which this enforceable undertaking ends pursuant to paragraph 31 of this enforceable undertaking, within 14 days of the date of a request from AUSTRAC, provide all documents and information requested by AUSTRAC from time to time for the purpose of assessing YES's compliance with the terms of this enforceable undertaking.
19. For the avoidance of doubt, YES is not required to provide AUSTRAC with any document or information that is the subject of legal professional privilege.
20. YES will by the dates set out below, or such later date as agreed to by the AUSTRAC CEO in writing, undertake the matters set out below.
 - (1) By 14 August 2012 seek approval in writing from the AUSTRAC CEO to appoint an External Consultant chosen by YES to perform the tasks specified in subparagraph 20(3) of this enforceable undertaking.
 - (2) If YES fails to obtain the AUSTRAC CEO's approval of an External Consultant by 14 August 2012, pursuant to subparagraph 20(1) of this enforceable undertaking, YES must undertake the following actions within 14 days of 14 August 2012:
 - (a) select a person to appoint as an External Consultant, for the purposes of this enforceable undertaking, from the list of individuals that have been authorised by the AUSTRAC CEO as external auditors pursuant to subsection 164(1) of the AML/CTF Act;

- (b) advise the AUSTRAC CEO, in writing, of the name of the authorised external auditor YES has decided to appoint as an External Consultant for the purposes of this enforceable undertaking.
- (3) By 4 September 2012 appoint the External Consultant, approved in accordance with subparagraph 20(1) or subparagraph 20(2) of this enforceable undertaking, to undertake the following matters:
- (a) assess the ML/TF risks faced by YES's remittance business;
 - (b) assess the adequacy of YES's AML/CTF program to manage and mitigate the ML/TF risks identified, as a result of the ML/TF risk assessment undertaken pursuant to subparagraph 20(3)(a) of this enforceable undertaking;
 - (c) assess whether YES's AML/CTF program complies with all of the requirements in Chapters 4, 8 and 15 of the AML/CTF Rules;
 - (d) assess the adequacy of YES's procedures, policies and systems to enable YES to comply with its IFTI reporting obligations in accordance with the requirements in subsection 45(2) of the AML/CTF Act and Chapter 17 of the AML/CTF Rules;
 - (e) to the extent that deficiencies are identified with YES's AML/CTF program, as a result of the assessments carried out in subparagraphs 20(3)(b) and 20(3)(c) of this enforceable undertaking, revise the AML/CTF program to remediate the deficiencies;
 - (f) to the extent that deficiencies are identified with YES's procedures, policies and systems to enable YES to comply with its IFTI reporting obligations, as a result of the assessment carried in subparagraph 20(3)(d) of this enforceable undertaking, revise YES's procedures, policies and systems to remediate the deficiencies.
 - (g) Provide YES with:
 - i. a copy of the ML/TF risk assessment undertaken pursuant to subparagraph 20(3)(a) of this enforceable undertaking;
 - ii. a written report on:
 - 1. the adequacy or otherwise of YES's AML/CTF Program pursuant to subparagraphs 20(3)(b) and 20(3)(c) of this enforceable undertaking;
 - 2. the adequacy or otherwise of YES's procedures, policies and systems to submit IFTI reports to AUSTRAC in compliance with the requirements in subsection 45(2)

of the AML/CTF Act and Chapter 17 of the AML/CTF Rules, pursuant to subparagraph 20(3)(d) of this enforceable undertaking;

3. any revisions the External Consultant made to YES's AML/CTF program, and to its IFTI reporting procedures, policies and systems, to address any deficiencies identified pursuant to subparagraphs 20(3)(b), 20(3)(c) and 20(3)(d).
 - iii. a copy of the revised AML/CTF program prepared pursuant to subparagraph 20(3)(e) of this enforceable undertaking; and
 - iv. a copy of the revised procedures and policies to submit IFTI reports to AUSTRAC in compliance with the requirements in subsection 45(2) of the AML/CTF Act and Chapter 17 of the AML/CTF Rules, prepared pursuant to subparagraph 20(3)(f) of this enforceable undertaking .
- (4) By 7 November 2012, YES must provide AUSTRAC with a complete copy of the documents prepared by the External consultant referred to in subparagraphs 20(3)(g)(i) to 20(3)(g)(iv) of this enforceable undertaking.
 - (5) By 12 December 2012, YES must adopt the revised AML/CTF program prepared pursuant to subparagraph 20(3)(e) of this enforceable undertaking, subject to any reasonable modifications required by the AUSTRAC CEO.
 - (6) By 12 December 2012, YES must commence to implement the revised IFTI reporting procedures, policies and systems prepared pursuant to subparagraph 20(3)(f) of this enforceable undertaking, subject to any reasonable modifications required by the AUSTRAC CEO.
21. Where AUSTRAC identifies deficiencies in any document or information prepared pursuant to paragraph 20 of this enforceable undertaking, the External Consultant may be required to assist YES to rectify the identified deficiencies within 28 days, or by a timeframe agreed upon by the AUSTRAC CEO (including a timeframe of less or more than the 28 days).
 22. By 12 June 2013 seek approval in writing from the AUSTRAC CEO to appoint an External Consultant chosen by YES to perform the tasks specified in paragraph 25 of this enforceable undertaking.
 23. If YES decides to appoint an External Consultant other than the External Consultant engaged pursuant to subparagraph 20(1) or 20(2) for the purposes of undertaking the tasks specified in paragraph 25 of this enforceable undertaking, YES must follow the processes set out in paragraphs 22 or 24 of this enforceable undertaking.

24. If YES fails to obtain the AUSTRAC CEO's approval of an External Consultant by 12 June 2013, pursuant to paragraph 22 of this enforceable undertaking, YES must undertake the following actions within 14 days of 12 June 2013:

- (1) select a person to appoint as an External Consultant, for the purposes of this enforceable undertaking, from the list of individuals that have been authorised by the AUSTRAC CEO as external auditors pursuant to subsection 164(1) of the AML/CTF Act;
- (2) advise the AUSTRAC CEO, in writing, of the name of the authorised external auditor YES has decided to appoint as an External Consultant for the purposes of this enforceable undertaking.

25. By 3 July 2013 appoint the External Consultant, approved in accordance with either subparagraphs 20(1) or 20(2) or paragraphs 22 or 24 of this enforceable undertaking, to carry out the following matters:

- (1) an assessment of whether YES has implemented its revised AML/CTF program which it adopted pursuant to subparagraph 20(5) of this enforceable undertaking, since the date of adoption of this AML/CTF program.

For clarity, this involves an assessment of whether YES has followed the procedures and policies set out in the revised AML/CTF program, which it adopted pursuant to subparagraph 20(5) of this enforceable undertaking, since the date of adoption of the AML/CTF program.

- (2) an assessment of whether YES has implemented and complied with the revised procedures, policies and systems, prepared pursuant to subparagraph 20(3)(f), from 12 December 2012 to 12 June 2013.
- (3) review a sample of 100 IFTI transactions conducted by YES during each month between the period from 12 December 2012 to 12 June 2013 and assess whether each of these IFTI transactions:
 - (a) were reported to AUSTRAC within 10 business days of YES receiving those instructions;
 - (b) were in the approved form;
 - (c) contained all of the required information as specified in Chapter 17 of the AML/CTF Rules.
- (4) to the extent that deficiencies are identified as a result of the assessment of the matters outlined in subparagraphs 25(1) to 25(3) of this enforceable undertaking, prepare a Remedial Action Plan which outlines what steps YES should take to rectify the identified deficiencies, and within which timeframe it should take those steps.

26. By 3 September 2013 the External Consultant must provide YES with a written report setting out the conclusion of the External Consultant's

assessment of the matters set out in subparagraphs 25(1) to 25(3) of this enforceable undertaking and with the Remedial Action Plan.

27. By 10 September 2013 YES must provide AUSTRAC with a complete copy of the written report and Remedial Action Plan referred to in paragraph 26 of this enforceable undertaking.
28. YES must implement the Remedial Action Plan, prepared pursuant to subparagraph 25(4) of this enforceable undertaking, within the timeframes specified therein, subject to any reasonable modifications required by the AUSTRAC CEO.

Provision of documents to AUSTRAC

29. The address for providing AUSTRAC with any document which this enforceable undertaking requires to be provided to AUSTRAC is:

AUSTRAC – Enforcement
PO Box 5516
West Chatswood NSW 1515

Acknowledgements – Operation of Enforceable Undertaking

30. YES acknowledges that:
 - (1) this enforceable undertaking has no operative force until accepted by the AUSTRAC CEO.
 - (2) the date of this enforceable undertaking is the date on which it is accepted by the AUSTRAC CEO.
 - (3) The AUSTRAC CEO has accepted this enforceable undertaking as an alternative to commencing civil penalty order action against YES.
 - (4) The AUSTRAC CEO's acceptance of this enforceable undertaking does not affect AUSTRAC's power to take any action in relation to:
 - (a) any contraventions that will not be addressed by this enforceable undertaking;
 - (b) any conduct outlined in AUSTRAC's Concerns which is not remediated by YES as a result of its failure to comply with any term of this enforceable undertaking; and
 - (c) any conduct occurring after the date of this enforceable undertaking, whether or not the conduct arises from the conduct described in AUSTRAC's Concerns.
 - (5) this enforceable undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in AUSTRAC's Concerns or arising from future conduct.

- (6) the AUSTRAC CEO may publish a copy of this enforceable undertaking on AUSTRAC's internet site in accordance with subsection 197(5) of the AML/CTF Act.
- (7) AUSTRAC may issue a media release on the execution of this enforceable undertaking referring to its terms and to AUSTRAC's Concerns that led to its execution. AUSTRAC will provide YES prior notice of any media release it plans to issue.
- (8) AUSTRAC may from time to time publicly refer to this enforceable undertaking.
- (9) YES has disclosed to the AUSTRAC CEO the material facts, matters and circumstances in relation to AUSTRAC's Concerns.
- (10) if any part of this enforceable undertaking is held invalid that part shall be severed from this enforceable undertaking and the remainder of this enforceable undertaking will continue to be valid and enforceable.

End date

31. This enforceable undertaking ends on 31 December 2013.

EXECUTED BY

Your Express Service (YES) Pty. Ltd. ACN 135 183 443 pursuant to section 197 of the AML/CTF Act

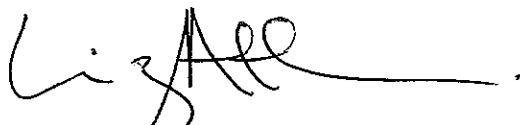
This 02 day of JULY 2012

~~ACCEPTED BY THE AUSTRAC CEO, JOHN LANCE SCHMIDT PURSUANT TO SECTION 197 OF THE AML/CTF ACT.~~

~~John Lance Schmidt
Chief Executive Officer~~

~~This _____ day of _____ 2012~~

ACCEPTED BY THE ACTING AUSTRAC CEO,
JANE ELIZABETH ATKINS PURSUANT TO
SECTION 197 OF THE AML/CTF ACT.



Jane Elizabeth Atkins
Acting Chief Executive Officer
This 12th day of July 2012.

Schedule 1

1. Minimum criteria
 - (1) Tertiary qualifications in accountancy or law with at least 5 years post-qualification experience.
 - (2) Experience in audit, investigations or forensic accounting.
 - (3) At least 2 years experience in the AML/CTF field.
2. The AUSTRAC CEO must be satisfied that the external consultant:
 - (1) is a person who is honest, acts with integrity and has a good fame and character; and
 - (2) can be relied upon to provide clear and unbiased reports relating to the compliance of reporting entities with the AML/CTF Act.
3. The AUSTRAC CEO may also consider the following, or other appropriate professional accreditation bodies which accredit their members with qualifications which in the opinion of the AUSTRAC CEO are relevant to the duties to be undertaken as external consultant:
 - (1) Membership of Certified Practicing Accountants Australia (CPAA); or
 - (2) Membership in the Institute of Chartered Accountants in Australia (ICAA);
or
 - (3) Membership in the National Institute of Accountants (NIA); or
 - (4) A current practicing certificate as an Australian legal practitioner; or
 - (5) Membership in a relevant association for anti-money laundering specialists or an appropriate compliance association.
4. The AUSTRAC CEO will also consider the following matters:
 - (1) Any criminal records, in particular relating to offences of dishonesty, of the individual;
 - (2) Any bankruptcy proceedings involving the individual;
 - (3) Any office held in a business going into liquidation;
 - (4) Any disqualification or disbarment by any other Australian regulator or professional accreditation body. This includes the loss of any entitlement to practise as a professional accredited by an appropriate body in any of the relevant professional fields.
 - (5) Any known conflict of interests that may affect the individual's ability to properly carry out an audit;

- (6) Any behaviour by the individual as part of a previous audit conducted as an authorised external auditor;
- (7) The quality and conduct from any previous audits conducted as an authorised external auditor;
- (8) Any previous failures to disclose any conflict of interest; and
- (9) Any other relevant matters including making a statement in an application which is later found to be inaccurate, false or misleading;