



Australian Government

AUSTRAC

Regulator Performance Framework

AUSTRAC's self-assessment 2016-17

“ A FINANCIAL SYSTEM **FREE**
FROM CRIMINAL ABUSE ”

Regulator Performance Framework

The Regulator Performance Framework (RPF) was introduced as part of the Federal Government's *Cutting Red Tape* initiative. The framework encourages regulators to undertake their functions with minimal impact necessary to achieve regulatory objectives. It comprises of six mandatory key performance indicators.

The RPF requires AUSTRAC to annually:

- self-assess its performance against the KPIs
- seek stakeholder validation of its assessment against its key performance indicators
- publish its self-assessment report.

Rating scale:



Fully achieved



Partially achieved



Not achieved

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities (REs)



Rating: Fully achieved

Throughout 2016-17, AUSTRAC has demonstrated strong performance against this metric through its activities.

AUSTRAC continued to work closely with and support the Attorney-General's Department (AGD) to develop and implement reforms in response to the recommendations arising from the report of the statutory review of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), Rules and Regulations. One of the general recommendations in the report was that the AML/CTF Rules should be simplified, rationalised, drafted in plain language, presented in a user-friendly format, and supported by guidance. Through a collaborative process with industry and other stakeholders, it is intended that the proposed amendments to the AML/CTF Rules will modernise, strengthen and simplify the regime to achieve better regulatory outcomes and efficiencies for government and industry.

AUSTRAC uses rule-making and exemption powers under the AML/CTF Act in circumstances of demonstrated low money laundering and terrorism financing (ML/TF) risk, to provide significant regulatory relief for reporting entities. In 2016-17 we registered 11 amendments to the AML/CTF Rules, which led to significant regulatory savings of more than \$28 million.

In addition, we published for public consultation 10 draft amendments to the AML/CTF Rules and a consultation paper seeking stakeholder views on the proposed approach to restructuring the AML/CTF Rules compilation, and progressing deregulatory recommendations from the *Review of the AML/CTF Act and Associated Rules and Regulations*¹ relevant to the AML/CTF Rules.

AUSTRAC granted exemptions from certain provisions of the *Financial Transaction Reports Act 1988* (FTR Act), AML/CTF Act and Rules to eight reporting entities. This resulted in \$1.8 million of regulatory savings. Two further exemptions granted via AML/CTF Rules are estimated to have achieved more than \$6 million worth of regulatory savings.

Overall, AUSTRAC achieved regulatory savings of just over \$36 million by using both its rules making and exemption powers to provide regulatory relief from requirements under the FTR Act, AML/CTF Act and AML/CTF Rules.

AUSTRAC continued to evolve our 'Know Your Industry' initiative in 2016/17. We continued to engage with different sectors of the financial industry to generate opportunities for greater collaboration, identify obstacles faced by sectors, and improve AUSTRAC's knowledge of our reporting entities. These sectors included financial institutions, remittance dealers and remittance network providers and bookmakers.

In November 2016 we created a dedicated web page to enable start-up businesses and financial technology ('FinTech') operators to more easily seek advice on compliance and reporting obligations under the AML/CTF regime. Simultaneously, we are building closer relationships with emerging entities and industries to give us early insights into new products and technologies. This enables us to work with industry to better identify and understand risks and opportunities as they emerge, and produce better compliance and intelligence outcomes while reducing regulatory impacts of the regime. In 2016/17, we dealt with over 40 inquiries through this web page.

¹ The report and recommendations of the statutory review is available on the website of the AGD at the following link: <https://www.ag.gov.au/Consultations/Pages/StatReviewAntiMoneyLaunderingCounterTerrorismFinActCth2006.aspx>

As in the previous reporting period, our international engagement helps to ensure Australia's consistency with the global standards for AML/CTF regulation and regulatory approaches, benefiting Australian businesses by:

- building understanding of the ML/TF risks Australian businesses face and the mechanisms for managing those risks.
- reducing potential regulatory burden for businesses operating in more than one jurisdiction.
- Identifying best practises and areas of operational effectiveness that could be applied in Australia.

Our international involvement included the following:

- Being a member of Financial Action Task Force and chairing the Risk, Trends and Methods working group,
- Chairing the Egmont Group of FIUs information exchange working group,
- Being a member of the Asia-Pacific Group on Money Laundering mutual evaluation working group, and,
- Chairing the International Supervisors Forum across 'Five Eyes' nations (comprising Australia, Canada, New Zealand, the United Kingdom and USA).

We continued to improve our online interface for enrolment, registration and reporting to assist remittance network providers manage their affiliate networks.

We continued to provide industry with a range of publications and industry specific guides to reflect knowledge gained through industry consultations and engagement with international organisations. This benefits the sectors by providing greater certainty and clarity around their compliance obligations. AUSTRAC will look to expand this collaborative process. These resources include:

- a searchable online case study hub of 82 case studies. The case studies demonstrate the intelligence value of the reports we receive from industry. They provide indicators to assist reporting entities to detect and report these types of activities
- typologies that describe behaviours used to launder illicit funds or transfer financial support for terrorist organisations
- methodology briefs provide timely intelligence on ML/TF trends, threats and vulnerabilities, and provide indicators to assist detection
- risk assessments (refer to KPI 2 for more detail) that provide insights into the criminal threats and vulnerabilities faced and highly relevant and actionable intelligence for industry
- compliance guidance, including two fact sheets for the gaming industry, feedback on compliance behaviours and specific guidance for the remittance and financial planning sector. Our compliance activities improve industry awareness and the quality of reporting.

Continuous improvement

AUSTRAC will continue to work closely with and support the Attorney-General's Department to develop and implement the reforms arising from the statutory review of the AML/CTF Act. This will deliver an AML/CTF regime that recognises the threats and risks we face, and meets the needs of modern Australian businesses operating in the face of disruptive new technologies and rapidly changing consumer needs and business models.

We are developing a digital servicing strategy that will explore new technologies and delivery models to automate and streamline compliance, support our reporting entities to work with us digitally, and support industry communication. This strategy will include enhancements throughout the entire customer experience chain, starting with an improved enrolment and registration interface.

KPI 2: Communication with regulated entities is clear, targeted and effective



Rating: Fully achieved

AUSTRAC has continued its long standing commitment to clear, targeted and effective communication with REs by:

- providing a person-to-person enquiry service through our Contact Centre
- regular briefings, presentations, workshops and meetings with industry sectors
- encouraging input from industry bodies, as representatives of industry sectors
- engaging with civil society interest groups
- calling for input to consultations through our website

AUSTRAC considers the impact of its advice and decisions on REs and ensures REs are advised in a number of ways according to the requirements of the RE and the circumstance. As in the previous reporting period, this included direct contact with REs, information on the website and bulk email distributions to REs. These include decisions about:

- Applications to register as a remittance service provider – which are advised through direct contact with the applicant, consistently within the timeframe defined in legislation.
- Enforcement actions – which are advised directly to the REs. It is standard practice to publish information about the commencement and resolution of formal enforcement actions on our website.
- Exemptions – which are advised directly to the RE and are published on our website.

Information on our website is a key means for demonstrating consistency in approach and educating REs and the broader Australian community about our approach.

AUSTRAC undertook a significant amount of policy work throughout the year in response to the report and recommendations arising from the statutory review of the AML/CTF Act, Rules and Regulations (KPI 1). AUSTRAC consulted with partner agencies, industry and members of the AUSTRAC Privacy Consultative Committee on a range of matters, including the impact on REs prior to making and registering AML/CTF Rules. We directly communicate with the 280-plus subscribers to the AML/CTF Rules email list. Draft versions are published on the AUSTRAC website for a four-week consultation period and will generally remain on the website until registered or, if a decision is made not to proceed with the draft Rules, they are removed from the website.

We continued to provide industry with a range of publications and industry-specific guides as discussed in KPI 1, all of which are published on AUSTRAC's website.

We produced three ML/TF risk assessments in 2016/17. These assessments provide REs with clear, detailed and actionable intelligence to harden their businesses against criminal misuse. The assessments are developed in close collaboration with industry and government agencies.

AUSTRAC has received significant positive feedback on these risk assessments.

1. We launched our first sector-based risk assessment, on the superannuation sector, in October 2016. Following publication of the risk assessment, we have been working collaboratively with the superannuation sector to develop tailored AML/CTF guidance which focuses on how the AML/CTF toolkit can be applied to manage and mitigate risk.

2. In December 2016 we launched the financial planning sector ML/TF risk assessment. In April 2017 we published a related one-page poster *Financial crime red flags – a guide for financial planners*, which further assists financial planners to recognise potential criminal activity.
3. We launched the stored value cards ML/TF risk assessment in May 2017.

AUSTRAC continuously updates and improves the presentation of readily-accessible online material to assist and support REs. The *AUSTRAC Compliance Guide* was updated to include additional guidance in Chapter 7 – AML/CTF reporting obligations in relation to international funds transfer instruction obligations, and Chapter 6 – AML/CTF program in relation to customer due diligence procedures. REs were notified of these updates via our website and through a targeted email campaign containing a link to specific sections of the guide.

We teamed up with the Australian Remittance and Currency Providers Association (ARCPA) to deliver two educational webinars to the remittance sector. Our aim was to provide education and insights from AUSTRAC and industry on AML/CTF obligations that apply to the remittance sector. The webinars were open to ARCPA members and industry representatives Australia-wide.

We finalised a National Cheque Register Campaign which involved analysing cheque registers from high-risk electronic gaming machine venues, and educational visits to pubs and clubs. Based on insights gained through these activities, two fact sheets were developed for the gaming industry outlining common myths in the sector, as well as some important tips to help pubs and clubs meet their AML/CTF obligations. These were provided directly to pubs and clubs and made available on the AUSTRAC website, and led to increased reporting from this sector. The increased reporting is as a demonstration of the effectiveness of this communication strategy.

We have made improvements to correspondence in relation to the annual compliance report obligation by applying plain English drafting principles to ensure reporting entities fully understand their obligations, and were able to easily submit their report. We saw significant improvements in both the number of lodgements and the timeliness of those lodgements which we take as a measure of the effectiveness of this improved correspondence approach.

Continuous improvement

We are also building on collaboration with various industry sectors, to develop guidance on AML/CTF compliance obligations specific to the sector. Topics being considered include:

- Digital Currency Exchange regulatory guidance
- New RE induction kit
- Independent Remitters Guidance
- Social Security fraud
- Pubs and Clubs guide
- On-line gaming service providers

AUSTRAC will continue to produce highly targeted and relevant ML/TF risk assessments, mature the risk assessments framework and methodology and deepen industry collaboration and partnerships. Topics being considered include:

- Securities and derivatives sector (launched July 2017)
- Not-for-profit sector (launched August 2017)
- Remittance corridors in the Pacific Islands Region
- Traveller's cheques
- On-course bookmakers sector
- Customer-owned banking sector (credit unions, building societies and mutual banks)

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed



Rating: Fully achieved

AUSTRAC commenced the redesign of our supervisory model through the Fintel Alliance² Smarter Regulation program. The Smarter Regulation Program is a Fintel Alliance initiative which represents a fundamental change in the way AUSTRAC conducts its business. AUSTRAC is collaborating with industry to co-design and implement a new model focused on a 'partnership in prevention' approach. This work includes embedding people from industry within our core design and project teams.

The scope of the Smarter Regulation Program covers all aspects of the AUSTRAC regulatory model, including advice relating to the design of the AML/CTF framework, the administration of the regulation and the periodic review of the regulatory framework. The regulatory model defines the manner in which AUSTRAC, as the regulator, delivers value to its stakeholders and fulfils its obligations.

One aspect of smarter regulation completed in 2016-17 was the enhancement of our risk framework through the development of Breach Evaluation and Response (BEAR), which allows us to make evidence-based risk assessments of breaches and structured decision-making for proportionate responses. Applying a risk-based approach to supervision and enforcement equips us to target our information requests and prioritise our supervision and enforcement attention on the highest risk scenarios. During the year, as a result of using BEAR, we applied targeted and proportionate responses to breaches by reporting entities including:

- issuing written notices requesting further information and documentation
- issuing compliance assessment reports
- entity guidance and education
- reviewing remitter registrations.

In some cases an assessment has led us to decide no further action is required.

Another aspect of the smarter regulation program is the development of a segmentation model. This model will prioritise reporting entities according to their regulatory requirements. This represents a move away from a 'one size fits all' approach to regulation, instead recognising there are distinct market segments which reasonably warrant distinctly different engagement models and approaches. We will define our engagement approach based on an integrated model incorporating risk-based, principles-based and responsive regulatory approaches suitable for each market segment.

In 2016-17 we targeted our individual compliance assessment activity (on-site and desk reviews) at high-risk entities. We completed 52 compliance assessments and as a result issued 73 recommendations for improvement to policies and procedures, and 60 requirements to address compliance concerns with respect to AML/CTF obligations. As we move towards an increasingly risk-based approach to regulation, the individual assessment activity we undertake has decreased over time. We are employing a broader range of regulatory approaches to enhance industry's knowledge and capability where it is most needed. For example, we undertook 32 behavioural reviews and implemented campaigns issuing guidance to segments of the regulated population where there have been gaps in ML/TF knowledge and understanding. This included casino junkets, pubs and clubs,

² Fintel Alliance is a public-private partnership committed to combating serious financial crime and terrorism financing. Fintel Alliance brings together the collective knowledge and resources of industry partners and government agencies to enhance our ability to share knowledge, tracking tools and expertise. For more information on Fintel Alliance, visit <http://austrac.gov.au/about-us/austrac/fintel-alliance>.

correspondent banking and the quality of SMRs. We have used the regulatory approach that best fits the ML/TF risk to be mitigated.

Continuous improvement

We will continue to build on the Smarter Regulation program to further identify and understand ML/TF risk at both the macro and detailed level. AUSTRAC and industry will become smarter and more efficient in identifying, disrupting and preventing serious financial crime. Industry will be able to protect themselves and the Australian community from the threats of criminal syndicates and terrorist groups. Industry partners will have greater clarity and certainty operating in the AML/CTF environment. They will receive timely and relevant guidance, education and feedback from AUSTRAC, to strengthen their regulatory processes and improve resilience to criminal exploitation. The Fintel Alliance Smarter Regulation program will explore strategies, products and tools to overcome the challenges government and industry face in the evolving money laundering and terrorism financing environment. We will continue to develop the segmentation model which will prioritise reporting entities according to their requirements.

We are continuing to progress our enforcement and compliance strategy as part of the Smarter Regulation program co-design to ensure our strategies meet the needs of all of our stakeholders. Our enforcement strategy will take into account learnings from current enforcement matters.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated



Rating: Fully achieved

A key AUSTRAC priority is to enable businesses to improve their compliance so they minimise the risk of being misused by criminals for ML/TF purposes.

We are mindful of the variety of industry sectors, designated services and business sophistication in our regulatory environment and as such, we have moved away from a ‘one size fits all’ approach to regulation. As part of the Smarter Regulation program, we have developed the segmentation model (as stated in KPI 3). This approach assists us in incorporating risk-based, principles-based and responsive regulatory approaches suitable for each market segment.

As in the previous reporting period, information about REs continues to be collected and verified, such as:

- compliance assessments of AML/CTF Programs prior to registration of independent remittance dealers and remittance network providers
- various types of information about REs – to understand the size and scope of the regulated population including geographic information, designated services offered and reporting behaviours.

This information allows us to employ targeted regulation and enforcement.

AUSTRAC collates and verifies data about our REs. This process helps us to understand the size and scope of the ML/TF risks faced by our regulated population and includes collecting information on, designated services offered. This information is shared within the agency to inform a range of operational and intelligence decisions.

We share new information and updated guidance with other regulators, where possible and relevant to ensure information collection is minimised and that existing information is utilised. These include risk assessments, methodology briefs, guidance updates, and casino junkets reports.

We collaborated with other Australian Government regulators when working with REs in the same industry sectors. This occurred at a range of levels, including strategic CEO forums, workshops, and project-level activities. Highlights in 2016-17 included working with regulators on:

- issues related to new and emerging FinTech start-up entities in the financial sector
- ‘Know your regulator’ day to share regulatory methodologies
- alerting financial institutions of potential scams, utilising AUSTRAC’s compliance network
- securing the co-operation of reporting entities to provide further information where required in relation to Panama papers
- pubs and clubs and casino junkets.

Continuous improvement

Through the Fintel Alliance smarter regulation initiative, we will continue to collaborate and engage with the financial sector, industry and broader community, including emerging fintech and regulatory technology organisations, to maximise regulatory efficiency, improve communication with—and education of—regulated entities and generate regulatory intelligence.

KPI 5: Regulators are open and transparent in their dealings with REs



Rating: Fully achieved

AUSTRAC endeavours to be open and transparent in its dealing with REs. Where appropriate, AUSTRAC shares, consults and publishes financial intelligence information.

The Smarter Regulation program provides a range of opportunities for AUSTRAC to engage with REs and other stakeholders to ensure our regulatory model is informed by the experience and expertise of the regulated population, and that it is tailored to their needs in order to maximise the outcomes of the AML/CTF framework. By engaging with reporting entities in this way, we also ensure they are fully aware of our regulatory approach and can provide direct feedback when required.

AUSTRAC held its first Smarter Regulation co-design workshops with selected REs from a range of industry sectors. The workshop brought together subject matter experts from government and the private sector to initiate the development of a more effective and efficient regulatory model. It was also an opportunity for REs to raise issues and discuss innovative strategies and approaches to improve AUSTRAC's regulatory approach.

As per KPI 1 and 2, AUSTRAC has consulted with industry as a matter of course, and industry input was invited for a range of regulatory changes in 2016-17. As in the previous reporting period, to ensure transparency with the relevant REs, we:

- targeted REs relevant to the topic of consultation
- engaged with industry associations and other representative bodies on a case-by-case basis

AUSTRAC recognises the importance on sharing and delivering new insights into risks to the financial sector. We have continued to share information, where possible, assisting REs to implement robust and meaningful AML/CTF compliance practices.

We are continually improving the presentation of all our readily-accessible online material to assist and support REs. As discussed in KPI 2, the AUSTRAC Compliance Guide was updated to include additional guidance in Chapter 7 – AML/CTF reporting obligations in relation to international funds transfer instruction obligations, and Chapter 6 – AML/CTF program in relation to customer due diligence procedures. REs were notified of these updates via our website and through a targeted email campaign containing a link to specific sections of the guide.

AUSTRAC's decisions impacting REs are advised in a number of ways as soon as practical. This includes direct contact with relevant REs, information on the website and email campaigns to REs. AUSTRAC has also held co-design workshops to allow REs to inform the development of its new regulatory model and associated risk framework.

AUSTRAC's corporate plan is published on our website within legislative timeframes to ensure accountability to the public. In conjunction with the Portfolio Budget Statement, which is released annually to accompany the government Budget, these documents are used to monitor and assess our performance.

AUSTRAC's annual report is also published on our website within legislative timeframes. This year's annual report includes the Annual performance Statement, as required by the *Public Governance, Performance and Accountability Act 2013*. The annual performance statement is to report the actual

performance results we have achieved over the year against our purpose and planned performance defined at the beginning of the reporting period in our corporate plan.

Continuous improvement

As part of the Smarter Regulation program, we will continue to work in collaboration with REs and industry bodies to co-design a risk model and an engagement framework that is tailored to reporting entities, taking into consideration their nature, size and complexity, and their regulatory needs. When published, the new regulatory model will provide transparency for reporting entities in relation to the risk factors AUSTRAC considers, how their actions affect our perception of the risk associated with their business, and the range of supervisory engagement strategies we will undertake in response to this risk.

KPI 6 Regulators actively contribute to the continuous improvement of regulatory frameworks



Rating: Fully achieved

Improving the regulatory framework continues to be a priority for AUSTRAC. AUSTRAC recognises that our approach to regulation must evolve with the changing environment. The Fintel Alliance Smarter Regulation program (KPI 3) sees AUSTRAC and industry co-designing a supervisory model tailored to reporting entities, their regulatory needs and their nature, size and complexity.

AUSTRAC also undertook a significant amount of policy work together with AGD in response to the statutory review of the AML/CTF Act, Rules and Regulations (KPI 1) to strengthen and simplify the regime. This includes work on the regulation of digital currency exchange providers and providing efficiencies and relief to industry (e.g. deregulating the cash-in-transit sector).

AUSTRAC consulted with partner agencies, industry and members of AUSTRAC's Privacy Consultative Committee on a range of matters prior to making and registering AML/CTF Rules. Draft versions are published on the AUSTRAC website for generally a four-week consultation period and in most instances remain on the website until registered.

As in the previous reporting period, consultation took three key forms:

- issuing a public call for input on the website, with supplementary communications to alert stakeholders
- direct contact with stakeholders most directly impacted by the matter
- working directly with industry associations and other representative bodies, which minimises impact on individual businesses.

We continue to work closely with international counterparts to ensure our approach and processes has been consistent with international standards, and we consider industry feedback in this context.

Continuous improvement

As stated above, continuous improvement is a priority for AUSTRAC. Ongoing development of our internal systems and processes will see continued efficiency improvements while mindful of the need to maintain a robust system.

We will improve our feedback mechanisms to be more readily available and made known to all stakeholders.

AUSTRAC will continue to harness Fintel Alliance as well as other domestic and international partners, to redesign our supervisory model to deliver an approach that is flexible and scalable. More broadly, the Smarter Regulation program fundamentally changes the way we regulate, and anticipates and addresses future challenges. These efforts, supported by investment in regulatory technology, will further the objectives of government and industry to harden the financial sector against criminal abuse.

There will be an ongoing focus on the reform of the AML/CTF Act, Rules and Regulations to develop simpler, streamlined and stronger AML/CTF regime, including developing regulatory models for any future regulation of lawyers, conveyancers, accountants, high-value dealers, real estate agents and

trust and company service providers. This work will be developed in close consultation with industry and government agencies.

Overall conclusion

AUSTRAC recognises the integral role of REs in the ongoing effectiveness of AML/CTF regulation and protection of the Australian financial sector, in fact we believe that it is only in partnership with them that we will adequately address the challenge of combatting money laundering and terrorism financing. Overall, our results illustrate the ongoing value of our work to government and our private and public partners. We have self-assessed our overall performance against the Regulator Performance Framework to be **good**. We acknowledge that there is always room to innovate and improve and we are committed to continuous improvement. We are also committed to continuously reducing the cost of unnecessary or inefficient regulation imposed on our REs. We will continue to collaborate and co-design with industry and partner agencies in the development and modernisation of our regulatory approach.