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3 June 2016

AUSTRAC Industry Contribution
AUSTRAC

By email: Policy_Consultation@austrac.gov.au

Dear Sir/Madam,

AUSTRAC INDUSTRY CONTRIBUTION 2016–17 STAKEHOLDER CONSULTATION PAPER

We refer to the *AUSTRAC Industry Contribution 2016-17 Stakeholder Consultation Paper*. We are writing on behalf of members of the Australian Finance Conference (AFC) and its affiliated associations, the Australian Equipment Lessors Association (AELA), the Australian Fleet Lessors Association (AFLA) and the Debtor and Invoice Finance Association (DIFA), which together comprise over 100 Members. Membership lists can be provided on request. The vast majority of our Members are reporting entities under the AML/CTF Act.

We have previously raised concerns about the appropriate methodology for calculating the Earnings Component of the Industry Contribution. This component is purely based on the “earnings” of a reporting entity and applies when earnings are \$100,000 or over. It does not take into account the earnings which the reporting entity derives from the provision of “designated services”, nor does it take into account the money laundering or terrorism financing risk profile of a reporting entity.

The former Supervisory Levy included a “large entity component”. In Section 3.4 on page 9 of the *Cost Recovery Impact Statement* dated January 2012 AUSTRAC stated as follows (emphasis added):

*The large entity component relates to additional expenses incurred by AUSTRAC in regulating larger entities. Larger entities have relatively more customers and **typically provide products that are more complex over multiple distribution channels and multiple jurisdictions**. In addition, **large reporting entities are relatively more important to the overall integrity of Australia’s financial system**. Accordingly, AUSTRAC applies relatively more supervisory resources toward regulating larger entities compared to small entities. ... AUSTRAC regulates Australia’s largest financial institutions which are central to the operation of Australia’s payment system. **The exploitation of these institutions for money laundering and terrorism financing purposes would have a severe impact on the integrity of Australia’s financial system**. ... AUSTRAC dedicates a significant portion of its supervisory resources to continually:*

- *identify the current and emerging ML/TF risks applicable to large entities; and*
- *monitor and evaluate the effectiveness of an institution’s processes, systems and controls to ensure its ML/TF risks are mitigated.”*

Many of our Members who are liable to pay the Earnings Component provide only a limited range of products, some less than ten. Many do not accept from, or make cash payments to, customers or only allow this up to a limited amount, for example via retail merchants or

agents such as Australia Post. Others provide only simple products that can be classified as “low risk” for money laundering and terrorism financing, for example secured motor vehicle and equipment finance loans provided in Australia to local customers through straightforward distribution channels where the funds are advanced directly to the car dealership or other supplier. We submit that although they may be large, these entities are not of critical importance to the overall integrity of the financial system, nor are their products particularly vulnerable to exploitation for money laundering or terrorism financing.

We understand that the AUSTRAC CEO has, in the past, used the waiver power to adjust both the former “Large Entity” component and the Earnings Component for some reporting entities. We have previously requested more transparency about the basis on which waivers or reductions of the Industry Contribution may be granted and better streamlining of this process. Our members have asked us to repeat that request.

Given that the current AML/CTF regime has been in place for almost ten years and the Supervisory Levy (as it was then known) was first collected in March 2012, we assume that AUSTRAC holds a great deal of information gathered in the course of its supervisory and compliance activities over that period, including data about the cost of supervising certain types of reporting entities, the type of reporting entities that make threshold transaction and suspicious matter reports and about payments and waivers of the Supervisory Levy/Industry Contribution. This information could be analysed to assess what type of reporting entities and financial services require detailed supervision by AUSTRAC, and used to adjust the Earnings Component to take these matters into account.

In summary, we submit that the Earnings Component of the Supervisory Levy should be refined so that it is paid on a more equitable basis which better reflects the importance of particular types of reporting entity to the overall integrity of the Australian financial system and the money laundering/ terrorism financing risk of their business models (including their customer types and the type and number of financial services they offer).

If it would assist AUSTRAC in considering our submission, we can gather more detailed information about the number of threshold transaction and suspicious matter reports lodged by our motor vehicle and equipment financier members and by those that offer only a limited range of products; as well as their overall experience with AUSTRAC’s supervisory activities. If you would like this information or to discuss the matters raised in this letter, please contact me on _____ or by email to _____

Kind Regards,

Yours sincerely,

Catherine Shand
Associate Director - Legal
Australian Finance Conference