Thursday, 13 February 2025

Mr Brendan Thomas
Chief Executive Officer
AUSTRAC
PO Box K534
Haymarket NSW 1240

Via website: https://www.austrac.gov.au/business/consultation-industry/submission

Dear Brendan

Anti-Money Laundering and Counter-Terrorism Financing Rules 2024 (Exposure Draft): First round

Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants (we/our) together with their respective affiliate bodies represent over 350,000 professional accountants in Australia, New Zealand and around the world.

With many more of our members in Australia to become reporting entities (REs) under Australia's anti-money laundering and counter-terrorism financing regime (AML/CTF regime), we welcome the opportunity to raise members' concerns with the Anti-Money Laundering and Counter-Terrorism Financing Rules 2024 (Exposure Draft) First Round (new Rules) for your consideration.

As new REs, our members will look to the new Rules to determine what steps to be taken to be compliant and the timeframes for doing so. As the new Rules will be the arbitrator between an RE and an independent evaluator who reviews the effectiveness of an RE's AML/CTF program, the new Rules must provide clarity on an RE's obligations under law.

Our primary concern is the continued use of language, such as 'governing body' and 'board' to which new REs, particularly sole practitioners, small and micro practices, are unable to relate. As the consultation paper itself adequately explains how such terms relate to an individual, micro or small RE, we seek for this explanation to be noted repeatedly in the new Rules where such clarification is beneficial.

We detail further concerns in answering the questions raised in the consultation paper in Appendix A and provide feedback on specific new Rules in Appendix B.

As articulated in previous submissions, we again seek to understand the requirement for individual, micro and small, low risk, REs to undertake an independent evaluation of their AML/CTF program. As there are no qualifications required of evaluators, they will not be accredited or regulated in any way, and the evaluation report is not provided to AUSTRAC, this obligation is simply a cost to the RE.

The lack of qualifications for evaluators means there is no credibility with respect to their findings and any recommendations to address adverse findings may not be compliant with the regime or improve the effectiveness of an AML/CTF program and could instead be detrimental to a program. Equally, can a RE rely on an evaluators report indicating that an RE's program is effective, with no adverse findings, to mitigate any penalties if a subsequent audit by AUSTRAC finds a fault in the AML/CTF program? Finally, as the evaluation report is not submitted to AUSTRAC, this compliance obligation cannot provide actionable intelligence to, or be considered effective regulation by, AUSTRAC.

While we acknowledge the intent is to meet the recommendations of the Financial Action Task Force (FATF), we understand there is flexibility in how such recommendations are applied in a jurisdiction providing that what a regime requires achieves the desired outcomes. Requiring all REs, irrespective of risk or size, to undertake an independent evaluation appears to be a compliance burden purely for the sake of compliance.

We reiterate our recommendation that the appropriate tool for AUSTRAC to assess the effectiveness of programs for low-risk REs is the annual compliance report all REs must complete. AUSTRAC can tailor the questions to reflect current trends, utilise its knowledge of high-risk factors and further probe unsatisfactory responses using a risk-based approach.

We applaud AUSTRAC for their willingness to consult widely with industry and will continue to convey feedback from our members on the anticipated real-world impacts of becoming an RE. However, we seek your consideration that, for the stakeholder representatives engaging in developing the AML/CTF new Rules and Guides, there are other calls on their time. Therefore, we respectively request that, when seeking stakeholder input simultaneously, which appears inevitable with AUSTRAC's timeline to open consultation on Rules round 2 and a 'bonanza' of guides, to allow at least 6 weeks for input on at least one of these areas. This will enable stakeholder representatives to properly review the proposals and provide considered feedback to constructively inform their further development.

If you would like to discuss the issues raised in this submission further, please reach out to Jill Muir at Jill.Muir@charteredccountantsanz.com in the first instance.

Sincerely,

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Appendix A

Questions posed

General

1. Do any aspects of the Exposure Draft Rules create unnecessary friction with existing approaches to risk mitigation in your business or sector? If so, what are they? Are there alternative approaches that could achieve the same regulatory outcomes?

We are concerned that new reporting entities (REs) will require time to adjust their approaches to consider the risk of money laundering, terrorism financing and proliferation financing. This will require clear, sector specific, guidance from AUSTRAC on the current threat environment and how it manifests in each sector of professional services as soon as practicable.

In line with the consultation paper accompanying the new Rules, to mitigate new REs duplicating their compliance activities, we would like to see a reference to existing protocols regarding 'fit and proper' and wherever else suitable. While the detail would be in the guides, a reference in the Rules would provide additional weight. For example, section 23 of the Rules could have a note that existing protocols under other Australian regulatory bodies and standard setters can be relied on where they meet the requirements of the regime.

We consider the requirement for an independent evaluation of a REs AML/CTF program at least once every three years will create unnecessary friction with the approaches to risk mitigation already required of professional accountants. The Accounting Professional & Ethical Standards Board (APESB) standard APES 320 Quality Management for Firms that provide Non-Assurance Services (APES 320) sets out the existing mandatory obligations on our members to establish and maintain a System of Quality Management to provide it with reasonable confidence that the Firm and its Personnel are complying with APESB Professional Standards and applicable legal and regulatory requirements.

APES 320 specifies that the elements of quality management are governance and leadership, professional standards, acceptance and continuance of client relationships and specific engagements, resources, engagement performance, information and communication, and monitoring and remediation. Critically, while not specifically referring to assessing the risk of money laundering, terrorism financing or proliferation financing, it does require members to comply with applicable legal requirements. Accordingly, members that will become REs would need to expand their System of Quality Management to encompass compliance activities required to meet the AML/CTF regime.

In addition, minimising any duplication of existing approaches to risk mitigation, and as previously stated in submissions to the Attorney General's Department, the proposal to include an independent evaluation as a category in mandatory internal controls in an AML/CTF program will create an acute shortage of appropriately skilled and experienced evaluators. In particular, evaluators that understand the new RE's business and their ML/TF risks. An exponential increase in demand for evaluators may give risk to a risk that unskilled and inexperienced people will take advantage of an RE's obligation to complete an independent evaluation.

For sole practitioners, micro and small businesses, they will need to engage an external person as it is unlikely that they will have the depth of resources to have an independent person within the business. We are concerned that the cost to engage a highly experienced evaluator will see this group of REs choosing an affordable less expensive evaluator that claims they have adequate knowledge and experience.

If the requirement to undertake independent evaluations remains for all REs, to assist sole practitioners, micro and small businesses, AUSTRAC could consider hosting a register of appropriately experienced evaluators that offer their service within a certain price range.

We remain unclear how a review will provide assurance that a RE is implementing their AML/CTF program effectively. As there are no specific qualifications needed by an evaluator, they are not certified or regulated, and their evaluation report is not lodged with or regulated by AUSTRAC, we do not consider this to be an effective compliance activity. We consider the cost of these reviews for small, low-risk REs to be unnecessary and disproportionate to any beneficial outcome or provide a measure of the effectiveness of Australia's AML/CTF regime.

2. **Are any rules not sufficiently flexible to be scalable to specific circumstances of small businesses, sole traders or sole practitioners? Are there alternative approaches that could achieve the same regulatory outcomes?**

We consider many of the Rules will appear insufficiently flexible for sole practitioners, partnerships, micro and small business, noting these are the most common structures of our member firms in public practice, with the use of language not applicable to how they operate. Terms such as 'governing body' and 'senior management' will not resonate with these small businesses. As itemised in Appendix B, we recommend adding a note of how certain terms, such as 'governing body', would apply to such REs at each occurrence of these terms.

In contrast, we find some of the rules are too flexible with insufficient detail and no timeframes. We have itemised in Appendix B where the inclusion of a least a maximum timeframe for undertaking a key compliance task would be beneficial.

3. **Are any rules not sufficiently flexible to be scalable to specific circumstances of large or multinational businesses? Are there alternative approaches that could achieve the same regulatory outcomes?**

No comment.

AML/CTF programs

4. What is a reasonable period of time for you to document updates made to your ML/TF risk assessment or AML/CTF policies?

We note that there is no time period specified for documenting updates under the Section 26D of the Future Compilation of the Anti-Money Laundering and Counter-Terrorism Financial Act 2006 (the Act), being a review of ML/TF risk assessment. We understand that this question seeks to address AUSTRAC's concern, as shared during the Rules & Guidance Working Group – Accounting and Professional Services (RGWG) on 3 February 2025, that they want to ensure updates are not left too long or made years after a change in a risk assessment.

Therefore, if a timeframe is required, we recommend one year. This aligns with AUSTRAC's other regulatory activities, specifically, the annual Compliance Report. This report does ask if a review of a RE's risk assessment has been undertaken and related polices updated and, if not, why not. So any risk arising from a delay in documenting an update following a review of an RE's risk assessment should be detected and rectified as part of AUSTRAC's other regulatory activities.

Reporting groups

5. What are the structures in your industry by which businesses exercise control over one another (e.g. corporate structures, partnerships, joint ventures, franchises, trust arrangements, decentralised operations and platform-based operations etc.)?

For our member firms that are sole practitioners and partnerships, they are not a reporting group as they are not a business group pursuant to s10A of the Act. Accordingly, the issue of control pursuant to section 8 of the new Rules will not be relevant to those firms. Some firms do operate under business groups though as independent partnerships and will rely on clarity being provided in the Rules and in the guides.

However, some franchise structures could be impacted where the franchisor includes a franchisee's business as part of its business regulatory obligations. Within a franchise, it is possible that some franchisees are owned by the franchisor and regulatory reporting functions are undertaken at head office level. We encourage AUSTRAC to consult directly with franchise groups as each franchise arrangement is likely to be different and the regulatory impact will vary accordingly.

6. Where you or your sector use group structures that do not involve ownership or control, what are these structures? Are there any impediments to sharing customer and compliance information within such groups for AML/CTF purposes?

Partners within a practice may also be the shareholders and directors of legal entities formed to, say, hold the assets of the partnerships. In such structures, there are no impediments to

sharing customer and compliance information as it will be generated by the partners and able to be shared between the parties as the single registered reporting entity.

7. **Are there obvious lead entities in each of these structures? If so, what are their common characteristics?**

No, as noted in our response to question 5.

8. **What is the best way to implement a nomination model for a lead entity for structures that do not involve ownership or control of one group member over another?**

We do not perceive there is a need to nominate a lead entity where there is no ownership or control of one member over another.

9. **Within reporting groups, what are the circumstances in which a reporting entity members of a reporting group would want a non-reporting entity to discharge an AML/CTF obligation? Would this extend to discharging reporting obligations (threshold transaction reports, suspicious matter reports etc.)? What benefits would this provide to you?**

No comment

10. **Are there circumstances where reporting groups formed automatically under law would want to combine with other reporting groups and/or reporting entities? Why?**

No comment.

Customer due diligence

11. **Are there practical implementation challenges you anticipate you may face in meeting the CDD obligations set out in the Exposure Draft Rules? If yes, what are they and do you have alternate suggestions as to how the same regulatory outcome can be achieved?**

Broadly, we do not anticipate our members will face practical implementation challenges in meeting the CDD obligations, as those in public practice providing professional services will already be familiar with CDD through meeting similar requirements imposed by other agencies such as the Australian Taxation Office and the Tax Practitioners Board.

We are however concerned with the following elements of the new Part 2 Customer Due Diligence of the Act and associated new Rules:

- concern remains with the use of the word ‘collect’ in regard to the information relied on to identify and verify a customer. In our view, ‘collect’ could be easily misunderstood to mean ‘take a copy of’. We will seek for new Rules Part – 9 Record-keeping [to be drafted] and the core and sector guides to clarify in plain language that taking and retaining a copy of identification documents is not required.

- Further, in the core and sector guides, we will seek inclusion of examples of the particular attributes from identification documents that will meet AUSTRAC's interpretation of Division 3, part 111 (2)(a) of the Act which requires records that 'are reasonably necessary to demonstrate compliance…'.Clarity in the new Rules and core and sector guides will be critical to avoiding adverse findings in an independent evaluation where the evaluator and RE may have different opinions on what must be recorded to demonstrate compliance.

One practical implementation that may arise with section 27(5)(b) in the new Rules, is the requirement to identify the settlor of a trust. We understand this is a prospective Rule so will not impact new REs unless the risk profile of the trustee changes or the trustee seeks new designated services which would trigger undertaking CDD. This may give rise to the issues we have already flagged in previous correspondence that to identify the settlor, who has no impact on the operation of a trust, particularly an existing trust, may prove difficult.

We reference the New Zealand regime and suggest a similar approach instead such that section 27(5)(b) target the risk that a trust is being used to obfuscate funds from criminal activity by requiring a source of funds and/or source of wealth check for the amount provided to settle a trust.

Such a compliance activity would be proportionate to the risk as the settlement amount is commonly minimal, say $10, and can be reasonably accepted as for the purpose of opening a trust, not to obfuscate funds from criminal activity. This would also apply to pre-commencement customers that are trusts where CDD is triggered. Where a substantial amount is provided, a check of the source of those funds should detect if there is a possibility the funds have originated from criminal activity.

Therefore, for your consideration, we recommend replacing identifying the settlor in section 27(5)(b) of the new Rules with '*the source of funds or wealth for the settlement amount'*.

12. Are there any additional circumstances (e.g. particular types of transactions that require the urgent provision of a designated service) in which your sector may need to delay aspects of initial CDD to prevent disruption of the ordinary course of business?

As our members, under their professional standards and other legislative requirements, cannot provide services until a letter of engagement has been signed and CDD equivalent to initial CDD under the AML/CTF regime is undertaken, we do not envisage that there are circumstances that would require delaying initial CDD.

Compliance reports

13. Does the 12-month reporting period of January – December, with a report lodgement period of the following January – March present significant challenges to your business due to conflicts with other Commonwealth, State or Territory reporting or lodgement requirements? What are these challenges?

For our members, in December and January many businesses close, and by association their advisers, therefore the January – March lodgement period will be truncated to two months.

We recognise, in consideration of the breadth of industries the AML/CTF reforms capture, there is no perfect time. We would seek consideration of extending the lodgement period out to April and issuing the Preview Questions as early as possible.

In addition, we seek for consultation with industry to make the report as streamlined as possible, such as using technology to enable REs to skip questions relative to a prior answer. For example, referencing AUSTRAC's Preview Questions for the 2024 compliance report, where it asks if you outsource any functions and the RE selects 'None', the RE should be moved to the next set of questions on its AML/CTF program. Additionally, the form should be pre-filled with the RE's details such as business name and address based on their enrolment details.

Similarly, where an RE identifies as a sole practitioner, partnership, micro or small business, we suggest moving to an alternate version of the form around approvals and monitoring that uses language relevant to these businesses. For example, the question 'Did you report internally to the Board or Senior Management…' does not apply to this type of RE.

We request including discussion on the form and content of the annual compliance report as part of the working and industry groups consulting on the new Rules and guides.

14. Is there a preferable reporting or lodgement period?

See our response to Q 13.

Transfer of value

No comment to **questions 15, 16 and 17** as it is unlikely our members who are or will be REs will be an ordering institution for a beneficiary institution.

Keep open notices

18. Is the information required to be provided in a keep open notice sufficient for you to determine if the customer to whom the notice applies, is a customer of yours?

No comment

19. Are the explanations in the keep open notice and the keep open – extension notices easily understood by you?

We have found several areas that may make understanding Form 1 - Keep open notice difficult.

Under **Explanation of this notice:**

Point 3, reference to exemptions from several sections in the Act. This will require the RE to refer to the Act which, without some experience, they may find difficult to read. We would

recommend adding a short explanation in brackets, as provided in point 4, along the lines of (AML/CTF policies, initial and ongoing customer due diligence).

Point 5, the explanation of the period the notice is in force. This appears to have simply repeated the words from the Act and may leave the RE uncertain when the notice ends. As an initial notice cannot exceed a period of 6 months, for clarity, we recommend the box noting the commencement date be divided and include the end date being 6 months later. This will still facilitate the ability for the AUSTRAC CEO to advise the RE that the relevant investigation has ended and close the notice before the noted end date.

Point 7, that the Notice does not compel a RE to provide a designated service. We are concerned that many REs would then question why they have received the notice and how they should respond if the named customer is not their customer. A further sentence that clarifies what a RE should do if the named person is not their customer, or not seeking to be their customer, would aid understanding.

Appendix B

Feedback on specific Rules

Rule	Concern	Suggestion
7	**List of office holders consider PEPs** By providing a list of who is a domestic PEP, it may be read as a complete list and no regard given to parts (b) – (c) of the definition in the Act.	Include a note to the effect *(refer to the definition in the Act for the full list)*
8	**Lead entity of a reporting group** A complex concept which requires reading the Act for definitions.	A visual representation at a high level would be beneficial (we provided an example in our submission to Round 1 of draft new Rules). We would note that we will look for the core and sector guides to contain examples of a flow chart to work through how a RE will assess if Section 10A of the Act applies. If it does, examples of common business structures such as micro, small and large business which identify the business group, reporting group, lead entity and reporting entity.
9	**Review of ML/TF risk assessment** What does '*as soon as practicable*' mean after receiving a report following an independent evaluation?	Noting we do not support a requirement for all REs to undertake an independent evaluation, to ensure action is taken

Rule	Concern	Suggestion
		within a reasonable time frame, include an indicative timeframe '*and in any event, within 3 months*'
NEW	*At commencement of Division 2 – AML/CTF policies* **One individual, multiple roles** Clarity that key roles in a RE may be held by the same person. Section 26F(4) of the Act places separate obligations on governing body, senior managers and compliance officer.	Add a Rule, under authority in the Act at 26F(4)(g), that captures the explanation in the consultation paper that '*all these roles may be discharged by a single person who may be an individual, sole trader or sole director'*
11	**Who is the governing body** Speaks to 'governing body' which will not resonate with sole director businesses, partnerships.	Include a reminder with a note such as (*this may be a single person, sole trader or sole director, or partner)*
12	**Reporting from AML/CTF compliance officer…** Clarifying where these positions are held by a single person, suggests reporting to self.	Potentially add a part (3) along the lines of '*for an individual, sole director, sole practitioner the AML/CTF program is deemed as meeting this Rule.'* *OR* '*for an individual, sole director, sole practitioner this Rule is deemed to be met on completion of the annual report to AUSTRAC.'*

Rule	Concern	Suggestion
13 **Core guide**	**Pre-commencement employees** This talks to policies for due diligence of employees, new REs may not realise they apply to existing employees at time of registering with AUSTRAC. What is looked for in 'the person's integrity?	In Core guide provide clarity on: • what steps AUSTRAC expects REs to take for existing employees when a party becomes a reporting entity. • Key elements of 'integrity' and if existing protocols, such as APES 320 – Quality Management for Firms that provide Non-Assurance Services and 110 Code of Ethics for Professional Accountants can be leveraged
13	**Due diligence of employees** This talks to policies for due diligence of employees but does not reflect that existing protocols can be leveraged.	For clarity, include a note to the effect the '*existing protocols can be leveraged where steps are documented in relevant AML/CTF policies'*
14	**Providing personnel training** This does not indicate AUSTRAC's expectation of how often personnel undertaking AML/CTF compliance activities should be trained.	To avoid an adverse finding where an evaluator may hold a different opinion to the RE on how often training should occur, this Rule should reflect AUSTRAC's guidance on how often training should occur and include a minimum timeframe.
15	**Requirement to undertake an independent evaluation.** For low-risk REs, sole traders, small businesses, small partnerships, the cost outweighs potential benefits.	We do not support a blanket requirement that all REs undertake an independent evaluation. Alternatives include: • provide an exception for a business under a '*Starter program'*;

Rule	Concern	Suggestion
		• cap the cost of an evaluation or provide a template for evaluators of low-risk businesses which would assist in capping the cost; • provide an exception for REs that are not subject to the Industry Contribution Levy.
15	**Requirement to undertake an independent evaluation.** Grave concerns of a rise in practitioners offering evaluations without any AML/CTF qualifications given the significant increase in the number of REs following the inclusion of tranche two entities. Inexperienced/unqualified individuals may seek to charge a low amount with a view to doing many evaluations of poor quality. The outcome of this being a cost to a RE with no benefit.	We do not support a blanket requirement that all REs undertake an independent evaluation. There must be, in law, minimum qualifications for those can undertake such evaluations so an RE can rely on the report produced as validating, after implementing any recommendations, their AML/CTF program. The situation that a business, after undertaking due diligence, choosing an evaluator and implementing any recommendations being in a position that, if AUSTRAC were to undertake an audit, it would make adverse findings must be avoided. AUSTRAC must specify what experience and qualifications it expects in an evaluator and hold the evaluator responsible, not the RE, if the evaluator's recommendations are not compliant with, or do not bring an RE into compliance with, the AML/CTF regime. Consideration should also be given to maintaining a register of appropriately qualified businesses/practitioners that can undertake such evaluations.

Rule	Concern	Suggestion
16	**Take action to address adverse findings.** Noting that the findings of an evaluation are another person's opinion, rather than law, recourse is needed if the RE disagrees with any adverse findings. We understand the term 'in response to' indicates the right to disagree as the government does to reports, our concern is that this is not commonly understood outside of government and requires a clearer term or additional commentary as suggested.	We recognise that the language 'respond to' is intended to reflect the government's process of accepting, partially accepting or not accepting recommendations in the various reports its received. We are concerned that the common understanding of 'respond to' will be taken to mean to accept and take action accordingly. We seek consideration of other terms that make it clear in the Rules, and which can be expanded on in the guides, that an RE must record what action it takes including if none was taken and the reasons why.
19	**Clarity of who can be a senior manager.** Concerned how this will work in a sole director business and partnerships. Often partners take on their own clients so not the responsibility of a single partner.	Include a note that repeats, condensed, the definition in the Act, for example *(this may be a single person, sole trader or sole director, or partner)*
23 **Core guide**	**Compliance officer:** We are unsure where a RE could look to find some of the information that you 'must have regard to'? For example, 'a serious offence'. Also, little 'regard' can be given to whether an individual is an undischarged bankrupt or has executed a PIA in a foreign country.	Guides will need to provide the sources AUSTRAC consider reliable and accessible to undertaken some of the matters REs need to have regard to. In particular, consider removing 'have regard to' 'foreign law'. Alternatively, draw out regard to foreign law as a distinct matter and add '*where applicable'*.

Rule	Concern	Suggestion
		A further alternative, as noted in the following, is to allow an RE to rely on a self-attestation.
23	**Compliance officer** With a view to ease the burden for micro and small businesses, is 'having regard' satisfied by the person providing a self-attestation/statutory declaration that none of these apply?	Add a note that *asking the questions and recording the person's responses meets 'have regard to' and can be relied on.* For example, refer to TASA determination F2024C00870 which, at section 45, places an obligation on the registered tax agent to declare if any events in part (b) *which are in line with events under this Rule* have occurred.
23	**Compliance officer: Personal insolvency agreements (PIA)** Like bankruptcy, a PIA is time limited. It can be discharged on completion or terminated if the debtor fails to meet the terms of the agreement. The word 'executed' suggest this is a consideration if a person has ever entered a PIA, even if discharged 20 years ago.	Change wording to '…the individual has an undischarged PIA'
23	**Compliance officer** Part (b) and (c) appear to have impact if they ever happened, yet we would question relevance of spent convictions or those from many years prior to considering a person for this role.	Add backward looking time frames – such as *within the last 7 years* - that reflect other timeframes in the AML/CTF Act such as at Part 10 Record-keeping.

Rule	Concern	Suggestion
23	**Compliance officer** No recognition of existing protocols, say, for a member of a professional accounting body.	Add part (g) to the effect that '*existing protocols can be leveraged where requirements are documented in relevant AML/CTF policies*
25	**Why is place of birth needed for an individual?** It is not clear how a person's place of birth is required. The requirement is intended to assist REs 'to meet travel rules' yet in the definition of payer details to travel, the '…*date of birth and place of birth'* is only 1 of 6 possible pieces of information to meet mandatory requirements. Nor do we do not see how it enhances 'reports to AUSTRAC' as the information that travels with value transfers is a record-keeping and transmitting function not a reporting requirement. Further, if alternate methods have been used for CDD under Rule 38, place of birth may not be collected.	Remove the specific requirements to collect an individual's place and date of birth for the 4 designated services noted in part (1), Replace with (2) The reporting entity must collect and verify the information required under the definition of 'payer information.'
25	**Why is place of birth needed for an individual?** Where place or date of birth cannot be verified, for example for indigenous Australians, immigrants, the elderly, can REs rely on section 38 of the new Rules 'Deemed compliance'?	If place of birth is retained, add note to Rule 25 to the effect *(if customer is unable to provide information refer to Rule 38)*
27	**Why is there a need to confirm the ID of a settlor of a trust?**	As the risk of a trust being used to launder illegally gained funds is connected with the source of funds of the settlement amount, we recommend replacing identification of a settlor with

Rule	Concern	Suggestion
	As a settlor has no influence on disbursements, we do not see the value of this proposed Rule.	a requirement to clarify the source of funds or source of wealth for the settlement amount. Refer our response to Question 11.
34	**What is 'simplified CDD'?** The Act says to refer to the Rules, the Rules say refer to the Act, no actual 'steps' are provided.	The lack of detail, relying on a RE to determine what is needed based on outcomes, is insufficient. Further detail is needed so REs can be confident of the minimum requirements and accordingly evaluators are on the same page. Examples through case studies can further expand on the detail in guides.
40	**Who is a foreign PEP?** For readers, having seen section 7 of the new Rules which appears to define a domestic PEP, the lack of detail here may be confusing.	Direct readers by adding a note *(refer to the definition in the Act)*
NEW	**Division 7 – Reliance on collection and verification of KYC information (software)** Many REs may interpret this as referring to 'outsourcing' more broadly. It is common for REs to outsource some or all compliance functions to software providers. While this section is not referring to outsourcing to non-REs, we are concerned that readers will be confused by the absence of any direction to this common practice.	Include a note at the start of this Division, re: outsourcing compliance activities to non-REs, such as software providers, that such outsourcing must meet AUSTRAC's guide 'Outsourcing to help meet your AML/CTF obligations'.

Rule	Concern	Suggestion
44&45	**Remove reference to 'copy'** Part (d) refers to '***copies*** *of data used*' which may be taken to create a need for the other RE to take copies of documents relied on.	Suggest change wording to be in line with part (c) to say *…to obtain* ***all*** *of the data used…*
Query	**Clarity of the term 'restructuring' in Table 6/item 6.** Would selling an underperforming asset and focussing of other parts of the business, a change in directors to take a new strategic direction or if you engage a third party to review the business constitute 'restructuring'.	Add a note that provides the level of change AUSTRAC considers to be restructuring. We reference accounting standard AASB 137.10 as a possible guideline: A restructuring is a programme that is planned and controlled by management, and materially changes either: (a) the scope of a business undertaken by an entity; or (b) the manner in which that business is conducted.
	Core guide	As the following information may assist an RE or potential RE to understand what is, and is not, captured, we suggest including in core and sector guides that, under the *Corporations Act 2001* Sect 9AD(1) parts (c) – (i), registered liquidators undertaking a formal insolvency are considered an officer of the corporation. This expressly includes restructuring practitioners, both as appointed to company and appointed to a plan. Accordingly not captured.

Rule	Concern	Suggestion
Query	**Order of 'Parts' in the Rules** We would like to discuss where proposed Part 9: Record Keeping best fits.	As record-keeping is key to compliance, we suggest moving this section to Part 4 as the RE needs to know what to record as they develop their AML/CTF program, policies and procedures to provide designated services. This is particularly important when seeking to address how a sole trader/sole director/partner makes records in situations where the same individual discharges the responsibilities of a governing body, senior management and compliance officer.
Query	**AUSTRAC Guidance materials** How can you download guidance material? While many people will read online, many others do not have access to reliable internet or when visiting customers/potential providers on site, may not carry a means to access documents online.	Request that AUSTRAC facilitate the ability to download a copy of a guide. Hyperlinks to relevant Rules/Act should be included to facilitate easy navigation between requirements as the reader works through guides.
Query	**Rules or Regulations** We note on AUSTRAC's web page and in some guides, a reference to 'AML/CTF Act, Rules, regulations'. A search for the 'AML/CTF' regulations' indicated that none exist. While the term may be referring to AUSTRAC's regulation activities, it may mislead new REs and raise concerns in regard to where they can find the 'Regulations'.	To avoid confusion, and that many new REs may not be aware of the significance of an upper or lower case 'r' in the word 'regulations', when referring to legally enforceable instruments, AUSTRAC should limit the reference to AML/CTF Act and Rules in web pages and Guides.