

31 January 2017

Financial Crime Section
Attorney-General's Department
3-5 National Circuit
Barton, ACT, 2600

By email: antimoneylaundering@ag.gov.au

Dear Sir/Madam

Options for regulating accountants, lawyers, conveyancers, real estate agents, high-value dealers and trust and company service providers

We appreciate the opportunity to respond to the industry consultation papers issued by the Attorney-General's Department. We have also had the opportunity to discuss the consultation with the Chartered Accountants Australia and New Zealand in relation to their submission.

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We recognise the importance of Australia having the necessary measures in place to fight money laundering, terrorism financing (ML/TF) and other serious crime. We also recognise that all Australian businesses that are vulnerable to such activities should adopt appropriate and proportionate measures to address the ML/TF risks they face.

Our response below focuses on the matters raised in the consultation paper regarding accountants. However, our response is also relevant to the matters raised in the consultation papers regarding real estate professionals and legal practitioners.

Scope of services

We note the consultation paper regarding accountants attempts to distinguish between accountancy, auditing, compliance and assurance services as to whether these services should be subject to AML/CTF regulation.

We recommend that the regulatory focus should be on the activities identified by FATF that pose a high ML/TF risk, as set out in FATF Recommendation 22. In our view, this approach has the advantage of reducing the need to define 'accountants' and/or the various services identified in the consultation paper, while achieving the objectives set out in the consultation paper on a risk based approach.

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Lessons from other jurisdictions

Based on our discussions with other Deloitte network member firms, the jurisdictions that have applied extensive AML/CTF regulation to accountants has required significant investment in infrastructure, IT systems and specialist staff by the regulated entities without corresponding benefit. In our view, it is important to ensure that the required investment provides an appropriate return in addressing ML/TF risk. In this regard, we support the intended cost / benefit analysis exercise as an important initiative in this consultation process.

We also note that many of the IT systems used by Deloitte Australia (some of which could be leveraged for meeting future AML/CTF obligations) are centrally managed within the global network. Changes to such systems and additional functionality often requires significant lead time. As such, regulatory certainty will be required well in advance (i.e. at least two years) of when compliance is expected to commence, to ensure the necessary systems and processes are in place.

Enrolment obligations

We support the enrolment requirements applying to all entities that provide a designated service. We believe that it would provide a comprehensive and real time visibility of the regulated population. We also note that there are plans to provide public access to the Reporting Entities Roll maintained by the AUSTRAC CEO and as such, a complete public register of reporting entities in one location would be beneficial to users of the register.

Customer due diligence (CDD) and ongoing customer due diligence (OCDD) obligations

In our view, any business that performs engagements or projects for a client that is a designated service should be subject to CDD and OCDD obligations. Accordingly, we do not support CDD or OCDD obligations extending to all clients of reporting entities.

Reporting obligations

In our view, it is appropriate to apply all reporting obligations to businesses where the circumstances give rise to those obligations. For example, Deloitte Australia does not accept cash from clients in Australia, nor sends/receives international funds transfer instructions; accordingly, only suspicious matter reporting obligations would be relevant to our business.

We note that there are proposed amendments to *APES 110 Code of Ethics for Professional Accountants* that are currently being consulted on with industry. Under the proposed amendments, in certain circumstances professional accountants would be required to report a client's non-compliance with laws and regulations to an appropriate authority even when there is no legal or regulatory requirement to do so. As such, a mechanism to enable the voluntary reporting of suspicious matters by entities that are not subject to AML/CTF regulation may assist those entities in discharging their professional responsibilities. We believe it could be appropriate to make such reports to Australia's financial intelligence unit AUSTRAC, subject to the necessary protections being in place.

AML/CTF programs

We consider that the applicable components of the AML/CTF program should accord with FATF Recommendation 18. However, where there is a limited scope of designated services caught by the AML/CTF regime, the program components such as employee due diligence requirements should account for this reduced scope of services and be tailored accordingly.

Further consultation with industry

We note that there are plans to hold roundtable discussions with industry following submissions. We would be happy to participate in any relevant roundtable discussions or other innovative means for future consultation, such as video conference, short surveys or live chat sessions with industry.

If you have any queries in relation to this submission please do not hesitate to contact Heather Park via email at heapark@deloitte.com.au or on +61 3 9671 7934.

Yours sincerely



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