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Department of Home Affairs

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## **Consultation paper - 2026 Reforms to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)**

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 173,000 members working in over 100 jurisdictions and regions. CPA Australia has over 30,000 members in public practice in Australia, serving our communities as trusted advisers who provide business advisory, tax, financial planning, reporting, auditing/assurance and insolvency-related services.

With many of our members to become reporting entities under the AML/CTF regime from July 2026 we make the following comments.

### **Part 1: A power to prohibit or restrict high-risk products, services or delivery channels**

Based on the explanation provided in the '2026 Reforms to the AML/CTF Act' consultation paper (the Consultation Paper), we cannot support the development of the proposed new framework and its extension to the designated services described in Table 6 of s6(5B) (Table 6 designated services) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* as it takes effect from 31 March 2026 (AML/CTF Act).

Currently, the AUSTRAC CEO has powers to cancel, suspend or impose conditions on the registration of reporting entities on the Remittance Sector Register or Virtual Asset Service Provider Register. There is significant difference between remittance or virtual assets services and Table 6 designated services. The Consultation Paper does not clearly set out what behaviour potentially perpetrated through the provision of Table 6 designated services the proposed framework is intended to address and how the proposed additional powers of the AUSTRAC CEO would be practically applied in respect of Table 6 designated services. This lack of clarity is concerning when a power such as the one proposed is considered.

The AML/CTF Act contains significant penalties for breaches of the Act. CPA Australia considers that these are sufficient and appropriate to address criminal behaviour on a reporting entity-by-reporting entity basis which is, the most appropriate way to address criminal behaviour perpetrated through the exploitation of professional services providers.

Professional services generally do not lend themselves to sector-wide AUSTRAC action, as may be the case for remittance or virtual asset services. This can be likened to the ATO's identification of a promoter penalty scheme, where it directs its compliance action squarely at the unlawful behaviour rather than targeting or shutting down an entire professional sector. The ATO's approach centres on stopping the specific conduct that constitutes the promotion of a tax exploitation scheme. This targeted response ensures that only those engaging in illegal promotion are held to account, while legitimate advisers and the broader profession remain unaffected.

### Legislative Instrument

CPA Australia recommends that the Department of Home Affairs reconsiders the use of legislative instruments as a means of extending the power of the AUSTRAC CEO. Given the subject matter, it is assumed that the intent of the proposed framework is to enable the AUSTRAC CEO to act with speed and agility when addressing certain products, services or delivery channels considered by the AUSTRAC CEO to be of a high-risk nature. If this is correct, the legislative instrument process may hinder a timely response by AUSTRAC to an identified risk. The registration of a legislative instrument is dependent upon when Parliament sits and can take up to 36 sitting days to resolve where it is subject to a motion to disallow (please see the diagram below). As such, it is not the appropriate mechanism to quickly and effectively thwart money laundering or terrorism funding activities. The potentially drawn-out nature of the disallowance process makes such an instrument particularly inappropriate in situations of such urgency that consultation with AUSTRAC is not conducted. The effect would be that neither consultation nor urgency are achieved.



Source: Parliament of Australia Guide to Senate Procedure No. 19 Disallowance

### Part 2: Amending the definition of ‘financing of terrorism’

We support the amendment to the definition at section 5 of the AML/CTF Act to give effect to new proposed offences related to the financing of a state sponsor of terrorism, noting that the proposed amendments would ensure that all Criminal Code offences related to terrorism financing, including financing a state-sponsor of terrorism, are explicitly included under section 5 of the AML/CTF Act.

The Attachment sets out CPA Australia’s response to the consultation questions. If you have any queries please contact Neville Birthisel, Advisor - Regulation and Standards, at [neville.birthisel@cpaustralia.com.au](mailto:neville.birthisel@cpaustralia.com.au).

Yours sincerely

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## Attachment: Consultation Questions

### Part 1: A power to prohibit or restrict high-risk products, services or delivery channels

**1. Do you have any views on the scope of this power applying to the provision of all designated services, or should the power be limited to registrable services?**

Yes. The proposed framework would enable the AUSTRAC CEO to restrict or prohibit certain high-risk products, services or delivery channels on a sector-wide basis. This may be appropriate for the remittance or virtual asset services sectors, although we have no position on that, however, it is not appropriate for the types of designated services set out at s6(5B) of the AML/CTF Act.

The imposition of sector-wide prohibitions may cause significant harm to the professional services industry and the countless small businesses operating within the sector, without necessarily curbing the bad behaviour. Money laundering and terrorism funding in this sector is better addressed on a reporting entity-by-reporting entity basis through the numerous penalties and sanctions already available to the AUSTRAC CEO in the AML/CTF Act.

**2. What products, services or delivery channels that enable designated services to be provided pose money laundering, financing of terrorism or proliferation, or serious crime risks that are difficult for reporting entities to manage and mitigate?**

The services and delivery channels, together with their respective vulnerabilities, for designated services described in s6(5B) of the AML/CTF Act are set out in tables contained within the draft and currently confidential Risk Guide for the accounting profession as shared by AUSTRAC on 11 November 2025 and forming part of the Starter Program.

CPA Australia is not as well-placed as AUSTRAC or other regulators, experts in or providers of intelligence in financial crime to respond to this question. However, CPA Australia considers that where a reporting entity is compliant with its AML/CTF obligations, any difficulty the reporting entity faces in managing and mitigating their vulnerabilities will depend on the particular designated service being exploited and the sophistication of the perpetrator.

However, the new framework proposed in the Consultation Paper will not assist with this management or mitigation as the designated services described in s6(5B) of the AML/CTF Act are usually bespoke to the client's circumstances and do not lend themselves to sector-wide prohibitions. Rather, sector-wide action risks significantly disrupting legitimate activity and transactions within the sector.

It is more appropriate for the professional service provider as a reporting entity, in satisfying their obligations under the AML/CTF Act, to mitigate these vulnerabilities to the extent possible, and for AUSTRAC to keep reporting entities informed of the latest trends in money laundering and terrorism financing activities, including those relating to particular sectors, and how those activities may be identified and mitigated.

**3. What criteria should the AUSTRAC CEO be required to apply when making a decision to restrict or prohibit a high-risk product, service or delivery channel?**

Significant consideration should be given to the activities of the individual reporting entities within the sector their customers and any other stakeholders who may be indirectly affected, prior to making a decision which would impact an entire sector.

As set out at 1. and 2. above, due to the bespoke nature of the provision of professional services listed in Table 6, s6(5B) of the AML/CTF Act, sector-wide action is not an appropriate response to identified high-risk products, services and or delivery channels involving professional services sector.

**4. Do you have any view on the proposed consultation and legislative instrument requirements when a decision is made and prior to it coming into effect?**

Yes. Any consultation should be open, public and should not be restricted to ‘persons who are reasonably likely to be affected by the decision.’ The right to make a submission should be available to any concerned party and should be accepted and considered as part of the consultation.

We have particular concern ‘where consultation is unable to take place’ and the due diligence and oversight occurring in those situations.

As stated above, legislative instruments can take a considerable time to come into force. Therefore, they are not the appropriate legislative tool where speed and agility to counter money laundering or terrorism financing is required.

**5. Do you propose any particular safeguards or restrictions to the proposed new power for the AUSTRAC CEO to restrict or prohibit high-risk products, services and delivery channels and, if so, what should those safeguards be?**

Yes. The restricting or prohibiting of high-risk products, services and delivery channels should only be a last resort where all action at a reporting entity level has been exhausted. Additionally, it should be recognised and acknowledged that restricting or prohibiting of high-risk products, services and delivery channels on a sector-wide basis is not appropriate and may be ineffective and/or harmful to some sectors.

**6. Are you satisfied that the proposed model adequately captures products, services or delivery channels that enable the provision of designated services that may be high-risk now, or in the future?**

No. The model proposes to apply the new framework to Table 6 designated services without explaining the specific mischief imagined. This makes it very difficult to determine whether the proposed power will have significant, if any effect. We do not consider that the proposed framework is the appropriate vehicle to combat and prevent money laundering, sanctions evasion, financial crime and other forms of transnational, serious and/or organised crime facilitated by these types of designated services. Rather, we believe that the penalties and sanctions currently available to the AUSTRAC CEO within the AML/CTF Act are adequate and appropriate to address such behaviour.

**7. Do you think the proposed offence penalty is sufficient to deter continued use of banned or restricted products, services or delivery channels?**

No. Penalties, regardless of the nature or amount, will never deter all bad behaviour. Rather the focus should be on timely education and communication alerts to maximise intelligence gathering so that money laundering and terrorism financing can, to the extent possible, be identified early and countered.

**Part 2: Amending the definition of ‘financing of terrorism’**

**8. What concerns, if any, do you have with the proposed amendment to the definition of ‘financing of terrorism’?**

The proposed amendment appropriately reflects the changes to the Criminal Code and offences against sanctions imposed under United Nations Security Council 1267 and successor resolutions which had been inadvertently removed from the definition by amendments to other legislation.

**9. Are the amendments to the definition likely to impact your entity’s AML/CTF program, noting your existing obligations and the consequential nature of the amendment?**

No. We do not believe that the amendments to the definition are likely to impact the vast majority of our members.

We do note that, according to the Consultation Paper, ‘reporting entities would be required to incorporate the amended definition of ‘financing of terrorism’ when satisfying their obligations under the AML/CTF Act’ and may question precisely what this will mean in practice. Guidance from AUSTRAC would be of assistance here.