REPORTING ENTITIES BEWARE: AUSTRAC IS BECOMING MORE ACTIVE AND GETTING MORE POWERS

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There are good reasons to suspect that we may soon see increased enforcement action from the anti-money laundering and counter-terrorism financing (**AML/CTF**) regulator, Australian Transaction Reports and Analysis Centre (**AUSTRAC**).

Historically, AUSTRAC has not been particularly active in exercising its existing enforcement powers. The 2015 review of Australia's AML/CTF effectiveness by the inter-governmental policy making body Financial Action Task Force (**FATF**) found that AUSTRAC had not taken sufficient enforcement action to ensure compliance by industry. The majority of compliance issues identified by AUSTRAC were voluntarily remediated by reporting entities based on recommendations issued by AUSTRAC. However, recent events, including the record AUD45 million civil penalty awarded against a gaming entity earlier this year together, with the civil penalty proceedings initiated in relation to allegations of non-compliance with AML/CTF law in the banking industry, show that AUSTRAC appears to be getting more active exercising its powers.

In addition to the increased enforcement activity, new enforcement powers currently being considered by Parliament, if passed, will give AUSTRAC the power to issue infringement notices for a greater range of regulatory offences. These powers will include the power to issue remedial directions to a reporting entity to retrospectively comply with an obligation that has been breached. Currently, AUSTRAC only has the power to issue directions requiring reporting entities to take specified action to ensure that AML/CTF laws are not contravened in the future.

Accordingly, with an increasingly active regulator which may soon have enhanced powers, it is important for providers of designated services under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (**AML/CTF Act**) to ensure that not only your AML/CTF program is compliant, but that it is also implemented and forms part of your day-to-day compliance framework. In circumstances where many organisations are receiving cash transfers via a host of innovative digital payments methodologies, areas of your AML/CTF program to be watchful of are:

- customer due diligence
- ongoing customer due diligence
- politically exposed persons
- suspicious matter reports
- threshold transaction reports.

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Existing AML/CTF law requires reporting entities to undertake regular independent reviews of their AML/CTF programs. If you haven't undertaken an independent review recently, now is a good time to do so.

Please contact us if you need assistance with an independent review or compliance with your obligations under the AML/CTF Act.

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