

27 June 2025

Mr Daniel Mossop
National Manager
Policy, Rules and Guidance
AUSTRAC

Via [portal](#)

Dear Mr Mossop

Second consultation on draft Anti-Money Laundering and Counter-Terrorism Financing Rules

COBA thanks AUSTRAC for the opportunity to provide feedback on its second draft Anti-Money Laundering and Counter-Terrorism Financing Rules 2025.

AUSTRAC's approach to Rule and Guidance development and implementation

COBA thanks AUSTRAC for its continued and open engagement with industry since the release of the first exposure draft Rules in December 2024. We appreciate AUSTRAC's willingness to engage and work with our members through recent workshops and roundtables. This has provided a productive and effective means to work through our members' concerns on both the Rules and Guidance.

However, our members continue to be concerned with the short implementation period of 31 March 2026, due to the continuing uncertainty around certain key elements of the regime. Many sections of the Rules may need to be redrafted, and the Guidance is yet to be finalised. Until these elements are finalised our members cannot plan or commission what are expected to be significant updates to systems and processes.

COBA has closely worked with both the ABA and AFMA throughout this process and there is strong alignment across the three organisations and our memberships in our concerns regarding the new AML/CTF regime. We particularly note the shared desire for careful and realistic planning for an achievable implementation timeline. This would include an assisted compliance period with appropriate regulatory safeguards. COBA welcomes the opportunity to work with AUSTRAC on how best to develop this approach and how to best ensure certainty for our members.

COBA appreciates the openness with which AUSTRAC has been on considering the need for approaches. We note that the Department of Home Affairs will work on creating Transitional Rules for International Funds Transfer Instructions and we look forward to working with the Government on these in due course.

Draft Rules and Guidance

COBA believes that the draft Rules need more clarity, and that many issues require further Guidance. We remain concerned that many changes in these Rules will increase the regulatory burden on our members above and beyond what is currently required. We are also concerned that, despite AUSTRAC's assurances the new regime is intended to be principles-based, it instead increases the prescriptiveness of the reporting burden.

We have provided more detailed feedback on the draft Rules in **Appendix A**. While noting AUSTRAC's responses to earlier feedback in its Consultation Paper, our comments in this submission should be read in conjunction with our first exposure draft submission. We encourage AUSTRAC to revisit those comments and to again consider the feedback we provided at that time.

We thank AUSTRAC for taking our views into account. Please do not hesitate to contact Robert Thomas, Senior Manager Policy (rthomas@coba.asn.au) if you have any questions about our submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Lawrence', with a stylized flourish at the end.

MICHAEL LAWRENCE
Chief Executive Officer

Appendix A – COBA comments on second draft AML/CTF Rules

Focus area	COBA Comment
Part 1 Preliminary	
Section 1-4	<p><i>Definition of “card-based pull payment”</i></p> <p>COBA seeks additional clarity on this definition’s boundaries. Is it AUSTRAC’s intention for this definition to include everyday card purchases and, if so, would this mean that each international merchant transaction would need to be reported? Currently these are exempt from Pt 5 of the Act, but it does not appear that this exemption has carried over into the new Act or draft Rules. The only relief we can identify is that reporting entities will not need to collect and verify information before passing on the instruction.</p>
Section 1-5	<p><i>Definition of “domestic politically exposed person”</i></p> <p><u>(j) head (however described), or member, of a local government council in a State or Territory</u></p> <p>COBA wishes to reiterate our concern with the inclusion of these persons due to the significant number of councils, and elected members of these, across Australia. We expect that this will impose an impost on our members to keep records of local council members where existing politically exposed person (PEP) list providers do not curate these. This is also likely to lead to duplicative records across different organisations.</p> <p><u>(k) any other office or position ... of a government body of a State or Territory ...</u></p> <p>COBA seeks further guidance on the remit of this provision as the current drafting is very broad. As highlighted during industry workshops, the current PEP screening lists may not hold this information. This is likely to create an impost on our members where these are not curated by the existing PEP list providers. Further, it will be difficult for our members to work out what all the relevant State and Territory government bodies are and who sits on them, especially as this information is not always made publicly available.</p> <p>We also highlight that our members have screened their current customers under the old PEP definition. We seek clarity on whether our members will need to re-screen existing customers under the new definition. Re-screening customers will be a significant and expensive exercise, and we believe that this new definition should not be applied retrospectively.</p>
Section 1-9 and section 1-10	<p>COBA seeks clarity on AUSTRAC’s expectations on how these reporting groups are expected to work during a merger or acquisition. This is particularly important given mergers of peers are common in our sector. It is unclear in these circumstances who is the controlling group or the lead group during the merger process.</p>

	<p>However, we would envision that these issues would only last during the merger process and would resolve on completion of the merger and the new entity or group is formed.</p>
<p>Part 4 AML/CTF Programs</p>	
<p>Section 4-4</p>	<p>COBA seeks clarity on how AUSTRAC intends to apply this provision and whether it expects any significant changes to its pre-existing annual compliance questionnaire. Is it intended for this reporting under s 4-4 to include compliance with the procedures, systems and controls provided for in s 26F of the amended Act? For example, will AUSTRAC expect reports on relatively insignificant events and control testing. We particularly seek guidance on the sufficiency and granularity of reporting.</p>
<p>Section 4-5</p>	<p>COBA requests guidance on how AUSTRAC defines ‘integrity’ and how it expects reporting entities to measure this.</p> <p>We also seek clarity on how the requirement to assess ‘skills, knowledge and expertise’ is to be applied to junior or new staff. Our members are particularly interested in how this should be applied to when they hire inexperienced staff for frontline roles knowing that appropriate training will be supplied in due course.</p>
<p>Section 4-6</p>	<p>COBA seeks clarity on the application of s 4-6 of the Rules and s 26F(4)(e) of the amended Act in instances where staff do not perform functions under the Act, have no responsibilities under the program, and no risk exposure that would require them to undergo training. We note that this may be more relevant to short-term contractors.</p>
<p>Section 4-10</p>	<p>COBA seeks clarity on AUSTRAC’s expectations are on what “As soon as practicable” would entail.</p>
<p>Section 4-11</p>	<p>Section 4-11(3) appears to infer that Day 2 onboarding can no longer be used by our members and would contradict what is stated to be intended by delayed verification. The need to have the senior manager sign off prior to the provision of designated services will be challenging for small ADIs which currently do this as a Day 2 action as part of onboarding. COBA members have limited resources to undertake these checks in real time as appears to be suggested. This would provide an unfair competitive advantage to larger banks.</p>
<p>Section 4-19</p>	<p>As currently drafted, this provision appears to contradict AUSTRAC’s stated intention to shift AML/CTF from a compliance focused to an outcome focused regime. This is particularly evident in the requirement of s 4-19(1) to require that entities document certain assessments and policies “within the period ending immediately before the reporting entity first commences providing a designated service to a customer”.</p> <p>COBA seeks clarity from AUSTRAC on what exactly it intends the AML/CTF Program to be. Our members understands that it is not intended to be a single document and that it consists of the risk assessment and other various policies. The requirement to update within 14 days confuses this intention. However, if AUSTRAC retains this requirement, then a period longer than 14 days should be provided to accommodate</p>

	internal approval processes. We believe that 21 days is appropriate to ensure good governance in these changes.
Part 5 Customer Due Diligence	
Section 5-1	We are concerned that as there will no longer be matters prescribed for individuals. This may make it very difficult for entities to ascertain what is meant by simplified customer due diligence as there will not be any minimum requirements for the standard. We are concerned that as there will no longer be matters prescribed for individuals. This may make it very difficult for entities to ascertain what is meant by simplified customer due diligence as there will not be any minimum requirements for the standard. It is possible that unless AUSTRAC clearly outlines its intention in the guidance that many reporting entities will simply continue with their current processes, which may no longer meet AUSTRAC's expectations.
Section 5-2	COBA requests additional guidance on what AUSTRAC's expectations are on the following matters within this provision: <ul style="list-style-type: none"> • (2) – What is the level of granularity required to know the nature of the customer's business? • (3)(b) – Will company searches be sufficient or will organisational charts be required? • (3)(c), (5), (7) – Are these just for directors or will this also apply to the executive team? Can this data be held on forms or verification documents or must a data point be captured in the customer systems? We also note that there is no public register for the director identification number which will make it challenging for our members to verify this piece of data. • (4) – We note that not every company is required to have a constitution, as they can operate under the replaceable rules in the <i>Corporation Act 2001</i>. In these instances, how would our members satisfy the requirement under this provision?
Section 5-3	COBA notes that this provision is a significant increase in requirements compared to the current law. The requirement to establish and verify an agent's identity at the same level as an individual customer is a significant shift and will be burdensome on our members. For example, regarding enduring powers of attorney, our members currently collect the name and evidence of the existence of the power but do not verify this detail. We foresee that requiring extra verification will cause significant issues for our members' Treasury customers and for verifying details with government agencies, like the State and Territory Public Trustees, as these entities will generally give lists of potentially dozens of people who could act on their behalf. The new requirement would likely require a full data collection and verification of all these agents. We also do not believe that delayed verification provides sufficient relief as it will likely take more than 30 days to collect the data. <p>Additionally, the changes around verifying officers will see that these can only be used for collecting but not verifying of information. Removing these officers will make it more challenging for our members to undertake the necessary level of verification.</p>

	We believe it would be appropriate for this provision to be shifted away from requiring the rigid initial customer due diligence approach by adopting a risk-based approach. This would see extra data being collected as appropriate during ongoing customer due diligence with high-risk customers.
Section 5-5	<p><i>Seeks designated services</i></p> <p>COBA notes that it is difficult for our members to determine that a customer needs to be subject to enhanced customer due diligence (ECDD) at the time of the customer ‘seeking’ the service. It is only possible to determine ECDD need once a transaction pattern has been established. Our members cannot form a view on the customer until this pattern has emerged which can then lead to an examination of the three paragraphs prescribed in this section and for determination to be made on whether to apply ECDD.</p> <p><i>Large transaction</i></p> <p>Clarity is needed on what would constitute a ‘large transaction’ and what would be required to conduct ECDD on each large transaction. The points raised in this provision appear to be covered by s 32(b) of the amended Act and would require the lodging of a suspicious matter report (SMR).</p>
Section 5-9	This provision appears to conflict with the requirement that a Senior Manager provides authorisation prior to an entity giving a designated service. We especially note the potential conflict regarding PEPs as needing a sign off prior to the PEP commencing the designated service.
Section 5-12	COBA seeks clarity on AUSTRAC’s intended treatment of pre-commencement customers, particularly those onboarded prior to 12 December 2007, following statements by AUSTRAC that these customers would be grandfathered into the regime due to the significant burden to re-identify and reverify these customers. Will these customers require initial customer due diligence to be done prior to the provision of a designated service? If so, will this need to be done prior to 31 March 2026 because as at that date they will be conducting a transaction that is a deemed a designated service. Currently, the provision is silent on those customers who were subject to identification under the <i>Financial Transactions Records Act 1988</i> that existed prior to the AML/CTF Act 2007. Our members estimate these customers can make up to 50% or more of their customer base and would be a significant and costly undertaking to perform.
Section 5-14	We seek clarity on whether our members will need to gather data on the beneficiary and whether there is a need to verify this data. We note that, if so, this is a greater obligation than required under the current law.
Section 5-20	Guidance is needed on how AUSTRAC expects entities to monitor for some of these offences. For example, it is unclear how our members are expected to monitor for murder and grievous bodily harm under s 5-20(b)(f). Further, clarity is required on whether entities will need to have specific rules to monitor for each of these offences.
Part 7 Transfers of Value	
Section 7-3	COBA seeks clarity on whether any included payer information above the minimum requirements must be verified. For example, if a piece of information in paragraph (c) of the definition of ‘payer information’ was chosen and verified, could other additional unverified elements also be chosen?

	<p>Clarification is needed on what is intended by 'full name under paragraph (a). Many forms of electronic verification currently only verify the first and last names. Is this sufficient without the verification of middle names, or it will be allowed for the potential inclusion of unverified middle names?</p> <p>Guidance is also sought on how this is to be operationalised. As highlighted during the industry workshops, that in addition to the current requirement to only verify a date of birth or residential address, banks will not be aware of which fields are verified without manually reviewing any copies of identification, if they are held. This can be especially challenging where customers have subsequently updated an address, but it was not re-verified. Many banks have system indicators and controls that show that a customer has been sufficiently verified, but these do not indicate which field was verified. It will be very difficult to operationally review these fields prior to the sending of any transfers of value or for institutions to review all pre-existing customer to now apply flags on which fields were verified.</p> <p>We also note our concern with requiring addresses to be reverified. The addresses of customers are primarily collected for communication purposes and not for Know Your Customer. This means that while the address may be verified in the first instance to confirm that the customer resides at a particular address, it is not generally reverified when a customer changes address unless a customer were to move from Australia to a foreign sanctioned jurisdiction. Requiring addresses to be reverified would be onerous for both the institution and the customer. We particularly note that this may be disadvantageous to younger or lower income customers who are more likely to be renting and therefore more likely needing to update their address more regularly.</p>
<p>Part 8 Reporting</p>	
<p>General</p>	<p>COBA seeks guidance on AUSTRAC's expectations on the use of 'if known' throughout the Rules. Our members may hold some information in document form (e.g., place of birth) but it may not be a piece of data held within the system, as much of the reporting set by our members automatically pull from fields that are mapped to the report. Will the requirement be to only use the data that is held on host, or will our members need to review documentation for this data? Additionally, will this be applied retrospectively? If the expectation is to collect additional fields going forward, this would be a much more reasonable cost than being required to go back and recapture the data from pre-existing customers.</p> <p>COBA also seeks an indication from AUSTRAC when it expects the new reporting formats to be made available to our members.</p>

<p>Section 8-2</p>	<p><i>Previous reports to AUSTRAC relevant to the matter</i> Our members have flagged that this requirement could create a significant regulatory burden for institutions to report historical reports. While COBA recognises why AUSTRAC wishes for these matters to be connected in the reports, we ask whether AUSTRAC could collate the report information to more easily allow for reporting entities to link to these in their reports.</p> <p><i>Information about an individual with information about the formation of the suspicion</i> COBA seeks clarification on whether the requirement in s 8-2(3) to provide an individual’s full name, position and contact detail is required for all employees involved in the development of a reasonable suspicion or whether it can be limited to a single person. We believe it should be limited to the submitter of the SMR.</p> <p><i>Information about report to Commonwealth, State or Territory agencies</i> Some COBA members expressed confusion with the new requirement to provide the personal information of staff from other Government agencies within their SMRs. These members reported prior instances where they had provided this information to AUSTRAC, which then required our members to correct the report and remove their details. It is unclear why AUSTRAC is changing its stance on this issue.</p>
<p>Section 8-3 and section 8-7</p>	<p><i>Information about the person – individual</i> COBA asks for greater clarity on AUSTRAC’s expectations on the situations where the data points of ‘place of birth’ and ‘gender’ are considered to be ‘known’ by the bank.</p> <p>For many of our members the place of birth of the individual is technically ‘known’ to the institution via the identity documents that have been provided. However, these may not be recorded in their systems as a machine-readable field, which would be impossible for reporting via automated threshold transaction reports (TTR). It would therefore require the adoption of an onerous process where staff would manually locate, open, and review copies of identity documents for each customer.</p> <p>Some of our members will generally record the gender of an individual within their system based on self-nomination and will not verify against their identity documents. We note that the explanatory statement provides that “Gender should be determined according to any identity documents the reporting entity has already collected. If no identity documents are available which present this information, a reporting entity cannot be expected to know, or have knowledge about, this information for reporting purposes.”¹</p>

¹ *Exposure draft explanatory statement to the Anti-Money Laundering and Counter Terrorism Financing Rules 2025*, [466].

	<p>However, this can be a sensitive topic for those customers where their nominated gender does not align with their official gender on identity documents. This means that while the institution can readily provide a 'nominated' gender for an individual it would require a similar manual process as described above regarding place of birth to identify and provide the information that is contained in the identity document.</p>
<p>Section 8-4 and section 8-8</p>	<p><i>Information on the offence against a law of the Commonwealth or of a State or Territory</i> COBA believes that the requirement in s 8-4(1)(d) could be challenging for our members' staff to determine as the person submitting the SMRs are not necessarily legally trained or have policing backgrounds. To assist in meeting this requirement we suggest that AUSTRAC incorporate a drop-down menu in its Online Portal to include categories of offences from which reporting entity staff could select from. This drop-down menu should incorporate the list of predicate offences provided for in s 5-20(b).</p> <p><i>Information about the transaction</i> We note that the reporting of transaction as part of an SMR or TTR will now require the reporting of time in addition to date, per ss 8-4(4)(g) and 8-8(1)(a) respectively. Our members current reporting systems and investigation processes are set up to capture dates but not time. To capture time will require increased operational input and changes to reporting systems. COBA asks what benefit is derived from capturing the time in addition to the date, and whether the marginal benefit that may be gained from including the time of the transaction outweighs the compliance costs borne by reporting entities. We ask that AUSTRAC reconsider the inclusion of this requirement.</p> <p><i>Information about virtual assets</i> COBA notes that while our members could identify a payment to a cryptocurrency exchange through the payee information, they may struggle to provide the other required details, such as the number of units. We ask that AUSTRAC provide further guidance on what its expectations are on this information.</p>