Preparing for AML/CTF reforms

Key implementation issues for real estate sector

Australia's anti-money laundering and counter-terrorism financing (**AML/CTF**) regime is undergoing significant reform. Part of these reforms is the expansion of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) **(AML/CTF Act)** to the real estate sector and providers of professional services. This expanded scope will take effect from 1 July 2026.

We have highlighted key steps that we recommend entities in the real estate sector undertake to ensure that they are ready for these significant regulatory reforms.

Designated services review

Review activities against new and modified designated services – determine whether or not you provide a "designated service".

Governance

Reviewing existing governance structures and consider requirements under AML/CTF regime.

Lead entity

Review corporate structure and identify lead entity.

AML/CTF Program

Prepare ML/TF risk assessment and policies to respond to this risk to meet requirements of the AML/CTF regime.

Designated service review

The AML/CTF Act will only apply to providers of "designated services" – providers of designated services are known as "reporting entities". A designated services review is an appropriate first step in determining the impact of the AML/CTF reforms. For entities in the real estate sector, the designated service review should focus on:

- whether any real estate services are provided;
- whether any new professional service provider services are provided; and
- whether any other designated services are relevant to the activities of the entity.

1 Review real estate designated services

For example, does the entity:

- Act as a real estate agent or otherwise act for a buyer or selling in brokering the sale of real estate?
- Act as a property developer or other business that sells or transfers real estate without a broker?

2 Review professional service provider designated services

For example, does the entity:

- Assist a person as part of the sale of real estate?
- Assist a person as part of the sale of a legal entity?

3 Consider existing designated services

For example, does the entity:

- Operate a real estate investment trust?
- Provide loans as part of its business?
- Guarantee loans entered into by other entities?

Identify a lead entity

Where an entity does provide a designated service, as part of putting together a compliance framework the entity must identify a "lead entity" as part of its group. All reporting entities will need to consider what "reporting group" they are part of and what entity will fulfil the role of lead entity.

Many entities in a group may be able satisfy the criteria of a lead entity – it will therefore be important to consider which entity is best suited to perform the functions and manage the ML/TF risk that the lead entity is required to.

1 Identify the business group

2 Identify the reporting group

3 Consider which entity or entities qualify to be appointed as a lead entity

4 Decide on lead entity

5 Implement lead entity compliance framework

Review of governance arrangements

All reporting entities will need to consider their governance and decision making processes in establishing a compliant framework going forward.

1 Consider governing body's oversight

- Governing body must exercise appropriate oversight and take reasonable steps to ensure appropriate management of risk and compliance with law.
- Consider how this is demonstrated in practice and supporting controls.

2 Appoint senior manager(s)

- Consider which person(s) could fulfill role of senior manager.
- Consider responsibilities of senior manager and ability to efficiently perform role (eg approval of policies, risk assessments, PEPs)

3 Appoint AML/CTF Compliance Officer

- Identify appropriate person to act as AML/CTF compliance officer.
- Consider interaction with governing board and senior manager(s).

Prepare and adopt AML/CTF Program

All reporting entities must:

- Undertake an assessment that identifies and assesses the risks of money laundering, financing of terrorism and proliferation financing (**ML/TF and PF**) that the entity may reasonably face in providing its designated services; and
- Develop and maintain policies, procedures, systems and controls that appropriately respond to these ML/TF risks as well as ensuring that the reporting entity complies with the requirements of the AML/CTF regime.

Together, these requirements are known as the reporting entity's AML/CTF Program.

Many entities will have policies in place for managing ML/TF and PF risks however the content of the AML/CTF Program is highly prescribed so existing compliance frameworks must be reviewed to ensure compliance with the requirements of the AML/CTF Act.

1

Undertake ML/TF risk assessment

- Ensure that a risk assessment is undertaken to identify and assess ML/TF and PF risk reasonably faced by the reporting entity.
- Ensure that the risk assessment is appropriate to the nature, size and complexity of the entity's business.

2

Develop and maintain policies

- Policies must cover prescribed areas, many of which are unlikely to have been adopted by an entity outside of the AML/CTF regime, described in further detail in this paper.

AML/CTF policies – risk mitigation measures

A reporting entity must develop and maintain policies, procedures and systems and controls that appropriately manage and mitigate the risks of ML/TF and PF that the reporting entity may reasonably face in providing its designated services. For entities that are already subject to the AML/CTF Act and have AML/CTF policies in place, we have highlighted where the content and scope of the policies under the AML/CTF reforms differs from existing requirements.

Identity significant changes to matters that go to risk assessment	Reflects intended design of Part A
Initial and ongoing customer due diligence	Updated
Review and update of AML/CTF policies (trigger and periodic)	Updated
Senior manager approval and keeping informed	New
Financial sanctions	New

* Does not include policies specific to transfers of value or lead entities. These are the prescribed matters – it does not mean that this is the extent of the content required to meet overarching obligation

AML/CTF policies – internal controls

A reporting entity must develop and maintain policies, procedures and systems and controls that ensure the reporting entity complies with the obligations imposed by the AML/CTF Act, regulations and Rules on the reporting entity. For entities that are already subject to the AML/CTF Act and have AML/CTF policies in place, we have highlighted where the content and scope of the policies under the AML/CTF reforms differs from existing requirements.

Ensuring governing body informed of ML/TF/PF risks	Updated
Designation of AML/CTF Compliance Officer	Existing
Designation of AML/CTF senior manager(s)	New
Fulfilling reporting obligations	Updated
Personnel due diligence	Updated
Personnel training	Updated
Independent evaluations	Updated
Assessment of potential suspicious matters	New
Preventing tipping off	New
Provision of information to the governing body	New
Reporting by AML/CTF Officer to governing body	New

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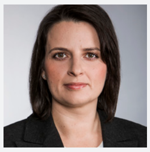

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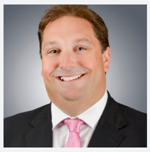

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