

# Shift Markets

## Submission to AUSTRAC's Consultation on new AML/CTF Rules (Exposure Draft 1)

Dear Sir/Madam,

Shift Markets welcomes the opportunity to contribute to this consultation paper and help shape Australia's evolving regulatory landscape. We support AUSTRAC's emphasis on outcomes and a risk-based approach to AML/CTF which enhances adaptability, allowing strategies to evolve with emerging risks while ensuring companies remain agile. This approach enables a more tailored, business-specific response to AML/CTF risks and reinforces accountability. Additionally, it aligns more closely with international standards, promoting effective and adaptable compliance.

We commend AUSTRAC for its forward-thinking approach to innovation, ensuring that their systems and requirements remain adaptive and responsive to the dynamic financial landscape. Regulatory frameworks are fortified through active industry engagement and continuous public-private collaboration. We agree in general that the Exposure Draft Rules provide sufficient flexibility for reporting entities to appropriately handle their ML/TF risk with a risk based focus. This submission represents our proactive contribution and suggestions towards a more agile approach to AML/CTF and the betterment of regulatory compliance systems. Our response is focused on (i) AML/CTF programs, (ii) customer due diligence and (iii) keep open notices. We also provide general comments on the applicability and practicality of some proposals based on the Exposure Draft Rules.

## About Shift Markets

Shift Markets provides trading technology, market access, and regulatory solutions for businesses operating in traditional and digital asset markets. We equip clients with customizable exchange infrastructure, liquidity services, and compliance tools, enabling them to scale securely and meet evolving regulatory requirements. Our expertise spans crypto exchanges, tokenized assets, and forex brokerages, offering businesses the flexibility to navigate digital finance securely and efficiently.

Our regulatory and compliance services help crypto businesses navigate licensing, build AML/CTF frameworks, and align with global standards while maintaining operational flexibility. By integrating financial expertise with regulatory strategy, we support the long-term stability and growth of digital asset businesses.

Shift's services are designed to support every stage of launching and operating a trading platform, including market making, regulatory guidance, and ongoing technical support. Our mission is to make blockchain-based finance accessible and scalable for businesses of all sizes—whether market leaders or new entrants—through proven technology, strategic guidance, and industry expertise.

## General

2. Are any rules not sufficiently flexible to be scalable to specific circumstances of small businesses, sole traders or sole practitioners? Are there alternative approaches that could achieve the same regulatory outcomes?

Independent evaluations are meant to be done according to the size, complexity and scale of the business, at least every 3 years as highlighted in s26F(4)(f) of the AML/CTF Act. Section 15 of the Exposure Draft Rules further outlines the specific requirements of these evaluations, ensuring a comprehensive assessment of the AML/CTF programs. Sole traders, sole practitioners and small businesses may encounter significant challenges in adhering to these evaluation requirements. Limited human resources, in-house expertise, and financial constraints could make it difficult for these entities to conduct thorough evaluations. Moreover, the lack of internal expertise in AML/CTF matters adds to the complexity of compliance for smaller businesses. The obligation to perform frequent evaluations places a disproportionate burden on smaller entities. With fewer transactions and a smaller footprint in the financial system, the risk of money laundering and terrorist financing is typically lower for these businesses. Despite this, they face the same compliance demands as larger organizations, which can strain their limited resources. This situation underscores the need for a more nuanced approach that considers the specific challenges faced by smaller businesses.

To support a risk-based approach to AML/CTF, a simplified evaluation checklist or reporting template tailored for small firms with low-risk profiles could be introduced. This would streamline the assessment process by focusing on key risk areas while minimizing complexity, making compliance more accessible without requiring extensive external expertise. Additionally, an extended evaluation period for small firms—such as every four to five years—could be considered, unless significant changes occur in business operations, such as increased transaction volumes, shifts in customer types, or major risk profile adjustments. Given that entities are required to document their procedures, maintaining a record for how business may have changed should be straightforward. Firms could submit periodic confirmations to AUSTRAC affirming that their risk profile remains unchanged. Implementing a scaled evaluation framework would enable AUSTRAC to uphold its oversight responsibilities while allowing small firms to grow within a proportionate compliance structure that acknowledges their lower risk exposure.

Small businesses and sole traders/practitioners often have limited resources and certain requirements may pose an administrative burden with regards to compliance. To improve efficiency, adjustments could be made taking into account the size and scale of the business. Simplified reporting templates could streamline reporting processes, reduce administrative workload and ensure essential data is captured effectively. Clear risk criteria should be established to support this approach. By focusing on scalable and flexible solutions, these approaches can effectively balance regulatory effectiveness with the practical constraints faced by small businesses, sole traders, and sole practitioners.

3. Are any rules not sufficiently flexible to be scalable to specific circumstances of large or multinational businesses? Are there alternative approaches that could achieve the same regulatory outcomes?

Large or multinational businesses which may operate across multiple jurisdictions, will need to coordinate across different legal systems, requiring a more nuanced approach to align with their complex structures and international operations. Compliance across jurisdictions is particularly challenging due to varying regulations, operational frameworks, and market requirements. Certain provisions within the current AML/CTF framework may lack the flexibility needed to accommodate the complex structures and international operations of large and multinational businesses. Alternative approaches could achieve the intended regulatory outcomes while ensuring a risk-based approach remains effective. In relation to the independent evaluation of AML/CTF programs in section 15 of the Rules, it may be beneficial to have a group-wide evaluation which will save the resources required to coordinate evaluations across multiple jurisdictions for an international organization. An evaluation of a group-wide policy by an approved and vetted firm/body will improve efficiency and increase harmonisation within such organisations. A singular group-level policy could be acceptable provided it adheres to the strictest applicable standard or a standard higher than AUSTRAC's. Approved group-level AML/CFT programs will make updates and reverification of KYC information easier to implement and promote efficiency and uniform standards.

Encouraging multinationals and large firms to align AML/CTF efforts with established global AML/CFT frameworks in Financial Action Task Force (FATF) compliant jurisdictions should enhance efficiency and support comprehensive regulatory adherence. Technology infrastructure providers can play a key role by recommending AML partners that integrate seamlessly into their service ecosystems, offering platforms that automate compliance processes, minimize manual effort, and ensure consistency across jurisdictions. Access to advanced technology and expertise strengthens compliance capabilities, while seamless integration with existing systems ensures alignment with business operations, improving both efficiency and effectiveness. By prioritizing scalable and flexible solutions, these approaches strike a balance between regulatory effectiveness and the operational realities of large global entities.

## AML/CFT Programs

### 4. What is a reasonable period of time for you to document updates made to your ML/TF risk assessment or AML/CTF policies?

To ensure the effectiveness of Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) policies, updates to Money Laundering/Terrorist Financing (ML/TF) risk assessments should be documented within one month of any changes. Additionally, these assessments and policies should undergo annual periodic reviews. Reviews should also be conducted in response to significant events or when new information becomes available. The one-month timeframe for documenting updates allows for timely incorporation of changes, ensuring that policies remain relevant and effective. Annual reviews provide a structured opportunity to reassess and refine policies, while the flexibility to conduct reviews in response to significant events or new information ensures adaptability to evolving risks.

Regular updates to ML/TF risk assessments and AML/CTF policies enhance the organization's ability to identify and mitigate emerging risks. This proactive approach helps maintain compliance with international regulatory standards. A longer timeframe could result in an outdated AML/CTF program that fails to adapt to industry changes and the rapidly evolving compliance landscape. Conversely, a shorter timeframe may not allow sufficient time for firm-wide implementation of necessary updates. The proposed period should be practical and achievable for both small businesses and large enterprises.

Maintaining compliant and up-to-date systems and processes is crucial for the AML/CTF health of any entity and establishes a standard of good practice. ML/TF risk assessment and AML/CTF policies should, based on international and industry standards, be updated either annually or at material trigger events. Such material trigger events may include but not be limited to regulatory changes, new industry guidance, new products or geographic markets, change in business model, new customer segments, FATF guidance or similar events that impact business operations or processes. The updates should be made by the appointed AML/CTF Compliance Officer. It is essential that updates are communicated to employees to ensure that both the first and second lines of defense are well-prepared to monitor and enforce any changes. AML/CTF processes are not static; they adapt to new threats and international standards. Continuous monitoring and risk assessments are crucial for identifying emerging risks and ensuring the effectiveness of AML/CTF policies. A structured and timely approach to documentation and updates not only strengthens compliance but also enhances an organization's ability to mitigate financial crime risks.

## Customer Due Diligence

11. Are there practical implementation challenges you anticipate you may face in meeting the CDD obligations set out in the Exposure Draft Rules? If yes, what are they and do you have alternate suggestions as to how the same regulatory outcome can be achieved?

The CDD obligations provide a practical framework for reporting entities. The suggested information collection to establish the identity of business customers is appropriate. However, expanding on certain requirements could enhance clarity and better support desired outcomes.

Politically Exposed Persons (PEPs) present increased risks to entities, and we endorse the establishment of the source of wealth and source of funds for foreign PEPs, as well as for high-risk domestic and international organization PEPs. While PEPs inherently pose heightened risks, these extend beyond money laundering and terrorist financing to include bribery and corruption. Further clarification on permissible deferrals based on PEP type—whether foreign, domestic, or from international organizations—would be advantageous, as domestic and international organization PEPs typically present lower risks. Additionally, distinguishing between PEPs with direct control and those with ancillary influence is vital, as the level of influence significantly affects risk exposure.

Notably, enhanced customer due diligence (ECDD) measures are to be applied to a customer who seeks designated services that have no apparent economic or legal purpose, especially if they feature unusual transaction patterns or involve complex or large transactions. While the Rules do not prescribe exact ECDD measures, additional guidance and recommendations would be beneficial to ensure consistency and effectiveness. In addition to verifying the source of wealth and funds, reporting entities could require approval from the AML/CTF Compliance Officer before establishing or continuing a business relationship. Entities may also enhance ongoing monitoring for customers subject to ECDD, such as increasing transaction surveillance frequency or implementing stricter threshold limits.

An entity may also, as part of its ongoing monitoring of customers that have undergone ECDD, implement enhanced ongoing monitoring and surveillance of transactions (e.g. higher frequency, tighter threshold limits). The criteria for triggering ECDD measures could also be expanded as typically ECDD will be needed where a customer will be deemed to present a higher risk for money laundering or terrorism financing. Such risks may be apparent beyond unusual transaction patterns or before a relationship is established. Having a clearer framework for when this should be triggered, based on the risk appetite of the entity, could better support the desired outcome of a risk-based approach to AML/CTF.



Circumstances that may be deemed higher risk and in turn warrant ECDD could also include:

- I. Customers or beneficial owners from, or operating in, jurisdictions subject to Financial Action Task Force (FATF) countermeasures
- II. Transactions involving countries subject to FATF countermeasures
- III. Any customer identified as the subject of a suspicious matter report or similar regulatory filing

A well-defined approach to ECDD, supported by clearer guidance, would enhance risk management while maintaining alignment with a risk-based AML/CTF framework.

We agree with the provision for simplified due diligence in low risk scenarios. However, more guidance should be provided surrounding circumstances in which such simplified due diligence is appropriate. The scope of simplified due diligence should encompass government entities; entities listed on a stock exchange and subject to regulatory disclosure requirements relating to adequate transparency in respect of beneficial owners and financial institutions incorporated or established outside Australia that are subject to and supervised for compliance with AML/CFT requirements consistent with FATF standards. These three entity types generally present a lower degree of risk in terms of money laundering and terrorist financing. This is considered to be the case because of increased checks and balances, public records and regulatory oversight, compared to private entities.

Limiting simplified due diligence when ML/TF risk is determined to be low provides necessary flexibility with customer verification using different documents or data from credible sources, as information can be validated using publicly available information for entities subject to high ML/TF controls. If simplified due diligence is performed, the entity should document its risk assessment and the nature of the simplified due diligence in its customer's onboarding profile, and this documentation should be reviewed and approved by the AML/CTF Compliance Officer. Simplified due diligence does not remove the need for ongoing monitoring, although it may be reduced. Limits should also be put in place on simplified due diligence including when a beneficial owner or the direct customer is from a jurisdiction with inadequate AML/CFT measures. Simplified due diligence should reduce complexity and resource requirements for small entities while focusing efforts on high-risk customers.

Reporting entities should retain the ability to adopt their own risk rating categories and be able to pre-determine what risk factors will drive a high-risk rating for its customers.

**12. Are there any additional circumstances (e.g. particular types of transactions that require the urgent provision of a designated service) in which your sector may need to delay aspects of initial CDD to prevent disruption of the ordinary course of business?**

We support AUSTRAC's proposed criteria for allowing delays in verification but believe some expansion is necessary. For clients referenced in Section 30 of the Exposure Draft Rules, a defined timeframe should be established for opening accounts and making

deposits—potentially 30 days. The primary ML/TF risk arises when funds are moved, so this period should not disrupt operations. A deposit-only function serves as a tiered access approach, providing businesses sufficient time to collect and update required documents without operational disruptions. If verification remains incomplete after 30 days, client activity should be suspended. If still unresolved after 60-90 days, business relationships should be terminated.

Section 31 addresses the need for certain financial market transactions to be executed swiftly due to market conditions. While a timeframe of 5 business days is reasonable, extending it to 10 business days could provide greater flexibility without compromising due diligence. To balance compliance and business needs, entities could permit limited trading activity (e.g., capped order sizes) while conducting full CDD in parallel. However, an unclear urgency to execute transactions may indicate potential money laundering or terrorist financing risks. Implementing transaction caps during verification delays would help mitigate these risks while maintaining a functional customer relationship. Entities should also have the ability to restrict services and transaction volumes until verification is complete, managing exposure while allowing some activity to sustain customer engagement. Enhanced monitoring measures can be applied during this period to detect potential red flags until verification is finalized. Additionally, large financial institutions with complex, multi-layered ownership structures may require extended due diligence. While basic verification can often be completed quickly, full beneficial ownership analysis and source-of-funds verification may take longer due to reliance on external documentation and third-party attestations. Providing a reasonable timeframe for these verifications ensures compliance without disrupting legitimate financial activities.

Delayed verification may also apply to exchanges and non-custodial platforms that facilitate transactions without holding user funds. In such cases, deferring full identity verification until a user reaches a specified transaction threshold can strike a balance between compliance and user experience. However, this approach must be supported by ongoing transaction monitoring to build a customer profile and mitigate the risk of ML/TF abuse while verification is pending. An alternative approach could involve partial document verification, granting temporary access to limited features until additional documentation is provided and full verification is completed. This allows businesses to manage compliance requirements without creating unnecessary friction.

While delayed CDD can help manage transaction flows without affecting service speed it also increases the risk of undetected ML/TF activities, making timely completion and strong risk management essential. Across all entities, the priority should be to provide flexibility while maintaining strict AML/CTF compliance. As a general rule, institutions should not open accounts, establish business relationships, or process transactions if CDD requirements cannot be met. If verification remains incomplete, entities should terminate the business relationship and consider filing a suspicious transaction report. Such risk-based approaches support a balanced response to AML/CTF risks while allowing legitimate business operations to continue efficiently.



## Keep Open Notices

### 18. Is the information required to be provided in a keep open notice sufficient for you to determine if the customer to whom the notice applies, is a customer of yours?

We understand a keep open notice to be one which allows a reporting entity to withhold from taking certain due diligence obligations based on the reasonable belief that such obligations could alert a customer to the existence of an investigation. Notably, this does not require the reporting entity to continue providing services to the customer. The keep open notice at a minimum requires full name and DOB or ABN/ACN to determine whether the customer to whom the notice applies is a customer of the entity. Additional information could be added to this section to better identify the customer to whom the notice relates. S26(2) of the Exposure Draft Rules state the minimum information needed to establish the identity of a business customer and this includes entity name, UEN, registered office address, and principal place of business or operations. Including this information in the keep open notice would enhance clarity and facilitate more effective investigations. The notice allows inclusion of the number of attachments - this doesn't seem to add much benefit and is an added detail that could be forfeited for some more detail on the customer.

### 19. Are the explanations in the keep open notice and the keep open – extension notices easily understood by you?

The notice periods are clearly defined—six months from the commencement date or upon notification that the period is ending, whichever comes first. To avoid ambiguity, it would be beneficial for AUSTRAC to specify the exact date, considering public holidays. Additionally, the keep open extension notice could be improved by including a specific end date, ensuring clarity and consistency in its application.

Shift Markets welcomes further dialogue and is committed to continuous engagement with AUSTRAC. Please do not hesitate to contact us at [legal@shiftmarkets.com](mailto:legal@shiftmarkets.com) should you require any further clarification or expansion on any of the points mentioned.

Sincerely,

Olohirere Longe  
Senior Counsel, Regulatory  
**Shift Markets**