



Credit Union
Industry Association

8 March 2006

Mr Jonathan Curtis
Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600
By email: legcon.sen@aph.gov.au

Dear Mr Curtis

Inquiry into the Exposure Draft of the AML and CTF Bill 2005

Credit Union Industry Association (CUIA) is the main industry body for Australia's 151 credit unions. Credit unions have 3.6 million members and total assets of more than \$32 billion.

Credit unions are member-owned Authorised Deposit-taking Institutions and Australian Financial Services Licensees. Credit unions are currently regulated by AUSTRAC as cash dealers under the *Financial Transactions Reports Act 1988* (FTRA) and will be "reporting entities" under the proposed new AML/CTF regime.

CUIA welcomes the opportunity to comment on the AML/CTF Exposure Draft Bill (ED) and draft rules.

The proposed new AML/CTF regime will impose a significant new regulatory compliance burden on regulated entities and will significantly increase surveillance of customers.

Credit unions have been complying with existing AML laws (FTRA) for many years. Under the proposed new laws, regulated entities will be required to collect more personal information from their customers, allocate customers a risk profile, track customer transaction activity, and report suspicious matters to AUSTRAC.

CUIA's key issues are:

- the need for an adequate consultation period on the ED and rules;
- the need for an appropriate transition period once legislation is passed;
- the need for an effective public education campaign on the new AML/CTF regime; and
- the need to learn from the USA and UK experience in AML/CTF reform.

CUIA appreciates the consultative approach taken by the Hon Chris Ellison, Minister for Justice and Customs, towards industry in developing the ED and draft Rules. CUIA welcomed the opportunity to participate in the industry roundtables chaired by Senator Ellison in 2005 and we continue to participate in the Minister's Advisory Group and associated working groups.

However, we are concerned that the deadline of mid-April for industry comment on the ED and draft Rules will not allow sufficient time for important issues to be identified and resolved. Industry needs adequate time to comment on all significant draft Rules. However, a full set of draft Rules has not been made available, leaving industry in the dark about key aspects of the new regime. We cannot determine the impact and likely implementation costs of the reform package without the full picture.

CUIA urges a transition period that allows regulated entities enough time to comprehend and comply with the extensive new AML/CTF obligations. Regulated entities will have to assess their obligations, identify their AML/CTF risks, and undertake the necessary preparatory analysis leading to system changes, staff training and development, and planning and delivery of new processes and procedures.

CUIA recommends a 3 year transition period, while remaining open to earlier implementation of some of the new obligations. CUIA supports separate transition arrangements applying to replacement of the Acceptable Referee method of customer identification. Retention of the Acceptable Referee method, with some modifications, is important for competitive neutrality until a viable alternative method is available.

Consumers are likely to find aspects of the AML/CTF regime intrusive and invasive of their privacy. For example, the draft Rule on AML/CTF Programs says that "additional Know Your Customer (KYC) information" includes information in relation to matters such as the customer's: occupation and business activities; income and assets; source of funds; and, financial position.

The draft Rule says a reporting entity must have a transaction monitoring program. "The transaction monitoring program must include appropriate risk based systems and controls to monitor the transactions of each of its customers throughout the course of the reporting entity's relationship with that customer."

Proposed mandatory information required from all customers will include "place of birth".

It is obvious to CUIA that a major public education campaign will be needed to explain the greatly expanded role of financial institutions as the eyes and ears of law enforcement.

In overseas jurisdictions, such as the USA, AML/CTF laws have resulted in a huge increase in suspicious activity reports with the associated invasion of customer privacy. Most of these reports are of no use to law enforcement agencies and result from regulated entities engaging in "defensive filing" to avoid regulatory attention. It has been observed, particularly in relation to the CTF task, that law enforcement agencies looking for a needle in a haystack have built a bigger haystack.

In the UK, revamped industry guidelines on AML/CTF were recently released. The UK Joint Money Laundering Steering Group (JMLSG) says the new guidance will enable the UK financial services industry to take a sharper, risk-based approach to the international fight against financial crime.

According to JMLSG chairman Ian Mullen, the new guidance reflects the reality that most customers are neither money launderers nor terrorists. "The guidance allows firms to counter money laundering and terrorist financing in a more proportionate, risk-based way, making better use of modern technology," Mr Mullen says.

CUIA will provide the Committee with further details on these and other issues in a supplementary submission to be lodged shortly.

Yours sincerely,



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