AFMA

22 June 2018

Consultation – AUSTRAC Industry Contribution
Policy and Guidance Section
PO Box 13173
Law Courts
MELBOURNE VIC 8010

By email: Policy_Consultation@austrac.gov.au

Dear Sir/Madam

AUSTRAC Industry Contribution 2018-19 - Stakeholder Consultation Paper

The Australian Financial Markets Association (AFMA) represents the interests of over 100 participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign-owned banks, securities companies, treasury corporations, traders across a wide range of markets and industry service providers. Our members are the major providers of services to Australian businesses and retail investors who use the financial markets. The majority of AFMA's members are reporting entities for the purposes of the AML/CTF Act.

As AUSTRAC is aware, AFMA has been heavily involved in consultation surrounding both the policy and design of the AUSTRAC industry contribution. We have objected, and continue to object, to Government regarding the form of the industry contribution, particularly in relation to the abandonment of the Government's own cost recovery guidelines in framing the industry contribution.

Further, we have made submissions with AUSTRAC regarding each of the preceding discussion and consultation papers dealing with the AUSTRAC industry contribution, namely submissions dated:

- 25 July 2014;
- 24 October 2014;
- 19 December 2014;
- 26 August 2015;
- 10 June 2016; and
- 28 June 2017.

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The comments set out below should be read in light of the comments contained in those submissions.

Increasing Burden of Cost Recovery

As noted above, AFMA has consistently expressed concern regarding the non-applicability of the Government's own cost recovery guidelines to the AUSTRAC industry contribution, particularly as the industry contribution measure is now clearly one of cost recovery, given the Government's decision fully recover 100% of AUSTRAC's expenses, less AUSTRAC's own source income.

In the intervening period from the commencement of the industry contribution, our members that are part of the population of 570 (out of circa 14,000) reporting entities[1] that bear the entire burden of paying the AUSTRAC Industry Contribution were subjected to further cost recovery measures, most relevantly the ASIC Industry Funding Model that commenced in this current financial year. The fact that only 4% of the regulated population of reporting entities pays 100% of the industry contribution is inequitable and unfair, and remains of acute concern to us.

We continue to note that the AFMA members that bear the largest responsibility for paying the industry contribution are those members that have committed to assisting AUSTRAC through participation in the Fintel Alliance.

The number of cost recovery initiatives that the Government is pursuing need to be considered holistically to ensure that the overall impact is assessed, as opposed to merely considering each initiative in isolation. We maintain our view that the industry contribution should fall within the Government's cost recovery guidelines.

Additional funding for AUSTRAC in the current financial year was announced in MYEFO in December 2017, after the 2017-18 invoices had been issued. That additional amount is to be added to the 2018-19 recovery, such that the total recoverable amount for 2018-19 is $78,325,000.

Although the forward estimates suggest that the amounts to be recovered would decrease until 2020-21, clearly that has not occurred this year, and there is no certainty for industry that the Government will not announce additional funding measures in the coming years. Accordingly, the figures referenced on page 13 of the consultation paper are not an estimate of the industry contribution on which reporting entities can rely.

We note that in Table 2 on page 17 of the consultation paper, the earnings component factor has increased to 0.047% in 2018-19 from 0.043% in 2017-18. The earnings threshold minimum earnings component has increased to $47,000 from $43,000 over the same period; and the maximum earnings charge has increased to $1,500,000 on earnings equal to or higher than $3.19 billion. It is not clear based on the information in the paper what the rationale for these changes is.

Similarly, the consultation paper states that there will be two different transaction reporting value elements for 2018-19, but does not explain why this change has been made.

[1] Stakeholder consultation paper, page 16

Potential expansion of regulated population

AFMA notes the ongoing work being undertaken by both the Attorney-General's Department and AUSTRAC to bring Tranche II entities (including lawyers, conveyancers, accountants, high-value dealers, real estate agents and company service providers) within the regulatory regime. To the extent that this is ultimately implemented, it will considerably expand the regulated population. We believe that such an expansion should be a trigger-point for a wholesale re-evaluation of the industry contribution model.

Please contact me on 02 9776 7997 or tlyons@afma.com.au if you have any queries about this submission.

Yours sincerely

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