



30 March 2020

Carolyn Marsden
AUSTRAC
Level 7, Zenith Centre
821 Pacific Highway
Chatswood NSW 2067

Dear Carolyn,

COVID 19 – AML/KYC Industry Issues

Thank you for the opportunity for AFMA to put forward industry issues that have arisen due to the COVID-19 pandemic and the operational changes for our members and their customers. The unique circumstances currently being faced by our members have necessitated alterations in certain procedures that would otherwise be adhered to. Our members have undertaken best endeavours in making alterations, taking into account the ML/TF risk faced. We seek engagement with AUSTRAC with a view to obtaining comfort that such necessary alterations will not be the basis for compliance activity at a later point. Reporting entities need to know as soon as practicable what relief, if any, AUSTRAC intends to put in place so that reporting entities can continue to provide essential services to their customers. Our members have raised the possibility that AUSTRAC could provide a new AML/CTF Chapter 46 Rule under Section 33 & 34 of the AML/CTF Act for the duration of this emergency, to allow reporting entities to work under the certainty of a formal rule rather than relying on temporary regulatory relief.

Set out below is a compendium of issues, options and queries that have been raised by members of the AFMA AML Committee. In the interests of time and to facilitate early engagement with AUSTRAC, each issue that has been raised by particular members has been included.

For completeness, we note that the issues/proposed relief are as at the date of the letter and that given the fluidity of the current environment, additional issues may arise. In particular, the potential for further lockdowns may render any customer contact impractical.

Yours sincerely

Rob Colquhoun

Number	Issue	Relief Sought
1	<p>KYC processes are challenging to be adhered to because:</p> <ul style="list-style-type: none"> - staff that work for reporting entities conducting both wholesale and retail businesses being required to work remotely, either at home or at BCP sites and are restricting physical interaction with customers - customers may not be able to attend a branch because of COVID-19 self-isolation requirements. - some reporting entities have implemented protocols not allowing mail to be opened. - electronic verification is not a viable alternative for all customers. <p>As a result, physical based documentary KYC processes are challenging to be adhered to.</p>	<p>Allow reporting entities to accept electronic versions of documentation via email, such as IDs, trust deeds, meeting minutes, etc at the time of account opening or when re-identification is required.</p> <p>We are happy to discuss the protocols that can be established in an interim period and the various options for remediation once normal operations are re-established. This may include whether video conferencing may be deemed to be face to face from a “reasonable steps” perspective.</p> <p>We have also seen other instances in a government context where, in the current environment, a video conference may be used as a replacement for a physical meeting – refer:</p> <p>https://www.arnec.gov.au/_data/assets/pdf_file/0004/1477075/position-statement-covid19.pdf</p>
2	<p>Resourcing constraints and operational challenges may impact the ability of reporting entities to:</p> <ul style="list-style-type: none"> • maintain usual processing times for customer screening and transaction monitoring alerts; and • adhere to non-time critical requirements, such as periodic reviews and KYC refresh. 	<p>Acknowledgement that customer screening and transaction monitoring alert processing may take longer than usual.</p> <p>Deferral of non-time critical requirements until business-as-usual restored.</p>

3	Delays may be encountered in meeting internal time frames as a result of COVID-19 impacts, for example, transaction monitoring alert handling and reviews and completion of periodic reviews.	Reporting entities will meet obligations on a best efforts basis. Transaction monitoring alert handling and reviews, and carrying out of periodic reviews, will be performed in accordance with existing processes, however internal time frames may not be met.
4	The requirements for a “certified copy”, and different approaches, have been raised in the current climate. The specific question is whether a certified copy requires a wet-ink certification or whether a scanned copy of a certification may suffice.	As members look to alter their operations in response to the pandemic, and noting from a practical perspective the lack of physical access to certifiers, clarity on the requirements for a certified copy would be useful and appreciated. In particular, reporting entities would seek confirmation that reliance on emailed copies from the certifier, or another person who, on a risk-based approach is considered acceptable, will suffice in the current environment.
5	Given the expectation that customers will not have access to scanners, clarity is sought regarding whether the requirements for a scanned copy can be satisfied through the taking of a photograph.	Confirmation from AUSTRAC that it is agnostic as to technology and accordingly that photographs will suffice in circumstances where scanned copies are required.
6	In the current environment, physical execution of documents is difficult.	To the extent that the AML/CTF requirements are for physical execution of documents, clarity that the affixing of an electronic signature will be sufficient.
7	Specifically in relation to our members that have relationships with mortgage brokers, licensed financial advisors or other third parties who perform ACIP on behalf of the reporting entity. These third parties may ordinarily sight original Identification documentation provided by a prospective customer - copies of	<p>The document will be sighted virtually by the third party, on a video conference with the client.</p> <p>The third party may take a screen shot as a record or arrange for the client to send copies of these documents to the third party via an electronic channel. The third party will submit these records, with their attestation that it is a</p>

	these documents are then forwarded, with a notarization from the third party, attesting that it is a true copy of an original document which they have sighted.	true copy of a document they have sighted (although not in a face to face environment).
8	Completion of transaction monitoring reviews will be delayed because of resourcing constraints or the inability for staff to access required technology for example, the ability to call customers on a recorded line where required. A delay in completion of these alert reviews will have a flow-on effect of matters being referred for investigation later than normal, and where an SMR is required, the report may be filed several months after the activity in question.	Alerts may remain open, and customer calls may only be able to be completed once normal work arrangements resume. All alert reviews will be completed in accordance with standard process, but not within internal time requirements.
9	Ongoing reviews of high-risk customer relationships will not be completed within the timeframes prescribed by bank policy, because staff will be unable to call customers on a recorded line while working from home.	Reviews may be delayed and only completed after normal working arrangements resume. This may result in reviews being completed outside the prescribed time requirements.
10	<p>In respect of superannuation, there are specific issues arising from the Government's announcement that individuals facing financial hardship may access their superannuation early.</p> <p>These include:</p> <ul style="list-style-type: none"> - the inability for electronic verification; - the fact that the superannuation fund is a separate entity to the bank and hence the customer may not have been previously identified; and - some reporting entities expect a large volume of requests for early release of superannuation funds (estimate is around 300,000 customers for a reporting entity) and current processes (including required 	In addition to the general challenges, members would seek clarity on how the existing concessions in Chapter 41 of the Rules (which apply more specifically to those departing Australia) could apply to the current situation.

	identification checks) will not enable the timely processing of these requests.	
11	In the circumstances where the RE suspects on reasonable grounds that the customer is not the person that he or she claims to be that the RE can extend the time to re-ID&V the customers from 14 to 30 days. Also, as the customer will be higher risk is it possible to utilise eVID (or other alternatives to original certified identification documents) to satisfy this requirement during COVID-19	Re-ID&V will be completed after normal working arrangements resume, outside the internal risk based timeframes
12	In relation to discrepancies more generally, it is expected that reporting entities may be more accommodative and not close accounts in the current environment, particularly where it may be reasonably expected that the reason for the discrepancy is an inability to contact customers.	Guidance as to an appropriate approach to discrepancies in the current operating environment.
13	Under Part 6.3 of the Rules, within 14 days of an SMR being lodged for a pre-commencement customer, the reporting entity must conduct a KYC refresh to be reasonable satisfied that the customer is who they claim to be.	In the current environment, we would look for a temporary extension of the timeframe and, as noted above, the potential to conduct the refresh via electronic means.
14	Chapter 75, particularly how Chapter 75 compliance will be possible in the current environment, particularly where there may be a number that are approaching the six-month deadline.	Whether and how AUSTRAC can continue the Chapter 75 process in the current environment.
15	Whether it is possible to accept expired identification documents (i.e. drivers licences / foreign passports that expire during the lockdown) and/or utility bills greater than 3 months etc during COVID-19	Obtain current versions of appropriately certified original acceptable verification documents when permissible.

16	Allow electronic verification (eVID) for higher ML/TF risk rated customers (or other alternatives to original or certified identification documents) during COVID-19	Obtain current versions of appropriately certified original acceptable verification documents when permissible.
17	As noted above, AUSTRAC should consider, for the duration of the current pandemic, the extent to which Rules may be made under Chapter 46 that would allow for certainty of a formal Rule. This could include allow the establishment of a business relationship with a customer but allow for verification to occur later, as we understand exists in New Zealand. Reporting entities would continue to manage the ML/TF risk through imposing transaction limitations	Explore Chapter 467 Rule making capability as a means to provide general and specific certainty to reporting entities.