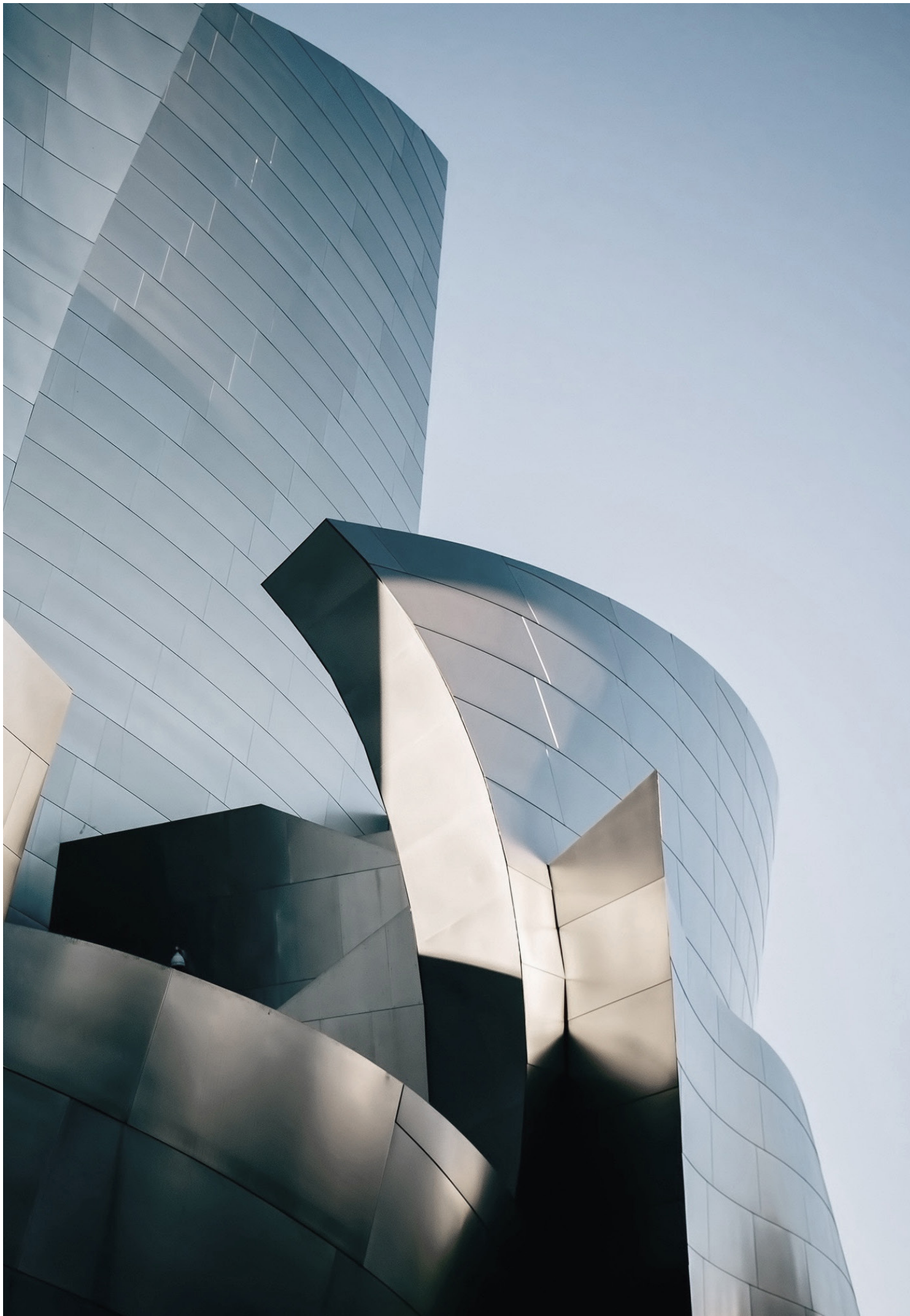


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AML/CTF reforms

Professional Services:
Understanding the AML/CTF reforms

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Professional Services: Understanding the AML/CTF reforms

In November 2024, reforms to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 were passed by Parliament. Professional services including lawyers, accountants, trust and company service providers and conveyancers will need to enrol with AUSTRAC and comply with all obligations from 1 July 2026.

These changes have been introduced to strengthen Australia's stance on money laundering and terrorism financing, and bring anti-money laundering laws in line with international standards recommended by the global body, the Financial Action Task Force. The changes aim to ensure Australia is able to respond to evolving threats and harden businesses against exploitation by criminals.

Overleaf is a summary of the key areas that professional services providers need to be aware of and start taking action to comply.

Professional services businesses will be captured as 'reporting entities' under the AML/CTF regime and will have a series of new obligations relating to identifying, assessing, mitigating and managing their money-laundering, terrorism financing and proliferation financing (ML/TF) risks.

The professional services sector has been identified globally as highly vulnerable to money laundering. According to the Attorney-General's Department, these professions offer services that can be exploited to create complex legal and financial arrangements, such as shell companies and trusts, which obscure beneficial ownership and facilitate the movement and concealment of illicit funds.

Given professional service providers are new to the AML/CTF regime there is a lot to do in a relatively short time. Entities are expected to take reasonable steps towards understanding the risks their businesses' face for the purpose of combatting financial crimes.

Breadth of reforms – activities to be captured

What services will be captured?

Businesses will be captured when they undertake certain services (known as ‘designated services’). The following are examples of the types of services:

- Assisting in planning or executing transactions, or otherwise acting for, or on behalf of, a person in a transaction to sell, buy or transfer real estate.
- Assisting in planning or executing transactions or otherwise acting for, or on behalf of a person, in a transaction to sell, buy or transfer a body corporate or legal arrangement.
- Receiving, holding and controlling or disbursing:
 - Money (other than sums paid as fees for professional services)
 - Accounts
 - Securities or securities accounts
 - Virtual assets
 - Property
- Assisting in organising, planning or executing a transaction or otherwise acting for or on behalf of a person in a transaction for equity or debt financing relating to a body corporate or legal arrangement.
- Selling or transferring shelf companies.
- Assisting a person to plan or execute or acting on behalf of a person in the creation or restructuring of a body corporate or legal arrangement.
- Acting as, or arranging for another person to act as, a director or secretary of a company, power of attorney or shareholder of a body corporate or legal arrangement, partner in a partnership or trustee of an express trust.
 - A director or secretary of a company,
 - A power of attorney for a legal entity,
 - A partner of a partnership,
 - A trustee of an express trust, or performing the equivalent function for another form of legal entity, but excluding as executor or administrator of a deceased estate, or
 - A similar position in relation to other legal entities on behalf of another person in the course of carrying on a business.
- Acting as, or arranging for another person to act as, a nominee shareholder of a body corporate or legal arrangement on behalf of a person.
- Providing a registered office or principal place of business address of a body corporate or legal arrangement.

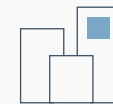
Professional service providers should review the types of services they offer and consider obtaining legal advice if required.





What obligations will professional services providers be required to meet?

Businesses that provide designated services to customers will be regulated by AUSTRAC and have a number of obligations, including:



ML/TF risk assessment

The AML/CTF Act is risk-based, recognising that businesses are best placed to know their risks and customers. The risk-based approach allows you to focus your resources proportionately to those risks.

In undertaking the assessment, you need to consider:

- your customer types
- the types of services you provide
- how you provide them (i.e., face to face, on-line etc)
- the jurisdictions you deal with; and
- certain information communicated by AUSTRAC.

The ML/TF risk assessment must be documented, supported by a methodology, approved by your senior management and allow your board (or governing body) to provide strategic oversight of the risk your business faces.



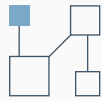
Develop and maintain an AML/CTF Program

Once the ML/TF risks are identified, you must develop an AML/CTF Program that includes all policies, procedures, systems and controls that are undertaken to mitigate and manage your ML/TF risks. The requirements of your AML/CTF Program are prescribed, however how you meet them is dependent on the risks you face.

Examples of the requirements include conducting initial and ongoing customer due diligence, personnel due diligence, AML/CTF risk awareness training and having an independent evaluation conducted of your AML/CTF Program.

Your AML/CTF Program must be approved by senior management and allow the board (or governing body) to maintain strategic oversight of its implementation

You must comply with the policies, procedures, systems and controls in your AML/CTF Program.

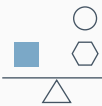


Appoint an AML/CTF Compliance Officer

You must appoint an AML/CTF compliance officer (AMLCO) who is an individual at management level who has met the relevant ‘fit and proper’ requirements. You must notify AUSTRAC who that person is.

Your AMLCO must oversee and coordinate your day-to-day compliance with AML/CTF legislation and your AML/CTF policies and communicate with AUSTRAC on behalf of your business.

Your AMLCO must have sufficient authority, independence, access to resources and information to ensure they perform their function effectively.



Undertake initial and ongoing customer due diligence

You must undertake both initial and ongoing customer due diligence (CDD). Initially you will be required to know your customer (i.e. establish that the customer is who they claim to be) and understand the ML/TF risk the customer presents to your business.

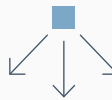
On an ongoing basis, you will be required to monitor your customers for any suspicious activity, update their ‘know your customer’ information and undertake enhanced customer due diligence for certain higher risk customers.



Report certain matters to AUSTRAC

You will be required to report threshold transactions (i.e. physical cash transactions of \$10,000 or more) and suspicious matters to AUSTRAC.

On an annual basis (usually by 31 March each year), you must submit a compliance report to AUSTRAC that outlines how you are complying with the various obligations under the AML/CTF Act.



Record keeping

Records relating to customer due diligence, transactions and AML/CTF Programs **must** be maintained.



Enrol with AUSTRAC

As an entity with obligations under the AML/CTF Act you will be required to enrol with AUSTRAC and provide certain information about your business and key personnel within specified timeframes.



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