



10 June 2016

Consultation – AUSTRAC Industry Contribution
Strategic Intelligence and Policy Branch
PO Box 13173
Law Courts
MELBOURNE VIC 8010

By email: Policy_Consultation@austrac.gov.au

Dear Sir/Madam

AUSTRAC Financial Year 2016-17 Industry Contribution

The Australian Financial Markets Association (AFMA) represents the interests of over 130 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 Papers dealing with the AUSTRAC Industry Contribution, namely submissions dated:

- 25 July 2014;
- 24 October 2014;
- 19 December 2014; and
- 26 August 2015

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

1. Outcomes from 2015-16 Industry Contribution

In our submission of 26 August 2015, AFMA highlighted a number of concerns with the 2015-16 Industry Contribution charging model. Our concerns centred on the refined charging model, and principally the fact that the burden associated with the increased proportion of AUSTRAC expenditure being recovered (ie. from 70% to 90%) fell primarily on the largest reporting entities. We proposed that, at a minimum, all of the factors included in the charging model be raised equally, and proportionately to the overall increase. This was not reflected in the final charging model for 2015-16, and hence our starting position in assessing the 2016/17 industry contribution model is ongoing objection to the lack of equality and proportionality.

We also note the announcement by the Government in the 2015-16 MYEFO that the amount of AUSTRAC costs to be subject to the industry contribution model for 2016-17 is 100%, as opposed to the announcement in the 2014-15 Budget of 90%. In reviewing the industry contribution model for 2016-17, our comments reflect a base-line increase in the proportionate amounts being recovered of 43%, given the lack of change in the charging model (apart from the transaction value component) in 2015-16.

2. The proposed charging model

In summary, the proposed charging model for 2016-17, acknowledging the thresholds and definitions in the Stakeholder Consultation Paper, is as follows:

- Earnings component: 0.043% of earnings
- Transaction report volume component: \$0.012 per report
- Transaction report value component: \$0.000010374

This results in the maximum fee payable increasing from \$9,361,237 to \$9,735,648. This is an increase of 4% from the 2015-16, but of 51% from the 2014/15 model.

Our comments in relation to these components are set out below:

2.1 Earnings component

Prima facie, the increase of the earnings component from 0.03% to 0.043% is supported by AFMA, insofar as it represents a proportionate increase in the component equal to the overall amount being recovered from 2014/15 (ie. from 70% to 100%). It is consistent with the submission point raised in our 16 August 2015 submission.

This assumes, however, that the appropriate starting point in terms of the earnings component is 0.03%. In our submission of 26 August 2015, AFMA reiterated its objection to the reduction in the earnings component from 0.05% of earnings to 0.03%, which was a late adjustment to the 2014-15 model and retained in the 2015-16 model. This resulted in an increase in the transaction value component from \$0.000008968 to \$0.00001102 (subsequently reduced to \$0.000010934), which was necessary given the proportionate increase in AUSTRAC expenditure to be recovered. The basis for the reduction to 0.03% has not been adequately explained, and it increased the contribution burden on AFMA members. Accordingly, our position remains that the base earnings component should be 0.05% and hence, for the 2016-17 year, and increased to 0.0714% of earnings to reflect the increase in the recoverable proportion.

2.2 Transaction report volume component

It is noted that the transaction report volume component has increased from \$0.01 per report to \$0.012 per report, which is an increase of 20% from the 2014-15 final charging model. While an increase in the component is supported, in our view there is no basis for not increasing the transaction value component by a factor of 43%, being the proportionate increase in the amount recovered. Accordingly, AFMA's position on this component is that it should be \$0.0143 in the 2016/17 final charging model.

2.3 Transaction report value component

It is noted that this component acts as a balancing item and to the extent that our submission points in relation to the earnings component and the transaction value component are implemented, we would expect a corresponding reduction in the transaction report value component.

3. Proposed reduction to earnings threshold

Our submission of 26 August 2015 noted that, under the earnings threshold of \$100 million, the minimum earnings component is \$30,000 (based on a fixed percentage of 0.03%). This threshold is set significantly higher than the minimum charge of \$1000, and so there are a significant number of leviable entities that do not pay any earnings component. On this basis, we suggested a reduction to the earnings threshold to spread the burden of the increase in a manner more commensurate to the risks posed. A reduction to, say, \$10 million would ensure an earnings component payment for entities that may still be considered to be large.

We note that AUSTRAC has undertaken some preliminary modelling on this suggestion and concluded that such a reduction would add an immaterial amount to the earnings component, and hence an insignificant reduction for reporting entities. This preliminary conclusion was based on data released in December 2015 by the Australian Taxation Office, which disclosed, amongst other things, total income for certain entities which AUSTRAC has used as a proxy for earnings. We note that this data is, by definition, both incomplete and out of date, and hence is not sufficiently reliable to ground conclusions on the appropriate charging model.

We continue to support the reduction of the earnings threshold to \$10 million. There is no basis in policy to relieve entities which are not "small" (based on the metric adopted by the Government in the 2016/17 Federal Budget) from making a proportionate contribution to the amount recovered. Any relief for the larger reporting entities is welcome, given the disproportionate amount of the funding burden they are currently bearing.

At a minimum, in the absence of an amendment to the earnings threshold we request that AUSTRAC collects earnings information from all reporting entities through the census process, to provide AUSTRAC with meaningful data on which to base modelling assumptions.

4. Potential expansion of regulated population

AFMA notes the recommendations of the Statutory Review of the AML/CTF Act, Rules and Regulations, as undertaken by the Attorney-General's Department and issued publicly on 29 April 2016. One of the key recommendations (Recommendation 4.6) was that:

The Attorney-General's Department and AUSTRAC, in consultation with industry, should:

- (a) Develop options for regulating lawyers, conveyancers, accountants, high-value dealers, real estate agents and company service providers under the AML/CTF Act; and*
- (b) Conduct a cost-benefit analysis of the regulatory options for regulating lawyers, accountants, high-value dealers, real estate agents and company service providers under the AML/CTF Act.*

We note that this recommendation, if accepted by Government and ultimately implemented, 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, so as to not exacerbate the inequities that already exist in the model.

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Thank you for the opportunity to provide a submission in relation to the Consultation Paper. Please contact me with any queries on 02 9776 7996 or rcolquhoun@afma.com.au .

Yours sincerely



Rob Colquhoun
Director, Policy