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Dear Hugh

**Draft amendments to Chapters 4 and 15 of the AML/CTF Rules relating to corporate customers who are custodians**

Thank you for the opportunity to provide comments on the draft amendments to Chapters 4 and 15 of the AML/CTF Rules relating to corporate customers who are custodians.

The below comments are made on behalf of AFMA members who are intermediaries providing services to an investor directed portfolio service (IDPS), managed discretionary account (MDA) or custodian, where the current requirement to 'look through' to the underlying beneficiaries of the custodial or depository service creates unnecessary duplication of effort and administration.

Accordingly we support the proposed changes to Chapters 4 and 15, for the following reasons.

1. The changes would alleviate the duplication of work, given that the regulated trustee is the sole holder of the relationship with their clients. As a result of the proposed changes, where a broker or other regulated entity provides designated services to the IDPS or custodial legal entity, the broker or other entity providing the designated service would then have no 'look through' obligation. This aligns with the policy objective whereby the existing requirement appears excessive and goes beyond the intention of the legislation.
2. Currently, risk issues arise for a broker or other regulated entity who provides a designated service, in that once they hold the names of the underlying clients of the IDPS or custodian, the broker/other RE is taken to be 'on notice' and the beneficiary names are screened against internal systems in order to ensure there are no issues. This obligation should rest with the IDPS operator or custodian as part of their on-boarding of the customer.

3. It has been noted that due to the current obligation on a broker/other RE to look through to the underlying beneficiaries and screen beneficiary names, broking activities for IDPS platforms or custodians are not scalable.
4. In overseas jurisdictions - for example the United Kingdom - there is no 'look through' requirement to the beneficiaries of regulated custodial/trustee relationships. This aligns with the United Kingdom's risk based approach, and means that regulated entities do KYC due diligence to a level that is commensurate with the risk.

We understand that there are other comparable jurisdictions, such as Singapore, Canada and Hong Kong, where there is also no look through behind a regulated entity to the customer of that regulated entity – being the beneficiary of the regulated entity.

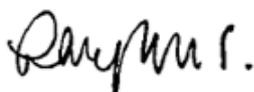
5. By removing the duplication of activity, it removes a regulatory and administrative burden which is greater than the actual financial crime risk, given that controls also exist to manage financial crime risk at the regulated custodial/trustee level.
6. The proposed changes would also remove the unintended consequence of over-regulation in this area, as currently both the regulated trustee and the broker may screen the beneficiaries.
7. Proposed paragraphs 4.4.18(3) and 4.4.18 (4) will remove the requirement for the reporting entity to collect and verify information about the beneficial owners and any politically exposed persons of the trust (including the trustee – that is, the custodian, and the beneficiaries of the trust including the underlying customers of the custodian) under Parts 4.12 and 4.13 of the AML/CTF Rules.

However, proposed paragraphs 4.4.18(5) and 4.4.18 (6) will only remove the requirement to carry out ongoing customer due diligence (CDD) about any beneficial owners and politically exposed persons of the underlying customers of the custodian.

We suggest that the scope of the parties exempt from Part 4.12 and 4.13 needs to align with the parties exempt from the ongoing CDD requirements in Chapter 15. It is not practicable to carry out ongoing CDD on beneficial owners and politically exposed persons that were not required to be identified or verified under Chapter 4.

Please contact me on 02 9776 7997 or [tlyons@afma.com.au](mailto:tlyons@afma.com.au) if you have any queries about this submission.

Yours sincerely



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**Tracey Lyons**  
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