



10 March 2026

Economic Crime Section
Transnational Crime Branch
Department of Home Affairs

Via Email: economiccrime@homeaffairs.gov.au

Dear Department,

AML/CTF Transitional Rules

The Australian Financial Markets Association (AFMA) represents the interests of over 140 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. A significant proportion of AFMA's members are reporting entities for the purposes of the AML/CTF Act.

Thank you for the opportunity to engage on the Exposure Draft of the AML/CTF Transitional Rules, including, but not limited to, the three-year deferral of the ICDD reforms. Our substantive comments are set out below.

Executive Summary

AFMA notes the following by way of executive summary:

- The proposed Transitional Rules should allow for different business lines within the same reporting entity to transition from ACIP to ICDD when operationally ready as opposed to simultaneously across the reporting entity;
- The Transitional Rules should confirm that the application is at the reporting entity level and not at the reporting group level;
- The Transitional Rules should allow for ACIP to be applied for OCDD and ECDD during the transitional period;
- The Transitional Rules should apply to customers being onboarded through an Overseas Permanent Establishment; and
- Clarity should be provided in the Transitional Rules that all travel rule obligations are deferred; and
- Further time should be provided in the Transitional Rules for reporting entities to notify AUSTRAC of any foreign laws in contravention of Australian AML/CTF laws.

Initial Customer Due Diligence Deferral

AFMA's understanding of the proposed Part 3 of the Transitional Rules with respect to Initial Customer Due Diligence (ICDD) is to allow reporting entities to defer commencement of the reformed ICDD measures in relation to new customers for a period up to 30 March 2029, with reporting entities able to continue to use ACIP for the intervening period, both in terms of the requirement to have policies to address ICDD and to establish the matters required under Section 28. AFMA further understands that, under the proposed Transitional Rule, it is necessary for the adoption of the new ICDD approach to occur simultaneously for all new customers, across all business lines that the reporting entity may undertake.

Simultaneous Commencement of ICDD Requirements

AFMA notes that a staged or phased transition away from ACIP does not imply non-compliance with existing customer identification obligations. As reporting entities progressively implement ICDD capabilities, those capabilities can be used to supplement and enhance existing ACIP processes, rather than replace them in a single cut-over event. This approach maintains compliance with ACIP requirements while allowing reporting entities to incrementally adopt the reformed ICDD measures in a manner that is consistent with the risk-based approach and operational readiness.

AFMA understands that Part 3 of the Transitional Rules has the effect of requiring all customer types to be fully compliant with a single method, i.e. either ACIP or ICDD. This requirement fails to recognise that, for large, diversified reporting entities, different businesses within those reporting entities have different policies systems, procedures and controls to implement AML/CTF measures and, therefore, may have different levels of implementation uplift required to transition from ACIP to ICDD. For example, the institutional business of a reporting entity may already have systems, processes and controls in place to undertake ML/TF risk identification and PEP/sanctions screening prior to the provision of a designated service to a customer. However, the retail business of the same reporting entity does not yet have those capabilities and will accordingly take longer to implement ICDD. To require the former to hold off on transitioning to ICDD is contrary to the objective of allowing implementation of the reforms as soon as possible.

The proposed approach is not operationally practical for organisations of significant size and scale, particularly those institutions with different customer cohorts (e.g. retail v wholesale) or reporting entities that operate in a multitude of jurisdictions. It is inconsistent with how large financial institutions implement large scale change, by doing so on a staged basis and thereby limiting the risk of outages and system rollbacks. Indeed, the proposed approach is at odds with how APRA would request its regulated entities to manage business continuity risk, including under the Operational Risk Standard CPS 230.

These issues are exacerbated by the timing of the announcement of the proposed Transitional Rules. To the extent that, within the same reporting entity, some businesses are operationally ready to implement ICDD from 31 March 2026 while others are not, the proposed approach will require the operationally-ready businesses to roll-back systems and processes to adopt ACIP from 31 March 2026 and then duplicate effort to apply ICDD at a future point.

AFMA is unaware of the rationale for the proposed approach to implementation of the Transitional Rules and notes that the proposed approach appears contrary to AUSTRAC's regulatory expectations of allowing reporting entities to demonstrate sustained effort and reasonable progress to implement the reforms. AFMA urges flexibility in the Transitional Rule to allow business units within a reporting entity to transition to the ICDD requirements when operationally ready to do so.

Application to the Reporting Group

AFMA has assumed that references to "reporting entities" in the Part 3 of the proposed Transitional Rules includes members of a Reporting Group, such that the requirement to cut-over from ACIP to ICDD simultaneously applies to all members of the reporting group. Clarification of this view would be appreciated. AFMA's preference would be for the application of the proposed transitional rules to be flexible for reporting entities to determine the best approach to ensure change management risks are appropriately managed.

Ongoing Customer Due Diligence (OCDD)/Enhanced Customer Due Diligence (ECDD)

AFMA notes that the proposed Transitional Rule provides relief only in respect of ICDD and not OCDD, including Enhanced Customer Due Diligence (ECDD) requirements. From a legal perspective, given that OCDD/ECDD dependencies exist on the basis that ICDD has been conducted in accordance with Section 28, there is a technical risk that deferral of the Section 28 requirements renders satisfaction of the new OCDD/ECDD requirements impossible. This creates ambiguities around OCDD and uncertainty about how and when OCDD should be applied during the transitional period.

From a more practical perspective, the extension of the Transitional Rule only to ICDD creates operational fragmentation between ICDD and OCDD/ECDD processes. Reporting entities will need to operate separate systems and processes to apply different CDD standards with a single customer relationship, which appears contrary to the intention of streamlining processes. Accordingly, AFMA requests a Transitional Rule that allows for application of ACIP for both ICDD and OCDD/ECDD during the transitional period.

Application to Offshore Permanent Establishments

It is unclear as to whether the proposed Transitional Rule applies to offshore permanent establishments (OPEs) of reporting entities or should they continue to operate under the Rules in force as at March 2026. In other words, clarity is sought whether customers that are onboarded by a reporting entity that is operating through an OPE are able to utilise the Transitional Rule. The specific drafting of the Transitional Rule appears to infer that the designated services are being provided in Australia. If this is the case, then it would create the perverse situation where there are different onboarding standards applying to a singular reporting entity depending on where the reporting entity is providing the designated service. Notably, this would give rise to substantial technical and operational complexities in instances where OPEs rely on the systems and processes of the Australian reporting entity.

Further, it is noted that under the AML/CTF Act currently in force (i.e. prior to the amendments that commence on 31 March 2026), OPEs benefit from an exemption from conducting ACIP. Therefore,

to the extent that the reporting entity adopts the Transitional Rule, it is unclear as to whether this exemption is within scope of the Transitional Rule. AFMA notes that the proposed Transitional Rules are intended to provide relief and accordingly it would be a perverse outcome if the application of the Rule was to impose an obligation that currently does not exist.

Modification of Reporting Obligations

Proposed Transitional Rule 10 provides that Subsection 46(2) (regarding IVTS reports) does not apply to a reporting entity if the reporting entity continues to provide an international value transfer service prior to the transitional date. This effectively allows for a deferral of the IVTS reporting requirements to 31 March 2029, which is welcomed and appreciated.

AFMA notes that Transitional Rule 10(3) appears to defer any changes to the travel rule requirements to allow for the continuation of the current IFTI reporting regime. While IFTI reports contain travel rule information, our view is that the travel rule requirements are separate to the IFTI reporting requirements. On this basis, AFMA seeks explicit clarity in Transitional Rule 10(3) that changes to the travel rule requirements are deferred to 31 March 2029.

Part 9—Defence of law of foreign country preventing compliance

It appears that reporting entities only have relief until 28 April 2026 to inform AUSTRAC of any foreign laws that would lead to contraventions of the Australian AML/CTF Act/Rules. This short amount of time is not adequate to consult OPEs and work through complex cross jurisdictional legal obligations. AFMA recommends that a period of six months minimum is provided to complete this exercise.

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AFMA and its members value the continued engagement with the Department and the opportunity to consult on the proposed Transitional Rule. Please contact me on (02) 9776 7996 if you have any queries about this submission.

Yours sincerely,



Rob Colquhoun
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Head of AML