



## **Modernising Australia's Anti-Money Laundering and Counter-Terrorism Financing Regime**

Deloitte's response to Attorney-General's Department consultation  
16 June 2023

16, June 2023

Attorney-General's Department  
Attn: The Hon Mark Dreyfus KC MP  
Submission via Online Portal

[www.deloitte.com.au](http://www.deloitte.com.au)

Dear The Hon Mark Dreyfus KC MP

**Deloitte's response to consultation on simplifying and modernising the Anti-Money Laundering and Counter-Terrorism Financing regime (Consultation Paper)**

Deloitte established a dedicated financial crime advisory practice in Australia during 1999, and since this time, has worked with reporting entities, law enforcement agencies and Australian Transaction Reports and Analysis Centre (AUSTRAC) in the context of the Anti-Money Laundering and Counter-Terrorism Financing regime (AML/CTF regime). We are also closely connected with our global financial crime practice and leading practitioners in a number of jurisdictions, many of which have had, or are undergoing, similar transformations.

With this background, we welcome the opportunity to share insights on both the challenges and the significant opportunities of Australia's current AML/CTF regime, in response to the Attorney-General's Department (AGD) consultation on modernising Australia's Anti-Money Laundering and Counter-Terrorism Financing regime (**Consultation Paper**).

Deloitte supports the stated intention of the AGD to simplify and modernise the AML/CTF regime as outlined in Part 1 of the Consultation Paper. At the heart of our submission is the premise that we must use this reform as a starting point to a longer-term pursuit of **effectiveness** of both the AML/CTF regime itself, but also of the introduction of other measures and initiatives that are required to comprehensively harden Australia against the threat of financial crime.

Within this submission we have outlined a number of relevant considerations with respect to both the simplification and the modernisation aspects set out within Part 1 of the Consultation Paper. We have not in this submission addressed the proposed reforms outlined in Part 2.

We would welcome the opportunity to further discuss any of our observations as part of the continued consultation process, including access to any of our global financial crime leaders.

Kind regards



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## 1. Executive Summary

The Consultation Paper recognises that in the years since the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (**the Act**) and the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (**the Rules**) were originally enacted, the operating and risk environment has changed, making it increasingly complex for Reporting Entities (**REs**) to address key regulatory obligations. We therefore support the need to simplify and modernise the Act and Rules.

The Financial Action Task Force (**FATF**), and most mature AML jurisdictions, are seeking greater “effectiveness” from the AML/CTF regime in light of the spiralling costs of compliance and limited empirical evidence that the fight against money laundering and terrorism financing (**ML/TF**) is being won.<sup>1</sup> The notion of effectiveness goes beyond technical compliance with FATF principles and instead focuses on specific regulations, resourcing and guidance targeting action that lifts regime outcomes.<sup>2</sup> We submit that the proposed simplification to the AML/CTF regime also considers measures to address effectiveness.

Australia will benefit from the development of an overarching Economic Crime Plan (similar to that established by the United Kingdom in 2019<sup>3</sup> and updated in 2023 for the next 3 years)<sup>4</sup>, together with industry, that will architect a series of initiatives driving at greater effectiveness, including possible further reforms to the AML/CTF regime. We believe an Economic Crime Plan would provide the following:

1. Broader complementary actions, at regime level, designed to enhance the effectiveness of Australia’s AML/CTF regime as opposed to just technical compliance;
2. A roadmap for a suite of future reforms and activities that would incentivise more targeted investment and collective efforts in the fight against financial crime; and
3. A tangible vehicle to refine how Australia ensures unwavering leadership of this issue within government.

In this submission we have provided commentary on key effectiveness measures that we believe should feature in such an Economic Crime Plan, and/or which could be considered as part of this round of reforms. Doing so would, in our view, deliver significant and lasting value for Australia. In this respect, research and trends witnessed in other jurisdictions regarding the effectiveness of existing AML/CTF developments have been drawn on, as well as our discussions over recent years with industry leaders.

We recognise that some of the suggested broader reforms may be difficult to achieve within the envelope of this round of reforms. As such, we recommend a two-phase approach regarding the modernisation and simplification of the AML/CTF regime, namely:

1. Undertake immediate actions to correct known weaknesses (such as those measures identified in the consultation paper), in a way that encourages a greater focus on effectiveness; and
2. Hold further consultations with industry on identified limitations and opportunities to lift the effectiveness of the Australian AML/CTF regime to inform a strategy for further reform and other actions.

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<sup>1</sup> FATF, ‘Methodology for assessing technical compliance with the FATF recommendations and the effectiveness of the AML/CTF system’, accessed 25 May 2023.

<sup>2</sup> ‘Review of the UK’s AML/CTF regulatory and supervisory regime’, HM Treasury, June 2022, viewed on 25 May 2023.

<sup>3</sup> ‘Economic crime plan 2019 to 2022’, HM Treasury and Home Office, 12 July 2019, viewed on 23 May 2023, <https://www.gov.uk/government/publications/economic-crime-plan-2019-to-2022>.

<sup>4</sup> ‘Economic crime plan 2023 to 2026’, HM Treasury and Home Office, 30 March 2023, viewed on 23 May 2023, [Economic Crime Plan 2 2023-26 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/publications/economic-crime-plan-2023-to-2026).

Our commentary regarding immediate actions is provided at section 2 *Simplification of the AML/CTF Regime – AML/CTF Programs*, and our suggestions in relation to holding further consultations with industry to lift effectiveness is at section 3 *Modernising the AML/CTF Regime*, where we discuss key measures including:

1. A strategic vision for the management of economic crime at a regime level;
2. The alignment of national ML/TF risk priorities and how the primary focus of REs needs to shift from maintaining technical compliance to a more outcomes-oriented approach;
3. Greater efforts needed on the recovery of the proceeds of crime;
4. Enhancing information and intelligence sharing by complementing the Fintel Alliance through private-to-private arrangements; and
5. Harnessing technology for better risk intelligence through innovation.



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