

AUSTRAC Risk Assessment October 2019 - Australia's Mutual Banking Sector -

A Summary for Boards and Senior Management

The following information has been developed to help Mutual's understand the key takeaways and themes identified in the AUSTRAC report. It has been overlaid with our observations and serves to provide Boards and Senior Management with suggested next steps.

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Executive Summary – AUSTRAC Risk Assessment

Released: 30 October 2019

Brief Description: The **AUSTRAC Risk Assessment: Australia’s Mutual Banking Sector Report** released on 30 October 2019 (**Report**), sets out AUSTRAC’s findings arising from its review of money laundering/counter terrorism financing risk in the Mutual Sector.

In summary, the overall rating of medium was considered appropriate due to the assessed criminal threat environment (particularly money laundering but also terrorism financing), vulnerabilities (such as cash exposure, high level of non-face-to-face services delivery, high levels of outsourcing) and consequences (such as loss of revenue and capital from fraud, higher insurance premiums and reputational damage), faced by the Mutual Sector. AUSTRAC reported that its analysis of suspicious matter reports (**SMR**)s submitted by Mutuals indicated that serious criminals known to government intelligence agencies are transacting through the sector.¹ There is some evidence that entities who pose a high risk of terrorism financing may be turning to Mutuals after a period of transacting with other banks.²

Call to action

Mutual banks have been urged by AUSTRAC to take note of the Report. AUSTRAC expects Mutuals will use the assessment to refine their own risk assessments, risk mitigation strategies and compliance controls.³

In our experience, regulators do consider the response taken by entities which are impacted by any publications issued by the regulator. Mutual banks should therefore review the adequacy of their AML/CTF Programs, having regard to the outcomes of the Report. Evidence of this assessment and any subsequent actions taken should be held to ensure this work can be revisited, if the need arises in any future engagements with the regulator. It is noted that AUSTRAC states in its Report *“The manner in which mutuals respond to the information in this report may be considered for future AUSTRAC compliance activities.”*⁴

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Key Takeaways

The below summary highlights some of the key takeaways from the AUSTRAC Risk Assessment: Australia’s Mutual Banking Sector Report (**Report**) which are particularly relevant or may be of interest to **Boards and Senior Management**. The summary highlights key points only and we recommend Boards and Senior Management review the Report in its entirety.

AUSTRAC Findings	Ash St. Observations
<ul style="list-style-type: none"> ▪ The Mutual Sector is consolidating but the sector itself is growing. With larger institutions and consolidated businesses that go beyond specific industries or geographic locations, the ML/TF risk may increase. 	<ul style="list-style-type: none"> ▪ Changes in the business environment should form part of the ML/TF risk assessment process and be updated upon any changes to the operating environment. Boards/Senior Managers should particularly be cognisant of potential increased ML/TF risk associated with plans to consolidate or merge and seek assurance that the AML/CTF Program has been updated to reflect changes in ML/TF risk, where applicable.
<ul style="list-style-type: none"> ▪ Various specific findings were made in the Report on the ML/TF risks faced by the Mutual Sector in relation to products, customers, channels and jurisdiction. 	<ul style="list-style-type: none"> ▪ Boards/Senior Managers should ensure the AML/CTF Officer and other relevant personnel report on their assessment of specific findings arising from the Report regarding ML/TF risks faced by the Mutual sector including any changes, remediation or rectification actions which may need to be made to the Mutual’s AML/CTF Program.
<ul style="list-style-type: none"> ▪ A high overall rating concerning vulnerability was identified. This was attributed in part to outsourcing arrangements. In particular, high levels of outsourcing of customer facing and AML/CTF processes and limited oversight/influence over the operations of third party service providers was noted. AUSTRAC stated in the Report that the vulnerabilities arising due to outsourcing 	<p>Boards/Senior Managers should:</p> <ul style="list-style-type: none"> ▪ understand what AML/CTF processes are outsourced and the oversight performed over third party service providers; ▪ consider the level of investment in systems and other resources to determine whether this is adequate, considering the ML/TF risks faced by the Mutual; ▪ assess whether they have a good understanding of the quality of SMRs reported by their Mutual; and ▪ where off-the-shelf risk assessment and transaction monitoring tools are used, seek further evidence and assurance that these tools have been sufficiently tailored.

AUSTRAC Findings	Ash St. Observations
<p>arrangements “<i>present significant risks to mutuals in terms of their ability to understand customer behaviour and understand their own liability in terms of AML/CTF compliance</i>”.⁵</p> <p>Other features that can expose the sector to vulnerability included:</p> <ul style="list-style-type: none"> ▪ the risk mitigation systems implemented by the sector such as the level of investment in AML/CTF systems and staff; ▪ quality of SMRs; and ▪ the use of off-the-shelf risk assessment and transaction monitoring tools that are not thoughtfully tailored to individual businesses 	
<ul style="list-style-type: none"> ▪ Observations were made by AUSTRAC in the Report regarding the implementation of the National Payments Platform (NPP) and Open Banking.⁶ 	<ul style="list-style-type: none"> ▪ Boards/Senior Managers should enquire about what steps are being taken by the Mutual to assess the changing risk environment associated with NPP and Open Banking, prior to implementation of these regimes. If NPP or Open Banking have already been implemented, they should satisfy themselves that an assessment was undertaken and that appropriate evidence and records are held concerning this assessment.

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AUSTRAC Findings	Ash St. Observations
<ul style="list-style-type: none"> ▪ Specific observations were made regarding mergers in the sector and heightened ML/TF risk ‘inherited’ from integration of customers outside of risk appetite as a result of a merger. 	<ul style="list-style-type: none"> ▪ Ensure merger transactions include appropriate customer due diligence activities to ensure acquisition of customers remains within risk appetite.
<ul style="list-style-type: none"> ▪ Smaller Mutuals may have heightened ML/TF risk due to: <ul style="list-style-type: none"> - resource constraints; - lack of capacity and sophistication in systems and controls; - insufficient procedure documentation; and - lack of appropriately skilled staff. 	<ul style="list-style-type: none"> ▪ Boards and Senior Managers of smaller Mutuals should consider the particular risks they may face and how these have been managed or mitigated.

How can Ash St. assist?

Ash St. are here to help you with all your legal, compliance and advisory needs.

Reach out to find out more on how we can help you and your organisation **identify, understand and disrupt ML/TF and other criminal offences.**

Call Catherine Tomic on +61 414 088 165 or email ctomic@ashstreet.com.au to arrange a free, no obligation consultation with a member of our GCR Team.

Our Team

The Ash St. Governance, Compliance and Regulation Team (GCR) is a blended legal, compliance and governance practice that draws on the private practice and in-house experience of our Practice Director, Samantha Carroll and Special Counsel, Michelle Bradshaw. Their approach is to listen, understand and then provide our clients with quality advice informed by their experience of what works in the real world.

Consistent with the Ash St. approach, the GCR team leverage the complementary skill sets of our Corporate/M&A, Finance, Projects IT, IP, Real Property and Employment Legal Practices and Advisory Services to ensure that the right people are involved in our client's Governance, Compliance and Regulatory matters. This translates into achieving the best results and high quality outcomes, for our clients.

About Ash St.

We are an integrated professional services firm providing legal, compliance and other advisory services to solve complex business problems.

Established in 2013, we were founded to offer clients "The New Way" in professional services – one of the first of its kind. With this foresight and the application of our respective disciplines, high capability talent and agile commercial models we ensure our clients' complex business problems are solved.

Our team of lawyers (many from top-tier law firms) have decades of experience in mergers & acquisitions; corporate and commercial law; governance, compliance and regulation; finance; IT; IP; real property; contracting; projects and employment law. Our firm's culture is based on providing clients with high value, technical (but pragmatic), advice.

Our global clients are based in Australia, United Kingdom, United States of America, Canada, Singapore, China and Hong Kong and include both public and private companies, start-ups through to mature entities. Our integrated advisory approach and commercial acumen is why they keep coming back to us.

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