6 March 2026

Crystol Fox
Assistant Secretary
Law Enforcement & Domestic Security Group
Department of Home Affairs

Email: economiccrime@homeaffairs.gov.au.

Dear Ms Fox,

JOINT SUBMISSION: AML/CTF TRANSITIONAL RULES EXPOSURE DRAFT 2026

The Financial Advice Association Australia[1] (FAAA) and the SMSF Association[2] welcome the opportunity to provide this submission in response to the Department of Home Affairs' consultation on the draft *Anti-Money Laundering and Counter-Terrorism Financing Transitional Rules 2026* and associated Explanatory Statement.

Initial CDD 3 year transitional provisions

The draft Rules propose to introduce a 3 year transitional period for current reporting entities to meet the initial CDD obligations under the reforms. The draft transitional measures will require the reporting entity to adopt and comply with a single method for undertaking initial CDD during this period either by electing to comply with the:

- pre-reform ACIP obligations for *all* new customers and *all* customer types until the date they choose to transition to the reformed initial CDD obligations, or

- new section 28 requirements under the reformed AML/CTF Act for initial CDD obligations for *all* new customers and *all* customer types from the date they choose to transition.

A core obligation under the reformed AML/CTF regime is that a reporting entity must undertake an ML/TF risk assessment, from which they must determine how to structure their AML/CTF policies to comply with their reformed CDD and customer risk assessment obligations.

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[1] The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. It was formed in 2023 following the merger of the two leading financial planning/advice bodies in Australia – the Financial Planning Association (FPA) and the Association of Financial Advisers (AFA). With this merger, a united professional association that advocates for the interests of financial advisers and their clients across the country was created.

[2] The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.

We and our members are concerned how these transitional arrangements will therefore work in practice and enable them to comply with their obligations.

For example, it is unclear how the ACIP obligations under the current AML/CTF Act can align with the reformed AML/CTF program and record keeping obligations for reporting entities under the reformed AML/CTF Act and Rules. Further, we are concerned that permitting reporting entities to operate under two regimes increases the risk of an inadvertent breach of their obligations.

Clear guidance is needed from AUSTRAC to support the proposed amendments to ensure reporting entities understand how they can appropriately integrate the initial CDD transitional arrangements into their new ML/TF risk assessment and reformed AML/CTF policies, should they wish to continue relying on their existing ACIP procedures during the transitional period.

Initial CDD transitional provisions and reliance agreements

Reliance agreements are standard practice between AFSLs and financial product providers, as financial product providers rely on the initial CDD conducted by financial advisers on behalf of the AFSL to comply with their AML/CTF obligations. This is because the financial adviser generally holds the relationship with the client and acts as the conduit between the client and financial product provider.

The reliance arrangement is typically included as part of the product distribution agreement between the financial product provider and the AFSL.

To ensure that a financial adviser, through their authorisation under the AFSL, can recommend appropriate financial products to their clients, determined by factors such as their client's financial objectives and needs, AFSLs generally have reliance arrangements in place with a large number of financial product providers.

We assume that where a reliance arrangement is entered into, both reporting entities, for example the AFSL and financial product provider, will need to conduct initial CDD under the same procedure for the reliance arrangement to be effective and compliant.

However, the proposed transitional provisions for initial CDD may result in one reporting entity electing to transition to the new initial CDD obligations under s28 before the other reporting entity does during the transition period.

This issue is amplified for AFSLs, most of whom will have in place a large number of reliance arrangements with financial product providers, and as a result, may be forced to conduct different initial CDD procedures for different clients during the three year transition period, depending on the election made by the respective financial product provider.

The current AML/CTF Act also has different obligations that a reporting entity must meet in order to enter into and continue a reliance agreement with another reporting entity; and different provisions that permit the 'first entity' to rely upon the CDD undertaken by the 'other entity'.

We also note that the reformed reliance provisions are linked to the new initial CDD obligations in s28.

As drafted, on the basis of the issues raised above, we suggest that the transitional arrangements for initial CDD are unworkable under the reformed reliance arrangement provisions for financial advice AFSLs, and in practice will create an unreasonable regulatory burden for AFSLs.

We believe regulatory certainty is needed to address the following questions:

Scenario 1 – Financial product provider operating under the ACIP obligations, with an AFSL that has transitioned to and is meeting its obligations for initial CDD under s28 of the reformed AML/CTF Act:

a) Can the financial product provider enter into or continue a reliance arrangement with this AFSL?
b) Can the financial product provider rely upon the initial CDD undertaken by the AFSL?

Scenario 2 – Financial product provider elects to undertake initial CDD in accordance with s28 of the reformed AML/CTF Act and the AFSL elects to continue operating under the existing ACIP obligations:

a) Can the financial product provider enter into/continue a reliance arrangement with this AFSL holder?
b) Can the financial product provider rely upon the initial CDD undertaken by the AFSL?

As previously noted, the majority of reliance agreements are embedded within or attached to the contractual distribution agreement between the AFSL and each financial product provider. Given the transitional Rules apply to all current reporting entities, the proposed transitional Rules could result in an AFSL being in breach of their contract if they are unable to conduct initial CDD for a financial product provider that is operating under different obligations for the purposes of initial CDD.

We believe it would be unfair for the law to allow each financial product provider to compel AFSLs to undertake initial CDD based on their preference. This would result in excessive regulatory burden and cost for the AFSL and further create a legal risk they may be in breach of their contractual or even regulatory obligations.

Modified application of section 26T of Principal Act

We welcome the inclusion in the draft Rules of provisions that make it clear that the new tranche 2 definitions and associated obligations do not commence until 1 July 2026 for reporting entities that only provide item 54 services. This provides legal certainty that the expansion of the AML/CTF Act to other services applies consistently for all potential providers from the same date.

Independent evaluations

We also welcome the amendments proposed in Part 7 of the draft Rules that provide transitional arrangements in relation to the timing of the first independent evaluation of a reporting entity's AML/CTF policies.

The proposed amendments recognise that current reporting entities that only provide item 54 designated services are exempt (under s26T) from the new obligations in the Principal Act to conduct an independent evaluation. However, if these entities determine that they also provide a tranche 2 designated service and will continue to do so from 1 July 2026, the independent evaluation obligations will apply to all services provided by that entity.

We appreciate the policy intent to stagger the timing of the first independent review for all tranche 2 reporting entities, including any current item 54 only providers that may provide tranche 2 services in the future. This is a sensible policy decision given the likely volume of new reporting entities and the demand this would create for independent review service providers. We support the proposed provisions to ensure impacted current item 54 only providers are included in these transitional arrangements.

If you have any questions about our submission, please do not hesitate to contact Heather McEvoy, Senior Policy Manager, Policy FAAA on 0408 030 906 / heather.mcevoy@faaa.au.

Yours sincerely,

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