



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 16171

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John L Schmidt
Chief Executive Office
AUSTRAC

Dear Mr Schmidt

Regulation Impact Statement – Proposed reform to strengthen Customer Due Diligence

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment on 8 April 2014. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The OBPR assesses RISs for consistency and adequacy – consistency relate to following the prescribed process and adequacy relates to the quality of the analysis. I note our comments of 24 January 2014 on the initial draft have been appropriately addressed, as you confirmed in your letter certifying the final version of the RIS.

I note the agency has been consistent with the RIS guidelines, having twice provided a certified RIS to the OBPR for the two-pass assessment before the decision-maker considers the RIS.

I note that the RIS is adequate as it does not contain obvious errors and has a degree of detail and depth of analysis that is commensurate with the magnitude of the problem and the size of the potential impact of the proposal – the Office of Best Practice Regulation (OBPR) has previously assessed this as a ‘C’ category RIS, reflecting that the issue has a significant impact on a defined sector of the economy.

I note that the regulatory costs and cost offsets have been agreed with the OBPR.

Of those proposals underpinning the regulatory offsets, I note that one of these proposals (relating to collection and verification requirements) will require a RIS to support a final decision. I note that it is important that a decision on the offsets is made as soon as practicable.

I note further that the RIS describes the nature, scale and scope of the problem, and in particular illustrates the nature of the social harm or market failures through the use of examples.

The RIS notes the inherent difficulties associated with estimating the scale and scope of organised crime, money laundering and other illicit activities. The RIS outlines the particular social costs arising from these crimes including losses to revenue and distortions to the 'market' for securities and corporate control. The RIS also outlines the potential risks associated with being assessed as inconsistent with the FATF framework, including the likelihood and consequences of being removed from the equivalency list.

The RIS estimates the likely compliance costs impacts of the proposed option. The costing methodology is based largely on an analysis of comparable implementation costs in the European Union, as revised to account for differences in the scale of the Australian market and differences in the substantive compliance obligations. These costings have been validated through a 'bottoms up' calculation and are indicated as being consistent with high-level industry consultation outcomes.

The RIS also contains a useful distributional analysis, setting out the nature of the change, practical compliance steps, how many and which businesses will be most affected, and the relative significance of each requirement from a compliance perspective.

The conclusion section provides a balanced discussion of the costs and benefits that have been taken into account in formulating a recommendation on the preferred option.

The completed RIS should be provided to the decision-maker prior to a decision being taken on this proposal.

Additionally, the Office of Best Practice Regulation (OBPR) maintains a RIS website and the Government requires that final RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate.

Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 16171. If you have any further queries, please do not hesitate to contact me.

Yours sincerely

Jason McNamara
Executive Director
Office of Best Practice Regulation
9 April 2014