

Article Information

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Australia kicks off 2nd consultation on AML/CTF reforms

Michael Bacina, Steven Pettigrove and Kelly Kim of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

Earlier today, the [Attorney-General's Department announced the commencement of a second round of consultations](#) on reforms to Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime. The consultation follows an initial [consultation commenced in April 2023](#), and proposes detailed reforms based on feedback received to date. The proposed reforms are intended to simplify Australia's AML/CTF regime, while expanding it to cover a wider range of businesses and virtual asset service providers.

The Department highlighted:

Australia is one of a handful of countries that are not meeting the Financial Action Task Force's requirement to regulate lawyers, accountants, trust and company service providers, real estate agents and dealers in precious metals and stones [tranche two entities].

The [second stage consultation](#), *'Reforming Australia's anti-money laundering and counter-terrorism financing regime'* proposes to expand the scope of 'designated services' which are regulated under the AML/CTF Act to include certain services under the tranche two sectors. This will impose AML/CTF obligations on previously unregulated entities, including an enrolment requirement with the Australian Transaction Reports and Analysis Centre (AUSTRAC).

The consultation comprises an [overview document and five targeted papers](#):

Paper 1 - Further information for real estate professionals

Paper 2 - Further information for professional service providers

Paper 3 - Further information for dealers in precious metals and precious stones

Paper 4 - Further information for digital currency exchange providers (DCEs), remittance service providers and financial institutions

Paper 5 - Broader reforms to simplify, clarify and modernise the regime

The first three papers address AML/CTF vulnerabilities in tranche two sectors, suggesting a list of services in each sector which should be categorised as a 'designated service' under the *AML/CTF Act 2006* (Cth) (the **AML/CTF Act**). Paper 4 proposes expanding the scope of regulated services concerning digital currencies, suggesting among other things, the replacement of the term 'digital currency' in the AML/CTF Act with 'digital asset'. Paper 5 sets out a number of proposals to simplify, clarify and modernise the AML/CTF regime.

[Paper 4 promises significant reforms in relation to digital currencies](#) including:

- A transition from regulating "digital currencies" to "digital assets" bringing a broader range of digital assets within the AML/CTF regime, including broader coverage of stablecoins and potentially non-fungible tokens (NFTs);

- The addition of new categories of designated services relating to digital assets, including businesses involving exchange between digital assets, digital asset custody, digital asset transfers and participation in initial offerings;
- The extension of the travel rule to digital assets, potentially including transfers to self-hosted wallets; and
- The extension of requirements to make international fund transfer instruction reports (**IFTIs**) in relation to digital asset transfers above certain thresholds.

The proposed reforms follows other jurisdictions such as the [UAE and Cayman Islands which revised their AML/CTF rules to escape or avoid being placed on FATF's 'grey list'](#). While Australia is a founding member of the FATF, they have previously failed to comply with 16 of the 40 FATF standards. Australia's reforms are expected to be implemented ahead of a FATF review expected in 2026-2027.

The reforms would mark a significant expansion of the scope of the existing AML/CTF regime, including as it relates to persons and businesses dealing in digital assets. It is important that the reforms take into account practical considerations in relation to digital assets, including key definitions and challenges such as self-hosted wallets and the sunset problem, to ensure that the regime is workable and fit-for-purpose. Accordingly, industry participation will be vital in shaping legislation.

[Submissions can be made through the Attorney-General Department's website until 13 June 2024](#). The Department welcomes opinions from stakeholders, current and potential prospective reporting entities among others. The Attorney-General's Department will also host roundtable discussions for 'affected sectors on sector-specific issues'.