CLAYTON UTZ

Designing an AML/CTF program aligned to your risk profile

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Agenda

- Translating your risk assessment into proportionate policies, controls and monitoring processes
- Embedding your program into day-to-day operations through effective governance, staff training and reporting lines
- Ensuring your program's structure, rationale and documentation are clear and consistent for regulatory review

AML/CTF programs: a new approach

The AML/CTF Amendment Act introduces a set of **outcomes-focussed obligations** which ensure reporting entities undertake appropriate measures to mitigate and manage **ML/TF risk.**

These obligations include an explicit requirement to have an **AML/CTF program** comprising:

- a **ML/TF risk assessment**; and
- **AML/CTF policies** to ensure effective AML/CTF compliance.

The reforms replace the prescriptive, procedural AML/CTF requirements with a set of outcomes focused obligations.

Reporting entities are currently required to develop an AML/CTF program with a 'primary purpose' of identifying, mitigating and managing ML/TF risk.

The reforms shift this focus so that reporting entities prioritise mitigating and managing the ML/TF risks they identify as being relevant to their business.

The ML/TF risk assessment

The new legislation requires a reporting entity to undertake a **risk assessment** that **identifies** and **assesses** the **risks** of money laundering, financing of terrorism and proliferation financing that it may **reasonably face** in providing its **designated services.**

The steps taken by the reporting entity in conducting its risk assessment must be appropriate to the nature, size and complexity of its business.

Generally, the main factors a reporting entity must consider when assessing its risk are:

- The kinds of services being provided
- The kinds of customers of a business
- How the services are delivered
- The countries a reporting entity does business in
- AUSTRAC guidance

A reporting entity must **review** and **update** its risk assessment where there is a significant change to any of the above factors, or at least once every 3 years, to capture any new or changed risks.

A reporting entity must have an **up to date** risk assessment before providing designated services.

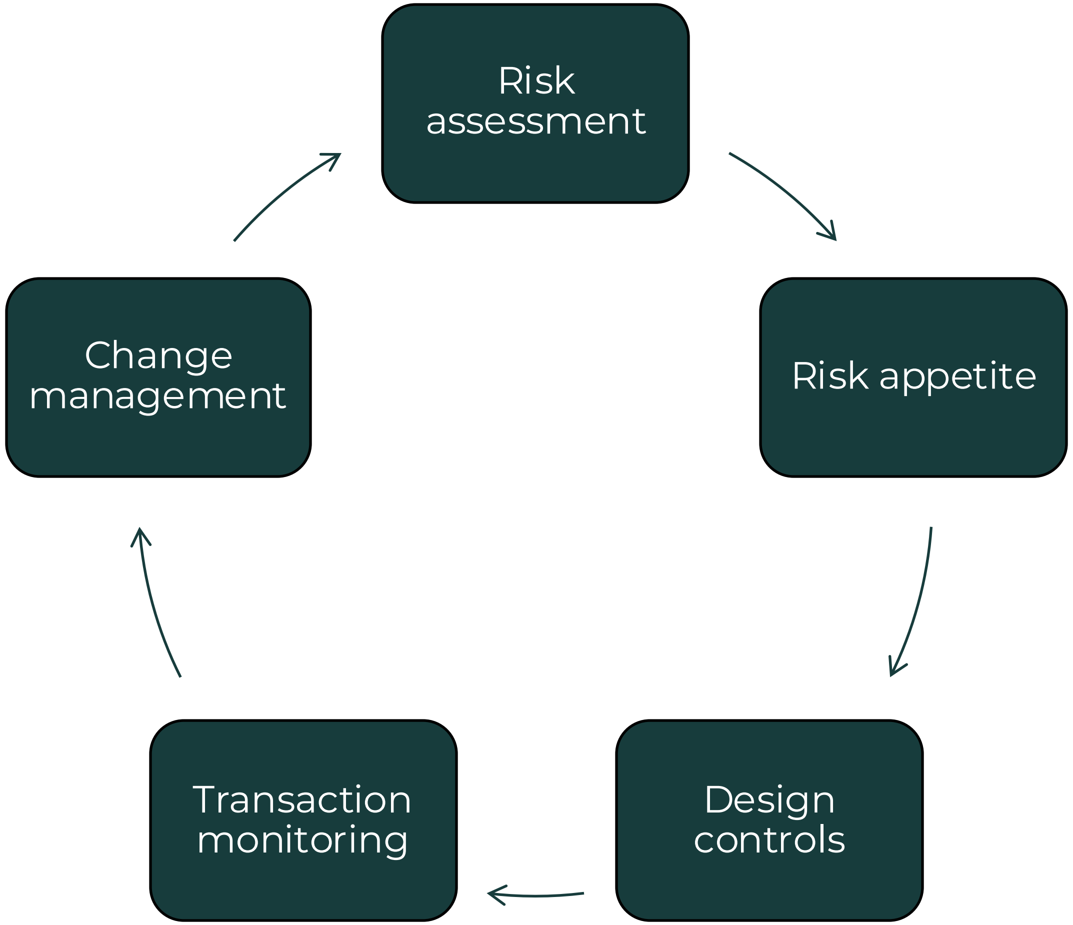
Why 'risk-aligned' really matters

AML/CTF program = risk assessment + AML/CTF policies

- What do the Act and Rules require?
- AUSTRAC's expectations
  - Targeted
  - Proportionate
  - Dynamic
  - Effective
- Civil penalties for non-compliance

The risk assessment is the engine room of the program, not an appendix.

Risk assessment → proportionate AML/CTF policies



What not to do

One size fits all / generic templates

Misalignment between risks and controls

Over-engineering

Embedding the AML/CTF program through governance, training and reporting

AML/CTF policies must ensure compliance with the AML/CTF Act and AML/CTF Rules

Section 26(4): At least the following matters need to be dealt with:

- Board awareness
- AML/CTF compliance officer
- Senior manager responsibility
- Due diligence in relation to employees
- Minimum training requirements
- Independent review at least every 3 years

Governing body and AML/CTF compliance officer

Board / governing body

- Ongoing oversight of right identification/assessment and effectiveness
- Approve risk appetite and material changes
- Receive and act on escalated issues

AML/CTF compliance officer

- Senior, fit and proper and well-resourced
- Day-to-day execution
- Drives remediation, systems investment, de-risking decisions
- Ability to escalate

Effective staff training and reporting lines

Training

- Regular
- Role-specific
- Documented

Reporting and escalation

- Clear, rapid lines of escalation
- Templates to ensure timeliness and consistency

Documenting your story

Structure

- Single "master document" linking it all together
- Retiring Part A/B labels

Rationale

For each control:
- what risk is being mitigated?
- how does the control work?
- why is it proportionate to the residual risk?

Document management

- Formal change control processes
- Obligations register mapped to the program

Key differences: Existing vs Tranche 2

	Existing Reporting Entities	Tranche 2 New Entrants
Legacy programs	Must migrate from Part A/Part B to single integrated program; leverage existing infrastructure but avoid cut-and-paste.	Build new program; opportunity to adopt modern technology/approaches from outset.
Culture & awareness	Usually have embedded AML culture – but risk of complacency.	Cultural change piece is larger – professionals may see AML as alien to client service.
Data maturity	Generally richer source of data to feed into risk assessment.	Data often sparse – start capturing now; look to industry bodies and AUSTRAC sectoral guidance.
Supervisory expectation	AUSTRAC may expect quicker compliance enhancement – “you have had 15 years”.	Transitional leniency but no free pass – early movers will set the benchmark.

Practical tips and quick wins

Appoint an AML/CTF compliance officer and give them a budget

Map data flows

Start segmenting customers

Consider software solutions

Engage the Board

Closing thoughts

- Risk alignment is a discipline, not a slogan
- Flexibility has increased, but so has accountability
- Prepare early, involve the Board, invest in data and people

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