

AML changes – Impact on superannuation and other funds



What do superannuation funds, retirement accounts, pension fund managers, trustees of managed investment schemes, fund managers, casinos and private credit providers have in common?

From 31 March 2026, each of these entities must comply with the AML Tranche 1 reforms (**March Reforms**).

What are the AML laws and why there is no time for complacency.

The AML Laws are the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the related Rules. The original AML Laws came into effect twenty years ago, but the latest round of reforms come into effect 31 March 2026 (**Tranche 1**) for some entities and 1 July 2026 (**Tranche 2**) for the balance.

Superannuation, pension funds, RSA providers, trustees of managed investment schemes and fund managers (collectively referred to as **Funds**)

Superannuation funds, pension funds and RSA providers provide designated services when they accept a contribution, roll-over or transfer for a new or pre-existing member of the fund as well as when a member cashes in whole or part of any interest held by the member of the fund. Self-managed superannuation funds are excluded from the AML requirements. Trustees that issue or sell an interest in a managed investment scheme or allow a redemption of a unit are also providing designated services. There are some exemptions for the issue or sale of interests in managed investments schemes on a declared financial market.

Why are the AML changes impacting on Funds?

When you think of anti-money laundering or terrorism financing most people do not think of superannuation funds or managed investment schemes. But AUSTRAC's *2019 Industry Specific Guidance: Superannuation Sector* highlighted some of the specific risks to which the sector was exposed.

Known AML risks in the superannuation sector include falsified documents to facilitate theft of member funds, unusually high voluntary member contributions to launder funds, cybercrime to facilitate identity thefts, multiple hardship early release requests and requests for payments into constantly changing bank accounts.

New focus on identification and assessment of AML and proliferation financing risks

Many Tranche 1 entities like superannuation funds and managed investment schemes have assumed that the March Reforms would only require them to make small adjustments to their existing AML programs. However, this is not the case. The new laws shift the focus from compliance to the identification and management of risk and require a significant shift in the focus of existing AML Programs. Gone are the days of a template Part A and Part B AML/CTF Program.

Funds must now adopt a risk-based, outcomes focused approach

The Board and senior management of Funds must:

- conduct a comprehensive risk assessment of the specific money laundering and terrorism financing ML/TF risks the business faces
- apply risk-based systems and controls to manage risks
- identify emerging risks and modify relevant systems and controls to minimise and manage these risks, and
- introduce new governance structures.

An AML Program that merely identifies and addresses general compliance risks, whilst failing to address the risks relevant to the entity, is no longer sufficient. Contravening these requirements could attract a civil penalty. In addition to a detailed assessment and management of risks, the March Reforms also introduce a new AML specific governance structure.

What do you need to be doing now?

At this late stage it is important that you have a project plan in place that includes both of the following:

A risk assessment: you must identify and assess your money laundering, terrorism financing and proliferation financing risks (**ML/TF risks**). If you have an existing risk assessment, consider updating it in accordance with the new March Reforms. The emphasis has moved from strict compliance to focussing on AML risks (as well as the usual compliance requirements).

AML/CTF policies: you must develop and maintain appropriate policies, procedures, systems and controls to manage and mitigate your ML/TF risks and comply with your AML/CTF obligations. While you may have existing policies in your AML/CTF Program you will need to update them to comply with the March Reforms. For example there is no Part A and Part B AML Program from 31 March 2026 just a single program, which can be broken into many parts. Equally there are changes to customer due diligence, reporting and tipping off obligations all of which must be reflected in your new AML/CTF Program.

There are specific governance structure requirements associated with the March Reforms including the need to:

- 1 Identify the governing body** that is the entity with primary responsibility for governance and executive decisions, appoints the Australian resident the AML/CTF compliance officer and has oversight of the AML/CTF Program and compliance. This can be complex when there are franchises, overseas parent companies and multiple subsidiary entities.
- 2 Appoint Senior Manager(s)** who have specific legal obligations under the AML Act especially for key compliance decisions. There is set of new governance requirements that did not form any part of the existing AML requirements and these impact on roles, legal responsibilities and formal delegations.
- 3 Appoint the AML Compliance Officer** who has to be assessed as 'Fit & Proper' and who is responsible for managing day-to-day AML/CTF compliance and ensuring that the AML policies and procedures are implemented.

Isn't this just an off the shelf 'vanilla' exercise?

One of the most significant parts of the March Reforms are the new governance and risk management requirements and the formalised reporting system.

We know from first-hand experience that this assessment is the most challenging. It isn't a legal exercise but one that requires a detailed knowledge of your business, employees and members. And it requires you to apply the minimum client due diligence identifications and verifications set out in the AML laws.

Action Needed: As each entity is unique, there is no room for 'vanilla' off-the-shelf programs. Each RE must be in a position to demonstrate that the risk assessment has been conducted to identify the AML specific risks and show how its AML implementation program addresses and manages the identified risks.

Conducting a meaningful AML risk assessment requires a sound knowledge of the AML legislation, including the relevant sanctions and privacy laws, as well as a good understanding of the risk management standard *AS/NZS ISO 31000:2018 Risk Management Principles*. Sparke Helmore is well positioned to support REs in meeting these obligations. We assist with conducting the AML risk assessment, surveying personnel to determine any new designated services, delivering targeted training for staff and management and assisting with drafting the new AML program to reflect the risk-related focus.

Our AML Team has been advising on AML Audits, Risk Assessments and AML Programs for many years so we understand the challenges these reforms bring especially when you have large member numbers across multiple age groups and technology skills. Because of this expertise, we can bring to you suggestions on how to develop your AML Program before the 31 March 2026 deadline and to continue to fine-tune afterwards. There has been some limited transitional relief passed but this only delays the inevitable and you need to demonstrate that you have been trying to meet the deadline.

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