

FINANCIAL SERVICES REGULATORY UPDATE

True Oak develops and distributes a monthly overview of current and proposed regulatory changes in the Australian financial services industry that we think might be of interest to our CAR and Fund Manager clients.

GOVERNMENT

1. Consults on Restructuring Financial Reporting Architecture

Treasurer Jim Chalmers has [announced](#) the release of a [consultation paper](#) to gather insights and feedback on how to restructure Australia's financial reporting architecture with the aim to make it more efficient, effective, and fit for purpose.

The consultation paper seeks feedback on the proposed structure and governance arrangements for a new body responsible for the combined functions currently performed by the Australian Accounting Standards Board (AASB), the Auditing and Assurance Standards Board (AUASB) and the Financial Reporting Council (FRC), including formulating, issuing, and providing advice and reports to government relating to, accounting standards, auditing and assurance standards and sustainability standards.

The new body would be governed by a government-appointed board, constituted by members with experience and expertise appropriate to its functions as well as its strategic direction setting, general oversight and governance roles.

It is also proposed the board will be the accountable authority of the new body and collectively responsible for the relevant duties and powers.

While the new body will be vested with functions and powers currently performed and exercised by the FRC, AASB and AUASB, it is anticipated the board will initially establish three dedicated technical committees to perform its standard setting functions: an accounting standards committee, a sustainability reporting standards committee, and an auditing and assurance standards committee.

The technical committees, which will be constituted by professionals with relevant technical knowledge and expertise appointed by the board, will have delegated power to make and formulate standards directly. Additionally, the board will be able to set up other committees, such as advisory committees, and will have the power to delegate powers for administrative purposes comparable to other Commonwealth entities.

The board, chair and committees will be supported by a chief executive leading a team of permanent staff supplemented by external expertise where appropriate. This differs from the current arrangements where the FRC is supported by a secretariat within Treasury, the new body will be fully resourced in-house.

In addition to accounting and auditing standards, the new integrated body will better support the ongoing development of climate-related financial disclosure standards.

The consultation is available on the Treasury website and will be open until 21 February 2025.

2. Publishes First Edition of the Regulatory Initiatives Grid

Treasury has published the [first edition of the Regulatory Initiatives Grid](#) (RIG) which details reform priorities and initiatives that will materially affect the financial sector over the next 2 years.

The RIG covers data collection and consultation on policy changes as well as legislation, regulations and instruments by the following agencies:

- Treasury
- Attorney-General's Department

- Australian Competition and Consumer Commission (ACCC)
- Australian Financial Security Authority (AFSA)
- Australian Prudential Regulation Authority (APRA)
- Australian Securities and Investments Commission (ASIC)
- Australian Taxation Office (ATO)
- Australian Transaction Reports and Analysis Centre (AUSTRAC)
- Reserve Bank of Australia (RBA).

The RIG first edition does not include changes by the Privacy Commissioner.

The RIG divides the financial system into 8 sectors:

- Banking, credit and lending
- Collective management and investment management
- Financial advice
- Financial markets
- Insurance and reinsurance
- Payment services and digital assets
- Superannuation and retirement income
- Other.

The RIG divides initiatives into 4 categories that reflect policy lifecycle phases:

1. Policy development
2. Development of legislation, regulations and instruments
3. Ongoing program implementation
4. Review and evaluation.

It is available in three formats: a RIG Report, an [interactive dashboard](#), and an Excel workbook.

An updated RIG publication (Edition 2) is planned to be published in September 2025.

After this, the RIG will be updated and published twice a year (March and September).

The forward calendar is presented in quarter year periods for year 1 (Q1 – Q4), and half year periods for year 2 (H1 – H2). All activities and dates are indicative only and are subject to change by the agency or regulator.

3. Financial Services Minister Announces Retirement

Labor frontbencher, assistant treasurer and minister for financial services Stephen Jones has [announced](#) that he is retiring from politics and will not contest the upcoming federal election.

ASIC

4. Intends to Increase Surveillance of Private Markets

ASIC has [announced](#) that the shifting balance between public and private markets will be a top focus for 2025.

Besides its intention to lead discussion on issues key to the “ongoing and future success of Australia’s capital markets”, ASIC said it, like its domestic and international counterparts, is interested in [pinpointing potential vulnerabilities and harms that may emerge with the growth of private markets](#).

The review, which is expected to take at least two years, will target a sample of firms operating in the space: “We are also increasing our focus on private markets through our surveillance work: as part of this work

ASIC will review the governance processes and practices of a sample of responsible entities of retail private credit funds, including their asset valuation and liquidity management practices,” ASIC said.

AUSTRAC

5. Publishes Draft Revised Act

AUSTRAC has published the [Future Law Compilation](#) of the Anti-Money Laundering and Counter-Terrorism Financing Act which shows the text of the AML/CTF Act 2006 as it is expected to read at 1 July 2026 to include the amendments within the [AML/CTF Amendment Act 2024](#).

The Future Law Compilation of the AML/CTF Act is not the current law and further changes may be proposed and made to the law before the expected amendments commence. AUSTRAC is publishing the Future Law Compilation of the AML/CTF Act to assist reporting entities and industry associations understand the effect and become familiar with the amended legislation.

Summary of Upcoming Reforms

AUSTRAC has also launched a [new webpage](#) which summarises the steps that reporting entities need to take to be prepared for the AML reforms that are coming into effect on 31 March 2026.

For example, some of the reforms relate to:

- No longer separating an AML/CTF program into Part A and Part B provided it meets the requirements of the AML/CTF Act.
- Separating customer due diligence requirements into two categories – initial due diligence and ongoing due diligence and also clarifying the level of checks applied to each customer under initial and ongoing due diligence.
- Amending the prohibition on “tipping off” customers regarding the reporting of suspicions of unlawful activity.

Consultation Paper on New Rules

AUSTRAC has released its consultation paper on the new AML/CTF Rules ([Consultation Paper](#)), as well as publishing the first exposure draft of the *Anti-Money Laundering and Counter-Terrorism Financing Rules* on 11 December 2024 (Draft Rules). As much of the granular detail required to comply with the AML/CTF Act is captured in the AML/CTF Rules, AUSTRAC have proposed a wholesale rewrite in the Draft Rules to align with the reforms in the AML/CTF Amendment Act.

Linked Article: [Jingle bills: Unwrapping the AML/CTF reforms passed by Parliament and AUSTRAC’s consultation paper](#) (Herbert Smith Freehills – 20 December 24)

6. Publishes 2025 Focus Areas

AUSTRAC has published a [list of areas](#) it is encouraging businesses to focus on:

- Board oversight and engagement: Boards should continue to actively engage in developing, assessing and monitoring its ML/TF risk appetite and tolerance. This includes receiving frequent reports, escalating matters to the Board and the Board responding to ML/TF risk exposure.
- Compliance function capacity: Businesses, particularly in emerging and growing sectors, are encouraged to match compliance capabilities and resourcing as they expand, to avoid delays in reporting and gaps in transaction monitoring investigations.
- ML/TF risk exposure: Small and medium businesses should regularly review and assess ML/TF risks, which are distinct from enterprise-wide risk assessments. Businesses should incorporate insights from

publications, such as AUSTRAC's 2024 money laundering national risk assessment and 2024 terrorism financing national risk assessment.

- **Customer identification:** Adequate checks on customer identity and source of wealth and funds. AUSTRAC says it's essential to ensure adequate and periodic reviews of transactions or unusual activity are carried out to assess ML/TF risks and exposures.
- **Transaction monitoring:** Tailored rules and triggers to detect high-risk typologies, such as terrorism financing, can help businesses prioritise high-risk investigations that in turn support law enforcement in disrupting illicit activities.
- **Independent reviews:** Robust independent reviews of AML/CTF programs deliver better outcomes by identifying gaps and improvements.

CASE LAW

In late December 2024, the [Federal Court found](#) that a collapsed contracts for difference (CFD) issuer (the AFS Licensee), and two of its former corporate authorised representatives, engaged in systemic unconscionable conduct as well as a raft of other contraventions of the law between 2018 and 2020.

In an Australian first, the Court found that the AFS Licensee breached its general obligation to ensure that the financial services covered by its Australian financial services (AFS) licence were provided 'efficiently, honestly and fairly', where it offered those services to customers in China, and it knew, or ought reasonably to have known, that those customers were likely be contravening Chinese law and it failed to take any reasonable steps to warn its customers that it was exposing them to potential civil and criminal liability in China. This judgment has important implications for entities providing financial services under an AFS licence to customers outside of Australia. Justice Wigney held that the general obligations of AFS licensees are not limited to financial services provided to customers in Australia.

Linked Article: ASIC Media Release: [Federal Court finds CFD issuers engaged in systemic unconscionable conduct with customer losses totalling over \\$83 million](#) (20 December 2024)

PROFESSIONAL DEVELOPMENT OPPORTUNITIES

Sophie Grace Compliance Videos

Consultancy [Sophie Grace](#) has released a number of compliance-based videos that can be purchased separately. Consider, in particular, [AFSL Wholesale Client Qualification](#) and [What Things Must Not Be On Your Website](#).

February 2025

- a. FINSIA – **Case Studies in Impact Investing: What Best Practice Looks Like** (Webinar – 12 February) – more info [here](#).
- b. Financial Standard – **Chief Economists Forum** (Sydney – 18 February; Melbourne – 20 February) – more info [here](#).
- c. Portfolio Construction Forum – **Markets Summit 2025** (Webinar – 19 February 25) – more info [here](#).
- d. Holley Nethercote Lawyers - **No Advice v General Advice v Personal Advice Training** (Online Workshop – Tuesday 25 February) – more info [here](#).

If your ARs were not able to attend the session facilitated by HNL in November 24, we strongly recommend that you consider signing them up for this 3-hour interactive workshop.

- e. Australian Investment Council – **Principles of Venture Capital** (Sydney – 25 February) – more info [here](#).
- f. Australian Investment Council – **Principles of Private Equity** (Sydney – 27 February) – more info [here](#).

March 2025

- a. Australian Investment Council – **Foundations of Directorship** (Sydney, 14 + 21 + 28 March) – more info [here](#).
- b. Climate Zeitgeist – **Climate Investor Forum** (Melbourne – 19 March) – more info [here](#).
- c. Australian Investment Council – **Principles of Private Debt** (Sydney – 19 March) – more info [here](#).

May 2025

- a. International Business Review – **Investment Performance Measurement, Attribution and Risk Management 2025 Conference** (Sydney – 20-21 May) – more info to come.

INTERESTING READS

Links to interesting blogs and articles I've recently read:

- a. [Navigating the New Landscape of Climate Reporting: Lessons from New Zealand](#) - Australian organisations are entering a new era of corporate reporting, with mandatory climate disclosure laws now in effect. As pioneers in this space, New Zealand offers valuable insights for navigating these uncharted waters. In particular, it is clear that directors and advisors experienced a steep learning curve in the first year of the New Zealand climate disclosure regime even if those people had been involved in voluntary climate reporting for a number of years. (Ashurst – 22 January 25)
- b. [Global FSR Outlook 2025: Perpetual Motion](#) - Our chosen title for 2025 aptly reflects what the financial services community feels as we look at the continuously evolving geopolitical, technological and socio-economic landscape, and builds on [last year's theme](#) as the bedrock shows no signs of ceasing to shift. We discuss how firms can effectively adapt to, and plan for, the complexities of this ever-changing environment. (Herbert Smith Freehills – 24 January 25)
- c. [A reluctant investor's guide to understanding bitcoin](#) - As every aspect of our lives has been transformed by digitisation, the changing nature of money and currencies should come as no surprise. But while bitcoin is here to stay, many investors still lack a clear grasp of what it is. (Firstlinks – 26 January 25)

Published by True Oak Investments Pty Ltd (ABN 81 002 558 956, AFSL 238184).

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