

Global Risk and Investigations Insights

Anti-Money Laundering



A Top Priority Issue for Australia

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is the national body responsible for monitoring financial transactions and suspicious report analysis. Calls for submissions into a consultation process concerning possible enhancements to Australia's anti-money laundering and counter-terrorism financing (AML/CTF) customer due diligence ("CDD") regime have been announced. Industry and other stakeholders have been invited by AUSTRAC to make submissions on areas such as, current business practices, additional measures, simplification, costs and benefits of CDD.

A SUBMISSION FROM FTI CONSULTING

FTI Consulting has contributed to the consultation process by highlighting and emphasising the importance of CDD reports in the business context. Managers should require high-quality and robust CDD reports, and further they should look to improve understanding and application of these reports. We understand that those involved in business face the constant dilemma of needing to rapidly respond to potential business opportunities, whilst also ensuring that these opportunities comply with an ever expanding and ever evolving complex regulatory environment. In such situations, comprehensive CDD reports can support business managers to better understand and mitigate against AML, CTF, corruption and a variety of business risks. Better application and analysis of current CDD reports offers greater utility, rather than add further regulatory, procedural or legal requirements to the existing obligations.

DESCRIBING CURRENT CDD REPORTS

The typical varieties and types of CDD reports – also commonly referred to as Know Your Customer ("KYC") checks – were outlined in our submission. The standard terminology, such as 'Red Flag', 'Level 1', 'Level 2' and 'Investigative Due Diligence' ("IVDD") (sometimes called "Enhanced" or "Reputational" Due Diligence) were set out. In particular, we noted that in some settings CDD is a 'check-box' exercise with a patch-work of databases and approaches. The 'menu' driven nature of some CDD reports means researchers may simply follow a set list of instructions, accessing a fixed portfolio of databases, harvesting and then reporting the obtained information in a catalogue style format with standard lexicology. There are perceived deficiencies, vulnerabilities and misgivings about various levels of reporting, and we summarised some of these characteristics, highlighting where particular methods may be and may not be the most appropriate form of intelligence to mitigate against AML/CTF as well as corruption and other business risks.

INVESTIGATIVE DUE DILIGENCE ("IVDD")

Importantly, our submission noted that whilst there are some baseline checks that should ideally always be conducted for CDD, it is primarily the methodology that is applied to the CDD examination process that is most important. Without a critical review and assessment of the information gathered, the utility and quality of a CDD report can become lost in a 'data-dump'. What results instead is a series of 'checks' of databases, corporate filings and web-sites; without iterative reasoning, testing information for reliability, verification or consideration of its relevance in business and practical context.

THE “ABSENCE OF EVIDENCE” AND THE “KNOWN UNKNOWN”

The fact that no adverse references are found after reviewing a series of compliance databases, media reports and/or other regulatory filings does not necessarily mean that a potential client or customer should be assumed to be a suitable business partner or client, i.e. *‘the absence of evidence is not evidence of absence’*.¹ Whilst some basic levels of CDD reports may provide a snapshot about a subject or a company, essentially they generally only report the “known knowns”.² Without an investigative methodology, there is no exploration of potential past or future concerns.

IVDD, using an iterative research methodology and critical analysis of information, seeks to provide grounded conclusions and a prognosis of a customer’s suitability. IVDD is a far more appropriate tool to inform business decision makers about the potential for “known unknowns” in a new business relationship or venture.

CONCLUSION

Our paper urges those using CDD reports to ensure that their processes are not purely ‘menu’ driven checklists, but that they seek to illuminate known and unknown potential risks. An investigative and iterative methodology to CDD research will add substantial business value and ensure that decisions about customer accounts and their past, present and future transactions are made on a well-informed basis. A copy of our full submission to AUSTAC may be viewed by [clicking here](#).

HOW FTI CONSULTING CAN HELP

The Global Risk and Investigations team at FTI Consulting is highly experienced in conducting extensive investigative due diligence assignments that are tailored to suit a number of particular situations. From compiling reports concerning current and historic ownership checks of businesses to making factual inquiries concerning potential breaches of contracts, local regulations, theft, fraud, money laundering, corruption or other business risks; the FTI Consulting team have delivered on a range of complex matters.

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¹ Former U.S. Secretary of Defence, Donald Rumsfeld, is famously quoted as stating: “...the absence of evidence is not evidence of absence....Simply because you do not have evidence that something exists, does not mean that you have evidence that it doesn’t exist.” and

² Ibid “...There are things we know that we know. There are known unknowns. That is to say there are things that we now know we don’t know. But there are also unknown unknowns. There are things we don’t know we don’t know. So when we do the best we can and we pull all this information together, and we then say well that’s basically what we see as the situation, that is really only the known knowns and the known unknowns.” <http://www.nato.int/docu/speech/2002/s020606g.htm>