

Preparing for AML/CTF: What Property Law Practitioners need to know



MARCH MASTRY – PROPERTY LAW INTENSIVE

ACT LAW SOCIETY - 19 MARCH 2026

PRESENTED BY TIM BOURKE

Key topics



AML/CTF obligations for property lawyers under the expanded designated services regime



Conducting AML/CTF risk assessments tailored to property transactions



Developing and implementing AML/CTF policies and governance frameworks



Customer due diligence requirements, including enhanced checks for high-risk clients



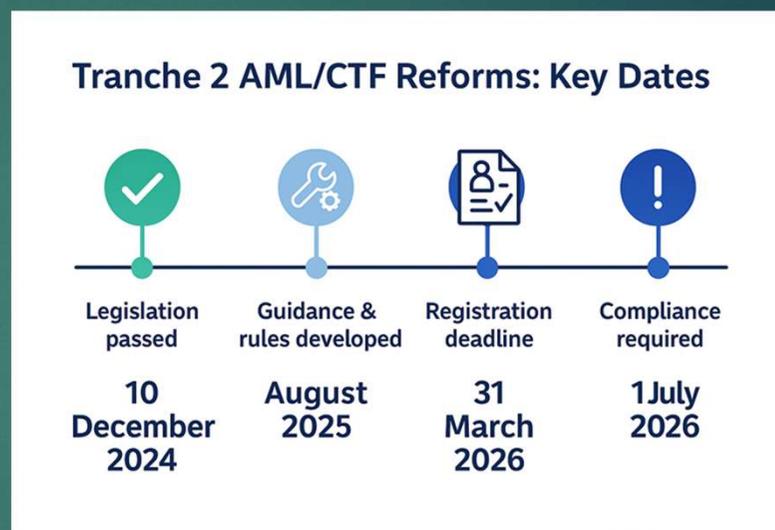
Record-keeping, reporting, and independent evaluation obligations



Practical examples of AML/CTF risks in property transactions and how to mitigate them

Why – expanding to tranche 2 –recap

- Australia is one of the last comparable countries to leave tranche 2 unregulated
- Financial Action Task Force close the “gatekeeper loophole”
- Align with global partners
- Combat organised crime, corruption, and abuse
- Prevent channels from being exploited
- Protect clients, staff, and reputation



Professional Services designated Services

	Item	Designated Service
Real Estate Transaction	1	Assisting in buying/selling or transfer real estate (not court-ordered)
Legal Transaction Services	2	Assisting in sale or purchase of a company or trust
	3	Controlling money, accounts, assets, crypto
	4	Assisting with equity or debt financing
	5	Selling shelf companies
	6	Creating or restructuring a company/trust
Trust and Company Services	7	Acting as director, partner, trustee etc.
	8	Acting as nominee shareholder
	9	Providing a registered address

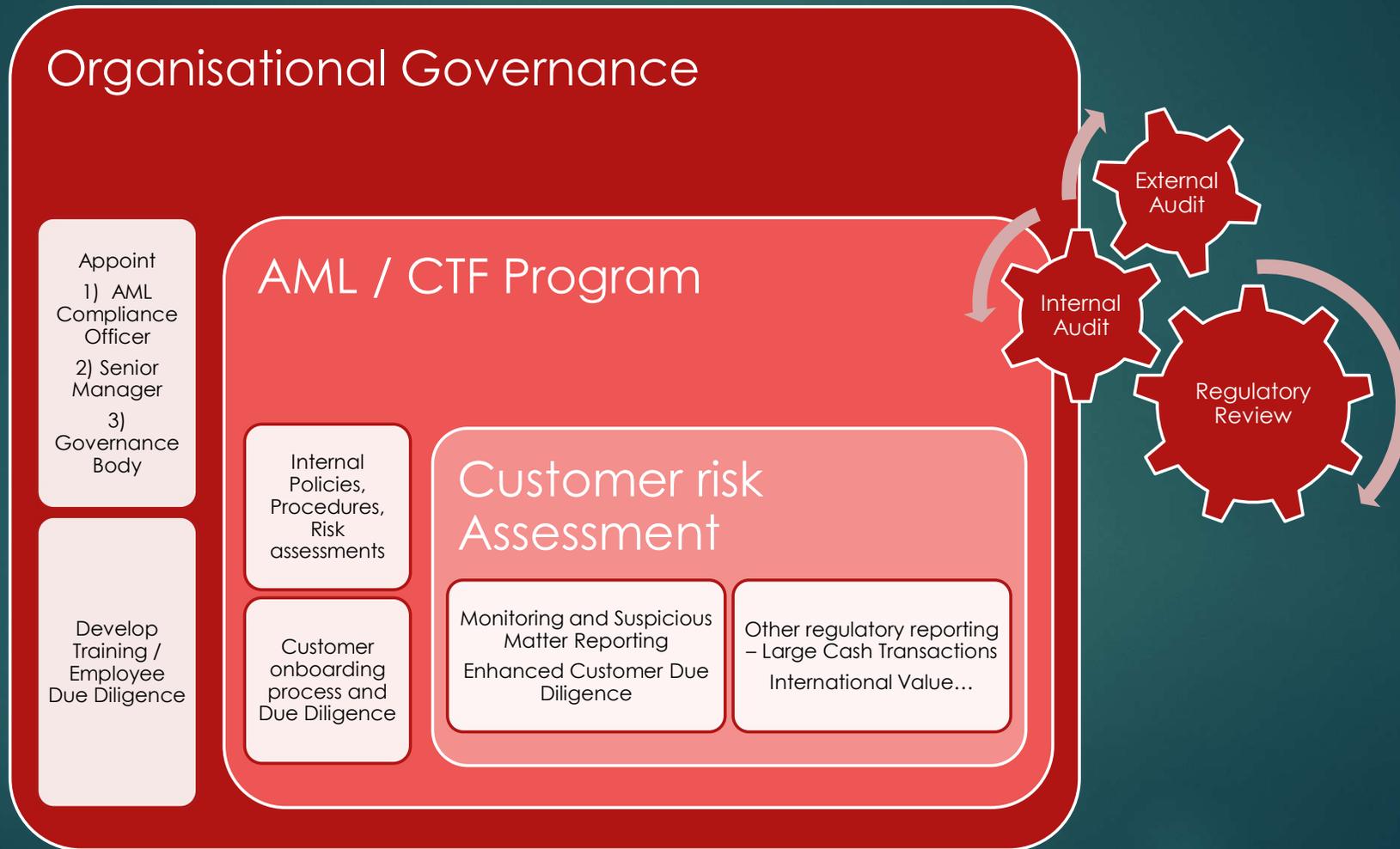
Schedule 6, Table 6

Designated Services real estate

Table 5—Real estate services		
Item	Provision of a designated service	Customer of the designated service
	brokering the sale, purchase or transfer of real estate on behalf of a	both:
1	buyer, seller, transferee or transferor in the course of carrying on a business	(a) the seller or transferor; and
		(b) the buyer or transferee
2	selling or transferring real estate in the course of carrying on a business selling real estate, where the sale or transfer is not brokered by an independent real estate agent	the buyer or transferee

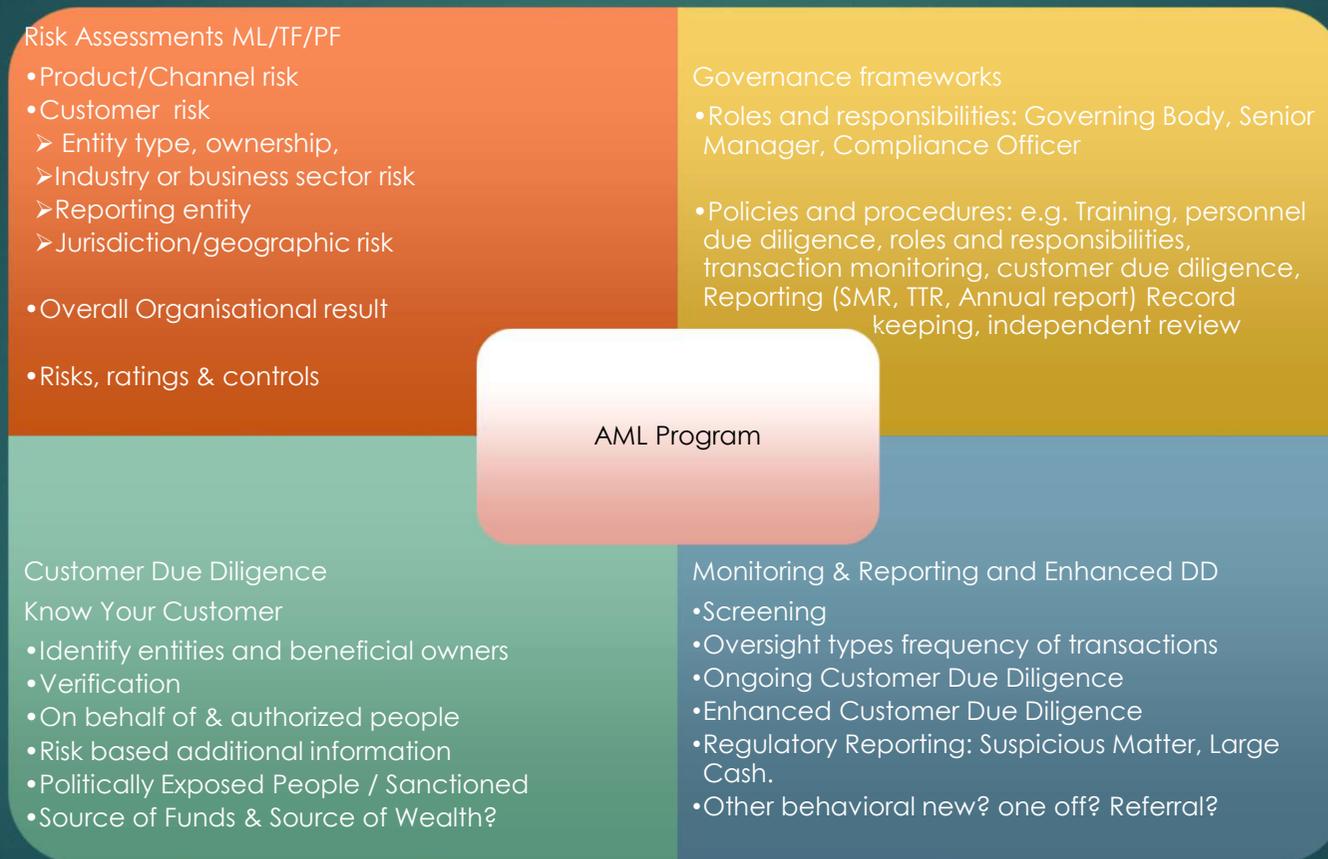
Schedule 6, Table 5

Program obligations



Program in more detail

7



Recognising and Managing AML/CTF Risks in Property Transactions

8

Risks and Red Flags

- Purchase funded entirely by cash or unexplained third-party funds
- Buyer uses complex trust or corporate structures with no clear commercial rationale
- Rapid on-selling of property at significantly different prices
- Client reluctant to provide identification or source of funds information
- Instructions from an overseas intermediary with no clear connection to the property
- Purchase price significantly above or below market value
- Last-minute change of purchasing entity or nominee buyer introduced

Mitigation Strategies

- Implement source of funds / source of wealth procedures as standard intake
- Establish clear escalation procedures for staff who identify red flags
- Document rationale when proceeding with transactions with risk indicators
- Clear limits on cash
- Require funds from an account in client's name not third party
- Enhanced review if last minute changes or high complexity
- Regular behavioral reporting

Industry specific focus areas

- ▶ AUSTRAC Industry Starter Packs
- ▶ Peak body guidance
- ▶ Organisational structure – multiple entities, Trusts, partnership, company
- ▶ Privacy Act implications
- ▶ Reliance frameworks with other entities

6-29 Requirements for agreement or arrangement on collection and verification of KYC information	
-1	For the purposes of paragraph 37A(1)(b) of the Act, the following requirements are prescribed in relation to an agreement or arrangement of the kind referred to in paragraph 37A(1)(a) of the Act:
(a)	the other party to the agreement or arrangement must be:
(i)	a reporting entity; or
(ii)	a person regulated by one or more laws of a foreign country that give effect to the FATF Recommendations relating to customer due diligence and record-keeping;
(b)	the agreement or arrangement must be appropriate to the risks of money laundering, financing of terrorism and proliferation financing that the first entity may reasonably face in providing its designated services, taking into account the matters mentioned in subsection (2) of this section;
(c)	the agreement or arrangement must enable the first entity to obtain all of the KYC information collected by the other person in accordance with paragraph 28(3)(c) of the Act:
(i)	before the first entity commences to provide a designated service; or
(ii)	if section 29 of the Act applies to the provision of a designated service—within the period mentioned in paragraph 29(c) of the Act;
(d)	the agreement or arrangement must enable the first entity to obtain copies of the data used by the other person to verify KYC information in accordance with paragraph 28(3)(d) of the Act immediately or as soon as practicable following a request from the first entity;
(e)	the agreement or arrangement must document the responsibilities of each party, including responsibilities for record-keeping.
-2	For the purposes of paragraph (1)(b), the matters are as follows:
(a)	the nature, size and complexity of the other person's business, including:
(i)	the products and services offered by the other person, and the delivery channels by which it provides services; and
(ii)	the kinds of customers that the other person has;
(b)	the country or countries in which the other person operates or of which the other person is a resident.

Practical steps for readiness



- ▶ **As soon as possible:**
- ▶ **1) Consider processes that may be impacted and if you offer any designated services:**
 - ▶ **What did your business do over the last year? How is your organization structured?**
- ▶ **2) Appoint and identify roles:**
 - ▶ **Compliance Manager, Senior Manager, Governance Committee**
 - ▶ **Appropriate skills and training requirements?**
- ▶ **3) Review risk assess systems and processes identifying capability gaps: process documentation, risk governance, onboarding systems, training**
- ▶ **4) Sign up to AUSTRAC updates & review starter packs, other industry guidance**
- ▶ **5) Coordinate with other reporting entities in your ecosystem, such as banks, lawyers and accountants. Remember: both directions**
- ▶ **6) Document your decisions**

Q&A

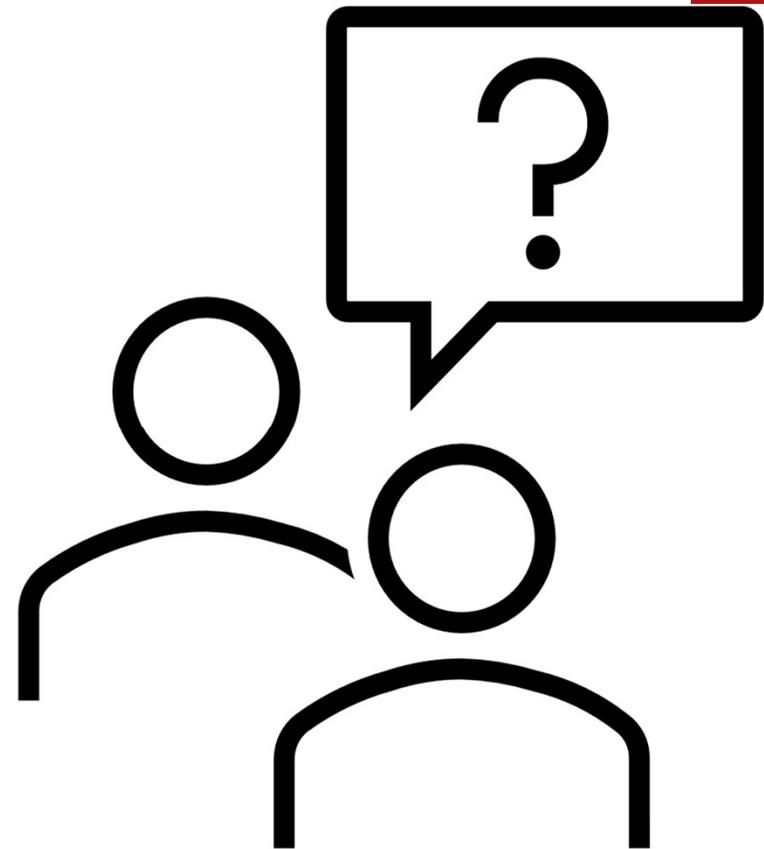
▶Disclaimer

▶This presentation has been prepared to assist members to understand, at a practical level, how the tranche 2 AML/CTF reforms may apply to professional services sector.

▶It is intended to support readiness and informed engagement, and not to provide definitive answers for every business model or transaction.

▶Registration opens - **31 March 2026**

▶Program Live - **30 June 2026**



Contact Us

EMAIL : TIM.BOURKE@ACTAML.COM.AU

PHONE: 0447 897 630

WEBSITE: WWW.ACTAML.COM.AU