

Deadline looms for employee training requirements - AML/CTF Act

Employee training requirements under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act) come into effect on 12 December 2007.

If you are a reporting entity, you will need to have an AML/CTF risk-awareness training program and an employee due diligence program in place by that date.

Organisations that do not comply with this requirement may face substantial penalties.

AML/CTF Act requirements

The AML/CTF Act requires reporting entities to implement an AML/CTF program that includes a risk awareness training program and an employee due diligence program.

The AML/CTF Act includes within the definition of “employee” agents and any person engaged on a permanent, temporary, casual, contract or volunteer basis.

Risk awareness program

A satisfactory risk awareness program requires organisations to train all of their employees so that they understand:

- The obligations of the organisation under the AML/CTF Act;
- The consequences of non-compliance;
- The types of money laundering and terrorism financing (ML/TF) risks that the organisation might face; and
- The AML/CTF processes and procedures in the organisation that are relevant to the employee.

The organisation must be able to demonstrate to AUSTRAC that the training:

- Is both adequate and appropriate; and
- Is conducted at appropriate intervals, e.g.:
 - As part of an induction session for every new employee;
 - Annually to all employees; and
 - Higher level and more frequent training to employees who are in AML/CTF risk-sensitive positions.

Screening of employees

Reporting entities must also put in place an employee due diligence program to screen both prospective and existing employees. The program should focus on employees who are or may be in a position to facilitate the commission of a ML/TF offence.

Additionally, organisations must establish and maintain a system to manage employees who fail to comply with their AML/CTF responsibilities.

AUSTRAC has indicated that the Australian Standard of Employment Screening (the Standard) might be of assistance. The Standard recommends that the following steps be taken in respect of new applicants:

- A 100-point identity check;
- An analysis of the curriculum vitae, such as the candidate's employment history for 5 to 10 years (including an investigation of actual dates of employment, with a focus on any gaps);
- A check of employment and character references (with care taken to check the bone fides of each person);
- A check of qualifications and professional memberships;
- A National Criminal Record Search as well as checks with ASIC and the Federal Court to determine if the person is under any sort of disqualification order or is a bankrupt;
- Verify all of the candidate's academic qualifications;
- Conduct reference checks with human resources departments;
- If the candidate fails to meet the employment screening standards of the organisation they should be advised of the grounds for the rejection of their application and any avenues of appeal open to them;
- At all times there must be informed consent by the candidate; and
- The process must be transparent, so that the candidate has the opportunity to rectify any information that may be inaccurate.

Board approval

An approved AML/CTF program must be approved and monitored on an ongoing basis by a reporting entity's governing board (or, if there is no board, the CEO) and its senior management.

Potential period of grace

An organisation that can satisfy AUSTRAC that it has taken 'reasonable steps' to comply may not be liable for prosecution for non-compliance in the period before 12 March 2009.

Croesus can assist with the establishment and facilitation of the required compliance programs

Need more information or assistance?

Contact our Legal Compliance experts on:

E-mail: legal_compliance@croesusmgt.com

Website: www.croesusmgt.com

This publication is intended only to provide a summary of the subject matter covered. It does not purport to be comprehensive or to render legal advice. No reader should act on the basis of any matter contained in this publication without first obtaining specific independent professional advice.