

Do you “know” your customer?

Preparing for the upcoming changes to the AML/CTF regime

PREPARED BY


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DATE

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AGENDA


1. Introduction
2. Background and lay of the AU AML/CTF regulatory land
 - Expansion to Tranche 2 entities
3. Key requirements and dates
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5. Action plan for compliance
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7. Case studies from UK and NZ
8. AUSTRAC guidance
9. Takeaways


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Introduction

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Background

- Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (**Act**)
- Recommendations of the Financial Action Task Force (**FATF**) (intergovernmental body)
- Tranche 1 Reporting Entities: bullion, gambling, financial and remittance service industries (commenced in 2008; tranche 2 to follow...)
 - KYC identification and verification
 - AUSTRAC reporting
 - AML/CTF program
 - Record keeping

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Background

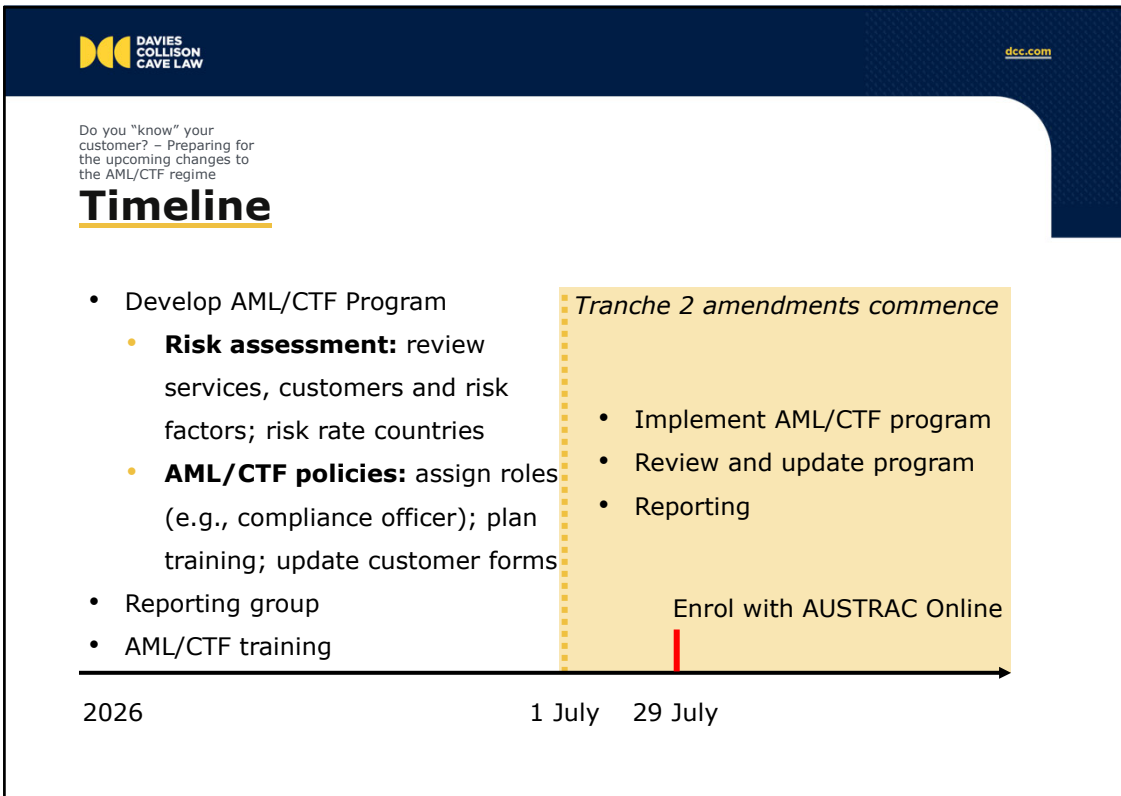
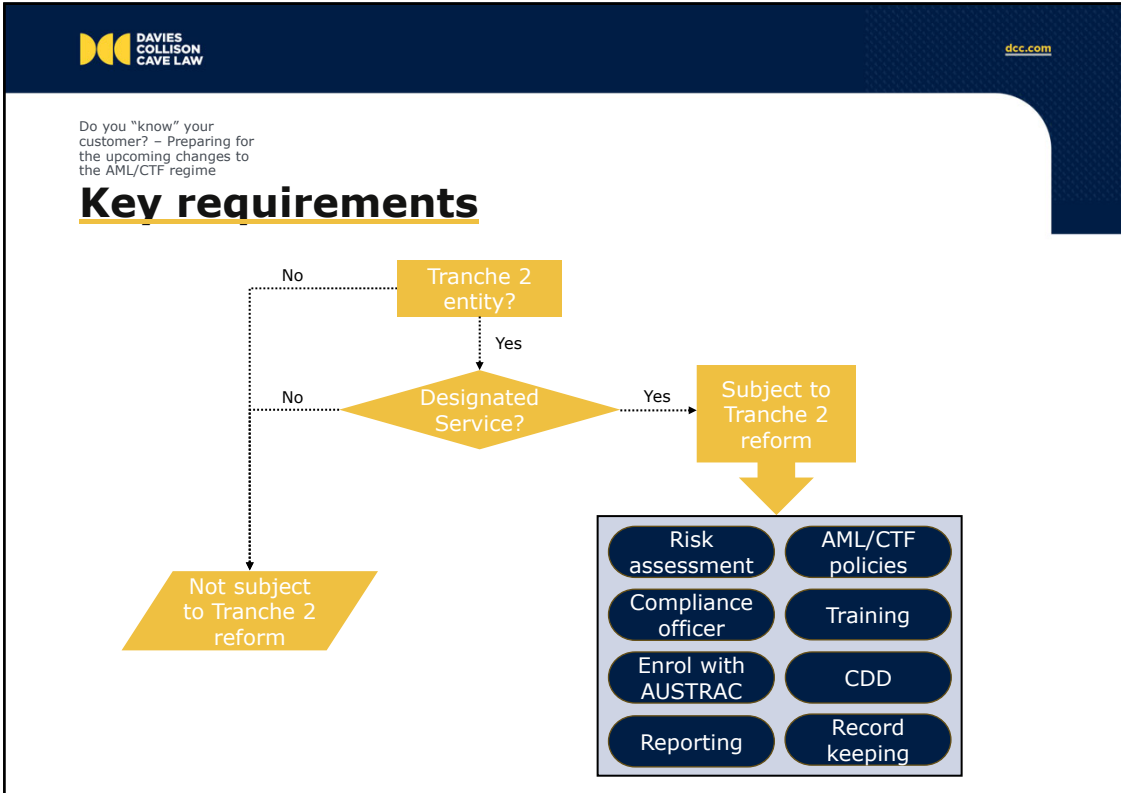
- 2002: UK AML/CTF regime expands to include Tranche 2 entities
- 2007-2010: Global financial crisis; change of government
- 2015: FATF criticises Australia for not extending regime to Tranche 2
- 2018: NZ AML/CTF regime expands to include Tranche 2 entities
- 2022: Committee Inquiry recommends expedited consultation on the implementation of Tranche 2
- 2023: Government commences consultation
- 2024: Amendment Act passed

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Expansion to Tranche 2 Reporting Entities

From 1 July 2026

- Lawyers;
- Accountants;
- Trust and company service providers;
- Real estate professionals (real estate agents, buyer's agents and property developers);
- Conveyancers; and
- Dealers in precious stones and metals



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Key concepts

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graph LR
    DS((Designated Service)) --> KYC((KYC))
    KYC --> ICDD((Initial CDD))
    ICDD --> OCDD((Ongoing CDD))
  
```

- Initial CDD
 - Standard
 - Simplified
 - Enhanced
- Ongoing CDD
 - Standard
 - Simplified
 - Enhanced

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Designated Service*

- * Requires geographical link to Australia
- # Exception: under court/tribunal order
- ^ Exception: payment for services provided

- Assisting clients to:
 - buy, sell or transfer real estate / legal entities#;
 - receive, hold, control or manage funds / property#^;
 - sell or transfer a shelf company;
 - carry out transactional work inc. equity and debt financing; or
 - create or restructure a legal entity / legal arrangement;
- Acting (or arranging for another person to act) as a director, partner or trustee; pursuant to a power of attorney; or as a nominee shareholder;
- Providing a registered office address / principal place of business; and
- Controlling the flow of assets (e.g., money, securities)

(table 6, s 6 of the Act)

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Know Your Customer (KYC)

- Process of identifying the customer and verifying their identity
- KYC information needed depends on:
 - Category of customer: Individual; company, partnership or association; trust or foreign equivalent; government body
 - Customer's risk level: low; medium; high

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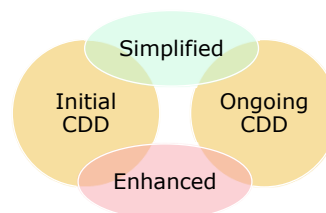
Customer Due Diligence (CDD)


Initial CDD

- *Before* providing Designated Service
- Establish on reasonable grounds:
 - establish whether customer, beneficial owner or agent is
 - who they claim to be; or
 - subject to targeted financial sanctions or a politically exposed person (**PEP**);
 - nature and purpose of business relationship / transaction; and
 - source of funds/wealth for certain PEPs
- Collect and verify KYC information (appropriate to risk)

Ongoing CDD


- Throughout business relationship / transaction
- Monitoring (and responding to) unusual transactions and behaviours
- Updating the customer's risk (frequency appropriate to risk)
- Reviewing, updating and re-verifying KYC information as needed (frequency appropriate to risk)




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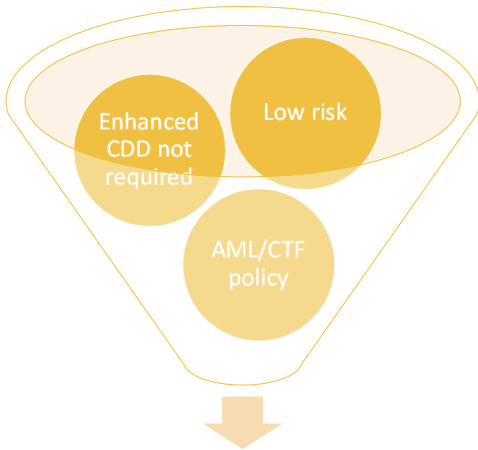
Enhanced CDD



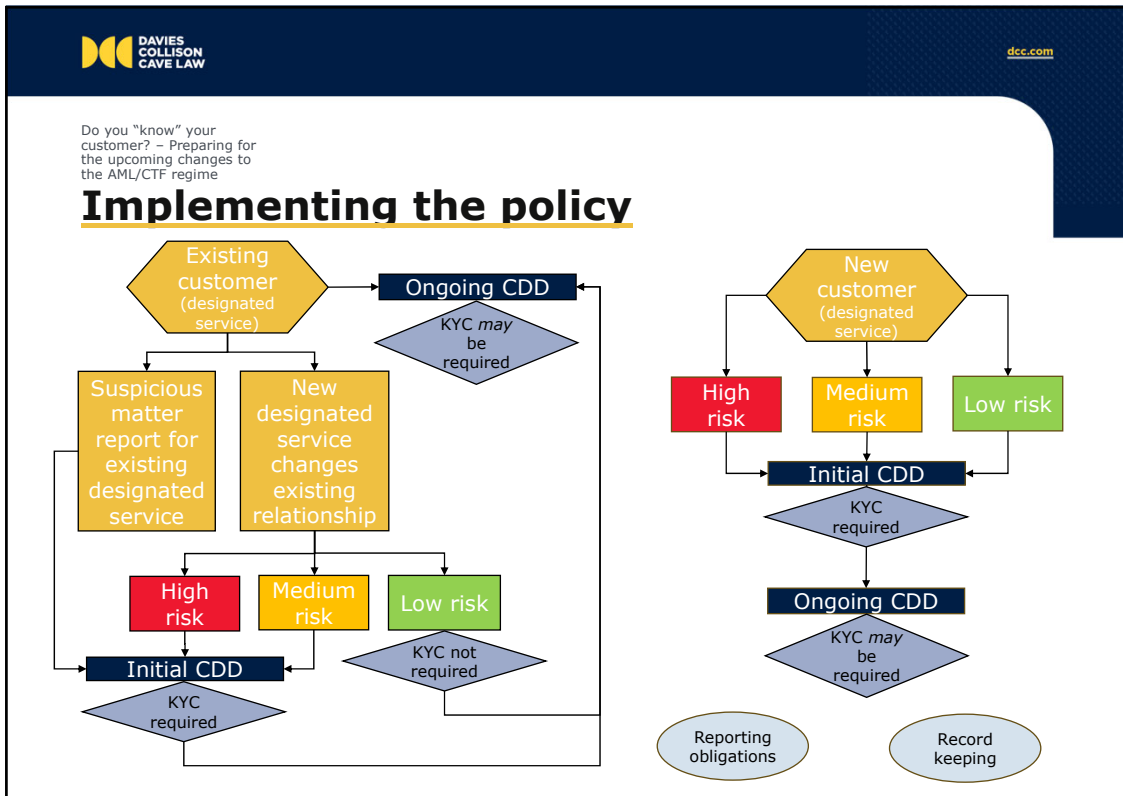
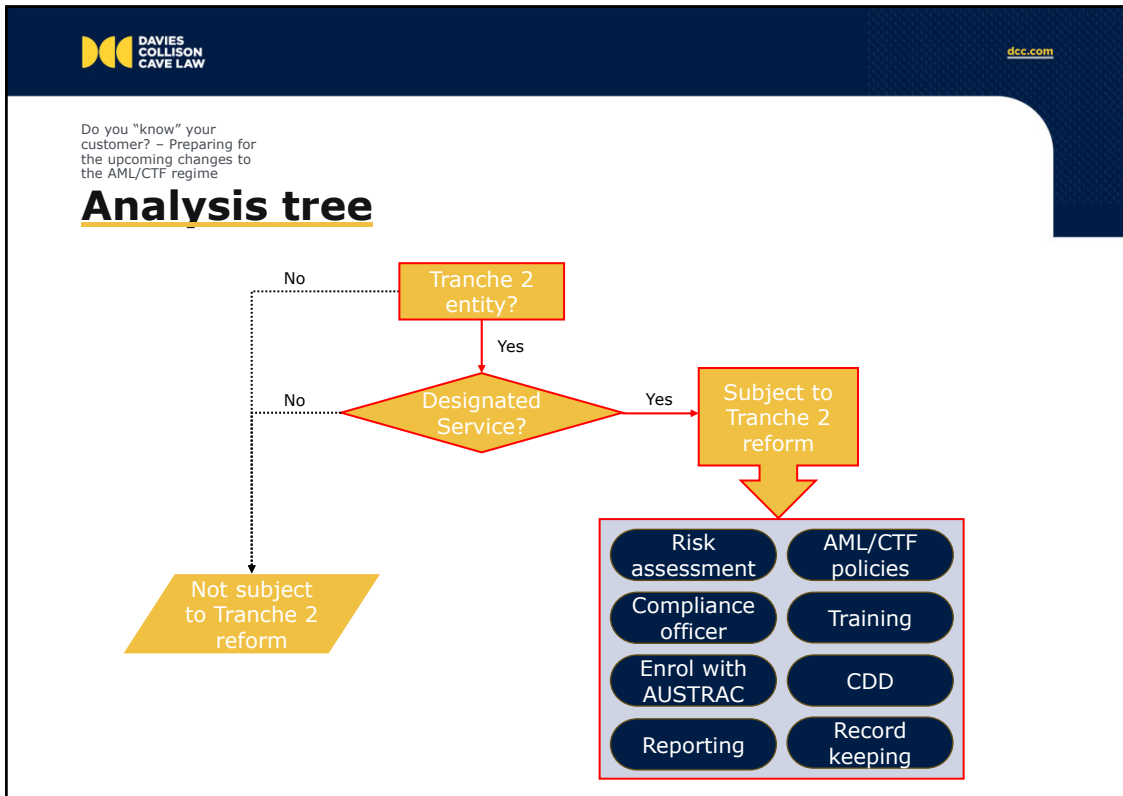
- High risk
- Suspicious matter report
- Unusual, large or complex transactions
- Foreign politically exposed person
- Person located / formed in a high-risk jurisdiction

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Simplified CDD



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Reporting obligations

- Suspicious matter report
 - Information regarding the designated service that may be relevant to a crime
 - Customer or their agent is not who they claim to be
- Cash transactions over AU\$10,000
 - Within 10 days of the transaction
- Cross-border movement report for cash or bearer negotiable instruments valued at \geq AU\$10,000
- Annual compliance reports

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Record keeping

- AML/CTF program records – reasonably necessary to demonstrate compliance
- CDD records – reasonably necessary to demonstrate compliance
- Transaction records related to a designated service – sufficient to reconstruct individual transactions

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Non-compliance – consequences

- Civil penalty orders
 - Penalties of up to AU\$33M (body corporate) and AU\$6.6M (individual)*
- Enforceable undertakings
- Infringement notices
- Remedial directions
- Written notice (external auditor / carry out ML/TF risk assessment)

* 100,000 penalty units (body corporate) and 20,000 penalty units (individual).

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AUSTRAC expectations

If you are new to reporting obligations, we expect that by 1 July 2026 you will:

- *be **enrolled** as a reporting entity (enrolment opens 31 March 2026)*
- *have an **AML/CTF program**, either using an AUSTRAC starter program or your own*
- *have an **AML/CTF compliance officer***
- ***train your staff** on the program and internal processes*
- *be **ready** to engage with clients and report suspicious matters.*

<https://www.austrac.gov.au/amlctf-reform/austrac-regulatory-expectations-and-priorities-2025-26>

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Enforcement priorities

AUSTRAC 2025-26 Regulatory Priorities:

From 1 July 2026...

AUSTRAC will be focusing its regulatory interventions on tranche 2 entities who:

- *have not enrolled (and registered, if required)*
- *are not putting meaningful effort into implementing their AML/CTF program, systems and controls.*

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Case study 1: UK global law firm (2024)

- Shipping client (2014-2019)
- Funds transferred through firm's escrow account
- Admitted to failing to (a) conduct adequate due diligence and (b) adequate ongoing monitoring and applying enhanced CDD measures
- Previous fine of £50,000 (2017)
- Fines: **£500,000** (firm) and **£11,900** (partner)

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Case study 2: UK global law firm (2025)

- Institutional clients in private equity
- Law firm failed to (2017-2022):
 - carry out firm-wide risk assessment;
 - have in place fully compliant policies, controls or procedures; and
 - have in place compliant client and/or matter risk assessments in relation to four files.
- Fine: **£300,000**

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Case study 3: NZ law firm (2021)

- Two offices in Auckland (10 employees)
- Failed to:
 - meet obligations relating to establishment, implementation, and maintenance of their AML programme;
 - demonstrate how they would ensure compliance from staff; and
 - adequately understand or assess risk within the business.
- Public formal warning

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Case study 4: NZ sole practitioner (2024)

- Conveyancing lawyer
- Failed to meet obligations relating to:
 - establishment, implementation and maintenance of an AML programme;
 - conducting on-going CDD; and
 - reporting certain transactions in accordance with the Act.
- Public formal warning

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AUSTRAC guidance

- Legal Profession program starter kit:
<https://www.austrac.gov.au/reforms/sector-specific-guidance/legal-profession-guidance/legal-profession-program-starter-kit>
- General guidance: <https://www.austrac.gov.au/amlctf-reform/reforms-guidance/before-you-start/new-industries-and-services-be-regulated-reform/professional-services-reform>
- See also: <https://www.austrac.gov.au/amlctf-reform/reforms-guidance>

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Key takeaways

- Consider whether the Tranche 2 reform will impact you before **1 July 2026**:
 - Review services and customers
 - Conduct risk assessment
 - Update policies and processes
 - Appoint compliance officer
 - Update customer forms
 - Train staff
 - Enrol before 29 July 2026 (or 28 days after providing a Designated Service)
- Prudent to conduct risk assessment even if you only think you *may* provide a Designated Service in the future
- Consequences of non-compliance are potentially significant and AUSTRAC has indicated a willingness to pursue those who do not make any "meaningful effort"

Presenters



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