



AUSTRALIAN BANKERS' ASSOCIATION INC.

Tony Burke
Director

Level 3, 56 Pitt Street
Sydney NSW 2000
Telephone: (02) 8298 0409
Facsimile: (02) 8298 0402

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Mr John Hawkins
Committee Secretary
Senate Standing Committees on Economics
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Mr Hawkins,

**Inquiry into the Exposure Draft of the Business Names Registration Bill
2011 and related Bills**

The Australian Bankers' Association (ABA) represents the banking industry in Australia. We welcome the opportunity to comment on the Business Names Registration Bill.

Our members acknowledge the efficiency benefits to be gained from national registration of business names, but are concerned about possible unintended consequences in the implementation of the Business Names Register ("BNR").

These concerns relate to customer identification. Banks and other financial institutions in Australia are required to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* ("AML/CTF Act") and the *Anti-Money Laundering and Counter-Terrorism Financing Rules* ("Rules"), which are issued by the AML/CTF regulator AUSTRAC. Under the AML/CTF Act, "reporting entities" such as banks are required to have an AML/CTF program. 'Part B' of an AML/CTF program must set out the reporting entity's 'applicable customer identification procedures'.

Paragraph 4.2.6 of the Rules requires that:

Part B must include a procedure for the reporting entity to verify, at a minimum, the following KYC information about a customer:

- (1) *the customer's full name; and*

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- (2) *either:*
- (a) *the customer's date of birth; or*
 - (b) *the customer's residential address.*

The AML Act and Rules also require that reporting entities have appropriate risk-based systems and controls to determine whether, in addition to the Know Your Customer ("KYC") information referred to in paragraph 4.2.6 of the Rules, any other KYC information collected from the customer should be verified from reliable and independent documentation, reliable and independent electronic data or a combination of the two.

Our understanding of the BNR is that it will only permit matching of a business proprietor's name. With name matching only, BNR will not provide reliable data, as multiple proprietors could have the same or similar names. The current State registers allow verification of name, address and date of birth to the standard required by the AML/CTF Act and Rules. The implementation of BNR with name-matching only will make it more difficult for banks and other reporting entities to meet their customer identification obligations as the proposed approach will not meet the requirements of reliable and independent electronic data verification, which ultimately may also weaken Australia's AML/CTF regime.

Additionally, legislative requirements under the *National Consumer Credit Protection Act 2009* (see Div3, Part 3-2 Chapter 3 and specifically sections 128 – 130) place significant responsibility on credit providers to take reasonable steps to verify the financial situation of an applicant for consumer credit.

Understanding and verifying an applicant's financial situation could in some circumstances include taking steps to see if the applicant has any commercial activity, of which a business name(s) may be a potential indicator.

The operation of the BNR must ensure that information provided is accurate and capable of being verified by matching to the individual seeking credit.

Yours faithfully

Tony Burke