

Sanctions Compliance Framework

01 January 2018

Background

Australian has a sanctions regime means arising from:

- *Autonomous Sanctions Act 2011 (Cth)* and
- *Charter of the United Nations Act 1945 (Cth)*

The purpose of these laws is to restrict the ability of various regimes, organisations and individuals to use Australia's financial services sector to facilitate or finance terrorism and serious crimes such as money laundering, tax evasion, people smuggling and the manufacture, import and sale of proscribed substances and weapons.

The aim is to impose measures that will interrupt economic relations that may facilitate these activities.

These laws require financial institutions, such as South West Credit to;

- check the status of customers before providing financial services such as deposit accounts, funds transfer facilities, loans or credit cards
- carry out ongoing monitoring of customers, report various matters to AUSTRAC and the Federal Police
- freeze the assets of certain persons.

Requirements

More specifically, South West Credit must ensure that:

- a customer or potential customer is not subject to targeted financial sanctions or travel bans under Australian sanctions laws ie that they do not appear on the Consolidated List of individuals and entities published by the Department of Foreign Affairs and Trade (DFAT);
- the service will not be a "sanctioned service" or involve granting a loan for a "sanctioned commercial activity" by person or entity associated with a regime prohibited under the *Autonomous Sanctions Act*
- the service will not assist with a "sanctioned supply" or "sanctioned import" of certain goods by a "designated person or entity" involved with countries referred to Regulations made under the *Autonomous Sanctions Act* or the *Charter of the United Nations Act*
- a customer or potential customer is not on the Attorney General's list of groups proscribed as terrorist organisations under the Criminal Code
- any foreign jurisdiction involved is not subject to countermeasures under Part 9 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)*.

These requirements are in addition to the more general AML/CTF requirements to carry out initial and ongoing customer due diligence and to have procedures in place to determine if a customer or beneficial owner is a Politically Exposed Person (PEP).

Penalties

It is a criminal offence to:

- use or deal with the assets of a designated person or entity; or
- make an asset available to, or for the benefit of, a designated person or entity.

Penalties for these offences include:

- for individuals, up to 10 years' imprisonment and fines of at least \$525,000
- for bodies corporate, fines of at least \$2.1 million.

Context

South West Credit's business comprises 3 parts:

- a banking business involving the operation of deposit accounts – transaction, cash management and term deposit accounts – and non-cash payment facilities;
- a lending business involving the provision of loans;
- a general insurance and consumer credit insurance agency business.

The business can best be described as involving the provision of simple, easily understood financial services.

South West Credit does not

- operate any subsidiary companies that provide designated services
- maintain an establishment in a foreign country
- maintain correspondent banking relationships
- open accounts for, or provide financial accommodation to entities incorporated or organised outside Australia
- provide financial accommodation to individuals who are not Australian residents at the time.

Action

If a person or entity is on any of these lists or if a sanctioned or proscribed regime or organisation is involved, then South West Credit will take the following action(s):

- not provide a new service to them;
- freeze any assets it holds for them;
- refer the matter to the Australian Federal Police
- consider making a suspicious matter report to AUSTRAC.

South West Credit requires appropriate staff to:

- subscribe to the DFAT Consolidated List at: <http://dfat.gov.au/international-relations/security/sanctions/Pages/outreach.aspx>. download and use the updated Consolidated Lists as soon as they are made available by DFAT
- wash South West Credit's customer list against the Consolidated List

AFP assistance

As it may not always be clear whether there is a match between the name provided and any name on the Consolidated List, staff may request the assistance of the Australian Federal Police (AFP) to determine whether or not a deposit account is owned or controlled by a person or entity on the Consolidated List.

Providing a service to customers

Accounts

South West Credit will not open an account, or maintain an account, for a person or entity on any of these lists.

International funds transfers

South West Credit does not itself carry out international funds transfers for its customers. South West Credit acts as an agent, referring its customers to entities such as Western Union or American Express for international funds transfer. These entities are responsible for ensuring that payees of international funds transfers are on any of these lists.

Domestic funds transfers

South West Credit provides its customers with electronic funds transfer services to make payments into accounts of persons or entities at Australian ADIs. These ADIs are responsible for ensuring that they do not open or maintain accounts for persons or entities on any of these lists. Consequently, South West Credit does not have systems or procedures in place to check whether these payees are on any of these lists.

Links

- General information:
<http://www.dfat.gov.au/issues/terrorism.html>;
<http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>
<http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>
- Consolidated List of individuals and entities subject to targeted financial sanctions:
<http://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>
- Sanctioned services, sanctioned commercial activities and designated persons and entities referred to in Regulations made under the *Autonomous Sanctions Act* and the *Charter of the United Nations Act*:
http://www.dfat.gov.au/un/unsc_sanctions/index.html;
- Terrorist organisations proscribed by the Attorney General under the Criminal Code:
<http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>
- Jurisdictions subject to countermeasures under Part 9 of the AML/CTF Act:
<http://www.austrac.gov.au/businesses/obligations-and-compliance/countermeasures>