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AUSTRAC and CBA agree $700m penalty

4 Jun 2018

An agreement has been reached today between AUSTRAC and the Commonwealth Bank of Australia (CBA) for a $700 million penalty to resolve Federal Court proceedings relating to serious breaches of anti-money laundering and counter-terrorism financing (AML/CTF) laws.

The parties will jointly approach the Federal Court seeking orders to this effect. It is anticipated that a hearing on penalty will be scheduled in the coming months.

If agreed by the Federal Court this will represent the largest ever civil penalty in Australian corporate history.

AUSTRAC's enforcement action against CBA followed exhaustive investigations into CBA's AML/CTF compliance and risk management practices, particularly in relation to its Intelligent Deposit Machines (IDMs).

These investigations, undertaken in partnership with the Australian Federal Police, NSW Police Force and Western Australia Police, identified that CBA's IDMs were being used to launder the illicit proceeds of crime.

In reaching today's agreement, CBA has admitted it contravened the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act) on 53,750 occasions.

In summary, CBA accepted that:

- it failed to carry out an appropriate assessment of the money laundering and terrorism financing (ML/TF) risks of its IDMs prior to October 2017
- it failed to complete the introduction of appropriate controls to mitigate and manage the ML/TF risks of IDMs prior to April 2018
- it failed to provide 53,506 threshold transaction reports to AUSTRAC on time for cash transactions of $10,000 or more through IDMs from November 2012 to September 2015, having a total value of about $625 million
- for a period of three years, it did not comply with the requirements of its AML/CTF program relating to monitoring transactions on 778,370 accounts
- it failed to report suspicious matters on time, or at all, involving transactions in the tens of millions of dollars
- even after it became aware of suspected money laundering or structuring on CBA accounts, it did not monitor its customers to mitigate and manage ML/TF risk, including the ongoing ML/TF risks of doing business with those customers.

AUSTRAC's CEO, Nicole Rose PSM said this outcome sends a strong message to industry that serious non-compliance with the AML/CTF Act will not be tolerated.

"As we have seen in this case, criminals will exploit poor business practices to launder the proceeds of their crimes," Ms Rose said.

“This has real impacts on the everyday lives of Australians and puts the community at risk by increasing opportunities for terrorists to support attacks here and overseas, and enabling organised crime groups to peddle drugs to our families and friends.

“We know that businesses are the first line of defence in protecting the community and our financial system from criminal abuse, and it is critical for AML/CTF compliance and risk management to be embedded in business strategy and practices.

“I hope this result alerts the financial sector to the consequences of poor compliance, and reinforces that businesses need to take their obligations seriously.”

Ms Rose added that AUSTRAC’s focus is to work collaboratively with and support industry to deter criminal activity and welcomed CBA’s decision to commence work on a Program of Action to address their AML/CTF compliance failings.

“We will continue to work collaboratively with CBA as it progresses this work and I am encouraged by the manner in which CBA has handled these negotiations.

“We want compliance to be voluntary, and even taken on with enthusiasm, however we will not shy away from using our enforcement powers where necessary. In the end our role is about protecting the community and we take this role seriously.”

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