



Blockchain Australia

c/o Hall & Wilcox
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525 Collins Street, Melbourne VIC 3000

13 December 2022

AUSTRAC

PO Box K534
Haymarket NSW 1240
Australia

By email: Guidance_Consultation@austrac.gov.au

Dear Sir/Madam,

Thank you for the opportunity to respond to the consultation on draft guidance: Providing financial services to customers that financial institutions assess to be higher-risk. We believe that additional guidance is needed to provide ADIs with additional clarity on how to access higher-risk clients as many of our members still find it difficult to access banking services.

We strongly encourage AUSTRAC to proactively work with our industry to develop a code of practice (or expand Blockchain Australia's existing Code of Conduct). Such a code may preface the introduction of new or amending legislation that allows for proof of KYC credentials of DCEs to be published on chain so that at any one time any bank or regulator can see the percentage of KYC'd customers of a DCE (but not their identity), and as confidence progresses also see metadata relating to the level of suspicious activity conducted through a DCE and actions taken.

We cannot express strongly enough our concern that it has become a necessity for every Australian individual and business to be able to access banking services. Employers no longer offer cash payments and numerous government agencies and businesses require bank accounts. Restrictions imposed during Covid 19 have further accelerated the move to a cashless society forcing those without bank accounts to operate outside the system.

While this guidance is consistent with previous guidances¹ (Preventing financial crime using a risk-based approach and preventing the criminal abuse of digital currencies), we do not believe it goes far enough in providing the clarity and certainty to assure ADIs that if they follow the guidance in assessing members of

¹<https://www.austrac.gov.au/business/how-comply-and-report-guidance-and-resources/preventing-financial-crime-using-risk-based-approach>
<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/preventing-criminal-abuse-digital-currencies>



the Digital Asset Community they will not be unfairly treated by Austrac should that client be subsequently found to be a bad actor.

This certainty is critical as ADIs responses to previous Austrac guidance has not resulted in positive outcomes for our members with Australian ADIs continuing to de-bank our members. This has been an issue for our members, their staff, customers and suppliers since 2014² and continues to adversely impact members and their customers to this day with a long standing member being de-banked as recently as this month.

Blockchain Australia has made a number of submissions on this matter including our response to The Senate Select Committee on Australia as a Technology and Financial Centre's Final report³ which addressed debanking in Chapter 4 and 'covered the affected sectors, examples, effects, reasons provided to businesses, the regulatory landscape, the response from the banks and suggestions made to the committee to address the issue.'⁴

We have also this month submitted to Treasury our response to "Potential Policy Responses to De-banking in Australia" which is included with this submission, and which we believe provides important background and recommendations to address the problem.

With regard to this specific consultation we would like to understand what the banks' responses have been to these recommendations and in particular whether they see this as providing a pathway for them to be able to provide services to the digital asset community.

We would also like to recommend that AUSTRAC provide guidance on the circumstances under which ADIs would be able to rely on regulatory licensing regimes to reduce the risk profile of an organisation. Many of our members have been through the process of obtaining AFSL or other licences including the AUSTRAC registration of digital currency exchange providers and Blockchain Australia's Code of Conduct certification process. It would be beneficial if the banks were able to rely upon these licensing processes to lower the risk profile of the applicant.

We would welcome the opportunity to meet with AUSTRAC to discuss this matter further.

Please direct any questions you may have to:

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Policy@blockchainaustralia.org

Or

Members@blockchainaustralia.org

² <https://www.aph.gov.au/DocumentStore.ashx?id=1c7adf49-e0b2-4520-ade3-cf0d63375930&subId=710789>

³ https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024747/toc_pdf/Finalreport.pdf;fileType=application%2Fpdf

⁴ https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Financial_Technology_and_Regulatory_Technology/AusTechFinCentre/Final_report/section?id=committees%2freportsen%2f024747%2f77284



About Blockchain Australia

Blockchain Australia is the peak industry body representing Australian businesses and business professionals participating in the digital economy through blockchain technology. Blockchain Australia encourages the responsible adoption of blockchain technology by the government and industry sectors across Australia as a means to drive innovation and create jobs in Australia.

The Blockchain Australia membership base consists of 120+ leading cryptocurrency and Blockchain-centric businesses and 100+ individuals across multiple verticals, including:

- Accounting and Taxation
- Artificial Intelligence
- Art
- Banking
- Building & Construction
- Cyber Security
- Development
- Digital ID
- Education
- Energy and Resources
- Entertainment
- Gaming
- Health and Wellbeing
- Insurance
- Investment
- Legal
- Professional Services
- Recruitment
- Real Estate
- Risk and Compliance
- Supply Chain
- Venture Capital

The sector contributes AU\$2.1 billion, employs approximately 11,600 people ([Source](#)) and with support from government and natural market growth, these figures could increase to AU\$68.4 billion and over 206,000 people employed in the sector. To ensure Australia realises these opportunities, we seek a fit for purpose, technology-neutral, regulatory framework with clear guideposts for consumers and a focus on driving innovation and Investment.