

Following the meeting of the APESB in May 2008, it was agreed that further information would be provided to the APESB in relation to the risk management issues arising out legislative developments impacting on members. This memo sets out that information.

## **Issues to consider for development of Risk management standard**

There are now additional drivers for accountants to consider risk management issues in their businesses. Accountants will be subject to obligations under the Anti-Money Laundering and Counter-terrorism Financing (AML/CTF) legislation which must be implemented on the basis of an assessment of money laundering and terrorism financing risks associated with the services provided by an accounting practice.

The Institute of Chartered Accountants in Australia (the Institute), CPA Australia (CPAA) and the National Institute of Accountants (NIA) have all had schemes limiting the liability of their members in practice approved under Professional Standards legislation. With participation in these schemes comes the obligation for both the professional bodies and their members to improve professional standards by considering and addressing the risks of exposure to liability for services provided by public accountants.

## **Anti-money Laundering and Counter-terrorism Financing legislation**

Anti-Money Laundering and Counter-terrorism Financing (AML/CTF) legislation is expected to be introduced in early 2009 which will require accountants to use a risk based approach in implementing the obligations of the AML/CTF legislation.

The *AML/CTF Act 2006* imposes obligations on entities which provide any of the designated services set out in the legislation. This legislation, referred to as the first tranche of AML/CTF legislation, is primarily aimed at the financial services industry, bullion dealers and the gambling industry.

The government is currently consulting with the accounting and legal professions together with real estate agents and jewellers regarding the second tranche of AML/CTF legislation. A draft of the second tranche of AML/CTF legislation is likely to be released for comment in the last quarter of 2008.

The services which will bring accountants within the AML/CTF regime and the related compliance obligations have not been finalised. However, the second tranche of the AML/CTF legislation is likely to be similar to the first tranche in requiring accountants to meet specified obligations.

On the basis of a risk assessment, a reporting entity must:

- Identify a new customer prior to providing a designated service. Existing customers and customers of low risk services do not have to be identified unless a suspicion arises.
- Implement an Anti-Money Laundering Program which is required to identify, mitigate and manage the risk a business may reasonably face in providing a designated service which might involve or facilitate money laundering and/or terrorism financing. An Anti-Money Laundering Program may be standard,

special or joint. A financial planner may implement a special AML/CTF Program which is limited to performing customer identification procedures. Generally an AML Program is to be divided into Part A and Part B and must include:

#### Part A

- An assessment of the risks associated with designated services provided, customers and jurisdictions in which designated services are provided.
- AML/CTF risk awareness training program
- Employee due diligence program
- Documentation of the AML/CTF Program and approval by CEO or Board
- A nominated AML/CTF Compliance Officer
- Regular independent review of AML/CTF Program by an independent external or internal party

#### Part B

- Applicable customer identification procedures i.e. the collection and verification of information which will vary between customer types and depend on the risk assessment determined under Part A.
- Report suspicious matters, cash transactions of \$10,000 or more and International Funds Transfer Instructions

The legislation provides for civil penalties for non-compliance up to a maximum of \$11million for a company and \$2.2 million for an individual.

#### **Professional Standards legislation**

Professional Standards legislation (PSL) is state based legislation which enables the approval and administration of schemes limiting the liability of members of an occupational association. One of the central objects of the legislation is to facilitate the improvement of occupational standards of the members of the associations which have had schemes approved.

As professional associations with schemes operating to limit the liability of their members, the Institute, CPA Australia and NIA must all provide the Professional Standards Council with information annually regarding the risk management strategies implemented to raise the professional standards of members.

In addition, participating members of the schemes must address their practice risk management strategies to ensure that the way in which they provide services to the public brings them within the operation of the PSL and the schemes.

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