



## Why unlisted property funds should take notice of recent AUSTRAC activity

Unlisted property fund trustees and managers should ensure their processes and procedures relating to money laundering and counter-terrorism remain robust and compliant, particularly “know your customer” protocols, which must go beyond superficial record keeping, in light of recent activity by AUSTRAC (the Australian Transaction Reports and Analysis Centre).

AUSTRAC is the Australian government agency responsible for detecting, deterring, and disrupting criminal abuse of the financial system. The agency has recently taken a more aggressive approach, investigating more financial institutions for potential non-compliance with these protocols, and has claimed some high profile scalps.

The most significant is the massive \$1.3 billion settled with Westpac for breaches of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act), the largest civil penalty in Australia’s history.

AUSTRAC’s CEO, Nicole Rose PSM, said the fine sent a strong message to the financial services industry, and said “Our role is to harden the financial system against serious crime and terrorism financing.”

The Westpac settlement followed a similar settlement against the Commonwealth Bank of Australia (CBA) for \$700 million.

In September it was announced global financial services provider State Street had received an infringement notice from AUSTRAC regarding problems with its International Funds Transfer Instructions regime.

AUSTRAC is also currently investigating Crown Resorts regarding possible non-compliance with money laundering laws.

### No room for complacency

AUSTRAC may have kept a largely low profile in the past, but the regulator recently received an extra \$100 million in funding as part of the 2020 federal budget, and has flagged more enforcement action over the next 12-18 months.

Unlisted property funds need to be particularly vigilant around transaction reporting, risk management, and the “know your customer” requirements.





Breaching the know your customer rules was reportedly Westpac's most serious transgression. Stronger due diligence around customers, and around suspicious transactions, were required.

While unlisted property funds do not have nearly the number of transactions as a major bank, there is no room for complacency, given AUSTRAC's clear direction in enforcing compliance.

### **Review compliance**

All property funds may benefit by conducting a health check to ensure they are compliant with AUSTRAC's anti-money laundering and counter-terrorism financing rules.

Funds must pay strong attention to their transaction reporting obligations – as AUSTRAC's recent investigations have shown, attention to daily reporting obligations is critical.

International fund transfers must also be considered, in the wake of the State Street penalty.

Due diligence around the "know your customer" rules should be tested, along with the procedures for dealing with suspicious transactions.

Knowledge of the customer is paramount. AUSTRAC expects reporting entities to not only keep a record of a customer's identity, but to be satisfied an individual customer is who they claim to be. In the case of a business or other investing entity, they need to be satisfied the entity actually exists, and understand details of the beneficial owners behind the entity.

AUSTRAC expects compliance even where know your customer systems may have been disrupted by the COVID-19 pandemic – [AUSTRAC here provides some useful guidance and resources](#) on alternative systems for verifying customer identity, and runs through various scenarios on how to apply flexible know your customer systems during the pandemic. Scenarios covered include issues where customers may be in isolation or unable to prove their identity using traditional means.

