



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

19 DECEMBER 2022

Australian Transaction Reports and Analysis Centre (AUSTRAC)

4 National Circuit

BARTON ACT 2600

via email: Guidance_Consultation@austrac.gov.au

Dear Sir/Madam,

Consultation on draft guidance: Providing financial services to customers that financial institutions assess to be higher-risk

We welcome the opportunity to comment on AUSTRAC's draft guidance on providing financial services to customers that financial institutions assess to be higher-risk (the guide). We support and welcome the provision of the guide, and note the significant risk to small businesses when essential financial services are denied. We provide the following further comments.

- 1. The ASBFEO supports the guide's risk-based approach and clarification of mitigating factors.** We support the guide's risk-based approach and declaration that de-banking businesses of a particular risk profile is not acceptable to deliver a 'zero failure' approach to preventing financial crime. We support the clarification that acting in good faith to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* is not intended to override anti-discrimination legislation. We also support the clarification that a customer's registration with AUSTRAC should be viewed as a mitigating factor when assessing a registered business's money laundering and terrorism financing risk.
- 2. The guide could provide more appropriate examples regarding commercial reasons to de-bank legally trading small businesses.** A lack of institutional resources to understand how a legally trading small business or industry sector operates is not a strong defensible commercial reason to de-bank them. We recommend consideration be given to amending "The role of financial institutions [H2], use a risk-based approach [H3]" to state 'AUSTRAC recognises that financial institutions are commercial enterprises and may decline to provide designated services, for example, where the business is unable or unwilling to provide relevant information for the financial institution complete an accurate risk assessment.'

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Ms Sarah Blyton on 02 5114 6128 or at sarah.blyton@asbfeo.gov.au.

Yours sincerely

The Hon. Bruce Billson

Australian Small Business and Family Enterprise Ombudsman