



Authorised external auditors policy

External auditors authorised under subsection 164(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

Background

1. Subsection 164(1) of the [Anti-Money Laundering and Counter-Terrorism Financing Act 2006](#) (the Act) empowers the AUSTRAC Chief Executive Officer (the AUSTRAC CEO) to authorise a specified individual to be an external auditor for the purposes of the Act, in particular for the purpose of subsections 161(2) and 162(2).
2. Notices given under subsection 161(2) and 162(2) of the Act require a reporting entity to appoint an external auditor. External auditors appointed by a reporting entity pursuant to these notices carry out audits, and prepare audit reports, in accordance with the directions given in the notices.
3. The Act does not prescribe criteria that an individual should satisfy in order to be authorised as an external auditor.
4. It is open to any individuals who believe they have the appropriate skills and experience to be authorised as an external auditor to apply to the AUSTRAC CEO to be authorised under subsection 164(1).
5. Inclusion on the list as an authorised individual does not guarantee appointment by a reporting entity. Upon receipt of a notice under subsections 161(2) or 162(2), a reporting entity is responsible for choosing an auditor from the list of individuals authorised as external auditors.
6. Terms and conditions, including fees, are to be negotiated between the reporting entity and the external auditor. The Commonwealth is not liable for any default in payment of fees.

Purpose of this policy

7. The purpose of this policy is to provide guidance as well as transparency and accountability in how authorisation of individuals as external auditors will be conducted by the AUSTRAC CEO. This policy outlines the qualifications and experience the AUSTRAC CEO expects external auditors to possess, together with the required personal characteristics the individuals will be required to demonstrate to satisfy the AUSTRAC CEO that they are fit and proper persons for undertaking the responsibilities of an external auditor.
8. Given the discretionary nature of the power provided to the AUSTRAC CEO by subsection 164(1), it is neither appropriate nor possible to categorically state what the outcome might be in respect to any individual application for authorisation.

The role of external auditors

9. The AUSTRAC CEO may require a reporting entity to appoint an external auditor by giving a notice pursuant to either subsections 161(2) or 162(2).

10. Under a subsection 161(2) notice, an external auditor will be required to carry out an audit of the reporting entity's capacity and endeavours to identify, mitigate and manage the risks that the reporting entity may reasonably face that the designated services it provides at a permanent establishment in Australia might involve or facilitate money laundering or the financing of terrorism. Such an audit could include:
 - (1) an assessment of the risk the reporting entity may reasonably face that the designated services it provides at a permanent establishment in Australia might involve or facilitate money laundering or the financing of terrorism;
 - (2) an assessment of what the reporting entity will need to do, or continue to do, to identify, mitigate and manage those risks that it may reasonably face by providing designated services at a permanent establishment in Australia that might involve or facilitate money laundering or the financing of terrorism.
11. Under a subsection 162(2) notice, an external auditor is required to conduct an audit of the reporting entity's compliance with the Act, Regulations and the AML/CTF Rules, or one or more specified aspects of the reporting entity's compliance with the obligations contained therein. Such an audit could include:
 - (1) an assessment of the reporting entity's existing capacity to comply with the Act, Regulations and the AML/CTF Rules;
 - (2) an assessment of what the reporting entity will need to do to become compliant with, or to continue to comply with, the Act, Regulations and the AML/CTF Rules.
12. The external auditor will be required to provide a report to the AUSTRAC CEO setting out the results of the audit.
13. Reporting entities may appoint an individual to examine their business practices, pursuant to the terms of an enforceable undertaking accepted by the AUSTRAC CEO under subsection 197(1). In some circumstances AUSTRAC and the reporting entity may agree that it would be appropriate to appoint an individual who is authorised under subsection 164(1).
14. Furthermore, the criteria below may provide more guidance on the type of individuals appropriate for a reporting entity to propose be appointed pursuant to an enforceable undertaking.

Matters considered by the AUSTRAC CEO in authorising an auditor

15. The Act requires that where an external auditor is required to be appointed under either subsection 161(2) or 162(2) they must be authorised by the AUSTRAC CEO under subsection 164(1).
16. However, the Act does not provide any guidance on what matters are to be considered by the AUSTRAC CEO in determining whether to authorise an individual. In authorising individuals as external auditors, it is appropriate that the AUSTRAC CEO consider whether those individuals are suitably qualified, have relevant experience, are of good fame and character, and are capable of conducting an audit of a reporting entity's business and providing a high quality report to the AUSTRAC CEO.
17. Subsections 161(6) and 162(6) provide the only other limitations on who is eligible to be appointed as external auditor by a reporting entity. These subsections indicate that a reporting entity cannot appoint an external auditor who is an officer, employee or agent of the reporting entity or holds any of those positions in any business that is part of a designated business group in which the reporting entity is also a member.
18. It is the expectation of the AUSTRAC CEO that individuals who are authorised will be proactive in informing AUSTRAC of the above circumstances or where there are any other real or perceived conflicts of interest as soon as is practicable.

19. Individuals who are authorised as external auditors are expected to uphold and respect the responsibilities that authorisation places on them and provide their services in a timely, efficient, effective and appropriate manner.
20. While it is not possible to outline what factors will be relevant in each particular circumstance in determining whether an individual is appropriate to be authorised, the AUSTRAC CEO will consider the following matters:
 - (1) the qualifications and experience of the individual; and
 - (2) the character of the individual.

Minimum qualifications and experience

21. In considering whether an individual is appropriate to be authorised under subsection 164(1) the AUSTRAC CEO will need to be satisfied that the auditor has the appropriate qualifications and experience.
22. The AUSTRAC CEO considers that an individual who wishes to be authorised as an external auditor should, at a minimum, meet the following criteria:
 - (1) tertiary qualifications in accountancy or law with at least five years post-qualification experience; and
 - (2) experience in audit, compliance, investigations or forensic accounting; and
 - (3) at least two years experience in the anti-money laundering and counter-terrorism financing (AML/CTF) field.
23. The AUSTRAC CEO will also consider the quality and conduct from any previous audits conducted by the individual in their capacity as an external auditor authorised or approved by AUSTRAC.

Fit and proper person

24. The AUSTRAC CEO must be satisfied that the external auditors who are authorised are persons who are honest, act with integrity and are of good fame and character.
25. Individuals who are applying to be authorised must demonstrate to the AUSTRAC CEO that they can be relied upon to provide clear and unbiased reports relating to the compliance of reporting entities with the AML/CTF regime.
26. In deciding whether an individual is appropriate to be authorised, the AUSTRAC CEO may also consider the following:
 - (1) membership of Certified Practicing Accountants Australia (CPAA)¹; and/or
 - (2) membership in the Institute of Chartered Accountants in Australia (ICAA)²; and/or
 - (3) membership in the National Institute of Accountants (NIA)³; and/or
 - (4) a current practising certificate as an Australian legal practitioner; and/or

¹ CPA-level membership or above

² Not including Affiliate-level membership

³ MNIA-level membership or above

- (5) membership in a relevant association for anti-money laundering specialists or an appropriate compliance association; and /or
 - (6) membership of other appropriate professional accreditation bodies which accredit their members with qualifications, which in the opinion of the AUSTRAC CEO are relevant to the duties to be undertaken as authorised auditors.
27. For the purposes of authorising a person under subsection 164(1) of the Act the AUSTRAC CEO may consider the following matters:
- (1) any criminal record, in particular relating to offences of dishonesty, of the individual;
 - (2) any bankruptcy proceedings involving the individual;
 - (3) any office held in a business going into liquidation;
 - (4) any disqualification or disbarment by any other Australian regulator or professional accreditation body. This includes the loss of any entitlement to practise as a professional accredited by an appropriate body in any of the relevant professional fields
 - (5) any known conflict of interest that may affect the individual's ability to properly carry out an audit (this will also be relevant when considering appointment of an auditor by a reporting entity);
 - (6) any behaviour by the individual as part of a previous audit conducted as an authorised external auditor;
 - (7) any previous failures to disclose any conflict of interest; and
 - (8) any other relevant matters including making a statement in an application which is later found to be inaccurate, false or misleading.
28. Applicants are also required to provide AUSTRAC with contact details for one professional referee.
29. Finally, it is the AUSTRAC CEO's expectation that individuals will not trade upon the authorisation under subsection 164(1); any such conduct may impact on the AUSTRAC CEO's decision to authorise the individual.

The application process

30. Where an individual wishes to apply to become authorised by the AUSTRAC CEO under subsection 164(1), the individual must provide the following documents:
- (1) a capability statement, which will demonstrate whether the applicant possesses the relevant qualifications, experience and skills; and
 - (2) a signed Statutory Declaration to outline the character of the individual, declaring that the applicant will inform the AUSTRAC CEO as soon as practicable but no later than seven days after becoming aware of any conflict of interest that may arise and of any changes in their circumstances.
31. While applications will be accepted at any time, the AUSTRAC CEO will only consider applications annually. The list of authorised auditors will be updated annually, once the applications have been assessed and persons have been duly authorised.
32. Applicants will be notified in writing of the AUSTRAC CEO's decision. In the circumstance that the AUSTRAC CEO decides not to authorise an individual under subsection 164(1) of the Act the AUSTRAC CEO will advise the individual of the reasons for that decision.

33. A decision by the CEO is an administrative decision which can be subject to administrative review.
34. The finalised list of authorised individuals will be published on the AUSTRAC website. Applicants will be required to consent to their names and contact details being so published, if they are authorised.

All applications and documentation should be submitted to external.auditors@austrac.gov.au.

Removal from the list of authorised auditors

35. Authorisation will only be valid for any individual for a total of two years. AUSTRAC will notify the individual in writing of the upcoming expiration of their authorisation within three months prior to the expiration. Individuals will be expected to reapply for their authorisation at this stage.
36. Where an individual fails to reapply for authorisation that individual will automatically be removed from the authorised list of external auditors at the expiration of their authorisation.
37. From time to time the AUSTRAC CEO may decide that it is appropriate to remove an individual from the list of authorised auditors.
38. The AUSTRAC CEO may consider removing an individual from the list if any of the following circumstances arise:
 - (1) the conduct of the individual as an external auditor was considered inappropriate or undesirable; or
 - (2) the individual has demonstrated that they are unable to fulfil the duties required by an external auditor under the Act; or
 - (3) new information or circumstances have come to the AUSTRAC CEO's attention that would have had a material effect on the AUSTRAC CEO's decision to authorise the individual, in particular any factors referred to in paragraphs 26–28.



Application to be authorised as an external auditor under subsection 164(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act)

CAPABILITY STATEMENT BY THE APPLICANT

Please complete this form (**responses must be typed**), which provides space for addressing all selection criteria.

Full name	
Employer's name	
Postal address	
Phone number(s)	
Email	
Location(s) at which work could be performed	
Area of expertise	
Tertiary qualifications	
Qualifications and experience relevant to conducting audits under the AML/CTF Act and, in particular, sections 161 and 162 of the AML/CTF Act	
Any other experience in the AML/CTF field	
Membership of Certified Practising Accountants Australia	Yes <input type="checkbox"/> No <input type="checkbox"/>
Membership of the Institute of Chartered Accountants in Australia	Yes <input type="checkbox"/> No <input type="checkbox"/>



Membership of the National Institute of Accountants	Yes <input type="checkbox"/> No <input type="checkbox"/>
Membership of an Association of Anti-Money Laundering Specialists	Yes <input type="checkbox"/> No <input type="checkbox"/>
Australian legal practitioner with current practising certificate	Yes <input type="checkbox"/> No <input type="checkbox"/>
Certified as an Anti-Money Laundering Specialist	Yes <input type="checkbox"/> No <input type="checkbox"/>
Details of membership of any other relevant associations	
Fee structure and basis on which fees for auditing services would be provided	
The basis on which you regard yourself to be a fit and proper person to provide audit services under the AML/CTF Act	
Referee contact details	Name: Position/Title: Address: Phone: Email:

Privacy statement

AUSTRAC is collecting this information in order to process your application to be an authorised external auditor. The authority for collecting this information is subsection 164(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). Access to this information is restricted to the AUSTRAC personnel directly involved in the administration of this process and, to the extent required, reporting entities issued with a notice under subsection 161(2) or subsection 162(2) of the AML/CTF Act or that are subject to an enforceable undertaking pursuant to subsection 197(1) of the AML/CTF Act.

Please note that inclusion on the list of authorised auditors does not guarantee you will be appointed by a reporting entity. The decision on appointment is not made by AUSTRAC. All terms and conditions of appointment are to be made with the reporting entity directly. AUSTRAC does not guarantee or in any sense promise to pay if a reporting fails to pay agreed fees.



FORM OF STATUTORY DECLARATION

Commonwealth of Australia

Statutory Declaration

I, **[insert name of declarant]** of **[insert address]** **[insert occupation]** make the following declaration under the *Statutory Declarations Act 1959*:

1. I declare that all details and information in my application to be authorised as an external auditor under subsection 164(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) are true and accurate to the best of my knowledge.
2. I hereby agree to comply in full with the conditions set out in the notification of authorisation as an external auditor, if so authorised.
3. I hereby consent to be authorised as an external auditor by the AUSTRAC Chief Executive Officer (AUSTRAC CEO) (or a delegate of the AUSTRAC CEO) under subsection 164(1) of the AML/CTF Act.
4. I hereby agree to make a conflict of interest declaration to the AUSTRAC CEO or a delegate of the AUSTRAC CEO (in a form provided by AUSTRAC) prior to any appointment as an external auditor under the AML/CTF Act; and further that I will notify the AUSTRAC CEO, or a delegate of the AUSTRAC CEO, as soon as practicable but no later than seven days after becoming aware of any conflict of interest between myself and the applicable reporting entity, should one arise while I am appointed as an external auditor to undertake a particular audit.
5. I am aware of the provisions of subsections 161(6) and 162(6) of the AML/CTF Act in submitting an expression of interest.
6. I have not acted improperly or sought in any way to obtain a special advantage from an AUSTRAC staff member in connection with the preparation of my application.
7. I will not take any improper commercial advantage of being authorised by the AUSTRAC CEO under subsection 164(1) of the AML/CTF Act.
8. I have answered the following questions truthfully:

Have you, in the last five years:

 - been declared bankrupt or had bankruptcy proceedings brought against you? Yes No
 - been a director of any business that has failed e.g. gone into liquidation, voluntary administration or receivership? Yes No
 - been convicted of an offence against a Commonwealth, State or Territory law resulting in a custodial sentence? Yes No



- been convicted of an offence against a Commonwealth, State or Territory law involving dishonesty? Yes No

- 9. If I have answered 'Yes' to any of the questions associated with Question 8, above, I understand that AUSTRAC may seek further details from me.

- 10. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act and I believe that the statements in this declaration are true in every particular.

- 11. I agree to my name and contact details being published on the AUSTRAC website as part of the list of authorised external auditors.

- 12. I understand that my name and contact details will be provided to reporting entities who are given a notice pursuant to subsection 161(2) or 162(2) of the AML/CTF Act or to a reporting entity that is subject to an enforceable undertaking pursuant to subsection 197(1) of the AML/CTF Act.

.....

[Signature of declarant]

Declared at ***[insert place at which the declaration is made]***

[insert date] day of ***[insert month and year]***

Before me:

.....

[Signature of person before

whom the declaration is made]

.....

[Full name, qualification and address of the person before whom the declaration is made (in printed letters) – note that the Statutory Declarations Regulations 1993 set out who is eligible to witness a statutory declaration.]

(For a full list, refer to Commonwealth Consolidated Regulations, Statutory Declarations Regulations 1993) at: www.austlii.edu.au/au/legis/cth/consol_reg/sdr1993389/sch2.html