

Presentation by **David W Marks KC** at STEP SA Trusts Symposium, Hilton Adelaide 6 March 2026

AML/CTF Compliance and Trusts and Estate Practitioners

How To Think About This

- “Enablers”
- Guilty
- Must prove you’re innocent
- Result:
- Need = Rock solid systems
- Need = re-engineer practice, top to bottom
- Result = Business opportunities

How AUSTRAC Will Prosecute You

The convincer – to take it seriously:

- Dissection of three worst files by that wrong-hire paralegal five years ago
- Critique of some system document, CPD failure, or staff vetting slip-up
- Even lodging too many SMRs gets attention
- You need rock solid systems to defend yourself

AML Policy

No genuine assistance from AUSTRAC

- Two-week job for a principal
- No easy way
- But – will learn a lot about your business
- Business opportunity – you will know a lot more about your firm by the end

Part 5 AML/CTF Rules 2025

What You Need At Enrolment

- AML/CTF policy
- AML/CTF compliance Officer
- All staff vetted or excluded
- Done some education and test runs
- Forms with guidance notes ready
- Everyone knows what to do...
- Your *Privacy Act* policy in place

What Does Your First Day Look Like?

- Of course, it will not run to plan:
- Discussion about critical concepts =
 - Charging for customer due diligence (KYC)
 - Designated services
 - Suspicious matter reports (SMRs)
 - Legal professional privilege claims + SMRs
 - Ethical issues & criminal liability (tipping off) on SMR
 - New Conduct Rules still under development

To what end?

- AML/CTF = failed project.
- Au doing this to look good & avoid grey-listing
 - grey – listing = increased cost of capital
- Unacceptable compromise of role as ethical advisers
 - conscripted into costly, free law enforcement
- **But it has happened –**
- Business opportunities = knowing clients & own practice much better

Legally required disclaimer

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