



13 March 2017

Email: beneficialownership@treasury.gov.au

Ms Jodi Keall
Senior Adviser
Financial System Division
100 Market Street
SYDNEY NSW 2000

Dear Ms Keall,

Submission on the Australian Government's *Increasing Transparency of the Beneficial Ownership of Companies* Consultation Paper

Tyro Payments Limited (Tyro) welcomes the opportunity to provide this submission on the above-named Consultation Paper.

Tyro is Australia's only independent eftpos banking institution and is the first new entrant in the banking business in more than 18 years. Tyro holds an authority under the *Banking Act 1959* (Cth) to carry on a banking business as an Australian Deposit-taking Institution (ADI) and operates under the supervision of the Australian Prudential Regulation Authority (APRA).

Tyro provides credit, debit, eftpos card acquiring, Medicare and private health fund claiming and rebating services, as well as a transaction and deposit account integrated with Xero cloud accounting. Tyro takes money on deposit and offers unsecured cashflow-based lending to Australian eftpos merchants.

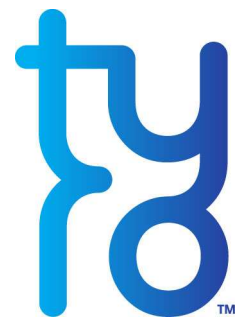
Tyro recommends to entrust the Australian Securities & Investments Commission (ASIC) with the collection and providing of beneficial ownership information.

As an independent Australian government body that acts as Australia's corporate regulator, ASIC already provides many trusted public-facing registers. Thus, it is uniquely suited to widen the scope of the ASIC company register with the required beneficial ownership information:

1. Users would have one register to consult for company and beneficial owner identification.
2. Businesses could use the same Application Programming Interface (API) to import machine readable data.
3. ASIC already has the richest data set on company identity including director and shareholding structure.
4. Users already have the legal obligation to keep their data updated in the ASIC registry.

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5. ASIC has the authority to collect the data and the tools to enforce the collection (fines and deregistration).

Regulatory Background

Australia is a founding member of the Financial Action Task Force (FATF), an independent, inter-governmental body whose role is to combat money laundering, the financing of terrorism and the spread of weapons of mass destruction.

In 2006, the Australian Government introduced the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth) (AML/CTF Act) and the *Anti-Money Laundering and Counter-Terrorism Financing Rules*, overseen by the Australian Transaction Reports and Analysis Centre (AUSTRAC). Through this piece of legislation, all reporting entities were required to abide by the requirements which include collecting and verifying certain information about a customer, known as Know Your Customer (KYC).

In 2014, the obligations were further enhanced after FATF released revised international standards on AML/CTF in 2012, clarifying customer due diligence obligations. One of the recommendations provided by FATF, that is relevant to this submission, was the 'transparency of the beneficial ownership.'¹

On 1 January 2016, reforms to the AML/CTF legislation came into effect that required reporting entities to gain an appropriate understanding of the beneficial ownership and control of their customers. These reforms placed stringent obligations on reporting entities when adhering to KYC obligations, which further identified the lack of available public information on ASIC's companies, ATO or other registers.

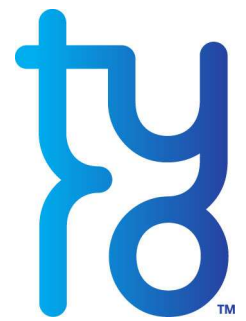
KYC is a significant barrier to innovation and competition

Tyro supports the authorities' efforts to combat and prevent illegal activities and to secure the integrity of the financial system through greater transparency. At the same time, a process has to be found that prevents the KYC process from discouraging Australian businesses from seeking competitive alternatives.

When on-boarding a new customer, Tyro undertakes a customer identification process that fulfils our KYC requirements as a reporting entity. Tyro has an obligation to ensure that a customer exists and we must determine whether the customer or the persons with 25 per cent or more ownership or control of the company is politically exposed, subject to sanctions, or present in a foreign jurisdiction that is subject to sanctions. We also must ensure that our customers have an active ABN and a physical place of business in Australia.

When undertaking the on-boarding application process for a prospective company merchant, the current company extract provided by ASIC does not contain all of the beneficial ownership information that is required for a reporting entity to collect and verify under the AML/CTF legislation. As part of the on-boarding process, a

¹ Increasing Transparency of the Beneficial Ownership of Companies Consultation Paper, p. 7



reporting entity is required to identify information of beneficial ownership of a new customer. This is not a straight-forward process, as information may not be readily accessible from the company merchant and there is no specific register available from ASIC that stores the information that fulfils these KYC requirements.

The complexities, as well as the administrative burden, involved in obtaining beneficial ownership information often leads to customer push-backs. Tyro estimates that 30 per cent of new company merchants require further information to be sourced before their applications may be processed, in order for Tyro to meet its KYC obligations.

Tyro considers that it is at a significant competitive disadvantage when compared with the major retail banks. The retail banks do not experience the same problem, since their retail banking division must satisfy KYC requirements when an Australian person or entity opens their first bank account with them. Tyro is not a retail bank. The switching effort demotivates customers from seeking competitive alternatives, thus stifling innovation and competition in banking.

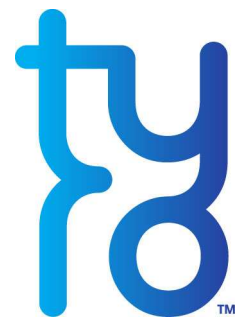
The frictions in collecting beneficial ownership information

ASIC is tasked with managing a public register of company information, yet due to the additional requirements introduced by the legislation in 2014 (that came into full effect in 2016), the register is now an inadequate source for a reporting entity to meet their KYC obligations. The increased demand for information that company merchants must provide to a reporting entity when changing financial providers has created enough friction for many of them not to follow through with their on-boarding applications.

The collection of beneficial ownership information is a significant pain-point for reporting entities when taking on new company merchant customers. Reporting entities have a responsibility to handle their customer's information with due diligence, yet there also has to be a level of transparency in terms of accessing beneficial ownership information.

The pain-points

- The lack of information on the ASIC public register in relation to beneficial ownership requires reporting entities to seek out the missing information from the company merchants themselves. The process of doing this is cumbersome and time-consuming, as a company merchant may not know what the missing information is or where to locate it
- The administrative burden involved in these applications is significant. For example, Tyro has had to create a dedicated department focused on adhering to KYC protocols, including ascertaining beneficial ownership information in line with AUSTRAC requirements
- Due to the frictions involved in locating the correct information, Tyro suffers a significant loss of revenue from prospective company merchants who decide not to proceed with the on-boarding application process



- The information provided by a company merchant to fulfill KYC requirements often isn't certifiable, which causes inaccuracies with the information that is provided, leading to the inability to fulfil KYC obligations.

Accordingly, these frictions are subsequently restricting the movement of company merchants between ADIs, which is restricting innovation and leading to competition being stifled in the market.

The opportunity in extending ASIC centralised register to beneficial ownership information

ASIC already has the legal authority to collect data on companies to keep its register up-to-date and can impose penalties on companies who do not comply with orders from ASIC for such purposes. It holds this information in its current public companies register. If ASIC was granted the power to require companies to provide beneficial ownership information on its register, this would eliminate the pain points described above.

Tyro proposes for beneficial ownership information of companies to be included on ASIC's companies public register. We believe that this would merely be adding an extension to the current register and such changes to incorporate the new information would not be onerous to implement.

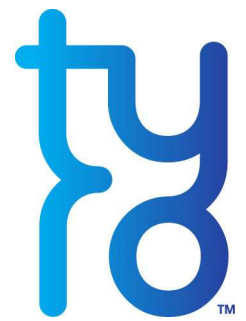
Above all, having a centralised register that contains all information necessary for a reporting entity to fulfill KYC requirements would greatly benefit reporting entities by removing the frustrations of accessing information directly from company merchants themselves.

Proposed changes to the ASIC public companies register

Tyro proposes for the ASIC public companies register to be updated to include the following information:

- detail each individual shareholder on the company's register, including name, date of birth, place of birth and residential address
- where shares are being held on behalf of another entity (trust, company, partnership, individual), list the entity's name and other details regarding beneficial ownership which reporting entities require as a first step to meet their KYC obligations.

To have a centralised register that contains all information, including beneficial ownership, would improve business efficiency and KYC standards for reporting entities. Further, companies should be required to update any changes to their register, so that information is always up-to-date and reporting entities can rely upon these registers to be an accurate summary of a company's structure at all times.



Centralised Register: An international example

As noted in the Consultation Paper, the United Kingdom has implemented a centralised public register containing beneficial ownership information which companies must update annually, in conjunction with companies being required to maintain their own 'Persons with Significant Control' (PSC) register which is also made publicly accessible.

The PSC register must contain details of their beneficial owners, including full name, date of birth, country or state of residence, place of business, residential address, the date when the person become a beneficial owner and any other information on the beneficial interest held by that person.

A centralised public register helps to increase transparency and accessibility of beneficial ownership information. However, the requirement to only update the centralised register annually is not ideal as the most current information would always be held in the PSC register maintained by the company.

Australia should follow the model of having a centralised register but in addition require that any changes to beneficial ownership must be updated as they occur. Having one source of truth for beneficial ownership information and where it is stored would mean that reporting entities will be able to satisfy KYC requirements in a streamlined fashion which will help to decrease the frictions currently being experienced during the on-boarding process.

Increasing market competition

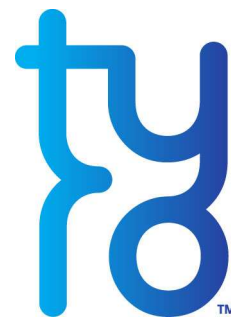
Tyro supports the international directive of enhancing KYC requirements and we are committed to fulfilling our KYC obligations under the AML/CTF legislation. Australia can learn from international models, such as that of the United Kingdom, to understand how increased corporate transparency with a centralised public register can enhance market competition.

As we are seeing in Australia, KYC obligations make it increasingly difficult for company merchants, on the look-out for a better deal, to swap between ADIs. If Australia has a centralised public register that stored all company structure information, the growth of our market would no longer be hampered by the lack of information available to satisfy KYC obligations.

Conclusion

As it says in the Consultation Paper, 'improving transparency around who owns, controls and benefits from companies will assist with preventing the misuse of companies for illicit activities.'² The Australian Government needs to make the collection and storage of company information a priority and ensure that there is transparency in how this information is accessed. Adhering to KYC obligations is not just a box-ticking exercise for reporting entities, it is also a measure that

² Ibid, p.v



protects our country from illegal activities that could be undertaken by a company that could harm our country.

Tyro would welcome a centralised public register of company information, ideally provided by ASIC, including all necessary beneficial ownership information that is needed to satisfy KYC obligations. Australia needs to keep up with international jurisdictions that have implemented frameworks that ensure beneficial ownership information is accessible.

A centralised public register in Australia containing beneficial ownership information would not only make it more difficult for companies to engage in deceptive behavior, yet it would also bolster the integrity of our financial services market as a result. And this would benefit regulators, financial services providers and company merchants alike.

Kind regards,

A handwritten signature in blue ink, appearing to read 'Jost Stollmann', with a stylized flourish at the end.

Jost Stollmann
Executive Director
Tyro Payments