Memorandum of Understanding

between

the Australian Transaction Reports and Analysis Centre

and

the Australian Prudential Regulation Authority

on Co-operation and Exchange of Information
1. **Objective**

This Memorandum of Understanding (MoU) sets out a framework for cooperation between the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the Australian Prudential Regulation Authority (APRA) (the agencies) in areas of common interest where cooperation is essential for the effective and efficient performance of their respective functions.

2. **Responsibilities**

2.1 AUSTRAC is Australia's anti-money laundering regulator and specialist financial intelligence unit. AUSTRAC's purpose is to detect and counter money laundering and the financing of terrorism.

2.2 APRA is responsible for the prudential supervision of banks, building societies and credit unions, life and general insurance companies, friendly societies and superannuation funds. In performing its functions to protect the interests of depositors, policyholders and fund members, APRA is required to promote financial system stability in Australia and to balance financial safety with efficiency, competition, contestability and competitive neutrality.

3. **Mutual Assistance**

3.1 The agencies recognise the importance of co-operation between them to promote confidence in the integrity of the Australian financial system.

3.2 The agencies will provide each other with mutual assistance in relation to the exchange of information, appropriate referral of matters and cooperation in regulation, compliance and enforcement, consistent with relevant laws.

4. **Regulatory Policy Development**

4.1 Each agency will notify the other of any proposed changes in regulatory policy or regulatory decisions which are likely to impact on the responsibilities of the other and provide the opportunity to consult.

4.2 Where the implementation of regulatory policy or regulatory decisions by one of the agencies is likely to impact on the responsibilities of the other, that agency will notify the other.

4.3 Where appropriate, the agencies will consult with each other in advance in relation to policy statements and media releases which may be of interest to or have an effect on each agency. Where appropriate, the agencies may consider whether to issue a policy statement or media release on a joint basis, having regard to the subject matter of the release, the policy objectives of each agency and the objectives of this MoU.
5. Co-ordination Committee

5.1 A joint Co-ordination Committee will be established with senior representation from each agency to facilitate close cooperation between the agencies. The Committee will be responsible for ensuring appropriate arrangements are in place for matters such as co-ordinating information sharing, referral of matters, enforcement action or major supervisory intervention.

5.2 It is envisaged that liaison in respect of routine operational matters will occur on an “as needed” basis between appropriate staff of the agencies.

6. Information Sharing

6.1 Full and timely exchange of information is a crucial element of co-operation between the agencies.

6.2 The agencies agree that, subject to applicable laws and regulations, information available to one agency, which is relevant to the responsibilities of the other agency, will be shared as requested, with consideration given to the related degree of urgency.

6.3 When sharing AUSTRAC or APRA information, the agencies acknowledge the confidentiality and secrecy requirements of the Acts under which each agency operates. The agency providing information has the right to specify the level of confidentiality attaching to the information it provides to the other. The agency receiving information will only use such information for the purposes for which it was obtained.

6.4 The Co-ordination Committee may formulate guidelines relating to how the exchange of information and co-operation between AUSTRAC and APRA will occur.

6.5 Each agency agrees not to disclose any non-public information of the other agency to a third party unless it has obtained the prior written consent of that agency or it is required or authorised by law to disclose the information.

7. Unsolicited Assistance

7.1 The agencies recognise that in the course of carrying out their functions and exercising their powers, they will periodically come into possession of information which would, if provided to the other agency, be likely to assist that agency in administering or enforcing the particular laws for which it is responsible.

7.2 The agencies will, subject to applicable laws and regulations, use their best endeavours to notify each other of the existence of any information of a kind referred to above, notwithstanding that a request may not have been received for such information.
8. Access to ASTRAC Information

Access to ASTRAC information by APRA is given in accordance with subsection 126(1) of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act) whereby the ASTRAC CEO may, in writing, authorise specified officials or a specified class of officials of a specified designated agency to have access to ASTRAC information for the purposes of performing the agency’s functions and exercising the agency’s powers.

9. Access to APRA Information

Access to APRA information by ASTRAC is given in accordance with paragraph 56(5)(a) of the Australian Prudential Regulation Authority Act 1998 and regulation 5(j) of the Australian Prudential Regulation Authority Regulations 1998.

10. Privacy and Security

10.1 Information shared by the agencies may include personal information which is subject to the provisions of the Privacy Act 1988 (Cth) (Privacy Act). The Information Privacy Principles (s.14 Privacy Act) set out how personal information is to be secured, used and disclosed.

10.2 The agencies will ensure that information provided by one agency to the other is protected, by such security safeguards as are reasonable in the circumstances, against:

a) loss, unauthorised access, unauthorised use or unauthorised disclosure; and

b) modification or other misuse.

10.3 The agencies will ensure their officers who have access to information provided by the other agency understand the legal and other obligations attaching to access, use and disclosure of the information.

10.4 The agencies will notify each other of any unauthorised use or disclosure of information.

11. Cost of Provision of Information

11.1 In general, the agency providing the information shall bear the cost incurred by it in locating and providing the information to the other.

11.2 If it appears to the agency providing the information that it will incur substantial costs in so doing, it may inform the other agency and negotiate a cost-sharing arrangement in relation to the provision of that information.

12. International Representation
The agencies will cooperate to ensure that Australia has appropriate representation in regional and international regulatory fora and training initiatives.

Neil James Jensen PSM
Chief Executive Officer
Australian Transaction Reports and Analysis Centre
Date 20 February 2007.

Dr John Laker
Chairman
Australian Prudential Regulation Authority
Date 20 February 2007
Anti-Money Laundering and Counter-Terrorism Financing Act 2006

INSTRUMENT OF AUTHORISATION

I, Neil James Jensen, Chief Executive Officer of AUSTRAC, under subsection 126(1) of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act), hereby authorise the class of officials of the Australian Prudential Regulation Authority (APRA) described in Annexure A to have access to AUSTRAC information for the purpose of performing the APRA’s functions and exercising the APRA’s powers. The class of information that can be accessed is all AUSTRAC information, as defined in section 5 of the AML/CTF Act.

[Signature]

Neil James Jensen PSM
Chief Executive Officer
AUSTRAC

20th day of February 2007
Annexure A – Authorised class of officials of the Australian Prudential Regulation Authority to have access to AUSTRAC information

All APRA staff members occupying from time to time the positions of Senior Manager or above in the Specialised Institutions Division, the Diversified Institutions Division and the Enforcement Branch of the Supervisory Support Division. Positions are as follows:

- Executive General Manager, Diversified Institutions Division
- General Managers, Diversified Institutions Division
- Senior Managers, Diversified Institutions Division
- Executive General Manager, Specialised Institutions Division
- General Managers, Specialised Institutions Division
- Senior Managers, Specialised Institutions Division
- General Manager, Enforcement, Supervisory Support Division
- Senior Manager, Enforcement, Supervisory Support Division