

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS AND OTHER FINANCIAL INSTITUTIONS SMALLER BANKS SECTOR

HSBC Australia

HSB07QON: **Dr MULINO:** That's fine. Your entities in other jurisdictions have dealt with the implementation of tranche 2, and most banks in Australia seem to be saying—the ABA certainly said this morning—that they're supportive of tranche 2 being implemented here. As you say, there's a bit of catch-up. Some entities in Australia are supportive of it as an area where there's a need for regulation to be strengthened, but you in a sense have a perspective where you've seen it implemented in other jurisdictions and of how it can be done well. Any observations you might have on notice around this, learning lessons from HSBC and other jurisdictions, would be useful.

Mr Mclean: Certainly. We will come up with that.

Answer: The objective of the AML/CTF framework in Australia should be effectiveness. This is defined by the Financial Action Task Force (FATF) as a framework in which “financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security.” (See <https://www.fatf-gafi.org/publications/mutualevaluations/documents/effectiveness.html>) At a framework level, the FATF recognises that adopting reasonable laws and regulations is not sufficient on its own to achieve this. It states that each country must also “ensure that the operational, law enforcement and legal components of an AML/CTF system work together effectively to deliver results.” AML/CTF programmes – as shaped by national authorities, implemented by financial institutions, and assessed by supervisors – should be refocused on effectiveness. This means collectively working towards frameworks and procedures that optimise the detection and deterrence of illicit activity. Our view is that policymakers should be encouraged to assess whether new requirements, such as those proposed under tranche 2, will make Australia’s overall framework more effective, and to assess whether the proposed increase in the technical compliance burden will meet this objective.

That said, the financial sector cannot make the needed difference in the fight against financial crime on its own. The tranche 2 reforms will contribute to that effort in Australia by expanding the existing AML/CTF requirements to other non-financial businesses and professionals, including estate agents and lawyers. We anticipate that as in some other jurisdictions, these other non-financial businesses and professionals will find it challenging to implement these reforms effectively without clear and detailed operational guidance (similar to that which is published in the UK) to assist them to understand how to implement these requirements in their business areas.

We have also observed in other markets that reforms such as those proposed under tranche 2 lead to further, significant demand for financial crime compliance professionals across both public and private sectors. The competition between existing reporting entities for qualified and experienced resources in Australia is already tight, particularly with COVID-related restrictions in

place. The operational effectiveness of Australia's AML/CTF framework is likely to be impeded by continuing constraints on the ability of reporting entities to recruit such resources.