

## Estimates March 2021 – AUSTRAC CEO opening statement

- Thank you, Chair.
- I'd like to start by providing further clarity around AUSTRAC's role, explain our part in the complex law enforcement and financial ecosystem, and correct the record on some recent reporting.
- Our dual role as **Australia's Financial Intelligence Unit and AML/CTF regulator** places us within a strong network of state and Commonwealth financial regulators, intelligence agencies and law enforcement bodies tasked with protecting Australians and the economy.
- To explain our specific part in this ecosystem, allow me to make a comparison to a more familiar regulatory model.
  - Consider the role that a Roads and Traffic authority plays in a state.
  - They provide registration services; they oversee compliance to specific rules and regulations; and, they work to improve road safety.
  - We all know you need to be licensed by them to drive a car and if you actually own a car, it needs to be roadworthy and certified. The onus is on the driver to ensure these requirements.
  - However, it's the Police who monitor and enforce compliance with road rules such as speeding and drink driving, not Roads and Traffic.
- Similarly, we engage our Registered community of businesses with a range of different regulatory tools, **some proactive and some reactive**.
- Proactive prevention, is best done with education, guidance and compliance checks. We have been particularly focussed on this and continue to build our capacity in this area.
- Enforcement action however, is usually at the end of the oversight continuum, when we have detected serious and systemic non-compliance.
- This civil action under the AML/CTF legislation, confers some of this country's most serious financial penalties to breaches, due to the serious harm that can result if a regulated entity does not fulfil its responsibilities under the Act, or as

Justice Perram put it in the Tabcorp matter **“The Act deals severely with breaches of that trust”**.

- And this is an important point, this action is taken against the entity providing the service, not any criminal who may exploit that service.
- The criminal actions of money launderers and those financing terrorism is investigated and prosecuted by the Police. As the national Financial Intelligence Unit, AUSTRAC provides specialist financial intelligence and draws on our extensive international FIU network to contribute to law enforcement and national security operations.
- There are some similarities between criminal investigations undertaken by Police and civil regulatory enforcement investigations undertaken by AUSTRAC. For complex matters, investigations to secure evidence can take extended periods of time. Matters being investigated have in many instances occurred years prior to the investigation being commenced. All evidentiary standards whether in criminal or civil regulatory matters must be adhered to.
- **AUSTRAC’s regulatory posture was renewed and elevated significantly a few years ago and has maintained momentum ever since.**
  - AUSTRAC’s first significant enforcement action in 2017 was against TabCorp – in the gambling sector. At the time, it was Australia’s largest civil penalty.
  - Since then, our approach has been increasingly proactive and forward leaning and I am sure we can discuss details of this today.
- One last point before I take questions, I would like to **correct the record on one further issue that was discussed at a Senate Committee just last week and reported by media on a number of occasions.**
  - A case that AUSTRAC provided to our international partners was used to demonstrate various aspects of trade based money laundering. It showcased the working partnership between the criminal investigators and intelligence support. In this case, AUSTRAC, Australian banks and our international financial intelligence counterparts supported an Australian Border Force investigation.
  - In this example, the proceeds of illicit narcotic sales in the United States were placed into the US financial system and then layered by transferring funds internationally to jurisdictions in Asia. From Asia, funds were then

further layered through the financial system into Australia. No Australian institution would have any awareness of the links to the US or South America.

- This case study was chosen because it highlights the complexity and scale of international trade based money laundering and the need for government agencies to work not only with each other, but with private sector and international partners to tackle Transnational Serious and Organised Crime.
- This case study does not demonstrate non-compliance with the AML regime.
- It is not accurate to suggest that this case study demonstrates the failure of banks to meet their obligations. Banks, like many financial institutions, are used by sophisticated criminal networks.
- To suggest that banks (or law enforcement for that matter) will always be able to detect such use is misguided.
- There was no non-compliance identified in this matter and accordingly potential enforcement activity against a bank was not pursued.
- While AUSTRAC does not comment on the specifics of operational matters, I will note that the agency did contribute financial intelligence to the effort to identify and combat this criminality. These contributions included reporting provided by banks and engagement with international partners.

**I'm happy to take any questions.**