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27 August 2021

Sophie Dunstone  
Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Committee Secretary

**Re: Inquiry into the adequacy and efficacy of Australia's AML/CTF Regime**

Bendigo and Adelaide Bank Limited (BEN) welcomes the opportunity to provide a submission to the Senate Standing Committee on Legal and Constitutional Affairs' inquiry into the adequacy and efficacy of Australia's Anti-Money Laundering and Counter Terrorism Financing (AML/CTF) regime.

BEN's vision is to be Australia's bank of choice and we are driven by our purpose to feed into the prosperity of our customers and communities. Effective management of the risk of financial crime (including AML/CTF) is fundamental to our purpose and assists to protect the prosperity, trust and wellbeing of communities in Australia and internationally.

Fundamental to this approach is the Bank's collaborative and open relationship with the Australian Transaction Reports and Analysis Centre (AUSTRAC), which includes our membership of the Fintel Alliance, Australia's public / private partnership committed to fighting serious crime and terrorism financing.

BEN welcomes the opportunity to contribute to any efforts to improve the adequacy and efficacy of the AML/CTF regime and Australia's compliance with the Financial Action Task Force's recommendations. We look forward to continuing to work with our industry colleagues, AUSTRAC, law enforcement and Government in fighting financial crime together. Please find our response attached in Appendix A.

Yours sincerely

**Taso Corolis**  
**Chief Risk Officer**  
**Bendigo and Adelaide Bank**

## **Appendix A – Response to Terms of Reference**

- i) The extent to which the Australian Transaction Reports and Analysis Centre:**
- **responds to and relies upon reporting by designated services, and**
  - **identifies emerging problems based on this reporting.**

As a financial institution, BEN is captured as a reporting entity under the AML/CTF Act via its provision of designated services as defined in the legislation. The obligations of reporting entities under the legislation include (among other requirements) the reporting of transactions and suspicious matters to AUSTRAC. This reporting to AUSTRAC is central to the objects of the legislation as set out in Note 1 of s3 of the AML/CTF Act. It also follows that this reporting is central to AUSTRAC's role as responsible for detecting, deterring and disrupting criminal abuse of the Australian financial system.

BEN maintains a collaborative, productive and open relationship with AUSTRAC which includes receiving direct feedback on reporting provided by the Bank, and information on macro emerging risks and trends via the Fintel Alliance and industry specific guidance and resources. This feedback is very useful for the Bank and the rest of the banking sector in order to identify, assess and manage the risks of financial crime.

- ii) The extent to which Australia's AML/CTF regulatory arrangements could be strengthened to:**
- **address governance and risk-management weaknesses within designated services, and**
  - **identify weaknesses before systemic or large-scale AML/CTF breaches occur.**

The current AML/CTF regulatory arrangements in Australia as set out in the AML/CTF Act task AUSTRAC with a dual role as Australia's financial intelligence unit and AML/CTF regulator. Because of this, AUSTRAC is equipped with the tools of financial intelligence and regulation to identify and address weaknesses in the sectors captured by the legislation.

Additionally, the design of the AML/CTF Act also places a degree of trust in the reporting entities themselves to put in place risk-based systems and controls to identify, assess and manage the risks of financial crime they face. This approach allows entities who know their customers, products and operations to design and implement the appropriate systems and controls to manage the risk.

In our view, this high-level design of the AML/CTF regulatory arrangements is, by and large, appropriate as it equips AUSTRAC with the information it requires and allows reporting entities to address their risks by following risk-based AML/CTF legislation.

It is important to note arrangements can be otherwise strengthened by improving the legal framework for collaboration between reporting entities via shared compliance infrastructure and industry utilities, ensuring AUSTRAC receives appropriate ongoing resourcing to meet its role to continue its collaboration and partnering with industry and achieve sustained uplift and outcomes that meet the population's expectations. Additionally, further sharing of case studies and areas of better practice by AUSTRAC to industry will also assist to strengthen the risk management practices of reporting entities and address weaknesses in the overall system.

**iii) The effectiveness of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the Act) to prevent money laundering outside the banking sector**

Banks are one of many industries that can play a role in detecting, deterring and disrupting financial crime risks and threats that affect Australia's financial system. While the application of AML/CTF frameworks may vary by industry, the principles are the same. These principles include ensuring customers are who they say they are, organisations knowing their risk profile and activity, and reporting to AUSTRAC.

As discussed above, the Act does place a degree of trust in reporting entities to have the appropriate risk-based arrangements to manage the risk of financial crime. However, the banking sector by its nature facilitates access to international financial markets for Australians and therefore is able to directly observe international trends and practices in financial crime risk management that other sectors may not.

**iv) The attractiveness of Australia as a destination for proceeds of foreign crime and corruption, including evidence of such proceeds in the Australian real estate and other markets since the enactment of the Act**

BEN does not have any specific comments beyond what has already been noted by organisations such as;

- The Australian Criminal Intelligence Commission (ACIC) stated in 2017<sup>1</sup> that money laundering remains a key risk to Australia and is the common element in almost all serious and organised crime.
- The Financial Action Task Force (FATF) in 2015<sup>2</sup> noted that Australia is seen as an attractive destination for foreign corruption related proceeds flowing into real estate from the Asia Pacific region.

BEN supports the inquiry's consideration of the AML/CTF regulatory arrangements in light of these trends.

**v) Australia's compliance with the Financial Action Task Force (FATF) recommendations and the Commonwealth Government's response to:**

- **applicable recommendations in applicable FATF reports, and**
- **the April 2016 Report on the statutory review of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and associated rules and regulations.**

BEN supports the efforts of government to ensure Australia's compliance with the FATF recommendations. This is crucial for Australian business to maintain its reputation and access to international financial markets. Concerning the April 2016 report on the statutory review of the legislation, BEN supports the original objectives and guiding principles of the review, as well as the recommendations from the report, including simplification of the AML/CTF framework. Additionally, BEN supports the proposal for AUSTRAC to supervise and monitor compliance with Australian sanctions laws.

**vi) The extent to which adherence with FATF recommendations prevents systemic and reputational risks to Australia, the Australian economy, and Australia's capacity to access international capital**

As a financial institution with access to international financial markets, BEN is regularly assessed against the principles of the FATF standards by international counterparties conducting due diligence. Financial institutions or entities located in jurisdictions deemed higher risk by FATF face increased scrutiny, heightened due diligence and potential limitations in accessing markets. It is therefore crucial for Australia to adhere to the FATF recommendations for the reputation of Australian business and ready access to international capital.

**vii) The regulatory impact, costs and benefits of extending AML/CTF reporting obligations to designated non-financial businesses and professions (DNFBPs or 'gatekeeper professions'), often referred to as 'Tranche two' legislation**

As Australian legislation does not currently cover sectors identified by the FATF as higher risk, the Australian AML/CTF framework could be at a higher risk of overlooking money laundering and financial crime than otherwise would be the case. Extending the obligations to DNFBPs will assist in addressing these risks and Australia's compliance with the FATF recommendations.

Additionally, the current arrangements of not covering DNFBPs arguably have placed an additional burden on those parts of the financial system that are already captured by the regime and are working with AUSTRAC and law enforcement to address financial crime. Expanding the obligations will provide further financial intelligence and regulatory oversight to AUSTRAC in performing their important role.

Further, businesses and professionals working in the DNFBP sector interact with the existing reporting entities as customers, suppliers and service providers. Requiring the DNFBP sector to comply with AML/CTF requirements would provide existing reporting entities with transparency and certainty that these businesses are operating within the regime in their interactions with them, including the need for risk assessment and due diligence.

**The extent to which**

- **DNFBPs take account of money laundering and terrorism financing risks, and**
- **the existing professional obligations on DNFBPs are compatible with AML/CTF reporting obligations; and any other related matter**

BEN has no comment on these terms of reference for the inquiry as they are best addressed by those entities in the DNFBP sector.

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<sup>1</sup> ACIC 2017, 'Organised Crime in Australia', ACIC, viewed August 2021, [https://www.acic.gov.au/sites/default/files/2020-08/oca\\_2017\\_230817\\_1830.pdf](https://www.acic.gov.au/sites/default/files/2020-08/oca_2017_230817_1830.pdf)

<sup>2</sup> FATF 2015, 'Mutual Evaluation Report - Australia', FATF, viewed August 2021 <https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Australia-2015.pdf>