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## **Australian Customs and Border Protection Service submission to the Parliamentary Joint Committee on Law Enforcement Inquiry into Financial Related Crime - May 2014**

### **The Role of the Australian Customs and Border Protection Service**

As Australia's primary border agency, the Australian Customs and Border Protection Service (ACBPS) contributes to the Australian Government's efforts to address financial crime, including revenue evasion, money laundering and terrorism financing threats.

The ACBPS addresses financial crime as a priority through proactive measures including intelligence collection and analysis, real time interventions at the border, investigations and other enforcement activity and participation in multi-agency activities.

Under Commonwealth legislation, the ACBPS has a wide range of law enforcement and regulatory powers at the border. These powers include the ability to search, examine, question, seize and arrest, which are relevant to the ACBPS's efforts to address financial related crime.

### **Management of trade related economic risk**

As part of its role, the ACBPS manages a wide range of border risks including trade related economic risk. The ACBPS is one of the largest revenue collection agencies in the Commonwealth with \$12,236.7 million in customs duty and indirect taxes collected on imported goods in 2012-13. The ACBPS also administers significant duty concession schemes, which were worth over \$2 billion in revenue foregone in 2012-13.

Economic border risk appears as:

- a. illegal or improper behaviour that creates operational losses relating to the administration of trade law at the border such as: duty evasion, circumvention or anti-dumping and countervailing measures, misreporting, the abuse of intellectual property rights, improper benefits from free trade agreements, tariff concession orders and the like, and
- b. serious non-compliance where trade is the vehicle for duty and tax fraud, transfer pricing and money laundering.

### **General compliance program**

The ACBPS works collaboratively with key partner agencies such as the Australian Taxation Office to ensure all revenue liabilities are payable and collected on imported goods. We do this by providing an assurance that revenue, including customs duty and indirect taxes are correctly paid or deferred.

For the financial year 2012-13, our compliance program identified approximately \$192 million in GST/Duty/WET/LCT understatements. This is a significant increase compared with the 2011-12 financial year.

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### Non-compliance

Recent investigations have highlighted the likelihood that organised transnational networks are engaged in activity to circumvent Australian anti-dumping and countervailing measures, presenting a direct risk to the Australian border and our industries. The experience of foreign Customs administrations suggests that these criminal networks often comprise offshore suppliers and logistics companies, third country freight forwarders and importers working together to tranship goods to hide their true origin.

### Tobacco smuggling

Tobacco smuggling is a significant issue in terms of revenue evasion, which sees the increasing involvement of organised crime groups. In 2012-13, the ACBPS made frequent and sizable detections of undeclared tobacco and cigarettes, seizing a total of 183 tonnes of tobacco and 200 million cigarettes, stopping a potential \$151 million in revenue evasion.

### Trade based money laundering

Money laundering is a fundamental enabler of most forms of organised crime and will continue to represent a strategic threat to revenue and the Australian economy. Strengthening regulation and enforcement in areas of “traditional” money laundering may displace the risk and increase the use of other methodologies. One example is the emergence of trade based money laundering (TBML). TBML techniques range from simple fraud, such as the misrepresentation of prices, quantity or quality of goods on an invoice, through to complex networks of trade and financial transactions. There are indications that TBML is more prevalent than previously understood.

### **Unlawful movement of money across the border**

The *National Threat Assessment on Money Laundering 2011* (NTA) rated the cross-border movement of cash and Bearer Negotiable Instruments (BNIs) as a medium threat because of the easy accessibility of this method of money laundering and the difficulties associated with its detection. Cross-border movements of cash and BNIs are enabled by a number of factors, notably the high volume of passenger, cargo and mail movements into and out of Australia each day.

The *Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act 2006* requires reporting of cross-border movements of currency and significant or suspicious financial transactions. Under Part 4 of the AML/CTF Act, all individuals and businesses must report to Australian Transaction Reports and Analysis Centre (AUSTRAC) the cross-border movement of physical currency to the value of AUD\$10,000 or more. In performing its role at the border, the ACBPS has a focus on preventing the unreported movement of currency and Bearer Negotiable Instruments (BNIs) across the border, and identifying and seizing proceeds of crime discovered in the course of ACBPS investigations.

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On behalf of AUSTRAC, the ACBPS collects paper-based declarations made by arriving and departing travellers about cash and BNIs over the AUD\$10,000 threshold being carried across the border.

The ACBPS undertakes the enforcement of cross-border currency and BNI reporting in the following places:

- international airports, seaports and smaller regional airports during passenger and crew processing;
- international mail centres during examination of international post;
- cargo examination sites; and
- locations where above-threshold-value-money or BNI brought into Australia is detected as a consequence of an investigation by the ACBPS.

The ACBPS further uses a range of sophisticated techniques to prevent, deter and detect the unlawful movement of money into Australia. These include intelligence analysis, computer-based analysis, detector dogs and various other technologies.

The ACBPS is trialling the use of currency detector dogs with one based in Melbourne and one based in Sydney. Early results of the trial are positive with a view to rolling out the currency capability on a national level in the future.

In 2012-13, the ACBPS detected 308 cases of undeclared currency at the border, predominantly international passengers arriving and departing Australia by air, amounting to \$7,656,212. Of these detections, 230 were inwards and 78 were outwards detections. 107 fines were issued.

The ACBPS has a focus on the potential link between undeclared cash and other crimes. Its interests therefore include revenue protection and responding to law enforcement priorities, including moving proceeds of crime offshore.

### **Cooperation**

The ACBPS has out-posted officers located within the Australian Crime Commission (ACC) and the Australian Federal Police (AFP). There is also an AUSTRAC liaison officer located with the Intelligence Division of the ACBPS.

The ACBPS has also worked in partnership with the ACC to conduct a mass x-ray screening trial of outwards baggage, aimed at detecting undeclared currency.