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Auditor-General for Australia



17 July 2024

Senator Helen Polley
Chair
Parliamentary Joint Committee on Law Enforcement
Parliament House
CANBERRA ACT 2600

By email: le.committee@aph.gov.au

Dear Senator Polley

ANAO submission for the Inquiry into the capability of law enforcement to respond to money laundering and financial crime

The Australian National Audit Office (ANAO) presented the following performance audit to the Parliament that you may find relevant to the above inquiry:

- Auditor-General Report No.39 2022–23, [Implementation of the Government Response to the Black Economy Taskforce Report](#).

Information about what the audit assessed, concluded, and recommended is attached. The audit report is available online at www.anao.gov.au.

Should the Committee require further information in relation to these matters, my office would be pleased to provide you with a briefing at a time convenient to you or appear as a witness at a hearing. To arrange a briefing, please contact our External Relations team at

Yours sincerely

Rona Mellor PSM
Acting Auditor-General

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**Implementation of the Government Response to the Black Economy Taskforce Report
No.39 2022–23**

**Australian Taxation Office
Department of Home Affairs
Department of the Treasury**

Background

1. The shadow economy includes a range of economic activities that take place outside the tax and regulatory systems.¹ The Organisation for Economic Co-operation and Development describes the shadow economy as ‘economic activities, whether legal or illegal, which are required by law to be fully reported to the tax administration, but which are not reported, and which therefore go untaxed unlike activities which are so reported’.

2. To combat the shadow economy, in 2016, the Department of the Treasury (Treasury) established the Black Economy Taskforce (the Taskforce). The Taskforce was to develop a whole-of-government strategy and policy agenda to address the shadow economy. In October 2017, the Taskforce finalised its report to the Australian Government (the Government). It made 80 recommendations, directed at many areas of government.

3. In May 2018, the Government: agreed with 27 recommendations; agreed in principle to 21 recommendations; supported six recommendations; noted 18 recommendations; did not support three recommendations; and did not respond to five recommendations.

Commencing with the 2018–19 Budget, the Government introduced measures to begin implementation of the Taskforce recommendations. This included: \$12.3 million to Treasury over five years to manage the whole-of-government implementation; \$153 million to the Department of Home Affairs (Home Affairs)² to establish the Illicit Tobacco Taskforce; and \$313.2 million to the Australian Taxation Office (ATO) to strengthen strategies for combatting the shadow economy.

Rationale for undertaking the audit

4. The Taskforce outlined the harm caused by the shadow economy to vulnerable individuals, as well as the potential to penalise those doing the right thing by creating an uneven playing field. It found that the shadow economy was ‘rapidly shifting and evolving in step with wider economic, technological and social changes’.³ It outlined the need for better governance within the Australian Public Service to address risks related to the shadow economy.⁴ It also highlighted the need for sustained focus on the implementation of its strategy.⁵

1 There are various terms used to refer to the shadow economy including black economy, hidden economy, underground economy, informal economy, grey economy, non-observed economy, and cash economy. The Organisation for Economic Co-operation and Development uses the term ‘shadow economy’. This report also uses the term ‘shadow economy’, although uses ‘black economy’ when directly quoting or when referring to names that have black economy in them.

2 Including the Australian Border Force.

3 Treasury, *Black Economy Taskforce Final Report*, October 2017, p. 1, available from <https://treasury.gov.au/review/black-economy-taskforce/final-report> [accessed 11 April 2023].

4 *ibid.*, pp. 333–336.

5 *ibid.*, p. 335.

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5. The shadow economy undermines the integrity of the tax system, penalises taxpayers who do the right thing and has the potential to create a culture of non-compliance.⁶ For the ATO, the shadow economy remains an ongoing risk to the ATO's purpose of fostering willing participation in the taxation and superannuation systems.

6. Treasury, the ATO and Home Affairs have primary responsibility for implementing the Taskforce recommendations and for ongoing management of the whole-of-government response to the shadow economy. This audit provides assurance to the Parliament about whether the Government response to the Taskforce's report is being implemented effectively.

Audit objective and criteria

7. The objective of this audit was to assess the effectiveness of the implementation of the Government response to the Black Economy Taskforce report.

8. To form a conclusion against the objective, the ANAO adopted the following high-level criteria.

- Did Treasury establish effective governance and coordination arrangements supporting the implementation of the Government response to the Black Economy Taskforce report?
- Are the entities effectively implementing the recommendations that they are responsible for?
- Are the entities effectively implementing recommendations where there is more than one entity responsible for implementation (shared responsibility)?

Conclusion

9. Treasury did not establish a framework to assess the effectiveness of the whole-of-government implementation of the Government response to the Taskforce report and, as such, it cannot demonstrate that the objectives of the Taskforce's strategy have been achieved.

10. Treasury did not effectively coordinate the implementation of the Government response to the Taskforce report. It failed to fully establish governance and coordination arrangements, did not adequately monitor and report on progress in implementing the report's recommendations and has not established evaluation arrangements. Treasury's management of information in relation to the implementation of the Taskforce report did not support effective whole-of-government coordination.

11. The ATO and Home Affairs are implementing the recommendations that they have responsibility for in a largely effective manner. Treasury is not implementing the recommendations that it has responsibility for in an effective manner.

12. The ATO and Home Affairs are implementing the recommendations with shared responsibilities in a largely effective manner and Treasury in a partly effective manner. While Treasury, as the coordinating entity, did not establish overarching arrangements to coordinate the implementation of recommendations with shared responsibilities, there were elements of coordination arrangements for some individual recommendations. Arrangements to assess whether recommendations with shared responsibilities have been effectively implemented are not in place. The evaluation arrangements in place focus on entities' individual implementation projects rather than the recommendations.

6 Treasury, *Black Economy Taskforce Terms of Reference* [Internet], available from <https://treasury.gov.au/review/black-economy-taskforce/terms-of-reference> [accessed 3 April 2023].

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Supporting findings

Governance and coordination

13. In relation to the implementation of the Government response to the Taskforce report, Treasury's management of information does not support effective governance and coordination. Its management of information impacts its ability to be accountable and transparent. It also creates risks around its ability to provide quality and timely advice and reporting on the shadow economy to the Government, and to create an effective shadow economy policy environment. (See paragraphs 2.5 to 2.10)

14. Treasury has not clearly defined responsibilities and accountabilities for the coordination of the implementation of the Taskforce report. Treasury received \$12.3 million over five years to coordinate implementation, however, fit-for-purpose coordination and governance arrangements were not clearly defined. In March 2020, Treasury de-prioritised the implementation of the Taskforce report due to the COVID-19 pandemic. Four of the 27 (15 per cent) recommendations agreed to by the Government did not have clearly defined implementation arrangements. The ANAO has assessed three of these recommendations as 'not implemented' and one as 'partly implemented'. (See paragraphs 2.11 to 2.39)

15. Treasury did not establish arrangements to effectively undertake its role to coordinate the implementation of the Government response to the Taskforce report. This includes that Treasury did not plan and actively manage whole-of-government implementation timeframes. (See paragraphs 2.40 to 2.51)

16. Treasury did not have fit-for-purpose monitoring, reporting and evaluation arrangements in place. Treasury held data regarding the implementation status of recommendations, however, the ANAO found risks relating to the quality of this data. This impairs the department's ability to accurately assess and report on the whole-of-government implementation of the Taskforce report. It has not established arrangements to evaluate the impact of the Taskforce's strategy in addressing the shadow economy, including to produce a five-year report on the shadow economy which was intended to be completed by June 2023. (See paragraphs 2.51 to 2.84)

Implementation of recommendations with one entity leading implementation

17. Treasury has sole responsibility for implementing seven agreed recommendations. Treasury does not have fit-for-purpose arrangements to support the implementation of its recommendations, increasing the risk of poor implementation outcomes. The ANAO found that of the seven agreed recommendations, Treasury has: largely implemented two; partly implemented one; and not implemented four. (See paragraphs 3.3 to 3.11)

18. The ATO established the Black Economy Program to support the implementation of its recommendations. Governance and processes supporting the program were largely fit for purpose, although the ATO did not always follow its processes. The ATO's program reflected the funding provided through multiple budget measures, however, this did not always directly align with the Taskforce recommendations. The ANAO found that of the six agreed recommendations that the ATO had sole responsibility for implementing, it has: implemented two; largely implemented three; and partly implemented one. (See paragraphs 3.12 to 3.32)

19. Home Affairs had largely fit-for-purpose arrangements to support the implementation of the recommendation that it had responsibility for implementing. Implementation planning could have been improved and implementation assurance could have linked back to the Taskforce recommendation to check that it had been implemented in full. Home Affairs had related performance monitoring and reporting arrangements. These could be improved by developing performance targets. (See paragraphs 3.36 to 3.49)

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Implementation of recommendations with shared responsibilities for implementation

20. The ATO established largely fit-for-purpose individual processes for implementing the parts of recommendations it is responsible for. Home Affairs had partly fit-for-purpose arrangements in place, as arrangements were not evident for recommendation 13.1. Treasury has not put in place appropriate arrangements to support its implementation of recommendations. (See paragraphs 4.3 to 4.14)

21. Of the nine recommendations agreed to by the Government with shared responsibilities for implementation, four have been largely implemented and five are in progress. Home Affairs and the ATO have established arrangements to assess the effectiveness of their implementation of their implementation projects. Treasury does not have arrangements in place to assess the effectiveness of its implementation of recommendations. (See paragraphs 4.15 to 4.24)

Recommendations

**Recommendation no. 1
Paragraph 2.26** The Department of the Treasury implement policies and procedures to ensure that its governance and information management is fit for purpose, particularly within the context of leading and coordinating the implementation of reviews and inquiries.

Department of the Treasury response: *Agreed in part.*

**Recommendation no. 2
Paragraph 2.34** The Department of the Treasury review and update its website content in relation to the shadow economy.

Department of the Treasury response: *Agreed.*

**Recommendation no. 3
Paragraph 2.83** In order to progress the implementation of the Black Economy Taskforce report, the Department of the Treasury:

- (a) assess and determine a way forward for the recommendations presented in Table 2.1;
- (b) review the ANAO's findings in relation to each of Treasury's recommendations (see Table 3.2) and determine what further action can be undertaken to implement these recommendations;
- (c) produce a five-year report into the shadow economy to evaluate the implementation of the Government response to the Taskforce report, and to assess the emerging risks and trends in the shadow economy (recommendation 16.1 of the Taskforce report); and
- (d) report (and seek decisions as appropriate) to the Government.

Department of the Treasury response: *Agreed.*

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Recommendation no. 4 The Department of the Treasury and the Australian Taxation Office review the 'ATO — Treasury Protocol' and establish cross-agency monitoring and evaluation arrangements that would further support evidence-based policy and delivery.

Paragraph 4.24

Department of the Treasury response: *Agreed.*

Australian Taxation Office response: *Agreed.*

Summary of entity responses

22. The proposed audit report was provided to the ATO, Home Affairs and Treasury. An extract of the proposed report was provided to the Tax Practitioners Board.

23. The ATO, Home Affairs and Treasury provided summary responses and these are below.

Australian Taxation Office

The ATO welcomes this audit into the Implementation of the Government response to the Black Economy Taskforce Report and considers the report supportive of our approach to combat the shadow economy. The term 'black economy' has now changed to shadow economy. This change reflects the Organisation for Economic Co-operation and Development's (OECD) definition of unreported or dishonest economic activity.

The audit report recognises the efforts the ATO has already taken to implement the Black Economy Taskforce Report recommendations that it has responsibility for, finding the ATO to be largely effective. The audit also identified opportunities for improvement of recommendations where there are shared responsibilities for implementation. We are supportive of working collaboratively with the Department of Treasury to establish cross-agency monitoring and evaluation arrangements that would further support evidence-based policy and delivery.

The ATO remains committed to continuing a strong and coordinated response to target shadow economy activity, protect revenue and level the playing field for those businesses that are following the rules.

Department of Home Affairs

The Department of Home Affairs (Home Affairs) acknowledges the ANAO assessment that the Department was *largely* effective in implementing the recommendation, for which it has sole responsibility.

Home Affairs notes the opportunity for improvement in relation to performance targets for the Illicit Tobacco Taskforce and will consider the development of specific measurable goals to be reflected in future reporting periods as part of the business planning process.

Home Affairs also notes the opportunity to improve procedures for tracking against revenue estimates associated with Budget measures. The Department undertakes regular revenue analysis for a variety of purposes including internal management reporting, monthly reporting to the Departments of Finance and Treasury, and the annual financial statements. As directed by the Estimates Memorandums issued by the Department of Finance, the revenue estimates are reviewed and updated at the Budget, Mid-Year Economic and Fiscal Outlook, and Additional Estimates Statements processes in collaboration with Treasury.

Home Affairs will continue to actively engage with the Australian Taxation Office (ATO) and Treasury on shared Black Economy responsibilities and issues and participate in whole-of-government initiatives to combat the shadow economy.

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Department of the Treasury

The Department of the Treasury (Treasury) notes the review of the implementation of the Government's response to the Black Economy Taskforce Report. Treasury is committed to addressing the findings of the report and agrees with the ANAO's recommendations.

Treasury considers that the audit report could benefit from a greater acknowledgement of the substantial implementation work already completed by the Government^a, the impact of the need to reprioritise departmental resources to support the Government's management of the COVID-19 pandemic^b and how the department has matured its approach to governance since the time covered by the audit.^c

Treasury acknowledges the ongoing need to focus on embedding good governance and information management practices and will continue to mature our approach to governance, program management, information management and record keeping.

ANAO comment on Treasury's summary response

- (a) Overall, the ANAO found that 44 per cent of the recommendations agreed to by the Government had been implemented or largely implemented, as of March 2023. See paragraphs 2.79 to 2.82, Table 2.1, Table 3.2, Table 3.3, Table 3.4 and Table 4.2.
- (b) The reprioritisation of Treasury resources to support the Government's response to the COVID-19 pandemic is discussed at paragraphs 2.19 to 2.20.
- (c) As noted in Treasury's full response at Appendix 1, the 'shadow economy work program was not able to benefit' from the department's activities to improve governance, program management, information management and record keeping. As such, these activities are not within the scope of the audit. Treasury's May 2022 program management framework is discussed at paragraphs 2.42 to 2.45.