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Ms Sophie Dunstone
Committee Secretary
Legal and Constitutional Affairs
Legislation Committee

Sent via email: legcon.sen@aph.gov.au

Dear Ms Dunstone

Inquiry into the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014 [Provisions]

I am writing in response to your letter of 12 March 2014 inviting the Australian Customs and Border Protection Service (ACBPS) to provide a submission to the Legal and Constitutional Affairs Committee Inquiry into the Crimes Legislation Amendment (Unexplained Wealth and other Measures) Bill 2014 [Provisions]. I welcome the opportunity to make a submission.

ACBPS supports the Bill and endorses the action taken on those recommendations from the Parliamentary Joint Committee on Law Enforcement Report of March 2012 that this Bill addresses.

Effective unexplained wealth laws provide law enforcement with an important tool in deterring, disrupting, and dealing with organised crime in an environment where the key organisers and facilitators, as well as the rewards of the criminal enterprise, are often highly sophisticated and structured, and deliberately insulated from direct association with the criminal conduct. A key aspect of the successful fight against organised crime is the ability to deprive the organisers or the enterprise of their illicit gains.

As a Commonwealth law enforcement agency, the ACBPS may be involved in unexplained wealth matters in the following circumstances:

- The seizure of large sums of monies or assets detected at the border;

- The seizure of large sums of monies or assets following the execution of an ACBPS search warrant or other forms of search warrant;
- Engagement in the investigation and disruption of criminal activity in conjunction with other Commonwealth or state law enforcement partners such as the Australian Federal Police, the Australian Crime Commission, or multi-jurisdictional task forces.

Any unexplained wealth action under the Proceeds of Crime Act 2002 will either be taken by a law enforcement partner or in conjunction with a partner. While these amendments are not specifically directed at work undertaken by ACBPS, the Service is supportive of the need to make the Commonwealth unexplained wealth legislation more effective and robust.

Since the unexplained wealth amendments were made to the legislative scheme in 2010 there has been significant debate surrounding whether the measures as introduced were likely to have the desired impact, and provide a sufficiently robust framework within which law enforcement agencies could make effective use of the provisions.

The March 2012 report of the Parliamentary Joint Committee on Law Enforcement highlights a number of the issues raised in the debate. Insofar as this Bill brings a series of measures designed to address eight of the recommendations to strengthen the scheme, it is both welcomed and supported. ACBPS is of the view that the laws require strengthening to ensure they are utilised fully and effectively for their designed objectives, and that the Bill, if passed, will provide that in relation to the eight areas it is targeted to address.

In particular ACBPS welcomes and supports the changes the Bill will introduce in relation to:

- The promotion and streamlining of appropriate information-sharing across legislative schemes and jurisdictions. This necessity is a reflection of the multi-jurisdictional and often transnational nature of organised crime and the distribution of the proceeds.
- Measures designed to reduce the ability to delay, stall, and frustrate efforts at confiscation through failing to appear or access the access restrained assets for legal expenses.
- Measures designed to streamline processes and facilitate the obtaining of orders, particularly where relevant criteria are met.
- Increased ability to authorise and seize evidence under warrant relevant to unexplained wealth proceedings.

Yours sincerely

Michael Pezzullo
Chief Executive Officer

2 April 2014