



Australian Government
Attorney-General's Department

July 2024

Parliamentary Joint Committee on Law Enforcement

**Inquiry into the capability of law enforcement to respond
to money laundering and financial crime**

Attorney-General's Department Submission

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Introduction

The Attorney-General's Department (AGD) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Law Enforcement (the Committee) inquiry into the capability of law enforcement to respond to money laundering and financial crime.

This submission outlines AGD's responsibilities in administering the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the AML/CTF Act) and supporting law enforcement agencies, including the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Australian Federal Police (AFP), the Australian Criminal Intelligence Commission (the ACIC) and Australian Border Force (ABF), to combat money laundering and terrorism financing.

This submission also sets out the Australian Government's proposed reforms to Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime, which will ensure the regime continues to deter, detect and disrupt money laundering and terrorism financing, responds to the evolving threat environment, and meets international standards.

This submission is limited to discussion of the work within the AGD portfolio. AGD acknowledges the wider role other government agencies may have in combatting money laundering and terrorism financing in Australia. AUSTRAC, the AFP and the ACIC will provide separate submissions to the inquiry. AGD recommends that this submission be read alongside those submissions, which provide more detailed operational and intelligence context.

Australia's money laundering and terrorism financing threat environment

Money is at the core of all serious and organised crime. Each year, billions of dollars are generated from illegal activities such as drug trafficking, tax evasion, human exploitation, cybercrime and arms trafficking. The proceeds from these crimes are used to fund further criminal activities in the Australian community and in our region.

Autocratic regimes also seek to exploit weaknesses in global financial systems to undermine democratic institutions and the rule of law. International criminal activities such as corruption, sanctions evasion and terrorism funding threaten the national security of countries like Australia.

What is money laundering, terrorism financing and proliferation financing?

Money laundering is the process of dealing in, disguising or concealing the origin of illicit funds to make it appear that the funds come from a legitimate source. There are three key stages: placement, layering and integration.

During the placement stage, proceeds of criminal activity are moved away from a direct association with crime and introduced into the legitimate financial system. Layering refers to the process of disguising the trail to avoid pursuit by law enforcement. Finally, integration refers to making the proceeds available to be used by the criminal from what seems to be legitimate sources.¹

Terrorism financing encompasses the means and methods used by terrorist organisations to finance activities that pose a threat to national and international security.² The money that provides terrorist organisations with the capacity to carry out terrorist activities can be derived from both legitimate and criminal sources.³

Proliferation financing occurs when a person makes available an asset, provides a financial service, or conducts a financial transaction that is intended to, in whole or in part, facilitate the proliferation of weapons of mass destruction, regardless of whether the activity occurs or is attempted.⁴

Money laundering and terrorism financing are defined for the purposes of the AML/CTF regime under section 5 of the AML/CTF Act.

¹ Australian Transaction Reports and Analysis Centre (AUSTRAC), *Money laundering in Australia: national risk assessment 2024* (Report July 2024)

<https://www.austrac.gov.au/sites/default/files/2024-07/2024%20AUSTRAC%20Money%20Laundering%20NRA.pdf>.

² United Nations Office on Drugs and Crime, 'Countering the Financing of Terrorism' *Expertise* (Web Page)

<https://www.unodc.org/unodc/en/terrorism/expertise/combating-terrorist-financing.html>.

³ Ibid.

⁴ Paraphrased from Royal United Services Institute, 'Model Provisions to Combat the Financing of Proliferation of Weapons of Mass Destruction' *Supplementary Material for Guidance Paper* (Report, July 2018)

https://static.rusi.org/20181002_model_law_2nd_edition_final_for_web.pdf.

Current threat picture in Australia

On 9 July 2024, AUSTRAC released Australia's second comprehensive national risk assessment (NRA) on terrorism financing and its first comprehensive NRA on money laundering. AUSTRAC's money laundering NRA found that Australia remains an attractive destination for this activity due to our stable political system, open and free economy and strong real estate market. The illicit drug trade is the key driver of money laundering in Australia, followed by tax and revenue crimes and defrauding government programs. Other illegal and corrupt practices that generate funds for laundering include people smuggling, cybercrime, human exploitation and arms trafficking.

Criminals continue to exploit established, legitimate channels (such as cash, luxury goods, real estate, banks, casinos and remitters) to launder funds. For example, under Joint Operations FUJI (AFP) and Echo-Steelers (Victoria Police), assets in excess of \$47 million (estimated at the time of restraint) have been restrained, including approximately \$43.5 million in real estate (60 properties). A number of these restrained properties are suspected to be under the effective control of persons charged with drug trafficking offences, including the suspected syndicate head.

Additionally, other channels are increasingly used to launder money, including digital currency, remittance services, unregistered remitters and bullion dealers. For example, Operation Avarus-Nightwolf (AFP) is a longstanding investigation into a prominent, multi-billion-dollar Australian-based money remittance service allegedly being run by a Chinese organised crime syndicate. The remittance service is accused of laundering almost \$229 million in the proceeds of crime between 2020-2023, with the AFP restraining more than \$50 million in property and vehicles. It is alleged that the money remittance service was able to hide its illegal behaviour because it looked like a legitimate and lawful money remitter operating in plain sight.⁵

Another significant vulnerability in Australia is the ability to create legal structures and arrangements that criminals can use to help conceal their identity and illicit activity. These structures may be established or operated with the help of professional facilitators (such as lawyers and accountants), and can hide the beneficial owners of corporate entities, trusts, assets and financial infrastructure.

For example, under Joint Operation FUJI (AFP) and Echo-Steelers (Victoria Police), various lawyers, real estate agents and accountants were regularly used by the syndicate to facilitate the creation of company and trust structures, to purchase and sell real property, and to obtain advice on matters relating to the acquisition of property.

For further information on the NRAs, please refer to AUSTRAC's submission.

⁵ Australian Federal Police, 'Seven syndicate members charged for allegedly laundering almost \$229 million' (Media release, 26 October 2023)

<https://www.afp.gov.au/news-centre/media-release/seven-syndicate-members-charged-allegedly-laundering-almost-229-million>

Effects on the Australian community and economy

Transnational serious and organised crime was estimated to cost the Australian community \$60.1 billion in 2020-21⁶. Further, in 2022-2023 financial year, the AFP-led Criminal Assets Confiscation Taskforce (CACT) restrained over \$352 million in criminal assets⁷—\$214 million more than the previous financial year.⁸

While these figures are not specific to money laundering itself, they provide an estimate of the potential scale of the problem in Australia—as all criminal profits need to be laundered and legitimised.

International research has found Australia is a prominent destination for money laundering, estimating the amount of domestic money laundered to be 1.7 per cent of Australia's gross domestic product (GDP), and when flowthroughs and laundering of foreign criminal money are added, up to 2.3 per cent of GDP. These figures equate to approximately \$48 billion and nearly \$66 billion, respectively.⁹

Criminal wealth directly impacts the safety and wellbeing of Australian communities, and exploits and distorts legitimate markets and economic activity. When criminals make money, real people are harmed by the underlying criminal activity, including drug trafficking, terrorism financing and human exploitation.

Money laundering also diverts government resources which could be used for social, health and education services, increasing the burden on law enforcement and ultimately impacting the most vulnerable in our community. Australia's 2015 Financial Action Task Force (FATF) mutual evaluation report highlighted the importance of law enforcement efforts to focus on the three key money laundering predicate offences of drug trafficking, fraud and tax evasion.¹⁰ It noted that Australia convicts around 135,000 offenders annually for these predicate offences.¹¹

This demonstrates the importance of a strong AML/CTF regime as a key pillar in combatting transnational and serious organised crime, as sophisticated criminal groups constantly adapt their methods, and will use any means to launder their illicit wealth and fund further criminal activity.

⁶ Russell Smith and Amelia Hickman, 'Estimating the costs of serious and organised crime in Australia, 2020-2021', *Australian Institute of Criminology* (Report, 4 April 2022)

<https://www.aic.gov.au/publications/sr/sr38>.

⁷ Australian Federal Police, *Annual Report 2022-23* (Report, 14 September 2023)

<https://www.afp.gov.au/sites/default/files/2023-10/AFPAnnualReport2022-2023.pdf>

⁸ Australian Federal Police, *Annual Report 2021-22* (Report, 12 September 2023)

<https://www.afp.gov.au/sites/default/files/PDF/Reports/afp-annual-report-2021-2022-1.pdf>

⁹ Joras Ferwerda, Alexander van Saase, Brigitte Unger and Michael Getzner, 'Estimating money laundering flows with a gravity model-based simulation' (2020) 10(18552) *Scientific Reports*. Note, AUD figures have been calculated from USD figures in the report (USD 25 billion and USD 38 billion, respectively). These figures from 2014 have been updated to reflect the value in 2024, applying an average inflation rate of 2.7 per cent.

<https://www.nature.com/articles/s41598-020-75653-x>.

¹⁰ Financial Action Taskforce, *Australia's measures to combat money laundering and terrorist financing* (Report, April 2015)

<https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/Mutual-Evaluation-Report-Australia-2015.pdf.coredownload.inline.pdf>.

¹¹ Ibid.

International context

The Financial Action Task Force (FATF)

The FATF is an intergovernmental body established in 1989 that sets international standards to combat illicit financing (FATF Standards). The FATF Standards promote the effective implementation of legal, regulatory and operational measures through peer assessment processes and public listing of jurisdictions found to have weak AML/CTF systems. The FATF Standards play an important role in ensuring an internationally coordinated approach that prevents criminals from exploiting vulnerabilities arising from differences between the laws of different jurisdictions.

FATF members are subject to regular assessments of their AML/CTF system through mutual evaluations and follow-up reporting processes.

The mutual evaluation process assesses a country's AML/CTF system by:

- **effectiveness**—how well the AML/CTF system performs in addressing risk and combatting money laundering, terrorism financing and proliferation financing—against the 11 Immediate Outcomes outlined in the FATF Methodology, and
- **technical compliance**—whether the AML/CTF system complies with the legislative, regulatory and technical requirements described in the 40 FATF Recommendations.

In April 2015, the FATF released its third mutual evaluation report on the effectiveness of Australia's AML/CTF measures. The mutual evaluation report made a number of recommendations to improve Australia's regime, including the need to reassess money laundering and terrorism financing risks, regulate designated non-financial businesses and professions (known in Australia as 'tranche two entities')¹², prosecute money laundering offences, and ensure transparency of beneficial ownership.¹³

Law enforcement efforts to combat terrorism financing were commended, and the review highlighted Australia's implementation of targeted financial sanctions for entities designated by the United Nations for terrorism-related activities as global best practice.

Australia's progress in improving our technical compliance with the FATF Standards was assessed through Follow Up Reports in 2018 and 2024. Both Follow Up Reports found that since 2015 there had been improvements in Australia's framework for combatting financial crime, resulting in upgraded ratings for compliance with seven of the FATF Recommendations in 2018 and five in 2024. However, Australia is still falling short of meeting key FATF Standards to help combat criminal abuse

¹² The term 'tranche two entities' refers to lawyers, accountants, trust and company service providers, real estate professionals and dealers in precious metals and stones. These 'gatekeeper' sectors are susceptible to exploitation for money laundering and terrorism financing purposes.

¹³ The Government has committed to implementing a public beneficial ownership register as part of its commitment to ensuring multinationals pay their fair share of tax. Treasury is leading the work on the beneficial ownership register. AGD continues to work closely with Treasury on these reforms given they will address key shortcomings in Australia's FATF compliance.

of our financial system, including continued failure to extend the AML/CTF regime to tranche two entities. In July 2024, the FATF's Horizontal Review of Gatekeepers' Technical Compliance Related to Corruption ranked Australia at the bottom of the list of FATF members,¹⁴ for our continued non-compliance with global standards related to tranche two entities. Australia received a 0 per cent compliance score, compared to 74 per cent for the FATF average.

Australia's next mutual evaluation, scheduled for 2026-27, will consider Australia's performance since our last mutual evaluation in 2015 and subsequent Follow Up Reports in 2018 and 2024. This will include assessing Australia's progress in addressing previously identified deficiencies.

AGD will coordinate a whole-of-nation effort involving Commonwealth, state and territory government agencies and industry to prepare for the mutual evaluation, and has commenced engagement with relevant portfolio partners and industry stakeholders.

As a full and founding FATF member, expectations on Australia will be high, and failure to act on long-standing weaknesses places Australia at risk of a poor mutual evaluation result, and potential 'grey listing' by the FATF. This could have serious economic and reputational consequences for Australia, including:

- economic impacts and decreased GDP based on reduced incoming capital flows,¹⁵ increased business costs and potential loss of correspondent banking relationships, due to other countries considering Australia a risk for financial crime and imposing enhanced due diligence requirements when doing business with Australia
- increased threat of criminals seeking to exploit perceived weaknesses in Australia's system and engage in illicit financial activity—leading to an increased burden on law enforcement
- reduced influence and credibility as an AML/CTF leader assisting countries in our region to combat money laundering and terrorism financing threats, including through Australia's central role in the functioning and capacity of the Asia/Pacific Group on Money Laundering (APG)—a regional body under the FATF global network, and
- damage to Australia's international standing, reputation and influence by becoming one of only a very small number of advanced economies to have ever been grey-listed by the FATF.

Comparison with other jurisdictions

As a founding FATF member and regional AML/CTF leader, Australia is committed to meeting the FATF Standards, and demonstrating leadership to tackle money laundering and terrorism financing on a global scale. Australia is subject to high expectations to at least match the performance of other FATF members to maintain our international credibility.

¹⁴ Financial Action Task Force, *Horizontal Review of Gatekeepers' Technical Compliance Related to Corruption* (Report, 8 July 2024) <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/HRGTC.pdf.coredownload.inline.pdf>

¹⁵ International Monetary Fund, *The Impact of Gray-Listing on Capital Flows: An Analysis Using Machine Learning* (Report, 27 May 2021) <https://www.imf.org/-/media/Files/Publications/WP/2021/English/wpia2021153-print-pdf.ashx>.

Australia's current technical compliance ratings are well below the average for FATF members (which include all G20 members). Our effectiveness ratings for areas the current regime covers is in line with those for FATF members. However, given the lack of major advances in Australia's AML/CTF regime since the 2015 mutual evaluation, substantial effort will be required to avoid the risk of our ratings backsliding against those of other countries, particularly likeminded and comparable FATF members who have improved their performance against progressively strengthened standards.

As outlined above, in July 2024, Australia was ranked at the bottom of the list of FATF members given our failure to regulate high risk services by tranche two entities. Further, regulation of Digital Currency Exchange Providers (DCEPs), a key avenue for illicit financing, has not kept pace with the FATF Standards and evolving technology.

Improving Australia's performance by reforming the AML/CTF regime will help bring Australia into line with international practice and importantly, ensure Australia continues to combat illicit financing. It will also ensure that Australia can maintain its role as a regional AML/CTF leader through forums such as the APG and continue supporting our neighbours to combat money laundering and terrorism financing. The regulation of tranche two entities and more DCEP services will also benefit law enforcement and intelligence agencies by ensuring high-quality, actionable financial intelligence to detect and combat illicit financial activities, and protect the Australian community. This is discussed in further detail at a later point in this submission.

Australia's AML/CTF regime

Australia has a range of laws in place to combat money laundering and terrorism financing. AGD administers the following key pieces of legislation.

The AML/CTF Act and the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument (No. 1) 2007 (the Rules)

The AML/CTF Act and the Rules form the basis for Australia's AML/CTF regime. The AML/CTF Act takes a risk-based approach to regulation and sets out general principles and obligations for reporting entities to apply to their businesses. Details of how these obligations are to be carried out are set out in the Rules.

AUSTRAC publishes a range of guidance materials¹⁶ to assist reporting entities to meet these AML/CTF obligations. In addition to this regulatory guidance, AUSTRAC develops sector-specific intelligence guidance, including risk assessments, typology reports and financial crime guides, which provide reporting entities with information on indicators of criminal activities.

The AML/CTF Act, AML/CTF Rules and guidance (collectively the AML/CTF regime) serve two purposes:

- 1) **"Target hardening"** – supporting businesses to understand their risks and take appropriate action, thereby reducing opportunities for money laundering and terrorism financing to occur, and
- 2) **Financial intelligence** – providing law enforcement and national security agencies with the financial intelligence they require to detect, investigate and prosecute criminal activity, as well as restrain and confiscate the proceeds, instruments and benefits of crime.

The *Financial Transaction Reports Act 1988* (the FTR Act)

Australia's AML/CTF regime has never been static. In 2006, the AML/CTF Act largely replaced the earlier FTR Act, although the FTR Act still remains in force and imposes some regulatory requirements for 'cash dealers'¹⁷ and solicitors, who are not regulated under the AML/CTF Act.

Money laundering and terrorism financing offences in the *Criminal Code Act 1995* (Cth) (the Criminal Code)

Money laundering and terrorism financing are criminal offences in Australia, as set out in the *Criminal Code Act 1995* (Cth).

¹⁶ Australia Transaction Reports and Analysis Centre, 'All guidance resources', AUSTRAC, (Web Page) <https://www.austrac.gov.au/business/industry-specific-guidance/all>.

¹⁷ 'Cash dealers' are defined in section 3(1) of the FTR Act. However, because FTR Act obligations have largely been replaced by obligations under the AML/CTF Act, it now mostly covers motor vehicle dealers who act as insurers or insurance intermediaries who sell insurance, act as an agent for one or more insurers, act as an agent of people seeking insurance and/or are an insurance broker.

Divisions 103 and 400 of the Criminal Code set out the money laundering offences in Australia, including dealing with money or other property that is the proceeds of crime. Sections 400.3–400.9 contain a number of money laundering offences, the seriousness of which is indicated by the amount of money involved and the mental (fault) element to be proved for the particular offence, and is therefore reflected by the maximum penalty. For the most serious money laundering activity, a court can impose significant penalties of up to imprisonment for life.

Divisions 102 and 103 contain offences relating to terrorism financing, aimed at persons who finance or support a terrorist organisation, individual or act. The maximum penalty for offences in Divisions 102 and 103 relating to supporting or financing terrorism range from 15 years imprisonment to imprisonment for life.

Division 119 makes it is an offence for Australians to enter a foreign country with the intention to engage in hostile activity. It includes offences relating to the recruitment of, and provision of funds and support to, persons intending to enter a foreign country to engage in hostile activities in that country. Penalties range from 10 years imprisonment to imprisonment for life.

In addition, Australia implements United Nations Security Council (UNSC) sanctions relating to terrorism and terrorism financing into Australian law under the *Charter of the United Nations Act 1945*, and related subsequent legislation. Under sections 20 and 21 of the *Charter of the United Nations Act 1945*, it is an offence to provide funds to a terrorist organisation or individual, or to make an asset available to a person or entity who is subject to relevant sanctions.

The Proceeds of Crime Act 2002 (the POCA)

The Commonwealth and all Australian states and territories have asset recovery mechanisms that enable the proceeds of crime to be recovered from criminals. AGD, as the Commonwealth agency administering the POCA, works closely with Commonwealth, state and territory and international partners to provide asset confiscation policy advice and ensure the legislative regime evolves with the developing nature of serious and organised crime.

The POCA provides a scheme to trace, restrain and confiscate the proceeds, instruments and benefits of crimes primarily against Commonwealth law, but with scope to capture the proceeds of State and Territory offences and foreign indictable offences in some circumstances. It seeks to disrupt, deter and reduce crime by undermining the profitability of criminal enterprises, depriving persons of the benefits derived from crime, and preventing reinvestment of the proceeds in further criminal activity. To achieve these outcomes, provisions under the POCA include production orders, monitoring orders, freezing orders, restraining orders, forfeiture powers and pecuniary penalty orders.

The POCA also provides a scheme that allows for confiscated funds to be given back to the community to prevent and reduce the harmful effects of crime in Australia. The funds realised from the liquidation of confiscated assets are deposited into the Confiscated Assets Account (CAA), which is established under section 295 of the POCA and is managed by the Australian Financial Security Authority (AFSA) on behalf of the Government. Funds deposited into the CAA are used to benefit the

community through crime prevention, intervention or diversion programs or other law enforcement or community-related initiatives. The CAA has also provided funding to Commonwealth, state and territory police forces, criminal intelligence entities and other government organisations.

The POCA, which already provided for conviction-based and civil confiscation, was amended in 2010 to introduce unexplained wealth laws. The provisions are only applicable where the matter is related to an offence linked to a Commonwealth power and provides for three types of orders relating to unexplained wealth that might not have been lawfully acquired:

- unexplained wealth restraining orders, which restrict a person's ability to dispose of or otherwise deal with property,
- preliminary unexplained wealth orders, which require a person to attend court for the purpose of enabling the court to decide whether to make an unexplained wealth order and
- unexplained wealth orders, which require a person to pay the amount determined by the court to be the difference between the person's total wealth and that which has been legitimately acquired.

The National Cooperative Scheme on Unexplained Wealth (the Scheme) came into force on 10 December 2018, and enhances the ability of participating Commonwealth, state and territory jurisdictions to trace, identify and confiscate the proceeds and benefits of crime, including wealth that cannot be connected to a lawful source.

The Scheme allows participating jurisdictions to access certain information-gathering powers under the POCA and improves information sharing and interagency coordination in relation to unexplained wealth proceedings, broader asset restraint and confiscation, and organised crime investigations.

On 12 October 2023, the Attorney-General announced that an independent statutory review of the Scheme's effectiveness had commenced, led by Mr Andrew Cappie-Wood AO. AGD is supporting the Review, and the Australian Government will work with the states and territories to consider and respond to the Review and its recommendations.

Intelligence and law enforcement capabilities

AGD engages closely with relevant intelligence and law enforcement agencies to administer the AML/CTF regime. As previously noted, those agencies have also provided submissions to this inquiry, which should be considered alongside this submission.

AUSTRAC

AUSTRAC is Australia's financial intelligence unit (FIU) and AML/CTF regulator. AUSTRAC's dual role helps to build resilience in the financial system and enables AUSTRAC to use financial intelligence and regulation to disrupt money laundering and terrorism financing and other serious crime.

AUSTRAC currently regulates more than 17,000 businesses that provide financial, gambling, bullion, remittance and digital currency exchange services, ensuring these businesses comply with their obligations to have systems and controls in place to manage their risks and protect them and the community from criminal abuse. In its financial intelligence capacity, AUSTRAC collects and analyses financial information to generate intelligence that contributes to law enforcement and national security investigations. AUSTRAC also has a range of regulatory powers to enforce compliance with the AML/CTF regime and/or seek penalties.

In 2017 AUSTRAC established the Fintel Alliance public-private partnership, which brings together experts from a range of organisations involved in the fight against money laundering and terrorism financing and other serious crime. The Fintel Alliance's work program prioritises crimes that target vulnerable community members, persistent financial threats, exploitation of government revenue and crimes and threats to Australia's domestic and international interests.

AFP Operation Avarus and the Criminal Assets Confiscation Taskforce (CACT)

Operation Avarus is the AFP's anti-money laundering strategy, and guides the work of the AFP's investigations and intelligence teams. It outlines options to combat money laundering and disrupt the movement of illicit money and property. Taskforce Avarus is the investigative arm of the AFP's anti-money laundering strategy.

Further, the CACT was established in 2011, and investigates criminal wealth by targeting the proceeds and instruments of crime both in Australia and overseas. Led by the AFP, it brings together the resources and expertise of the ACIC, the Australian Taxation Office (ATO), the ABF and AUSTRAC. The CACT works with domestic and international law enforcement partners to identify, investigate and litigate asset confiscation matters.

Serious Financial Crime Taskforce (SFCT)

The SFCT is a joint-agency taskforce established in 2015, led by the ATO. It brings together the knowledge, resources and experience of relevant law enforcement and regulatory agencies to identify and address the most serious and complex forms of financial crime.

AGD is a member of the SFCT, along with AUSTRAC, the AFP, the ACIC and the ABF amongst others. The SFCT's cases have resulted in:

- 2,152 completed audits and reviews.
- 38 people convicted and sentenced.
- Over \$2.182 billion in liabilities raised.
- \$842 million collected in government revenue.

This includes Operation Elbrus, a joint AFP/ATO investigation into large-scale tax fraud and money laundering conspiracies carried out with the aid of professional facilitators.

ACIC

The ACIC works closely with AGD and other government agencies and industry bodies that have policy and/or operational responsibilities in implementing and/or monitoring the effectiveness of Australia's AML/CTF system. The ACIC is a member of Taskforce Avarus and the SFCT, contributing specialist ACIC capability where high-level tax evasion intersects with serious and organised crime. The ACIC also contributes to criminal asset seizure through the provision of appropriate information and intelligence to partner agencies. Internationally, the ACIC engages with intelligence and law enforcement partners via forums and working groups to create shared views on money laundering methods and targets and provide opportunities for collaboration. For further information on the ACIC's role in responding to money laundering and other financial crime, please refer to the ACIC's submission.

Other cross-government initiatives

The Government has established a variety of other forums which facilitate a coordinated response to organised crime, build operational and policy capability, ensure lines of effort are not duplicated, and relevant information is shared.

For example, on 12 December 2018, the Commonwealth and states and territories agreed to the National Strategy to Fight Transnational, Serious and Organised Crime (the Strategy) and the governance arrangements for its implementation. The Australian Transnational, Serious and Organised Crime Committee (ATSOCC) was established to provide senior executive oversight of the Strategy and build nationally consistent, holistic and multi-faceted responses to transnational, serious and organised crime (TSOC).

The ATSOCC's mission is to:

- oversee the implementation and monitoring of the Strategy
- build on understandings of current and emerging TSOC threats and enablers on a national and international level, drawing on existing threat assessments
- provide strategic and policy advice to government ministers on national priorities to combat TSOC

- provide a forum that maintains and enhances inter-jurisdictional cooperation and collaboration across all levels of government and
- enhance capability to combat TSOC at a national level and within each state and territory.

The Criminal Justice Law Enforcement Forum (CJLEF) is an agency head-level, triannual forum established in 2018 that convenes 19 Commonwealth agencies to drive meaningful action on criminal justice and law enforcement issues. The CJLEF provides strategic oversight and guidance for the development of whole-of-government strategies, policies and coordinated activities to protect Australian communities and institutions from harm. Each CJLEF meeting undertakes a deep-dive into emerging, cross-agency issues of particular importance to Government and seeks to agree practical steps to address these issues.

The Police Ministers Council comprises the police ministers from every state and territory and the Australian Attorney-General. The council creates a forum of national coordination and collaboration to achieve improved policy outcomes and ensure the safety and security of Australians, including in relation to financial crime.

The National Anti-Scam Centre (NASC) was established in July 2023 to better protect Australian consumers and business by improving cooperation between government and industry to respond to increasingly sophisticated scam protection and prevention. Scams have been identified by AUSTRAC as an increasing money laundering threat, as they are largely orchestrated by offshore criminals, including by transnational serious and organised crime groups.¹⁸ The NASC collects information on recent scam trends, tactics, and groups targeted by scammers. This information is then disseminated to government, law enforcement and private sector partners to work together to disrupt scams before they reach consumers.

¹⁸ AUSTRAC, *Money laundering in Australia: national risk assessment 2024* (Report, July 2024)
<https://www.austrac.gov.au/sites/default/files/2024-07/2024%20AUSTRAC%20Money%20Laundering%20NRA.pdf>

Proposed AML/CTF reforms

The Government has committed to reform Australia's AML/CTF regime to ensure it continues to deter, detect and disrupt money laundering and terrorism financing, responds to the evolving threat environment, and meets international standards set by the FATF.

The reforms consist of three main components:

- addressing vulnerabilities in sectors providing certain high-risk services (tranche two sectors),
- simplifying, clarifying and modernising the AML/CTF regime and
- modernising digital currency and payments technology-related regulation.

For more information on the proposed reforms, please visit the AGD [consultation hub](#) to access a series of public consultation papers.

Extending the AML/CTF regime to tranche two entities

The FATF Recommendations¹⁹ require certain services provided by tranche two entities to be regulated because the role they play as facilitators and gatekeepers makes them appealing targets for criminal abuse. Australian and international law enforcement continues to identify tranche two entities as being key conduits in money laundering and terrorism financing, as outlined earlier in this submission.

Consistent with the AML/CTF regime's existing model of regulation, the proposed designated services apply to tranche-two entities when they carry out specified activities for customers, but do not capture all activities carried out by these businesses. The designated services include:

- real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate
- dealers in precious metals and stones when they engage in any cash transaction with a customer equal to or above the designated threshold
- lawyers, notaries, other legal professionals and accountants when they prepare for or carry out transactions on behalf of their client for a range of activities and
- trust and company service providers when they prepare for or carry out transactions for a client for a range of activities.

Reporting entities will be able to leverage existing professional obligations and practices in the design and implementation of their AML/CTF programs, where appropriate, to meet their AML/CTF obligations and minimise regulatory burden.

¹⁹ Financial Action Task Force, 'International Standards on Combating Money-Laundering and the Financing of Terrorism and Proliferation' *The FATF Recommendations* (Report, 2004) 19-21
<https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

Simplification measures

AGD proposes to simplify, clarify and update the operation of the AML/CTF regime to assist both existing and future reporting entities to meet changing business requirements and shift the focus of regulation away from prescriptive requirements towards achieving financial crime risk mitigation outcomes. It will also support the extension of the AML/CTF regime to tranche two entities by ensuring they will only need to comply with an up-to-date and fit-for-purpose AML/CTF regime.

The proposed simplification reforms are intended to make reporting entities' obligations clearer to understand, in turn reducing regulatory costs and improving industry compliance. Greater levels of industry compliance will result in better financial intelligence and also assist law enforcement to protect the Australian community. The key areas of reform are:

- **AML/CTF programs** – Requirements for programs will be streamlined, simplified and clarified. The reforms will reduce the regulatory burden on industry by broadening the scope of group AML/CTF compliance to allow franchises, partnerships and other business structures to combine and fulfil their AML/CTF obligations at a group level. They will also allow for improved AML/CTF governance within reporting entities by focusing Board responsibilities on strategic oversight for financial crime risk.
- **Customer due diligence** – The reforms will allow greater flexibility as to how businesses meet their risk-based regulatory obligations, and move away from prescriptive identification requirements.

As part of the proposed simplification reforms, AGD also proposes to repeal the FTR Act to streamline and simplify obligations, and establish a single source of obligations for industry (including the transition of solicitors) under the AML/CTF Act.

Modernisation measures

AGD is proposing to modernise aspects of the regime to reflect changing business structures and technologies, consistent with international standards. Digital currencies are an increasingly popular conduit to represent, store and move value, and the digital currency sector and related technologies continue to evolve. Extending regulation to cover additional digital currency-related services would ensure that this rapidly growing sector is hardened against potential exploitation by criminals.

Proposed changes relevant to DCEPs and the financial sector include:

- **Digital currency** – To reflect the broader range of digital products now available, the reforms will extend the regime to transactions that occur entirely within the digital currency ecosystem, including exchanges or transfers of digital currencies and providing custody services. The reforms will also update the terminology of 'digital currency' and the associated definition in order to address identified regulatory gaps.
- **Modernised concept of 'value transfer'** – The reforms will introduce a new unified concept of 'value transfer' regardless of whether it is being moved by a financial institution, remittance dealer or DCEP.

- The current outdated and complex framework for submitting ‘international funds transfer instruction’ (IFTI) reports will be reworked with the new value transfer service to streamline and simplify reporting obligations.
- **Updates to the travel rule** – Reforms to the streamlined value transfer services would expand travel rule obligations from only financial institutions to digital currency, including remittance providers and DCEPs for both domestic and cross-border transfers, in line with the FATF Standards.
- **Extending IFTI reporting to DCEPs** – The reforms will extend IFTI reporting obligations to all regulated entities including DCEPs transferring digital currencies to, or receiving from, a counterparty based overseas on behalf of a customer. AGD is also considering whether IFTI reporting should be triggered by transfers of digital currencies to or from self-hosted wallets whose ownership is unverified by the DCEP or financial institution.

What implications will reforms have for law enforcement?

At its centre, the reforms will help law enforcement respond effectively and efficiently to money laundering and terrorism financing in Australia and internationally. The proposed reforms address regulatory gaps in the AML/CTF regime and problems in the legislation, which seriously limit the extent to which law enforcement agencies can detect and disrupt criminals who exploit entities across the economy.

For example, implementing clearer reporting obligations for both existing reporting entities and new reporting entities will provide a larger volume of financial intelligence that will enhance law enforcement capability to deter, detect and disrupt illicit finance and the further criminal activity it funds. Further, expanding surveillance of interconnected services through which criminal finance flows will provide a more holistic intelligence picture, allowing law enforcement to better ‘follow the money’ and identify criminal actors.

Strengthening the detection and disruption of illicit financing has broader, flow-on law enforcement and national security benefits, including for investigation of criminal activity, confiscation of proceeds of crime, and preventing the re-investment of illicit funds into further criminal activity. Increased and improved financial intelligence will play a proactive and critical role in helping law enforcement and other agencies prevent serious crimes and harm to the community. Robust and easily accessible financial intelligence, as well as a strong partnership between the policy lead, supervisory regulator and law enforcement is vital to better detect and prosecute criminal activity.²⁰

In Australia, authorised officers from 48 Commonwealth, state and territory agencies can access AUSTRAC information to assist in law enforcement operations. AUSTRAC information is used across all state and territory law enforcement, intelligence agencies and the National Intelligence

²⁰ Financial Action Taskforce, *Guidance for a risk-based approach: effective supervision and enforcement by AML/CTF supervisors of the financial sector and law enforcement* (Report, October 2015)
<https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Effective-supervision-and-enforcement.pdf.coredownload.pdf>

Community to assist in investigations and operations. In 2022-23, this information was used 10,043,569 times by 5,171 agents across 39 agencies²¹ to assist law enforcement investigations and operations. This highlights the key role that financial intelligence plays in wider law enforcement operations, and the impact that an even stronger AML/CTF regime could have on combatting crime in Australia.

More broadly, there are real, practical impacts for both the Australian community and law enforcement should the proposed reforms be implemented. Reducing money laundering and terrorism financing lowers both the overall level of crime committed and the costs and impact of crime across the community – this includes, illicit drug activity, cybercrime, corruption, identity crime and violence.

As outlined earlier in this submission, money laundering is not a victimless crime. Laundered money is often reinvested to fund devastating and harmful criminal activities, facilitating the continuation of serious crimes across the country. The key connection between these crimes and money laundering is the need for criminal organisations to obscure the origin of their illicit wealth through laundering, to then reinvest into future offending that continues to harm the Australian community.

Consultation to-date and next steps

AGD held a first stage of consultation in 2023 to test the proposed reform areas and to identify the areas that will have the most practical benefits for industry.

In response to a discussion paper, AGD received 142 submissions from a range of stakeholders, including private sector organisations, academics and research centres, industry peak bodies, privacy advocates, Commonwealth and state and territory public sector agencies and individuals. Most stakeholders were supportive of the reforms, and understandably asked for more detail into how proposed amendments would impact their everyday business.

A second round of public consultation on the proposed reforms concluded on 13 June 2024. AGD and AUSTRAC held 41 meetings, including 31 industry roundtables and 10 Commonwealth Government meetings. AGD is currently reviewing over 130 submissions and is using detailed stakeholder feedback to inform the design of the legislation framework, including undertaking further engagement with industry where needed.

Timing for introduction of legislation is a matter for Government. AGD's intention is to allow industry as much time as possible to prepare for their new obligations ahead of the FATF mutual evaluation in 2026-27.

²¹ Australian Transaction Reports and Analysis Centre, *AUSTRAC Annual Report 2022-23*, (Report, 18 September 2023) <https://www.austrac.gov.au/sites/default/files/2023-10/AUSTRAC%20Annual%20Report%202023.pdf>.

Conclusion

Money laundering is a fundamental pillar of all serious and organised crime that both funds and drives illicit activities such as drug trafficking, human exploitation, scams and tax evasion. It costs Australia billions of dollars each year which could otherwise be used to help the most vulnerable in our community, and imposes a significant burden on law enforcement to respond to a vast array of criminal activities.

While Australia has strong laws in place to prevent money laundering and terrorism financing, AGD is consulting on reforms to the AML/CTF regime to ensure it continues to effectively deter, detect and disrupt illicit financing amidst an ever-shifting threat environment. The reforms will also ensure we comply with continually evolving global standards to combat AML/CTF, and maintain our important role as a regional AML/CTF leader.

The reforms will create a hostile environment so criminals cannot exploit gaps in Australia's AML/CTF regime, and prevent the criminal abuse of our economy.

Ultimately, these reforms will aid law enforcement by ensuring they have the requisite financial intelligence to more effectively and efficiently combat money laundering and terrorism financing in Australia and internationally.