

# OFFICE OF THE CEO



AUSTRALIAN  
CRIMINAL  
INTELLIGENCE  
COMMISSION

ACIC TRIM Ref#: 18/55863

Mr Timothy Watling  
Committee Secretary  
Senate Legal and Constitutional Affairs Legislative Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr Watling

## ***Bankruptcy Amendment (Debt Agreement Reform) Bill 2018***

The Australian Criminal Intelligence Commission (ACIC) welcomes the opportunity to contribute to the inquiry into the *Bankruptcy Amendment (Debt Agreement Reform) Bill 2018* (the Bill). The contents of this letter are unclassified and suitable for public release.

The ACIC is Australia's national criminal intelligence agency, uniquely equipped with intelligence, investigative and information delivery functions. The ACIC is responsible for assessing the national financial crime threat picture and contributes, as a member agency, to both the Serious Financial Crime Taskforce (SFCT) and the Phoenix Taskforce which provides a whole-of-government approach to combating illegal phoenix activity.

The ACIC's Serious Financial Crime in Australia 2017 report, which draws on information from the SFCT agencies, emphasises the intrinsic role played by professional facilitators in serious financial crime. The range of professional facilitators used to support financial crime is extending beyond traditional lines, to include liquidators, financial advisers and debt agreement administrators.

There are a number of case studies that demonstrate this. For example, in 2015 an ASIC investigation culminated in charges being laid against two pre-insolvency advisers for lodging false documents with ASIC under a fictitious director identity. ACIC intelligence suggests that similar methodologies could be used by debt administrators to exploit bankruptcy provisions.

The ACIC notes that the *Insolvency Law Reform Act 2016* has modified the registration requirements for corporate insolvency practitioners to align with those of personal insolvency practitioners. Registered liquidators are no longer registered indefinitely, but instead must renew their registration every three years, in line with bankruptcy trustee registration requirements. These existing reforms and those proposed with regards to debt agreement reform will reduce the opportunity for illegal conduct and further improve integrity in the industry. The ACIC considers these reforms will enhance opportunities to identify and investigate registered and unregistered debt administrators' misconduct.

Giving the Inspector-General the power to investigate and inquire into an administrator's conduct relating to a debt agreement, will ensure more checks and balances exist across the debt agreement sector. The ACIC is supportive of any legislative reforms that will deter professional facilitators and serious organised crime groups from engaging in illicit conduct/activities and exploiting systemic vulnerabilities in Australia's taxation and revenue system.

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The ACIC is available to respond in-camera to questions you may have in relation to its intelligence holdings with regard to the threats presented by professional facilitators and individuals who seek to exploit vulnerabilities in relation to bankruptcy.

Should your office require further information please have them contact Mr Jeremy Johnson,  
National Manager Strategic Engagement & Policy on \_\_\_\_\_ or via email to \_\_\_\_\_

Yours sincerely

Michael Phelan APM  
Chief Executive Officer

 February 2018

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