



AUSTRALIAN
**CRIMINAL
INTELLIGENCE
COMMISSION**

SUBMISSION

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

INTRODUCTION

The Australian Criminal Intelligence Commission (ACIC) welcomes the opportunity to provide a submission to the *Inquiry into the capability of law enforcement to respond to money laundering and financial crime* (the Inquiry).

The ACIC's purpose is to protect Australia from serious criminal threats by collecting, assessing and disseminating intelligence and policing information. Critically, the agency supports whole of government decision-making and posture across operational practice, policy, regulatory and legislative environments. The agency is uniquely placed to coordinate criminal intelligence functions to counter transnational serious and organised crime (TSOC) across Australian Government, state and territory agencies.

The ACIC:

- provides criminal intelligence insights and advice to government on TSOC through collecting and analysing information and data about complex offending patterns and criminal business models, TSOC groups, networks and individuals across multiple crime vectors
- provides national policing information systems and services to law enforcement and intelligence partners to keep them and the Australian community safe
- delivers background checking services to support employment or entitlement decisions and to maintain community safety
- is conducting work under the *Special Australian Criminal Intelligence Commission Operation Determination (Serious Financial Crime) 2022* to collect, correlate and analyse criminal information and intelligence about Specified Financial Offences. Under this Determination, the ACIC is actively working with partners to generate new insights into contemporary money laundering methods, vulnerable sectors, use of professional facilitators, jurisdictions of risk and identification and disruption of money laundering organisations.

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The scale of money laundering and financial crime in Australia

- a. *The scale and forms of money laundering and financial crime in Australia, including their effect on the community and the economy, the types of criminal activities they fund, the methods employed by serious and organised crime, and emerging trends and threats.*

The ACIC has evolved its approach to understanding the serious and organised crime (SOC) environment and its impact on Australia. We have assessed the most concerning SOC threats impacting Australia and will continue to assess emerging issues and changes to the SOC threat environment.

We assess that the intent and capability of SOC groups to launder proceeds of crime will continue to pose a very high threat to Australia into the foreseeable future. Professional money laundering organisations (MLOs) launder funds for a broad range of SOC activities and groups, allowing them to convert proceeds of crime into useable funds, property and other assets, and in doing so benefit from illicit activity.

Measuring the scale of money laundering in Australia is challenging due to its hidden nature, largely occurring in the shadows. The Australian Institute of Criminology's (AIC) 2024 *Impacts of money laundering and terrorism financing: Final report* found that identified measures of the true global or national scale of money laundering remain elusive.

While acknowledging the true scale and impact of money laundering is difficult to quantify, estimates of the cost of SOC to Australia and value of illicit drugs consumed provide some indicators:

- The AIC's *Estimating the costs of serious and organised crime in Australia, 2020-21* estimated the cost of SOC to Australia was up to \$60.1 billion, including up to \$43.7 billion in direct costs and up to \$16.4 billion in prevention and response costs.
- The ACIC estimated the street value of the four major illicit drugs consumed in Australia for 2023 was \$12.4 billion and, therefore, associated illicit proceeds laundered were likely to be in the billions of dollars.
- Money laundering is a criminal enterprise in and of itself with illicit wealth generated through payment of commissions to professional MLOs to move criminal proceeds around the world. The AIC estimated SOC groups paid up to \$829.6 million in commissions in 2020-21, highlighting the significant profits that can be generated from the business of money laundering.

Money laundering enables SOC groups to increase profits through reinvestments and fund further criminal activity including, but not limited to: drug trafficking, cybercrime, victim-based crime and corruption. Money laundering activities undermine the stability of financial institutions and systems, distort markets, alter international capital flows and impact the reputation of Australia.

For Australia, offshore currency controls are significant drivers of money laundering: these controls include sanctions and the illicit drug market. This activity is fuelling increasing demand for informal value transfer systems (IVTS) and underground banking networks. The ACIC also identifies SOC groups using established money laundering channels – such as banks, digital and

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high-value assets, real estate and remittance to store and move value – as well as professional facilitators such as lawyers, accountants and real estate agents – to obfuscate illicit wealth. The wide range of money laundering drivers, channels and enablers insulates SOC from the risk of law enforcement disruption or changes in the environment.

The strategic operating context is evolving. Economic shifts, jurisdictions of risk and the rapid development of technology continue to shape the Australian money laundering environment, posing significant challenges for intelligence, law enforcement and regulatory agencies.

MLOs, underground banking networks and the conversion of cash into crypto assets are key evolving threats. The likely convergence between money laundering channels to launder drug proceeds and those used to move proceeds of cybercrime, including illicit funds generated in South East Asia-based scam centres and Russian ransomware groups, is a growing threat.

Convergences and collusion between money laundering controller networks located in jurisdictions of risk is emerging, enhancing capability and reach of groups. A whole of government approach is needed to counter the evolving money laundering threat through enhanced regulation, continued collaboration with foreign and domestic partners and leveraging collection capabilities.

Anti-money laundering and counter-terrorism financing legislation

b. Australia's anti-money laundering and counter-terrorism financing (AML/CTF) legislation as well as comparison with other jurisdictions and the international standards set by the Financial Action Task Force.

The ACIC has nil comments on this issue.

c. Proposed 'tranche two' reforms to extend the existing AML/CTF legislation to services provided by lawyers, accountants, trust and company service providers, real estate agents and dealers in precious metals and stones and implications for law enforcement.

The ACIC is supportive of the Australian Government's proposed major reforms to Australia's AML/CTF regime (Tranche 2), which will expand the regime to include certain high-risk services provided by lawyers, accountants, trust and company service providers, real estate professionals and dealers in precious metals and stones.

SOC use of professional facilitators enhances its ability to launder money and concurrently undermines Australia's judicial processes, economy and safety. Professional facilitators involvement with SOC exists on a spectrum ranging from unwitting to complicit. Expanding the scope of the AML/CTF Act can increase the personal risk to those facilitating criminality and help deter negligent professional facilitators from becoming unwitting criminal facilitators.

The Australian Transnational, Serious and Organised Crime Committee (ATSOCC) was established in 2018 to build on understandings, drawing on existing threat assessments, of current and emerging transnational serious and organised crime (TSOC) threats and enablers

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on a national and international level, and to provide strategic and policy advice to government ministers on national priorities to combat TSOC. The ACIC provided the following case studies to the ATSOCC in support of developing a strong evidence base for Tranche 2 reforms.

Case Study 1

A former lawyer representing a senior SOC figure was arrested and charged with a range of offences for their alleged conduct in aiding their client with a criminal venture.

The SOC figure allegedly used their confidential legal contact calls to their lawyer to direct their criminal syndicate to supply a commercial quantity of illicit drugs. It is alleged they used coded messages to communicate with outside associates listening in to the calls with the knowledge of the lawyer. The lawyer allegedly also warned their client that police were possibly monitoring them.

Case Study 2

A criminal lawyer who has been the subject of numerous corruption and money laundering allegations has provided legal services and likely facilitated criminal activity for SOC groups and members, including Outlaw Motorcycle Gangs and Australian Priority Organisation Targets.

ACIC intelligence suggests this lawyer has likely used an inappropriate relationship with a police officer to access sensitive police information, including advance information about police raids, and provided this to SOC entities for a fee.

Case Study 3

A lawyer who has acted as a defence solicitor for SOC actors has received large and structured cash deposits of nearly \$250,000 over a six-month period into their legal practice trust account without submitting any required reports to the Australian Transactions Reports and Analysis Centre (AUSTRAC).

ACIC intelligence indicates this lawyer has also produced false invoices, provided sensitive information about law enforcement to their SOC clients, and misrepresented themselves to law enforcement to enquire about investigations.

The proposed Tranche 2 reforms will improve the ACIC's capacity to combat SOC groups' use of professional facilitators to carry out money laundering. The reforms will improve the intelligence base available to:

- identify professional facilitators within the newly AML/CTF regulated industries
- identify money laundering activity of SOC groups exploiting these industries to launder funds
- understand the methodologies of SOC groups laundering through the newly AML/CTF regulated industries
- provide insights to Government and partner agencies in relation to the exploitation of these industries by SOC
- target intelligence collection to provide partner agencies with disruption opportunities against SOC money laundering offending.

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The similar requirements imposed upon banks, remittance agencies and other designated services have provided substantial support to the ACIC's understanding of SOC money laundering. The proposed reforms would extend this support to sectors which are of significant value to SOC groups.

Challenges and opportunities

d. Whether existing criminal offences and law enforcement powers and capabilities are appropriate to counter money laundering, including challenges and opportunities for law enforcement, such as those relating to emerging technologies.

As the scale of money laundering remains elusive, advances in technology, economic shifts and jurisdictions of risk continue to limit law enforcement's visibility of the threat. Specifically, artificial intelligence, the fragmentation of encrypted communication applications, the increased nexus between cybercrime and money laundering, emergence of unstructured money laundering networks and having appropriately skilled personnel are specific challenges impacting law enforcement visibility of money laundering activity.

As these challenges rapidly evolve, existing ACIC powers and capabilities alone are not sufficient to counter money laundering. A multifaceted and coordinated whole of government approach, involving international and industry partners is required to increase visibility of money laundering threats. Additionally, collectively harnessing advancing technologies and analytical tools to enhance tracking of patterns and trends could enable governments and the private sector to better detect and deter money laundering. This approach would provide opportunities, including by:

- engaging through working groups and taskforces to develop effective disruption strategies and timely information sharing pathways
- mapping a clear picture of money laundering networks to enable active and effective targeting of MLO targets
- addressing technological, policy and legislative vulnerabilities exploited by professional MLOs to harden the Australian environment.

The proposed Tranche 2 reforms will improve the law enforcement and regulatory communities' visibility of, and capability to, counter professional facilitators enabling money laundering.

Other agencies, such as the Australian Federal Police, are better placed to comment on whether existing criminal offences are appropriate to counter money laundering.

Collaboration

e. The effectiveness of collaboration, coordination and information sharing between Commonwealth agencies, including law enforcement, and with authorities in other jurisdictions and the private sector.

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Collaboration, coordination and information sharing is critical to responding to the money laundering and financial crime threat. The ACIC notes the forums we participate in, discussed below, have effectively supported engagement on common issues and threats. Greater collaboration and information sharing will continue to be beneficial in appreciation of the scale of the threat.

Internationally, the ACIC continues to engage with intelligence and law enforcement partners through forums and working groups including the Five Eyes Law Enforcement Group, Criminal Intelligence Advisory Group and Money Laundering Community of Practice. Participation in these forums creates a shared view on money laundering methods and targets and provides opportunities for collaboration on identified threats which often transcend international boundaries.

Domestically, the ACIC continues to coordinate with, and support, Australian Government actions on money laundering across a range of interdepartmental forums. Notably, the agency contributed significantly to the AUSTRAC National Risk Assessment and ATSOCC in support of the case for the Tranche 2 AML/CTF regime.

The ACIC works closely with other Australian Government agencies and industry bodies with policy and/or operational responsibilities in implementing and/or monitoring the effectiveness of Australia's AML/CTF system. The agency participates in the Criminal Justice and Law Enforcement Forum CJLEF which brings together agency heads from across the Australian Government to consider the threat of TSOC and provide strategic oversight and guidance for the development of whole-of-government strategies, policies and coordinated activities to respond to this threat.

This engagement facilitated the agency's contributions to the development of the Attorney-General's Department's Mutual Evaluation Coordination Strategy. This Strategy articulates the plan for coordinating national preparations for Australia's Financial Action Taskforce (FATF) 5th Round mutual evaluation.

The ACIC is a member of the Australian Federal Police (AFP)-led Taskforce Avarus—a standing taskforce on money laundering. The agency is also a member of the Australian Taxation Office (ATO)-led Serious Financial Crime Taskforce, contributing specialist ACIC capability where high-level tax evasion intersects with SOC.

f. The role and response of businesses and other private sector organisations, including their level of awareness, assistance to law enforcement, and initiatives to counter this crime.

The ACIC is an active member of the public-private partnership Fintel Alliance which has been effective in raising industry awareness of money laundering threats, and in establishing initiatives to counter money laundering and assist in hardening the defences of relevant Australian industry stakeholders. The Fintel Alliance is an AUSTRAC initiative established in 2017 to increase the resilience of the financial sector to criminal exploitation and support law enforcement investigations into serious crime and national security matters.

Further information sharing and collaboration with industry will continue to enhance the collective response to money laundering and financial crime.

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- g. The operation of unexplained wealth and asset recovery legislation, the Criminal Assets Confiscation Taskforce, and the Confiscated Assets Account.*

The ACIC contributes to criminal asset seizures at the federal, and state and territory level through the provision of appropriate information and intelligence to asset recovery areas of partner agencies. Examples include the agency's membership of the AFP-led Criminal Assets Confiscation Taskforce, as well as referrals to the ATO and relevant state and territory crime commissions with asset confiscation functions.