

Australian Remittance and Currency Providers Association Ltd
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To: Mr Stephen Palethorpe
Committee Secretary
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600
By Email: le.committee@aph.gov.au

23 January 2015

Dear Mr Palethorpe,

On behalf of the Australian remittance industry we would like to thank you again for the opportunity to be witnesses at the Parliamentary Joint Committee on Law Enforcement's inquiry into financial related crime in Sydney on 9 September 2014. Further to our letter dated 24 October 2014, we would like to provide a follow-up submission to the Parliamentary Joint Committee on Law Enforcement ("Committee").

As an update to the Committee, we have formed the Australian Remittance and Currency Providers Association (**ARCPA**) in October 2014 with the objective of promoting the interests of the industry. We wish to contribute to the development of a secure and stable framework for the remittance industry where members operate at the highest regulatory standards and in doing so contribute to the deterrence and elimination of financial crime within the remittance services we provide, and assist in providing intelligence to regulatory and law enforcement agencies.

Following the issue of the Hansard transcript, we would like to provide clarification to the Committee. They include the following:

	Page No.	What Was Said During the Hearing	What Was Intended
1.	28	Mr Yuen: You are painting with a broad brush and generalising.	The banks are painting us with a broad brush and generalising.
2.	33	Mr Yuen: That is right. So the legislation is prescribed in that way. It is not designed to prevent fraud, or whatever the things that you see from the ACCC's report on scams. But, if you are an organisation operating in this country, there must be some form of—what is that phrase?—to be able to demonstrate that you are doing the right thing for your organisation.	The ACCC report on scams is available on: https://www.accc.gov.au/publications/targeting-scams-report-on-scams-activity/targeting-scams-report-of-the-accc-on-scams-activity-2013 The phrase that Mr Yuen intended to say was "Duty of Care".

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In addition to the above clarification, we submit to the Committee the following:

	Page No.	What Was Said During the Hearing	Further Submission to the Committee
1.	30	<p>Ms Nguyen: AFP officers have told us that you can purchase what is called an ID pack—drivers licence, Medicare card and a bank card as a set of three—with a fake ID and maybe a legitimate address that may effectively be processed through the systems okay, but it is not the right person who it says it is on the ID. We have made a point about the document verification system in our submission. We believe all remitters should use it. At present, there is quite a high set-up fee for the more independent remitters. That potentially should be waived, so we can ensure that every single customer who walks through the door has their ID screened to ensure that the risk that someone is bringing in a fraudulent ID is reduced.</p>	<p>We propose to the Committee for the waiver of the \$5,000 for the set-up fee charged by the AGD. This will allow remittance providers of all sizes to gain access to the Document Verification System (DVS).</p>
2.	30	<p>Ms Nguyen: Yes, per successful check. It is a very good tool that we believe everyone should use. My understanding from the document verification system's director is that there is a \$5,000 set-up fee so that the A-G's can do due diligence on the private organisations that want to use it. We will probably be making a follow-up submission to suggest that that set-up fee should be waived for that usage by remitter organisations and the banks.</p>	<p>We propose to the Committee for the waiver of the \$5,000 for the set-up fee charged by the AGD. As we understand it, this fee, is charged to conduct due diligence of users - in this case AUSTRAC-registered remittance providers. Waiving the fee would allow remittance providers of all sizes to gain access to the Document Verification System (DVS).</p>
3.	31	<p>CHAIR: What legislative oversight is there of the remittance industry? Is it ASIC? Ms Nguyen: It is AUSTRAC. CHAIR: AUSTRAC entirely? Ms Nguyen: Yes. CHAIR: What enforcement powers do AUSTRAC have in relation to unlicensed remittance providers? When they identify unlicensed remittance providers, are they</p>	<p>We propose for the Committee to consider legislative change to regulate the remittance industry in the same manner as other financial services providers who are currently regulated by ASIC. For example, an AFSL holder who provides financial services will be regulated by ASIC as well as AUSTRAC (for the purposes under the AML/CTF Act).</p> <p>We further propose that a remittance</p>

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	<p>prosecuting them and putting them out of business?</p> <p>Ms Nguyen: There are criminal processes that can take place if a remitter is found to be doing business in an unregistered way. My understanding is that no-one has been subject to those criminal proceedings yet. But those organisations definitely exist on the street. We are ultimately competitors as well, but within our organisations we have agents that tell us, 'The guy next door from our business or our office-front is unregistered.'</p> <p>CHAIR: So if that is reported to AUSTRAC, what enforcement action are they taking to make sure they close them down?</p> <p>Ms Nguyen: We haven't seen anything published.</p> <p>Mr Yuen: We have no visibility on that.</p> <p>CHAIR: You would know if the guy next door to you disappears the next day.</p> <p>Ms Nguyen: Yes, but we haven't seen—</p> <p>CHAIR: You don't know and that is AUSTRAC's doing or other—</p> <p>Ms Nguyen: To be frank, we haven't seen competitors that are operating in that rogue manner shut down.</p> <p>Mr Bieytes Corro: They are not disappearing.</p> <p>CHAIR: But they do exist.</p> <p>Mr Bieytes Corro: They are still there, and we hear on the street from our customers: 'Why are you asking for all this documentation when over there they don't ask for anything? If you want do go there, go.' But they are still there.</p> <p>CHAIR: If you report something like that to the AFP, do they have any jurisdiction or is it entirely through AUSTRAC?</p> <p>Ms Nguyen: It is entirely through AUSTRAC is my understanding.</p>	<p>licencing regime be implemented in Australia similar to the regime in Hong Kong, Singapore and Malaysia. The licenced remittance provider should not only address their AML/CTF obligations, but also the broader risk management of the entity, including data privacy, information security, credit, fraud/scam prevention, consumer protection, Director/Shareholder responsibilities, capital requirements, mandatory professional education in fit and proper business conduct, etc.</p> <p>The current regime for registration with AUSTRAC Remittance Sector Register is not a licencing regime. Neither is this registration regime achieving the intent and spirit of “uplifting” both business and compliance conduct. If we professionalise the remittance industry, we will achieve the goals of preventing financial crime.</p> <p>Hong Kong http://www.customs.gov.hk/en/whats_new/licensing/index.html</p> <p>Singapore http://www.mas.gov.sg/regulations-and-financial-stability/regulations-guidance-and-licensing/money-changing-and-remittance-businesses/remittance-licence.aspx</p> <p>Malaysia http://www.bnm.gov.my/index.php?ch=fs_msb&pg=fs_msb_money_srv_bus&lang=en</p>
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	<p>Mr MATHESON: Though your monitoring processes of unusual transactions, has anybody ever been prosecuted?</p> <p>Ms Nguyen: Yes. The AFP come to visit and talk about cases in declassified terms that we have assisted with where customers of ours have been charged, gone through the court process or been successfully prosecuted?</p> <p>Mr MATHESON: What types of offences? Is it money laundering? Terrorism?</p> <p>Ms Nguyen: The ones that I can speak of are money laundering relating to drug trafficking?</p> <p>Senator O'SULLIVAN: The unlicensed operators—</p> <p>Mr Yuen: It is not a form of licence; it is a form of registration with AUSTRAC.</p> <p>Senator O'SULLIVAN: So unregistered operators: are they operating efficiently? Are they providing an efficient competitive service?</p> <p>Ms Nguyen: Yes.</p> <p>Senator O'SULLIVAN: So what is the disincentive for them not to be registered?</p> <p>Ms Nguyen: There are onerous compliance obligations that you have to complete. For an organisation like ours we have to have a compliance program. We have to do the ID checks. We have to do the reporting. There is an annual report—do the suspicious reporting, transaction monitoring, the whole gamut.</p> <p>Mr Yuen: The whole program.</p> <p>Ms Nguyen: The other thing is if you are not listed on an AUSTRAC website to say that you are a remitter, then you can have a banking relationship that additionally helps to make that operation easy.</p> <p>Senator O'SULLIVAN: That is crazy.</p>	
4.	32	<p>Senator O'SULLIVAN: Why would you care?</p> <p>For the proposed licencing regime, we further propose to the Committee to</p>

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		Mr Yuen: We are protecting our customers.	include consumer protection and fraud prevention mechanism.
5.	35	<p>Ms Nguyen: I will say that the financial risk comes back to the fact that if they are seen to be banking someone that is on a sanctioned list somewhere then they, as an organisation, will be fined.</p> <p>CHAIR: I am conscious that we have others here waiting, but who does that risk lie with, because, at the end of the day, if somebody is on a sanction list, if they bank direct with the bank I can well understand that that is the banks responsibility.</p> <p>Ms Nguyen: Yes.</p> <p>CHAIR: However, if they deal through you, it would be my understanding that you are responsible and it has nothing to do with the banks. You are just a bank client. Is that correct?</p> <p>Ms Nguyen: Yes.</p> <p>Mr Yuen: That is correct.</p> <p>Ms Nguyen: The other element is that we are legislated to screen for those sanctioned customers so that we do not provide services to those customers.</p> <p>Mr Yuen: We are no different from the banks. We perform the same procedure: we screen names. We check against the date of birth, country of birth and so on.</p>	We propose to the Committee for the Australian Government to (1) remove any ambiguity on sanctions liability of the banks if they bank with a remitter who may breach sanctions; and (2) establish mutual agreement with US, UK and EU governments with their respective sanctions regime, on what is expected for remitters in Australia and any liabilities with banking institution who banks with the remitter.

During the hearing, we pointed to the pertinent issue of major Australian banks deciding not to bank remitter businesses. We have submitted that this has become particularly inhibiting for the sector – the Australian banks have cited that there are two key components to this de-banking. The first being compliance standards of remittance providers which we seek to address by implementing Compliance Best Practice guidelines. The second being the role of the correspondent banks, namely the major banks in the United States who provide correspondent and clearing services for Australian banks, who are applying pressure on the banks not to bank remittance providers.

ARCPA views this as a pressing issue, from a business, humanitarian and financial intelligence and crimes perspective. We hope this information provides you with further insight into what we believe to be a growing problem.

If you have any questions or require further clarification on the information provided, please contact Crispin Yuen or Dianne Nguyen at

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Yours sincerely,
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Kamran Mirza, Director
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