

**HOME AFFAIRS PORTFOLIO
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE**

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Legal and Constitutional Affairs

Inquiry into the adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime

10 November 2021

QoN Number: 1

Subject: Identifying beneficial owners

Asked by: Kim Carr

Question:

Some witnesses mentioned problems with establishing the identity of those engaged in laundering or the beneficial owners of assets purchased by laundered funds. Are you aware of any jurisdictions which might deem assets where no beneficial owner can be established treating these assets as proceeds of crime?

Answer:

In terms of the treatment of assets as proceeds of crime, where no beneficial owner can be identified, the Department of Home Affairs administers criminal asset confiscation under the *Proceeds of Crime Act 2002*, and any questions concerning the administration of the Act should be directed to the Department of Home Affairs.

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QoN Number: 2

Subject: Confiscated proceeds

Asked by: Kim Carr

Question:

- What happens to the proceeds confiscated? Does it go to consolidated revenue, or to increase resourcing of AML/CTF activities?
- Has any consideration been given to using funds confiscated as proceeds of crime as a reward or payment to encourage informants or whistleblowers?
- Are you aware of any overseas jurisdictions where this approach is taken? If so, it is considered a successful approach?

Answer:

The Department of Home Affairs administers criminal asset confiscation under the *Proceeds of Crime Act 2002*, and any questions concerning the administration of the Act should be directed to the Department of Home Affairs.

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Inquiry into the adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime

10 November 2021

QoN Number: 1

Subject: Scale of money laundering and terrorism financing

Asked by: Deborah O'Neill

Question:

What is the scale of the current money laundering and terrorism financing in Australia right now?

Answer:

Research reveals that accurate measurement of the global or national scale of money laundering and terrorism financing remains elusive. This is primarily due to limitations of methodology, data quality and data availability.

The Australian Institute of Criminology (AIC) estimates that serious and organised crime costs Australia up to \$47.4 billion per year. However, the true cost is immeasurable when indirect social and economic impacts are considered.

(*Estimating the costs of serious and organised crime in Australia 2016-17*, AIC Statistical Report 09, available at: <https://apo.org.au/sites/default/files/resource-files/2018-10/apo-nid196446.pdf>)

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QoN Number: 2

Subject: AUSTRAC's Technological Capability

Asked by: Deborah O'Neill

Question:

Does AUSTRAC have the technological capability to effectively deal with new technologies such as cryptocurrencies and NFTs in the AML/CTF sphere?

Answer:

AUSTRAC has a small, specialist cryptocurrency intelligence capability that traces blockchain transactions such as in cryptocurrencies and NFTs. This capability attributes ownership/control where possible based on open source and commercially available data, and reporting received from the digital currency exchange (DCE) sector.

There is a continuous need to evolve this capability to keep up-to-date with new cryptocurrencies, technological changes and the increased uptake of virtual assets for legitimate and illicit use. This includes continuous efforts to ensure that the tools, data and training available to our analysts remain fit-for-purpose, scalable and future-facing to enhance the financial analysis of cryptocurrency transactions.

Since 2018, AUSTRAC has regulated DCE providers when they engage in the exchange of digital currency for fiat currency, or vice versa. The development of a new Reporting Entity reporting system (as funded in 2020-21 Budget) will provide enhanced connectivity between DCEs and AUSTRAC for AML/CTF reporting and engagement, including guidance, outreach and education.

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QoN Number: 3

Subject: AUSTRAC's view on Corporate Policies

Asked by: Deborah O'Neill

Question:

What is AUSTRAC's view on corporate policies around de-banking certain customers (remitters, crypto, fintechs) to lower AML risks?

Answer:

The issue of de-banking is complex and cannot be considered solely on the basis of anti-money laundering and counter terrorism financing (AML/CTF) compliance obligations.

De-banking is a global problem with a range of domestic and international drivers, including:

- commercial considerations, e.g. the profitability of providing banking services to high-risk customers
- reputational risk
- uncertainty associated with the customer's business models
- broader policy considerations such as climate change
- expectations of overseas correspondent banks in relation to Australian institutions
- compliance with sanctions requirements
- compliance with AML/CTF requirements.

As Australia's AML/CTF regulator, AUSTRAC has a strong, ongoing focus on uplifting the capability, professionalism and compliance levels across the remittance, digital currency exchange (DCE) and fintech sectors.

Under the AML/CTF regime, it is recognised that banks and other reporting entities are best placed to assess and manage the risks posed by their customers and the products and services they offer.

AUSTRAC expects reporting entities, including banks, to apply a risk-based approach to the provision of financial services, assessing the risk of customers on a case-by-case basis.

AUSTRAC has recently published a statement about the issue of de-banking. See <https://www.austrac.gov.au/news-and-media/media-release/austrac-statement-2021-de-banking>.

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10 November 2021

QoN Number: 4

Subject: Scale of Money Laundering in RSLs and Clubs in Australia

Asked by: Deborah O'Neill

Question:

What is the current scale of money laundering in RSLs and clubs in Australia? What percentage of RSLs and other clubs are complying with anti-money-laundering reporting laws?

a. Can you provide that breakdown by state and territory?

Answer:

AUSTRAC produces financial intelligence reporting on money laundering that involves a range of sectors, including clubs. AUSTRAC does not investigate criminal money laundering activity and is therefore unable to advise the scale of money laundering in RSLs and clubs in Australia. That question is best answered by law enforcement.

There are more than 3,500 pubs and clubs across Australia, noting some of these have experienced extensive venue closures or restrictions as a result of the COVID-19 pandemic.

AUSTRAC is unable to provide a breakdown by state and territory as some states do not operate electronic gaming machines within pubs and clubs, and venues that have 15 or less gaming machines are exempt from certain anti-money laundering and counter terrorism financing (AML/CTF) obligations.

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QoN Number: 5

Subject: Closing Loopholes in Money Laundering Regime

Asked by: Deborah O'Neill

Question:

What plans does AUSTRAC have to close loopholes in the money laundering regime that fail to capture money laundering in everyday suburban clubs and RSLs?

Answer:

AUSTRAC is committed to working with the Department of Home Affairs on continually improving Australia's anti-money laundering and counter terrorism financing (AML/CTF) laws without placing undue burden on regulated businesses.

AUSTRAC continues to work with regulated businesses to educate them on:

- new and emerging risks that criminals pose to their businesses
- their obligations under the law, including having appropriate systems, controls and governance in place, and
- reporting quality financial information and suspicious matter reports to AUSTRAC.

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10 November 2021

QoN Number: 6

Subject: Reforms to Money Laundering Regime

Asked by: Deborah O'Neill

Question:

Are you considering any reforms to ensure that money laundering in RSLs and clubs is effectively reported?

Answer:

AUSTRAC continues to work with regulated businesses to educate them on:

- new and emerging risks that criminals pose to their businesses,
- their obligations under the law, including having appropriate systems, controls and governance in place, and
- reporting quality financial information and suspicious matter reports to AUSTRAC.

AUSTRAC works closely with other regulators and Commonwealth and state law enforcement partners to actively address the significant risks of money laundering in the gambling sector.

AUSTRAC also works closely with state and territory regulators to share information, including from compliance assessments, to support regulation and education of the gambling sector.