**Parliamentary Joint Committee on Law Enforcement**
PO Box 6100
Parliament House
Canberra ACT 2600

**Submission to Inquiry:**
**The Capability of Law Enforcement to Respond to Money Laundering and Financial Crime**

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1. Thank you for the opportunity to respond to this Inquiry. I am a Senior Lecturer in Law at the Australian National University, where I teach master's courses in Financial Crime Law and Transnational Anti-Corruption Laws. I am the author of *Doing Business with Criminals*, a book on anti-money laundering, counter-terrorist financing (AML/CTF) and sanctions evasion published by Cambridge University Press. I have also published extensively on corruption, fraud and other financial crime matters. I am an Associate Fellow at the Centre for Finance and Security at the Royal United Services Institute (RUSI), UK.

2. This is an updated version of the submission I provided to the previous iteration of this Inquiry in July 2024, reflecting the Inquiry's revised Terms of Reference.

<u>The Scale of Money Laundering and Financial Crime in Australia</u>

3. Given the clandestine nature of money laundering, no country can reliably estimate the scale of money laundering occurring within its borders. All such available estimates internationally are no more than 'guesstimates'.[1]

4. All proceeds of profit-generating predicate crimes within Australia need to be laundered in some form. The scale of many of those crimes is difficult to estimate, for instance due to under-reporting and the challenges of detection. Various forms of corruption and fraud are good examples. To compound the difficulty, proceeds of foreign crimes may either be invested in Australia or laundered overseas using the services of Australian-based professionals or Australian-incorporated companies. This means that one can identify relevant predicate offences and money laundering typologies, but coming up with a comprehensive estimate of the scale of money laundering in Australia is virtually impossible.[2]

[1] For example, the UK National Crime Agency's assessment of 'hundreds of billions' pounds being laundered in the UK annually was primarily an attempt to highlight the seriousness of the problem rather than a genuine calculation: Anton Moiseienko, *Doing Business with Criminals: Between Exclusion and Surveillance* (Cambridge University Press, 2025) 135.
[2] See Anton Moiseienko and Tom Keatinge, 'The Scale of Money Laundering in the UK: Too Big to Measure?', *RUSI Briefing Paper*, February 2019.

5. This should not impede the recognition of money laundering as a key threat to the prosperity and security of Australians. All organised crime relies on the ability to save, move or invest the proceeds of crime. As a high-income country with a free, open society, as well as a regional financial centre, Australia is inherently attractive to criminal actors as both a place to commit crime and destination to invest its proceeds.

6. Australia is similarly vulnerable to other forms of financial crime, including sanctions evasion and financing of proliferation of weapons of mass destruction (proliferation financing). For example, Australia's position in the Asia-Pacific means that one must be cognizant of the risks of unwittingly doing business with North Korean front companies or proxies, whether in trading activities or in the recruitment of overseas IT workers.[3]

Australia's Money Laundering and Financial Crime Enforcement

7. As a nation that benefits significantly from trade and investment, Australia has the responsibility to invest appropriately into policing the integrity of international trade and finance.

8. So far, Australia's enforcement track record has been uneven. On the one hand, it has on multiple occasions demonstrated the ability to dismantle serious organised crime syndicates operating in Australia, including those laundering funds via Australian real estate. On the other hand, enforcement has been conspicuously absent as relates to sanctions evasion or laundering the proceeds of foreign corruption.[4]

9. Together with the long-standing dearth of foreign bribery prosecutions in Australia,[5] this indicates a policy choice, whether explicit or implicit, to prioritise certain domains of economic crime enforcement over others (i.e. prioritise organised crime money laundering cases over all others).

10. To be clear, it is appropriate and desirable for Australian law enforcement agencies to prioritise the investigation and prosecution of crimes that cause the greatest harm in Australian communities. But, if taken to the extreme, this approach could result in Australia becoming a haven for foreign corruption proceeds. This would harm Australia's standing internationally and undermine its regional leadership role in the Asia/Pacific Group on Money Laundering (APG).

11. Among the reasons for this state of affairs may be the absence of dedicated Foreign Corruption or Sanctions Evasion units within the Australian Federal Police (AFP). This can be contrasted with the operation of an International Corruption Unit within the UK National Crime Agency, or the Kleptocracy Asset Recovery Initiative within the US Department of Justice until its abolition in February 2025.

[3] See, e.g., Australian Sanctions Office, 'Advisory Note - Democratic People's Republic of Korea (DPRK) information technology (IT) workers', 14 December 2024.
[4] One of the few exceptions is a recent case reportedly involving proceeds of corruption in Russia invested in real estate in Queensland: Sherryn Groch, 'Organised crime and armoured cars of cash: The dirty money pushing up Australian house prices', *The Age*, 12 April 2025.
[5] Repeatedly commented upon by the OECD Working Group on Bribery.

12. I would recommend that this Inquiry (a) seek evidence from Australian law enforcement agencies as to the resourcing, if any, allocated for the investigation and prosecution of sanctions evasion or money laundering related to overseas corruption; and (b) consider recommending the establishment of separate, dedicated units within the AFP for the investigation of those crimes.

Beneficial Ownership Register

13. Closely related to the issue of money laundering in Australia is that of beneficial ownership transparency. In 2022, the government consulted on the establishment of a publicly accessible, centralised register of beneficial ownership information for Australian companies. Since then, few visible steps appear to have been taken.

14. For law enforcement agencies to be able to obtain adequate, accurate and up-to-date beneficial ownership information is a requirement of the Financial Action Task Force (FATF) that Australia needs to observe.[6] Whether such information should be available to the broader public remains contested.

15. Arguments in favour of public access include the ability of investigative journalists and civil society groups to spot anomalies; the utility of such public information in conducting customer due diligence; and saving time for foreign law enforcement agencies seeking to obtain beneficial ownership information from Australia. Arguments against such access revolve around privacy and potential harm to individuals from information about their wealth being publicly available.

16. Whichever approach Australia takes to its future beneficial ownership register, the issue of verification is paramount. Relying on companies to self-report beneficial ownership information in the absence of any verification will mean that those with something to hide will not report truthfully.

17. One of the challenges in this area is the paucity of positive international experience to draw upon. All countries that have, or have had, public beneficial ownership registers[7] have struggled with the challenge of verification. UK experience speaks to the value of cross-checking government databases to identify and remedy obvious misrepresentations, such as young children being listed as company directors or deceased people as shareholders. However, this only addresses the most superficial and easily detectable categories of beneficial ownership misrepresentation.

18. I would recommend that the government conduct a study of international best practices in verifying beneficial ownership information in advance of the introduction of any centralised beneficial ownership register in Australia to ensure that its rollout is appropriately informed.

[6] Recommendation 24 (in respect of legal entities, i.e. companies and similar) and Recommendation 25 (in respect of legal arrangements, i.e. trusts).
[7] EU member states' beneficial ownership registers ceased being publicly accessible after the Court of Justice of the EU ruled that they entailed a disproportionate interference with individual privacy: *WM and Sovim SA v Luxembourg Business Registers*, Grand Chamber, Joined Cases C-37/20 and C-601/20, Judgment of 22 November 2022.

Tranche 2 Reforms

19. Australia's Tranche 2 reforms are welcome and overdue. The overarching challenge in their implementation is the dramatic expansion in the number of regulated businesses that AUSTRAC will need to supervise. It is however a world-class agency that should be able to fulfill that task.

20. One issue that the new *AML/CTF Act* and proposed *AML/CTF Rules* omit to remedy is Australia's inability to regulate virtual asset service providers (VASPs) that offer services to Australian customers without being based in Australia.

21. Under both current law and AUSTRAC's proposed new rules, Australia's AML/CTF regulation only extends to businesses that, at a minimum, have a permanent establishment in Australia.

22. Many VASPs are likely to provide services to Australian customers without having a permanent establishment in Australia and, therefore, without being subject to Australian AML/CTF requirements.

23. For example, a VASP incorporated in and operating from an overseas country but heavily marketing its services to Australian customers is not covered by Australian AML/CTF regulation. This creates a potential gap in Australia's AML/CTF regime that should be explored and addressed.

24. I would recommend that this Inquiry seek evidence from AUSTRAC and Australian law enforcement agencies as to whether the territorial limitation of Australian AML/CTF regulation to businesses based in Australia creates money laundering, terrorist financing or proliferation financing vulnerabilities and, if so, whether further legislative amendment is required.

25. Thank you for considering this submission, and I would be pleased to assist further if required.