

# Senate Economics Legislation Committee Inquiry into Currency (Restrictions on the Use of Cash) Bill 2019 [Provisions]

## ANSWERS TO QUESTIONS ON NOTICE

### The Treasury

12 December 2019

**Department/Agency:** The Treasury

**Topic:** Cash payment limit

#### Question:

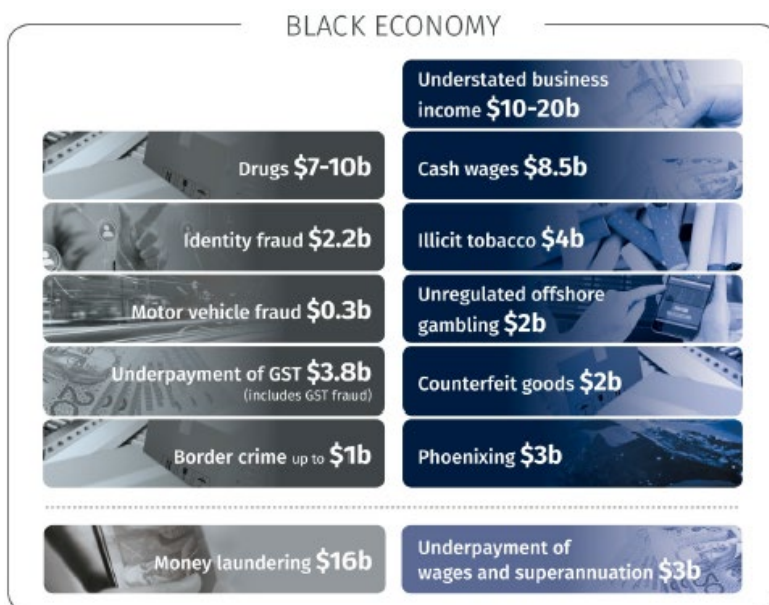
**Senator Gallacher:** Your first evidence was that there was a three per cent black economy. Is that underpinned by statistics?

#### Answer:

Estimating or measuring the black economy is a difficult and challenging task because the activities take place outside the tax and regulatory systems and are therefore not visible. However, as a starting point to estimating the size of the black economy, the Taskforce used the Australian Bureau of Statistics' (ABS) 2012 estimate of 1.5 per cent of GDP as its basis. The ABS noted that not all illegal activities are included in this figure and that much has changed since 2012, possibly making that estimate outdated.

In the absence of a more up to date estimate and in recognition of the importance of having a robust estimate, the Taskforce convened an expert workshop, bringing together representatives from the Treasury, ABS, ATO and the Australian Criminal Intelligence Commission (ACIC) to discuss this issue in September 2017.

The Taskforce also held extensive consultation round-tables across the country to gather vital information on how the black economy has evolved over the past decade. Discussions were held with a wide array of business leaders and professional and community organisations and information from these meetings was used to complement the ABS' estimate and the preliminary findings of the ATO tax gap program. On this basis, the Taskforce considered that the black economy could be as large as 3 per cent of GDP, or \$50 billion. Figure 2.2 on page 36 of the Final Report shows partial indicators of black economy related activity and are based on extensive consultations and analysis of the pressures and incentives for black economy behaviour.



The Taskforce discussions also resulted in identifying a number of developments that suggest the black economy is growing in nature and shifting as detailed on pages 34 and 35 of the Final Report. The Taskforce identified economic pressures such as low wages growth, the sharing or gig economy and the prevalence of ABN fraud, visa violations and sham contracting as main contributors to a growing black economy, particularly if not addressed. When some get away with operating in the black economy, others are encouraged to follow suit, the Final Report found.

### **The revenue impact of the black economy**

The ATO's tax gap estimate of the black economy represents the taxes missing as a result of unreported economic activity. This estimate does not reflect the broader economic impact and as such, does not form part of the aggregate \$50 billion economic effect estimate by the Taskforce.

Overall, across the whole tax system, there are more than \$11 billion in missing taxes as a result of the black economy per year. Additionally, hidden wages account for over \$3 billion in employer obligations not accounted for in any one year.

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**Chair:** Do we have any backwards-looking information that would reveal for the committee the kinds of transactions that would be prevented under this legislation? Can we point to actual examples? Do you understand what I'm getting at?

**Answer:**

Currently, it is not an offence to make or accept cash payments of \$10,000 or more. It is therefore difficult to predict the impact the offences could have had on past criminal activities and the conduct of investigations.

The cash payment limit will make it more difficult for criminal groups to launder cash through transactions to purchase high value goods. The Australian Criminal Intelligence Commission (ACIC) *Organised Crime in Australia 2017 report* states 'money laundering enables criminals to hide and accumulate wealth, avoid prosecution, evade taxes, increase profits through re-investment, and fund further criminal activity'.

Both ACIC and Europol state that a known strategy used by criminals to dispose of cash generated by their activities is the purchase of high value goods and real estate. Attached are ACIC and government agency media reports of investigations that have uncovered large stockpiles of cash alongside high value goods such as designer watches, jewellery and luxury cars.

A current review of Australian Transaction Reports and Analysis Centre (AUSTRAC) data holdings show frequent incidences of suspicious matter reports (SMRs) submitted for 'unusually large cash transactions.' These SMRs contain descriptions of entities dealing in unusually large cash transactions that appear high risk for money laundering or tax evasion. Examples of these activities include large cash transactions for the purchase of high value items such as real-estate and luxury cars. These activities are considered high risk for money laundering and tax evasion. Similarly, the Black Economy Taskforce Final Report indicates that significant risks exist from large undocumented cash payments being made for houses, cars, yachts, agricultural crops, building supplies and commodities.

The Europol Police Office's 2015 *Why is cash still king? A strategic report on the use of cash by criminal groups as a facilitator for money laundering* notes that 'while not all use of cash is criminal, almost all criminals use cash at some stage during the money laundering process. Cash is an entirely legal facilitator which enables criminals to inject illegal proceeds into the legal economy with far fewer risks of detection than other systems.'

The offences can be investigated by financial regulators and law enforcement (State and Commonwealth). The Australian Federal Police (AFP), as one of the investigative bodies, will assess referrals in line with their Case Categorisation Prioritisation Model (CCPM) to determine allocation of resources. In accordance with the CCPM, the offences would likely only be applicable

as an ancillary offence in addition to the existing more serious offences for money laundering, terrorism financing and organised crime.



22 May 2019

## Organised criminal syndicate dismantled by Terrorism Investigation Squad

Australian Border Force, Australian Criminal Intelligence Commission, Australian Taxation Office, Australian Transactions and Reporting Analysis Centre (AUSTRAC), New South Wales Police Force

Eight men have been charged after detectives investigating terrorism funding uncovered an illicit tobacco importation syndicate operating in Sydney's south-west.

In November 2017, detectives from the NSW Police Force's Terrorism Investigation Squad and investigators from the Australian Criminal Intelligence Commission (ACIC) established Strike Force DeHaar to investigate terrorism funding in NSW.

The investigation has also been assisted by the Australian Border Force-led Illicit Tobacco Taskforce; Australian Transaction Reports and Analysis Centre (AUSTRAC), and Australian Taxation Office (ATO).

As part of their inquiries, strike force officers uncovered an organised criminal syndicate involved in the importation of illicit tobacco, drug supply, and large-scale money laundering.

Following extensive inquiries, Strike Force DeHaar investigators arrested two men – aged 38 and 39 – at Sydney Olympic Park about 8.15am today (Tuesday 21 May 2019).

During a search of the 39-year-old man, police located \$12,000 cash.

Shortly after the arrests, a multi-agency operation – which also included the Australian Federal Police – was conducted with the execution of 19 criminal organisation search warrants at homes, businesses, and storage units across Sydney's south-west.

During the searches, investigators seized large quantities of illicit tobacco and cigarettes, various luxury goods, including designer watches, jewellery, and handbags, and a total of more than \$50,000 cash.

A further six men – aged between 22 and 42 – were arrested during the operation and taken to local police stations.

A 22-year-old Yagoona man was charged with participate criminal group contribute criminal activity, and six counts of possession of tobacco (more than 500kg).

A 27-year-old Ashcroft man was charged with participate criminal group contribute criminal activity, tobacco smuggling, and possession of tobacco (more than 500kg).

A 29-year-old Hinchinbrook man was charged with participate criminal group contribute criminal activity, and possession of tobacco (more than 500kg).

A 34-year-old Punchbowl man was charged with knowingly direct activities of criminal group, two counts of knowingly deal with proceeds of crime with intent to conceal, tobacco smuggling, possession of tobacco (more than 500kg).

A 39-year-old Guildford man was charged with participate criminal group contribute criminal activity, five counts of tobacco smuggling, and possession of tobacco (more than 500kg).

A 39-year-old Sadleir man was charged with knowingly direct activities of criminal group, four counts of knowingly deal with proceeds of crime with intent to conceal, tobacco smuggling, seven counts of possession of tobacco (more than 500kg), and three counts of possession of tobacco (more than 100kg).

A 42-year-old Auburn man was charged with participate criminal group contribute criminal activity and knowingly derive material benefit from criminal group.

A 38-year-old Casula man underwent treatment at Liverpool Hospital for an unrelated illness and is in the process of being charged with knowingly direct activities of criminal group, knowingly deal with proceeds of crime with intent to conceal, and knowingly derive material benefit from criminal group.

Police will allege in court that the group took part in the supply and distribution of more than seven tonnes of tobacco products, worth more than \$1.8 million.

The group also allegedly facilitated the illicit importation of 475,000 packets of cigarettes, which would accrue about \$9 million in excise if imported legally.

Further, police will allege that the group laundered more than \$1.2 million in proceeds of crime.

Counter Terrorism and Special Tactics Commander, Assistant Commissioner Mick Willing, said profits made from organised criminal activity are often used to fund a variety of other criminal activities.

"There is a strong nexus between transnational organised crime and terrorism funding, and an important focus of investigations is following the money," Assistant Commissioner Willing said.

"NSW Police Force works closely with our partners to target organised crime – whether it be the importation or supply of illicit commodities or large-scale fraud – and disrupt those laundering the proceeds.

"The results of the investigation are a credit to all involved, and I'm confident we will continue to see the same dedication and resilience in future matters," Assistant Commissioner Willing said.

Australian Border Force Acting Regional Commander NSW Garry Low said it was a significant result which demonstrates the importance of cooperation between the ABF and its law enforcement partners, to enforce trade laws and disrupt serious and systemic revenue evasion by organised criminal groups.

"We know illicit tobacco is an attractive market for criminal syndicates due to the lucrative profits that can be made in evaded tax, and as we can see here, the profits are often channelled back into organised crime," Acting Commander Low said.

“Illicit tobacco costs Australia about \$600 million a year in lost revenue. The ABF, working with our law enforcement partners, will continue to do everything we can to crack down on this black market, the criminals involved in it, and prevent illicit profits being channelled back into other criminal activities.”

While investigations are ongoing, police are reassuring the community there is no current or impending threat to NSW arising from Strike Force DeHaar.

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LAST UPDATED **22 May 2019**



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## Five Melbourne men charged, \$12 mil in assets seized over alleged trafficking of border controlled drugs



**Thursday, 27 September 2018, 11:52am**

Four Australian men have been charged by the Australian Federal Police (AFP) for allegedly trafficking commercial quantities of crystal methamphetamine (meth) and heroin domestically within Australia. A fifth man was charged with proceeds of crime offences.

The operation began in May 2018 after an AFP investigation identified an Australia-based syndicate, located in the western suburbs of Melbourne, allegedly trafficking border controlled drugs.

Between Thursday 20 September 2018 and Monday 24 September 2018, with the assistance of canine and forensic resources, AFP investigators executed eleven search warrants in the Melbourne suburbs of Aberfeldie, Delahey, Footscray, Maidstone, Maribyrnong, St Albans, Sunshine North, Truganina and Yarraville. Two of the men, both aged 33 were arrested at the Delahey address. The remaining three men, one aged 32 and other two 33, were arrested in Brunswick, Footscray and Maribyrnong.



During the search warrants officers seized blocks of suspected border controlled drugs including 4.175 kilograms of meth and 2.5 kilograms of heroin, around \$200-250K in cash, a cannabis grow house, encrypted phones, firearms and several luxury vehicles including a 2018 Lamborghini Huracán sports car.

It is alleged the drugs have an estimated street value of \$3.131 million for the seized meth (around 41,750 'street dosage units') and \$1.250 million for the heroin (around 12,500 'street dosage units'). It will be alleged in court the syndicate has trafficked a significant quantity of border controlled drugs over a sustained period of time.

It is suspected members of the syndicate own or control approximately \$12 million in assets, which are subject to Commonwealth restraining orders made under the *Proceeds of Crime Act 2002*.

The men have been charged with the following offences.

- A 33-year-old Maidstone man (arrested in Delahey) was charged with two counts of trafficking a commercial quantity of a controlled drug, namely methamphetamine and heroin, contrary to subsection 302.2(1) of the Criminal Code (Cth). He was also charged with money laundering offences contrary to section 400.3 and 400.9 of the *Criminal Code (Cth)*.
- A 33-year-old Footscray man (arrested in Footscray) has been charged with two counts of trafficking a commercial quantity of a controlled drug, namely methamphetamine and heroin, contrary to subsection 302.2(1) of the *Criminal Code (Cth)*.
- A 33-year-old Delahey man (arrested in Delahey) was charged with one count of trafficking a commercial quantity of a controlled drug, namely methamphetamine, contrary to subsection 302.2(1) of the *Criminal Code (Cth)*.
- A 32-year-old Maribyrnong man (arrested in Maribyrnong) has been charged with one count of trafficking in a commercial quantity of a controlled drug, namely methamphetamine, contrary to subsection 302.2(1) of the *Criminal Code (Cth)*.
- A 33-year-old Truganina man (arrested in Brunswick) has been charged with dealing in the proceeds of crime, money or property worth AUD1,000,000 or more, contrary to subsection 400.3(1) of the *Criminal Code Act 1995 (Cth)* and dealing in monies reasonably suspected to be proceeds of crime contrary to subsection 400.9(1) of the *Criminal Code (Cth)*.

The maximum penalty for the trafficking offence is life imprisonment.

The men appeared before the Melbourne Magistrates court between 21 and 22 September 2018 and four were remanded in custody. The fifth was bailed on Sunday 23 September 2018.

AFP State Manager Victoria/Tasmania, Commander Amanda Kates said the AFP is relentless in its pursuit of transnational organised crime.

"This operation sends a clear message to those seeking to wreak havoc on our community with life-threatening illicit drugs. Not only could you spend your life behind bars, all your belongings including your house, car, and anything else used in the commission of a crime, or bought with the proceeds of crime, can be seized to satisfy Australia's proceeds of crime and confiscation regime."

"Illicit drugs are a serious threat to the Australian community, and the AFP is focused on continuing to work closely with both national and international partners to stop drugs making their way to the

community,” Commander Kates said.

Investigations are continuing and additional arrests are expected.

The men will next appear in court on 4 February 2019.

**Note to editors:**

Footage of items seized, including the Lamborghini, during search warrants, and arrest footage filmed on Friday (21 September 2018).

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Arrest footage filmed outside AFP Melbourne office on Thursday (20 September 2018).

<https://spaces.hightail.com/receive/mM1bbSE9cw/YWZwbmFoaW9uYWxtZWRpYUBhZnAuZ292LmF1>  
<<https://spaces.hightail.com/receive/mM1bbSE9cw/YWZwbmFoaW9uYWxtZWRpYUBhZnAuZ292LmF1>>

**Media enquiries:**

AFP National Media (02) 6131 6333

*\*The AFP uses the ACIC Illicit Drug Data Report ([www.acic.gov.au](http://www.acic.gov.au)) as the consistent publication for illicit substances in Australia. This figure is the basis of calculating both the monetary value of the illicit drug were it to be sold at the end of the supply chain or 'on the street', and the number of related street deals. This is based on available price data and may not be reflective of what would generally be considered as a street deal for this drug type.*



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## Luxury properties and cars restrained on the Gold Coast in proceeds of crime action



Thursday, 22 March 2018, 11:13am

The Australian Federal Police (AFP) led Criminal Assets Confiscation Taskforce (CACT) executed search warrants on the Gold Coast successfully restraining properties, cash and a luxury vehicle valued in excess of \$2.5 million.

Search warrants on 14 March were executed on a Gold Coast business and residential property where AFP officers from Melbourne and Brisbane seized evidential material and obtained orders restraining assets including; a water-side residence in Surfers Paradise valued at \$1.5 million, a semi-rural block in NSW valued at \$1 million, a 2016 Porsche Macan valued at \$130,000 plus associated bank and trust accounts. Additionally, more than \$200,000 in cash was found and seized at one of the premises.

In 2017, Criminal Assets Confiscation Taskforce (CACT) members from Melbourne initiated an investigation under the *Proceeds of Crime Act 2002* into the financial activity and asset holdings of a 47 year old Gold Coast woman in relation to suspected offences under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* and the *Criminal Code Act 1995*.

Police will allege the woman's possessions were inconsistent with her declared earnings and have been obtained via unlawful means.

Civil proceedings under the *Proceeds of Crime Act 2002* have been commenced in relation to the following suspected offences:

- Use a false document contrary to section 137 of the Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth) (AML/CTF Act);
- Providing false information to a reporting entity contrary to section 136 of the *AML/CTF Act 2006* (Cth);
- Receiving a designated service using a false customer name contrary to section 140 of the *AML/CTF Act 2006* (Cth);
- Obtain a financial advantage by deception contrary to section 82(1) of the *Crimes Act 1958* (Vic); and

No criminal charges relating to the assets have been laid on any persons at this time.

The multi-agency CACT has primary responsibility for the investigation and litigation of Commonwealth proceeds of crime matters. CACT is led by the AFP and includes representatives from the AFP, the Australian Criminal Intelligence Commission (ACIC) and the Australian Taxation Office (ATO). The focus of CACT is to prevent the reinvestment of criminal profits and remove the benefits derived from crime by tracing, restraining and confiscating such proceeds of crime. The Taskforce also includes expert Litigators and Forensic Accountants. Commonwealth partner agency Australian Transaction Reports and Analysis Centre (AUSTRAC) information was also used in this investigation.

**Media enquiries:**

AFP National Media: (02) 6131 6333

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ANSWERS TO QUESTIONS ON NOTICE

**The Treasury**

12 December 2019

**Department/Agency:** The Treasury

**Topic:** Cash payment limit

**Question:**

**Senator Patrick:** Because I'm across a number of different portfolios and I don't have the time to read that quite extensive report, I wonder if you could pull out, on notice, the relevant data, even if it's only loosely quantifiable – perhaps from those reports and any other information that you have – that says: this is why we should support this legislation in the face of a significant number of constituents who are who are against it.

**Answer:**

The Black Economy Taskforce Final Report (the Final Report) found the black economy is a significant, complex and growing economic and social problem. Honest small businesses reported to the Taskforce “they were sick of being undercut by competitors who have an unfair advantage, whether it be paying cash wages to employees, using illegal migrant workers or engaging in sham contracting”<sup>1</sup>. The black economy facilitates vulnerable workers being exploited, criminal groups to grow and social capital and trust to be undermined.

The Taskforce estimated the black economy could be as large as 3 per cent of GDP or approximately \$50 billion. This reflects the significant size, seriousness and complexity of black economy activities. A consistent theme throughout the Taskforce's consultations was that black economy participation is fuelled by a combination of commercial opportunity and poor transparency.

The Final Report sets out a clear strategy for dealing with the black economy and found that its drivers, rather than the symptoms, needed to be addressed – cash being one of the drivers.

Cash in itself is not a method of laundering the proceeds of crime, nor is it an illegal commodity; rather it is an entirely legal facilitator that enables criminals to inject illegal proceeds into the legal economy with far fewer risks of detection than other systems.

The Final Report outlined that the focus must be on incentives, deterrents and measures which will limit opportunities for participation in the black economy across the board. Moving people and businesses out of cash to establish electronic records of transactions, thereby making economic activity more visible, auditable and efficient is an important cornerstone of the proposed multi-pronged approach.

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<sup>1</sup> See Black Economy Taskforce Final Report – October 2017, page 3. Available at [https://treasury.gov.au/sites/default/files/2019-03/Black-Economy-Taskforce\\_Final-Report.pdf](https://treasury.gov.au/sites/default/files/2019-03/Black-Economy-Taskforce_Final-Report.pdf).

## **International and domestic experience**

A report provided to the European Commission in 2018 found both criminals and terrorists may seek to exploit differences between national measures and move their illegal activities and/or illicit cash to jurisdictions where there is no, or a less stringent cash payment restriction.<sup>2</sup>

The German Financial Intelligence Unit<sup>3</sup> revealed that cash derived from illegal transactions is brought to Germany (where there is no cash payment restriction) from other countries that have cash limits. This was due to a lack of harmonized cash restrictions across the EU, whereby illicit cash from countries with cash restrictions are regularly transported by cash couriers to countries without a cash restriction and used for cash purchases of high-value goods.

European Union countries that have cash payment restrictions have introduced them to tackle the prevalence of money laundering through the purchase of high value items in cash. Typically, the reason for using high value goods (such as watches, art works, luxury vehicles, precious metals and jewels) or real estate is that they offer criminals an easy way to integrate funds into the legal economy, converting criminal cash into another class of asset which retains its value and may even hold opportunities for capital growth.

EUROPOL found that it is likely that tax evasion is connected to cash transactions that move cash from one country to another as a result of cash restrictions. Overall, EUROPOL finds that while not all use of cash is criminal, almost all criminals use cash at some stage during the money laundering process. Another key finding is that many businesses are not inclined to accept high denomination notes including purely due to practical issues such as associated security and fraud risks.

EUROPOL highlights the purchase of high value goods and real estate property as a method favoured by criminals to dispose of cash generated by their activities. It has also been noted as a method used in non-cash generating criminality such as tax crimes.

The Australian Crime and Intelligence Commission (ACIC) says that it is generally accepted that carrying large sums of cash in excess of certain thresholds is indicative of criminality, money laundering or terrorist financing<sup>4</sup>. This is underpinned by ACIC investigations that show that significant amounts of cash and high value goods are ordinarily found as part of their investigations.

## **Financial Action Task Force (FATF)**

Various reports produced by the FATF over the last few years have made reference to the fact that the real estate sector may be one of the many vehicles used by criminal organisations to launder their illicitly obtained money.

The FATF found that large amounts of cash are suspected to be laundered out of China into the Australian real estate market. Once implemented, the cash payment limit will reduce the ability for individuals to launder illicit money through the Australian real estate sector as they will no longer be able to purchase property or pay for any part of property in large sums of cash.

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<sup>2</sup> See ECORYS (2018). Report available at: [https://ec.europa.eu/info/sites/info/files/economy-finance/final\\_report\\_study\\_on\\_an\\_eu\\_initiative\\_ecorys\\_180206.pdf](https://ec.europa.eu/info/sites/info/files/economy-finance/final_report_study_on_an_eu_initiative_ecorys_180206.pdf).

<sup>3</sup> See Financial Intelligence Unit (2016), Jahresbericht 2015, at: [https://www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/FIU/Jahresberichte/fiuJahresbericht2015.pdf?\\_\\_blob=publicationFile&v=5](https://www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/FIU/Jahresberichte/fiuJahresbericht2015.pdf?__blob=publicationFile&v=5).

<sup>4</sup> See <https://aic.gov.au/publications/tandi/tandi402>.