



# AUSTRALIAN CRIME COMMISSION

*Submission*

**Parliamentary Joint Committee on Law Enforcement  
Inquiry into Financial Related Crime**

May 2014



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## Executive Summary

1. Serious financial crimes have a pervasive and lasting impact on the Australian community and its economy. At the individual level, financial crimes can deplete the life savings of Australians and cause significant financial hardship and personal distress. At a societal level, financial crimes impact on community wellbeing. At a national level, serious financial crimes have the potential to threaten the integrity of Australia's financial systems and have the capacity to inflict serious harm on the Australian economy, businesses and institutions.
2. The Australian Crime Commission (ACC), as Australia's national criminal intelligence agency with specialist investigatory capabilities, harnesses a range of specialist information and intelligence collection, fusion, and analysis capabilities, and its established network of national and international partnerships, to discover, understand, and provide input into the response to serious financial crime impacting on Australia.
3. Serious financial crime cannot be targeted by a single agency in isolation. The fight against serious financial crime is dependant upon comprehensive partnerships between the law enforcement and regulatory community, industry, academia, the broader public and the international community. In the Australian context partnerships are often enhanced through the establishment of key taskforces aimed at responding to thematic or individual targeted serious financial crime threats. In recent years, numerous task forces have focused on addressing aspects of financial crime including a key emphasis on the financial crime activities of organised crime groups operating in Australia, such as Task Force Eligo, the Criminal Asset Confiscation Taskforce, Project Wickenby, and Task Force Galilee.
4. The ACC's efforts to combat serious financial crime are evolving in response to new and emerging threats. The ACC is currently finalising a Financial Capability Strategy, which will provide a framework for the development and enhancement of investigative and analytical capabilities, systems, and practices to ensure that the ACC is positioning itself to meet the evolving challenges posed by serious financial crime in Australia. The Strategy will also seek to enhance partnerships and collaboration opportunities for the ACC, both with partner agencies and key industry stakeholders, including development of a specific financial threat assessment capability.
5. Law enforcement's ability to effectively investigate financial crime is subject to a number of challenges, including legislative and administrative vulnerabilities and limitations. The ACC has sought to highlight some key challenges in this submission to assist the Committee's deliberations. While this submission does not align directly with the Committee's terms of reference, the ACC has endeavoured to address each term of reference, either directly or indirectly, within the submission and the accompanying summary of intelligence.

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**ACC's Submission**

6. The ACC's submission should be read in conjunction with the *Summary of Intelligence: Financial Crime Impacting Australia*. Together, the submission and intelligence summary seek to address all of the Committee's 11 terms of reference (TORs), except in relation to the large number of high denomination banknotes in circulation, as this is not a matter on which the ACC can provide fulsome or robust advice. In essence the ACC believes that:
  - a. the intelligence summary provides the committee with useful information relating to TORs 1–5, and
  - b. the ACC's submission addresses:
    - i. the effectiveness of Commonwealth enforcement strategies (TOR 6) and the interaction of Commonwealth, state and territory law enforcement activities (TOR 8) under the Domestic Partnerships section
    - ii. the role of the ACC in combating financial crime (TOR 7)
    - iii. the effectiveness of relevant international arrangements (TOR 9) under the International Cooperation section, and
    - iv. the need for legislative or administrative reform (TOR 10) under the Challenges to Law Enforcement Section.
7. For the purposes of the submission and the summary of intelligence, the ACC has defined financial related crime to include money laundering, investment and financial market fraud, superannuation fraud, revenue and taxation fraud, card fraud, and theft. Key enablers of financial crime include cyber and technology crime, identity crime, exploitation of business structures, and public sector corruption. The ACC's summary of intelligence and submission do not address these enabling activities, as they are not strictly financial crimes and would significantly broaden the scope of the Committee's inquiry.

**Key Messages**

8. The ACC has sought to provide the Committee with information on a wide range of issues and activities relating to the identification of, and response to, financial crime. In summary, the ACC's key messages are:
  - a. Serious financial crimes have a pervasive and lasting impact on the Australian community and its economy.
  - b. The ACC has a long history of investigating financial related crime in Australia, and harnesses its range of specialist capabilities and national law

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enforcement partnerships to discover, understand and respond to the threat posed by serious financial crime.

- c. In order to effectively combat serious financial crime, it is essential to enable Commonwealth, state and territory law enforcement and regulatory agencies to readily share and access relevant criminal intelligence holdings. This is reliant on:
  - i. ongoing commitments to collaborate across jurisdictions, which is often facilitated through the establishment of task forces and joint investigations, and
  - ii. the legislative authority to share information and intelligence holdings.
- d. It is no longer possible for Australia's law enforcement community to effectively address serious financial crime in isolation.
  - i. On a national level, it is essential law enforcement engages closely with industry and the business sector (particularly the finance sector) in order to develop effective prevention strategies to proactively limit the impact of serious financial crime on Australia.
  - ii. On an international scale, the increasingly connected nature of global financial markets will require well developed partnerships and information sharing arrangements between Australian authorities and their international counterparts. Investigations into the highest threat crime targets will increasingly require a global law enforcement response.
- e. The Alternate Remittance Sector is particularly susceptible to money laundering due to its informal and largely transnational nature, and poses a significant challenge to Australia's efforts to combat money laundering.
- f. The information sharing provisions of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* and *Telecommunications (Interception and Access) Act 1979* are prohibitive and not conducive to effective information sharing arrangements and cross-agency collaboration.

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## Overview of the ACC's Summary of Intelligence

9. Internationally, there are three key factors that frame the contemporary serious and organised crime environment: the infinitely complex, diverse and pervasive nature of serious and organised crime which is fundamentally enabled by globalisation, technology and cyber capabilities; the challenges of an appropriate and effective response in an ever changing environment; and the local and regional effects of the global economic crisis and ongoing challenges in the global economic environment.
10. Serious and organised crime groups have proven innovative and adaptive in capitalising on the opportunities afforded by the economic crisis, and on the limited resources available to combat their criminal activities, to grow their business and power, and to exploit new or emerging markets for significant financial gain.
11. While illicit commodities markets continue to be a feature of the serious and organised criminal environment, there is an international trend toward a greater involvement of serious and organised criminals in financial crime.
12. Money laundering is an intrinsic enabler of serious and organised crime and is necessary for perpetrators to realise the benefits of their criminal activities. Money laundering is a pervasive, corrupting process that stretches across areas as diverse as mainstream banking, international funds transfers and foreign exchange services, gambling, shares and stocks, artwork, jewellery, and real estate. Money laundering is carried out at all levels of sophistication by most, if not all, organised crime groups, increasingly with the assistance of professional advisers, and using an evolving variety of techniques. The ACC estimates money laundering costs the Australian economy approximately \$10 billion per annum.
13. Indeed, the financial system more generally (including the formal banking and alternate remittance sectors) is integral and essential to the commission of a vast array of criminal activities. Often a range of criminal activities are discovered at the heart of investigations into money laundering, ranging from people smuggling to importation of illicit drugs and firearms to environmental crime. Financial crimes are therefore central and essential to the business of organised crime.
14. At the individual level, financial crimes can deplete the life savings of an individual and cause significant financial hardship and personal distress. At a societal level, financial crimes impact on community wellbeing. At a national level, serious financial crimes have the potential to threaten the integrity of Australia's financial systems and have the capacity to inflict serious harm on the Australian economy, businesses and institutions.

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## **Combating Financial Crime in Australia**

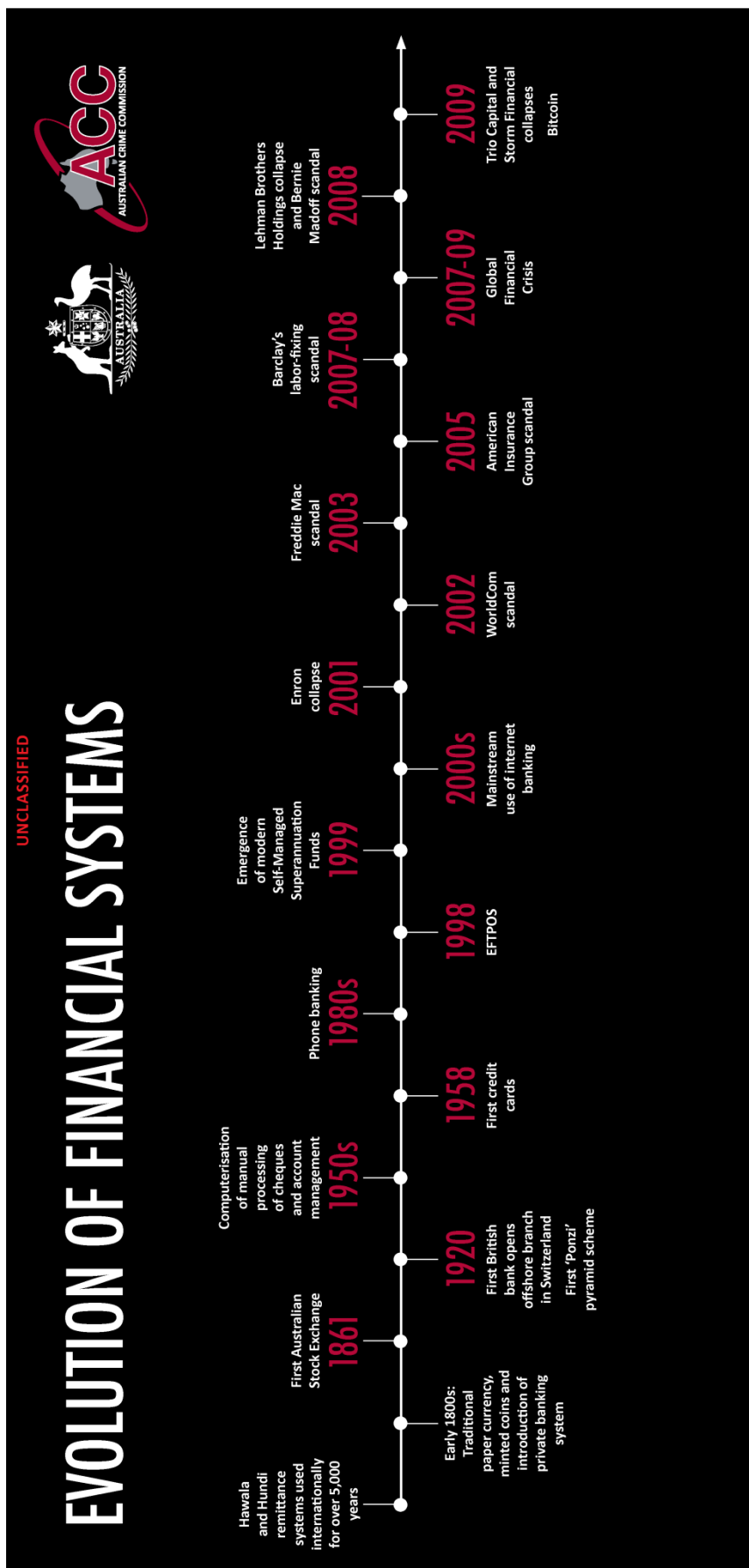
15. Global financial systems have undergone a gradual evolution over a number of millennia, from the barter of goods and services, to the trade in precious metals and formal currencies, to the rise of informal and formal banking sectors, the digitisation and globalisation of wealth transfers, and, most recently, the trade in unbacked virtual currencies. With each evolution has come a corresponding evolution in criminal exploitation. Theft has gone digital; scams have gone global. Financial crime in the twenty-first century is no longer opportunistic and localised; it is a business model for unprecedented profits. The collapse of a number of fraudulent investment schemes in recent decades highlights the extent and severity of financial crimes in the modern age.
16. Law enforcement and regulatory agencies have also evolved with the shifting environment. The digitisation of financial transactions allows law enforcement to trace illicit money movements and identify unknown criminals and their activities. In response, organised criminals are now using more complex national and international business structures and financial instruments to transfer and conceal illicit wealth. This poses a significant challenge to law enforcement domestically and globally.
17. To combat this, law enforcement must now invest in developing appropriate capabilities to discover and understand financial crime activities. This requires investment in specialised financial expertise, minimum standards of financial knowledge for investigators and analysts, and the need build stronger links with the private sector, particularly the financial sector, and across Government. The ACC recognises this issue and has been working to advance its financial intelligence capability to better discover, understand and respond to financial aspects of serious organised crime.

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Graph 1: Timeline of major evolutions in global financial systems impacting Australia and recent international scandals



## CONTEMPORARY FINANCIAL CRIME

- Australia's \$1.62 trillion pool of compulsory superannuation savings makes an attractive target for organised crime.
- Ponzi schemes and boiler-room frauds are some of the simplest and most effective fraudulent investment scams. They promise investors a very high return on investment and claim to be low risk, although there is no real investment.
- Australia is an attractive market for domestic and overseas-based organised crime involved in investment fraud activities, because of its comparatively stable economy.
- Financial market fraud can undermine the integrity and reputation of financial markets and discourage international investment in Australian securities, which in turn adversely affect the Australian economy.
- Organised crime groups are increasingly using professionals to identify and establish money laundering structures and methods, many of which capitalise on established global financial networks to move money rapidly around the world.
- Licit and illicit financial activity is becoming increasingly intermingled and difficult to differentiate.
- Organised crime groups formerly involved in other illicit markets, such as drugs, are attracted to investment fraud because of the high profits and the perceived low risk of detection and prosecution.

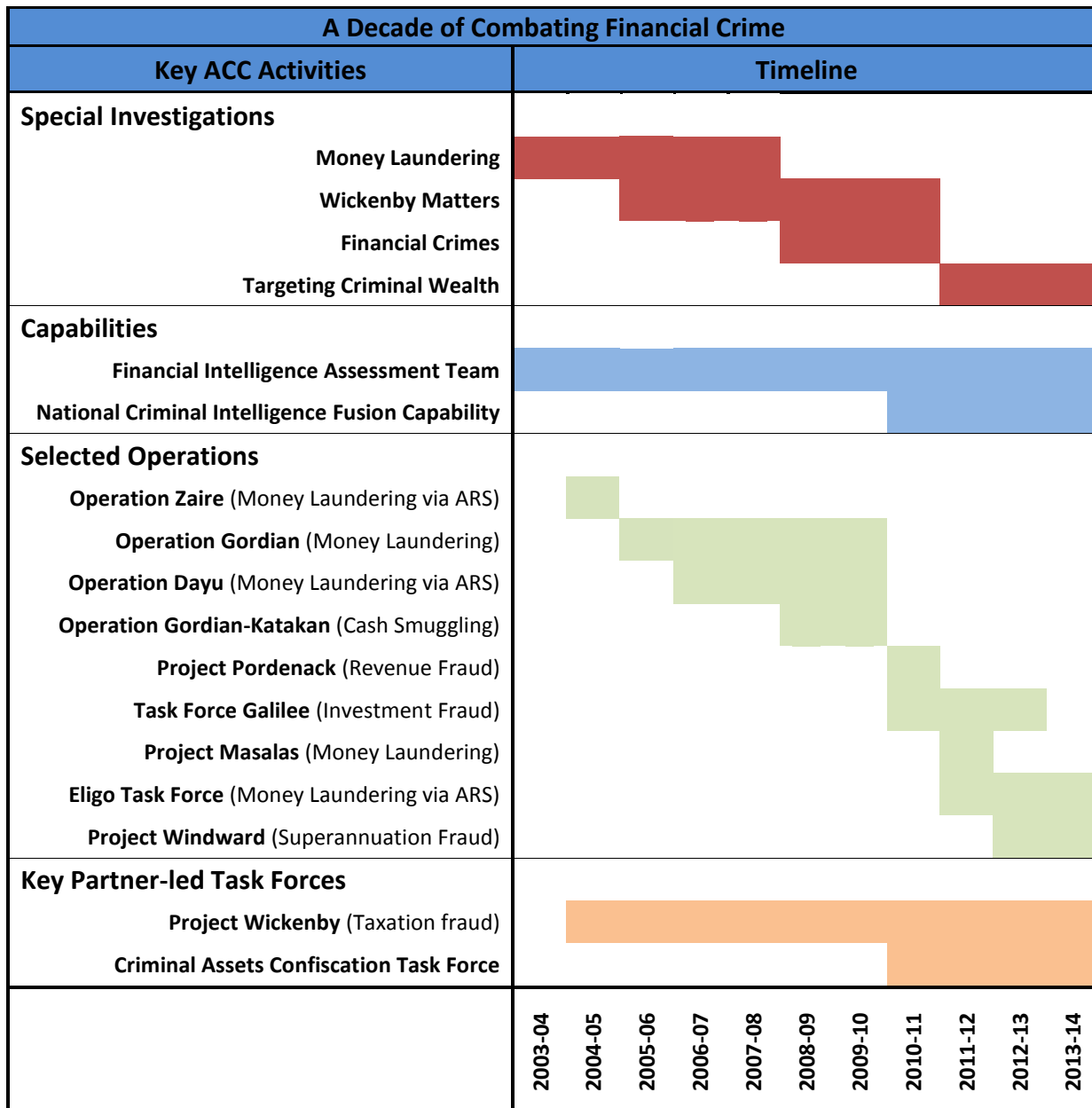
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## Role of the Australian Crime Commission in Combating Financial Crime

18. The ACC (and its predecessor the National Crime Authority) has a strong history of investigating financial crime in Australia. In the ACC's first year of operation (in May 2003) the Board of the ACC authorised a Money Laundering and Tax Fraud Special Investigation. This commenced a decade of concentrated and focused work on aspects of financial crime with a particular emphasis on money laundering.



19. To achieve this, over the past ten years, the ACC has harnessed, and continues to harness, a range of specialist information and intelligence, fusion, and analysis capabilities, and its established network of law enforcement, national security, and regulatory partners to discover, understand, and respond to serious financial crime impacting on Australia. Increasingly, the ACC is engaging with the private sector, industry, academia, and the public to share information and intelligence, strengthen the

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national awareness of serious financial crime, and harden Australia and its citizens against the threat from serious and organised crime.

20. As the nation's criminal intelligence agency, the ACC operates across all Australian jurisdictions and has the legislated function to hold and maintain a national repository of criminal intelligence. As a result, the ACC is uniquely placed to unite the efforts of Australia's law enforcement and regulatory agencies to combat serious and organised crime. A recent example is the Eligo National Task Force (Eligo), which was established by the Board of the ACC in December 2012. Eligo has involved the ACC, the Australian Transaction Reports and Analysis Centre (AUSTRAC), and the Australian Federal Police (AFP) working together to reduce money laundering risks inherent in the use of the alternate remittance sector<sup>1</sup> (ARS) and other informal value transfer systems.<sup>2</sup> Eligo is harnessing criminal intelligence to disrupt money laundering, develop long-term prevention strategies, drive greater professionalism across the ARS, and make it harder for organised crime to exploit alternate money remitters and informal value transfer systems.
21. The ACC, in collaboration with the Australian Taxation Office (ATO), is currently preparing a serious financial crime risk assessment to inform an intelligence platform to prioritise national responses to serious financial crime.

***Coercive and Covert Capabilities***

22. One of the ACC's most unique information collection capabilities is its suite of coercive and covert capabilities, which are effective in obtaining information where traditional law enforcement methods are not successful. Coercive powers for instance can only be used when the Board of the ACC approves their use, and allow the ACC to:
- a. summons any witness to appear before an Examiner

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<sup>1</sup> The alternate remittance sector (ARS), also known as money transfer businesses, enable the transfer of money and property within and between countries, often outside of the formal financial and banking system. In Australia, the corporate remittance sector is comprised of global money transfer businesses, ranging from remittance network providers, such as Western Union, MoneyGram and their affiliates, to independent remitters.

<sup>2</sup> Informal Value Transfer Systems (IVTS) is a term used to describe a number of traditional and historic methodologies used by members of global diaspora communities to remit funds outside of the formal financial and banking system. While businesses that utilise IVTS are technically encompassed within the ARS, they are often smaller and less formal than their large-scale commercial counterparts, such as Western Union.

IVTS networks represent some of the oldest and most established financial systems in the world and encapsulate a number of value transfer mechanisms that predate the modern Western notion of formal banking. Some IVTS mechanisms used today have existed as far back as 5800 BC, and include Hawala (Middle East, Afghanistan, and Pakistan), Hundi (India), Fei ch'ien (China), and Phoe kuan (Thailand). These IVTS are still in operation across the globe and are often the preferred means of transferring value in many cultures.

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- b. compel that witness to give evidence on themselves and others under investigation, and/or
- c. obtain documents or other items.

23. Currently, the ACC is authorised to utilise its coercive capabilities to investigate financial crime under the Targeting Criminal Wealth No.2 Special Investigation (TCW Determination). The TCW Determination is focussed on financially motivated crime, including money laundering, serious and organised superannuation and investment fraud, sophisticated tax evasion, and the dealing in the proceeds or instruments of crime. Through this special investigation the ACC works with its partners on intelligence-led specialist investigations to:

- a. deliver financial intelligence that identifies high value targets and provides new investigative, proceeds of crime and intelligence opportunities for law enforcement and regulatory partners
- b. build on the collective national knowledge of the nature, methods and mechanisms of money laundering, nationally significant organised tax fraud and other financially motivated criminal activities
- c. contribute to making Australia unattractive for the promotion and use of abusive financial arrangements that exploit vulnerabilities associated with tax and secrecy havens
- d. reduce the impact of superannuation and investment fraud on the Australian community, and
- e. produce nationally significant strategic intelligence that contributes towards whole of government policies and law enforcement decision making.

24. Over the previous financial year (2012–13) the TCW Determination conducted 47 coercive examinations, including referrals from partner agencies, and issued 130 notices to produce documents. These examinations and notices enabled the ACC to generate intelligence that assisted investigations into criminal activity and informed law enforcement, national security, regulatory and policy responses around the country. Over this time the ACC also produced 366 tactical and analytical products as a result of work undertaken under the TCW Determination, and disseminated these products on 847 occasions.

25. The ACC's coercive powers are part of a broader suite of intelligence collection capabilities employed by the ACC to investigate criminality, including serious financial crime. These additional capabilities include telecommunication interception, technical and physical surveillance, and covert human sources. The ACC harnesses these various covert capabilities to target the highest threat criminal targets operating in Australia.

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### *National Criminal Intelligence*

26. The ACC plays a crucial role in fusing disparate national data holdings to discover potential criminality and criminal individuals that would otherwise not be identified. This is achieved via the ACC's National Criminal Intelligence Fusion Capability (Fusion Capability).
27. The Fusion Capability is the culmination of more than a decade of innovation in criminal intelligence collection and analysis that originated with the establishment of the ACC-led Financial Intelligence Assessment Team (FIAT) in May 2003. The FIAT now operates within the Fusion Capability and aims to gain useful insights and identify opportunities to disrupt serious and organised crime; identify vulnerabilities; uncover criminal targets; profile offenders and networks; and produce intelligence for partner agency action.
28. The Fusion Capability is supported by intelligence analysts, financial investigators, specialist data miners and experts in database management and geospatial analysts. Twenty agencies are active partners in Fusion, either by providing seconded staff and/or data, or participating through regional Joint Management Group. The Fusion Capability manages 1,193 data sets collected from 203 unique sources. These data sets are regularly compared against national criminal intelligence holdings to identify additional insights regarding known criminal targets.
29. A broad range of organised criminal activities and criminal groups are targeted by Fusion, including those involved in cybercrime, illicit firearms, people smuggling, money laundering and illicit drug importation. As at 1 January 2014, the Fusion Capability had developed 4,078 intelligence products and identified more than 190 organised criminal targets previously unknown to national law enforcement, since commencement in 2010. The ACC builds upon Fusion intelligence analysis and leads generation through the production of operational and strategic intelligence assessments for partner agencies, industry, and the broader community.

### *ACC Financial Capability Strategy*

30. Financial related crime and the proceeds of crime have been a strategic focus of the ACC from inception. Since this time, the Board of the ACC has maintained at least one special investigation that has focused on financial crimes. The ACC's five year strategic plan for the period 2013–18 has further embedded financial crime, along with cybercrime and international partnership opportunities, into the ACC's overarching strategic framework and direction.
31. The ACC is currently finalising its capability strategy to enhance its ability to discover, understand, and respond to serious financial crime (the Financial Capability Strategy). The Financial Capability Strategy will provide a framework for the development and enhancement of investigative and analytical staff, systems, and practices to ensure that the ACC is prepared to meet the evolving challenges posed by serious financial crime in

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Australia. The Strategy will also seek to enhance partnerships and collaboration opportunities for the ACC, both with partner agencies and key industry stakeholders, including the development of a specific financial threat assessment capability.

32. Serious financial crime cannot be targeted in isolation. Financial crimes are often enabled by technology and global communications platforms (principally the Internet), are transnational in nature, and are interwoven into other criminal activities committed in Australia and overseas. Therefore, in order to effectively combat serious financial crime in the future, it will be necessary for the ACC to simultaneously develop its capabilities to adapt to the changing cyber and globalised environment. As such, the ACC's international and cybercrime capability strategies will also play a crucial role in the ACC's ongoing ability to combat serious financial crime.
33. The successful implementation of the Financial Capability Strategy, in conjunction with the overall strategic framework for the ACC over the next five years, will ensure that the identification, disruption, and prevention of serious financial crime will remain a priority for the ACC for the foreseeable future.

**Domestic Partnerships**

34. The fight against serious financial crime is dependant upon the partnerships between Commonwealth, state and territory law enforcement and regulatory agencies, as well as industry, academia, and the broader public. As Australia's national criminal intelligence agency, the ACC plays an important role as a central coordination point for Australia's multi-dimensional response to financial crime. The ACC achieves this through the:
- a. establishment of multi-agency task forces
  - b. development of key strategic intelligence products, such as the unclassified *Organised Crime in Australia* report, and the classified *Organised Crime Threat Assessment* and the *National Criminal Target Report*, and
  - c. maintenance of a secure intelligence sharing platform and database (the Australian Law Enforcement Intelligence Network (ALEIN) and the Australian Criminal Intelligence Database (ACID)).
35. The Australian law enforcement community is increasingly committed to sharing information and intelligence in order to combat serious and organised crime, including serious financial crime. The ACC and its Board have led the formalisation of this collaborative approach through the development of the Australian Criminal Intelligence Forum (ACIF) and the Australian Criminal Intelligence Model (ACIM). The ACIM aims to better align processes, standards and protocols for managing intelligence flow across the three operating domains of policing and community safety, serious organised crime and national security. Its overall vision is that intelligence should be collected once and used often to more effectively and efficiently target serious and organised crime. In total, 17 agencies have agreed to the principles, including:

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- a. the ACC
- b. the Australia New Zealand Policing Advisory Agency
- c. CrimTrac, and
- d. all 14 ACC Board member agencies.<sup>3</sup>

***Task Forces Targeting the Criminal Economy***

36. The ongoing commitment to sharing intelligence is enhanced through the establishment of key taskforces aimed at combating serious and organised crime, including serious financial crime. In recent years, a number of task forces have focused on addressing the financial crimes and money laundering activities of organised crime groups operating in Australia. Examples of key task forces are outlined below.

***Eligo national Task Force***

37. In 2011, AUSTRAC published a National Threat Assessment on Money Laundering, which assessed the overall money laundering threat from the ARS as 'High'. In June 2012, the AFP, AUSTRAC and the ACC produced a joint operational analysis of the ARS which concluded that a nationally coordinated approach to identifying and responding to high-risk remitters – encompassing a wide range of operational, regulatory and intelligence responses – would provide a cost effective disruption model, inform policy making and send a clear signal to the industry and its users.

38. In December 2012, the Board of the ACC established Eligo to take a coordinated and collective approach against high-risk remitters and IVTS operating in Australia to reduce their adverse impact on Australia and its national economic wellbeing. The Task Force operates under the ACC's TCW Determination, which allowed the ACC to utilise the full breadth of its coercive intelligence collection capabilities. The AFP and AUSTRAC were principal partner agencies involved in Eligo; however, Eligo engaged with numerous domestic and international partners, including:

- a. all 14 ACC Board member agencies
- b. the New South Wales (NSW) Crime Commission
- c. the US Drug Enforcement Administration
- d. the US Federal Bureau of Investigation
- e. the UK Serious Organised Crime Agency (now the UK National Crime Agency)
- f. the Royal Canadian Mounted Police, and

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<sup>3</sup> The Board of the ACC consists of the Commissioners of the AFP (Chair of the Board), ATO, and Australia's eight state and territory police forces, the Secretary of AGD, Director General of ASIO, and CEOs of Customs and ASIC.



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g. New Zealand Police.

39. The aims of Eligo are to disrupt remitters and IVTS operators assessed as posing a high money laundering risk, and to implement crime prevention strategies aimed at optimising the use of the current Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML/CTF) regime. By focusing on the use of ARS and IVTS to launder the proceeds of crime, Eligo was also able to identify predicate criminal activities and unknown criminal groups by investigating and monitoring suspicious ARS and IVTS clients.

40. Since its establishment, Eligo has restrained or seized more than \$580 million worth of drugs and assets, including \$26 million in cash. Eligo has also disrupted 18 serious and organised crime groups and identified 128 criminal targets previously unknown to law enforcement. These criminal targets have been placed on the ACC's National Criminal Target List, and include targets operating in more than 20 countries. Specifically, Eligo has:

- a. seized more than \$26 million cash, including a record \$5.7 million single cash seizure in NSW on 18 January 2014
- b. seized illicit drugs with a combined estimated street value of more than \$530 million
- c. restrained more than \$30 million worth of assets
- d. disrupted 18 serious and organised criminal syndicates
- e. identified more than 128 targets previously unknown to law enforcement
- f. arrested 105 people on 190 charges
- g. closed down three commercial amphetamine laboratories, including one of the largest and most sophisticated clandestine laboratory ever discovered by Victoria Police
- h. closed down one of the largest urban hydroponic cannabis grow houses ever discovered by the NSW Police Force, and
- i. seized \$20 million worth of cash, drugs, and assets by Western Australia Police.

*Criminal Asset Confiscation Taskforce*

41. The Criminal Assets Confiscation Taskforce (CACT) is a Commonwealth initiative dedicated to taking the profit out of crime by targeting criminals proceeds of crime. It was established in March 2011 and is led by the AFP and also includes experts from the ACC and ATO.

42. The ACC provides intelligence collection, analysis and legal support, and helps to generate and prioritise crime targets for proceeds of crime action through the ACC's

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Fusion Capability. The ACC works closely with the CACT to target the criminal economy, and many ACC-led investigations result in referrals to the CACT for proceeds of crime action.

*Project Wickenby*

43. Project Wickenby is an ATO-led cross-agency task force designed to strengthen national law enforcement and ATO compliance activities to combat tax fraud. It was established in 2004 to protect the integrity of Australia's financial and regulatory systems by preventing people from promoting or participating in the abusive use of secrecy havens.

44. Project Wickenby aims to:

- a. provide maximum impact against, and disruption to, the promoters of abusive tax and secrecy haven arrangements, who represent the greatest risk and threat to Australia
- b. build on the collective national expertise and knowledge of the tax and secrecy haven environment including the vulnerabilities that it creates and how these are exploited, and
- c. contribute to making Australia unattractive for the promotion and use of abusive financial arrangements exploiting vulnerabilities associated with tax and secrecy havens.

45. Initially a joint investigation with the ATO and ACC, Project Wickenby has grown to involve a broad range of Australian and international partners to gather intelligence, investigate and prosecute abusive secrecy haven arrangements. Project Wickenby now includes the AFP, Australian Securities Investment Commission (ASIC), the Attorney-General's Department, AUSTRAC, Australian Government Solicitor, and Commonwealth Director of Public Prosecutions and currently operates under the TCW Determination with appropriate access to ACC coercive powers.

46. The ACC's main contribution to the objectives of Project Wickenby is to assist partner agencies by collecting and analysing intelligence to:

- a. effectively disrupt and deter tax fraud of national significance
- b. advance the criminal, administrative or proceeds of crime aspects of partner agency investigations, and
- c. provide recommendations for enhancing the current legal and regulatory environment.

47. As at 31 October 2013, Project Wickenby has resulted in over \$1.852 billion in tax liabilities being raised and the recouping of approximately \$786.63 million to the Australian economy.

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*Task Force Galilee*

48. The ACC-led Task Force Galilee (Galilee) was established in April 2011 to respond to the threat of serious and organised investment fraud (SOIF). This type of fraud is often based offshore and is colloquially known as 'boiler-room' fraud due to the high pressure sales tactics used to sell investments that are either non-existent or fraudulently misrepresented.
49. Galilee was comprised of 20 agencies from across the Commonwealth, states and territories, working together with industry groups, including financial institutions. Galilee was co-ordinated by the ACC and operated in partnership with:
- a. all ACC Board member agencies
  - b. AUSTRAC
  - c. Australian Communications and Media Authority (ACMA)
  - d. Department of Immigration and Citizenship (DIAC)
  - e. Department of Human Services (DHS), and
  - f. Department of Broadband, Communications and the Digital Economy (DBCDE).
50. Through Galilee, the ACC and its partners sought to disrupt SOIF operations and the organised crime groups behind them, and to educate the Australian community about this type of investment fraud and the threat it represents. The primary objectives of the Galilee were to:
- a. develop and implement immediate crime prevention and disruption strategies
  - b. identify opportunities to enhance community resilience to, and create a hostile environment for the operation of SOIFs, and
  - c. develop a model for enhanced co-ordination between law enforcement, regulatory agencies and private industry for ongoing disruption and prevention of SOIF.
51. While it is difficult to assess prevention outcomes, the ACC believes the disruption efforts of Task Force Galilee prevented the target syndicate from defrauding approximately \$98 million from Australian investors. This is based on intelligence that suggested the syndicate's intention was to sell over \$100 million in fraudulent investments to Australian consumers.
52. In July 2012, the ACC, with the Australian Institute of Criminology, released a public report on SOIF in Australia. The report is available for download from the ACC's website ([www.crimecommission.gov.au](http://www.crimecommission.gov.au)).

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*Industry and Broader Community*

53. In order to successfully target serious and organised crime in Australia, law enforcement agencies, including the ACC, are enhancing cooperation and information sharing practices between government and industry bodies. The finance sector, in particular, is a key resource for law enforcement. In recent years, the ACC has engaged closely with the finance sector to share information relevant to large-scale criminal investigations, and has received a considerable level of cooperation from a majority of financial institutions. The ACC is seeking to expand this relationship in the future and will be reliant on efficient and effective information sharing practices to support this initiative.
54. To facilitate the increased cooperation, the Australian Crime Commission Act 2002 (ACC Act) was amended in 2012 to allow the ACC to disclose criminal intelligence to a wider range of Ministers and Members of Parliament, government bodies and, for the first time, private sector entities. The ACC now has the legislative authority to disclose criminal intelligence with prescribed<sup>4</sup> Australian bodies corporate and classes of bodies corporate, including from areas such as the financial services, securities and investments, superannuation, and accounting and taxation advice sectors. The ability to disclose appropriate information to these bodies will enhance the effectiveness of the ACC's work by improving prevention and detection of serious and organised crime activities.
55. The private sector also plays an important role in the development and implementation of public awareness and education campaigns. Raising community awareness of the threat posed by serious and organised crime is a key prevention strategy, and one of the five priorities of Australia's National Organised Crime Response Plan. The ACC continues to seek opportunities to engage with the community in an effort to harden Australia against serious and organised crime. As Australia's national criminal intelligence agency, the ACC has a responsibility to inform the community about the risks arising from serious and organised crime.

**Case Study 1: Task Force Galilee and Australia Post Issued National Alert**

Task Force Galilee drew on the support of industry stakeholders, who played an integral role in raising awareness and communicating the threat of investment fraud to the Australian community. The task force engaged closely with a range of industry sectors, including banking, superannuation, financial advisory, internet service providers and community organisations, to develop strategies to prevent and disrupt SOIF.

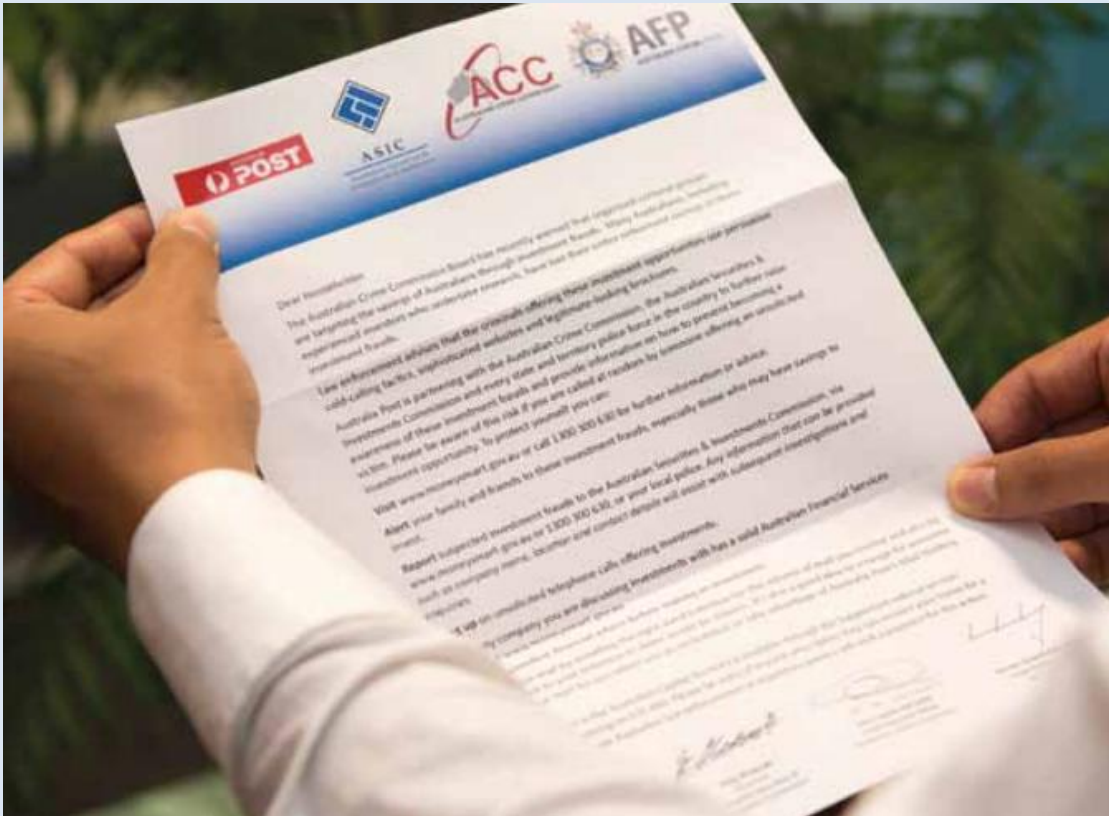
In addition to enforcement and regulatory initiatives and investigations, the Task Force

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<sup>4</sup> As at 5 May 14 there are some 98 bodies corporate and 38 classes of bodies corporate prescribed in the *Australian Crime Commission Regulations 2002* for the purposes of s59AB(1) ACC Act.

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engaged in numerous public awareness strategies to alert the public to the threat posed by SOIF. This included releasing media statements and presenting to high-risk community groups across the country. It also involved a nation-wide correspondence campaign to every household in Australia. The letters, which were a joint initiative of the ACC, ASIC, Australia Post, and each individual state or territory police force, warned residents of the threat posed by fraudulent investment schemes, advised them to be cautious of unsolicited calls regarding investment opportunities, and provided information on where to seek further advice.



56. Recognising the importance of educating the public of the threat posed by serious and organised crime, the ACC has expanded its public information sharing programme by publishing unclassified editions of the ACC's classified Organised Crime Threat Assessment, titled Organised Crime in Australia. Additionally, the ACC has launched its Crime Profile Series, which consists of a suite of unclassified fact sheets on a wide variety of serious and organised crime markets impacting on Australia. Combined with the ACC's annual Illicit Drug Data Report, these resources arm the public and industry with valuable information to protect themselves against organised crime threats affecting the Australian community.

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## International Cooperation

### *Foreign Law Enforcement*

57. Organised crime groups conduct serious financial crimes across global jurisdictional borders. Unlike law enforcement and regulatory agencies, financial criminals are not impeded by state and country borders. With the ongoing expansion of global financial markets, Australia's law enforcement community will become increasingly reliant on international partnerships to successfully investigate and prosecute serious financial crimes impacting on Australia.

58. Australia's response to serious financial crime, and other organised crime activities, has historically involved the following three key international partnership arrangements:

- a. The AFP's International Liaison Network, which facilitates the exchange of information between Australian and foreign law enforcement agencies and conducts law enforcement activities remotely on behalf of Australian authorities. The ACC engages closely with the AFP on all investigations into criminal activities being conducted offshore.
- b. The international Egmont Group of Financial Intelligence Units, of which AUSTRAC is Australia's representative. AUSTRAC facilitates, either directly or indirectly, the sharing of financial intelligence with Egmont Group partners internationally, including in support of ACC investigations.
- c. The Strategic Alliance Group<sup>5</sup> (SAG), which facilitates collaboration and information sharing between eight key law enforcement agencies across the Five-Eyes community. The SAG also coordinates three working groups, including the Proceeds of Crime Working Group (POC Working Group), which seeks to remove accumulated wealth arising from criminal enterprise through:
  - i. integrated operations
  - ii. sharing expertise on money laundering typologies
  - iii. sharing intelligence on money laundering trends and emerging jurisdictions of risk, and
  - iv. developing recommendations for legislative and or policy enhancements.

The ACC and AFP are members of both the SAG and the POC Working Group.

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<sup>5</sup> The Strategic Alliance Group membership consists of the AFP and ACC; the United States Federal Bureau of Investigation, Drug Enforcement Agency, and Immigration and Customs Enforcement; the UK National Crime Agency; New Zealand Police; and the Royal Canadian Mounted Police.



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59. In addition to these ongoing information exchange arrangements, Australian law enforcement agencies regularly engage in collaborative partnerships with international counterparts through Mutual Assistance Requests, to investigate and disrupt transnational serious and organised crime activities.

**Case Study 2: Task Force Galilee Collaborates with Thai Police**

In July 2012, as part of Galilee's long-term disruption strategy, the ACC referred a high risk criminal syndicate to the AFP Bangkok post, for investigation by Thai authorities.

During the resulting investigation, the Thai Department of Special Investigation identified a suspect business premises in Bangkok's central business district, which was frequented by the principals of the criminal syndicate. The syndicate was thought to be based in Shanghai, China.

On 3 April 2013, the Thai Department of Special Investigation, with support from the Royal Thai Police and Thailand Immigration Bureau, executed a search warrant at the premises. During the warrant, Thai authorities located four Canadians, two British, two Americans, one Latvian and several Thai nationals, along with a range of incriminating evidence including telephones, call scripts, client lists and computer equipment. The Thailand Immigration Bureau subsequently revoked the visas of the nine foreigners and deported them.

The syndicate had used numerous professional advisers around the globe to assist its fraudulent behaviour. This included corporate consulting firms, legal firms, office services companies, escrow agents, funds transfer agents, company incorporation advisers, secretarial companies and marketing leads providers.

Indications are that the syndicate had established a complex global network of companies which mirrored structures used in complex tax fraud. The complexity of the syndicate's operations allowed it to successfully target victims in 19 countries across Oceania, South East Asia, North Asia, Europe, Scandinavia, the Middle East and Central America.

Using a sophisticated website, supported by fraudulent prospectuses and the illegal use of major company brands, the syndicate was able to sell worthless or non-existent shares in more than 20 companies. While the full scale of the syndicate's fraudulent activities is not yet known, the operation had generated over \$45 million from Australian-based victims alone.

60. These collaborative arrangements, which include the exchange of information or intelligence, and/or the conduct of operational activities on behalf of foreign partners, are a valuable mechanism for targeting international crime groups. However, these partnership arrangements are also subject to the capabilities, resources, and priorities of individual agencies. Therefore, it is increasingly important for Australian authorities to seek innovative ways to collaborate internationally.

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61. In support of the ACC's strategic plan 2013-2018 the ACC is currently developing an International Capability Strategy to enhance international partnership arrangements. The Strategy will leverage opportunities to formalise international engagement, enhance collection activities, improve understanding of the drivers of the ACC's international relationships, and develop the ACC's international profile to reflect its areas of expertise.
62. Through the exchange of intelligence and the development of a global picture of serious and organised crime groups and their activities, the global law enforcement community is able to prioritise coordinated intervention and prevention initiatives. Key international bodies, such as the United Nations Office on Drugs and Crime (UNODC), play an important role in establishing a global perspective of organised crime threats and impacts. In order to inform and assist in the development of these international intelligence assessments, the ACC engages closely with the UNODC and its regional subsidiary for East Asia and the Pacific. In April 2013, the UNODC released its Transnational Organized Crime in East Asia and the Pacific threat assessment, which was developed in close consultation with ACC analysts. The ACC will continue to engage with key international bodies, such as the UNODC, in an effort to enhance the global intelligence picture of serious and organised crime and drive global prioritisation discussions.

## **Challenges to Effective Law Enforcement**

### **Legislative Reforms, Reviews, and Limitations**

#### ***Anti-Money Laundering and Counter-Terrorism Financing Act 2006***

63. Despite the successes of the ACC and its partners in combating financial crime, the ACC faces a number of challenges arising from administrative and legislative limitations, including restrictive information sharing arrangements relating to AUSTRAC information and lawfully intercepted telecommunication information. Challenges to investigating financial crimes are often the result of the ever-changing criminal environment, which can easily evolve and adapt in response to law enforcement's efforts to prevent future criminality. While law enforcement practices can be nimble in response to the changing environment, the legislative and administrative framework within which law enforcement operates will necessarily limit its responsiveness.
64. The Commonwealth Government, led by AGD and AUSTRAC, has commenced a statutory review of the AML/CTF Act, as mandated under section 251 of the Act. The review coincides with a mutual evaluation of Australia's AML/CTF regime by the Financial Action Task Force (FATF), which will occur in mid-2014. The ACC is engaging closely with AGD and AUSTRAC to ensure the review adequately considers a number of limitations within the AML/CTF regime that the ACC has identified as posing an impediment to the ACC's investigative and intelligence sharing capabilities.

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65. The ACC has made a number of recommendations to the review committee on a range of issues inherent in Australia's current AML/CTF regime, including:

- a. broadening the information sharing provisions of the AML/CTF Act to allow the ACC to readily share intelligence derived from AUSTRAC information with its partners across law enforcement in order to support comprehensive intervention and prevention responses
- b. expanding the scope of the AML/CTF regime to cover Designated Non-Financial Businesses and Professions (DNFBPs), and
- c. streamlining information sharing provisions with international partners.

66. This review is likely to be active for much of 2014, allowing for the concurrent FATF mutual evaluation.

***Proceeds of Crime Act 2002***

67. The Proceeds of Crime Act 2002 (POC Act), and the Commonwealth's ability to investigate and seize unexplained wealth, has been a topic of discussion and inquiry since July 2011, when the former Parliamentary Joint Committee on Law Enforcement (former Committee) initiated an inquiry into Commonwealth unexplained wealth legislation and arrangements. At the time, the ACC suggested that, while the key objectives of unexplained wealth provisions should undermine the profit motives of sophisticated organised crime targets, existing unexplained wealth provisions impose an excessive burden of proof on law enforcement that inhibits its effectiveness. These concerns were mirrored by other law enforcement and regulatory agencies, and the former Committee subsequently recommended that the POC Act be amended to alleviate impediments to the effective operation of unexplained wealth provisions.

68. In response to the recommendations of the former Committee, the Government has drafted the Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014 (the Bill), which seeks to enact eight of the 18 recommendations. The Legal and Constitutional Affairs Legislation Committee is currently considering the Bill and is due to make a recommendation in May 2014.

69. The ACC strongly supports the Bill as a further step forward in the response to serious and organised criminal activity. The amendments to the Commonwealth's unexplained wealth regime will enhance law enforcement's ability to counter financial crime by strengthening its ability to collect pertinent evidence and secure payment of an unexplained wealth order, and by preventing the use of restrained assets by defendants to meet legal expenses. The Bill will enhance law enforcement's ability to target the lifeblood of serious and organised crime in Australia, thereby impacting on the criminal economy.

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*Telecommunications (Interception and Access) Act 1979*

70. Law enforcement agencies are increasingly seeking alternative methods of disrupting organised crime groups involved in serious financial crimes. The ATO is one of a number of agencies that play a crucial role in removing the profit from serious and organised crime.
71. At this time, however, the ATO's ability to target Australia's highest threat criminal targets is hindered by its inability to access and utilise key intelligence holdings relevant to the investigation and prosecution of fraudulent activities. In particular, the ATO's inability to access the full spectrum of intelligence derived from communications material lawfully obtained under the Telecommunications (Interception and Access) Act 1979 (TIA Act) limits its ability to rapidly respond to threats to the Australian economy.
72. These limitations also impact on the ACC's ability to target serious and organised crime targets. The ACC has frequently attained pertinent criminal intelligence relating to crimes against the Australian economy via lawfully intercepted communications that it is not authorised to disclose to the ATO for ATO purposes.<sup>6</sup> These instances represent lost opportunities for the law enforcement community to respond to, or prevent, crimes affecting the Australian economy.
73. Recommendation 7 of the former Committee's inquiry into Commonwealth unexplained wealth legislation and arrangements supported the ATO gaining access to lawfully intercepted communication material, in certain circumstances:
- a. Amend the Telecommunications (Interception and Access) Act 1979 so as to allow the Australian Taxation Office (ATO) to use information gained through telecommunications interception, in the course of joint investigations by taskforces prescribed under the Taxation Administration Act 1953, for the purpose of the protection of public finances.*
74. The ACC supports this proposal and recommends the Government pursue actions to expedite any relevant amendments to the TIA Act. The ACC believes that the ability to share lawfully intercepted communications material with the ATO would greatly enhance Australia's response to serious financial crime. While the TIA Act is currently subject to a review by the Legal and Constitutional Affairs References Committee, the ACC would recommend that this initiative, which has previously received the support of a parliamentary inquiry, be pursued regardless of the recommendations of other Committees.

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<sup>6</sup> Whilst s67 TIA Act permits ACC to communicate TIA Act material to ATO for an ACC permitted purpose (e.g. to facilitate an ACC operation/investigation), neither s67 or 68 permit communication of such material to the ATO for an ATO permitted purpose.

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## **Criminal Exploitation of the Alternative Remittance Sector**

75. The ACC and AUSTRAC, through Eligo, have highlighted that the ARS is susceptible to exploitation by organised crime to launder the proceeds of crime. While alternative remittance operators provide a legitimate service to the community, the remittance sector is recognised within the international anti-money laundering and counter-terrorism financing community as high-threat for money laundering and criminal exploitation.
76. Eligo investigations have demonstrated the ARS is particularly susceptible to money laundering due to its informal and largely transnational nature. Remittance businesses that have been exploited by organised crime to launder the proceeds of crime are often non-compliant with Australia's reporting requirements, as stipulated by the AML/CTF Act. While some instances of non-compliance are likely to be due to a genuine misunderstanding of Australia's reporting requirements, law enforcement is becoming increasingly aware that a number of remittance businesses are purposefully neglecting to report reportable transactions to AUSTRAC, or are submitting fraudulent reports in order to facilitate criminal activities. As a result, the ACC believes a balance between education and enforcement actions is required to prevent consciously non-compliant remittance businesses from continuing to facilitate money laundering activities.
77. Of greater concern to the ACC are those consciously non-compliant remittance businesses that voluntarily deregister themselves from the Remittance Sector Register (RSR) following the first signs of law enforcement attention, only to reregister under a different business name and owner (such as a family member or close associate). Often, these reregistered remittance businesses operate from the same shopfront, employ the same staff members, and utilise the business records and IT systems of the previous business owners. Unsurprisingly, the process of deregistering and reregistering a remittance business has little impact on the day-to-day activities of the business and does not impact on the business' clientele, innocent and criminally motivated alike.
78. ACC operations have also identified situations where remittance shopfronts have been registered by associates of previous owners immediately following the successful prosecution of the previous owners on money laundering charges. Case Study 3 demonstrates one such case.

### **Case Study 3: ACC Operation into Money Laundering Activities**

The ACC previously led a number of interrelated investigations into the money laundering activities of a south-east Asian organised crime syndicate. The money laundering methodologies employed by the syndicate included cash smuggling and the exploitation of registered remittance businesses.

During the investigation, the ACC identified Individual A and Family X, both of whom operated independent remittance businesses. While Family X was principally responsible

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for much of the money laundering activity under investigation, Individual A, a close associate of Family X, was believed to be laundering excess funds when the amounts became too large for Family X to launder without arousing suspicion.

As a result of the investigation, members of Family X were charged and convicted of money laundering offences. However, following the conviction, Individual A took over the operation of, and renamed, the remittance shopfronts operated by Family X.

Individual A resumed the money laundering activities of Family X with the assistance of Individual B.

Following a subsequent ACC investigation, Individual A was arrested and charged with money laundering offences. The remittance businesses operated by Individual A, including those formerly operated by Family X, were taken over by Individual B. These remittance businesses are still in operation, though evidence suggests that ownership of the shopfronts has changed since this time.

79. The ability for remitter shopfronts, including staff and business records, to be registered under new business names and proprietors, despite intelligence regarding previous money laundering activities, poses a significant vulnerability to Australia's efforts to prevent the laundering of the proceeds of crime.

## **Conclusion**

80. Serious financial crime is a critical and ever evolving threat to Australia, its economy and its citizens. By effectively targeting financial crimes, Australia's law enforcement community is making a significant impact on a broad spectrum of criminal activities, including financial related and traditional crimes (such as drug manufacture and trafficking). Criminal intelligence derived from investigations into financial crime has resulted in the discovery of previously unknown criminal individuals, both in Australia and offshore, and their activities. Financial intelligence is a crucial component of law enforcement's efforts to discover, understand, and respond to criminal activities that directly impact the security of Australia and its citizens. For this reason, the ACC is actively seeking to enhance its capability to discover, understand, and respond to serious financial crime through the development and implementation of its Financial Capability Strategy.
81. Law enforcement's ability to effectively investigate financial crime is subject to a number of challenges. Many of these challenges are likely to be addressed by government during its statutory review of the AML/CTF Act; however, the ACC has sought to highlight some additional key challenges in this submission. The ACC would welcome the opportunity to discuss these matters further with the Committee.

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