John Chevis' Response to Questions on Notice

Senate inquiry into the adequacy and efficacy of Australia's AML/CTF regime

---

The following questions were posed by Senator Deborah O'Neill:

> *"You note in an article of this year entitled What Did Crown Casino Teach Us About Money Laundering? that corporations in Australia never get prosecuted for money laundering and that prosecution for corporate money launderers is far less than being prosecuted for technical failures that were related to failing to report transactions. What further reforms are needed to actively disincentivise corporations such as big banks and casinos from participating or overlooking money laundering? How would such reforms apply to Tranche 2 DNFBPs?"*

There are a wide range of options available to Australia to disincentivise corporations such as big banks and casinos from participating in, or overlooking money laundering. Those that I offer for consideration below are certainly not all that could be considered, they are merely the ones that I believe may have the greatest potential impact, in the shortest possible time, for the least outlay of resources.

To that end, I address the questions in the following stages:

- What reforms are likely to be effective to disincentivise banks, casinos and other corporations?;
- Ensuring Individuals are held liable;
    - Money laundering offence reforms
    - AML/CTF Act reforms
    - Corporations Act reforms
- Catching the Offenders – or at least giving them reason to believe they might be caught
    - Detecting and identifying corporate money launderers
    - An expanded mandate for AUSTRAC
    - Using intelligence to trigger the Criminal Code Money Laundering Offences
    - Expanding Coverage of the AML/CTF Act
    - Enlisting Employees – offering rewards
- Application of such reforms to DNFBPs

What reforms are likely to be effective to disincentivise banks, casinos and other corporations?

The key reforms to Australia's AML/CTF regime that I believe are currently most likely to be effective in disincentivising banks, casinos and other corporations from participating in, or overlooking, money laundering revolve around two broad goals:

1) Ensuring that individuals within those entities are held personally responsible, if not criminally liable, for their actions and decisions; and
2) Providing such people with some reason to be concerned that they may be caught.

There are a wide variety of ways that each of these goals might be achieved, and they are likely to be based on changes in processes as much as changes to legislation. They both however rely on a vastly better informed and more motivated financial intelligence unit and AML/CTF regulator that has a direction and mandate from government to use the powers provided under the AML/CTF Act. It will also require a direct mandate for the Australian Federal Police and other agencies to work with AUSTRAC to provide information and investigate people within such corporations for money laundering.

PART 1: Ensuring that Individuals Are Held Liable

The multi-million-dollar fines issued to banks around the world over the last decade for money laundering have shown that for large entities such fines have just become part of doing business. They are in many respects, a fine paid by the shareholders for offences committed by senior management and, as such, provide a limited deterrent to repetition[1] of such offences.

That said, there is still an argument in favour of increasing the penalties for money laundering by banks, casinos and other corporations – as well as for partnerships such as law firms, accounting firms and real estate agencies. This is discussed further below.

One option to overcome the problem of banks, casinos and other large corporations treating fines as a mere cost of doing business is to make individuals personally accountable – either through the application of the money laundering offences under the Criminal Code; application of AML/CTF Offences; or, application of (a modified) Corporations Law in relation to director's duties.

Money Laundering Offence Reforms – Division 400 of the Criminal Code

Crown Casino has provided a neat example of the issues apparently preventing the use of the Criminal Code or AML/CTF Act to disincentivise corporations. There are however methods of overcoming these impediments, however they require an expansion of the information collected and vastly improved cooperation among agencies such as AUSTRAC and the Australian Federal Police.

Australia's money laundering offences are contained in the Criminal Code Act 1995 under Division 400 for which the investigating authority is the Australian Federal Police. There are multiple offences provided under the Criminal Code and many of them have an evidentiary bar that is quite

[1] https://insightcrime.org/news/analysis/hsbc-dirty-money-white-collars/ "even after receiving the historic fine, the bank has received 19 more sanctions for the same issue: its failure to stop money laundering."

low. For example, Under Section 400.9 a person commits an offence if they deal with money or other property that is reasonably suspected to be proceeds of crime[2].

The Criminal Code essentially provides two avenues for prosecution: prosecution of individuals or prosecution of a corporate entity. Currently the maximum penalty for money laundering by corporate entities under the Criminal Code is 1500 penalty units -which equates to $330,000. This is clearly insufficient to provide a deterrent – or apparently provide sufficient incentive for prosecutors to embark on what are likely to be long and expensive court actions.

An increase of the maximum penalty for money laundering may remove the perverse outcome whereby entities such as banks receive vastly greater penalties for technical infractions of the AML/CTF Act than they could possibly receive were they to actively and enthusiastically commit money laundering.

Such a reform may also provide a disincentive in a range of circumstances - particularly for small, entities such as cash-intensive businesses, law firms, accounting firms and real estate agents where the directors or partners are likely to directly feel the effect of a fine. A reasonable quantum of the maximum penalty for corporate money laundering should be at least equal to the value of the money laundered (or used as an instrument of crime[3]) to provide a meaningful deterrent – albeit a notional deterrent for larger entities that may factor such penalties into their risk/reward calculations.

With respect to the conviction of individuals for money laundering, the impediments to-date have centred on the difficulty in proving that any one person knows enough to be criminally liable.

Overcoming these impediments could be achieved through the pro-active collection and use of intelligence to allow the Criminal Code to be used to hold individuals to account. This process is discussed below in the section on "*Using Intelligence to Trigger the Criminal Code Money Laundering Offences*"

AML/CTF Act

Australia, in theory, has other options to disincentivise entities that are covered by the AML/CTF 2006[4]. In fact there are a range of criminal offences under the AML/CTF Act that appear to have been explicitly drafted to be used by AUSTRAC – the AML/CTF Regulator – to disincentivise banks, casinos and other regulated entities from engaging in money laundering.

All evidence suggests however that AUSTRAC has never initiated legal action in relation to any of the criminal offences under the AML/CTF Act. It certainly has never been successful in getting a case to court.

Attached in Appendix 1 is a table of the AML/CTF Act offences and their penalties. Many of these are severe, and would, in theory provide cause for concern among the people and entities that AUSTRAC is supposed to regulate. However, it appears that AUSTRAC has never even attempted to exercise its primary investigative power (which it would be expected to use if it was going to enforce the criminal offences under the Act). That investigative power is provided by the Monitoring Warrant

[2] https://www.legislation.gov.au/Details/C2017C00235/ Volume 2, Part 10.5
[33] Such as funds channeled through a company to purchase drugs.
[4] https://www.legislation.gov.au/Details/C2019C00011

provided under Section 159 of the AML/CTF Act[5] which provides a range of powers to gather evidence of offences committed against the AML/CTF Act.[6]

The AML/CTF Act however only covers a small subset of all corporations and legal entities, and hence, the AML/CTF Act, in its current form is an imperfect method of disincentivising the use of legal entities for money laundering.

These imperfections are amplified by AUSTRAC's current passive approach to its role in intelligence-gathering, regulation and the disruption of money laundering. Alternatives to this approach are offered below in "*Part 2: Catching the Offenders – or at least giving them reason to believe they might be caught"*.

Corporations Act 2001

An alternative, or perhaps additional, method of holding individuals to account, could be to convict the entity for money laundering and then disqualify directors of such entities from holding directorships in the future.

This approach would, of course, require an amendment to the Corporations Act 2001 since a conviction of a corporation for money laundering is not currently grounds to disqualify that entity's directors.

The basis for attaching criminal liability to a corporate entity is outlined in Section 12.3 of the Criminal Code.

Under Section 12.3 of the Criminal Code Act 1995, proving that a bank, casino or some other corporate entity engaged in criminal conduct requires proving that:

- *"the body corporate's board of directors intentionally, knowingly or recklessly carried out the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or*
- *high managerial agent of the body corporate intentionally, knowingly or recklessly engaged in the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or*
- *that a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to non-compliance with the relevant provision; or*
- *that the body corporate failed to create and maintain a corporate culture that required compliance with the relevant provision."*

Proving these elements in relation to a money laundering offence committed by a corporation, would appear to be relatively easy (and a suggestion as to how the knowledge element of a money laundering charge might be proven more easily is detailed below in the section on "Using Intelligence to Trigger the Criminal Code Money Laundering Offences")

Disqualifying directors who have controlled corporations that are convicted of money laundering would require an amendment to Section 206B of the Corporations Act 2001 to include "*being a*

[5] https://www.legislation.gov.au/Details/C2006A00169

[6] AUSTRAC also has a range of civil penalty options under the AML/CTF Act, and it is these civil penalty provisions that were used against CBA and Westpac.

director of a company that is convicted of money laundering" as a reason for automatic disqualification from managing corporations. Giving effect to these provisions undoubtedly will also require a direction from government, perhaps via a National AML/CTF policy, for such action to be undertaken.

PART 2: Catching the Offenders - or at least giving them reason to believe they might be caught

Detecting and Identifying Corporate Money Launderers

If Australia is to disincentivise banks, casinos and other corporations from engaging in money laundering we must provide the senior management of those entities with some reason to think that they, or the entity, might be caught.

Accurately and reliably detecting money laundering through corporations and other entities could be achieved through a National Money Laundering Risk Assessment – particularly if such an assessment is based on detailed data, information and intelligence and conducted on a continuous basis.

A continuous NRA process would involve constantly gathering data and intelligence from the widest possible range of sources and systematically analysing it to identify the most prolific money launderers- and the methods that they are employing. It would allow authorities to identify changes in money laundering behaviour as they occur and deploy resources where they are likely to have the greatest impact.

Despite AUSTRAC's claims to the contrary, Australia has never conducted a National Risk Assessment and, as a consequence, authorities currently have no idea how the majority of the proceeds of crime are laundered or how such offending might be detected. The senior management of entities such as Crown Casino, and those that will inevitably fill its place, are presumably aware of the very low risk of being caught in Australia's current AML/CTF regime.

The NRAs conducted in other countries, such as the USA and the UK[7], identified methods of money laundering that Australia's AML/CTF system would not detect. Given the international nature of organised crime, there are therefore good reasons to expect that those methods are being used in Australia.

There is no reason why Australia has not commenced a National Risk Assessment except perhaps the lack of direction from government. Such a direction could be provided through a National AML/CTF policy that includes the requirement for AUSTRAC, or some other entity, to commence the collection and analysis of relevant data and intelligence.

[7] The United States is a good example of a "point-in-time" risk assessment that identified methods that, were they to be used in Australia, would not be detected or addressed. The USA National Risk Assessment is available at: https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf

[7] Similarly,, the UK National Risk Assessment identified a range of money laundering methods that Australia's AML/CTF regime would not detect or address.

A National AML/CTF Policy

In 2015 the Mutual Evaluation on Australia's AML/CTF regime noted that Australia didn't have a National AML/CTF policy that might align authorities' objectives and activities[8]. In 2021 Australia still doesn't have an AML/CTF policy.

Australian authorities could already be doing a great many things to better detect and address money laundering by banks, casinos and other corporations. (Suggestions for consideration are offered above and below) however the agencies involved appear to be waiting for some type of direction from government.

With respect to AUSTRAC, the fact that it doesn't currently undertake the activities suggested in this document is quite possibly due, in part, to the culture that has developed within AUSTRAC, but it also appears due to the fact that AUSTRAC lacks a direction or a mandate for these things from government. A National AML/CTF Policy could go a long way to providing this direction and mandate.

An AML/CTF policy could also provide similar direction and mandate for a range of other agencies to work together to detect and address money laundering through banks and other corporations.

Among them would be the Australian Federal Police – which could play a much greater role in the investigation of money laundering offences committed by people within banks and other corporations (based on the provision of information to "force" knowledge upon the directors of those entities); the Australian Securities and Investment Commission – which (subject to legislative change) could play a greater role in the disqualification of directors who have led companies convicted of money laundering; and the Australian Taxation Office and Australian Border Force – which could play an expanded role in sharing information related to trade-based money laundering.

An Expanded Mandate for AUSTRAC

AUSTRAC currently views its role in the national effort to address money laundering in exceptionally narrow terms. For instance, it views its "AML/CTF regulator" role not in terms of the detection, investigation and punishment of contraventions of the Act but rather in terms of 'working with' the entities it regulates.[9] To compound this issue, it doesn't see itself as the being the frontline of defence but rather it views those entities that it is supposed to regulate as performing that role[10].

Additionally, AUSTRAC doesn't see a role for itself in contributing to the prosecution of people or entities for money laundering. In fact, its submission to this inquiry entirely overlooks the money laundering and terrorist financing offences contained in the Criminal Code in its description of Australia's AML/CTF regime. (para 28, p.6). This is a significant oversight and one that is indicative of AUSTRAC's limited view of its role in Australia's AML/CTF regime.

A further example of this narrow view is provided in AUSTRAC's submission to this inquiry, in which it provided the opinion that:

[8] https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Australia-2015.pdf p.43

[9] See for example the overview of AUSTRAC on the AUSTRAC website: https://www.austrac.gov.au/about-us/austrac-overview "Reporting entities are at the front line in combating financial crime. We regulate more than 15,000 businesses **to help them to protect their** businesses, and the financial sector, from criminal abuse"

[10] See for example page 9 of the AUSTRAC annual report 2020-21

> *"AUSTRAC is not a policing or prosecutorial agency with associated **powers to investigate** or prosecute money laundering, terrorist financing **or other serious crimes**. AUSTRAC supports national and international efforts to combat serious crime by ensuring financial information and actionable intelligence is available to investigators and intelligence officers across Australia's law enforcement, national security, revenue protection, and regulatory agencies*. (p.5).

This opinion on AUSTRAC's powers is not entirely accurate. There are a significant number of serious offences under the AML/CTF Act that AUSTRAC is mandated to investigate. (These are detailed Appendix 1 below) The fact that AUSTRAC doesn't investigate these offences suggests that it is awaiting some form of policy directive from government to trigger the realisation that it is an agency with powers and a mandate to conduct investigations.

AUSTRAC's submission to this inquiry repeatedly states that its functions are related to preserving the integrity of the "financial system" or building resilience of the "financial system", or protecting the "financial system".

This myopic focus means that all money laundering that is committed outside of those entities that AUSTRAC deems to be within the "financial system" is ignored. By only collecting intelligence on this ever-shrinking relevant subset of entities, AUSTRAC is leaving Australia unnecessarily exposed to money laundering through all other methods, forms, corporations and entities, and denying authorities vital intelligence on money laundering and terrorist financing outside of the "financial system".

Given that money laundering processes are evolving to circumvent the legislation currently in place, AUSTRAC should be attempting to gather and provide intelligence on all of the other methods of laundering that occur outside of the reporting entities. It could do this already but it appears to be waiting for a policy directive from government.

AUSTRAC could do this, and an ideal starting point would be the commencement of a National Risk Assessment but again, AUSTRAC appears to be waiting for a policy directive from government before commencing this vital work.

AUSTRAC could also play a crucial role in assisting in the prosecution of personnel within banks and other corporate entities for money laundering. It could do this by collecting and providing information to those personnel to support the application of the Criminal Code money laundering provisions. In order to achieve this AUSTRAC should be provided with the ability to conduct electronic and physical surveillance and collect human-source intelligence.

Given its track history, AUSTRAC will however require a direct and explicit mandate and direction from government to expand its activities.

Using Intelligence to Trigger the Criminal Code Money Laundering Offences

One key method of disincentivising banks, casinos and other corporations from engaging in money laundering is to make the decision-makers within those entities personally responsible for their actions - a key method of doing that would be to prosecute them for money laundering.

Prosecutions of this nature require proof that people in decision-making positions knew that the bank or corporation was committing money laundering. Obtaining such proof has been an impediment to prosecution of directors of banks and other corporations such as Crown Casino.

In fact, corporate entities such as Crown Casino and banks appear to have ensured that this could not happen by deliberately "spreading the blame around" and ensuring that no one person could be shown to have known enough to be criminally liable.

This problem could however be overcome by tasking an agency to gather and provide key management personnel within such entities with detailed and specific information on the process of money laundering occurring within their corporation or entity. Information of this type is widely available in the multitude of court cases[11] involving the prosecution of the customers and clients of these entities for money laundering and other predicate offences.

Provision of this information is in effect "forcing" knowledge on personnel within banks, casinos and other corporations and entities in order to overcome the difficulty that has prevented prosecution of these people in the past. If those people, having been provided such information choose not to take action to prevent repetition or continuation of the offences, then they may reasonably expect to be the subject of a money laundering investigation – an offence which carries a significant gaol term.

This approach would obviously not be available in every circumstance, but it is likely to be available in a sufficient number of circumstances to provide a general deterrent to banks, casinos and other corporate entities to encourage them to reconsider their involvement in money laundering in a significant range of circumstances.

As the financial intelligence unit, AUSTRAC is the obvious choice of an agency to gather and provide this information to the senior management of banks, casinos and other corporations. In fact, it could already be doing such a thing, but, as with so many other activities that AUSTRAC could undertake, it is unlikely to do this without some form of policy directive from government and subsequent cultural change within AUSTRAC.

Expanding Coverage of the AML/CTF Act to Include Other Corporate Entities

Disincentivising banks, casinos and other corporate entities from engaging in money laundering requires the capacity to reliably detect when they are engaged in it. Currently this is not the case – not even for those entities that are already covered by the AML/CTF Act, but especially so for those that aren't.

Evidence from the National Risk Assessments of countries such as the USA and UK show that an increasing percentage of money laundering is moving to methods that involve entities other than those of the type that AUSTRAC regulates. This is to be expected as a natural evolution of criminal behaviour to circumvent the current controls that are in place but it renders Australia's AML/CTF regime impotent.

The AML/CTF Act currently only allows AUSTRAC to demand information from a limited range of entities. These include businesses such as banks and credit unions, non-bank lenders and

[11] Other useful information is held by AUSTRAC and police, however legislative change may be required in order for this to be used in this manner.

stockbrokers, gambling and bullion service providers, remittance providers and digital currency exchanges.

In 2011 AUSTRAC identified the primary methods of laundering in Australia[12], many of which remain outside of AUSTRAC's data collection in 2021. These are: cash-intensive businesses; front companies; money laundering experts including lawyers and accountants; money laundering syndicates; high-risk foreign jurisdictions; high-value goods (jewellery, boats, real estate, artwork, antiques, houses, motor vehicles) ; international trade and investment vehicles; and real estate.

These entities are covered under the AML/CTF Act because they were identified in the FATF recommendations as being "higher-risk". Unfortunately, the FATF Recommendations - with respect to the types of entities countries should include in their AML/CTF regimes - have remained largely unchanged since 1990. Since that time the world has changed significantly. The methods of money laundering have evolved to circumvent the FATF Recommendations and financial institutions have provided numerous examples of why they should not be relied upon to detect or prevent money laundering.

The effective detection of money laundering in 2021 requires data and information to be collected from much wider range of entities than had been envisaged by those who drafted the FATF recommendations in 1990. Obviously, compliance with FATF recommendations requires the inclusion of DNFBPs, (and AUSTRAC's own reporting would suggest inclusion of entities in high-value goods dealing (jewellery, boats, real estate, artwork, antiques, houses, motor vehicles) ; international trade and investment vehicles; and real estate) but international experience and previous studies would also suggest that data collection should be expanded to allow authorities to detect money laundering without relying solely on information from regulated/reporting entities themselves.

If AUSTRAC is to be capable of detecting money laundering and informing other agencies it must be capably of independently detecting money laundering across a broad range of corporations. To do this it will require a continuous flow of information from government agencies such as police, ASIC, Australian Border Force, and the Australian Taxation Office. It may also benefit from information routinely reported to the Australia Taxation Office under the Common Reporting Standard[13].

This expansion of data collection need not however be permanent and could be applied on a time limit and subject to judicial oversight in a manner similar to the Geographic Targeting Order used in the United States[14] and perhaps based on a 'theme' rather than a geographic basis. This might be termed a "Thematic Targeting Order".

[12] https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/money-laundering-australia-2011

[13] https://www.ato.gov.au/General/International-tax-agreements/In-detail/Common-Reporting-Standard/?=redirected

[14] An explanation of the process is available here: https://legal.thomsonreuters.com/en/insights/articles/geographic-targeting-orders-best-practices; and here https://www.federalregister.gov/documents/2015/07/17/2015-17572/notice-of-geographic-targeting-order

Enlisting Employees - offering rewards

International and domestic AML/CTF cases have shown that one of the most common methods of large-scale money laundering by banks and other corporations being brought to light is through whistle-blowers[15].

One method of encouraging whistle-blowers to put themselves in harms' way is to offer a reward. Such a situation may have the impact of forcing banks and other entities (such as lawyers, real estate agents and accountants) to reduce their involvement in money laundering, by vastly increasing the risk that their own staff may turn whistle-blower and inform authorities.

Clearly the rewards offered would need to be sufficient to compensate people for the fact that they may never be employed again in their chosen field but, given the quantum of the fines that may be levied this would not appear to be an insurmountable problem.

The United States operates a number of whistle-blower reward schemes that pay somewhere in the range of 10-15% of the amount recovered or levied[16]. If Australia were to increase the maximum penalty for money laundering to be somewhere in the quantum of the amount laundered, these payouts could be quite an incentive for employees to provide information to authorities and a significant deterrent to banks, casinos and other corporations engaging in money laundering.

Application of such reforms apply to the DNFBPs that are to be covered under Tranche 2

The recommendations outlined above could, and should, apply to DNFBPs, and those that operate and control them, just as much as they apply to banks and other corporations.

It is likely that the commencement of the activities outlined above will detect and identify DNFBPs that are engaged in money laundering. It is also possible that the commencement of a process to "force" knowledge onto senior management/partners; collection of evidence through whistle-blowers, electronic and physical surveillance will support an expansion of prosecutions of those people. This is likely to provide a general deterrent that currently does not exist among DNFBPs.

Many of these activities and processes could commence even without the passing of Tranche 2 and may provide a solution that is cost-effective and acceptable to those elements within the DNFBP community that have been resisting inclusion under the AML/CTF Act.

CONCLUSION

Australia should act with urgency to disincentivise the industrial-scale money laundering through banks, casinos and other corporate entities.

This process should commence with the development of a National AML/CTF Policy that:

- directs an agency (most likely AUSTRAC) to commence a continuous National Risk Assessment process;

[15] See for example Danske Bank - https://www.reuters.com/article/us-danske-bank-moneylaundering-explainer-idUKKCN1NO10D

[16] http://www.quitam.com/

- directs the collection and provision of information to senior management of corporations that are engaged in money laundering to "force" knowledge and support prosecution of those people;
- requires cooperation between the AFP and AUSTRAC on the investigation of senior management of banks, casinos and other corporations for money laundering;
- requires AUSTRAC to acknowledge and exercise its investigative powers provided to it under the AML/CTF Act;
- requires AUSTRAC to start to independently detect money laundering by expanding its range of activities and collection of data, information and intelligence;
- supports the provision and collection of additional data, information and intelligence on money laundering from agencies such as police, ATO, ABF and ASIC;
- requires the development of legislative amendments to provide additional powers, options and sources of data and intelligence to address money laundering by banks, casinos and other corporations as it evolves.

Australia would undoubtedly also benefit from amendments to the AML/CTF Act to allow the payment of rewards to whistle-blowers; the use of Thematic Targeting Orders to better detect money laundering; and allow AUSTRAC to apply for and use electronic surveillance.

All of these things, if they were undertaken, would be a step towards addressing money laundering through banks, casinos and other corporations.

APPENDIX 1: Table of AML/CTF Act Offences and Penalties

Section of the AML/CTF Act	Offence	Penalty
Section 136	Provide false or misleading information to the CEO of AUSTRAC	**Imprisonment for 10 years** or 10,000 penalty units, or both.
Section 137	Produce a false or misleading document to the CEO of AUSTRAC	**Imprisonment for 10 years** or 10,000 penalty units, or both.
Section 138	Making a false document with the intention that the person or another will produce the false document in the course of an applicable customer identification procedure	**Imprisonment for 10 years** or 10,000 penalty units, or both.
Section 139	Providing a designated service using a false customer name or customer anonymity	Imprisonment for 2 years or 120 penalty units, or both.
Section 140	Receiving a designated service using a false customer name or customer anonymity	Imprisonment for 2 years or 120 penalty units, or both.
Section 141	Customer commonly known by 2 or more different names—disclosure to reporting entity	Imprisonment for 2 years or 120 penalty units, or both.
Section 142	Conducting transactions so as to avoid reporting requirements relating to threshold transactions	Imprisonment for 5 years or 300 penalty units, or both.
Section 143	Conducting transfers so as to avoid reporting requirements relating to cross border movements of physical currency	Imprisonment for 5 years or 300 penalty units, or both.
Section 149	Tampering or interfering with things secured in the exercise of monitoring powers	Imprisonment for 6 months or 30 penalty units, or both
Section 150	Authorised officer may ask questions and seek production of documents If the authorised officer was authorised to enter the premises by a monitoring warrant, the authorised officer may require any person in or on the premises to: answer any questions relating to the operation of this Act, the regulations or the AML/CTF Rules that are put by the authorised officer; and produce any document relating to the operation of this Act, the regulations or the AML/CTF Rules that is requested by the authorised officer.	

	A person is not excused from answering a question or producing a document under subsection (2) on the ground that the answering of the question or the production of the document might tend to incriminate the person or expose the person to a penalty.	Imprisonment for 6 months or 30 penalty units, or both.
Section 158	Occupier to provide authorised officer with facilities and assistance	Penalty for contravention of this subsection: 30 penalty units.
Section 161	External audits—risk management etc. This section applies if the AUSTRAC CEO has reasonable grounds to suspect that a reporting entity has not taken, or is not taking, appropriate action to: (a) identify; and (b) mitigate; and (c) manage; the risk the reporting entity may reasonably face The AUSTRAC CEO may, by written notice given to the reporting entity, require the reporting entity to: (a) appoint an external auditor; and (b) arrange for the external auditor to carry out an external audit of the reporting entity's capacity and endeavours to: (i) identify; and (ii) mitigate; and (iii) manage; the risk the reporting entity may reasonably face A person commits an offence if: (a) the person is subject to a requirement under subsection (2); and (b) the person engages in conduct; and (c) the person's conduct breaches the requirement.	Imprisonment for 6 months or 30 penalty units, or both.
Section 162	External audits—compliance	Imprisonment for 12 months or 60 penalty units, or both.
Section 165	Money laundering and terrorism financing risk assessments This section applies if the AUSTRAC CEO is satisfied that: • a reporting entity has not carried out a money laundering and terrorism financing risk assessment; or	

	• a reporting entity has carried out a money laundering and terrorism financing risk assessment, but the assessment has ceased to be current; or • a reporting entity has carried out a money laundering and terrorism financing risk assessment, but the assessment is inadequate.	Imprisonment for 6 months or 30 penalty units, or both.
Section 167	Authorised officer may obtain information and documents This section applies to a person if an authorised officer believes on reasonable grounds that: any of the following subparagraphs applies: • the person is or has been a reporting entity; • the person is or has been an officer, employee or agent of a reporting entity; • the person's name is or has been entered on the Remittance Sector Register; and • the person has information or a document that is relevant to the operation of this Act, the regulations or the AML/CTF Rules A person commits an offence if: the person has been given a notice under subsection (2); and the person omits to do an act; and the omission contravenes a requirement in the notice. A person is not excused from giving information or producing a document under section 167 on the ground that the information or the production of the document might tend to incriminate the person or expose the person to a penalty.	Imprisonment for 6 months or 30 penalty units, or both.