

Corporate Tax Avoidance inquiry April 2016 – Commissioner opening statement

Thank you chair.

The recent leaking of data by ICIJ from the Panamanian law firm Mossack Fonseca gave the world examples of aggressive behaviours at the extreme end of the spectrum. Issues of criminality, tax evasion and tax avoidance are concerning to the ATO and authorities across the globe, and demand purposeful and swift action.

I will not stand by and ‘admire the problem’. It is important that community perceptions of fairness in the system remain strong. The Australian public can be certain that we are bringing those who seek to avoid and evade their tax obligations to account.

I have committed to a strategy which sees us taking purposeful action on both the international and domestic fronts.

As you know I am JITSIC Chair, and this leak presented a prime opportunity to demonstrate what you can achieve when you collaborate internationally. The sheer size of the data release meant that no single jurisdiction can tackle this challenge alone.

This is why last week I called an emergency meeting of the OECD’s Joint International Tax Shelter Information and Collaboration (JITSIC) network in Paris to analyse the leaked data and formalise an international approach to address tax crimes revealed in the documents.

At that meeting an action plan was developed and member countries undertook to build a comprehensive tax risk picture for their own jurisdiction, and share information. All 35 jurisdictions represented at the meeting signed-up to take joint compliance action where appropriate. The Network is also exploring the use of taskforces and smaller working groups to make faster inroads.

Member countries from last week’s meeting will come together early next month at a meeting of the Forum on Tax Administration in Beijing to check

progress and ensure momentum is maintained. As JITSIC Chair I will be watching for collaboration and concrete actions by member countries.

The ATO and JITSIC already have a track record of leading effective multilateral working groups. For example, Australia led the establishment of the E6 – a coalition of 6 revenue administrations to examine e-commerce and share intelligence on the activities of multinationals operating in the digital economy. The success of the E6 led to an expansion of this cooperation to now include more than 30 countries looking at several different types of tax risk.

Work continues on the domestic front. In response to the Panama papers, I called on Deputy Commissioner Michael Cranston to establish an internal specialist working group to review documents obtained through the data leak as a priority. As publicly stated, we have already identified more than 800 taxpayers in the data and have linked over 120 of them to an associate offshore service provider located in Hong Kong.

This analysis is underway to ensure we understand how the information relating to companies and individuals mentioned in the documents matches with our other intelligence. This includes information received through Project Do It, our International Structures and Profit Shifting program, Project Wickenby, from law enforcement agencies, concerned citizens and international partner revenue agencies. Around 80 names match the ACC serious and organized crime intelligence holdings.

On 12 April 2016, the eight Serious Financial Crime Taskforce (SFCT) member agencies had an urgent meeting to co-ordinate a whole-of-government response to the most serious matters identified in the Panama papers. Where we are seeing instances of financial crime we are addressing it and ensuring we have the necessary tools and resources to deal with those responsible.

In terms of having the right tools in Australia, I want to reiterate to you that we do have a comprehensive set of laws that give us the necessary powers to address tax evasion by individuals using offshore entities, and corporate tax avoidance.

In relation to tax evasion by individuals using offshore entities we have:

- The Serious Financial Crime Taskforce and the sharing of information across agencies
- The Common Reporting Standard and the automatic exchange of banking information
- A highly effective Exchange of Information framework supported by the Multilateral Agreement
- Anti-money laundering laws requiring banks to know their customers and the ultimate beneficial owners.

In relation to corporate tax avoidance, there are a range of measures which have already been implemented and are working their way through the system including:

- Strengthening transfer pricing rules to OECD best practice
- Tightening of thin capitalisation from 75% to 60%
- Tightening Part IVA to address technical deficiencies - “the do nothing” argument
- The Multinational Anti-Avoidance Law (the MAAL)
- Country by country reporting of activities by corporates, and
- The BEPS anti-hybrid measures

So we have a strong kit bag to utilise. We are getting on with the job. It will take time but, the community can be assured that we will leave no stone unturned as we put the whole picture together and take appropriate action against those who seek to abuse our tax system.