



REIA SUBMISSION TO  
SENATE STANDING  
COMMITTEE ON LEGAL  
AND CONSTITUTIONAL  
AFFAIRS

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PREPARED BY

**Real Estate Institute of Australia**

PO Box 234

DEAKIN WEST ACT 2600

Ph: 02 6282 4277

📍 @REIANational

📱 @REIAustralia

🌐 @reiaustralia

🏠 Real Estate Institute of Australia

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Ms Sophie Dunstone

Committee Secretary

Senate Standing Committee on Legal and Constitutional Affairs

PO Box 6100

Parliament House

Canberra ACT 2600

Via Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

**REIA SUBMISSION TO SENATE LEGAL AND CONSTITUTIONAL AFFAIRS  
REFERENCES COMMITTEE INQUIRY INTO THE ADEQUACY AND EFFICACY OF  
AUSTRALIA'S ANTI-MONEY LAUNDERING AND COUNTER TERRORISM  
FINANCING (AML/CTF) REGIME**

Dear Ms Dunstone,

The Real Estate Institute of Australia (REIA) is the national body and voice for the real estate profession in Australia.

REIA's members are the State and Territory Real Estate Institutes (REI's), through which around 85pc of Australian real estate agencies are collectively represented.

REIA represents an integral element of the small business sector, with 99pc of real estate agencies being identified as small businesses. Additionally, 11pc of all small businesses are affiliated with real estate. Only 0.6pc of businesses employ 50 persons or more.

The Census records the Rental, Hiring and Real Estate Services Industry employment as sitting around 120,000, which includes business brokers, property managers, principals, real estate agents and representatives.

Property contributes \$300 billion annually in economic activity and underpins a combined workforce of 1 in 4 Australian jobs.

REIA provides well-informed advice on a range of issues affecting the property market to decision makers.





## INTRODUCTION

The REIA welcomes the opportunity to inform the Senate and Legal Constitutional Affairs References Committee Inquiry into The Adequacy and Efficacy of Australia's Anti-Money Laundering and Counter Terrorism Financing (AML/CTF) Regime ('the Inquiry').

REIA will address current legislation obligations and the position of the real estate industry, with specific reference to Inquiry Terms of Reference C and G:

**C**

The effectiveness of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (the Act) to prevent money laundering outside the banking sector;

**G**

The regulatory impact, costs and benefits of extending AML/CTF reporting obligations to designated non-financial businesses and professions (DNFBPs or 'gatekeeper professions'), often referred to as 'Tranche two' legislation.

## RECOMMENDATIONS

REIA would like to reconfirm two previous recommendations made to the Federal Government:

**Recommendation 1: Any changes to the current reporting and compliance model should clearly identify the financial and non-financial costs imposed on small businesses and, as part of this, real estate agencies.**

**Recommendation 2: Any changes to the status quo should consider the capacity for other entities to meet reporting obligations. An audit and review of additional data sources to improve monitoring of AML/CTF activities should be undertaken.**



## RATIONALE

The Federal Government has to date not imposed any unnecessary regulatory burden on real estate agents. This has been supported vocally by REIA and remains to be the case.

REIA's past submissions<sup>1</sup> on this matter have argued that an expansion of reporting obligations to real estate agencies is problematic and overly burdensome.

At the same time, REIA has recognised concerns raised against Australian real estate in this space, such as those identified by AUSTRAC's 2015 strategic analysis brief: *Money laundering through real estate*.<sup>2</sup>

Since 2015, REIA has worked closely with the Attorney-General's Department and Austrac to consult on the costs and benefits of subjecting real estate agencies to regulatory requirements. These are outlined in depth below.

### *Costs of reporting*

99pc of real estate agencies are small businesses and the costs associated at an agency level for AML/CTF reporting are estimated to be extraordinarily high.

The 'Anti-Money Laundering and Counter-Terrorism Financing Act 2006' (the Act) takes the right balance in placing legislation where the benefits outweigh the costs.

The cost to real estate agencies far outweighs the projected benefits and, in the instance of the

Government introducing 'Tranche Two' legislation, agencies absorb significant costs.

Small businesses also lack the time, resources and expertise to carry out compliance activities and reporting.

The introduction of a reporting scheme addressing money laundering in real estate would impose a cost much larger than the relatively small anticipated benefit to the community through detection of money laundering.

Experience from New Zealand (who implemented additional measures in 2018) highlights the extraordinary business cost that has had to be met by real estate agencies. This includes ,but it not limited to:

- Hiring an AML/CFT compliance officer
- Conducting biannual compliance, generally hiring a risk firm to do so
- Assessing and documenting potential AML/CTF risks to the real estate agency
- Creating an AML/CTF compliance program
- Verifying clients as mandated
- Verifying identify of purchasers and investigating suspicious funds
- Submitting reports on certain types of transactions
- Monitoring accounts of customers for potential money laundering and reporting suspicious activity
- Submitting annual reports to Government

These costs outweigh any benefit as described by the AML/CTF legislation as most real estate agencies will never encounter suspect transactions.

[1] (REIA Submission to the Senate Standing Committee on Legal and Constitutional Inquiry Into the Crimes Legislation Amendment (Economic Disruption) Bill, 2020) and (REIA Submission to the Attorney General's Department Consultation Paper "Real Estate Professionals: a Model For Regulation Under Australia's Anti-Money Laundering and Counter-Terrorism Financing Regime", 2017)

[2] (AUSTRAC, 2015)





*Limited benefits in identifying suspect activity*

Money laundering activities, as in the case of the United States of America (USA), are limited to a small number of locations.

Evidence indicates that money laundering and terrorism financing through real estate tends to be concentrated to small number of locations.

Most Australian real estate agents will never encounter a suspect client and including real estate practitioners in reporting would therefore be likely of limited value.

In Project Wickenby, which audited real estate activities over 2012-2013, only \$8.1 million was restrained in property<sup>3</sup> approximately 15 average properties.

With such a low number of reportable transactions, it is difficult to justify placing this onus on small businesses.

REIA would however – with the right planning and consultation – support a more holistic approach to collection of information through real estate agencies to assist AML/CTF efforts, but maintains that real estate agencies should not be burdened with further regulatory requirements.

This is particularly the case as transactions also intersect with the regulated sector including banks and other financial institutions who are better placed to identify and report suspect activity.

**Recommendation 1: Any changes to the current reporting and compliance model should clearly identify the financial and non-financial costs imposed on small businesses and, as part of this, real estate agencies.**

*Opportunities for data collation that directly interface with real estate transactions*

While State and Territory practices vary, real estate agencies under KYC requirements collect data on prospective buyers, bidders and renters via identity check.

Real estate agents have successfully adopted ID verification and REIA believes a uniform national approach to pre-transaction identity checks would be feasible. This is particularly the case as technology relating to data collection, such as blockchain, advances.

One step to improve these measures would be the introduction of a uniform national checklist for ascertaining identity.

This may offer additional benefits such as harmonisation in real estate procedures.

[3] (AUSTRAC, 2015)



The Act however could increase its effectiveness by better utilising data across entities.

In addition, there are a range of existing data sources that could offer valuable information for the Federal Government to meet its reporting and compliance responsibilities that have direct interfaces with real estate transactions.

This includes but is not limited to: the banking sector, conveyancers, Office(s) of State Revenue or equivalent, the Australian Taxation Office (ATO) and the Foreign Investment Review Board (FIRB).

One practical example is that, electronic conveyancing will require that identity is verified by lawyer or conveyancer settling the property. This offers opportunity for matching data with other sources and an existing avenue to enhance the compliance monitoring.

With these other solutions available, there is no requirement to harm real estate agencies with the large costs of 'Tranche Two' legislation.

**Recommendation 2: Any changes to the status quo should consider the capacity for other entities to meet reporting obligations. An audit and review of additional data sources to improve monitoring of AML/CTF activities should be undertaken.**

*Future areas of risk for real estate transactions*

It is worth noting that online real estate platforms have a much higher chance of being used for money laundering and this would need to be considered in any future decisions and risk profile.

This includes numerous overseas portals used for Australian properties, such as for off-the-plan developments, which would also need to be considered in any future anti-money laundering regime.

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Thank you to the Committee for this opportunity on behalf of Australia's real estate agents and agencies.

Please do not hesitate to contact me direct or should we  
be able to provide any further information.

Yours faithfully,

**Anna Neelagama**  
**Chief Executive Officer**  
**The Real Estate Institute of Australia**

[3] (AUSTRAC, 2015)

