

Senate Legal and Constitutional Affairs References Committee

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Australia's AML/CTF regime

Senator Deborah O'Neill, a member of the Senate Legal and Constitutional Affairs References Committee, has submitted the following questions on notice:

1. How is ATO data used to identify instances of money laundering? For example, how does the ATO know if criminal proceeds are being used to purchase Australian property?
 - a. Does the ATO have any estimates regarding the scale of illicit capital being used to purchase Australian property?
2. What changes in the relationship between AUSTRAC and the ATO have been brought about by the new data matching program protocol that came into effect this year?
 - a. What are the sources of this data matching program?
 - b. How does it translate into law enforcement activity?
 - c. Would the ATO's capacity to use data, and to work with law enforcement agencies, be strengthened if the Australian Government advanced Tranche 2 legislation and introduced reporting obligations to non-financial service providers?
3. Does the ATO share data or intelligence with AUSTRAC regarding entities engaged in, or related to import/export, sale/trade in high-value goods (e.g. luxury cars and boats), real estate/property development or cash-intensive/legitimate businesses?
4. Has the Serious Financial Crime Taskforce increased regulators' capacity to detect and prevent money laundering / TF?
 - a. Would this capacity be increased if the scope of the AML-CTF Act was expanded to include Designated Non-Financial Businesses and Professions?

Answer:

1. The ATO's role with respect to the regulation of the purchase of real estate in Australia involves our administration of foreign investment in residential real estate. Where a potential money laundering risk is identified, we refer the matter to the relevant agency for investigation.

a) No.

2a and b.

The ATO and AUSTRAC have a cooperative relationship that supports both agencies in performing their respective legal functions. Since 2005, AUSTRAC data (via the AUSTRAC transaction report information) has been disclosed to the ATO on a regular basis. The new data-matching program protocol outlines the ATO's use of AUSTRAC data from 17 June 2021 to 30 June 2027 following changes to the AML/CTF Act.

AUSTRAC data is an important source of financial intelligence for the ATO in administering and enforcing tax and superannuation laws. AUSTRAC data supports the ATO's activities on general compliance and administration, as well as helping identify more serious financial crime of high risk to the community and to Australian revenue, including international crime, phoenix operations, promoters of tax evasion schemes, organised crime and shadow economy activities.

c) This is a matter of policy and should be referred to the Department of Home Affairs.

3. The ATO discloses information to AUSTRAC in accordance with the privacy and confidentiality provisions contained in the *Taxation Administration Act 1953*.

4. Yes. The ATO-led Serious Financial Crime Taskforce brings together the knowledge, resources and experience of relevant law enforcement and regulatory agencies to identify and address the most serious and complex forms of financial crime. The SFCT enables multiple agencies to respond to money laundering associated with crime against the tax and superannuation systems.

a) This is a matter of policy and should be referred to the Department of Home Affairs.