

## WRITTEN QUESTIONS ON NOTICE – SENATOR DEBORAH O'NEILL

### Extent of money laundering and real estate

**1. Mr Phelan, ACIC's submission to this inquiry said that:**

Australia's stable financial markets and valuable real estate market make the country an attractive destination for domestic and transnational criminal groups and individuals looking to invest or launder the proceeds of crime.

- a.** Does the ACIC have estimates regarding the scale of money laundering across the Australian economy broadly, and within the real estate market specifically?
- b.** Is there a typical modus operandi that criminals use to launder money via property? Is it a matter of using physical cash to purchase property, or does it involve more sophistication?
- c.** What reporting obligations do professions involved in property transactions have if they suspect money laundering activity is occurring?

### Response:

- a)** The scale of money laundering is difficult to determine as all criminal proceeds need to be laundered at some point. However, to provide context, Australians spent an estimated \$8.9 billion on methylamphetamine, cocaine, MDMA and heroin in the 12 months ending August 2021; all of which needs to be laundered. Based on this, it can be estimated that tens of billions of dollars are laundered in Australia each year. The ACIC has not estimated the scale of money laundering through the property market in Australia.
- b)** A number of methodologies have been identified as being used to launder money through real estate:
  - A criminal can purchase land or property in false names. Recent legislation in various jurisdictions has required identification procedures to be undertaken however requirements can be manipulated with the cooperation of a complicit facilitator.
  - The value of property can be under/over declared allowing properties to be purchased with cash under the table provided to willing vendors.
  - Properties may be purchased by using nominee/offshore companies allowing the concealment of beneficial owners.
  - The purchase of property also allows for money laundering by capital growth via property renovations which are funded by cash. When the property is sold the resulting increase in value is prima facie capital growth.
  - In a similar way the purchase of land with property developments being undertaken in cash allows for the laundering of funds.
  - Property trusts can be listed or unlisted- cash payments may be layered through a number of accounts to conceal the source of funds used to purchased property or similar to above units in property trusts can be purchased in false or nominee names.

- c) Real estate agents are not currently covered under the AML/CTF Act and as such are not required to report any suspicious transactions.

## Money laundering in casinos

2. Your submission describes the ACIC as having observed significant money laundering occurring through Australian casinos pre-Covid, with junkets providing particular opportunities for money laundering.
  - a) A multitude of scandals have been uncovered by state-based inquiries. Given that the ACIC was aware of money laundering in casinos and that AUSTRAC has confirmed at estimates it was aware of the scale of the problem, quite simply: why was no action taken sooner?
  - b) How do we need to improve our legislation or the implementation / operation of it, and the flows of communication and intelligence between entities like the ACIC, AUSTRAC, state-based gaming regulators and law enforcement agencies?
  - c) In the view of the ACIC, do casino junkets simply pose too great a risk to be allowed to continue operating?
  - d) Can you tell me which agency or regulator is primarily responsible for detecting and preventing money laundering in casinos? Is the prevention of money laundering in casinos an oxymoron?
    - i. Why, then, has so much of the interrogation of these issues been left to investigative journalists and state-based inquiries?

### Response:

- a) The ACIC is not in a position to comment on the length of time required by other agencies who are responsible for investigating these allegations.
- b) The ACIC does not comment on matters of policy.
- c) From the perspective of an intelligence agency, the ACIC considers that casino junkets pose a high risk to the legitimate environment in Australia, and they have been a concern to us for some period of time.
- d) The operations of casinos are overseen by multiple state/territory enforcement and Commonwealth law enforcement regulatory agencies. The investigation and prosecution of criminal offences, including money laundering, terrorism financing and serious crime, is the responsibility of police forces around the country.

Casinos are also subject to a number of requirements under the AML/CTF regime, with AUSTRAC being the regulatory agency. However, not all activities that occur within casinos are fully covered under the AML/CTF regime, so are beyond the purview of AUSTRAC. For example, junkets are not specifically covered under the AML/CTF Act. Junket operations are vulnerable to criminal exploitation due to their lack of transparency, the concealment of ownership and distribution of funds and the anonymity of participants.

The ACIC provides intelligence insights into the vulnerabilities of junket operations in Australian casinos as part of the agency's work in targeting the criminal wealth of serious and organised crime.

- ii. i) As the operations of casinos are overseen by multiple state/territory and Commonwealth law enforcement and regulatory agencies, it is appropriate that states have undertaken inquiries as part of fulfilling their role in casino oversight. Commonwealth regulation of casinos under the AML/CTF regime cannot be applied to the full operation of casinos as it does not have jurisdiction to regulate all those activities.

### Money laundering outside the formal banking sector

- 3.** Your submission describes money laundering outside the formal banking sector in the Australian economy.
- a)** What practical steps could government take to manage ongoing money laundering and terrorism financing risks with unregistered companies?
  - b)** You say that "Specialists and industry insiders are increasingly involved in money laundering". Can you provide more specific information about the types of professions involved, the scale of this activity and trends?

#### Response:

- a)** The ACIC does not comment on matters of policy, and does not have a role in the management of unregistered companies. This question is best referred to the Department of Home Affairs.
- b)** Specialists include: lawyers; accountants; real estate agents; pre-insolvency and other company advisors; cryptocurrency traders and money remittance businesses (including cash-in-transit services); border and migration facilitators; financial lenders, mortgage and stock brokers; and bank employees.

## Tranche Two reforms

4. Mr Phelan, the ACIC has repeatedly identified that Australia's non-compliance with FATF and lack of Tranche 2 reforms increases the risk of ML-TF activity. Your submission reinforces this view and articulates support for the AML-CTF Act's scope being expanded to cover DNFPBs.
- a) Given that the ACIC is Australia's national criminal intelligence agency, I presume that this recommendation is based on evidence and expertise, and that the ACIC has recommended these reforms to Government?
  - b) Has the government provided the ACIC with reasons as to why its recommendations have been rejected?
    - i. Why do you think Tranche 2 laws haven't been progressed in Australia?
    - ii. Is there something unique about the Australian economy that sets us apart from the UK, New Zealand or Canada that means we shouldn't implement these reforms?
  - c) What is the consequence for the risk profile / level of money laundering and terror financing in Australia as a result of the Government's decision not to enact Tranche 2 reforms?
    - i. Put simply, is there more or less money laundering in Australia because the Government has chosen not to accept the advice of the ACIC?

### Response:

The ACIC has not explicitly stated that Australia is non-compliant with FATF.

- a) As an intelligence agency, the ACIC collects and discloses intelligence to relevant law enforcement and Government agencies.
- b) It is up to the recipient agencies to determine what to do with the intelligence advice they receive.
  - i. The ACIC does not comment on matters of policy.
  - ii. The ACIC does not comment on matters of policy.
- c) The ACIC does not comment on matters of policy.
  - i. The ACIC does not comment on matters of policy.