

1 December 2021

Ms Sophie Dunstone  
Secretary  
Senate Standing Committees on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Ms Dunstone

## **The adequacy and efficacy of Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime Inquiry**

At the public hearing of the Inquiry into Sterling Income Trust on 9 November 2021, CPA Australia was asked to respond to the following question on notice.

1. **Senator Deborah O'Neill:** Your submission indicates that you are supportive of applying Tranche 2 reforms to the Gatekeeper businesses like the professions of your members. What kind of regulatory framework would be the most effective to implement? What kind of whistle-blower protections do you want for your members?

CPA Australia's responses are as follows:

### **What kind of regulatory framework would be the most effective to implement?**

CPA Australia believes that the most efficient regulatory framework would be one that considers the existing professional and legal obligations with which professional accountants must already comply. For example, *APES 110 Code of Ethics for Professional Accountants* requires a professional accountant to respond to non-compliance or suspected non-compliance with laws and regulations, including money laundering, terrorist financing and proceeds of crime.

The framework must also consider how extending the regime to designated non-financial business and professionals (DNFBPs) would interact with those currently regulated by the regime, such as the banking industry who must report transactions of \$10,000 and over as part of a designated service. Imposing this same obligation on DNFBPs would arguably duplicate the reporting of such transactions, adding additional costs to DNFBPs for little or no benefit.

We believe that to understand what regulatory framework would be the most effective to implement requires the Department of Home Affairs and AUSTRAC to conduct the cost-benefit analysis of the options for regulating DNFBPs, as recommended by the 2016 review.

### **What kind of whistle-blower protections do you want for your members?**

We believe that the whistle-blower protections for members of the accounting profession should be the same as those under Part 9.4AAA of the *Corporations Act 2001* for any company employees, officers, suppliers or service providers (paid or unpaid) (s.1317AAA).

Whilst it is possible that professional accountants may be covered by these existing protections, for the avoidance of any doubt, a breach of AML/CTF legislation could be added to s.1317AA (5)(c).

Further, currently only ASIC and APRA are prescribed by legislation as regulators to whom an individual can provide information / make their disclosure to and trigger whistle-blower protections. To address this and ensure adequate protections are in place, AUSTRAC could be added to the s.1317AA(1)(b), either via regulations or preferably in the primary legislation.

We would also recommend reviewing if further regulatory authorities should be added, such as the Australian Competition and Consumer Commission.

If you have any queries about this submission, please contact \_\_\_\_\_  
or \_\_\_\_\_

on \_\_\_\_\_

Yours sincerely

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CPA Australia