

3 December, 2021

Questions on Notice to the Senate Standing Committee on Legal and Constitution Affairs

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

1. **What legal obligations are already placed on real estate agents to "know their customer", especially buyers (noting some may do this as a matter of good practice)?**
 - a. **Could you please identify these legal or regulatory obligations by jurisdiction in Australia?**

Whilst the regulatory approach is not uniform, data on prospective buyers/bidders and renters is currently collected across jurisdictions.

Generally as a minimum, these rules require that practitioners apply the VOI standard to verify the identity of parties to the transaction. In general, this is done in person, however, since the onset of COVID-19, verifying a party's identity virtually is becoming more common.

Identification provided is an original document containing a photo, such as passport or drivers licence.

Please refer to response to Question 2 for further detail.

2. **In discussion with Senator Scarr, it was suggested by the REIA representatives that estate agents are already undertaking comprehensive KYC checks as a matter of course. If these types of checks are already taking place, what additional costs does the REIA believe may be involved in Tranche 2 compliance?**

Real estate agents generally undergo VOI (verification of identity) during the sale of a home of both the vendor (seller) and purchaser (buyer).

Whilst this may vary, across legal, marketing and financial, VOI is undertaken multiple times through the process of a property sale by private auction or treaty.

PROPERTY SALE JOURNEY	INDICATIVE VOI
Initial appraisal of property	Agent VOI (Vendor)
Valuation of property	Bank VOI (Vendor)
Sign agency agreement	Agent VOI (Vendor)
Contract request	Legal VOI (Vendor)
Compliant marketing contract received	Legal VOI (Vendor)

Request Auction Conditions of Sale / Contract	Legal VOI (Vendor)
Request copy of Title	Legal VOI (Vendor)
Finance approval	Broker VOI (Buyer)
Bid at auction	Agent VOI for bidder register (Buyer)
Offer accepted	Agent VOI (Buyer)
Finance Approval	Bank VOI (Buyer)
Exchange	Legal VOI (Buyer, seller)
Update of legal ownership at State or Territory Land Registry	Government VOI (Buyer)

Private sales (those not using an agent) would generally only undergo VOIs for legal components of the sale. Communication of these VOIs to enforcement and surveillance agencies are currently not part of the sale process.

Please refer to response to Question 3 in relation to how this incurs additional costs.

3. The figure of \$50,000 per estate agent was quoted in terms of Tranche 2 compliance. Could you please provide a breakdown of this cost?

REIA President Adrian Kelly informed the Committee on 10/11/21:

"The Law Council estimated it at just under \$120,000 per business, and yesterday we heard that the cost to New Zealand practitioners was around \$10,000 per business. Reading through the list, and having discussed what needs to be done, on the face of it \$10,000 would seem pretty light, in our view—more like \$50,000 would seem reasonable.

We suspect that the figure of \$10,000 from New Zealand is more like the direct cost and doesn't take into account the time cost of the business owner and the people who work within the businesses. If you assume it is around \$50,000 and multiply that by the 47,000 estate agency businesses across Australia, you end up with something like \$2.4 billion."

This initial cost is based implementation experience from New Zealand and was explained in REIA's submission as including:

- 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

Please refer to REIA's Submission to the Inquiry for further information.