



## *Anti-money laundering and counter-terrorist financing measures - Australia*

### **2. National AML/CFT policies and coordination**

Effectiveness and technical compliance



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## 2. NATIONAL AML/CTF POLICIES AND COORDINATION

### Key Findings

**Overall, Australian authorities have a good understanding of most of Australia's main ML risks but need to develop their understanding further in certain areas.** They coordinate very well activities to address key aspects of the ML/TF risks **but there remain some key risks unaddressed, and an underlying concern that the authorities are addressing predicate crime rather than ML.**

Australia recognises the need to continue to update and take further measures to fully identify, understand, address, and communicate to the relevant sectors the full range of ML risks now occurring in Australia.

**Australia needs to take further actions to address the risk of gatekeepers and corporate vehicles as channels to facilitate ML,** as identified in the NTA , including by bringing all DNFBP's within the scope of the AML/CTF regime (and as required by the FATF Recommendations).

**Authorities have a good understanding of their TF risks and are addressing them. They assess that TF is largely motivated by international tensions and conflicts.**

**National AML/CTF coordination at the operational level is very comprehensive, but demonstrating its overall success is challenging, although results from national task forces are showing positive trends.** There is not enough focus on how to monitor and measure success, and there are limited national mechanisms or metrics actively in place to measure how effective or efficient the AML/CTF system is.

## 2.1 Background and Context

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### (a) Overview of AML/CTF strategy

2.1. Australia has no articulated AML/CTF policy or strategy but does have a national strategy for combating organised crime – the Commonwealth Organised Crime Strategic Framework – which identifies ML as an intrinsic enabler of organised crime. The key elements of that Framework are the Australia Crime Commission's (ACC) biennial Organised Crime Threat Assessment (OCTA) that provides a picture of the most significant threats and harms arising from organised criminal activity; a National Organised Crime Response Plan (NOCRP) which includes strategies and priorities for national and multi-jurisdictional approaches to key risks within the organised crime environment; and multi-agency responses to develop and deliver operational, policy, regulatory and legislative responses to organised crime. Australia also has an AML/CTF interdepartmental committee (AML IDC) (see TC Annex) at the federal level that sets priorities through an annual work plan. The most recent work plan's priorities include improving customer due diligence measures, reviewing the operation of AML/CTF legislation, enhancing data matching to improve the intelligence value of AUSTRAC information, and expanding the range of agencies that can access and use AUSTRAC information. More directly related to combating national ML/TF risks are the plans of individual agencies and task forces but these tend to focus on combating the underlying predicate crimes or terrorism rather than ML or TF, reflecting Australia's focus on crime disruption (see below). TF risks are addressed as part of AML/CTF policy and national security and counter-terrorism strategies as appropriate.

### (b) The institutional framework

2.2. The following are the main ministries, agencies, and authorities responsible for formulating and implementing the federal government's AML/CTF policies:

- **Attorney General's Department (AGD)** — has policy responsibility for AML/CTF. It is also Australia's central authority for extradition and mutual legal assistance in criminal matters.
- **Australian Crime Commission (ACC)** — is Australia's national criminal intelligence agency - focused on understanding and combating serious and organised crime of national significance. Its Board is chaired by the Australian Federal Police (AFP) Commissioner and includes all State and Territory Police Commissioners, the Secretary of AGD, the Director-General of Australian Security Intelligence Organisation (ASIO), the CEO of the Australian Customs and Border Protection Service (ACBPS), the Commissioner of Taxation and the Chair of the Australian Securities and Investment Commission (ASIC); AUSTRAC's CEO is an observer.
- **Australian Customs and Border Protection Service (ACBPS)** — monitors and detects the illegal movement of people, goods, and illicit cash across the border. It also administers border controls on UN sanctioned goods to prevent activities that may contribute to the proliferation of weapons of mass destruction.
- **Australian Federal Police (AFP)** — is responsible for investigating serious and complex crime against the federal government. It heads up the multi-agency Criminal Asset Confiscation Taskforce (CACT) and the Terrorism Financing Investigations Unit (TFIU).
- **Australian Intelligence Community (AIC) agencies<sup>1</sup>** — have intelligence and operational roles for aspects of ML/TF matters, as well as counter-proliferation.

1 The Australian Intelligence Community, or AIC, is an informal term used to describe the six Australian security and intelligence agencies: The Office of National Assessments; Australian Security Intelligence Organisation; Australian Secret Intelligence Service; Australian Signals Directorate; Defence Intelligence Organisation; and Australian Geospatial Intelligence Organisation.

- **Australian Prudential Regulation Authority (APRA)** — is Australia’s prudential supervisor for authorised deposit-taking institutions (banks, building societies and credit unions), life and general insurance and reinsurance companies, friendly societies and superannuation funds (excluding self-managed funds).
- **Australian Securities and Investment Commission (ASIC)** — is responsible for financial market integrity, business conduct and disclosure, and consumer protection in the financial system. It registers Australian companies and regulates financial markets, financial services organisations, and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit.
- **Australian Taxation Office (ATO)** — is the federal government’s principal revenue collection agency. It investigates tax crimes and provides information to law enforcement to assist with investigations into other crimes.
- **Australian Transaction Reports and Analysis Centre (AUSTRAC)** — Australia’s AML/CTF regulator and financial intelligence unit (FIU).
- **Commonwealth Director of Public Prosecutions (CDPP)** — prosecutes offences against federal law, which includes ML and TF offences.
- **Department of Foreign Affairs and Trade (DFAT)** is responsible for the implementation and administration of Australia’s targeted financial sanctions.
- **Australian Charities and Not-for-Profits Commission (ACNC)** seeks to maintain, protect and enhance public trust and confidence in the NPO sector.
- Each State and Territory also has its own police force and DPP. Most States and Territories also have specialist crime commissions and some have anti-corruption commissions.

*(c) Coordination and cooperation arrangements*

2.3. **Australia has a wide range of arrangements in place for AML/CTF coordination and cooperation at both the policy and operational levels.** The main federal coordinating body is the AML IDC which meets to share information and inform the strategic direction and priority setting of federal agencies working on domestic AML/CTF initiatives.<sup>2</sup> Coordination of AML/CTF-related activities also occurs through the NOCRP and other inter-departmental fora that coordinate law enforcement policy issues.<sup>3</sup>

2.4. **Operational activities are coordinated using a mixture of standing committees and task forces that include federal and State/Territory agencies.** A key body is the ACC Board described above. The Board determines national criminal intelligence priorities and special operations and investigations. Task forces are used as a mechanism to coordinate operational activities. These task forces target specific areas of concern where laundering activity is involved such as the remittance sector (Eligo National Task Force), criminal gangs (Task Force Attero), tax crimes (Project Wickenby), serious and organised investment fraud (Task Force Galilee), and asset confiscation (CACT). The use of criminal intelligence is also coordinated via the ACC National Criminal Intelligence Fusion Capability and via AUSTRAC providing online access to its transaction reports database as well as posting liaison officers in some partner agencies. In addition, Joint Management Groups (JMGs) operate in each of Australia’s States/Territories to coordinate operational interaction between federal and State/Territory law enforcement and regulatory agencies.

2 The AML IDC is chaired by the AGD and also comprises representatives from AUSTRAC, the AFP, the ACC, DFAT, Customs, the Treasury, the ATO and the CDPP. It meets two to three times each year as needed.

3 E.g. the Heads of Operational Commonwealth Law Enforcement Agencies – meets twice-yearly and serves as the primary forum for 14 federal agencies to discuss law-enforcement policy issues.

2.5. CTF policy is coordinated by the AML IDC as well as broader counter-terrorism coordinating bodies, led by the Australia-New Zealand Counter-Terrorism Committee. CTF operational matters are coordinated through a multi-agency Terrorism Financing Investigations Unit.

2.6. **DFAT chairs and services a number of counter-proliferation coordination groups.** The main group comprises: DFAT (Chair), Department of Prime Minister and Cabinet, Department of Defence, AGD, ACBPS, the AIC agencies, and other agencies co-opted as necessary.

*(d) Country's assessment of risk*

2.7. **Australia has produced two reports on its national ML/TF risks, which are supplemented by ongoing risk analysis efforts.** Those efforts include an Organised Crime Threat Assessment (OCTA) (produced by the ACC every two years) that focuses on aspects of the predicate crime environment, dynamic analysis processes stemming from strong inter-agency cooperation and joint-task forces, as well as studies into specific risk areas.

2.8. **Australia conducted its first National Threat Assessment on Money Laundering (NTA) in 2011 and published a summarised version.** The NTA assesses ML threats and also assesses high-risk countries that influence Australia's ML environment. It was produced prior to FATF adopting Recommendation 1 or publishing guidance on assessing ML/TF risk. The NTA tends to follow an approach similar to FATF's Money Laundering and Terrorist Financing Global Threat Assessment 2010, focusing mainly on the channels identified as vulnerable to laundering proceeds in the private sector. It is primarily a qualitative assessment using federal law enforcement cases and information in the AUSTRAC database to identify ML channels and typologies. While the NTA identifies and assesses most of the main risks, the assessors question whether the scope, inputs, and focus limit the analysis in relation to some other ML risk areas.

2.9. **The NTA's conclusions reasonably reflect most of Australia's main risks (which likely still prevail), but the NTA is now three years old and assessors are not confident that it is current for all risks, including where subsequent assessments have superseded it in some areas (e.g. on cryptocurrencies, TBML and financial and investment sector fraud).** The NTA, in particular, looked at some but not all potential AML/CTF regime vulnerabilities. It may not have identified or assessed new and emerging risks reflected in the latest FATF Standards, and potentially failed to identify some risks (e.g. foreign predicate risk). The NTA relied on the 2010 OCTA and other criminal intelligence for setting the broader crime environment. However, not all of the predicate crimes producing significant proceeds (such as the large domestic cannabis market) are assessed or examined as ML risks as fully as may have been expected. Nevertheless, Australia's understanding of risk has since been supplemented by other mechanisms as set out in paragraph 2.1 above, for example the biennial OCTA. In addition, the ACC has produced many intelligence products which deal with either ML/TF specifically or are ML/TF related.

2.10. **Australia has used the results of the NTA to help shape aspects of how it combats ML.** The AML/CTF regime is calibrated around mitigating risks from organised and serious crimes with the regulatory focus on banks, the gaming sector, and remitters – seen in the NTA as the main channels for ML (and also TF for the latter). Specifically, the NTA appears to have been a substantial driver for the creation of a remittance task force in December 2012.

2.11. **The NRA focuses on TF risks which impact on Australia's domestic environment.** It assesses the risk associated with the methods and financial channels used to raise or transfer funds for TF. High-risk countries which influence TF in Australia are also examined. It was coordinated by AUSTRAC, finalised in April 2014, and prepared with input from intelligence held across law enforcement and national security agencies. The methodology used, which drew on the NTA and modified it to take into account the FATF guidance on conducting ML/TF risk assessment, was superior to that used for the NTA such that the assessors are confident that it more likely identifies and assesses the TF risks in Australia. The NRA is being used to help guide agencies on how to combat TF in Australia.

## 2.2 Technical Compliance (R.1, R.2, R.33)

2.12. See for the full narrative the technical compliance annex:

- **Recommendation 1 (assessing risks and applying a risk-based approach) is rated partially compliant.**
- **Recommendation 2 (national cooperation and coordination) is rated largely compliant.**
- **Recommendation 33 (statistics) is rated largely compliant.**

## 2.3 Effectiveness: Immediate Outcome 1 (Risk, Policy and Coordination)

2.13. **Australia exhibits many characteristics of an effective system** but needs to implement moderate improvements in the way that it formulates and implements its AML/CTF policies and activities. This includes moving beyond the current primary focus on predicate crime to formulating and implementing policies more specifically aimed at mitigating the ML/TF risks.

### *Understanding risk*

2.14. **Overall, the authorities demonstrated a good understanding of most of Australia's main ML risks but need to develop their understanding further in certain areas.** Due to the dynamic ongoing risk analysis processes employed, the authorities' understanding of Australia's ML risks is not reliant solely on the NTA. They demonstrated very good understanding of aspects of the risks associated with the predicate crime environment, domestic geography, aspects of cross-border flows, the channels most vulnerable to laundering, and customer risks (including involving complex corporate structures), but somewhat less understanding of risks linked to system vulnerabilities. While having a comprehensive understanding of some aspects of nature and size of the proceeds of crime environment, the authorities acknowledged that they could improve the depth of their understanding particularly in State and Territory police agencies. Recent OCTAs have focused on improving the understanding of a wide range of "serious and organised" crime markets. The ACC was working on, and finalised after the on-site, a Financial Crime Risk Assessment, which should provide greater depth and detail about complex financial crimes and which can inform future ML risk assessments. Sydney and Melbourne were universally understood as the primary sources of domestic proceeds as well as the favoured geographic zones for domestic laundering.

2.15. **There seemed to be a fairly good and universal understanding in relation to specific aspects of cross-border illicit flows.** Australian authorities have largely focused on outgoing high-risk funds but recognise, based on recent operational findings, among other things, that more attention needs to be paid to understanding potential incoming laundered flows. In addition, the authorities demonstrated differing views about the extent to which Australia is exposed to trade-based ML, although they have taken some steps to begin addressing the issue.

2.16. **There was also a very good and almost universal understanding of most channels that were identified as highly vulnerable to ML activity in the NTA.** The authorities demonstrated a very good understanding of placement risk associated with mainly drug crime, as well as risks associated with more sophisticated aspects of laundering activity. However, while the gaming sector, high value goods, and real estate were identified as high threat in the NTA, the authorities did not convey that same understanding of their risk levels in their meetings with the assessment team – particularly at the federal level (but a number of case studies show they have successfully investigated ML involving these sectors)..

2.17. **There was insufficient understanding demonstrated of the extent to which Australia could be exposed to ML or TF risk through potential vulnerabilities such as gaps in the AML/CTF laws and regulations, weaknesses in the way that the authorities carried out their roles, or a lack of resources in AML/CTF agencies.**



2.18. **Australia could possibly forge a stronger consensus about the understanding of risks by formalising its ongoing efforts to analyse risk understanding.** Understanding ML risks has been supplemented since the NTA through ongoing dialogue amongst Australian authorities but their views about some of those risks vary. While some variance is expected, there could be merit in having the AML IDC formally adopt future NTAs and findings that updated parts of Australia's ML risk profile in between iterations of the NTA. Moreover, this would also help spread ownership of the NTA to assist AUSTRAC to engage more agencies nationally to contribute to the assessment.

2.19. **The authorities demonstrated a deeper understanding of the TF risk than was contained in the public version of the NRA.<sup>4</sup>** They assessed that TF is largely motivated by international tensions and conflicts. The primary destinations for current TF flows from Australia were understood to be Syria and Iraq, with the funds often passing through other jurisdictions *en route*. The authorities did not see any evidence that TF funds were flowing into Australia to fund domestic terrorism or to be re-directed to other countries. "Lone-wolf" operators and small domestic groups (sympathetic with foreign Jihadist groups) were understood as the primary terrorism, and thus TF, risk both domestically and trans-nationally. Sydney and Melbourne were seen as the most likely fund-raising locations. Funds move out of Australia through banks or remitters or travel with those moving to conflict zones. There had also been a small number of incidents of Australian businesses paying ransoms to terrorist groups in Africa.

### *Addressing risks*

2.20. **The authorities demonstrated areas where national policies and activities were addressing Australia's main ML risks and that they are largely addressing TF risks** (particularly by disrupting domestic terrorist activities, as discussed in Chapter 4 below), **but there remain some key risks unaddressed, and an underlying concern that the authorities are addressing predicate crime rather than ML.** The main criminal threats universally identified where national policies pursued ML, were drug trafficking and tax evasion, but the authorities did not demonstrate that their policies focused much attention on addressing laundering activity from other crimes (including foreign predicates). National policies to address drugs and tax crimes have led to the establishment of the ATO-led Project Wickenby in 2006, the Criminal Assets Confiscation Taskforce in 2011, and the Eligo National Task Force in 2012. Fraud was a high-risk predicate in the NTA and while national policies exist focusing on the predicate crime (e.g. the ACC-led Task Force Galilee was established in 2011 to address serious and organised investment fraud), the ML risk could be better addressed, including by having investigative agencies place more emphasis on pursuing criminal ML charges for large frauds and recovering the related proceeds using criminal processes. Present policies emphasise assisting some victims of large frauds to pursue stolen assets using civil processes (see IO7 and IO8). And while some laundering activity is being disrupted, investigators shared frustrations at being unable to effectively pierce complex corporate structures and suggested that this may be contributing to challenges in securing substantive ML or other convictions against senior members of major drug or ML networks, and the low level of proceeds confiscations relative to the estimated size of drug markets (see IO5, IO7, and IO8). Thus, Australia's AML/CTF efforts could be enhanced by addressing risks associated with the abuse of companies and trusts, including by developing improved legal mechanisms to obtain beneficial ownership of companies and trusts. In particular, the authorities would probably benefit from a central register of trusts. Further areas where Australia could do more to calibrate its policies to address its risks are discussed below and in greater detail under each relevant IO).

2.21. **The authorities claim that their policy of disrupting organised and serious crime addresses ML/TF risk but assessors were not presented with convincing evidence of how effective disruption was at combating ML.** Australia considers that ML investigations form one component of a holistic strategy to prevent, deter and interrupt criminal activity and that predicate offending and money laundering are not mutually exclusive. Australia argues that following the money results in the investigation of money laundering offences also provides a benefit for investigating predicate offences. Thus, due to the transnational nature of most predicate crimes generating substantial proceeds in Australia, Australia has responded by prioritising

4 A sanitised version of the NRA was published on 11 September 2014, too late after the on-site visit to be taken into account for the purposes of determining ratings.

an international disruption strategy that involves arrest and prosecution of those involved in serious and organised crime (often for the predicate offence) but also international collaboration to target criminal syndicates and their senior controllers as key parts of responding to crime. This strategy is presented as partly explaining why domestic ML convictions might be lower than could be expected, relative to Australia's ML risk profile. Challenges remain in demonstrating how successful the strategy is. In addition, the assessors note that while this policy of disruption does not fit within the "alternative measures" approach contemplated in Core Issue 7.5 of the Methodology (see IO.7), but disruption strategies can fit under IO.1 if assessors are convinced that it contributes to combating ML.

2.22. **Authorities pointed to areas where disruption had hardened the environment and forced criminals to move offshore and change ML methodologies, as illustrating that the disruption strategy was addressing the ML risks. However, the assessors were not convinced that changing rather than reducing behaviour amounts to addressing or mitigating ML risks.** Examples of criminals changing their *modus operandi* include some organised criminal syndicate principles moving offshore to avoid detection and arrest, and their use of "clean-skin" non-resident mules who quickly carry out structured deposits. These make it difficult for law enforcement to take action before the mules have left the country and the funds have moved offshore, into untraceable corporate structures, or both. While the authorities cited intelligence that pointed to launderers changing to other methods due to disruption activity, some law enforcement and the private sector said that financial crime, including money laundering, was not decreasing, instead, the criminals were just changing their behaviours. This is a major challenge in an area of criminal activity where perpetrators adapt, regroup, and shift their methodologies.

2.23. **The authorities have addressed some vulnerabilities in the regulatory framework by introducing new CDD requirements and regulation and supervision focuses on addressing risks in banks, the gaming sector, and remitters consistent with the NTA, but need to take further measures to address the ML risks associated with gatekeepers and corporate vehicles, as identified in the NTA (and as required by the FATF Recommendations).** Australia's AML/CTF regime was strengthened in 2014 by the introduction of new CDD and PEP requirements for reporting entities. In 2011, amendments to the AML/CTF Act introduced new obligations to address the ML/TF risk associated with remitters. As discussed in IO3, AUSTRAC's risk-based supervision policy focuses on the higher risk reporting entities currently within the AML/CTF regime. Robust enforcement of the new CDD requirements, coupled with other predicate crime policies<sup>5</sup> should also enhance efforts to combat the use of fraudulent identities in ML/TF, which discussions with law enforcement and the private sector suggested occurred frequently. Identity fraud was identified as a high-risk issue in the NTA, which indicated identity crime/fraud as both a crime risk and an enabler to ML. However, there are limited measures in place to mitigate high ML/TF risks identified by the authorities associated with the abuse of legal persons and arrangements or the real estate sector. Professional facilitators (lawyers, accountants, TCSPs – especially from lower tier firms) were almost universally understood as a major ML risk - but the authorities have not addressed that risk by including them within the scope of the AML regime. Obligations to record details about beneficial ownership of customers, companies, and trusts by professional facilitators as well as report suspicions to AUSTRAC may enhance detection of ML/TF activity as well as facilitate the timely tracing of criminal assets. This is particularly relevant for the latter where the authorities indicated that tracing proceeds is often frustrated through the use of complex corporate structures (see IO4, IO5, and IO8).

2.24. **The authorities could also do more to pro-actively address the ML risk from foreign proceeds, including by regulating real estate agents, one of the DNFBPs most exposed to the activity, and by law enforcement more actively pursuing foreign predicates crime.** The laundering of foreign proceeds of crime in Australia (particularly in the real estate sector) was acknowledged by some of the authorities and much of the private sector as a high ML risk, but assessors' attention was not drawn to any national policies explicitly targeting or prioritising this risk. Of great concern is that Australia has not brought real estate agents within the AML/CTF regime. Furthermore, while authorities have taken some proceeds of crime action in relation to foreign proceeds, they do not always pursue such cases, nor receive good cooperation from other countries to get admissible supporting evidence to demonstrate foreign offending or that money

5 See the National Identity Security Strategy, at [www.ag.gov.au/identitysecurity](http://www.ag.gov.au/identitysecurity).



in Australia is the proceeds of crime, which therefore limits Australia's ability to take action. The AFP works closely with AGD and foreign law enforcement agencies to help ensure that foreign orders can be registered in Australia. Nevertheless, authorities indicated that the receipt of a foreign restraining order was not usually a trigger to commence an Australian investigation to pursue criminal charges against those carrying out the laundering activity in Australia. Overall, the assessors were left with the impression that law enforcement efforts to pursue the laundering of foreign proceeds might be given a higher priority if there was an explicit national policy to address this risk (See IO4 and IO7).

2.25. **The authorities could do more to address ML/TF in cash-intensive businesses.** Cash is clearly understood as a major risk - but cash intensive businesses do not seem to be a focus for the authorities and, other than being mentioned in the NTA, it is not clear that the authorities have policies that proactively address the risks associated with them.

2.26. **Australian authorities' understanding of its TF risk has also informed the development of its national CTF policies and activities.** The introduction of remittance registration obligations in 2011 has assisted in addressing the TF risks posed by the remittance sector, a key channel for TF in Australia. The authorities' ability to investigate TF and disrupt terrorism plots has been greatly enhanced by the creation of a specific Terrorism Financing Investigations Unit in the AFP in 2010. **More generally, Australia does not have a developed national policy setting out what the overall AML/CTF system is meant to achieve, or how its success should be monitored or measured, making it challenging to determine how well the ML/TF risks are being addressed.** Most AML/CTF agencies have key performance indicators (KPIs) but few relate to AML/CTF, and those are too micro to help determine what the system overall is achieving. Thus, there are very limited mechanisms or metrics actively in place to measure how efficient or effective the AML/CTF system is, including how well it addresses ML/TF risks. Related to this, there are challenges producing some key national level AML/CTF related statistics for the system's criminal justice outcomes (see TC Annex).<sup>6</sup>

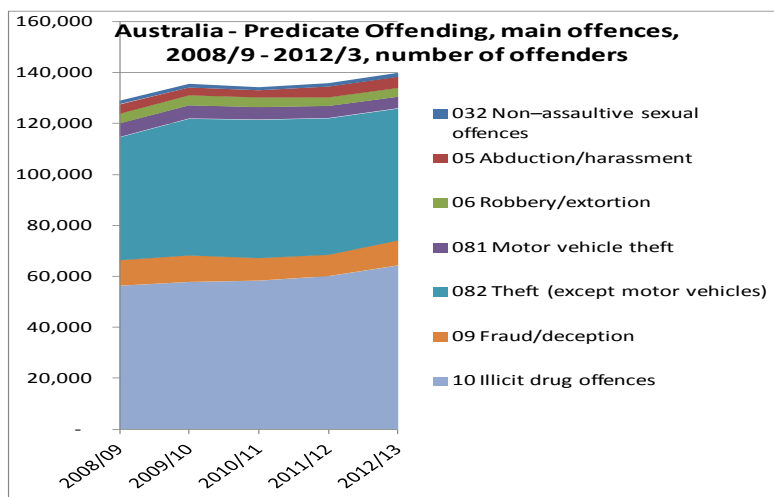
2.27. **Accordingly, metrics about how well the authorities' efforts are addressing ML/TF risks are limited, and the authorities were challenged to present convincing evidence about what outcomes their efforts are achieving.**<sup>7</sup> While law enforcement's strategic focus is on disrupting predicate crime, including through confiscating criminal assets, rather than pursuing ML offences, there was not sufficient evidence that this strategy was reducing the level of offending or taking enough proceeds away from criminals to make crime unprofitable (see IO.7 and IO.8). Official crime statistics and other reports indicate that, while predicate crimes may be decreasing in some areas (e.g. some frauds), the overall incidence, particularly for drug trafficking (the main threat), is not (see chart below). Consistent with this, drug seizures and arrests are substantially higher than since the last assessment and at record highs<sup>8</sup>. Some law enforcement indicated that the value of property taken from criminals each year was small compared to what the criminals generated (see IO.8 for more on what is confiscated annually). Moreover, the authorities only take action to freeze or seize proceeds of crime in a small number of predicate crime cases, suggesting that more could be done to address ML risks.<sup>9</sup>

6 A contributing factor may be that criminal justice statistics are maintained according to the highest ranked offence that an offender is charged with or convicted for. The ML offence ranks 79th, behind many predicate offences (and below all major profit generating offences identified in the NTA). This limits an ability to accurately track how many offenders are convicted for ML or what sanctions were imposed on them for ML.

7 See IO.6, IO.7, and IO.8 for more information about outputs of various operational task forces.

8 Australian Crime Commission (2014).

9 The ratio is around 2%. Note, however, that it is unrealistic to expect any country to prosecute 100% of its predicate crime offenders for money laundering or recover 100% of proceeds generated.



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### *Objectives and activities of competent authorities*

2.28. **The objectives and activities of most of the competent authorities are generally consistent with the ML/TF risks, with the major exception being a lack of focus on addressing risks from abuse of complex corporate structures and real estate (including through regulating relevant DNFBPs).** And, while there may be alignment, as discussed above, moderate improvement is needed in some areas to address the ML risks. On the preventive front, regulation of financial institutions but not DNFBPs matches the main risks and AUSTRAC's stated areas of supervisory focus are fairly well aligned with the high risk channels identified in the NTA, and guided by sector and entity-type risk analysis. But AUSTRAC's actual supervisory practice does not adequately align with the risks in the regulated sectors and is not sufficiently nuanced to account for variance and risk between the REs within a single Reporting Entity Group (REG). As mentioned, there is no specific national AML/CTF policy or strategy for the authorities to align their objectives and activities with.

### *Exemptions, enhanced, and simplified measures*

2.29. **Exemptions from requirements, and the application of enhanced or simplified measures, are not based primarily on the results of the NTA, NRA or other efforts to assess ML/TF risks.** The regulatory framework does not require reporting entities to apply enhanced measures based on the findings of the NTA or NRA, and exemptions are often driven by a combination of parameters such as regulatory burden imposed on regulated entities relative to their risks and other matters, rather than primarily on a proven low risk of ML and TF.

### *National coordination and cooperation*

2.30. **National coordination across the operational chain is very comprehensive, but demonstrating that it is focused on combating ML and TF rather than predicate crimes and terrorism is challenging.** As mentioned, Australia has many arrangements in place for AML/CTF coordination and cooperation, underpinned by OCTA, NOCRP, NTA and NRA (see IO6, IO7, and IO8 for more information about the results being produced by various operational task forces). These result in regular dialogue between relevant agencies, particularly on operational matters. Overall, however, none of the material cited by the authorities flowing from these arrangements set out any policy or strategy for combating laundering *per se* or going after those that facilitate it – the target of most of the material is organised crime rather than money launderers. However, the authorities said much of their effort focuses on following the money trail overseas to identify the key ML syndicate organisers - the 'super controllers' or 'super facilitators' - and to engage foreign authorities to take joint action against these targets. As previously mentioned and elaborated below in Chapters 3 and 4, the authorities' focus is on disrupting predicate crime and terrorism rather than ML/TF. As discussed in Chapter 6, AUSTRAC, as AML/CTF supervisor, seems to coordinate well with law enforcement, but could make more effort to coordinate with prudential supervisors.

2.31. **The authorities coordinate and cooperate to a large extent to combat the financing of proliferation of weapons of mass destruction.**

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*Communicating ML/TF risks*

2.32. **Australia has been proactive in directly communicating some aspects of ML risk outcomes, particularly to major reporting groups, but could enhance communication of customer and country risks to all reporting entities, and improve overall communication to the lower-tier reporting entities.**

A sanitised version of the NTA on ML was published that contains only cursory material about the predicate crime threat, cross-border or country risks, and very little about customer risks. Very general information about predicate crime threats and sometimes their links with ML are also communicated through the ACC's sanitised OCTA and other publications, but more focus on the size and nature of the predicate crime environment in future sanitised NTAs would help the private sector to better understand the broader ML risk environment. The NRA on TF had not been shared with the private sector at the time of the on-site. A sanitised version shared with the assessors, while identifying high-risk countries and the main areas exposed to risk, seems high level and would be improved if it provided more practical information to the private sector about Australia's TF risks.<sup>10</sup> The authorities have also shared more details on ML/TF risks in AUSTRAC's major reporters and industry forums. Many in the private sector indicated that the extent of their knowledge about the authorities' views of ML/TF risks was limited, and that they would benefit from having more information than what is available in the published material, including more current information on areas of concern.

**Overall conclusions on Immediate Outcome 1**


2.33. **Australia is achieving Immediate Outcome 1 to a large extent as demonstrated by its good understanding of most of its major ML risks and of its TF risks, as well as its very good coordination of activities to address key aspects of the ML/TF risks.** Australia identified and assessed most of its major ML risks, but needs to pay more attention to understanding foreign predicate risks, and vulnerabilities that impact its AML/CTF system. The system has started to achieve some mitigation of ML risks (e.g. for some fraud and tax crime), but the major drug crime threat is highly resilient to the authorities' efforts. AML/CTF policies need to better address ML risks associated with foreign predicate offending, the abuse of legal persons and arrangements, and laundering in the real estate sector, particularly through bringing all DNFBPs within the AML/CTF regime. More current information about ML/TF risks also needs to be communicated to the private sector. The identification of low or high ML/TF risks by the authorities should drive exemptions from requirements and strongly influence the application of enhanced or simplified measures for reporting entities. While cooperation, particularly on operational matters, is very good across relevant competent authorities, including for proliferation matters, Australia could better articulate an AML/CTF policy and maintain more comprehensive national statistics to demonstrate how efficient and effective its AML/CTF system is, including by developing ways to show that its disruption strategy for predicate crime addresses ML risks. **The rating for Immediate Outcome 1 is substantially effective.**

**2.4 Recommendations on National AML/CTF Policies and Coordination**

2.34. The authorities are recommended to:

- Develop and implement more aggressive policies to combat ML, particularly drug related, but also other ML beyond the current primary focus on the predicate crime, including aimed at pursuing sophisticated and complex ML schemes in order to disrupt major ML networks and facilitators.

<sup>10</sup> A sanitised version of the NRA was published on September 11, 2014, too late after the onsite visit to be taken into account for the purposes of determining ratings.

- 
- Better address ML risks associated with:
    - predicate crimes other than drugs and tax, including foreign predicates;
    - the abuse of legal persons and arrangements and the real estate sector;
    - identity fraud;
    - fraud; and
    - cash intensive activities, including by extending AML/CTF requirements to lawyers, accountants, trust and company service providers, and real estate agents.
  - Articulate and then implement clear and more granular strategies for combating ML and TF, including identifying metrics and processes for monitoring and measuring success.
  - Establish processes to collect and maintain the main national level statistics needed to measure success in implementing a national AML/CTF strategy, particularly those related to investigations, prosecutions, convictions, and property confiscated.
  - Undertake a re-assessment of Australia's ML risks in keeping with the requirements and guidance issued in relation to Recommendation 1, and formalise the ongoing processes for re-assessing risks.
  - Share more information with the private sector about ML/TF risks and consider having private sector input into the assessment of those risks.
  - Amend the AML/CTF Act and Rules to ensure that exemptions and the application of simplified preventive measures must be based primarily on low ML and TF risk.

## References

Australian Crime Commission (2014), *Illicit Drug Report 2012-13*, Australian Crime Commission, Canberra, [www.crimecommission.gov.au/sites/default/files/290414-IDDR-2012-13.pdf](http://www.crimecommission.gov.au/sites/default/files/290414-IDDR-2012-13.pdf).

## 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

a2.1. This is a new Recommendation and assessing against it requires full analysis against all of the criteria.

#### *Risk assessment*

a2.2. **Criterion 1.1** – Australia uses many processes to identify and assesses its ML/TF risks that generally result in a reasonable portrayal of most of those risks. The written ML risk assessment conducted focuses on most major risks but likely fails to identify all potential ML risks, or provide a sufficient basis for proper analysis to assess the risks due to its somewhat limited scope and information base (elaborated below), but this is supplemented by other ongoing risk analysis. Australia has generally identified and assessed its TF risks. Australia has produced two national reports on its ML/TF risks, which are supplemented by an Organised Crime Threat Assessment (OCTA) (produced by the ACC every two years) that contains information about aspects of the predicate crime environment arising from organised criminal activity, but not other forms of criminal activity<sup>1</sup>. In addition, Australian authorities use dynamic processes for ongoing analysis of risk built around strong inter-agency cooperation and joint task forces. These processes include informal regular discussions as well as intelligence assessments and other studies into specific areas of risk. The two national reports, produced by AUSTRAC, in collaboration with law enforcement and national security agencies, were:

- The 2011 NTA assesses ML threats by examining measures, the intelligence picture, drivers and enablers, and gaps.<sup>2</sup> It also assesses high-risk countries that influence Australia's ML environment. While providing a baseline upon which future assessments can build, its scope is somewhat limited as it focuses primarily on the channels identified as vulnerable to laundering proceeds in the private sector (akin to the approach in the FATF Money Laundering and Terrorist Financing Global Threat Assessment 2010) rather than broader AML/CTF regime vulnerabilities, thus potentially failing to identify some risks (e.g. customer risk, foreign predicate risk, risks due to weaknesses in the authorities' AML/CTF efforts). Some of these vulnerabilities may have been examined through a threat matrix that assessed deterrence and detection elements of the framework, related mainly to the AML/CTF preventive measures but not to other measures. It is primarily a qualitative assessment based on law enforcement and financial intelligence experts' input<sup>3</sup>, taking into account mainly classified information that was not made available to the assessors. The NTA draws links between crime types, criminal groups, ML channels and dominant typologies, informed by the OCTA and other strategic criminal intelligence. There is a modest discussion on the predicate crime threat environment concentrating on organised and serious crime which may not assess or examine all of the predicate crimes for their ML risk as fully as may have been expected<sup>4</sup>. The NTA

1 The OCTA focuses on offences that involve two or more offenders, substantial planning and organisation and the use of sophisticated methods and techniques, which is committed in conjunction with other serious offences punishable by imprisonment for a period of three years or more.

2 Note that it was produced prior to FATF adopting R.1 or publishing any guidance on assessing ML/TF risk.

3 The main agencies making input were: AUSTRAC, AGD, ACC, AFP, ACBPS, ATO and the New South Wales Crime Commission. Other federal, State and Territory agencies were consulted, provided information, or both (e.g. ASIC, the Queensland Crime and Corruption Commission, and the Victoria Police). Information from international law enforcement partners and FIUs was also used.

4 For example, it downplays the ML risk posed by domestic cannabis markets identified in: Australian Institute of Criminology (AIC) Counting the costs of crime in Australia a 2005 update (published 2008); Australian Bureau of Statistics The Non-Observed Economy and Australia's GDP, 2012. This is due to the OCTA assessment of the predicate



also relied on analysis of information reported to AUSTRAC, which may not be representative of actual ML behaviour in Australia. To address an absence of data on the number or value of ML cases, the assessment drew on a sample of 174 sanitised predicate crime and ML cases contained in AUSTRAC's annual typologies report. The authorities involved in the NTA considered that these cases broadly represented the main areas of ML activity, although they recognised the limitations of this approach and that it does not reflect levels of activity across the breadth of sectors exploited for ML. These cases contain some information about the value being laundered but other intelligence and analysis of AUSTRAC data was used to fill this gap. The NTA also does not address the harm or consequences of the identified risks; the NTA notes that, apart from fuelling criminal enterprises, reliable evidence of ML consequences is limited in Australia. Thus, overall, while the NTA identifies and assesses most of the main risks, the assessors question whether the scope, inputs, and focus limit the analysis in relation to some other ML risk areas.

- The 2014 NRA focuses on TF risks (within Australia and from foreign countries) which impact on Australia's domestic environment. It assesses the risk associated with the methods and financial channels used to raise or transfer funds for TF. High-risk countries which influence TF in Australia are also examined. It was coordinated by AUSTRAC, finalised in April 2014, and prepared with input from intelligence held across law enforcement and national security agencies.<sup>5</sup> In addition, AUSTRAC developed a 'forensic' profile of financial activity from the reports in AUSTRAC's data holdings since 2006 related to TF matters. The methodology used, which drew on the NTA and modified it to take into account the FATF guidance on conducting ML/TF risk assessment was superior to that used for the NTA such that it more likely identifies and assesses the TF risks in Australia.

a2.3. **Criterion 1.2** – Australia's 2010/11 National Organised Crime Response Plan (NOCRP) identified that ML risks would be assessed and that AUSTRAC, as lead agency for AML/CTF, would be responsible. AUSTRAC, in consultation with the AFP and ASIO, was also chosen to take the lead for coordinating actions to assess TF risks.

a2.4. **Criterion 1.3** – While the NRA is new and therefore up to date, the NTA is less so. For example, it did not identify or assess new and emerging risks that have been reflected in the latest FATF standard, and contains some outdated information about Australia's predicate crime environment. The authorities have indicated that they plan to update the NTA and NRA at five yearly intervals. In between these updates AUSTRAC has been producing thematic criminal and financial intelligence assessments to respond to the areas identified as requiring further work in the NTA (e.g. on: PEPs, corruption and foreign bribery; digital and virtual currencies; legal practitioners, and real estate agents). These reports have been provided to partner agencies to help them understand evolving risks (e.g. TBML is now seen as a greater risk than it was assessed in the NTA). However, while useful, these reports do not normally assess the level of risk or re-assess existing levels of risk, nor do they derive from a methodology like those in the NTA or NRA. In addition, the authorities maintain that other reports, such as the two-yearly OCTAs, intelligence analysis produced by national criminal task forces, and national security statements also provide regular information about ML/TF risks. However, these other reports do not focus primarily on ML/TF and most do not formally identify and assess ML/TF risks.<sup>6</sup>

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crime environment, on which the NTA was based, including an assessment of the harms posed by the different crimes, meaning that the large volume of domestic proceeds generated from cannabis was given less attention. Australia may want to reconsider this approach given that the assessment is meant to focus on ML not predicate crime.

5 Input came from: the AFP-led Terrorism Financing Investigations Unit (TFIU), AGD, ACNC, ACC, ACBPS, Australian Intelligence Community agencies, DFAT and Department of Prime Minister and Cabinet. The TFIU coordinated input on the assessment from State and Territory law enforcement agencies through Australia's network of joint counter-terrorism teams.

6 Recent OCTAs have included some assessment of certain emerging ML risks.

a2.5. **Criterion 1.4** – The authorities shared the classified NTA with all partner agencies and have published a summary version for use by self-regulatory bodies, financial institutions, and DNFBPs. However, the summary version of the NTA reads in many parts like a generic ML typologies report and it does not share information on a key result of the risk assessment - high risk countries, nor does it draw attention to the relative importance of transnational ML risks. The classified version of the NRA has been shared with partner agencies but no mechanism had been used to provide information on the NRA results to the private sector at the time of the onsite.<sup>7</sup>

### *Risk mitigation*

a2.6. **Criterion 1.5** – The AML/CTF regime is calibrated around mitigating risks from organised and serious crimes with the regulatory focus on banks, the gaming sector, and remitters – seen as the main channels for ML (and also TF for the latter). The AML IDC agrees and sets annual risk-based priorities to guide the work and resource allocation of its member agencies on AML/CTF matters. Each agency must initiate changes to its resource allocation through its Minister and ultimately Parliament. Most AML/CTF agency budgets have been reduced recently as part of broader government-wide budget reductions since the Global Financial Crisis despite the NTA identifying high risk areas requiring attention and the OCTA identifying ML as a key risk enabling organised and serious crime. Despite this tighter budgetary backdrop, additional funding has been given to agencies (e.g. AUSTRAC received additional funding for new intelligence systems in 2010 and AUSTRAC for a remitter register in 2011) on the basis of understanding risks.<sup>8</sup> There are also some examples of reallocating existing resource to address risks (the ACC established a remittance task force in December 2012 that participating agencies funded by reallocating resources, and the NSW Police and NSW Crime Commission established dedicated ML teams). While these examples of moving resources to address identified risks involve interagency consultation, there does not appear to be any whole of government approach to resource allocation to AML/CTF matters on the basis of risk. A large concern is that no legislative or regulatory measures have been promulgated to mitigate the high risks identified with certain DNFBPs (accountants, lawyers, trust and company service providers and real estate agents), other businesses (e.g. high-value goods and cash intensive businesses) all of which are outside of the scope of the AML/CTF regime or related to preventing the abuse of legal entity structures. This indicates that the AML/CTF legal and regulatory framework could be better harmonised with the identified risks.

a2.7. **Criterion 1.6** – The regulatory framework does not require reporting entities to fully implement all requirements of the relevant FATF Recommendations (see section of report on preventive measures). However, the basis for these exemptions is not solely on the basis of low risk. The legislative requirements (sections 248 and 212 of the AML/CTF Act) and published policy provide that the basis is also concerned with avoiding excessive regulatory burden and other considerations. While the authorities have rejected some exemption applications because risks were too high, they have not provided convincing evidence that those granted were on the basis of demonstrated low ML and TF risk and some exemptions appear to be granted solely on the basis of excessive regulatory burden.<sup>9</sup> Moreover there are other examples where the FATF Recommendations are not fully applied that are not clearly based on low ML/TF risk. There is an exemption for the gaming industry in relation to transactions under AUD 10 000 and the exemption from most of the AML/CTF obligations applicable to any person licensed to operate no more than 15 gaming machines (Chapter 52 of the AML/CTF Rules) run counter to the NTA assessment that the gaming sector

7 A sanitised version of the NRA was published on 11 September 2014, following the on-site.

8 After the on-site, the federal government also made AUD 650 million available to fight terrorism, including AUD 20 million for AUSTRAC to enhance its TF analysis and tracking capabilities.

9 AUSTRAC states that it will consider exemptions where “the burden imposed on business is likely to be greater than is warranted by the risk” (see [www.austrac.gov.au/exemption\\_policy.html](http://www.austrac.gov.au/exemption_policy.html)). Moreover, the AML/CTF Act section 212(3)(c), requires that the AUSTRAC CEO must have regard to, amongst other things, “the desirability of ensuring that regulatory considerations are addressed in a way that does not impose unnecessary financial and administrative burdens on reporting entities”. Collectively these demonstrate that considerations other than demonstrated low risk are taken into account when granting exemptions.

presents a high threat (including potentially in relation to transactions below AUD 2 000), and the exemption applies regardless of the number of transactions or amounts gambled. Similarly, the thresholds set for stored value cards, which are based on a risk assessment, combined with the absence of an explicit requirement in relation to structuring, do not seem in line with the NTA assessment, which identified these means of payment as providing criminal opportunities to move funds, including cross-border, and do not seem to factor in TF risk. Casinos and bullion dealers are the only two categories of DNFBPs subject to AML/CTF obligations under the current Australian regulation despite the high level of ML threat that professionals such as lawyers, accountants, trust and company service providers, etc. represent.<sup>10</sup> The NTA assessment also identified high value goods as high risk; only bullion dealers are covered by the AML/CTF Act. Moreover, there are no review mechanisms in place to ensure that the circumstances justifying the exemptions are still met.

a2.8. **Criterion 1.7** – Australia identified in its NTA seven areas as presenting high ML risks (the banking system, money transfer businesses and alternative remittance services, the gaming sector, high-value goods, professionals, legal entity structures, cash intensive businesses) and one presenting potentially high ML risks (electronic payment systems and new payment methods). Yet, while the AML/CTF regime is reasonably well calibrated to focus on the risks in banking, remittance, and gaming sectors, the authorities have not demonstrated that it addresses all of the remaining identified high risks. More specifically, there is no requirement on reporting entities to take enhanced measures in respect of transactions or customers associated with higher risks identified by the authorities, nor any requirement that those higher risks be incorporated into the risk assessments conducted by FIs and DNFBPs. Chapter 15 of the AML/CTF Rules only requires regulated entities to apply enhanced due diligence measures to risks that they identify themselves and not those identified by the country – e.g. in the NTA or NRA. Also, the wording of the rules leaves open the possibility that reporting entities may not apply enhanced or specific measures for higher risk activities identified in the FATF Recommendations. Some of the measures prescribed are not enhanced measures, but instead regular due diligence measures (see criterion 10.17).

a2.9. **Criterion 1.8** – The authorisation for reporting entities to take explicit simplified measures in the AML/CTF Act is limited to certain CDD measures under the AML/CTF program requirements, and requires the existence of appropriate risk-based systems and controls based on a proper assessment of risk in accordance with the AML/CTF program requirements (e.g. see Paragraphs 4.3.8 and 4.4.8 of the AML/CTF Rules in relation to simplified verification requirements for companies and trusts). In addition, there is a broad discretion about how and in what circumstances those obligations need to be discharged (e.g. Paragraph 8.1.3 of the AML/CTF Rules “*some requirements... may be complied with by a reporting entity putting in place appropriate risk-based systems and controls*”). There are also safe harbour provisions setting out what amounts to “simplified” CDD procedures for both “low” or “medium” risk customers. Rule 4.1.3 lists customer type, service provided, delivery channel, and foreign jurisdiction as mandatory areas to consider when identifying ML/TF risk. Nonetheless, the discretion left with reporting entities (whether to determine customer risk levels and thus access the “safe harbour” provisions, or the extent of the measures that they put in place, which could, in practice, be simplified compared to the full requirements of the FATF standard), is not premised on any requirement that it be based on low risk only or be consistent with the country’s assessment of the ML/TF risks. In fact, reporting entities are not required anywhere in the Rules to consider the risks already identified by the jurisdiction.

a2.10. **Criterion 1.9** – AUSTRAC applies a risk-based approach to the supervision of financial groups, in particular those *core principles institutions* and those operating within a DBG or providing services as a remittance network provider. While bullion dealers and casinos are supervised by AUSTRAC, other DNFBPs, (most of which are identified as high risk in the NTA) are not subject to AML/CTF obligations, and therefore not monitored by competent authorities or self-regulatory bodies. AUSTRAC supervises entities subject to AML/CTF obligations on a risk sensitive basis which includes assessment for those classified as high risk of their policies, practices, systems and controls in place to address their ML/TF risks. Thus, a large number of FIs and DNFBPs are supervised on a lesser basis or not at all in relation to their obligations under Recommendation 1.

<sup>10</sup> See NTA.

a2.11. **Criterion 1.10** – Reporting entities (except financial advisers and planners) are required under sections 84-86 and 165 of the AML/CTF Act and Parts 8.1 and 9.1 of the AML/CTF Rules to produce a written program to identify, mitigate, and manage their ML/TF risks. This includes having regard to the nature, size and complexity of its business and the type of ML/TF risk that it might reasonably face. There is an implicit requirement to provide risk information to the authorities, because a copy of the program must be provided to AUSTRAC to help rectify any situation of non-compliance. Financial advisers and planners need only have a program that details customer identification procedures and do not need to otherwise assess ML/TF risks. However, many DNFBPs identified in the NTA as presenting a high threat are not reporting entities and thus not subject to this obligation (e.g. accountants, lawyers, trust and company service providers, dealers in precious metals and stones, and real estate agents).<sup>11</sup>

a2.12. **Criterion 1.11** – The programs mentioned above must be approved by the Boards or senior management of reporting entities (Parts 8.4 and 9.4 of the AML/CTF Rules) and require ongoing monitoring and updating in response to changes in ML/TF risks (Paragraphs 8.1.5, 8.4, 9.1.5, and 9.4 of the AML/CTF Rules). The programs must also contain a section on implementing enhanced CDD when the reporting entity identifies situations of high risk, or forms a suspicion of ML/TF, or when it is dealing with a prescribed foreign country (Paragraphs 15.8 and 15.9 of the AML/CTF Rules). However, as above, these requirements only apply in a limited way for financial advisers and planners and not at all for those DNFBPs identified in the NTA as presenting a high threat.

a2.13. **Criterion 1.12** – While simplified measures are allowed only if lower risks have been identified and in the absence of any suspicion of ML or TF (as suspicion requires that enhanced measures be applied - see Paragraph 15.9(2) of the AML/CTF Rules), as elaborated above, not all of the requirements of criteria 1.9 to 1.11 have been met.

### *Weighting and Conclusion*

a2.14. Australia uses many processes to identify and assess its ML/TF risks that generally result in a reasonable portrayal of those risks. Australia's NTA was a good first attempt to identify and assess ML risks, but suffers from limitations that likely mean that most main but not all ML risks were identified, nor properly assessed. Efforts to evolve thinking on the ML risks since the NTA have helped address some limitations and the authorities recognise that remaining gaps need to be addressed. The scope of assessments, including the next NTA, and information used needs to be broadened to assess other potential major risks such as customer types and incoming laundered proceeds. Engaging the private sector for input could also strengthen future assessments. The NRA used a more up to date methodology and does identify and assess the TF risks and is current. The AML IDC uses the NTA and NRA to set annual risk-based priorities that guide the work and resource allocation of its member agencies on AML/CTF matters. Australia's risk-based approach to AML/CTF regulation grants regulated entities exemptions and provides for some simplified measures that are not based solely on a proven low risk of ML or TF, or the need to be consistent with the NTA or NRA. In addition, a key moderate shortcoming is that many high risk entities and services identified in the NTA are not regulated under Australia's AML/CTF regime. Those reporting entities that are regulated must have programs that include a risk assessment and that mitigate the risks that they identify – but they are not required to mitigate other risks, nor carry out enhanced measures for high risks, identified in the NTA or NRA. AUSTRAC primarily supervises entities it classifies as high risk to see that they are meeting obligations to identify, assess, and mitigate ML/TF risks. **Recommendation 1 is rated partially compliant.**

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### **Recommendation 2 - National Cooperation and Coordination**

a2.15. Australia was rated largely compliant with the previous Recommendation 31. The assessment identified the scope to improve the level of cooperation and coordination between AUSTRAC, APRA and ASIC,

11 Some may provide designated services akin to being a financial institution under the FATF Recommendations, and have AML/CTF Act obligations for that particular service, but they will not have such obligations for the list of activities applicable to them as DNFBPs under the FATF Recommendations.

## NATIONAL AML/CTF POLICIES AND COORDINATION

and also to enhance co-ordination at the policy level, possibly through the establishment of a formal national co-ordination mechanism. Recommendation 2 is now more specific about the need for countries to have national AML/CTF policies that encompass identified risks and for coordination to be more formalised.

a2.16. **Criterion 2.1** – The nearest thing that Australia has to a national set of policies and strategies for combating ML/TF informed by the risks identified is the annual work plan of the AML IDC, which combines the views and priorities of its member agencies. While it references the NTA, but not yet the NRA, in a few places, most issues in the plan are driven by considerations not related directly to combating ML or TF; those that are, focus mainly on preventive measures only. Plans and strategies of a range of agencies and task forces both support the AML IDC work plan and inform its development, and some of these are more directly related to combating the ML/TF risks identified in the NTA and NRA. In addition, other government initiatives, such as those that target certain aspects of mainly organised crime also deal with AML. The NOCRP is part of the national framework for combating organised crime. The first NOCRP details strategies for national and multi-jurisdictional approaches to key risks within the organised crime environment – and while it identifies ML as a key enabler of organised crime, it does not really articulate a policy or strategy for combating it. TF risks are addressed both as part of AML/CTF policy and national security and counter-terrorism strategy as appropriate.

a2.17. **Criterion 2.2** – The Attorney-General's Department (AGD) is responsible for national AML/CTF policy.

a2.18. **Criterion 2.3** – Australia has mechanisms in place to co-ordinate domestically on AML/CTF policies and activities:

- On policy matters, the AGD chairs the AML IDC, which meets three times each year to share information and inform the strategic direction and priority setting of federal agencies working on domestic AML/CTF initiatives. Other agencies represented include AUSTRAC, the AFP, the ACC, DFAT, the ACBPS, the Treasury, the ATO and the CDPP. In addition, Australia uses other inter-departmental fora to coordinate policy on matters relevant to combating ML/TF (e.g. the Heads of Operational Commonwealth Law Enforcement Agencies (HOCOLEA) – meets twice a year and serves as the primary forum for 14 federal agencies to discuss law-enforcement policy issues). CTF policy is also coordinated through broader counter-terrorism coordinating bodies, led by the Australia-New Zealand Counter-Terrorism Committee.
- Operational activities are coordinated using a mixture of standing committees and task forces with representation from federal and State and Territory agencies as necessary. A key committee is the ACC Board. The Board determines, among other things, national criminal intelligence priorities and special operations and investigations. A particular feature is the use of task forces targeting specific areas of concern where laundering activity is involved, such as the remittance sector (Eligo National Task Force), criminal gangs (Task Force Attero), serious and organised investment fraud (Taskforce Galilee), and asset confiscation (federal Criminal Assets Confiscation Task Force). There is also the multi-agency TFIU. Criminal intelligence is also coordinated via the ACC National Criminal Intelligence Fusion Capability, with input also from AUSTRAC.
- In addition, AUSTRAC hosts an annual forum with key agencies to shape its annual FIU Intelligence Strategy. More generally, to facilitate operational cooperation, AUSTRAC provides online access to its transaction reports database to all its partner agencies and posts liaison officers in some. In addition, Joint Management Groups (JMGs) operate in each State and Territory to help coordinate operational interaction with federal agencies. Since the last evaluation, both APRA, the prudential regulator, and ASIC, the market integrity and consumer protection regulator, have been added as designated agencies with whom AUSTRAC can share information, thus creating a mechanism for operational coordination on supervisory matters.

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a2.19. **Criterion 2.4** – DFAT chairs and services a number of counter-proliferation coordination groups, both at the senior policy level and the working level.<sup>12</sup> These groups bring together all relevant government agencies, including the intelligence community, to share information and coordinate responses to current proliferation issues, including proliferation financing. Meetings are scheduled monthly but can be convened at short notice if needed for operational or policy purposes.

### *Weighting and Conclusion*

a2.20. While Australia does not have a formalised AML/CTF policy that draws on risks identified in the NTA and NRA, it does have an agency that is responsible for national AML/CTF matters. Australia also has many standing committees and task forces in place to coordinate domestically on AML/CTF policies and activities within the federal government (on policy matters), and between the federal and State/Territory levels of Government (on operational matters). Moreover, the NTA and NRA risks get included in some other mainly criminal justice policy initiatives (e.g. the NOCRP). It is worth noting that the coordination efforts encompass State and Territory agencies, which is salient as Australia is a federation. Australia also has coordination mechanisms to combat PF. **Recommendation 2 is rated largely compliant.**

### **Recommendation 33 - Statistics**

a2.21. Australia was rated largely compliant with the previous Recommendation 32. The assessment identified that there was a lack of State or Territory statistics on prosecutions and convictions for ML, no clear statistics on ML/TF investigations at the Commonwealth level, nor adequate statistics on ML/TF investigations at the State or Territory level. While the language of Recommendation 33 has not changed, this Recommendation has taken on more relevance in the context of assessing effectiveness.<sup>13</sup>

a2.22. **Criterion 33.1** – The authorities maintain that the effectiveness and efficiency of Australia’s AML/CTF systems are supported by statistics gathered by the FIU, regulators, police and prosecution services, and the ACA (within the AGD). AML/CTF related statistics are maintained comprehensively in some areas (e.g. for AUSTRAC operations), and other data are available or can be produced upon request for some agencies in the AML/CTF system. However, overall, Australia does not maintain a sufficiently comprehensive set of statistics to enable a full appraisal of its AML/CTF systems. In particular, national level information about prosecutions, convictions, and confiscations is not easily collated. Primary attention is paid to counts of various outputs. Other than for AUSTRAC, few maintained statistics focus on the efficiency of the AML/CTF systems. The authorities are also challenged to provide breakdowns of the data that they do hold. Coverage for specific types of statistics is as follows:

- STRs received and disseminated: AUSTRAC maintains a wide range of statistics about SMRs, many of which they publish in the AUSTRAC annual report.
- ML investigations, prosecutions and convictions: Australia does not maintain comprehensive national statistics on all these matters. The assessors were provided statistics on ML investigations by only some States and none at the federal level. Statistics for ML prosecutions and convictions were obtained at the federal, State and Territory level, but the authorities do not maintain national

12 The key Counter-Proliferation Coordination Group comprises: DFAT (Chair), Department of Prime Minister and Cabinet, Department of Defence, AGD, the ACBPS, the Australian Intelligence Community agencies, and other agencies co-opted as necessary.

13 For the assessment of Australia only, the use of the words “comprehensive” and “includes” in R.33 are collectively interpreted as requiring countries to have, as a minimum, statistics (not just data) covering all of the areas listed and which are accurate, national, covering at least three annual time periods, that present some value as well as volume data, and that are also in disaggregated form to show such things as reporting entity types, predicate crime type, country of origin, and type of ML activity as appropriate. “Maintain” and “keep”, are interpreted as indicating that the statistics are readily available. FATF is still considering its approach to R.33 in light of its latest Methodology.



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aggregated statistics. Those provided used different bases and time periods, preventing accurate aggregation. The assessors had to compile the data provided or obtained into national level data. Moreover, it was not possible to obtain disaggregated prosecution and conviction data by reference to the associated predicate crime, and reliable national sentencing data for ML convictions does not exist.

- TF investigations, prosecutions and convictions: Comprehensive national statistics on TF prosecutions and convictions, but not on investigations, are available.
- Property frozen, seized, and confiscated: Australia is challenged to compile nationally aggregated statistics on these matters, due mainly to the different ways in which federal and State/Territory agencies maintain their own statistics – and not all States or Territories were able to provide data. The statistics produced allowed for disaggregation back to underlying predicate crimes in only some limited areas. Tax crime related confiscation data is available. Comprehensive statistics on illicit drug seizures are available at the national level.
- MLA or other international requests for cooperation made and received: Australia maintains some comprehensive statistics on AML/CTF related MLA, but is unable to track the timeliness of response and the nature of underlying predicate crime. Only AUSTRAC maintains statistics on AML/CTF related international cooperation requests.
- Other statistics: AUSTRAC maintains a broad range of statistics related to its regulatory and supervisory role (including on enrolment of reporting entities and registration of remittance dealers, its compliance assessment activities, and enforcement action). However, it was challenged to provide comprehensive and consistent statistics on the nature, structure, and size of the financial and DNFBP sectors, and many data sets are challenging to use to assess the efficiency or effectiveness of the regulatory/supervisory system as they are compiled differently.

### *Weighting and Conclusion*

a2.23. While Australia produces many statistics on AML/CTF matters for various parts of its system, it is often challenged to produce statistics at the national level. The statistics most readily available came from AUSTRAC and the AGD (in relation to MLA requests and extradition requests), and on TF prosecutions and convictions, all of which relate to centralised national AML/CTF functions. However, a concern is that some statistics crucial to tracking the overall effectiveness and efficiency of the system related to ML investigations, prosecutions, convictions, and property confiscated are not maintained nationally, reflective of the wide range of agencies involved at the federal and State/Territory levels. **Recommendation 33 is rated largely compliant.**

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## Table of Acronyms

ABN	Australian business number
ABR	Australian business register
ACA	Australian Central Authority
ACBPS	Australian Customs and Border Protection Service
ACC	Australia's Crime Commission
ACNC	Australian Charities and Not-for-Profits Commission
AFP	Australian Federal Police
AGD	Attorney General's Department
AIC	Australian Intelligence Community
AML	Anti-money laundering
APG	Asia/Pacific Group on Money Laundering
APRA	Australian Prudential Regulation Authority
ARSN	Australian registered scheme number
ASIC	Australian Securities and Investment Commission
ASIO	Australian Security Intelligence Organisation
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
CACT	Criminal Asset Confiscation Taskforce
CDD	Customer due diligence
CDPP	Commonwealth Director of Public Prosecutions
CFT	Countering the financing of terrorism
CotUNA	Charter of the United Nations Act
CT	Combat terrorism
DAR	Dealing with assets regulation
DFAT	Department of Foreign Affairs and Trade
DNFBP	Designated non-financial businesses and professions
FIU	Financial intelligence unit
FTR	Financial transaction report
IDC	Interdepartmental Committee
IFTI	International fund transfer instructions
ILGA	Independent Liquor and Gaming Authority

## TABLE OF ACRONYMS

IMP	Information management policy
IOSCO	International Organisation of Securities Commissions
KYC	Know your customer
MACMA	Mutual Assistance in Criminal Matters Act 1987
ML	Money laundering
MLA	Mutual legal assistance
MMOU	Multilateral memoranda of understanding
NOCRCP	National organised crime response plan
NPO	Non-profit organisations
NRA	National risk assessment
NTA	National threat assessment
OCTA	Organised crime threat assessment
OSAS	Online sanctions administration system
PEPs	Politically exposed persons
PSPF	Protective security policy framework
REG	Reporting entity group
REs	Reporting entities
RNP	Remittance network provider
SMR	Suspicious matter report
SUSTR	Suspect transactions
TF	Terrorist financing
TFIU	Terrorism financing investigations unit
TFS	Targeted financial sanctions
TTR	Threshold transaction report
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution