

Senate Legal and Constitutional Affairs Committee

The adequacy and efficacy of Australia's AML/CTF Regime.

Firstly, I would like to thank The Committee for giving me the opportunity to attend this hearing today and for allowing me to present this opening statement on the adequacy and efficacy of Australia's AML/CTF Regime.

In my career to date, I have spent over 15-years operating in the financial crime risk management sector, including over 8 years at Macquarie Bank, where I was the Program Director responsible for implementing both the AML/CTF & FATCA Programs for the Banking & Financial Services Group.

In 2015, I founded Arctic Intelligence, a Regulatory Technology firm that provides enterprise-wide financial crime risk assessment software to hundreds of clients in over 10 countries and 21 industry sectors – including banks, credit unions, stockbrokers, money remitters, wealth managers and many small businesses in the legal, real-estate and accounting sectors. We help them to cost-effectively conduct financial crime risk assessments and develop strong control frameworks.

The key messages from our submission that I would like to read to the committee are as follows:

The first point is, that the Australian Government has repeatedly failed to take the necessary actions to meet the Financial Action Task Force recommendations and has lacked the political will and resolve to take action to address the many deficiencies the FATF has highlighted in various mutual evaluation reports, going back many years.

As a result, Australia is simply not meeting its international commitments and remains 1 of 5 (out of 200 FATF-member countries) that have failed to expand AML laws to include lawyers, accountants, real-estate agents, high-value dealers and trust and company service providers. This inaction makes Australia an attractive destination for organised criminal networks and may even result in Australia being 'grey-listed' by the FATF, further damaging our international reputation.

There is clear evidence internationally and domestically that these sectors are actively used by organised criminal networks and Australia is no different to the other 195 countries that have already extended these laws to these sectors (many for a decade or more already).

The second point I would like to make, is that since AML laws are risk-based they first require regulated entities to identify and assess ML/TF risks and then design and implement an effective AML/CTF Program of controls to mitigate and manage these risks, which is a challenge for many and there needs to be a level of simplification and standardisation, rather than having tens or hundreds of thousands of businesses adopting completely different methodologies and approaches, which AUSTRAC are not properly equipped to oversee.

In our submission, we included several suggestions about how enterprise-wide financial crime risk assessments can be improved through the broader adoption of technology, which we believe will simultaneously improve the overall effectiveness of financial crime risk management, drive down the cost of compliance and reduce the levels of non-compliance that exists across many sectors.

The final point I would like to make, is that there is a lack of clearly defined roles, responsibilities, accountabilities and sanctions for Board Directors and Senior Management, if a reporting entity has materially breached AML laws or rules - there is currently no mechanism for AUSTRAC to seek civil penalties against individuals, which was another criticism levelled at Australia by the FATF in its 2015 Mutual Evaluation Report.

The lack of consequences for individual Board Directors and Senior Managers has created an environment, where understanding AML risks and controls, is often not given the attention, focus and priority it deserves, which has been highlighted as an issue in many AML enforceable undertakings.

A related issue, that impacts the ability for Executives to provide effective governance and oversight of AML/CTF Programs, is the current lack of any mandated timeframe for conducting “independent reviews”, which in many countries such as New Zealand must occur at least every 2-years and should also be adopted in Australia, to reduce the likelihood of control deficiencies remaining undetected and unresolved for many years.

To close, and to re-iterate the main outcomes I would like to see from this inquiry are:

- Expand the AML laws to Tranche 2 sectors
- Explore ways to standardise and simplify enterprise-wide financial crime risk assessments
- Increase personal accountability for material non-compliance; and
- Mandate that independent reviews are to be conducted at least every two years.

There are thousands of risk and compliance professionals working tirelessly to protect Australians from the devastating effects of financial crime on our society - now it is time for the politicians to play their part. Thank you for your time and for listening.