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Australian International Criminal Investigations

By Dennis Miralis

Traditionally, investigations by Australian government agencies were limited to individuals and corporations operating within Australia's geographical borders. Today, Australian government agencies are increasingly required to be involved in cross-border investigations, often working collaboratively with their international counterparts in parallel investigations.

One of the main drivers behind this change has been the internationalisation of commerce and the subsequent increase in 'borderless crimes' such as money laundering, tax evasion, ecommerce fraud, corruption, bribery, cybercrime and terrorism financing.

This article surveys the major Australian government agencies involved in such investigations, with a particular focus on their increasing need to adopt a global approach to fulfil their ultimate mandate: to protect Australians from criminal threats including international ones.

The Australian Federal Police

The Australian Federal Police (AFP) is Australia's national law enforcement policing body, tasked with enforcing the Commonwealth criminal law, which includes the offences foreign bribery, cybercrime, tax evasion, terrorism financing, and money laundering.

In 2017, the AFP published its *International Engagement 2020 and Beyond* report, in which it stated an aim to take the fight against crime offshore.

In accordance with this new approach, the AFP work with global law enforcement and intelligence partners such as INTERPOL and Five Eyes, as well as global non-law enforcement such as the UN and foreign governments, to further their investigations where Australian interests are affected. The AFP has also strategically placed liaison officers, police advisers and missions in five regions across the globe, each with a regional manager.

The Australian Transactions Reports and Analysis Centre

The Australian Transactions Reports and Analysis Centre (AUSTRAC) is Australia's anti-money laundering and counter-terrorism financing regulator, and Australia's specialist financial intelligence unit (FIU).

AUSTRAC works in conjunction with other FIUs globally, as well as the Financial Action Task Force (FATF), the Egmont Group of Financial Intelligence Units and the Asia Pacific Group.

In response to the increasing problem of cryptocurrencies being used for illegal purposes such as money laundering, the Australian government recently passed the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2017.

Under the new legislation, any business that offers digital currency exchange services is required to register with AUSTRAC, who has the power to monitor all exchanges within Australia's borders for potential money laundering/terror-



ism financing activities.

The Australian Criminal Intelligence Commission

The ACIC is Australia's national criminal intelligence agency, which exclusively focuses on combating serious and organised crime.

In the area of financial crime, the serious financial crime taskforce (SFCT) was created as a multi-agency taskforce that forms part of the AFP-led Fraud and Anti-Corruption Centre, and relies on the ACIC's unique investigative capabilities.

The SFCT targets activities such as trust and international tax evasion fraud that occur both within Australia and in foreign jurisdictions. It works closely with international partner agencies, law enforcement, regulators, governments and organisations across the globe.

The Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) regulates many aspects of Australia's corporate, market and financial sectors.

ASIC works closely with a range of international organisations, foreign regulators and law enforcement agencies. It participates in a number of important regulatory forums including the International Organisation of Securities Commissions (IOSCO) and is a signatory to a number of international cooperation agreements.

The Australian Competition and Consumer Commission

The Australian Competition and Consumer Commission (ACCC) is an independent commonwealth statutory authority whose principal role is to enforce the Competition and Consumer Act 2010. It has increasing international capabilities to assist with its investigations, in particular with respect to cartel conduct and consumer scams and frauds.

The ACCC is part of the International Competition Network, the Organisation for Economic Cooperation and Development, the Asia-Pacific Economic Cooperation, the Seoul Competition Forum and the International Consumer Protection and Enforcement Network (ICPEN).

The ACCC is also part of a global effort of 34 nations to better combat e-commerce issues faced by consumers, including online scams.

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The Australian Taxation Office

The Australian Taxation Office (ATO) is an Australian government statutory agency and the principal revenue collection body for the Australian government.

The ATO is responsible for administering the Australian federal taxation system, superannuation legislation, and other associated matters. It conducts its own investigations and also works closely with domestic and global partner agencies, governments and organisations to fight tax evasion and crime on a global scale.

The ATO collaborates with international revenue agencies bilaterally, and through groups and forums such as The Organisation for Economic Co-operation and Development (OECD), The Global Forum and The Joint International Taskforce on Shared Information & Collaboration (JITSIC).

Mutual Assistance in Criminal Matters: assisting and obtaining assistance from foreign law enforcement agencies

In addition to the informal agreements and Memorandums of Understanding between Australian government agencies and their international counterparts, the Australian government can also rely on the Mutual Assistance in Criminal Matters Act 1987 (Cth) (the Mutual Assistance Act), which

provides formal mechanisms for the provision of and receiving of international assistance in criminal matters.

Conclusion

Government investigations in Australia are becoming more complex and international in response to increased globalisation. Australian government agencies and regulators have therefore sought to respond by forming formal and informal collaborations with their international counterparts to allow them to properly perform their investigations without being impeded by access to evidence and data held in foreign jurisdictions.

Dennis Miralis is a leading Australian defence lawyer who acts and advises in complex domestic and international criminal law matters in the following areas: white-collar and corporate crime; money laundering; serious fraud; cybercrime; international asset forfeiture; international proceeds of crime law; bribery and corruption law; transnational crime law; extradition law; mutual assistance in criminal law matters; anti-terrorism law; national security law; criminal intelligence law; and encryption law.

He appears in all courts throughout Australia and regularly travels outside of Australia for complex international / transnational criminal law matters.

