

FRAUD & WHITE COLLAR CRIME 2019

EXPERT GUIDE

www.corporatelivewire.com





Dennis Miralis

Australia

dm@ngm.com.au

+61 02 9264 8884

www.ngm.com.au



66

White Collar Crime and International Investigations

By Dennis Miralis

Rapid globalisation has led to white collar crimes such as money laundering, tax evasion, fraud and bribery becoming increasingly complex and transnational in nature. Australian government agencies are therefore experiencing an increased need to adopt a global approach, collaborating with foreign governments and law enforcement agencies to ensure effective prevention, investigation and prosecution of [white collar crime](#).

Which government agencies investigate white collar crime?

I. Australian Federal Police (AFP)

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

The AFP works 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.

Additionally, the AFP has strategically placed liaison officers, police advisers and missions across the globe. The AFP now has over 300 personnel located in more than 52 locations throughout the regional areas of Asia, South East Asia, the Americas, Europe, the Middle East and Africa, and the Pacific catchment.

In 2015, the AFP and FBI signed a memorandum of understanding (MoU) called 'Combating Transnational Crime, Combating Terrorism and Developing Law Enforcement Cooperation' that

focuses on the collaboration between them in addressing a number of key crime areas including [money laundering](#) and transnational economic crime.

2015 also saw the establishment of the Serious Financial Crime Taskforce (SFCT), operating under the AFP run Fraud and Anti-Corruption Centre.

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

II. AUSTRAC and the Asia/Pacific Group on Money Laundering

The [Australian Transaction Reports and Analysis Centre](#) (AUSTRAC) is Australia's anti-money laundering and counter-terrorism financing regulator, and Australia's specialist financial intelligence unit (FIU) responsible for identifying threats and criminal abuses in the financial system. As AUSTRAC primarily receives and analyses financial information, the resulting financial intelligence is disseminated to revenue, law enforcement, national security, human services, regulatory and other partner agencies in Australia and overseas.

By identifying potential money laundering cases, AUSTRAC plays a vital role in helping partner agencies to detect money laundering, investigate [financial crimes](#) (including tax evasion) and secure prosecutions.

The Australian Criminal Intelligence Commission (ACIC) is Australia's national criminal intelligence agency with 'specialist investigative capabilities'. The ACIC is the only agency in Australia that is exclusively focused on combating serious and organised crime.



AUSTRAC recognises that the transnational nature of money laundering requires a coordinated global response and therefore engages in a two-way exchange of information and intelligence with other FIUs all over the world. Memorandums of understanding ('MoU') are presently in place between AUSTRAC and 93 other equivalent national FIU's.

AUSTRAC also works in conjunction with a number of intergovernmental bodies in the fight against transnational white collar crime, including the Financial Action Task Force, the Egmont Group of Financial Intelligence Units and the Asia/Pacific Group on Money Laundering.

Of particular concern to international law enforcement is the proliferation of [Bitcoin and other cryptocurrency transactions](#), which are widely considered to be used for illegal purposes such as money laundering. Under the legislative amendments introduced in 2017, AUSTRAC now monitors all digital currency exchanges within Australia's borders with the aim of ensuring that the transactions are not being used for money laundering or

terrorism-related activities.

III. The Australian Criminal Intelligence Commission (ACIC)

The [Australian Criminal Intelligence Commission](#) (ACIC) is Australia's national criminal intelligence agency with 'specialist investigative capabilities'. The ACIC is the only agency in Australia that is exclusively focused on combating serious and organised crime. The ACIC frequently collaborates with international governments and law enforcement agencies to provide a coordinated response to the threat of [transnational crime](#), including white collar crime.

A recent example was the Vestigo Task Force, which was authorised in November 2016 to address transnational serious organised crime activities impacting adversely on the national interests of Australia and the countries of overseas partners. The task force was supported by commonwealth, state and territory partners, along with a number of international partners including the Five Eyes Law Enforcement Group.

Australian Government

Australian Taxation Office



IV. The Australian Security and Investments Commission (ASIC)

The [Australian Security and Investments Commission](#) (ASIC) exercises its powers under the ASIC Act to regulate many aspects of Australia's corporate, market and financial sectors. ASIC possesses the discretion to investigate potential breaches of law committed by the financial entities within its oversight.

While primarily responsible for regulating Australia's corporate, market and financial sectors, the nature of the modern global economy requires ASIC to work internationally with foreign agencies, as many Australian financial market participants undertake cross-border transactions.

ASIC and other international regulators cooperate by sharing information to assist each other with the supervision of markets and enforcement of regulation.

ASIC also works closely with a range of international organisations, foreign regulators and law enforcement agencies, and makes and receives international requests in relation to investigations, compliance and surveillance, policy research, delegations and licensing and due diligence, and general referrals.

V. The Australian Competition and Consumer Commission (ACCC)

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.

Similar to many regulators, the ACCC uses a range of compliance tools to prevent breaches of the Act, including business and consumer education, and working closely with stakeholders and other agencies. However, the Act also provides the ACCC with a range of enforcement remedies, including court-based outcomes and court-enforceable undertakings.

In addition to this, the ACCC has increasing international capabilities to assist it with its investigations, including memoranda of understanding and treaties with multiple countries for the exchange of information in cross-border investigations, particularly with respect to [cartel conduct](#) and consumer scams and frauds.

VI. The Australian Taxation Office (ATO)

The [Australian Taxation Office](#) (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 partner agencies both domestically and abroad.

The ATO works with governments and organisations around the world to fight tax evasion and crime on a global scale through accessing information and resources from private and government sources, participating in information sharing, intelligence gathering, analytics, investigations and audits with international tax administrations, using Australia's bilateral tax treaties and the multilateral convention on mutual administrative assistance in tax matters, working with domestic partner agencies through the [Serious Financial Crime Taskforce](#), entering into information exchange agreements and obtaining information from countries previously regarded as secrecy jurisdictions, and working with AUSTRAC, with its enhanced capability to detect, monitor and report international transactions.

Additionally, 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 Intelligence and Collaboration ('JITSIC').

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 collaborating with their international counterparts to enable them to conduct investigations across the globe.

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.