



# ASIA-PACIFIC INVESTIGATIONS REVIEW 2024

As well as daily news, GIR curates a range of comprehensive regional reviews. This volume contains insight and thought leadership from 18 pre-eminent practitioners in the Asia-Pacific region. Inside you will find articles on Australia, China, India and Singapore; on the main types of cryptocurrency fraud and on how to 'do' a multi-jurisdictional internal investigation with all of the challenges and contradictory requests from various agencies that those can entail.

Visit [globalinvestigationsreview.com](https://globalinvestigationsreview.com)  
Follow [@GIRalerts](https://twitter.com/GIRalerts) on Twitter  
Find us on [LinkedIn](https://www.linkedin.com/company/global-investigations-review/)

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer-client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. Although the information provided is accurate as at August 2023, be advised that this is a developing area.

# Preface

Welcome to the *Asia-Pacific Investigations Review 2024*, one of Global Investigations Review's annual yearbook-style reports. Global Investigations Review (for any newcomers) is the online home for all those who specialise in investigating and resolving suspected corporate wrongdoing. We tell them all they need to know about everything that matters, in their chosen professional niche.

Throughout the year, the GIR editorial team delivers daily news, surveys and features; organises the liveliest events (GIR Live); and maintains innovative research tools and know-how products to make working life more efficient.

In addition, with the aid of external contributors, we curate a range of regional reviews that go deeper into local developments than the exigencies of journalism allow.

The *Asia-Pacific Investigations Review* is one such publication. It contains insight and thought leadership from 18 pre-eminent practitioners from across the region. Across some 130-plus pages, you will find this particular volume to be part retrospective, part primer, part crystal ball – and 100 per cent useful. As you would expect from GIR, all contributors are vetted for their standing and knowledge before being invited to take part.

Together they address a variety of subjects pertinent to internal investigations undertaken in the region, complete with footnotes and relevant statistics. This edition in particular focuses on Australia, India, Singapore and China, and has overviews on cryptocurrencies, on the challenge of dealing with more than one national enforcement agency, and on how to work smarter in the post-covid world.

As so often with our annual reviews, a close read yields many gems. On this occasion, for this reader, they included that:

- Vietnam is on an anti-corruption drive;
- Singapore requires you to report if property may be 'connected' to crime even where the property (or the crime) are unconnected with Singapore;
- in India, laws to combat white-collar crime have evolved in a dynamic fashion, and continue to change with the times; and
- although 2022 brought a 'crypto winter', digital assets are still considered to be a formidable source of innovation.

And much, much more. I also commend the Herbert Smith article on the challenges of multi-jurisdictional internal investigations. It is one of the most lucid explanations of the key points GIR has ever published. I was also

impressed, later in the book, by the splendid explanation of the various Chinese laws conditioning data-transfer.

As ever, if you have any suggestions for future editions, or want to take part in this annual project, we would love to hear from you. Please contact us on [insight@globalarbitrationreview.com](mailto:insight@globalarbitrationreview.com).

**David Samuels**

**Publisher, Global Investigations Review**

August 2023



# Australia: An Increasingly Global Approach

[Dennis Miralis](#), [Phillip Gibson](#) and [Jasmina Ceic](#)\*

[Nyman Gibson Miralis](#)

## In summary

This article considers the major Australian government investigative, law enforcement and regulatory agencies involved in domestic and transnational investigations, with a particular focus on their increasing need to adopt a global approach to adequately protect Australians from criminal threats, both local and international. The article examines the new internationalised mindset of Australian law enforcement, the effects of globalisation and the increased level of international collaboration between government agencies, as well as the tools and techniques utilised by these agencies to address the increasingly complex and 'borderless' nature of investigations.

## Discussion points

- Background to the internationalisation of Australia's approach to the investigation of crime
- The Australian government's role in driving international coordination in the Asia-Pacific region and globally

## Referenced in this article

- National Strategy to Fight Transnational, Serious and Organised Crime
- The Australian Federal Police, including its international work
- Other examples of inter-agency collaboration, including by the Commonwealth Director of Public Prosecutions Organised Crime and Counter-Terrorism Practice Group, the Serious Financial Crime Taskforce, the Pacific Transnational Crime Network and the Australian Transaction Reports and Analysis Centre
- The Mutual Assistance in Criminal Matters Act
- The Extradition Act
- The Australian Sanctions Office



## Introduction

In the past few years, the Australian government has continued to strengthen its engagement in international investigations. This commitment is driven by the government's efforts to combat transnational, serious and organised crime (TSOC), such as money laundering, tax evasion, drug trafficking, corruption, cybercrime and terrorism financing (TF).<sup>1</sup> These multi-pronged efforts include introducing frameworks to build a nationally coordinated approach, improving agencies' resources and capabilities and working collaboratively with their international counterparts in international investigations.

This article surveys the key Australian government agencies involved in these investigations, their capabilities and recent examples of the execution of their investigative capacities. The article focuses on the increasing need to adopt a global approach to adequately protect Australians from criminal threats, both local and international.

## National Strategy to Fight Transnational, Serious and Organised Crime

Australia remains committed to implementing the National Strategy to Fight Transnational, Serious and Organised Crime (the National Strategy),<sup>2</sup> released in December 2018. Additionally, Australia released the 2020 Cyber Security Strategy (the 2020 Cyber Strategy) and 2022 National Plan to Combat Cybercrime (the National Plan) to complement and build on the National Strategy's foundation for fighting TSOC.<sup>3</sup>

The National Strategy provides a national framework for the federal and state governments, private sector, civil society organisations, and the community to develop responses to TSOC.<sup>4</sup> The framework includes the federal and state governments and their agencies working with international partners to disrupt crime overseas and enhance relationships across agencies to ensure a multifaceted response to TSOC.<sup>5</sup> However, the Strategy intends to act as a

---

1 Australian Federal Police, 'Transnational Serious & Organised Crime', [www.afp.gov.au/what-we-do/transnational-serious-organised-crime](https://www.afp.gov.au/what-we-do/transnational-serious-organised-crime).

2 Department of Home Affairs, 'National Strategy to Fight Transnational, Serious and Organised Crime' (July 2018), [www.homeaffairs.gov.au/nat-security/files/strategy-transnational-serious-organised-crime.pdf](https://www.homeaffairs.gov.au/nat-security/files/strategy-transnational-serious-organised-crime.pdf).

3 Department of Home Affairs, 'Australia's Cyber Security Strategy 2020' (August 2020), [www.homeaffairs.gov.au/cyber-security-subsite/files/cyber-security-strategy-2020.pdf](https://www.homeaffairs.gov.au/cyber-security-subsite/files/cyber-security-strategy-2020.pdf); Department of Home Affairs, 'National Plan to Combat Cybercrime 2022', [www.homeaffairs.gov.au/criminal-justice/files/national-plan-combat-cybercrime-2022.pdf](https://www.homeaffairs.gov.au/criminal-justice/files/national-plan-combat-cybercrime-2022.pdf).

4 Department of Home Affairs, 'National Strategy to Fight Transnational, Serious and Organised Crime', p. 1.

5 id., p. 9.



starting point for the development of more detailed plans and actions at the national, state and territorial levels to reinforce existing efforts.<sup>6</sup>

The Australian government released its 2020 Australian Cyber Security Strategy to strengthen the protection of Australians, businesses and critical infrastructure from sophisticated threats.<sup>7</sup> Under the Strategy, the government has invested AU\$1.67 billion over 10 years to reinforce cybersecurity and cyber resilience.<sup>8</sup> The government has also introduced legally binding minimum cybersecurity standards for organisations and measures to uplift businesses' cybersecurity capabilities.<sup>9</sup>

In December 2022, the government announced that the 2023–2030 Australian Cyber Security Strategy will replace the 2020 Strategy.<sup>10</sup> While the 2023 Strategy's details are yet to be disclosed, a new Expert Advisory Board was appointed to oversee its development. The objectives of the Strategy will include protecting Australians through whole-of-nation cyber effects, protecting critical infrastructure and strengthening Australia's international engagement.<sup>11</sup>

The National Plan, released on 21 March 2022, builds on the 2013 version.<sup>12</sup> The Plan identifies three key pillars around which the federal and state governments and their respective agencies focus future action and develop a nationally coordinated approach to combating cybercrime in Australia.<sup>13</sup> The three pillars are as follows:

- 'Prevent and Protect' by safeguarding the public, businesses, government systems and Australia's national interest. This includes cooperation with international partners to enhance global responses to cybercrime;
- 'Investigate, Disrupt and Prosecute', strengthening criminal justice responses, including ensuring Australia's cybercrime laws remain fit for purpose; and
- 'Recover' by empowering victims to recover from cybercrime.

As part of these efforts, the Australian government launched the Australian Cyber Security Centre to lead the government's nationally coordinated approach to combat cybercrime.

---

<sup>6</sup> *ibid.*

<sup>7</sup> Department of Home Affairs, 'Australia's Cyber Security Strategy 2020'.

<sup>8</sup> *ibid.*

<sup>9</sup> *ibid.*

<sup>10</sup> Australian government, Clare O'Neil MP, 'Expert Advisory Board Appointed as development of new Cyber Security Strategy begins' (8 December 2022), <https://minister.homeaffairs.gov.au/ClareONeil/Pages/expert-advisory-board-appointed-as-development.aspx>.

<sup>11</sup> *ibid.*

<sup>12</sup> Department of Home Affairs, 'National Plan to Combat Cybercrime 2022'.

<sup>13</sup> *ibid.*



## 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 of foreign bribery, cybercrime, TF and money laundering (ML).

In 2020, the AFP announced its new internationally focused approach in its report, 'International Engagement: 2020 and Beyond'. Previously, the AFP's approach focused on detecting, deterring, preventing and disrupting domestic criminal activities. However, the report states that the AFP's focus is to 'take the fight against crime offshore, and to protect Australians and Australia's national interests by working in partnership' with 'foreign law enforcement agencies to detect, deter, prevent and disrupt crime at its point of origin or transit'.<sup>14</sup>

Under this international approach, the AFP has furthered investigations affecting Australia by increasing engagement with global law enforcement and intelligence partners such as Interpol and the Five Eyes, an intelligence alliance consisting of Australia, Canada, New Zealand, the United Kingdom and the United States, as well as global non-law enforcement bodies, such as the United Nations (UN) and foreign governments.

Further, the AFP's International Operations has placed liaison officers, police advisers and missions in regions across the globe.<sup>15</sup> The International Operations portfolio assists the AFP in targeting offshore crime by disrupting TSOC (including terrorism), conducting security and stabilisation missions to achieve regional stability and contribute to global order, participating in international engagements and facilitating capability development missions and activities.

In line with this approach, the AFP has signed memoranda of understanding (MOUs) with other countries' law enforcement agencies to formalise cooperative efforts to fight TSOC through the exchange of information, resources, and technical and forensic capabilities. The AFP also relies on Europol and Interpol for assistance with its investigations to confront the increasingly pervasive threat of transnational cybercrime.<sup>16</sup>

---

<sup>14</sup> Australian Federal Police (AFP), 'International Engagement 2020 and Beyond' (2020), [www.afp.gov.au/sites/default/files/PDF/AFPInternationalEngagement2020Strategy.pdf?v=1](https://www.afp.gov.au/sites/default/files/PDF/AFPInternationalEngagement2020Strategy.pdf?v=1).

<sup>15</sup> AFP, 'International Operations', [www.afp.gov.au/what-we-do/our-work-overseas/international-operations](https://www.afp.gov.au/what-we-do/our-work-overseas/international-operations).

<sup>16</sup> AFP, 'Our Work Overseas', [www.afp.gov.au/what-we-do/our-work-overseas](https://www.afp.gov.au/what-we-do/our-work-overseas).





## Increased international cooperation following ransomware attacks

Since 2018, 13 high-profile ransomware attacks by overseas criminal groups have targeted Australian organisations.<sup>17</sup> These attacks targeted organisations holding large amounts of personal data, including identifiers of their customers such as their addresses, phone numbers,<sup>18</sup> health details and health insurance providers.<sup>19</sup>

In response, the AFP has increased its cooperation with other domestic law enforcement organisations, including its work with the Five Eyes. The AFP has worked particularly closely with the US's Federal Bureau of Investigation (FBI). The FBI is assisting in the AFP-led Operation Hurricane,<sup>20</sup> which focuses on identifying the perpetrator (or perpetrators) responsible for the data breach of telecommunications provider Singtel Optus Pty Ltd, and Operation Pallidus,<sup>21</sup> which focuses on mitigating the data breach of health insurance provider Medibank Private Limited.

The AFP has also partnered with law enforcement agencies from the other Five Eyes nations to form the Five Eyes Law Enforcement Group.<sup>22</sup> The Group will share intelligence, strategies and operational outcomes; target crime enablers, including those that launder money for illicit drug syndicates and individuals who work in key supply chain or logistics industries; and disrupt encrypted communications, whereby offenders hide their criminality on certain platforms.<sup>23</sup>

## The Australian Sanctions Office in the Department of Foreign Affairs and Trade

The Australian Sanctions Office (ASO) is Australia's sanctions regulator.<sup>24</sup> Sitting within the Department of Foreign Affairs and Trade (DFAT), the ASO oversees sanctions permit applications from individuals and entities that need to

<sup>17</sup> Edward Cost, '13 biggest data breaches in Australia', Upguard (30 May 2023), [www.upguard.com/blog/biggest-data-breaches-australia](https://www.upguard.com/blog/biggest-data-breaches-australia).

<sup>18</sup> Paul Smith, 'Inside the Optus hack that woke up Australia', *Australian Financial Review* (22 December 2022), [www.afr.com/technology/inside-the-optus-hack-that-woke-up-australia-20221123-p5c0lm](https://www.afr.com/technology/inside-the-optus-hack-that-woke-up-australia-20221123-p5c0lm).

<sup>19</sup> Samuel Yang, 'Customers in Limbo as Medibank hack shapes up as far worse than Optus hack', ABC News (26 October 2022), [www.abc.net.au/news/2022-10-26/medibank-data-breach-customer-international-student-cyber-attack/101573608](https://www.abc.net.au/news/2022-10-26/medibank-data-breach-customer-international-student-cyber-attack/101573608).

<sup>20</sup> AFP press release, 'AFP working with overseas Law enforcement on Optus breach' (26 September 2022), [www.afp.gov.au/news-media/media-releases/afp-working-overseas-law-enforcement-optus-breach](https://www.afp.gov.au/news-media/media-releases/afp-working-overseas-law-enforcement-optus-breach).

<sup>21</sup> AFP press release, 'Operation Guardian Expanded to Protect Stolen Information of Australians' (30 October 2022), [www.afp.gov.au/news-media/media-releases/operation-guardian-expanded-protect-stolen-information-australians](https://www.afp.gov.au/news-media/media-releases/operation-guardian-expanded-protect-stolen-information-australians).

<sup>22</sup> AFP press release, 'Five Eyes Law Enforcement Group Meets in Australia to Combat Serious Crime' (26 May 2023), [www.afp.gov.au/news-media/media-releases/five-eyes-law-enforcement-group-meets-australia-combat-serious-crime](https://www.afp.gov.au/news-media/media-releases/five-eyes-law-enforcement-group-meets-australia-combat-serious-crime).

<sup>23</sup> *ibid.*

<sup>24</sup> Department of Foreign Affairs and Trade (DFAT), 'Who We Are', [www.dfat.gov.au/international-relations/security/sanctions/who-we-are](https://www.dfat.gov.au/international-relations/security/sanctions/who-we-are).





undertake activities that would otherwise be illegal under Australian sanctions laws and regulations. The ASO also publishes the DFAT Consolidated List of sanctioned persons and entities, to promote compliance and prevent breaches of the law. Further, the ASO provides guidance on Australian sanctions law to regulated entities.

The ASO works in partnership with other government agencies to monitor compliance with sanctions legislation – including the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Department of Defence, the Department of Home Affairs, the Australian Border Force (ABF) and the AFP – and to respond to possible breaches.

The Australian government implements two types of sanctions:

- UN Security Council (UNSC) sanctions, which Australia must impose as a member of the UN; and
- Australian autonomous sanctions, which are imposed as a matter of Australian foreign policy.<sup>25</sup>

Both UNSC sanctions and Australian sanctions impose sanction ‘regimes’, which are usually described by reference to a country or group.

In early 2022, the Australian government imposed an autonomous sanctions regime focusing on a range of individuals, companies, organisations and officials supporting Russia’s invasion of Ukraine.<sup>26</sup> The sanctions measures imposed in sanctions regimes focus usually on:

- restrictions on trade in goods and services;
- restrictions on engaging in commercial activities;
- targeted financial sanctions (including assets freezes) on designated persons and entities; and
- travel bans on certain persons.

The most recent litigious enforcement of Australian sanctions laws was the case of Chan Han Choi in 2021.<sup>27</sup> Mr Choi pleaded guilty to contravening Australian sanctions law as he provided brokering services for the sale of arms, refined petroleum products and related material to North Korea in 2017. The Supreme Court of NSW sentenced him to three years and six months’ imprisonment because Mr Choi’s conduct was deliberate and motivated by a desire to undermine the sanctions imposed on North Korea.

The Australian government commenced a review of the autonomous sanctions regime in January 2023. The government’s issues paper flagged enforcement issues from the currently limited enforcement steps available between education

---

<sup>25</sup> DFAT, ‘About Sanctions’, [www.dfat.gov.au/international-relations/security/sanctions/about-sanctions](https://www.dfat.gov.au/international-relations/security/sanctions/about-sanctions).

<sup>26</sup> DFAT, ‘Russia Sanctions Regime’, [www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/russia-sanctions-regime](https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/russia-sanctions-regime).

<sup>27</sup> *R v Choi (No. 10)* [2021] NSWSC 891.



and prosecution.<sup>28</sup> To overcome difficulties faced in prosecuting sanctions offences, the government is considering introducing a system of civil pecuniary penalties that may be imposed and that can be assessed on a lower standard of proof. The review is scheduled to be completed by 30 June 2023.

## AUSTRAC and the Asia-Pacific Group on Money Laundering

As Australia's specialist financial intelligence unit (FIU) and the anti-money laundering and counter-terrorism financing (AML/CTF) regulator, AUSTRAC identifies threats and criminal abuses in the financial system.<sup>29</sup> Its powers are set out in the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and the Financial Transactions Reports Act 1988 (Cth).

AUSTRAC primarily receives and analyses financial information, and the resulting financial intelligence is disseminated to revenue, law enforcement and other partner agencies in Australia and overseas.<sup>30</sup> This involves helping partner agencies detect, investigate and prosecute ML and TF activity by identifying potential ML and TF cases.

AUSTRAC is an active participant in the global response to ML and TF, and it engages in a two-way exchange of information and intelligence with other FIUs all over the world.<sup>31</sup> The information shared relates to financial transactions, financial intelligence and AML/CTF. These methods of cooperation assist international counterparts with their AML/CTF regulation and also help law enforcement agencies track the international movements of proceeds of crime.<sup>32</sup>

MOUs are presently in place between AUSTRAC and 95 equivalent national FIUs.<sup>33</sup> This includes successful agreements with prominent regional partners, including its Chinese and US counterparts.

In 2022, in response to the ASO's sanctions on Russia, AUSTRAC established a dedicated intelligence team to monitor and triage financial reporting on potential sanctions evasion.<sup>34</sup> The ASO and the AFP use AUSTRAC's reports

---

28 DFAT, 'Issues Paper: Review of Australia's Autonomous Sanctions Framework' (January 2023), [www.dfat.gov.au/sites/default/files/issues-paper-review-of-australias-autonomous-sanctions-framework.pdf](https://www.dfat.gov.au/sites/default/files/issues-paper-review-of-australias-autonomous-sanctions-framework.pdf).

29 Australian Transaction Reports and Analysis Centre (AUSTRAC), [www.austrac.gov.au](https://www.austrac.gov.au).

30 AUSTRAC, 'AUSTRAC Overview', [www.austrac.gov.au/about-us/austrac-overview](https://www.austrac.gov.au/about-us/austrac-overview).

31 Dennis Miralis, 'AUSTRAC: Internationalist Approach to Combating Money Laundering', Nyman Gibson Miralis (13 May 2021), <https://ngm.com.au/austrac-internationalist-approach-to-combating-money-laundering/>.

32 AUSTRAC, 'International Partnerships and Programs', [www.austrac.gov.au/about-us/international-engagement/international-partnerships-and-programs](https://www.austrac.gov.au/about-us/international-engagement/international-partnerships-and-programs).

33 AUSTRAC, 'Exchange Instruments List', [www.austrac.gov.au/about-us/international-engagement/exchange-instruments-list](https://www.austrac.gov.au/about-us/international-engagement/exchange-instruments-list).

34 AUSTRAC press release, 'AUSTRAC Responds to Russian Sanctions with Dedicated Team and FIU Working Group' (27 June 2022), [www.austrac.gov.au/austrac-responds-russian-sanctions-dedicated-team-and-fiu-working-group](https://www.austrac.gov.au/austrac-responds-russian-sanctions-dedicated-team-and-fiu-working-group).



to investigate sanctions evasions. AUSTRAC is also involved in international efforts to coordinate effective financial intelligence sharing to combat sanctions evasion and is part of the Russia-Related Illicit Finance and Sanctions FIU Working Group.<sup>35</sup> The Group tracks the global movement of funds and jointly targets individuals and entities subject to sanctions, focusing on the use of shell companies and other corporate structures, as well as third countries to distance sanctioned persons and entities from their assets.

AUSTRAC also works in conjunction with the following.

- The Financial Action Task Force (FATF) – an intergovernmental body focused on combating ML, TF and other related threats to the integrity of the international financial system.<sup>36</sup>
- The Egmont Group of Financial Intelligence Units – made up of FIUs and provides a global network for enhancing cooperation among FIUs, especially in the areas of information exchange, training and the sharing of knowledge and expertise. Beyond AUSTRAC, notable Asia-Pacific (APAC) members include counterpart agencies in Hong Kong, China, Indonesia and Thailand.<sup>37</sup>
- The Asia-Pacific Group on Money Laundering (APG) – the FATF-style regional body for the APAC region. Australia is a permanent APG co-chair.<sup>38</sup> The current joint co-chair is Canada. The secretariat offices of the APG are located in Sydney, Australia. The APG consists of 41 member jurisdictions, 11 of which are also permanent members of the FATF. The APG members commit to implementing the international standards against ML, which are set out in the FATF recommendations.<sup>39</sup> The APG mutual evaluations process involves APG teams visiting the jurisdiction of fellow members to test their levels of compliance with AML standards as well as AML/CTF effectiveness. The APG is conducting its third round of mutual evaluation reports, with 30 reports released since the round started in 2014.<sup>40</sup>

AUSTRAC also liaises with international law enforcement bodies and agencies on the traceability of proceeds of crime. It also monitors all digital currency exchanges within Australia's borders to ensure that the transactions are not being used for ML or TF.<sup>41</sup> AUSTRAC does this by requiring all digital currency exchange providers operating in Australia to register with AUSTRAC and meet the Australian government's AML/CTF obligations.

<sup>35</sup> AUSTRAC press release, 'AUSTRAC Joins Russia-Related Illicit Finance and Sanctions FIU Working Group' (17 March 2022), [www.austrac.gov.au/news-and-media/our-recent-work/austrac-joins-russia-related-illicit-finance-sanctions-fiu-working-group](https://www.austrac.gov.au/news-and-media/our-recent-work/austrac-joins-russia-related-illicit-finance-sanctions-fiu-working-group).

<sup>36</sup> Financial Action Task Force, [www.fatf-gafi.org](https://www.fatf-gafi.org).

<sup>37</sup> Egmont Group, <https://egmontgroup.org>.

<sup>38</sup> Asia-Pacific Group on Money Laundering (APG), <https://apgml.org/about-us/page.aspx?p=91ce25ec-db8a-424c-9018-8bd1f6869162>.

<sup>39</sup> APG, <https://apgml.org/about-us/page.aspx?p=91ce25ec-db8a-424c-9018-8bd1f6869162>, <https://apgml.org/about-us/page.aspx?p=52e840ea-0599-4c85-9424-1abd272ba9f3>.

<sup>40</sup> APG, 'Mutual Evaluations', <https://apgml.org/mutual-evaluations/page.aspx?p=c12cf2af-4e56-472c-9201-90d0baf9ceda>.

<sup>41</sup> AUSTRAC, 'Digital Currency Exchange Providers', [www.austrac.gov.au/business/industry-specific-guidance/digital-currency-exchange-providers](https://www.austrac.gov.au/business/industry-specific-guidance/digital-currency-exchange-providers).



AUSTRAC also provides extensive technical assistance and training programmes throughout the APAC region to strengthen the effectiveness of counterpart FIUs. It has conducted formal training programmes in countries such as Thailand, Indonesia, Bangladesh and the Philippines.<sup>42</sup>

## Regulatory action against casinos

On 30 May 2023, AUSTRAC and Crown Resorts Limited, Australia's largest gambling and entertainment group, agreed to a AU\$450 million fine over ML breaches.<sup>43</sup> This was the result of AUSTRAC's industry-wide casino compliance campaign, which was launched in 2019.

AUSTRAC's AML/CTF investigations into the casino and gambling industry were expected to follow its December 2020 report setting out its first risk assessment programme.<sup>44</sup> This programme focused on the banking, remittance and gambling services sectors associated with the examination of junket tour operations (JTO) in Australia. It targeted these industries to identify, mitigate and manage risks of exposure to financial crime.<sup>45</sup> AUSTRAC expressed concern over the high ML/TF risks faced by the JTO sector and detected that one of the leading casinos, the Star, maintained ongoing ties with many junkets linked to organised criminal groups in Asia.<sup>46</sup>

Additionally, the report revealed that Australian regulators had identified that casino accounts were being misused to make political donations to expand foreign influence. As a result of these risks and concerns, AUSTRAC launched 'Operation Slalom' for enhanced compliance investigations and enforcement actions against casino and gambling industries.<sup>47</sup>

In March 2022, AUSTRAC announced proceedings in the Federal Court of Australia against Crown Melbourne and Crown Perth after an investigation found poor governance, poor risk management and failure to maintain a compliant AML/CTF programme at Crown.<sup>48</sup> The proceedings were for alleged serious and systemic non-compliance with Australia's AML/CTF laws. These proceedings

<sup>42</sup> AUSTRAC, 'International Partnerships and Programs', [www.austrac.gov.au/about-us/international-engagement/international-partnerships-and-programs](https://www.austrac.gov.au/about-us/international-engagement/international-partnerships-and-programs).

<sup>43</sup> AUSTRAC press release, 'AUSTRAC and Crown Agree Proposed \$450 Million Penalty', [www.austrac.gov.au/news-and-media/media-release/austrac-and-crown-agree-proposed-450-million-penalty](https://www.austrac.gov.au/news-and-media/media-release/austrac-and-crown-agree-proposed-450-million-penalty).

<sup>44</sup> AUSTRAC, 'Junket Tour Operations in Australia: Money Laundering and Terrorism Financing Risk Assessment' (December 2020), [www.austrac.gov.au/sites/default/files/2020-12/JTO\\_2020\\_FINAL.pdf](https://www.austrac.gov.au/sites/default/files/2020-12/JTO_2020_FINAL.pdf).

<sup>45</sup> *ibid.*

<sup>46</sup> *id.*, p. 20.

<sup>47</sup> James Frost, 'AUSTRAC enlists banks, puts casinos on notice', *Australian Financial Review* (21 June 2021), [www.afr.com/companies/financial-services/austrac-enlists-banks-puts-casinos-on-notice-20210618-p5829w](https://www.afr.com/companies/financial-services/austrac-enlists-banks-puts-casinos-on-notice-20210618-p5829w).

<sup>48</sup> AUSTRAC press release, 'AUSTRAC Commences Proceedings in the Federal Court Against Crown Melbourne and Crown Perth' (16 December 2022), [www.austrac.gov.au/news-and-media/media-release/austrac-commences-proceedings-federal-court-against-crown-melbourne-and-crown-perth](https://www.austrac.gov.au/news-and-media/media-release/austrac-commences-proceedings-federal-court-against-crown-melbourne-and-crown-perth).



will be settled if the AU\$450 million fine is approved by the Federal Court, which would make it the third-largest fine in Australian corporate history.<sup>49</sup>

In November and December 2022, AUSTRAC also commenced proceedings in the Federal Court against Star Entertainment Group entities and SkyCity Adelaide Pty Ltd for similar reasons.<sup>50</sup>

## The Australian Criminal Intelligence Commission

The Australian Criminal Intelligence Commission (ACIC) is Australia's national criminal intelligence agency with 'specialist investigative capabilities'.<sup>51</sup> The ACIC is the only Australian agency that is exclusively focused on combating serious and organised crime.

The ACIC's remit for 'specialist investigative capabilities', working with domestic and international partner agencies, involves:

- collating, analysing and disseminating criminal intelligence and combining it to create a comprehensive national database;
- using coercive powers to obtain information where traditional law enforcement methods have not been effective;
- providing strategic intelligence assessments and advice; and
- implementing a national target management framework to guide law enforcement in establishing and sharing organised crime priorities and targets. This is particularly useful for dealing with serious multi-jurisdictional and organised crime investigations.<sup>52</sup>

## The Australian Security and Investments Commission

The Australian Security and Investments Commission (ASIC) exercises its powers under the Australian Securities and Investments Commission Act 2001 (Cth) to regulate many aspects of Australia's corporate, market and financial

---

<sup>49</sup> Kate Ainsworth, 'Crown Fined \$450 Million for Money Laundering Breaches by AUSTRAC', ABC News (30 May 2023), [www.abc.net.au/news/2023-05-30/crown-fined-450-million-money-laundering-breaches-austrac/102410670](http://www.abc.net.au/news/2023-05-30/crown-fined-450-million-money-laundering-breaches-austrac/102410670).

<sup>50</sup> AUSTRAC press release, 'AUSTRAC Commences Proceedings in the Federal Court Against Star Entertainment Group Entities' (3 May 2023), [www.austrac.gov.au/news-and-media/media-release/austrac-commences-proceedings-federal-court-against-star-entertainment-group-entities](http://www.austrac.gov.au/news-and-media/media-release/austrac-commences-proceedings-federal-court-against-star-entertainment-group-entities); AUSTRAC press release, 'AUSTRAC Commences Federal Court Proceedings Against SkyCity Adelaide' (30 November 2022), [www.austrac.gov.au/news-and-media/media-release/austrac-commences-federal-court-proceedings-against-skycity-adelaide](http://www.austrac.gov.au/news-and-media/media-release/austrac-commences-federal-court-proceedings-against-skycity-adelaide).

<sup>51</sup> Dennis Miralis, 'Australian Criminal Intelligence Commission (ACIC)', Nyman Gibson Miralis (13 May 2021), <https://ngm.com.au/australian-criminal-intelligence-commission-acic/>.

<sup>52</sup> *ibid.*



sectors.<sup>53</sup> ASIC may investigate and take regulatory action for potential breaches of law committed by the financial entities under its oversight.<sup>54</sup>

ASIC also works internationally with various agencies, as many Australian financial market participants undertake cross-border transactions and operations. ASIC and other international regulators share information to assist each other with the supervision of markets and enforce regulations.<sup>55</sup> This is done through MOUs that ASIC has signed with other regulators (including multilateral MOUs) and staff secondments with fellow members of the International Organization of Securities Commissions (IOSCO).<sup>56</sup> Further, ASIC participates in various international regulatory forums and is a signatory to international cooperation agreements, including multilateral and bilateral MOUs.<sup>57</sup>

Many international organisations and foreign regulators make requests for assistance under international cooperation agreements, including MOUs. In some instances, ASIC can compulsorily obtain documents, information or testimonies on behalf of foreign regulators under the Mutual Assistance in Business Regulation Act 1992 (Cth).

The multilateral MOUs to which ASIC is a signatory include the IOSCO Multilateral Memorandum of Understanding (MMOU), the IOSCO Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information, and the IOSCO Administrative Arrangement.<sup>58</sup>

Established in 2002, the MMOU sets out how signatory regulators from around the world should consult, cooperate and exchange information for regulatory enforcement in securities markets.<sup>59</sup> Under the MMOU, regulatory authorities can make information requests when investigating offences relating to activities under the relevant laws and regulations of the jurisdictions in question, including insider dealing and market manipulation, fraudulent or manipulative practices and the misuse of funds.

---

<sup>53</sup> Australian Securities and Investments Commission (ASIC), <https://asic.gov.au>.

<sup>54</sup> Dennis Miralis, 'ASIC Investigations', Nyman Gibson Miralis (13 May 2021), <https://ngm.com.au/asic-investigations/>.

<sup>55</sup> ASIC, 'International Regulatory and Enforcement Cooperation' (20 May 2021), <https://asic.gov.au/about-asic/what-we-do/international-activities/international-regulatory-and-enforcement-cooperation/>.

<sup>56</sup> *ibid.*

<sup>57</sup> ASIC, 'Memoranda of understanding and other international agreements' (5 May 2023), <https://asic.gov.au/about-asic/what-we-do/international-activities/international-regulatory-and-enforcement-cooperation/memoranda-of-understanding-and-other-international-agreements/>.

<sup>58</sup> ASIC, 'International Regulatory and Enforcement Cooperation' (20 May 2021), <https://asic.gov.au/about-asic/what-we-do/international-activities/international-regulatory-and-enforcement-cooperation/>.

<sup>59</sup> International Organization of Securities Commissions, 'About IOSCO', [www.iosco.org/about/?subsection=mmou](http://www.iosco.org/about/?subsection=mmou).



Since 2021, ASIC has moved away from its litigation-first approach to an approach using the range of regulatory tools at its disposal.<sup>60</sup> ASIC previously used litigation as its primary tool of enforcement. This approach was burdensome on ASIC, which had been involved in 61 civil penalty proceedings by 2021.<sup>61</sup>

Although ASIC is committed to continuing as an 'active litigator against misconduct', litigation will be reserved for cases involving the most substantial harm to the market, investors and consumers.<sup>62</sup> ASIC now primarily focuses on using non-litigious regulatory tools in a targeted and proportionate way, to identify and reduce the risk of misconduct in the markets and sectors it regulates. The regulatory tools ASIC may employ include enforceable undertakings, infringement notices and prohibition orders.

## The Australian Competition and Consumer Commission

The Australian Competition and Consumer Commission (ACCC) is the independent federal regulator of the Competition and Consumer Act 2010 (Cth) [the Competitions Act].<sup>63</sup> The Act is the primary legislation governing Australian competition law. The ACCC deploys a range of regulatory tools to prevent breaches of the Competitions Act, including education, inspections and enforcement remedies such as court-based outcomes and court-enforceable undertakings.<sup>64</sup>

The ACCC has increased its capability to assist international investigations through MOUs and treaties for the exchange of information in cross-border investigations, particularly for cartel conduct as well as consumer scams and fraud.<sup>65</sup> Further, the ACCC's work is engaged by the portions of Australia's free trade agreements that relate to competition law.

The ACCC participates in several international and regional networks, including the International Competition Network, the Organisation for Economic Co-operation and Development (OECD), the Asia-Pacific Economic Cooperation, the ASEAN–Australia and NZ Free Trade Area and the International Consumer Protection and Enforcement Network, which is an informal network of government consumer protection authorities focusing on international

---

<sup>60</sup> ASIC, 'ASIC Corporate Plan 2022–26: Focus 2022–23' (August 2022), p. 1, <https://download.asic.gov.au/media/v3vhdqiw/asic-corporate-plan-2022-26-focus-2022-23-published-22-august-2022.pdf>.

<sup>61</sup> ASIC, 'ASIC Annual Report 2021–22: Section 2 – Performance' (October 2022), p. 29, [https://download.asic.gov.au/media/140dug11/asic-annual-report-2021-22\\_section-2.pdf](https://download.asic.gov.au/media/140dug11/asic-annual-report-2021-22_section-2.pdf).

<sup>62</sup> ASIC, 'ASIC Corporate Plan 2022–26: Focus 2022–23', p. 1.

<sup>63</sup> Australian Competition and Consumer Commission (ACCC), [www.accc.gov.au](http://www.accc.gov.au).

<sup>64</sup> ACCC, 'Compliance and Enforcement Policy and Priorities' (23 February 2021), [www.accc.gov.au/about-us/accc-priorities/compliance-and-enforcement-policy-and-priorities](http://www.accc.gov.au/about-us/accc-priorities/compliance-and-enforcement-policy-and-priorities).

<sup>65</sup> ACCC, 'Our International Activities', [www.accc.gov.au/about-us/international-relations/our-international-activities](http://www.accc.gov.au/about-us/international-relations/our-international-activities).





cooperation and sharing information about cross-border commercial activities that may affect consumer interests.<sup>66</sup>

The ACCC also has extensive powers to investigate international cartels, which include:

- compelling a person or company to provide information about a suspected breach of competition law;
- seeking search warrants from a magistrate and executing these on company offices and the premises of company officers; and
- notifying the AFP, which can use further criminal investigative and surveillance powers.<sup>67</sup>

On 15 August 2014, the ACCC and the Commonwealth Department of Public Prosecutions (CDPP) signed an MOU regarding serious cartel conduct.<sup>68</sup> The ACCC investigates cartel behaviour, manages the immunity process and refers cases of serious cartel conduct to the CDPP for potential prosecution. The CDPP is responsible for prosecuting commonwealth law offences, including serious cartel offences, under the Prosecution Policy of the Commonwealth.<sup>69</sup>

In the past year, the ACCC and CDPP have continued their pursuit of prosecuting cartel conduct and other violations of the Competitions Act, often involving international elements. For instance, in June 2022, Vina Money Transfer Pty Ltd, a money remittance business in NSW and Victoria, was fined AU\$1 million for implementing a cartel provision in violation of Section 44ZZRG(1) of the Competitions Act.<sup>70</sup> Additionally, four individuals received prison sentences.

## The Department of Home Affairs

Established in 2017, the Department of Home Affairs provides coordinated strategic and policy leadership for Australia's national security policy and operations.<sup>71</sup> This includes coordinating with overseas agencies on Australia's counterterrorism policies and potential cyber threats.

---

<sup>66</sup> ACCC, 'International Forums and Groups', [www.accc.gov.au/about-us/international-relations/international-forums-and-groups](https://www.accc.gov.au/about-us/international-relations/international-forums-and-groups).

<sup>67</sup> ACCC, 'Cartels', [www.accc.gov.au/business/competition-and-exemptions/cartels](https://www.accc.gov.au/business/competition-and-exemptions/cartels).

<sup>68</sup> Memorandum of Understanding Between the Australian Competition and Consumer Commission and the Commonwealth Director of Public Prosecutions in Relation to Serious Cartel Conduct, signed 15 August 2014, [www.cdpp.gov.au/system/files/2023-05/MR-20140910-MOU-Serious-Cartel-Conduct.pdf](https://www.cdpp.gov.au/system/files/2023-05/MR-20140910-MOU-Serious-Cartel-Conduct.pdf).

<sup>69</sup> Office of the Director of Public Prosecutions, 'Prosecution Policy of the Commonwealth' (July 2021), [www.cdpp.gov.au/system/files/Prosecution%20Policy%20of%20the%20Commonwealth%20as%20updated%2019%20July%202021.pdf](https://www.cdpp.gov.au/system/files/Prosecution%20Policy%20of%20the%20Commonwealth%20as%20updated%2019%20July%202021.pdf).

<sup>70</sup> *Commonwealth Director of Public Prosecutions v Vina Money Transfer Pty Ltd* [2022] FCA 665.

<sup>71</sup> Department of Home Affairs, 'Who we are', [www.homeaffairs.gov.au/about-us/who-we-are](https://www.homeaffairs.gov.au/about-us/who-we-are).



The Department's portfolio includes the Australian Security Intelligence Organisation (ASIO), the ABF, the ACIC and the National Emergency Management Agency.<sup>72</sup> The Department also regulates immigration and migration policies, including border security and customs and border control (apart from quarantine and inspection).

## The Australian Taxation Office

The Australian Taxation Office (ATO) is the principal revenue collection agency for the Australian government. The ATO administers the Australian federal taxation system, superannuation legislation and other associated matters.<sup>73</sup> It conducts investigations and works closely with domestic and overseas partner agencies. When the ATO decides to bring criminal charges, it is generally the CDPP that conducts the prosecution.

The ATO's contributions to global tax administration have significantly increased over the years. Australia has a network of more than 100 information-sharing agreements with revenue collection agencies from other countries and has income tax treaties with 46 countries.<sup>74</sup> These international partnerships are essential to the ATO's strategic direction as they prevent people from using jurisdictional borders to block effective tax administration.<sup>75</sup>

## The Joint 5 – global collaboration for tax administration

The formation of the Joint Chiefs of Global Tax Enforcement (J5) in July 2018 has been a notable development in global tax administration.<sup>76</sup> The J5 was formed in response to the OECD's recommendations for countries to increase efforts to tackle the enablers of tax crime. It comprises the tax enforcement authorities of Australia, Canada, the Netherlands, the UK and the US.<sup>77</sup>

The J5 has multiple objectives, including collaboratively investigating transnational tax crime and ML, addressing the threat of cryptocurrencies and cybercrime to tax administrations, sharing information and intelligence,

---

<sup>72</sup> Department of Home Affairs, 'Our Portfolio', [www.homeaffairs.gov.au/about-us-subsite/Pages/portfolio-board.aspx](http://www.homeaffairs.gov.au/about-us-subsite/Pages/portfolio-board.aspx).

<sup>73</sup> Australian Taxation Office (ATO), 'Who we are', [www.ato.gov.au/about-ato/who-we-are/](http://www.ato.gov.au/about-ato/who-we-are/).

<sup>74</sup> The Treasury, 'Income Tax Treaties', <https://treasury.gov.au/tax-treaties/income-tax-treaties>.

<sup>75</sup> ATO, 'ATO Corporate Plan 2022-23' [17 August 2022], [www.ato.gov.au/About-ATO/Managing-the-tax-and-super-system/In-detail/Corporate-plan---current-and-previous-years/ATO-corporate-plan-2022-23/?page=7#06\\_Cooperation](http://www.ato.gov.au/About-ATO/Managing-the-tax-and-super-system/In-detail/Corporate-plan---current-and-previous-years/ATO-corporate-plan-2022-23/?page=7#06_Cooperation).

<sup>76</sup> ATO, 'Joint Chiefs of Global Tax Enforcement', [www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Joint-Chiefs-of-Global-Tax-Enforcement/](http://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Joint-Chiefs-of-Global-Tax-Enforcement/).

<sup>77</sup> *ibid.*



strengthening relationships with financial institutions, and gathering influential leaders in financial and tax crime compliance from public and private sectors.<sup>78</sup>

The J5 has considerably strengthened global tax administration. Within its first year of existence, over 50 investigations commenced and more data was exchanged between J5 agencies than in the past 10 years combined.<sup>79</sup>

The J5 has successfully targeted sophisticated international enablers of tax evasion. Its first operation in January 2020 resulted from an investigation into alleged tax evasion and money laundering of Puerto Rican bank Euro Pacific.<sup>80</sup> Member states coordinated search warrants, interviews and subpoenas for procuring evidence.<sup>81</sup> As a result, the ATO, supported by ACIC, audited over 100 Australians linked to the bank and took action against half of the bank's customers in Australia, resulting in further tax or penalties in some instances.<sup>82</sup>

The J5's collaborative approach has meant greater capabilities in dealing with increasingly complex technologies used in tax avoidance. A pertinent example was the December 2022 operation conducted by J5 members to crack down on the business use of illegal electronic sales suppression tools (tools that manipulate a business' electronic sales records) for tax avoidance purposes.<sup>83</sup> The ATO, after extensive investigations with the UK and US tax authorities, raided 35 separate premises across Australia.<sup>84</sup>

The J5 is also cognisant of the problems that innovative technologies bring to tax administration. Thus, the J5 hosts annual 'challenges', which involve bringing together experts to track down individuals and organisations perpetrating tax crimes globally.<sup>85</sup> In 2022, the challenge was targeted at tracking down those using decentralised exchanges and non-fungible tokens for tax avoidance.<sup>86</sup> A tangible success of the J5 challenges was the 2019 takedown of Bitclub Network in the US – an extensive Ponzi scheme that scammed thousands of people into

<sup>78</sup> ATO, 'J5 Communique' (May 2022), [www.ato.gov.au/assets/0/104/694/815/47a0cde3-653a-4674-9e7c-103ec6f63678.pdf](https://www.ato.gov.au/assets/0/104/694/815/47a0cde3-653a-4674-9e7c-103ec6f63678.pdf).

<sup>79</sup> ATO press release, 'One Year In, J5 Making a Difference' (30 May 2023), [www.ato.gov.au/Media-centre/Media-releases/One-Year-In,-J5-Making-a-Difference/](https://www.ato.gov.au/Media-centre/Media-releases/One-Year-In,-J5-Making-a-Difference/).

<sup>80</sup> ATO press release, 'Global tax chiefs undertake unprecedented multi-country day of action to tackle international tax evasion' (last modified 24 January 2020), [www.ato.gov.au/Media-centre/Media-releases/Global-tax-chiefs-undertake-multi-country-day-of-action-to-tackle-international-tax-evasion/](https://www.ato.gov.au/Media-centre/Media-releases/Global-tax-chiefs-undertake-multi-country-day-of-action-to-tackle-international-tax-evasion/).

<sup>81</sup> Marta Pascual Juanola, 'Long history of non-compliance: US celebrity's offshore bank suspended', *The Age* (1 July 2022), [www.theage.com.au/national/long-history-of-non-compliance-us-celebrity-s-offshore-bank-suspended-20220630-p5ay3g.html](https://www.theage.com.au/national/long-history-of-non-compliance-us-celebrity-s-offshore-bank-suspended-20220630-p5ay3g.html).

<sup>82</sup> *ibid.*

<sup>83</sup> ATO press release, 'ATO executes raids across the country as part of crackdown on dodgy sales suppression technology' (10 December 2022), [www.ato.gov.au/Media-centre/Media-releases/ATO-executes-raids-across-the-country-as-part-of-crackdown-on-dodgy-sales-suppression-technology/](https://www.ato.gov.au/Media-centre/Media-releases/ATO-executes-raids-across-the-country-as-part-of-crackdown-on-dodgy-sales-suppression-technology/).

<sup>84</sup> *ibid.*

<sup>85</sup> Internal Revenue Service, <https://www.irs.gov/pub/irs-utl/j5-media-release-5-10-2022.pdf>.

<sup>86</sup> *ibid.*



buying shares in a purported cryptocurrency mining pool.<sup>87</sup> This resulted in the arrests of Bitclub Network's founders and main operators.<sup>88</sup>

## Other global collaborations

The ATO also collaborates with international revenue agencies bilaterally and through groups and forums. The main forum for international collaboration is the OECD. The ATO also participates in the OECD's Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC), the Task Force on Tax Crimes and Other Crimes, and the Global Forum on Transparency and Exchange of Information for Tax Purposes.

The Global Forum on Transparency and Exchange of Information for Tax Purposes' original focus was to address the use of banking secrecy jurisdictions.<sup>89</sup> The Forum, which, with 162 members, is the largest tax group in the world, is principally directed towards implementing information exchange and transparency standards globally, as well as monitoring, assessing and supporting their implementation.<sup>90</sup>

The JITSIC is a platform involving 42 national tax administration agencies that seek to provide its members with an avenue to collaborate through information sharing and intelligence within the legal framework of effective bilateral and multilateral conventions and tax information exchange agreements.<sup>91</sup>

The Task Force on Tax Crimes and Other Crimes focuses on the identification, auditing, investigation and disruption of tax and other serious criminal crime typologies, including money laundering and bribery.<sup>92</sup> Australia's role in this Task Force increased during 2021–2022, when it held the position of chair,<sup>93</sup> during which tenure it approved the publication of its updated 'Ten Global Principles for Fighting Tax Crime' (of which Australia is an adherent). These guidelines lay out the legal, institutional and operational frameworks of best practices for fighting tax and financial crime.<sup>94</sup> Key principles include criminalising tax offences,

<sup>87</sup> *ibid.*

<sup>88</sup> US Attorney's Office, District of New Jersey press release, 'Three Men Arrested in \$722 Million Cryptocurrency Fraud Scheme' (10 December 2019), [www.justice.gov/usao-nj/pr/three-men-arrested-722-million-cryptocurrency-fraud-scheme#:~:text=NEWARK%2C%20N.J.%20-%20Three%20men%20were,U.S.%20Attorney%20Craig%20Carpenito%20announced](https://www.justice.gov/usao-nj/pr/three-men-arrested-722-million-cryptocurrency-fraud-scheme#:~:text=NEWARK%2C%20N.J.%20-%20Three%20men%20were,U.S.%20Attorney%20Craig%20Carpenito%20announced).

<sup>89</sup> Organisation for Economic Co-operation and Development (OECD), 'Putting an end to offshore tax evasion', [www.oecd.org/tax/transparency/who-we-are/](https://www.oecd.org/tax/transparency/who-we-are/).

<sup>90</sup> *ibid.*

<sup>91</sup> OECD, 'Joint International Taskforce on Shared Intelligence and Collaboration', Forum on Tax Administration, [www.oecd.org/tax/forum-on-tax-administration/jitsic/](https://www.oecd.org/tax/forum-on-tax-administration/jitsic/).

<sup>92</sup> OECD, 'Tax and Crime', [www.oecd.org/tax/crime/#:~:text=The%20OECD%20Task%20Force%20on,crimes%20through%20standard%20setting%2C%20sharing](https://www.oecd.org/tax/crime/#:~:text=The%20OECD%20Task%20Force%20on,crimes%20through%20standard%20setting%2C%20sharing).

<sup>93</sup> ATO, 'Commissioner of Taxation annual report 2021–22', p. 28, [www.ato.gov.au/uploadedFiles/Content/CR/Downloads/Annual\\_Reports/n0995\\_ATO\\_annual\\_report\\_2021-22\\_Digital.pdf](https://www.ato.gov.au/uploadedFiles/Content/CR/Downloads/Annual_Reports/n0995_ATO_annual_report_2021-22_Digital.pdf).

<sup>94</sup> OECD, Committee on Fiscal Affairs, 'Recommendation of the Council on the Ten Global Principles for Fighting Tax Crime', C/MIN(2022)9/FINAL, Meeting of the Council at Ministerial Level, 9–10 June 2022, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0469#mainText>.



empowering competent authorities to detect, investigate and prosecute tax crimes, granting authorities the power to freeze and seize relevant assets, allocating sufficient resources for tax crime investigation, promoting effective domestic inter-agency cooperation and ensuring adequate international frameworks for cooperation.

## Examples of inter-agency collaboration in the APAC region

Australian law enforcement, investigative and prosecution agencies operate collaboratively with APAC partners to investigate and prosecute TSOC adverse to Australia's national interests. A number of these partnerships and task forces are detailed below.

### CDPP Organised Crime and Counter-Terrorism Practice Group

The CDPP's Practice Group is responsible for federal prosecutions of terrorism, national security and significant organised crime. The CDPP has reported that '[t]he work of the [Practice Group] is increasingly international, reflecting the globalisation of more serious criminal activity'.<sup>95</sup> Cases referred to the Practice Group involve activity that often takes place wholly or partly outside the geographical boundaries of Australia, requiring international cooperation (assisted by the Commonwealth Attorney-General's Department) to secure foreign evidence to enable prosecution of international organised crime and terrorism.

The Practice Group works with numerous partner agencies to exchange evidence to facilitate prosecutions. There is a focus on electronic evidence, which is easier to manage, enabling more efficient searching and collating of relevant evidence.<sup>96</sup>

Key domestic partner agencies include the following:

- the AFP;
- the ASIO;
- the ABF;
- the ACIC; and
- state and territory police.

---

<sup>95</sup> Commonwealth Director of Public Prosecutions, Annual Report 2019–20, [www.cdpp.gov.au/system/files/Annual%20Report%202019-20.pdf](https://www.cdpp.gov.au/system/files/Annual%20Report%202019-20.pdf).

<sup>96</sup> *ibid.*



International agencies involved in recent engagements include the FBI, the US Department of Justice, the UN Office on Drugs and Crime and the UN Counter-Terrorism Committee, as well as South Asian judges, prosecutors and police officers.

## The Serious Financial Crime Taskforce

Created in 2015 and led by the ATO, the Serious Financial Crime Taskforce (SFCT) is a domestic multi-agency task force specifically formulated to combine the investigative and operative powers and capabilities of Australia's largest law enforcement bodies in targeting complex financial crime.<sup>97</sup> The Taskforce comprises several other federal agencies, including the AFP, ACIC, AUSTRAC, ASIC and the Attorney-General's Department.

The SFCT targets activities that occur both within Australia and in foreign jurisdictions. It works with international partner agencies, both law enforcement and regulators, governments and organisations across the globe, including countries that are subject to Australia's bilateral tax treaties and tax exchange agreements. It focuses on combatting cybercrime affecting tax and superannuation, offshore tax evasion, illegal phoenix activity and serious financial crime.<sup>98</sup>

## Pacific Transnational Crime Network

The Pacific Transnational Crime Network (PTCN) represents a regional international police services-led criminal intelligence and investigation capability.<sup>99</sup> Developed in 2002 to combat TSOC in the Pacific, the PTCN consists of over two dozen domestic and foreign law enforcement bodies from nations in the region, particularly Pacific Island countries. Prominent members include Australia, New Zealand, Fiji, Samoa and Tonga.

The express purpose of the PTCN is to build policing leadership in the Pacific region and collectively navigate regional policing challenges through discovery, knowledge, influence and partnerships.<sup>100</sup>

---

<sup>97</sup> ATO, 'Serious Financial Crime Taskforce' (last modified 29 May 2023), [www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Serious-Financial-Crime-Taskforce/](https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Serious-Financial-Crime-Taskforce/).

<sup>98</sup> *ibid.*

<sup>99</sup> Pacific Transnational Crime Network, 'Our Work', [www.picp.co.nz/our-work](https://www.picp.co.nz/our-work).

<sup>100</sup> *ibid.*



## The Mutual Assistance in Criminal Matters Act

The Mutual Assistance in Criminal Matters Act 1987 (Cth) (the Mutual Assistance Act) governs Australia's provision and receipt of international assistance in criminal matters. The Act provides an express channel through which foreign law enforcement agencies may request assistance from the Australian government and its law enforcement agencies when conducting criminal investigations.

Bilateral treaties governing mutual assistance are incorporated into the Mutual Assistance Act through regulations. Bilateral treaties are in place between Australia and several key jurisdictions, including China, the US, the UK, India and Indonesia. Australia is also a party to various multilateral treaties containing mutual assistance obligations.<sup>101</sup>

However, the Act is not an exhaustive regime for inter-governmental requests for assistance. Countries that are not signatories to mutual assistance treaties may also request assistance; these requests are assessed on a case-by-case basis by the Australian government or the respective law enforcement agency.

Australian investigatory and law enforcement bodies formally and informally collaborate with APAC partners in relation to transnational investigations. Requests for assistance include the exercise of powers of search and seizure and the taking of oral or written evidence. All assistance provided must be in accordance with domestic laws, and state parties to mutual assistance treaties may refuse requests for assistance.

As disclosed in the Attorney-General's Annual Report for 2021–2022, the Attorney-General made 215 separate assistance requests to 22 separate foreign governments over the 2019–2020 reporting period.<sup>102</sup>

## The Extradition Act

The Extradition Act 1988 (Cth) (the Extradition Act) governs Australia's extradition process. Extradition involves a person in a foreign jurisdiction being lawfully transferred to the jurisdiction of a requesting state to serve a sentence or face criminal prosecution. The Extradition Act stipulates the criteria and standards that must be met before the Australian government can make or accept an extradition request.

---

<sup>101</sup> For example, see the 1965 Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters; the 1970 Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and the United Nations Convention against Transnational Organised Crime.

<sup>102</sup> Attorney-General's Department, 'Annual Report 2021–22', p. 148, [www.ag.gov.au/sites/default/files/2023-01/attorney-generals-department-annual-report-2021-22.pdf](https://www.ag.gov.au/sites/default/files/2023-01/attorney-generals-department-annual-report-2021-22.pdf).





The Extradition Act enacts numerous bilateral treaties into Australian domestic law through regulations. Australia has bilateral extradition relationships with several key jurisdictions, including the US, the UK, India, Japan, Malaysia and Chile. As with mutual legal assistance law, Australia is also a party to numerous multilateral conventions that provide a legal basis for extradition.

As disclosed in the Attorney-General's Annual Report for 2021–2022, six people were surrendered to Australia during the 2021–2021 period and a further 34 extradition requests remain outstanding.<sup>103</sup>

## Conclusion

Law enforcement and regulatory investigations in Australia are becoming more complex and internationalised in response to the rapidly evolving nature of TSOC. Australian government agencies and regulators have sought to respond by strengthening formal and informal collaboration with their international counterparts for effective global investigations and by increasing domestic resources towards international investigations.

*\* The authors would like to acknowledge the assistance of their colleagues Mohamed Naleemudeen, Lara Khider, George Papasavvas and Richard Boesel in updating this article.*



**Dennis Miralis**

Nyman Gibson Miralis

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; bribery and corruption; transnational crime; extradition; mutual assistance in criminal law matters; anti-terrorism; national security; criminal intelligence; and encryption.

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

---

<sup>103</sup> *id.*, p. 145.

**Phillip Gibson**

Nyman Gibson Miralis

Phillip Gibson is one of Australia's leading criminal defence lawyers, with over 30 years of experience in all areas of criminal law.

Phillip manages and advises on the most complex criminal cases. In the areas of traditional crime, Phillip has acted in many serious drug matters and high-profile murder trials.

Phillip has vast experience in transnational cases across multiple jurisdictions often involving assets forfeiture; money laundering and proceeds of crime; cybercrime; extradition; mutual assistance; white-collar crime; Royal Commissions; bribery and corruption; INTERPOL notices; international and national security law; and ICAC and Crime Commission matters.

**Jasmina Ceic**

Nyman Gibson Miralis

Jasmina Ceic is an experienced white-collar defence lawyer who advises and represents both national and international clients in complex cross-border investigations, with a specialist focus on large-scale tax fraud investigations, money laundering investigations, cybercrime and extradition.



---

Nyman Gibson Miralis is an international award-winning criminal defence law firm based in Sydney, Australia. For over 50 years it has been leading the market in all aspects of general, complex and international crime, and is widely recognised for its involvement in some of Australia's most significant criminal cases.

Our international law practice focuses on white-collar and corporate crime, transnational financial crime, bribery and corruption, international money laundering, cybercrime, international asset freezing or forfeiture, extradition and mutual assistance law.

Nyman Gibson Miralis strategically advises and appears in matters where transnational cross-border investigations and prosecutions are being conducted in parallel jurisdictions, involving some of the largest law enforcement agencies and financial regulators worldwide.

Working with international partners, we have advised and acted in investigations involving the United States, Canada, the United Kingdom, the European Union, China, Hong Kong, Singapore, Taiwan, Macau, Vietnam, Cambodia, Russia, Mexico, South Korea, the British Virgin Islands, New Zealand and South Africa.

---

Level 9  
299 Elizabeth Street  
Sydney NSW 2000  
Australia  
Tel: +61 2 9264 8884

[Dennis Miralis](#)  
[dm@ngm.com.au](mailto:dm@ngm.com.au)

[Phillip Gibson](#)  
[pg@ngm.com.au](mailto:pg@ngm.com.au)

[www.ngm.com.au](http://www.ngm.com.au)

[Jasmina Ceic](#)  
[jc@ngm.com.au](mailto:jc@ngm.com.au)

---