

# BLACK ECONOMY TASKFORCE

Interim Report - March 2017



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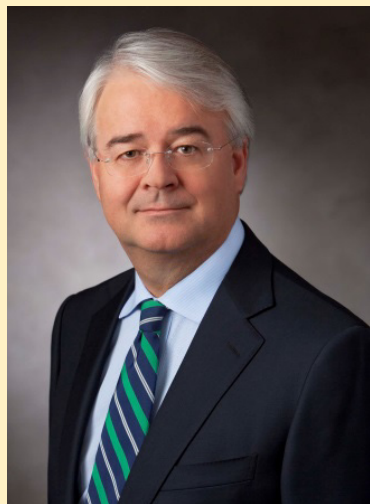
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# CHAIR'S LETTER



Dear Minister

I have great pleasure in presenting you with the Interim Report of the Black Economy Taskforce.

This report is the result of an important partnership between government agencies and the private sector to tackle what is a whole-of-government, whole-of-society problem. As the report makes clear, while current activities countering the black economy are useful, the black economy is a complex problem and new vulnerabilities and threats are emerging which means it could grow further. Only through a coalition of government, business and community engagement will we be able to change the behaviour which supports the black economy and ensure a level playing field for all.

The Interim Report presents the Taskforce's initial findings on the scope, drivers and risks underpinning black economy activities. It makes a number of recommendations for early action and outlines possible policy options and other issues we will consider further ahead of the Final Report which we will deliver to Government in October 2017.

In developing this report I have consulted widely with stakeholders to hear their views, test ideas and build a broad coalition of support. This included:

- Close to 40 bilateral meetings held in Sydney, Melbourne and Canberra with members from the private, public and community sector.
- Regular meetings with the Private Sector Reference Group, Steering Group and Interdepartmental Committee of 19 Commonwealth agencies.

I would like to thank all those who have already contributed and lent their support to the Taskforce. I look forward to working further with them as we continue our work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Andrew AO', written in a cursive style.

**Michael Andrew AO**  
**Chair**  
**Black Economy Taskforce**



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# EXECUTIVE SUMMARY

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## THE NEED FOR ACTION AND A NEW APPROACH

The black economy is a significant, complex and growing economic and social problem.

Black economy activities: undermine the community's trust in the tax system; create an unfair commercial environment which penalises businesses and individuals doing the right thing; enable and entrench the exploitation of vulnerable workers; undermine tax revenue; and enable abuse of the welfare system. If unchecked, increasing black economy participation can lead to a dangerous dynamic. It can foster a culture which legitimises and supports this participation, spurring its further growth. As revenues fall, those remaining in the formal economy may ultimately be faced with higher tax burdens, giving them a greater incentive to move into the shadows. All other OECD countries are grappling with the black economy issue. Australia is not alone.

While the black economy is a long-standing problem, new vulnerabilities and threats are emerging as a result of fundamental economic, social and technological changes. The high cost of tax and non-tax regulatory burdens, pressure on business margins, the proliferation of new business models (including the sharing economy) and forms of work, complex interactions with illegal activities, exploitation of workers (including migrants), and changing social norms are influencing this landscape.

The Australian Bureau of Statistics (ABS) estimated in 2012 that the black economy had grown to 1.5 per cent of GDP (\$25 billion per year in today's dollars) in Australia. In the absence of a concerted and sustained whole-of-government effort, this figure can be expected to continue to grow. Given the linkages between different manifestations of the black economy, long-term multi-agency strategies and operations are needed. We must move beyond the business as usual mindset, recognising the limitations of traditional tax enforcement approaches.

There is a clear need to act now. Community views on tax avoidance and evasion (particularly by large firms and multinationals) have noticeably

hardened in recent years. At the same time, businesses, both large and small, are operating in a more competitive commercial environment, tempting some to push the boundaries (in their supply chain management, use of contractors and payment of wages).

But this challenge is also an opportunity. With the intelligent application of emerging technologies, better use of data and a genuine whole-of-government focus, the tools we need are available. It is not too late, but we need to act now rather than wait.

Business as usual is not an option. We can't audit our way out of this problem through traditional means.

We have seen considerable innovation from other OECD countries in this area. A 21<sup>st</sup> century black economy strategy is needed in this country. The Black Economy Taskforce is a partnership between Australian Government agencies and the private sector. It is led by an independent chair and supported by a Secretariat in the Commonwealth Treasury. The Government has asked the Taskforce to develop a forward-looking, innovative and whole-of-government black economy strategy. This is our Interim Report, which sets out our initial findings and identifies a number of early actions. Our Final Report will be delivered to the Government in October 2017.

## OUR EARLY FINDINGS

1. Our preliminary judgement is that we have made few inroads into the black economy in recent years. A number of risks and vulnerabilities suggest that, on balance, it could be growing, entailing higher costs for the community. Low wages growth, pressure on business margins, regulatory burdens, and the expanding (and unevenly regulated) sharing economy are likely to strengthen incentives for black economy participation.
2. The impacts and drivers of black economy participation are multifaceted. It is not just a tax phenomenon. It touches on policy and regulatory settings across government, including: small business regulatory burdens; welfare and immigration policy settings; the role of cash in our payment system; the way we verify business and individual identities; and links with illegal activities (like money laundering). Lack of policy harmonisation is a further dimension of this. Black economy activities undermine basic concepts of fairness and the level playing field and disproportionately affect the most vulnerable in our community. Indeed, it is a genuinely whole-of-government, whole-of-society phenomenon, where tax is often a symptom rather than the cause. All levels of government (Commonwealth, state and local) have a vital interest in combatting it.



3. Current policy approaches, while effective in some cases, tend to focus on symptoms rather than causes. They also lack a clear behavioural focus and underutilise some policy tools, particularly those which can help ‘hard-wire’ our government and modernise our payment system (for example by better data sharing across Government or minimising the cost of non-cash payment methods). They tend to be fragmented, lack coherence and do not place sufficient focus on how the regulatory burden affects black economy participation.
4. Cash is a key part of our payment system, but it offers anonymity to those in the black economy. Payment system reforms being led by the finance sector and the Reserve Bank of Australia (RBA), including the introduction of the New Payments Platform and alternatives, are lowering the barriers to a less cash-based economy. A more modern and low-cost electronic payment system has the possibility to limit opportunities for black economy participation and allow a more targeted approach toward those who continue to use cash.
5. New and emerging technologies (such as smartphone and tablet applications, mobile payment and businesses technologies and biometrics) together with sophisticated data analytics, can be better used to counter the black economy.
6. In light of this, there is a need for a forward-looking, innovative and genuinely **whole-of-government** strategy on the black economy, leveraging some of the good policy work already done or underway (see page 26).
7. The business community, both small and large, is strongly supportive of this project. If we make progress in countering the black economy, they will benefit from a more level playing field. However, businesses also caution against approaches that increase regulatory burdens.
8. The business community, professional associations and the public must all play a role in countering the black economy. Lasting behavioural change requires a concerted effort from all quarters.

## OUR INITIAL RECOMMENDATIONS

The Taskforce makes the following key initial recommendations:

1. Access to Australian Government procurement opportunities should be limited to firms which have a good tax record and do not engage in bribery or corruption. By taking a lead on this, the Government will send a clear signal to private sector supply chain managers. Responsible supply chain management must become the new norm and should be consistent with parallel initiatives across different levels of government.
2. The Taskforce should consult on the idea of providing tax and other incentives for small businesses who adopt a non-cash business model. A proposal will be developed in time for consideration by the Government for MYEFO later this year.
3. The Taxable Payment Reporting System (TPRS), which currently only applies to the building and construction industry, should be expanded to the cleaning and courier sectors. The Taskforce will consider whether the TPRS should be applied more broadly in its Final Report.

4. Businesses should not be able to claim deductions on cash wage payment where they did not make or report Pay As You Go (PAYG) payments, issue payment summaries or statements of earnings, or make applicable superannuation contributions. Similarly, businesses should not be able to claim deductions for payments to contractors where a valid Australian Business Number (ABN) is not quoted and the payer has not withheld part of the payment under the 'no-ABN withholding' requirements. These payments should not be included in cost bases for capital gains tax or depreciation purposes. The Taskforce will consult on this proposal before finalising its position.
5. A ban on sales suppression technology. This technology allows businesses to hide cash takings to avoid paying income tax.
6. Australia needs a robust, real-time business identification and verification system in order to reduce red tape, generate valuable data for government and businesses (for example simple verification of their counterparts) and improve delivery of relevant services. The Taskforce will work with relevant agencies on ways to rationalise business registries and strengthen business registration and verification arrangements (for example, to address the misuse of ABNs).
7. The Government should work cooperatively with state, territory and local governments, given their common interest in countering the black economy.
8. The Government should consult with the states and territories on the idea of including tax literacy modules in vocational education training (VET), small business courses and in new migrant communities. The Taskforce will work with the Department of Education and Training on this.
9. The provision of funding to the Australian Taxation Office audit and compliance programs to better target black economy activities, including by strengthening its use of technology, buttress its ABN monitoring and public education activities.

Chapter 5 sets out a total of 35 policy ideas and topics of particular interest we intend to pursue in more detail.

The Taskforce is engaging with those who are leading a range of other Australian Government initiatives, including money laundering reforms, vulnerable worker exploitation, payment system changes, whole-of-government use of data and the Phoenix Taskforce.

## **THIS IS A CHALLENGE FOR ALL OF US**

We hope that our work, and the public discussion it provokes, will contribute to a wider process of cultural change. The black economy undermines the fairness of our tax system, erodes trust in government and creates an uneven playing field for businesses. It short changes the large majority of businesses and individuals doing the right thing.

In effect, we need a renegotiation of the social contract, with businesses, both large and small, and every citizen playing their part. We encourage everyone to work with us over the coming months to ensure our ideas are workable, relevant and effective. But beyond the life of this review, lasting

behavioural change requires all sections of the community to question assumptions, attitudes and beliefs which legitimise and perpetuate black economy participation.

## **NEXT STEPS**

The Taskforce will seek public comments on the policy proposals and themes set out in this document and engage in further industry consultations. We are developing a number of policy ideas, which are outlined in this Report. We will make contact with the States and Territories to develop a possible joint strategy. Our Final Report will be submitted to the Government in October 2017.



# INTRODUCTION

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The Black Economy Taskforce is a partnership between government agencies and the private sector which is led by an independent chair and supported by a secretariat in the Commonwealth Treasury. It was established by the Government in December 2016.

Our Terms of Reference (see Appendix 1) require us to:

1. Examine evidence on the scope, revenue costs, risks and behavioural factors underpinning black economy activities.
2. Consider the effectiveness, appropriateness and efficiency of existing policy responses.
3. Review the black economy efforts of other countries, identifying best practice initiatives which could be applicable to Australia.
4. Outline an overarching policy strategy to guide current and future policy-making efforts.

While various government agencies, such as the ATO, the Attorney-General's Department and the Australian Federal Police have in place policies and programs to deal with black economy activities, the aim of the Taskforce is to go beyond current actions and develop a comprehensive strategy.

The makeup and governance of the Taskforce recognises that a whole-of-government effort is required to successfully address the black economy. The Taskforce includes the following Commonwealth agencies:

- The Treasury
- The Australian Taxation Office
- The Attorney-General's Department
- The Australian Federal Police
- The Department of Education and Training
- The Department of Employment
- The Department of Human Services
- The Department of Social Services
- The Department of Immigration and Border Protection
- The Department of Industry, Innovation and Science
- The Digital Transformation Agency

- The Department of Prime Minister and Cabinet
- The Reserve Bank of Australia
- AUSTRAC
- The Australian Competition and Consumer Commission
- The Australian Prudential Regulatory Authority
- The Australian Securities and Investments Commission
- Fair Work Ombudsman
- Board of Taxation

The Taskforce is also working in close partnership with private and community sector representatives, including through an External Stakeholder Reference Group. The Reference Group includes participants from:

- The Small Business and Family Enterprise Ombudsman (Government)
- The Council of Small Business Australia
- The Australian Industry Group
- Chartered Accountants Australia & New Zealand
- The Grattan Institute
- The Housing Industry Association
- The Institute of Public Accountants
- The Australian Retailers Association
- The Australian Bankers' Association
- PricewaterhouseCoopers
- The Australian National University's Tax and Transfers Institute.

The Taskforce Chair has conducted a wide range of stakeholder consultations in the small business, industry and community sectors (see Appendix 4).

We have been asked to deliver an Interim Report in March 2017 and a Final Report in October 2017.

This Interim Report sets out our initial findings, explains the approach we will take to our work, including our guiding principles and policy building blocks, and identifies possible early actions. These draw on our extensive early consultations with stakeholders and guidance and advice from our Private Sector Reference Group.

The guiding principles and policy building blocks which we apply in this Report are set out below (and discussed in further detail in Chapter 2).

#### Our guiding principles are:

1. **TRANSPARENCY**;
2. **IDENTIFICATION AND VERIFICATION** of individuals and businesses;
3. The need for a **BEHAVIOURAL FOCUS**;
4. **ADDRESSING UNDERLYING CAUSES** as well as **IMMEDIATE THREATS** (focussing on the medium-term);
5. The idea of **JOINT RESPONSIBILITY** (that business and the wider community must be part of the solution);
6. A commitment to **LOWER REGULATORY BURDENS** (both policy related and unintended); and
7. Use of **SMART TECHNOLOGY**.

#### The policy building blocks are:

1. Strengthening **INCENTIVES AND DETERRENTS** and addressing small business regulatory burdens;
2. A stronger focus on **SOCIAL NORMS AND BEHAVIOURAL ECONOMICS**;
3. Better **HARD-WIRING GOVERNMENT** (including business identification and verification and use of data);
4. **MODERNISING THE PAYMENT SYSTEM**; and
5. In addition, we are examining the **SHARING ECONOMY AND OTHER SPECIAL PROJECTS** (for example, contractors).

Efforts to counter the black economy will not succeed without the support of government at all levels, the business community and the public. We will seek public comments on the findings and proposals in this report. A series of public meetings will be scheduled both in capital cities and regional centres.

We recognise the need to work with State and Territory Governments. This is not only a question for revenue authorities, but also for consumer protection, fair trading, licencing and education agencies. State-based policy strategies are set by their Premiers' Departments and Treasuries. The Secretary of the Treasury, Mr John Fraser, has briefed his State and Territory counterparts on the Taskforce. This will be followed up by more detailed discussions over the coming months.

## STRUCTURE OF THE INTERIM REPORT

The Interim Report is set out as follows:

- Chapter 1 sets the scene. It describes what we mean by the term black economy and explains the drivers which influence black economy participation, including emerging trends and vulnerabilities.
- Chapter 2 explains why we need a different policy approach. It provides an overview of existing responses, including their strengths and short-comings. It sets out a framework to guide the work of the Taskforce, including the guiding principles and policy building blocks which together will enable a comprehensive, innovative and sustained response.
- Chapter 3 reviews the anti-black economy efforts of other countries.
- Chapter 4 identifies particular themes which have emerged from stakeholder consultations so far.
- Chapter 5 sets out the initial recommendations of the Taskforce, including possible near term proposals, specific policy options which we will examine further, initiatives of other reviews which we support, as well as broader issues we intend to look at more closely for the Final Report.



# CHAPTER 1: THE CASE FOR ACTION

## KEY POINTS

- The black economy refers to people who operate outside the tax and regulatory system or who are known to the authorities but who do not correctly report their tax obligations. It encompasses a wide range of practices, including understatement of takings, the payment and acceptance of cash wages off the books, welfare fraud, sharing economy contractors not declaring their income, grey trading, activities in the so-called dark web, moonlighting and phoenixing (where businesses deliberately liquidate to avoid paying employees and creditors). Complex interactions with illegal activities, including money laundering, must also be taken into account.
- The black economy is not simply a tax phenomenon. While tax considerations underlie many of the behaviours we see, in other instances non-payment of tax is a symptom of broader policy and regulatory gaps, failures and interactions affecting small businesses and individuals (for example, employee entitlements and protections, income tests that affect welfare payments, visa restrictions and customs). Social and cultural norms also play a role: community attitudes, assumptions and myths that can justify or excuse black economy activity.
- Estimating the size of the black economy is notoriously difficult given its clandestine nature. In a 2012 study, the ABS suggested it was roughly 1.5 per cent of GDP, or around \$25 billion per annum (in today's dollars).
- The black economy imposes significant costs on the economy and society. In addition to lost tax revenue and higher welfare costs, it creates an uneven playing field for business, erodes trust in the tax and other regulatory systems and undermines superannuation. All levels of government are affected. Experience overseas suggests that if black economy activity is unchecked (or poorly responded to), a dangerous dynamic can emerge. Rising black economy participation can itself fuel further participation, fostering a culture of tax evasion and welfare fraud. And declining revenues can result in higher tax burdens on those doing the right thing, giving them a stronger reason to move into the shadows.

## WHAT IS THE BLACK ECONOMY?

While national definitions differ, the black economy refers to businesses and individuals who operate outside the tax and regulatory system. Other terms used include: the shadow economy, cash economy and underground economy. Businesses and individuals may entirely avoid reporting activities, or they may deliberately underreport income in order to evade their obligations. The activities themselves would otherwise be legal, but there may be complex linkages with illegal activities (for example, money laundering).

Specific examples of activities in the black economy are described in Table 1.

**TABLE 1: TYPES OF BLACK ECONOMY ACTIVITIES**

<b>Activity</b>	<b>How does it manifest</b>
Ghosts — operating outside of the system	Businesses which operate entirely outside of the tax system. They often advertise in local papers or online and offer services directly to customers. Some of these businesses are operating in parts of the sharing economy.
Not reporting income, often cash income	Businesses, both large and small, that don't report all their income. They can do this by skimming cash and never recording it (including by using sales suppression software), having income going into different bank accounts (and not revealing these to their tax agent or to the ATO), taking cash out of till without reporting the transaction, and keeping two sets of books and records.
Not lodging or telling the ATO that they don't have to lodge	Businesses that don't lodge activity statements or income tax returns. Some simply stop lodging and ignore efforts to make them lodge; others will tell the ATO that they no longer need to lodge and then carry on their business.
Paying employees cash-in-hand	Businesses that pay their employees cash-in-hand. They often pay below award rates and don't deduct tax off their employees' salaries or pay superannuation guarantee and are unlikely to pay workers' compensation and payroll tax. These employees are sometimes part of labour hire schemes and may be illegally working in Australia. Some of them may be being exploited.
Not reporting rental income	Individuals who rent out a property or part of their property and fail to report the rental income to the ATO and state authorities. This will reduce income tax, capital gains tax (on sale of property) and land tax payments.
ABN fraud	Businesses that exploit weaknesses in the ABN system by quoting incorrect ABNs, creating multiple ABNs or improperly using an ABN.
Bartering	Exchange of goods as payment where the transaction is either not reported or reported at an incorrect value in order to evade tax. Transactions may take place through organised and controlled exchanges or on a more informal basis
GST fraud	Schemes where each party to a transaction claims GST credits but does not charge GST, or where GST is claimed but not remitted to the ATO.
Illegal offshore wagering	Offshore gambling operators operating illegally in Australia and hence avoiding Australian tax and regulations.
Money laundering	Exchanging the proceeds of crime for clean money in order to disguise the origin of the funds. Cash is commonly used as a facilitator for money laundering purposes.
Moonlighting	Doing 'work on the side' (for example cash jobs on the weekend in the building and construction industry or providing tutoring services to students after hours) and not declaring the income.
Phoenixing	Phoenix activity occurs where a company deliberately liquidates to avoid paying creditors, taxes and employee entitlements. They transfer the assets to a new company and continue operating the same or a similar business with the same ownership. Phoenixing is also used by criminals.
Underreporting income to impact welfare/child support payments	Recipients of welfare payments such as unemployment benefits who do not disclose employment or the amount of income earned. Individuals may underreport income in order to continue receiving welfare payments or to avoid paying child support or other welfare or tax related debt. Some of these individuals may be running successful businesses.

The black economy is most prevalent amongst small businesses that are more likely to have regular access to cash. Owners of these types of businesses deal directly with their customers and can avoid their taxation and other obligations by underreporting income, especially by understating cash receipts, and paying workers cash-in-hand. The higher share of labour costs as well as the high number of small value transactions make black economy participation easier.

Given the availability and reduced cost of non-cash payment methods, it is not clear why some businesses continue to operate on a 'cash only' basis.

## WHAT IS NOT COVERED?

Specifically excluded from the scope of the Taskforce are:

- Illegal and criminal acts. The Taskforce will not specifically investigate responses to illegal activities (such as trading in illicit substances). In practice, however, the dividing line between these two categories may be unclear. To the extent that there are linkages between the black economy, as defined here, and criminal acts and activities, the latter should not be ignored. Some possible responses to address the black economy could also assist in addressing some illegal and criminal activity.
- The production of own-use goods and services, for example individuals repairing or cleaning their own homes or growing their own fruit and vegetables.
- Over-claiming of work related-expenses and rental deductions.
- Tax avoidance through exploiting gaps and loopholes in tax law, for example multinational profit shifting.

## SIZE OF THE BLACK ECONOMY

Measuring the black economy is fundamentally difficult given the hidden nature of this problem, the large number of participants and limitations of audits and other estimation methods. Estimates typically employ one of two approaches:

- direct methods, which use detailed data from surveys and administrative data sources such as audits or tax returns; or
- indirect methods, which rely on macroeconomic and statistical estimation techniques.

Direct methods are more reliable as they are based on detailed data, measure specific components of the black economy, and require less strict assumptions. However, their focus is necessarily partial and they are likely to underestimate the problem.

In 2012, the ABS estimated that the black economy was around 1.5 per cent of GDP in Australia (approximately \$25 billion per annum today), up from 1.3 per cent in 2001. The ABS estimate applies

a direct method and is based on methodology recommended by the OECD. It primarily uses results from ATO audits to adjust income and expenditure measures from the National Accounts.<sup>1</sup>

Based on our early consultations, we assess this estimate to have been a broadly accurate one for the recent past.

However, a range of trends, vulnerabilities and other considerations suggest the black economy could be larger today. These include tax and regulatory burdens (which become more costly after a period of low wages and profits growth), expansion of sharing economy activity (and other sectors beyond the regulatory perimeter), money laundering and even changing social norms. The declining use of cash as a means of payment and the use of new payment technologies may be working in the other direction. These are explored further in Chapter 2.

A number of studies suggest that the black economy could be larger in Australia (and other OECD countries). These have been subject to considerable academic controversy. Based on our preliminary examination, we are not convinced by these studies.

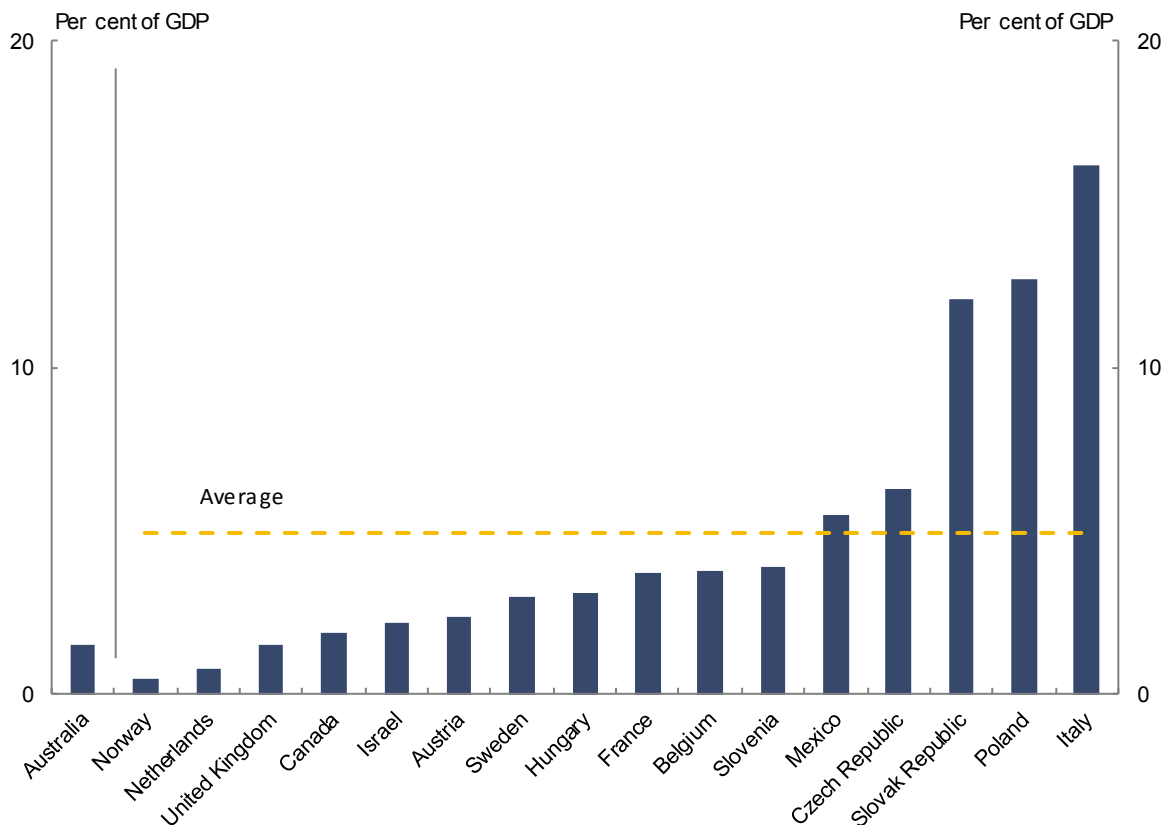
We are aware of the ATO work to estimate the size of 'tax gaps' across major tax bases. The Taskforce will consider the results of this project, if completed, in our Final Report.

International comparisons of the size of the black economy are difficult as governments define, measure and estimate it in different ways. On the basis of a survey the OECD conducted of various countries (excluding Australia), Australia's black economy, as measured by the ABS, may be at the lower end of the range, close to the UK and Canada (Figure 1).

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1 Australian Bureau of Statistics (2012), *Information Paper: The Non-Observed Economy and Australia's GDP 2012*.

**FIGURE 1: SIZE OF THE BLACK ECONOMY ACROSS 16 OECD COUNTRIES**



SOURCE: OECD (2014) 'THE NON-OBSERVED ECONOMY IN THE SYSTEM OF NATIONAL ACCOUNTS, OECD STATISTICS BRIEF, NO.18.

NOTE: COMPARISONS DRAW ON A 2011-12 SURVEY BY THE OECD OF PARTICIPATING COUNTRIES. RESULTS SHOULD BE INTERPRETED WITH SIGNIFICANT CAUTION. AUSTRALIA WAS NOT INCLUDED IN THE SURVEY AND THE SIZE PRESENTED (1.5 PER CENT OF GDP) IS BASED ON THE 2012 ESTIMATE BY THE ABS.

The Final Report will address the problem of estimating the size of the black economy in more detail.

## DRIVERS OF THE BLACK ECONOMY

International research and our early consultations indicate that the most important determinants of the size of the black economy are high tax and regulatory burdens and low profit margins which place pressure on supply chain practices. Social norms are identified as the next important factor. Other causes include: gaps in the regulatory perimeter; the availability of cash (and other non-traceable payment methods); and the risk of detection and penalties.

In practice, black economy behaviours will be influenced by a range of factors, with each being part of a complex picture. It is not a one-dimensional phenomenon and nor does it take place in isolation. Black economy activities are linked to non-compliance with labour laws, employment and exploitation of workers, including illegal foreign workers, money laundering and other illegal practices.

Like any other behavioural phenomenon, black economy behaviour does not reflect a 'one size fits all' characterisation. Indeed, a broad spectrum exists, stretching from participants who may not realise they are in the black economy, to those who are aware of it but feel they have no choice, to, at the other end, the most egregious cases. Our responses must reflect this diversity. We need to

understand that the business-to-business dimension of the problem will be different to the business-to-consumer one. Again, policy makers will need to tailor their approaches to each.

In addition, in light of fundamental economic, social and technological changes, new vulnerabilities may be emerging which are fuelling participation in the black economy. In these circumstances, existing policy approaches may no longer be as effective.

This section looks at these drivers and trends in more detail.

## TAX AND REGULATORY BURDENS

The higher the cost of any tax or regulatory burden, the stronger the incentive will be for individuals and businesses to move into the black economy. Taxation is necessary to fund government services. Regulations, in most cases, have a strong policy rationale. The point, however, is that the burdens imposed by these should be as low as possible, consistent with achieving their wider objectives.

Small businesses are affected by a range of regulatory burdens, including:

- business registration procedures;
- industry specific licenses and approvals;
- taxation reporting and payment obligations;
- employment obligations relating to the engagement of local and migrant workers; and
- workplace relations laws and regulations.

### Observation: Cash wages — business

Paying cash-in-hand wages is usually accompanied by the business not reporting all its income (keeping some employees off the books keeps the number of reported employees proportionate to the reported business income). The business does not pay its share of tax: such as income tax, GST, and payroll tax. The business does not pay PAYGW, superannuation or payroll tax for those off the books employees. The business may also pay a lower workers' compensation premium by having fewer employees on the books.

Individuals are also affected. Those who face high marginal (or high effective marginal) income tax rates will more likely be tempted into the black economy. For some individuals, the effective marginal tax rate can be as high as 80 per cent when both welfare and tax rates are considered. Welfare income tests, visa restrictions and other regulatory requirements will also affect the decisions some people make. Again, each of these has its own policy rationale, but it is important for governments to understand that they have a black economy dimension.

### **Observation: Cash wages — employees**

Employees will sometimes request to be paid cash wages off the books because that income is not reported to government. This means they can:

- Avoid paying their share of income tax
- Claim welfare benefits to which they are not entitled
- Remain under student loan income limits (HECS-HELP)
- Avoid child support obligations
- If they are a migrant undertake paid work even if they have no work rights, or work longer hours than is permitted under their visa
- On the other hand, these employees also miss out on superannuation contributions and they could forgo protections such as workers' compensation in the event of an accident or disability

## **ECONOMIC CONDITIONS AND COMMERCIAL PRESSURES**

Weak economic conditions, pressure on commercial margins and low wages growth could exacerbate the impact of tax and regulatory burdens on black economy participation.

The cost of taxes and regulations, including workplace regulations such as penalty rates and unfair dismissal laws, could be larger when revenues and profits are low and margins tight, and in those periods these costs will increase the attractiveness of operating in the black economy. This is particularly the case for small businesses where labour costs are a large component of their expenses.

Similarly, low wage growth could make participation in the black economy more attractive to employees. Particularly if combined with higher unemployment, low wage growth may tempt workers to ask for cash wages off the books to reduce their tax burdens or retain welfare payments.

In Australia, economic growth remains solid, notwithstanding our transition away from mining investment to other sources of growth. While unemployment remains fairly low, wage growth has been subdued for some time and underemployment has been increasing. Many businesses also face very tight margins, particularly those in labour-intensive sectors such as retail and hospitality. Procurement officers are under pressure to cut costs when managing supply chains, which can result in decisions to select black economy operators. In some cases this involves use of subcontractors which cascades employee rights down the line where they are less likely to be followed (for example, through unregulated labour hire firms). If continued, these conditions may provide greater inducements for both businesses and individuals to participate in the black economy.

### **Observation: Starting a business**

Businesses operating outside the regulatory system do not do so just to avoid paying tax.

For example, setting up a café in New South Wales can require completion of 48 forms and complying with up to 75 regulations across 30 different government agencies.<sup>2</sup>

## **COMPLEXITY OF THE REGULATORY ENVIRONMENT/REGULATORY ‘NOISE’**

The complexity of the regulatory environment is also a factor as unintentional interactions within the environment — both tax and non-tax — can lead to increased black economy activity. Small businesses and individuals, in practice, must navigate their way through multiple, overlapping, duplicative and cross jurisdictional regulatory regimes. This complexity, and the uncertainty it produces, should be recognised as a problem in its own right.

### **Observation: Multiple Awards**

Business operating outside the regulatory system do not do so just to avoid paying tax.

A restaurant and café open seven days a week, with 6 permanent employees and 20 casuals can have multiple awards applying to the workers. In these circumstances, it may be easier to pay cash off the books. A simpler award system for small business, while not a silver bullet, would make it easier for them to comply with the law.

A further phenomenon which needs to be acknowledged is regulatory noise, needless burdens which arise from government inefficiency, fragmentation and lack of client focus. While policy-determined burdens, and some system complexity, will always to some degree, be present, governments can and should do more to harmonise policy and to modernise, streamline and tailor the way they interact with the public. This will be a particular theme for this Taskforce.

### **Observation: Business registers**

There are over 250 registers across government with business related information. This fragmentation leads to higher costs for business from having to register with multiple registries and similarly in updating information. For example; over 3.5 million director records are mismatched between the ABR and the ASIC registry, many of them are mismatched because they are different registries, with different requirements and different client experiences.

This fragmentation of registers also creates opportunity for some to avoid obligations. For example, a medical practitioner set up practice, obtained an ABN, and was then able to be paid by Medicare for 16 years even though they did not lodge tax returns and pay their tax due to insufficient integration between registers.

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2 <http://minister.industry.gov.au/ministers/hunt-laundy/media-releases/new-national-simplification-initiative-make-it-easier-get-doing>



## SOCIAL NORMS WHICH LEGITIMISE PARTICIPATION IN THE BLACK ECONOMY

Black economy behaviours are powerfully influenced by social norms. A range of community attitudes, assumptions and beliefs are at play here, including: that ‘everyone’ is in the black economy; that it is a ‘victimless crime’; that other taxpayers (‘the big end of town’) may not be meeting their obligations; and that multinational corporations are ‘not paying their fair share’ of tax. The belief that governments are wasteful, opaque or cannot be trusted is also cited as a justification. These social norms can work in a variety of ways, both supporting and working against black economy behaviour.

Feedback from consultation has indicated risks of such attitudes spreading. If allowed to proliferate a vicious cycle can develop spurring acceleration in black economy activity. The more people exploit its opportunities the stronger the incentive will be for others to join them. This dynamic has been seen in the countries with the worst black economy problems.

## THE CHANGING BUSINESS AND TECHNOLOGICAL LANDSCAPE

Fundamental changes in the business landscape, work and technology are also having an effect. The shift from traditional wage labour to contracting, the emergence and growth of the sharing economy and the burgeoning home-based services sector are posing challenges for policy-makers. Technological change, commercial innovation (new business models which ‘catch on’ and spread rapidly), changes in finance (crowd funding and the use of cryptocurrencies) and deeper societal shifts are at the heart of these changes.

Businesses which operate beyond the regulatory perimeter (or in formative or only partially defined regulatory environments) can operate more easily in the black economy.

The sharing economy is a clear case in point. It operates in an immature and developing regulatory framework and is built on a new business model which relies on a large number of self-employed workers. Sharing services are growing rapidly and the phenomenon of freelancing is attracting a considerable amount of attention with demand for services from online platforms increasing (for example, a CSIRO paper notes that 32 per cent of freelancers reported an increase in demand for their services),<sup>3</sup> opening up new vulnerabilities which may increase the size of the black economy.

Sham contracting is another aspect of this. Sham contracting is where there is an employment relationship but the parties attempt to disguise it as a contract relationship, such as by having a document that purports to establish a contracting rather than employment relationship and by requiring the worker to obtain an ABN. This avoids the additional costs for the employer that can come from an employment relationship. The worker may have little choice in the matter or may be prepared to accept the arrangement as a means of obtaining work.

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3 CSIRO (2016), *Tomorrow's Digitally Enabled Workforce*, January 2016.

### Observation: Labour Hire

The Taskforce has been told that vulnerable workers are being exploited in various industries through inappropriate or illegal labour hire arrangements. Vulnerable workers include temporary residents (including backpackers), in particular if they are working in violation of visa conditions and workers receiving more welfare payments than they are entitled to. These workers fear being reported to authorities and can thereby become trapped in the black economy.

Labour hire operators exploiting workers pay them in cash below award rates, without other entitlements like superannuation. They keep little to no records of workers and other business related matters. They do not meet the regulatory obligations. This type of labour hire operator can be operating with just a mobile phone, a suitcase of cash, and a minibus (hired or otherwise). It is also not uncommon for the workers to be housed in overcrowded and substandard accommodation. Work health and safety requirements may also be ignored. Labour hire operators like these are sometimes engaged in phoenix behaviours.

Such operations are not uncommon in the agricultural sector in particular. In addition to the usual reasons behind black economy activity, competitive pressures in parts of this industry may be driving businesses to cut labour costs by participating in the black economy.

The Recruitment and Consulting Services Association is looking at options to combat labour market exploitation, including through a prescribed industry code of conduct.

## AVAILABILITY, USE AND COST OF CASH

Cash plays a foundational role in our economic system, but its convenience, ease of handling and anonymity can also facilitate black economy and illegal activity. As non-cash alternatives are becoming cheaper and more accessible, its use has been falling.

In 2007, cash accounted for about 70 per cent of the number of consumer payments, nine years later the proportion had fallen to under 40 per cent.<sup>4</sup> During this period, the convenience, cost and range of non-cash payment methods have improved enormously. Reductions in merchant service fees resulting from lower credit card interchange fees, mobile banking, contactless card technology, nascent developments like digital wallets and the finance industry-led New Payments Platform (which will come into effect later this year) are all cases in point.

However, while the use of cash as a means of payment has been declining, overall demand for cash in Australia has been rising, particularly for high denomination notes. Combined, the hundred-and fifty-dollar bills accounted for 92 per cent of the value of bank notes in circulation as at the end of November 2016.<sup>5</sup> There is limited data on the use of cash for transactions and other purposes, including as a store of value and to facilitate illegal activity.<sup>6</sup>

4 Doyle M-A, C Fisher, E Tellez and A Yadav (2017), 'How Australians Pay: New Survey Evidence', RBA Bulletin, March, p59-66.

5 Davies, C, M-A Doyle, C Fisher and S Nightingale (2016), 'The Future of Cash', RBA Bulletin, December, p43-52.

6 The RBA notes that the \$50 banknote is extensively received and banked by a range of retailers, while the use of the \$100 for consumer purchases is more limited. Demand for cash for precautionary purposes increased following the Global Financial Crisis. There are no estimates on the use of cash for illegal activities, though RBA liaison with AUSTRAC and the Australian Crime Commission suggests that the \$50 banknote is preferred because of its ubiquitous use in legitimate transactions.

It is important to keep in mind that cash remains the preferred payment method for many people, including the elderly, those who live in more remote areas and some ethnic groups.

A cautionary point should also be made. As the use of cash declines, black economy and criminal behaviour may take on different forms. The use of cryptocurrencies, which is minimal at present (with a possible exception in the case of some illicit transactions) could be stimulated. These offer the anonymity of cash. If fewer individuals and businesses hold cash criminals could resort to other (non-cash) forms of activity, including cyberattacks and identity fraud. These offences take place today, but it is conceivable that they could become more common in a cashless, or close-to-cash-free, world.

#### **Observation: Smart phones as mobile office and mobile point of sales**

Tradespeople (and other businesses) can now use their smart phone as a mobile office, generating quotes, invoices and taking payments on the spot. There is now no need for them to take cash or cheques. Creating the business records as they go saves time on the paperwork. It can improve cash flows as customers make payments more quickly than previously. It also relieves the risks of carrying cash.

The New Payments Platform, coming later in 2017, will have the capability to allow person-to-person payments using smart phones.

## **INADEQUATE KNOWLEDGE ABOUT THE SYSTEM**

People may also operate outside the formal economy because they don't have adequate knowledge about the tax and regulatory system. This can lead to inadvertent participation in the black economy. This is particularly true in the case of migrants who come from countries with different legal traditions than Australia's.

#### **Observation: How consumers can do the right thing**

Consumers should ask for a valid receipt when paying for goods and services. This is particularly important where consumers pay in cash – for example households paying for work done on their house or cleaning services.

## **WHY IS THE PROBLEM DIFFERENT TODAY?**

In addition to these trends and drivers, we need to recognise that the landscape we face has fundamentally changed. Community views on tax avoidance and evasion (particularly by large businesses and multinationals) have noticeably hardened in recent years. Behaviours which until recently went 'under the radar' are now not tolerated. This has been reflected in demands for political action. At the same time, businesses, both large and small, are operating in a more competitive commercial environment. There is no doubt that boundaries are being pushed by some (in their supply chain management, use of contractors and payment of wages). As this happens, the majority of businesses that do the right thing are being put under pressure. The playing field may be becoming more lopsided. Both the public and the business community want action to be taken. But

this challenge is also an opportunity. While the risks are greater, our capacity to respond to them has improved. Indeed, we have only begun to appreciate what the application of new technologies will enable us to do in combatting the black economy. For all of these reasons, this policy challenge is now markedly different to what it was only a few years ago.

**Observation: Smart phones as a new channel for credit/debit card payments**

Various phone suppliers have added payment functionality to their devices with significant take-up and acceptance, this functionality includes identity documents, payment cards, loyalty cards, gift cards, tickets, public transport cards etc.

## IMPACTS AND COSTS OF THE BLACK ECONOMY

The black economy imposes significant financial and non-financial costs on the economy. It creates an uneven playing field, harming businesses and individuals who do the right thing and damaging fair competition. It erodes trust in the system of government, including the integrity of the tax and welfare systems. Further economic costs arise from distorting the economy, lost revenue and undue welfare expenses. Black economy participation can leave employees and consumers without legal protections and rights they would otherwise have.

### THE BLACK ECONOMY CREATES AN UNEVEN PLAYING FIELD

Operating in the black economy gives an unfair competitive advantage to businesses and workers and distorts economic activity. Those who meet their tax and other regulatory obligations are directly penalised. From an economic perspective, a dual tax and regulatory system (one legitimate, the other 'black') takes resources away from their most productive uses.

**Observation: Without records businesses and individuals limit future opportunities**

Businesses operating in the black economy limit their future opportunities by not having records of their activities, future goodwill or value of the business. Without such information they may not be able to access credit and are constrained in their growth.

Individuals may not be able to find future employment with no official record of work experience, and cannot obtain credit without evidence of income.

### PUBLIC FINANCES SUFFER

The black economy means lost revenue to fund government services. At an estimated 1.5 per cent of GDP in 2012 (according to the ABS), the black economy substantially reduces income and consumption tax revenues. This understates the true financial cost to taxpayers. Welfare payments will be higher than they should be if recipients understate or conceal their income. Superannuation savings will be lower if employers do not meet their obligations in this area. And as revenues decline, those doing the right thing could be faced with a higher tax burden to make up for the shortfall.

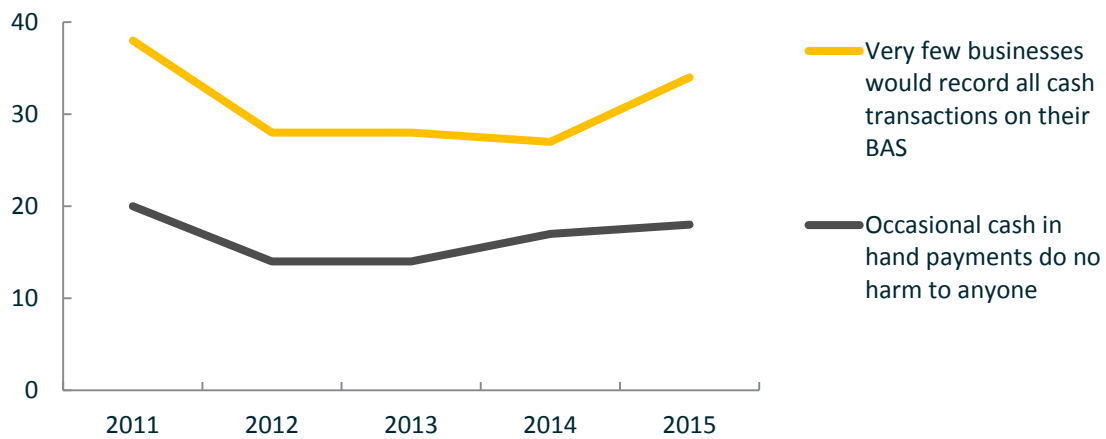
We will provide further detail on these costs in our Final Report.

## TRUST IS ERODED

Black economy activities erode trust in the regulatory system. This can become a self-reinforcing cycle, with falling levels of trust fuelling black economy participation. Trust is a broad concept, which means different things to different people. Trust is weakened if taxpayers believe others in the community are getting away with not doing the right thing. If governments are thought to waste taxpayers' money, or administer the laws in an arbitrary or unfair way, trust will also be adversely affected.

There is evidence that black economy activity is tolerated by some. When surveyed by the ATO, about one in five businesses indicated that occasional cash payments are not harmful. According to the same survey, for example one in three businesses does not believe that others are fully compliant with their GST obligations (Figure 2).

**FIGURE 2: AGREEMENT BY QUESTION, SURVEY OF REGISTERED BUSINESSES**



SOURCE: ATO GST VOLUNTARY COMPLIANCE PROGRAM, QUANTITATIVE TRACKING RESEARCH 2015



# CHAPTER 2: WHY DO WE NEED A NEW APPROACH?

## KEY POINTS

- While current strategies and programs have had some success, our preliminary judgement is that the black economy is more likely to have grown rather than reduced in size since 2012 (when the ABS estimated it at 1.5 per cent of GDP). We are not making enough progress and we have seen new risks and vulnerabilities are emerging. Weaknesses in our business registration and verification systems are being exploited.
- Other OECD countries have adopted bold, innovative and effective black economy policy strategies. For some of them, the global financial crisis constituted a ‘burning platform’, eroding revenues and heightening community concerns about corporate tax evasion.
- Australian approaches have been well-intentioned, but fragmented and too focussed on the traditional policy tools. We need a comprehensive, innovative, forward-looking and whole-of-government response.
- The time is right to adopt a new policy paradigm given the risks and vulnerabilities we face: an approach that makes the best use of existing tools, but one which recognises the importance of modernising our payment system and making greater use of cross government approaches.

## THE CURRENT APPROACH

The ATO and other Australian Government agencies have always focussed on countering the black economy. Some key features of the current approach are provided below. Our Final Report will include a more detailed discussion of their effectiveness.

The ATO has a long standing focus on small business operating in the black economy. This focus has been a key part of maintaining Australia’s defences in this area. Tax enforcement responses need to adapt in responses to changing risks and vulnerabilities. In recent years, the ATO has adopted a different tactical approach. While still focussing on traditional audits, other elements now receive more attention, including: encouraging businesses to register for tax purposes and lodge returns, greater use of risk assessment tools (employing non-traditional data sources), greater community engagement and media activities. The ATO is successfully collaborating with industry associations in some higher-risk sectors to better target its audit and enforcement activities. The ATO recognises the need to be more forward-looking in anticipating emerging black economy threats and vulnerabilities. This will require innovation and changes to its current operating methods.

The non-tax dimensions of the black economy are focussed on by other agencies. The Department of Human Services and the Department of Immigration and Border Protection have compliance and enforcement programs which are intelligence-led and risk-based, as does the Fair Work Ombudsman

who also has a focus on providing education, advice and assistance to ensure workplace participants understand their rights and obligations under national workplace laws.

In addition, Government has established a number of relevant reviews, including on: money laundering, phoenixing, migrant workers, offshore wagering and beneficial ownership reforms. Further details of these are provided in the box below (and in Appendix 2).

### **Box 1: Key related initiatives across the Commonwealth Government**

#### **ANTI-MONEY LAUNDERING**

The Attorney-General's Department is leading an initiative to strengthen Australia's current anti-money laundering and counter terrorism financing regime as part of a review of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). The AML/CTF Act imposes obligations on designated businesses, such as 'know your customer', transaction monitoring and reporting in order to detect and deter money laundering and terrorism financing.

#### **PHOENIX TASKFORCE**

The Taskforce brings together key federal and state agencies to identify, manage and monitor suspected phoenix operators. The Taskforce has also formulated law reform proposals that may be relevant to the Black Economy Taskforce.

#### **MIGRANT WORKERS TASKFORCE**

The cross-agency Taskforce will identify further proposals for improvements in law, law enforcement and investigation, and other practical measures to more quickly identify and rectify any cases of migrant worker exploitation.

#### **NEW PAYMENTS PLATFORM (NPP)**

The NPP is a major industry initiative to develop new infrastructure for Australian payments. It will provide Australian customers, businesses and governments with a fast, versatile and data-rich payments system for making their everyday payments.

#### **DIGITAL TRANSFORMATION INITIATIVE**

The Digital Transformation Agency (DTA) is building and testing new technology which will make it easier for everyone to prove who they are when using government services online. This is part of a broader project to allow more government services to be made available online and accessed in a safe and secure way.

#### **REVIEW OF ILLEGAL OFFSHORE WAGERING**

The Review was conducted to investigate the size and scope of the illegal offshore wagering problem and advise on ways to strengthen our regulatory enforcement and protect Australians from illegal offshore wagering operators. The Government responded to the Review in April 2016.

#### **SERIOUS FINANCIAL CRIME TASKFORCE**

The Taskforce forms part of the Fraud and Anti-Corruption Centre, which is led by the AFP. Offences targeted by the Taskforce relate to serious fraud, money laundering and defrauding the Commonwealth. Current priorities include: criminality related to international tax evasion, fraudulent phoenix activity, trusts and superannuation.



## Box 1: Key related initiatives across the Commonwealth Government. (continued)

### **STRENGTHENING THE INTEGRITY OF WELFARE PAYMENTS**

The measure includes an automated data matching capability between the Department of Human Services and AUSTRAC to identify welfare customers who have unexplained wealth and may be participating in the Black Economy; and Taskforce Integrity which uses data matching capabilities to identify locations with a higher risk of non-compliance.

### **BENEFICIAL OWNERSHIP**

As part of Australia's first Open Government National Action Plan, the Government committed to improving transparency of information on beneficial ownership and control of companies available to relevant authorities.

While these activities are important and are delivering (or promise to deliver) results, there is a fragmentation of effort. In addition, there can be a lack of consideration of black economy perspectives in policy and program development, which means that some policies may inadvertently have adverse effects on black economy participation, particularly those that increase the tax or regulatory burden.

A key objective of a whole-of-government strategy would be to build synergies across these programs, reduce duplication and deal with any conflicts. It would reflect the reality that these taskforces and reviews often deal with different manifestations of the same (admittedly complex) problem.

We also note that State and Territory Governments have their own black economy policies and programs. While revenue authorities play a prominent role in these, other agencies are also involved, including central agencies (Treasuries, Premier's Departments), offices of fair trading, licencing and educational authorities. A large proportion of business licencing is done at the state level.

Countering the black economy is not only a matter of policies and programs. As we will argue later, the basic 'hard-wiring' of the economy is critical as well. This covers a range of things, but we would emphasise the following two elements. How do we modernise our payment system, for example by minimising the cost of non-cash payment methods? How do we hardwire Government, including the basic business registration and verification architecture?

Our record here is uneven. As we have pointed out previously, broader payment system reforms designed to improve efficiency and competition are likely to have had an indirect beneficial effect on the black economy. By lowering the costs of making non-cash payments and increasing the willingness of merchants to accept such payment methods, they may also have reduced the scope for certain types of 'cash economy' participation. In the area of business identification and verification, however, there is considerable room for improvement.

### Observation: Misuse of ABNs

Two million ABNs were cancelled in the last two years. Many of these were:

- Actually employees, for example, 20% of the ABNs cancelled in 2015-16 became employees on the records;
- Not trading and unlikely to trade, for example, they obtained an ABN to quote so they could access business discounts they were not entitled to; and
- Visa holders not entitled to run an enterprise (this indicates insufficient real time connection between immigration data and the ABR).

As mentioned earlier, there are emerging areas of economic activity, including in the sharing economy, which are operating in an immature and still-developing regulatory framework. Technological, workforce and wider social changes are creating new vulnerabilities. While responses are taking shape, including the introduction of a new law applying the GST to international sales of services and digital products, it's mostly in a piecemeal fashion. A forward-looking strategy would deal with and anticipate these changes rather than rely solely on traditional approaches.

In light of this brief overview, we would offer the following initial observations about current Australian black economy efforts. These draw on our early discussions and also an examination of some other countries' approaches. We stress that they are preliminary judgements. A more detailed examination of this issue will be included in the Final Report.

While there is great deal of worthwhile work being done by the various agencies addressing black economy activities, we need to recognise the strategic shortcomings which stem from (a) the fragmentation of current efforts, which lack a consistent direction and philosophy, (b) the tendency to focus on tax enforcement rather than deeper behavioural drivers (non-tax regulatory and tax burdens and social norms) across the regulatory system, (c) an inadequate coverage of the sharing economy and other activities, (d) an uneven record in basic 'hard-wiring', with good progress in our payment system but a flawed and outdated business identification and verification architecture, (e) scope to make better use of technologies in our responses, and (f) scope to do more to change social norms and attitudes.

## GUIDING PRINCIPLES

Applying these lessons, the Taskforce will be guided by the following seven principles which underpin the approach to possible policy, regulatory and other responses.

### PRINCIPLE 1: TRANSPARENCY

Transparency is an under-utilised, yet potentially powerful tool for combatting the black economy. Transparency, when applied to businesses and individuals, provides a strong motivation to do the right thing. If it succeeds in this regard, it can obviate the need for more punitive measures. When governments make themselves more transparent, they can help build community confidence in how their tax dollars are used. Procedural transparency from regulatory authorities can also foster trust.

## **PRINCIPLE 2: IDENTIFICATION AND VERIFICATION**

Closely related to transparency is the idea of ensuring that the identities of individuals and businesses can be verified (we see this with ‘know your client’ verification used by banks and others). Tax withholding and reporting arrangements must cover all economic actors, whether it be through PAYG, the TPRS or other mechanisms. Those currently outside the system need to be brought in.

## **PRINCIPLE 3: A BEHAVIOURAL FOCUS**

Behavioural change can be effected by changing incentives, social norms or system hard-wiring. These do not respect traditional portfolio, regulatory or jurisdictional boundaries. Fragmented, inconsistent and poorly-framed behavioural interventions can actually make the problem worse.

## **PRINCIPLE 4: ADDRESSING UNDERLYING CAUSES**

The Taskforce must tackle immediate problems, but also address the underlying drivers of participation in the black economy. Any policy agenda targeting the black economy should have short-term, medium-term and longer-term elements, acknowledging the scale and complexity of the phenomenon, but also the need for early successes.

## **PRINCIPLE 5: JOINT RESPONSIBILITY**

Combatting the black economy is not only a matter for governments, but also requires leadership and support from the business sector, investors, professional and industry associations, small businesses and the public in general. The strong early support the Taskforce has received from stakeholders is a positive first step.

## **PRINCIPLE 6: REDUCING THE REGULATORY BURDEN**

The Taskforce recognises that high regulatory burdens encourage businesses and employees into the black economy. While some regulatory provisions achieve important policy objectives, they can have cumulative effects when considered together. Government inefficiency, fragmentation and lack of innovation often add needlessly to policy-imposed burdens. The Taskforce’s recommendations, to be outlined in its Final Report, should encourage policy harmonisation and lower rather than increase regulatory burdens overall.

## **PRINCIPLE 7: UTILISING NEW TECHNOLOGIES**

Technological developments may offer significant opportunities for reducing the black economy. The Taskforce will actively consider how new technologies could be utilised and applied to address the black economy.

## POLICY BUILDING BLOCKS

Following those principles, and drawing on experience both in Australia and overseas, the Taskforce has identified the following building blocks under which to develop responses to the black economy.<sup>7</sup>

1. Incentives, deterrents and underlying regulatory burdens.
2. Social norms and behavioural economics.
3. Modernising the payment system.
4. Hard-wiring government.
5. The sharing economy and other special projects.

The Taskforce has established dedicated working groups for each of these building blocks. These will be led by the members of the Secretariat, but include participation from both public and private sector representatives.

None of these building blocks will be able to achieve success on its own, but by taking a multi-pronged approach, we can tackle the black economy more comprehensively and address the behaviour which enables black economy participation.

In addition to what we will do under each building block, the Taskforce will examine a number of specific topics, including: (a) the use of bank notes, (b) temporary visa restrictions (and how these interact with participation in the black economy), (c) superannuation contributions, (d) cooperation with the states and territories, and (e) sham contracting. In each of these areas, we will work with relevant parts of government and the private sector.

### (I) INCENTIVES, DETERRENTS AND UNDERLYING REGULATORY BURDENS

Incentives, both monetary and non-monetary, encourage businesses and individuals to comply with tax and other regulations. These can include time-limited amnesties, but also safe harbours and initiatives to lower costs facing start-up and small businesses. Deterrence mechanisms are the more traditional tools used by tax and other regulatory authorities to encourage compliance. Mechanisms can range in severity from monetary penalties or fines to prosecution when non-compliance is detected.

Changing the cost-benefit assessment of black economy participants through both incentives and deterrents is likely to be more effective than a single-track focus on sanctions. Many agencies already use a responsive regulation approach to compliance, where different enforcement strategies

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<sup>7</sup> An OECD discussion on factors influencing taxpayer behaviour cites elements which neatly 'map' onto these four categories: deterrence (incentives/penalties), norms (social norms), opportunities (hard-wiring), fairness (which will influence social norms) and broader economic factors. There is little hard research on this last element, but the intuition is that a stronger overall economy can foster higher degrees of tax compliance. See OECD (2012), *op cit*, Box 2, p14.

are applied depending on conduct of those they seek to regulate, and approaches incorporating both incentives and deterrents can build on that.

Lowering small business regulatory burdens, including through policy harmonisation, must also be part of the approach. The Taskforce will work closely with its private sector Reference Group on this agenda.

## (II) SOCIAL NORMS AND BEHAVIOURAL ECONOMICS

Responses to the black economy also need to address the social norms and cognitive biases which influence black economy participation. They should be distinguished from incentive-based interventions, which rely on rational calculation and decision-making. The concept of tax morale, which is used in the academic literature, refers to the 'psychological contract' between the taxpayer and government.

### Observation: Tax myths

'Everyone cheats a bit, so I can too.'

'I'm not hurting anyone.'

'The big end of town doesn't pay its fair share, so why should the little guy.'

Examples of such measures include public campaigns, for example to appeal to values, or tackle tax system myths, as well as 'nudge' techniques which seek to influence decisions through non-forced compliance.

While some of these measures can be stand-alone interventions, and several agencies have utilised such policies to considerable success, they will achieve greater impact if they are considered and implemented whole-of-government and as a tool to improve the design of specific policies, in order to address the complex behaviour which drives black economy participation.

## (III) MODERNISING THE PAYMENT SYSTEM

A key component of this policy building block is to look at the role of cash in the black economy and the possible wider use of electronic payment methods. In particular, policies that place downward pressure on the costs of non-cash payment methods could be considered. As the availability and volume of non-cash transactions increases, the per-unit resource cost of their production can be expected to fall, and if these reductions flow through to end-users they will provide further incentives to use non-cash methods. Given these developments, it is not clear why some businesses continue to operate on a cash-only basis.

While the use of cash is already declining, there may be measures available which will further help to prevent transactions in the black economy, including in support of anti-money laundering and anti-terrorism financing efforts. For example, some countries have implemented policies which limit the use of cash for large transactions. More broadly, it could include measures to facilitate and encourage the use of electronic payment methods and an expansion of reporting requirements for high value goods.

The Taskforce will also consider the use of cryptocurrencies and bartering (such as the use of cigarettes).

#### (IV) HARD-WIRING GOVERNMENT

There has been very little emphasis on this policy building block in current approaches to the black economy, which has significantly weakened the success of individual anti-black economy efforts.

Government hard-wiring includes making better use of data across Government (including through emerging data processing techniques), improving the business registration architecture and, over time, offering more efficient, tailored and streamlined services for the community.

##### **Observation: ABNs**

An ABN is essentially a licence to 'do business'. This enables:

- exemption from 'no-TFN' and 'no ABN' withholding;
- listing on the ABR as an 'active' business;
- access to a 'business name';
- opening of a business bank account;
- establishment of '.com.au' website;
- collection of GST;
- claiming of GST Input Tax Credits;
- collection of PAYGW from staff salaries;
- access to government licensing;
- access to government grants, rebates and contracts; and
- business discounts on purchases.

The ABN system needs to be strengthened. While obtaining an ABN permits someone to do all these things, there is no requirement for them to meet the corresponding regulatory obligations as a business in order to retain the ABN. An example of such a permit conditional on continuing over time to meet the corresponding obligations is a driver's licence, where points can be lost when obligations are not met. There is no way to verify ABNs (on a real time basis) once they are issued.

A more robust ABN system can be used as a powerful tool for behavioural change in the economy.

#### (V) SHARING ECONOMY/SPECIAL PROJECTS

A fifth building block will tackle the new challenges posed by the rise of the sharing economy. Business models enabled by new technologies may require new regulatory responses in order to address situations where current regulations do not appropriately deal with them. This building block will also look at special cases requiring particular technical work (including classification and treatment of contractors for tax and other purposes).

## COMBINING THE BUILDING BLOCKS

A black economy policy strategy will of course be greater than the sum of its parts. These building blocks need to be employed selectively, but all need to be part of the solution. We will have more to say on this in our Final Report, but would make the following observations here.

Any approach needs to be:

**COHERENT.** The different building blocks need to work together. An excessively punitive, penalty-driven approach, if too broadly applied, could alienate businesses and the wider community. This could have a negative effect on social norms, encouraging greater black economy participation.

**COMPREHENSIVE.** If attention focusses exclusively on incentives, for example, but neglects social norms or sharing economy activity beyond the regulatory perimeter, the desired behavioural change may not be fully achieved. Both tax and non-tax incentives must be addressed, given that in many cases tax avoidance is a symptom of deeper regulatory causes.

**SUSTAINABLE.** Any policy strategy must have a lasting effect on behaviours. While behavioural economics and efforts to shape public attitudes should play a key role, if not accompanied by changes to regulatory burdens and hard-wiring their effects could fade over time.

**EFFICIENT AND NO MORE COMPLEX THAN NECESSARY.** A particular advantage of hard-wiring reforms (to the payment system and business verification) is that, if done well, they alter behaviours in unobtrusive yet effective ways. These upstream interventions can obviate the need for more costly and complex interventions in other areas.

**TAILORED, WHERE ONE-SIZE-FITS-ALL MAY NOT BE APPROPRIATE.** Given the large, diverse and constantly shifting population of black economy participants, policymakers must be prepared to tailor their approaches. At one end of the spectrum will be people who have minimal involvement, there will be some in the middle who feel they have little choice given the costs of regulation, but there will also be people who are repeat offenders or who also engage in criminal behaviour. Sanctions designed for the latter will not be suitable for other parts of the population. Incentives designed with the first two groups in mind will not be appropriate for egregious cases. Sectoral and even community-based approaches should also be considered in cases where particular behaviours, cultural norms and policy and regulatory problems come together.

**CONSISTENT WITH BROADER POLICY PRIORITIES AND INITIATIVES.** Any black economy strategy must not conflict with broader economic, business sector, social policy and other policy priorities. Hard-wiring of the payment system, for example, must be done in ways which support existing payment system reform objectives, including competition and innovation. Action taken to lower regulatory burdens faced by small business can contribute to both black economy and wider job creation goals. In other areas, for example welfare rules, some workplace relations regulations and visa policy, government may have to make hard choices.

**MINDFUL OF POSSIBLE UNINTENDED CONSEQUENCES.** There have been many instances, both in Australia and other countries, of policy initiatives not only failing to achieve stated objectives, but having unexpected consequences. Any behavioural intervention, given the complex factors which influence individual responses, runs this risk. Where the barriers to black economy participation are

low, or existing regulatory systems porous, counter measures may only succeed in driving businesses and individuals into the shadows. One way to anticipate possible risks is to commit to detailed consultation with stakeholders while developing our strategies. In many cases, those at the commercial coalface will have a better feel for design and implementation risks than anyone else.



# CHAPTER 3: INTERNATIONAL APPROACHES

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All OECD countries focus on combatting the black economy. In recent years, a number of jurisdictions have departed from business-as-usual approaches. A sample of these is outlined below. The Taskforce will examine these in more detail in its Final Report.

It is important to note, however, that solutions which may work in other national settings will not necessarily be appropriate for Australia's. An Australian black economy strategy must be tailored to our own institutional, commercial and economic conditions. That said, international experience can shed useful light on the potential benefits and drawbacks of untested ideas.

Some examples of specific initiatives used in other countries as part of their overall approach to the black economy are set out below.

## INCENTIVES, DETERRENTS AND UNDERLYING REGULATORY BURDENS

- In 2014, the Canadian Government introduced fines and criminal offences for electronic sales suppression software. This includes the possession, manufacture, development and sale of the software.
- In the United Kingdom, Her Majesty's Revenue and Customs (HMRC) participates in joint enforcement activities with other agencies, including those looking at illegal foreign workers and underpayment of wages.
- In 2014, the Portuguese Government introduced a weekly lottery for people who have receipts for the purchase of goods and services. Consumers receive coupons based on the amount on the receipts. Lottery prizes include new cars.

## SOCIAL NORMS AND BEHAVIOURAL ECONOMICS

- In the UK, HMRC has used a variety of publicity campaigns to encourage people to report undeclared income. For example, one campaign message focussed on the message: '*Come to us before we come to you*'. They also developed several education tools aimed at age groups in the range of 8 -17 years.
- HMRC has also found that it is best to target businesses at the establishment phase when they are more open to registering with them. Once they are established it is much harder to identify and target them.

- New Zealand is seeking to uncover why taxpayers may drop out of the formal economy by holding interviews with people who have done this. In particular, they aim to identify if they had a ‘tipping point’ that resulted in them taking this step.
- The Canadian Revenue Agency applies social marketing tools. For example, they have used website pages, Facebook posts and tweets targeting women aged 35-54 purchasing home renovations.

## MODERNISING THE PAYMENT SYSTEM

- Several countries have put limits on amounts that can be paid in cash. For example, since September 2015, people who live in France have not been allowed to make payments over 1,000 Euros in cash (previously 3,000). For foreign visitors, the maximum amount is 10,000 Euros (previously 15,000).
- Since 2010, Swedish businesses selling goods and services for cash must have a Swedish Tax Agency (STA) certified cash register. The STA also conduct supervision and inspection visits. This change was estimated to have a permanent increase in reported tax revenues of at least 1 per cent.

## HARD-WIRING GOVERNMENT

- In Canada, the Government is expanding information-sharing with third parties (including provincial and territorial partners) and applying the resulting information to identifying underground activity and related tax non-compliance.
- HMRC has been expanding the data it sources from business intermediaries and electronic payment providers. It has also introduced an online disclosure service.
- Finland has implemented a reverse charge procedure in the scrap industry (a known high risk industry for black economy participation). This means the buyer is liable for VAT rather than the seller (and there is an obligation to give a receipt).
- The US and India make extensive use of biometrics, such as fingerprints. The US system currently holds more than 200 million unique identities and processes more than 300,000 biometric transactions per day. While they are primarily used for immigration purposes, there are opportunities to extend their use to other government areas, including tax. India has developed a cloud-based ID system covering all citizens which uses biometrics for identification.
- Germany has introduced world-leading internet ‘scraping’ technology which monitors internet traffic to identify potentially high-risk transactions. This information is shared with the tax authorities and also internet businesses (including eBay).

## THE SHARING ECONOMY

- In some states in the US, sharing accommodation facilitators collect hotel occupancy tax and sales tax and remits it directly to tax authorities.
- France legislated the issuance of a mandatory ‘summary of annual revenues’ (*relevé annuel de revenus*) to sharing economy platform users to help them for tax reporting purposes.
- In the UK, individuals can earn up to £1,000 of income from certain sharing economy activities before they become liable for tax on this income.

The Taskforce will further examine these and other examples, including areas of best practice, ahead of the Final Report.



# CHAPTER 4: STAKEHOLDER CONSULTATION

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Consultation with the public and key stakeholders is integral to the success of the Black Economy Taskforce. In January 2017, the Minister for Revenue and Financial Services invited submissions from the public. The Taskforce has consulted extensively with stakeholders, with close to 40 bilateral meetings held to date (see Appendix 4). In addition, a Reference Group of businesses and professional representatives has been established to incorporate external engagement in the governance of the Taskforce. The Chair will continue to consult widely in preparation for final recommendations.

## KEY THEMES FROM CONSULTATIONS TO DATE

There has been overwhelming support from the business and community sectors to the Black Economy Taskforce. A number of key themes and messages have emerged from these early consultations:

### THE BLACK ECONOMY CREATES AN UNFAIR PLAYING FIELD

Businesses who evade taxes and underpay their employees gain an unfair advantage over honest businesses. The black economy creates an uneven playing field.

### NEGATIVE ATTITUDES TOWARDS COMPLIANCE SUPPORT THE BLACK ECONOMY

Stakeholders have confirmed that social norms have an important effect on black economy participation. If people believe ‘everyone takes cash under the table’, or that not paying tax does not harm anyone else, that they can get away with it, or even if they are responding to peer or community pressure, they are more likely to be in the black economy. Similarly, if people do not trust their tax authorities or have little faith in governments spending their tax dollars wisely, they may be reluctant to comply with their tax obligations.

Stakeholders have suggested that well-designed social marketing campaigns and education can help change these attitudes. A key message would be that black economy participation is unfair, costly for others, creates an uneven playing field for small businesses and increases taxes on honest taxpayers.

## **REGULATORY BURDENS CAN PUSH SMALL BUSINESSES INTO THE BLACK ECONOMY**

Small business identify regulatory burdens and lack of policy harmonisation (including penalty rates, unfair dismissal laws and business registration) as a reason for some to participate in the black economy. This can be exacerbated if margins are low, or they believe their competitors also participate in the black economy.

Regulatory complexity (including tax, employment, immigration and welfare) can be another driver of the black economy. The complexity can be particularly challenging to those starting out or with limited English skills and can lead to businesses ignoring their obligations and ‘hoping for the best’. The fear of harsh treatment if they ‘come clean’ are also factors.

## **THE SIZE OF THE BLACK ECONOMY MAY BE LARGER THAN OFFICIAL ESTIMATES AND THERE ARE RISKS IT WILL INCREASE FURTHER**

Some stakeholders have expressed the view that the size of the black economy may be larger than the 1.5 per cent of GDP estimated by the ABS in 2012.

In addition, consultations have highlighted the risks and trends which may increase the size of the black economy further. Technological change has been raised as a challenge, including new technologies such as sales suppression software. The sharing economy was also mentioned as a new development which may facilitate black economy participation, particular through circumventing regulatory frameworks which are not designed for the purpose. Greater use of contractors and employment models such as splitting payments between a base and commission, may also pose risks as self-employment does not offer the same protections and integration with the tax system as more traditional forms of employment.

## **FRAGMENTED BUSINESS REGISTRATION SYSTEMS INCREASE COMPLIANCE COSTS AND LIMIT DATA SHARING**

A number of stakeholders raised that current business identification and verification regimes (based on ABNs and company registration) are inadequate. This fragmentation creates a cost for businesses needing to register, to update information or verify their counterparts.

## **REGIONAL PERSPECTIVES**

Stakeholders have drawn attention to particular problems faced by farmers and others in regional communities. Poor internet connectivity is a particularly acute problem for regional small businesses and may limit the capacity of rural businesses to adopt digital payment and business methods. Horticulture and abattoirs have been identified as problematic areas for black economy participation.

## **PHOENIX COMPANIES ARE A SPECIFIC PROBLEM WITHIN THE BLACK ECONOMY**

Illegal phoenixing is viewed as a particular issue which needs to be dealt with. Business operators who repeatedly become insolvent cheat trade creditors and employees and undercut legitimate operators. The Taskforce has heard that there is an entire industry supporting phoenixing by providing advice prior to a company winding up on how to structure the business in order to avoid obligations.

## **SOME VULNERABLE WORKERS ARE BEING EXPLOITED BY BUSINESSES PARTICIPATING IN THE BLACK ECONOMY**

In some industries workers are routinely underpaid in the form of off-the-book cash wages. This can involve employees either being required to pay back a proportion of their wages to their employer or by being forced into sham contracting arrangements. Temporary visa holders are particularly vulnerable to being exploited given their concern about the potential implications for their visa or employment status if they speak out.

## **NEW TECHNOLOGIES CAN PROVIDE SOLUTIONS**

New technologies offer a wealth of opportunities for countering the black economy. For example, smartphone or tablet applications have been developed to simplify processes for businesses, secure on line trading facilities, reduce compliance burdens and provide a one-stop store of information. Payment and other electronic transfer applications have and will continue to accelerate the move towards a cashless economy. Greater application of data analytics may offer significant new information to government allowing better targeting of services as well as anti-black economy efforts.

## **SOME BUSINESSES FALL INTO THE BLACK ECONOMY DUE TO LACK OF KNOWLEDGE AROUND THEIR OBLIGATIONS**

Many small businesses do not have a good understanding of financial management and the tax and superannuation systems. Stakeholders consider that better education in financial management, and tax in particular, especially for those setting up a business for the first time is necessary. Simple and low cost business and accounting systems would also help.

## **LICENSING ARRANGEMENTS AND THE EXISTENCE OF ASSOCIATIONS INCREASE COMPLIANCE**

Feedback from industry associations indicates that in industries where businesses need to have a license to operate the level of compliance is generally higher. Associations in these industries help their members with compliance, for example by providing information, hotlines and other support.

## STAKEHOLDER ENGAGEMENT PLAN

The Taskforce will continue to engage with the public and other stakeholders following the Interim Report. The Interim Report will guide the engagement.

Engagement activities will include:

- Continued regular meetings with the Private Sector Reference Group;
- Bilateral meetings between the Chair of the Taskforce, Secretariat staff and key stakeholders;
- Roundtable meetings conducted by the Chair of the Taskforce with key groups;
- Forums with the Chair of the Taskforce and Secretariat staff;
- A possible academic conference to discuss new methods to target the black economy (including the use of insights from behavioural economics);
- Opportunities for public comment;
- Follow up from initial consultation meetings; and
- Media exposure and debate through the release of the Interim Report



# CHAPTER 5: RECOMMENDATIONS

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This chapter outlines the Taskforce’s initial recommendations, including options we plan to consult further on. These draw on our initial consultations with stakeholders, a careful examination of reforms adopted in other jurisdictions and existing Australian Government policy initiatives (both tax and non-tax related).

In approaching this task, we have drawn on the guiding principles and policy building blocks established at the outset of this project (see Appendix 4). We are also responding to anecdotal evidence that the black economy may be larger than official estimates currently suggest.

This package is divided into four categories:

- (a) Possible near term proposals;
- (b) Specific policy options which we plan to examine further and consult on over the course of the year;
- (c) Initiatives being addressed in other reviews which we support; and
- (d) Particular issues we intend to look at more closely for the Final Report.

This set of proposals, options and areas for further work should not be read as pre-empting, or limiting the scope of, the Final Report’s recommendations. An important reason to canvass them now, at the start of our exercise, is help foster a more informed public debate. A debate that recognises that this is not ‘just about tax’, but is indeed a whole-of-government, whole-of-society problem, with implications across multiple policy areas. Our hope is that this will contribute to a wider process of cultural change. In effect, we need a renegotiation of the social contract, a closer link between some of the benefits and opportunities that government provides with meeting regulatory obligations. The business community has a clear role to play, both through its own conduct (for example, in using responsible supply chains) and in leading the community’s attitude change.

## A. POSSIBLE NEAR TERM PROPOSALS

### 1. ACCESS TO AUSTRALIAN GOVERNMENT PROCUREMENT OPPORTUNITIES SHOULD BE LIMITED TO FIRMS WHICH HAVE A GOOD TAX RECORD (AND DO NOT ENGAGE IN BRIBERY)

The idea is that only those businesses with a good tax record (and which do not engage in bribery and corruption) should be eligible to bid for Australian Government contracts. A number of jurisdictions in Australia and overseas have adopted this policy which harnesses the purchasing

power of government to foster and encourage better tax practices. Indeed, consultations have brought us examples of government agencies contracting with black economy suppliers and stronger procurement rules would ensure this does not occur. By taking a strong stand, the Government will be setting an example for private sector procurement, where we have seen a number of best-practice initiatives being trialled.

Care will need to be taken in defining what a good tax record means. Any definition should be seen by businesses as objective, fair and non-arbitrary. It should not apply to firms in dispute with the ATO or those who have been guilty of minor lapses. Any additional compliance burden should be minimal (for example, requiring firms to sign a declaration that their tax affairs are up-to-date). Successful bidders should be obligated to ensure their sub-contractors meet the same standards. An Australian Government procurement initiative should ideally be consistent with parallel initiatives at other levels of government.

## **2. TAX (AND OTHER) INCENTIVES FOR SMALL BUSINESSES WHO ADOPT AND INVEST IN NON-CASH BUSINESS MODELS**

The idea would be to encourage businesses which are prepared to adopt non-cash business models. This would spur innovation (for example the development of new apps) and require buy-in from customers. A proposal will be developed later this year following stakeholder consultations.

## **3. EXPANSION OF THE TAXABLE PAYMENT REPORTING SYSTEM**

The Taxable Payment Reporting System (TPRS) is a transparency measure applying currently to the building and construction industry. It requires businesses to report all payments to contractors to the ATO. The evidence suggests this program has improved tax compliance in this sector. We are proposing that it be extended to two other high-risk sectors: cleaning and couriers. We will consult on the idea of expanding the TPRS further, including to labour hire companies, owner-builders, the home improvement sector and IT contractors.

## **4. DEDUCTIBILITY OF CASH WAGES AND CONTRACTOR PAYMENTS**

Businesses which have not made or reported PAYG withholding payments, issued payment summaries or made superannuation contributions should not be able to claim deductions on related cash wage expenses. Similarly, payments to contractors should not be deductible where no ABN has been quoted and the payer has not withheld part of the payment under the 'no-ABN withholding' requirements. These payments should not be included in cost bases for capital gains tax or depreciation purposes where they were used to produce a capital asset. The Taskforce will consult stakeholders on this idea before finalising its position.

## **5. AN IMMEDIATE BAN ON SALES SUPPRESSION TECHNOLOGY**

The use of sales suppression technology allows businesses to understate their takings for tax purposes.

It can do this in a number of ways, including by: removing transactions from electronic record keeping systems, amending transactions to reduce the amount of each sale, and allowing GST

taxable sales to be re-categorised as GST non-taxable sales. In all instances, no audit trail of the changes made exists.

The widespread availability and use of sales suppression software has been confirmed by a number of international tax jurisdictions and the OECD has noted that legal and technological means to control the proliferation of this software are being used or considered by several countries.

The ATO has identified this as a threat to the integrity of the tax system. We are proposing an immediate ban on the manufacture, distribution, possession, use or sale of such technology.

## **6. BUSINESS REGISTRATION INTEGRITY AND MODERNISATION**

Australia needs a robust, real-time, business identification and verification system in order to reduce red tape, generate valuable data for government and businesses (for example simple verification of their counterparts) and improve delivery of relevant services. With over 250 registers currently in place across Government with business-related information, the Taskforce will consult on ways to rationalise business registries and strengthen business registration and verification arrangements (for example, to address the misuse of ABNs). The goal should be a modern, real-time, efficient and secure resource that allows governments, businesses and the public to confirm the identity of the firm they are dealing with.

There needs to be a rationalisation of the multiple business registers that currently exist. Ideally, they should be housed in one place. This would represent an important hardwiring reform, generating valuable data for government (including tax authorities) which would provide a basis for reducing red tape (for example, through less duplication of reporting from business), improved services from government to business (such as through enhanced tailoring), and more efficient and effective administration. It would also benefit businesses needing to confirm the identity of their counterparties in real-time. The Taskforce will work with others in government on this issue.

## **7. TAX LITERACY TRAINING FOR TRADES AND SMALL BUSINESS PEOPLE**

The Government should consult with the States and Territories on the idea of including tax literacy modules in Vocational Education and Training (VET) and small business courses. The Taskforce will work with the Department of Education and Training on this and include recommendations in its Final Report. Industry associations and the Small Business Ombudsman already play a role in this area, but this could be expanded (see also recommendation 27).

## **8. FUNDING FOR ATO ACTIVITIES**

It is important that the ATO is properly resourced to play its part in implementing the significant change process needed. We recommend that the Government provide one year bridge funding of ATO audit and compliance activities to better target black economy risks. This includes its Strengthening Foundations program to help ensure businesses engage with the tax system, focussing on small businesses with a turnover between \$2 and \$15 million and its Level Playing Field compliance program which targets those with a turnover below \$2 million. Future funding decisions for these and other activities, such as strengthening ATO technology and public

education activities, can be made in light of the Final Report, but the ATO has an important role to play in leading change.

## **B. POLICY OPTIONS FOR CONSULTATION**

### **9. REGULATORY BURDENS AFFECTING SMALL BUSINESS**

Our consultations and the academic literature suggest that high tax and regulatory burdens are the most significant contributor to black economy activity. Penalty rates, unfair dismissal laws, income limits that affect the amount of welfare paid, visa restrictions and the lack of policy harmonisation have been highlighted by stakeholders. While these regulations serve legitimate policy objectives, they provide incentives for black economy activity. A second category of regulatory burden also needs to be acknowledged. These are not policy-related, but instead arise from the costs and inconvenience of dealing with government (in tax and non-tax areas). This is summed up by the comment that ‘government should not make it more difficult to comply than it needs to be’. This is not only a tax issue, but also applies to the complexity of our welfare system. Stakeholders have said they want to see a ‘one stop shop’ across all federal agencies and different levels of government for their regulatory compliance activities. The Taskforce intends to work with those in government who are responsible for regulatory reform.

### **10. POSSIBLE CASH PAYMENT LIMIT ACROSS THE ECONOMY**

Cash continues to play an important economic role, but its use as a means of payment has been declining in recent years and this trend is likely to continue. While most individuals and businesses use cash legally, the anonymity of cash is exploited by black economy participants and those engaged in illegal activity including money laundering, terrorism financing and illicit trade. The Taskforce has been told that large cash purchases of luxury goods are a common occurrence. This is despite businesses engaging in high value transactions generally preferring to not deal cash given the additional handling costs, regulatory reporting burdens and security concerns. At the very least, it is important to understand why this is the case. A number of overseas countries have taken steps to curb the use of cash, including introducing cash payment limits (above which non-cash payments must be made). Such limits would need to be contingent upon the cost, availability, convenience and uptake of suitable alternatives, including in particular the New Payments Platform. In Australia, reforms in particular areas, including betting limits for poker machines, have had a positive behavioural impact.

The Taskforce intends to examine the idea of an economy-wide cash payment limit in more detail, including through public consultation. We recognise that both costs and benefits will need to be considered, including alternative ways of achieving the same objective. The level of any cash payment limit will require careful consideration (however \$10,000 is a possible option). Wider payment system policy considerations will also need to be taken into account.

### **11. A SHARING ECONOMY REPORTING REGIME**

Sharing economy activities provide significant economic benefit, spurring innovation competition and lowering costs. The tax and broader regulatory treatment of these activities is

taking shape, albeit in a piecemeal way. Regardless of the outcome of this process, we think a case can be made for sharing economy operators (both onshore and offshore) being subject to the same obligations to provide data to regulators as onshore operators. Another option that could be explored would be for the TPRS to be expanded to cover the sharing economy. This would apply to both offshore operators as well those with an Australian presence (the former would have to report to the ATO as a condition of doing business in this country). This is an idea we want to consult on.

New and emerging sharing economy operators should be encouraged or required to make early contact with regulatory authorities (employment, consumer, tax) to obtain advice on their compliance with relevant legal requirements. They should also be encouraged to adopt robust internal governance standards which established sharing economy operators have, in many cases, put in place.

## **12. A POSSIBLE BRIGHT LINE TEST FOR THE HOBBY-BUSINESS INCOME DISTINCTION**

The idea would be to establish a threshold below which any income would be deemed to be hobby-related and not taxable. Any income above the threshold would be considered business-related (or be subject to the business-hobby test which applies now). Such a bright line test would simplify the law, lower compliance burdens and reduce uncertainty for many taxpayers. It would have to deal with integrity risks posed by non-commercial losses. This also has a regional dimension. Stakeholders have pointed to the multiple definitions of ‘primary producer’ in legislation as a source of confusion.

## **13. LOWERING THE GST THRESHOLD**

Given technological developments since the tax was introduced, the view has been put to the Taskforce that the current GST threshold (\$75,000) may be too high. We intend to seek stakeholder views on this but note also that any change to the GST must be agreed by the States and Territories.

## **14. LIMITED USE OF AMNESTIES**

Businesses, contractors and employees participate in the black economy for a range of reasons. Amnesties, if well targeted and carefully calibrated (including with other initiatives), can be an effective behavioural tool. The Taskforce intends to look at two types of amnesties.

The first would apply to vulnerable employees who may feel they are trapped in the black economy. While the individual’s primary tax liability would stand, any penalty could be waived. This could be linked with a separate whistleblower initiative. Advance publicity for this amnesty might convince some employers to come clean.

A second possible amnesty would focus on small cash-only businesses who choose to adopt e-payment sales equipment. It would offer them a minimum period (for example, 6 months) for them to report their black economy activities. While their primary tax liability would continue to apply, they could receive a (higher) discount on any penalties (than are available now). This amnesty would ideally form part of a broader strategy, including new penalties and intensified audit activity (to take effect after the amnesty expires) and incentives for businesses to move

away from cash only business models. Public communications should also play a role. The message should be that those who remain in the black economy run a greater risk of detection (given the expected strengthening of audit and data matching) and face the full force of the law if caught.

#### **15. WITHHOLDING ARRANGEMENTS**

Withholding arrangements play an important role in our tax system. While these arrangements can improve taxpayer compliance, they impose costs (for example, reduced business cash flow) which in some cases might encourage black economy participation. The Taskforce will consult on the broader application of withholding arrangements, including the existing PAYG system. In our stakeholder consultations, some have expressed the view that better use could be made of the PAYG system to counter sham contracting. Consideration could be given to a bright line test to differentiate genuinely independent contractors from others (this could take a number of forms, including the number of days worked for a particular client in any year). The Taskforce will take note of the Henry Review's discussion of contractor issues.

## **C. INITIATIVES BEING ADDRESSED IN OTHER PROCESSES**

#### **16. WHOLE-OF-GOVERNMENT USE OF DATA/PRIVACY**

We support the work being done by the Digital Transformation Office and others to improve the use of data across government while ensuring privacy and other rights are protected. A better connected, less fragmented government will lower compliance costs for individuals and businesses, allow services to be better tailored and spur innovation. It will enable more sophisticated use of analytics (including big data) by government agencies, potentially linking data from welfare, immigration, policy and tax authorities. While privacy rights must be respected, there is likely to be considerable scope to improve the use of data within government under the existing privacy legal framework.

#### **17. PHOENIX TASKFORCE**

The Government has established a Phoenix Taskforce to counter the practice of phoenixing: companies which deliberately go out of business (short-changing their creditors, customers, employees, shareholders) only to re-appear in another guise. Phoenixing undermines the community's confidence in corporate and wider regulation and reduces revenues. While difficult to estimate, the Fair Work Ombudsman and PwC estimated in 2012 that illegal phoenixing resulted in economic costs of around \$1.8 to \$3.2 billion per year. We support the continuing work of the Phoenix Taskforce and consider that strong penalties are required for those engaging phoenixing, together with measures to prevent such behaviour in the first place.

#### **18. BENEFICIAL OWNERSHIP REFORMS**

The Government is currently consulting on beneficial ownership reforms for companies. This is an important transparency initiative which will help in efforts to tackle tax evasion and money laundering. In our view, entities (and those associated with them) and trusts should be obliged to disclose their legal and controlling owners at the request of the authorities. This should also

apply to their counterparties. If they fail to do so, there should be adverse legal consequences for them.

#### **19. SUPPORT FOR NON-CASH PAYMENT METHODS (NEW PAYMENTS PLATFORM AND PAYMENT CARD FEES)**

We support the efforts of the finance industry and the RBA to improve efficiency and competition in the payments system, including where this increases access to (and reduce the costs of) non-cash payment methods. We also welcome the RBA's work to lower payment card interchange fees and endorse the banks' efforts to lower cost and improve accessibility of non-cash alternatives. This should continue given that the banks are benefitting from the continued move away from cash.

We recognise that, in coming years, there will be further change and innovation in this area. A wide variety of platforms, products and services are being developed. These have the potential to both transform business and consumer behaviour and strengthen our defences against the black economy (by providing audit trails and intelligence which does not exist today). Firms in the future may be able to use distributed ledger technology to complete their accounts as well as handle their payments, lowering the costs of doing business. The New Payment Platform (NPP) has the potential to allow users to verify ABN details, reducing the scope for fraud (quoting of incorrect ABNs) we see today. Another possible future NPP use would be to allow employers to make superannuation guarantee charge payments direct to the funds, potentially obviating the need for the ATO to act as intermediary while avoiding an increase in compliance burden for small business.

We need to be conscious of the commercial implications of the move away from cash. As the use of cash declines, the unit costs of transacting in cash (for example the handling and storage of cash, operation of ATM machines, and security) will continue to increase. These costs, particularly those indirect costs, should be made more transparent to businesses. In early consultations, some stakeholders have questioned whether transaction cost changes are being reflected in fees and other user charges. The Taskforce intends to further examine this issue.

Beyond these ongoing developments, there may be scope to encourage further use of low cost payment methods and digital wallets. For example, non-cash payment methods (like 'pay-anyone' credit transfers, direct debits, BPAY, POLi, and the New Payments Platform when it becomes available) should be offered wherever possible, including by Government. The Government can also play a role in leading the move to more electronic payment methods by eliminating its use of cheques for some payments. Payment services providers are already offering cheap point of sale equipment to small businesses. We expect this to continue as consumers hold less cash and become more accustomed to non-cash payment methods.

The Taskforce also intends to examine whether there is any reason for businesses to operate on a cash only basis given the availability and increasingly low cost of non-cash payment methods today. While cash will remain legal tender and play an important economic role, it is not clear why some firms refuse to accept non-cash alternatives. And as more people move to using

electronic payment methods, there is greater scope to focus on those that keep operating primarily in cash.

## **20. PAYMENT TERMS**

Extended payment terms cause cash flow problems for small business, forcing some into the black economy. We note that the Australian Small Business and Family Enterprise Ombudsman is conducting an inquiry into this issue. We will work with the Ombudsman on matters of joint interest that might arise from this. The Taskforce will look at the UK's experience in this area.

## **D. ISSUES WE INTEND TO LOOK AT MORE CLOSELY IN THE FINAL REPORT**

### **21. PROCUREMENT/RESPONSIBLE SUPPLY CHAIN MANAGEMENT**

Procurement officers play a critical role in directly and indirectly influencing commercial practices. Through their purchasing decisions, they can set high standards for supplier behaviour (insisting on compliance with tax and other legal requirements) or, when under commercial pressure to cut costs, allow poor practices to flourish. Indeed, there have been well-documented cases of suppliers being forced to cut corners in these instances. The Taskforce will consider ways to improve supply chain management practices in its Final Report. Strengthened procurement officer accountabilities (including the idea of making them responsible officers under the Corporations Act) will be considered. There may also be scope for tax and other regulatory authorities to publicise instances of egregious supplier practices (for example, exploitation of vulnerable employees). This is something the Taskforce will consult on.

### **22. SOCIAL NORMS/CHANGING THE SOCIAL CONTRACT**

Black economy behaviours are powerfully influenced by social norms. A range of community attitudes, assumptions and beliefs are at play here, including: that 'everyone' is in the black economy; that it is a 'victimless crime'; or that other taxpayers ('the big end of town') may not be meeting their obligations. The belief that governments are wasteful, opaque or can't be trusted is also cited as a justification. Innovative overseas jurisdictions have launched successful campaigns to change social norms. In Australia, we have many decades of experience of these in other areas, including road safety, littering and health. Ultimately, this is a matter of cultural change. In the absence of this, government efforts will be less successful than they otherwise would be. We intend to outline elements of an effective, anti-black economy campaign in the Final Report.

### **23. CONSUMER-FOCUSSED ACTION**

Our current anti-black economy laws focus on businesses rather than consumers. However, where they propose or readily consent to cash payments to avoid tax consumers are part of the problem. We intend to examine the merits of consumer-focused sanctions, including the loss of consumer protections, warranties and legal rights for people who make cash payments without obtaining a valid receipt. This is not simply a matter of imposing new penalties, but



part of a wider cultural change agenda. We intend to seek the views of consumer advocates on this issue. Any new penalty regime should be carefully calibrated, with the strongest sanctions applying to egregious behaviour or repeat offences. Lighter touch approaches (including 'nudge' techniques) will be more appropriate in many cases.

## **24. WHISTLEBLOWERS**

Various government agencies have whistleblower programs or reporting services in place where members of the public can report information on suspected fraud, tax evasion and other misconduct or breaches of relevant legislation. These have been effective to a degree, but should be better targeted, relaunched and rebranded to become more user friendly. The ATO whistleblower hotline is only available in English, for example. One option to consider is to form a multiagency response team which will ensure that serious allegations are dealt with visibly and across government. If done well, this can play a role in changing wider social norms and behaviours. We will take into account responses to the consultation paper on tax and corporate whistleblower protections the Government has issued and work closely with the Treasury (and other agencies) to develop policy proposals.

## **25. SECTORAL AND OTHER TARGETED STRATEGIES**

We intend to focus in detail on high-risk sectors in our Final Report. High-risk sectors identified by the ATO include: building and construction, restaurants and cafes and hair and beauty salons. Our initial consultations have highlighted problems in the hairdressing sector (particularly mobile operators), child care sector, disability services, aged care, labour hire, horticulture and abattoirs. Offshore wagering is another high risk industry, with Tabcorp estimating that \$1 billion is wagered by Australians annually with unlicensed offshore operators who do not collect or remit GST in Australia.<sup>8</sup> Some sectors are also at specific risk for GST fraud, for example the precious metals industry and property development. Strong integrity measures are required to counter GST fraud and we note that the Government has already acted to address fraud in the precious metals industry.

Targeted strategies might also be appropriate in other areas. Property owners should take some responsibility for activities that take place on their premises or land. We note that the property industry has developed a voluntary code in this area. Consideration might be given to sanctions for owners where blatantly illegal activities are involved and some degree of knowledge of these activities (or wilful blindness) can reasonably be imputed.

Some other industries are also developing strategies to deal with black economy activity in their sector, for example through licensing or codes. The labour hire industry, for example, is currently developing its own industry code.

## **26. VOLUNTARY COMPLIANCE**

We encourage the ATO to continue its efforts to inform taxpayers of possible audit risks they face. The ATO publishes small business benchmarks, developed for a wide range of sectors,

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<sup>8</sup> As noted in the *'Review of Illegal Offshore Wagering Report'* – 2015, however, estimates are highly uncertain.

which suggest what ‘average’ taxpayers should be earning. These could be given greater prominence. New technologies should also be explored. A possible approach would be to expand and promote the use of apps and tools for small business which set out the provisions of the relevant industrial award (an initiative which has had a positive impact in the hair and beauty sector). Apps could also be developed for employees, allowing them to confirm that they are being paid at the correct wage rate and that the right amount of superannuation contributions are being made.

## **27. EDUCATION**

Education should play a stronger role in informing students of their tax obligations. Tax and financial literacy modules, for example, could be included in VET curricula. Education efforts should also target vulnerable communities, including migrants from countries where there was little trust in government and weak compliance traditions. This is also a focus of the Migrant Worker Taskforce. Industry associations already perform an important educative function for their members, which is a further possible channel for government programs. Education can also contribute to wider Government efforts to change social norms on tax and regulation. People need to know that if they conduct their affairs transparently, such as fully electronically, they are less likely to be audited by the ATO.

## **28. WORKING WITH OTHER GOVERNMENTS: STATE AND LOCAL**

An effective response to the black economy will require cooperation across different levels of government. We intend to open a dialogue with the States and Territories on how best to work with them. This will involve Premiers’ Departments, Treasuries, revenue authorities, fair trading and licensing authorities. There may be innovative ways to link licensing with both education and penalties (the UK Government, for example, has been consulting on revoking licences from convicted black economy participants). There may also be scope to engage with local authorities in some areas (for example in providing tax compliance ‘start up packs’ to home-based and mobile businesses seeking local government approvals). Greater efforts in policy harmonisation will be an important step to help reduce the complexity which can lead to black economy participation.

## **29. WORKING WITH INDUSTRY ASSOCIATIONS AND TAX PROFESSIONALS**

An effective government black economy strategy must accord key roles to industry and professional associations (including tax agents and advisers). Industry and professional associations set ethical standards for their members, perform an educative function and police instances of poor behaviour (for example, poor supply chain practices and ‘grey trading’). Industry conduct, including compliance with the law, tends to improve when associations are formed and the majority of businesses in the industry are members. The ATO already works effectively with certain industry and professional associations.

## **30. NON-CASH BLACK ECONOMY PAYMENT METHODS**

While cash can facilitate black economy and illegal behaviour, non-cash payment methods can also be used, including cryptocurrencies, certain commodities (for example the black market trade in cigarettes, both smuggled manufactured cigarettes and ‘chop chop’), as well as money

laundering practices such as ‘cuckoo smurfing’.<sup>9</sup> These are not commonly or widely used at present (although it is estimated that 14 per cent of total tobacco consumption in Australia is illegal<sup>10</sup>). If the community moves away from cash, or limits on cash payments are put in place, these alternatives may become more popular.

### **31. VULNERABLE AND OTHER GROUPS**

Particular social groups, including the elderly, those on lower incomes and those in regional communities, rely more on cash than other parts of the community. Any move away from cash as a means of payment could have adverse implications for them. The Taskforce will consider these impacts, and how best to deal with them, in its Final Report. Vulnerable groups are also victims of current black economy practices (for example, those working for illegal labour hire firms).

Strategies to counter the black economy should also take into account possible impacts on particular groups, including women seeking to re-enter the labour force.

### **32. PROSECUTIONS**

The successful prosecution and conviction of egregious black economy participants is desirable in its own right and also acts as a deterrent for others. Under current arrangements only a small fraction of cases are prosecuted for a range of reasons, including a lack of framing of suitable offences and resource constraints. An example of the former is phoenixing, an area which lacks specific offence provisions. The Taskforce will identify ways in which this can be changed. Progress in this area will help strengthen other ATO initiatives, including its Tax Agents of Concern program which focusses on tax agents displaying poor conduct. It may be that a large volume of tax offences can be better dealt with at a tribunal level.

### **33. OPTIONS FOR USING BIOMETRIC DATA**

Biometrics such as fingerprints, palm prints, iris and facial structure are unique physical attributes that can be used for identity verification purposes. Biometrics are used to detect and prevent illegal entry into the US. They are reliable, convenient and difficult to forge. Fingerprints are already widely used on smart phones and their wider use could bring down payment fees and enable better data checking. The Taskforce will consider whether increased use of biometrics (subject to privacy protections) would assist to reduce black economy participation, along with a broader look at the issue of digital identities which some initial consultations have noted should be considered.

### **34. A DATA STRATEGY FOR THE BLACK ECONOMY**

While a great deal of work is taking place on the use of data (being led by the Digital Transformation Office) there may be value in developing a dedicated black economy strategy for data collection, use and analysis. The ATO’s existing data initiatives would form a central

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9 Cuckoo Smurfing is a money laundering technique where large balances are broken into smaller transactions and transferred through the bank accounts of unwilling and innocent third parties.

10 <https://home.kpmg.com/content/dam/kpmg/pdf/2016/04/australia-illicit-tobacco-2015.pdf>; Page 6

part of this, but there may be opportunities to build on these, taking advantage of emerging technologies and techniques. An integrated, multi-agency approach in this area should be considered, taking leading-edge international examples into account. Matching of tax, welfare and visa records already takes place in Australia to some extent but this should be expanded and modernised.

### **35. CREATING AN INSTITUTIONAL LEGACY**

The black economy is a whole-of-government, whole-of-society problem, and is not limited to tax. In our Final Report, we will make recommendations on the machinery of government. This could include changes to agencies' responsibilities, the establishment of new, whole-of-government bodies (agencies or taskforces) and evaluation and review mechanisms. Given the linkages between different parts of the black economy — including labour law non-compliance, immigration fraud, money laundering and tax evasion — consideration should be given to developing long-term whole-of-government teams and operations. The goal of which would be to set a long-term basis for improving policy making and administration on matters affecting the black economy.

# APPENDIX 1: TERMS OF REFERENCE

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Activities that take place in the black economy reduce the amount of tax revenue governments are able to collect.<sup>11</sup> The black economy undermines the integrity of our tax system, penalises taxpayers who do the right thing and, if unchecked, can foster a damaging culture of non-compliance in the community.

Policy and enforcement initiatives in this area need continuous attention. The activities are difficult to detect and the amounts involved are often relatively small. Technological and other economic changes, including the emergence of the sharing economy, pose new and unfamiliar risks. Given this changing policy landscape, it is necessary to take stock of existing strategies, consider emerging international best practice and develop new tools and approaches.

Accordingly, the Black Economy Taskforce will:

1. Examine evidence on the scope, revenue implications, risks and behavioural factors underpinning black economy activities.
2. Consider the effectiveness, efficiency and appropriateness of existing policy responses.
3. Review the anti-black economy efforts of other countries, identifying best practice initiatives which could be applicable to Australia.
4. Develop a framework to guide future policy development on the black economy, including identification of opportunities, risks and trade-offs.
5. In light of this framework and applicable budgetary constraints, outline an overarching policy strategy (noting that a number of specific ideas are already under development). This strategy will include recommendations on:
  - i. how best to identify, track, manage and respond to risks;
  - ii. innovative policy responses which take advantage of emerging technologies and thinking on shaping behaviours;
  - iii. strengthening whole-of-government cooperation (including better use of existing, underutilised data sources), including state administrations;

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<sup>11</sup> The black economy refers to people who operate entirely outside the tax system or who are known but do not declare an income source. Those who use cash or cryptocurrencies to avoid their tax obligations are part of the black economy.

- iv. the scope to work more closely with the private sector, including tax agents and accountants; and
- v. resource requirements and evaluation mechanisms.

The Black Economy Taskforce will report to the Government by the end of October 2017. It will release an interim report in March 2017.

# APPENDIX 2: EXISTING PROGRAMS AND INITIATIVES

## ONGOING PROGRAMS AND POLICIES

Program/initiative	Department	Short description	Timing
Cash and hidden economy program	ATO	Ongoing compliance activities. The program has a broad omitted income focus, including registration, lodgment and correct reporting as part of an overarching community participation and assurance framework. The strategies comprise two elements: community participation and engagement; and compliance activities, including taxpayer audits and reviews. The ATO uses risk assessment tools to automate the identification and risk assessment of non-compliant taxpayers. These tools draw on a range of data sources, including ATO internal data, industry data and third-party data (from merchants and financial institutions) and information from electronic retailers, community and other external referrals, and media information.	Ongoing.
Third party reporting and data matching	ATO	Starting from 1 July 2016, the transaction types below will be reported by relevant third parties to the ATO: <ul style="list-style-type: none"> <li>• payments of grants and other financial benefits for services to government entities;</li> <li>• transfers of securities; and</li> <li>• business transactions made through electronic payment systems such as credit and debit cards and online payment methods.</li> </ul> <b>ATO website</b> <sup>12</sup>	Ongoing.
Strengthening the Integrity of Welfare Payments Budget Measure 2015-16 – AUSTRAC	DHS, AUSTRAC	Delivery of a multi-year budget measure that introduces an automated data matching capability with AUSTRAC. The data matching capability will enable the department to more efficiently identify welfare customers who have unexplained wealth and who may be participating in the black economy.	Ongoing. Automated data matching process due to be implemented by June 2019.

<sup>12</sup> Hyperlinks are bolded.

Program/initiative	Department	Short description	Timing
Strengthening the Integrity of Welfare Payments Budget Measure 2015-16 – Taskforce Integrity	DHS, AFP	Taskforce Integrity focusses on geographic locations with a higher risk of non-compliance and welfare fraud. It is possible these locations also have the potential for black economy activity. The taskforce uses data analysis and other information available to DHS and law enforcement to identify and target geographic areas at a higher risk of con-compliance and welfare fraud.  It has a strong focus on educating and encouraging voluntary compliance.	Four year measure that commenced in 2015-16.
DHS Serious Non-compliance Branch — multifaceted intelligence and investigation capability	DHS	The department conducts a number of activities to detect customers who may not have declared income or assets to the department, including from black economy activity.	Ongoing.
Fraud and Anti-Corruption Centre (FAC Centre)	Multi-agency — AFP, ATO, ACC, DHS, ABF, ASIC, DFAT, Defence, AUSTRAC, AGD, CDPP.  (led by AFP)	The objecting of the FAC centre is to: <ul style="list-style-type: none"> <li>strengthening law enforcement capability to respond to serious and complex fraud, foreign bribery, corruption by Australian Government employees and complex identity crime;</li> <li>providing a coordinated approach to prioritising the Commonwealth operational response for matters requiring a joint agency approach; and</li> <li>protecting the finance of Australia.</li> </ul> <b>Factsheet</b>	Ongoing.
Information Sharing with Commonwealth Regulators	FWO  Principally ATO, ASIC	The FWO refers intelligence or evidence of potential contraventions of Commonwealth laws to relevant enforcement agencies on a case by case basis, particularly related to misuse of the corporate form, where that information is gathered by the FWO in the course of exercising its functions under the <i>Fair Work Act 2009</i> .	Ongoing.



Program/initiative	Department	Short description	Timing
Strengthening the Fair Work Act 2009 to better protect vulnerable workers	Department of Employment	<p>Amendments to the Fair Work Act, due to be passed in 2017, will be an important step in preventing future exploitation of vulnerable workers (including migrant workers) by a small minority of unscrupulous employers. New measures include:</p> <ul style="list-style-type: none"> <li>• Increased penalties to employers who fail to make or keep accurate records;</li> <li>• Holding franchisors and holding companies responsible for payment-related contraventions of the Fair Work Act if they should have known about were in a position to prevent them; and</li> <li>• Expressly prohibiting ‘cashback’ scams where vulnerable workers have been required to pay back a portion of their wages to their employer.</li> </ul> <p>Strengthening the evidence gathering powers of the Fair Work Ombudsman when all other investigative avenues have been exhausted or are inappropriate.</p>	

## TASKFORCES AND REVIEWS

Program/initiative	Department	Short description	Timing
Phoenix Taskforce	Multi-agency — ATO, ASIC, FWO, ABF and Department of Employment	<p>The Phoenix Taskforce aims to make it harder for dishonest business operators to get away with closing down their business, escaping their taxes and other creditors and then re-emerging with a similar business. The Phoenix Taskforce brings together key federal and state agencies to identify, manage and monitor suspected illegal phoenix operators. The taskforce is examining options for law reforms to deter, detect and deal with illegal phoenix activities.</p> <p><b>Media release</b></p>	Ongoing.
Migrant Workers Taskforce	Department of Employment	<p>The Taskforce will identify further proposals for improvements in law, law enforcement and investigation, and other practical measures to more quickly identify and rectify any cases of migrant worker exploitation. The Taskforce is Chaired by Professor Allan Fels AO, with Dr David Cousins as Deputy Chair. The Taskforce brings together a broad range of Commonwealth agencies to ensure a whole of government approach.</p> <p><b>Department of Employment website</b></p>	Established Oct 2016, to run for 18 months (around April 2018).
Review of Illegal Offshore Wagering	DSS	<p>The Review was conducted to investigate the size and scope of the illegal offshore wagering problem and advise on ways to strengthen regulatory enforcement and protect Australians from illegal offshore wagering operators.</p> <p><b>Report and Government response</b></p>	Review complete December 2015. Government response April 2016.
House of Representatives Tax and Revenue Inquiry into Taxpayer Engagement with the Tax System	House of Representatives	<p>The Committee will inquire into how taxpayers, particularly individuals and small businesses, engage with Australia's tax system.</p> <p><b>Terms of Reference</b></p>	Established Nov 2016, submissions open.
Inquiry into the Workplace Relations Framework	Productivity Commission	<p>Possible relevant topics include: sham contracting, penalty rates, awards, migrant workers.</p> <p><b>Report</b></p>	Published November 2015.

Program/initiative	Department	Short description	Timing
Taskforce Cadena	Multiple agencies and departments. Includes FWO and Department of Immigration and Border Protection	Taskforce Cadena was established in June 2015 to protect temporary visa holders against fraud and exploitation. <b>DIBP website</b>	Meetings of the various taskforces occur regularly, and additional interaction between members can occur on an as-needs basis
Parliamentary Inquiry into whistleblower protections in the corporate, public and not-for-profit sectors.	Joint Senate and House of Representatives	Inquiry into the development and implementation in the corporate, public and not-for-profit sectors of whistleblower protections. <b>Website</b>	The Inquiry is due to report by 30 June 2017. Submissions were requested by 10 February 2017.
Serious Financial Crime Taskforce	Multi-agency — AFP, AGD, AUSTRAC, ATO, ASIC, Australian Border Force, ACC, CDPP.	The Taskforce forms part of the Fraud and Anti-Corruption Centre, which is led by the AFP. Offences targeted by the Taskforce relate to serious fraud, money laundering and defrauding the Commonwealth. Current priorities include: criminality related to international tax evasion, fraudulent phoenix activity, trusts and superannuation. <b>AFP website. Factsheet</b>	Ongoing.
Super guarantee non-compliance working group	ATO, Treasury, ASIC, APRA, Employment	The multi-agency working group was established to investigate and develop recommendations to deal with superannuation guarantee non-compliance.	An interim report was provided to the Minister in January 2017. Final report due March 2017.
Senate Economics References Committee Inquiry into Superannuation Guarantee non-payment	Senate Economics References Committee	Inquiry into the impact of non-payment of the Superannuation Guarantee with particular reference to the economic impact, accuracy and adequacy of information, role and effectiveness of various elements and appropriateness of responses. <b>Website</b>	Report due 12 April 2017
Payment Times and Practices Inquiry	Australian Small Business and Family Enterprise Ombudsman (ASBFEO)	ASBFEO, in partnership with the Small Business Commissioners in NSW, VIC, SA and WA, and in association with the Council of Small Business Australia and the Australian Institute of Credit Management, is currently conducting an inquiry to examine payment times and practices in Australia. <b>Website</b>	A final report was presented to the Minister for Small Business in March 2017.

Program/initiative	Department	Short description	Timing
Senate Inquiry into Corporate Avoidance of the Fair Work Act	Senate Education and Employment Committees	Inquiry into the incidence of, and trends in, corporate avoidance of the <i>Fair Work Act 2009</i> . <b>Website</b>	The Inquiry is due to report by 7 August 2017. Submissions were requested by 25 November 2016.

## CURRENT CONSULTATION PROCESSES

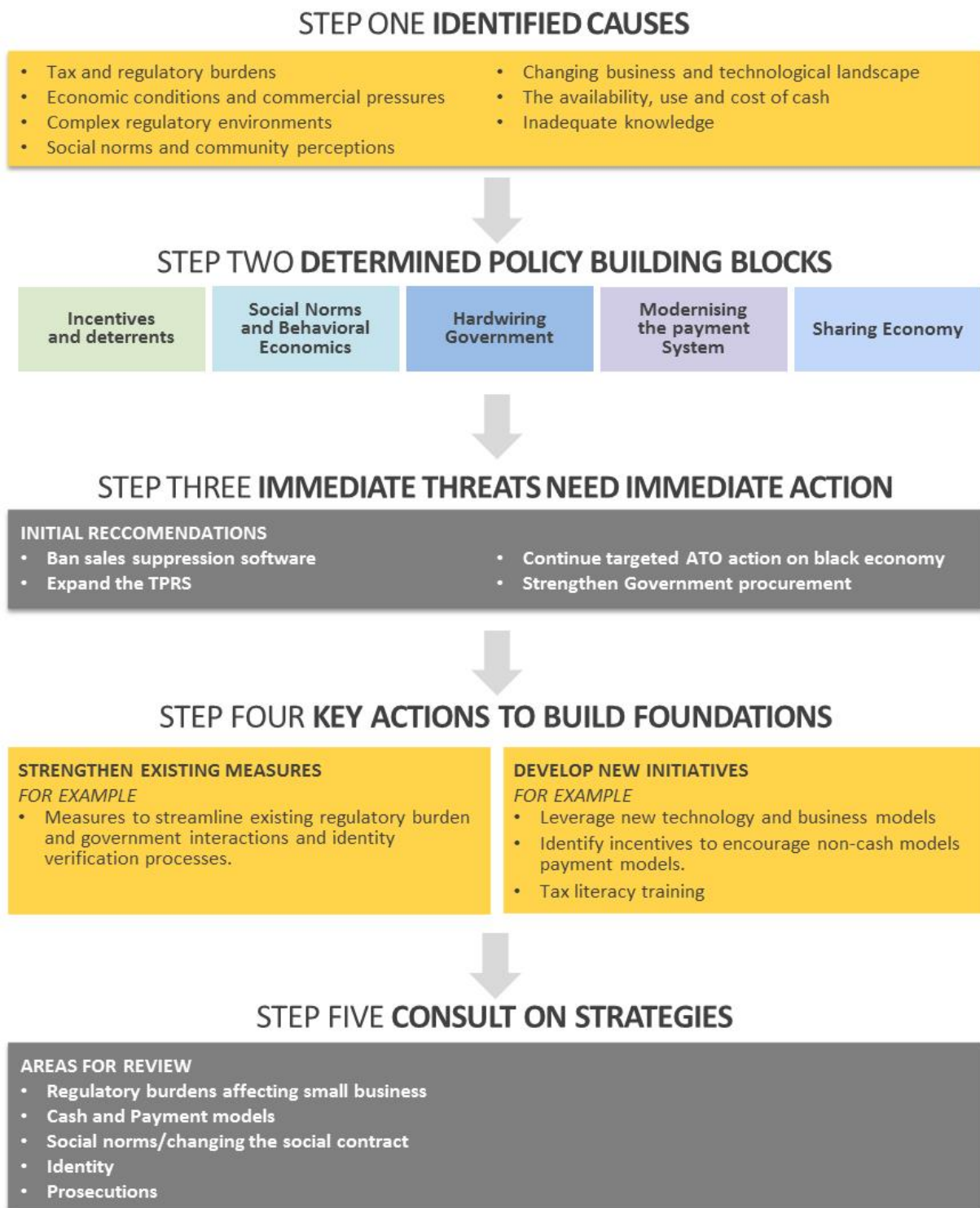
Program/initiative	Department	Short description	Timing
Beneficial ownership	Treasury	As part of Australia's first Open Government National Action Plan the Government committed to improve transparency of information on beneficial ownership and control of companies available to relevant authorities. <b>Consultation paper</b>	Consultation Paper was released on 13 February 2017
Corporate whistleblower protections	Treasury	The Review of tax and corporate whistleblower protections in Australia consultation paper is seeking public comments to assist the Government with the introduction of appropriate protections for tax whistleblowers and in assessing the adequacy of existing whistleblower protections in the corporate sector. <b>Consultation Paper</b>	Consultation Paper was released on 20 December 2016, submissions closed on 10 February 2017.
Changes to penalties for small business and individuals	ATO	The ATO consulted on reshaping its approach to the application of penalties for situations where there has been a failure to take reasonable care or a failure to lodge (an activity statement or an income tax return) on time. <b>ATO website</b>	Consultation closed on 24 October 2016. Findings published on 8 March 2017.
AML/CTF statutory review implementation	AG	Consultation on the Report on the Statutory Review of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> . The report contains 84 recommendations to streamline and strengthen Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regime. <b>AG website</b>	Consultations on phase 1 closed 31 January 2017, further consultations to continue to 2019.
Dual-network cards and mobile wallet technology	RBA	Consultation on competition in the mobile wallet sphere, specifically about conduct that may prevent or make it more difficult for both networks on a dual-network debit card to be enabled on a mobile device. <b>Consultation Paper</b>	Consultation paper was released on 7 December 2016, submissions were due by 7 February 2017.

## TARGETED POLICIES AND INITIATIVES

Program/initiative	Department	Short description	Timing
National Business Simplification Initiative	Multi-Agency — Department of Industry, PM&C, Department of Health, DTA	The Initiative which also works with states and territories aims to reduce the complexity of regulation for businesses and make dealings with government easier. The Initiative is also considering the future of Government registers.	Established November 2016. Ongoing.
Work-related expenses trial	ATO with the Behavioural Economics Team of the Australian Government (BETA)	BETA is working with the ATO to develop and test behavioural interventions that encourage taxpayers to claim correct work-related expenses.	Trial delivery expected in March 2017. Completion by June 2017.
Deferred GST scheme trial	ATO (with BETA)	BETA will work with the ATO business line to encourage non-compliant participants in the scheme to meet their eligibility requirements.	Trial delivery expected in April 2017. Completion by June 2017.
International Student Help-seeking	Department of Education and Training (DET) (with BETA)	BETA is assisting DET, in partnership with FWO, to incorporate behavioural insights into messaging (texts and emails) that will be evaluated for their effectiveness in prompting help-seeking for workplace exploitation by international students.	Completion by June 2017.
Building persistent compliance	Fair Work Ombudsman (FWO) (with BETA)	BETA is assisting FWO to incorporate behavioural insights into their audit correspondence and campaign activities in order to increase the rate of persistent compliance among small businesses as well as improve the efficiency of their audit processes.	Completion by Dec 2017.
More robust identity — verification and authentication — MyGov 2.0/GovPass/VanGuard	Multi-agency — Digital Transformation Agency, DHS, DIIS	Updated government digital identity arrangements. A better digital experience for users of government services — easy to use, better outcomes, improved security and privacy, 'build once, use many times'.	To be delivered via a beta at the end of 2017 with a plan to go to a production version in mid-2018.
Credit card surcharging changes	RBA, Treasury, ACCC	Legislation to amend the <i>Competition and Consumer Act 2010</i> to establish a framework to ban surcharges imposed in respect of particular payment methods that exceed the cost of acceptance for those payment methods; and provide the ACCC with additional powers.  In parallel, the RBA has determined a new standard relating to merchant pricing that defines the 'cost of acceptance' for card payments.	Large merchants — implemented September 2016.  Other merchants — September 2017.

Program/initiative	Department	Short description	Timing
		<b>RBA Standard No.3 of 2016; RBA — Q&amp;A</b>	
New Payments Platform	Industry initiative	<p>The New Payments Platform is a major industry initiative to develop new national infrastructure for fast, flexible, data rich payments in Australia.</p> <p><b>NPPA website</b></p>	The NPP is on track to being operational in the second half of 2017. However, the implementation of new functionality will be gradual.
Fintel Alliance	AUSTRAC	<p>A world-first private-public partnership, established by AUSTRAC, to tackle serious financial crime including money laundering and terrorism financing.</p> <p>The Fintel Alliance combines expertise and skills from law enforcement, national security, regulatory, academic and private sector partners.</p>	<p>Commenced operation in November 2016.</p> <p>Official government launch 3 March 2017.</p>

# APPENDIX 3: STRATEGY MAP





## RECOMMENDATIONS BY IDENTIFIED CAUSE

Tax and regulatory burden	Economic conditions and commercial pressures	Complex regulatory environments	Social norms and community perspectives	Changing business and economic landscape	The availability, use and cost of cash	Inadequate knowledge
[3] Expansion of the Taxable Payment Reporting System	[20] Payment terms	[12] A possible bright line test for the hobby-business income distinction	[1] Access to Australian Government procurement opportunities should be limited to firms which have a good tax record (and do not engage in bribery)	[2] Tax (and other) incentives for small businesses who adopt and invest in non-cash business models	[4] Deductibility of cash wages and contractor payments	[7] Tax literacy training for trades and small business people
[6] Business registration integrity and modernisation		[18] Beneficial ownership reforms	[8] Funding for ATO activities	[5] An immediate ban on sales suppression technology	[10] Possible cash payment limit across the economy	[27] Education
[9] Regulatory burdens affecting small business		[25] Sectoral and other targeted strategies	[14] Limited use of amnesties	[11] A sharing economy reporting regime	[19] Support for non-cash payment methods (New Payments Platform and payment card fees)	[31] Vulnerable and other groups
[15] Withholding arrangements			[17] Phoenix taskforce	[13] Lowering the GST threshold	[30] Non-cash black economy payment methods	
[28] Working with other governments: state and local			[21] Procurement/responsible supply chain management	[16] Whole-of-government use of data/privacy		
[35] Creating an institutional legacy			[22] Social norms/changing the social contract	[33] Options for using biometric data		
			[23] Consumer-focussed action	[34] A data strategy for the black economy		
			[24] Whistleblowers			
			[26] Voluntary compliance			
			[29] Working with industry associations and tax professionals			
			[32] Prosecutions			

KEY

Incentives and deterrents

Social Norms and Behavioral Economics

Hardwiring Government

Modernising the payment System

Sharing Economy

## APPENDIX 4: STAKEHOLDER MEETINGS

Organisation	Organisation	Organisation
AUSTRAC	Digital Transformation Agency	FinTech Advisory Board
Australian Securities and Investments Commission	Tax Institute of Australia	Australian Hairdressing Council
Attorney-General's Department	Financial Services Council	Spotless Group Holdings
Department of Industry	Hair and Beauty Australia	Restaurant and Catering Association
Reserve Bank	Commonwealth Director of Public Prosecutions	PPB Advisory
Commonwealth Government	Australian Taxation Office	Visa
Australian Chamber of Commerce and Industry	Apple	United Voice
Master Builders Association	Australian Council of Social Service	National Farmers' Federation
Housing Industry Association	NAB	CPA Australia
Department of Prime Minister and Cabinet	Commonwealth Government	Convenience and Mixed Business Association
Council of Small Business Australia	Just Work Alliance	PayPal Australia
Attorney General's Department	Independent Contractors Association	Racing Australia
Australian Federal Police	Australian Bookmakers Association	NSW Small Business Commissioner