

BLACK ECONOMY ADVISORY BOARD MINUTES

2.30 – 4.30 pm, 13 September 2018, Sydney

PRESENT

Members

Michael Andrew, AO (Chair)
Maryanne Mrakovcic – Deputy Secretary, Revenue Group, Treasury
Jeremy Hirschhorn, Acting Second Commissioner, Client Engagement Group ATO (*for Neil Olesen*)
Paul Grigson, Deputy Secretary, Infrastructure, Transport Security and Customs Group, Department of Home Affairs
Charles Cameron, CEO, Recruitment, Consulting & Staffing Association
Tania Chapman, Chair, Voice of Horticulture
Michael Croker, Australian Tax Leader, Chartered Accountants Australia and New Zealand
Juliana Payne – CEO, Restaurant and Catering Industry Association
Peter Strong, CEO, Council of Small Business Organisations of Australia

Government Advisors

Patrick Boneham, Division Head, Black Economy Division, Treasury
Deborah Jenkins, Deputy Commissioner, Small Business, ATO

Secretariat: Kathleen de Kleuver and Christine Smith, Black Economy Division, Treasury

Welcome

The Chair welcomed the members to the first meeting of the Black Economy Advisory Board and highlighted the important insights that can be gained from speaking to the private sector and benefits of a whole of government approach in addressing the Black Economy.

Role of the Advisory Board

The Black Economy Taskforce final report recommended an Advisory Board to ensure implementation has the desired effect. This first meeting was to update members on what the government has done and is planning to do following the release of the Black Economy Taskforce final report and the Government's response. Future meetings would seek to further harness the value of insights from members. The charter was endorsed.

Members agreed to collaborate together to identify emerging black economy issues and assist the Government implement strategies including by acting as a sounding board.

It was agreed that members of the Board would be able to discuss the meetings in public except where it is asked within the meeting that the discussions be confidential. This is only

expected to happen where it relates to an unannounced policy decision or enforcement activity.

Implementation Update

Government members provided updates on the progress of the cross agency implementation of the recommendations of the Black Economy Taskforce final report following the Government's response as part of the 2018/19 Federal Budget.

Treasury advised it had set up a Black Economy Implementation team to oversee the overall implementation of the recommendations noting that it was a whole of government response. Treasury are also responsible for the delivery of a number of measures including reporting to Government and a further report in 5 years.

So far, Treasury has issued three consultation papers:

1. Increasing the integrity of Government procurement
2. Introducing an economy wide cash payment limit
3. Designing a modern Australian Business Number system

Treasury has also recently consulted on draft legislation on a further three measures:

1. Removing tax deductibility of certain payments
2. Further expansion of the taxable payment reporting system
3. Collecting tobacco duties and taxes at the border.

Feedback has been generally supportive. Future consultation is expected on a review of black economy offences and penalties, reporting for the sharing economy and draft guidelines in respect of the Government procurement policy. Other issues under consideration are developing strategies to decrease the use of cash, mandating the payment of salary and wages into bank accounts and work with Standards Australia on private supply chains. The Chair noted that a significant amount of work had been achieved in a short time.

The **ATO** noted the government had allocated significant funding to the ATO to implement a number of strategies for new and enhanced enforcement. [Governance arrangements](#) have been put in place to ensure a successful and co-ordinated implementation.

The ATO said that while detecting and acting on black economy activities was important, even more so is changing behaviours in the longer term.

To date the ATO had already been successful in taking action in respect of undeclared income and there had been a focus on re-engagement in lodgement. The ATO had focused on protection on the rights of employees, employee classification, reporting correctly and levelling the playing field. The mobile strike teams aimed at education, preventing and dealing with omitted income, hidden trade and under-reporting of income, and expanding help and support as well as tackling the most egregious behaviours have been operational since July 2018. There have been about 1000 walk-in visits to businesses in high risk industries particularly hair and beauty, restaurants and cafes and 10 town hall information sessions. 37% of all visits required follow up action which included a letter offering further information on electronic payments or support with record keeping and employer

obligations. Others may be subject to enforcement action. Generally there has been a positive community response.

The ATO also advised that they had been successful in identification of sales suppression software through compliance work targeting cafes and restaurants. They are undertaking compliance action on a number of test pilot cases.

Members noted that they would like to support the black economy activity in the media.

The **Department of Home Affairs** advised that they are taking strong action in relation to illicit tobacco noting that it is run as part of organised crime. A Taskforce has been set up and they have made a successful start in seizing 6 tonnes of tobacco leaf in Katherine, NT.

The Department of Home Affairs, working with the ATO and Treasury, are implementing a number of other measures as part of the Black Economy Tackling Illicit Tobacco package. This includes collecting tobacco duties at the border and introducing a prohibited import control for tobacco. In addition, new legislation has strengthened tobacco offences, now the offence is based on recklessness rather than intention or knowledge.

Intelligence sharing – private sector member sights

Members shared insights into the causes and emerging issues in the black economy. This included observations:

Regulatory costs:

Members advised that regulatory complexity increased compliance costs resulting in operating in the black economy to avoid the costs. Multiple industrial award schemes are an example of complexity. There are some workers who will only work for cash remuneration.

Single Touch Payroll and e-invoicing were initiatives that offered compliance cost savings, it should be a flag to the ATO if these are not being used. It is noted that these initiatives required obtaining software and there are some sectors of the community that are not computer literate.

The impact of compliance costs were particularly concerning in industries that are competitive with low barriers to entry, with non-compliance spreading by word of mouth and influencing others not to comply.

Employee classification issues:

The Board was advised that the Federal Court case of Workpac Pty Ltd and Skene handed down a decision that a casual employee could be considered a permanent employee which could mean that such employees could be entitled to annual leave plus casual loadings. The additional costs could incentivise black economy behaviour.

The impact of overtime awards for casual workers was also raised, including those with visas, and on the seasonal workers program.

Value of education on good economy behaviour:

Members advised black economy prevention strategies benefit from a strong element of education to promote 'good' economy behaviours. This included education materials in languages other than English to assist those from a non- English speaking background. It was noted that the ATO had numerous materials in other languages.

ABNs

It was noted that there are benefits to business in ABNs being easy to obtain but this can also lead to problems. Sometimes where there are few suppliers, it can be difficult for honest businesses to avoid dealing with those that want to operate in the black economy. There could be efficiencies in being able to get an ABN at the same time as ASIC registration.

It was agreed that it was important that ABN data on the register was up to date.

'Dob ins'

The importance of the community reporting black economy behaviours and protection of the whistle blower was discussed.

Role of advisers

The role of advisers was raised. Professional advisers play an important role in promoting integrity and should not be promoting black economy behaviours. Promoter penalties were mentioned. Some businesses could not afford professional advisers.

Incentives to drive non-black economy behaviour

The Board discussed the importance of improving integrity in the supply chain which will promote a level playing field for the majority of compliant businesses. The Government is implementing two measures on procurement, firstly requiring businesses tendering for Government contracts over \$4m to provide a statement of tax record to the procuring agency, and secondly work with Standards Australia on private supply chains. The Board expressed interest in the work of Standards Australia.

Safe harbours as part of a structured program with established criteria were also suggested as a way of inspiring good behaviour. It was suggested that this would allow regulators to focus on those that engage in the black economy.

A trusted small business concept was raised.