Centre for Theology and Ministry

29 College Crescent

Parkville Victoria 3052

Black Economy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

E-mail: blackeconomy@treasury.gov.au

**Submission from the Synod of Victoria and Tasmania, Uniting Church in Australia on introducing an economy wide cash payment limit**

**22 June 2018**

The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes this opportunity to provide input to the consultation on introducing an economy wide cash payment limit. The Synod has been concerned about money being stolen from developing country governments and laundered through Australia. The Synod shares the government’s concern that large cash payments facilitate money laundering in Australia and there appears to be no obvious reason why a person engaged in a lawful transaction would do so with a large amount of cash.

The Synod has taken a long interest in the need to reduce corruption in Australia and globally, as corruption does real harm to people, holds back development and undermines confidence in government and public institutions. In 2014 the meeting of 400 representatives of the Synod resolved:

*14.7.19.3. The Synod resolved:*

*(a) To continue its support for action by the Commonwealth Government to combat corruption,   
 both in Australia and internationally; and*

*(b) To request the Commonwealth Government:*

1. *To extend Australia’s anti-money laundering/counter-terrorism financing laws to cover designated non-financial businesses and professions named in the Financial Action Task Force international standards, and specifically to real estate agents in relation to the buying and selling of property, dealers in precious metals and stones, lawyers, accountants, notaries and company service providers;*
2. *To require a bank or other financial institution which assesses that funds it is dealing with have a high risk of being associated with money laundering to refuse to deal with the funds unless instructed otherwise by the appropriate Australian law enforcement agency;*
3. *To share information automatically with the relevant foreign authorities when a foreign politically exposed person purchases property or transfers funds to Australia, unless the Australian authorities have some reason to carry out a prosecution of the person themselves and sharing the information would compromise that prosecution, or if the Australian Government has reasonable concerns the information is likely to be misused to carry out human rights abuses;*
4. *To establish a dedicated unit within the Australian Federal Police to investigate money and assets stolen from foreign governments and shifted to Australia by politically exposed persons and to seek to return the stolen assets where possible;*
5. *To establish a national unexplained wealth scheme to combat the ability of organised criminals to profit from their crimes, where unexplained wealth provisions are not limited by having to prove a predicate offence;*
6. *To implement an effective non-conviction based confiscation and restraint mechanism to deal with criminal assets transferred from overseas to Australia; and*

*(c) To write to the Prime Minister, the Attorney General, the Leader of the Opposition and the Shadow Attorney General to inform them of this resolution.*

**1. Should the limit apply to the price of the payment for the goods and services?**

The Synod supports the limit applying to the price of the payment for the goods and services, so as to avoid the limit being easily circumvented by payment splitting. Payment splitting in itself should be regarded as a suspicious activity for the purposes of reporting to AUSTRAC by reporting entities under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006.* As noted above the Synod has advocated for the AML/CTF Act to cover designated non-financial businesses and professions named in the Financial Action Task Force international standards, and specifically to real estate agents in relation to the buying and selling of property, dealers in precious metals and stones, lawyers, accountants, notaries and company service providers.

As an example of a case involving payment splitting for money laundering purposes, John Spriggs, found guilty in Queensland of serious criminal drug related offences, was subject to proceeds of crime proceedings in Queensland commenced in 2007 and settled in 2016. Court documents reveal that one of the assets subject to confiscation proceedings, a Gold Coast residential property, was purchased in 2000 by Spriggs for the total cost of $275,000 and paid for in an unusual manner.=

The real estate received two deposits - $5,000 cash and $5,000 cheque. The Bundall conveyance lawyer received the $265,000 remainder with Spriggs paying 190 separate payments over a period of two weeks. These payments consisted of:

* $181,000 in 181 $1,000 money orders purchased from more than 14 different post offices;
* $40,000 in 6 cash payments; and
* $44,000 in 3 bank cheques.

The lawyer issued 190 separate receipts for these payments and there is no evidence a report of suspicious behaviour was made to authorities. Spriggs, who was believed to be unemployed at the time, said the monies were saved from employment, business operations and gambling wins on horses. The funds were stored in a home safe, a bank security box and his bank account.

Thus, in the Synod’s view a cash payment limit of $10,000 is at a very high level to address shadow economy activities, as demonstrated by most of the cash transaction limits set by the other jurisdictions listed in Attachement A of the Consultation Paper.

**2. What are the barriers to implementing a cash payment limit on 1 July 2019?**The Synod is not aware of any reason why the cash payment limit should not be implemented by 1 July 2019, as there are no obvious business activities where payments by cash over $10,000 would be necessary to purchase goods and services and could not be easily done another way.

**6. Is the holding of an ABN an appropriate test for determining which entities are subject to the cash limit?**

The Synod is supportive that the cash payment limit be applied to entities holding an ABN. The possible loophole is payment for goods and services to foreign businesses, some of which will be reported to AUSTRAC if they involve the transfer of funds across the border. If the cash payment limit is only applied to entities with an ABN, appropriate law enforcement agencies should monitor activities engaged to try and use this to circumvent the cash payment limit. This might then require using a wider set of criteria to catch and prevent large cash payments that are part of the shadow economy or other criminal activity.

**9. Should there be any additional reporting requirements for businesses to report transactions above or close to the cash payment limit?**

Ideally higher risk sectors, such as the designated non-financial businesses and professions named in the Financial Action Task Force international standards should have an obligation to report suspicious transactions, such as payments structured to avoid the cash payment limit or close to the limit where a normal person would not make the payment in that way.

Requiring all businesses to report cash payments close to the limit would be useful to get a sense of how widely such cash payments are made and in what sectors, but less useful in helping law enforcement detect criminal behaviour as part of the shadow economy unless they have the data analytical tools to process what is likely to be a large amount of data.

**10. Is it appropriate for both parties to a transaction exceeding the cash limit be liable for a penalty?**

The Synod supports that both parties to the transaction, the payer and the receiving business, be subject to a penalty for a transaction exceeding the cash payment limit, to avoid parties on one side of the transaction being able to ask for cash transactions and not face sanction for doing so while all the risk of sanction rests with the parties on the other side of the transaction.

**11. What integrity measures are needed to support the cash payment limit?**

Integrity measures that are required to support the cash payment limit include requiring businesses in sectors where there is a high risk of shadow economy activities to have to report suspicious payment activities that appear structured to avoid the cash payment limit.

There should also be a ban on long term payment plans where the total purchase price in cash is above the cash payment limit.

Payment by digital currencies, where the digital currency operates like cash, should also be subject to the cash payment limit. This would not apply where the digital currency transaction leaves a trail similar to a transaction from a bank account. The same should also apply to payments by stored value cards where the type of card allows the loading up of the card to be through a cash payment rather than a bank account.

**16. Is there a need for different rules for foreign tourists? Would the administrative burden on business in administering a higher cash limit specifically for tourists, justify retaining the $10,000 cash limit for all, including tourists?**

Given the $10,000 limit is very high, the Synod sees no need for a special cash payment limit for tourists. It is hard to imagine what tourists would need to pay cash for that would involve the payment of $10,000. Having a higher limit will make it easier for criminals from overseas to bring in cash under the cover of ‘tourists’ or using associates posing as ‘tourists’ to launder funds in Australia. It also creates integrity problems, with a business needing to be able to determine if someone meets the definition of tourist. There is a question on how this would be established, as simply having a foreign passport is not proof of being a tourist.

The Australian Institute of Criminology points out that a common strategy used by individuals wishing to transfer the proceeds of crime across national borders is to conceal it in their clothing, or strap it to their body.[[1]](#footnote-1) They gave the case of a couple visiting Australia from Beijing who allegedly attempted to bring in more than $100,000 in cash concealed inside the man’s jacket and the woman’s handbag. Having a higher cash limit for tourists makes such transfers of proceeds of crime into Australia more attractive than if the already high limit of $10,000 applies, as it means once the currency is smuggled into Australia it is easier to make large purchases with for any money laundering activities.

Dr Mark Zirnsak

Senior Social Justice Advocate

Phone: +61-3-9340 8807

E-mail: mark.zirnsak@victas.uca.org.au

1. Russell Smith and John Walker, ‘The illegal movement of cash and bearer negotiable instruments: Typologies and regulatory responses’, *The Australian Institute of Criminology, Trends and Issues No. 402, October 2010, 2.* [↑](#footnote-ref-1)