### February 2019

### 9004735

## A Sharing Economy Reporting Regime

# Tackling the Black Economy

# Response to January 2019 consultation paper

Thank you for providing AUSTRAC with the opportunity to comment on the Sharing Economy Reporting Regime consultation paper in response to the Black Economy Taskforce Final Report.

AUSTRAC is Australia’s financial intelligence regulator (FIU) with regulatory responsibility for anti-money laundering and counter-terrorism financing. AUSTRAC is Australia's primary source for financial intelligence used to fight serious and organised crime and terrorism financing. AUSTRAC also oversees compliance of more than 14,000 Australian businesses ranging from major banks and casinos to single-operator businesses with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and associated Rules*.*

The contact point for this submission is AUSTRAC’s Government Relations team. If you have any questions about the submission, or require further information, please email [government\_relations@austrac.gov.au](mailto:government_relations@austrac.gov.au).

AUSTRAC offers the following observations arising from the January 2019 consultation paper for your consideration.

### Money laundering and sharing economy platforms

There are circumstances now emerging globally where sharing economy platforms (e.g. Airbnb, Uber) are being exploited for money laundering purposes, usually involving complicit employees involved with criminals domiciled in another jurisdiction. Furthermore, there are research and press articles that have identified *micro-laundering* using sharing economy platforms. This involves laundering a sum of money by scattering it over many electronic transactions[[1]](#footnote-1),[[2]](#footnote-2).

AUSTRAC continues to closely monitor developments in sharing economy payment platforms to ensure that gaps are not emerging under the AML/CTF framework that enable these services to be exploited for money laundering (ML) and terrorism financing (TF) purposes[[3]](#footnote-3).

### Responses to consultation questions

The responses below are offered to questions most relevant to AUSTRAC.

***Question 1:* *Does there need to be changes to existing reporting requirements as they relate to sellers in the sharing economy? Is a separate reporting regime required?***

AUSTRAC supports the introduction of a reporting regime with a preference for Option 1.

The ATO currently collects information from various businesses on employee wage payments, financial activity and investment dividends. Extending the collection of information to sharing economy businesses would be consistent with current ATO practices.

AUSTRAC recognises that Option 1 may require infrastructure changes and impose compliance costs on businesses. However, AUSTRAC consider that Option 2 is less desirable because of the costs that would be incurred by financial institutions, suitable datasets are not currently available and industry has indicated there would be obstacles in isolating transactions with a sufficient level of detail.

While preferring Option 1, we note that in some cases this option could create an uneven playing field between domestic and international platform operators. This creates the potential for displacement of customers, and the associated tax evasion and other financial crime risks, from domestic to international platforms for some sharing economy services.

***Question 8: What information should be provided to the ATO and potentially shared with other agencies by the ATO?***

Where available, AUSTRAC suggests that the ATO should collect the following details on the seller and customer (if known):

* Full name
* Address (street, suburb, state, postcode)
* Date of birth
* BSB and bank account number
* Credit card number
* Sharing platform account number/unique identifier/user name
* Australian Business Number / Australian Company Number
* Australian Tax File Number
* Product/service offered
* Phone number
* Email address

There may also be value in collecting information relevant to online activity such as IP addresses, MAC addresses and IMEI numbers. These data points are currently able to be reported to AUSTRAC by digital currency exchanges in transaction reports and suspicious matter reports and may prove valuable in matching the information reported to the ATO against AUSTRAC’s holdings.

Section 125 of the AML/CTF Act states the Commissioner of Taxation and any taxation officer is entitled to access AUSTRAC information for any purpose related to the facilitation of the administration or enforcement of a taxation law.

AUSTRAC could support the ATO through the provision and sharing of AUSTRAC information that either supplements or complements ATO information, for example, in data matching exercises.

***Question 10:* *What types of activities and transactions undertaken through a sharing economy platform should be reported? Should it be the responsibility of the platform to report this information?***

Any activity between the seller and customer where payments are made should be reported. The reporting of fees or commissions paid to the platform associated with each activity or transaction would increase the transparency of payments.

AUSTRAC considers that it should be the responsibility of the platform to report the information. The responsibility for reporting should lie with the platforms given it is their users who are deriving Australian taxable income from the platform. Reporting by platforms would also reduce the risk that users will find alternative payment mechanisms to avoid reporting by financial institutions.

***Question 11:* *What transaction and identification details may need to be included in a reporting regime?***

The reporting regime should require reporting in defined fields the identification details used to register and/or verify the parties to a transaction that maximises opportunities for data matching with other data sets, including AUSTRAC information. A reporting regime should include the user’s full name and bank account or credit card details at a minimum, and date of birth (if collected).

Depending on the platform’s business model other identification details currently being collected may be limited but if available would improve the utility of data collected under the reporting regime. For example, other identifying details may include an email address, phone number or a government issued identity document such as a passport.

Where the platform collects government issued identity document details the following should information be reported:

* passport (issuing country, number, expiry date)
* driver’s licence (country, state, licence number).
* ABN/ACN

A reporting regime that included these details would reduce false positive or false negative results in data-matching between ATO held data and data held by AUSTRAC and other government agencies and provide greater confidence to data matches.

Transaction details such as the amount (in AUD) and date the transaction was conducted and bank BSB and account details (in defined fields) would also be useful to include. Depending on the platform, it is likely that some sellers will have offshore accounts.

***Question 20: Would Option 2 be an efficient alternative to Option 1 (reporting by sharing economy platforms)?***

We consider Option 2 would be less efficient as financial institutions are likely to have significantly less information to report than the sharing economy platform, and may provide greater scope for users of sharing economy platforms to avoid reporting by using alternative payment methods. However, where platforms are based overseas it may be easier to access information, albeit limited, from financial institutions in Australia.

We note that AUSTRAC’s existing holdings may provide some data where Australians are using sharing economy platforms based overseas, and there may be scope to improve the utility of this information in future.

As highlighted under Chapter 6 of the Report of the Statutory Review there may be opportunities to reform international funds transfer instruction (IFTI) reporting by the financial institutions and other businesses regulated for AML/CTF purposes to enable better data matching of AUSTRAC and ATO data holdings for payments from overseas based platforms to Australian residents. Reforms to IFTI obligations will be considered as part of the Phase 2 AML/CTF reforms, expected to be developed later in 2019.

***Question 21:* *Is it possible to overcome the issues identified with Option 2, or are there other reasons why it may be preferable?***

We consider that the challenges of collecting data from financial institutions under Option 2 as outlined in the discussion paper—such as unavailability of suitable data sets, comingling of funds and difficulty in identifying income from sharing platforms—make Option 1 preferable. Under Option 2 the ATO may need to provide financial institutions with identifiers (e.g. originating bank account, payer name) in order for the financial institutions to be able to extract the required data.

Data collection from financial institutions may be further complicated where a platform makes changes to its payment processes mid reporting period. For example, changing the company originating the payments or the descriptive text sent with the payment.

Option 2 may only be preferable where the sharing economy platform is based overseas and unwilling to provide data to the ATO. However, consideration should be given to the extent that the ATO’s existing access to AUSTRAC information could address this scenario.

***Question 22:* *What other reporting regime options could be utilised to input into the ATO’s data matching activities?***

We believe that consideration and implementation of the reforms around transaction reporting highlighted under Chapter 6 of the Report of the Statutory Review, especially as it relates to the simplification, streamlining and closure of reporting gaps with IFTI reporting, will significantly assist and benefit the ATO in its revenue protection role.

1. Richet, J-L. Tools and Resources for Anti-Corruption Knowledge – June, 01, 2013 - United Nations Office on Drugs and Crime (UNODC). [*Laundering Money Online: a review of cybercriminals’ methods*](https://arxiv.org/ftp/arxiv/papers/1310/1310.2368.pdf). [↑](#footnote-ref-1)
2. Fazzini, K. [*How criminals use Uber and Airbnb to launder money stolen from your credit card*](https://www.cnbc.com/2019/02/07/how-criminals-use-airbnb-uber-launder-stolen-credit-card-money.html). 7 Feb 2019. CNBC [↑](#footnote-ref-2)
3. Recommendation 4.7: AUSTRAC should closely monitor the ML/TF risks associated with new payment types and systems (including front-end applications), to ensure gaps do not develop in Australia’s AML/CTF regime. [↑](#footnote-ref-3)