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## Lawyers' role in maintaining the rule of law must not be compromised

The Law Council of Australia has cautioned that Australian lawyers cannot become covert informers on their clients.

Appearing today before the Legal and Constitutional Affairs Legislation Committee as part of its inquiry into the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024 [Provisions], the Law Council said it still holds strong concerns about aspects of the Bill.

"We support efforts to prevent financial crime, deprive terrorist groups of income sources, and to ensure Australia meets the standards it has committed to as a member of the Financial Action Task Force (FATF)," Law Council of Australia President, Mr Greg McIntyre SC said.

"However, we do not agree with rhetoric that Australia needs to implement an AML/CTF regime which requires Australian lawyers to report on their clients, or face being 'grey-listed' by the FATF.

"We believe Australia not only can, and should, develop its own localised solution that mitigates AML/CTF risks, but that this is not contrary to FATF requirements. The FATF assessment explicitly recognises there will be regional differences in domestic law and legal systems applying to lawyers.

"Therefore, we continue to recommend amendments to the Bill which we believe will achieve the outcomes desired, without causing significant harm to the fundamental rights of ordinary Australians with legal problems or concerns to consult their lawyers in privacy – rights which are essential to the administration of justice in this country.

"In particular, we remain concerned about the potential for this Bill to undermine the lawyer/client relationship and the position of lawyers as officers of the court, which is a core part of Australia's justice system and the rule of law.

"It is critical that a person seeking legal advice is able to have a frank and honest discussion with their lawyer, which can include matters that may implicate the person in a crime, without fear that the lawyer will, or is required to, inform a prosecuting authority. This in turn advances the rule of law as it assists clients in conducting their personal and business affairs within the law.

"The Bill in its current form requires a lawyer to secretly report 'suspicious matters'. The threshold for suspicious matter reporting is very low and broad—much wider than money laundering.

"In Canada, a comparable nation, lawyers are not required to make suspicious matter reports and it has not been grey listed.

"We believe the Australian model needs to strike a better balance between law enforcement and access to justice. This would mandate action to be taken by the legal profession to avoid unwittingly facilitating money laundering, without undermining the important role that lawyers play in the administration of justice.

"In addition, we continue to raise the potential for the proposed regime to impose substantial regulatory burden and costs on lawyers, which will make it even more difficult for Australians to access legal assistance when they need it most."

A copy of the Law Council's submission is available [here](#).

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*The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.*