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## AML/CTF reforms must be balanced and proportionate

*All comments to be attributed to Law Council of Australia President-Elect, Juliana Warner*

Money laundering, and the horrendous crimes connected with it, is a scourge. Continued efforts must be made to disrupt this practice and discover and punish those bad actors in any sector who knowingly facilitate money laundering.

The Law Council of Australia welcomes continued monitoring of the points of risk that may enable money laundering in this country and steps to close any gaps that exist.

The Law Council supports the Attorney-General's commitment to risk-based and outcomes-based AML/CTF legislation.

However, legislation needs to be balanced and proportionate to the real risk, targeted and carefully drafted to ensure vital foundations of our legal system, including access to justice and client legal privilege, are not weakened.

Existing statutory obligations and requirements imposed on legal practitioners mean that the residual risk in the legal sector is generally low. Our own analysis indicated the need for heightened awareness of inadvertent exposure to financial crime. The Law Council has moved to address this need by producing comprehensive Guidance Notes for the profession with input from its constituent bodies. The constituent bodies are now moving to roll out education programs for their state-based constituents.

In addition, risk is not shared across our profession. Many areas of legal practice have negligible or no risk. Therefore, the scope of services which are subject to new AML/CTF obligations must be carefully considered.

Without such a restriction, firms providing services, such as advice work, to everyday Australians will face increased costs and red tape burden for no good reason. These imposts will cause firms unnecessary financial hardship, particularly for small firms and those in rural, regional and remote areas.

A cornerstone of Australia's justice system, and the rule of law, is that when a client tells their lawyer something in order to seek advice, their communication will be confidential and privileged. This principle fosters public confidence in the role of legal advisors and the legal system more generally, which is central to facilitating the administration of justice, noting that privilege does not attach to communications in furtherance of an illegal or improper purpose.

Any reforms must not require lawyers to breach client legal privilege. This is the client's privilege, not the lawyer's. We have therefore called for legal practitioners to be exempt from any suspicious matter reporting obligation where that 'suspicion' is based upon information or documents the subject of client legal privilege; and for anti-tipping off provisions to be amended to allow legal practitioners to take instructions from clients in relation to the client's legal privilege.

The changes being considered are significant and the profession must have adequate time to prepare for and implement any new requirements following the passage of legislation.

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