



Australian Government

AUSTRAC

Privacy Impact Assessment

AUSTRAC Data matching
program and Fintel Alliance
(Initial operational projects)

“ A FINANCIAL SYSTEM **FREE**
FROM CRIMINAL ABUSE ”

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Summary

1. The Australian Transaction Reports and Analysis Centre (AUSTRAC – Australia’s Financial Intelligence Agency) is undertaking a Privacy Impact Assessment (PIA) to assess any privacy impact on individuals resulting from AUSTRAC’s data-matching program and the creation of the Fintel Alliance.
2. This PIA assesses:
 - AUSTRAC’s data-matching program; and
 - Fintel Alliance’s three initial launch projects, which consist of the Panama Papers, online money ‘mules’ and an examination of the Australian Cybercrime Online Reporting Network dataset.
3. A further PIA in respect to Fintel Alliance will be undertaken as the Fintel Alliance operations mature.
4. The PIA recommends that for managing, minimising or eliminating any privacy impacts the AUSTRAC Privacy Policy be amended to expressly mention the data-matching program and Fintel Alliance, and that any privacy matters relating to the program or the Alliance be governed by the AUSTRAC Privacy Policy.

PIA methodology

5. AUSTRAC has consulted with members of the AUSTRAC Privacy Consultative Committee (PCC) on the draft PIA. The PCC comprises members from the Office of the Australian Information Commissioner (OAIC), Liberty Victoria, University of New South Wales, Attorney-General’s Department, Australian Criminal Intelligence Commission, Australian Taxation Office, and the Australian Federal Police. The Committee is chaired by AUSTRAC’s Chief Legal and Risk Officer.

AUSTRAC

6. AUSTRAC is Australia’s anti-money laundering and counter-terrorism financing (AML/CTF) regulator and specialist financial intelligence unit (FIU). AUSTRAC regulates the compliance of Australian businesses with their obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and *Financial Transactions Report Act 1988* (FTR Act). These businesses (known as ‘reporting entities’) include financial services providers,

the gambling industry and bullion dealers under the AML/CTF Act, and 'cash dealers' under the FTR Act.¹

7. As Australia's FIU, AUSTRAC collects and analyses information provided to it by regulated entities and disseminates the resulting financial intelligence to law enforcement, national security, human services and revenue raising agencies, and certain international counterparts. The agencies and counterparts use this information to assist them investigate serious criminal activity including money laundering, terrorism financing, people smuggling, organised crime and tax evasion.
8. Data-matching is an integral part of AUSTRAC's functions. AUSTRAC proactively seeks and acquires 'open and non-open' source external data, according to its own priorities, and conducts proactive data-matching against AUSTRAC information².
9. In addition, AUSTRAC is pursuing a collaborative working relationship with industry (financial, technology and related entities), non-Government organisations (NGOs), academia and law enforcement and national security agencies in order to discover, understand, prevent and disrupt criminal and terrorist activity.³
10. One of the initiatives arising from this strategic approach is the creation of the Fintel Alliance, and in respect of which data-matching will be an integral aspect of its functions.

¹ Both 'reporting entities' and 'cash dealers' are often referred to generically as 'regulated entities'.

² 'AUSTRAC information' is defined in section 5 of the AML/CTF Act, and means eligible collected information, a compilation by the AUSTRAC CEO of eligible collected information, or an analysis by the AUSTRAC CEO of eligible collected information.

'Eligible collected information' is in turn defined as:

- information obtained by the AUSTRAC CEO under:
 - the AML/CTF Act; or
 - any other law of the Commonwealth; or
 - a law of a State or Territory; or
- information obtained by the AUSTRAC CEO from a government body; or
- information obtained by an authorised officer under Part 13, 14 or 15 (of the AML/CTF Act); and

includes FTR information (within the meaning of the *Financial Transaction Reports Act 1988*).

³ [AUSTRAC Corporate Plan 2016-20](http://www.austrac.gov.au/publications/corporate-publications-and-reports/austrac-corporate-plans), page 5. Available at: <http://www.austrac.gov.au/publications/corporate-publications-and-reports/austrac-corporate-plans>

AUSTRAC's data-matching program

11. Data matching means the “bringing together of at least two data sets that contain personal information, from different sources, and comparing those data sets with the intention of producing a match.”⁴
12. AUSTRAC's proactive data-matching program involves the obtainment of external data from a variety of non-open and open sources, according to its requirements.
 - **Non-open source data:** external data that is not publicly available, including data related to national security and law enforcement. The source-data organisation could be domestic or overseas government and non-government agencies.
 - **Open source data:** this includes both data that is publicly and freely available, such as data on websites that are accessible to anyone with internet access⁵, and restricted open-source data which is publicly available but only upon registration with certain service provider or organisation, whether or not a registration fee is involved⁶.
13. Proactive matching of data sources against AUSTRAC's own data holdings improves AUSTRAC's intelligence and research capabilities by enhancing the value and quality of data. In turn this improves the effectiveness and efficiency of AUSTRAC's intelligence and regulatory operations, and is therefore an important aspect of AUSTRAC's functions.

Fintel Alliance

Objectives

14. Fintel Alliance is a partnership between AUSTRAC, other government agencies, NGOs, academia and reporting entities. The launch programs are intended to facilitate collaborative, innovative and timely sharing of actionable financial intelligence with Fintel Alliance partners to manage ML/TF risk.

⁴ Office of the Australian Information Commissioner, *Guidelines on Data Matching in Australian Government Administration*, June 2014, p3 (the Guidelines).

⁵ An example of such a website is DFAT's website containing a consolidate list of persons and entities to which the *Charter of the United Nations Act 1945* and the *Autonomous Sanctions Act 2011* apply.

⁶ Examples of restricted open source data include the World-check website providing a comprehensive list of sanctioned politically exposed persons, heightened risk individuals and organisations, and the Australian Business Register for looking up ABNs.

15. The broader and longer term objectives of the Fintel Alliance are detailed in the “*NFIC 10 Point Plan*” (**Attachment 1**). In summary, the objectives of the Fintel Alliance are to:
- develop an operating environment for exchanging real time intelligence
 - enable innovative systems of financial transactions and payments to emerge
 - contribute to a regulatory framework that delivers a more efficient and adaptable system of regulation
 - contribute to the growth of Australia’s economy

Structure

16. Fintel Alliance is not a separate legal entity from AUSTRAC. Fintel Alliance is accountable to the AUSTRAC CEO as the accountable authority of AUSTRAC under Schedule 1 subsection 3(b) of the *Public Governance, Performance and Accountability Rule 2014*. This is a requirement under section 12 (Accountable authorities) of the *Public, Governance, Performance and Accountability Act 2013*.
17. The internal ‘Fintel Alliance Foundations Program Board’ will shape the strategic direction of Fintel Alliance’s capabilities while the AUSTRAC Operations Committee may approve operational activity that has been endorsed by the Fintel Alliance Strategic Advisory Board (SAB).
18. The SAB’s role is to provide non-binding strategic advice and guidance to the AUSTRAC CEO on the development and operation of Fintel Alliance. The SAB terms of reference describe the mandate, membership, scope and operation of the SAB.

Participants

19. The inaugural Fintel Alliance Partners are:
- Attorney General’s Department
 - Australia and New Zealand Banking Group Limited ACN 005357522
 - AUSTRAC
 - Australian Competition and Consumer Commission
 - Australian Criminal Intelligence Commission
 - Australian Federal Police
 - Australian Taxation Office
 - Department of Immigration and Border Protection
 - Commonwealth Bank of Australia ACN 123123124
 - HSBC Bank Australia Limited ACN 006434162

- Macquarie Bank Limited ACN 008583542
 - National Australia Bank Limited ACN 004044937
 - New South Wales Crime Commission
 - New South Wales Police Force
 - PayPal Australia Pty Limited ACN 111195389
 - Westpac Banking Corporation ACN 007457141
 - Western Union Financial Services (Australia) Pty Ltd ACN 082282773
20. People from reporting entities and government agencies other than AUSTRAC are seconded to provide assistance to the AUSTRAC CEO under section 225 (Consultants and persons seconded to AUSTRAC) of the AML/CTF Act. Seconded are '*Entrusted public officials*' for the purposes of section 121 (Secrecy – AUSTRAC information and AUSTRAC documents) of the AML/CTF Act. Entrusted public officials may disclose AUSTRAC information in accordance with Part 11 (Secrecy and Access) of the AML/CTF Act.
21. How this disclosure occurs in the Fintel Alliance is outlined in the Fintel Alliance Member Protocol (the Protocol) and is discussed further below (**Attachment 2**). The Protocol details the information sharing arrangements at schedule 4.

Information Sharing Arrangements

22. Fintel Alliance Participants will send and receive information through AUSTRAC. AUSTRAC will disclose information via a secure, access-controlled platform to Participants.
23. Fintel Alliance Participants who are reporting entities will provide information to AUSTRAC in accordance with their reporting obligations under Part 3 of the AML/CTF Act and/or in response to statutory notices issued by AUSTRAC under Parts 3 or 11 of the AML/CTF Act.
24. Public Sector Participants will share information with AUSTRAC in accordance with their secrecy laws (if any) and any existing memoranda of understanding. AUSTRAC will obtain such information as eligible collected information⁷.
25. The ATO, designated agencies and non-designated Commonwealth agencies can access AUSTRAC Information under Part 11, Division 4 (Access to AUSTRAC information by agencies) of the AML/CTF Act.
26. A 'designated agency' is listed in section 5 (definitions) of the AML/CTF Act. A 'non-designated Commonwealth agency' is defined under section 5 to be 'an authority or agency of the Commonwealth that is not a designated agency'. Fintel Alliance Participants are designated agencies or non-designated agencies.

⁷ See footnote 2.

27. Fintel Alliance Participants may provide secondees who are engaged under section 225(3) of the AML/CFT Act may disclose information to their 'Home organisation'. 'Home organisation' means the secondee's employer and relevant Fintel Alliance participant.
28. Any AUSTRAC information provided by AUSTRAC to the Participants, and any related outputs that are produced by Fintel Alliance, will be disclosed by AUSTRAC under Part 11 of the AML/CTF Act. AUSTRAC may make the disclosure of AUSTRAC information under relevant provisions in section 121 of the AML/CTF Act.
29. The Protocol specifies that information disclosed to Fintel Alliance Participants will not be further disclosed by those Participants outside Fintel Alliance without the prior written approval of the AUSTRAC CEO or a nominee of the AUSTRAC CEO or as otherwise required by law.
30. Fintel Alliance Participants agree that information disclosed to them within Fintel Alliance will only be used for the purposes for which the information was provided to Fintel Alliance. Each Participant agrees that it is responsible for ensuring there is no mishandling or inappropriate use (including unauthorised copying, reproduction and storage of any kind) or disclosure of information accessed within Fintel Alliance by the Participant.

International Fintel Alliance Participants

31. The Protocol provides that any information received from offshore financial intelligence units (FIUs) will be handled in accordance with the Egmont Principles of Information Exchange⁸ and the relevant memorandum of understanding with that FIU.
32. Information provided to international partners will also be disclosed in accordance with the Egmont Principles and section 132 (Communication of AUSTRAC information to a foreign country) of the AML/CTF Act.

⁸ Available at: www.egmontgroup.org/library/download/291

Overview of Fintel Alliance launch projects

Panama Papers

33. The Panama Papers Project is an investigation into tax fraud, money laundering and other criminal-related enterprises arising from the leak of files from the database of the law firm Mossack Fonseca. The information reveals the myriad of ways in which high net worth individuals and corporations exploit secretive offshore tax regimes.
34. The Panama Papers were published in the public domain and those public papers do not constitute 'AUSTRAC information'. However, AUSTRAC has received from the ATO a more detailed version of the Panama Papers. This information is eligible collected information under paragraph (b): *information collected by the AUSTRAC CEO from a government body.*
35. AUSTRAC is seeking further information from reporting entities (including Participants in Fintel Alliance) through its coercive powers under section 167 (Authorised officer may obtain information and documents) of the AML/CTF Act. Information obtained by AUSTRAC through this process will be eligible collected information under paragraph (c): *'information collected by an authorised officer under Part... 14.'*

Online 'Money Mules'

36. The project aims to detect, deter and support persons recruited as 'mules' to launder criminal proceeds under the guise of legitimate employment. Persons are initially recruited by criminal groups to undertake legitimate activities before fraudulent or otherwise illegal monies are transferred into their bank account. The person is then requested by the criminal group to forward the money to a third party. The third party is usually off-shore and the method of transfer generally involves the person withdrawing the proceeds in cash and sending it offshore via remittance dealers or through virtual currencies.
37. This project involves close liaison between the Fintel Alliance and IDCARE. IDCARE is Australia and New Zealand's national identity support service which offers support to individuals who are concerned about the loss, misuse or theft of personal information. IDCARE works with government and industry to independently assess their capacity to respond to contemporary and emerging identity theft and misuse risks whether physical or online, including developing responses to current and emerging identity threats.

38. AUSTRAC obtains information on this project through a variety of means. The information may be contributed by reporting entities to AUSTRAC through SMRs and therefore falls under paragraph (a)(i) of the definition: '*obtained by the AUSTRAC CEO under...this Act.*'
39. The information may also be contributed by government agencies and therefore falls within paragraph (b) of the definition of AUSTRAC Information.
40. IDCARE may contribute information to reporting entities or other government agencies. If that information is forwarded to AUSTRAC by those reporting entities or other government entities then it becomes eligible collected information under paragraph (a)(i) or (b) of the definition.

Australian Cybercrime Online Reporting Network Data Exploitation

41. The Australian Cybercrime Online Reporting Network (ACORN) is a national online system that allows the public to securely report instances of cybercrime and online incidents which may be in breach of Australian law. It is a joint national policing initiative of the Commonwealth, State and Territory governments, but primarily is managed by ACIC through its Joint Management Group (JMG).
42. Information from this project is received from ACORN via the JMG which is under the auspices of ACIC. As ACIC is a 'government body', then the information provided to Fintel Alliance will be eligible collected information under paragraph (b) of the definition. The specifics of how ACORN information will be used and disseminated are still being worked through with the ACIC.

Analysis of privacy issues

43. The PIA examines the following privacy issues in so far as they relate to AUSTRAC's data-matching program, and also Fintel Alliance and its launch projects:
 - Collection of sensitive information
 - Cross-border disclosure of personal information
 - Privacy Policies of Fintel Alliance Participants
 - IDCARE Privacy Processes
38. A 'Table of Australian Privacy Principles' is also included which considers the Fintel Alliance against all the Australian Privacy Principles.

The Data-Matching Program

44. There is significant potential for data matching to pose a risk to an individual's privacy. In accordance with OAIC's *Guidelines on Data-Matching in Australian Government Administration*, AUSTRAC has developed and sought feedback from the OAIC in relation to its draft 'Proactive Data Matching Program Protocol'.
45. The OAIC has recommended that AUSTRAC prepares a separate protocol for each of its data-matching programs (rather than a single protocol that purports to cover different data-matching programs). Otherwise the OAIC has indicated that AUSTRAC's proposal to publish high level details of its data-matching activities in lieu of publication of notice for each data-matching program, and the corresponding proposal to make the data-matching program protocol publicly available, are sufficient to ensure public awareness of AUSTRAC's data-matching activities and are consistent with Australian Privacy Principle (APP) 5.
46. AUSTRAC accepts the recommendation of the OAIC and will develop thematically-based data-matching protocols to cover its various data-matching programs to best comply with the published OAIC *Guidelines on Data-Matching in Australian Government Administration*.

Fintel Alliance

Collection of Sensitive Information

47. The Fintel Alliance obtains sensitive information as defined under the Privacy Act. 'Sensitive information' is generally afforded a higher level of privacy protection under the APPs than other personal information (for example, under APPs 3, 6 and 7). This may include information (not all of which is collected) about:
 - Health (including predictive genetic information)
 - Racial or ethnic origin
 - Political opinions
 - Membership of a political association, professional or trade association or trade union
 - Religious beliefs or affiliations
 - Philosophical beliefs
 - Sexual orientation or practices
 - Criminal record
 - Biometric information that is to be used for certain purposes
 - Biometric templates
48. The APPs impose more stringent requirements for its collection of 'sensitive information'. Unless an exemption applies, the collection of sensitive information must be reasonably necessary for one of the entity's functions or activities, and

the individual about whom the sensitive information relates must consent to the collection.

49. AUSTRAC falls under the definition of ‘enforcement body’ in section 6(1) the Privacy Act: a ‘Commonwealth agency, to the extent that it is responsible for administering, or performing a function under, a law that imposes a penalty or sanction or a prescribed law’⁹ or a ‘Commonwealth agency, to the extent that it is responsible for administering a law relating to the protection of the public revenue’.¹⁰
50. It is also noted that the APP Guidelines specify AUSTRAC as being an ‘enforcement body’ for the purposes of section 6(1) of the Privacy Act¹¹.
51. Accordingly the collection of sensitive information by Fintel Alliance may be forwarded to Fintel Alliance Participants as AUSTRAC information. The Protocol imposes restrictions on the use of this information by reporting entity Participants, whereby any further disclosure of the information by the Participants must be authorised by the AUSTRAC CEO.

Cross-border Disclosure of Personal Information

52. APP 8 (Cross border disclose of personal information) generally requires an APP entity to ensure that an overseas recipient will handle an individual’s personal information in accordance with the APPs. Under the APPs the APP entity is accountable if the overseas recipient mishandles the personal information.
53. The Protocol states that information received from offshore FIUs will be handled in accordance with the Egmont *Principles of Information Exchange between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases* (the Egmont Principles) and the relevant MOU, while information to international participants is governed by the Egmont Principles and, in addition, section 132 (Communication of AUSTRAC information to a foreign country) of the AML/CTF Act.
54. The Egmont Principals state that:

All information exchanged by FIUs must be subjected to strict controls and safeguards to ensure that the information is used only in an authorised manner, consistent with national provisions on privacy and data protection. At a minimum, exchanged information must be treated as protected by the saem

⁹ Section 6(1)(f).

¹⁰ Section 6(1)(g).

¹¹ Office of the Australian Information Commission, *Australian Privacy Principle Guidelines*, paragraph 3.50.

confidentiality provisions as apply to similar information from domestic sources obtained by the receiving FIU.¹²

55. The AUSTRAC Privacy Policy states:

AUSTRAC also discloses personal information to certain overseas recipients who are authorised under Part 11 of the AML/CTF Act, or authorised or required by another law, to receive AUSTRAC information. AUSTRAC has signed exchange instruments with counterpart agencies in the countries to which AUSTRAC disseminates information. AUSTRAC's international information disclosure arrangements require that foreign recipients give appropriate undertakings protecting the confidentiality and controlling the use of the personal information.

56. These information disclosure arrangements include MOUs and international exchange arrangements. The standard provisions of a MOU include:

- The participants to the MOU must not release information for purposes other than the MOU without the prior written consent of the requested participant, unless legitimately ordered to do so by a court or tribunal.
- Information may only be used for investigating offences and only for intelligence purposes.
- The information will not be used as evidence in any court or tribunal proceedings without the prior written consent of the requested participant.
- The requested participant may refuse a request for information on the grounds that the information may be used in investigations or court or tribunal proceedings for an offence which is punishable by a penalty of death.
- Information acquired by the participants will be subject to official secrecy and will be protected with the same confidentiality as provided by the national legislation of the requesting participant.

57. The [AUSTRAC Policy – Communicating of AUSTRAC information to a foreign country](#) on disclosures under section 132 of the AML/CTF Act governs the handling of personal information.

¹² Egmont Principles, paragraph 13.

IDCARE Privacy Processes

58. IDCARE is not a regulated entity for the purposes of the AML/CTF Act or the FTR Act, nor is it a government body. Information IDCARE voluntarily contributes to AUSTRAC through the Fintel Alliance may not be caught by the definitions of 'AUSTRAC information' and 'Eligible collected information'. This is because the information 'obtained' by the AUSTRAC CEO is generally through reporting obligations under that Act, such as suspicious matter reports, international funds transfer instructions, threshold transaction reports and through the actions of AUSTRAC authorised officers.
59. Notwithstanding these concerns, it is considered that, due to current consultation between IDCARE and AUSTRAC as detailed below, information provided by IDCARE is solicited information within the terms of the Privacy Act, as it has been received by AUSTRAC/Fintel Alliance for the purposes of the AML/CTF Act under paragraph (a)(i) of the eligible collected information definition.
60. Incident reports generated by IDCARE as a result of meetings with their clients and forwarded to AUSTRAC/Fintel Alliance, will include a statement that the client has consented to the provision of their personal information for the purposes of informing law enforcement and/or national security agencies.
61. In circumstances where AUSTRAC/Fintel Alliance wishes to share information with entities other than law enforcement and national security agencies, IDCARE has agreed with AUSTRAC that clients will be asked for their express consent to share information they provide with private sector organisations (such as reporting entities) which are participants in the Fintel Alliance.
62. Any privacy impacts of providing personal information to Fintel Alliance will be mitigated by the requirements in regard to client consent which are being finalised by AUSTRAC and IDCARE.

Privacy Policies of Fintel Alliance Participants

63. The Privacy Act requires that an Australian Privacy Principle (APP) entity must have a clearly expressed and up to date policy about the management of personal information by the entity. Section 6 of the Privacy Act defines 'personal information' as:

personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

64. An 'APP entity' is either an 'agency' or 'organisation', with the latter encompassing business subject to certain exceptions.
65. The current Participants of Fintel Alliance are government agencies and private businesses (reporting entities). The New South Wales police and the New South Wales Crime Commission are exempt from the Privacy Act as it does not cover state or territory agencies, while ACIC is exempt under the provisions of section 7 (Acts and practices of agencies, organisations). However, such agencies must be aware of AUSTRAC's obligations under the Privacy Act.
66. The Privacy Act covers the following Commonwealth agencies which are Participants of Fintel Alliance: ATO, AGD, ACCC, AFP and DIBP.
67. The Privacy Act also covers the Fintel Alliance reporting entities ('organisations' under the Privacy Act): ANZ, NAB, Westpac, CBA, Macquarie Bank, Paypal, Western Union and HSBC.
68. This PIA has not conducted an exhaustive examination of the privacy policies of all these APP entities. Under the Protocol, Participants agree that they will not breach any legal obligations the Participant may have, including but not limited to, under the Privacy Act, any common law confidentiality obligations and the 'tipping off' provisions in section 123 of the AML/CTF Act.
69. However, as Fintel Alliance is covered by the AUSTRAC Privacy Policy, this policy is examined below and in the 'Table of Australian Privacy Principles'.

The AUSTRAC Privacy Policy

70. Fintel Alliance is not a separate legal entity from AUSTRAC. The AUSTRAC Privacy Policy governs the operations of the Fintel Alliance.
71. The AUSTRAC Privacy Policy¹³ states in regard to the collection of 'personal information':

AUSTRAC collects personal information only by lawful and fair means to fulfil the objects of, and the AUSTRAC Chief Executive Officer's (CEO's) functions under, the AML/CTF Act and the *Financial Transaction Reports Act 1988*. AUSTRAC's collection of personal information is required or authorised by those Acts and the Privacy Act.

The AUSTRAC CEO's functions under section 212 of the AML/CTF Act include:

¹³ Available at: <http://www.austrac.gov.au/about-us/using-our-website/austrac-privacy-policy>

- to provide advice and assistance, including analysis, in relation to AUSTRAC information, to the persons and agencies who are entitled or authorised to access AUSTRAC information
- to advise and assist the representatives of reporting entities in relation to compliance by reporting entities with the AML/CTF Act, the regulations and the AML/CTF Rules
- to promote and monitor compliance with the AML/CTF Act, the regulations and the AML/CTF Rules...

AUSTRAC collects personal information from individuals, third-party entities, Commonwealth, State and Territory agencies, and public sources. The information is either from compulsory reports or authorised receipts of information under the AML/CTF Act, FTR Act and other relevant legislation.

The Privacy Act requires agencies, as soon as practicable after collecting personal information, to take such steps (if any) as are reasonable in the circumstances to notify individuals of the collection of their personal information. Due to the secrecy restrictions in the AML/CTF Act and as a consequence of the high volume of personal information received, it is neither legally possible nor practicable for AUSTRAC to notify individuals of the receipt of personal information from third-party entities.

72. AUSTRAC considers that its privacy policy appropriately identifies, mitigates and manages potential privacy impacts upon individuals.
73. However, the AUSTRAC Privacy Policy does not specifically refer to the Fintel Alliance, which represents a broadening and evolution of AUSTRAC's operations, with an emphasis on collaboration and co-location with those reporting entities and government agencies who are Fintel Alliance Participants.
74. An individual dealing with Fintel Alliance, therefore, may not be aware that the AUSTRAC Privacy Policy may be relevant to that individual if he or she has a privacy concern or complaint in regard to the operations of the Alliance.
75. It is therefore recommended that the AUSTRAC Privacy Policy be amended to expressly mention Fintel Alliance and that any privacy matters relating to the Alliance will be governed by the AUSTRAC Privacy Policy.

Results of stakeholder consultation

[to be added]

Table of Australian privacy principles

76. The following table is a consideration of all APPs and potential privacy impacts and their mitigation.

Australian Privacy Principle (APP)	Potential relevant exception	Privacy impact on individuals from the creation of Fintel Alliance	Mitigation of privacy impact
APP 1 – Open and transparent management of personal information		The AUSTRAC Privacy Policy does not specifically refer to the Fintel Alliance, which represents a broadening and evolution of AUSTRAC's operations, with an emphasis on collaboration and co-location with those reporting entities and government agencies who are Fintel Alliance Participants.	The AUSTRAC Privacy Policy be amended to expressly mention Fintel Alliance and that any privacy matters relating to the Alliance, will be governed by the AUSTRAC Privacy Policy.
APP 2 – Anonymity and pseudonymity	APP 2.2(a)	The exemption in APP 2.2(a) does not allow individuals to have the option of not identifying themselves or of using a pseudonym.	The AUSTRAC Privacy Policy states that AUSTRAC follows the requirements of the Privacy Act in the collection of personal information.
APP 3 – Collection of solicited personal information	APP 3.4(d)(ii)	Privacy impacts are mitigated by the AUSTRAC Privacy Policy.	The AUSTRAC Privacy Policy states that AUSTRAC follows the requirements of the Privacy Act in the collection of personal information and this includes 'sensitive information'.
APP 4 – Dealing with unsolicited personal information	N/A	AUSTRAC may receive unsolicited personal information specifically in regard to Fintel Alliance.	AUSTRAC considers that unsolicited information falls into the categories of 'eligible collected information' and 'AUSTRAC information'.
APP 5 – Notification of the collection of personal	N/A	APP5 requires AUSTRAC to provide notification of the collection of personal information before, or at the time, it collects that	The AUSTRAC Privacy Policy states: "Due to the secrecy restrictions in the AML/CTF Act and as a consequence of the high volume of personal information received, it is neither legally possible nor

Australian Privacy Principle (APP)	Potential relevant exception	Privacy impact on individuals from the creation of Fintel Alliance	Mitigation of privacy impact
information		information from an individual. If this is not practicable, notification should be provided to the individual as soon as practicable after collection.	practicable for AUSTRAC to notify individuals of the receipt of personal information from third-party entities. Accordingly AUSTRAC is not able to fulfill the requirements of APP 5.1(a) (notify the individual of the collection of personal information), but is able to fulfill the requirements of APP 5.1(b) (ensure that the individual is aware of any such matters) through the above statement in the AUSTRAC Privacy Policy”.
APP 6 – Use or disclosure of personal information	APP 6.1(a), APP 6.2(a),(b), (c), (d)	APP6 requires entities to only use or disclose personal information for the particular purpose for which it was collected (primary purpose), or for a secondary purpose if an exception applies (such as where the individual has consented). APPs 6.1(a) and APP 6.2(a), (b), (c), (d) allow AUSTRAC, as required, to use information for a secondary purpose. In respect to Fintel Alliance, this means sharing information outside the specified Fintel Alliance Participants.	The provision of AUSTRAC information outside of Fintel Alliance (both for primary and secondary purposes) will only be authorised by the AUSTRAC CEO. A record of such information will be maintained by Fintel Alliance in order to satisfy the requirements of APP 6.5 which states that if disclosed in accordance with APP 6.2(e), the entity must make a written note of the use or disclosure.
APP 7 – Direct marketing		Not applicable.	Not applicable.
APP 8 – Cross-border disclosure of personal information	APP 8.2(a),(c),(d), (e),(f)	APP 8.2(a),(c),(d),(e),(f) apply in in regard to the Fintel Alliance use of AUSTRAC information.	The AUSTRAC Privacy Policy states: “AUSTRAC also discloses personal information to certain overseas recipients who are authorised under Part 11 of the AML/CTF Act, or authorised or required by another law, to receive AUSTRAC information. AUSTRAC has signed exchange instruments with counterpart agencies in the countries to which AUSTRAC disseminates information. AUSTRAC’s international information disclosure arrangements

Australian Privacy Principle (APP)	Potential relevant exception	Privacy impact on individuals from the creation of Fintel Alliance	Mitigation of privacy impact
			require that foreign recipients give appropriate undertakings protecting the confidentiality and controlling the use of the personal information.”
APP 9 – Adoption, use or disclosure of government related identifiers	APP 9.1(a) APP 9.2(a),(b),(c), (d),(e)	APP9 prohibits organisations (reporting entities) from adopting a government related identifier of an individual as its own identifier.	Not applicable.
APP 10 – Quality of personal information	N/A	APP10 requires a reporting entity to take reasonable steps to ensure the personal information it collects, uses and discloses is accurate, up to date and complete.	<p>The AUSTRAC Privacy Policy states: “AUSTRAC aims to ensure that the personal information it holds is accurate, up-to-date and complete. Please ensure any information you provide is accurate, up-to-date and complete, and notify AUSTRAC if you believe it holds information that is outdated, inaccurate or incomplete.”</p> <p>The Fintel Alliance Member Protocol requires that Participants will take reasonable care to ensure the accuracy of the information they disclose, and notify other Participants as soon as practicable of any possible error or defect in that information.</p>
APP 11 – Security of personal information	N/A	APP11 requires an entity to take reasonable steps to protect personal information it holds from misuse, interference, loss, and from unauthorised access, modification or disclosure. If personal information is no longer needed, then the entity must destroy or de-identify personal information.	<p>The AUSTRAC Privacy Policy states: “When AUSTRAC receives information from you, either via email or any other means, the information is stored in a secure environment. You need to be aware that there are inherent risks associated with the transmission of information via the internet. Although AUSTRAC has implemented security measures, it is not possible to provide absolute guarantees as to the security of data provided via an online transmission. If you have concerns in this regard, AUSTRAC has alternative</p>

Australian Privacy Principle (APP)	Potential relevant exception	Privacy impact on individuals from the creation of Fintel Alliance	Mitigation of privacy impact
			<p>methods of obtaining and providing information. Normal mail, telephone and fax facilities are available.”</p> <p>The Fintel Alliance Member Protocol covers security of personal information under:</p> <p>Information Security Controls – Participants will be subject to strict controls and safeguards.</p> <p>IT Security Controls – Participants must put in place the IT security controls described in the Australian Government Information Security Manual in order to protect information.</p> <p>Physical and Personnel Security Controls – All communications must be through AUSTRAC prescribed systems.</p> <p>Retention and disposal – Public sector Participants will retain information in accordance with their relevant legal obligations and applicable policies. Non-public sector Participants will only retain information provided under Fintel Alliance for the period necessary for the information sharing purpose.</p> <p>Information Publication Scheme – All AUSTRAC information is prohibited from publication under Part 11 of the FOI Act.</p> <p>Data Matching – Data matching will be undertaken in accordance with the AUSTRAC Proactive Data matching Program Protocol.</p> <p>Data Governance – All data sets provided to AUSTRAC will follow the AUSTRAC Data Governance Operating Framework.</p> <p>The AUSTRAC Proactive Data matching Program Protocol is subject to further consultation with OAIC and other relevant stakeholders.</p>
APP 12 – Access to	APP 12.2	APP12 states that an entity must, upon request, give an individual access	The AUSTRAC Privacy Policy states: “You are entitled to access your

Australian Privacy Principle (APP)	Potential relevant exception	Privacy impact on individuals from the creation of Fintel Alliance	Mitigation of privacy impact
personal information		to any personal information that the entity holds about them.	personal information held by AUSTRAC, subject to some conditions and exceptions imposed by law. AUSTRAC's personal information digest contains information about how an individual may access their personal information. Requests for correction of personal information may be made under the provisions of the <i>Freedom of Information Act 1982</i> (FOI Act) by contacting the FOI Contact Officer."
APP 13 – Correction of personal information	APP 13.2	APP13 requires an entity to take reasonable steps to correct any personal information it holds if it is satisfied that the information is out of date, inaccurate, incomplete, irrelevant or misleading, or an individual requests the correction of the information.	The AUSTRAC Privacy Policy states: "Requests for correction of personal information may be made under the provisions of the <i>Freedom of Information Act 1982</i> (FOI Act) by contacting the FOI Contact Officer."

Conclusion and recommendation

77. Privacy implications in respect of AUSTRAC's data-matching program will be addressed in line with the feedback and recommendations of the OAIC, as discussed in paragraphs 45 and 46.
78. Fintel Alliance will evolve over time and accordingly this PIA seeks to inform that evolution by examining the three initial Fintel Alliance launch projects.
79. Pending the results of stakeholder consultation, the PIA makes the following recommendation:
- (a) the AUSTRAC Privacy Policy be amended to expressly mention Fintel Alliance and that any privacy matters relating to the Alliance will be governed by the AUSTRAC Privacy Policy.

Attachment 1

Fintel Alliance 10 Point Plan

Memorandum of Understanding

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- The parties to this memorandum of understanding are committed to creating a more effective system to discover, understand, prevent and disrupt financial crime, and thereby, to enhance the integrity, resilience and efficiency of the financial system in Australia and internationally, and simultaneously to contribute to the growth of the Australian economy.
- The parties recognise the importance of a genuine culture of trust, partnership and cooperation between the public and private sector to achieve that goal.
- The parties recognise that a system that provides actionable real time intelligence is critical to achieving their shared goal.
- The parties recognise that it is critical to permit and enable innovative systems of financial transactions and payments and new business models to emerge.
- To that end the parties agree to undertake the following actions:
 1. On the 30th of November 2016, we will establish the Fintel Alliance which will enable cooperation between AUSTRAC, industry and other public sector agencies to combat financial crime and enhance the integrity of the financial sector.
 2. Fintel Alliance will report to the CEO of AUSTRAC and there will be a strategic Board with an independent chair, representation from industry and other public sector partners. The Board will provide advice and guidance to the CEO on the progress and effectiveness of Fintel Alliance and the implementation of this MOU.
 3. Fintel Alliance will immediately set up several joint operational projects to deal with issues which have financial crime implications:
 - a. Panama Papers Analysis
 - b. Identification and profiling of money mules
 - c. ACORN Dataset exploitation
 - d. Other Options (TBD)

These projects will be underpinned by clear guidelines for information sharing; and AUSTRAC will distribute proposed Terms of Reference for each project for consideration and agreement by partners. Industry and government partners commit to provide suitably skilled officers to participate in these activities. A rolling plan of projects will be developed for consideration and agreement by the Board.

4. A key objective for Fintel Alliance is the establishment of a system of financial crime alerts providing speedier intelligence across the entire financial system, including regionally and internationally. Initially intelligence will be shared through officers working within AUSTRAC but the ultimate objective is to provide intelligence remotely and to improve the process of collecting, analysing and triaging this intelligence. Fintel Alliance will work with technical and legal experts within AUSTRAC and industry to create a project plan, including examination of any relevant alignments with the Australian Financial Crimes Exchange and joint cyber initiatives under the Australian Government's Cyber Security Strategy. The plan will be completed by the end of 2016 and will be presented to the Strategic Board.
5. Fintel Alliance will work with the Attorney-General's Department and industry on the co-design of a regulatory framework which delivers greater efficiency and adaptability to the rapid pace of innovation and change in the financial sector.
6. As part of the Fintel Alliance Innovation Hub, AUSTRAC and the Banks will, amongst other things, collaborate to investigate an AML/CTF and financial crimes overlay service on the new payments platform.
7. Fintel Alliance will work to develop a shared approach to building skills, capability and tradecraft in the prevention, detection, understanding and disruption of financial crime. The first tranche will be delivered within 6 months.
8. AUSTRAC will enter into discussions with New Zealand to consider consolidating trans-Tasman regulation and intelligence sharing. More generally, AUSTRAC will promote the establishment of institutional arrangements for international collaboration and sharing of intelligence.
9. It is the intention that all participants in the financial sector have the opportunity to benefit from and participate in the activities of Fintel Alliance, and to that end the Innovation Hub will reframe the engagement processes and models that AUSTRAC undertakes including more accessible online information and more public seminars and webinars.
10. Governance concerning the mandate and conduct of the Strategic Board will be developed and finalised by the launch day.

FINTEL ALLIANCE MEMBER PROTOCOL

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Participants and interpretation

1. This Member Protocol (MP) concerns participation in the Fintel Alliance by the Fintel Alliance participants described in Schedule 1 (Participants).
2. This MP does not affect or supersede any other agreement or arrangement between Participants.
3. Unless the contrary intention appears, a term used in this MP has the meaning shown in the table below. Definitions taken from legislation have the same definition as relevant legislation at the material time.

Accountable authority	<p>The accountable authority of a listed entity is defined as the person or group of persons prescribed by the rules as the accountable authority of the entity under section 12 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).</p> <p>The CEO of AUSTRAC is the accountable authority of AUSTRAC under Schedule 1 subsection 3(b) of the <i>Public Governance, Performance and Accountability Rule 2014</i> (Cth).</p>
AML/CTF Act	<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth)
AUSTRAC CEO	Chief Executive Officer of AUSTRAC as outlined in Part 16 Division 3 of the AML/CTF Act.
AUSTRAC information	<p>As defined in section 5 of the AML/CTF Act:</p> <ol style="list-style-type: none"> a) eligible collected information; or b) a compilation by the AUSTRAC CEO of eligible collected information; or c) an analysis by the AUSTRAC CEO of eligible collected information.
Eligible collected information	<p>As defined in section 5 of the AML/CTF Act:</p> <ol style="list-style-type: none"> a) information obtained by the AUSTRAC CEO under: <ol style="list-style-type: none"> (i) this Act; or (ii) any other law of the Commonwealth; or (iii) a law of a State or Territory; or b) information obtained by the AUSTRAC CEO from a government body; or c) information obtained by an authorised officer under Part 13, 14 or 15; and includes FTR information (within the meaning of the FTR Act).

Entrusted public official	As defined in subsection 121(1) of the AML/CTF Act: a person who is or was <ul style="list-style-type: none"> a) the AUSTRAC CEO; or b) a member of the staff of AUSTRAC; or c) a person engaged as a consultant under subsection 225(1); or d) a person whose services are made available to the AUSTRAC CEO under subsection 225(3); or e) the Director of AUSTRAC ; or f) a person engaged as a consultant under repealed section 40A of the <i>Financial Transaction Reports Act 1988</i>
FIU	Financial intelligence unit
FOI Act	<i>Freedom of Information Act 1982 (Cth)</i>
FTR Act	<i>Financial Transaction Reports Act 1988 (Cth)</i>
Home organisation	A Participant which employs the Seconded, as defined in Schedule 5 to this MP, and is taken to be the relevant Fintel Alliance Participant.
ISA	Information Sharing Arrangement, as provided in Schedule 4 to the MP.
MP	Member Protocol
Participants	The entities, government agencies and individuals listed in Schedule 1 to the MP.
Privacy Act	<i>Privacy Act 1988 (Cth)</i>
SAB	Fintel Alliance Strategic Advisory Board as defined in the Strategic Advisory Board Terms of Reference
Seconded	An employee of a Participant who is participating in a secondment, as defined in Schedule 5 to the MP.
SMRs	Suspicious matter reports

Staff of AUSTRAC	As defined in subsection 224(1) of the AML/CTF Act: The staff of AUSTRAC are persons engaged under the <i>Public Service Act 1999</i> .
SUSTRs	Suspect transaction reports

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Introduction

4. Participants will facilitate a cooperative framework within which they will work together to achieve the objectives of Fintel Alliance, as described in the Fintel Alliance 10 Point Plan: Memorandum of Understanding.
5. Participants agree that the key principles guiding their cooperative arrangements include:
 - a) recognising the importance of promoting a genuine culture of trust, partnership, and cooperation between the Participants to achieve the shared objectives of Fintel Alliance
 - b) consulting on the strategic priorities and plans of Fintel Alliance
 - c) sharing information in accordance with the Fintel Alliance ISA contained in Schedule 4 of this MP.
6. Participants acknowledge that this MP provides the cooperative framework for promoting a collaborative environment within Fintel Alliance. Other than Schedule 5, this MP does not create legally binding obligations between Participants.
7. Participants acknowledge that this MP does not affect any of their ongoing legal obligations, including any relevant compliance with the AML/CTF Act.
8. Schedules relating to specific components of the cooperative framework may be developed and added to this MP throughout the duration of this MP. Schedules will be added and/or varied in accordance with this MP.

Operating model

9. Participants will work collaboratively on all aspects of Fintel Alliance to manage financial crime risk.
10. The Fintel Alliance operating model is described in Schedule 3 to this MP.

Governance

11. Fintel Alliance is accountable to the AUSTRAC CEO, as the Accountable Authority.
12. A Participant may appoint a nominee to perform any of the functions described in this MP on its behalf.
13. The Fintel Alliance Foundations Program Board will shape the strategic direction of Fintel Alliance capabilities. The AUSTRAC Operations Committee may approve SAB endorsed operational activity.
14. The AUSTRAC CEO will appoint the Fintel Alliance SAB. SAB's role is to provide non-binding strategic advice and guidance to the AUSTRAC CEO on the development and operation of Fintel Alliance.
15. The SAB terms of reference describe the mandate, membership, scope and operation of the SAB.

Information sharing

16. Participants will contribute information to Fintel Alliance relevant to meeting the objectives of Fintel Alliance and the purpose of this MP.
17. Participants agree to follow the ISA at Schedule 4 to this MP.

Participation

18. Participants may withdraw from Fintel Alliance by giving 28 days written notice to the AUSTRAC CEO.
19. Any Participant who withdraws from Fintel Alliance shall remain bound by the terms of the ISA at Schedule 4 in relation to any information disclosed to the Participant prior to their withdrawal.

Contribution and resourcing

20. Participants may provide reasonable resource to assist Fintel Alliance to meet its objectives.
21. Fintel Alliance will have a physical presence within AUSTRAC offices (Fintel Alliance hubs). AUSTRAC agrees to provide the initial physical, technological and other resources to establish the day-to-day operation of the Fintel Alliance hubs.
22. Unless Participants mutually determine otherwise in writing, the cost of participating in and contributing resources to Fintel Alliance will be met by the Participant incurring the cost.

23. Participants will develop arrangements for officers to be seconded to AUSTRAC to undertake Fintel Alliance activities as set out in the Secondment Agreement in Schedule 5 of this MP. Seconded officers will undertake and satisfy AUSTRAC's suitability assessment and obtain an Australian Government security clearance.

Intellectual property

24. Unless otherwise agreed in writing, all material produced by the Participants for, or under the direction or control of, AUSTRAC in the course of Fintel Alliance, vests in AUSTRAC.

Communications and media strategy

25. The AUSTRAC Media and Communications team will coordinate all Fintel Alliance media enquiries and requests. Participants will refer any Fintel Alliance media inquiries directly to the AUSTRAC Media and Communications team.
26. Participants will consult the AUSTRAC Media and Communications team in relation to all media and communications to third parties concerning matters covered in this MP and Fintel Alliance.
27. No Participant will issue a Fintel Alliance-related media release or other communication without the prior consent of the AUSTRAC CEO.
28. Each Participant will raise Fintel Alliance operational, strategic or other concerns through appropriate internal channels. These will not be aired through news, social media or in any other public domain.
29. Each Participant will coordinate internal communications about Fintel Alliance in collaboration with the AUSTRAC Media and Communications team to ensure accurate and consistent messaging.
30. AUSTRAC will not make a media release or communication about Participants relating to Fintel Alliance without first consulting with Participants specifically named in the media release. AUSTRAC and the relevant Federal Government Minister may, from time to time, issue general media releases or communications content about Fintel Alliance milestones or initiatives that may not require such consultation. AUSTRAC will disseminate all such releases and communications to all Participants.

Dispute resolution and breach of the MP

31. Participants will attempt in good faith, through consultation, to resolve any disputes arising from the interpretation or implementation of this MP.

32. If Participants cannot resolve a dispute within 28 days, then the Participants will escalate the matter, in writing, to the AUSTRAC CEO and the Chief Executive/Statutory Head of the relevant Participant/Participants for resolution. The AUSTRAC CEO may seek advice from the SAB about the necessary steps to resolve the dispute.
33. Participants will each advise the AUSTRAC CEO of any incident involving non-compliance with this MP immediately on becoming aware of the incident. If a Participant is aware of any information concerning Fintel Alliance or this MP that would reasonably be expected to have a detrimental effect on the integrity and operation of Fintel Alliance or this MP, the Participant will immediately notify the AUSTRAC CEO.
34. Where non-compliance with MP has occurred, and having regard to its seriousness, the AUSTRAC CEO will consider whether any further action is required. The AUSTRAC CEO may seek advice from the SAB about any necessary further action.

Variations

35. Any Participant may suggest a variation to this MP and its Schedules by notifying the AUSTRAC CEO in writing of the proposed variation.
36. The AUSTRAC CEO may consult with Participants and seek advice from the SAB about any proposed variation.
37. The AUSTRAC CEO, after consulting with Participants, may vary this MP and its Schedules by amending the terms of this MP and/or its Schedules in writing.

Duration

38. This MP comes into effect when signed by the AUSTRAC CEO.
39. This MP will operate until terminated in accordance with paragraph 41.
40. If a Participant withdraws from this MP, the MP will continue in relation to the remaining Participants.
41. The AUSTRAC CEO may terminate this MP at any time by written notice to the Participants, of at least 28 days.

Signature

Paul Jevtovic APM
Chief Executive Officer

AUSTRAC

Date: 2017

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Schedule 1 – participants

Participants are:

- Attorney General's Department
- Australia and New Zealand Banking Group Limited ACN 005357522
- AUSTRAC
- Australian Competition and Consumer Commission
- Australian Criminal Intelligence Commission
- Australian Federal Police
- Australian Taxation Office
- Commonwealth Bank of Australia ACN 123123124
- HSBC Bank Australia Limited ACN 006434162
- Macquarie Bank Limited ACN 008583542
- National Australia Bank Limited ACN 004044937
- National Crime Agency (UK)
- New South Wales Crime Commission
- New South Wales Police Force
- PayPal Australia Pty Limited ACN 111195389
- Westpac Banking Corporation ACN 007457141
- Western Union Financial Services (Australia) Pty Ltd ACN 082282773

Schedule 2 – Attributes of Participants

1. Participants have been identified based on their ability to contribute to the objectives of Fintel Alliance, including consideration of factors such as a Participant's:
 - a) information holdings relevant to strategic and operational activities
 - b) size, scale, quality and scope of transaction and SMR reporting
 - c) access and availability of unique data sets
 - d) systems and information security policies and procedures of the recipient, being sufficient to protect the information being disclosed
 - e) ongoing and real-time capacity for information collection and dissemination
 - f) ability to counter money laundering and terrorism financing
 - g) importance to Australia's financial system; for example, APRA-designated domestic systemically important bank
 - h) expertise and access to relevant knowledge and resources
 - i) evidence-based strategic and applied research that will enhance community/practitioner understanding and knowledge concerning AML/CTF issues.

Schedule 3 – operating model

1. This Schedule outlines the framework for the Operating Model of Fintel Alliance.
2. Fintel Alliance's objectives include:
 - a) developing an operating environment for exchanging real time intelligence
 - b) enabling innovative systems of financial transactions and payments to emerge
 - c) contributing to a regulatory framework that delivers a more efficient and adaptable system of regulation
 - d) contributing to the growth of Australia's economy by better detecting and disrupting abuse of Australia's financial sector.
3. Participants will decide the level of their engagement, depending on the work program and activities undertaken. Participants will contribute a range of resources to Fintel Alliance. Examples include:
 - a) information holdings and access to their individual systems
 - b) methodologies and algorithms used to analyse information
 - c) research findings
 - d) subject matter experts
 - e) Secondees to Fintel Alliance
 - f) analysis and compilation of joint data holdings
 - g) funding.
4. The Fintel Alliance Operating Model will be built around five key components of shared business delivery:
 - a) shared skills, resources and capabilities
 - b) joint financial intelligence
 - c) smart regulation
 - d) joint industry innovation
 - e) global collaboration.

5. In consultation with AUSTRAC, Participants may submit project proposals for the implementation of the above components that progress Fintel Alliance objectives, for consideration by the AUSTRAC CEO. The CEO will consult with Participants and seek advice from the SAB when considering project proposals. Project proposals will include clear objectives, deliverables, timelines, proposed costs, and resourcing. Participants will consider the project proposals in good faith and where supported, provide agreed resourcing to support the achievement of the agreed objectives.

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Schedule 4 – information sharing arrangement

1. Participants will send and receive information through AUSTRAC. AUSTRAC will disclose information via a secure, access controlled platform to Participants. Participants receiving AUSTRAC information under this Schedule may only disclose it as set out in this Schedule.
2. This Schedule does not affect designated agency Participants' or the Australian Taxation Office's lawful access to and disclosure of AUSTRAC information.
3. AUSTRAC will, in accordance with the relevant legislation, respect any conditions, restrictions or caveats imposed by the Participant who contributed the information in respect of the handling, storage, or disclosure of the information.
4. Participants agree that information disclosed to them within Fintel Alliance will only be used for the purposes for which the information was provided to Fintel Alliance. Each Participant agrees that it is responsible for ensuring there is no mishandling or inappropriate use (including unauthorised copying, reproduction and storage of any kind) or disclosure of information accessed within Fintel Alliance by the Participant.
5. Any information-sharing activity under this Schedule by a Participant must not:
 - a) breach any legal obligations the Participant may have, including but not limited to, under the Privacy Act, any common law confidentiality obligations and the 'tipping off' provisions in section 123 of the AML/CTF Act
 - b) be used for an anti-competitive purpose
 - c) interfere with, or delay, the obligations for reporting entities to submit transaction reports under the AML/CTF Act.

Legal basis for information sharing

6. Public sector Participants will share information with AUSTRAC in accordance with their secrecy laws (if any) and any existing memoranda of understanding. AUSTRAC will obtain such information as Eligible Collected Information.
7. Participants who are reporting entities will provide information to AUSTRAC in accordance with their reporting obligations under Part 3 of the AML/CTF Act and/or in response to statutory notices issued by AUSTRAC under Parts 3 or 11 of the AML/CTF Act.
8. AUSTRAC information disclosed to reporting entity Participants under this Schedule will not be further disclosed to third parties by those reporting entity Participants without the prior written approval of the AUSTRAC CEO, or a nominee of the AUSTRAC CEO, or as otherwise required by law.

9. Any persons who are not Staff of AUSTRAC working within the Fintel Alliance hub will be seconded to provide assistance to the AUSTRAC CEO in accordance with subsection 225(3) of the AML/CTF Act. Seconded public officials will be entrusted with the ability to disclose AUSTRAC information in accordance with Part 11 of the AML/CTF Act.
10. Seconded public officials may disclose information to their 'Home organisation' (as defined in Schedule 5 to the MP), in accordance with this Schedule and any relevant information caveats.
11. Section 235 of the AML/CTF Act protects persons who are acting in compliance with the AML/CTF Act and applies to actions of Participants at the material time.
12. Any AUSTRAC information provided by AUSTRAC to Participants, and any related outputs that are produced by Fintel Alliance, will be disclosed by AUSTRAC under Part 11 of the AML/CTF Act.

Special provisions relating to SMRs and SUSTRs

13. AUSTRAC information collected under section 16 of the FTR Act and section 41 of the AML/CTF Act (namely SUSTRs and SMRs), is protected by specific secrecy provisions under the relevant legislation.
14. Participants acknowledge the special nature of such reports and the need to protect the identity of persons furnishing such reports, at all times.
15. SUSTRs, copies of SUSTRs, documents that purport to set out information contained in SUSTRs and documents given under subsection 16(4) of the FTR Act, are not admissible as evidence in any legal proceeding, other than a prosecution for an offence against subsection 29(1) or 30(1) of the FTR Act.
16. Evidence is also not admissible in any proceedings as to:
 - a) whether or not a SUSTR was prepared under subsection 16(1) or 16(1A) of the FTR Act
 - b) whether or not a copy of a SUSTR, or document purporting to set out information contained in such a report, was given to or received by the AUSTRAC CEO
 - c) whether or not particular information was contained in a SUSTR
 - d) whether or not further information was given pursuant to subsection 16(4) of the FTR Act.
17. SMRs, copies of SMRs, documents that purport to set out information contained in an SMR, or any document given or produced under subsection 49(1) of the AML/CTF Act which relates to an SMR, are not admissible as evidence in any court or tribunal proceedings, other than criminal proceedings for an offence against sections 123, 136 or 137 of the AML/CTF Act, or section 175 proceedings for a contravention of subsection 41(2) or 49(2) of the AML/CTF Act.
18. Evidence is not admissible in any proceedings as to:
 - a) whether or not a report was prepared for the purposes of subsection 41(2) of the AML/CTF Act

- b) whether or not a report prepared for the purposes of subsection 41(2) of the AML/CTF Act, or a document purporting to set out information (including the formation or existence of a suspicion) contained in such a report, was given to, or received by, the AUSTRAC CEO
 - c) whether or not particular information (including the formation or existence of a suspicion) was contained in a report prepared for the purposes of subsection 41(2) of the AML/CTF Act
 - d) whether or not particular information (including the formation or existence of a suspicion) was given under subsection 49(1) of the AML/CTF Act which relates to an SMR
 - e) whether or not a particular document was produced under subsection 49(1) of the AML/CTF Act.
19. The Participants will not call any person who has submitted a SUSTR or SMR to give evidence in proceedings before a court or tribunal, in relation to that report, its contents or the existence of such.

Special provisions relating to information contributed by international Participants

- 20. Any information received from offshore FIUs will be handled in accordance with the Egmont Principles of Information Exchange and the relevant memorandum of understanding.
- 21. AUSTRAC will disclose information to its international partners in accordance with the Egmont Principles and s132 of the AML/CTF Act.

Information accuracy, integrity, and confidentiality

- 22. All data sets provided to AUSTRAC will follow AUSTRAC's Data Governance Operating Framework to ensure compliance with agreed standards and minimum quality requirements.
- 23. The Participants acknowledge that some information shared within Fintel Alliance may be unverified and based on the subjective perceptions of individuals. The Participants do not warrant that the information supplied by them is accurate or complete.
- 24. The Participants will take reasonable care to ensure the accuracy of information they disclose.
- 25. Each Participant will, in relation to the information provided under this ISA:
 - a) notify the other Participants as soon as practicable of any possible error or defect in that information
 - b) take all reasonable measures to preserve the confidentiality of that information, and ensure that information is only used for the purposes for which that information was provided and is only accessed by persons who require, or are authorised to access, the information to perform their duties.

Information security controls

26. Government information, including AUSTRAC information, is security classified and marked in accordance with requirements of the Australian Government Protective Security Policy Framework (PSPF).
27. Information or documents acquired by Participants will be subject to strict controls and safeguards to ensure that the information is treated in a confidential manner, unless it has been specified by the disclosing Participant that information does not need to be handled in a confidential manner.
28. Participants will ensure that information received from Fintel Alliance is protected by such safeguards as are reasonable in the circumstances, against:
 - a) misuse, interference or loss; and
 - b) unauthorised access, modification, disclosure or destruction.
29. Participants should advise AUSTRAC as soon as possible of any information security breaches including wrongful disclosures.

IT security controls

30. Where relevant, Participants are to ensure that IT security controls described in the Australian Government Information Security Manual, matching the security classification or dissemination limiting marker of the information, are in place and operating effectively to protect the information. Where the relevant IT security controls are not in place, AUSTRAC's IT Security Advisor will be available to discuss the equivalent IT security controls that must be put in place prior to the information being disseminated.

Physical and personnel security controls

31. Given the operational context of Fintel Alliance, communications must be exchanged in a manner to preserve the integrity of law enforcement investigations. Operational email exchanges are to be through official email accounts only.
32. All Participants are expected to be familiar with, and abide by AUSTRAC's security policies. AUSTRAC has the right to investigate any security incidents and may refer suspected criminal matters to relevant law enforcement agencies, including the Australian Commission for Law Enforcement Integrity (ACLEI).
33. Secondees must comply with the conditions outlined in Schedule 5 of the Fintel Alliance MP.
34. Any unauthorised breaches into Fintel Alliance hubs containing AUSTRAC systems are to be reported to integrity.reporting@austrac.gov.au.

Retention and disposal

35. Public sector Participants will retain information in accordance with their relevant legal obligations and applicable policies.
36. Other Participants should only retain information provided under this ISA for the period necessary for the information-sharing purpose.
37. Upon termination of the MP, or a Participant withdrawing from Fintel Alliance, the Participants or the withdrawing Participant will securely retain, destroy or return all information disclosed to them as required by law and confirm that this is the case.

Privacy and privacy complaints

38. Personal information contributed to Fintel Alliance that may be accessed by relevant Participants is subject to the relevant privacy laws of the jurisdiction in which it originated. AUSTRAC information is subject to the provisions of the Privacy Act including the Australian Privacy Principles referred to in section 14 of the Privacy Act and set out in Schedule 1 to that Act. Participants who are Commonwealth agencies are ordinarily subject to that legislation.
39. If a Participant (the first-mentioned Participant) receives a complaint in respect of personal information provided to or by another Participant under this ISA (the second-mentioned Participant), alleging an interference with the privacy of an individual:
 - a) the first-mentioned Participant will immediately notify the second-mentioned Participant of the nature of that complaint and such details of that complaint as are necessary to minimise any (or further) interference
 - b) each Participant is to keep the other informed as to the progress of that complaint, by conveying sufficient information to enable the other Participant to be kept up-to-date about the progress and outcomes of the complaint, without divulging confidential information or information that may give rise to another complaint
 - c) each Participant will assist the other to comply with their respective Privacy Complaint Handling Procedures in relation to the complaint.
40. If the relevant Privacy Commissioner directs a Participant to take particular action concerning the handling of personal information, the other Participant will cooperate with any request or direction that may result from the Privacy Commissioner. If a Participant considers such a request or direction to be unreasonable, the Participant may make a submission to that effect to the Privacy Commissioner or ask the other Participant to do so on its behalf.

Protocols under *Freedom of Information Act 1982*

41. If a public sector Participant receives a Freedom of Information (FOI) request for documents, and any AUSTRAC document or AUSTRAC information falls within the scope of the request, the Participant's FOI team will consult with AUSTRAC before making a decision in relation to the disclosure of the AUSTRAC information and documents. Consultation will be undertaken between the Participants' FOI coordinators or other nominated person.

42. AUSTRAC will consult with relevant Participants before making a decision relating to the disclosure of any information obtained or developed within Fintel Alliance in response to a FOI request.

Data matching

43. Participants agree that data matching will be undertaken in accordance with AUSTRAC's Proactive Data matching Program Protocol.

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Schedule 5 – Physical secondment to Fintel Alliance

Introduction

1. This Schedule provides for secondment of Participants' employees into Fintel Alliance. The purpose of a secondment is to advance the Fintel Alliance objectives and outcomes, including facilitating sharing of information between the Participants.
2. Participants may make persons, who have suitable qualifications and experience, available to provide assistance and services to the AUSTRAC CEO under subsection 225(3) of the AML/CTF Act. The provision of assistance and services will be referred to as a secondment.
3. For each secondment under this Schedule there will be a signed Secondment Agreement.
4. Secondment Agreements will detail the roles and responsibilities of Secondees.
5. For the purposes of this Schedule:
6. 'Home Organisation' means the Participant which employs the Secondee and is taken to be the relevant Fintel Alliance member.

'Secondee' means an employee who is participating in a secondment.

'Secondment Agreement' is the signed agreement between an individual and the Home organisation and AUSTRAC.

Employment status and secondment extensions

7. The Secondee will remain an employee of their Home organisation. The contract of employment between the employee and their Home organisation, as amended for the term of the secondment from time to time, and any applicable industrial instruments, will remain in force and govern the Secondee's employment.
8. The Secondee will report to an AUSTRAC manager identified in the individual Secondment Agreement. The AUSTRAC manager, and any other senior officer nominated by the AUSTRAC manager, may give the Secondee lawful directions. AUSTRAC will not act in a way that causes a breach of the Home organisation's employment arrangements with the Secondee.
9. The term of the secondment is set out in the individual Secondment Agreement.
10. It is expected that the Secondee will return to the Home organisation following his/her secondment,

Duties and obligations

11. The Seconded will comply with any lawful and reasonable direction of the AUSTRAC manager relating to the health and safety of any person including the Seconded.
12. The Seconded is required to act in accordance with all relevant laws (statutes, regulations and bylaws) relating to their secondment with AUSTRAC, including any applicable health and safety and integrity legislation, and to comply with the Australian Public Service (APS) Values and Code of Conduct. AUSTRAC will make a copy of the APS Values and Code of Conduct available to the Seconded and the Home Organisation.

Home organisation responsibilities

13. The Home Organisation will continue to pay the Seconded all salary and other benefits, including superannuation contributions, annual leave and other entitlements to which the Seconded is entitled.
14. The Home Organisation agrees to notify AUSTRAC of any changes to the circumstances of a Seconded, including any disciplinary action that affects the secondment.
15. During the secondment, the Seconded will be eligible to use any accrued leave entitlements from the Home Organisation, subject to approval from the Home Organisation, and the operational requirements and approval of AUSTRAC (such approval is not to be unreasonably withheld). The Home Organisation will be responsible for administering any leave taken by the Seconded.

AUSTRAC's responsibilities

16. AUSTRAC will:
 - a) provide an induction to the Seconded at the start of the secondment, including health and safety information
 - b) provide the Seconded with the resources needed to perform the tasks required, and supervise and manage the Seconded in a fair and appropriate manner consistent with the Home organisation's employment obligations
 - c) provide and maintain a safe working environment that meets the requirements of relevant health and safety legislation
 - d) establish performance feedback with the Seconded and their Home Organisation manager and record and assess their development
 - e) discuss any concerns or difficulties related to the secondment with the Seconded and the Home Organisation as soon as they arise
 - f) ensure the Seconded is provided with the opportunity to maintain regular contact with the Home organisation by visiting occasionally and attending meetings at the Home Organisation including seminars, training sessions and team and social events.

Secondee's performance assessment

17. AUSTRAC will provide feedback and any relevant information to the Home organisation in relation to the Secondee's performance and conduct during the secondment, using the format provided by the Home Organisation.

Suitability, character or security checks

18. The Participants acknowledge that specific suitability, character and security checks will be required.
19. AUSTRAC will sponsor and pay for an Australian Government security clearance for Secondees. It is expected that Secondees will attain and maintain a minimum Baseline security clearance.
20. Secondees are expected to fulfil their security clearance-holder obligations and report any changes of circumstances to vetting@austrac.gov.au. AUSTRAC reserves the right to audit and perform ongoing suitability checks on Secondees at its discretion.

Information security

21. AUSTRAC will provide the Secondee with access to information consistent with the MP and the ISA set out in Schedule 4 of the MP. The Secondee will be required to sign a deed of confidentiality.
22. The Secondee may disclose information consistent with the ISA.

Information management

23. Unless otherwise agreed in writing, all material produced by the Secondee for, or under the direction or control of, AUSTRAC in the course of his/her secondment, vests in AUSTRAC.

Liability

24. The Home Organisation will not be liable for a claim or liability occasioned by any act or omission by the Secondee during the secondment, except to the extent that the claim or liability is occasioned by serious misconduct, fraud, malicious, wilful, illegal or reckless act, omission or conduct.

Indemnity

- 25.1 Subject to this clause 25, AUSTRAC will indemnify the Home Organisation and the Seconded in respect of any claim or liability made by or to any third party in relation to the Secondment, except to the extent that the claim or liability is occasioned by serious misconduct, fraud, malicious, wilful, illegal or reckless act, omission or conduct. The Home Organisation will hold the benefit of this indemnity on its own behalf and on behalf of and in trust for the Seconded, and will be entitled to enforce it in either or both such capacities.
- 25.2 AUSTRAC's total liability under the indemnity in clause 25.1 (no matter how arising) will not exceed \$10,000,000.00 in aggregate.
- 25.3 The indemnity in clause 25.1 will expire, and no claim can be made under it, on the date being six years from the date that the Secondment ends.
- 25.4 Where the Home Organisation wishes to enforce the indemnity in clause 25.1, the Home Organisation must:
- a) notify AUSTRAC in writing as soon as practicable; and
 - b) reasonably permit and assist AUSTRAC to handle all negotiations or settlement and, as permitted by law, to control and direct any litigation that may follow.
- 25.5 AUSTRAC shall keep the Home Organisation informed of any significant developments relating to the conduct of negotiations and the defence of any claim.

Disputes

26. If a dispute arises in relation to a secondment that cannot be resolved promptly, AUSTRAC and the Home Organisation agree that the dispute be escalated to the organisation's Secondment Managers (as referred to in the Secondment Agreement) for resolution.
27. If the Secondment Managers are unable to resolve the dispute, the issues will be escalated to the organisation's Senior Executives.
28. Failing resolution by the organisation's Senior Executives, either organisation may terminate the secondment (as the case may be), in accordance with paragraph 29 or 30 of this Schedule.

Termination of secondment

29. A secondment may be terminated immediately:
- a) by the Home Organisation if the Seconded's employment ceases
 - b) by either Participant if the Seconded fails to maintain the required suitability, character or security requirements
 - c) by AUSTRAC in circumstances that would constitute serious misconduct on the part of the Seconded
 - d) if the Home Organisation withdraws from Fintel Alliance

- e) by the Seconded, having first consulted with the Participants and providing 10 working days' notice in writing to both Participants.
30. AUSTRAC or the Home Organisation may at any time terminate a secondment by providing 10 working days' notice, in writing to the other.

Non solicitation

31. AUSTRAC will not, without the prior written consent of the Home Organisation, directly or indirectly offer, or cause a third party to offer on its behalf, employment or a contract of service to the Seconded. This restriction will apply throughout the term of the secondment and for a period of 12 months thereafter.
32. This restriction does not apply to offers to the Seconded if the Seconded independently responded to general solicitations not specifically targeting that Seconded (such as newspaper advertisements and internet postings).

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