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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
WORKING GROUP ON BRIBERY IN INTERNATIONAL BUSINESS TRANSACTIONS**

Phase 4 evaluation of Australia: Additional Written Follow-up Report

This document was discussed under Item 5.1. of the Agenda of the December 2022 plenary. As agreed by the WGB, a footnote was added explaining that for procedural reasons, paragraph 60 under the Phase 4 monitoring procedures was not available at the time that Australia's report was considered.

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Instructions

This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the [Phase 4 Evaluation Procedure](#).¹

Please submit completed answers to the Secretariat on or before: **2 November 2022**

Name of country:	Australia
Date of approval of Phase 4 evaluation report:	15 December 2017
Date of approval of Phase 4 two-year follow-up report:	11 December 2019
Date of approval of Addendum to Phase 4 two year Follow-up report:	15 February 2022
Date of information of this additional follow-up report:	2 November 2022

PART I: RECOMMENDATIONS FOR ACTION

Regarding Part I, responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

Text of recommendation 1 (a):

1. Regarding the detection of foreign bribery, the Working Group recommends that Australia:
 - a) Increase the potential for detecting foreign bribery through its Anti-Money Laundering system by:
 - i. Raising awareness of foreign bribery as a predicate offence for money laundering, including by providing additional guidance with case studies and typologies to reporting entities regarding the detection of foreign bribery predicated on money laundering (in particular, through the real estate sector) [Convention Article 7], and
 - ii. Taking appropriate steps to address the risk that the proceeds of foreign bribery will be laundered through the Australian real estate sector, in line with the FATF standards. These should include specific measures to ensure that the Australian financial system is not the sole gatekeeper for such transactions [Convention Article 7].

Action taken as of the date of the follow-up report to implement this recommendation:
Publication of new money laundering risk assessments containing information about foreign bribery as predicate offence

¹ For procedural reasons, paragraph 60 under the Phase 4 monitoring procedures was not available at the time that Australia's report was considered.

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is Australia's financial intelligence unit, with regulatory responsibility for anti-money laundering (AML) and counter-terrorism financing (CTF). AUSTRAC monitors financial transactions to identify money laundering, organised crime, tax evasion, welfare fraud, terrorism and other serious financial crime.

Most real estate transactions pass through financial institutions that are regulated for AML/CTF purposes. Reportable transactions (those involving cash transfers of A\$10,000 or more, all international funds transfers, and any suspicious transactions) that pass through financial institutions provide authorities with some visibility of potential money laundering through real estate. This framework increases the resilience of Australia's real estate sector to criminal exploitation, including in relation to laundering the proceeds of foreign bribery.

AUSTRAC publishes risk assessments on an ongoing basis to support financial institutions and other reporting entities to better understand the money laundering risks they may face, including money laundering predicated on foreign bribery and other forms of corruption. This includes risk assessment relating to politically exposed persons (PEPS), a customer type that poses a higher risk of money laundering predicated on foreign bribery and other forms of corruption given their capacity to influence government spending and budgets, procurement processes, development approvals and grants.

In February 2022 AUSTRAC released a [fact sheet](#)² on identifying customers and beneficial owners that are politically exposed persons (PEPs) in accordance with their AML/CTF obligations. In October 2022 AUSTRAC released comprehensive guidance to assist reporting entities to identify the [source of funds and source of wealth](#)³ for certain high risk customers and transactions or when the beneficial owner is a PEP.

In September 2022, AUSTRAC published the following three risk assessments to provide guidance to the sectors on the ML/TF risks the sector faces at the national level, and to assist the sector to identify and disrupt ML/TF risks to Australia's financial system and report suspected crimes to AUSTRAC:

[1. Bullion dealers in Australia risk assessment](#)⁴

This assessment provides guidance on PEPs as an attractive target for bribery and corruption on page 33.

[2. Independent remittance dealers in Australia risk assessment](#)⁵

This assessment provides guidance on PEPs as an attractive target for bribery and corruption on page 39.

² https://www.austrac.gov.au/sites/default/files/2022-02/AUSTRAC_2022_PEPQuickGuide_web.pdf

³ <https://www.austrac.gov.au/business/how-comply-and-report-guidance-and-resources/customer-identification-and-verification/source-funds-and-source-wealth>

⁴ https://www.austrac.gov.au/sites/default/files/2022-09/AUSTRAC_RA_BullionDealersInAustralia_web.pdf

⁵ https://www.austrac.gov.au/sites/default/files/2022-09/AUSTRAC_RA_IndependentRemittanceDealersInAustralia_Web.pdf

[3. Remittance Network Providers and affiliates risk assessment](#)⁶

This assessment provides guidance on PEPs as an attractive target for bribery and corruption on page 34.

Please refer to previous follow-up reports submitted by Australia for information about action taken prior to December 2021 to implement this recommendation.

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3:

3. Regarding international cooperation, the Working Group recommends that Australia, to the fullest extent possible within its legal system, ensure that a broad range of MLA can be provided to Parties to the Convention that apply civil or administrative (and not criminal) liability to legal persons for foreign bribery [Convention Article 9.1].

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 3, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Consistent with Australia's previous follow-up reports, Australia is not aware of any instance where Australia's current MLA framework has prevented Australia from considering requests for assistance from a foreign state in civil or administrative matters.

Text of recommendation 4 (a):

4. Regarding sanctions and confiscation, the Working Group recommends that:

- a) Where appropriate, Australian authorities pursue confiscation of bribe payments and their proceeds [Convention Article 3.3], and

Action taken as of the date of the follow-up report to implement this recommendation:

Foreign bribery matters involving confiscation action

Since December 2021, Australia can report the following foreign bribery matter in which confiscation action under the *Proceeds of Crime Act 2002* (Cth) (POC Act) remains ongoing. The Criminal Assets Confiscation Taskforce led by the Australian Federal Police (AFP) has several other foreign bribery matters in which confiscations proceedings are being considered.

Operation Carambola

⁶https://www.austrac.gov.au/sites/default/files/2022-09/AUSTRAC_RA_RemittanceNetworkProvidersAndAffiliatesInAustralia_Web.pdf

An individual (Dennis Teen) who is an Australian property developer is accused of paying Malaysian government officials A\$4.75m in bribes to facilitate the purchase of a property development in Melbourne by the Malaysian government. The property was sold in 2013 to a Malaysian government-owned entity for A\$22.6m, inflated from A\$17.85m. In July 2020, the individual was charged with foreign bribery offences as well as false accounting offences under Victorian (state) legislation. In August 2020, the Commissioner of the AFP obtained restraining orders over property including two real properties owned by the accused individual's wife, a company of which the accused's wife was the sole director and bank accounts held in the name of the accused and his wife. The value of these restrained assets is estimated to be approximately A\$1.6m. Further information is available in the [AFP media release](#)⁷ issued 4 September 2020 on this matter.

Update since December 2021: Civil proceedings under the POC Act in this matter, as well as the criminal prosecution, remain ongoing.

Please refer to previous follow-up reports submitted by Australia for information about action taken prior to December 2021 to implement this recommendation.

If no action has been taken to implement recommendation 4 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4 (b):

4. Regarding sanctions and confiscation, the Working Group recommends that:

b) Australian procuring agencies put in place transparent policies and guidelines on the exercise of their discretion on whether to debar companies or individuals convicted of foreign bribery [2009 Recommendation XI (i)].

Action taken as of the date of the follow-up report to implement this recommendation:

Development of new guidance by Department of Finance

Consistent with Australia's [Commonwealth Procurement Rules \(CPRs\)](#)⁸, procuring officials are able to determine eligibility criteria for a particular procurement and may request relevant information to assess the suitability of a potential supplier. Entities can also require information on any convictions from tenderers as part of the procurement process. Relevantly, paragraph 6.7 of the CPRs states that relevant entities must not seek to benefit from supplier practices that may be dishonest, unethical or unsafe. This paragraph provides procuring officials with the discretion and flexibility to exclude tenderers for various unethical practices, including where the tenderer may have been convicted of a criminal offence.

Samples of procurement templates, which contain standard clauses consistent with this policy, are publicly available through the [Commonwealth Contracting Suite](#)⁹ on the Department of

⁷ <https://www.afp.gov.au/news-media/media-releases/16million-assets-restrained-connection-alleged-malaysian-official-bribery>

⁸ <https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>

⁹ <https://www.finance.gov.au/government/procurement/commonwealth-contracting-suite-ccs>

Finance website and templates can be accessed once users have created a free Commonwealth Contracting Suite User account.

Since December 2021, the Department of Finance has continued to develop guidance to assist procuring officials in undertaking appropriate due diligence in their procurement activities. The guidance will take into account the diverse range of goods and services procured by Australian Government entities under Australia's devolved procurement framework in which entities are responsible for managing individual procurement processes to meet their business needs, in accordance with the CPRs. The guidance will be made publicly available on the Department of Finance website and will support officials to exercise their existing discretion to exclude potential suppliers convicted of foreign bribery.

Please refer to previous follow-up reports submitted by Australia for information about action taken prior to December 2021 to implement this recommendation.

If no action has been taken to implement recommendation 4 (b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5 (a):

5. Regarding the liability of legal persons, the Working Group recommends that Australia:

- a) Proactively pursue criminal charges against legal persons, where appropriate, for foreign bribery and related offences, such as false accounting, money laundering, fraud and tax evasion, including where an individual perpetrator pleads guilty; [Convention Articles 2 and 8, 2009 Recommendation VIII i)];

Action taken as of the date of the follow-up report to implement this recommendation:

The AFP considers the availability and appropriateness of charges against legal persons in all foreign bribery investigations. Since December 2021, Australia can report:

- two matters involving charges against legal persons continue before the courts
- two matters involving charges against legal persons remain referred to the CDPP, and
- four matters in which criminal charges are being actively considered against legal persons.

Operation Telchar

In June 2018, the AFP charged the Jacobs Group (Australia) Pty Ltd (formerly known as Sinclair Knight Merz Pty Ltd) and six individuals with foreign bribery offences. Charges in relation to one accused individual were later discontinued.

Update since December 2021: On 9 June 2021, the company was sentenced in relation to three charges for conspiracy to commit foreign bribery, with respective fines of AUD 67,500, AUD 54,000 and AUD 1,350,000 imposed. The [sentencing judgment](#)¹⁰, initially the subject of a non-publication order, was published on 20 April 2022. The CDPP appealed all three sentences on the grounds that there were specific legal errors and also that the sentences were manifestly inadequate. The appeal was heard in the NSW Court of Criminal Appeal

¹⁰ <https://www.caselaw.nsw.gov.au/decision/179ef3c2fd6f5a513569d142>

(NSWCA) on 16 February 2022. The appeal proceeded on four grounds with [judgment](#)¹¹ delivered on 11 July 2022, dismissing the appeal. The CDPP has since filed an application for special leave to the High Court of Australia in relation to Ground 1, concerning the correct construction of the term 'benefit' for the purposes of ss 70.1 and 70.2(5)(b) of the *Criminal Code Act 1995* (Cth) (Criminal Code). A date for special leave hearing is yet to be confirmed.

In relation to the prosecution of the six individuals, the first trial involved three individual accused charged in respect of an alleged foreign bribery conspiracy in the Philippines. The trial resulted in acquittals for each accused on 30 March 2022. A second trial in respect of an alleged foreign bribery in Vietnam was due to commence on 11 April 2022, however following the above acquittals, a decision was made by the CDPP to discontinue the charges against the remaining accused.

On 5 April 2022, the CDPP brought an appeal in the NSWCA pursuant to s108 of the *Crimes (Appeal and Review) Act 2001* (NSW) in relation to a ruling made by Adamson J regarding the meaning to be ascribed to the words 'obtain or retain business' ([R v Douglas & Ors \(No 12\) \[2022\] NSWSC 332](#)¹²). In construing the words, her Honour distinguished the phrase from the alternative concept of 'obtain or retain a business advantage' in s70.2(1)(c)(ii). Her Honour ruled that the former was limited to the direct obtaining or retaining of business while the latter would cover business advantages which might indirectly lead to obtaining or retaining business. The appeal proceeded before Meagher JA, Harrison and Hamill JJ on 12 September 2022. Judgment is presently reserved.

Operation Zurzach

In February 2020, the AFP charged Getax Australia Pty Ltd (Getax) with conspiracy to commit foreign bribery in respect of Nauruan foreign public officials.

Update since December 2021: The committal hearing was heard at the Brisbane Magistrates Court on 19 July 2022 and the defendant company was committed to the District Court at Brisbane for trial. A trial date has not yet been fixed and proceedings remain ongoing.

Information about further foreign bribery matters will be the subject of a separate report to the Working Group on Bribery.

Please refer to previous follow-up reports submitted by Australia for information about action taken prior to December 2021 to implement this recommendation.

If no action has been taken to implement recommendation 5 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6 (b):

6. Regarding engagement with the private sector, the Working Group recommends that Australia:

b) In the event that Australia enacts a 'failure to prevent' offence for companies, closely

¹¹ <https://www.caselaw.nsw.gov.au/decision/181dc68c6fac8386ab01be8d>

¹² <https://www.caselaw.nsw.gov.au/decision/17f0265edf8bc201b60fc3>

engage with the private sector to prepare guidance on the establishment and implementation of adequate compliance measures with regard to the new offence [2009 Recommendation i) and ii)].

Action taken as of the date of the follow-up report to implement this recommendation:

If no action has been taken to implement recommendation 6 (b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

On 2 December 2019, the Australian Government introduced the [Crimes Legislation Amendment \(Combatting Corporate Crime\) Bill 2019 \(Cth\)](#)¹³ (the Bill) into Parliament which contained a proposed ‘failure to prevent’ foreign bribery offence for companies. The Bill lapsed on 25 July 2022 when Parliament was prorogued ahead of the 2022 Australian federal election.

The Australian Government is committed to combatting corporate crime, including reforming offences in the Criminal Code to remove undue impediments to the successful investigation and prosecution of foreign bribery. The Attorney-General’s Department (AGD) will work with the private sector in relation to any future reforms.

Ongoing engagement with the private sector through the Bribery Prevention Network (BPN)

Since December 2021, AGD has continued to engage closely with the private sector in relation to combatting foreign bribery, including through BPN initiatives. Australia’s BPN, launched in October 2020, is a public-private partnership that brings together business, civil society, academia and government with the shared goal of supporting Australian business to prevent, detect and address bribery and corruption and promote a culture of compliance. AGD and AFP are on the Steering Committee for the BPN. The BPN offers a [free online portal](#)¹⁴ of accessible, relevant and reliable resources, curated by Australia’s leading anti-bribery experts to support Australian business to manage foreign bribery and other corruption risks in domestic and international markets.

In-person launches of the BPN have been held in Perth (August 2021), Sydney (May 2022), Brisbane (June 2022) and Melbourne (August 2022), providing opportunities for private sector representatives to meet with anti-bribery and corruption experts and practitioners.

On 23 March 2022, the BPN in collaboration with AGD, Department of Foreign Affairs and Trade (DFAT), Australian Federal Police (AFP) and the Australian Trade and Investment Commission and Export Finance (Austrade) hosted a public webinar for small to medium enterprises (SMEs) about advice and assistance available to SMEs operating overseas that encounter requests for suspicious payments that may constitute bribes. A [recording of the webinar](#)¹⁵ is available on the BPN website.

On 27 April 2022, the BPN hosted a webinar in collaboration with the Australian Chamber of Commerce and Industry exploring the challenges SMEs face in embracing a speak-up culture

¹³ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s1246

¹⁴ <https://briberyprevention.com/>

¹⁵ <https://briberyprevention.com/2022/04/06/video-in-country-advice-and-assistance-for-smes/>

and sharing practical guidance on how businesses can implement whistleblower protections. A [recording of the webinar](#)¹⁶ is available on the BPN website.

In August 2022 the BPN published a [case study](#)¹⁷ based on the recent prosecution of Jacobs Group for foreign bribery, designed to highlight the increased risk of bribery and corruption when conducting business overseas and the importance of self-reporting. The case study also includes general principles on how to effectively prevent, detect and address corruption and foreign bribery.

Please refer to previous follow-up reports submitted by Australia for information about action taken prior to December 2021 to implement this recommendation.

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

Regarding Part II, countries are invited to provide information with regard to any follow-up issue identified below where there have been relevant developments. Please include any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate.

Text of issue for follow-up 7 (d):

7. The Working Group will follow-up on:

- d) Australia's ongoing review and monitoring of the defence for facilitation payments, including any recommendations that come out of the ongoing Senate Inquiry Into Foreign Bribery;

The Senate Economics References Committee inquiry referred to under this follow-up issue concluded in 2018. The Australian Government is giving consideration to the defence for facilitation payments and continues to recommend that individuals and companies make every effort to resist making facilitation payments given such payments may constitute a criminal offence in the jurisdiction in which they are made. Australian Government agencies including the Attorney-General's Department (AGD) continues to raise awareness of the risks of making facilitation payments and to [strongly discourage their use](#)¹⁸.

Under Australia's foreign bribery laws, the facilitation payment defence is very narrow in its operation and is only available in respect of a payment of minor value provided in return for securing a minor, routine government action, and must be appropriately documented. Facilitation payments are distinguished from bribes in that they cannot be made to secure any decision to award or continue business, or any decision related to the terms of new or existing business. The AFP has confirmed that the facilitation payment defence has not been an impediment to Australia's enforcement of the foreign bribery offence.

Please refer to previous reports submitted by Australia for further information about action taken in relation to this follow-up issue.

¹⁶ <https://briberyprevention.com/2022/05/10/video-fostering-a-speak-up-culture/>

¹⁷ <https://briberyprevention.com/case-studies/foreign-bribery-in-a-high-risk-jurisdiction/>

¹⁸ <https://www.ag.gov.au/crime/foreign-bribery/facilitation-payments>

Text of issue for follow-up 7 (e):

7. The Working Group will follow-up on:

- e) The steps that Australia has taken to address the recommendations made by the Committee with respect to whistleblowers in both the public and private sectors;

Updates relating to strengthening public sector whistleblower protections including closer alignment with private sector whistleblower protections

The Australian Government is committed to reforming the *Public Interest Disclosure Act 2013* (Cth) (PID Act). The Government intends to introduce amendments to the PID Act which will respond to key issues identified by the 2016 Review of the PID Act by Mr Phillip Moss AM (The Moss Review) and previous parliamentary committees.

The Moss Review made 33 recommendations to improve the PID Act including by:

- providing greater protections to disclosers and witnesses
- strengthening oversight of the scheme, and
- focusing the PID Act on serious wrongdoing such as fraud and corruption.

Please refer to previous reports submitted by Australia for further information about action taken in relation to this follow-up issue.

Text of issue for follow-up 7 (f):

7. The Working Group will follow-up on:

- f) Investigations into foreign bribery allegations to verify whether the increased foreign bribery capacity is working in practice;

Update on the AFP's increased foreign bribery capacity

The AFP has implemented a number of changes in recent years to enhance its operational model and provide more specialised support for foreign bribery investigations. These changes have had a positive and measurable effect on the AFP's foreign bribery investigations and have reduced the length of time taken to investigate and assess foreign bribery matters.

As at November 2022, the AFP has 21 ongoing foreign bribery investigations, including matters currently before the courts. Since December 2021, the AFP has opened nine new foreign bribery related investigations. The AFP has also brought four investigations to a conclusion.

In addition to the case updates included under recommendations 4(a) and 5(a), the AFP can report additional updates in relation to the following foreign bribery matters:

Operation Amorice

On 14 October 2022 the AFP arrested two individuals (former executive director Panjak Patel and former senior manager Sornalingam Ragavan) in connection with allegations that Australia-based Snowy Mountains Engineering Corporation (SMEC) International Pty Ltd, a subsidiary of SMEC Holdings Pty Ltd, was involved in the bribery of foreign public officials in

order to win contracts for the supervision of two infrastructure projects in Sri Lanka worth more than USD 8.8 million. The individuals are alleged to have conspired to bribe foreign public officials in Sri Lanka between 2009 and 2016 with bribe payments of AUD 304,000 to a third party agent. Further information is available in the [AFP media release](#)¹⁹ published 11 October 2022.

Operation Trig

In November 2011, the AFP received a report from Australian-registered company Leighton Holdings Limited about alleged improper payments made by Singapore registered operating entity Leighton Offshore Pty Ltd, regarding two contracts with Iraq Crude Oil Export in 2010 and 2011. Operation Trig commenced as a result of the information received from Leighton Holdings Limited. The investigation revealed two contracts for the development and installation of onshore and offshore oil pipelines designed to increase the capacity of Iraq's crude oil export. Two individuals have been arrested and a third individual is the subject of an arrest warrant. The first individual (Russell Waugh) was arrested in November 2020 on two charges of foreign bribery, one charge of falsifying books and one charge of knowingly providing misleading information. The second individual (David Savage) was arrested in January 2021 on one charge of knowingly providing misleading information. The third individual is the subject of an arrest warrant issued in November 2020. Further information is available in the following AFP media releases:

- [AFP media release 18 November 2020](#)²⁰
- [AFP media release 11 January 2021](#)²¹

Update since December 2021: These matters remain ongoing. The matters of Waugh and Savage are currently before the Downing Centre Local Court and next listed for mention on 8 November 2022, to allow for service of the brief.

Operation Amber

Following the self-report by Leighton Holdings Limited (see Operation Trig) AFP commenced a related investigation in July 2014 concerning allegations of foreign bribery related to a contract for a project in Tanzania in 2009 and 2010. In February 2021, the AFP laid an additional foreign bribery charge on an individual (Russell Waugh). Further information is available in the [AFP media release](#) issued 23 February 2021²².

Update since December 2021: The matter remains ongoing. The matter is currently before the Downing Centre Local Court and next listed for mention on 8 November 2022, to allow for service of the brief

Publication of new AFP cooperation guidance for companies

To ensure greater clarity and transparency in respect of incentivising self-reporting and cooperation from companies, in November 2021 the AFP published additional guidance on

¹⁹ <https://www.afp.gov.au/news-media/media-releases/two-sydney-men-charged-conspiracy-bribe-foreign-officials>

²⁰ <https://www.afp.gov.au/news-media/media-releases/brisbane-man-arrested-two-international-warrants-issued-foreign-bribery>

²¹ <https://www.afp.gov.au/news-media/media-releases/second-man-arrested-foreign-bribery-investigation>

²² <https://www.afp.gov.au/news-media/media-releases/update-additional-foreign-bribery-charge-brisbane-man>

[self-reporting corporate misconduct](#)²³ including new guidance on best practice corporate cooperation ([Corporate Cooperation Guidance](#)²⁴). Since December 2021, the guidance has been used in relation to several investigations. In one matter, a self-reporting company agreed to make this guidance document the benchmark for best practice cooperation under its Investigation Cooperation Agreement.

Please refer to previous reports submitted by Australia for further information about action taken in relation to this follow-up issue.

Text of issue for follow-up 7 (i):

7. The Working Group will follow-up on:

- i) Whether external auditors who discover indications of a possible illegal act of bribery are reporting the discovery to management and, as appropriate, to corporate monitoring bodies;

From 1 November 2019 to 26 October 2022, ASIC received two reports from external auditors relating to a possible act of foreign bribery and related offences by Australian companies. In the same period ASIC received over 3100 reports from external auditors under section 311 of the *Corporations Act 2001* (Cth) but none of the other reports related to bribery.

Text of issue for follow-up 7 (j):

7. The Working Group will follow-up on:

- j) Sanctions and confiscation in foreign bribery cases;

As noted under Recommendation 4(a), the AFP has restrained an estimated AUD 1.6 million in assets in Operation Carambola. Civil proceedings under the POC Act in this matter, as well as the criminal prosecution, remain ongoing.

Text of issue for follow-up 7 (k):

7. The Working Group will follow-up on:

- k) Australia's enforcement of foreign bribery cases that may be politically sensitive; and

Neither the CDPP nor any other Commonwealth Government agency has sought suppression orders in relation to any foreign bribery matters in the period since the prosecutions of Securrency and Note Printing Australia concluded in November 2018. To the extent that non-publication or suppression orders have been made in foreign bribery prosecutions or proceeds of crime proceedings, the relevant applications have generally been made by individuals facing prosecution to ensure these individuals receive a fair trial.

²³ <https://www.afp.gov.au/companies-self-reporting-and-cooperating>

²⁴ <https://www.afp.gov.au/sites/default/files/PDF/AFPCorporateCooperationGuidance.pdf>

Text of issue for follow-up 7 (I):

7. The Working Group will follow-up on:

I) Australia's enforcement of false accounting offences related to foreign bribery.

Since December 2021, Australia continues to enforce false accounting offences against three individuals in relation to two foreign bribery matters:

- In Operation Carambola, an individual (Dennis Teen) was charged with false accounting offences in addition to foreign bribery offences (see response to Recommendation 4(a)).
- In Operation Trig, two individuals were charged with offences under the *Corporations Act 2001* (Cth) relating to the falsification of books and records and/or the provision of false information (see response to follow-up issue 7(f)).

Update on the status of the Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019

The Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 lapsed on 25 July 2022 when Parliament was prorogued ahead of the 2022 Australian federal election. The Australian Government is strongly committed to combatting corporate crime and bribery of foreign public officials. The Government will consider reforms to the corporate criminal framework and foreign bribery offences, including reforming offences in the Criminal Code to remove undue impediments to the successful investigation and prosecution of foreign bribery. AGD continues to work closely with the AFP, CDPP and other enforcement agencies to ensure law enforcement agencies have the necessary tools to combat corporate crime.