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SWIFT INSTITUTE WORKING PAPER NO. 2017-003

**PUBLIC-PRIVATE PARTNERSHIPS TO DISRUPT
FINANCIAL CRIME:
AN EXPLORATORY STUDY OF AUSTRALIA'S FINTEL ALLIANCE**

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PUBLICATION DATE: 28 MAY 2019

The views and opinions expressed in this paper are those of the authors. SWIFT and the SWIFT Institute have not made any editorial review of this paper, therefore the views and opinions do not necessarily reflect those of either SWIFT or the SWIFT Institute.

Acknowledgements

The authors wish to thank the SWIFT Institute's research sponsorship program for funding this research. We express particular thanks to Nancy Murphy, Peter Ware (SWIFT Institute), James Freis (Deutsche Börse) and Nick Maxwell (Royal United Services Institute) for their expertise and support throughout this project. Special thanks must also be expressed to the current and former Australian Government officials and private sector employees that we interviewed for taking time out of their busy schedules to discuss information sharing and public-private partnerships with us.

The authors also acknowledge the support they received from the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the Department of Home Affairs (Paula Chadderton), and the Australian Strategic Policy Institute (Simon Norton), and their families during this research project. Unless otherwise stated, all information was believed to be correct as at 1 December 2018. The views contained in this report are those of the authors and do not reflect those of the Australian Strategic Policy Institute (ASPI), AUSTRAC or the Australian Government.

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1 Executive Summary

The 9/11 terrorist attacks in the United States and the 2014 Lindt Café siege in Sydney demonstrated the importance of timely, relevant and complete information sharing. While there is broad support for information sharing, it has proved challenging to implement and is regarded as ‘one of the most deleterious obstacles to combating major and serious criminal conspiracies’.

This paper examines whether a partnership comprising public and private sector organisations (PPP) can improve information sharing between those sectors and be effective in combating money laundering and terrorism financing-related crimes, using Australia’s Fintel Alliance as a case study.

The Fintel Alliance is a PPP led by the Australian Transaction Reports and Analysis Centre, Australia’s financial intelligence unit and anti-money laundering/counter-terrorism financing regulator. The Fintel Alliance brings together 22 public and private sector organisations with the goal of combatting money laundering and terrorism financing-related crimes and is regarded as ‘the first true public-private partnership of its kind in the world’ in its co-location of participants and sharing of information.

Drawing on the results of semi-structured interviews and a focus group with analysts, managers and senior managers of Fintel Alliance member and non-member organisations, this paper examines whether and why PPPs have improved information sharing between public and private sector organisations, and the factors that have contributed to the success (or otherwise) of those arrangements. The paper also makes recommendations on changes needed to improve information sharing using PPPs.

Although the Fintel Alliance is still maturing as an organisation, its experiences are a useful guide for others contemplating developing or enhancing existing PPPs that target financial crime. For most interviewees, Fintel Alliance membership is viewed positively and provides opportunities to understand the challenges faced by counterparts. However, for some members concerns remain about their potential exposure to regulatory non-compliance action or the possibility that their commercial competitiveness could be reduced through participation in PPP activities. Notwithstanding such concerns, Fintel Alliance members consider the opportunity to develop greater awareness of financial crime risks, collaborate on

projects that could benefit them, industry and the community, and potentially influence AML/CTF regulation, mean involvement in the PPP is valuable and worthwhile.

This paper considers that for PPPs to benefit their members, industry and ultimately the community, it is imperative that they undertake projects or other activities that maximise members' participation, incorporate a preventative focus, and align with the PPP's strategic goals. Projects that incorporate these attributes are more likely to be valued by members and consequently attract support and resources. This paper finds that inviting non-members to participate in projects, particularly if their information could be crucial to a project, could also enhance a PPP's effectiveness and broaden the value of PPP projects to industry. In the Fintel Alliance case, members recognised the need to involve non-members in projects, particularly if they did not hold all the information pertinent to a project's success.

However, the challenges of implementing a PPP are not only legislative, technical or data-driven, they also relate to relationships, trust and risk appetite. Consequently, PPPs can play a critical role in overcoming reticence to sharing information between the public and private sectors, building trust and in expanding our knowledge of financial crime. With this in mind, we make the following recommendations for others considering establishing or enhancing a PPP targeting financial crime:

- Recommendation 1: Start small and grow over time.
- Recommendation 2: Consider involving members from other organisations or sectors.
- Recommendation 3: Start within existing legislative and technological parameters.
- Recommendation 4: Provide clarity on PPP roles and responsibilities.
- Recommendation 5: Consider projects that maximise PPP members' participation and incorporate a preventative focus.
- Recommendation 6: Engage, and if possible co-locate, the most appropriate staff to work on projects.
- Recommendation 7: Communicate timely and meaningful information about PPP projects and activities to industry, government and the community.
- Recommendation 8: Review laws to support information sharing to fight financial crime.

2 Introduction

Information is the lifeblood of all organisations. However, with information holdings being disconnected, information sharing is vital.¹ After the 9/11 terrorist attacks in the United States, the importance of information sharing for law enforcement and national security became apparent. The 9/11 Commission's investigation found that information-sharing failures were ubiquitous across all levels of law enforcement.² In Australia, barriers to and deficiencies in information shared, and a lack of timeliness in information sharing, played a contributory role in the deaths arising from the 2014 Lindt Café siege in Sydney. As the New South Wales (NSW) State Coroner, tasked with investigating the siege, commented, 'the use of multiple information-sharing systems and databases by the NSW Police Force units responding to the siege resulted in information not always being made available in a timely manner or disseminated in a format that would make it most useful. Such deficiencies have the potential to degrade operational effectiveness.'³ Whether in the context of terrorism or of financial crime and fraud, timely, complete and pertinent information sharing is vital to protecting businesses and the community alike.

However, while there is broad support for information sharing, it has proved challenging to implement and is regarded as 'one of the most deleterious obstacles to combating major and serious criminal conspiracies'.⁴ This section situates the issue of information sharing and defines key concepts, before outlining the research hypotheses, aims and method used in this paper.

2.1 Information-sharing arrangements

The 9/11 terrorist attacks and Lindt Café siege focused on tragedies that were later found to be exacerbated by failures in, or insufficient sharing of, information available to law enforcement authorities and intelligence agencies. In response to this challenge, a plethora of

1 David Connery, "For the Right Reasons in the Right Ways (Part 1)," in *ASPI Special Report* (Canberra: Australian Strategic Policy Institute, 2016), 5.

2 Jeremy G. Carter, "Inter-Organizational Relationships and Law Enforcement Information Sharing Post 11 September 2001," *Journal of Crime and Justice* 38, no. 4 (2015): 523.

3 State Coroner of New South Wales, "Inquest into the Deaths Arising from the Lindt Café Siege - Findings and Recommendations," (Glebe, Sydney: New South Wales Department of Justice, 2017), 21.

4 Lindsey Garber, "Have We Learned a Lesson? The Boston Marathon Bombings and Information Sharing," *Administrative Law Review* 67, no. 1 (2015).; Stephen Schneider and Christine Hurst, "Obstacles to an Integrated, Joint Forces Approach to Organized Crime Enforcement: A Canadian Case Study," *Policing: An International Journal of Police Strategies & Management* 31, no. 3 (2008).

formalised information-sharing arrangements has emerged, and jurisdictions have increasingly introduced fusion centres or public–private partnership (PPP) arrangements.⁵

In their study, Abold et al define fusion centres as ‘multiagency task forces designed for receiving, gathering, analysing and disseminating information and intelligence among constituencies that have a law enforcement, counter terrorism, public safety or homeland security mission or focus’.⁶ Previous studies note that fusion centres involving predominantly public sector agencies act as hubs for information and intelligence sharing on terrorist, criminal, and other public safety threats within a particular geographic area.⁷ However, notwithstanding the significant numbers of fusion centres, most are considered sub-optimal and do not achieve their objectives.⁸ The reasons for this are varied with previous studies pointing to issues including structure, governance and mandate,⁹ data and system inter-operability¹⁰ and trust.¹¹

Greater recognition of the relevance and value of private sector held information has led a number of countries introducing arrangements aimed at improving information sharing between the public and private sectors. Countries including the United States¹², Australia¹³, Canada¹⁴, the United Kingdom¹⁵, Singapore and Hong Kong have established information

5 Jeremy G. Carter et al., "Law Enforcement Fusion Centers: Cultivating an Information Sharing Environment While Safeguarding Privacy," *Journal of Police and Criminal Psychology* 32, no. 1 (2017); Nick J Maxwell and David Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime," in *RUSI Occasional Paper* (London: Royal United Services Institute, 2017).

6 Justin Lewis Abold, Ray Guidetti, and Douglas Keyer, "Strengthening the Value of the National Network of Fusion Centers by Leveraging Specialization: Defining "Centers of Analytical Excellence"," *Homeland Security Affairs* 8, no. 1 (2012).

7 Carter et al., "Law Enforcement Fusion Centers: Cultivating an Information Sharing Environment While Safeguarding Privacy."

8 Robert W. Taylor and Amanda L. Russell, "The Failure of Police 'Fusion' Centers and the Concept of a National Intelligence Sharing Plan," *Police Practice and Research* 13, no. 2 (2012).

9 Siobhan O'Neil, "The Relationship between the Private Sector and Fusion Centers: Potential Causes for Concern and Realities" (paper presented at the Proceedings of the 2008 Center for Homeland Defense and Security Annual Conference April, 2008, 1; Taylor and Russell, "The Failure of Police 'Fusion' Centers and the Concept of a National Intelligence Sharing Plan."

10 Emma Higgins et al., "Developing a Data Sharing Framework: A Case Study," *Transforming Government: People, Process and Policy* 8, no. 1 (2014).; Carrie B. Sanders and Samantha Henderson, "Police 'Empires' and Information Technologies: Uncovering Material and Organisational Barriers to Information Sharing in Canadian Police Services," *Policing and Society* 23, no. 2 (2013).

11 Schneider and Hurst, "Obstacles to an Integrated, Joint Forces Approach to Organized Crime Enforcement: A Canadian Case Study."; Renee Graphia Joyal, "How Far Have We Come? Information Sharing, Interagency Collaboration, and Trust within the Law Enforcement Community," *Criminal Justice Studies* 25, no. 4 (2012).

12 Connery, "For the Right Reasons in the Right Ways (Part 1)," 19.

13 Tim Prenzler, "Strike Force Piccadilly: A Public-Private Partnership to Stop Atm Ram Raids," *Policing: An International Journal of Police Strategies & Management* 32, no. 2 (2009).

14 Maxwell and Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime."

15 United Kingdom Home Office and HM Treasury, "Action Plan for Anti-Money Laundering and Counter-Terrorist Finance," London 2016.

sharing arrangements on issues as diverse as preventing automated teller machine ‘ram raids’ in shopping malls to disrupting cybercrime.¹⁶

However, information-sharing arrangements that focus on financial crime issues and involve public and private sector organisations are rare, yet information sharing in these circumstances is vital to overcoming financial crime.

For law enforcement, private sector information is fundamental to combating financial crimes effectively and to understanding the international movement of funds. Private sector knowledge and information is essential to understanding the links between entities, gathering crucial evidence about criminal activities, and successfully forfeiting assets and recovering the proceeds of crimes. However, law enforcement has only a limited understanding of the extent of the information the private sector holds on customers and their transactions. As a result, law enforcement agencies may not know how to make optimal use of that information – in other words, what questions to ask.

Conversely, the private sector needs information from law enforcement to prevent, detect and manage the risk of criminal activities to their business as well as to their customers and society. However, private sector organisations have historically received limited information from law agencies that would enable them to assess financial crime risks and identify suspicious activity.¹⁷ Information such as typologies and case studies of financial crimes are considered useful in aiding the private sector to identify criminal activity, provided they are regularly updated to reflect recent developments.¹⁸ Criminals regularly exploit the financial sector’s services to facilitate crime, launder money, avoid sanctions and move illicit funds through the financial system. This is where PPPs targeting financial crime can be instrumental in combating financial crime by making government agencies and private sector entities more aware of criminal trends, and enabling them to identify and prevent criminal activities. With this in mind an increasing number of jurisdictions, including Australia, have introduced PPPs that target financial crime.¹⁹

16 Ben Scott and Mark McGoldrick, "Financial Intelligence and Financial Investigation: Opportunities and Challenges," *Journal of Policing, Intelligence and Counter Terrorism* 13, no. 3 (2018): 303.

17 Nick J. Maxwell and Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime," ix, Chapter 1,

https://rusi.org/sites/default/files/201710_rusi_the_role_of_fisps_in_the_disruption_of_crime_maxwell_artingstall_web_2.pdf. In the Australian context see: Simon Norton, "Boosting Public-Private Cooperation to Stare Down Financial Crime," 8 February 2016, <https://www.aspistrategist.org.au/boosting-public-private-cooperation-to-stare-down-financial-crime/>.

18 Scott and McGoldrick, "Financial Intelligence and Financial Investigation: Opportunities and Challenges."

19 Maxwell and Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime."

This paper focuses on arrangements involving public and private sector organisations that have emerged from the fusion centre model used predominantly by public sector organisations with a law enforcement or intelligence mandate.²⁰ In our view, the combined resources of the public and private sectors are crucial to overcoming financial crime.

2.2 What is a public-private partnership (PPP)?

Although PPPs are common in infrastructure or development projects, no widely accepted international definition of a PPP exists.²¹ The World Bank's PPP Knowledge Lab defines a PPP as 'a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility and remuneration is linked to performance'.

While the above definition is readily applicable to infrastructure or transport PPPs, the World Bank does accept that partnerships between government and private sector entities that are not strictly PPPs have been used successfully in the context of healthcare, insurance fraud, counter-terrorism, and environmental protection.²² Although these government-private sector partnerships do not involve significant capital investment or contain the performance commitments typical of infrastructure or transport PPPs, they contain goals and other governance arrangements that are similar to PPPs used for infrastructure or transport projects.

This paper proposes that the Fintel Alliance presents the characteristics of a public-private partnership rather than a fusion centre. As discussed in section 2.1 above, fusion centres involve public sector organisations with law enforcement or intelligence mandates. In contrast, the Fintel Alliance is a partnership between public and private sector entities that contains elements characteristic of a PPP. These characteristics are:

- governance: the Fintel Alliance is governed by a Member Protocol and Memorandum of Understanding to which all participants adhere;
- strategic direction: Fintel Alliance members participate in setting directions and priorities for projects undertaken;
- resources: all Fintel Alliance members contribute resources to projects;

20 Sanders and Henderson, "Police 'Empires' and Information Technologies: Uncovering Material and Organisational Barriers to Information Sharing in Canadian Police Services."; Schneider and Hurst, "Obstacles to an Integrated, Joint Forces Approach to Organized Crime Enforcement: A Canadian Case Study."; Joyal, "How Far Have We Come? Information Sharing, Interagency Collaboration, and Trust within the Law Enforcement Community."; Taylor and Russell, "The Failure of Police 'Fusion' Centers and the Concept of a National Intelligence Sharing Plan."

21 World Bank, PPP Knowledge Lab, accessed 20 November 2018, <https://pppknowledge.org/guide/sections/1-introduction>.

22 World Bank, PPP Knowledge Lab, accessed 20 November 2018, <https://pppknowledge.org/guide/sections/4-what-ppp-is-not-other-types-of-private-involvement>.

- data analysis: all Fintel Alliance members may participate in processes to collect and analyse data relevant to projects and other activities; and
- commitment: all Fintel Alliance participants make a long-term commitment to contribute to, and participate in, projects and other activities.²³

2.3 Fintel Alliance

The Fintel Alliance is a PPP – led by the Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia’s financial intelligence unit (FIU) and anti-money laundering/counter-terrorism financing (AML/CTF) regulator – that seeks to combat money laundering and terrorism financing-related crimes. The partnership brings together 22 public and private sector organisations²⁴ and is regarded as ‘the first true public–private partnership of its kind in the world’ in its co-location of participants and sharing of information.²⁵ Since its launch in March 2017, the Fintel Alliance has focused on projects²⁶ that aim to harness the combined strengths of its government and private sector members.

2.4 Research aims, questions and methodology

Using the Fintel Alliance as a case study, our paper proposes to examine whether a PPP model that:

- promotes specific, common and objective outcomes,
- involves public and private sectors, and
- has a mandate linked to operational outcomes and supports innovation;

can improve information sharing between public and private sector organisations and be effective in combating money laundering and terrorism financing-related crimes.

With this in mind, our paper poses the following questions:

RQ1 To what extent have PPPs improved information sharing about financial crime? Why?

RQ2 What factors have impacted on the success of information-sharing arrangements?

23 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects) " (Chatswood, Undated), <http://www.austrac.gov.au/sites/default/files/draft-pia-data-matching.pdf>.

24 Information provided to the authors by AUSTRAC; Ibid., 6-7.

25 The Hon Michael Keenan, "AUSTRAC Launches World-First Alliance to Combat Serious Financial Crime," news release, 3 March 2017, Minister for Justice, Minister Assisting the Prime Minister for Counter-Terrorism, 2017.

26 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance Launch," 2017, <http://www.austrac.gov.au/fintel-alliance-launch>; Simon Norton, "Fintel Alliance: Fighting Financial Crime and Terror Funding," *The Strategist*, 1 May 2017, <https://www.aspistrategist.org.au/fintel-alliance-fighting-financial-crime-terror-funding/>.

RQ3 What changes are necessary to improve how PPPs share information? Why?

To address these questions, we reviewed the critical literature on information-sharing arrangements to identify the primary issues facing PPPs. This review informed 16 semi-structured interviews conducted between October 2017 and April 2018. We interviewed 18 participants at the analyst, manager and senior management levels from Fintel Alliance organisations, as well as financial services industry representatives who were not members of the Fintel Alliance. We also participated in a focus group roundtable in March 2018, convened by the Royal United Services Institute (UK), with 18 participants from Fintel Alliance members and non-members. Data from the interviews and focus group were coded and analysed thematically using NVivo software.

2.5 Significance

Previous studies have concentrated on inter-governmental fusion centre arrangements in North America. Few have examined arrangements comprising public and private sector organisations, and fewer still have investigated PPPs outside North America or information-sharing arrangements that focus specifically on financial crime issues.

In contrast, this paper makes an original contribution in three ways, by examining an information-sharing arrangement: (a) comprising public and private sector participants; (b) whose primary mandate is to combat financial crime, particularly money laundering and terrorism financing; and (c) located outside North America and Europe.

Previous studies have, in some instances, experienced difficulty in accessing participants and managers of fusion centres and other information-sharing arrangements and, consequently, have primarily relied on survey data in their research. Our paper addresses this methodological gap by drawing on the results of 18 semi-structured interviews and a focus group.

By focusing on the Fintel Alliance, an initiative directed explicitly at financial crimes, our paper could also offer a model for other countries seeking to develop their own PPP or enhance an existing PPP. Consequently, this paper has the potential to provide the Financial Action Task Force (FATF) with evidence of the value of information-sharing initiatives between the public and private sectors in combating financial crimes, including terrorism financing. In this way, this paper makes a positive contribution to extant knowledge and offers a pragmatic pathway for information sharing in the financial services sector.

2.6 Structure of paper

This paper is structured as follows. Section 3 provides an overview of the structure of the Fintel Alliance, and discusses the importance of governance arrangements to a PPP. Sections 4 and 5 comprehensively examine Fintel Alliance members' views on their involvement in the PPP, their concerns over sharing information and how these issues could be addressed. The project considered by Fintel Alliance participants to be their most successful – the Countering Child Exploitation project – is explored as a case study in Section 6 of the paper. Section 7 highlights the themes of collaboration, prevention and communication to consider how PPPs can benefit industry and the community more broadly. Section 8 applies the 'lessons learned' in previous sections to examine how PPPs need to evolve to maintain their relevance and currency, and take advantage of fluid environments or emerging situations. Section 9 sets out our findings and offers recommendations for others contemplating establishing or enhancing an existing PPP.

3 Governance arrangements and the Fintel Alliance

Governance and the need for clarity of structure were significant issues in establishing a PPP for those interviewed about the Fintel Alliance. That 14 of the 16 interviews discussed issues related to governance indicates the importance of this issue to interviewees. This section focuses on the Fintel Alliance's structure, governance arrangements for sharing information between members, and management of projects undertaken by the Operations and Innovation Hubs.

3.1 Establishment

Launched in March 2017, the Fintel Alliance involves 22 public and private sector organisations, led by AUSTRAC.²⁷ Incorporating an Operations Hub and Innovation Hub, the Fintel Alliance has three aims²⁸:

- assisting private sector members to identify and report suspicious transactions;
- assisting law enforcement members to arrest and prosecute criminals, and
- working with academia to develop knowledge and insights.²⁹

In forming the Fintel Alliance, a deliberate decision was made to establish it within AUSTRAC, make it accountable to the AUSTRAC CEO and rely on existing AUSTRAC relevant legislation and technological tools.³⁰ These decisions enabled the Fintel Alliance to commence operations more expeditiously than would have been the case if it had been necessary to enact new laws or implement technology.

27 Information provided to the authors by AUSTRAC. See also AUSTRAC (Australian Transaction Reports and Analysis Centre), "Annual Report 2016-17," Chatswood, 2017): 57, accessed 29 August 2018, <http://www.austrac.gov.au/sites/default/files/austrac-ar-2016-17-WEB.pdf>. At the time of writing, the Fintel Alliance partners included: AUSTRAC, Commonwealth Attorney-General's Department, the Australian Federal Police, Australian Taxation Office, Australian Criminal Intelligence Commission, Australian Competition and Consumer Commission, Department of Home Affairs, New South Wales Police, New South Wales Crime Commission, Australian and New Zealand Banking Corporation (ANZ), National Australia Bank (NAB), Commonwealth Bank of Australia, Westpac Banking Corporation, Macquarie Bank and Hong Kong and Shanghai Banking Corporation (HSBC) (Australia), PayPal, Western Union, Fintech Australia and the United Kingdom's National Crime Agency.

28 Ibid.

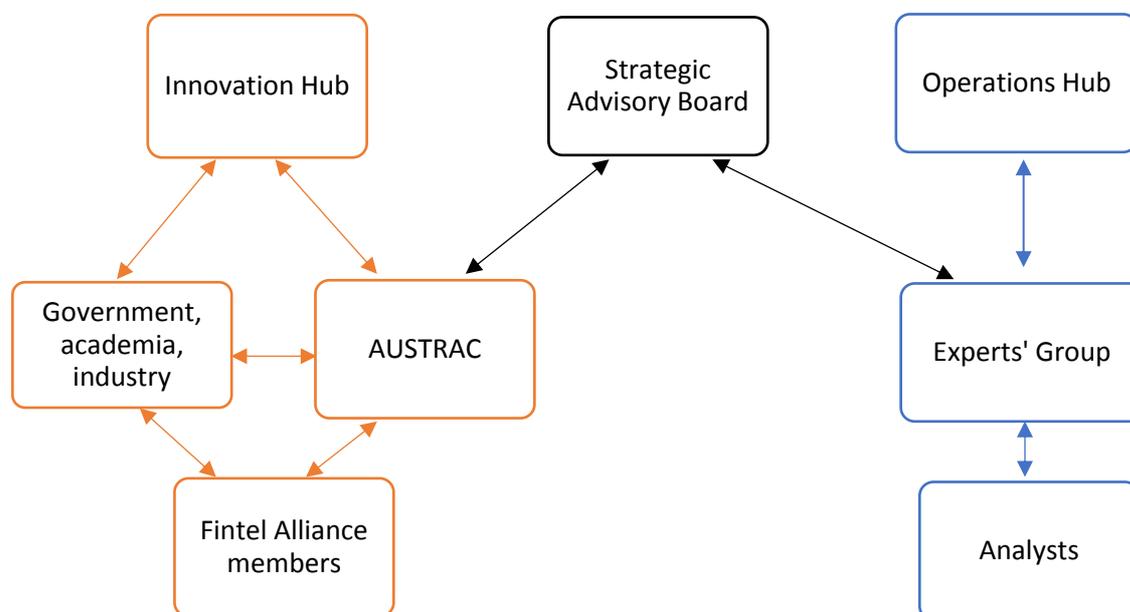
29 Initially linked to the Fintel Alliance, the Financial Analyst Course (FIAC) was developed with assistance from law enforcement agencies, industry, academia and the US Financial Crimes Enforcement Network (FinCEN). The FIAC is a university level course accredited by the Charles Sturt University that seeks to develop the skills and knowledge of financial intelligence analysts from government and the private sector. AUSTRAC (Australian Transaction Reports and Analysis Centre), "AUSTRAC Industry Contribution 2018-19 – Stakeholder Consultation Paper," Chatswood, 2018; AUSTRAC (Australian Transaction Reports and Analysis Centre), "Annual Report 2017-18," Chatswood, 2018.

30 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 6.

3.2 Structure

The Fintel Alliance operates under a Strategic Advisory Board and Experts' Group, and through an Operations Hub and Innovation Hub (see figure 1).

Figure 1 – Structure of Fintel Alliance



3.2.1 Operations Hub

AUSTRAC hosts Fintel Alliance Operations Hubs at its Sydney and Melbourne offices. At the Hubs, analysts from the Alliance's member organisations are co-located to work on projects that 'discover, understand, prevent and disrupt financial crime'.³¹ This feature of the Fintel Alliance makes it unique among PPP arrangements that target financial crime. In other PPP arrangements, such as the UK's Joint Money Laundering Intelligence Taskforce (JMLIT), analysts are based in their home organisations and only come together for meetings.

All analysts must be national security vetted (a process sponsored by AUSTRAC) and formally seconded to AUSTRAC to participate in the Operations Hub.³² Under the AML/CTF Act, law enforcement agency officers and other persons seconded to the Fintel

31 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance: Operations Hub", <http://www.austrac.gov.au/sites/default/files/fa-announcement-operations-hub-v1.pdf>.

32 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 45, 47. A secondment agreement is also entered into between an individual, their home organisation and AUSTRAC. Individuals remain employees of their home organisation. AUSTRAC advised the authors that it sponsors the national security clearances of private sector staff with diverse skills, allowing them to be involved in Fintel Alliance projects relevant to their skill-set.

Alliance are considered to be ‘AUSTRAC staff members’.³³ As a result, analysts must comply with relevant laws concerning access and disclosure of information in the same manner as AUSTRAC staff members. As an AUSTRAC staff member, analysts are entrusted with access to a broader range of information and intelligence held by AUSTRAC.

Analysts are not based full-time in the Operations Hub and instead work on Fintel Alliance projects as required. Monthly meetings involving all Operations Hub analysts are held to discuss projects. These flexible work arrangements are considered to benefit individual analysts, their home organisation and the Fintel Alliance.

Governance arrangements that enshrine a hub-and-spoke model of information sharing apply to the Operations Hub. Fintel Alliance members (the spokes) provide information to the Fintel Alliance through AUSTRAC (the hub) which is disclosed by AUSTRAC to other members using ‘a secure, accessed controlled platform’.³⁴ Members cannot directly share information with other member organisations except if this is legally permitted. In other words, information must be shared through AUSTRAC.

Members agree to use information provided through the Fintel Alliance only for the purposes for which it was provided and in accordance with any restrictions or caveats imposed by the provider of the information.³⁵ They also agree to comply with relevant legal obligations, refrain from using the information in an anti-competitive manner, and to submit reports in accordance with their obligations under the AML/CTF Act without delay or interference. Moreover, they agree not to disclose information received through the Fintel Alliance to third parties (unless approved by the AUSTRAC CEO).³⁶ These requirements underpin the trust with which information is shared between Fintel Alliance members in the Operations Hub.

3.2.2 Innovation Hub

The Fintel Alliance’s Innovation Hub is unique among PPPs. The Innovation Hub’s goal is to act as a ‘creative sandbox’ that allows industry partners to test and co-design AML/CTF controls for new financial products, services and systems that could improve the Operations

³³ See section 225 of the AML/CTF Act, and subsection 225(3) in particular. Secondment arrangements do not apply to AUSTRAC staff members involved in the Fintel Alliance.

³⁴ AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 39.

³⁵ Ibid.

³⁶ Ibid.

Hub's intelligence detection and analytical capabilities. A benefit of the Innovation Hub is the potential to reduce the industry's regulatory burden.³⁷

The Innovation Hub regards itself as the Operations Hub's 'eyes and ears', investigating emerging technologies and identifying innovations that could benefit the latter.³⁸ As one interviewee involved with the Innovation Hub explained, the Innovation Hub aspires to develop solutions that could solve problems identified by the Operations Hub's work.

Using a project/workshop type arrangement, the Innovation Hub engages subject matter experts to work on projects of interest to the Operations Hub member and the financial sector more broadly. Unlike the Operations Hub, secondees to the Innovation Hub do not need national security clearances.

3.2.3 Strategic Advisory Board

The Strategic Advisory Board involves select Fintel Alliance members who provide advice, oversight and guidance to the AUSTRAC CEO on the Fintel Alliance's governance, development and direction. The Board's mandate, membership, scope and operation are set out in its terms of reference.³⁹

Prior to the introduction of the Experts' Group (discussed below), no intermediate layer existed between the Strategic Advisory Board and the Operations Hub. Thus, forcing the Board to consider matters 'normally done at [the] operational level in other entities'. As one interviewee explained, there was 'much enthusiasm but no coordination'. The 'uncoordinated and disorganised interactions' between the Board and Operations Hub during the Alliance's initial phase demonstrated the need for the Alliance to have a governance structure and a clearly defined purpose.

Evolving an intermediate layer, therefore, became critical to the sustainability of the overall Fintel Alliance. The creation of the Experts' Group provided this layer, thus freeing the

37 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance: Innovation Hub," Undated, accessed: 11 March 2018, <http://www.austrac.gov.au/sites/default/files/fa-announcement-Innovation-hub-v1.pdf>. The Innovation Hub expects to examine the impact of technologies including blockchain, cryptocurrencies, and New Payments Platform that Australia introduced in 2018.

38 Interviewee comment.

39 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 31. At the time of writing, Mr Roger Wilkins (former Secretary of the Attorney-General's Department and former FATF President) chaired the Strategic Advisory Board. Members of the Board included the Commonwealth Attorney-General's Department, the Australian Federal Police, Australian Taxation Office, Australian and New Zealand Banking Corporation (ANZ), National Australia Bank (NAB), Commonwealth Bank of Australia, Westpac Banking Corporation, Macquarie Bank and Hong Kong and Shanghai Banking Corporation (HSBC) (Australia), PayPal, Western Union, and the Australian Financial Crime Exchange (as an observer), see James Eyers, "Bank Staff Working inside AUSTRAC," *The Australian Financial Review*, 25 October 2017.

Strategic Advisory Board to concentrate on developing the Fintel Alliance's priorities and future direction.

3.2.4 Experts' Group

Comprising senior managers from most of the Fintel Alliance members, the Experts' Group acts as an intermediary between the Operations Hub and the Strategic Advisory Board. The Group determines the Fintel Alliance's priorities and projects, focusing on how the Government's strategic priorities can be advanced and gaps in law enforcement information addressed using private sector information.

In this manner, the Experts' Group performs a critical two-way role: translating the Strategic Advisory Board's priorities into working-level projects, and providing advice and suggestions (recommendations) to the Board on potential areas of legal reform and evidence of impediments to information sharing based on actual situations. The Experts' Group also provides project briefs and direction to the Operations and Innovation Hubs, and is pertinent in overcoming challenges facing Fintel Alliance operations and in devising solutions to them. As one interviewee reflected, 'the middle level is critical: a project can stagnate if you don't have their support'.

3.2.5 Memorandum of Understanding and Member Protocol

A Member Protocol governs members' participation in the Fintel Alliance. The Member Protocol is an essential tool that articulates the Alliance's objectives, operating model, information-sharing arrangements, secondments and resourcing, intellectual property and communications.⁴⁰

Three key principles guide the 'cooperative arrangements' among members:

- promoting a 'culture of trust, partnership and cooperation';
- agreement to consult on Fintel Alliance's strategic priorities and plans; and
- sharing information using the 'hub and spoke' model and in accordance with relevant laws.⁴¹

While the Member Protocol provides basic guidance to members, members have found it needs to be revised to provide clarity on compliance and supervisory issues in particular.

40 See AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)", for an earlier version of the Member Protocol.

41 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 30, 39.

Interviewees considered greater transparency was needed on how AUSTRAC would use information provided for compliance and supervisory purposes. Of significant concern to Fintel Alliance private sector members was the extent to which information disclosed in Fintel Alliance projects could be accessed and used for regulatory compliance purposes by AUSTRAC's supervisory, compliance and enforcement areas. Some Fintel Alliance members considered they were at greater risk of exposure to non-compliance action by participating in the Alliance, while for others such concerns were not at issue. In any event, where PPPs involve regulators, governance arrangements must encompass how the regulator will manage compliance and supervisory issues, such as allegations of non-compliance that arise during PPP projects. Transparency on such issues would provide greater trust and certainty for all involved.

3.3 Projects

The Fintel Alliance's Operations and Innovation Hubs have focused on projects⁴² that aim to harness the combined strengths of their government and private sector members. Although it is important to harness members' strengths in undertaking projects; as the outward face of a PPP, we suggest that the importance of aligning projects with the PPP's overall direction and strategy cannot be overestimated. Those interviewed considered it imperative that future Fintel Alliance projects adopt a strategic approach to project selection that aligns with the Alliance's priorities.⁴³ A strategic approach would also avoid concerns that the Fintel Alliance was easily distracted by 'the next shiny ball' in its project selection. With this in mind, we recommend that having a clear statement of project objectives and member responsibilities is essential to ensuring project participants have a consistent understanding of a project's purpose and goals, and how they align with the PPP's overall strategic objectives and priorities.

While any Fintel Alliance member can propose projects, the Operations Hub's first three projects were proposed all by AUSTRAC. These early projects analysed information from the Panama Papers, explored Australian Cybercrime Online Reporting Network (ACORN)

42 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance Launch"; Simon Norton, "Fintel Alliance: Fighting Financial Crime and Terror Funding."

43 See for example, 'Fintel Alliance 10 Point Plan' as found in AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)": 22-24.

data, and sought to identify money mules⁴⁴, and thus provided the Alliance with much-needed early success and momentum.

To build on this momentum and maximise the partnership's benefits, subsequent projects – including the Fintel Alliance's examination of suspected child exploitation-related transactions (discussed in Section 6 below) – have looked beyond law enforcement outcomes. Projects have focussed on preventative and interventional outcomes that provide a broader socioeconomic benefit, serve a range of community objectives and are informed by government priorities including those set out below:

- crimes affecting society's most vulnerable;
- exploitation of government revenue;
- networked and complex financial crime;
- nationally significant taskforces and campaigns on matters including drugs, transnational crime and firearms;
- regional and community harms; and
- responses using innovative approaches to data and intelligence.⁴⁵

However, while a broad list may be valued by some as providing guidance on projects, others criticise its usefulness on the basis that it offers little meaning and fails to recognise the different ways in which harms manifest themselves to the public sector compared with the private sector. Consequently, some members have advocated for activities that adopt a strategic approach to preventing financial crime that harnesses the skills and expertise of private sector members; and is informed by the intelligence and knowledge of financial crime of government members.

Data availability is key to the success of any Fintel Alliance project: there is limited value in undertaking a project if no information exists. In considering project proposals Fintel Alliance members discuss, in a manner consistent with their privacy obligations, their information and data holdings that may be relevant to a project before agreeing to proceed. This stage is an essential aspect of planning Fintel Alliance projects that enables private sector members to anticipate and respond more expeditiously to compulsory notices they later receive from AUSTRAC.

44 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance: Operations Hub".

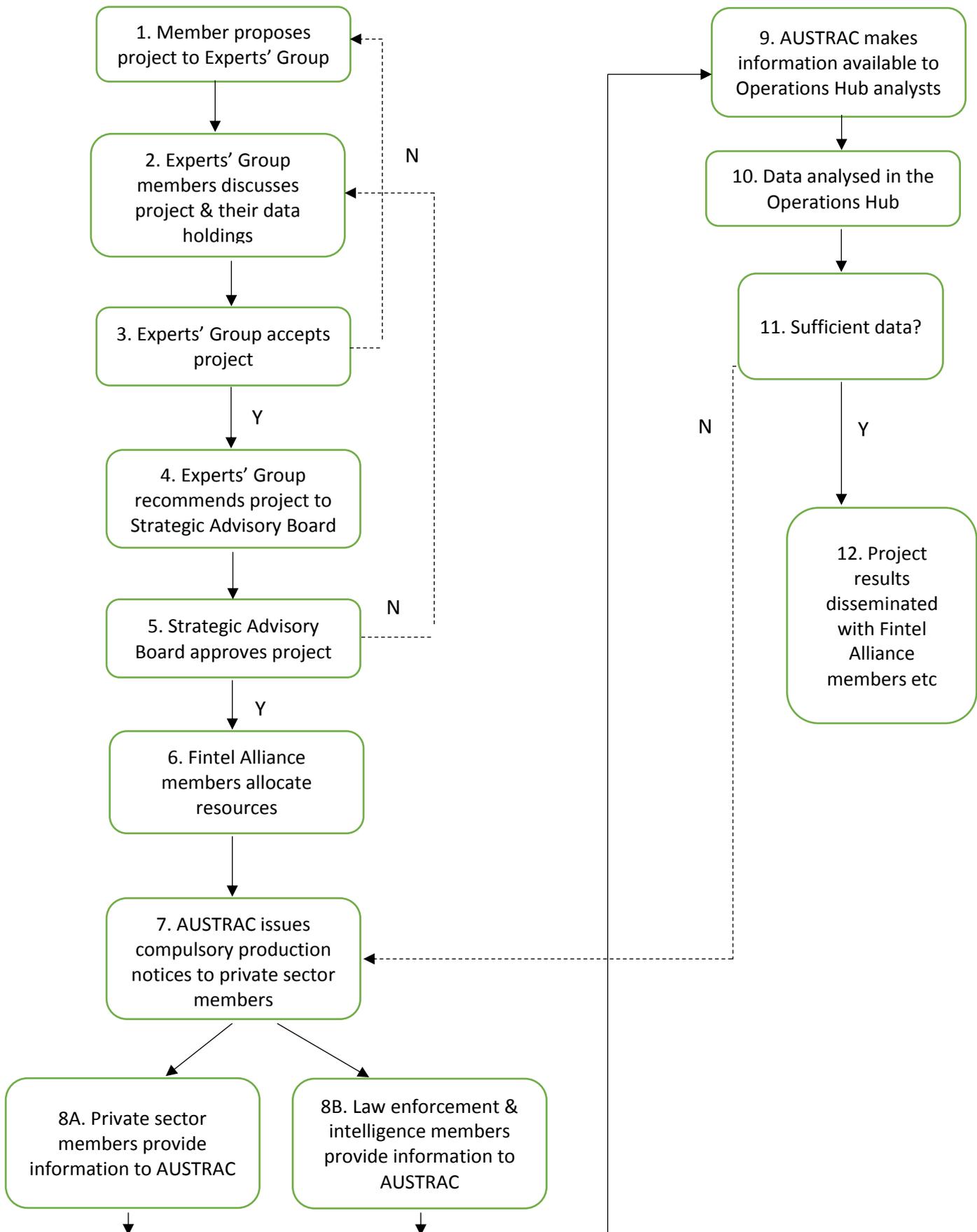
45 Correspondence provided to the authors by AUSTRAC. AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance: Alerting Initiative: Six Month Plan - Alerts Working Group," Chatswood, Undated: 3.

In addition to information derived from transaction-related reports to AUSTRAC that private sector members have submitted to AUSTRAC under in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act), Fintel Alliance projects use other unreported information. To obtain this ‘unreported but relevant’ information, AUSTRAC serves compulsory notices on private sector members under the AML/CTF Act.⁴⁶ AUSTRAC shares members’ responses to these notices with Fintel Alliance members within the confines of the Operations Hub.⁴⁷ While some Fintel Alliance members considered the compulsory nature of notices was not ideal in building an open information sharing environment, such notices do protect Fintel Alliance members from legal proceedings in relation to the disclosure of third-party information. The iterative workflow process used by the Operations Hub to select and develop a project is illustrated in Figure 2 below.

⁴⁶ Private sector members of the Fintel Alliance are served notices under section 167 of the AML/CTF Act.

⁴⁷ Information received in response to a section 167 notice can be shared with government agency members of Fintel Alliance under the AML/CTF Act and with private sector members under the terms of the Member Protocol.

Figure 2 – Operations Hub Projects Workflow



3.3.1 Innovation Hub projects

The Innovation Hub's first project is a 'near real-time alerting system' that focuses on discovering financial crime risks. The project applies algorithm-based queries that use privacy-preserving filters to interrogate Fintel Alliance members' combined data holdings on specific transaction types.⁴⁸ The future goal of the project is to distribute alerts to Fintel Alliance members if suspicious activity is detected.

The alerting system project seeks to overcome the existing situation, wherein no single organisation has a full picture of the transaction chain. By viewing only single transactions, suspicious activity either goes undetected or is unnecessarily reported to the FIU. By combining and analysing otherwise disparate data holdings, the Fintel Alliance seeks to highlight activity that would otherwise remain in the shadows.

The project is also linked to the Fintel Alliance's third aim of working with academia and is a collaboration between the Australian National University, the Commonwealth Scientific and Industrial Research Organisation (CSIRO), AUSTRAC and select Fintel Alliance private sector members.⁴⁹

Projects such as the AUSTRAC's 2017 Code-a-thon, held during the Regional Counter-Terrorism Financing Summit in Malaysia, brought together regulatory technology (RegTech) developers from 11 countries in an effort to encourage the use of innovation to overcome money laundering and terrorism financing. Similarly, the AUSTRAC-sponsored Code-a-thon at the 2018 ASEAN-Australia Counter-Terrorism Conference also sought to highlight the Innovation Hub's work.

More recently, the Innovation Hub has been involved in a project that explores how technologies, including blockchain, can 'sharpen the value and quality of intelligence products'. Led by AUSTRAC and the Australian Criminal Intelligence Commission, the 'Tracking the effect and value of information products' project aims to 'captur[e] user feedback, shar[e] insights, [track and evaluate] information use, and enhance[e] security and records management'.⁵⁰ In this manner, the Innovation Hub has provided a platform for

48 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Fintel Alliance: Alerting Initiative: Six Month Plan - Alerts Working Group," 3. The project also complies with relevant privacy guidelines and AUSTRAC's legislation and privacy policy.

49 AUSTRAC (Australian Transaction Reports and Analysis Centre), "AUSTRAC Corporate Plan 2018-22," Chatwood, 2018.

50 Information provided to the authors by AUSTRAC. See also: "Tracking the Effect and Value of Information Products", Undated, accessed 20 November 2018, <https://www.business.gov.au/assistance/business-research-and-innovation-initiative/tracking-the-effect-and-value-of-information-products>; and AUSTRAC (Australian Transaction Reports and

designing, testing and implementing technologies that have the potential to detect and disrupt financial crime.

The experiences of the Fintel Alliance, and its Operations and Innovation Hubs, suggest that PPPs would be prudent to implement a structure that includes an ongoing ‘host’ to manage PPP arrangements, an advisory group to manage the PPP’s strategic direction and priorities, and an operational group responsible for implementing the PPP’s priorities through activities and projects. However, they also suggest that it would be beneficial for an MoU or other arrangements to clearly articulate the roles and responsibilities of those involved. In the next section, we delve into Fintel Alliance members’ motivations, and experiences of being involved in a PPP more deeply.

4 Being involved – members’ perspectives on the Fintel Alliance

So why did members decide to join Fintel Alliance? The interviews revealed four key themes dominating members’ motivations. In their view, Fintel Alliance participation offered an opportunity for collaboration; benefited their organisation; helped prevent financial crime and benefited the community; and facilitated greater understanding of emerging risks and threats. This section examines participation in the Fintel Alliance from the perspective of its members and offers ideas for other jurisdictions considering establishing a PPP.

4.1 Members’ motivations

‘Being involved in Fintel Alliance is part of the solution’⁵¹

PPPs, such as the Fintel Alliance, offer opportunities for collaboration between the private sector and law enforcement agencies in the fight against financial crime, an area largely overlooked in the past. As one interviewee explained: ‘At a company level, [we] always considered partnerships with law enforcement agencies would be of benefit. I mean that sincerely. I want to understand how we can contribute.’

‘At the end of the day, we’re all seeking to fight financial crime threat.’

For the majority of Fintel Alliance members, the opportunity to prevent financial crime and understand emerging threats was the dominant factor motivating their participation. The Fintel Alliance was seen as a ‘key enabler’ to understanding and mitigating emerging threats and risks that could be detrimental to their organisation and the community. This issue underlined why many organisations wanted the Alliance to succeed. As one interviewee commented, ‘[W]e want to dismantle serious organised crime, terrorism threats and use data as a conduit to do this in a better way’.

Projects such as the Countering Child Exploitation project (discussed in Section 6.3 below), with its implications for the financial services sector (and credit card issuers in particular) demonstrated the far-reaching tentacles of organised crime and the importance of collaboration to combat financial crime. The opportunity to share information across sectors could also provide insights that might not be gained otherwise and develop leads and focus investigations that could thwart nefarious activities. However, for some interviewees PPP participation was seen to complement – not replace – existing collaborative efforts. This was particularly the case with Fintel Alliance members from law enforcement agencies who had

⁵¹ Interviewee comments.

pre-existing relationships with private sector organisations. As one interviewee noted, ‘we already do work with the private sector and have good existing relationships. We will still use those relationships and frameworks. [The] Fintel Alliance should not replace this and be a “one-stop shop.”’ Such comments reflect the view that PPPs cannot be seen as a panacea to overcome all financial crimes and relationship issues. However, while PPPs may enhance industry and law enforcement’s understanding of these issues, they may not completely resolve them. With this in mind, participation was not wholly altruistic for some organisations.

Some participants saw involvement in the Fintel Alliance as an opportunity to influence AML/CTF regulation and thereby benefit their organisation. As one private sector Fintel Alliance member pointed out, ‘[O]ur view is that there needs to be a better way of doing things ... we will continue to comply with the reg[ulation]s but [we] realise that there must be a more effective way to do things, structure our business to comply with [the] legislative requirements while mitigating risk’. However, private sector members were not alone in holding the view that Fintel Alliance participation could benefit their organisation: government members also considered participation could be advantageous. Law enforcement agencies, for example, valued the opportunity to generate typologies, develop profiles or learn about other crime types (existing and emerging).

While scepticism exists within the community regarding the financial services sector’s motives for joining the Fintel Alliance, private sector participants – some of whom had previously worked in law enforcement agencies – were genuinely concerned about limiting the impact of financial crime and the role that the private sector could play. As one private sector interviewee pointed out, ‘[W]e’re doing this for the right reasons, [we] want to get better at identifying crime and disrupting it’. As another interviewee remarked, ‘[G]overnment believes that there needs to be a financial benefit for the private sector [involvement in Fintel Alliance]. We disagree: if it benefits us, we will do it ourselves. [We] don’t need government [to] help or sponsor a project.’ With this in mind, greater emphasis on the benefits that can accrue to all parties, at all levels, through PPPs needs to be highlighted, as does the opportunity to thwart nefarious activities and detect previously unknown trends and offenders.

4.2 Resource implications

Resourcing is critical to the long-term success of a PPP. Bringing together staff with the optimal mix of skills requires long-term human and financial resourcing commitments from member organisations. However, resourcing is also a major reason members considered involvement in Fintel Alliance projects to be prohibitive, notwithstanding its potential benefits. For non-members, resourcing implications were significant in their decision to refrain from joining the PPP, despite being supportive of its goals. As one interviewee pointed out, ‘resourcing sits at the back of all of this. It’s the critical thing. What makes or breaks all of this. People can [make a PPP] wither on the vine or kill things off because of a lack of resources.’

At the time of writing, approximately 100 individuals (or 25 full-time equivalent staff) from Fintel Alliance’s 22-member organisations are involved in the Alliance.⁵² Of the eight Fintel Alliance member organisations interviewed, most had one or two staff members allocated to the Fintel Alliance on a part-time basis. Under the Member Protocol, Fintel Alliance members can determine the level of their involvement in, and resourcing of, projects. As one interviewee explained, ‘not all [analysts] are active at any one time. Resources move in and out of a project or operation as the workload determines. So [an analyst’s] effort can be 100% or 10% depending on the operation’s phase’.

Although those interviewed did not specify an optimal number of analysts for individual projects, members did consider it was essential to identify and allocate sufficient staff with appropriate skills and experiences. Identifying staff from member organisations with skills or knowledge relevant to a project involves determining not only the information (data sources) pertinent to an issue but also the requisite skills and knowledge from each of the private sector and government sector viewpoints. For example, staff from financial institutions may understand the transaction and payments processes that are relevant to projects such as the Countering Child Exploitation project, but not the ‘context [that] law enforcement intelligence provides’.⁵³

However, members also recognised that allocating staff to Fintel Alliance projects meant diverting resources from other work or business-as-usual activities. Although it is unsurprising that small and medium-sized enterprises would express concerns regarding the

⁵² Information provided to the authors by AUSTRAC.

⁵³ Ben Scott and Mark McGoldrick, "Financial Intelligence and Financial Investigation: Opportunities and Challenges," 306.

resource implications of their involvement in PPPs, some overseas-based Fintel Alliance members expressed similar concerns. These members viewed their reduced footprint, and limited resources in Australia, made it difficult for them to contribute to all Fintel Alliance projects. They sought, therefore, to contribute in other ways, such as arranging guest speakers to give presentations on issues of interest to Fintel Alliance members.

In the context of the Fintel Alliance, the challenges of allocating sufficient and appropriately skilled staff were compounded by significant staff turnover and the delays in obtaining national security clearances for private sector staff. Therefore, achieving demonstrable, or readily identifiable, outcomes were viewed as critical for both the ‘sending’ organisation and the PPP in maintaining support and resources. The consequences of allocating insufficient or inappropriately skilled staff may result in the impression that PPPs to fight financial crime are not worthwhile, thus reducing support for them within and outside the PPP.

With this in mind, it is essential that projects, and their attributes, are planned. Coordinated and structured planning would benefit both the ‘sending’ organisation and the PPP, and increase the likelihood of long-term support for the PPP. Project planning would enable PPP members to identify staff with appropriate skills and experiences (and security clearances), and thereby avoid inappropriate resourcing of projects. For members who could not provide human resources, planning would allow members to contribute other resources to a project for example, analytical tools or member-developed indicators or methodologies.

Ultimately, ensuring projects are clearly defined; have a preventative focus of interest to member organisations or examine an issue of concern to the community; will assist in maintaining support for the PPP. Similarly, encouraging a variety of PPP members to be involved would ease the burden of resourcing for individual members and help allay concerns about unequal member contributions to the PPP, notwithstanding that neither individual projects nor the Fintel Alliance as a whole specifies specific staffing numbers. While all organisations – large or small, government or private sector – have budget and personnel constraints, for PPPs to be successful in the longer term it is essential that PPP members consider how to maintain their resourcing levels.

4.3 Risk appetite issues

For government and private sector participants, one issue that could influence their involvement and the extent to which they shared information in a PPP was risk appetite. This

section explores the issue of risk appetite in the Fintel Alliance and offers suggestions on how PPPs can manage this issue.

For some private sector Fintel Alliance members the possibility that AUSTRAC could undertake compliance action based on information disclosed in the PPP was of particular concern; while for other members, this issue was of less concern. In this latter group's view, involvement in the Alliance altered neither their approach to compliance nor their attitude towards AUSTRAC as a regulator. Concerns about potential exposure to compliance action were heightened when AUSTRAC commenced legal proceedings against a participant bank for regulatory non-compliance. Although these proceedings related to matters outside the Fintel Alliance, they reverberated within it. Prior to the legal proceedings, Fintel Alliance members had been keen to receive information; after the proceedings started, members were less enthusiastic about receiving information as they felt 'compelled' to act on it. Members became concerned they could be prosecuted if they did not actively respond to information received from law enforcement authorities or the regulator.

Despite their concerns, Fintel Alliance members agreed AUSTRAC should take action against non-compliant regulated entities, whether or not they were Fintel Alliance members. However, Fintel Alliance members considered their concerns could be addressed if AUSTRAC provided clear direction on the extent to which they were 'obliged' to act (if at all) on information received through the Fintel Alliance. While ultimately it is a matter for each member to determine, based on their risk profile, the extent to which they respond to information received from the Fintel Alliance, a number of interviewees considered that a clear direction from AUSTRAC would help maintain and strengthen trust and openness between the government and private sector in sharing information. For these members, clarity from AUSTRAC was needed on the extent to which Fintel Alliance members' involvement in the Alliance would be taken into account (if at all) should regulatory non-compliance be detected during a Fintel Alliance project or outside of projects. While attitudes differed among private sector Fintel Alliance members as to the extent to which this was a problem, most members agreed that the issue could be solved by a clear statement from AUSTRAC, preferably as part of the terms of agreement found in the Member Protocol. Achieving such a clear direction from AUSTRAC, however, may be difficult because of AUSTRAC's statutory enshrined commitment to competitive neutrality which requires the AUSTRAC CEO to treat

all regulated entities without favour or bias.⁵⁴ However, ultimately, the issue of the extent to which Fintel Alliance participation is taken into account in the event of non-compliance must be resolved.

While the concept of giving regulated entities ‘credit’ or reducing the penalty that would otherwise be imposed if they openly admit to wrongdoing is not unheard of in other jurisdictions⁵⁵, in the context of Fintel Alliance the concept of ‘giving credit’ may be unacceptable to other law enforcement agencies as well as the Government and the community. For the broader community, the notion of taking into account regulated entities’ involvement in Fintel Alliance if non-compliance is detected, or reducing regulated entities’ penalty should they come forward about their wrongdoing, could raise concerns about the potential for corruption or bias to develop. Moreover, concerns that Fintel Alliance members could receive a commercial advantage because of their involvement in the Alliance, or that a ‘them-us’ club could emerge between Fintel Alliance members and non-Fintel Alliance members in the private sector members could detrimentally impact on the PPP’s success. A clear direction from AUSTRAC is therefore needed to attend to these issues before they become an impediment to the operations of Fintel Alliance.

In addition to concerns about inadvertent exposure to regulatory compliance action, some interviewees suggested that their customers might have concerns, and may move their business elsewhere, if they knew their company participated in the Fintel Alliance. For some non-members of the Alliance, issues regarding business risk and competitiveness were pertinent factors in their decision to refrain from involvement in the Alliance.

However, risk appetite concerns do not only affect private sector members; they also affect government members’ attitude to sharing information with the private sector. Issues concerning the perceived trustworthiness of members can influence the extent to which information is disclosed. As one interviewee noted, ‘[T]here is a risk with sharing information, the further you go out, the risk goes up’. In other words, the more broadly information is disseminated, the greater the risk it will be misused. While some caution from law enforcement agencies is expected, this attitude does have the potential to impede efforts to fight financial crime.

⁵⁴ Under paragraph 212(3)(e) of the AML/CTF Act, the AUSTRAC CEO must have regard to ‘competitive neutrality’ in performing his/her functions under the Act.

⁵⁵ The UK’s deferred prosecution agreements scheme takes account of the actions of regulated entities that voluntarily report incidents of foreign bribery in issuing sanctions against those entities. However, this does not prevent the UK authorities from commencing legal proceedings should they be in the public interest, and notwithstanding the voluntary reporting of non-compliant incidents.

Despite such caution, interviewees from law enforcement agencies and the private sector both commented that where information originating from law enforcement agencies had been shared with private sector organisations, there was no evidence that it had been misused or that suspects had been ‘tipped off’ that they were under investigation. This anecdotal evidence would suggest that where the private sector receives information from law enforcement agencies, they respect its confidential nature and protect it from misuse. These trust related issues are discussed further in section 5.3 below.

The experiences of the Fintel Alliance demonstrate that managing risk appetite concerns are critical issues that all PPPs need to address. Together with trust and relationships, risk appetite is at the heart of successful PPP arrangements. Without this trilogy (trust, relationships and risk appetite), a PPP’s efforts in fighting financial crime may be impeded. With this in mind, it is imperative that governance arrangements be instituted on how information shared in the PPP should be treated by regulated entities and how regulatory non-compliance will be managed. Developing clear guidance on these matters will provide reassurance and address many of the concerns interviewees expressed. It will also ensure that a PPP’s operations in fighting financial crime remain unfettered.

4.4 Opportunity to build and strengthen relationships

‘I just found this, can you have a look...’

As discussed in section 4.3, trust, relationships and risk appetite are at the heart of successful PPPs. In this section, this paper considers how PPPs offer the opportunity to build and strengthen relationships, and enhance trust between government and private sector organisations. Through the PPP interactions and projects, industry stakeholders’ can also increase their knowledge and understanding of the challenges facing their counterparts and financial crime risks. For the Fintel Alliance, these factors were hallmarks of its early successes, particularly in the Operations Hub. Creating an environment in which the challenges of compliance, or of investigating and prosecuting crimes, could be discussed gave participants new insights into their work and illuminated the intersections of that work with that of other stakeholders.

The Fintel Alliance’s co-location of Operations Hub analysts was invaluable for building relationships and trust. ‘Water-cooler chats’ (informal discussions) about their work enabled analysts from government and private sector organisations to gain new insights and understanding of the constraints and challenges of each other’s work. As one private sector

Alliance member explained, ‘[G]overnment has no understanding of the size of what we are dealing with and how hard it is to get it right 100% of the time’. Without the Operations Hub, government analysts would not have appreciated the difficulties experienced by their private sector counterparts in complying with frequently changing AML/CTF regulations.

Conversely, private sector analysts in the Hub gained an awareness of the practical realities of law enforcement investigations – why it is not feasible to investigate every matter, and why prosecutions are the culmination of years of investigative work.

Working on projects that integrate diverse data sources and perspectives also gave government and private sector analysts an increased understanding of their counterparts’ data holdings and systems. While the benefits of this increased understanding are yet to be realised, the majority of Fintel Alliance members envisage that such understanding could pay dividends in future criminal investigations or in targeting and preventing risks and threats to industry. Interviewees from law enforcement agencies and the private sector both expressed the hope that an atmosphere could develop in which investigators and financial analysts could ‘proactively’ contact each other to seek additional information on reports. As one interviewee pointed out, ‘if banks felt they could call an investigator or vice versa, they could make connections and have a true exchange of information rather than in response to notices’.

While it takes time to develop a level of trust sufficient to enable such discussions, the potential benefits to organisations – government or private – and the community are immense. To that end, strengthening relationships between government and private sector organisations through PPP activities offers the opportunity to deepen knowledge on crime types and methods, reduce exposure to crime risks, and detect and prosecute offenders. It is the benefits gained through developing and consolidating interpersonal relationships between individuals that are the primary benefit of PPPs, and from which greater organisational benefits can flow.

4.5 Benefits to organisations?

Although it is clear that PPPs have benefits at an individual level, it is unclear if those same benefits have been realised at an organisational level in the Fintel Alliance. Issues relating to trust, governance and structure have undoubtedly impacted the realisation of benefits to Fintel Alliance member organisations. As a still-evolving organisation, government and private sector members of the Fintel Alliance accept that the true benefits of the PPP would take time and require long-term investment.

Unsurprisingly, there are divergent views regarding the benefits to organisations of the Operations Hub after two years of the Fintel Alliance operations. Some Fintel Alliance members viewed the Hub as benefiting government members more than those from the private sector. As one interviewee explained, ‘the Op’s Hub doesn’t directly benefit us at present’. However, other members viewed their involvement more positively, using it as an opportunity to develop their staff’s awareness of financial crime issues. Despite these differences, members considered the Fintel Alliance to be a long-term ‘investment’ that could lead to greater identification and disruption of crime.

To enhance the Fintel Alliance, some elements of the Operations Hub model could be reconsidered – in particular, its location in Sydney and the need for a clear work plan that aligned with the Alliance’s overall goals and priorities.

While participants regard co-location as beneficial, some criticised the siting of the Sydney Operations Hub outside the Sydney CBD.⁵⁶ With this in mind, PPPs that wish to develop an operations hub environment need to site it in an area central to the majority of members (if possible). If a central hub is not viable, a combination of a controlled access facility in a city where most member organisations are based and a secure virtual hub environment could be a pragmatic solution and combine the benefits of personal interactions and sharing of data resources.

Interviewees were also adamant that the Operations Hub would benefit from an endorsed work program that aligned with the Fintel Alliance’s overall strategic direction and took account of member organisations’ data resources and analysts’ availability. The process of developing and implementing a work program, whether in the context of the Fintel Alliance or another PPP, would ensure analysts were meaningfully engaged or participated in activities that made optimal use of their skills and time, thereby benefiting both member organisations and the Fintel Alliance. Although the Fintel Alliance is cognisant of these issues, there is an urgent need for a strategic plan covering resources, data and outcomes.

At present, the absence of clear, tangible links, or benefits to industry and the community, calls into question the long-term sustainability of the Innovation Hub. As one interviewee commented ‘it was unclear what had resulted from the Innovation Hub’. A strategic plan could also identify projects that could bring together the work of the Operations and Innovation Hubs, and thereby improve synergies between them.

⁵⁶ Interviewees did not make this criticism of the Melbourne Operations Hub, possibly because of its location near the financial district.

While the Innovation Hub offers more opportunities to engage a diverse range of member organisations, given its simpler engagement processes, few Fintel Alliance members currently participate. The reasons for this lack of participation are unclear and need to be addressed to ensure the viability of the Innovation Hub. As one interviewee explained, support for Innovation Hub involvement ultimately ‘needs buy-in’ at both executive and officer levels given its capacity to interfere with day-to-day business. Despite these concerns, the Innovation Hub does have the potential to develop projects of broader significance. To that end the Innovation Hub could demonstrate to industry and the community how use of enhanced strategies to interrogate data could detect nefarious activities and persons as well as reduce industry’s regulatory burden. Future research could examine whether the Innovation Hub does achieve these purposes.

This section has explored Fintel Alliance members’ motivations for joining the Alliance as well as their experiences in participating in its activities. For other PPPs, the experiences of the Fintel Alliance member organisations highlight that benefits at an individual level will accrue earlier than those at an organisational level which may be influenced by macro-level considerations such as trust, structure and governance. Therefore, PPPs (particularly newly created partnerships) should accept that benefits at an organisation level may only occur in the medium term. Until then, practical considerations such as a work program that aligns with the PPP’s strategic direction and goals; is well-defined; encompasses resources are paramount to sustaining members’ enthusiasm for a PPP. A location that suits members (if co-location of analysts is considered viable) is another important practical consideration. In the next section, the issue of sharing information in a PPP environment is examined further.

5 Mechanisms and constraints on sharing information

5.1 Defining information sharing and mechanisms for sharing information

Multiple definitions exist for the term ‘information sharing’ depending on the perspective that is used to view it. In the context of financial crime, Maxwell and Artingsall’s 2017 study defines the participants involved in information sharing (referred to as ‘financial information-sharing partnerships’) but does not explain what the concept of ‘information sharing’ means or the mechanisms used to share information.⁵⁷ The FATF, while viewing information sharing as ‘one of the cornerstones of a well-functioning [AML/CTF] framework’, does not define it; and instead focuses on its use in the FATF Recommendations and Interpretative Notes.⁵⁸

This section starts by defining the term ‘information sharing’ before examining the mechanisms relevant to sharing information, and the issues that may impact on it including legislative obligations, trust, culture and attitudes.

From a process perspective, information sharing involves ‘the transfer of information from one agency to another’.⁵⁹ However, from a law enforcement and intelligence perspective, information sharing involves: collecting and organising information (facts and figures); making sense of that information by combining it with other information; and providing information to other individuals or organisations for strategic and operational decision-making purposes.⁶⁰

This paper defines information sharing as the collection, organisation, analysis and dissemination of information between individuals or organisations for use in decision making or problem-solving. This paper proposes four classes of information sharing are relevant to PPPs targeting financial crime. These are as follows:

57 Maxwell and Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime," 9. As the authors explain, ‘information sharing’ in the financial crime context can be used to cover a number of different types of information being shared between a variety of actors, including law enforcement agencies, AML/CTF supervisors and regulators, FIUs, regulated entities and civil society. Information can range from raw transaction data or STRs from the private sector through to global typology documents from international organisations.’

58 Financial Action Task Force (FATF), "Consolidated FATF Standards on Information Sharing," Paris, 2017.

59 Darryl Plecas et al., "Evidence-Based Solution to Information Sharing between Law Enforcement Agencies," *Policing: An International Journal of Police Strategies & Management* 34, no. 1 (2011) as found in David Connery, "For the Right Reasons in the Right Ways (Part 1)," 10.

60 Home Office (UK Government), "National Support Framework - Delivering Safer and Confident Communities - Information Sharing for Community Safety," London, 2010, as found in David Connery, "For the Right Reasons in the Right Ways (Part 1)," 10.

- **Information transfers** involve the straight passage of useful information from one party to another.⁶¹ In other words, information transfers are a one-way transfer of information. Information transfers consist of ‘limited interactions between the sources’ and interactions that do occur are likely to be ‘in the form of sequential responses to each [interaction]’.⁶² The provision of SARs (Suspicious Activity Reports) to FIUs and AML/CTF regulators by financial institutions is a type of information transfer;
- unlike one-way information transfers, **query/response patterns** of information sharing occur when one entity initiates a request, and a second entity responds to the request by providing the requested information or requests a third-party resource to obtain the information.⁶³ An example of a query/response pattern is a notice to produce information by one entity and a response to that notice by a second entity. In the Fintel Alliance, query/response patterns of information sharing occur when AUSTRAC issues notices to produce information (under section 167 of the AML/CTF Act) to Fintel Alliance members which then provide the requested information for use in Fintel Alliance projects;
- a **broadcast pattern** is ‘an independent alert, warning, or notification exchange pattern that is disseminated to a varied set of mission partners across multiple mission areas to communicate details of a specific incident or event(s).’⁶⁴ Broadcast patterns can ‘solicit real-time operational assistance with specific event or case related actions.’⁶⁵ An example of a broadcast pattern is the Fintel Alliance’s sharing of an indicators paper with industry to detect possible illegal activity involving children (as discussed in section 6 below). Other examples of information sharing that use a broadcast pattern approach include the issuing of typologies reports by an FIU or AML/CTF regulator. AUSTRAC’s sharing of sector-specific risk assessments⁶⁶ or its 2015 methodologies brief on foreign terrorist fighters⁶⁷ are types of broadcast patterns of information sharing;

61 David Connery, "For the Right Reasons in the Right Ways (Part 1)", 11.

62 Ibid.

63 Information Sharing Environment (PM-ISE) Office of the Program Manager (US Government), "Information Sharing Environment Interoperability Framework (I2f)," Washington, DC, 2014, 15.

64 Ibid.

65 Ibid.

66 AUSTRAC (Australian Transaction Reports and Analysis Centre), "ML/TF Risk Assessments", accessed 6 December 2018, <http://www.austrac.gov.au/publications/mltf-risk-assessments>

67 AUSTRAC (Australian Transaction Reports and Analysis Centre), "Building a Profile: Financial Characteristics Associated with Known Foreign Terrorist Fighters and Supporters," Chatswood, 2015, accessed 6 December 2018, <http://www.austrac.gov.au/publications/methodologies-briefs>.

- **Workflow pattern** exchanges involve the routine sharing of information with partners that assist them ‘to accomplish day-to-day operational requirements’.⁶⁸ An example of a workflow pattern is the regular dissemination of the details of individuals and organisations subject to sanctions laws. Such information derives from actionable intelligence that governments, including AML/CTF regulators or FIUs, receive and share with financial institutions. By incorporating this information into their transaction monitoring systems, and complying with sanctions laws on financial transactions, financial institutions comply with their legal obligations including those related to AML/CTF.

5.2 Legislative Restrictions

Overcoming, without undermining, legislative restrictions on sharing information is an essential element of PPP arrangements. However, when Australia developed its AML/CTF arrangements in 2006, it did not envisage collaboration between government and private sector organisations. Instead, AML/CTF arrangements focused on sharing of transaction data and intelligence reports with law enforcement and intelligence agencies. Until recently, the private sector’s contribution was limited to the provision of transaction reports to AUSTRAC (information transfers) and responding to further requests for information on those reports (query/response patterns). The validity of some legislative restrictions has been questioned because of growing acceptance that no single party holds all of the information relevant to an issue, and that government agencies and private sector organisations each possess information beneficial to the other.

Although some legislative restrictions are necessary to protect privacy and intelligence-related information, many are considered overly complex and discourage information sharing.⁶⁹ PPPs can provide evidence concerning why reforming these restrictions are necessary to fight financial crime. However, not all impediments or barriers to information sharing are legislative. The combination of cultural and psychological reluctance to share information can compound the impact of legislative restrictions.⁷⁰ This paper will now

68 Office of the Program Manager (US Government), "Information Sharing Environment Interoperability Framework (I2f)", 16.

69 Simon Norton and Paula Chadderton, "Detect, Disrupt and Deny: Optimising Australia’s Counterterrorism Financing System," 27-29; Attorney-General’s Department (Commonwealth of Australia), "Report on the Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Associated Rules and Regulations," Canberra, 2016, 5.

70 Simon Norton and Paula Chadderton, "Detect, Disrupt and Deny: Optimising Australia’s Counterterrorism Financing System," 30; David Connery, "For the Right Reasons in the Right Ways (Part 1)", 24.

examine three issues that are often cited as limiting information sharing between government and private sector entities, and between private sector entities: tipping off rules, secrecy (non-disclosure) and privacy legislation.

5.2.1 Tipping off

The example most often cited by interviewees as requiring urgent reform is that of Australia's 'tipping-off' legislation. The 'tipping-off' offence aims to prevent a suspect being 'tipped-off' (or alerted) that a regulated entity has reported its suspicions about the suspect's activities to authorities or the FIU.⁷¹ Having made a report to the FIU, the entity is prohibited from disclosing this fact to anyone other than the FIU. In this regard, Australian law is not unique and conforms to FATF Recommendation 21.

While the rationale for the offence is not in question⁷², it has had unintended consequences. The stringent penalties associated with this offence have discouraged Australian financial services organisations from sharing information about suspicious transactions with others that may be affected.⁷³ Fintel Alliance members and non-members agreed that the tipping-off offence impeded collaboration within the private sector. As one interviewee pointed out, '[I] don't want my competitor to be hit with crime ... [but I] can't talk to them due to the tipping-off rule'.

While it is arguable that regulated entities could disclose information about a transaction provided no 'suspicion' had arisen and no SAR had been lodged with AUSTRAC, the absence of judicial consideration⁷⁴ of SAR-related provisions causes the issue to remain opaque.

In the context of the Fintel Alliance's Operations Hub, the sharing of de-identified and caveated information, and Operations Hub secondees' status as AUSTRAC staff members (discussed in section 3.2.1 above), circumvent the constraints of the tipping-off offence. Despite these precautions, the tipping-off offence remains of concern private sector Fintel Alliance members given the risk of severe penalties. The primary concern of these members

71 See section 123 of the AML/CTF Act.

72 Simon Norton and Paula Chadderton, "Detect, Disrupt and Deny: Optimising Australia's Counterterrorism Financing System," 28, 33.

73 A person who contravenes section 123 of the AML/CTF Act may receive a penalty of 2 years imprisonment and/or 120 penalty units. At the date of writing, a penalty of 120 penalty units equated to a fine of AUD25,200 (for a natural person) or AUD126,000 (for a body corporate).

74 A search of the Australasian Legal Institute's website found no reported judicial cases had considered section 123 of the AML/CTF Act, accessed 19 September 2018, <http://www.austlii.edu.au/cgi-bin/sinosrch.cgi?method=auto;query=s123%20AND%20%22Anti-Money%20Laundering%20and%20Counter-Terrorism%20Financing%20Act%22;view=database>. However, the Australian Law Reform Commission reports on Australian privacy and secrecy laws had examined section 123.

was determining when a ‘reportable suspicion’ arose. In other words, did the suspicion arise because of: (i) information sourced from the member’s organisation, or (ii) information analysed in the Hub that was a combination of information from the member’s organisation and from other members? The uncertainty of this situation, and the recognition among interviewees that no single party to a transaction possesses all the relevant information, lends strong support to amending the tipping-off offence or introducing other measures to clarify the issue.

Allowing parties to share information about potential suspicious transactions could provide greater context to those transactions and enable parties to determine whether the transactions do concern nefarious activities. Some interviewees noted that the United States permits financial services entities to share information relevant to identifying money laundering and terrorism financing activities with other financial services entities.⁷⁵

With transactions and crimes occurring across borders or involving multiple institutions, the ‘tipping-off’ offence and FATF Recommendation 21 need urgent review. Until these requirements are reviewed, parties will remain reluctant to disclose their suspicions about the nature of transactions to each other.

5.2.2 Secrecy provisions

Secrecy (non-disclosure) provisions do not affect the private sector exclusively; they also constrain what Fintel Alliance government members can share with other members. Although the enabling legislation of Fintel Alliance government members generally permits government-to-government sharing of information (using predominantly the information transfers and workflow pattern methods discussed above), there are some exceptions.

The Australian Criminal Intelligence Commission, for example, can only share its telecommunications data with particular government agencies and in specific circumstances only. Similarly strict restrictions apply to the Australian Taxation Office concerning taxpayer information. AUSTRAC cannot share its information with all Commonwealth or State government agencies in all circumstances. As one interviewee noted, ‘every agency at the Commonwealth level has constraints on when you can and can’t share information’. The experience of the Fintel Alliance has highlighted these differences, and the need for an

⁷⁵ Under section 314(b) of the USA PATRIOT Act, FinCEN-regulated entities may, after notifying the US Department of the Treasury, share information with each another in order to identify activities involving money laundering or terrorist activity. The program is voluntary and provides participating entities with ‘safe harbour’ from litigation. See FinCEN “Section 314(b) Fact Sheet (November 2016)”, accessed 20 September 2018, <https://www.fincen.gov/sites/default/files/shared/314bfactsheet.pdf>.

overarching law that provides for the sharing of information between: (a) government agencies; (b) government agencies and the private sector organisations; and (c) private sector organisations. According to one interviewee, ‘anything that helps the sharing of information ... would mean we could do more if we could share more with law enforcement authorities, intelligence agencies and the private sector’.

While there was support for sharing information with a range of government and private sector organisations, interviewees concurred there was value in a framework governing information sharing. Interviewees, particularly those from government agencies, emphasised the importance of ensuring a level playing field, when sharing information, that did not advantage select private sector organisations, commercially or financially. Furthermore, both government and private sector interviewees emphasised that customer privacy must be respected. As one interviewee reflected, ‘it would be great to be able to provide information in free fashion, but we need to keep our customers’ interests at heart’.

5.2.3 Privacy

There were diverse views on the extent that privacy legislation restricted interviewees’ ability to share information. For some interviewees, Australia’s *Privacy Act 1988* (Cth) (Privacy Act) constituted a major constraint on information sharing and the development of agile business practices. For others, ‘privacy restrictions’ were part of the ‘information sharing barrier myth’, with constraints not readily apparent.

Although the Privacy Act permits a person’s information to be shared between government agencies, or by a private sector organisation with a government agency, in specified circumstances⁷⁶, the Act precludes private sector organisations from sharing customer information with other private sector organisations. A similar situation exists under the European Union’s General Data Protection Regulation.⁷⁷

With financial services organisations globally seeking ways to mitigate the risk of their exposure to criminal activities, mechanisms that allow customers’ transactions to be monitored are valued by the financial services sector and law enforcement agencies alike. To

⁷⁶ Under the *Privacy Act 1988* (Cth), personal information must not be used or disclosed for a secondary purpose other than unless that use or disclosure: would be reasonably expected; is authorised by or under a law; a permitted general situation exists; or the use is reasonably necessary for enforcement related activities (see Schedule 1, Australian Privacy Principle 6). Permitted general situations include: (a) where the collection, use or disclosure of personal information is necessary to prevent or lessen a serious threat to the life, health or safety of any individual and it is unreasonable or impracticable to gain the individual’s consent; and (b) where the entity suspects that unlawful activity or misconduct of a serious nature that relates to the entity’s functions or activities is being engaged, and the collection, use or disclosure of personal information is necessary for the entity to take appropriate action (see s16A of the Privacy Act).

⁷⁷ Information Commissioner’s Office (UK), "Guide to the General Data Protection Regulation (GDPR)", London, 2018.

that end, the successes of the Fintel Alliance could demonstrate how the ‘risks’ to privacy through the sharing of personal information between private sector organisations are balanced against the benefits of overcoming the financial aspects of criminal activities. With this in mind, some Fintel Alliance members consider the use of privacy-preserving technologies⁷⁸ offers a way of pooling transaction data with the aim of detecting patterns of nefarious activity while balancing respect for customer privacy. Further exploration of the challenges and opportunities in using such technologies, and its interaction with existing privacy and other AML/CTF relevant legislation, is needed.

Although protecting customer privacy is critical, clearer ‘safe harbour’ protections are needed that apply to financial institutions when providing information to government agencies generally (particularly in relation to information provided outside of statutory obligations that may be relevant to financial crime and terrorism) and in the context of PPP projects. Mechanisms used to obtain information from and share information among PPP members for PPP purposes, such as information transfer and query/response patterns, must protect members from potential legal proceedings. Without such protections, participants may be less willing to participate in information sharing PPPs.

Currently, Fintel Alliance members are protected from potential legal proceedings because of the use of compulsory notices issued under the AML/CTF Act.⁷⁹ However, some Fintel Alliance members continue to hold concerns regarding the adequacy of these protections. Views on this issue were mixed with some Fintel Alliance interviewees questioning whether compulsory legal notices were actually necessary, notwithstanding the protections they afforded PPP members. As one interviewee explained, ‘[B]anks talk about getting rid of “compulsion” [compulsory notices to produce information]. But this may be problematic because they can’t say that they were told to provide this.’ On the other hand, government sector interviewees considered that compulsory notices were ‘a sledgehammer [excessive] to achieving collaboration’ and did not encourage true government–private sector collaboration.

This paper suggests that if information is provided voluntarily (or outside the compulsory notice regime), the mechanism used to provide that information must protect PPP members – whether government or private sector – from potential legal proceedings (including those

⁷⁸ See for example Office of the Australian Information Commissioner (Australian Government), *De-identification Decision Making Framework*, Canberra, 2018, accessed 20 November 2018, www.oaic.gov.au/agencies-and-organisations/guides/de-identification-decision-making-framework.

⁷⁹ See section 167 of the AML/CTF Act. Information provided to the Fintel Alliance under section 167 of the AML/CTF Act automatically protects the entity from liability, if done in good faith, under section 235 of the Act. As AUSTRAC staff members, secondees to the Fintel Alliance’s Operations Hub are afforded all relevant protections in performing their duties under the AML/CTF Act.

related to privacy). Protections will support the work of PPPs and allow the development of greater trust between the public and private sectors at the frontline in the fight against financial crime.

5.3 Trust

‘Secrecy is embedded in the DNA, it’s the hardest nut to crack’

Better information sharing and collaboration require trust. Trust is the thread that connects all successful collaborative arrangements. However, trust takes time to develop, and government–private sector partnerships are no different from any other. Overcoming reluctance to share information is a particularly acute problem. As one interviewee noted, intelligence agencies have relied on the sensitive nature of their work to avoid disclosing information, and ‘would rather jump out the window than share information with the private sector’.

That complex laws or confidentiality agreements often apply to sensitive or classified information only compounds the reticence of intelligence and law enforcement agencies. While good reasons exist for such laws⁸⁰, they have led to an aversion to sharing information and cross-sector collaboration. Interviewees from law enforcement agencies were adamant that, to overcome this reticence, the risks of releasing information need to be assessed and evaluated with rigour. As one interviewee noted, ‘if there’s the capacity to ask for and share information – [we] need to take [those] risks’. The majority of interviewees agreed that successful projects and the building of relationships and contacts could overcome any reticence.

A key benefit of any PPP is the opportunity for relationship- and trust-building, and in this regard the Fintel Alliance is particularly well placed. By co-locating Operations Hub analysts, the Fintel Alliance enhances opportunities for building trust. As one interviewee reflected, ‘trends are easier to discuss in person ... you get a much better image of what’s going on’. Although co-location (discussed in sections 4.4 and 4.5 above) is considered to be a key advantage of the Fintel Alliance model, it comes at a cost: removing analysts from their home organisation. Enabling work on Fintel Alliance projects to be undertaken outside of the Operations Hub could mitigate costs for participants and openly signal trust. However, it

⁸⁰ David Connery, "For the Right Reasons in the Right Ways (Part 1)", 24. As Connery notes, ‘many in government and business subscribe to this culture for a good reason, as information about crime is highly sensitive and can cause harm to society [and jeopardise an investigation] if released in uncontrolled ways’.

would require technological solutions (and potentially legislative amendments) to enable secondees to access Fintel Alliance Operations Hub information externally.

As noted in section 4.4 above, permitting greater direct contact between government analysts and their private sector counterparts could result in greater understanding of money laundering and terrorist financing trends and risks. With this in mind, PPPs are a first step to developing an environment of greater trust; where open communication between government agencies and the private sector is not only considered the norm, it flourishes.

To achieve such an environment, it is essential to establish a governance framework that protects the information shared and those who share it; articulates the circumstances when information can be shared as well as how it can and cannot be used. Developing such an environment also requires significant trust in government agencies and private sector organisations by those parties and the community, as well as a shift in attitude to support greater information sharing.

5.4 Attitudes and Culture

Consistent with previous studies, interviewees considered ‘culture’ a significant inhibitor to information sharing.⁸¹ Although interviewees acknowledged an increase in the willingness to share information, there are a number of reasons sharing does not occur even where it can.

The siloed and internally focused character of some organisations results in external relationships receiving insufficient attention.⁸² In other words, sharing information or making contact with counterparts is seen as burdensome or time-consuming, particularly when it interferes with business as usual activities. As one interviewee remarked, ‘they don’t see it as part of core business, [it’s a] last priority [with] nothing in it for them’. Although not an issue for those interviewed for this paper, the competitive nature of some sectors or organisations can result in information being seen as an instrument of power.⁸³ Consequently, collaboration and information sharing may be resisted. The benefits of information sharing – increasing knowledge and understanding or making connections that may otherwise remain hidden — are therefore overlooked.

81 Ibid.; Simon Norton and Paula Chadderton, "Detect, Disrupt and Deny: Optimising Australia’s Counterterrorism Financing System," 29-30; Joyal, "How Far Have We Come? Information Sharing, Interagency Collaboration, and Trust within the Law Enforcement Community."

82 Simon Norton and Paula Chadderton, "Detect, Disrupt and Deny: Optimising Australia’s Counterterrorism Financing System," 30.

83 David Connery, "For the Right Reasons in the Right Ways (Part 1)."; J. W. Coyne and P. Bell, "The Role of Strategic Intelligence in Anticipating Transnational Organised Crime: A Literary Review," *International Journal of Law, Crime and Justice* 39, no. 1 (2011).

To overcome these situations, environments in which information sharing is part of business as usual activities need to be created and supported. Greater visibility of the benefits of information sharing is, therefore, essential to sustaining it.

Several interviewees from government and private sectors organisations suggested that information sharing about policy issues between private sector organisations was less constrained. As one interviewee explained, ‘financial institutions, particularly AML/CTF compliance officers, chat among themselves, [they] all know one another – there is trust among AML professionals’. Developing trust and overcoming the invisible barriers between government agencies and the private sector is, therefore, critical to changing attitudes and creating an environment in which information sharing occurs and is encouraged. This is where PPPs, together with organisational leadership, is critical to encouraging collaboration and engendering a culture that is keen, not reluctant, to share.

While financial institutions and government agencies take their responsibilities to protect and respect information and customer privacy seriously, criminals do not. Criminals are not precluded by the privacy and secrecy considerations discussed above, and instead use the restrictions imposed on government and private sector organisations to their advantage.

To overcome criminal activities and misuse of the financial system, information sharing mechanisms are warranted that clarify when information can be shared between government and private sector organisations and support information sharing between private sector organisations where illegal activities are suspected. Using advanced analytics techniques and technologies could allow for the analysis of bulk data from multiple sources while ensuring customer privacy. Such techniques could enhance our understanding of money laundering and terrorism financing risks and threats, thereby benefitting government, private sector organisations and the broader community alike. Beyond technological solutions, PPPs can play a pragmatic role in overcoming reluctance and resistance to sharing information by acting as a platform for collaboration and combating financial crime. In the next section, this paper considers PPP projects and information sharing through the Fintel Alliance’s Countering Child Exploitation case study.

6 Focus on projects: Case Study – Countering Child Exploitation Project

As the most visible outcome of a PPP, projects serve an important role in promoting the benefits of PPPs to industry, the government and the community. Projects that align with the PPP's strategic goals and priorities and draw on members' strengths and skills are more likely to engender support. PPP projects that assist, ideally, the majority of members, or demonstrably benefit the community by preventing or identifying crime will be more likely to secure resources from government, private sector and the community. In this section, we examine the Fintel Alliance members' views on projects using the Alliance's Countering Child Exploitation project as a case study.

6.1 Participants' views on projects

Fintel Alliance members concur that projects are optimal for collaboration, and consequently key to achieving outcomes. However, to gain the most from the Fintel Alliance, members were adamant that it should focus on 'complex' projects, not 'ordinary' activities. Those interviewed recommended adopting projects that could be achieved only through the combined efforts and resources of government and the private sector. However, they also advocated undertaking projects or priorities that offer the greatest value not just for members but for industry and the community more broadly.

In contrast to JMLIT's focus on areas identified in the UK's National Risk Assessment or considered serious and organised crime threats, the Fintel Alliance has prioritised projects that offer preventative and interventional outcomes, fulfil community objectives and government priorities (see section 3.3).

In our view, undertaking projects that offer a preventive element; provide broad mutual benefit to the government and private sector members; or expand our understanding of common risks or threats; is vital to sustaining PPPs.

Unless PPP projects have a demonstrable prevention element (and thus benefit members) or optimise members' information and data holdings, maintaining support and resourcing may be challenging. Sustaining enthusiasm among smaller members may also be difficult if projects are of limited benefit. As one interviewee explained, 'if a project is not of interest to us, we will keep [our] analysts "in abeyance"'. For government and private sector participants alike, the pressure of 'business as usual' work made it 'easier' to refrain from

participating in PPP projects that only partially benefited them. Participants viewed projects that contained a ‘prevention element’, or clearly helped the community (such as the Countering Child Exploitation project), to be of greatest benefit. It is, therefore, critical that projects contain at least one of the following elements:

- benefit most, or ideally all, members;
- be seen to assist the community; or
- expand understanding of a common risk or threat faced by members or a sector of members.

6.2 Project selection

Any Fintel Alliance member can propose projects. However, as noted in section 3.3, government members – in particular, AUSTRAC – have influenced project selection. Initial projects targeted ‘low-hanging fruit’ (examining issues that were topical, such as the Panama Papers data) or profited from readily accessible data (for example, ACORN data). Although this is understandable and harnesses law enforcement agencies’ understanding of the criminal environment, Fintel Alliance members have increasingly advocated undertaking projects that move beyond their ‘comfort zones’, that tackle subjects ‘where there is overlap and mutual benefit’ and that therefore rely on the joint resources of government and the private sector. Some members also recognise there is value in undertaking projects that mobilise the private sector’s knowledge of threats and allow private sector members to contribute their knowledge of risks and threats.

On a more practical level, project selection needs to take account of the data holdings of Fintel Alliance members. As one interviewee reflected, ‘there’s no point in taking on a project unless the data is accessible, mineable and can lead to a real outcome’. While ideally all members would make comparable contributions, those interviewed recognised that not all members could equally contribute resources, data or information to all projects. Smaller members, or members with a reduced presence in a jurisdiction, may not have the capacity to sustain the resourcing commitment required for ongoing involvement in a PPP. However, such members could make meaningful and valuable contributions in other ways; offering alternative perspectives or unique datasets to PPP activities.

To overcome differences in resourcing capacity or data availability, the Alliance should engage non-members if their information could be crucial to the success of a project. As one private sector interviewee pointed out, ‘membership of the [Fintel Alliance] group doesn’t

necessarily include all of the players who may have data or information on an issue'. The ability to on-board non-members expeditiously could be a means of plugging a gap in core participants' resourcing or data. With this in mind, PPPs should therefore consider engaging non-members from time-to-time to supplement core members' resources and data. Involving non-members on a temporary basis could enhance the financial crime knowledge of members and non-members alike (and overcome perceptions of a 'them-us' club), sustain enthusiasm for PPP activities and provide new perspectives.

Equally important to sustaining enthusiasm for PPPs is the timely promotion of their successes and lessons. Promoting successes and lessons learnt may also prevent the emergence of a 'them-vs-us' mindset within a sector. Campaigns that promote PPP successes could also reinforce the benefits of collaboration between government and the private sector in the fight against financial crime and assist in securing resources and future funding from government and industry leaders. Members of the Fintel Alliance agree that their most successful project was the Countering Child Exploitation project.

6.3 Case Study: Countering Child Exploitation project

Western Union raised concerns with other Fintel Alliance members about credit card transactions of small amounts that it suspected were linked to child exploitation and proposed that the Fintel Alliance examine the issue more closely.⁸⁴ Members agreed. The project offered the opportunity to disrupt heinous crimes by amalgamating diverse data holdings and thereby demonstrate what a government-private sector partnership could achieve.

The project used: (a) classified law enforcement information about known and suspected offenders in Australia and overseas (previously unavailable to many Fintel Alliance members); (b) information from the International Justice Mission in the Philippines⁸⁵; and (c) internal monitoring information from ANZ (and Western Union).

The project had three primary outcomes. Firstly, Fintel Alliance worked with the Australian Federal Police, ANZ and Western Union to develop an indicators paper that industry could

84 Joyce Moullakis, "Rose Denies CBA Blindsided," *The Australian Financial Review*, 5 April 2018; AUSTRAC (Australian Transaction Reports and Analysis Centre), "The Critical Role of the Private Sector in Countering Terrorism Financing - Potential Models of Cooperation with Industry - AUSTRAC CEO Speech," presented at the ASEAN-Australia Counter-Terrorism Conference - Leaders' Conference, Sydney, March 2018; "AUSTRAC CEO Speech," presented at the Australian Financial Review Banking and Wealth Summit, Sydney, 2018, accessed 23 September 2018, <https://www.youtube.com/watch?v=IKk2-PvXOcs&feature=youtu.be&a>>.

85 The International Justice Mission in the Philippines provided information to the Fintel Alliance through law enforcement members of the Alliance.

use to detect possible illegal activity involving children.⁸⁶ The sharing of this paper with Fintel Alliance members resulted in the identification of previously unknown offenders, and over 20 referrals to law enforcement agencies of ‘actionable intelligence on high-quality targets and other facilitators’. This information was later disseminated to international law enforcement agencies in Southeast Asia.⁸⁷

Secondly, the project led to a 316% increase over 12 months in the number of SARs related to the purchase of child exploitation material. This information has also been shared with law enforcement authorities by AUSTRAC.⁸⁸

Thirdly, the Countering Child Exploitation project advanced awareness of the issue within the financial services industry through the International Centre for Missing and Exploited Children and the Financial Coalition against Child Pornography.⁸⁹

6.4 Benefits of PPP projects

The success of the Countering Child Exploitation project provides insights into what constitutes an effective PPP project, and the value of PPPs more generally (an issue examined further in section 7). Firstly, countering child exploitation crimes is an area of interest for law enforcement, the private sector and the community. Thus, the project was of interest to all Fintel Alliance members.

Secondly, the project focused on a particular crime type: child exploitation crimes. By developing transaction indicators relevant to such crimes, the project could improve data quality and potentially reduce the number of defensive or precautionary SARs submitted to authorities.

Thirdly, by enabling the identification of suspected criminals or facilitators, PPPs can, on one hand, focus law enforcement efforts towards previously unknown offenders; and on the other hand, assisting the private sector to prevent their services being used for nefarious purposes and to identify, and take action concerning, transactions linked to criminal activities.

Fourthly, the Fintel Alliance’s successful combining of government and private sector data, resources and knowledge achieved results that would have taken longer and required

86 AUSTRAC (Australian Transaction Reports and Analysis Centre), "AUSTRAC CEO Speech," presented at the Australian Financial Review Banking and Wealth Summit, Sydney, 2018, accessed 23 September 2018, <https://www.youtube.com/watch?v=IKk2-PvXOcs&feature=youtu.be&a>>.

87 Ibid.

88 Ibid.

89 The International Centre for Missing and Exploited Children invited Fintel Alliance to play a leading role in the Financial Coalition Against Child Pornography. The Coalition seeks to educate and inform multinational corporations, including Facebook, Mastercard and Google, about child exploitation issues.

significantly more resources to achieve, if undertaken separately. In other words, the sum of the whole proved greater than its parts.

Projects are at the heart of PPP activities. They play an important role in the success or otherwise of a PPP in the eyes of broader industry, government and community stakeholders. This section found that to maximise the benefits of PPPs projects (and PPP members), it is imperative to select projects that address complex issues, take advantage of the availability of government and private sector data, and contain a preventative element. Some interviewees also suggested that projects should be mutually beneficial to government and the private sector; while others considered mutual benefit to be a lesser consideration if a project could prevent a particular crime type or assist a particular sector to avoid a financial crime. In the next section, this paper will explore the benefits of PPPs through the themes of collaboration, communication and prevention.

7 Benefits of PPPs to industry and the community

‘Be a voice for engagement and reform, as well as fight financial crime’⁹⁰

PPP projects, such as the Child Exploitation Project, demonstrate that PPPs can be a more efficient and effective use of resources and achieve results within shorter periods than would otherwise occur; particularly where projects target specific crime types. However, beyond discrete projects can PPPs benefit industry and the community? This section will explore this issue through the themes of collaboration, communication and prevention.

Through **collaboration** between government and the private sector, PPPs can deepen members’ understanding of financial crime strategies and typologies as well as the challenges members face. In this regard, PPPs could play a pivotal role in **preventing** industry and the community being misused for financial crime purposes. However, to benefit industry and the community, it is essential that PPPs effectively **communicate** the findings of their projects and other activities using a range of audience-driven formats.

7.1 Collaborate

The recognition that no single stakeholder holds the information to solve a crime causes collaboration to be critical. As AUSTRAC CEO Nicole Rose recently pointed out, ‘the threats we face are adaptable, well-resourced and borderless, and we are finding it increasingly more difficult to combat these threats alone’.⁹¹

The key benefit of PPPs is in their ability to strengthen relationships between government and the private sector. PPPs offer their members the opportunity to develop trust through the open sharing of information about trends, suspicious matters or other issues during PPP projects. Members of the Fintel Alliance consider their collaborative efforts in fighting financial crime have been enhanced by this greater trust and understanding.

However, while PPPs are promoted as benefiting industry, government and the community, some have cast doubt on the extent of these benefits: particularly in light of the absence of specific examples or data.

Currently, it is difficult to quantify the benefits of PPPs because of their level of maturity and the limited data available on the outcomes of their activities. Other than the United

⁹⁰ Interviewee comment.

⁹¹ AUSTRAC (Australian Transaction Reports and Analysis Centre), "The Critical Role of the Private Sector in Countering Terrorism Financing - Potential Models of Cooperation with Industry - AUSTRAC CEO Speech," presented at the ASEAN-Australia Counter-Terrorism Conference - Leaders’ Conference, Sydney, March 2018.

Kingdom's JMLIT and Hong Kong's Fraud and Money Laundering Intelligence Taskforce (FMLIT), few PPPs targeting financial crime publish information on the quantifiable value of their activities. Notwithstanding the absence of quantifiable data, for many Fintel Alliance members the goals of the future sustain today's efforts.

For these Fintel Alliance members, PPPs have the potential to underpin wide-ranging benefits for industry and the community, particularly in detecting and preventing financial crime more efficiently and effectively. Projects such as the Fintel Alliance's money mules project, which developed profiles of mules' demographic, financial and travel activity and a set of indicators that were more comprehensive than those previously available, enabled Fintel Alliance members to deepen their understanding of the threat and generate strategies to counter it.⁹²

However to optimise PPP collaboration, PPP projects and other activities need to align closely with the goals or mission of the PPP and take advantage of the data and resources available to them. That said, allowing non-members to contribute to PPP efforts could also broaden the benefits of government–private sector collaboration and lead to practical results that prevent financial crime.

7.2 Prevention

Prevention is at the heart of Fintel Alliance projects, and underscores all its efforts. The Fintel Alliance's projects examining money mules, exploring ACORN data, and supporting Australia's National Missing Person's Week 2017 are all linked to the idea that working collaboratively can strengthen the financial system, uphold its integrity and transparency, and improve the financial services sector's capacity to prevent money laundering and terrorism financing.

In this manner, the collaborative efforts of PPP members increase their potential to detect and respond to trends and developments in criminal activities, and thus prevent or minimise the harm those activities cause. These efforts benefit not only PPP members, they also benefit the financial services industry generally as well as other related industries and the community.

While for many interviewees it is still 'too soon to tell' whether the Fintel Alliance has made an impact on preventing financial crime, such uncertainty is not seen as a reason to discontinue participation in the Alliance. Indeed, a significant number of interviewees viewed their participation as a long-term investment that would ultimately bear fruit. The

⁹² AUSTRAC (Australian Transaction Reports and Analysis Centre), "Annual Report 2017-18."

combination of information from multiple sources together with government and private sector personnel with diverse expertise and perspectives, could bring greater insights and develop creative solutions to ‘wicked problems’ to benefit industry and the community.

An example of this is the Countering Child Exploitation project discussed above. Fintel Alliance members were adamant that the results achieved in that project would have taken substantially longer to achieve without their combined efforts. Although it is currently unclear how many children have been protected or how many persons have been arrested or prosecuted based on information derived from the project, what is clear is that financial institutions are more aware that their services could be misused for nefarious purposes, such as child exploitation.

The use of PPPs to prevent crime, whether in Australia or elsewhere, is still in its infancy. However, with greater access to data, more personnel, and the involvement of diverse organisations, the potential for PPPs to play an integral role in preventing and responding to crimes appears significant.

7.3 Communicate

‘The key issue is having information sharing that is timely and effective’⁹³

To be of broader benefit to industry and the community, however, it is essential that PPPs communicate the findings of their projects and other analysis. While preventing financial crime is a noble goal for PPPs such as the Fintel Alliance, without ‘positive stories’, timely and relevant information, statistics or other results it is difficult for the broader public and industry to appreciate a PPP’s achievements. Moreover, justifying the ongoing resourcing of PPP initiatives without these results or findings becomes more difficult.

By communicating their findings, PPPs can promote understanding and expand knowledge of financial crime strategies and typologies. Expanding industry and community awareness of the strategies criminals use is critical to empowering individuals and businesses to mitigate their risk and exposure to such crimes. In other words, by improving knowledge, the prevalence of these crimes could be reduced.

However, the flip-side of this is that publicising information about strategies and methods could allow criminals to stay one step ahead of law enforcement efforts. To balance these issues, PPPs could provide unclassified versions of their findings and analyses, suitable for

93 Interviewee comment.

broader dissemination to the community, and provide national security cleared industry stakeholders with classified versions of their findings. This approach would improve industry's understanding of threats and empower them to adopt prevention strategies aimed at reducing their risk of exposure.

Communicating information on PPP findings, particularly those that could reduce exposure to financial crime risks, would also counteract the development of 'them-us' club perceptions within the financial services sector. Regular and timely reporting of PPP information that is useful or relevant to all industry stakeholders may assuage concerns that those 'inside the PPP tent' occupy a superior position that allows them to take advantage of, or profit from, access to classified information or other financial intelligence that is not available to PPP non-members. While it is impractical for all industry members to participate in a PPP, dissemination of information about PPP project findings is a sensible strategy that allows the financial services industry and the community to reap the benefit of PPP projects.

While the United Kingdom's JMLIT⁹⁴ and Hong Kong's FMLIT regularly report information on their operational outcomes, AUSTRAC and other Fintel Alliance members (both government and private sector) have, to date, published limited information on Fintel Alliance projects or their involvement in the Alliance on their websites or in their annual reports or other publications.⁹⁵ A search of media reports finds few reports on the activities or benefits, to industry and the community, of the Fintel Alliance.⁹⁶ While aware of the issue, the Fintel Alliance appears reticent to take steps to publicise information stemming from its projects. The reasons for this reticence remain unclear.

With this in mind, we recommend that PPPs prioritise communication of typologies or other information in forms that are readily digestible or appropriate to the financial services industry and the community. Publishing typologies, blogging report outcomes and holding

94 This information includes statistics on arrests, investigations (bank and law enforcement initiated) and account closures. According to the National Crime Agency, the JMLIT has advanced understanding and awareness of the money laundering risks that UK financial institutions face, and has enabled 'targeted and coordinated interventions by law enforcement and the financial sector', and enhanced 'opportunities to tackle money laundering threats impacting the UK'. See National Crime Agency, accessed 20 November 2018, <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/joint-money-laundering-intelligence-taskforce-jmlit>. The United States Department of the Treasury, FinCEN also publishes information on persons of interest shared with the financial industry. United States Department of the Treasury, FinCEN, "Law Enforcement Information Sharing with the Financial Intelligence Industry 2016–2018", accessed 10 September 2018, <<https://www.fincen.gov/sites/default/files/shared/leinfosharing.pdf>>.

95 The authors observed during their research for this study that AUSTRAC actually reduced the information available on its website about the Fintel Alliance and its projects.

96 A search of media reports on the Fintel Alliance between 1 January 2016 and 26 November 2018 accessible through the University of Canberra's Proquest subscription retrieved 54 reports. Of these, reports related to the following themes: (a) the Minister for Justice's launch of the Alliance on 3 March 2017; (b) limitations of PPPs in fighting transnational crime; (c) government efforts in combating crime; (d) preventing terrorism financing; and (e) benefits of collaboration between the public and private sectors in combating financial crime.

industry and community forums on project findings could disseminate lessons learnt in the PPP to diverse audiences, and in so doing promote the benefits of PPPs.

In addition to publications, PPPs could host forums with industry on financial typologies and emerging risks and threats that have been detected through their activities. Fintel Alliance members and non-members suggested the Alliance should host such forums and information sessions, separate to those that AUSTRAC hosts in its capacity as AML/CTF regulator and FIU. In their view, forums could expand Fintel Alliance's relationships within the sector, strengthen connections with other relevant industries (for example, cyber-security) and enhance the Fintel Alliance's overall value to the community.

7.4 Optimising PPP benefits to industry, government, and the community

Beyond PPP projects, PPPs could be a springboard for facilitating feedback to improve the information reported by regulated entities in compliance with their AML/CTF obligations. In the context of the Fintel Alliance, both members and non-members viewed it in such terms. As one interviewee commented, '[W]e get little feedback: none on suspicious matter reports. Don't know if they are good, bad, unhelpful etc.' Another interviewee asked, 'Does the information that is submitted hit an alert on the Australian Federal Police's system? Does it make a significant difference to investigations? We need feedback to know if this is the case.' PPP-sponsored feedback sessions and information forums could help regulated entities and law enforcement agencies exchange views and ideas on what information actually benefits or assists law enforcement efforts. In this manner, the PPP would proactively support the creation of connections and sharing of information between private sector organisations and law enforcement agencies, which may only otherwise occur in limited circumstances or with select organisations. Such a strategy could ultimately assist in identifying and detecting financial crime sooner.

In a similar manner, PPP-sponsored feedback sessions between regulated entities and regulators could be used to propose ideas for AML/CTF reform. As discussed earlier in this paper, PPP projects have - in some instances - highlighted areas where legislative reform to improve information sharing is urgently needed. PPPs could play a role in facilitating greater engagement between the regulator and the sector that could lead to increased awareness of regulatory concerns, and ultimately improvements in AML/CTF regulation that could benefit the financial services sector as a whole. As some interviewees pointed out, PPP-sponsored

feedback forums could also improve the image and approachability of regulators in the eyes of regulated entities. As one interviewee explained, AUSTRAC would be seen as ‘fair but approachable’ and not ‘some scary government organisation’. With this in mind, a PPP’s benefits could extend beyond their members to encompass other industry stakeholders, acting as a voice for engagement and reform as well as fighting financial crime.

Through the themes of collaboration, prevention and communication, we have explored the benefits of PPPs to industry and the community. Although it is in many respects ‘too soon to tell’ if PPPs can definitively prevent financial crime, it is clear that they are beneficial in building trust and strengthening relationships between government and the private sector, and in making the financial services sector more aware of how their services can be misused for nefarious purposes. However, to sustain the funding and resourcing of PPPs into the future, it is essential that they communicate the findings of their projects and other activities in a variety of audience-driven formats. Publication of research papers, blogs and other typologies will only demonstrate the value of collaboration between government and the private sector, both now and in the future.

8 Future

The previous sections of this paper concentrated on the past and present achievements of the Fintel Alliance and the challenges it has faced. In this section, we change direction and explore PPP challenges from a forward-looking perspective. We focus on three issues touched on throughout this paper: membership expansion; PPP's influence on regulatory reform; and the need for PPPs to evolve and adapt. In other words, what issues do PPPs need to consider to evolve and maintain their relevance and currency?

8.1 Membership

8.1.1 Views on expanding membership

A common and challenging debate that many PPPs experience is whether to expand their membership and how many members to include.⁹⁷ Generally, there is value in involving new members. New members bring different skills or perspectives to a problem, as well as diverse data holdings to explore. Inviting more members to join a PPP could be positive and lead to the discovery of previously unknown information or insights. Extant studies on PPPs or fusion centres have not considered the optimal number of members although this issue is worthy of further study.

Fintel Alliance interviewees generally agreed that starting the Alliance with a small number of trusted partners, based around the major banks, had been a sensible approach. However, they noted that the Alliance's current composition did not include all of the organisations that may have data or information relevant to an issue. To address the shortfall, new Fintel Alliance members could come from the insurance, superannuation, remittance and digital currency sectors, whether Australian or foreign-owned. However, they could equally include non-traditional stakeholders such as telecommunications companies, internet service providers or other Internet-based platforms.⁹⁸

Currently, a proposal exists to increase the Fintel Alliance's membership to include 18 additional regulated entities.⁹⁹ While many interviewees agreed in principle with expanding the Fintel Alliance's membership, others disagreed. The main reasons interviewees cited for

97 Nick Maxwell and David Artingsall, "The Role of Financial Information-Sharing Partnerships in the Disruption of Crime."

98 This paper notes that including organisations from these sectors in the existing Fintel Alliance model could be challenging because they are not regulated under the AML/CTF Act regime.

99 According to information provided to the authors by AUSTRAC, these regulated entities are exposed to money laundering and terrorism financing risk because of the greater volume and value of their reported transactions and the complexity of their operations.

retaining current membership levels were consolidating the initiative, maintaining trust, and controlling the disclosure of information. As one law enforcement interviewee reflected, ‘[W]e need to keep to what we have now until we get the Fintel Alliance established and working well’. Thus, a membership paradox emerges: the more (new) members, the greater the data available but, the more challenging it is to build or maintain trust and for the initiative to continue to function well.

Any expansion of PPP membership, therefore, needs to be undertaken at an optimal time and involve organisations committed to the initiative’s goals. As one interviewee explained, ‘If you’re going to participate, you need to be active, not passive, and contribute to the project’. Some of those interviewed suggested introducing new PPP members gradually, for example, a potential new member could be involved in a particular project by contributing data because of their specific business type.

To that end, we recommend that PPPs should only consider expanding their membership when they are operating in an environment of mutual trust, and then do so gradually. A gradual increase in members (for example, two members per year) would take account of the change in group dynamics as well as the need for existing and new members alike to develop trust and rapport in the PPP environment. An incremental increase in membership would also accommodate the consequential increased information flows and allow time for the new members to be integrated into PPP activities. Finally, inviting new members to join a PPP on a gradual basis would also allow existing members to understand the extent and character of the new member’s data holdings, and thus enable the PPP cohort to determine how to optimally use that information in PPP projects.

8.1.2 Views on international expansion

While PPP membership expansion may initially target domestic organisations, money laundering, drug trafficking, tax evasion and cybercrime are transnational crimes. Therefore, the question arises whether a PPP should include foreign partners. In addition to the membership paradox discussed above, there are numerous challenges in expanding a PPP’s membership to incorporate foreign partners, particularly those based overseas.

For many Fintel Alliance interviewees, involving international partners was viewed positively and for reasons similar to those for domestic membership expansion. In other words, incorporating foreign partners would provide opportunities to share data, exchange perspectives and develop relationships. The Alliance’s connections with the JMLIT, for

example, proved useful during the Alliance's design and development phase and the Operations Hub's initial period of operation. Several interviewees also commented that large, multinational companies such as HSBC, PayPal and Western Union had contributed valuable perspectives to Fintel Alliance projects based on their data, customers, products and outlook.¹⁰⁰ Notwithstanding these positive views, there are a number of cautionary considerations that need to be heeded in involving international members in a PPP.

Firstly, not all foreign government or foreign-based private sector organisations have the resources, capacity or inclination to participate in an international PPP. For example, developing countries may benefit from such initiatives but be unable to contribute to the same extent as developed countries or foreign-based private sector organisations. Similarly, foreign government and private sector organisations may not value or prioritise involvement in a foreign PPP, notwithstanding that it may benefit them.

Secondly, although foreign governments regularly share information on financial crimes and other sensitive issues, it is unclear if law enforcement agencies and FIUs¹⁰¹ could, or would agree to, share information on financial crime with foreign private sector organisations for reasons of legal restrictions, national security, sensitivity, information control and trust.

Thirdly, government agencies involved in a PPP would need to balance the expected opportunities to be gained by including foreign entities (government or private sector) against the challenge of maintaining ongoing member trust and information security.

If the Fintel Alliance seeks to incorporate foreign counterparts, it could begin with its near-regional neighbours with whom law enforcement agencies (including AUSTRAC) have enduring relationships. An obvious choice would be New Zealand. Australia and New Zealand have longstanding close ties at the government and private sector levels. With New Zealand keen to develop its own 'Fintel Alliance', and Australia's major retail banks having an existing presence in the New Zealand market, incorporating New Zealand into the Fintel Alliance could be a positive, but prudent, first step.¹⁰²

100 In addition to their Fintel Alliance membership, some of these companies participate in foreign-based PPPs that focus on financial crime, while others are active in international AML/CTF efforts more generally.

101 Part 11 of the AML/CTF Act provides for the sharing of 'AUSTRAC information' (being, information received under the AML/CTF Act or by the AUSTRAC CEO) with foreign law enforcement and intelligence agencies. See also AUSTRAC (Australian Transaction Reports and Analysis Centre), "Privacy Impact Assessment - AUSTRAC Data Matching Program and Fintel Alliance (Initial Operational Projects)", 7-8.

102 Information provided to the authors by AUSTRAC advises that the Fintel Alliance anticipates involving New Zealand's FIU in its activities shortly.

That said, Australia also has close relations with its Southeast Asian neighbours. Singapore, for example, could be another choice as a foreign partner. As a major financial and technology hub for the Asia-Pacific region, Singapore has established a number of transnational crime-related information sharing centres. In 2006, Singapore established a regional information sharing centre involving 20 countries focussed on combating piracy and armed robbery against ships in Asia (ReCAAP).¹⁰³ In 2017, Singapore's Monetary Services Authority and the US-based Financial Services Information Sharing Centre (FS-ISAC) established an Asia Pacific Analysis Centre to encourage regional sharing and analysis of cybersecurity information.¹⁰⁴ Involving a country such as Singapore would provide the Fintel Alliance with a different perspective on financial crime in the region.

In any event, further consideration on how best to manage differing legal systems, as well as other political and cultural matters, would need to be resolved before involving Southeast Asian government or private sector organisations in the Fintel Alliance. Existing mechanisms for international engagement and the exchange of information would also need to be taken into account.

8.2 Regulatory and legislative reform

PPPs provide a practical environment for testing regulatory ideas and exposing regulatory inconsistencies and incongruities. These benefits may not be recognised immediately during the establishment and initial operation phases of a PPP. However, they are valuable to efforts aimed at streamlining and improving regulation, and consequently may strengthen support for the PPP.

The Fintel Alliance has provided a constructive environment in which to test whether barriers to information sharing and collaboration actually exist, and to highlight the areas in need of regulatory reform. While it is too soon to tell whether the Fintel Alliance has made a demonstrable difference to improving AML/CTF regulation, early indications suggest that it has the potential to offer this. The experiences of Fintel Alliance, to date, have demonstrated that activities that clarify legal requirements relevant to information sharing and exchange are needed, and should be further explored.

¹⁰³ Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) Information Sharing Centre, "About ReCAAP Information Sharing Centre," accessed 18 May 2019, http://www.recaap.org/about_ReCAAP-ISC.

¹⁰⁴ Fintechnews Singapore. "FS-ISAC and MAS Establish APAC Intelligence Centre for Analysing Cyber Threat Information," accessed 18 May 2019, <http://fintechnews.sg/7233/fintech/fs-isac-and-mas-establish-apac-intelligence-centre-for-analysing-cyber-threat-information/>; Monetary Authority of Singapore and Financial Services Information Sharing and Analysis Center, "FS-ISAC and MAS to Strengthen Cyber Information Sharing across Nine Countries." news release, 2017.

Lessons learned in the Fintel Alliance could usefully inform Australian AML/CTF policy and legislation on a bottom-up, evidence-based basis. These lessons may also be helpful internationally through FATF. For example, private sector members' participation in Fintel Alliance projects has exposed the need to reform Australia's tipping-off laws – in particular, the need for legislative reform to allow entities to share transaction and customer information where criminal activities are suspected, and to submit multi-authored SARs. These reforms could streamline SAR processes, reduce the level of defensive or precautionary SARs and provide law enforcement and FIUs with more complete information about a transaction.

To that end, PPPs such as the Fintel Alliance should be viewed as a 'sandbox' for trialling new regulatory approaches that could reduce regulatory burden and simplify AML/CTF requirements for organisations in their jurisdictions. The majority of Fintel Alliance members interviewed supported this use of the Alliance. In their opinion, aligning the Fintel Alliance with 'smarter regulation' approaches offered potential benefits and efficiencies to both them and the industry. The opportunity to test novel regulatory approaches with a small group of regulated entities was considered a valuable and obvious link by participants, and one that could result in tangible outcomes and benefits to AUSTRAC and the financial services industry. In this way, PPPs could provide a test-ground for trialling and exploring potential new approaches to regulation and compliance that could benefit industry, government and the community.

8.3 Evolution

As discussed throughout this paper, PPPs offer a unique opportunity to build trust and understanding between government and private sector organisations while working towards the goal of combating financial crime. However, PPPs must be prepared to evolve, adapt and modify to reflect their changing circumstances or developing levels of maturity. While there is value in following the Fintel Alliance's approach of starting small, establishing the initiative, developing relationships, obtaining early successes by going after 'low-hanging fruit', and reflecting on lessons learnt (both positive and negative); PPPs should also be prepared to tackle more complex issues as they mature.

In addition to membership issues, Fintel Alliance had to consider matters concerning its organisation and structure within its first 12 months of operation. The decision to introduce the Experts' Group during Fintel Alliance's first year of operation reflected that an intermediary level between the Strategic Advisory Board and the Operations Hub was needed

to coordinate project assignments, manage analysts and implement recommendations from the Board. Neither the Board nor the Operations Hub was in a position to do this alone.

More recently, Fintel Alliance members have advocated to reconsider project selection, in particular some have sought to maximise what can be shared to enable greater collaboration between government and private sector members. Fintel Alliance private sector members have also sought to explore opportunities for greater collaboration among themselves to achieve a common understanding of the risks they face. For example, undertaking private sector developed typologies on financial sector risks, rather than relying on those produced by government members, would enable private sector members to collaborate on projects of direct interest to them and provide government members with a different perspective or insight into a risk or issue.

As discussed earlier in this paper, while any member can propose a Fintel Alliance project, the Alliance's initial project selection was influenced by AUSTRAC and the other government members. The need for direction and coordination of project selection has become paramount as the Fintel Alliance has matured. Although the Alliance has recognised this, further project coordination is needed.

To be of greater benefit to industry and the community, the Fintel Alliance needs to see itself as a coordination centre for detecting and preventing financial crime impacts, and prioritise those projects that produce the most benefit or value to members and non-members alike. This is where the true value of the Fintel Alliance, and all PPPs exists.

By taking a strategic outlook on the overall priorities of a PPP, and harnessing government and private sector knowledge of financial crime risks; PPPs can examine existing knowns and identify where gaps exist, and further data collection is needed. In other words, instead of focussing on 'piecemeal projects', PPPs should focus on those activities that align with their priorities.

In this way, PPPs can harness the skills, knowledge and expertise of all their members. Regularly reviewing the overall priorities (for example, annually or biennially) will ensure PPP priorities take account of recent developments and remain relevant. Adopting this approach would instil greater trust between private sector and government members, and lay foundations to support the long-term sustainability and relevance of the PPP to its members, the government and the community.

9 Findings and Recommendations

9.1 Findings

The experiences of the Fintel Alliance demonstrate that the challenges of implementing a PPP are not only legislative or technical, they also relate to relationships, trust and risk appetite. However, they also demonstrate that PPPs can play a critical role in building trust, overcoming reticence to sharing information, and in expanding our knowledge of financial crime.

For most interviewees Fintel Alliance membership was viewed positively, providing opportunities to understand the challenges faced by counterparts: why 100% compliance with regulatory requirements can be difficult to achieve, and why prosecutions are the result of years of investigations. Membership also provided the foundations for greater trust that could overcome resistance to share information across sectors. Fintel Alliance members expressed hope that these foundations could form the basis for the open sharing of information on financial crime risks, threats and typologies.

While these results are positive, some members remain concerned about their potential exposure to regulatory non-compliance action or the possibility that their commercial competitiveness could be reduced through participation in PPP activities, such as projects. With this in mind, having clarity concerning the roles and responsibilities of PPP members, including their obligations under AML/CTF or privacy laws, is critical to the long-term success of PPPs and important to maintaining ongoing trust and relationships in a PPP environment.

As PPP projects can enhance our knowledge of financial crimes, it is imperative that PPPs undertake projects that maximise members' participation, incorporate a preventative focus, and align with the PPP's strategic goals. Such projects are more likely to be valued by members, and consequently attract support and resources. Involving non-members in projects, particularly if their information could be crucial to the success of a project, could also enhance a PPP's effectiveness and broaden the value of PPP projects to industry.

The Countering Child Exploitation project, for example, illustrates that PPPs and their activities can be a more efficient and effective use of resources, and can achieve results within shorter periods of time than would otherwise occur using 'traditional' law enforcement investigation methods; particularly where used to target specific crime types.

That said, further research on this issue is necessary to confirm the wider applicability of this finding.

While PPPs are promoted as benefiting government, industry and the community by preventing and disrupting financial crime, there is a dearth of evidence to substantiate this assertion. Publishing stories, statistics or other information or ‘lessons learned’ from PPP activities are clear and tangible methods of demonstrating the value of the PPP that could engender support for its goals beyond its members. Equally important, typologies and other information would allow industry, businesses and individuals alike to mitigate their risk of exposure to financial crime.

Do PPPs make a difference in combating financial crime? Although prevention is at the heart of Fintel Alliance’s projects, for those interviewed it was ‘too soon to tell’ if the Alliance had made a difference in preventing crime. Nonetheless, for most Fintel Alliance members, participation was regarded as a long-term investment that would ultimately bear fruit. Early indications suggest that for Fintel Alliance members, the opportunity to develop greater awareness of financial crime risks, collaborate on projects that could benefit them, industry and the community, and potentially influence AML/CTF regulation, meant involvement in the PPP was valuable and worthwhile.

The Fintel Alliance’s experiences provide lessons that are a useful guide for others contemplating developing, or enhancing existing, PPPs that target financial crime. With this in mind, we make the following recommendations.

PPP members, structure and governance

9.2 Recommendation 1: Start small and grow over time

PPPs offer the opportunity to build and strengthen relationships, enhance trust and expand PPP members’ knowledge and understanding of financial crime issues. However, it takes time for trust to develop, particularly when individuals come from different organisations and sectors. Therefore, PPPs should start with a small number of core members from financial services, law enforcement and intelligence organisations. Starting small allows trust to be constructed, relationships cemented and initial problems overcome. As a result, PPPs should only contemplate expanding their membership (permanently or temporarily) when an environment of mutual trust exists between members.

9.3 Recommendation 2: Consider involving members from other organisations or sectors

To supplement their core members, PPPs could consider including members from the non-banking financial services sector (insurance, superannuation, remittance and digital currency providers) and non-financial services sector (telecommunications companies and internet service providers). Such organisations have the potential to offer new data sets and fresh ways of seeing and solving problems that could lead to practical results.

9.4 Recommendation 3: Start within existing legislative and technological parameters

PPPs should start within existing legislation and technological frameworks. Relying on existing legislation and technology enables a PPP to start work on projects or other activities sooner and to avoid the delays often associated with developing new laws or technology. Adopting this approach also avoids introducing laws or technical solutions that may later prove inappropriate.

9.5 Recommendation 4: Provide clarity on PPP roles and responsibilities

PPPs need a governance structure that provides direction and clearly articulates members' roles and responsibilities. While PPPs are a 'partnership' between public and private sector members, they need four basic elements to function well. Firstly, PPPs need to appoint a host or lead organisation to organise and coordinate PPP activities. Secondly, PPPs would benefit from a board or committee to establish their strategic priorities as well as, thirdly, an advisory group to assist in implementing the PPP's priorities, identifying data sources and knowledge or information gaps, and developing work programs that align with the priorities. Finally, they need analyst or officer level staff to fulfil that work program.

Undertaking PPP Projects

9.6 Recommendation 5: Consider projects that maximise PPP members' participation and incorporate a preventative focus

PPPs should consider projects that maximise the combined efforts and data holdings of their members. Projects should be distinct from business-as-usual activities. However, projects that seek to detect and prevent financial crime will produce the most benefit to members and non-

members should be prioritised. Projects of this character will also be valued by government and the community, and will therefore demonstrate that government and the private sector are taking action against financial crime.

Resourcing PPP projects

9.7 Recommendation 6: Engage, and if possible co-locate, the most appropriate staff to work on projects

Projects must engage staff with the most appropriate skills and expertise for each project. Project members should ideally be co-located during the discovery (or analysis) phase of a project to build trust, gain insights into each other's work and see connections that may otherwise remain hidden. PPP members must be willing to provide staff to participate in, or be made available to, a project from beginning to end.

9.8 Recommendation 7: Communicate timely and meaningful information about PPP projects and activities to industry, government and the community

PPPs must communicate timely and meaningful information about their project findings and activities with industry groups, government and the community. Using a variety of media channels will ensure that PPP activities raise awareness in the private sector and the community of the strategies used by organised crime and terrorist financiers to launder money, fund terrorism or commit fraud. Raising awareness of the PPP's activities will also demonstrate the value of industry and government's collaborative efforts in protecting society.

Reform information sharing

9.9 Recommendation 8: Review laws to support information sharing to fight financial crime

The transnational nature of financial crime enables criminals to evade prosecution under country-specific laws. While the degree to which information can be shared between government and the private sector differs across jurisdictions; to fight financial crime all jurisdictions need to review their laws to allow greater, protected information sharing between the private sector and government agencies. Because combating financial crime is a fight that no sector can overcome alone.

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