



- **Proceeds of Crime Conference •**
- **Civil Forfeiture and Unexplained Wealth**

Conference 'wrap'

# Summary

- PoC enforcement plays a critical role in attacking organized crime
- Each jurisdiction has its own perceived advantages and disadvantages
- Agreement on uniform legislation within Australia is not likely any time soon
- Enforcement generally speaking not an issue as between Australian States and Territories

## Summary (2)

- Enforcement of Australian orders overseas and overseas orders in Australia is much more complicated
- In common law jurisdictions the role of the courts in supervising PoC action is essential, unless successfully ousted by the legislature.

# Summary (3)

- It is critical that cases are well prepared and well presented
- PoC investigators, litigators and asset managers should pay close attention to the legislation governing their activities
- Relevant legislation needs to be carefully & clearly drafted & practitioners should play an active role in ensuring this.

# Summary (4)

- Descriptors such as “civil forfeiture” or “unexplained wealth” can have differing meanings in different jurisdictions.
- Even in so-called conviction-based regimes (eg Hong Kong) there may be aspects more properly considered as being akin to civil forfeiture or unexplained wealth

# Summary (5)

- Informal methods of freezing suspected proceeds of crime may be effective weapons
- Establishing good “practitioner” direct relationships will help smooth the way for more efficient international co-operation in PoC.

# A parting thought.....

- Maybe we've got it all wrong?
- **Drug money saved banks in global crisis, claims UN advisor**
- Antonio Maria Costa, head of the UN Office on Drugs and Crime, claimed \$352bn in criminal proceeds was effectively laundered by major financial institutions on the brink of collapse  
*reported by The Observer on 13 December 2009*