

9 March 2011

Julie Dennett  
Committee Secretary  
Senate Standing Committees on Legal and Constitutional Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Madam,

**RE: DIVISION 5A - SCHEDULE 3 DETAILING THE USE AND DISCLOSURE OF PERSONAL INFORMATION FOR THE PURPOSE OF VERIFYING AN INDIVIDUAL'S IDENTITY - COMBATING THE FINANCING OF PEOPLE SMUGGLING AND OTHER MEASURES BILL 2011**

On 3 March 2011, the Senate referred the provisions of the *Combating the Financing of People Smuggling and Other Measures Bill 2011* ("Draft Bill") which amends the *Anti-Money Laundering and Counter-Terrorism Act 2006* ("AML/CTF Act"), the *Financial Transactions Reports Act 1988* and the *Privacy Act 1988*, to the Legal and Constitutional Affairs Legislation Committee ("Committee") for inquiry and report by 21 March 2011. As part of this inquiry, the Committee has invited organisations to make submissions to the Parliamentary inquiry.

ING Bank (Australia) Ltd trading as ING DIRECT applauds the Government for the proposed changes recommended in this draft Bill. These changes are essential for reporting entities such as ourselves, which operate online business models. These changes will perpetuate cost effective mechanisms to comply with the regulatory framework while increasing the much needed competition within the banking sector.

ING DIRECT has been actively involved in the consultation process, from its inception in 2006 with the Attorney General's Department, AUSTRAC and the Australian Law Reform Commission, as well as also participating in the Privacy Impact Assessment.

We recognise and support the crucial importance of an effective and efficient AML/CTF regime to counter money laundering and terrorist financing and strongly support the Government's commitment to enhancing the AML/CTF regime in order to meet Australia's international obligations.

ING DIRECT strongly supports the insertion of a new Division 5A into the AML/CTF Act which makes provision for the use and disclosure of personal information by reporting entities and credit reporting agencies for the purposes of verifying an individual's identity and provide the following comments for each section:

- Proposed section 35A permits reporting entities to disclose personal information to a credit reporting agency for identity verification purposes after obtaining express consent from the individual concerned and after providing the individual an alternate choice of verifying the identity of the individual. ING DIRECT **agrees** with the strict controlled conditions that have to be complied with prior to disclosing personal information to a credit reporting agency in order to comply with the Privacy Act requirements.
- Section 35B sets out what a credit reporting agency ("agency") may do with the information that it receives from a reporting entity or its authorised agent. ING DIRECT **agrees** with the proposal that the assessment that is to be provided by the agency will be an overall assessment based on the extent of the match between the data provided by the reporting entity and the information file in possession of the agency. This will assist reporting entities to determine the reliability of the verified data and comply with both the AML/CTF Act and the Privacy Act.



- ING DIRECT **agrees** with section 35C which requires a reporting entity to notify their customer of unsuccessful attempts to verify their identity using credit reporting data.
- ING DIRECT **supports** section 35D which requires that the verification information is not to be included on the credit information file as this will ensure that information about identification requests are not used for an unauthorised purpose.
- Sections 35E and 35F address the retention and destruction of information about verification requests by agencies and reporting entities respectively. Retention for 7 years is consistent with existing records retention requirements under the AML/CTF Act and is **supported** by ING DIRECT.
- ING DIRECT **agrees** with the requirements on reporting entities and agencies, introduced by proposed section 35G to take reasonable steps to ensure that individuals can obtain access to personal and other information about verification requests or assessments.
- ING DIRECT has also noted the offences of unauthorised access to verification information created by proposed sections 35H, 35J and 35K and **supports** the penalties that would apply in the event of a misuse of verification information.
- Section 35L empowers an individual affected by an alleged breach to complain to the Privacy Commissioner. ING DIRECT **supports** this requirement as it acts as a further deterrent against the misuse of verification information.

As noted earlier in the submission, this proposed legislation is essential for the provision of competitive, cost effective products to consumers, while complying with the regulatory requirements.

Regards

Don Koch  
Chief Executive Officer  
ING Bank (Australia) Ltd

