

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 2.1

Question No. 44

Senator Ludwig asked the following question at the hearing on 13 February 2007:

- a) Has the government finalised the list of groups and designated services that will be covered by the second tranche?
 - i) If so, provide
 - ii) If not, when will this be finalised?
- b) What consultations is the Department currently undertaking with regard to this tranche?
- c) With which groups is the Department undertaking consultation?
- d) What is the timetable for consultation for this tranche?
- e) When are these consultations likely to be finalised?
- f) When is the second tranche expected to be brought before Parliament?
- g) What is the timetable for implementation of Tranche 2?
- h) Aside from the implementation of the second tranche, are any amendments to the Act planned?
 - i) If so:
 - 1) What areas of the Act are required to be amended?
 - 2) Why are these amendments necessary? i.e. are they drafting errors, problems that have been brought up by industry, problems that have been noticed by the Department, etc.?
 - 3) Provide a timetable for government amendments to the Act.
 - 4) Has any consultation been undertaken with affected stakeholders as to the amendments?

The answer to the honourable senator's question is as follows:

(a) Recommendations 12 and 16 of the Financial Action Task Force (FATF) require countries to apply anti-money laundering and counter terrorism financing measures to specified services provided by 'designated non-financial businesses and professions'. Non-financial businesses and professions are defined by the FATF to be accountants, lawyers, real estate agents, dealers in precious metals and dealers in precious stones.

Accountants and lawyers are to be covered when they prepare for or carry out transactions for their clients concerning the following activities:

- Buying and selling of real estate
- Managing client money, securities or other assets
- Management of bank, savings or securities accounts
- Organisation of contributions for the creation, operation or management of companies, and
- Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

Real estate agents are to be covered when they are involved in transactions for their clients concerning the buying and selling of real estate.

Dealers in precious metals and dealers in precious stones will be covered when they engage in any cash transaction with a customer above the applicable threshold.

The Government has not yet prepared drafting instructions to reflect this range of specified services as designated services for the purpose of including them in Australian law.

(b) The sectors affected by Recommendations 12 and 16 have been part of and included in the industry consultation on AML/CTF laws since 2004. Specific consultation on the details of the second tranche of legislative reforms will resume in 2007.

(c) Consultation with the Law Council of Australia, CPA Australia and the Institute of Chartered Accountants will continue. These organisations have been represented in the Ministerial Advisory Group in addition to representatives from the Jeweller's Association of Australia and the Real Estate Institute of Australia. The Institute of Chartered Accountants was also represented in the Rules Working Group.

The Government will ensure that any other relevant industry groups are advised of and invited to participate in the second tranche consultation.

(d), (e) and (f) The consultations on the second tranche of reforms will resume later in 2007. The government would expect legislation to implement the second tranche of these reforms to be introduced in the Parliament in 2008.

(g) The Government will settle an implementation timetable for Tranche 2 in consultation with affected industry during the development and passage of the legislation.

(h) (i)(1), (2) and (3). Yes. The Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill (the Bill) was passed by the House of Representatives on 28 February 2007 and was introduced into the Senate on 1 March 2007. The Bill contains technical amendments to various provisions of the Act. A number of these amendments are necessary to address issues raised by the Senate Standing Committee on the Scrutiny of Bills and also correct some unintended drafting consequences.

The Bill also amends other Acts including the:

- *Administrative Decisions (Judicial Review) Act 1977*
- *Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006*
- *Commonwealth Electoral Act 1918*
- *Financial Transaction Reports Act 1988*
- *Inspector-General of Intelligence and Security Act 1986*
- *Surveillance Devices Act 2004*

(i) (4) Consultation with industry has been undertaken on the proposed amendments. The Recommendations of the Senate Standing Committee on Legal and Constitutional Affairs and the Senate Standing Committee for the Scrutiny of Bills were also considered in preparing this Bill.