

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE

Question No. 123

Senator Ludwig asked the following question at the hearing on 31 October 2005:

- a) Please indicate how many countries AUSTRAC has identified as being high risk as per 38(1)(e) of the FTR Act.
- b) How are these identifications made – does AUSTRAC receive these assessments from foreign compliance agencies, international bodies (such as FATF) or other domestic agencies?
- c) According to the recent FATF compliance report on Australia, AUSTRAC has made only limited use of the FTR (s38(1)(e)) provisions:

“(1) The functions of the Director are:

...(e) to issue guidelines to cash dealers about their obligations under this Act and the regulations.”

Please indicate what guidelines you have issued to cash dealers regarding their obligations under the FTR Act

- (i) Are these guidelines directed at certain types of cash dealers? (if so specify)
 - (ii) Are they industry specific guidelines or general cash dealer guidelines?
 - (iii) Are there any cash dealers or cash dealer industries that guidelines have not been issued to?
 - (iv) How many guidelines have been published?
 - (v) What feedback is sought from the cash dealers relating to their obligations under the guidelines?
 - (vi) What guidelines have you released relating to dealings with high-risk countries?
 - (vii) When were they released?
- d) How does AUSTRAC monitor compliance with issued Guidelines and Information Circulars regarding transactions with non-FATF compliant countries (other than Australia, of course)?

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

- a) Section 38(1)(e) of the FTR Act is the provision prescribing that one of the functions of the Director of AUSTRAC is to issue guidelines to cash dealers about their obligations under the Act and regulations. AUSTRAC has not provided a specific guideline for countries it considers to be high-risk countries, however AUSTRAC has issued Guidelines concerning FATF non-cooperative countries and territories and countries identified by the Reserve Bank of Australia as countries about which cash dealers need to be aware
- b) Not applicable, based on the previous response.
- c) AUSTRAC publishes Frequently Asked Questions (FAQs), Guidelines and Information Circulars to educate cash dealers on their obligations under the FTR Act, as well as disseminating information, such as current issues of interest, to cash dealers. There is also an

online AML eLearning application, a detailed educational tool to assist cash dealers and members of the public to better understand Australia's anti-money laundering/counter financing of terrorism program, the requirements of the FTR Act, and AUSTRAC's work. This application includes information regarding FTR Act obligations.

All AUSTRAC Guidelines and Information Circulars are listed and available on our website at: www.austrac.gov.au/guidelines/index.html.

- (i) Some are specific if required for a certain industry, but most are general to cover obligations placed upon all cash dealers.
 - (ii) As above.
 - (iii) All Guidelines and Information Circulars are posted on AUSTRAC's Web Site and are therefore available to all cash dealers and members of the public. All Guidelines and Information Circulars are sent to all known cash dealers when they are released.
 - (iv) AUSTRAC has published a total of 42 guidelines or information circulars.
 - (v) Drafts of new or updated guidelines and information circulars are circulated for discussion and comment to members of the AUSTRAC Provider Advisory Groups (PAGs).
 - (vi) Information Circular Numbers 15, 34, 35 and 39 deal with specific countries, e.g. No. 39 contains updated information on the Financial Action Task Force (FATF)'s Non-Cooperative Countries and Territories (NCCTs) list.
 - (vii) Each guideline and information circular contains the date of its original release and the most recent update, if applicable.
- d) AUSTRAC guidelines and information circulars do not have force of law, but adherence to them is strongly encouraged as part of AUSTRAC's on-going education process.