

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE
ATTORNEY-GENERAL'S DEPARTMENT

Question No. 48

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

Customer due diligence

- (a) Is it correct that certain loans are currently not covered by customer identification requirements?
- (b) Which loans are currently not covered by these identification requirements?
- (c) Will this be addressed in the next round of legislation that is due to be released?
 - (i) If yes, how will it be addressed?
 - (ii) Will it eliminate all loans currently not covered by ID requirements, or simply limit them to a few?
- (d) Will it be addressed in the first tranche or the second tranche?
- (e) If not, why not, given that it is a FATF requirement.
- (f) Do you have any information on how widespread these particular loans are, or how much money they cover?
- (g) What is the prescribed low-value under which accounts can operate without the need for customer verification?
- (h) When was this value set?
- (i) Is it indexed to inflation, or is it stationary?
- (j) Will this be addressed in the next round of legislation that is due to be released?
- (k) Will it be addressed in the first tranche or the second tranche?
- (l) If yes, how will it be addressed?
- (m) Will it eliminate the threshold entirely, or simply lower it?

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

- (a) Yes.
- (b) The requirements of the *Financial Transaction Reports Act 1988* (FTR Act) do not apply to loans for which the amounts and times of advances and repayments are set out, and from which the borrower and lender may not depart during the term of the loan.
- (c) Yes.

(i) Under the Anti-Money Laundering and Counter-Terrorism Financing exposure Bill (the exposure Bill), making a loan and allowing a borrower to conduct a transaction in relation to the loan, where the loan was made in the course of carrying on a business, are designated services, and are therefore subject to the proposed customer identity verification procedures.

(ii) All loans made in the course of carrying on a business are covered under the exposure Bill. There will be capacity to exempt low risk loans under the exposure Bill in limited circumstances and the Government will consult further with industry on this issue.

(d) Loans will be covered by the first tranche of reforms.

(e) Not applicable, given the answer to (d) above.

(f) No. The Department understands that this sort of loan is becoming less common and will consult further on this issue during consultation on the exposure Bill.

(g) As set out in section 18 of the FTR Act, identification requirements do not apply to accounts unless either of the following conditions applies:

- the credit balance on any given day exceeds \$1000, or
- the amount credited to the account in any given 30 day period exceeds \$2000.

(h) The thresholds set out in answer to part (g) of the question above have been in the FTR Act since it was passed in 1988.

(i) The amounts referred to in the answer to part (g) of the question above are stationary.

(j) Yes.

(k) It will be addressed in the first tranche.

(l) The exposure Bill does not contain thresholds for customer identity verification for designated services. There will be capacity to exempt certain low risk designated services in limited circumstances and the Government will consult further with industry on this issue.

(m) Refer to the answer to l) above.