

RECOMMENDATIONS

Recommendation 1

5.21 The committee recommends that the Bill be amended to delay the first stage of implementation until three months after the date of Royal Assent.

Recommendation 2

5.22 The committee recommends that AUSTRAC when amending or making further Rules after commencement of the Act thoroughly consult with industry and other stakeholders.

Recommendation 3

5.23 The committee considers that the AML/CTF Rules which provide safe harbour provisions for customer identification should be re-examined during the review of the legislation required by clause 251.

Recommendation 4

5.24 The committee recommends that subclause 6(7) be deleted from the Bill.

Recommendation 5

5.25 The committee recommends that the Department consider whether Part 6 of the Bill should be amended to provide the AUSTRAC CEO with powers to refuse registration as a designated remittance services provider and to de-register providers; or to maintain a register of persons who are not permitted to provide remittance services.

Recommendation 6

5.26 The committee recommends that the penalties for the offences in subclauses 138(3) and (5) which relate to possessing false documents or possessing equipment for making false documents be reduced.

Recommendation 7

5.27 The committee recommends that the Department continue to work with industry groups and other stakeholders to resolve technical drafting issues including:

- (a) the exclusion of services relating to stored value cards by the drafting of items 21-24 of table 1 in clause 6;
- (b) the capture of fund managers selling securities on an exchange by item 35 of table 1 in clause 6; and
- (c) the exclusion of some community bank branches from the definition of 'owner-managed branch' in clause 12.

Recommendation 8

5.28 The committee recommends that the Federal Government consider amending the Bill to include further threshold value limits, to exclude low risk, low value services (such as the provision of travellers cheques and foreign currency transactions) from the definition of 'designated services' and that consideration be given to indexing these thresholds every five years.

Recommendation 9

5.29 The committee recommends that the Office of the Privacy Commissioner conduct periodic audits of AUSTRAC's compliance with privacy obligations in its administration of the Bill.

Recommendation 10

5.30 The committee recommends that Division 4 of Part 11 of the Bill should be amended to restrict access to AUSTRAC held information to access for the purposes of responding to money laundering, terrorist financing or other serious crime.

Recommendation 11

5.31 The committee recommends that clause 235 be amended to provide that protection from liability does not extend to actions which breach federal, state or territory anti-discrimination laws.

Recommendation 12

5.32 The committee recommends that AUSTRAC work with stakeholders to develop an objective, non-discriminatory model for assessing the risk of money laundering and terrorism financing to assist reporting entities in performing their obligations.

Recommendation 13

5.33 The committee recommends that clause 251 be amended to provide for review of the legislation in four years and for that review to incorporate consultation with industry and other stakeholders.

Recommendation 14

5.34 Subject to the preceding recommendations, the committee recommends that the Bill be passed.