

8 March 2006

Mr Jonathon Curtis
Committee Secretary
Senate Legal and Constitutional Committee
Parliament House
Canberra ACT 2600

Dear Mr Curtis

PayPal Australia Pty Limited (PayPal Australia) welcomes the opportunity to comment on the exposure draft of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005.

Introduction

PayPal supports the implementation of legislation that strengthens controls to deter money laundering and terrorist financing provided that a risk-based approach is adopted.

PayPal Australia is broadly supportive of the legislative framework outlined in the Draft Bill, and will also make a submission to AUSTRAC and the Attorney General as part of their public consultation process.

Submission

This submission is intended to draw to the Committee's attention the possible effect of the Draft Bill and the Rules being drafted by AUSTRAC, on entities involved in e-commerce and in particular operators of on-line payment systems.

The Draft Bill and the AML/CTF Rules relating to applicable customer identification procedures must cater for the broad scale provision of these financial services in Australia without imposing initial customer verification obligations that require face-to-face identification and the sighting of primary identification documents.

To do so would create a barrier to entry for such businesses and act as a disincentive to existing services.

Further, requiring face-to-face verification, as outlined above, would not result in any greater security, as the financial institution that provides the customer's credit card or bank account will have conducted customer identification.

Entities such as PayPal, conduct their business on-line and do not have direct face-to-face contact with their customers and users. Initial customer identification relies on credit cards or bank account details provided by customers to establish their identity.

Because bank accounts and credit cards cannot be obtained without the required primary evidence of identity being furnished to the financial institution involved, PayPal Australia is able to establish customer identification with a high degree of certainty and

security.

In the United States and United Kingdom, AML regulations provide for business such as PayPal through the creation of specific categories – Money Service Business and licensed e-money firms respectively – which take into account the unique nature of such businesses.

PayPal's global experience

PayPal Australia is well placed to comment on the Draft Bill and the proposed Rules because of the PayPal Group's extensive international experience in on-line payment services and because of its record of compliance with international AML requirements.

PayPal Australia's service builds on the existing financial infrastructure of bank accounts and credit cards and utilises industry leading proprietary fraud prevention systems to create a safe, global, real-time payment solution.

This risk-based approach deters fraud, money laundering and terrorist financing and also assists in identifying (and reporting to relevant authorities) fraud, money laundering and terrorist financing in a systematic manner at several different points in the account and transaction life cycle.

PayPal entities globally already comply with AML Regulations introduced in both the United States and the United Kingdom.

In the United States, PayPal, Inc. is regulated as a Money Service Business (i.e. a money transmitter) and is subject to section 352 of USA PATRIOT Act.

In the United Kingdom, regulation takes a risk-based approach to AML including the KYC provisions for licensed e-money firms (similar to APRA's Purchased Payment Facility regulations).

UK and US AML regulations and best practice require firms to:

- Implement policies and procedures designed to prevent money laundering;
- Obtain and perform some verification of customer identification information on a risk based approach;
- Appoint an Officer responsible for the implementation of an AML Program;
- Conduct AML training of relevant employees;
- File suspicious activity reports on a wide variety of topics; and
- Monitor customer information against lists of known terrorists, money launderers and criminals.

BACKGROUND:

Founded in 1998, PayPal, an eBay company, enables any individual or business with an email address to securely, easily and quickly send and receive payments online.

PayPal has quickly become a global leader in online payment solutions with 100 million account members globally and is available in 55 countries. PayPal supports payments in US dollars, Canadian dollars, Australian dollars, Euros, Pounds Sterling and Japanese Yen.

PayPal's service builds on the existing financial infrastructure of bank accounts and credit cards and utilises industry leading proprietary fraud prevention systems to create a safe, global, real-time payment solution.

Through its services, PayPal delivers a product ideally suited for small businesses, online merchants, individuals and others currently underserved by traditional payment mechanisms.

There are more than 100 million users (as at 31 December 2005) who have signed up for PayPal accounts. Of these more than one million are in Australia (as at April 2005).

PayPal commenced operations in Australia in January 2005 and currently operates in Australia under an authorised intermediary authorisation from PayPal Inc. which holds an AFS license from the Australian Securities and Investments Commission, and an exemption from the Banking Act granted by the Australian Prudential Regulatory Authority (APRA). PayPal is in the process of applying for a Purchased Payment Facility provider (a special category of an Authorised Deposit Taking Institution) authorisation from APRA.

Conclusion

We continue to work with AUSTRAC, via the industry working groups and by direct communication and look forward to contributing to an improved legislative environment in respect of Anti-Money Laundering and Counter-Terrorism Financing that allows for "low-risk services" to operate.

If you would like to discuss any of the issues raised in this submission, please contact PayPal's Senior Manager, Compliance, Greg Robinson (direct line: 02 8288 0083; email greg.robinson@paypal.com).

If required, PayPal would be pleased to provide representatives to appear before the Committee during hearings related to this inquiry.

Yours sincerely


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Managing Director