

GE Money

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Ms. Julie Dennett

Acting Committee Secretary
Senate Legal and Constitutional Legislation Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By Email: legcon.sen@aph.gov.au

Dear Ms Dennett

The Financial Transaction Reports Amendment Bill 2006 (the Bill)

GE Money is pleased to have the opportunity to make this submission and recommendation with respect to the Bill.

1. About GE Money

GE Money is a group of legal entities that commenced operations in Australia in 1995 and is now one of Australia's leading consumer finance companies, offering a range of consumer lending products. These include personal loans, auto loans, credit cards (revolving credit facilities), mortgages, and promotional retail finance, which are offered both directly to customers and via intermediaries. GE Money has assets in excess of A\$30 billion and over 3 million customers across Australia and New Zealand. It has its Australian and New Zealand headquarters in Melbourne, and now employs in excess of 4000 people in Australia alone. GE Money is part of the global GE network, a company with a AAA rating and global lending experience.

We are currently regulated by the Financial Transaction Reports Act (1988) ("FTRA") and have programs in place to meet the obligations imposed by that Bill. We support the initiative of the Australian Government to implement further controls designed to combat money laundering and financing of terrorism in Australia.

GE Money has been involved in the consultative process for the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005 (the "AML/CTF Bill") through a number of forums, including the Ministerial roundtables, industry-wide advisory group meetings and technical

working parties. On 6 March 2006 we made a submission to the Committee that focused on electronic verification procedures in customer identification. We continue to actively seek commercially viable solutions that will meet the stated objectives of the anti-money laundering and counter-terrorism financing reforms.

2. Purpose of this Submission

The purpose of this submission is to raise substantive issues and make a recommendation with respect to the Bill, from the perspective of an entity that is part of a larger corporate group, so that unintended consequences are avoided and compliance is promoted.

3. Proposed Amendments

The Bill implements Special Recommendation VII of the Financial Action Task Special Recommendations on Terrorist Financing, which requires customer information regarding the sender of funds to accompany international funds transfer instructions ("IFTIs"), to enable greater tracking of the movement of funds.

The Bill will come into operation on or before 14 December 2006, to coincide with the coming into force of the new Division 3A of Part II of the FTRA. The purpose of the Bill is to restrict the application of Division 3A of Part II to authorised deposit taking institutions ("ADIs") only.

Two legal entities in the GE group of companies have each been granted an authority to carry on banking business in Australia under section 9(3) of the Banking Act 1959, and are therefore ADIs.

4. Group Treasury Activities

Group treasury activities that underlie the GE corporate group's management of funds and general business activities involve intra-group funds transfers to and from group members, which may be located in Australia or overseas. Intra-group international funds transfers may be performed on instructions that originate from a GE entity that is in Australia or in a foreign jurisdiction. The instructions may be given to another GE entity or to a financial institution that is located in a different jurisdiction. In the case of instructions that are given to a GE entity that is located in a foreign jurisdiction, the GE entity that receives the instructions may then communicate those instructions to the bank with which the relevant account is held in order to effect the actual transfer of funds.

5. Application of the Amendments

GE Money is concerned that the definition of "*international funds transfer instruction*"¹ is broad enough to catch, for example, instructions in an email that are sent by an employee of GE entity that is an ADI, at the request of another Australian GE entity, to:

- (a) an employee of a US GE entity to transfer certain funds to the requesting GE entity; or
- (b) a bank located in the US requesting that funds be transferred in accordance with the request.

In our view, the difficulty with Division 3A is that the definition of IFTI does not depend on whether the ADI transmitting or receiving the IFTI is capable of executing the actual transfer of funds. As a result, Division 3A is only concerned with whether the ADI has transmitted the

¹ Defined in Section 3 of the FTRA as "*an instruction for a transfer of funds that is transmitted into or out of Australia electronically or by telegraph, but does not include an instruction of a prescribed kind*". We note that no regulations have been made to exclude any particular kind of instruction from this definition. The term "instruction" is not defined.

instructions, on behalf of another person, electronically or by telegraph, to an entity located overseas. If it has, then this will constitute an IFTI and the ADI will need to include the "customer information"² with the IFTI.

We do not think it was intended that IFTIs sent between related bodies corporate in relation to internal treasury operations were intended to be caught by Division 3A. The Explanatory Memorandum to the Bill³ states that:

"the FTR Act does not distinguish between non-bank IFTIs which are 'same-institution' funds transfer instructions and non-bank IFTIs involving 'multiple' institutions. It is impracticable to require IFTIs sent from one institution in one country to the same institution in another country to include originator information because in effect this would require the institution to 'pass on' the information to itself. In these situations, funds transfer requests are registered on a single internal system of the institution, while the actual transfer of funds is effected through net settlements between the institution's various accounts around the world." (our emphasis).

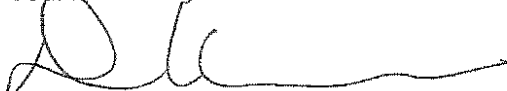
6. Our Recommendation

Given that the broad definition of "**international funds transfer instruction**" remains unchanged by the Bill, the amendments to Division 3A will not remove the impracticality of GE sending information "to itself about itself" or the uncertainty as to which instructions are caught by Division 3A.

Our recommendation is that this impracticality and uncertainty be resolved by making a regulation pursuant to the definition of IFTI in section 3 that has the effect of carving out from that definition instructions given between related bodies corporate.

Please contact me in the first instance if you would like to discuss our recommendation.

Yours sincerely



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² See the proposed definition in section 17FA(3) of the Bill

³ See page 6.