

I attach answers to the second set of questions from the Committee.

I also set out below a background summary of the proposed changes for the assistance of the Committee. The background puts the answers to both sets of questions into context.

Geoff Gray

FTR Amendment Bill 2006: summary of proposed changes to Division 3A of Part 2 of the FTR Act

When the AT Bill was developed a decision was made to bring forward amendments to the FTR Act to meet as many of the FATF Special Recommendations on terrorist financing as could be met in the short term.

There were limits to what could be done in the short term due to the way in which the FTR Act is structured and the limited opportunity for consultation. In the longer term the FTR Act will be replaced by the AML/CTF Bill, if enacted. The amendments were designed to operate as a short term measure while the AML/CTF Bill is developed.

One of the changes made to the FTR Act was to add section 17FA, which deals with customer information that must be included with an international funds transfer sent from Australia. That issue is dealt with in SRVII, although SRVII also includes requirements dealing with domestic funds transfers.

The effect of section 17FA, as drafted, was that that when a cash dealer sent a wire transfer from Australia, the transfer must be accompanied by either the account number for the ordering customer or, if there is no account, a unique identifying number.

Section 17FA was passed by Parliament and will come into force on 14 December 2006.

During the course of consultations on the AML/CTF Bill, industry raised a number of issues about the way section 17FA will operate in practice. Government decided to bring forward legislation to amend section 17FA, before it comes into force, to address the issues raised by industry (to the extent they can be addressed without conflict with the FATF recommendations and without undermining changes that are planned to be made under the AML/CTF Bill).

The first issue raised by industry was that the definitions of "account" are different, in some respects, under the FTR Act and the AML/CTF Bill. This was seen to be a problem because of the need under section 17FA for a cash dealer to identify an account in some situations. It was suggested that some financial institutions may be required to identify one type of account when section 17FA comes into force and a different type of account when the AML/CTF Bill is enacted. If so, that could require successive sets of system changes instead of just one.

The current Bill will align the two definitions of account by amending the definition that applies to Division IIIA of Part 2 of the FTR Act.

The second issue was a request for clarification about whether section 17FA requires a financial institution to use an account number when the funds used for a transfer come out of more than one account or where the funds come from cash but the customer holds an account with the institution.

The point has been clarified in the current amendments. An ADI will only have to use an account number if the funds come out of a single account held by the ordering customer.

The third issue was raised late in the day by the non-ADI sector. The problem they identified is that some non-ADIs operate remittance services which fit the description of being an international fund transfer for the purpose of the FTR Act but which do not use SWIFT, or a similar system. It would be difficult for an operator in that position to send identification details with each transfer without making major system changes, and in most cases it would serve no real purpose.

The only feasible way this issue could be addressed without making structural changes to the FTR Act was to limit the operation of section 17FA to ADIs.